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3:01-CV-01078 OAKLEY INC V. MECHAM

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GREGORY L. WEEKS,
Cal. State Bar No. 58584
JANET ROBERTSON KAUFMAN,
Cal. State Bar No. 116143
GREGORY K. NELSON,
Cal. State Bar No. 203029
WEEKS, KAUFMAN & JOHNSON
462 Stevens Avenue, Suite 310
Solana Beach, CA 92075
(858) 794-2140

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CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
B. Reed
DEPUTY

Attorneys for Plaintiff

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

OAKLEY, INC. , a Washington	)	CIVIL ACTION NO.
corporation,)	
)	
Plaintiff,	)	'01 CV 1078 J (RBB)
	)	COMPLAINT FOR TRADEMARK
vs.	)	INFRINGEMENT, PATENT
	)	INFRINGEMENT, AND DILUTION
KEITH MECHAM , an individual)	
and doing business as EPIC)	
APPAREL,	)	DEMAND FOR JURY TRIAL
)	
Defendant.)	

Plaintiff OAKLEY, INC. (hereinafter referred to as "Oakley") hereby complains of Defendant Keith Mecham, an individual and doing business as Epic Apparel (hereinafter referred to as "Defendant" or "Mecham") and alleges as follows:

JURISDICTION AND VENUE

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

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

3 **THE PARTIES**

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

9 3. Oakley is informed and believes, and thereupon
10 alleges that Defendant Keith Mecham is an individual residing
11 in Grand Forks, North Dakota and is doing business as Epic
12 Apparel, at 1826 S. Washington Street, Suite #0, Grand Forks,
13 ND 58201, and also doing business within this judicial
14 district.

15 **FACTUAL BACKGROUND**

16 4. As early as 1985, Oakley has been and continues to be
17 actively engaged in the manufacture and sale of high quality
18 sport sunglasses under various product lines. Oakley is the
19 manufacturer and retailer of several lines of sunglasses,
20 including its "M Frame", "Eye Jacket", "Minutes", "Twenty",
21 "Juliet" and "Fives" sunglass lines. As part of its routine
22 sales practice, Oakley includes a black sunglass bag bearing
23 the stylized trademark "Oakley".

24 5. Oakley is the owner of U.S. Registered Trademark No.
25 1,980,039, duly registered on June 11, 1996, claiming the
26 stretched trademark "Oakley" for use on good in Class 9. A
27 true and correct copy of this trademark registration is
28 attached hereto and incorporated by reference as Exhibit 1.

1 6. Oakley is the owner of U.S. Registered Trademark No.
2 1,984,501 duly registered on July 2, 1996, claiming the Oakley
3 ellipsoid "o" for goods in Class 9. A true and correct copy of
4 such trademark registration is attached hereto and incorporated
5 herein by reference as Exhibit 2.

6 7. Oakley is the owner of U.S. Registered Trademark No.
7 2,146,295 duly registered on March 24, 1998, claiming the
8 relative position of the ellipsoid "o" on goods in Class 9. A
9 true and correct copy of such trademark registration is
10 attached hereto and incorporated herein by reference as Exhibit
11 3.

12 8. The trademark registrations referred to above are in
13 full force and effect. The trademarks and the good will of the
14 business of Plaintiff Oakley in connection with which the
15 trademarks have been used have never been abandoned. Oakley
16 continues to preserve and maintain its rights with respect to
17 said trademark registrations.

18 9. The trademarks above are inherently distinctive in
19 appearance and have become, through widespread public
20 acceptance, a distinctive designation of the source of origin
21 of goods offered by Oakley and has acquired secondary meaning
22 in the marketplace and constitute an asset of incalculable
23 value as a symbol of Oakley and its quality goods and good
24 will.

25 10. Plaintiff Oakley is the owner by assignment of U.S.
26 Patent No. 5,137,342 duly and lawfully issued on August 11,
27 1992 describing and claiming the invention entitled "EYEWEAR
28 TRACTION DEVICE", protecting the technology for an improved

1 elastomeric traction device. A correct copy of U.S. Patent No.
2 5,137,342 is attached hereto as Exhibit 4.

3 11. Oakley is informed and believes, and thereupon
4 alleges that the Defendant is selling sunglasses that copy U.S.
5 Patent No. 5,137,342 of Oakley. The copy "elastomeric traction
6 device" utilized and sold by Defendant embodies the subject
7 matter claimed in Oakley's utility patent referred to above
8 without any license thereunder and is thereby infringing said
9 patent. Oakley is informed and believes and based thereon
10 alleges that Defendant supplied said imitation Oakley
11 sunglasses to various distributors, retailers, and retail
12 customers.

13 12. Oakley is the owner by assignment of U.S. Patent No.
14 D333,145 duly and lawfully issued on February 9, 1993,
15 describing and claiming the invention entitled "UNITARY
16 EYEGLASS LENS" protecting the sunglass design marketed by
17 Oakley under the name "M Frame". A correct copy of U.S. Patent
18 No. D333,145 is attached hereto as Exhibit 5.

19 13. Oakley is the owner by assignment of U.S. Patent No.
20 D384,364 duly and lawfully issued on September 30, 1997
21 describing and claiming the invention entitled " EYEGLASS FRAME
22 FRONT" protecting the sunglass design marketed by Oakley under
23 the name "M Frame". A correct copy of U.S. Patent No. D384,364
24 is attached hereto as Exhibit 6.

25 14. Oakley is the owner by assignment of U.S. Patent No.
26 D399,866 duly and lawfully issued on October 20, 1998,
27 describing and claiming the invention entitled "EYEGLASS
28 COMPONENT" protecting the sunglass design marketed by Oakley

1 under the name "M Frame". A correct copy of U.S. Patent No.
2 D399,866 is attached hereto as Exhibit 7.

3 15. Oakley is informed and believes, and thereupon
4 alleges that the Defendant is selling sunglasses that copy the
5 above design patents of Oakley. The "M Frame" copy sunglasses
6 sold by Defendant embody the subject matter claimed in Oakley's
7 design patents referred to above without any license thereunder
8 and is thereby infringing said patents. Oakley is informed and
9 believes and based thereon alleges that Defendant supplied said
10 imitation Oakley sunglasses to various distributors, retailers,
11 and retail customers.

12 16. Oakley is the owner by assignment of U.S. Patent No.
13 D369,375 duly and lawfully issued on April 30, 1996,
14 describing and claiming the invention entitled "EYEGLASSES"
15 protecting the sunglass design marketed by Oakley under the
16 name "Eye Jacket". A correct copy of U.S. Patent No. D369,375
17 is attached hereto as Exhibit 8.

18 17. Oakley is informed and believes, and thereupon
19 alleges that the Defendant is selling sunglasses that copy the
20 above design patent of Oakley. The "Eye Jacket" copy
21 sunglasses sold by Defendant embody the subject matter claimed
22 in Oakley's design patent referred to above without any license
23 thereunder and is thereby infringing said patent. Oakley is
24 informed and believes and based thereon alleges that Defendant
25 supplied said imitation Oakley sunglasses to various
26 distributors, retailers, and retail customers.

27 18. Oakley is the owner by assignment of U.S. Patent No.
28 D422,298 duly and lawfully issued on April 4, 2000 describing

1 and claiming the invention entitled "EYEGLASS COMPONENTS"
2 protecting the sunglass design marketed by Oakley under the
3 name "Juliet". A correct copy of U.S. Patent No. D422,298 is
4 attached hereto as Exhibit 9.

5 19. Oakley is informed and believes, and thereupon
6 alleges that the Defendant is selling sunglasses that copy the
7 above design patent of Oakley. The "Juliet" copy sunglasses
8 sold by Defendant embody the subject matter claimed in Oakley's
9 design patent referred to above without any license thereunder
10 and is thereby infringing said patent. Oakley is informed and
11 believes and based thereon alleges that Defendant supplied said
12 imitation Oakley sunglasses to various distributors, retailers,
13 and retail customers.

14 20. Oakley is the owner by assignment of U.S. Patent No.
15 D423,548 duly and lawfully issued on April 25, 2000, describing
16 and claiming the invention entitled "EYEGLASSES" protecting the
17 sunglass design marketed by Oakley under the name "Fives". A
18 correct copy of U.S. Patent No. D423,548 is attached hereto as
19 Exhibit 10.

20 21. Oakley is informed and believes, and thereupon
21 alleges that the Defendant is selling sunglasses that copy the
22 above design patent of Oakley. The "Fives" copy sunglasses
23 sold by Defendant embody the subject matter claimed in Oakley's
24 design patent referred to above without any license thereunder
25 and is thereby infringing said patent. Oakley is informed and
26 believes and based thereon alleges that Defendant supplied said
27 imitation Oakley sunglasses to various distributors, retailers,
28 and retail customers.

1 22. Oakley is the owner by assignment of U.S. Patent No.
2 D415,188 duly and lawfully issued on April 25, 2000, describing
3 and claiming the invention entitled "EYEGLASSES" protecting the
4 sunglass design marketed by Oakley under the name "Minutes".
5 A correct copy of U.S. Patent No. D415,188 is attached hereto
6 as Exhibit 11.

7 23. Oakley is informed and believes, and thereupon
8 alleges that the Defendant is selling sunglasses that copy the
9 above design patent of Oakley. The "Minutes" copy sunglasses
10 sold by Defendant embody the subject matter claimed in Oakley's
11 design patent referred to above without any license thereunder
12 and is thereby infringing said patent. Oakley is informed and
13 believes and based thereon alleges that Defendant supplied said
14 imitation Oakley sunglasses to various distributors, retailers,
15 and retail customers.

16 24. Plaintiff is informed and believes and based thereon
17 alleges that Defendant, his agents, employees, and servants
18 have advertised and sold products bearing one or more of the
19 trademarks and patents referred to above, which advertisements
20 and products sold are confusingly similar to that of Oakley's
21 trademarks and patents, and are, therefore, an infringement of
22 Oakley's above described trademarks and patents.

23 25. Defendant received written notice of Oakley's
24 proprietary rights in its trademarks and patents by way of
25 actual written notice. Further, Defendant received
26 constructive notice of Oakley's trademarks and patents as
27 Oakley caused said trademarks and patents to be placed plainly
28 on the product and/or packaging. Further, Defendant was warned

1 by Oakley's attorneys of record regarding his sale of
2 counterfeit Oakley products bearing Oakley's trademarks on or
3 about June 2, 2001. Despite said actual and constructive
4 knowledge, Defendant continued to infringe Oakley's trademark
5 rights. On information and belief, such infringement by
6 Defendant has been willful and wanton.

7 26. Since 1993, Oakley has expended large sums of money
8 in the promotion of its "M Frame", "Eye Jacket", "Minutes",
9 "Juliet" and "Fives" lines of sunglasses. As a result of said
10 promotional efforts, said sunglass lines have become and are
11 now widely known and recognized in this District and elsewhere
12 as emanating from and authorized by Oakley.

13 27. Oakley's product lines are inherently distinctive in
14 appearance, and have become, through widespread public
15 acceptance, a distinctive designation of the source of origin
16 of goods offered by Oakley and an asset of incalculable value
17 as a symbol of Oakley and its quality goods and good will.

18 28. Oakley is informed and believes and thereupon alleges
19 that the Defendant's "M Frame", "Eye Jacket", "Minutes",
20 "Juliet" and "Fives" sunglass copies are designed,
21 manufactured, packaged, advertised, displayed and sold
22 expressly to profit from the demand created by Oakley for the
23 ornamental and inherently distinctive features of the Oakley
24 sunglasses and to trade on Oakley's goodwill and reputation.

25 29. Oakley is informed and believes, and thereupon
26 alleges, that Defendant's copy sunglasses are inferior products
27 to the authentic Oakley sunglasses. Oakley is further informed
28 and believes and thereupon alleges that as a result of the

1 inferior quality of the "M Frame", "Eye Jacket", "Minutes",
2 "Juliet" and "Fives" sunglasses, they are sold in the
3 marketplace at a lower price than are the authentic Oakley
4 sunglasses. As a result, Oakley has been damaged significantly
5 in the sunglass market. Oakley contends and believes that its
6 image and the reputation of its products has been tarnished and
7 diminished by Defendant's sale of Oakley copy sunglasses of
8 inferior quality.

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

21 31. Oakley is informed and believes and thereupon alleges
22 that the sale of the copy sunglasses has resulted in lost
23 sales, has reduced the business and profit of Oakley, and has
24 greatly injured the general reputation of Oakley due to the
25 inferior quality of the copies, all to Oakley's damage in an
26 amount not yet fully determined.

27 32. The exact amount of profits realized by Defendant as
28 a result of his infringing activities, are presently unknown to

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

6 **FIRST CLAIM FOR RELIEF**

7 33. The allegations of paragraphs 1 through 32 are replied
8 and realleged as though fully set forth herein.

9 34. This is a claim for trademark infringement, and
10 arises under 15 U.S.C. § 1125(a) against Defendant.

11 35. Jurisdiction is founded upon 15 U.S.C. § 1121.

12 36. Oakley is the owner of U.S. Registered Trademark Nos.
13 1,980,039, 1,984,501, and 2,146,295 which confer on Oakley the
14 exclusive right to use these trademarks in commerce. True and
15 correct copies of U.S. registered Trademark Nos. 1,980,039,
16 1,984,501, and 2,146,295 are attached hereto as Exhibits 1-3,
17 respectively.

18 37. The marks have been in use in commerce in connection
19 with the sale of Oakley products continuously since at least as
20 early as their respective dates of issue. The marks appear
21 clearly on all packaging, advertisements, product brochures,
22 and on almost all Oakley sunglass products, in one way or
23 another.

24 38. Defendant, through his agents, employees and
25 servants, manufactured, advertised, and sold products bearing
26 Oakley's registered marks without authority from Oakley for
27 doing so.

28

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

9 40. Oakley is informed and believes, and thereupon
10 alleges, that Defendant's unauthorized use of Oakley's
11 registered trademarks has caused confusion in the marketplace
12 as to the source of origin of Defendant's products.

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

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

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

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SECOND CLAIM FOR RELIEF

44. The allegations of paragraphs 1 through 32 are replied and realleged as though fully set forth herein.

45. This is a cause of action for dilution under 15 U.S.C. § 1125(c) against Defendant and each of them.

46. Jurisdiction is founded upon 15 U.S.C. § 1121.

47. Oakley is the owner of the famous trademarks "Oakley" and the ellipsoid "O" in association with the sale of sunglasses and eyeglasses. As set forth above, Oakley has used these trademarks for numerous years and has spent vast amounts of money in advertising its products with these trademarks. Consequently, the trademarks "Oakley" and the ellipsoid "O" have become associated with high-quality, unique, and innovative sunglasses emanating from Oakley.

48. Defendant's use of these trademarks on his Oakley copy sunglasses dilutes the distinctiveness and value of Oakley's trademarks. In particular, Defendant's use of "Oakley" and the ellipsoid "O" blurs the uniqueness of Oakley's products and tarnishes Oakley's image through the sale of low-quality, cheap products intended to trade on the value of Oakley's famous trademarks.

49. Oakley's products have been in commerce for many years. Consequently, Defendant's subsequent sale of Oakley copy products in interstate commerce causes dilution of Oakley's famous trademarks.

50. Oakley is informed and believes, and thereupon alleges, that Defendant's advertisement and sale of cheap, Oakley copy sunglasses will continue to dilute the value of

1 Oakley's famous, registered trademarks to the great and
2 irreparable injury of Oakley, for which Oakley has no adequate
3 remedy at law unless Defendant are enjoined by this court.

4 **THIRD CLAIM FOR RELIEF**

5 51. The allegations of paragraphs 1 through 32 are repled
6 and realleged as though fully set forth herein.

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

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

11 54. Oakley is the owner of U.S. Patent No. 5,137,342
12 which protects technology for an improved elastomeric traction
13 device. A true and correct copy of U.S. Patent No. 5,137,342
14 is attached hereto as Exhibit 4. By statute, the patent is
15 presumed to be valid and enforceable under 35 U.S.C. § 282.

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

20 56. Oakley is informed and believes and thereupon alleges
21 that Defendant has willfully infringed upon Oakley's exclusive
22 rights under said patent, with full notice and knowledge
23 thereof. Defendant is presently selling such infringing
24 sunglasses, have refused to cease the sale thereof, and will
25 continue to do so unless restrained therefrom by this court,
26 all to the great loss and injury of Oakley.

27 57. Oakley is informed and believes and thereupon alleges
28 that Defendant has derived, received and will continue to

1 derive and receive from the aforesaid acts of infringement,
2 gains, profits and advantages in an amount not presently known
3 to Oakley. By reason of the aforesaid acts of infringement,
4 Oakley has been, and will continue to be, greatly damaged.

5 58. Defendant will continue to infringe U.S. Patent No.
6 5,137,342 to the great and irreparable injury of Oakley, for
7 which Oakley has no adequate remedy at law unless said
8 Defendant are enjoined by this court.

9 **FOURTH CLAIM FOR RELIEF**

10 59. The allegations of paragraphs 1 through 32 are replied
11 and realleged as though fully set forth herein.

12 60. This is a claim for patent infringement, and arises
13 under 35 U.S.C. § § 271 and 281.

14 61. Jurisdiction is founded upon 28 U.S.C. § § 1331 and
15 1338.

16 62. Oakley is the owner of U.S. Patent No. D333,145
17 which protects the sunglasses marketed by Oakley under the name
18 "M Frame". A true and correct copy of U.S. Patent No. D333,145
19 is attached hereto as Exhibit 5. By statute, the patent is
20 presumed to be valid and enforceable under 35 U.S.C. § 282.

21 63. Defendant, through his agents, employees and
22 servants, manufactured, imported, and sold, without any rights
23 or license, sunglasses which fall within the scope and claim
24 contained in U.S. Patent No. D333,145.

25 64. Oakley is informed and believes and thereupon alleges
26 that Defendant has willfully infringed upon Oakley's exclusive
27 rights under said patent, with full notice and knowledge
28 thereof. Defendant is presently selling such infringing

1 sunglasses, have refused to cease the sale thereof, and will
2 continue to do so unless restrained therefrom by this court,
3 all to the great loss and injury of Oakley.

4 65. Oakley is informed and believes and thereupon alleges
5 that Defendant has derived, received and will continue to
6 derive and receive from the aforesaid acts of infringement,
7 gains, profits and advantages in an amount not presently known
8 to Oakley. By reason of the aforesaid acts of infringement,
9 Oakley has been, and will continue to be, greatly damaged.

10 66. Defendant will continue to infringe U.S. Patent No.
11 D333,145 to the great and irreparable injury of Oakley, for
12 which Oakley has no adequate remedy at law unless said
13 Defendant are enjoined by this court.

14 **FIFTH CLAIM FOR RELIEF**

15 67. The allegations of paragraphs 1 through 32 are replied
16 and realleged as though fully set forth herein.

17 68. This is a claim for patent infringement, and arises
18 under 35 U.S.C. § § 271 and 281.

19 69. Jurisdiction is founded upon 28 U.S.C. § § 1331 and
20 1338.

21 70. Oakley is the owner of U.S. Patent No. D384,364 which
22 protects the sunglasses marketed by Oakley under the name "M
23 Frame". A true and correct copy of U.S. Patent No. D384,364 is
24 attached hereto as Exhibit 6. By statute, the patent is
25 presumed to be valid and enforceable under 35 U.S.C. § 282.

26 71. Defendant, through his agents, employees and
27 servants, manufactured, imported, and sold, without any rights
28

1 or license, sunglasses which fall within the scope and claim
2 contained in U.S. Patent No. D384,364.

3 72. Oakley is informed and believes and thereupon alleges
4 that Defendant has willfully infringed upon Oakley's exclusive
5 rights under said patent, with full notice and knowledge
6 thereof. Defendant is presently selling such infringing
7 sunglasses, have refused to cease the sale thereof, and will
8 continue to do so unless restrained therefrom by this court,
9 all to the great loss and injury of Oakley.

10 73. Oakley is informed and believes and thereupon alleges
11 that Defendant has derived, received and will continue to
12 derive and receive from the aforesaid acts of infringement,
13 gains, profits and advantages in an amount not presently known
14 to Oakley. By reason of the aforesaid acts of infringement,
15 Oakley has been, and will continue to be, greatly damaged.

16 74. Defendant will continue to infringe U.S. Patent No.
17 D384,364 to the great and irreparable injury of Oakley, for
18 which Oakley has no adequate remedy at law unless said
19 Defendant are enjoined by this court.

20 **SIXTH CLAIM FOR RELIEF**

21 75. The allegations of paragraphs 1 through 31 are replied
22 and realleged as though fully set forth herein.

23 76. This is a claim for patent infringement, and arises
24 under 35 U.S.C. § § 271 and 281.

25 77. Jurisdiction is founded upon 28 U.S.C. § § 1331 and
26 1338.

27 78. Oakley is the owner of U.S. Patent No. D399,866 which
28 protects the sunglasses marketed by Oakley under the name "M

1 Frame". A true and correct copy of U.S. Patent No. D399,866 is
2 attached hereto as Exhibit 7. By statute, the patent is
3 presumed to be valid and enforceable under 35 U.S.C. § 282.

4 79. Defendant, through his agents, employees and
5 servants, manufactured, imported, and sold, without any rights
6 or license, sunglasses which fall within the scope and claim
7 contained in U.S. Patent No. D399,866.

8 80. Oakley is informed and believes and thereupon alleges
9 that Defendant has willfully infringed upon Oakley's exclusive
10 rights under said patent, with full notice and knowledge
11 thereof. Defendant is presently selling such infringing
12 sunglasses, have refused to cease the sale thereof, and will
13 continue to do so unless restrained therefrom by this court,
14 all to the great loss and injury of Oakley.

15 81. Oakley is informed and believes and thereupon alleges
16 that Defendant has derived, received and will continue to
17 derive and receive from the aforesaid acts of infringement,
18 gains, profits and advantages in an amount not presently known
19 to Oakley. By reason of the aforesaid acts of infringement,
20 Oakley has been, and will continue to be, greatly damaged.

21 82. Defendant will continue to infringe U.S. Patent No.
22 D399,866 to the great and irreparable injury of Oakley, for
23 which Oakley has no adequate remedy at law unless said
24 Defendant are enjoined by this court.

25 **SEVENTH CLAIM FOR RELIEF**

26 83. The allegations of paragraphs 1 through 32 are replied
27 and realleged as though fully set forth herein.

28

1 84. This is a claim for patent infringement, and arises
2 under 35 U.S.C. § § 271 and 281.

3 85. Jurisdiction is founded upon 28 U.S.C. § § 1331 and
4 1338.

5 86. Oakley is the owner of U.S. Patent No. D369,375 which
6 protects the sunglasses marketed by Oakley under the name "Eye
7 Jacket". A true and correct copy of U.S. Patent No. D369,375
8 is attached hereto as Exhibit 8. By statute, the patent is
9 presumed to be valid and enforceable under 35 U.S.C. § 282.

10 87. Defendant, through his agents, employees and
11 servants, manufactured, imported, and sold, without any rights
12 or license, sunglasses which fall within the scope and claim
13 contained in U.S. Patent No. D369,375.

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

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

27 90. Defendant will continue to infringe U.S. Patent No.
28 D369,375 to the great and irreparable injury of Oakley, for

1 which Oakley has no adequate remedy at law unless said
2 Defendant are enjoined by this court.

3 **EIGHTH CLAIM FOR RELIEF**

4 91. The allegations of paragraphs 1 through 32 are replied
5 and realleged as though fully set forth herein.

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

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

10 94. Oakley is the owner of U.S. Patent No. D422,298 which
11 protects the sunglasses marketed by Oakley under the name
12 "Juliet". A true and correct copy of U.S. Patent No. D422,298
13 is attached hereto as Exhibit 9. By statute, the patent is
14 presumed to be valid and enforceable under 35 U.S.C. § 282.

15 95. Defendant, through HIS agents, employees and
16 servants, manufactured, imported, and sold, without any rights
17 or license, sunglasses which fall within the scope and claim
18 contained in U.S. Patent No. D422,298.

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

26 97. Oakley is informed and believes and thereupon alleges
27 that Defendant has derived, received and will continue to
28 derive and receive from the aforesaid acts of infringement,

1 gains, profits and advantages in an amount not presently known
2 to Oakley. By reason of the aforesaid acts of infringement,
3 Oakley has been, and will continue to be, greatly damaged.

4 98. Defendant will continue to infringe U.S. Patent No.
5 D422,298 to the great and irreparable injury of Oakley, for
6 which Oakley has no adequate remedy at law unless said
7 Defendant are enjoined by this court.

8 **NINTH CLAIM FOR RELIEF**

9 99. The allegations of paragraphs 1 through 32 are replied
10 and realleged as though fully set forth herein.

11 100. This is a claim for patent infringement, and arises
12 under 35 U.S.C. § § 271 and 281.

13 101. Jurisdiction is founded upon 28 U.S.C. § § 1331 and
14 1338.

15 102. Oakley is the owner of U.S. Patent No. D423,548 which
16 protects the sunglasses marketed by Oakley under the name
17 "Fives". A true and correct copy of U.S. Patent No. D423,548
18 is attached hereto as Exhibit 10. By statute, the patent is
19 presumed to be valid and enforceable under 35 U.S.C. § 282.

20 103. Defendant, through his agents, employees and
21 servants, manufactured, imported, and sold, without any rights
22 or license, sunglasses which fall within the scope and claim
23 contained in U.S. Patent No. D423,548.

24 104. Oakley is informed and believes and thereupon alleges
25 that Defendant has willfully infringed upon Oakley's exclusive
26 rights under said patent, with full notice and knowledge
27 thereof. Defendant is presently selling such infringing
28 sunglasses, have refused to cease the sale thereof, and will

1 continue to do so unless restrained therefrom by this court,
2 all to the great loss and injury of Oakley.

3 105. Oakley is informed and believes and thereupon alleges
4 that Defendant has derived, received and will continue to
5 derive and receive from the aforesaid acts of infringement,
6 gains, profits and advantages in an amount not presently known
7 to Oakley. By reason of the aforesaid acts of infringement,
8 Oakley has been, and will continue to be, greatly damaged.

9 106. Defendant will continue to infringe U.S. Patent No.
10 D423,548 to the great and irreparable injury of Oakley, for
11 which Oakley has no adequate remedy at law unless said
12 Defendant are enjoined by this court.

13 **TENTH CLAIM FOR RELIEF**

14 107. The allegations of paragraphs 1 through 32 are replied
15 and realleged as though fully set forth herein.

16 108. This is a claim for patent infringement, and arises
17 under 35 U.S.C. § § 271 and 281.

18 109. Jurisdiction is founded upon 28 U.S.C. § § 1331 and
19 1338.

20 110. Oakley is the owner of U.S. Patent No. D415,188 which
21 protects the sunglasses marketed by Oakley under the name
22 "Minutes". A true and correct copy of U.S. Patent No. D415,188
23 is attached hereto as Exhibit 11. By statute, the patent is
24 presumed to be valid and enforceable under 35 U.S.C. § 282.

25 111. Defendant, through his agents, employees and
26 servants, manufactured, imported, and sold, without any rights
27 or license, sunglasses which fall within the scope and claim
28 contained in U.S. Patent No. D415,188.

1 112. Oakley is informed and believes and thereupon alleges
2 that Defendant has willfully infringed upon Oakley's exclusive
3 rights under said patent, with full notice and knowledge
4 thereof. Defendant is presently selling such infringing
5 sunglasses, have refused to cease the sale thereof, and will
6 continue to do so unless restrained therefrom by this court,
7 all to the great loss and injury of Oakley.

8 113. Oakley is informed and believes and thereupon alleges
9 that Defendant has derived, received and will continue to
10 derive and receive from the aforesaid acts of infringement,
11 gains, profits and advantages in an amount not presently known
12 to Oakley. By reason of the aforesaid acts of infringement,
13 Oakley has been, and will continue to be, greatly damaged.

14 114. Defendant will continue to infringe U.S. Patent No.
15 D415,188 to the great and irreparable injury of Oakley, for
16 which Oakley has no adequate remedy at law unless said
17 Defendant are enjoined by this court.

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

19 1. That Defendant Keith Mecham be adjudicated to have
20 infringed Oakley's Registered Trademark No. 1,980,039, and that
21 said trademark is valid and enforceable and is owned by Oakley;

22 2. That Defendant Keith Mecham be adjudicated to have
23 infringed Oakley's Registered Trademark No. 1,984,501, and that
24 said trademark is valid and enforceable and is owned by Oakley;

25 3. That Defendant Keith Mecham be adjudicated to have
26 infringed Oakley's Registered Trademark No. 2,146,295, and that
27 said trademark is valid and enforceable and is owned by Oakley;

28 4. That Defendant Keith Mecham be adjudicated to have

1 infringed Oakley's U.S. Patent No. 5,137,342 and that said
2 patent is valid and enforceable and is owned by Oakley;

3 5. That Defendant Keith Mecham be adjudicated to have
4 infringed Oakley's U.S. Patent No. D333,145 and that said
5 patent is valid and enforceable and is owned by Oakley;

6 6. That Defendant Keith Mecham be adjudicated to have
7 infringed Oakley's U.S. Patent No. D384,364 and that said
8 patent is valid and enforceable and is owned by Oakley;

9 7. That Defendant Keith Mecham be adjudicated to have
10 infringed Oakley's U.S. Patent No. D399,866 and that said
11 patent is valid and enforceable and is owned by Oakley;

12 8. That Defendant Keith Mecham be adjudicated to have
13 infringed Oakley's U.S. Patent No. D369,375 and that said
14 patent is valid and enforceable and is owned by Oakley;

15 9. That Defendant Keith Mecham be adjudicated to have
16 infringed Oakley's U.S. Patent No. D422,298 and that said
17 patent is valid and enforceable and is owned by Oakley;

18 10. That Defendant Keith Mecham be adjudicated to have
19 infringed Oakley's U.S. Patent No. D423,548 and that said
20 patent is valid and enforceable and is owned by Oakley;

21 11. That Defendant Keith Mecham be adjudicated to have
22 infringed Oakley's U.S. Patent No. D415,188 and that said
23 patent is valid and enforceable and is owned by Oakley;

24 12. That Defendant Keith Mecham, and his agents,
25 servants, employees, and attorneys and all persons in active
26 concert and participation with them, be enjoined and
27 restrained, during the pendency of this action and permanently
28 thereafter from:

- a. Using the Oakley's Registered Trademark Nos. 1,980,039, 1,984,501, and 2,146,295, or any mark similar thereto in connection with the sale of any goods;
- b. Committing any acts which may cause purchasers to believe that the Defendant or the products Defendant is selling are 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;

13. That Defendant, and his agents, servants, employees, and attorneys, and all these persons in active concert or participation with Defendant, be forthwith preliminary and thereafter permanently enjoined from infringing U.S. Patent Nos. 5,137,342, D333,145, D384,364, D399,866, D369,375, D422,298, D423,548, and D415,188.

14. That Defendant Keith Mecham and his 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 trademarks "Oakley" and the ellipsoid "O";

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

6 16. That Oakley be awarded an assessment of damages for
7 Defendant's infringement of U.S. Patent Nos. 5,137,342,
8 D333,145, D384,364, D399,866, D369,375, D422,298, D423,548, and
9 D415,188, together with an award of such damages, all in
10 accordance with 35 U.S.C. § 284;

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

14 18. For all of Defendant's profits derived from his
15 infringement of Plaintiff's patent and trademark rights in
16 accordance with 35 U.S.C. § 289;


17 19. For an order requiring Defendant to deliver up and
18 destroy all infringing sunglasses;

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

22 21. That Oakley have such other and further relief as the
23 circumstances of this case may require and as this court may
24 deem just and proper.

25 DATED: *June 14, 2001*

WEEKS, KAUFMAN & JOHNSON

26 
27 _____
28 GREGORY K. NELSON
Attorney for Plaintiff

JURY DEMAND

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

DATED: June 14, 2001

WEEKS, KAUFMAN & JOHNSON



GREGORY K. NELSON
Attorney for Plaintiff

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

United States Patent and Trademark Office Reg. No. 1,980,039
Registered June 11, 1996

**TRADEMARK
PRINCIPAL REGISTER**

OAKLEY

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

FOR: PROTECTIVE AND/OR ANTI-GLARE
EYEWEAR, NAMELY SUNGLASSES, GOG-
GLES, 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, HEADWEAR AND FOOT-
WEAR, NAMELY T-SHIRTS, SWEATSHIRTS,

BLOUSES, SWEATERS, SPORT SHIRTS, JER-
SEYS, SHORTS, TROUSERS, PANTS, SWEAT-
PANTS, SKI PANTS, RACING PANTS, JEANS,
COATS, VESTS, JACKETS, SWIMWEAR, HATS,
VISORS, CAPS, GLOVES, BELTS, SOCKS, SAN-
DALS AND SHOES, IN CLASS 25 (U.S. CLS. 22
AND 39).

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

OWNER OF U.S. REG. NOS. 1,169,945,
1,552,583, AND OTHERS.

SN 74-485,652, FILED 2-2-1994.

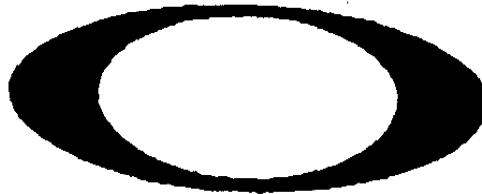
DAVID H. STINE, EXAMINING ATTORNEY

Int. Cls.: 9 and 25

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

Reg. No. 1,984,501
United States Patent and Trademark Office 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

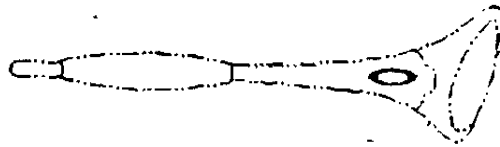
Prior U.S. Cls.: 21, 23, 26, 36 and 38

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

[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.

[21] Appl. No.: 695,683

[22] Filed: May 3, 1991

Related U.S. Application Data

[63] Continuation of Ser. No. 436,474, Nov. 20, 1989, Pat. No. 5,054,903.

[51] Int. Cl.⁵ G02S 5/14

[52] U.S. Cl. 351/123; 351/122; 351/111

[58] Field of Search 351/122, 123, 111, 119, 351/121

[56] **References Cited**

U.S. PATENT DOCUMENTS

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

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 .

FOREIGN PATENT DOCUMENTS

62-12123 1/1987 Japan .

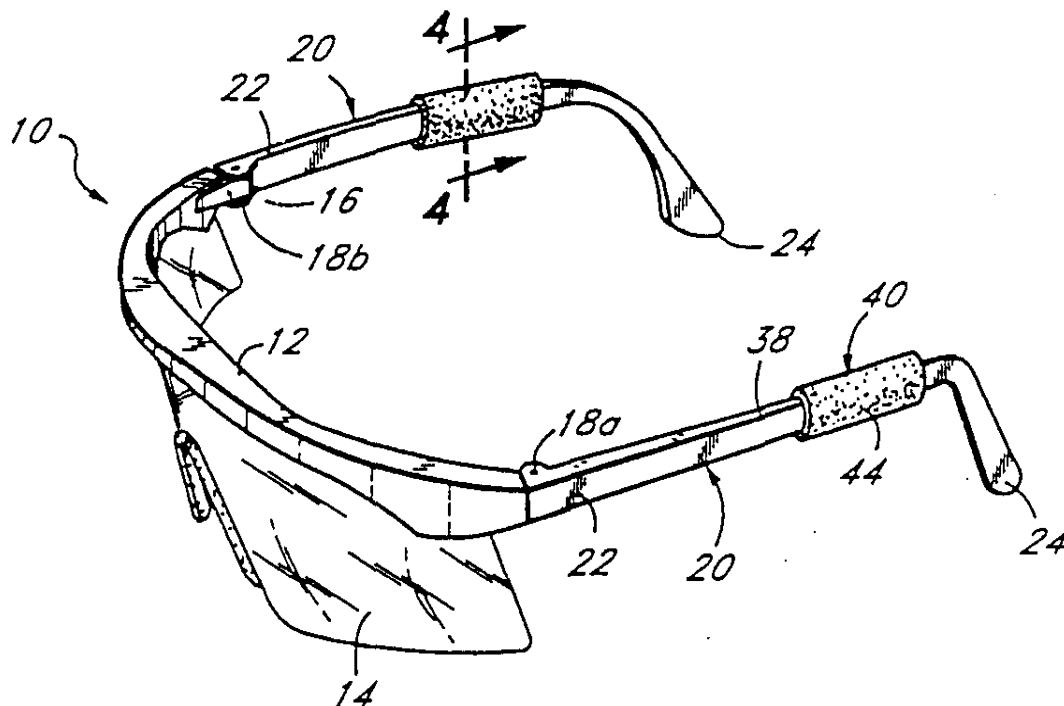
Primary Examiner—Paul M. Dzierzynski

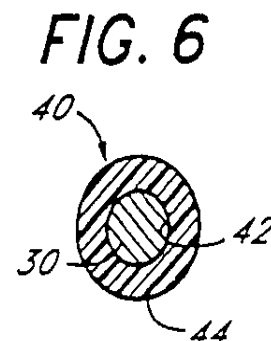
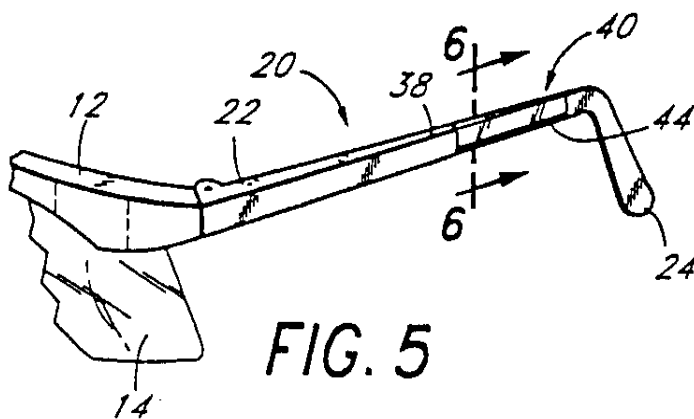
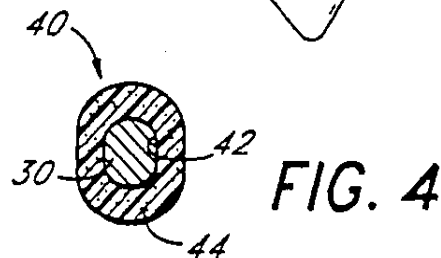
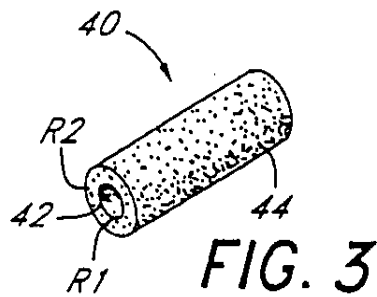
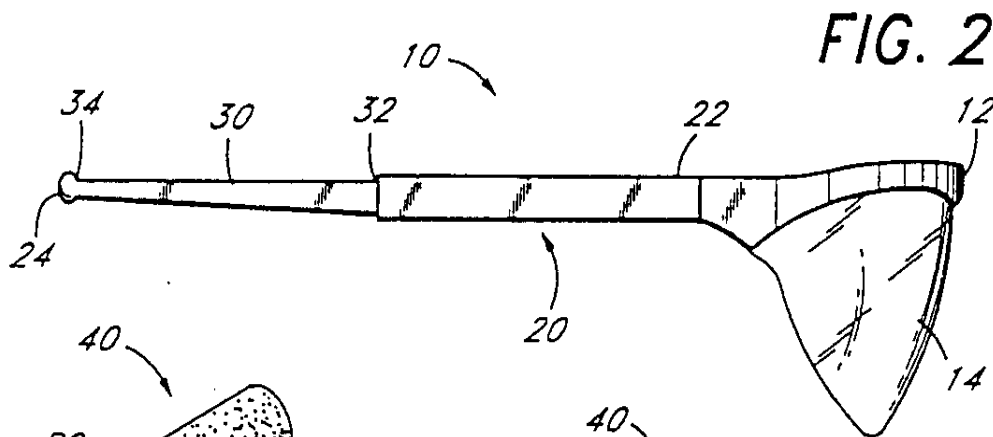
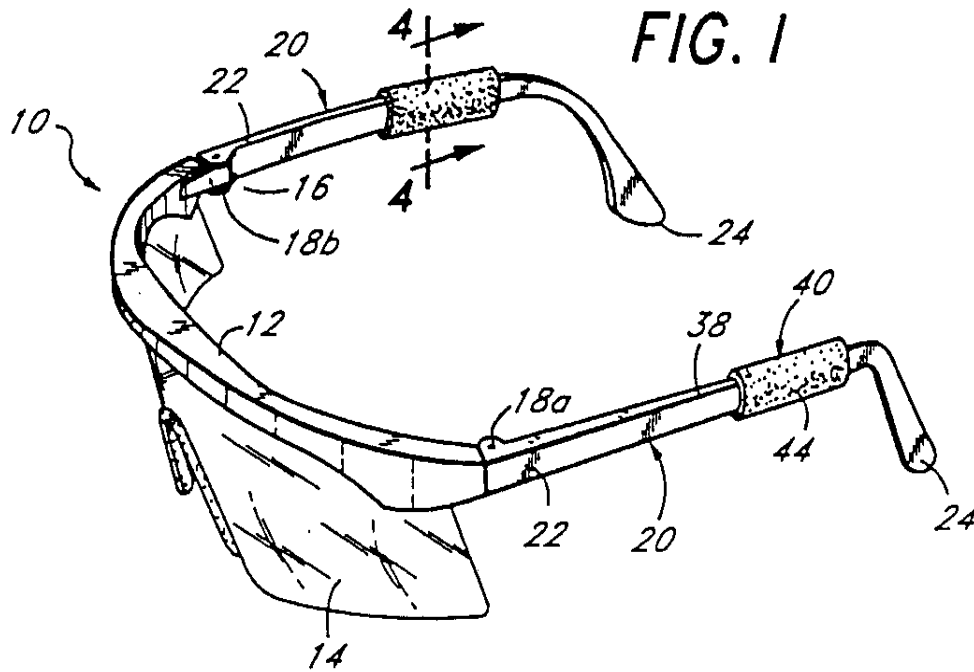
Attorney, Agent, or Firm—Knobbe, Martens, Olson & Bear

[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.

32 Claims, 1 Drawing Sheet





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 on 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

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

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 formed between the shoulders 32 and 34. 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 R1 and outer surface 44 of radius R2, wherein radius R1 is less than radius R2. Preferably, radius R1 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 R1 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 42 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 GTM, 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.

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.

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 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.
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.
-

[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.: 545,962
[22] Filed: Jun. 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

[56] References Cited
U.S. PATENT DOCUMENTS
D. 145,288 7/1946 DiCicco .
D. 150,924 9/1948 Bright D16/116
D. 163,869 7/1951 Hinman .
D. 176,316 12/1955 Fleming .
D. 178,178 7/1956 Fleming .
D. 184,239 1/1959 McNeill .
D. 187,394 3/1960 Moeller .
D. 198,719 7/1964 McCulloch .
D. 199,150 9/1964 Carmichael .
D. 201,919 8/1965 Simpson .
D. 203,520 1/1966 McCulloch .
D. 210,048 1/1968 Imperatrice .
D. 210,421 3/1968 Mitchell .
D. 230,439 2/1974 Rabuse .
D. 268,683 4/1983 Tenny D16/102
D. 280,994 10/1985 Abate D16/112
D. 285,020 8/1986 Schmidthaler D16/102
D. 289,301 4/1987 Jannard D16/112
D. 293,450 12/1987 Jannard D16/102
296,388 4/1988 Choate et al. .
D. 322,975 1/1992 Bolle .
753,594 3/1904 Lavallee .
1,164,375 12/1915 MeVay .
1,206,135 11/1916 Otte .
1,233,908 7/1917 Richardson .
1,338,880 5/1920 Stevens D16/127
1,841,052 1/1932 Pollmiller .
1,919,731 7/1933 Kates .

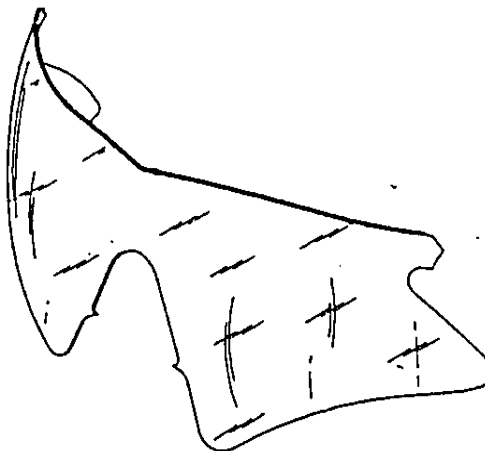
2,288,423 6/1942 Root .
2,397,243 3/1946 Cooper .
2,419,917 4/1947 Robeson .
2,423,539 7/1947 Williams .
2,444,498 7/1948 Cochran .
2,456,334 12/1948 Shindel .
2,472,731 6/1949 Splaine .
2,482,664 9/1949 Gagnon .
2,529,110 11/1950 Splaine .
2,582,345 1/1952 Moeller .
2,642,569 6/1953 Triebes .
2,700,765 2/1955 Hoffmaster .
2,728,078 12/1955 Taylor .
3,006,247 10/1961 Davis .
3,066,573 12/1962 Moeller .
3,133,141 5/1964 Anderson .
3,133,982 5/1964 Janz .
3,155,982 11/1964 Baratelli 351/123
3,233,249 2/1966 Baratelli .
3,233,250 2/1966 Jonnasen .
3,531,189 9/1970 Petito .
3,649,106 3/1972 Hirschmann 351/117
3,663,959 5/1972 Loubeyre 2/14 N
3,689,136 9/1972 Atamian 351/44
3,708,224 1/1973 Lindblom 351/62
3,756,704 9/1973 Marks 351/60
3,782,810 1/1974 Marker .
3,791,722 2/1974 Ahlberg et al. 2/14 B
4,515,448 5/1985 Tackles 351/41
4,563,066 1/1986 Bononi 351/122
4,564,272 1/1986 Riannoy 351/153
4,674,851 6/1987 Jannard 351/47
4,730,915 3/1988 Jannard 351/47
4,859,048 8/1989 Jannard 351/159
4,867,550 9/1989 Jannard 351/47
4,951,322 8/1990 Lin 351/44

FOREIGN PATENT DOCUMENTS

673815 10/1929 France .
790755 9/1935 France .
1105548 7/1955 France .
1249275 11/1960 France .

OTHER PUBLICATIONS

Runner's World Magazine Advertisement, Jul. 1990.
Primary Examiner—Bernard Ansher
Assistant Examiner—R. Barkai
Attorney, Agent, or Firm—Knobbe, Martens, Olson &
Bear



[57]

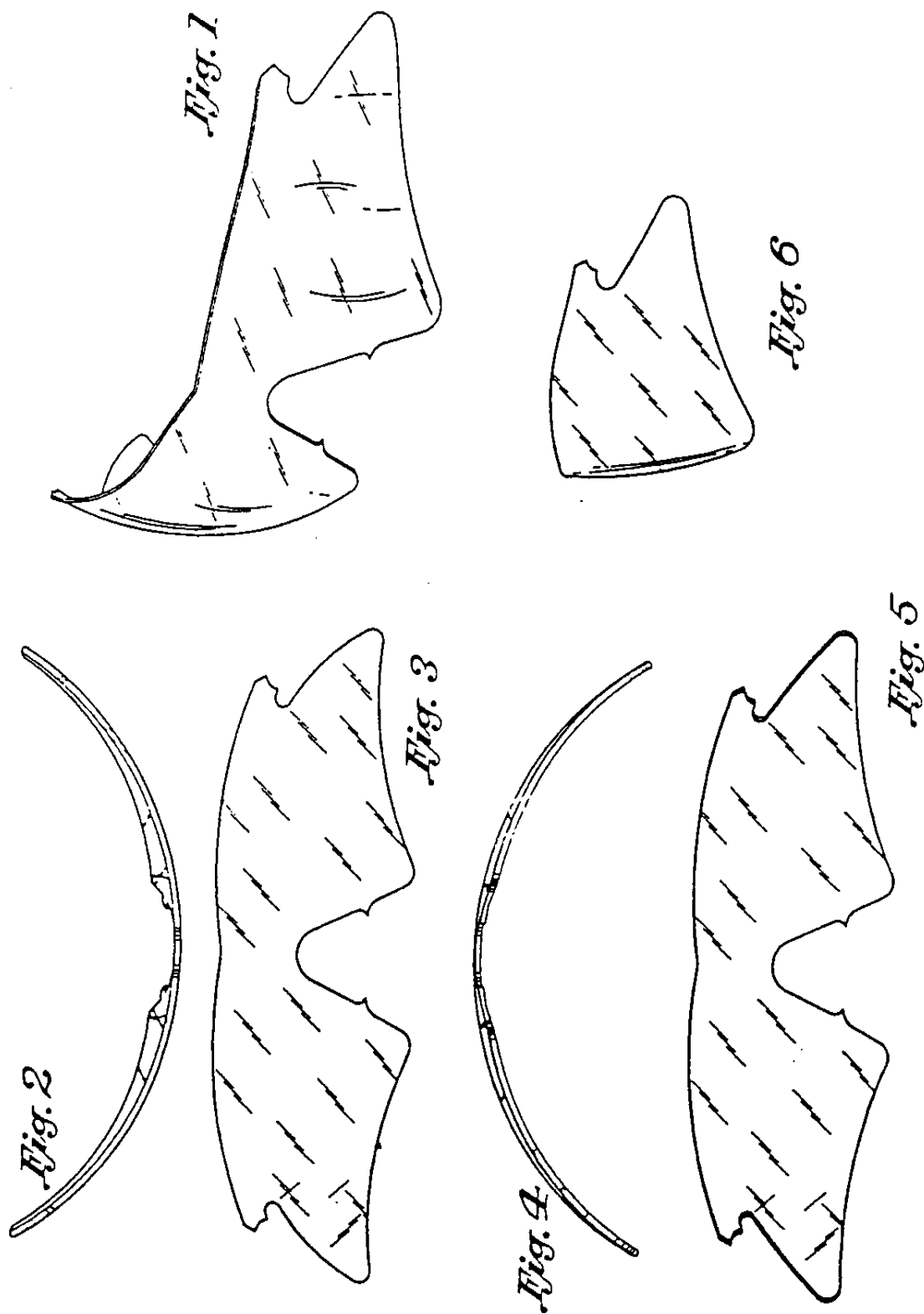
CLAIM

DESCRIPTION

The ornamental design for a unitary eyeglass lens, as

shown and described.

FIG. 1 is a frontal perspective view of a unitary eyeglass 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.



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

[56] References Cited

U.S. PATENT DOCUMENTS

D. 145,288	7/1946	DiCocco	
D. 202,130	8/1965	Mitchell	D16/315
D. 204,417	4/1966	Shindler	D16/326
D. 322,975	1/1992	Bolle	
D. 323,333	1/1992	Jannard et al.	D16/314
D. 323,665	2/1992	Simioni	D16/314
D. 324,394	3/1992	Jannard	
D. 324,528	3/1992	Jannard	
D. 325,040	3/1992	Jannard	
D. 328,468	8/1992	Jannard	
D. 329,445	9/1992	Jannard	
D. 330,035	10/1992	Jannard	
D. 330,716	11/1992	Jannard	
D. 330,903	11/1992	Jannard	
D. 331,587	12/1992	Jannard et al.	
D. 331,763	12/1992	Jannard	
D. 333,145	2/1993	Jannard	
D. 334,389	3/1993	Bolle	D16/314
D. 335,887	5/1993	Jannard	
D. 344,742	3/1994	Jannard	D16/314
D. 354,501	1/1995	Jannard	D16/314
D. 369,375	4/1996	Jannard et al.	

D. 371,383	7/1996	Goldman	D16/327
2,388,687	11/1945	Hammon	
3,531,189	9/1970	Petito	
3,689,136	9/1972	Atamian	
4,730,915	3/1988	Jannard	351/44
5,208,614	5/1993	Jannard	
5,249,001	9/1993	Jannard	
5,412,438	5/1995	Bolle	351/44

OTHER PUBLICATIONS

Advertisement for Oakley Blades, Mud Pack System, Razor Blades and Eyeshade System which appeared in *American Bicyclist and Motorcyclist* magazine (Mar. 1988).
Oakley Frogskins, Blades and Mumbos product brochure (1990).
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 LLP.

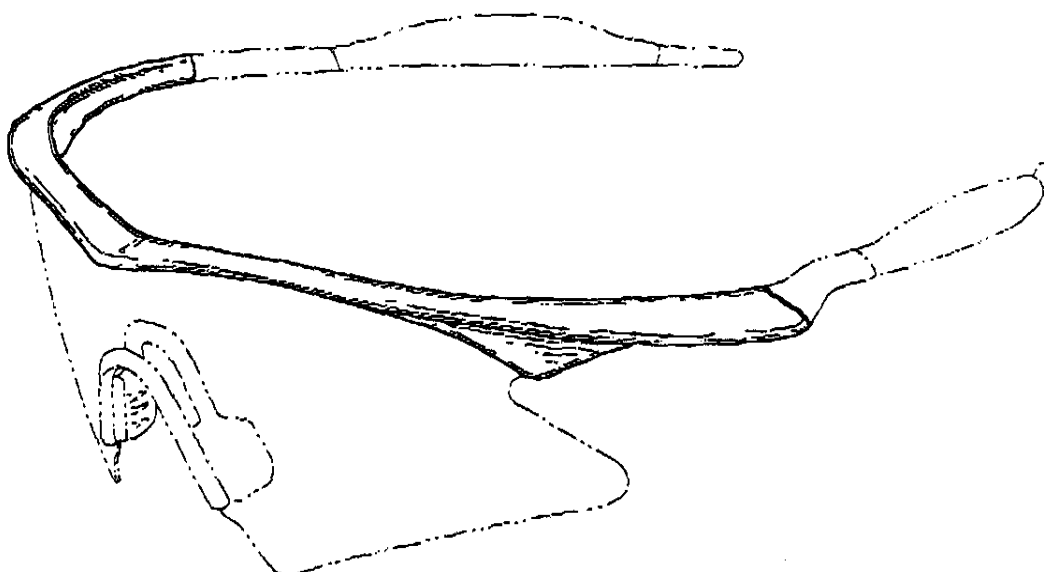
[57] CLAIM

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



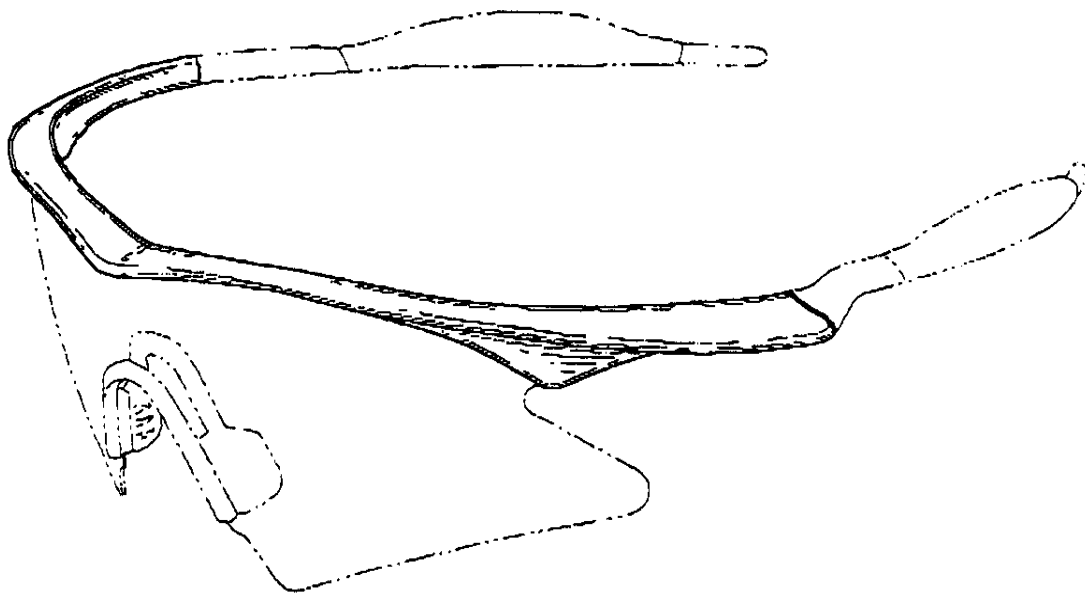
*Fig. 1*

Fig. 2

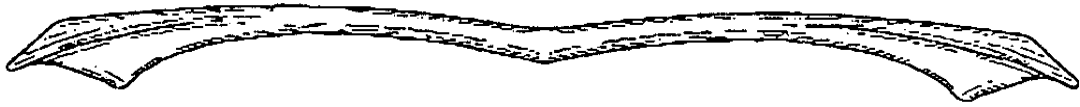
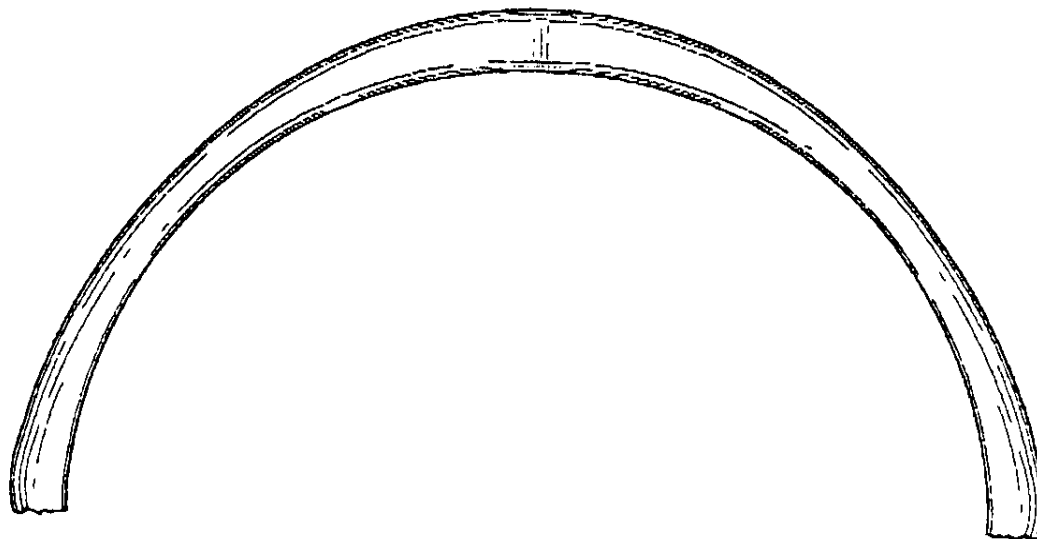
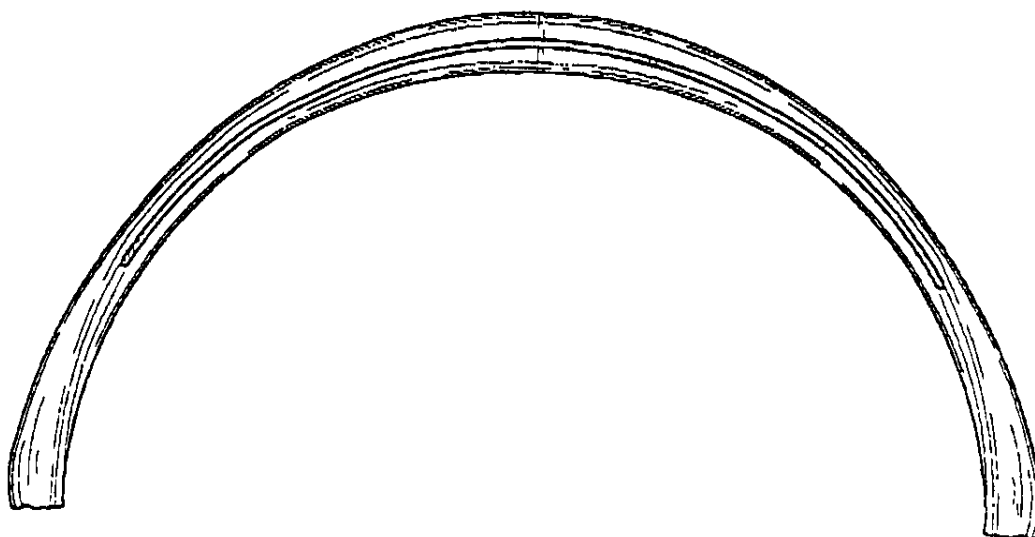


Fig. 3



Fig. 4



Fig. 5*Fig. 6*

[54] EYEGLASS COMPONENT

[75] Inventor: Peter Yee, Irvine, Calif.

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

[**] Term: 14 Years

[21] Appl. No.: 75,379

[22] Filed: Aug. 12, 1997

Related U.S. Application Data

[62] Division of Ser. No. 55,504, Jun. 6, 1996, Pat. No. Des. 384,364.

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

[52] U.S. Cl. D16/330

[58] Field of Search D16/100, 300,
D16/306, 304, 309, 311-317, 319, 325-330,
335; 351/41, 44, 51-52, 103, 105, 106,
109, 111, 118, 119, 124; 2/447, 448

[56] References Cited

U.S. PATENT DOCUMENTS

D. 145,288 7/1946 Di Cicco .
D. 202,130 8/1965 Mitchell D16/326
D. 204,417 4/1966 Shindler D16/326
D. 322,975 1/1992 Bolle .
D. 323,333 1/1992 Jannard et al. D16/314
D. 323,665 2/1992 Simioni D16/314
D. 324,394 3/1992 Jannard .
D. 324,528 3/1992 Jannard .
D. 325,040 3/1992 Jannard .
D. 328,468 8/1992 Jannard .
D. 329,445 9/1992 Jannard .
D. 330,035 10/1992 Jannard .
D. 330,716 11/1992 Jannard .
D. 330,903 11/1992 Jannard .
D. 331,587 12/1992 Jannard et al. .
D. 331,763 12/1992 Jannard .
D. 333,145 2/1993 Jannard .
D. 334,389 3/1993 Bolle D16/314
D. 335,887 5/1993 Jannard .
D. 344,742 3/1994 Jannard D16/314
D. 354,501 1/1995 Jannard D16/314
D. 369,375 4/1996 Jannard et al. .

D. 371,383 7/1996 Goldman D16/327
2,388,687 11/1945 Hammon .
3,531,189 9/1970 Petito .
3,689,136 9/1972 Atamian .
4,730,915 3/1988 Jannard 351/44
5,208,614 5/1993 Jannard .
5,249,001 9/1993 Jannard .
5,412,438 5/1995 Bolle 351/44

OTHER PUBLICATIONS

Oakley Blades, Mud Pack System, Razor Blades and Eye-shade System Advertisement, *American Bicyclist & Motorcyclist*, p. 40, Mar. 1988.

"For Your Eyes Only . . ." Advertisement, *Runner's World*, p. 46, Jul. 1990.

Oakley Frogskins, Blades and Mumbos Product Brochure, 1990.

Various Sunglasses, Advertisement, *Surfing Magazine*, Aug. 1993.

Primary Examiner—Raphael Barkai

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

[57] CLAIM

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

DESCRIPTION

FIG. 1 is a front perspective view of the eyeglass component of the present invention;

FIG. 2 is a front elevational view of the eyeglass component of FIG. 1;

FIG. 3 is a rear elevational view of the eyeglass component of FIG. 1;

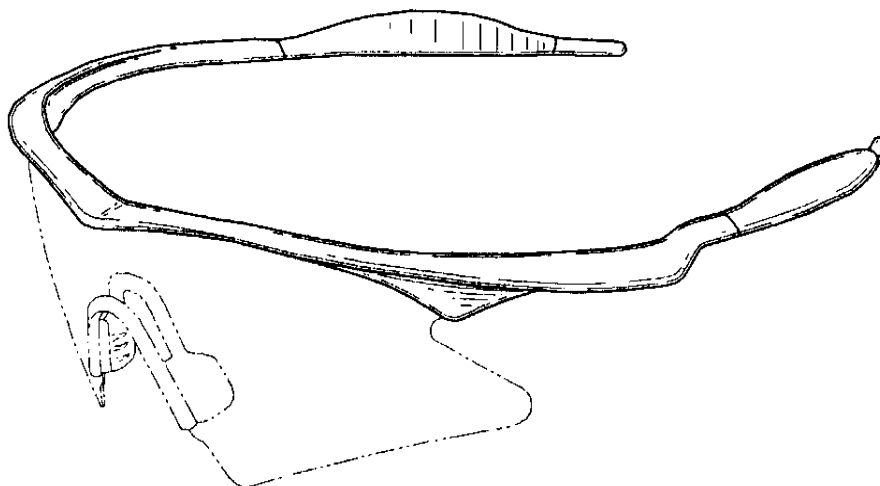
FIG. 4 is a right-side elevational view of the eyeglass component of FIG. 1, the left-side elevational view being a mirror image thereof;

FIG. 5 is a top plan view of the eyeglass component of FIG. 1; and,

FIG. 6 is a bottom plan view of the eyeglass component of FIG. 1.

The broken lines shown in FIG. 1 are for illustrative purposes only and form no part of the claimed design.

1 Claim, 4 Drawing Sheets



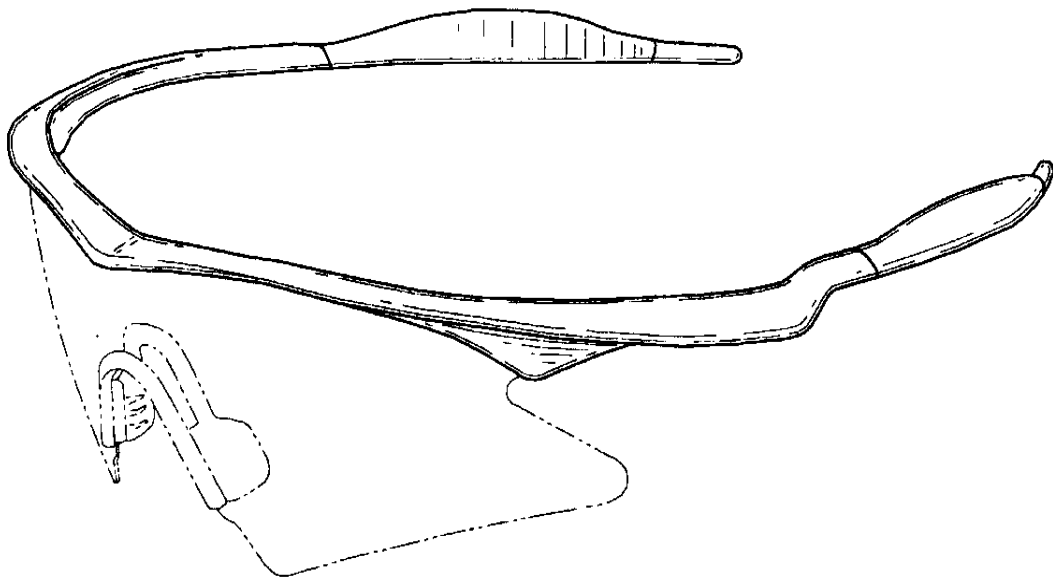
**FIG. 1**

FIG. 2



FIG. 3



FIG. 4



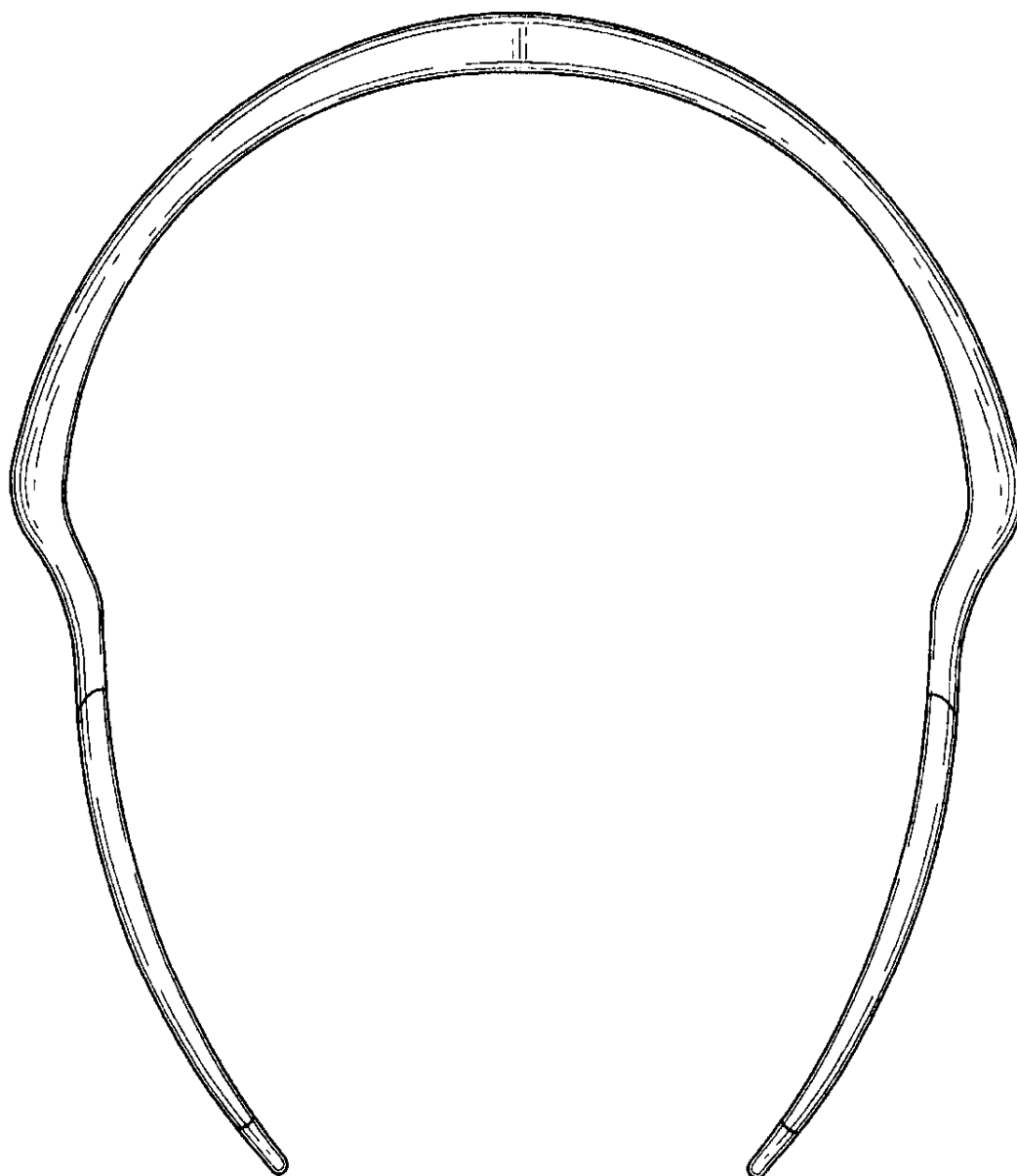
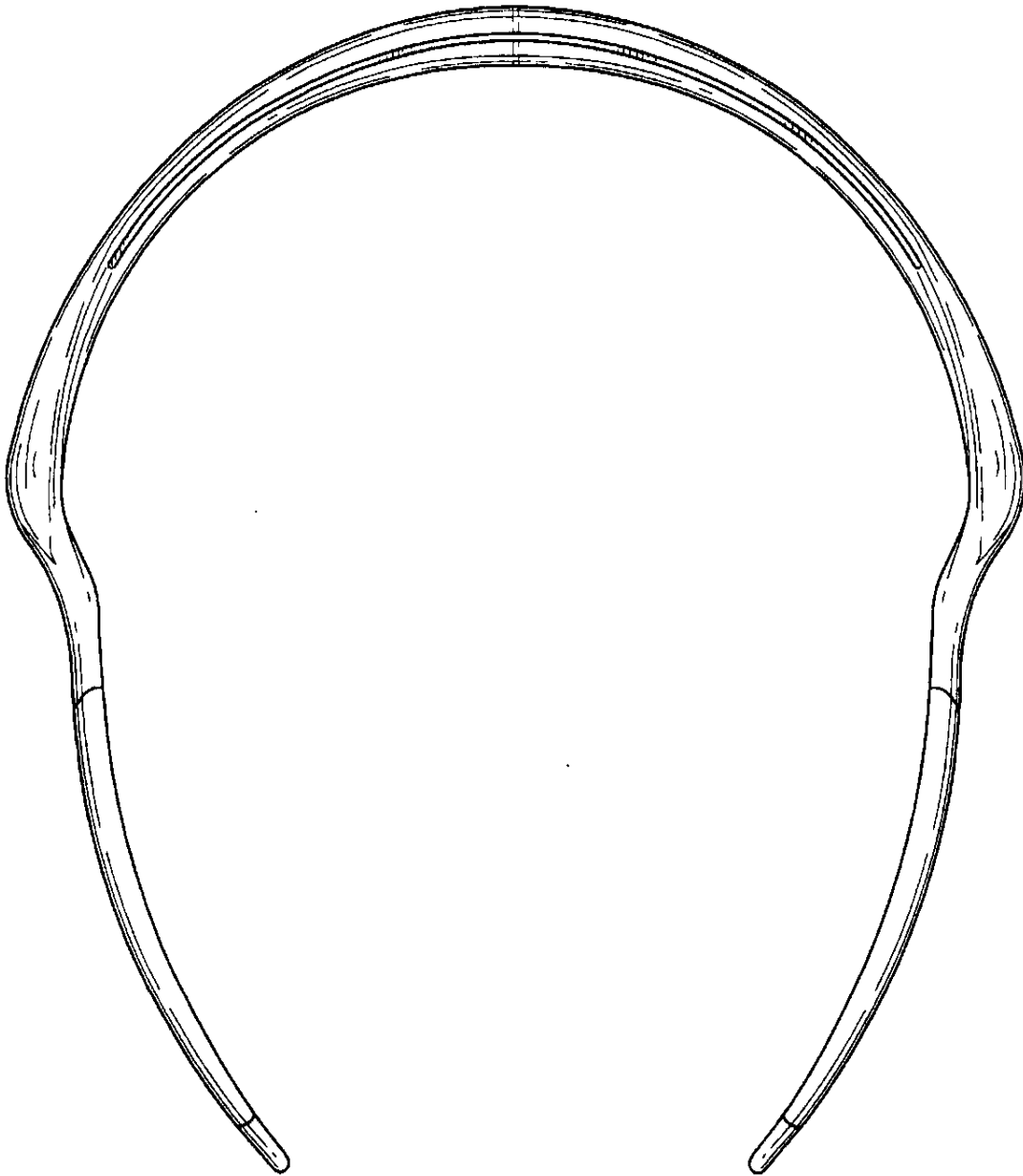
FIG. 5

FIG. 6

[54] **EYEGLASSES**

[75] **Inventors:** James H. Jannard, Eastsound, Wash.;
 Peter Yee, Huntington Beach; M. Neil
 Houston, Foothill Ranch, both of Calif.

[73] **Assignee:** Oakley, Inc., Irvine, Calif.

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

[21] **Appl. No.:** 30,825

[22] **Filed:** Nov. 9, 1994

[52] **U.S. Cl. D16/326**

[58] **Field of Search D16/300, 306,**
 D16/309-311, 315-317, 323-330, 340,
 341; 351/44, 50, 51, 103-110, 158

[56] **References Cited**

U.S. PATENT DOCUMENTS

D. 167,704	9/1952	McCardell	.....	D16/326
D. 193,028	6/1962	Petruo	.....	D16/326
D. 196,000	8/1963	McNeill	.....	D16/315
D. 204,418	4/1966	Ramp	.....	D16/329
D. 205,419	8/1966	Griss	.....	D16/326

D. 206,353	11/1966	Bloch	.....	D16/326
D. 209,095	10/1967	Ramp	.....	D16/328
D. 347,014	5/1994	Arnetic	.....	D16/326

Primary Examiner—Ted Shooman

Assistant Examiner—R. Barkai

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

[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 of the eyeglasses of FIG. 1;

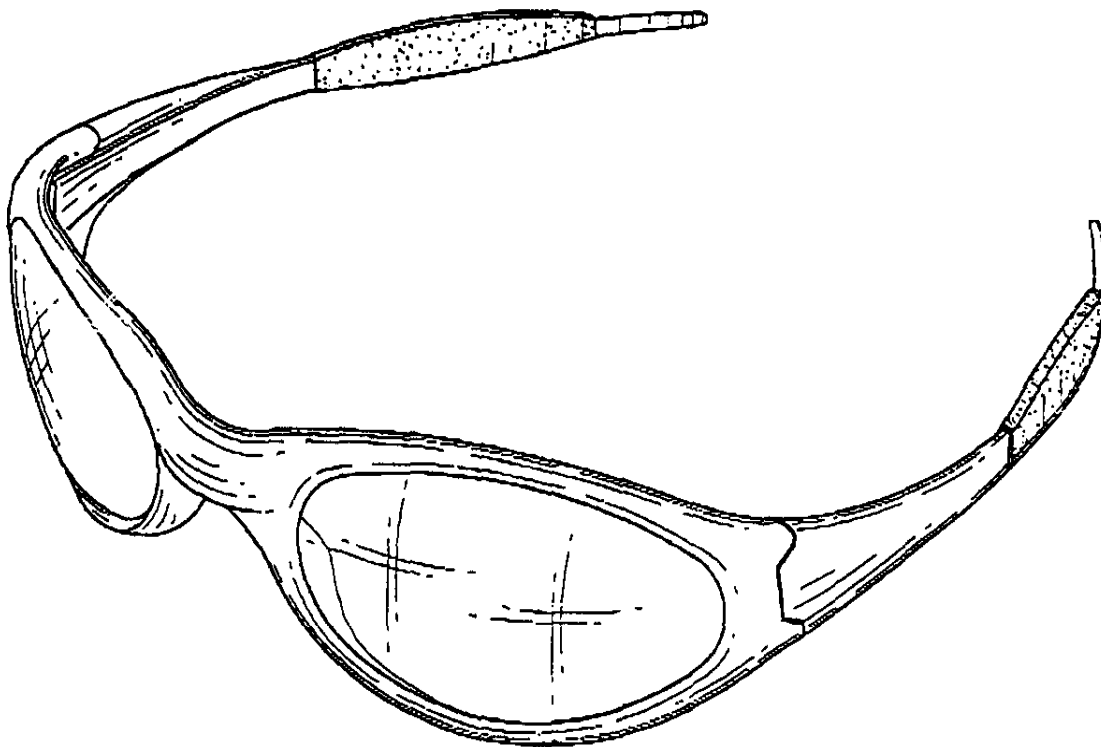
FIG. 3 is a rear elevational view of the eyeglasses of FIG. 1;

FIG. 4 is a left side elevational view of the eyeglasses of FIG. 1, the right side elevational view being a mirror image thereof;

FIG. 5 is a top plan view of the eyeglasses of FIG. 1; and

FIG. 6 is a bottom plan view of the eyeglasses of FIG. 1.

1 Claim, 3 Drawing Sheets



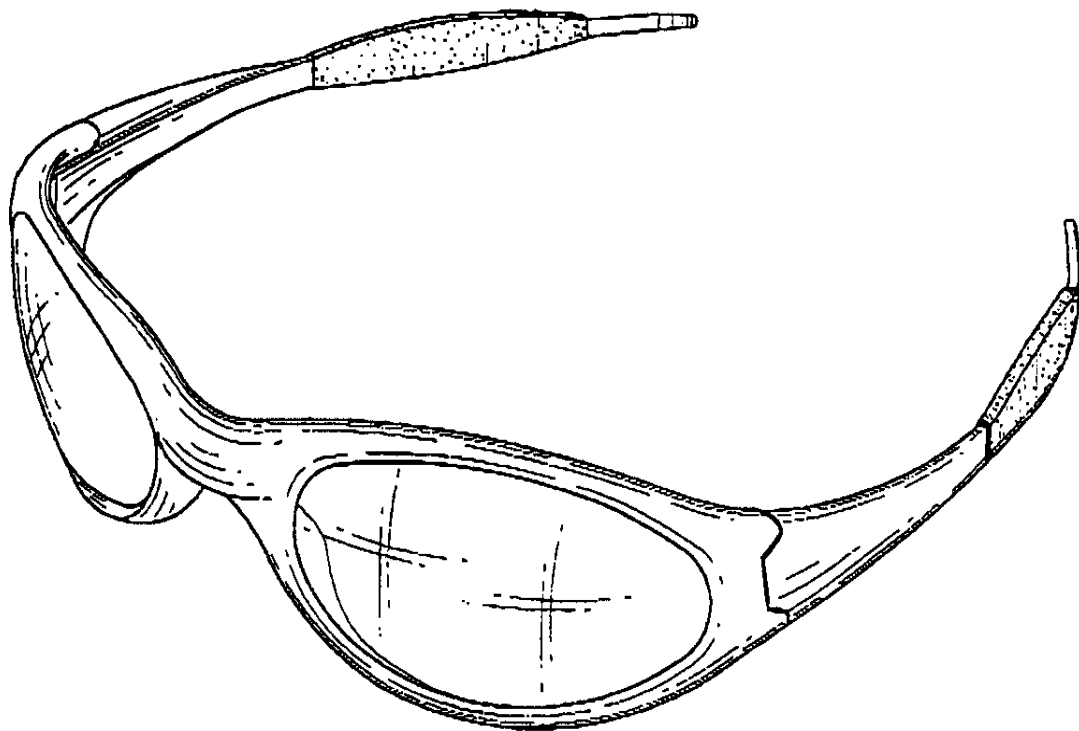


Fig. 1

Fig. 2

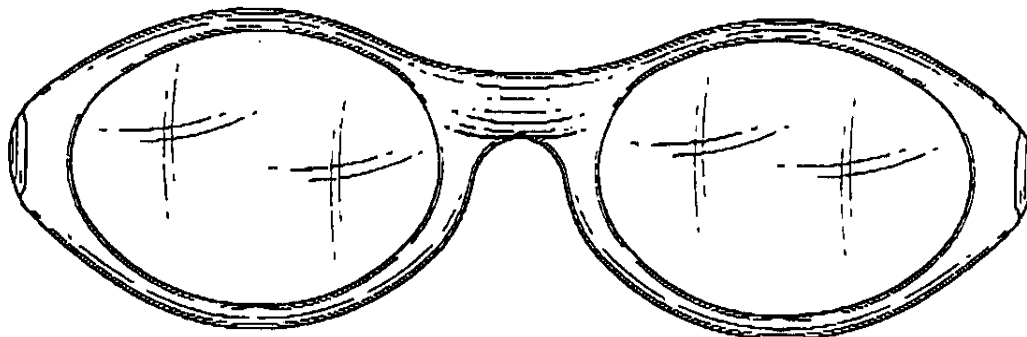


Fig. 3

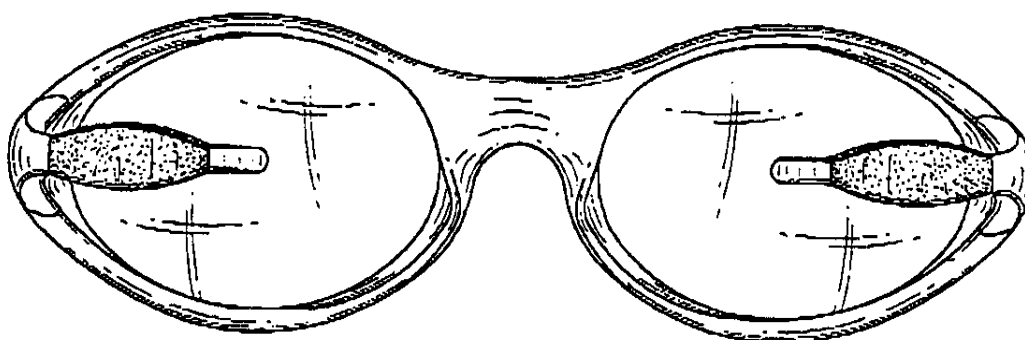


Fig. 4

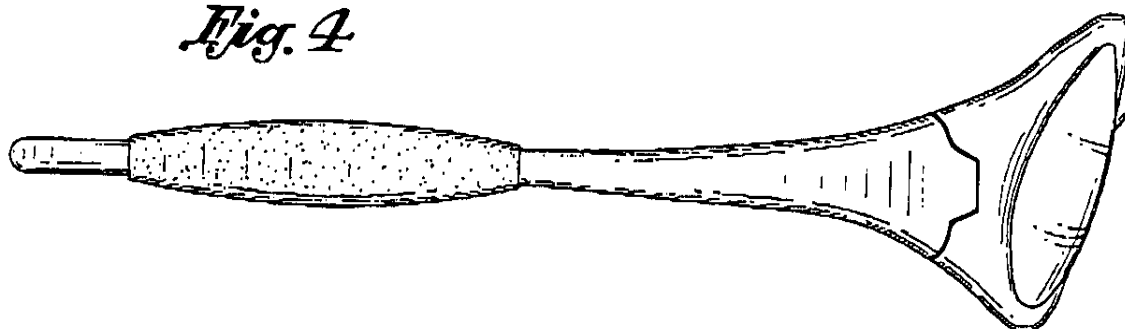


Fig. 5

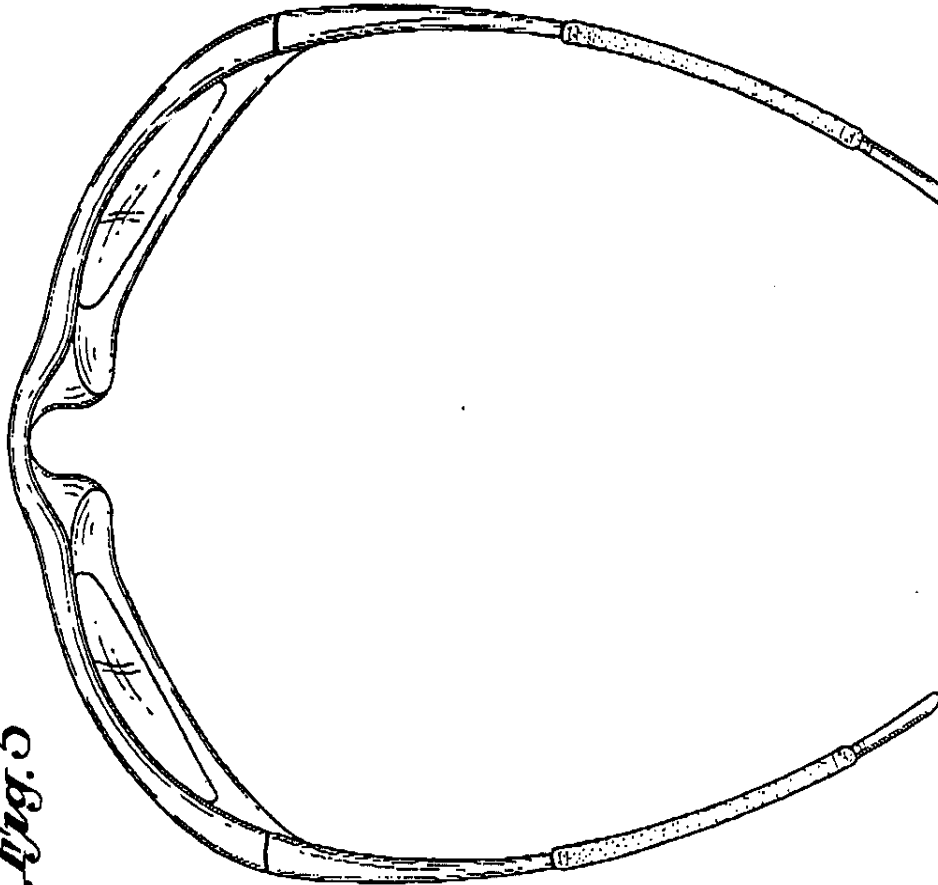
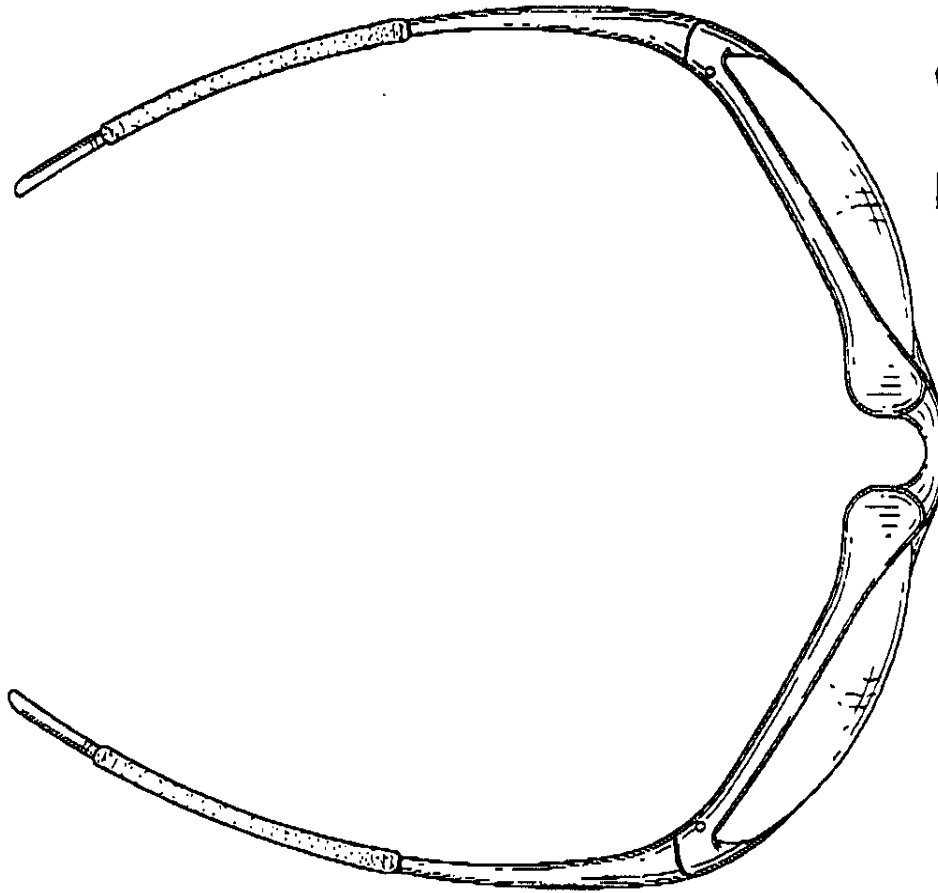


Fig. 6



United States Patent [19]

Jannard et al.

[11] Patent Number: Des. 422,298

[45] Date of Patent: ** Apr. 4, 2000

[54] EYEGGLASS COMPONENTS

[75] Inventors: James H. Jannard, Spieden Island,
Wash.; Colin Baden, Irvine; Hans
Moritz, San Clemente, both of Calif.

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

[**] Term: 14 Years

[21] Appl. No.: 29/096,508

[22] Filed: Nov. 13, 1998

[51] LOC (6) CL 16-06

[52] U.S. CL D16/326; D16/319

[58] Field of Search D16/101, 300-330;
351/41, 44, 51, 52, 158, 90, 96, 124, 132;
2/447, 448

[56] References Cited

U.S. PATENT DOCUMENTS

D. 198,719	7/1964	McCulloch	
D. 383,149	9/1997	Simioni	
D. 392,662	3/1998	Jannard	D16/330
D. 397,351	8/1998	Simioni	D16/325
D. 398,326	9/1998	Jannard et al.	D16/326
D. 400,230	10/1998	Arnette	D16/326
D. 407,099	3/1999	Wang	D16/326
D. 407,428	3/1999	Jannard	D16/319
3,684,356	8/1972	Bates	

FOREIGN PATENT DOCUMENTS

1184347 2/1968 United Kingdom.

OTHER PUBLICATIONS

B.B. sol—Les lunettes/sonr equipees de verres SOVIREL
(1971).

B.B. sol—Lunettes de Soleil (1986).

Berther-Bonder (1995).

Solex Quality Optics (Skiing Sep. 1992).

Primary Examiner—Raphael Barkai

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

[57] CLAIM

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

DESCRIPTION

FIG. 1 is a front perspective view of the eyeglass compo-
nents of the present invention;

FIG. 2 is a front elevational view thereof;

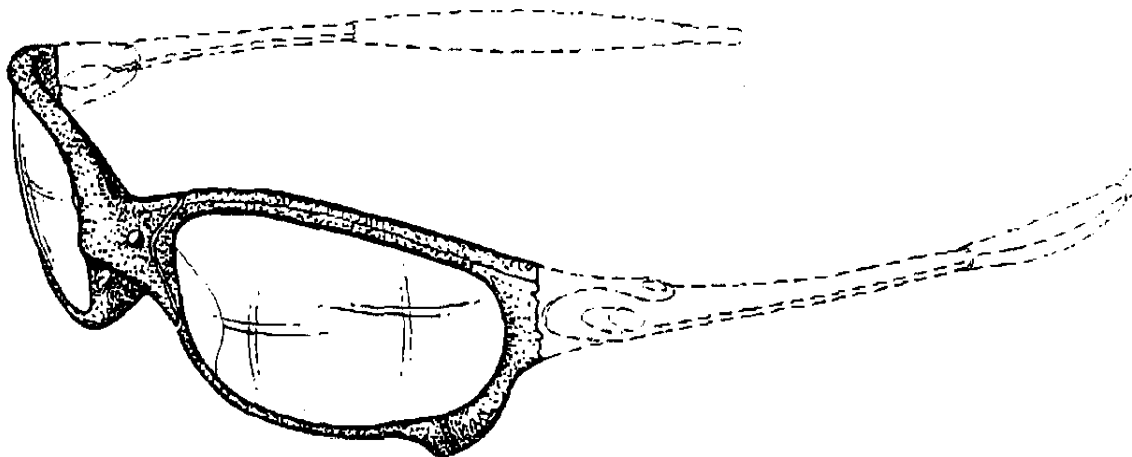
FIG. 3 is a rear elevational view thereof;

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

Apr. 4, 2000

Sheet 1 of 3

Des. 422,298

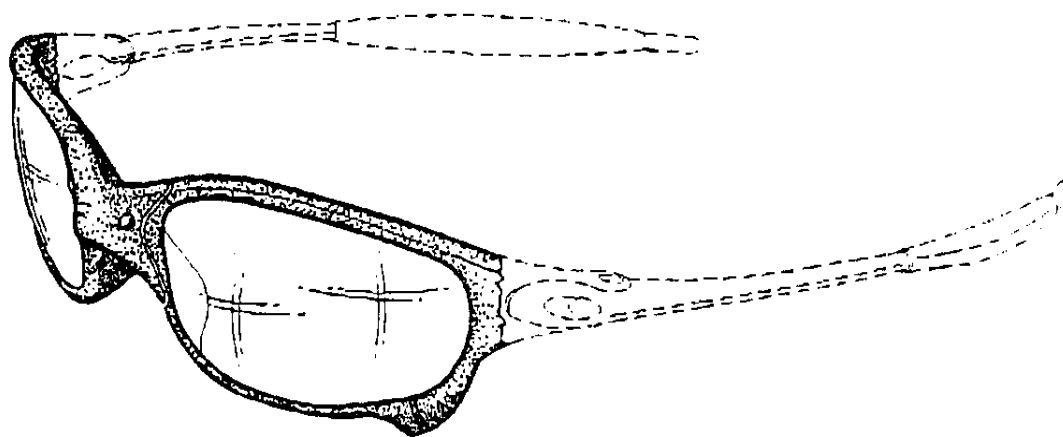


FIG. 1

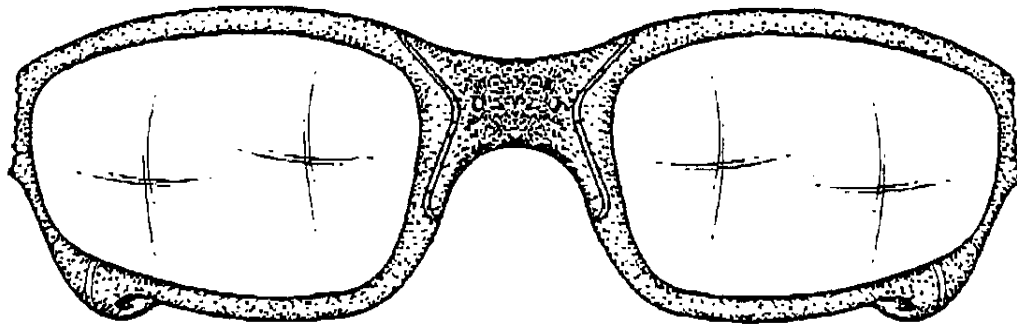


FIG. 2

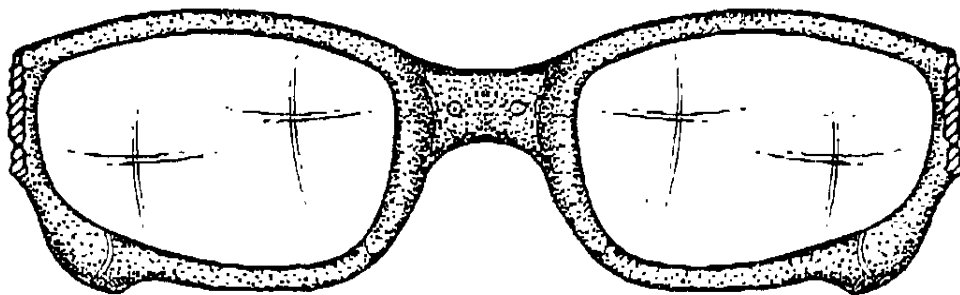


FIG. 3

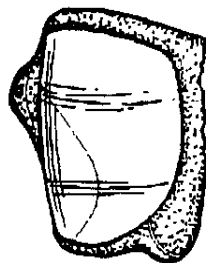


FIG. 4

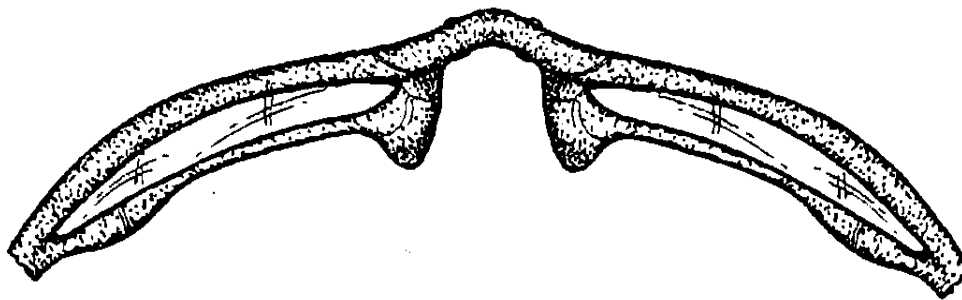


FIG. 5



FIG. 6

[54] **EYEGLASSES**

[75] **Inventors:** Peter Yee, Irvine, Calif.; James H. Jannard, Eastsound, Wash.

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

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

[21] **Appl. No.:** 29/099,732

[22] **Filed:** Jan. 26, 1999

Related U.S. Application Data

[62] **Division of application No. 29/084,911, Mar. 12, 1998, Pat. No. Des. 404,754,**

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

[52] **U.S. Cl.** D16/326

[58] **Field of Search** D16/101, 300-330,
D16/335, 338: 351/41, 44, 51, 52, 111,
158; 2/447, 448

[56] **References Cited**

U.S. PATENT DOCUMENTS

D. 116,259 4/1939 Cook .
D. 167,704 9/1952 McCardell .
D. 196,000 8/1963 McNeill et al. .
D. 202,130 8/1965 Mitchell .
D. 204,418 4/1966 Ramp .
D. 205,419 8/1966 Griss .
D. 206,353 11/1966 Bloch .
D. 347,014 5/1994 Arnette .
D. 363,504 10/1995 Arnette D16/326
D. 369,375 4/1996 Jannard et al. .
D. 371,383 7/1996 Goldman .
D. 376,810 12/1996 Ohie .
D. 380,766 7/1997 Simioni .
D. 384,686 10/1997 Jannard et al. .
D. 385,291 10/1997 Jannard et al. .
D. 389,504 1/1998 Simioni .
D. 392,307 3/1998 Wilson D16/326
D. 397,350 8/1998 Jannard D16/326
D. 399,239 10/1998 Jannard D16/326
1,184,347 3/1916 Yau .
2,442,483 6/1948 Blasi .
3,156,756 11/1964 Seaver .
3,476,466 11/1969 Hopkins .

3,684,356 8/1972 Bates .
5,541,674 7/1996 Jannard .

OTHER PUBLICATIONS

Ski Magazine, Aug. 15, 1994,
Macy's Catalog, Jul. 1997,
Accessories P21, Jul. 15, 1995,
B.B. sol. S.A. Berthet-Mondet, 1966,
B.B. sol. "Sont Equipées De Verres Sovirel," 1971,
B.B. sol. "b.b.sol 1974",
Spectacles, Publication Boxes, DOMUS, p. 55, Oct. 1985,
Accessories Magazine, p. 14, Oct. 1986,
B.B. sol. "Lunettes De Soleil," 1988,
B.B. sol. "Lunettes De Soleil," 1989,
Accessories Magazine, p. 11, Apr. 1991,
B.B. sol. "Protege Vos Yeux," 1993,
Magazine, "Surfing," Aug. 1993,
Berthet-Bondet, "Protege Vos Yeux," 1994,
Alpina, "Optik 1996",
Catalogue, Sunglass Hut International, Spring Sport 1996,
Loubsol, "La Technologie Au Service Du Sport," Sport
1996,
Caraglogue, Frames, Summer 1996,
Frames, "Sun & Sport Eyewear," Fall 1996.

(List continued on next page.)

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

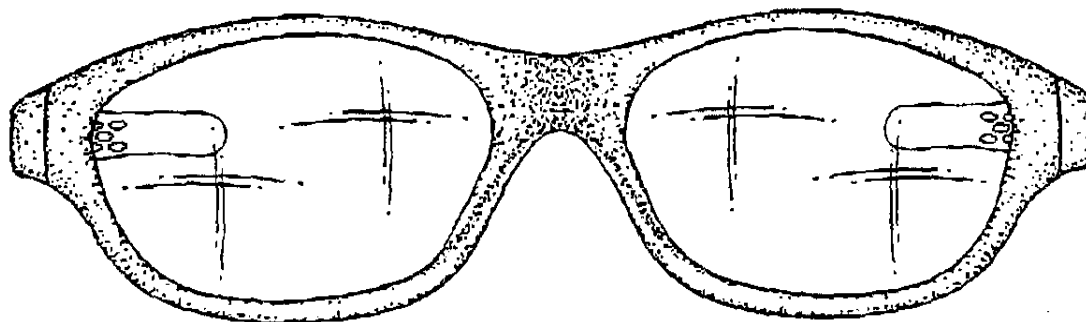
[57] **CLAIM**

The ornamental design for eyeglasses, as shown and described.

DESCRIPTION

FIG. 1 is a 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



Des. 423,548

Page 2

OTHER PUBLICATIONS

Catalogue, "Sunglass Hut International" Summer 1996.
Alpina, "High Impact," Ski & Sports Glasses by Alpina,
1996/1997.

Catalogue, "Frames-Winter 1997".

Loubsol, "The Lunette France," 1997.

Caralogue, B.B. Sol, pp. 1-7. No date.

Catalogue, B.B. Sol, "Lunetterie Berthet-Rondet," pp.
1-10. No date.

Catalogue, Loubsol, "Mixte-Jeune," pp. 1-15. No date.

Catalogue, Sunglass Hut International, "Revo Miracles Hap-
pen . . ." pp. 1-7. No date.

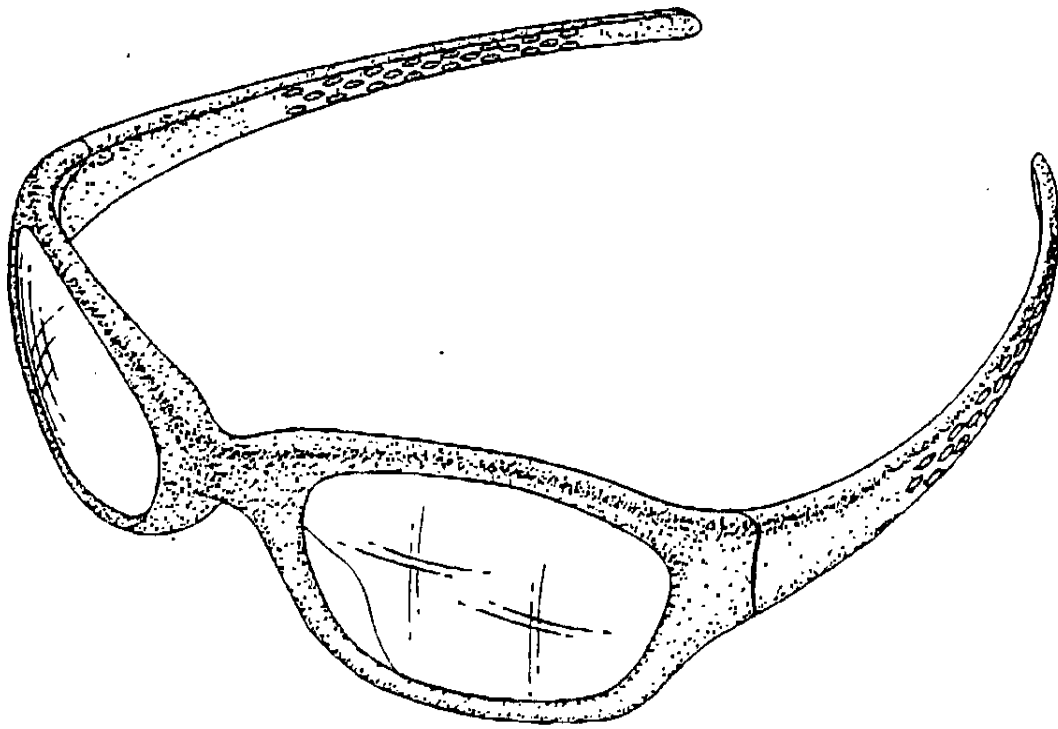


FIG. 1

FIG. 2

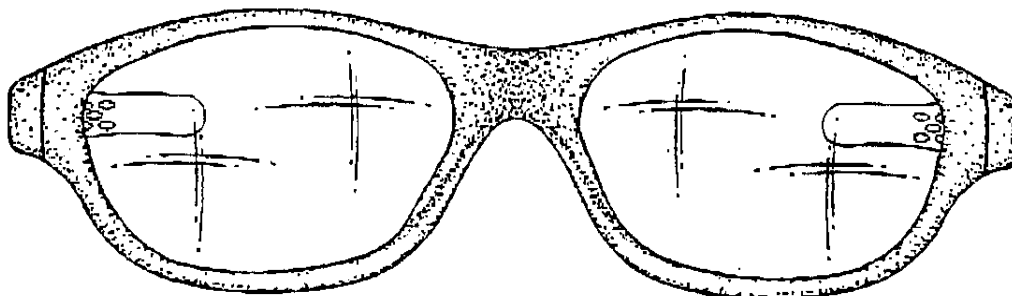


FIG. 3

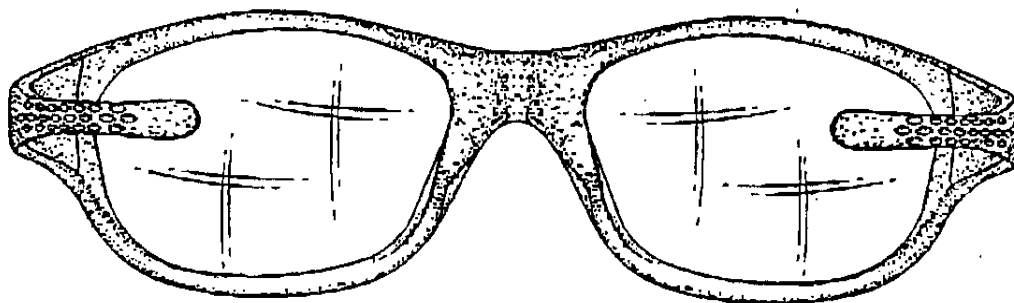


FIG. 4

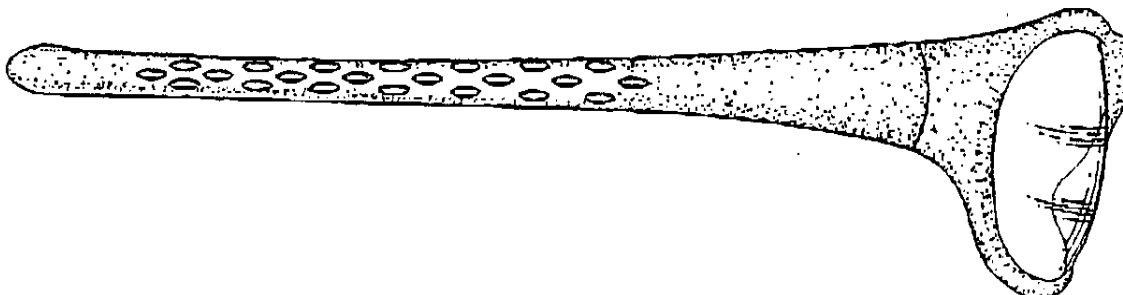


FIG. 5

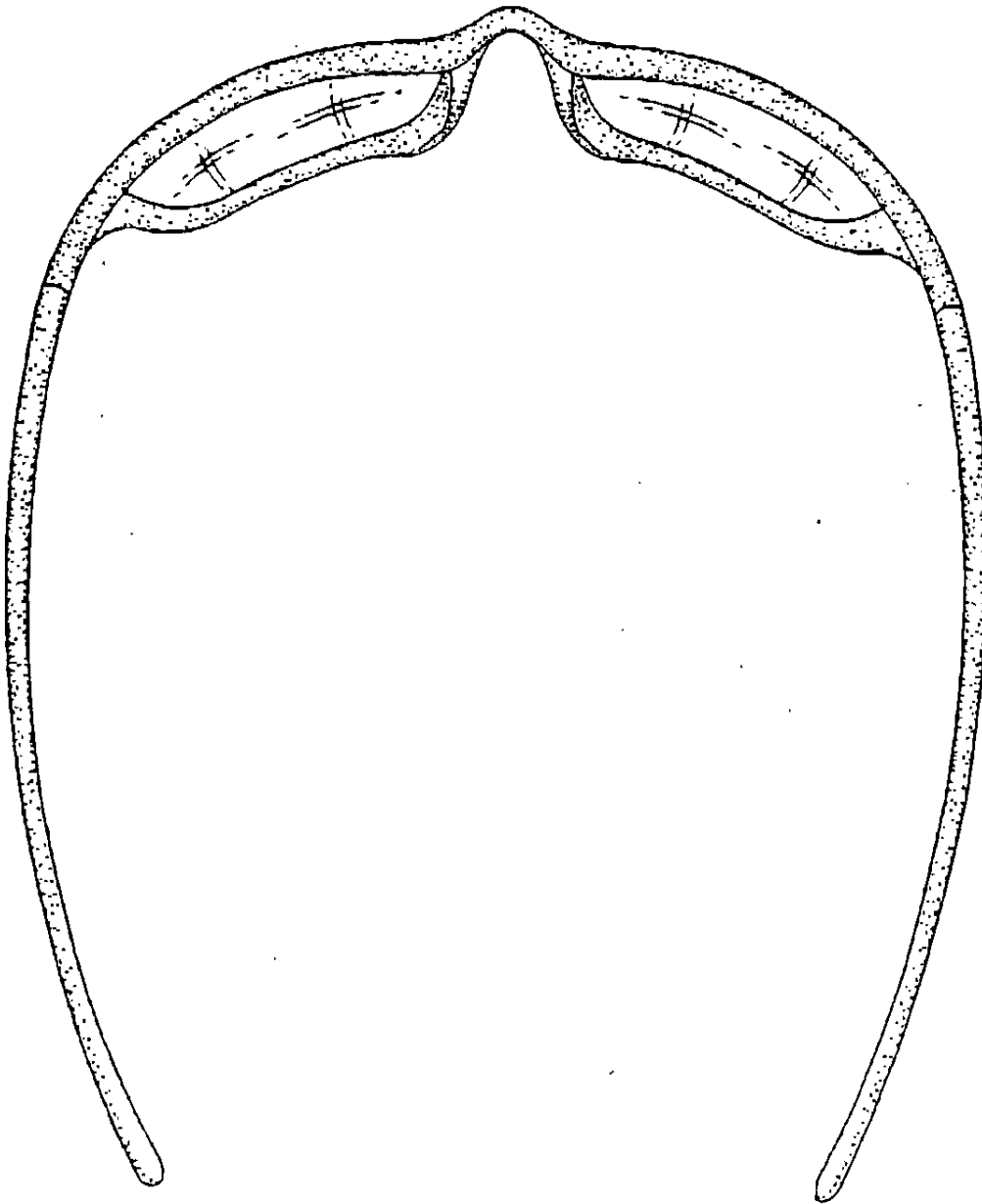
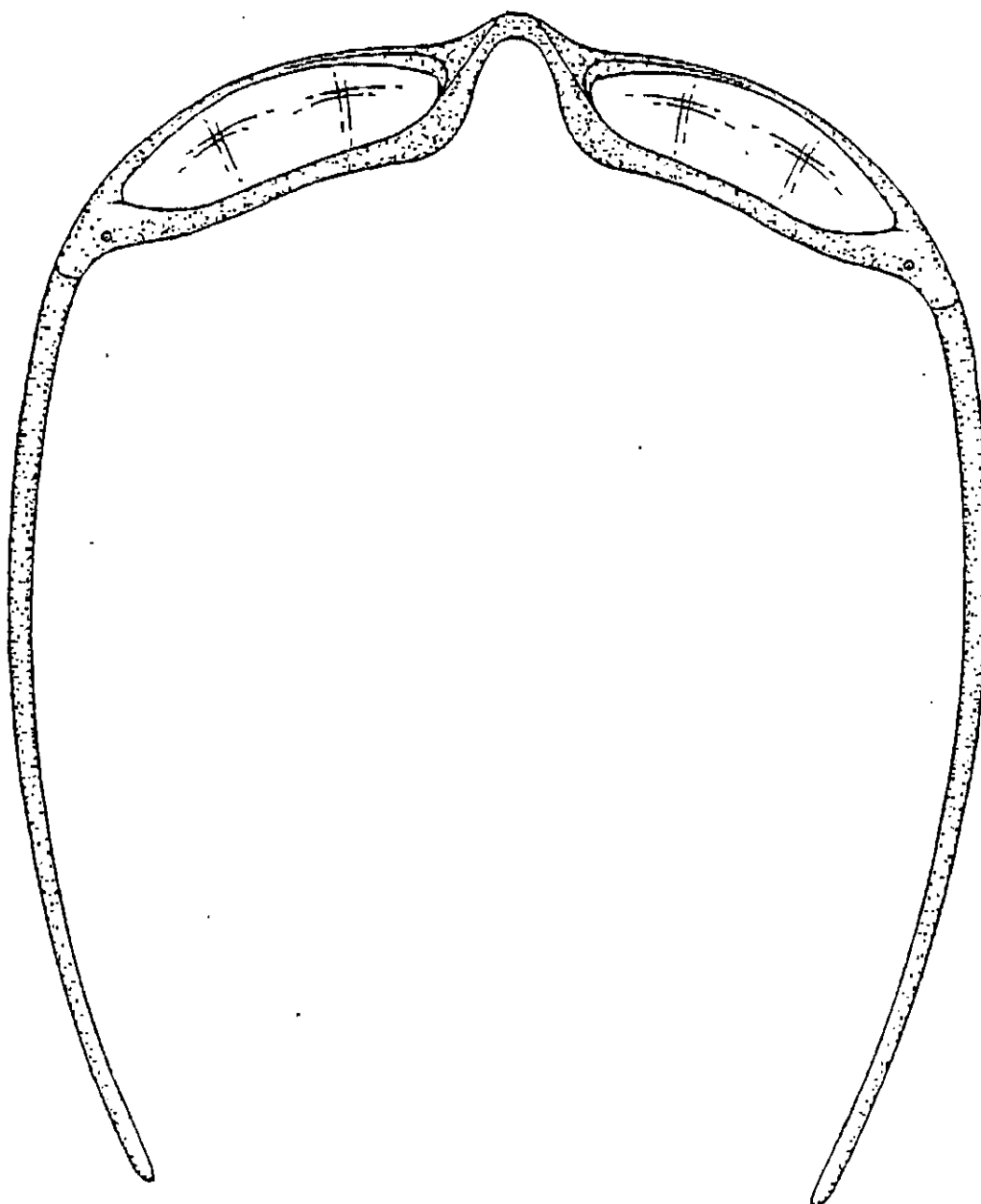


FIG. 6



Thixton et al.

(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

[56] References Cited

U.S. PATENT DOCUMENTS

D. 167,704 9/1952 McCardell .
D. 137,299 2/1960 Behr .
D. 139,436 12/1960 Carmichael .
D. 198,939 8/1964 Higgins .
D. 199,150 9/1964 Carmichael .
D. 204,417 4/1966 Shindler .
D. 204,418 4/1966 Ramp .
D. 205,093 6/1966 Gabonjauc .
D. 205,419 8/1966 Goss .
D. 209,095 10/1967 Ramp .
D. 339,316 9/1993 Jackson .
D. 347,014 5/1994 Arnette .
D. 366,392 2/1996 Arnette .
D. 368,732 4/1996 Lei .
D. 369,375 4/1996 Jannard et al. .
D. 371,383 7/1996 Goldman .
D. 376,810 12/1996 Ohie .
D. 384,363 9/1997 Park D16/328
D. 399,239 10/1998 Jannard et al. D16/326
D. 399,243 10/1998 Jannard et al. D16/335
D. 410,484 6/1999 Jannard et al. D16/326
3,155,982 11/1964 Barnielli .

3,156,756 11/1964 Seaver .
3,531,189 9/1970 Pagio .
4,240,713 12/1980 Wichers .
5,541,674 7/1996 Jannard et al. .
5,610,668 3/1997 Mage .
5,638,145 6/1997 Jannard et al. .
5,648,832 7/1997 Houston et al. .
5,760,868 6/1998 Jannard et al. 351/41

FOREIGN PATENT DOCUMENTS

0 496 292 A1 7/1992 European Pat. Off. .

OTHER PUBLICATIONS

Trade Winds Monthly, Nov. 1994, p. 212.
(Frames) Sun & Sport Eyewear, Fall 1996, pp. 8 & 9.
Surfing 26, Aug. 1993, 3 pp. in total.
(Unknown Origin) Advertisement, 1 p. only.
Domus, Oct. 1985, p. 55.
Accessories, Oct. 1986, p. 14.
(Frames) Sun & Sport Eyewear, Summer 1996, 3 pp. in total.

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

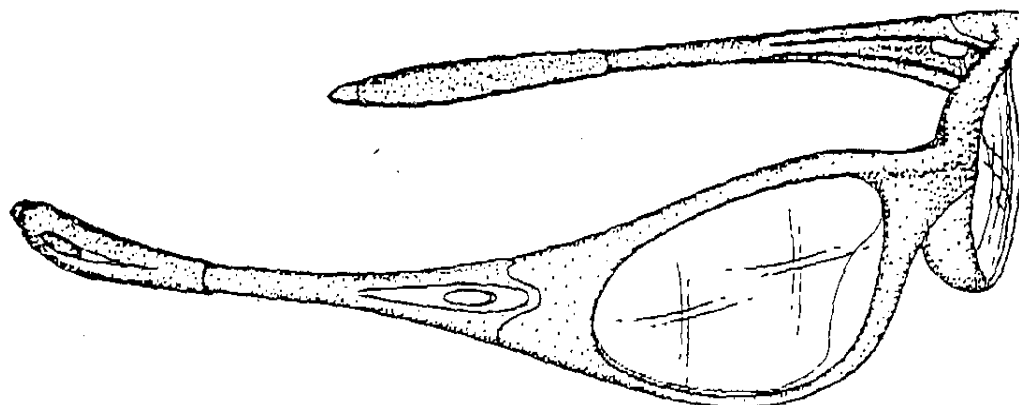
[57] CLAIM

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.

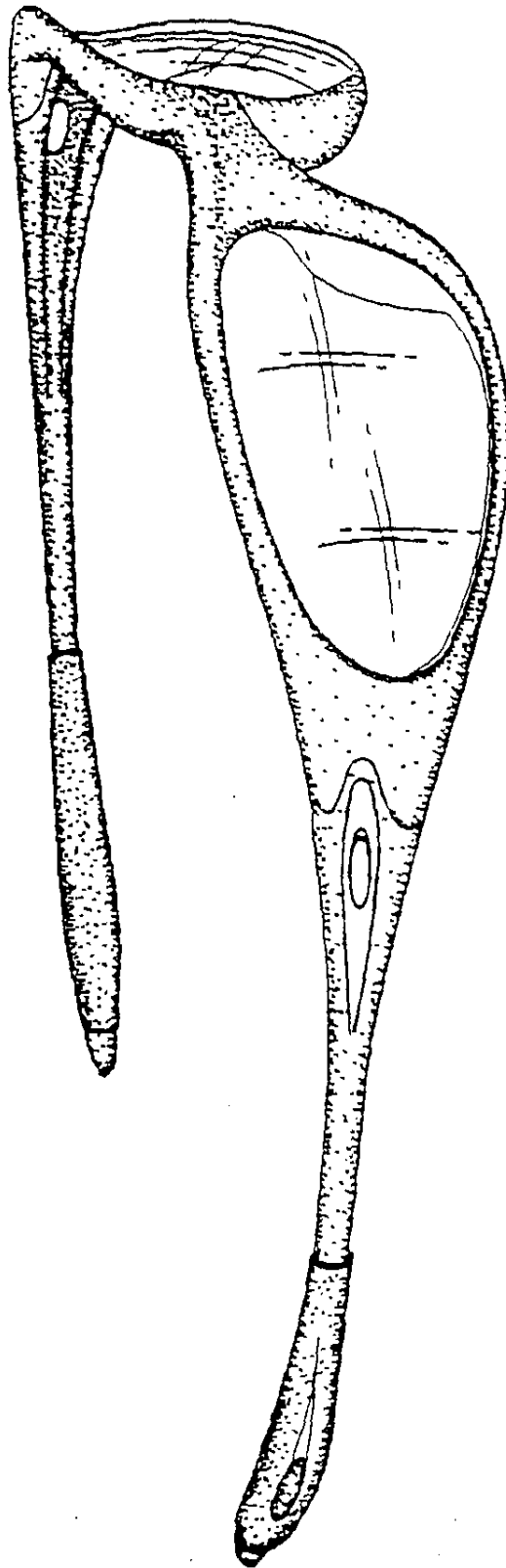
1 Claim, 4 Drawing Sheets



OTHER PUBLICATIONS

Sunglass Hut International, Spring Sport 1996, 4 pp. in total.
 Sunglass Hut International, Revo Miracles Happen, 7 pp. in total.
 Optical Journal & Review of Optometry, Nov. 1, 1971, p. 12.
 Eyestyle, p. 53, form and function.
 Accessories Magazine, Apr. 1991, p. 11.
 Cover Girl Advertisement, 1 p. only.
 Frames #115, Winter 1997, Adrienne Vittadini, pp. 600, 611, 676, 807, 839, 1145, 1150-1151, 1159, 1161, 1165, 1172, 1177, 1189-1190, 1198, 1209, 1211-1213, 1265, 1277-1278, 1280, EZ, E84-E85.
 Frames #113, Summer 1996, pp. 327, 331, 336, 437, 666, 790, 795, 968, 1026, 1119, 1142, 1163, 1183, 1203, 1225, E77.
 Mountain Bike Action Magazine, Sep. 1990, p. 16.
 Alpine International, Optik 1995/1996, pp. 1-32.
 With. Stafflec, Preisliste 1996, 16 pp. in total.
 Alpina, Advertisement, 14 pp. in total.
 Alpina Professional Eyewear, Optik 1996, pp. 3, 5, 7.

Accessories, Dec. 1986, Front Cover.
 Sunglass Hut International Catalog Holiday, 1994, Advertisement of 1 p. only.
 Berthet-Bonder, 1994, 9 pp. in total.
 Lunettes de Soleil, 1990, 4 pp. in total.
 Lunettes de Soleil, 1989, 9 pp. in total.
 B.B. Sol, Lunettes de Soleil, 1986, pp. 1, 2, 4, 6, 10, 14, 16, 12.
 B.B. Sol, Lunettes de Soleil, 1984, 6 pp. in total.
 B.B. Sol, 1974, 19 pp. in total.
 B.B. Sol Mode 73, 16 pp. in total.
 B.B. Sol, Lunettes Sont Equipees de Verres, Sovirel, Advertisement, 21 pp. in total.
 B.B. Sol, Les Lunettes Sont Equipees de Verres, Sovirel, 1968, 9 pp. in total.
 B.B. Sol, 1962, 2 pp. in total.
 B.B. Sol, Advertisement Model No. 2210-D, 5 pp. in total.
 B.B. Sol, Advertisement Model No. 2165-D, 5 pp. in total.
 Lotus Azzaro Paris, Advertisement 1 p. only.

*FIG. 1*

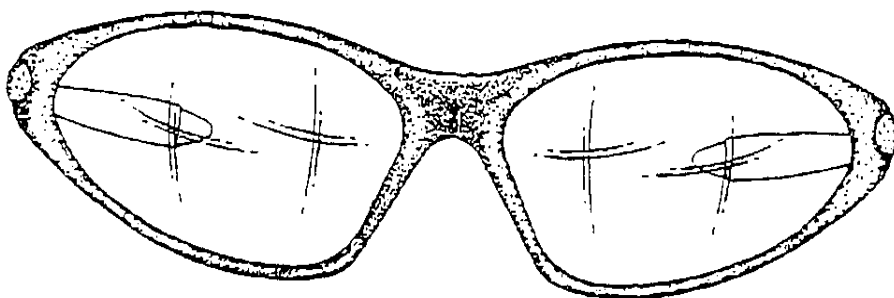
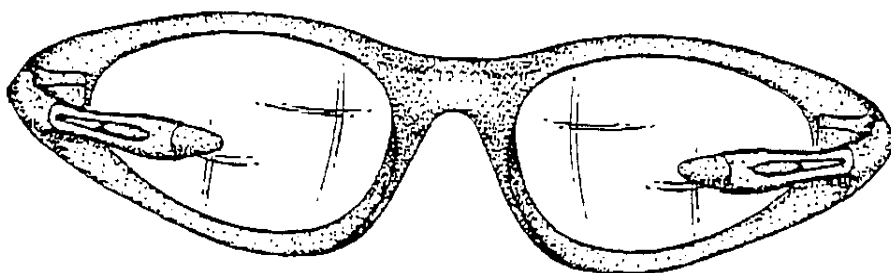
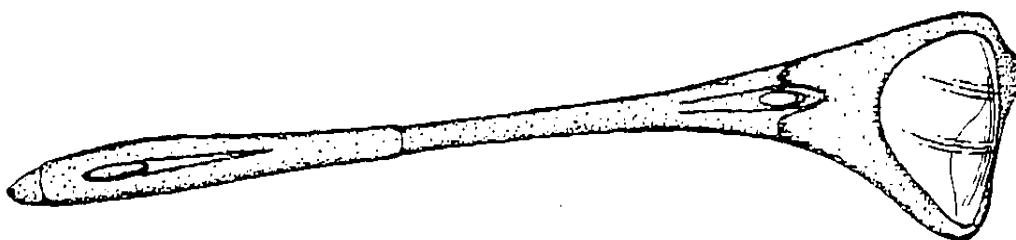
*FIG. 2**FIG. 3**FIG. 4*

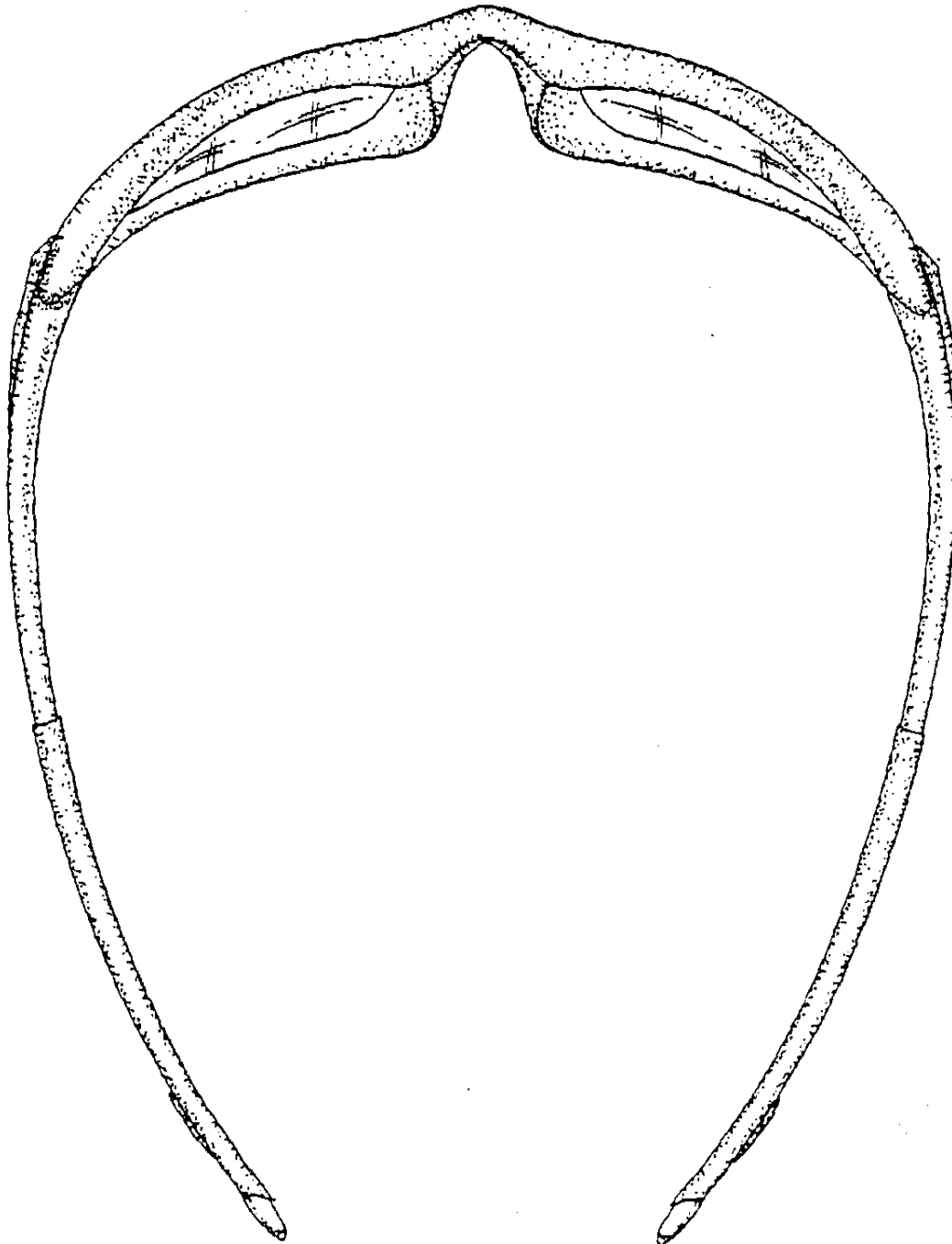
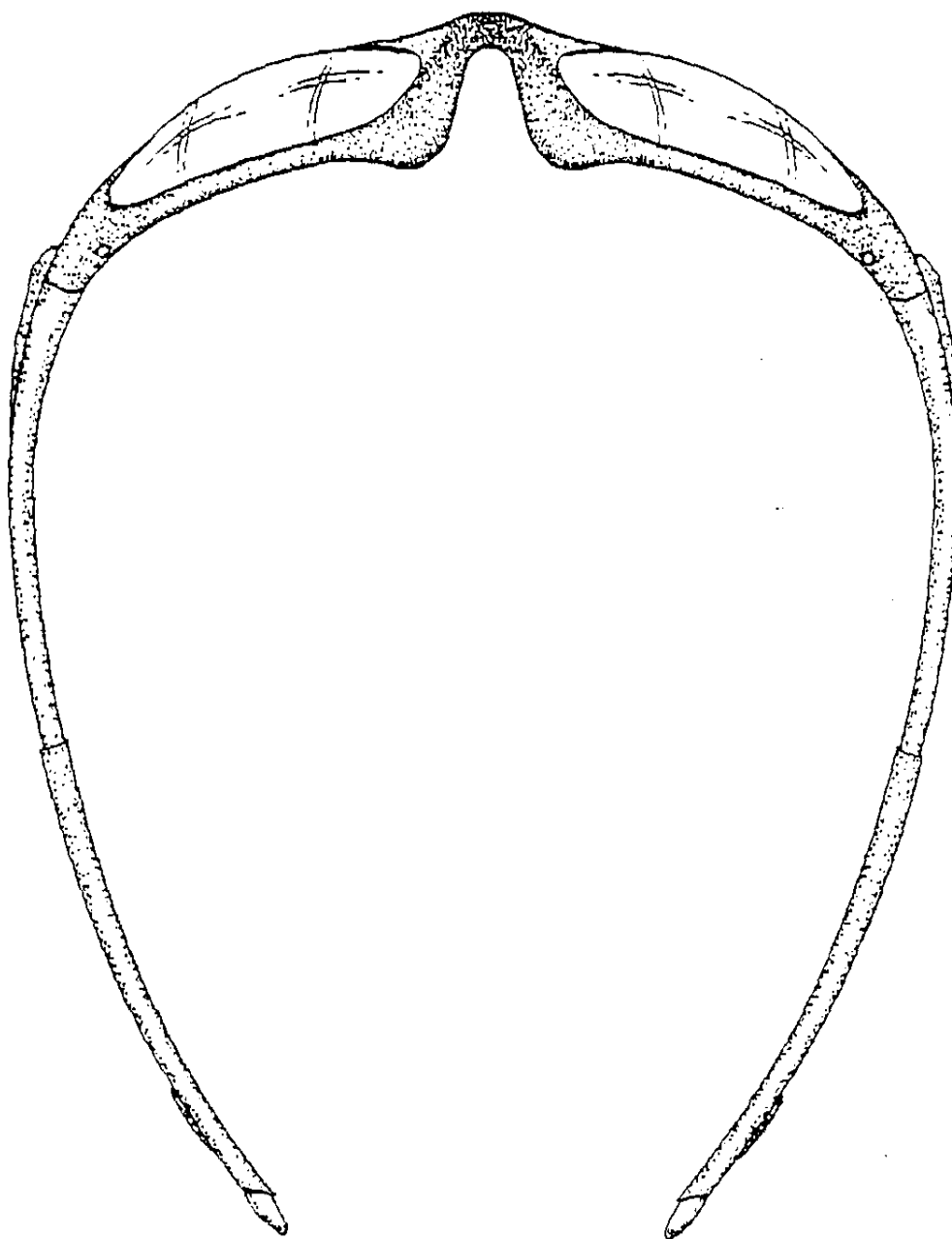
FIG. 5

FIG. 6



TO: Commissioner of Patents and Trademarks Washington, D.C. 20231	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT
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In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised
that a court action has been filed on the following patent(s) in the U.S. District Court:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
01cv1078J(RBB)	06/15/01	United States District Court, Southern District of California
PLAINTIFF		DEFENDANT
Oakley Inc		Keith Mecham
PATENT NO.	DATE OF PATENT	PATENTEE
1 1,980,039	06/11/1996	Oakley Inc
2 1,984,501	07/02/1996	Oakley Inc
3 2,146,295	03/24/1998	Oakley Inc
4 5,137,342	08/11/1992	Oakley Inc
5 333,145	02/09/1993	James H. Jannard

In the above-entitled case, the following patent(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 NO.	DATE OF PATENT	PATENTEE		
6 384,364	09/30/1997	Peter Yee		
7 399,866	10/20/1998	Peter Yee		
8 369,375	04/30/1996	James H. Jannard; Peter Yee; M. Neil Houston		
9 422,298	04/04/2000	James H. Hannard; Colin Baden; Hans Mortiz		
10 423,548	04/25/2000	Peter Yee; James H. Jannard		

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 Commissioner Copy 3 - Upon termination of action, mail this copy to Commissioner
Copy 2 - Upon filing document adding patent(s), mail this copy to Commissioner Copy 4 - Case file copy

TO: Commissioner of Patents and Trademarks Washington, D.C. 20231	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT
--	--

In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised
that a court action has been filed on the following patent(s) in the U.S. District Court:

DOCKET NO. 01cv1078J(RBB)	DATE FILED 06/15/01	U.S. DISTRICT COURT United States District Court, Southern District of California
PLAINTIFF Oakley Inc		DEFENDANT Keith Mecham
PATENT NO.	DATE OF PATENT	PATENTEE
11 415,188	10/12/1999	Lek H. Thixton; Colin Baden; James H. Jannard; Peter Yee

In the above-entitled case, the following patent(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 NO.	DATE OF PATENT	PATENTEE		

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 Commissioner Copy 3 - Upon termination of action, mail this copy to Commissioner
Copy 2 - Upon filing document adding patent(s), mail this copy to Commissioner Copy 4 - Case file copy

OAKLEY, INC.
a Washington
corporation

Case 3:01-cv-01078-J-NLS Document 1 Filed 08/15/01 Page 72 of 72

KEITH MECHAM, an individual and doing
business as EPIC APPAREL

Grand Forks,

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

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

ND

(c) ATTORNEYS (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)
WEEKS, KAUFMAN & JOHNSON
462 Stevens Ave., Suite 310
Solana Beach, CA 92075
(858) 794-2140

ATTORNEYS (IF KNOWN)

DEPUTY

'01 CV 1078 (J) (RBB)

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 FOR DEFENDANT)
(For Diversity Cases Only)

- | | 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. 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

V. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDER F.R.C.P. 23

Check YES only if demanded in complaint:
JURY DEMAND: ☒ YES ☐ NO

VI. CAUSE OF ACTION (CITE THE U.S. 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 for patent infringement under 35 U.S.C. §271 and §281

VII. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

OTHER STATUTES	CONTRACT	TORTS		FORFEITURE / PENALTY	BANKRUPTCY
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <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"/> 891 Agricultural Act <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 <input type="checkbox"/> 890 Other Statutory Actions	<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 Loan (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 <div>REAL PROPERTY</div> <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	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 <div>CIVIL RIGHTS</div> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	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 <div>PRISONER PETITIONS</div> <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	<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 <div>LABOR</div> <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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <div>PROPERTY RIGHTS</div> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <div>SOCIAL SECURITY</div> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <div>FEDERAL TAX SUITS</div> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

III(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? XX No Yes

If yes, list case number(s):

V71 (8/99)

CIVIL COVER SHEET - Continued on Reverse

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OR OFFICE USE ONLY: ☐ Pro Hac Vice fee: ☐ paid ☐ not paid

Applying IFP

Judge

Mag. Judge

CB #150 72248/00/15/01