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OAKLEY, INC.
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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

OAKLEY, INC., a Washington
corporation,
Plaintiff,
v.
20/20 Merchandise, Inc. d/b/a Twenty
Twenty Enterprises, a California
corporation,
Defendant.

Civil Action No. 8:18-CV-00454
**COMPLAINT FOR
PATENT INFRINGEMENT
DEMAND FOR JURY TRIAL**

1 Plaintiff Oakley, Inc. (“Oakley”) hereby complains of 20/20
2 Merchandise, Inc. d/b/a Twenty Twenty Enterprises (“Defendant”) and alleges
3 as follows:

4 **JURISDICTION AND VENUE**

5 1. This Court has original subject matter jurisdiction over the claims
6 in this action that relate to patent infringement pursuant to 35 U.S.C. §§ 271 and
7 281, and 28 U.S.C. §§ 1331 and 1338 as these claims arise under the laws of the
8 United States.

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

18 3. Oakley is informed and believes, and thereon alleges, that venue is
19 proper in this judicial district under 28 U.S.C. § 1400(b) because Defendant is a
20 resident in this judicial district, and Defendant has committed acts of
21 infringement in this district and has a regular established place of business in
22 this district.

23 **THE PARTIES**

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

27 5. Oakley is informed and believes, and thereon alleges, that
28 Defendant 20/20 Merchandise, Inc. is a corporation organized and existing

1 under the laws of the State of California, having its principal place of business
2 at 1010 South Olive Street, Los Angeles, CA 90015.

3 **GENERAL ALLEGATIONS**

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

8 7. On November 29, 2011, the United States Patent and Trademark
9 Office (“U.S.P.T.O.”) duly and lawfully issued United States Design Patent No.
10 D649,579 (“the D579 Patent”), titled “EYEGLASS.” Oakley is the owner by
11 assignment of all right, title, and interest in the D579 Patent. A true and correct
12 copy of the D579 Patent is attached hereto as **Exhibit 1**.

13 8. On May 8, 2012, the U.S.P.T.O. duly and lawfully issued United
14 States Design Patent No. D659,179 (“the D179 Patent”), titled “EYEGLASS.”
15 Oakley is the owner by assignment of all right, title, and interest in the D179
16 Patent. A true and correct copy of the D179 Patent is attached hereto as **Exhibit**
17 **2**.

18 9. On August 3, 2010, the U.S.P.T.O. duly and lawfully issued United
19 States Design Patent No. D620,970 (“the D970 Patent”), titled “EYEGLASS
20 COMPONENT.” Oakley is the owner by assignment of all right, title, and
21 interest in the D970 Patent. A true and correct copy of the D970 Patent is
22 attached hereto as **Exhibit 3**.

23 10. Defendant manufactures, uses, sells, offers for sale, and/or imports
24 into the United States eyewear that infringes Oakley’s patent rights, including
25 the D579 Patent, the D179 Patent, and the D970 Patent (collectively, the
26 “Asserted Patents”).

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1 11. Defendant's acts complained of herein have caused Oakley to
2 suffer irreparable injury to its business. Oakley will continue to suffer
3 substantial loss and irreparable injury unless and until Defendant is
4 preliminarily and permanently enjoined from its wrongful actions complained of
5 herein.

6 12. Oakley is informed and believes, and on that basis alleges, that
7 Defendant's acts complained of herein are willful and deliberate.

8 **FIRST CLAIM FOR RELIEF**

9 (Patent Infringement)
10 (35 U.S.C. § 271)

11 13. Oakley repeats and re-alleges the allegations of paragraphs 1-12 of
12 this Complaint as if set forth fully herein.

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

14 15. Defendant, through its agents, employees, and/or servants has, and
15 continues to, knowingly, intentionally, and willfully infringe the D579 Patent by
16 making, using, selling, offering for sale, and/or importing eyewear having a
17 design that would appear to an ordinary observer to be substantially similar to
18 the claim of the D579 Patent, for example, Defendant's PO760SFSD model
19 sunglasses as shown below.

21 Defendant's PO760SFSD Model 22 Sunglass	Oakley's D579 Patent
23  24 25 26 27 28	

1 16. Defendant's acts of infringement of the D579 Patent were
2 undertaken without permission or license from Oakley. Oakley is informed and
3 believes, and thereon alleges, that Defendant had actual knowledge of Oakley's
4 rights in the design claimed in the D579 Patent. Oakley and its iconic designs
5 are well-known throughout the eyewear industry, and Defendant's PO760SFSD
6 model sunglasses are an identical copy of Oakley's patented design.
7 Accordingly, Defendant's actions constitute willful and intentional infringement
8 of the D579 Patent. Defendant infringed the D579 Patent with reckless
9 disregard of Oakley's patent rights. Defendant knew, or it was so obvious that
10 Defendant should have known, that its actions constitute infringement of the
11 D579 Patent. Defendant's acts of infringement of the D579 Patent were not
12 consistent with the standards of commerce for its industry.

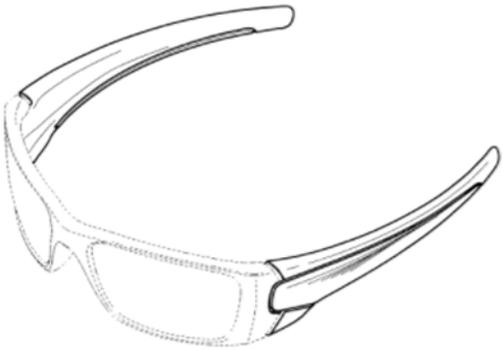
13 17. Defendant, through its agents, employees, and/or servants has, and
14 continues to, knowingly, intentionally, and willfully infringe the D179 Patent by
15 making, using, selling, offering for sale, and/or importing eyewear having a
16 design that would appear to an ordinary observer to be substantially similar to
17 the claim of the D179 Patent, for example, Defendant's MP16201RV model
18 sunglasses as shown below.

Defendant's MP16201RV Model Sunglasses	Oakley's D179 Patent
	

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1 18. Defendant's acts of infringement of the D179 Patent were
2 undertaken without permission or license from Oakley. Oakley is informed and
3 believes, and thereon alleges, that Defendant had actual knowledge of Oakley's
4 rights in the design claimed in the D179 Patent. Oakley and its iconic designs
5 are well-known throughout the eyewear industry, and Defendant's MP16201RV
6 model sunglasses are an identical copy of Oakley's patented design.
7 Accordingly, Defendant's actions constitute willful and intentional infringement
8 of the D179 Patent. Defendant infringed the D179 Patent with reckless
9 disregard of Oakley's patent rights. Defendant knew, or it was so obvious that
10 Defendant should have known, that its actions constitute infringement of the
11 D179 Patent. Defendant's acts of infringement of the D179 Patent were not
12 consistent with the standards of commerce for its industry.

13 19. Defendant, through its agents, employees, and/or servants has, and
14 continues to, knowingly, intentionally, and willfully infringe the D970 Patent by
15 making, using, selling, offering for sale, and/or importing eyewear having a
16 design that would appear to an ordinary observer to be substantially similar to
17 the claim of the D970 Patent, for example, Defendant's MP16201RV model
18 sunglasses as shown below.

Defendant's MP16201RV Model Sunglasses	Oakley's D970 Patent
	

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1 20. Defendant's acts of infringement of the D970 Patent were
2 undertaken without permission or license from Oakley. Oakley is informed and
3 believes, and thereon alleges, that Defendant had actual knowledge of Oakley's
4 rights in the design claimed in the D970 Patent. Oakley and its iconic designs
5 are well-known throughout the eyewear industry, and Defendant's MP16201RV
6 model sunglasses are an identical copy of Oakley's patented design.
7 Accordingly, Defendant's actions constitute willful and intentional infringement
8 of the D970 Patent. Defendant infringed the D970 Patent with reckless
9 disregard of Oakley's patent rights. Defendant knew, or it was so obvious that
10 Defendant should have known, that its actions constitute infringement of the
11 D970 Patent. Defendant's acts of infringement of the D970 Patent were not
12 consistent with the standards of commerce for its industry.

13 21. As a direct and proximate result of Defendant's acts of
14 infringement, Defendant has derived and received gains, profits, and advantages
15 in an amount that is not presently known to Oakley.

16 22. Pursuant to 35 U.S.C. § 284, Oakley is entitled to damages for
17 Defendant's infringing acts and treble damages together with interests and costs
18 as fixed by this Court.

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

21 24. Pursuant to 35 U.S.C. § 289, Oakley is entitled to Defendant's total
22 profits from Defendant's infringement of the Asserted Patents.

23 25. Due to Defendant's actions, constituting patent infringement,
24 Oakley has suffered great and irreparable injury, for which Oakley has no
25 adequate remedy at law.

26 26. Defendant will continue to infringe Oakley's patent rights to the
27 great and irreparable injury of Oakley, unless and until Defendant is enjoined by
28 this Court.

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

3 A. An Order adjudging Defendant to have willfully infringed the
4 Asserted Patents under 35 U.S.C. § 271;

5 B. A preliminary and permanent injunction enjoining Defendant, its
6 respective officers, directors, agents, servants, employees, and attorneys, and
7 those persons in active concert or participation with Defendant, from making,
8 using, selling, offering to sell, and/or importing into the United States
9 Defendant's sunglass models PO760SFSD and MP16201RV, as well as any
10 products that are not colorably different from these products;

11 C. A preliminary and permanent injunction enjoining Defendant, its
12 respective officers, directors, agents, servants, employees, and attorneys, and
13 those persons in active concert or participation with Defendant, from directly or
14 indirectly infringing any of the Asserted Patents in violation of 35 U.S.C. § 271;

15 D. That Defendant account for all gains, profits, and advantages
16 derived by Defendant's infringement of the Asserted Patents in violation of
17 35 U.S.C. § 271, and that Defendant pay to Oakley all damages suffered by
18 Oakley and/or Defendant's total profit from such infringement pursuant to 35
19 U.S.C. § 284 and § 289;

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

22 F. An Order adjudging that this is an exceptional case;

23 G. That, because of the exceptional nature of this case resulting from
24 Defendant's deliberate infringing actions, this Court award to Oakley all
25 reasonable attorneys' fees, costs, and disbursements incurred as a result of this
26 action, pursuant 35 U.S.C. § 285;

27 H. An award of pre-judgment and post-judgment interest and costs of
28 this action against Defendant; and,

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

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

Dated: March 21, 2018

By: /s/ Lauren Keller Katzenellenbogen
Michael K. Friedland
Lauren Keller Katzenellenbogen
Ali S. Razai
Daniel C. Kiang
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: March 21, 2018

By: /s/ Lauren Keller Katzenellenbogen
Michael K. Friedland
Lauren Keller Katzenellenbogen
Ali S. Razai
Daniel C. Kiang

Attorneys for Plaintiff OAKLEY, INC.

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