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8 Attorneys for Plaintiff
OAKLEY, INC.

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

OAKLEY, INC., a Washington corporation,)	Case No. '12CV1280 JAH MDD
Plaintiff,)	COMPLAINT FOR
v.)	PATENT INFRINGEMENT
SEAVER COMPANY d/b/a I-GOGS)	DEMAND FOR JURY TRIAL
QUALITY EYEWEAR, a Minnesota)	
corporation.)	
Defendant.)	

1 Plaintiff Oakley, Inc. (“Oakley”) hereby complains of Defendant Seaver Company
2 d/b/a i-Gogs Quality Eyewear (“i-Gogs”) and alleges as follows:

3 **I. JURISDICTION AND VENUE**

4 1. This Court has subject matter jurisdiction over this action pursuant to 28
5 U.S.C. §§ 1331 and 1338, as it arises under the patent laws of the United States.

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

13 3. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) and (c), and
14 28 U.S.C. § 1400(b).

15 **II. THE PARTIES**

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

19 5. Plaintiff is informed and believes, and thereon alleges, that Defendant i-Gogs
20 is a corporation organized and existing under the laws of the state of Minnesota and has a
21 principal place of business at 200 Minnesota Ave., LeSeur, Minnesota 56058.

22 6. Plaintiff is informed and believes, and thereon alleges, that Defendant has
23 committed the acts alleged herein within this judicial district.

24 **III. GENERAL ALLEGATIONS**

25 7. Oakley has been actively engaged in the manufacture and sale of high quality
26 eyewear since at least 1985. Oakley is the manufacturer and retailer of several lines of
27 eyewear that have enjoyed substantial success and are protected by various intellectual
28 property rights owned by Oakley.

1 15. Defendant, through its agents, employees and servants, has, and continues to,
2 knowingly, intentionally and willfully directly infringe, engage in acts of contributory
3 infringement, and/or induce the infringement of the D754 patent by directly and/or indirectly
4 making, using, selling, offering for sale and/or importing products which are covered by the
5 claim of the D754 patent, including at least Defendant's Flames, 10RP, and TAC Polarized
6 eyewear models.

7 16. Defendant's actions constitute infringement of the D754 patent pursuant to 35
8 U.S.C. § 271. Defendant's acts of infringement of the D754 patent were undertaken without
9 permission or license from Oakley. Defendant had actual and/or constructive knowledge of
10 the D754 patent and its actions constitute willful and intentional infringement of the D754
11 patent.

12 17. Oakley is informed and believes, and thereon alleges, that Defendant has
13 derived and received, and will continue to derive and receive, gains, profits and advantages
14 from the aforesaid acts of infringement in an amount that is not presently known to Oakley.
15 By reason of the aforesaid infringing acts, Oakley has been damaged and is entitled to
16 monetary relief in an amount to be determined at trial.

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

19 WHEREFORE, Oakley prays for judgment in its favor against Defendant for the
20 following relief:

21 A. An Order adjudging Defendant to have willfully infringed the D458 patent
22 under 35 U.S.C. § 271;

23 B. A preliminary and permanent injunction enjoining Defendant, its respective
24 officers, directors, agents, servants, employees and attorneys, and those persons in active
25 concert or participation with Defendant, from directly or indirectly infringing the D458 patent
26 in violation of 35 U.S.C. § 271;

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1 C. That Defendant account for all gains, profits, and advantages derived by
2 Defendant's infringement of the D458 patent in violation of 35 U.S.C. § 271, and that
3 Defendant pay to Oakley all damages suffered by Oakley and/or Defendant's total profit from
4 such infringement;

5 D. An Order adjudging Defendant to have willfully infringed the D754 patent
6 under 35 U.S.C. § 271;

7 E. A preliminary and permanent injunction enjoining Defendant, its respective
8 officers, directors, agents, servants, employees and attorneys, and those persons in active
9 concert or participation with Defendant, from directly or indirectly infringing the D754 patent
10 in violation of 35 U.S.C. § 271;

11 F. That Defendant account for all gains, profits, and advantages derived by
12 Defendant's infringement of the D754 patent in violation of 35 U.S.C. § 271, and that
13 Defendant pay to Oakley all damages suffered by Oakley and/or Defendant's total profit from
14 such infringement;

15 G. An Order for a trebling of damages and/or exemplary damages because of
16 Defendant's willful conduct pursuant to 35 U.S.C. § 284;

17 H. An Order adjudging that this is an exceptional case;

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

20 J. An award of pre-judgment and post-judgment interest and costs of this action
21 against Defendant;

22 K. That Oakley have and recover the costs of this civil action, including
23 reasonable attorneys' fees.

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

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

Dated: May 25, 2012

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

Attorneys for Plaintiff
OAKLEY, INC.

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DEMAND FOR JURY TRIAL

Plaintiff Oakley, Inc. hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: May 25, 2012

By: s/Ali S. Razai

Michael K. Friedland
Paul N. Conover
Ali S. Razai

Attorneys for Plaintiff
OAKLEY, INC.

13281133

CIVIL COVER SHEET

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Oakley, Inc., a Washington corporation

DEFENDANTS

Seaver Company d/b/a I-Gogs Quality Eyewear, a Minnesota Corporation

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

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorney's (Firm Name, Address, and Telephone Number) Michael K. Friedland, Paul N. Conover, Ali S. Razai Knobbe, Martens, Olson & Bear LLP 2040 Main St., 14th Floor; Irvine, CA 92614 Telephone: (949)760-0404; Facsimile: (949) 760-9502

Attorneys (If Known) '12CV1280 JAH MDD

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 35 U.S.C Sec. 271

Brief description of cause: Patent Infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ to be determined CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE May 25, 2012 SIGNATURE OF ATTORNEY OF RECORD s/Ali S. Razai

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

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TABLE OF EXHIBITS

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EXHIBIT A



US00D469458S

(12) **United States Design Patent** (10) **Patent No.:** **US D469,458 S**
Baden et al. (45) **Date of Patent:** **** Jan. 28, 2003**

(54) **EYEGLASS FRONT**
 (75) Inventors: **Colin Baden**, Irvine, CA (US); **Peter Yee**, Irvine, CA (US)
 (73) Assignee: **Oakley, Inc.**, Foothill Ranch, CA (US)
 (**) Term: **14 Years**

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(List continued on next page.)

(21) Appl. No.: **29/162,825**
 (22) Filed: **Jun. 17, 2002**

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(List continued on next page.)

Related U.S. Application Data
 (62) Division of application No. 29/134,388, filed on Dec. 20, 2000.
 (51) **LOC (7) Cl.** **16-06**
 (52) **U.S. Cl.** **D16/326**
 (58) **Field of Search** D16/101, 300-330;
 D29/109, 110; 351/41, 44, 51, 52, 158;
 2/447, 448

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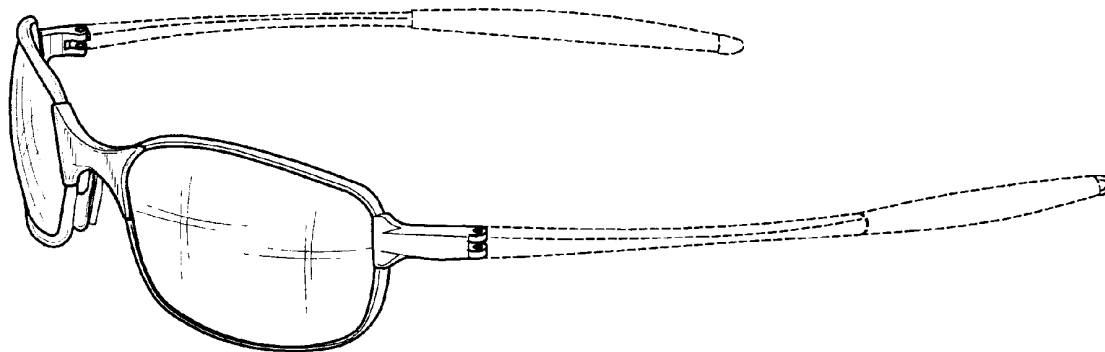
Primary Examiner—Raphael Barkai
 (74) *Attorney, Agent, or Firm*—Gregory Nelson

(57) **CLAIM**
 The ornamental design for an eyeglass front, as shown and described.

DESCRIPTION

FIG. 1 is a front perspective view of the eyeglass of the present invention;
 FIG. 2 is a front elevational view;
 FIG. 3 is a rear elevational view thereof;
 FIG. 4 is a left-side elevational view thereof, the right-side elevational view being a mirror image thereof;
 FIG. 5 is a top plan view thereof; and,
 FIG. 6 is a bottom plan view thereof.
 Phantom lining, where utilized, is for illustrative purposes only and is not intended to limit the claimed design to the features shown in phantom.

1 Claim, 3 Drawing Sheets



US D469,458 S

Page 2

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U.S. patent application Ser. No. 29/134388, Baden et al., filed Dec. 20, 2000.

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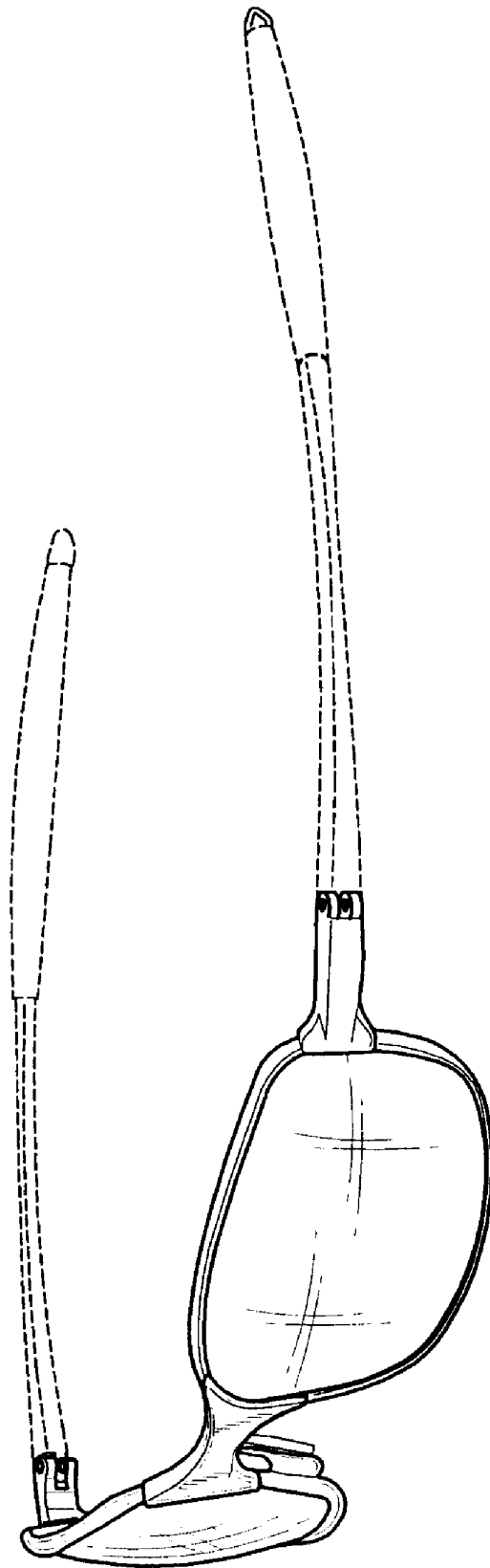


FIG. 1

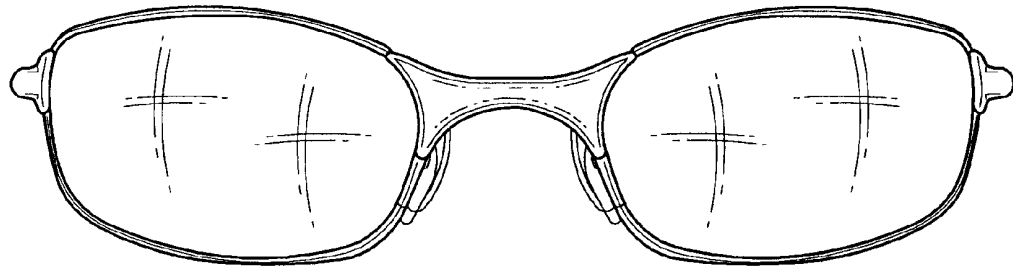


FIG. 2

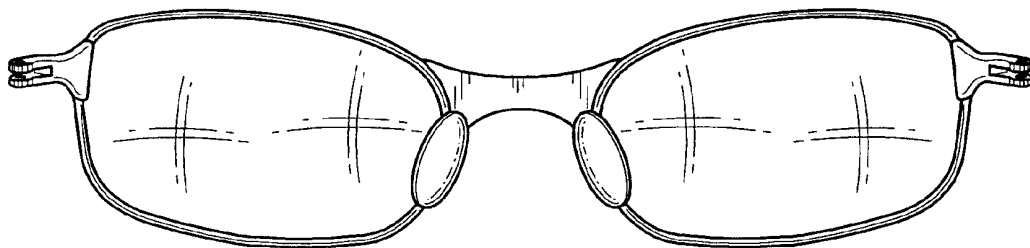


FIG. 3

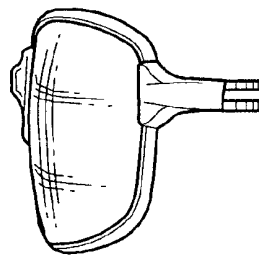


FIG. 4

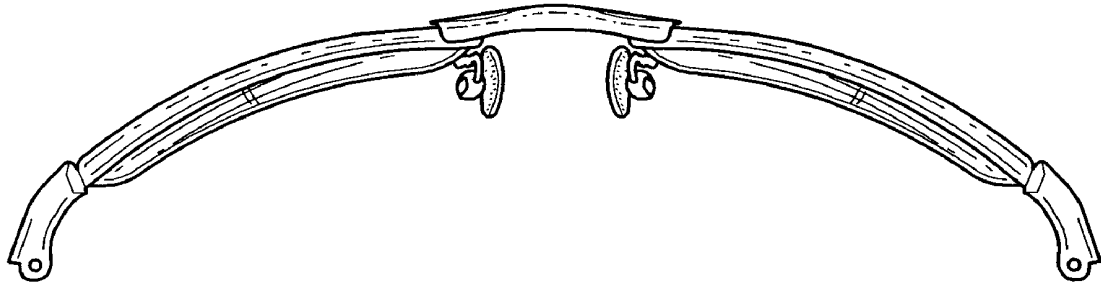


FIG. 5

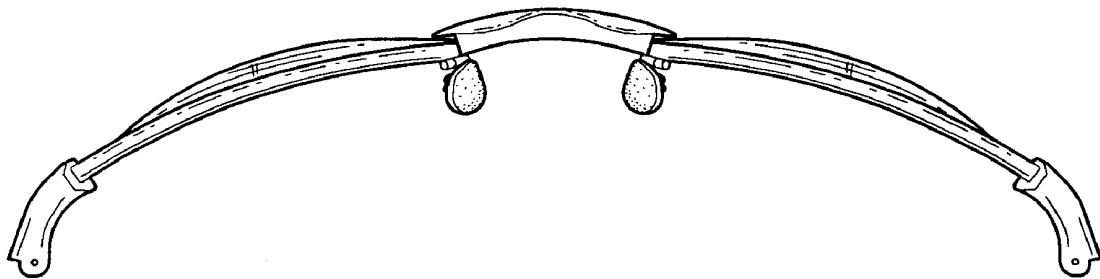


FIG. 6

EXHIBIT B



US00D404754S

United States Patent [19]
Yee et al.

[11] **Patent Number: Des. 404,754**
 [45] **Date of Patent: **Jan. 26, 1999**

[54] **EYEGLASS FRONT**
 [75] Inventors: **Peter Yee**, Irvine, Calif.; **James H. Jannard**, Eastsound, Wash.
 [73] Assignee: **Oakley, Inc.**, Foothill Ranch, Calif.
 [**] Term: **14 Years**
 [21] Appl. No.: **84,911**
 [22] Filed: **Mar. 12, 1998**
 [51] **LOC (6) Cl.** **16-06**
 [52] **U.S. Cl.** **D16/326**
 [58] **Field of Search** D16/101, 300-330;
 351/41, 44, 51, 52, 158, 83; 2/447, 448

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

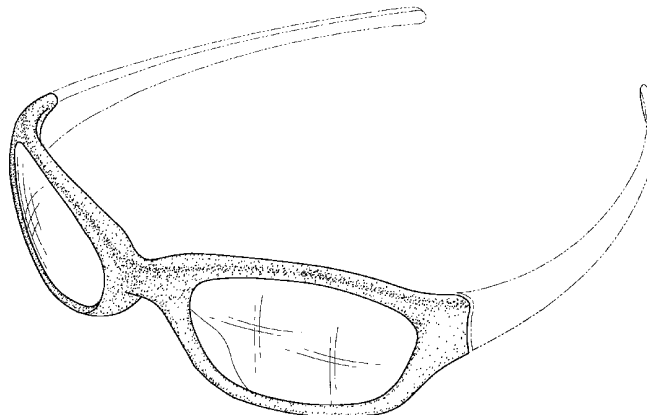
[57] **CLAIM**

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

DESCRIPTION

FIG. 1 is perspective view of eyeglass front of the present invention;
 FIG. 2 is a front elevational view thereof;
 FIG. 3 is a rear elevational view thereof;
 FIG. 4 is a left side elevational view thereof, the right side elevational view being a mirror image thereof;
 FIG. 5 is a top plan view thereof;
 FIG. 6 is a bottom plan view thereof;
 FIG. 7 is a perspective view of a modified embodiment of the design shown in FIGS. 1-16.
 FIG. 8 is an front elevational view thereof;
 FIG. 9 is a rear elevational view thereof;
 FIG. 10 is a left side elevational view thereof, the right side elevational view being a mirror image thereof;
 FIG. 11 is a top plan view thereof; and,
 FIG. 12 is a bottom plan view thereof.

1 Claim, 6 Drawing Sheets



U.S. Patent

Jan. 26, 1999

Sheet 1 of 6

Des. 404,754

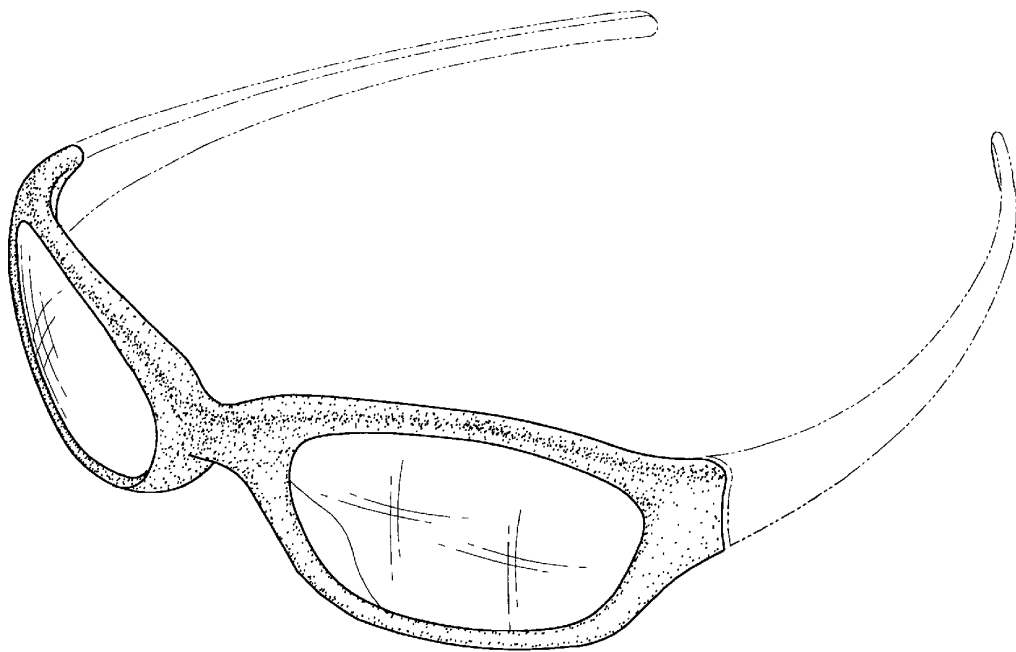


FIG. 1

FIG. 2

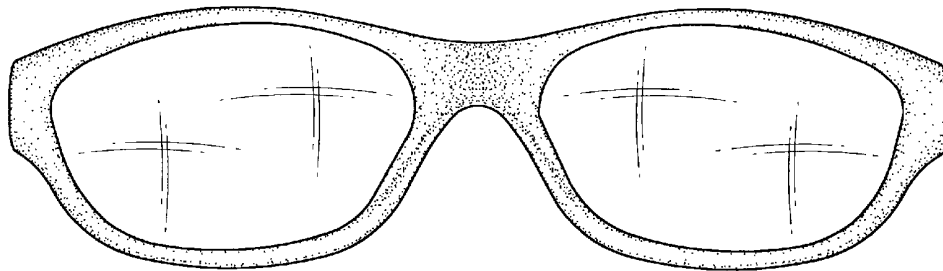


FIG. 3

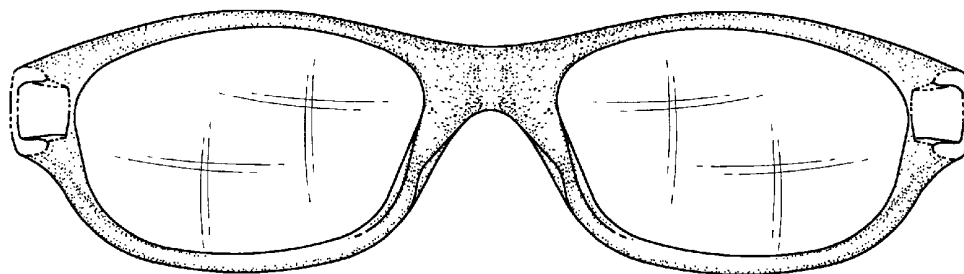


FIG. 4

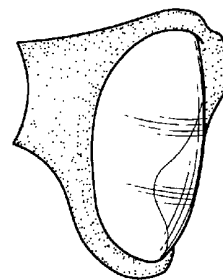


FIG. 5

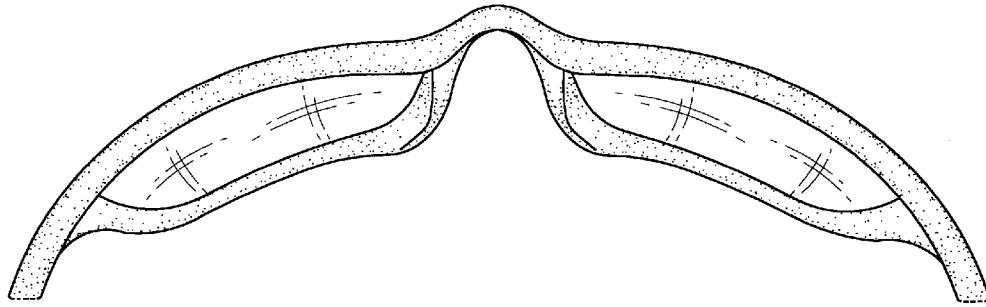
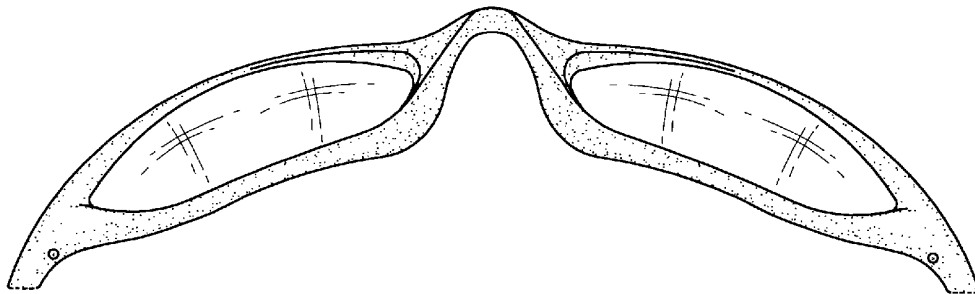


FIG. 6



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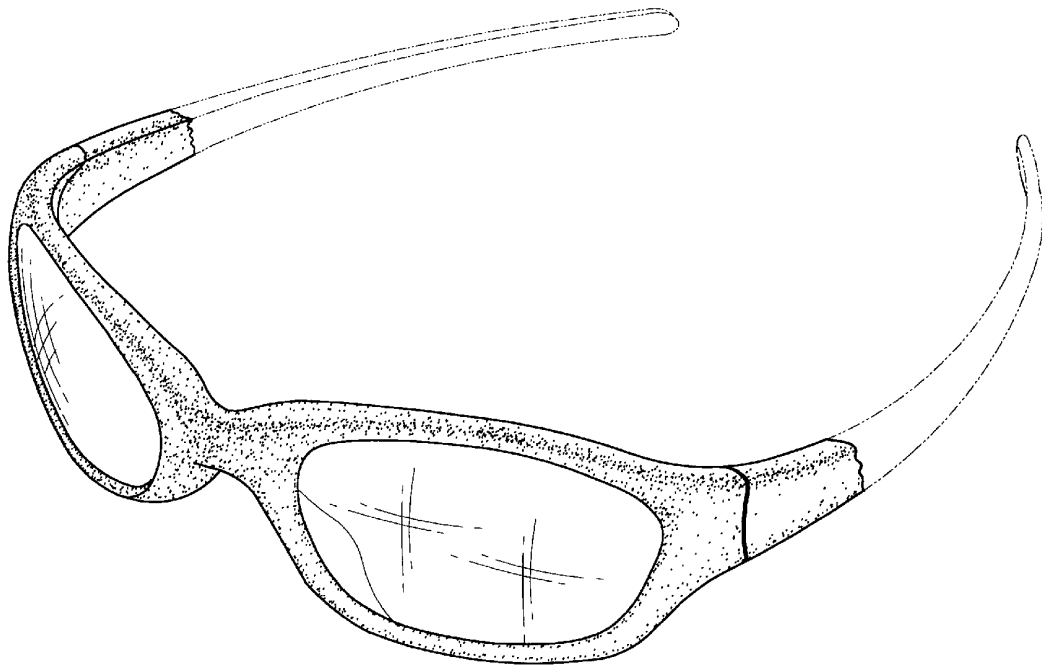


FIG. 7

FIG. 8

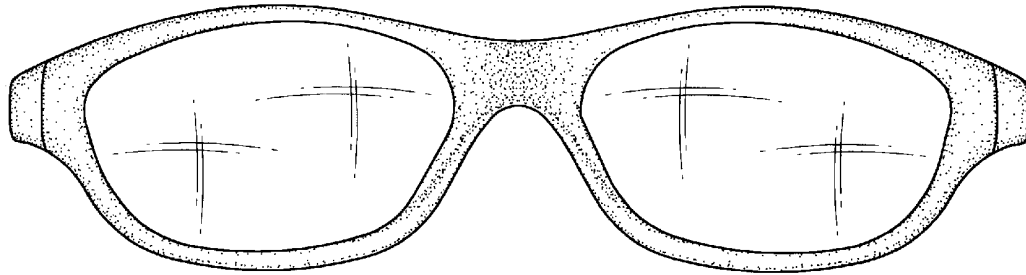


FIG. 9

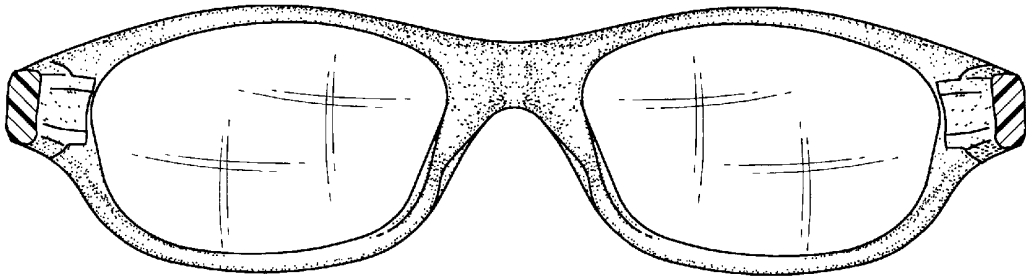


FIG. 10

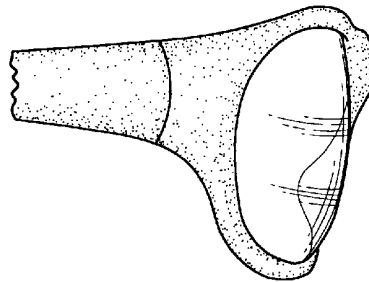


FIG. 11

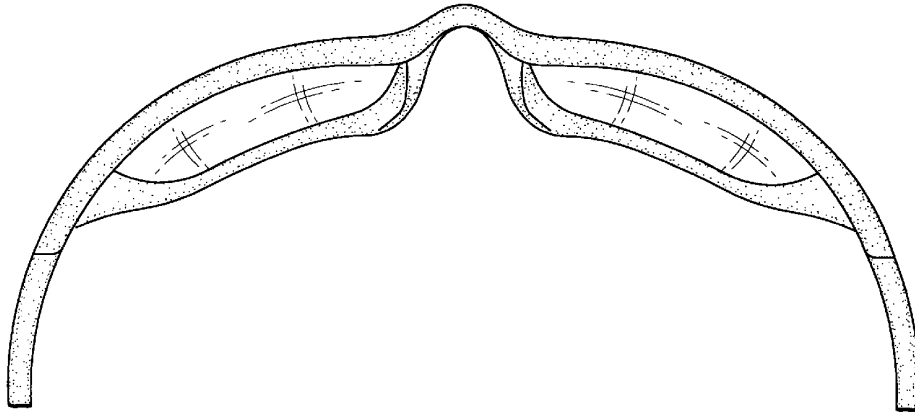


FIG. 12

