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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SMITH OPTICS, INC., a Delaware
corporation,

Plaintiff,

vs.

OAKLEY, INC., a Washington corporation;
EYE SAFETY SYSTEMS, INC., a Delaware
corporation,

Defendants.

Case No. _____

COMPLAINT FOR DECLARATORY
JUDGMENT AND DEMAND FOR JURY
TRIAL

Plaintiff Smith Optics, Inc. ("Smith") for its Complaint against Oakley Inc. ("Oakley")
and Eye Safety Systems, Inc. ("ESS") (collectively "Defendants") alleges as follows:

NATURE OF THE ACTION

1. This action is based on the Declaratory Judgment Acts, 28 U.S.C. §§ 2201 and 2202. By this action, Smith seeks a declaratory judgment of patent non-infringement and patent invalidity under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

COMPLAINT FOR DECLARATORY JUDGMENT AND DEMAND FOR
JURY TRIAL - 1

THE PARTIES

2. Plaintiff Smith is a corporation organized and existing under the laws of the State of Delaware having a place of business at 280 Northwood Way, Ketchum, Idaho 83340. Smith designs, manufactures, promotes, and sells sunglasses and accessories. As a worldwide leader in the development, manufacture, distribution, and design of sunglasses, Smith has become synonymous with excellence in eyewear for active lifestyles.

3. Defendant Oakley is a corporation organized and existing under the laws of the State of Washington, having its principal place of business at One Icon, Foothill Ranch, California 92610.

4. Defendant ESS is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 160 7th Street West, Cimarron Building, Ketchum, Idaho 83340.

JURISDICTION AND VENUE

5. This is an action for declaratory judgment of patent non-infringement and invalidity. This Court has jurisdiction over the subject matter of this action pursuant to the Declaratory Judgment Acts, 28 U.S.C. §§ 2201 and 2202, and under the laws of the United States concerning actions relating to patents, 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over the parties, and venue in this Judicial District is proper under 28 U.S.C. §§ 1391(b) and (c).

EXISTENCE OF ACTUAL CASE AND CONTROVERSY

7. On March 7, 2012, Smith received a letter from counsel for Defendants enclosing a draft complaint for patent infringement. A copy of the letter and draft complaint is attached hereto as Exhibit A.

8. According to the letter and draft complaint, Oakley purports to be the owner by assignment of United States Design Patent No. D581,450 (“the ‘450 patent”).

9. According to the letter and draft complaint, Oakley further purports to be the owner by assignment of United States Design Patent No. D616,919 (“the ‘919 patent”).

10. According to the letter and draft complaint, ESS purports to be the owner by assignment of United States Patent No. 6,708,340 (“the ‘340 patent”).

11. According to the letter and draft complaint, Defendants accuse Smith of willfully infringing, both directly and indirectly, the claims of the ‘450 patent through sale of Smith’s *Chemist* product.

12. According to the letter and draft complaint, Defendants accuse Smith of willfully infringing, both directly and indirectly, the claims of the ‘919 patent through sale of Smith’s *Lockwood* product.

13. According to the letter and draft complaint, Defendants accuse Smith of willfully infringing, both directly and indirectly, the claims of the ‘340 patent through sale of Smith’s *OTW Quick Strap* product.

14. According to the letter and draft complaint, Defendants intend to seek both injunctive relief and monetary damages from Smith for its alleged infringement.

15. Smith denies that it has infringed any valid claim of the '450, '919, or '340 patents and denies that Defendants are entitled to any of the relief enumerated in either the letter or the draft complaint.

16. Based on Defendants' explicit threat of suit for patent infringement, Smith has a valid and reasonable apprehension that Defendants will initiate a lawsuit against Smith for alleged infringement of the '450, '919, and '340 patents.

17. Smith has suffered, and will continue to suffer, economic injury due to Defendants' accusations of patent infringement, the threat of repercussions if Smith does not acquiesce to Defendants' demands, and the reasonable belief that Defendants have made, or will make, public statements, including to Smith's actual or potential customers, regarding the Defendants' allegations of infringement by Smith.

18. An immediate, substantial, and justiciable controversy exists between Smith and Defendants as to whether any product made, used, sold, or offered for sale by Smith infringes any claim of the '450, '919, and/or '340 patents.

19. An immediate, substantial, and justiciable controversy exists between Smith and Defendants as to the validity of the claims of the '450, '919, and '340 patents which Defendants threaten to assert against Smith.

COUNT 1

DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '450, '919, AND '340 PATENTS

20. Smith reasserts and incorporates herein by reference the allegations in paragraph 1-19 above as if fully set forth herein.

21. An actual and justiciable controversy exists between Smith and Defendants regarding the alleged infringement of the '450, '919, and '340 patents.

22. Smith does not infringe, directly or indirectly, any valid claim of the '450, '919, and '340 patents.

23. Smith is entitled to judgment declaring that it has never infringed and is not infringing any valid claim of the '450, '919, and '340 patents.

COUNT 2

DECLARATORY JUDGMENT OF INVALIDITY OF THE '450, '919, AND '340 PATENTS

24. Smith reasserts and incorporates herein by reference the allegations in paragraph 1-23 above as if fully set forth herein.

25. An actual and justiciable controversy exists between Smith and Defendants regarding the invalidity of the '450, '919, and '340 patents.

26. The claims of the '450, '919, and '340 patents fail to comply with the provisions of 35 U.S.C. §§ 101, 102, 103, 112 and/or the corresponding regulations set forth in the Code of Federal Regulations, rendering the claims of the '450, '919, and '340 patents invalid.

27. Smith is entitled to judgment declaring that the '450, '919, and '340 patents are invalid.

PRAYER FOR RELIEF

WHEREFORE, Smith prays for entry of judgment as follows:

1. Declaring that Smith is not infringing any valid claim of the '450, '919, and '340 patent;

2. Declaring that the '450, '919, and '340 patents are invalid;

3. Entering a preliminary and/or permanent injunction enjoining Defendants, their officers, agents, servants, employees, attorneys, and those in active concert or participation with it from accusing, threatening, or pursuing litigation against Smith, its customers, agents, employees, or users of Smith products as to infringement of the '450, '919, and '340 patents;

4. Finding this to be an exceptional case within the meaning of 35 U.S.C. 285 and awarding to Smith its attorneys' fees and costs incurred in this action; and

5. Awarding Smith such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury against the Defendants as to all issues so triable.

DATED THIS 9th day of March, 2012.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By /s/
Steven F. Schossberger, ISB No. 5358
Attorneys for Plaintiffs