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U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
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By _____ Deputy
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UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Sighting System Instruments, LLC,
a Texas limited liability company)

Plaintiff)
v. **ORIGINAL**)

Prestige Law Enforcement, Inc.,)
a Georgia corporation, and)
Amstech Incorporated,)
a Georgia corporation.)

Defendants.)

CIVIL ACTION NO. _____

Jury Trial Demanded

COMPLAINT FOR DECLARATORY RELIEF

Plaintiff Sighting System Instruments, LLC ("SSI") hereby complains of Defendants
Prestige Law Enforcement, Inc. ("Prestige") and Amstech Incorporated ("Amstech")
(collectively "Defendants") as follows:

I. INTRODUCTION

1. This is an action for declaratory relief pursuant to the Declaratory Judgment Act,
28 U.S.C. §§2201 and 2202 and arises under the patent laws of the United States, 35 U.S.C. §1,
et seq. Plaintiff SSI seeks a judgment declaring that Plaintiff has not infringed United States
Patent No. 6,622,414 (the '414 Patent"). A true and correct copy of the '414 Patent is attached
hereto as Exhibit "A."

II. THE PARTIES

2. SSI is a limited liability company organized and existing under the laws of the
State of Texas, having its principal place of business in Grand Prairie, Texas.

3. Defendant Prestige is a corporation organized and existing under the laws of the
State of Georgia, having its principal place of business in Cartersville, Georgia.

4. Defendant Amstech is a corporation organized and existing under the laws of the State of Georgia, having its principal place of business in Alpharetta, Georgia.

III. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action because there is an actual case and controversy between Plaintiff and Defendants arising from Defendants' conduct of accusing Plaintiff and Plaintiff's customer of infringing the '414 Patent and threatening to sue Plaintiff and Plaintiff's customer for such infringement. Such accusations and threats of suit have created a reasonable apprehension of suit by Plaintiff.

6. This Court has personal jurisdiction over Defendants because each Defendant has substantial, continuous and systematic contacts with Texas that would permit the exercise of general jurisdiction in this state. Each Defendant has knowingly caused its products to be shipped into Texas through established distribution channels to be sold by their authorized distributors and dealers.

7. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) and (c), because a substantial part of the events giving rise to the claim arose in this district in that Plaintiff sells the products which Defendants claim infringe the '414 Patent in this district, and/or because Defendants are subject to the personal jurisdiction of this Court and therefore deemed to reside in this district.

IV. FACTUAL BACKGROUND

8. The '414 Patent identifies Keith P. Oliver ("Oliver") of Cartersville, Georgia and Chung T. Cheng ("Cheng") of Alpharetta, Georgia as inventors of the claimed invention.

9. According to the public record, Oliver assigned the '414 Patent to Cheng by an assignment dated July 2, 2004, which was recorded on August 9, 2004. Upon information and

belief, Amstech and Prestige are authorized to enforce the '414 Patent because one or both of them is either (i) an exclusive licensee with the right to enforce the '414 Patent, or (ii) the assignee of all rights in the '414 Patent through an unrecorded assignment, and one is the agent or representative of the other with respect to enforcement of the '414 patent. SSI bases such belief on the infringement threats made by Amstech and/or Prestige to SSI, and the cease-and-desist letter sent by Prestige to SSI's customer.

10. Amstech sells several firearm-related products, including a laser bore sight device marketed under the brand name AIMSHOT.

11. Amstech operates a website advertising its products at www.aimshot.com.

12. Prestige is the North American distributor of Amstech's laser bore sight device.

13. Amstech and Prestige sell their AIMSHOT Laser Bore Sight product and other products in Texas.

14. On or about July 28, 2005, Prestige sent a letter to Sportsman's Guide, a customer of SSI, asserting that SSI's Laser Bore Sighter sold by Sportsman's Guide as model number HX5A1-96866 infringes the '414 Patent. A true and correct copy of the letter without the referenced copy of the '414 Patent is attached hereto as Exhibit "B." Sportsman's Guide subsequently made demand on SSI to defend and indemnify it from any infringement claim asserted by Amstech and/or Prestige, and SSI has agreed to do so.

15. On July 28, 2005, Oliver contacted SSI's office and accused SSI of patent infringement.

16. On August 2, 2005, Oliver again called SSI's office. Speaking to Douglas Mann, Oliver identified himself as a representative of AIMSHOT, the brand of laser bore sight device marketed by Amstech. Oliver stated that SSI's Laser Bore Sighter product infringed the '414

Patent and that, if SSI did not discontinue selling its bore sighter, his company would sue SSI for patent infringement.

17. Upon information and belief, the person who identified himself as Oliver is the purported co-inventor listed on the '414 Patent and the Chief Executive Officer of Defendant Prestige.

18. Oliver made the afore-described accusations of patent infringement on behalf of Prestige, Amstech, or both.

19. Based upon the statements and conduct of Prestige and Amstech described above, SSI has a reasonable apprehension that Prestige and/or Amstech will enforce its patent rights in the '414 Patent against it.

IV. CLAIM FOR DECLARATORY RELIEF

20. SSI seeks a declaratory judgment of non-infringement of the '414 Patent.

21. SSI has made and sold Laser Bore Sighter products that Prestige and Amstech have and likely will continue to claim infringe one or more claims of the '414 Patent. The products made, used and/or sold by SSI do not infringe any claim of the '414 Patent. In addition, SSI has not contributed to or induced infringement of the '414 Patent by any other person.

22. Accordingly, a valid and justiciable controversy has arisen and exists between SSI and Prestige and Amstech regarding the infringement of the '414 Patent.

23. Prestige and Amstech knew or should have known that SSI has not infringed any claim of the '414 Patent. Therefore, this is an exceptional case and SSI should be awarded its reasonable attorneys' fees incurred in prosecuting this action.


WHEREFORE Plaintiff SSI prays for relief as follows:

- (a) the `414 Patent be declared not infringed by SSI;
- (b) Prestige and Amstech, their officers, agents, counsel, servants, and employees and all persons in active concert or participation with any of them, be enjoined from asserting that SSI has infringed or is infringing the `414 Patent or instituting any action against SSI or any of SSI's customers for infringement of the `414 Patent;
- (c) this action be determined to be an exceptional case under 35 U.S.C. §285, and that SSI be awarded its reasonable attorneys' fees, expenses and costs in this action; and that
- (d) SSI be granted such further necessary and proper relief as justice may require.

Dated: August 5, 2005.

Respectfully submitted,

GODWIN GRUBER, LLP



Eric W. Buether, Esq.
Texas State Bar No. 03316880
ebuether@godwingruber.com
1201 Elm Street, Suite 1700
Dallas, Texas 75270
Phone: (214) 939-4400
Fax: (214) 760-7332

(12) **United States Patent**
Oliver et al.

(10) Patent No.: **US 6,622,414 B1**
(45) Date of Patent: **Sep. 23, 2003**

(54) **BORE SIGHT**

(76) Inventors: **Keith Oliver**, 65 Rocky Cir.,
Cartersville, GA (US) 30184; **Chun T. Cheng**, 340 Dewpoint La., Alpharetta,
GA (US) 30022

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **10/173,448**

(22) Filed: **Jun. 18, 2002**

(51) Int. Cl.⁷ **F41G 1/00; F41G 1/34; F41G 1/54**

(52) U.S. Cl. **42/116; 42/117**

(58) Field of Search **42/116, 117; 362/205, 362/206**

(56) **References Cited**

U.S. PATENT DOCUMENTS

5,279,061 A	*	1/1994	Betz et al.	42/132
5,365,669 A		11/1994	Rustick et al.	33/234
5,488,795 A	*	2/1996	Sweat	42/116
5,531,040 A	*	7/1996	Moore	42/115
5,685,106 A	*	11/1997	Shoham	42/116
5,787,631 A		8/1998	Kendall	42/103

6,216,381 B1	4/2001	Strand	42/103
6,295,753 B1	* 10/2001	Thummel	42/116
6,389,730 B1	* 5/2002	Millard	42/116
2002/0129536 A1	* 9/2002	lafrate et al.	42/134

FOREIGN PATENT DOCUMENTS

WO WO 00/70293 A1 * 11/2000 F41G/1/54

* cited by examiner

Primary Examiner—Charles T. Jordan

Assistant Examiner—John W. Zerr

(74) *Attorney, Agent, or Firm*—Baker Donelson

(57) **ABSTRACT**

A laser bore sight (10) is disclosed hollow, outer housing (11) having an internally threaded, rear portion (14), and a threaded end cap (17) is sized and shaped to be threaded to the housing rear portion (14). The end cap (17) includes a threaded, tubular stem (18) having an annular rim (18'), an electrically insulative spacer (20) and a spring (21). The bore sight (10) also includes a laser diode (24), lens (25), a series of three batteries (26), an electrically conductive spring (27), and an electrical conductor. The end cap (17) is movable between an extended position with the spacer protruding from the end of the stem (18) and a retracted position with the spacer recessed within the stem so as to allow the battery to electrically contact the end cap.

6 Claims, 2 Drawing Sheets

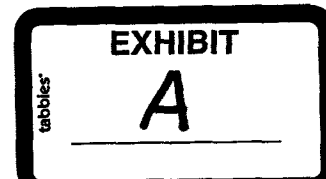
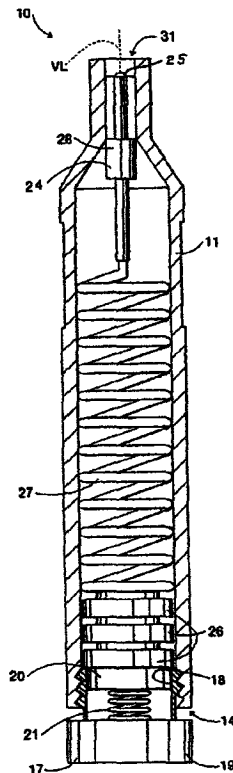


Fig. 1

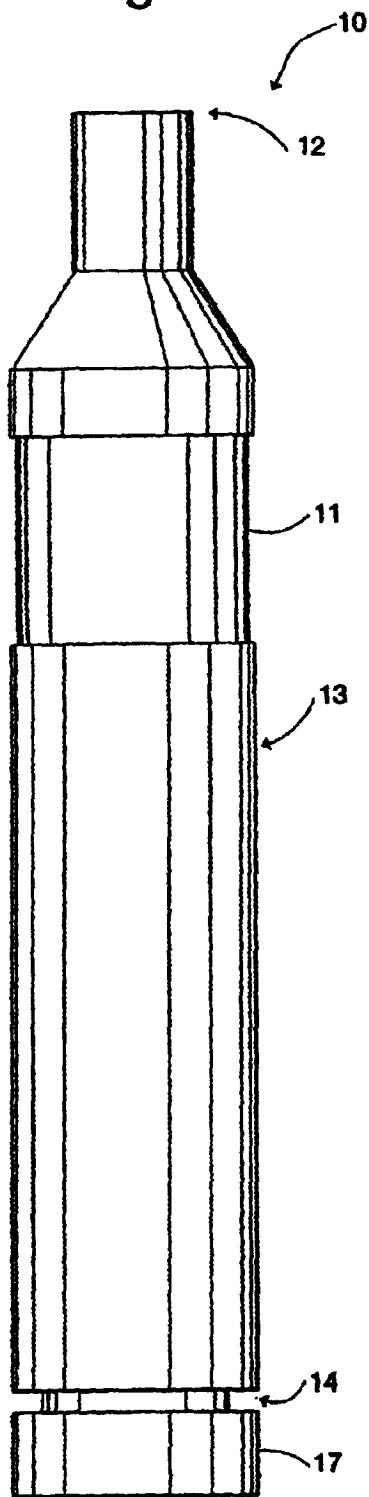


Fig. 2

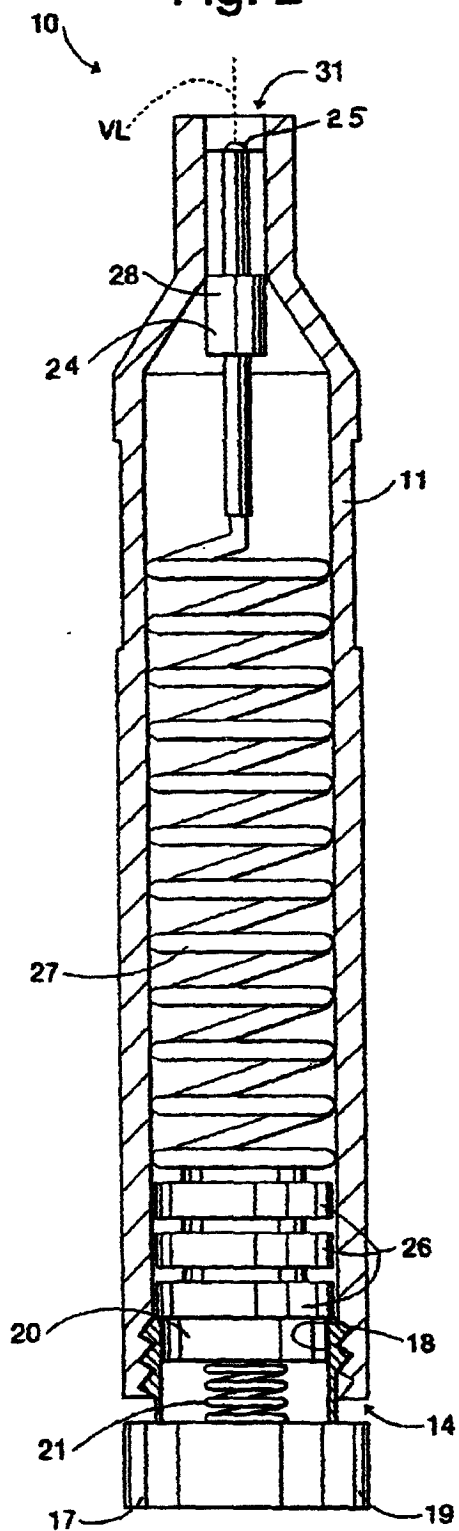


Fig. 3

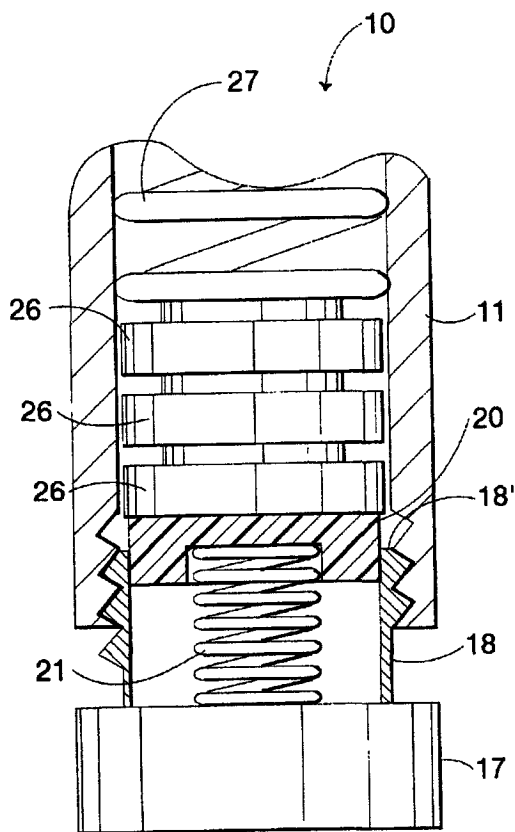
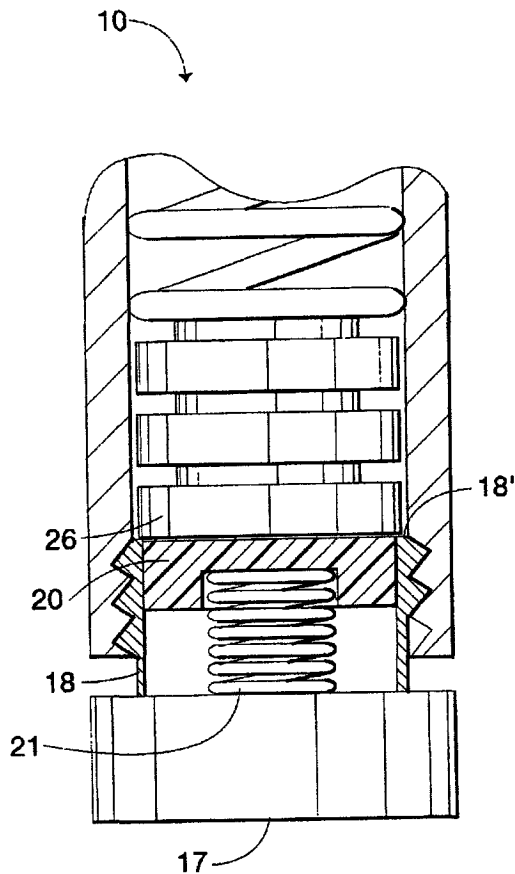


Fig. 4



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BORE SIGHT**TECHNICAL FIELD**

This invention relates to bore sights, and specifically to laser bore sight activation switches.

BACKGROUND OF THE INVENTION

It has been well known to provide rifles or pistols with sights to guide the operator in aiming the firearms. High power scopes are often utilized to provide an accurate sight at most ranges. The scope is mounted on the top of the firearm to provide a magnified view of the potential target when sighted. Cross hairs within the scope are used to sight the target, with the intersection of the cross hairs being placed exactly on the intended target. Limitations of the high powered scope include the problem that the scope must be "calibrated" to assure accuracy. Typically, adjusting screws are provided which can be used to adjust the scope so that the cross hairs are accurately marking the target. If a rifle, for example, was mounted on a stand and the target sighted in the cross hairs of the scope, minor adjustments of the scope may be necessary to assure accuracy. Adjustments are made by firing a round of ammunition and noting where the round strikes with respect to the target. Mechanical adjustment of the scope can then be made to align the cross hairs of the scope with the actual point at which the round of ammunition struck the target. It may take several attempts of this trial and error firing of the rifle and adjusting the scope to bring the cross hairs in line with the actual striking point of the ammunition round. As can be expected, this procedure, even when performed by a skilled marksman, is time consuming and inherently imprecise.

Designers have adapted lasers to aid in the sighting process of a firearm. Some lasers have been designed to be mounted to the top of the barrel. However, oftentimes the path of the ammunition round does not follow the exact path of the laser's light. As such, even when one finally aligns the scope with the laser beam the scope is still misaligned with the round's path. To alleviate this problem, lasers have been designed to be mounted within the barrel of a rifle to more accurately depict the path of the round. Some of these lasers have been positioned within the end of the barrel. These lasers however do not always align with the ammunition's path of travel. To provide more accuracy, lasers have been designed to include a housing configured to be mounted within the breech or chamber of the barrel. With the laser positioned within this area the light from the laser generally follows the bore of the barrel and thus the path of the ammunition. Of course, the laser diode within the housing may have to be adjusted so that the light does indeed travel along the bore of the barrel.

A problem with these devices has been their ability to incorporate an on/off or activation switch. The front end of such laser bore sight must include the laser diode, which obviously can not be obstructed by a switch. The side walls of the laser bore sights are designed to rest within the same sized bore of the gun barrel or breach. As such, the side housing can not include a switch which would interfere with the proper seating of the laser bore sight within the rifle bore.

Some laser bore sights having included a switch at the rear end of the sight which is activated by the hammer or firing pin of the gun pressing upon a switch, as shown in U.S. Pat. Nos. 5,365,669 and 5,787,631. A problem associated with this type of switch is that the operator may be under the false impression that the laser is not activated when in reality it is

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activated by the pressing of the firing pin. This results in the laser not being deactivated and therefore continuing to operate until the battery is exhausted. Moreover, the harsh hitting of the hammer or firing pin upon the switch may cause damage to the switch or laser diode as a result of the impact or resulting vibration.

Laser bore sights have also been developed wherein the activation of the sight is caused by the positioning of the bore sight within the bore. Here, the metal housing of the laser bore sight contacts the metal barrel of the gun while a second portion of the laser bore sight contacts another metal portion of the gun in order to close the power circuit, i.e. the gun itself creates a conductive pathway or bridge which closes the power circuit so as to activate the laser diode. This concept is shown in U.S. Pat. No. 5,465,669. However, once again, the operator may be under the impression that the laser is only activated when the sighting process is underway, and may not realize that the laser is still activated afterwards. Also, here again, a portion of the switch contacts the hammer or firing pin of the gun, which may cause damage to the delicate components of a laser.

Accordingly, it is seen that a need remains for a laser bore sight which is not automatically turned on when it is placed within a gun and which does not include a switch that will be activated by the striking hammer or firing pin of a gun. It is to the provision of such therefore that the present invention is primarily directed.

SUMMARY OF THE INVENTION

In a preferred form of the invention a bore sight comprises a tubular housing having an electrically conductive portion, a laser mounted to one end of the housing in electrical contact with the housing conductive portion, at least one battery mounted in the housing electrically coupled with the laser, and an end cap movably mounted to the other end of the housing and in electrical contact with the housing electrically conductive portion for movement between an extended, switch-off position and a retracted, switch-on position, the end cap having an electrically conductive, tubular end positioned adjacent the battery, a spring mounted within the end cap tubular end, and an insulated spacer mounted within the end cap tubular end for reciprocal movement between a switched-off position protruding out of the end cap tubular end spacing the end cap electrically conductive, tubular end from the battery and a switched-on position recessed within the end cap tubular end with the electrically conductive tubular end in engagement with the battery.

BRIEF DESCRIPTION OF THE DRAWING

FIG. 1 is a side view of a laser bore sight embodying principles of the invention in a preferred form.

FIG. 2 is a cross-sectional side view of the laser bore sight of FIG. 1.

FIG. 3 is a cross-sectional side view of a portion of the laser bore sight of FIG. 1 in a de-activated mode.

FIG. 4 is a cross-sectional side view of a portion of the laser bore sight of FIG. 1 in an activated mode.

DETAILED DESCRIPTION

With reference next to the drawings, there is shown a laser bore sight 10 in a preferred form of the invention. The bore sight 10 is designed to be utilized within a gun for use in conjunction with the sighting-in of a sighting device such as a scope mounted to the gun. The bore sight 10 has a tubular,

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outer housing 11 configured to be received in the breach or chamber of a gun. It should be noted that the configuration of the housing 11 is determined by the caliber of the gun. The housing 11 has a front portion 12, a middle portion 13 and an internally threaded, rear portion 14. A threaded end cap 17 is sized and shaped to be threadably received within the housing rear portion 14.

The end cap 17 includes an externally threaded, tubular end or stem 18 having an annular rim 18', an end plate 19, a cup-shaped, electrically insulative spacer 20 and a spring 21 mounted to and between the spacer 20 and the end plate 19. The spring 21 biases the spacer 20 between an extended, switch-off position protruding from the stem 18, shown in FIG. 3, and a retracted, switch-on position recessed within the stem 18, shown in FIG. 4.

The bore sight 10 also includes a laser diode 24, lens 25, a series of three batteries 26, an electrically conductive spring 27, and an electrical conductor 28. Here, the electrical conductor 28 is in the form of an annular housing in direct contact with housing 11. The laser diode 24 and lens 25 are mounted within the front portion 12 so as to generate and direct a visible light beam VL of collimated light through a front opening 31 in the front portion 12. The three batteries 26 are mounted in series within the middle portion 13 of the housing with the spring 27 extending between the laser diode 24 and the batteries 26 so as to bias the batteries towards the end cap 17. The spring 27 also acts as a conductor and is coupled to the circuitry of the laser diode so to provide current from the batteries 26 to the laser diode 24. The conductor 28 extends between and in electrical communication with the housing 11 and the circuitry of the laser diode.

In use, with the end cap 17 in its extended, switch-off position threaded partially within the rear portion 14 of the housing 11, shown in FIG. 3, the spring 21 biases the spacer 20 to a position protruding from the stem 18 so that the last battery 26 does not contact the rim 18' of the end cap 17. With the end cap 17 positioned in this manner the batteries 26 do not provide electric current from the battery to the laser diode 24, and thus the bore sight 10 is not activated.

To activate the bore sight 10 the end cap 17 is threaded further into the rear portion 14 of the housing 11 to its retracted, switch-on position, as shown in FIG. 4. As the end cap 17 is threaded into the rear portion the biasing force of the spring 21 is overcome and the insulative spacer 20 is pushed into the interior space of the stem 18. The positive electrode end of the last battery 26 thereby comes into electrical contact with the rim 18' of the end cap stem 18. The contact of the battery 26 with the end cap 17 completes an electric circuit between the batteries 26 and the laser diode 24 with the electrical current flowing through the housing 11 and end cap 17. Specifically, the batteries 26 are coupled to the laser diode 24 by spring 27 extending between the negative electrode of the batteries 26 and the laser diode, and from the positive electrode of the batteries through the end cap 17, the housing 11 in electrical contact with the end cap 17, and the conductor 28 in electrical contact with the housing 11 and the laser diode. As such, the current from the batteries 26 passes to the laser diode thereby energizing the laser diode to produce a "red dot" light beam or collimated, visible light beam VL.

The bore sight 10 is then positioned within the chamber of the gun where a conventional ammunition cartridge is normally positioned for firing. The visible light beam VL is directed through the bore of the barrel and is impinged upon a distant target. The user observes the location of the "red

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dot" or light beam upon the target and accordingly adjusts the sighting device to coincide with this location. The bore sight is then ejected from the gun and an live ammunition cartridge is inserted into the chamber. The gun is then fired from the same location to insure that the sight is accurate.

The end cap 17 may be rotated so as to be threaded off the rear portion 14 of the housing. With the end cap 17 removed from the housing in this manner the batteries are exposed and may be removed and replaced through the opening in the rear portion 14.

It should be understood that any type of light may be used in the present invention, inclusive of light which may be within or outside the visible spectrum, such as white light, ultraviolet light, or infrared light. It should be noted however that the use of light outside the visible spectrum would require additional equipment in order to view the light upon the target. As used herein the terms laser, laser diode and laser module are synonymous.

It should be understood that as an alternative to the metallic housing shown in the preferred embodiment, the bore sight may include a housing wherein only a portion of the housing is electrically conductive or which may include a conductor extending between the rear end of the housing and the laser diode. As such, the housing need only be partially conductive, meaning it includes at least a conductive portion.

It should be understood that the end cap may also be designed to be reciprocally pushed or pulled between two positions rather than the threaded movement shown in the preferred embodiment. It should also be understood that as an alternative to the electrically insulative spacer 20 an electrically insulative shield may be placed between the spring 21 and the end plate 19.

It should also be noted that in the present invention the bore sight is only activated by manually threading the end cap. As such, the possibility of unwantedly activating the bore sight through the mere positioning of the bore sight within a gun is eliminated. Furthermore, as the present bore sight does not involve the use of the gun's firing pin or hammer the resulting damage from the striking of such is also eliminated.

It thus is seen that a laser bore sight is now provided which overcomes problems with those of the prior art. While this invention has been described in detail with particular references to the preferred embodiments thereof, it should be understood that many modifications, additions and deletions, in addition to those expressly recited, may be made thereto without departure from the spirit and scope of the invention as set forth in the following claims.

What is claimed is:

1. A bore sight comprising:

- (a) a tubular housing having an electrically conductive portion;
- (b) a laser mounted to one end of said housing in electrical contact with said housing conductive portion;
- (c) at least one battery mounted in said housing electrically coupled with said laser, and
- (d) an end cap movably mounted to the other end of said housing and in electrical contact with said housing electrically conductive portion for movement between an extended, switch-off position and a retracted, switch-on position, said end cap having an electrically conductive, tubular end positioned adjacent said battery, a spring mounted within said end cap tubular end, and an insulated spacer mounted within said end

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cap tubular end for reciprocal movement between a switched-off position protruding out of said end cap tubular end spacing said end cap electrically conductive, tubular end from said battery and a switched-on position recessed within said end cap tubular end with said electrically conductive tubular end in engagement with said battery.

2. The bore sight of claim 1 wherein said end cap may be moved to a detached position separated from said housing for access to said battery.

3. A bore sight comprising:

- (a) a partially conductive housing;
- (b) a laser diode mounted within said housing;
- (c) at least one battery mounted within said housing to energize said laser diode when an electrically conductive flow-path is completed with the laser diode, and
- (d) an electrical circuit which electrically couples said battery with said laser diode, said electrical circuit including said partially conductive housing and an end

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cap, said end cap having an annular stem portion in electrical contact with said housing, a spring coupled to said annular stem and an insulative spacer coupled to said spring, said end cap being movable between an extended position wherein said spring and spacer bias said battery to a position separated from said annular stem portion and a retracted position wherein the biasing force of the spring is overcome and the battery contacts said stem portion to create a flow path through said stem portion and said housing.

4. The bore sight of claim 3 wherein said end cap may be moved to a detached position separated from said housing for access to said battery.

5. The bore sight of claim 3 wherein said spacer is positioned between said spring and battery.

6. The bore sight of claim 3 wherein said electrical circuit further comprises an electrically conductive spring coupled to and extending between said laser diode and said battery.

* * * * *

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THE SPORTSMAN'S GUIDE 6515524968

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**BAKER
DONELSON**
BEARMAN, CALDWELL
& BERKOWITZ, PC

FIVE CONCOURSE PARKWAY
SUITE 900
ATLANTA, GEORGIA 30328
PHONE: 678.406.8700
FAX: 678.406.8701

www.bakerdonelson.com

July 28, 2005

Mr. Pat Murphy
Sportsman's Guide
411 Farwell Avenue
South St, Paul, Minnesota
55075-0239

RE: U.S. Patent No. 6,622,414

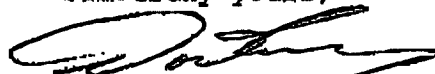
Dear Mr. Murphy:

Our firm represents Prestige Law Enforcement of Cartersville, Georgia with regard to intellectual property matters. It has come to my attention that Sportsman's Guide may be distributing a bore sight which appears to be covered by the above referenced patent, a copy of which is enclosed for your review. The bore sight at issue is model number HX5A1-96866, named SSI bullet laser boresighter.

Please be aware that it is a violation of the United States law to make, use, offer to sell or sell an infringing device in the United States. Accordingly, we request that you immediately cease and desist from any further sale the bore sight.

Please provide us of your assurance in writing that you will abide by this request by August 19, 2005.

Sincerely yours,

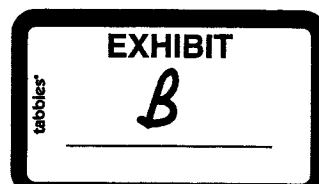


Dorian B. Kennedy

/Enclosure

ALABAMA • GEORGIA • LOUISIANA • MISSISSIPPI • TENNESSEE • WASHINGTON, D.C. • BEIJING, CHINA

Representative Office,
KWC International, LLC



08/01/2005 MON 13:02 [TX/RX NO 5799] 003