Gregory K. Nelson, CSB 203029
Email: gnelson@wknjlaw.com
Chandler G. Weeks, CSB 245503
Email: chandlerw@wknjlaw.com
WEEKS, KAUFMAN, NELSON & JOHNSON
462 Stevens Avenue, Suite 310
Solana Beach, CA 92075
Telephone: (858) 794-2140
Facsimile: (858) 794-2141
Email: Office@wknjlaw.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

OAKLEY, INC., a Washington corporation,

Plaintiff,

vs.

ZEAL OPTICS, INC., a Delaware corporation,

Defendants.

Case No.: **CV10-6340 DDP(AGRX)**

COMPLAINT FOR PATENT INFRINGEMENT AND BREACH OF CONTRACT

DEMAND FOR JURY TRIAL

By fax

Plaintiff, Oakley, Inc. (hereinafter referred to as "Oakley") complains of Defendant Zeal Optics, Inc. (hereinafter referred to as ("Zeal"), and alleges as follows:

JURISDICTION AND VENUE

1. Jurisdiction over this action is founded upon 28 U.S.C. §§ 1331 and 1338. Venue is proper in this forum under 28 U.S.C. §§ 1391(a-d) and 28 U.S.C. § 1400(b). The claim arose in this judicial district, and Defendant is doing business in this judicial district. Jurisdiction and venue are further proper based on the terms of a settlement agreement between the parties.

THE PARTIES

2. Plaintiff Oakley, Inc. is a corporation organized and existing under the laws of the state of Washington having its principal place of business located at One Icon, Foothill Ranch, Orange County, California 92610.

3. Oakley is informed and believes, and thereupon alleges, that Defendant Zeal Optics, Inc. is a Delaware corporation having its principal place of business at 4843 Pearl Street 1A, Boulder, Colorado 80301. Oakley is informed and believes, and thereupon alleges, that Zeal is doing business within this judicial district, is marketing its products to companies in this judicial district, including the allegedly infringing products, and/or is putting products on sale in the stream of commerce knowing that such products will be sold by partners or distributors in this judicial district, as set forth more fully below.

FACTUAL BACKGROUND

4. Oakley is a manufacturer and seller of high performance eyewear, electronic eyewear, and accessories. Oakley expanded its reputation as an innovator in the eyewear industry by introducing a whole new category of products—wearable electronics. With the introduction of its first product in this category, the world was introduced to MP3 sunglasses, which allow the wearer to listen to their tunes from uploaded MP3 on their sunglasses, without the hindrance of wires. Oakley then introduced Bluetooth® enabled eyewear, with its first offering being the *Razrwire* sunglass, and other Bluetooth® enabled eyewear such as the *O Rokr and O Rokr Pro* models.

5. Oakley is the owner by assignment of U.S. Patent No. 7,013,009 duly and lawfully issued on March 14, 2006, describing and claiming the invention of Peter Warren entitled "EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES" protecting Oakley's technology related to wireless communication eyewear embodied in its *Razrwire, O Rokr* and *O Rokr Pro* lines of sunglasses.

The '009 patent was the subject of reexamination, which resulted in the successful reissue of the patented on September 29, 2009. A true and correct copy of U.S. Patent No. 7,013,009 is attached hereto as Exhibit 1 and incorporated herein by reference.

6. Defendant is presently marketing and selling sunglass models, specifically including but not limited to its *Confidant* Bluetooth enabled eyeglass, that embody the subject matter claimed in Oakley's U.S. Patent No. 7,013,009.

7. Oakley is the owner by assignment of U.S. Patent No. 7,231,038 duly and lawfully issued on June 12, 2007, describing and claiming the invention of Peter Warren entitled "EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES" protecting Oakley's technology related to wireless communication eyewear embodied in its *Razrwire, O Rokr* and *O Rokr Pro* lines of sunglasses. The '038 patent was the subject of reexamination, which resulted in the successful reissue of the patented on September 22, 2009. A true and correct copy of U.S. Patent No. 7,231,038 is attached hereto as Exhibit 2 and incorporated herein by reference.

8. Defendant is presently marketing and selling sunglass models, specifically including but not limited to its *Confidant* Bluetooth enabled eyeglass, that embody the subject matter claimed in Oakley's U.S. Patent No. 7,231,038.

9. On or about September 28, 2007, Oakley filed a lawsuit against Zeal alleging infringement of U.S. Patent Nos. 7,013,009, 7,231,038, D404,754 and 5,387,949 patents. The lawsuit ultimately settled, and the parties entered into a settlement agreement. However, Zeal had already filed a reexamination request with the U.S.P.T.O. related to U.S. Patent Nos. 7,013,009 and 7,231,038, which ultimately resulted in the reissue of the '009 and '038 patents. As part of the terms of the settlement agreement, the parties agreed to the following terms, among others:

… … …

a. If the claims of U.S. Patent Nos. 7,013,009 and 7,231,038 reissued as "substantially identical" (as that term is used in 35 U.S.C. § 252) then Zeal would be obligated to pay Oakley an additional ten thousand dollars ($10,000.00) within thirty days of written notice of the Oakley reissued patents, and Oakley would have the right to seek past damages for intervening sales; and

b. If the claims of U.S. Patent Nos. 7,013,009 and 7,231,038 reissued as "substantially identical" (as that term is used in 35 U.S.C. § 252) then Zeal would be obligated to cease selling its *Confidant* model, which Oakley accused of infringing these patents, within three months of written notice of the Oakley reissued patents.

10. Defendant received actual notice of Oakley's proprietary rights in its patents-in-suit by way of the 2007 litigation, correspondence from the U.S.P.T.O. directed to counsel of record for Defendant following the Reexamination proceeding, and correspondence from counsel for Oakley advising of Oakley opinion that the claims of the reissued patents read on the *Confidant* model sold by Defendant. Despite such notice, of Oakley's patent rights, Defendant has continued to sell its infringing models, even beyond the three month period designated in the 2007 settlement agreement. Accordingly, on information and belief, Defendant's infringement was willful and wanton.

11. Oakley is informed and believes and thereupon alleges that the sale of Defendant's infringing sunglasses resulted in lost sales, reduced the business and profit of Oakley, and has greatly injured the goodwill and reputation associated with Oakley, all to Oakley's damage in an amount not yet fully determined.

12. Moreover, the Defendant wrongfully profited from Oakley's invention by selling sunglasses that infringed Oakley's 7,013,009 and 7,231,038 patents. The

exact amount of profits realized by Defendant as a result of its infringing activities are presently unknown to Oakley, as are the exact amount of damages suffered by Oakley as a result of said activities. These profits and damages cannot be accurately ascertained without an accounting.

FIRST CLAIM FOR RELIEF

13. The allegations of paragraph 1 through 12 are repled and realleged as though fully set forth herein.

14. This is a claim for patent infringement and arises under 35 U.S.C. §§ 271 and 281.

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

16. Oakley is the owner of U.S. Patent No. 7,013,009 which protects technology related to wireless communication eyewear as described and claimed in the patent, as set forth above. By statute, the patent is presumed to be valid and enforceable under 35 U.S.C. § 282.

17. Defendant, through its agents, suppliers, employees and servants, manufactured, imported, offered for sale and sold sunglasses which fall within the scope and claims contained in U.S. Patent No. 7,013,009, without any rights or license under that patent.

18. Oakley is informed and believes and thereupon alleges that Defendant willfully infringed upon Oakley's exclusive rights under the patent, with full notice and knowledge thereof. Oakley understands that Defendant is presently selling such infringing sunglasses, failed to cease the sale thereof, and will likely continue to do so unless restrained therefrom by this court, all to the great loss and injury of Oakley.

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

20. Defendant will continue to infringe U.S. Patent No. 7,013,009 to the great and irreparable injury of Oakley, for which Oakley has no adequate remedy at law unless said Defendant is enjoined by this court.

SECOND CLAIM FOR RELIEF

21. The allegations of paragraph 1 through 12 are repled and realleged as though fully set forth herein.

22. This is a claim for patent infringement and arises under 35 U.S.C. §§ 271 and 281.

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

24. Oakley is the owner of U.S. Patent No. 7,231,038 which protects technology related to wireless communication eyewear as described and claimed in the patent, as set forth above. By statute, the patent is presumed to be valid and enforceable under 35 U.S.C. § 282.

25. Defendant, through its agents, suppliers, employees and servants, manufactured, imported, offered for sale and sold sunglasses which fall within the scope and claims contained in U.S. Patent No. 7,231,038, without any rights or license under that patent.

26. Oakley is informed and believes and thereupon alleges that Defendant willfully infringed upon Oakley's exclusive rights under the patent, with full notice and knowledge thereof. Oakley understands that Defendant is presently selling such infringing sunglasses, failed to cease the sale thereof, and will likely continue to do so unless restrained therefrom by this court, all to the great loss and injury of Oakley.

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

28. Defendant will continue to infringe U.S. Patent No. 7,231,038 to the great and irreparable injury of Oakley, for which Oakley has no adequate remedy at law unless said Defendant is enjoined by this court.

THIRD CLAIM FOR RELIEF

29. The allegations of paragraph 1 through 12 are repled and realleged as though fully set forth herein.

30. This is a claim for breach of contract.

31. Jurisdiction is founded upon 28 U.S.C. §1367.

32. Oakley and Zeal are the parties to a 2008 settlement agreement arising out of patent infringement litigation that Oakley filed against Zeal in 2007.

33. As part of the terms of the settlement agreement, Zeal agreed to the following:

a. If the claims of U.S. Patent Nos. 7,013,009 and 7,231,038 reissued as "substantially identical" (as that term is used in 35 U.S.C. § 252) then Zeal would be obligated to pay Oakley an additional ten thousand dollars ($10,000.00) within thirty days of written notice of the Oakley reissued patents, and Oakley would have the right to seek past damages for intervening sales; and

b. If the claims of U.S. Patent Nos. 7,013,009 and 7,231,038 reissued as "substantially identical" (as that term is used in 35 U.S.C. § 252) then Zeal would be obligated to cease selling its *Confidant* model, which Oakley accused of infringing these patents, within three months of written notice of the Oakley reissued patents.

34. On or about August 6, 2009, Oakley advised Zeal that the '009 and '038 patents would soon reissue and it was Oakley's opinion that the patent claims were "substantially identical" to the earlier claims and continued to read on the

Confidant model. Despite such notice, Defendant has continued to sell the infringing model and has refused to pay Oakley the additional ten thousand dollars ($10,000.00) under the settlement agreement.

35. In consequence of these actions, Defendant has breached its obligations.

36. Oakley has been damaged by Defendant's actions. In particular, it has been deprived of at least ten thousand dollars ($10,000.00).

37. Oakley seeks that Defendant compensate it as required under the terms of the 2008 settlement agreement, account to Oakley for all intervening and other sales, and immediately cease all sales of the *Confidant* sunglass model.

WHEREFORE, Plaintiff Oakley, Inc. prays as follows:

1. That Defendant be adjudicated to have infringed U.S. Patent No. 7,013,009 and that said patent is valid, enforceable and is owned by Oakley;

2. That Defendant be adjudicated to have infringed U.S. Patent No. 7,231,038 and that said patent is valid, enforceable and is owned by Oakley;

3. That Defendant and its agents, suppliers, servants, employees, managers, and officers, and all those persons in active concert or participation with them, be forthwith preliminarily and thereafter permanently enjoined from making, using, offering for sale or selling any sunglass which infringes U.S. Patent Nos. 7,013,009 and 7,231,038;

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

5. That Defendant be required to account to Oakley for its unlawful sales and compensate Oakley for damages, as provided for under 35 U.S.C. § 284, for any and all lost profits suffered by Oakley and in no event less than a reasonable royalty by reason of Defendant's infringement of U.S. Patent Nos. 7,013,009 and

7,231,038, and that Oakley be awarded damages in an amount equal to compensate it under 35 U.S.C. § 284;

6. That patent infringement damages be awarded in an amount up to three times the amount of damages found or assessed to compensate Oakley for the willful, deliberate and intentional acts of infringement by Defendants pursuant to 35 U.S.C. § 284;

7. For an order requiring Defendant to deliver up and destroy all infringing sunglasses;

8. That an award of reasonable costs, expenses and attorneys' fees be awarded against Defendants pursuant to 35 U.S.C. § 285; and

9. That Oakley have such other and further relief as circumstances of this case may require and that this court may deem just and proper.

DATED: August 23, 2010 WEEKS, KAUFMAN, NELSON & JOHNSON

GREGORY K. NELSON
Attorney for Plaintiff, Oakley, Inc.

JURY DEMAND

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

DATED: August 23, 2010 WEEKS, KAUFMAN, NELSON & JOHNSON

GREGORY K. NELSON
Attorney for Plaintiff, Oakley, Inc.

US007013009C1

(12) EX PARTE REEXAMINATION CERTIFICATE (7089th)

United States Patent

Warren

(10) Number: US 7,013,009 C1
(45) Certificate Issued: Sep. 29, 2009

(54) **EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES**

(75) Inventor: **Peter Warren**, Chattanooga, TN (US)

(73) Assignee: **Oakley, Inc.**, Foothill, CA (US)

Reexamination Request:
No. 90/009,112, Apr. 16, 2008

Reexamination Certificate for:
Patent No.: **7,013,009**
Issued: **Mar. 14, 2006**
Appl. No.: **09/888,280**
Filed: **Jun. 21, 2001**

(51) **Int. Cl.**
H04M 1/00 (2006.01)

(52) **U.S. Cl.** **379/420.01**; 379/420.02; 379/420.03; 379/420.04; 455/90.3

(58) **Field of Classification Search** ..... None
See application file for complete search history.

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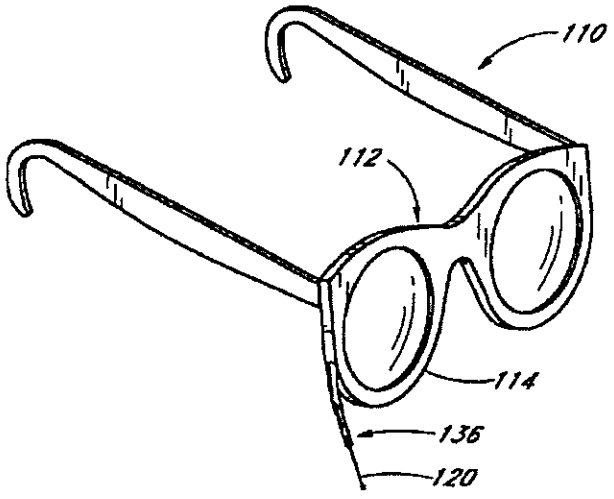
Primary Examiner—Roland G. Foster

(57) **ABSTRACT**

A microphone, transmitter, speaker, receiver, and power source, all mounted to an eyeglasses frame, for sending and receiving signals wirelessly to and from a remote cell phone or other electronic device. The microphone and the transmitter can be mounted to extension arms that can be extended, pivoted, or otherwise moved to a position for use, and then moved to a stored position when not in use. Alternatively, the microphone, transmitter, speaker, receiver, and power source, can be mounted onto a clip-on or other attachment member that mounts onto a conventional eyeglasses frame, or to a hat or other article worn on the head.



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EX PARTE REEXAMINATION CERTIFICATE ISSUED UNDER 35 U.S.C. 307

THE PATENT IS HEREBY AMENDED AS INDICATED BELOW.

Matter enclosed in heavy brackets [ ] appeared in the patent, but has been deleted and is no longer a part of the patent; matter printed in italics indicates additions made to the patent.

AS A RESULT OF REEXAMINATION, IT HAS BEEN DETERMINED THAT:

Claim 6 is cancelled.

Claims 1, 4, 5 and 7–13 are determined to be patentable as amended.

Claims 2 and 3, dependent on an amended claim, are determined to be patentable.

1. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone [coupled to] *mounted inside of* the member;

c) a transmitter [coupled to] *mounted inside of* the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member;

e) a receiver [coupled to] *mounted inside of* the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device; and

f) a segmented extension arm coupled to the member and speaker, wherein the segmented extension arm comprises:

a first segment attached to the member;

a second segment attached to the speaker; and

an intermediate segment attached to the first and second segments,

wherein each segment of the segmented extension arm is capable of extending generally downwardly towards a wear's ear when the member is mounted to an eyeglass frame worn by a wearer, and

wherein the segmented extension arm is capable of extending the speaker along a substantially straight vertical path extending downwardly from the eyeglass frame when the member is mounted to an eyeglass frame worn by a wearer,

wherein the member comprises a lens holder and the connector comprises a clip adapted to removably mount the clip-on lens holder onto a lens holder of the eyeglasses frame.

4. The wearable device of claim 1, further comprising a [first] *second* extension arm coupled to the member, wherein the microphone is coupled to the *second* extension arm.

5. The wearable device of claim 4, wherein the [first] *second* extension arm is pivotal or telescopic.

7. The wearable device of claim [6] *1*, wherein the [second] *segmented* extension arm is pivotal.

8. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone [coupled to] *mounted inside of* the member;

c) a transmitter [coupled to] *mounted inside of* the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member; [and]

e) a receiver [coupled to] *mounted inside of* the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device; *and*

f) a segmented extension arm coupled to the member and speaker, wherein the segmented extension arm comprises:

a first segment attached to the member;

a second segment attached to the speaker; and

an intermediate segment attached to the first and second segments,

wherein the each segment of the segmented extension arm is capable of extending generally downwardly towards a wear's ear when the member is mounted to an eyeglass frame worn by a wearer, and

wherein the segmented extension arm is capable of advancing the speaker along a substantially straight vertical path extending downwardly from the eyeglass frame when the member is mounted to an eyeglass frame worn by a wearer,

wherein the member comprises a frame or sheet and the connector is formed by a bent section thereof and adapted to removably mount the frame or sheet onto a support arm of the eyeglasses frame.

9. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone [coupled to] *mounted inside of* the member;

c) a transmitter [coupled to] *mounted inside of* the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member; [and]

e) a receiver [coupled to] *mounted inside of* the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device; *and*

f) a segmented extension arm coupled to the member and speaker, wherein the segmented extension arm comprises:

a first segment attached to the member;

a second segment attached to the speaker; and

an intermediate segment attached to the first and second segments,

wherein each segment of the segmented extension arm is capable of extending generally downwardly

towards a wear's ear when the member is mounted to an eyeglass frame worn by a wearer, and

wherein the segmented extension arm is capable of advancing the speaker along a substantially straight vertical path extending downwardly from the eyeglass frame when the member is mounted to an eyeglass frame worn by a wearer,

wherein the microphone is directional and oriented toward a user's mouth when wearing the eyeglasses, and the speaker is directional and oriented toward the user's ear when wearing the eyeglasses.

10. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone coupled to the member;

c) a transmitter **[**coupled to**]** *mounted inside of* the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member;

e) a receiver **[**coupled to**]** *mounted inside of* the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device; and

[f) a first extension arm coupled to the member, wherein the microphone is coupled to the extension arm**]**

f) a segmented extension arm coupled to the member and microphone, wherein the segmented extension arm comprises:

a first segment attached to the member;

a second segment attached to the microphone; and

an intermediate segment attached to the first and second segments,

wherein each segment of the segmented extension arm is capable of extending generally downwardly towards a wear's mouth when the member is mounted to an eyeglass frame worn by a wearer, and

wherein the segmented extension arm is capable of advancing the microphone along a substantially straight vertical path extending downwardly from the eyeglass frame when the member is mounted to an eyeglass frame worn by a wearer.

11. The wearable device of claim **10**, wherein the **[**first**]** *segmented* extension arm is pivotal or telescopic.

12. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone **[**coupled to**]** *mounted inside of* the member;

c) a transmitter **[**coupled to**]** *mounted inside of* the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member;

e) a receiver **[**coupled to**]** *mounted inside of* the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device; and

f) a **[**second**]** *segmented* extension arm coupled to the member *and speaker*, wherein the **[**speaker is coupled to the extension arm**]** *segmented extension arm comprises:*

a first segment attached to the member;

a second segment attached to the speaker; and

an intermediate segment attached to the first and second segments,

wherein each segment of the segmented extension arm is capable of extending generally downwardly towards a wear's ear when the member is mounted to an eyeglass frame worn by a wearer, and

wherein the segmented extension arm is capable of advancing the speaker along a substantially straight vertical path extending downwardly from the eyeglass frame when the member is mounted to an eyeglass frame worn by a wearer.

13. The wearable device of claim **12**, wherein the **[**second**]** *segmented* extension arm is pivotal.

* * * * *

US007013009B2

(12) **United States Patent**
Warren

(10) **Patent No.: US 7,013,009 B2**
(45) **Date of Patent: Mar. 14, 2006**

(54) **EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES**

(75) Inventor: **Peter Warren**, Chattanooga, TN (US)

(73) Assignee: **Oakley, Inc.**, Foothill Ranch, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 791 days.

(21) Appl. No.: **09/888,280**

(22) Filed: **Jun. 21, 2001**

(65) **Prior Publication Data**

US 2002/0197961 A1 Dec. 26, 2002

(51) **Int. Cl.**
H04M 1/00 (2006.01)

(52) **U.S. Cl.** **379/420.01**; 379/420.02; 379/420.03; 379/420.04; 455/90.3

(58) **Field of Classification Search** 455/90.3, 455/569.1, 575.1, 66.1; 351/41; 379/420.01, 379/420.02, 420.03, 420.04
See application file for complete search history.

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Primary Examiner—Bing Q. Bui
(74) *Attorney, Agent, or Firm*—Knobbe, Martens, Olson & Bear, LLP

(57) **ABSTRACT**

A microphone, transmitter, speaker, receiver, and power source, all mounted to an eyeglasses frame, for sending and receiving signals wirelessly to and from a remote cell phone or other electronic device. The microphone and the transmitter can be mounted to extension arms that can be extended, pivoted, or otherwise moved to a position for use, and then moved to a stored position when not in use. Alternatively, the microphone, transmitter, speaker, receiver, and power source, can be mounted onto a clip-on or other attachment member that mounts onto a conventional eyeglasses frame, or to a hat or other article worn on the head.

13 Claims, 7 Drawing Sheets

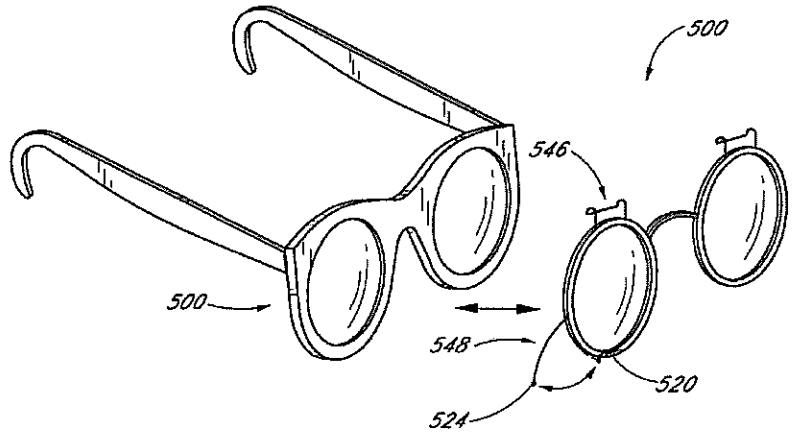

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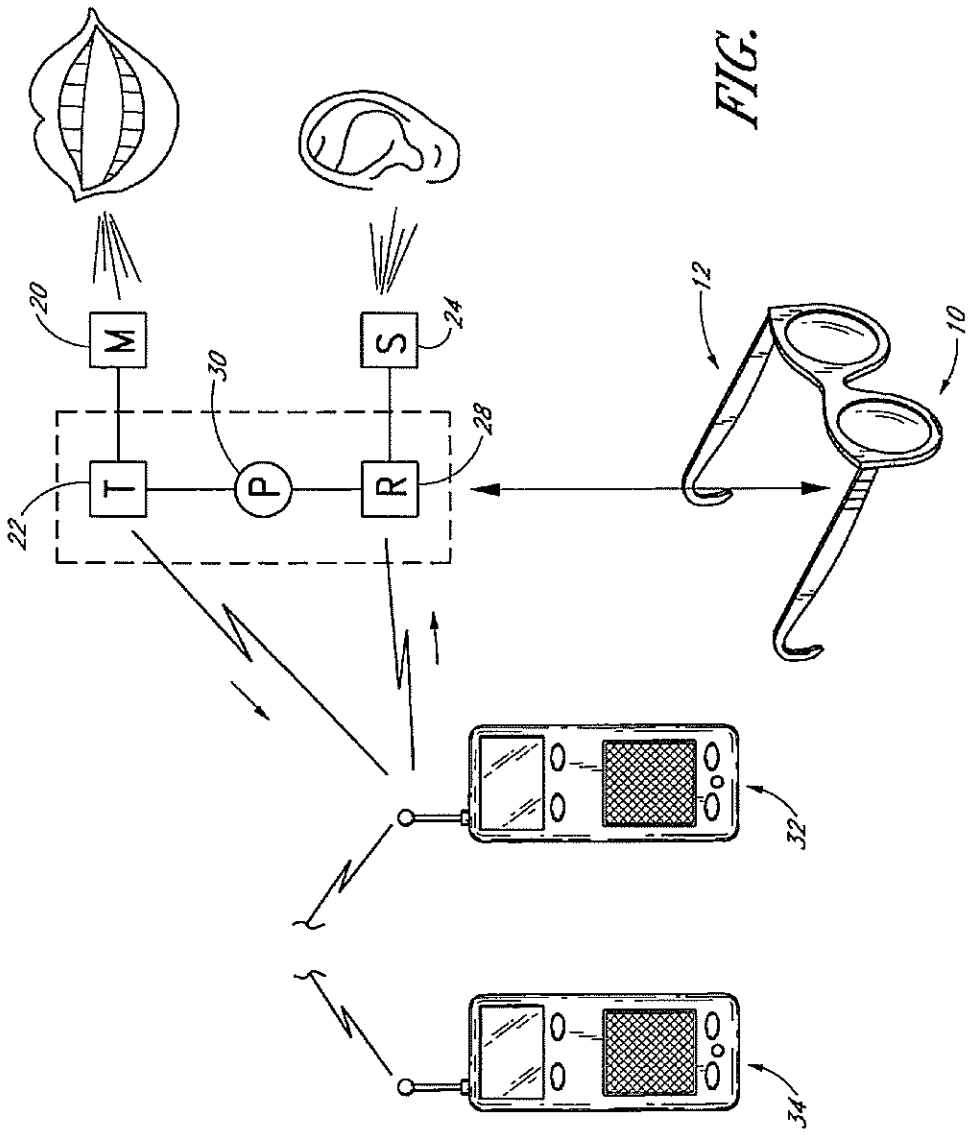
FIG. 1



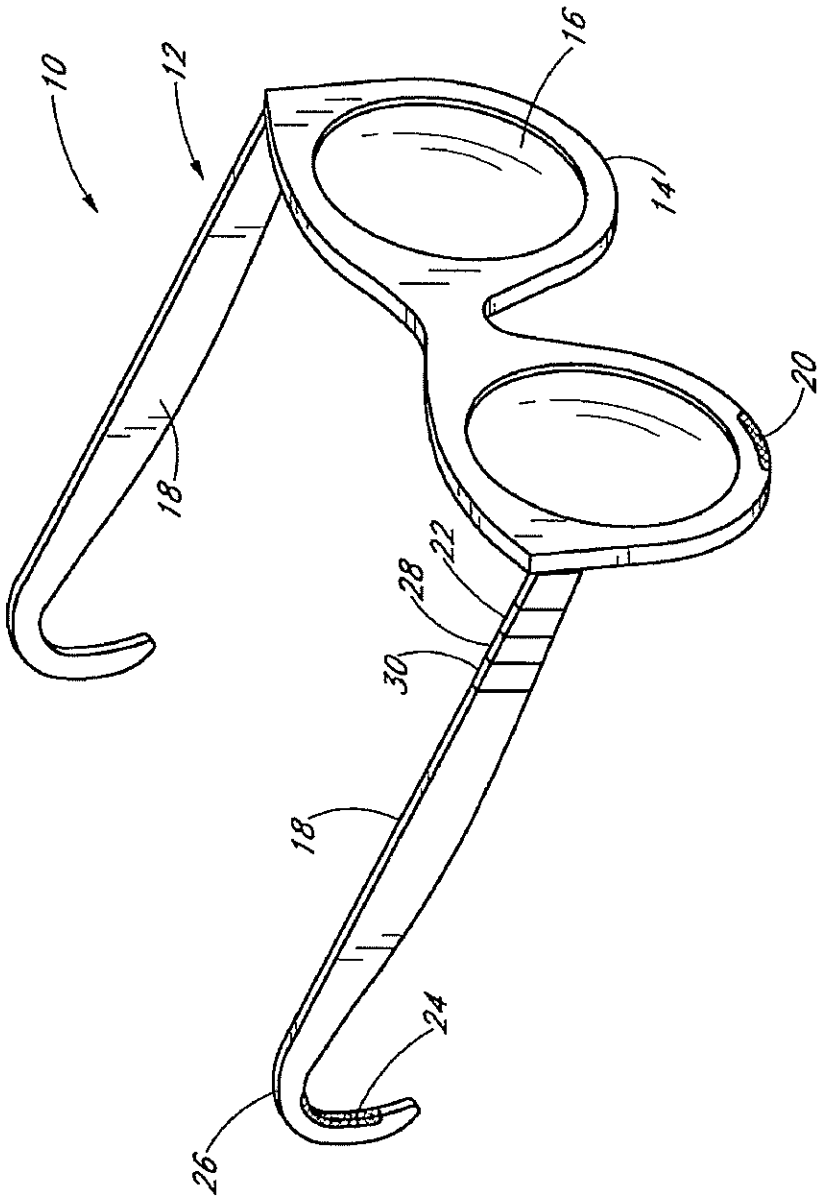


FIG. 2

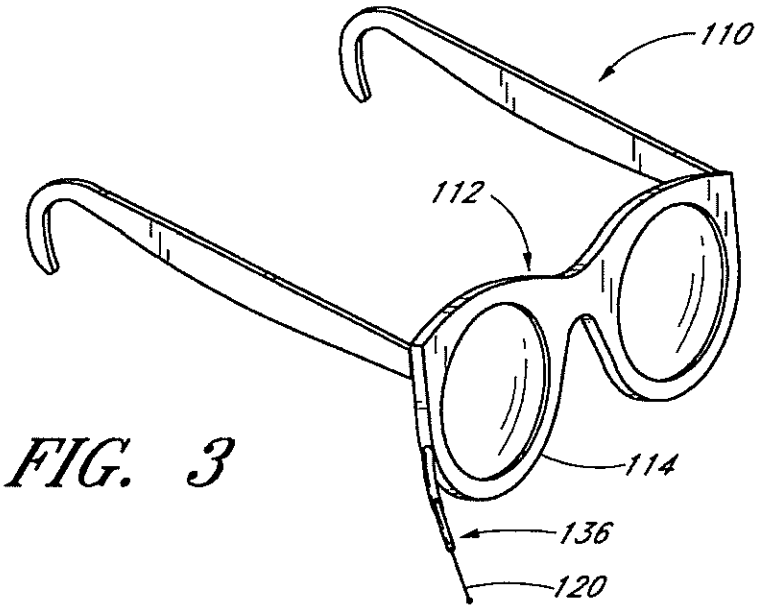


FIG. 3

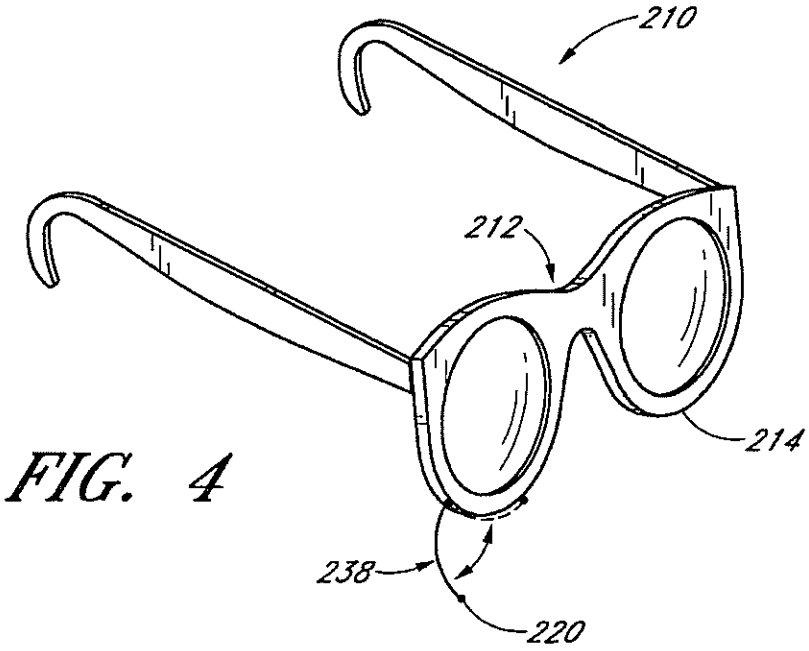


FIG. 4

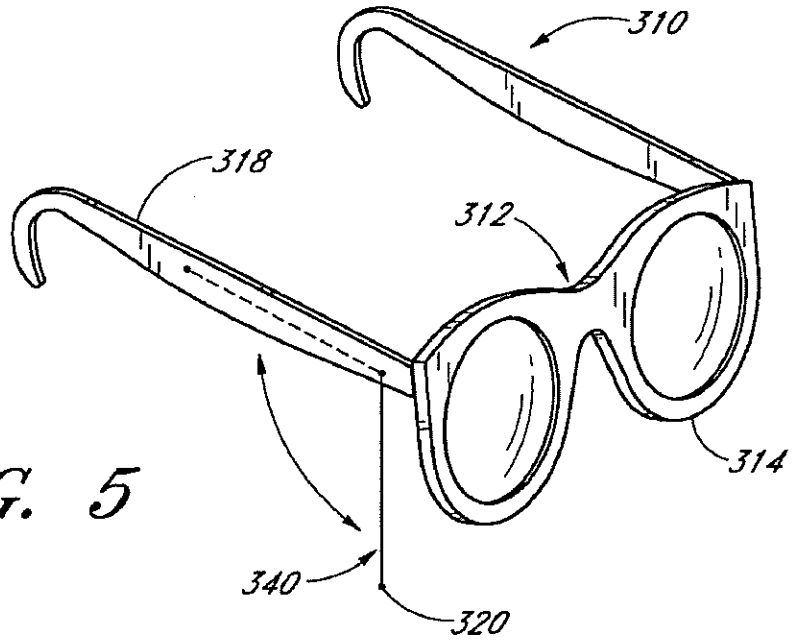


FIG. 5

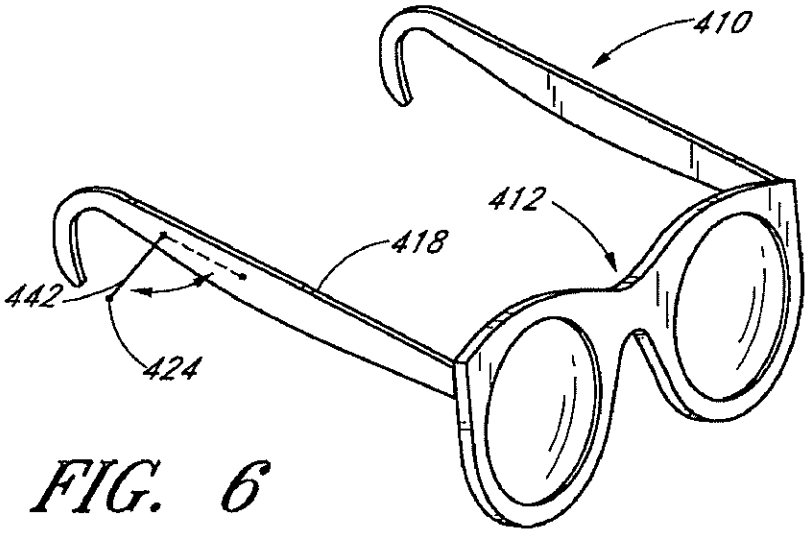


FIG. 6

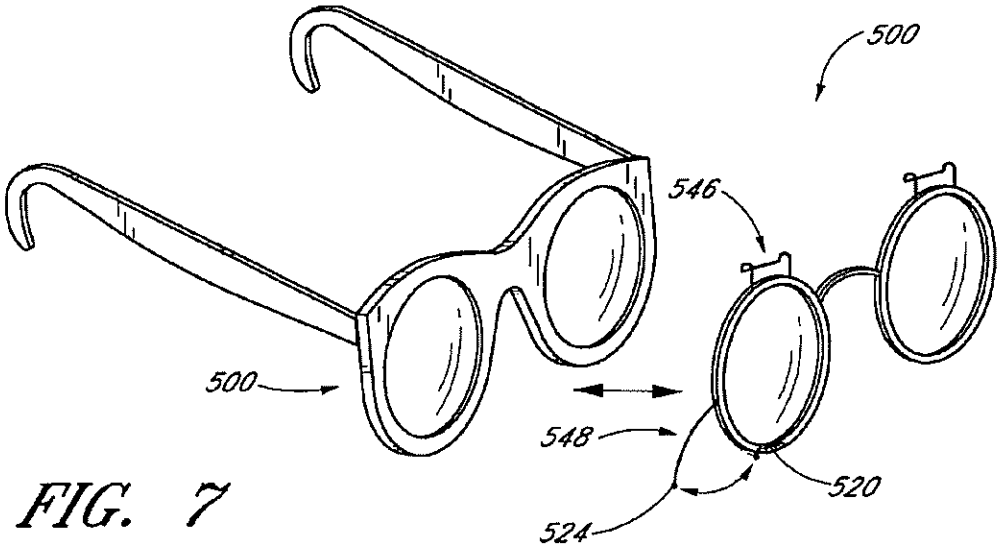


FIG. 7

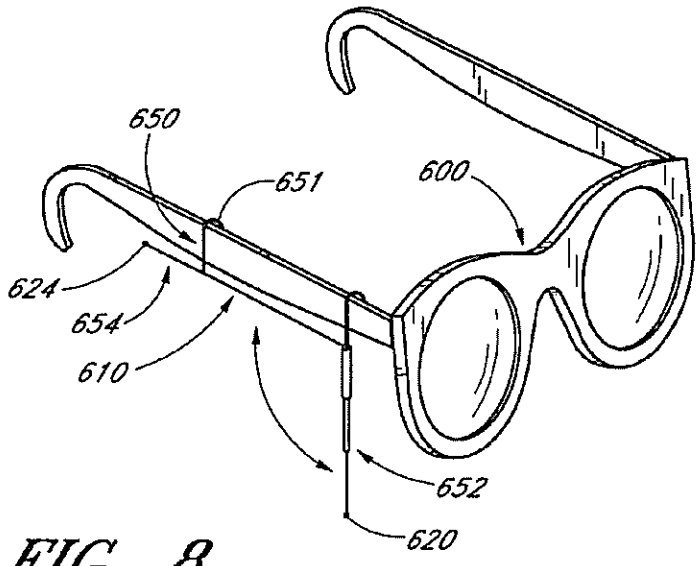


FIG. 8

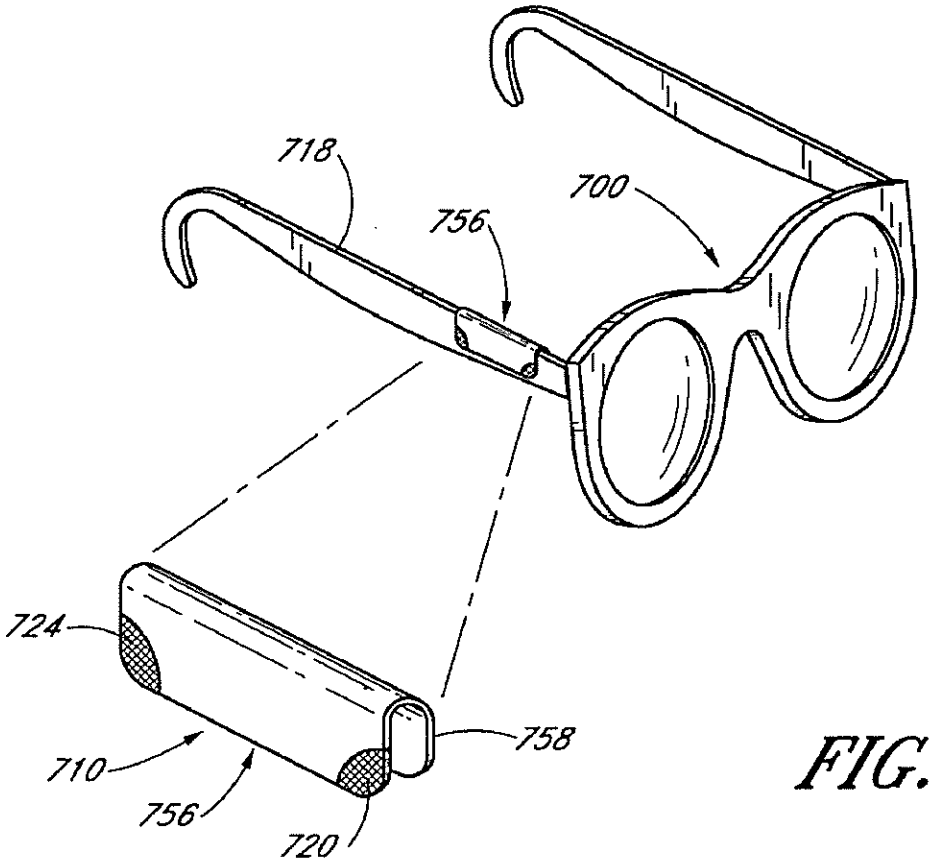


FIG. 9

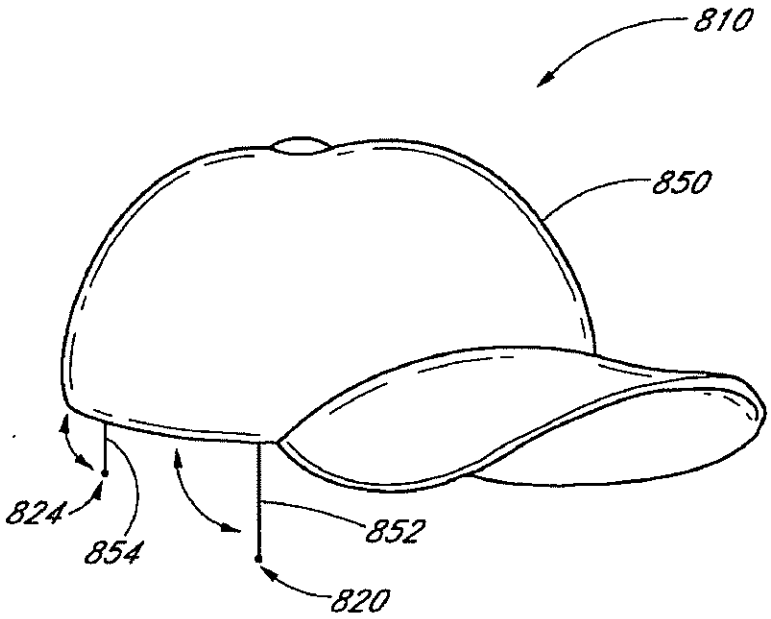


FIG. 10

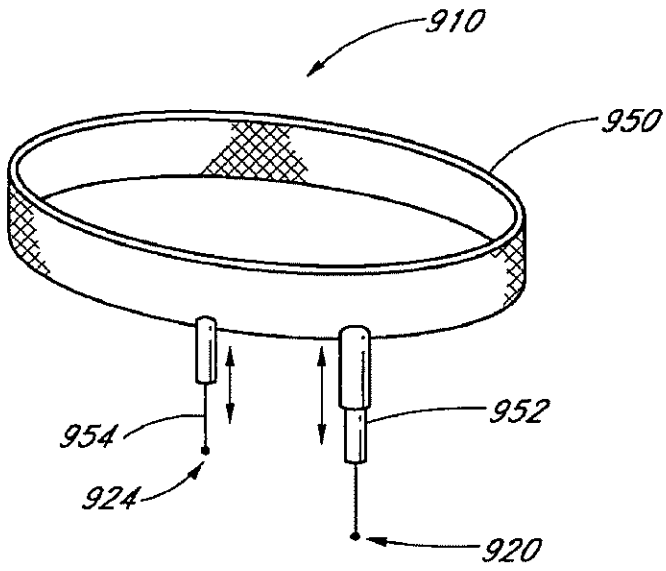


FIG. 11

EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES

TECHNICAL FIELD

This invention relates to wearable audio communication devices and, more particularly, to eyeglasses with wireless audio communication features for remote use of a cell phone or other electronic device.

BACKGROUND OF THE INVENTION

Technological advances in the telecommunications and computer-related industries have provided cell phones, web phones, personal digital assistants (PDA's), hand held computers, lap tops, and other portable devices that allow for instant communication and access to information. These portable devices provide the benefit of allowing people to be connected wherever they are. A drawback to the use of cell phones, however, is that speaking on a cell phone can be a disturbance to bystanders. This is especially the case in public and other places where others generally do not want to be disturbed, such as restaurants, theaters, churches, and so forth. Similarly, using PDA's, laptops, etc. with capabilities for voice recognition and/or accessing and playing music or other audio can be an annoyance to others. Additionally, holding a cell phone to one's head while driving an automobile can be unsafe because the driver has only one hand available to operate the vehicle. Furthermore, holding a cell phone can be difficult or at least a distraction in many other situations, such as while typing on a keyboard, walking down a street or in a mall with one's hands full, while riding a bike, and so forth.

In order to provide an easier, safer, and quieter way to speak on a cell phone, there have been developed hands-free headsets with microphones and speakers connected by wires or wirelessly to a phone. These headsets enable the wearer to park their cell phone on their belt or elsewhere, and to have a conversation on their cell phone by speaking and listening via the headset. However, such headsets are typically donned and removed each time the cell phone is used, which can be a significant inconvenience. Also, such headsets must be stored somewhere when they are removed and not in use, making it more likely that the user will forget them, break them, or be further inconvenienced by carrying a case for them.

Accordingly, there remains a need in the art for a wearable audio communication device for remote use of a cell phone or other electronic device, that permits the user to easily, safely, and quietly communicate using the cell phone while engaged in another activity, without the user having to hold the cell phone in his hand, and without the inconvenience of carrying around an extra headset device, donning the headset to make or receive a call, and removing and storing the headset afterward.

SUMMARY OF THE INVENTION

The present invention fulfills these and other needs by providing wearable communications devices for sending and receiving signals wirelessly to and from a remote cell phone or other electronic device. Generally described, the invention comprises an eyeglasses device having an eyeglasses frame and having a microphone, a transmitter, a speaker, a receiver, and a power source connected together and mounted to the frame. Whenever a user has on the eyeglasses, he can converse over the cell phone privately, easily, and in a hands-free manner. Particularly for people who wear prescription glasses, the invention provides a great convenience, as they will often or most always be wearing their glasses. Thus, users can have private, hand-free conversations on their cell phones, without having to put on a headset, and afterward remove, store, and carry the headset.

In an exemplary embodiment of the invention, the eyeglasses frame has a lens holder and two support arms, and the microphone is directional and coupled to the lens holder (or one of the support arms) and oriented toward a user's mouth. The transmitter communicates by wires or otherwise with the microphone, and sends signals wirelessly (such as by radio frequency) to the cell phone. One (or more) speakers are coupled to one (or more) of the support arms and positioned adjacent to the user's ear. The receiver communicates by wires or otherwise with the speaker, and receives signals from the cell phone. The power source is electrically connected to the transmitter and to the receiver for providing the power needed to operate them.

Alternative embodiments additionally have pivotal, telescopic, and/or other extension arms for the microphone and/or the speaker. These embodiments allow the microphone and/or speaker to be extended, pivoted, or otherwise moved to a position for ease of use, and then retracted, pivoted, or otherwise moved to a stored position out of the way when not in use.

Additional alternative embodiments provide wearable communication devices with a clip-on member (instead of an eyeglasses frame) that mounts to a pair of conventional eyeglasses. Similar to the above embodiments, these have a microphone, a transmitter, a receiver, a speaker, and a power source, all mounted to the clip-on member. These embodiments permit retrofitting the wearable device onto a user's current glasses so that it is not necessary to go out a buy a new pair of glasses. Also, the user can easily change the wearable device from one pair of glasses to another.

In one of these embodiments, the clip-on member comprises a conventional clip-on lens holder of the type that is commonly used for clipping tinted sunglasses lenses onto regular prescription glass frames. In other of these embodiments, the clip-on member comprises a frame or sheet with a clip for removably mounting to the support arm of the eyeglasses frame. The microphone and speaker can be mounted directly onto the clip-on member in a spaced apart arrangement, or they can be mounted on extension arms that can be extended, pivoted, or otherwise moved to a position for use, and then moved to a stored position when not in use.

Further alternative embodiments provide wearable communication devices with a frame in the form of a hat, headband, earmuffs, or another article that can be worn on a user's head. Similar to the above embodiments, these have a microphone, a transmitter, a receiver, a speaker, and a power source, all mounted to the frame. These embodiments provided similar benefits, for instance, a user can wear a hat and use the communications features to conveniently and privately communicate on his or her cell phone.

The specific techniques and structures employed by the invention to improve over the drawbacks of the prior systems and accomplish the advantages described above will become apparent from the following detailed description of the embodiments of the invention and the appended drawings and claims.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. **1** is a schematic diagram of an exemplary embodiment of the eyeglasses of the present invention in use with a cell phone.

FIG. **2** is a perspective view of the exemplary embodiment of FIG. **1**, showing an eyeglasses frame with a microphone and a speaker.

FIG. **3** is a perspective detail view of a first alternative embodiment of the present invention, showing the microphone on a telescopic arm.

FIG. **4** is a perspective detail view of a second alternative embodiment, showing the microphone on a pivotal arm coupled to a lens holder.

FIG. **5** is a perspective detail view of a third alternative embodiment, showing the microphone on a pivotal arm coupled to a support arm.

FIG. **6** is a perspective detail view of a fourth alternative embodiment, showing the speaker on a pivotal arm coupled to the support arm.

FIG. **7** is a perspective view of a fifth alternative embodiment, showing a clip-on lens holder with a microphone and a speaker.

FIG. **8** is a perspective view of a sixth alternative embodiment, showing a clip-on frame member with a microphone and a speaker attached to the frame member.

FIG. **9** is a perspective view of a seventh alternative embodiment, showing a clip-on sheet member with a built-in microphone and a built-in speaker.

FIG. **10** is a side view of an eighth alternative embodiment, showing a hat with a built-in microphone and a built-in speaker.

FIG. **11** is a perspective view of a ninth alternative embodiment, showing a headband with a built-in microphone and a built-in speaker.

DETAILED DESCRIPTION OF THE EMBODIMENTS

The present invention may be embodied in eyeglasses with communication features for sending and receiving signals wirelessly to and from an electronic device such as a cell phone. FIG. **1** shows one such embodiment, referred to as the eyeglasses **10**, in use with a cell phone **32**. The eyeglasses **10** have a microphone **20**, a transmitter **22**, a speaker **24**, a receiver **28**, and a power source **30**, all mounted onto an eyeglasses frame **12**. The microphone **20** receives sound from the user's mouth (or from the user clapping or otherwise making a sound) and converts the sound into a signal representing the sound, and the transmitter **22** sends the signal to the cell phone **32**. The cell phone **32** in turn transmits the signal to another cell phone **34** or other electronic device. Similarly, the receiver **28** receives a signal representing a sound from the other cell phone **34**, and sends the signal to the speaker **24**. The speaker **28** then converts the signal to an audible sound to be heard by one or both of the user's ears.

Thus, the user can converse over the cell phone **32** privately, easily, and in a hands-free manner whenever he has on the eyeglasses **10**. For example, the eyeglasses **10** can have prescription lenses, and for a person that wears his glasses much of the time, the communication features of the eyeglasses **10** will be readily available for use much of the time. Thus, the user can simply put on his eyeglasses **10** in the morning and take them off at night, as he normally does with his regular glasses, and wear his cell phone **32** on his belt, carry it in a purse or bag, or otherwise carry the cell phone remotely from the eyeglasses **10**. In this manner, the user can converse on his cell phone **32** anytime and anywhere, privately, without disturbing bystanders.

Also, when wearing the eyeglasses **10**, the user need not don and remove a headset every time he makes or receives a call, and need not store and carry the headset in a case or the like. Additionally, because the eyeglasses **10** provide for hands-free communication over the cell phone **32**, the user can simultaneously converse on the cell phone **32** while engaging in another activity such as typing on a keyboard, driving, biking, mowing the lawn, eating, etc. Of course, the eyeglasses **10** can be alternatively provided as sun glasses or mere fashion glasses (with zero power lenses), to provide the convenience of the readily available communication features described above.

It will be understood that the cell phone **32** may need to be adapted for sending and receiving signals wirelessly to and from the eyeglasses **10**. Such adaptations are known in the art, and can be readily made to provide a cell phone or other electronic device that cooperatively functions with the eyeglasses **10** as described herein. Also, the eyeglasses **10** and the cell phone **32** can be adapted for sending and receiving visual images to and from each other, and/or for sending and receiving data in other forms. Additionally, the eyeglasses **10** and/or the cell phone **32** can include encryption software providing for secure transmissions to and/or from each other. Furthermore, the eyeglasses **10** also can be used to communicate with web phones, conventional land line phones, PDA's, laptops, hand held computers, personal computers, household appliances, portable or stationary televisions, portable or stationary radios, compact disc players, tape players, or the like, and/or other electronic devices with capabilities for voice recognition and/or for accessing and playing music or other sounds.

FIG. **2** shows an exemplary embodiment of the eyeglasses **10** of the present invention, with the eyeglasses frame **12** comprising a lens holder **14** with lenses **16**, and two support arms **18** that extend over and are supported by a user's ears. The eyeglasses frame **12** can be provided by conventional eyeglass frames made of metal, plastic, or another material, having any of a variety of shapes, as is well known in the art. The lenses **16** can be provided by prescription lenses, tinted sunglasses lenses, a combination thereof, or zero power lenses, or no lenses can be provided, as may be desired. While the eyeglasses **10** are typically provided with two lenses and two support arms, it will be understood that the eyeglasses alternatively can be provided by a monocle.

The microphone **20** is mounted to the eyeglasses frame **12** for receiving sounds from the user's mouth to be transmitted to the cell phone. The microphone **20** can be provided by a conventional miniature microphone that is embedded into the frame **12**. Also, the microphone **20** can be oriented toward the user's mouth and can be directional so that it picks up the user's voice when wearing the eyeglasses **10**, but does not pick up as much ambient sound. Although one microphone **20** is shown mounted to the lens holder **14**, alternatively, it can be mounted to the one of the support arms **18**, and/or two or another number of microphones can be provided. Thus, the eyeglasses **10** can be provided with two directional microphones, each oriented toward user's mouth when wearing the eyeglasses, and each positioned on a lower portion of one of the two loops forming the lens holder **14**. Also, a sensitivity control can be provided for adjusting the level of sound that the microphone **20** picks up.

The transmitter **22** is mounted to the eyeglasses frame **12** and communicates with the microphone **20** by wire, optic fiber, wirelessly, or otherwise. The transmitter **22** can be of a conventional miniature type that is configured to send signals to the cell phone. For example, the transmitter **22** can be configured with BLUETOOTH or other software for wireless transmission of radio signals or another frequency audio or other signals to the cell phone.

The speaker **24** is mounted to the eyeglasses frame **12** for playing sounds to be heard by the user's ear. The speaker **24** can be provided by a conventional miniature speaker that is embedded into the frame **12**. Also, the speaker **24** can be oriented toward the user's ear and can be directional so that it plays sounds toward the user's ear but does not play sounds that can be easily heard by bystanders. For example, the speaker **24** can be a conventional miniature bone-type speaker that is mounted on an ear rest **26** of one of the support arms **18** generally adjacent to the user's ear when wearing the eyeglasses **10**. Although one speaker **24** is shown mounted to the ear rest **26**, alternatively, it can be mounted to another portion of one of the support arms **18** or to the lens holder **14**. Also, two or anther number of speakers can be provided for producing stereo, quadraphonic, or other sound. Also, a volume control can be provided for adjusting the level of sound that the speaker **24** plays.

The receiver **28** is mounted to the eyeglasses frame **12** and communicates with the speaker **24** by wire, optic fiber, wirelessly, or otherwise. The receiver **28** can be of a conventional miniature type that is configured to receive signals from the cell phone. For example, the receiver **28** can be configured with BLUETOOTH or other software for wireless reception of radio signals or another frequency audio or other signals from the cell phone.

The power source **30** is mounted to the eyeglasses frame **12** and electrically connected by a wire to the transmitter **22** and the receiver **28**. The power source **30** provides the power to operate the transmitter **22** and the receiver **28**. For example, the power source **30** can be provided by one or another number of batteries that screw into a receptacle in the frame **12**. Alternatively, other portable power sources can be used, such as conventional batteries, photovoltaic cells, combinations thereof, and so forth. Controls can be provided for automatically shutting off the device after a predetermined period of time and automatically turning on the device upon reception of a signal from the cell phone, and a manual on/off switch and/or a low power indicator can be provided.

It will be understood by those skilled in the art that the transmitter **22**, receiver **28**, and power source **30** can be selected to provide low power, short range signals, so as not to interfere with signals to and from other devices in the vicinity of the user. However, these components are also selected to provide signals strong enough for transmission and reception between the eyeglasses **10** on the user's head and the cell phone **32** disposed remotely from the eyeglasses, such as on the user's belt, carrying bag or purse, etc. Also, the transmitter **22** and the receiver **28** can have optics for receiving infrared signals, instead of or in addition to radio frequency signals.

Additionally, the transmitter **22**, receiver **28**, and/or battery **30** can be provided as separate components or as a single component with a single antenna, mounted to the eyeglasses frame **12** at another position selected for ease of manufacturing. Also, the wires connecting the microphone **20** to the transmitter **22**, the receiver **28** to the speaker **24**, and/or the battery **30** to the transmitter **22** and the receiver **28**, can be embedded into or mounted onto the frame **12**. Furthermore, the microphone **20**, transmitter **22**, receiver **28**, speaker **24**, and/or battery **30** can be provided as a retrofit kit, with each component having clips for mounting onto a conventional eyeglasses frame, with the wires not integral to but instead routable along the frame. Additionally or alternatively, one or more wires with connectors can be provided that connect the eyeglasses and the cell phone, as may be desired.

FIG. **3** shows a first alternative embodiment **110** of the present invention, with the microphone **120** attached to a telescopic extension arm **136** that retracts into the lens holder **114** or another part of the eyeglasses frame **112**. FIG. **4** shows a second alternative embodiment **210**, with the microphone **220** attached to a pivotal extension arm **238** that is pivotally connected to the lens holder **214**. Such an extension arm **238** can be curved to conform to the shape of the lens holder **214**. FIG. **5** shows a third alternative embodiment **310**, with the microphone **320** attached to a pivotal extension arm **340** that is pivotally connected to the corresponding support arm **318**. Such an extension arm **340** can be generally linear to conform to the shape of the corresponding support arm **318**.

In these alternative embodiments, the microphone can be extended, pivoted, or otherwise moved into a first position when needed for use, and retracted, pivoted, or otherwise moved to a second non-obtrusive position when not needed. Also, the extension arm can be generally rigid or flexible, with or without a telescopic, pivotal, or other connection to the eyeglasses frame, as may be desired.

FIG. **6** shows a fourth alternative embodiment **410** of the present invention, with the speaker **424** attached to a pivotal extension arm **442** that is pivotally connected to one of the support arms **418**. Of course, the extension arm can be telescopic, generally rigid, or generally flexible, as may be desired. In this alternative embodiment, the speaker **424** can be extended, pivoted, or otherwise moved into a first position when needed for use, and retracted, pivoted, or otherwise moved to a second non-obtrusive position when not needed.

FIGS. **7–9** show additional alternative embodiments of the present invention. In these embodiments, instead of the communication components being mounted directly to the eyeglasses, there is provided an attachment member having at least one connector that permits removably mounting the member onto a conventional eyeglasses frame. The connector is provided by a clip, though another mounting structure can be used as desired, such as a hook, snap, screw, or slide. The communication components (including the transmitter, the receiver, and the power source) are mounted to the clip-on member so that they can be readily utilized when the clip-on member is mounted to the user's glasses. Accordingly, the user can selectively mount the clip-on member on different pairs of glasses, as may be desired where the user has separate prescription and sun glasses, has multiple glasses that she wears depending on the mood and the occasion, purchases new eyeglasses, etc.

For example, FIG. **7** shows a fifth alternative embodiment **510** with the attachment member provided by a conventional clip-on lens holder **544** and the connector provided by two (or another number) of clips **546** for mounting onto the lens holder of a conventional eyeglasses frame **500**. The microphone **520** and the speaker **524** are mounted to the lens holder **544**. The speaker **524** is connected to the lens holder **544** by a pivotal extension arm **548** or by another extension arm, and the microphone can be embedded or otherwise attached to the clip-on lens holder.

FIG. **8** shows a sixth alternative embodiment **610** with the attachment member provided by a frame **650** and the connector provided by a clip **651** formed by a bent section of the frame **650**, for mounting onto one of the support arms of a conventional eyeglasses frame **600**. The microphone **620** and the speaker **624** are attached to the clip frame **650**, with the microphone **620** attached by a pivotal and/or telescopic extension arm **652** or other extension arm, and the speaker **624** attached by a pivotal extension arm **654** or other extension arm.

FIG. **9** shows a seventh alternative embodiment **710** with the attachment member provided by a sheet **756** and the connector provided by a clip **758** formed by a bent section of the sheet **756** for mounting onto one of the support arms of a conventional eyeglasses frame. The microphone **720**

and the speaker **724** are built into the sheet **756** at spaced apart positions, and are directional and oriented towards the user's mouth and ear, respectively, when wearing the clip-on attachment member on glasses. Of course, the devices of the sixth and seventh alternative embodiments could be used with devices other than eyeglasses, such as hats, visors, headbands, and so forth.

FIGS. **10** and **11** show further alternative embodiments of the present invention. In these embodiments, the communication components are mounted to articles that users commonly wear on their head for fashion, warmth, or other reasons. The microphone is directional and oriented toward the user's mouth, and the speaker is disposed adjacent to and oriented toward the user's ear, thereby permitting the user to conveniently and privately communicate on his or her cell phone.

In particular, FIG. **10** shows an eighth alternative embodiment **810** comprising a hat that forms a frame **850**, with the microphone **820** and the speaker **824** attached to the frame **850** by pivotal, telescopic, static, or other extension arms **852** and **854**, respectively. Similarly, FIG. **11** shows a ninth alternative embodiment **910** comprising a headband that forms a frame **950**, with the microphone **920** and the speaker **924** attached to the frame **950** by pivotal, telescopic, static, or other extension arms **952** and **954**, respectively.

It will be understood that the term "hat" as used herein means any structure that is typically worn on a person's head, including a baseball cap, cowboy hat, motorcycle or sports helmet, visor, derby, bonnet, panama, sun hat, beret, tam-o'-shanter, yarmulke, beenie, fedora, and so forth. It will be further understood that, in addition to hats, the communication features can be provided on any other article worn on a person's head, such as earmuffs, ski masks, hoods on jackets, and so forth.

In view of the foregoing, it will be appreciated that present invention provides several wearable audio communication devices for remotely using a cell phone or other electronic device, that permit the user to easily, safely, and privately communicate using the cell phone, even while engaged in another activity. Furthermore, the devices provided by the invention obviate the need for the user to hold the cell phone in his hand to use the phone, or to carry around, put on, and remove a headset device to use the phone privately and hands-free.

While certain embodiments are described above with particularity, these should not be construed as limitations on the scope of the invention. It should be understood, therefore, that the foregoing relates only to exemplary embodiments of the present invention, and that numerous changes may be made therein without departing from the spirit and scope of the invention as defined by the following claims.

The invention claimed is:

1. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone coupled to the member;

c) a transmitter coupled to the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member;

e) a receiver coupled to the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device; and wherein the member comprises a lens holder and the connector comprises a clip adapted to removably mount the clip-on lens holder onto a lens holder of the eyeglasses frame.

2. The wearable device of claim **1**, wherein the member comprises a frame or sheet and the connector is formed by a bent section thereof and adapted to removably mount the frame or sheet onto a support arm of the eyeglasses frame.

3. The wearable device of claim **1**, wherein the microphone is directional and oriented toward a user's mouth when wearing the eyeglasses, and the speaker is directional and oriented toward the user's ear when wearing the eyeglasses.

4. The wearable device of claim **1**, further comprising a first extension arm coupled to the member, wherein the microphone is coupled to the extension arm.

5. The wearable device of claim **4**, wherein the first extension arm is pivotal or telescopic.

~~**6**. The wearable device of claim **1**, further comprising a second extension arm coupled to the member, wherein the speaker is coupled to the extension arm.~~

7. The wearable device of claim **6**, wherein the second extension arm is pivotal.

8. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone coupled to the member;

c) a transmitter coupled to the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member; and

e) a receiver coupled to the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device;

wherein the member comprises a frame or sheet and the connector is formed by a bent section thereof and adapted to removably mount the frame or sheet onto a support arm of the eyeglasses frame.

9. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone coupled to the member;

c) a transmitter coupled to the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member; and

e) a receiver coupled to the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device;

wherein the microphone is directional and oriented toward a user's mouth when wearing the eyeglasses, and the speaker is directional and oriented toward the user's ear when wearing the eyeglasses.

10. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone coupled to the member;

c) a transmitter coupled to the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member;

e) a receiver coupled to the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device; and

f) a first extension arm coupled to the member, wherein the microphone is coupled to the extension arm.

11. The wearable device of claim **10**, wherein the first extension arm is pivotal or telescopic.

12. A wearable device for use with an eyeglasses frame and for audio communication with a remote electronic device, the wearable device comprising:

a) a member having at least one connector adapted to removably mount the member onto the eyeglasses frame;

b) a microphone coupled to the member;

c) a transmitter coupled to the member, in communication with the microphone, and adapted to send wireless signals to the remote electronic device;

d) at least one speaker coupled to the member;

e) a receiver coupled to the member, in communication with the speaker, and adapted to receive wireless signals from the remote electronic device; and

f) a second extension arm coupled to the member, wherein the speaker is coupled to the extension arm.

13. The wearable device of claim **12**, wherein the second extension arm is pivotal.

* * * * *

US007231038C1

(12) EX PARTE REEXAMINATION CERTIFICATE (7080th)

United States Patent

Warren

(10) Number: US 7,231,038 C1
(45) Certificate Issued: Sep. 22, 2009

(54) **EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES**

(75) Inventor: **Peter Warren**, Chattanooga, TN (US)

(73) Assignee: **Oakley, Inc.**, Foothill, CA (US)

Reexamination Request:
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Issued: **Jun. 12, 2007**
Appl. No.: **11/371,692**
Filed: **Mar. 9, 2006**

Related U.S. Application Data

(63) Continuation of application No. 09/888,280, filed on Jun. 21, 2001, now Pat. No. 7,013,009.

(51) **Int. Cl.**
H04M 1/00 (2006.01)
H04B 1/38 (2006.01)

(52) **U.S. Cl.** **379/420.01**; 379/420.02; 379/420.03; 379/420.04; 455/90.3

(58) **Field of Classification Search** ..... None
See application file for complete search history.

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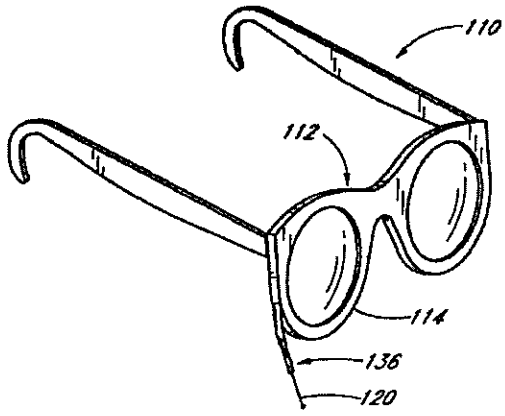
Bluetooth Specification Version 1.1, Feb. 22, 2001, pp. 1–452.

Primary Examiner—Roland G. Foster

(57) **ABSTRACT**

A microphone, transmitter, speaker, receiver, and power source, all mounted to an eyeglasses frame, for sending and receiving signals wirelessly to and from a remote cell phone or other electronic device. The microphone and the transmitter can be mounted to extension arms that can be extended, pivoted, or otherwise moved to a position for use, and then moved to a stored position when not in use. Alternatively, the microphone, transmitter, speaker, receiver, and power source, can be mounted onto a clip-on or other attachment member that mounts onto a conventional eyeglasses frame, or to a hat or other article worn on the head.



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EX PARTE REEXAMINATION CERTIFICATE ISSUED UNDER 35 U.S.C. 307

THE PATENT IS HEREBY AMENDED AS INDICATED BELOW.

Matter enclosed in heavy brackets [ ] appeared in the patent, but has been deleted and is no longer a part of the patent; matter printed in italics indicates additions made to the patent.

AS A RESULT OF REEXAMINATION, IT HAS BEEN DETERMINED THAT:

Claims **10** and **22** are cancelled.

Claims **1**, **13** and **21** are determined to be patentable as amended.

Claims **2–9**, **11**, **12**, **14–21**, **23** and **24**, dependent on an amended claim, are determined to be patentable.

1. Eyeglasses for audio communication, comprising:

an eyeglass frame comprising a lens holder and two support arms;

a microphone **[**coupled to**]** *mounted inside of* the eyeglass frame;

at least one speaker coupled to the eyeglass frame; and

a segmented connecting arm having a proximal portion **[**and**]**, a distal portion,*and an intermediate portion positioned between the proximal and distal portions,*

wherein each of said proximal, distal, and intermediate portions are capable of extending generally downwardly towards a wearer's ear when worn, wherein the segmented connecting arm *is* coupled to the eyeglass frame at the proximal portion and **[**coupled**]** to the at least one speaker at the distal portion,

wherein the segmented connecting arm is configured to advance the speaker *along a plurality of paths including a substantially straight vertical path extending downwardly from the eyeglass frame when worn,* from a first position to a second position, *and*

wherein the segmented connecting arm is fixed to the eyeglass frame.

13. Eyeglasses for audio communication, comprising:

an eyeglass frame comprising a lens holder and two support arms;

a microphone coupled to the eyeglass frame;

at least one speaker coupled to the eyeglass frame; and

a segmented connecting arm having a proximal portion**[**and**]**, a distal portion, *and an intermediate portion positioned between the proximal and distal portions,*

wherein each of said proximal, distal, and intermediate portions are capable of extending generally downwardly towards a wearer's ear when worn, wherein the segmented connecting arm *is* coupled to the eyeglass frame at the proximal portion and **[**coupled**]** to the microphone at the distal portion,

wherein the segmented connecting arm is configured to advance the microphone *along a plurality of paths including a substantially straight vertical path extending downwardly from the eyeglass frame when worn,* from a first position to a second position, *and*

wherein the segmented connecting arm is fixed to the eyeglass frame.

21. The eyeglass for audio **[**communicatcn**]** *communication* of claim **20**, wherein the transceiver comprises a Bluetooth transceiver.

* * * * *

US007231038B2

(12) **United States Patent**
Warren

(10) **Patent No.: US 7,231,038 B2**
(45) **Date of Patent: Jun. 12, 2007**

(54) **EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES**

(75) Inventor: **Peter Warren**, Chattanooga, TN (US)

(73) Assignee: **Oakley, Inc.**, Foothill Ranch, CA (US)

(*) 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.: **11/371,692**

(22) Filed: **Mar. 9, 2006**

(65) **Prior Publication Data**

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Related U.S. Application Data

(63) Continuation of application No. 09/888,280, filed on Jun. 21, 2001, now Pat. No. 7,013,009.

(51) **Int. Cl.**
H04M 1/00 (2006.01)
H04B 1/38 (2006.01)

(52) **U.S. Cl.** **379/420.01**; 379/420.02; 379/420.03; 379/420.04; 455/90.3

(58) **Field of Classification Search** 379/420.01, 379/420.02, 420.03, 420.04; 455/66.1, 90.3, 455/569.1, 575.1
See application file for complete search history.

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Primary Examiner—Bing Q. Bui
(74) *Attorney, Agent, or Firm*—Knobbe, Martens, Olson & Bear, LLP

(57) **ABSTRACT**

A microphone, transmitter, speaker, receiver, and power source, all mounted to an eyeglasses frame, for sending and receiving signals wirelessly to and from a remote cell phone or other electronic device. The microphone and the transmitter can be mounted to extension arms that can be extended, pivoted, or otherwise moved to a position for use, and then moved to a stored position when not in use. Alternatively, the microphone, transmitter, speaker, receiver, and power source, can be mounted onto a clip-on or other attachment member that mounts onto a conventional eyeglasses frame, or to a hat or other article worn on the head.

24 Claims, 7 Drawing Sheets

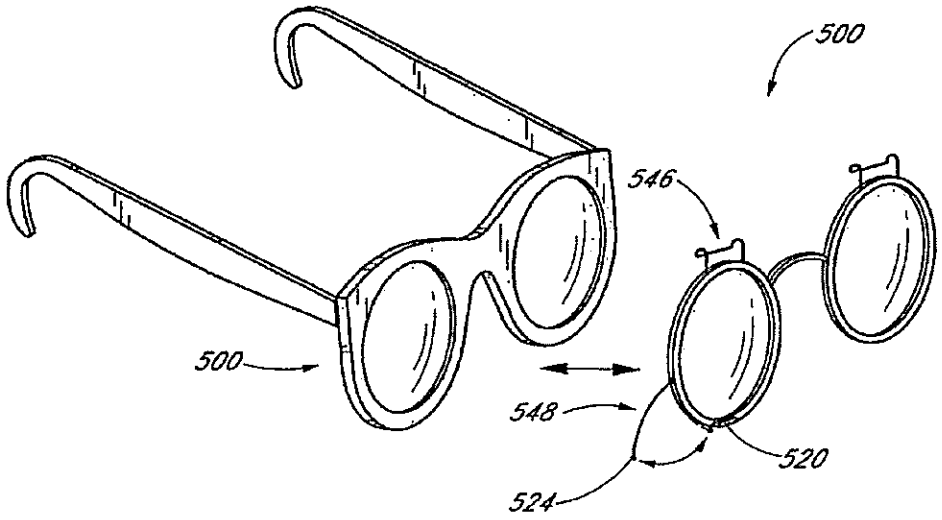

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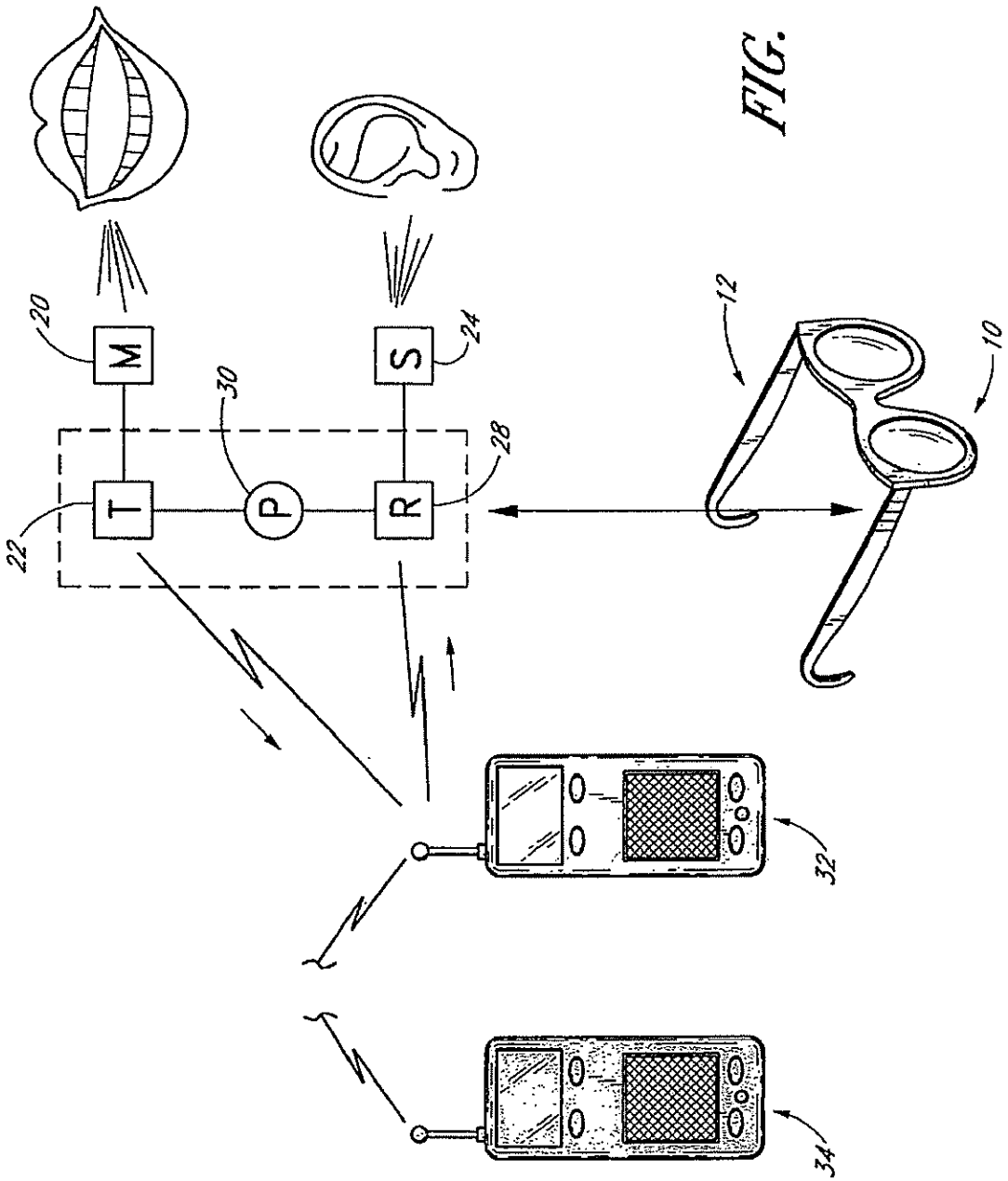
FIG. 1



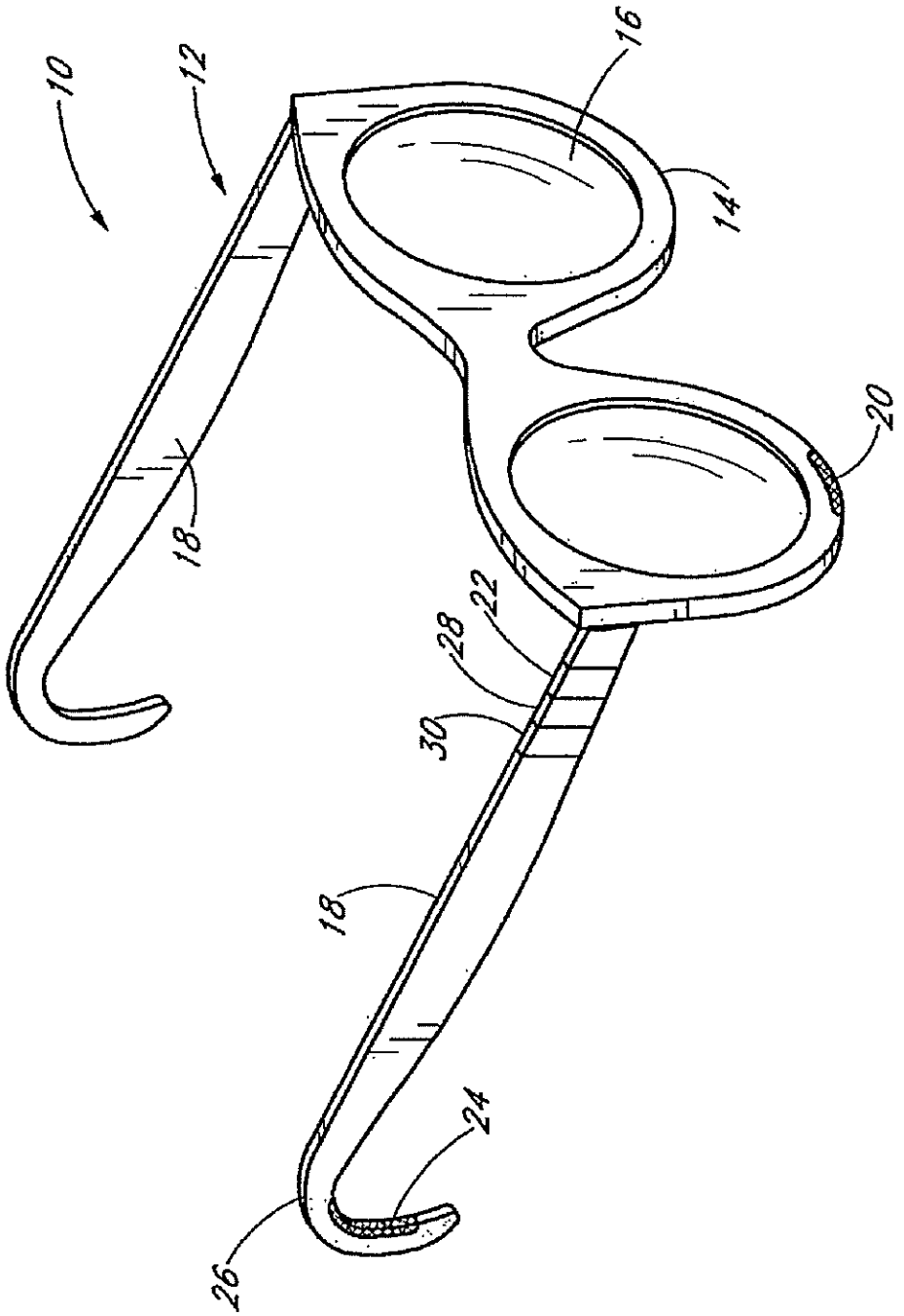


FIG. 2

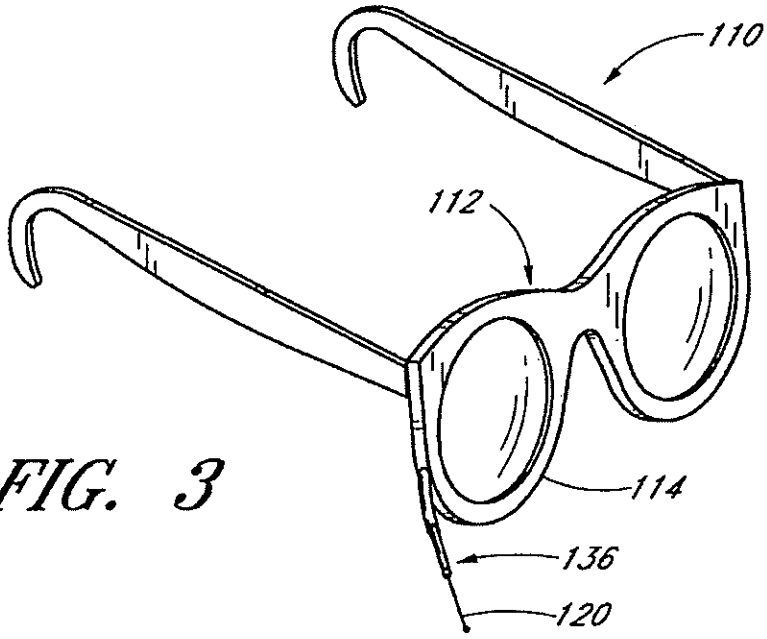


FIG. 3

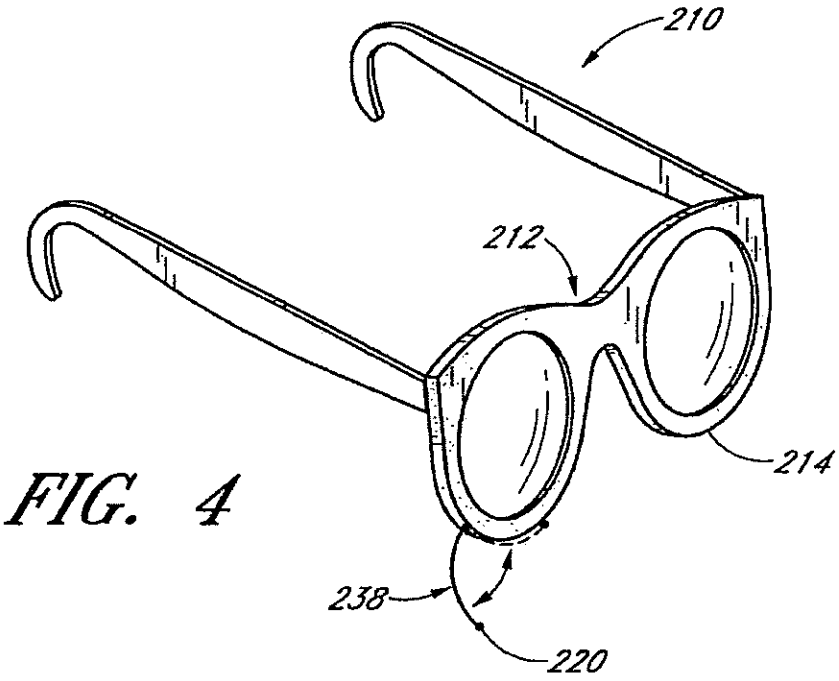


FIG. 4

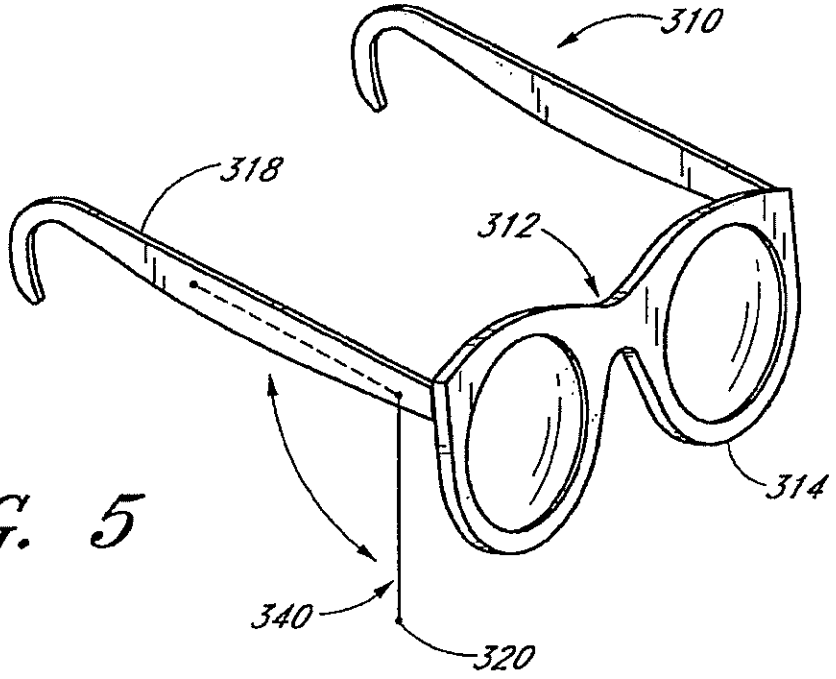


FIG. 5

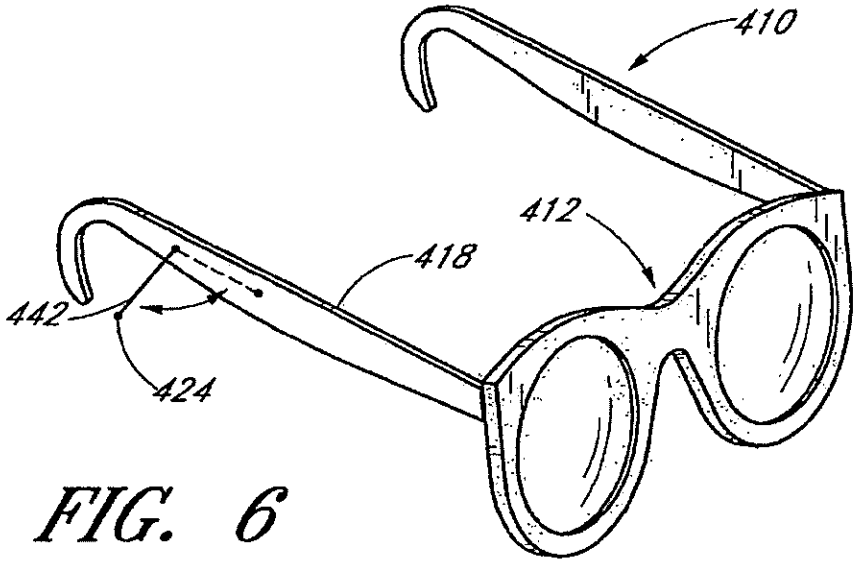


FIG. 6

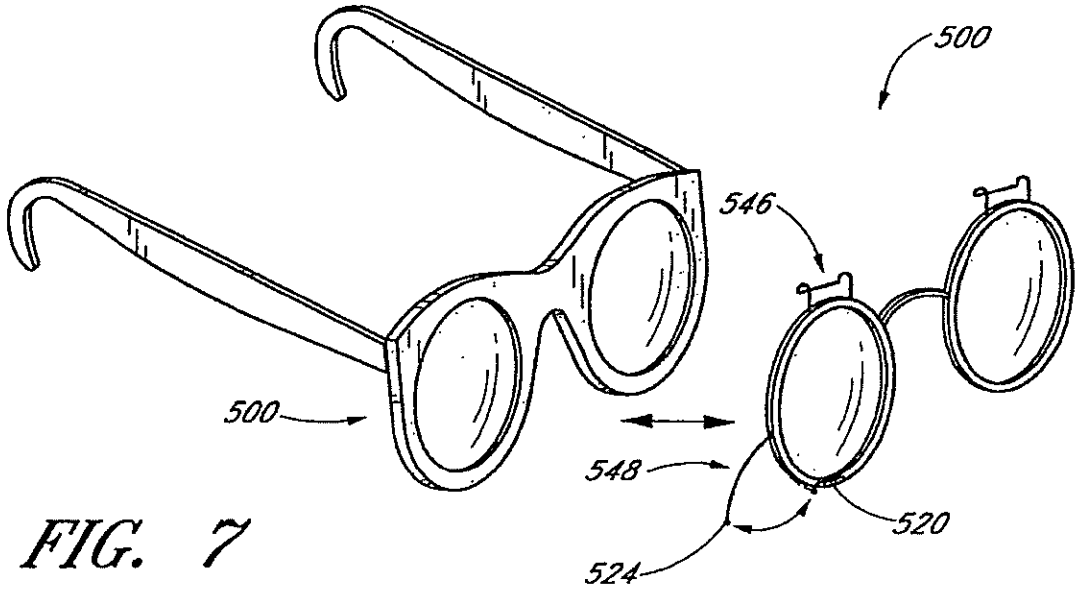


FIG. 7

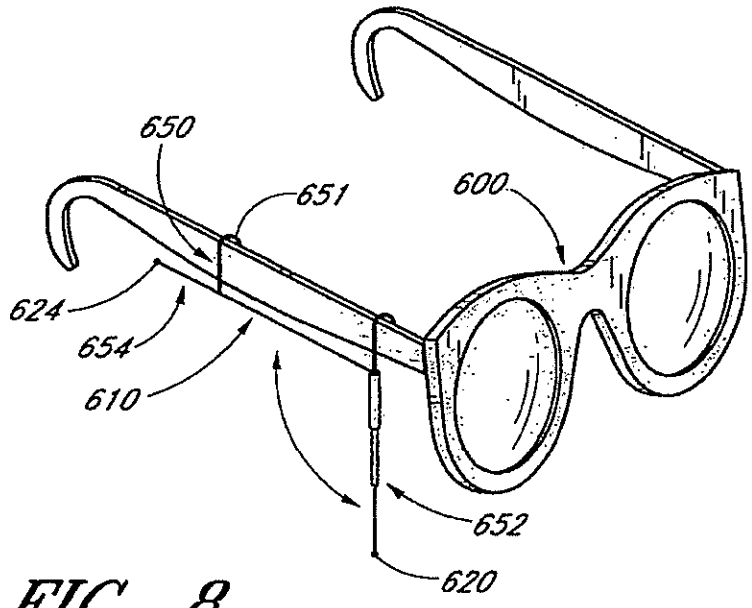


FIG. 8

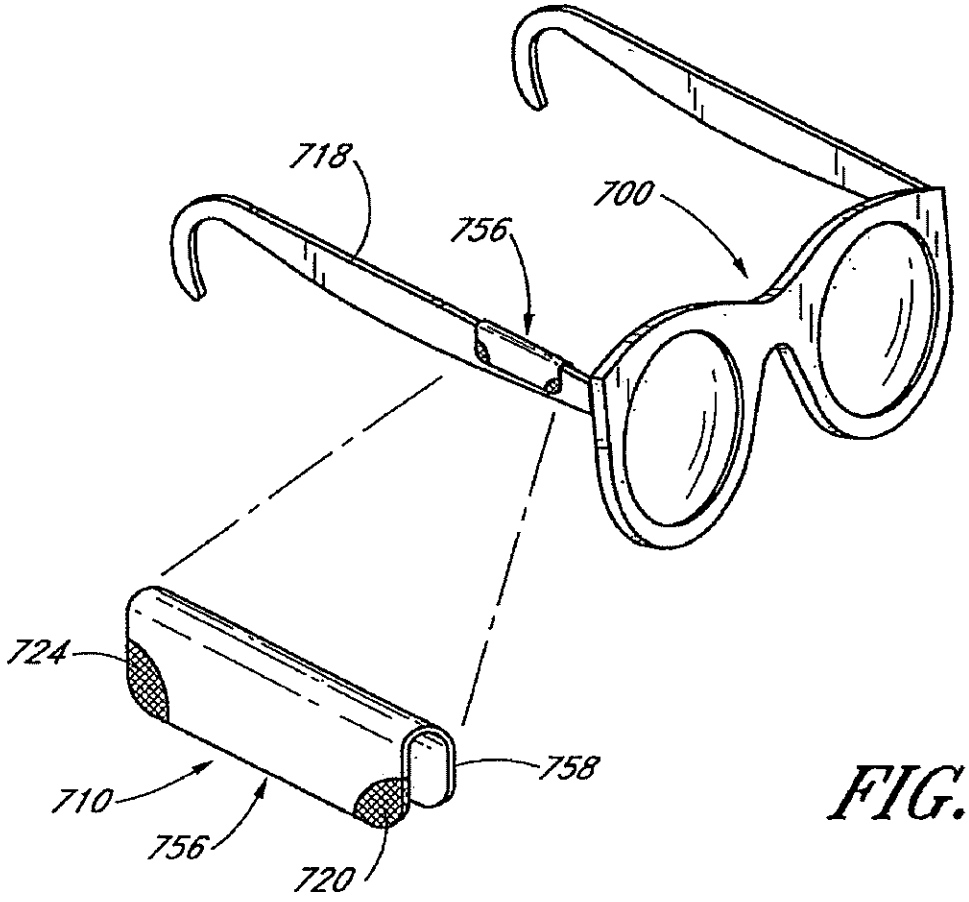


FIG. 9

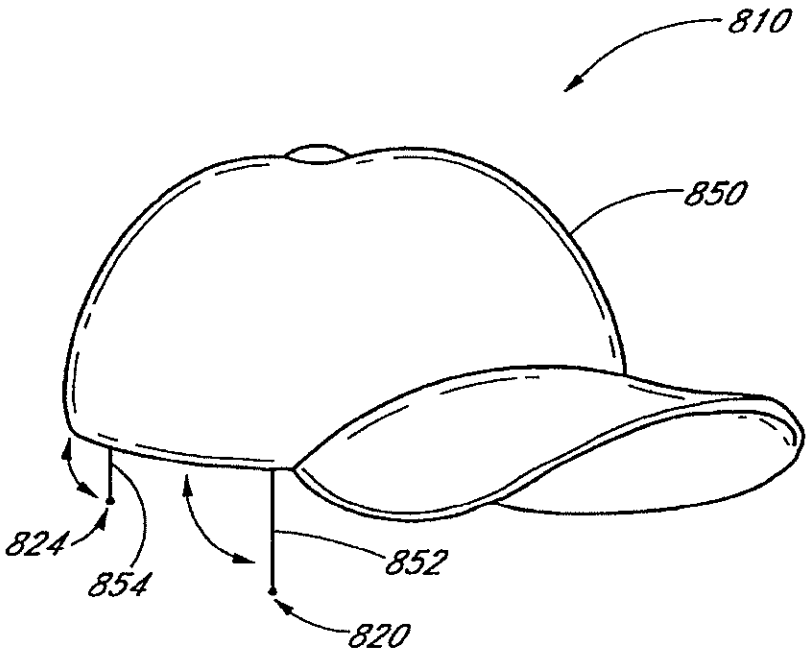


FIG. 10

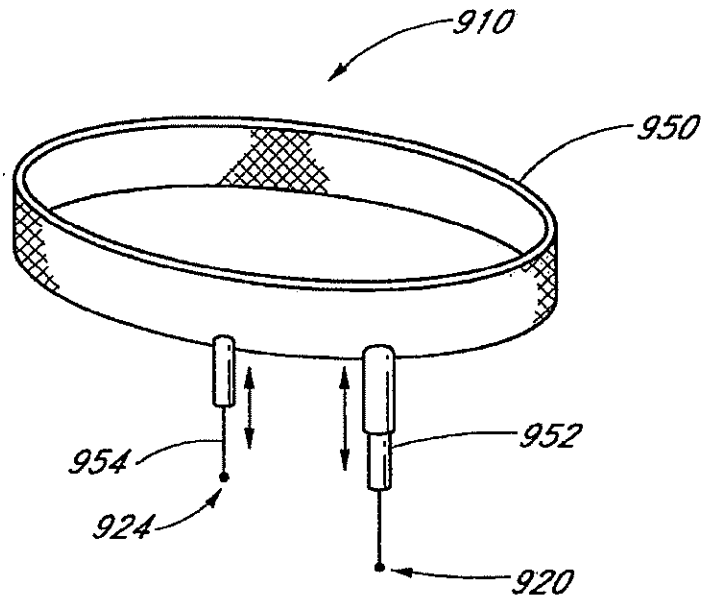


FIG. 11

EYEGLASSES WITH WIRELESS COMMUNICATION FEATURES

CROSS-REFERENCE TO RELATED APPLICATIONS

The present application is a continuation of U.S. application Ser. No. 09/888,280, filed Jun. 21, 2001, now U.S. Pat. No. 7,013,009, which is incorporated by reference herein.

BACKGROUND OF THE INVENTION

1. Field of the Invention

This invention relates to wearable audio communication devices and, more particularly, to eyeglasses with wireless audio communication features for remote use of a cell phone or other electronic device.

2. Description of the Related Art

Technological advances in the telecommunications and computer-related industries have provided cell phones, web phones, personal digital assistants (PDA's), hand held computers, lap tops, and other portable devices that allow for instant communication and access to information. These portable devices provide the benefit of allowing people to be connected wherever they are. A drawback to the use of cell phones, however, is that speaking on a cell phone can be a disturbance to bystanders. This is especially the case in public and other places where others generally do not want to be disturbed, such as restaurants, theaters, churches, and so forth. Similarly, using PDA's, laptops, etc. with capabilities for voice recognition and/or accessing and playing music or other audio can be an annoyance to others. Additionally, holding a cell phone to one's head while driving an automobile can be unsafe because the driver has only one hand available to operate the vehicle. Furthermore, holding a cell phone can be difficult or at least a distraction in many other situations, such as while typing on a keyboard, walking down a street or in a mall with one's hands full, while riding a bike, and so forth.

In order to provide an easier, safer, and quieter way to speak on a cell phone, there have been developed hands-free headsets with microphones and speakers connected by wires or wirelessly to a phone. These headsets enable the wearer to park their cell phone on their belt or elsewhere, and to have a conversation on their cell phone by speaking and listening via the headset. However, such headsets are typically donned and removed each time the cell phone is used, which can be a significant inconvenience. Also, such headsets must be stored somewhere when they are removed and not in use, making it more likely that the user will forget them, break them, or be further inconvenienced by carrying a case for them.

Accordingly, there remains a need in the art for a wearable audio communication device for remote use of a cell phone or other electronic device, that permits the user to easily, safely, and quietly communicate using the cell phone while engaged in another activity, without the user having to hold the cell phone in his hand, and without the inconvenience of carrying around an extra headset device, donning the headset to make or receive a call, and removing and storing the headset afterward.

SUMMARY OF THE INVENTION

The present invention fulfills these and other needs by providing wearable communications devices for sending and receiving signals wirelessly to and from a remote cell phone or other electronic device. Generally described, the invention comprises an eyeglasses device having an eyeglasses frame and having a microphone, a transmitter, a speaker, a receiver, and a power source connected together and mounted to the frame. Whenever a user has on the eyeglasses, he can converse over the cell phone privately, easily, and in a hands-free manner. Particularly for people who wear prescription glasses, the invention provides a great convenience, as they will often or most always be wearing their glasses. Thus, users can have private, hand-free conversations on their cell phones, without having to put on a headset, and afterward remove, store, and carry the headset.

In an exemplary embodiment of the invention, the eyeglasses frame has a lens holder and two support arms, and the microphone is directional and coupled to the lens holder (or one of the support arms) and oriented toward a user's mouth. The transmitter communicates by wires or otherwise with the microphone, and sends signals wirelessly (such as by radio frequency) to the cell phone. One (or more) speakers are coupled to one (or more) of the support arms and positioned adjacent to the user's ear. The receiver communicates by wires or otherwise with the speaker, and receives signals from the cell phone. The power source is electrically connected to the transmitter and to the receiver for providing the power needed to operate them.

Alternative embodiments additionally have pivotal, telescopic, and/or other extension arms for the microphone and/or the speaker. These embodiments allow the microphone and/or speaker to be extended, pivoted, or otherwise moved to a position for ease of use, and then retracted, pivoted, or otherwise moved to a stored position out of the way when not in use.

Additional alternative embodiments provide wearable communication devices with a clip-on member (instead of an eyeglasses frame) that mounts to a pair of conventional eyeglasses. Similar to the above embodiments, these have a microphone, a transmitter, a receiver, a speaker, and a power source, all mounted to the clip-on member. These embodiments permit retrofitting the wearable device onto a user's current glasses so that it is not necessary to go out a buy a new pair of glasses. Also, the user can easily change the wearable device from one pair of glasses to another.

In one of these embodiments, the clip-on member comprises a conventional clip-on lens holder of the type that is commonly used for clipping tinted sunglasses lenses onto regular prescription glass frames. In other of these embodiments, the clip-on member comprises a frame or sheet with a clip for removably mounting to the support arm of the eyeglasses frame. The microphone and speaker can be mounted directly onto the clip-on member in a spaced apart arrangement, or they can be mounted on extension arms that can be extended, pivoted, or otherwise moved to a position for use, and then moved to a stored position when not in use.

Further alternative embodiments provide wearable communication devices with a frame in the form of a hat, headband, earmuffs, or another article that can be worn on a user's head. Similar to the above embodiments, these have a microphone, a transmitter, a receiver, a speaker, and a power source, all mounted to the frame. These embodiments provided similar benefits, for instance, a user can wear a hat and use the communications features to conveniently and privately communicate on his or her cell phone.

The specific techniques and structures employed by the invention to improve over the drawbacks of the prior systems and accomplish the advantages described above will

become apparent from the following detailed description of the embodiments of the invention and the appended drawings and claims.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. **1** is a schematic diagram of an exemplary embodiment of the eyeglasses of the present invention in use with a cell phone.

FIG. **2** is a perspective view of the exemplary embodiment of FIG. **1**, showing an eyeglasses frame with a microphone and a speaker.

FIG. **3** is a perspective detail view of a first alternative embodiment of the present invention, showing the microphone on a telescopic arm.

FIG. **4** is a perspective detail view of a second alternative embodiment, showing the microphone on a pivotal arm coupled to a lens holder.

FIG. **5** is a perspective detail view of a third alternative embodiment, showing the microphone on a pivotal arm coupled to a support arm.

FIG. **6** is a perspective detail view of a fourth alternative embodiment, showing the speaker on a pivotal arm coupled to the support arm.

FIG. **7** is a perspective view of a fifth alternative embodiment, showing a clip-on lens holder with a microphone and a speaker.

FIG. **8** is a perspective view of a sixth alternative embodiment, showing a clip-on frame member with a microphone and a speaker attached to the frame member.

FIG. **9** is a perspective view of a seventh alternative embodiment, showing a clip-on sheet member with a built-in microphone and a built-in speaker.

FIG. **10** is a side view of an eighth alternative embodiment, showing a hat with a built-in microphone and a built-in speaker.

FIG. **11** is a perspective view of a ninth alternative embodiment, showing a headband with a built-in microphone and a built-in speaker.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

The present invention may be embodied in eyeglasses with communication features for sending and receiving signals wirelessly to and from an electronic device such as a cell phone. FIG. **1** shows one such embodiment, referred to as the eyeglasses **10**, in use with a cell phone **32**. The eyeglasses **10** have a microphone **20**, a transmitter **22**, a speaker **24**, a receiver **28**, and a power source **30**, all mounted onto an eyeglasses frame **12**. The microphone **20** receives sound from the user's mouth (or from the user clapping or otherwise making a sound) and converts the sound into a signal representing the sound, and the transmitter **22** sends the signal to the cell phone **32**. The cell phone **32** in turn transmits the signal to another cell phone **34** or other electronic device. Similarly, the receiver **28** receives a signal representing a sound from the other cell phone **34**, and sends the signal to the speaker **24**. The speaker **28** then converts the signal to an audible sound to be heard by one or both of the user's ears.

Thus, the user can converse over the cell phone **32** privately, easily, and in a hands-free manner whenever he has on the eyeglasses **10**. For example, the eyeglasses **10** can have prescription lenses, and for a person that wears his glasses much of the time, the communication features of the eyeglasses **10** will be readily available for use much of the time. Thus, the user can simply put on his eyeglasses **10** in the morning and take them off at night, as he normally does with his regular glasses, and wear his cell phone **32** on his belt, carry it in a purse or bag, or otherwise carry the cell phone remotely from the eyeglasses **10**. In this manner, the user can converse on his cell phone **32** anytime and anywhere, privately, without disturbing bystanders.

Also, when wearing the eyeglasses **10**, the user need not don and remove a headset every time he makes or receives a call, and need not store and carry the headset in a case or the like. Additionally, because the eyeglasses **10** provide for hands-free communication over the cell phone **32**, the user can simultaneously converse on the cell phone **32** while engaging in another activity such as typing on a keyboard, driving, biking, mowing the lawn, eating, etc. Of course, the eyeglasses **10** can be alternatively provided as sun glasses or mere fashion glasses (with zero power lenses), to provide the convenience of the readily available communication features described above.

It will be understood that the cell phone **32** may need to be adapted for sending and receiving signals wirelessly to and from the eyeglasses **10**. Such adaptations are known in the art, and can be readily made to provide a cell phone or other electronic device that cooperatively functions with the eyeglasses **10** as described herein. Also, the eyeglasses **10** and the cell phone **32** can be adapted for sending and receiving visual images to and from each other, and/or for sending and receiving data in other forms. Additionally, the eyeglasses **10** and/or the cell phone **32** can include encryption software providing for secure transmissions to and/or from each other. Furthermore, the eyeglasses **10** also can be used to communicate with web phones, conventional land line phones, PDA's, laptops, hand held computers, personal computers, household appliances, portable or stationary televisions, portable or stationary radios, compact disc players, tape players, or the like, and/or other electronic devices with capabilities for voice recognition and/or for accessing and playing music or other sounds.

FIG. **2** shows an exemplary embodiment of the eyeglasses **10** of the present invention, with the eyeglasses frame **12** comprising a lens holder **14** with lenses **16**, and two support arms **18** that extend over and are supported by a user's ears. The eyeglasses frame **12** can be provided by conventional eyeglass frames made of metal, plastic, or another material, having any of a variety of shapes, as is well known in the art. The lenses **16** can be provided by prescription lenses, tinted sunglasses lenses, a combination thereof, or zero power lenses, or no lenses can be provided, as may be desired. While the eyeglasses **10** are typically provided with two lenses and two support arms, it will be understood that the eyeglasses alternatively can be provided by a monocle.

The microphone **20** is mounted to the eyeglasses frame **12** for receiving sounds from the user's mouth to be transmitted to the cell phone. The microphone **20** can be provided by a conventional miniature microphone that is embedded into the frame **12**. Also, the microphone **20** can be oriented toward the user's mouth and can be directional so that it picks up the user's voice when wearing the eyeglasses **10**, but does not pick up as much ambient sound. Although one microphone **20** is shown mounted to the lens holder **14**, alternatively, it can be mounted to the one of the support arms **18**, and/or two or another number of microphones can be provided. Thus, the eyeglasses **10** can be provided with two directional microphones, each oriented toward user's mouth when wearing the eyeglasses, and each positioned on a lower portion of one of the two loops forming the lens

holder **14**. Also, a sensitivity control can be provided for adjusting the level of sound that the microphone **20** picks up.

The transmitter **22** is mounted to the eyeglasses frame **12** and communicates with the microphone **20** by wire, optic fiber, wirelessly, or otherwise. The transmitter **22** can be of a conventional miniature type that is configured to send signals to the cell phone. For example, the transmitter **22** can be configured with BLUETOOTH or other software for wireless transmission of radio signals or another frequency audio or other signals to the cell phone.

The speaker **24** is mounted to the eyeglasses frame **12** for playing sounds to be heard by the user's ear. The speaker **24** can be provided by a conventional miniature speaker that is embedded into the frame **12**. Also, the speaker **24** can be oriented toward the user's ear and can be directional so that it plays sounds toward the user's ear but does not play sounds that can be easily heard by bystanders. For example, the speaker **24** can be a conventional miniature bone-type speaker that is mounted on an ear rest **26** of one of the support arms **18** generally adjacent to the user's ear when wearing the eyeglasses **10**. Although one speaker **24** is shown mounted to the ear rest **26**, alternatively, it can be mounted to another portion of one of the support arms **18** or to the lens holder **14**. Also, two or anther number of speakers can be provided for producing stereo, quadraphonic, or other sound. Also, a volume control can be provided for adjusting the level of sound that the speaker **24** plays.

The receiver **28** is mounted to the eyeglasses frame **12** and communicates with the speaker **24** by wire, optic fiber, wirelessly, or otherwise. The receiver **28** can be of a conventional miniature type that is configured to receive signals from the cell phone. For example, the receiver **28** can be configured with BLUETOOTH or other software for wireless reception of radio signals or another frequency audio or other signals from the cell phone.

The power source **30** is mounted to the eyeglasses frame **12** and electrically connected by a wire to the transmitter **22** and the receiver **28**. The power source **30** provides the power to operate the transmitter **22** and the receiver **28**. For example, the power source **30** can be provided by one or another number of batteries that screw into a receptacle in the frame **12**. Alternatively, other portable power sources can be used, such as conventional batteries, photovoltaic cells, combinations thereof, and so forth. Controls can be provided for automatically shutting off the device after a predetermined period of time and automatically turning on the device upon reception of a signal from the cell phone, and a manual on/off switch and/or a low power indicator can be provided.

It will be understood by those skilled in the art that the transmitter **22**, receiver **28**, and power source **30** can be selected to provide low power, short range signals, so as not to interfere with signals to and from other devices in the vicinity of the user. However, these components are also selected to provide signals strong enough for transmission and reception between the eyeglasses **10** on the user's head and the cell phone **32** disposed remotely from the eyeglasses, such as on the user's belt, carrying bag or purse, etc. Also, the transmitter **22** and the receiver **28** can have optics for receiving infrared signals, instead of or in addition to radio frequency signals.

Additionally, the transmitter **22**, receiver **28**, and/or battery **30** can be provided as separate components or as a single component with a single antenna, mounted to the eyeglasses frame **12** at another position selected for ease of manufacturing. Also, the wires connecting the microphone **20** to the transmitter **22**, the receiver **28** to the speaker **24**, and/or the battery **30** to the transmitter **22** and the receiver **28**, can be embedded into or mounted onto the frame **12**. Furthermore, the microphone **20**, transmitter **22**, receiver **28**, speaker **24**, and/or battery **30** can be provided as a retrofit kit, with each component having clips for mounting onto a conventional eyeglasses frame, with the wires not integral to but instead routable along the frame. Additionally or alternatively, one or more wires with connectors can be provided that connect the eyeglasses and the cell phone, as may be desired.

FIG. **3** shows a first alternative embodiment **110** of the present invention, with the microphone **120** attached to a telescopic extension arm **136** that retracts into the lens holder **114** or another part of the eyeglasses frame **112**. FIG. **4** shows a second alternative embodiment **210**, with the microphone **220** attached to a pivotal extension arm **238** that is pivotally connected to the lens holder **214**. Such an extension arm **238** can be curved to conform to the shape of the lens holder **214**. FIG. **5** shows a third alternative embodiment **310**, with the microphone **320** attached to a pivotal extension arm **340** that is pivotally connected to the corresponding support arm **318**. Such an extension arm **340** can be generally linear to conform to the shape of the corresponding support arm **318**.

In these alternative embodiments, the microphone can be extended, pivoted, or otherwise moved into a first position when needed for use, and retracted, pivoted, or otherwise moved to a second non-obtrusive position when not needed. Also, the extension arm can be generally rigid or flexible, with or without a telescopic, pivotal, or other connection to the eyeglasses frame, as may be desired.

FIG. **6** shows a fourth alternative embodiment **410** of the present invention, with the speaker **424** attached to a pivotal extension arm **442** that is pivotally connected to one of the support arms **418**. Of course, the extension arm can be telescopic, generally rigid, or generally flexible, as may be desired. In this alternative embodiment, the speaker **424** can be extended, pivoted, or otherwise moved into a first position when needed for use, and retracted, pivoted, or otherwise moved to a second non-obtrusive position when not needed.

FIGS. **7–9** show additional alternative embodiments of the present invention. In these embodiments, instead of the communication components being mounted directly to the eyeglasses, there is provided an attachment member having at least one connector that permits removably mounting the member onto a conventional eyeglasses frame. The connector is provided by a clip, though another mounting structure can be used as desired, such as a hook, snap, screw, or slide. The communication components (including the transmitter, the receiver, and the power source) are mounted to the clip-on member so that they can be readily utilized when the clip-on member is mounted to the user's glasses. Accordingly, the user can selectively mount the clip-on member on different pairs of glasses, as may be desired where the user has separate prescription and sun glasses, has multiple glasses that she wears depending on the mood and the occasion, purchases new eyeglasses, etc.

For example, FIG. **7** shows a fifth alternative embodiment **510** with the attachment member provided by a conventional clip-on lens holder **544** and the connector provided by two (or another number) of clips **546** for mounting onto the lens holder of a conventional eyeglasses frame **500**. The microphone **520** and the speaker **524** are mounted to the lens holder **544**. The speaker **524** is connected to the lens holder **544** by a pivotal extension arm **548** or by another extension

arm, and the microphone can be embedded or otherwise attached to the clip-on lens holder.

FIG. **8** shows a sixth alternative embodiment **610** with the attachment member provided by a frame **650** and the connector provided by a clip **651** formed by a bent section of the frame **650**, for mounting onto one of the support arms of a conventional eyeglasses frame **600**. The microphone **620** and the speaker **624** are attached to the clip frame **650**, with the microphone **620** attached by a pivotal and/or telescopic extension arm **652** or other extension arm, and the speaker **624** attached by a pivotal extension arm **654** or other extension arm.

FIG. **9** shows a seventh alternative embodiment **710** with the attachment member provided by a sheet **756** and the connector provided by a clip **758** formed by a bent section of the sheet **756** for mounting onto one of the support arms of a conventional eyeglasses frame. The microphone **720** and the speaker **724** are built into the sheet **756** at spaced apart positions, and are directional and oriented towards the user's mouth and ear, respectively, when wearing the clip-on attachment member on glasses. Of course, the devices of the sixth and seventh alternative embodiments could be used with devices other than eyeglasses, such as hats, visors, headbands, and so forth.

FIGS. **10** and **11** show further alternative embodiments of the present invention. In these embodiments, the communication components are mounted to articles that users commonly wear on their head for fashion, warmth, or other reasons. The microphone is directional and oriented toward the user's mouth, and the speaker is disposed adjacent to and oriented toward the user's ear, thereby permitting the user to conveniently and privately communicate on his or her cell phone.

In particular, FIG. **10** shows an eighth alternative embodiment **810** comprising a hat that forms a frame **850**, with the microphone **820** and the speaker **824** attached to the frame **850** by pivotal, telescopic, static, or other extension arms **852** and **854**, respectively. Similarly, FIG. **11** shows a ninth alternative embodiment **910** comprising a headband that forms a frame **950**, with the microphone **920** and the speaker **924** attached to the frame **950** by pivotal, telescopic, static, or other extension arms **952** and **954**, respectively.

It will be understood that the term "hat" as used herein means any structure that is typically worn on a person's head, including a baseball cap, cowboy hat, motorcycle or sports helmet, visor, derby, bonnet, panama, sun hat, beret, tam-o'-shanter, yarmulke, beenie, fedora, and so forth. It will be further understood that, in addition to hats, the communication features can be provided on any other article worn on a person's head, such as earmuffs, ski masks, hoods on jackets, and so forth.

In view of the foregoing, it will be appreciated that present invention provides several wearable audio communication devices for remotely using a cell phone or other electronic device, that permit the user to easily, safely, and privately communicate using the cell phone, even while engaged in another activity. Furthermore, the devices provided by the invention obviate the need for the user to hold the cell phone in his hand to use the phone, or to carry around, put on, and remove a headset device to use the phone privately and hands-free.

While certain embodiments are described above with particularity, these should not be construed as limitations on the scope of the invention. It should be understood, therefore, that the foregoing relates only to exemplary embodiments of the present invention, and that numerous changes may be made therein without departing from the spirit and scope of the invention as defined by the following claims.

What is claimed is:

1. Eyeglasses for audio communication, comprising:

an eyeglass frame comprising a lens holder and two support arms;

a microphone coupled to the eyeglass frame;

at least one speaker coupled to the eyeglass frame; and

a segmented connecting arm having a proximal portion and a distal portion, the segmented connecting arm coupled to the eyeglass frame at the proximal portion and coupled to the at least one speaker at the distal portion, wherein the segmented connecting arm is configured to advance the speaker from a first position to a second position.

2. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm comprises a plurality of segments.

3. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm is configured to retract into the lens holder.

4. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm is configured to retract into one of the support arms.

5. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm extends downward to a location beyond a bottom surface of the lens holder.

6. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm is curved.

7. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm is coupled to the eyeglass frame at a pivot.

8. The eyeglass for audio communication of claim **1**, further comprising a transceiver in communication with the microphone and speaker.

9. The eyeglass for audio communication of claim **8**, wherein the transceiver comprises a Bluetooth transceiver.

~~**10**. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm is removably coupled to the eyeglass frame.~~

11. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm is configured to retract into the eyeglass frame.

12. The eyeglass for audio communication of claim **1**, wherein the segmented connecting arm comprises a telescoping arm.

13. Eyeglasses for audio communication, comprising:

an eyeglass frame comprising a lens holder and two support arms;

a microphone coupled to the eyeglass frame;

at least one speaker coupled to the eyeglass frame; and

a segmented connecting arm having a proximal portion and a distal portion, the segmented connecting arm coupled to the eyeglass frame at the proximal portion and coupled to the microphone at the distal portion, wherein the segmented connecting arm is configured to advance the microphone from a first position to a second position.

14. The eyeglass for audio communication of claim **13**, wherein the segmented connecting arm comprises a plurality of segments.

15. The eyeglass for audio communication of claim **13**, wherein the segmented connecting arm is configured to retract into the lens holder.

16. The eyeglass for audio communication of claim 13, wherein the segmented connecting arm is configured to retract into one of the support arms.

17. The eyeglass for audio communication of claim 13, wherein the segmented connecting arm extends downward to a location beyond a bottom surface of the lens holder.

18. The eyeglass for audio communication of claim 13, wherein the segmented connecting arm is curved.

19. The eyeglass for audio communication of claim 13, wherein the segmented connecting arm is coupled to the eyeglass frame at a pivot.

20. The eyeglass for audio communication of claim 13, further comprising a transceiver in communication with the microphone and speaker.

21. The eyeglass for audio communication of claim 20, wherein the transceiver comprises a Bluetooth transceiver.

~~22. The eyeglass for audio communication of claim 13, wherein the segmented connecting arm is removably coupled to the eyeglass frame.~~

23. The eyeglass for audio communication of claim 13, wherein the segmented connecting arm is configured to retract into the eyeglass frame.

24. The eyeglass for audio communication of claim 13, wherein the segmented connecting arm comprises a telescoping arm.

* * * * *

EXHIBIT 2 PAGE 17 OF 17

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dean D. Pregerson and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

CV10- 6340 DDP (AGRx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

---

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

[X] **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

[ ] **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

[ ] **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

OAKLEY, INC., a Washington corporation

Plaintiff

v.

ZEAL OPTICS, INC., a Delaware corporation

Defendant

Civil Action No. **CV10-6340 DDP(AGRX)**

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Gregory K. Nelson, Esq.
Weeks, Kaufman, Nelson & Johnson
462 Stevens Ave., Suite 310
Solana Beach, CA 92075

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: AUG 25 2010

CLERK OF COURT

NANCY CASTRO

Signature of Clerk or Deputy Clerk

1144

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)
OAKLEY, INC., a Washington corporation

DEFENDANTS
ZEAL OPTICS, INC., a Delaware corporation

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
Weeks, Kaufman, Nelson & Johnson
462 Stevens Ave., Suite 310
Solana Beach, CA 92075 Tel: (858) 794-2140

Attorneys (If Known)

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 - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in this State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 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 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☑ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☑ No ☐ MONEY DEMANDED IN COMPLAINT: $_____

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.)
35 U.S.C. 271 and 281

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES
☐ 400 State Reapportionment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce/ICC Rates/etc.
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 480 Consumer Credit
☐ 490 Cable/Sat TV
☐ 810 Selective Service
☐ 850 Securities/Commodities/ Exchange
☐ 875 Customer Challenge 12 USC 3410
☐ 890 Other Statutory Actions
☐ 891 Agricultural Act
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Info. Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State Statutes

CONTRACT
☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loan (Excl. Veterans)
☐ 153 Recovery of Overpayment of Veteran's Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability
☐ 196 Franchise

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Fed. Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury
☐ 362 Personal Injury-Med Malpractice
☐ 365 Personal Injury-Product Liability
☐ 368 Asbestos Personal Injury Product Liability

IMMIGRATION
☐ 462 Naturalization Application
☐ 463 Habeas Corpus-Alien Detainee
☐ 465 Other Immigration Actions

TORTS PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

CIVIL RIGHTS
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/Accommodations
☐ 444 Welfare
☐ 445 American with Disabilities - Employment
☐ 446 American with Disabilities - Other
☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence Habeas Corpus
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus/ Other
☐ 550 Civil Rights
☐ 555 Prison Condition

FORFEITURE / PENALTY
☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure of Property 21 USC 881
☐ 630 Liquor Laws
☐ 640 R.R. & Truck
☐ 650 Airline Regs
☐ 660 Occupational Safety /Health
☐ 690 Other

LABOR
☐ 710 Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

PROPERTY RIGHTS
☐ 820 Copyrights
☑ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS-Third Party 26 USC 7609

CV10-6340 DDP(AGRX)

FOR OFFICE USE ONLY: Case Number: _____.

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☑ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☑ Yes
If yes, list case number(s): See Notice of Related Cases filed herewith

Civil cases are deemed related if a previously filed case and the present case:
(Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☑ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County, CA	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Boulder, CO

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County, CA	

*** Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties**
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____ **Date** 8/24/2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))