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8 Attorneys for Plaintiff
9 **OAKLEY, INC.**

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 OAKLEY, INC., a Washington
corporation,

15 Plaintiff,

16 v.

17 SSAMECO, INC. d/b/a SINGSONG
18 AMECO, a California corporation,

19 Defendant.
20

) Civil Action No. 8:18-cv-00394
)
)

) **COMPLAINT FOR**
) **PATENT INFRINGEMENT,**
) **TRADE DRESS**
) **INFRINGEMENT, FALSE**
) **DESIGNATION OF ORIGIN,**
) **AND UNFAIR COMPETITION**

) **DEMAND FOR JURY TRIAL**
)

1 Plaintiff Oakley, Inc. (“Oakley”) hereby complains of SSAMECO, INC.
2 d/b/a SingSong Ameco (“Defendant”) and alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has original subject matter jurisdiction over the claims
5 in this action that relate to patent infringement, trade dress infringement, false
6 designation of origin, and federal unfair competition pursuant to 35 U.S.C. §§
7 271 and 281, 28 U.S.C. §§ 1331 and 1338, and 15 U.S.C. §§ 1116(a), 1121(a),
8 and 1125(a), as these claims arise under the laws of the United States. The
9 Court has supplemental jurisdiction over the claims in this Complaint which
10 arise under state statutory and common law pursuant to 28 U.S.C. § 1367(a)
11 because the state law claims are so related to the federal claims that they form
12 part of the same case or controversy and derive from a common nucleus of
13 operative facts.

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

23 3. Oakley is informed and believes, and thereon alleges, that venue is
24 proper in this judicial district under 28 U.S.C. §§ 1391(b) and (d), and 1400(b)
25 because Defendant is a resident in this judicial district, and Defendant has
26 committed acts of infringement in this district and has a regular established
27 place of business in this district.

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5. Oakley is informed and believes, and thereon alleges, that Defendant SSAMECO, Inc. d/b/a SingSong Ameco is a corporation organized and existing under the laws of the State of California, having its principal place of business at 401 S. Los Angeles Street #3, Los Angeles, California 90013.

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7. On December 4, 2007, the United States Patent and Trademark Office (“U.S.P.T.O.”) duly and lawfully issued United States Design Patent No. D556,818 (“the D818 Patent”), titled “Eyeglass Components.” Oakley is the owner by assignment of all right, title, and interest in the D818 Patent. A true and correct copy of the D818 Patent is attached hereto as **Exhibit 1**.

9. On November 6, 2007, the USPTO duly and lawfully issued United States Design Patent No. D554,689 (“the D689 Patent”), titled “Eyeglass Frame.” Oakley is the owner by assignment of all right, title, and interest in the D689 Patent. A true and correct copy of the D689 Patent is attached hereto as **Exhibit 3.**

1 10. Defendant manufactures, uses, sells, offers for sale, and/or imports
2 into the United States eyewear that have infringed Oakley's patent rights,
3 including the D818 Patent, the D794 Patent, and the D689 Patent (collectively,
4 the "Asserted Patents").

5 11. Oakley manufactures and sells sunglasses under the mark
6 HOLBROOK bearing distinctive trade dress in the overall design of the
7 sunglasses ("HOLBROOK Trade Dress"). An example of an Oakley product
8 bearing the distinctive HOLBROOK Trade Dress is depicted in the photograph
9 attached as **Exhibit 4**.

10 12. As a result of Oakley's widespread use and display of the
11 HOLBROOK Trade Dress in association with its eyewear, (a) the public has
12 come to recognize and identify eyewear bearing the HOLBROOK Trade Dress
13 as emanating from Oakley, (b) the public recognizes that products bearing the
14 HOLBROOK Trade Dress constitute high quality products that conform to the
15 specifications created by Oakley, and (c) the HOLBROOK Trade Dress has
16 established strong secondary meaning and extensive goodwill.

17 13. The HOLBROOK Trade Dress is not functional. The design
18 features embodied by the HOLBROOK Trade Dress are not essential to the
19 function of the product, do not make the product cheaper or easier to
20 manufacture, and do not affect the quality of the product. The design of the
21 HOLBROOK Trade Dress is not a competitive necessity.

22 14. Subsequent to Oakley's use and adoption of the HOLBROOK
23 Trade Dress, Defendant has developed, manufactured, imported, advertised,
24 and/or sold products that use trade dress that is confusingly similar to the
25 HOLBROOK Trade Dress.

26 15. Defendant's acts complained of herein have caused Oakley to
27 suffer irreparable injury to its business. Oakley will continue to suffer
28 substantial loss and irreparable injury unless and until Defendant is enjoined

1 from its wrongful actions complained of herein.

2 16. Oakley is informed and believes, and on that basis alleges, that
3 Defendant's acts complained of herein are willful and deliberate.

4 17. Defendant's acts complained of herein have caused Oakley to
5 suffer irreparable injury to its business. Oakley will suffer substantial loss of
6 goodwill and reputation unless and until Defendant is preliminarily and
7 permanently enjoined from its wrongful actions complained of herein.


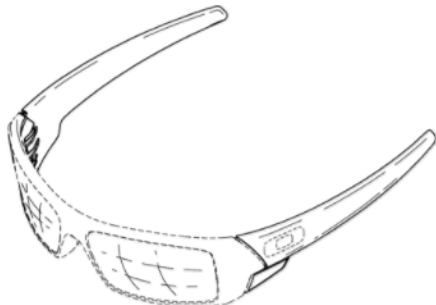
8 **FIRST CLAIM FOR RELIEF**

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

11 18. Oakley repeats and re-alleges the allegations of paragraphs 1-17 of
12 this Complaint as if set forth fully herein.

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


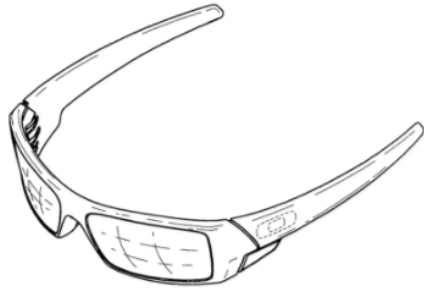
14 20. Defendant, through its agents, employees, and/or servants has, and
15 continues to, knowingly, intentionally, and willfully infringe the D818 Patent by
16 making, using, selling, offering for sale, and/or importing eyewear having a
17 design that would appear to an ordinary observer to be substantially similar to
18 the claim of the D818 Patent, for example Defendant's 7306ME sunglass model
19 as shown below.

20 Defendant's 7306ME 21 Sunglass Model	Oakley's D818 Patent
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21. Defendant's acts of infringement of the D818 Patent were undertaken without permission or license from Oakley. Oakley is informed and believes, and thereon alleges, that Defendant had actual knowledge of Oakley's rights in the design claimed in the D818 Patent. Oakley and its iconic designs are well-known throughout the eyewear industry, and Defendant's 7306ME sunglass model is an identical copy of Oakley's patented design. Accordingly, Defendant's actions constitute willful and intentional infringement of the D818 Patent. Defendant infringed the D818 Patent with reckless disregard of Oakley's patent rights. Defendant knew, or it was so obvious that Defendant should have known, that its actions constitute infringement of the D818 Patent. Defendant's acts of infringement of the D818 Patent were not consistent with the standards of commerce for its industry.


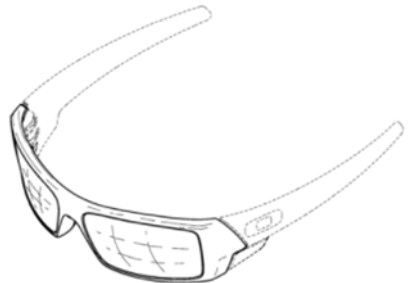
22. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D794 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D794 Patent, for example Defendant's 7306ME sunglass model as shown below.

Defendant's 7306ME Sunglass Model	Oakley's D794 Patent
	

23. Defendant's acts of infringement of the D794 Patent were undertaken without permission or license from Oakley. Oakley is informed and believes, and thereon alleges, that Defendant had actual knowledge of Oakley's

rights in the design claimed in the D794 Patent. Oakley and its iconic designs are well-known throughout the eyewear industry, and Defendant's 7306ME sunglass model is an identical copy of Oakley's patented design. Accordingly, Defendant's actions constitute willful and intentional infringement of the D794 Patent. Defendant infringed the D794 Patent with reckless disregard of Oakley's patent rights. Defendant knew, or it was so obvious that Defendant should have known, that its actions constitute infringement of the D794 Patent. Defendant's acts of infringement of the D794 Patent were not consistent with the standards of commerce for its industry.

24. Defendant, through its agents, employees, and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D689 Patent by making, using, selling, offering for sale, and/or importing eyewear having a design that would appear to an ordinary observer to be substantially similar to the claim of the D689 Patent, for example, Defendant's 7306ME sunglass model as shown below.

Defendant's 7306ME Sunglass Model	Oakley's D689 Patent
	

25. Defendant's acts of infringement of the D689 Patent were undertaken without permission or license from Oakley. Oakley is informed and believes, and thereon alleges, that Defendant had actual knowledge of Oakley's rights in the design claimed in the D689 Patent. Oakley and its iconic designs are well-known throughout the eyewear industry, and Defendant's 7306ME sunglass model is an identical copy of Oakley's patented design. Accordingly,

1 Defendant's actions constitute willful and intentional infringement of the D689
2 Patent. Defendant infringed the D689 Patent with reckless disregard of
3 Oakley's patent rights. Defendant knew, or it was so obvious that Defendant
4 should have known, that its actions constitute infringement of the D689 Patent.
5 Defendant's acts of infringement of the D689 Patent were not consistent with
6 the standards of commerce for its industry.

7 26. As a direct and proximate result of Defendant's acts of
8 infringement, Defendant has derived and received gains, profits, and advantages
9 in an amount that is not presently known to Oakley.

10 27. Pursuant to 35 U.S.C. § 284, Oakley is entitled to damages for
11 Defendant's infringing acts and treble damages together with interests and costs
12 as fixed by this Court.

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

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

17 30. Due to Defendant's actions, constituting patent infringement,
18 Oakley has suffered great and irreparable injury, for which Oakley has no
19 adequate remedy at law.

20 31. Defendant will continue to infringe Oakley's patent rights to the
21 great and irreparable injury of Oakley, unless and until Defendant is enjoined by
22 this Court.

23 **SECOND CLAIM FOR RELIEF**



24 (Trade Dress Infringement)
25 (15 U.S.C. § 1125(a))

26 32. Oakley repeats and re-alleges the allegations of paragraphs 1-17 of
27 this Complaint as if set forth fully herein.

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33. This is a claim for trade dress infringement under 15 U.S.C. § 1125(a).

34. Subsequent to Oakley's use and adoption of the HOLBROOK Trade Dress, Defendant has developed, manufactured, imported, advertised, and/or sold products that use trade dress that is confusingly similar to the HOLBROOK Trade Dress. As shown below, for example, Defendant's 9836ME/RV sunglass model, which are sold and/or offered for sale, for example, at Defendant's 401 South Los Angeles Street, Suite 3, Los Angeles, California 90013 store location, use a trade dress that is confusingly similar to Oakley's HOLBROOK Trade Dress.

Defendant's 9836ME/RV Sunglass Model	Oakley's HOLBROOK Trade Dress
	

35. Defendant's use of the HOLBROOK Trade Dress in connection with its sunglasses is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendant with Oakley.

36. Oakley is informed and believes, and thereon alleges, that Defendant infringed Oakley's trade dress rights with the intent to unfairly compete with Oakley, to trade upon Oakley's reputation and goodwill by causing confusion and mistake among customers and the public, and to deceive the public into believing that Defendant's products are associated with, sponsored by, originated from, or are approved by Oakley, when they are not,

1 resulting in a loss of reputation in, and mischaracterization of, Oakley's
2 products and its brand, damaging its marketability and saleability.

3 37. Defendant's activities constitute willful and intentional
4 infringement of Oakley's trade dress rights in total disregard of Oakley's
5 proprietary rights, and were done despite Defendant's knowledge that use of the
6 HOLBROOK Trade Dress was and is in direct contravention of Oakley's rights.

7 38. Oakley is informed and believes, and thereon alleges, that
8 Defendant has derived and received, and will continue to derive and receive,
9 gains, profits, and advantages from Defendant's trade dress infringement in an
10 amount that is not presently known to Oakley. By reason of Defendant's
11 actions, constituting trade dress infringement, Oakley has been damaged and is
12 entitled to monetary relief in an amount to be determined at trial.

13 39. Pursuant to 15 U.S.C. § 1117, Oakley is entitled to damages for
14 Defendant's infringing acts, up to three times actual damages as fixed by this
15 Court, and its reasonable attorneys' fees for the necessity of bringing this claim.

16 40. Due to Defendant's actions, constituting trade dress infringement,
17 Oakley has suffered great and irreparable injury, for which Oakley has no
18 adequate remedy at law.

19 41. Defendant will continue to infringe Oakley's trade dress rights to
20 the great and irreparable injury of Oakley, unless and until Defendant is
21 enjoined by this Court.

22 **THIRD CLAIM FOR RELIEF**

23 (Federal Unfair Competition & False Designation of Origin)
24 (15 U.S.C. § 1125(a))

25 42. Oakley repeats and re-alleges the allegations of paragraphs 1-17
26 and 32-41 of this Complaint as if set forth fully herein.

27 43. This is a claim for unfair competition and false designation of
28 origin arising under 15 U.S.C. § 1125(a).

1 44. Defendant's use of the HOLBROOK Trade Dress without Oakley's
2 consent constitutes a false designation of origin, false or misleading description
3 of fact, or false or misleading representation of fact, which is likely to cause
4 confusion, or to cause mistake, or to deceive as to the affiliation, connection, or
5 association of such person with another person, or as to the origin, sponsorship,
6 or approval of his or her goods or commercial activities by another person in
7 violation of 15 U.S.C. § 1125(a).

8 45. Defendant's use of the HOLBROOK Trade Dress without Oakley's
9 consent constitutes a false designation of origin, false or misleading description
10 of fact, or false or misleading representation of fact, which in commercial
11 advertising or promotion, misrepresents the nature, characteristics, qualities, or
12 geographic origin of his or her or another person's goods or commercial
13 activities in violation of 15 U.S.C. § 1125(a).

14 46. Such conduct by Defendant is likely to confuse, mislead, and
15 deceive Defendant's customers, purchasers, and members of the public as to the
16 origin of the HOLBROOK Trade Dress or cause said persons to believe that
17 Defendant and/or its products have been sponsored, approved, authorized, or
18 licensed by Oakley or are in some way affiliated or connected with Oakley, all
19 in violation of 15 U.S.C. § 1125(a) and constitutes unfair competition with
20 Oakley.

21 47. Oakley is informed and believes, and thereon alleges, that
22 Defendant's actions were undertaken willfully with full knowledge of the falsity
23 of such designation of origin and false descriptions or representations.

24 48. Oakley is informed and believes, and thereon alleges, that
25 Defendant has derived and received, and will continue to derive and receive,
26 gains, profits, and advantages from Defendant's false designation of origin, false
27 or misleading statements, descriptions of fact, false or misleading
28 representations of fact, and/or unfair competition in an amount that is not

1 presently known to Oakley. By reason of Defendant's actions, constituting false
2 designation of origin, false or misleading statements, false or misleading
3 descriptions of fact, false or misleading representations of fact, and/or unfair
4 competition, Oakley has been damaged and is entitled to monetary relief in an
5 amount to be determined at trial.

6 49. Pursuant to 15 U.S.C. § 1117, Oakley is entitled to damages for
7 Defendant's acts constituting false designation of origin, false or misleading
8 statements, false or misleading descriptions of fact, false or misleading
9 representations of fact, and/or unfair competition, up to three times actual
10 damages as fixed by this Court, and its reasonable attorneys' fees for the
11 necessity of bringing this claim.

12 50. Due to Defendant's actions, constituting false designation of origin,
13 false or misleading statements, false or misleading description of fact, false or
14 misleading representations of fact, and/or unfair competition, Oakley has
15 suffered and continues to suffer great and irreparable injury, for which Oakley
16 has no adequate remedy at law.

17 51. Defendant will continue its false designation of origin, false or
18 misleading statements, false or misleading description of fact, false or
19 misleading representations of fact, and unfair competition, unless and until
20 Defendant is enjoined by this Court.

21 **FIFTH CLAIM FOR RELIEF**

22 (California Unfair Competition)

23 52. Oakley repeats and re-alleges the allegations of paragraphs 1-17
24 and 32-51 of this Complaint as if set forth fully herein.

25 53. This is a claim for unfair competition, arising under California
26 Business & Professions Code § 17200, et seq. and California common law.

27 54. Defendant's acts of trade dress infringement and false designation
28 of origin complained of herein constitute unfair competition with Oakley under

1 the common law and statutory laws of the State of California, particularly
2 California Business & Professions Code § 17200, et seq.

3 55. Oakley is informed and believes, and thereon alleges, that
4 Defendant has derived and received, and will continue to derive and receive,
5 gains, profits, and advantages from Defendant's unfair competition in an
6 amount that is not presently known to Oakley. By reason of Defendant's
7 wrongful acts as alleged in this Complaint, Oakley has been damaged and is
8 entitled to monetary relief in an amount to be determined at trial.

9 56. By its actions, Defendant has injured and violated the rights of
10 Oakley and has irreparably injured Oakley, and such irreparable injury will
11 continue unless Defendant is enjoined by this Court.

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

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

16 B. A preliminary and permanent injunction enjoining Defendant, its
17 respective officers, directors, agents, servants, employees, and attorneys, and
18 those persons in active concert or participation with Defendant, from making,
19 using, selling, offering to sell, and/or importing into the United States
20 Defendant's 7306ME sunglass model, as well as any products that are not
21 colorably different therefrom;

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

26 D. That Defendant account for all gains, profits, and advantages
27 derived by Defendant's infringement of the Asserted Patents in violation of
28 35 U.S.C. § 271, and that Defendant pay to Oakley all damages suffered by

1 Oakley and/or Defendant's total profit from such infringement pursuant to 35
2 U.S.C. § 284 and § 289;

3 E. 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 F. That the Court find for Oakley and against Defendant on Oakley's
6 claims of trade dress infringement, false designation of origin, and unfair
7 competition under 15 U.S.C. § 1125(a);

8 G. That the Court find for Oakley and against Defendant on Oakley's
9 claims of unfair competition under California Business & Professions Code
10 § 17200, et seq. and California common law;

11 H. That the Court issue a preliminary and permanent injunction
12 against Defendant, its agents, servants, employees, representatives, successors,
13 and assigns, and all persons, firms, or corporations in active concert or
14 participation with Defendant, enjoining them from engaging in the following
15 activities and from assisting or inducing, directly or indirectly, others to engage
16 in the following activities:

- 17 1. Manufacturing, importing, marketing, displaying,
18 distributing, offering to sell, and/or selling Defendant's
19 9836ME/RV sunglass model and any products that are not
20 colorably different therefrom;
- 21 2. using Oakley's HOLBROOK Trade Dress, or any other trade
22 dress that is confusingly similar to Oakley's HOLBROOK
23 Trade Dress;
- 24 3. falsely designating the origin of Defendant's goods;
- 25 4. unfairly competing with Oakley in any manner whatsoever;
- 26 5. causing a likelihood of confusion or injuries to Oakley's
27 business reputation; and,

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1 6. manufacturing, importing, marketing, displaying,
2 distributing, offering to sell, and/or selling any goods that
3 infringe Oakley's HOLBROOK Trade Dress.

4 I. That an accounting be ordered to determine Defendant's profits
5 resulting from its trade dress infringement, false designation of origin, and
6 unfair competition, and that Oakley be awarded monetary relief in an amount to
7 be fixed by the Court in its discretion as it finds just as an equitable remedy and
8 as a remedy under 15 U.S.C. § 1117, including:

- 9 1. all profits received by Defendant as a result of its infringing
10 actions, said amount to be trebled;
11 2. all damages sustained by Oakley as a result of Defendant's
12 acts of trade dress infringement, unfair competition, and
13 false designation of origin, and that such damages be trebled;
14 and
15 3. punitive damages stemming from Defendant's willful,
16 intentional, and malicious acts;

17 J. That such damages and profits be trebled and awarded to Oakley
18 pursuant to 15 U.S.C. § 1117;

19 K. An Order adjudging that this is an exceptional case;

20 L. That, because of the exceptional nature of this case resulting from
21 Defendant's deliberate infringing actions, this Court award to Oakley all
22 reasonable attorneys' fees, costs, and disbursements incurred as a result of this
23 action, pursuant to 15 U.S.C. § 1117 and/or 35 U.S.C. § 285;

24 M. That Oakley recover exemplary damages pursuant to California
25 Civil Code § 3294;

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

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1 O. Such other and further relief as this Court may deem just and
2 proper.

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

6
7 Dated: March 12, 2018

8 By: /s/Lauren Keller Katzenellenbogen
9 Michael K. Friedland
 Lauren Keller Katzenellenbogen
 Ali S. Razai
 James F. Smith

10 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 12, 2018

By: /s/ Lauren Keller Katzenellenbogen
Michael K. Friedland
Lauren Keller Katzenellenbogen
Ali S. Razai
James F. Smith

Attorneys for Plaintiff OAKLEY, INC.

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