

1 Michael K. Friedland (SBN 157,217)  
2 michael.friedland@knobbe.com  
3 Ali S. Razai (SBN 246,922)  
4 ali.razai@knobbe.com  
5 Kent N. Shum (SBN 259,189)  
6 kent.shum@knobbe.com  
7 Samantha Y. Hsu (SBN 285,853)  
8 samantha.hsu@knobbe.com  
9 KNOBBE, MARTENS, OLSON & BEAR, LLP  
10 2040 Main Street, Fourteenth Floor  
11 Irvine, CA 92614  
12 Telephone: (949) 760-0404  
13 Facsimile: (949) 760-9502  
14 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,	)	Civil Action No. '15CV150 LAB NLS
Plaintiff,	)	
v.	)	<b>COMPLAINT FOR</b>
ICU EYEWEAR, INC., a California corporation,	)	<b>PATENT INFRINGEMENT</b>
Defendant.	)	<b>DEMAND FOR JURY TRIAL</b>

1 Plaintiff Oakley, Inc. (“Oakley”) hereby complains of ICU Eyewear, Inc.  
2 (“Defendant“) and alleges as follows:

3 **I. JURISDICTION AND VENUE**

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

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

16 3. Venue is proper in this judicial district under 28 U.S.C. §1391(b).

17 **II. THE PARTIES**

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

21 5. Oakley is informed and believes, and thereon alleges, that  
22 Defendant ICU Eyewear, Inc. is a corporation organized and existing under the  
23 laws of the State of California, having a principal place of business at 1900  
24 Shelton Dr., Hollister, California 95023.

25 6. Oakley is informed and believes, and thereon alleges, that  
26 Defendant has committed the acts alleged herein within this judicial district.

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1 **III. GENERAL ALLEGATIONS**

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

6 8. On January 28, 2003, the United States Patent and Trademark  
7 Office duly and lawfully issued United States Design Patent No. D469,458  
8 (“the D458 Patent”), entitled “EYEGLASS FRONT.” Oakley is the owner by  
9 assignment of all right, title, and interest in the D458 Patent. A true and correct  
10 copy of the D458 Patent is attached hereto as Exhibit A.

11 9. On October 22, 2013, the United States Patent and Trademark  
12 Office duly and lawfully issued United States Design Patent No. D692,047  
13 (“the D047 Patent”), entitled “EYEGLASS.” Oakley is the owner by  
14 assignment of all right, title, and interest in the D047 Patent. A true and correct  
15 copy of the D047 Patent is attached hereto as Exhibit B.

16 10. On December 4, 2007, the United States Patent and Trademark  
17 Office duly and lawfully issued United States Design Patent No. D556,818  
18 (“the D818 Patent”), entitled “EYEGLASS COMPONENTS.” Oakley is the  
19 owner by assignment of all right, title, and interest in the D818 Patent. A true  
20 and correct copy of the D818 Patent is attached hereto as Exhibit C.

21 11. Oakley has provided the public with constructive notice of its  
22 patent rights pursuant to 35 U.S.C. §287.

23 12. Defendant manufactures, uses, sells, offers for sale and/or imports  
24 into the United States eyewear that infringes Oakley’s intellectual property  
25 rights.

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1 Patent by directly and/or indirectly making, using, selling, offering for sale  
2 and/or importing eyewear having a design that is covered by the claim of the  
3 D047 Patent, including for example, Defendant's eyewear model J8587-POL.

4 19. Defendant's acts of infringement of the D047 Patent were  
5 undertaken without permission or license from Oakley. Defendant had actual  
6 and/or constructive knowledge of the D047 Patent, and its actions constitute  
7 willful and intentional infringement of the D047 Patent. Defendant infringed  
8 the D047 Patent with reckless disregard of Oakley's patent rights. Defendant  
9 knew, or it was so obvious that Defendant should have known, that its actions  
10 constituted infringement of the D047 Patent. Defendant's acts of infringement  
11 of the D047 Patent were not consistent with the standards of commerce for its  
12 industry.

13 20. Defendant, through its agents, employees and servants, has, and  
14 continues to, knowingly, intentionally and willfully directly infringe, engage in  
15 acts of contributory infringement, and/or induce the infringement of the D818  
16 Patent by directly and/or indirectly making, using, selling, offering for sale  
17 and/or importing eyewear having a design that is covered by the claim of the  
18 D818 Patent, including for example, Defendant's eyewear model 8854.

19 21. Defendant's acts of infringement of the D818 Patent were  
20 undertaken without permission or license from Oakley. Defendant had actual  
21 and/or constructive knowledge of the D818 Patent, and its actions constitute  
22 willful and intentional infringement of the D818 Patent. Defendant infringed  
23 the D818 Patent with reckless disregard of Oakley's patent rights. Defendant  
24 knew, or it was so obvious that Defendant should have known, that its actions  
25 constituted infringement of the D818 Patent. Defendant's acts of infringement  
26 of the D818 Patent were not consistent with the standards of commerce for its  
27 industry.

28 ///

1           22. As a direct and proximate result of Defendant's patent  
2 infringement, Defendant has derived and received gains, profits, and advantages  
3 in an amount not presently known to Oakley.

4           23. Pursuant to 35 U.S.C. § 284, Oakley is entitled to damages for  
5 Defendant's infringing acts and treble damages together with interests and costs  
6 as fixed by this Court.

7           24. Pursuant to 35 U.S.C. § 289, Oakley is entitled to Defendant's total  
8 profits from the sale of eyewear that infringe Oakley's patent rights.

9           25. Pursuant to 35 U.S.C. § 285, Oakley is entitled to reasonable  
10 attorneys' fees for the necessity of bringing this claim.

11           26. Due to the aforesaid infringing acts, Oakley has suffered great and  
12 irreparable injury, for which Oakley has no adequate remedy at law.

13           27. Defendant will continue to directly and/or indirectly infringe  
14 Oakley's patent rights to the great and irreparable injury of Oakley, unless  
15 enjoined by this Court.

16           **WHEREFORE**, Oakley prays for judgment in its favor against  
17 Defendant for the following relief:

18           A. An Order adjudging Defendant to have willfully infringed the  
19 D458 Patent, the D047 Patent, and the D818 Patent under 35 U.S.C. § 271;

20           B. A preliminary and permanent injunction enjoining Defendant, its  
21 respective officers, directors, agents, servants, employees and attorneys, and  
22 those persons in active concert or participation with Defendants, from directly  
23 or indirectly infringing the D458 Patent, the D047 Patent, or the D818 Patent in  
24 violation of 35 U.S.C. § 271;

25           C. That Defendant account for all gains, profits, and advantages  
26 derived by Defendant's infringement of the D458 Patent, the D047 Patent, and  
27 the D818 Patent in violation of 35 U.S.C. § 271, and that Defendant pay to  
28

1 Oakley all damages suffered by Oakley and/or Defendant's total profit from  
2 such infringement pursuant to 35 U.S.C. § 289;

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

5 E. An Order adjudging that this is an exceptional case;

6 F. An award to Oakley of the attorney fees, expenses, and costs  
7 incurred by Oakley in connection with this action pursuant to 35 U.S.C. § 285;

8 G. An award of pre-judgment and post-judgment interest and costs of  
9 this action against Defendant; and,

10 H. Such other and further relief as this Court may deem just and  
11 proper.

12 Respectfully submitted,

13 KNOBBE, MARTENS, OLSON & BEAR, LLP

14  
15 Dated: January 22, 2015

By: /s/ Ali S. Razai

16 Michael K. Friedland  
17 Ali S. Razai  
18 Kent N. Shum  
19 Samantha Y. Hsu

20 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: January 22, 2015 By: /s/ Ali S. Razai  
Michael K. Friedland  
Ali S. Razai  
Kent N. Shum  
Samantha Y. Hsu

Attorneys for Plaintiff Oakley, Inc.

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**TABLE OF EXHIBITS**

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**Page #**

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# **EXHIBIT A**



US00D469458S

(12) **United States Design Patent**  
**Baden et al.**

(10) **Patent No.: US D469,458 S**  
(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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- D369,614 S 5/1996 Fukuchi
- D371,152 S 6/1996 Simioni et al.
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- D373,781 S 9/1996 Simioni et al.

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

**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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(List continued on next page.)

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

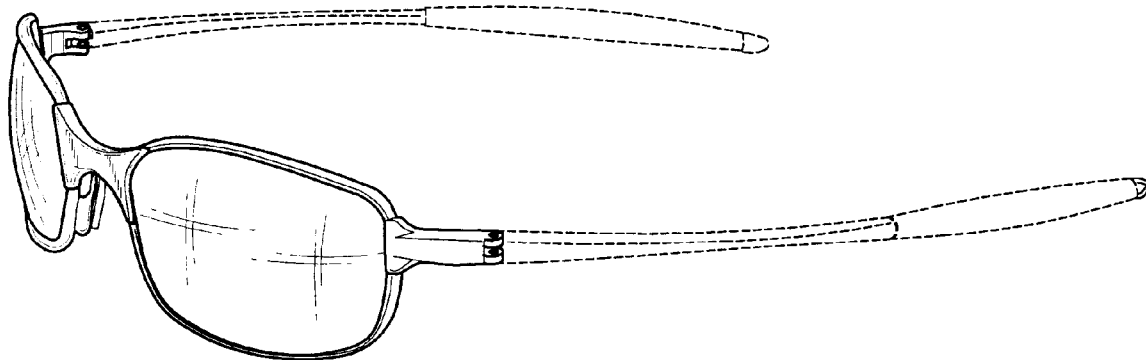
(57) **CLAIM**

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**



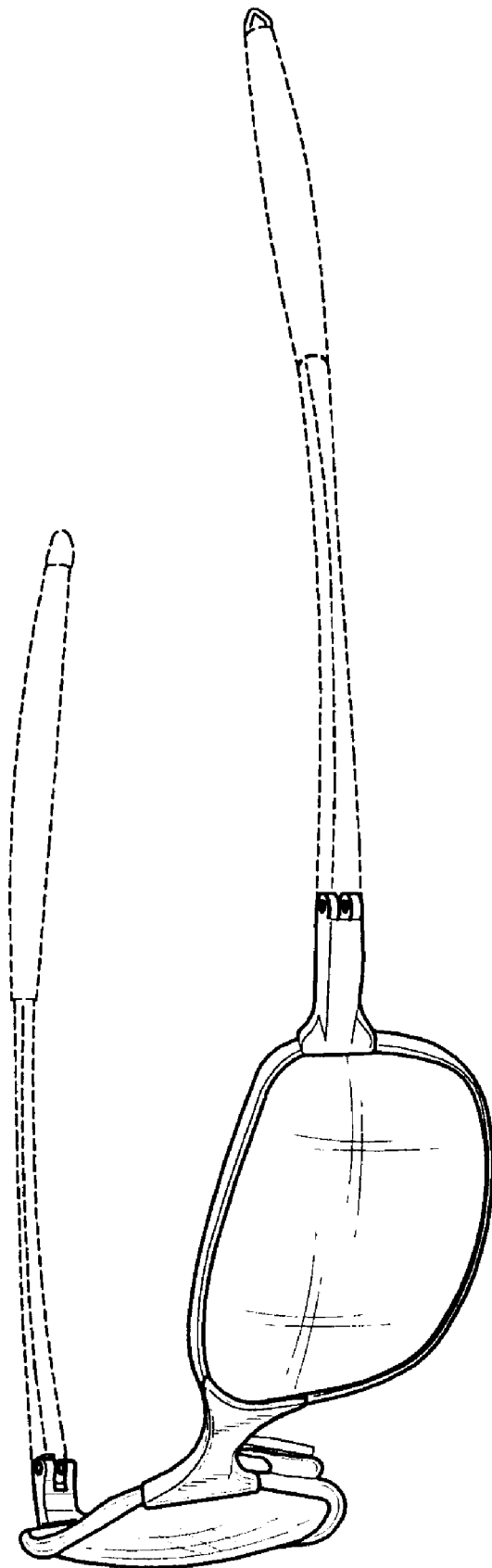
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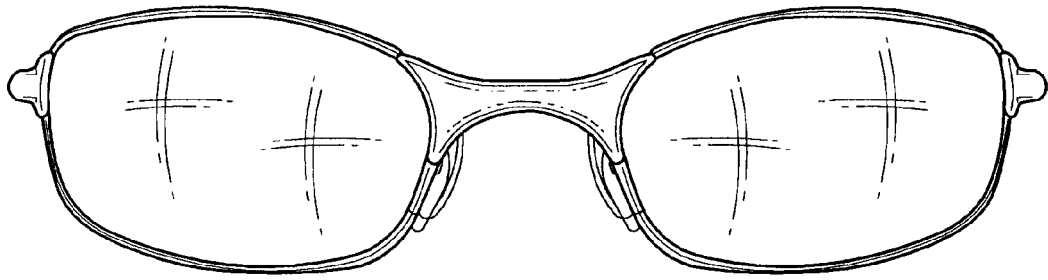
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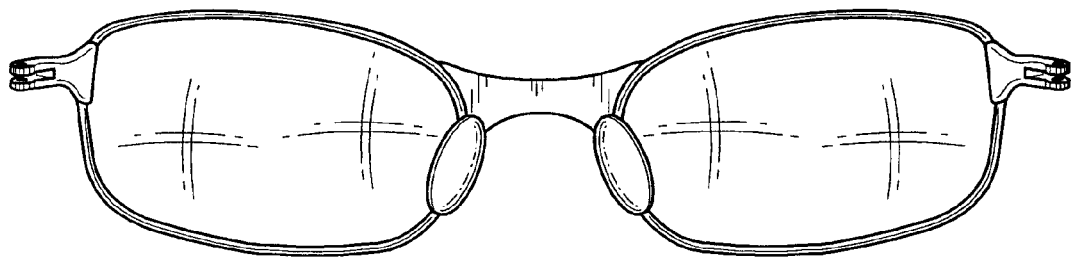
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Frames, "Summer 1996", p. 1225, second to bottom in right column (model GU 5003 Sun), unknown publisher and publishing date.  
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U.S. patent application Ser. No. 29/134388, Baden et al., filed Dec. 20, 2000.  
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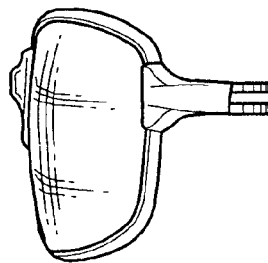
*FIG. 1*



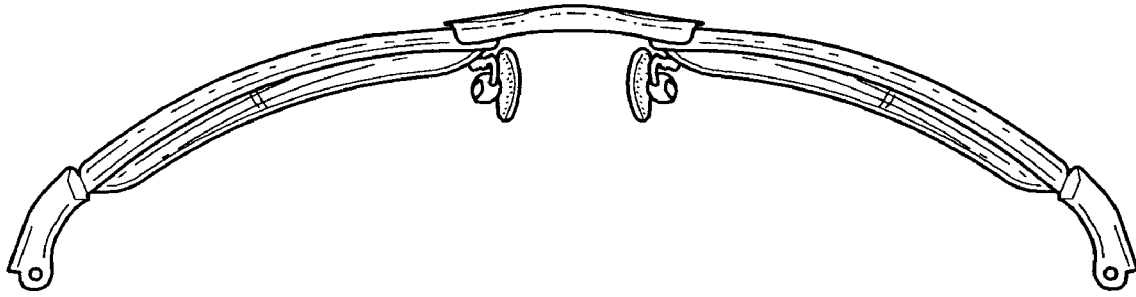
*FIG. 2*



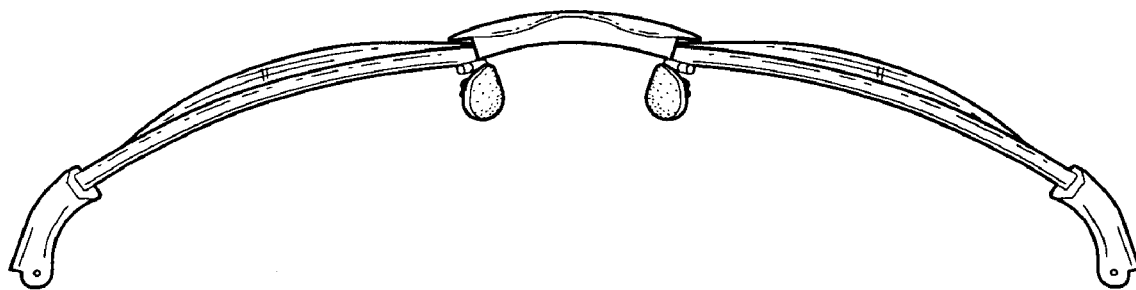
*FIG. 3*



*FIG. 4*



*FIG. 5*



*FIG. 6*

# **EXHIBIT B**





US00D692047S

(12) **United States Design Patent**  
**Shin**

(10) **Patent No.:** **US D692,047 S**

(45) **Date of Patent:** **\*\* Oct. 22, 2013**

(54) **EYEGLASS**

(71) Applicant: **Oakley, Inc.**, Foothill Ranch, CA (US)

(72) Inventor: **Jaе Shin**, Irvine, CA (US)

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

(\*\*) Term: **14 Years**

(21) Appl. No.: **29/444,586**

(22) Filed: **Jan. 31, 2013**

(51) **LOC (9) Cl.** ..... **16-06**

(52) **U.S. Cl.**

USPC ..... **D16/325**; D16/326; D16/335

(58) **Field of Classification Search**

USPC ..... D16/101, 300–342, 900; D29/109–110;  
351/41, 44, 51–52, 62, 158, 92,  
351/103–123, 140–153, 45–46; 2/426–432,  
2/447–449, 441, 434–437, 13, 15;  
D21/483, 659–661; D14/372

See application file for complete search history.

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*Primary Examiner* — Raphael Barkai

(74) *Attorney, Agent, or Firm* — Knobbe Martens Olson & Bear, LLP

(57) **CLAIM**

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

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D581,449 S	11/2008	Yee

**DESCRIPTION**

FIG. 1 is a front perspective view of an eyeglass showing my new design in which the different shading techniques including the line shading in some areas and the stippling in other areas of the eyeglass represent a contrast in appearance, and is not intended to represent any specific color, texture and/or material;

FIG. 2 is a front elevational view thereof;

FIG. 3 is a rear elevational view thereof;

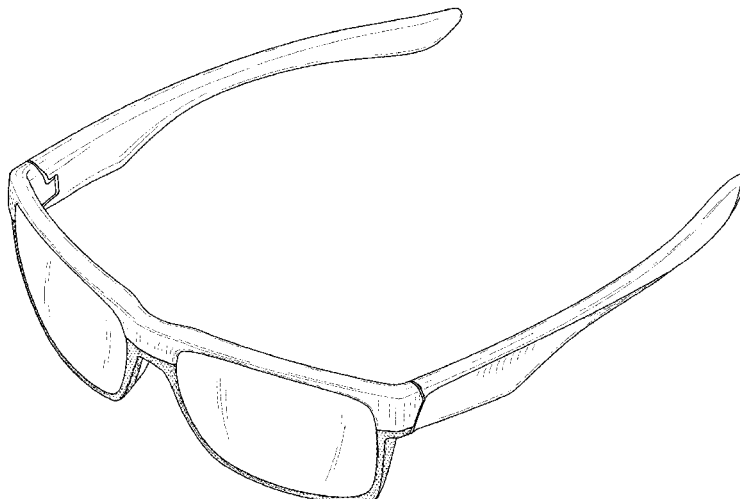
FIG. 4 is a left side elevational view thereof, the right side elevational view being a mirror image thereof;

FIG. 5 is a top plan view thereof; and,

FIG. 6 is a bottom plan view thereof;

The broken lines in the Figures show portions of the eyeglass which form no part of the claimed design.

**1 Claim, 4 Drawing Sheets**



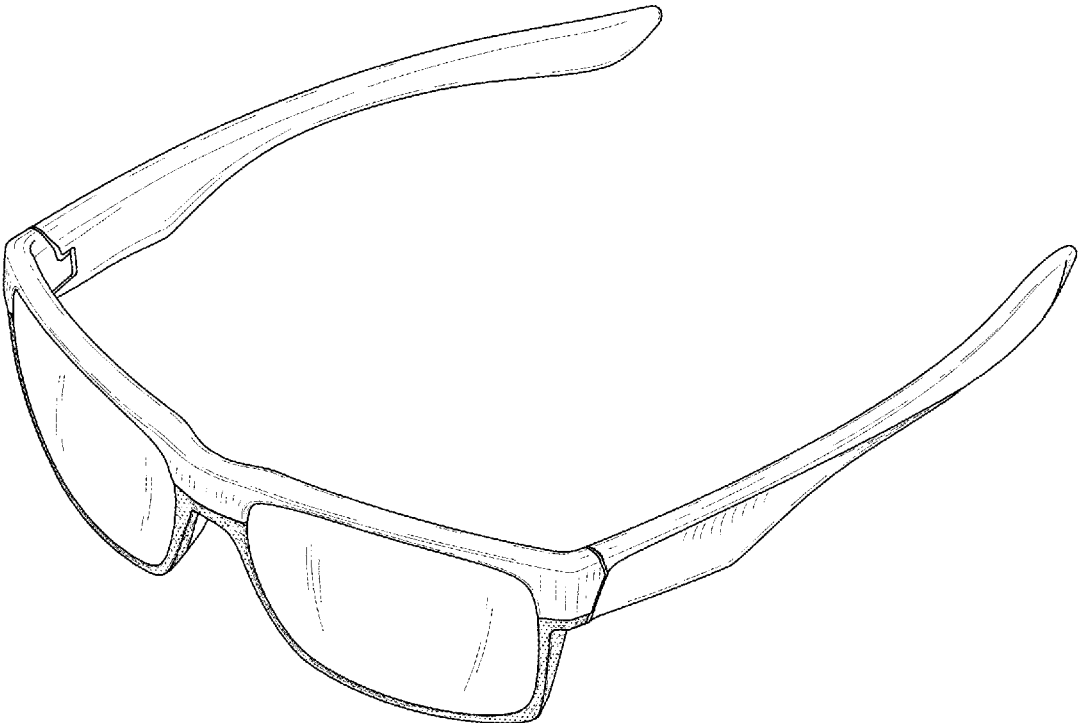
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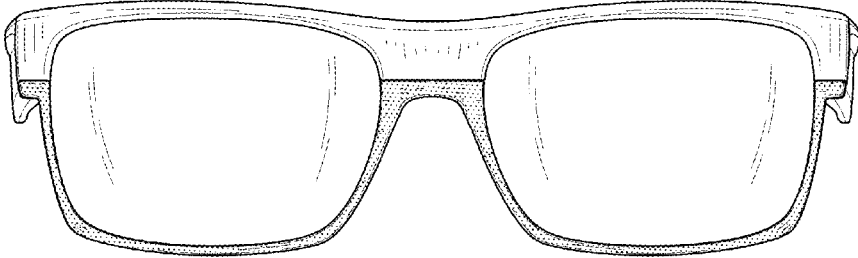
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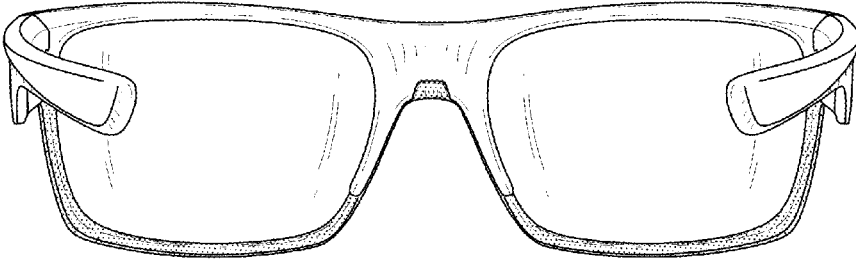
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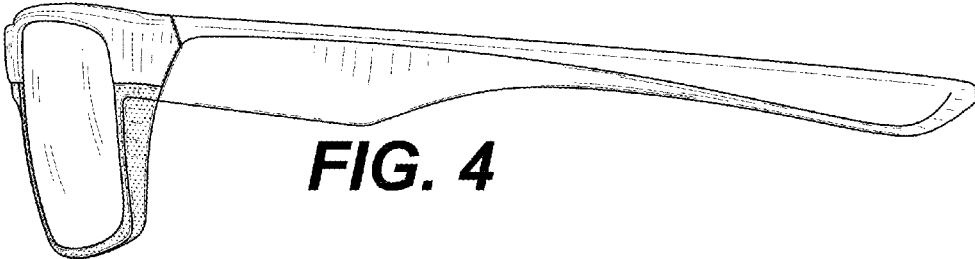
**FIG. 1**



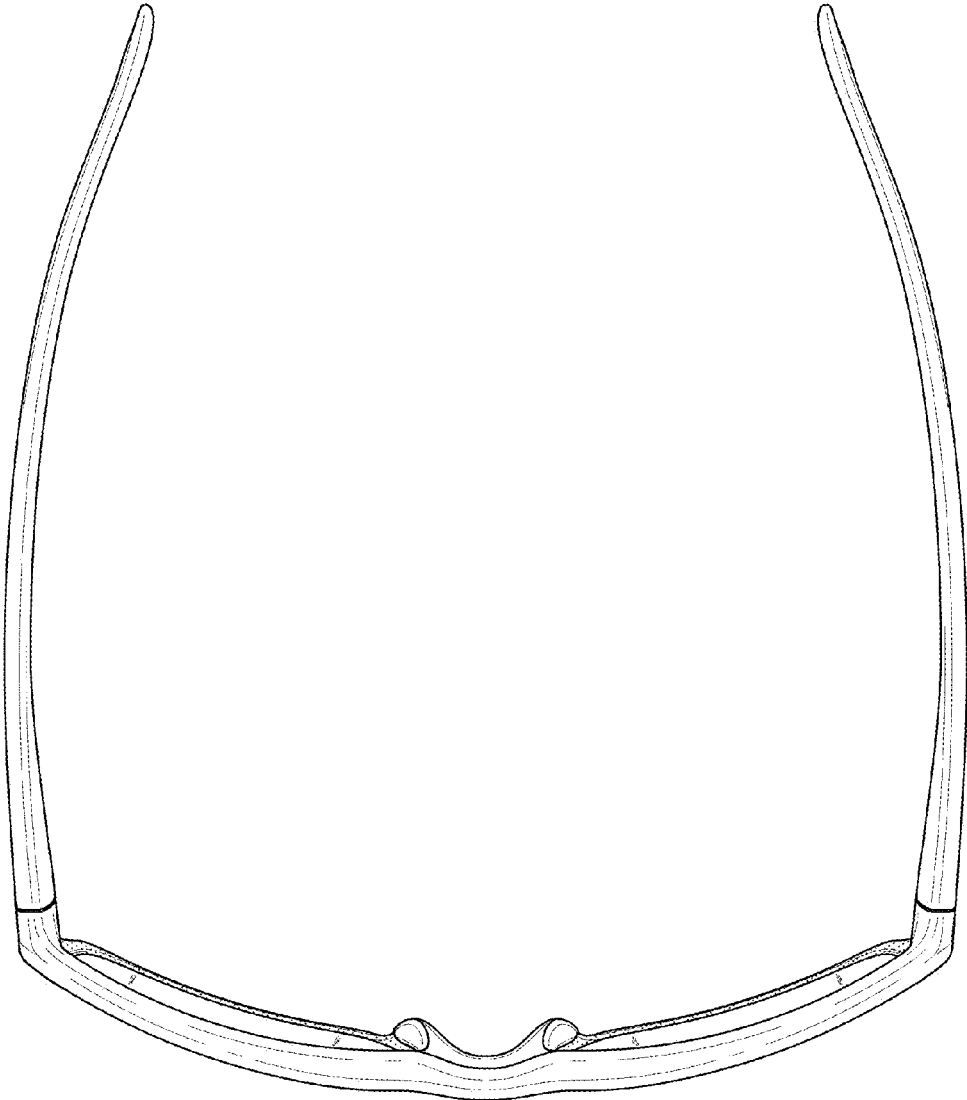
**FIG. 2**



**FIG. 3**

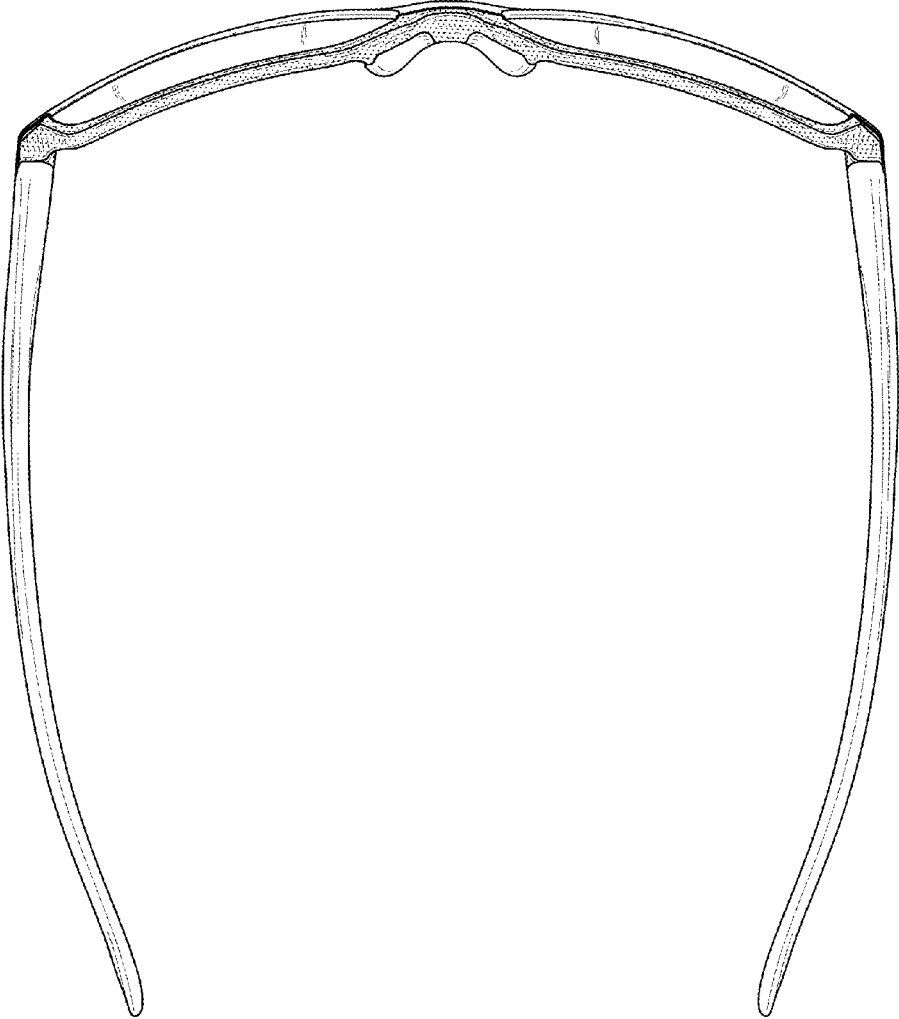


**FIG. 4**



**FIG. 5**

**FIG. 6**



# **EXHIBIT C**



US00D556818S

(12) **United States Design Patent**  
**Jannard et al.**

(10) **Patent No.:** **US D556,818 S**  
(45) **Date of Patent:** **\*\* Dec. 4, 2007**

- (54) **EYEGLASS COMPONENTS**
- (75) Inventors: **James H. Jannard**, Spieden Island, WA (US); **Hans Karsten Moritz**, Foothill Ranch, CA (US); **Colin Baden**, Irvine, CA (US)
- (73) Assignee: **Oakley, Inc.**, Foothill Ranch, CA (US)
- (\*\*) Term: **14 Years**
- (21) Appl. No.: **29/272,777**
- (22) Filed: **Feb. 15, 2007**

- D481,063 S \* 10/2003 Lane ..... D16/326
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- D534,572 S \* 1/2007 Teng ..... D16/337
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Pending U.S. Appl. No. 29/227,719, filed Apr. 13, 2005, Jannard.  
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*Primary Examiner*—Raphael Barkai  
(74) *Attorney, Agent, or Firm*—Gregory K. Nelson

**Related U.S. Application Data**

- (62) Division of application No. 29/227,719, filed on Apr. 13, 2005, now Pat. No. Des. 547,794.
- (51) **LOC (8) Cl.** ..... **16-06**
- (52) **U.S. Cl.** ..... **D16/326; D16/335**
- (58) **Field of Classification Search** ..... D16/300-330, D16/101, 332-338; D29/109-110; D24/110.2; 351/41, 44, 51-52, 62, 158, 92, 103-111, 351/156, 61, 114-119, 121-123; 2/426-432, 2/447-449, 441, 436, 434-437  
See application file for complete search history.

(57) **CLAIM**

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

**DESCRIPTION**

FIG. 1 is a front perspective view of the eyeglass components of the present invention;  
 FIG. 2 is a perspective view thereof;  
 FIG. 3 is a front elevational view thereof;  
 FIG. 4 is a lateral left-side elevational view thereof, the lateral right-side elevational view being a mirror image thereof;  
 FIG. 5 is a medial left-side elevational view thereof, the medial right-side elevational view being a mirror image thereof;  
 FIG. 6 is a rear elevational view thereof;  
 FIG. 7 is a bottom plan view thereof; and,  
 FIG. 8 is a top elevational view thereof.

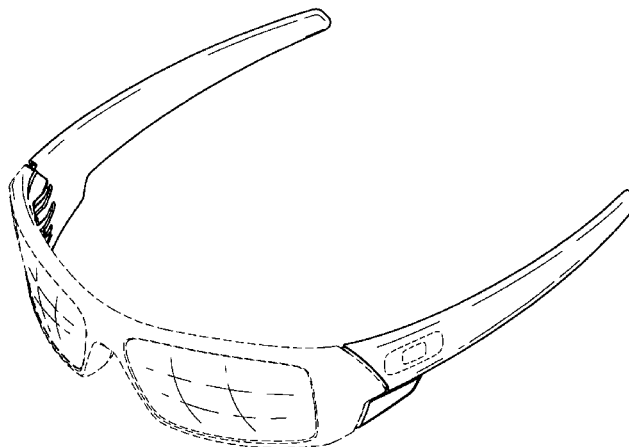
Phantom lining, where utilized, is for illustrative purposes only and is not intended to limit the claimed design to the features shown in phantom.

(56) **References Cited**

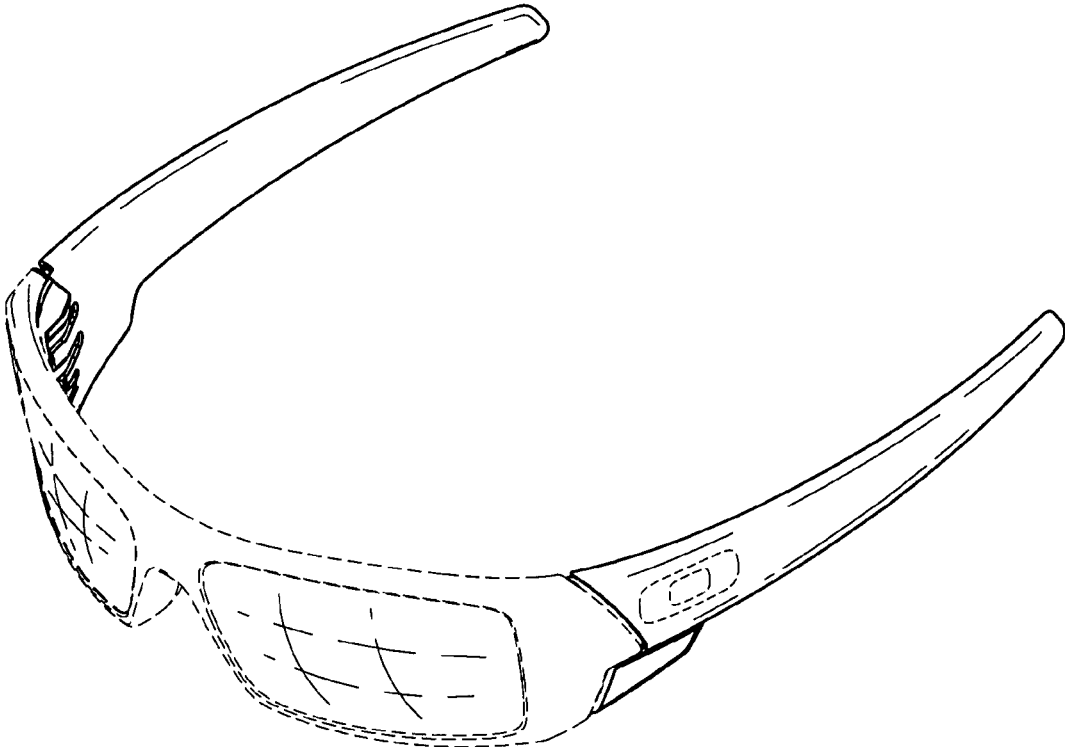
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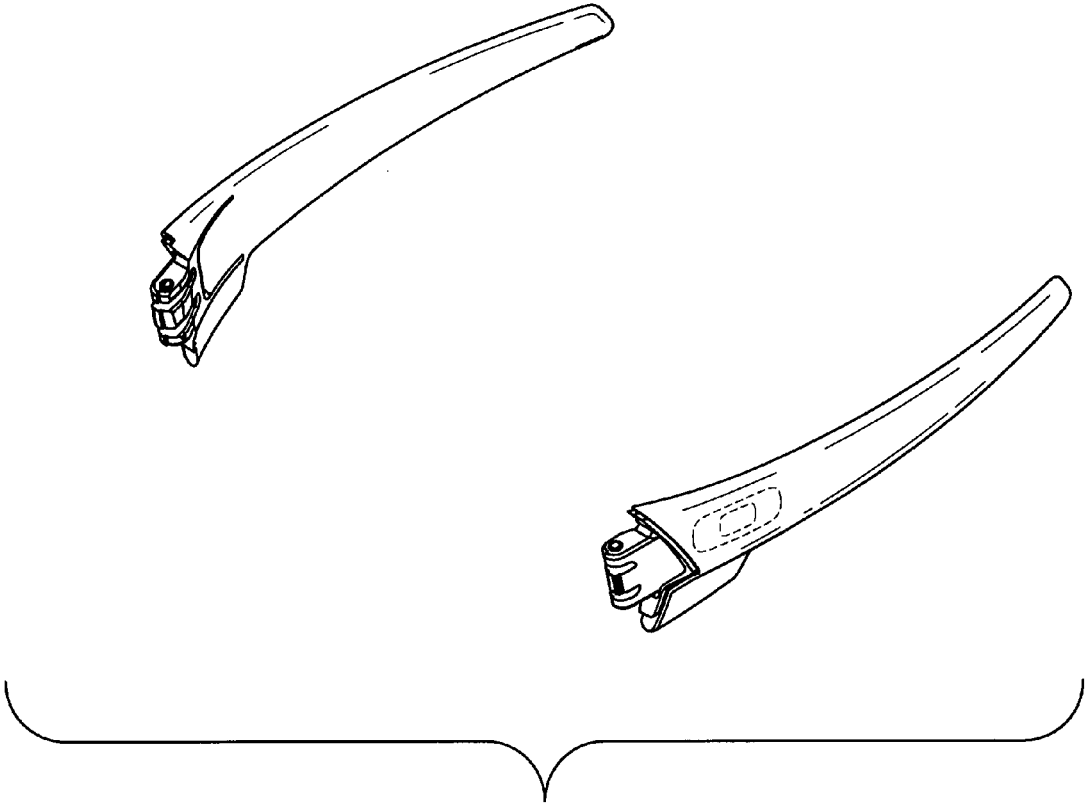
**1 Claim, 5 Drawing Sheets**



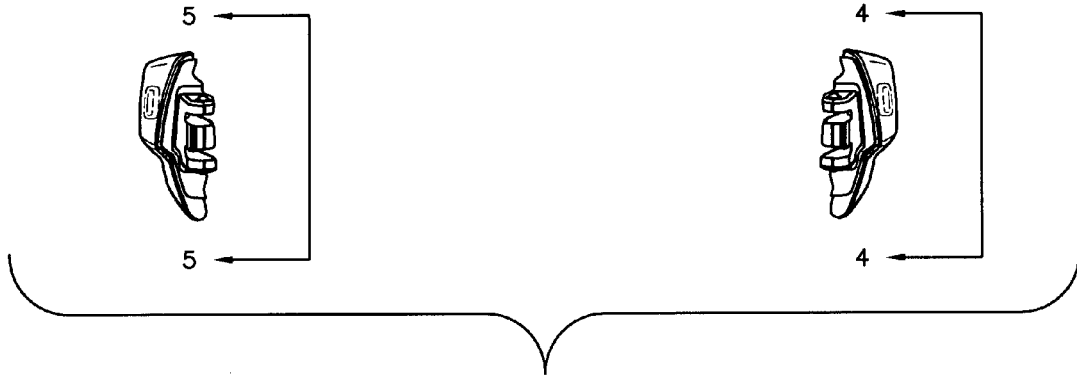




***FIG. 1***



**FIG. 2**



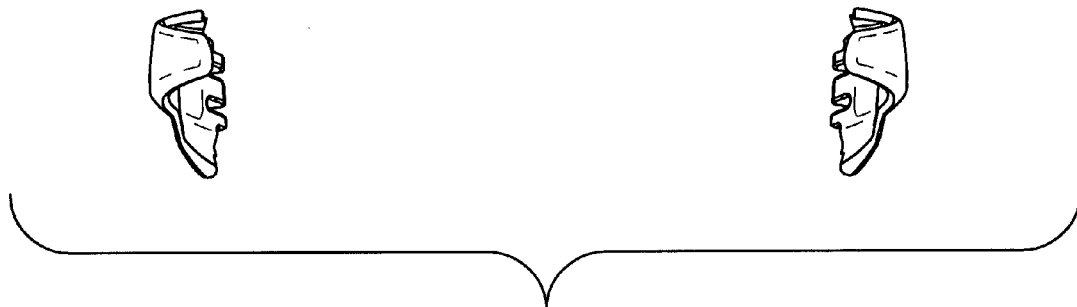
**FIG. 3**



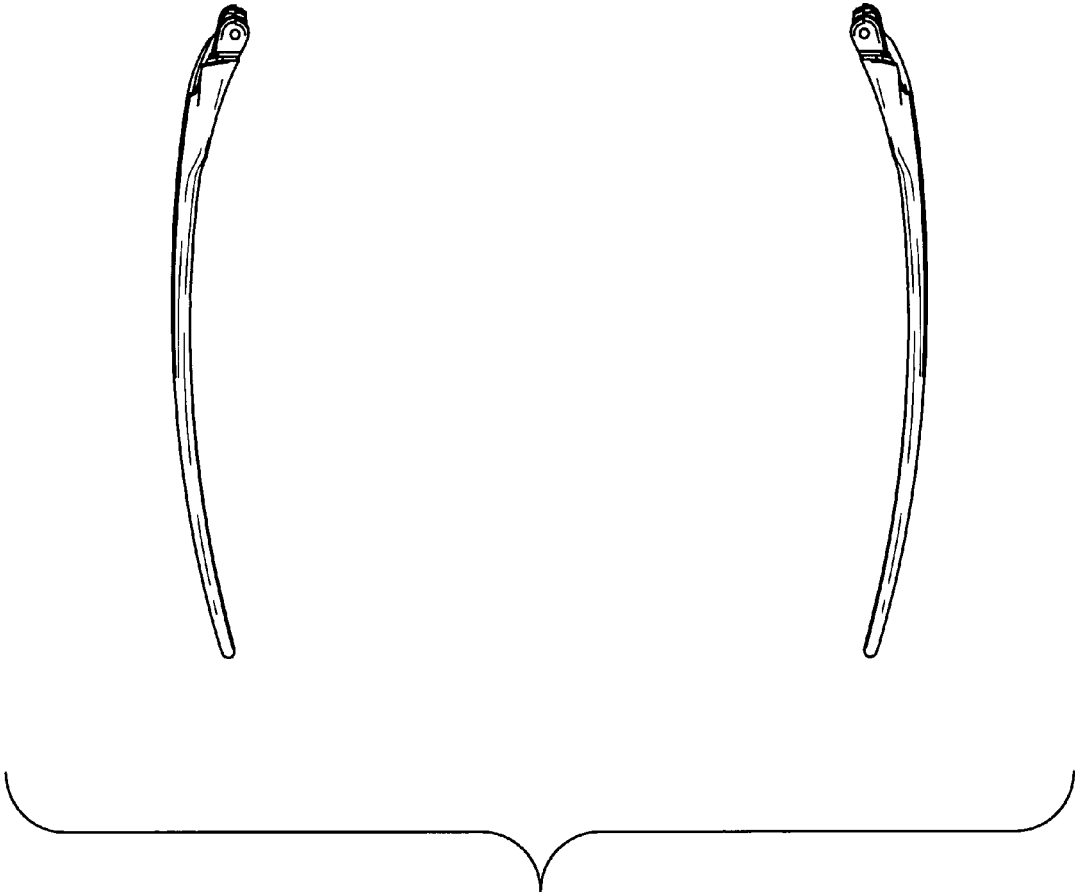
**FIG. 4**



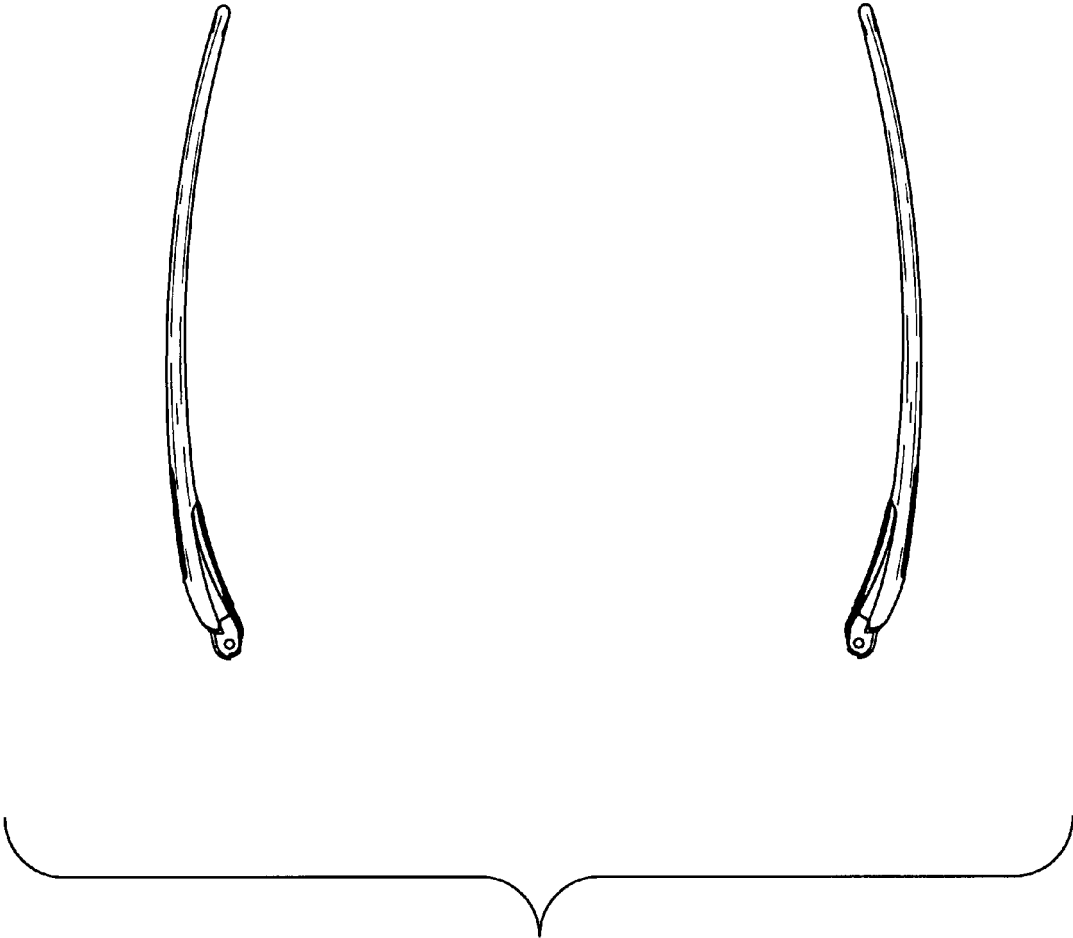
**FIG. 5**



**FIG. 6**



**FIG. 7**



**FIG. 8**