

ESTTA Tracking number: **ESTTA561832**

Filing date: **09/27/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054629
Party	Plaintiff Sheltered Wings, Inc.
Correspondence Address	JENNIFER L GREGOR GODFREY KAHN SC ONE EAST MAIN STREET, SUITE 500 MADISON, WI 53703 UNITED STATES jgregor@gklaw.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Jennifer L. Gregor
Filer's e-mail	jgregor@gklaw.com, jpeterson@gklaw.com, apeterson@gklaw.com, jschwartz@gklaw.com
Signature	/Jennifer L. Gregor/
Date	09/27/2013
Attachments	2013-09-27 Petitioner's Notice of Reliance.pdf(127847 bytes ) Ex 7 (Part 1) - '481 FINAL App, File History TSDR Report (85708481).pdf(5700876 bytes ) Ex 7 (Part 2) - '481 FINAL App, File History TSDR Report (85708481)-2.pdf(4463140 bytes ) Ex 8 - '482 FINAL App, File History, TSDR Report (85708482).pdf(4672036 bytes ) Ex 9 (Part 1) - '483 FINAL App, File History, TSDR Report (85708483).pdf(3639535 bytes ) Ex 9 (Part 2) - '483 FINAL App, File History, TSDR Report (85708483)-2.pdf(3316568 bytes ) Ex 10 - '484 FINAL App, File History, TSDR Report (85708484).pdf(4674095 bytes ) Ex 11 (Part 1) - '199 File History.pdf(5865507 bytes ) Ex 11 (Part 2) - '199 File History.pdf(1754698 bytes ) Ex 11 (Part 3) - '199 File History.pdf(3736560 bytes ) Ex 12 - '083 File History.pdf(3733299 bytes )



<b>Trial Exhibit</b>	<b>Mark/Reg. No.</b>	<b>Application and Registration Dates</b>	<b>Goods and Services</b>	<b>Attached</b>
2	 Reg. No. 3,192,083	App: Aug. 24, 2005  Reg: Jan. 2, 2007	Class 9: Binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching  Class 35: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching	Registration and TSDR report
3	GOLDEN EAGLE Reg. No. 3,787,739	App: Dec. 8, 2006  Reg: May 11, 2010	Class 9: Binoculars	Registration and TSDR report

Each of the above registrations is attached, and is accompanied by a current printout from the USPTO's Trademark Status and Document Retrieval service (TSDR) showing the current stats and title of the registration.

**Petitioner's EAGLE Series Applications (37 C.F.R. § 2.122(e)):**

<b>Trial Exhibit</b>	<b>Mark/App. No.</b>	<b>Application Date</b>	<b>Goods</b>	<b>Attached</b>
4	EAGLE Ser. No. 85/095,903	July 29, 2010	Binoculars, riflescopes, spotting scopes, telescopes	Application, file history and TSDR report
5	EAGLE OWL Ser. No. 85/708,479	Aug. 21, 2012	Binoculars	Application, file history and TSDR report

<b>Trial Exhibit</b>	<b>Mark/App. No.</b>	<b>Application Date</b>	<b>Goods</b>	<b>Attached</b>
6	BOLD EAGLE Ser. No. 85/708,480	Aug. 21, 2012	Binoculars	Application, file history and TSDR report
7	BLACK EAGLE Ser. No. 85/708,481	Aug. 21, 2012	Binoculars	Application, file history and TSDR report
8	IRON EAGLE Ser. No. 85/708,482	Aug. 21, 2012	Binoculars	Application, file history and TSDR report
9	SILVER EAGLE Ser. No. 85/708,483	Aug. 21, 2012	Binoculars	Application, file history and TSDR report
10	STRIKE EAGLE Ser. No. 85/708,484	Aug. 21, 2012	Binoculars	Application, file history and TSDR report

Each of the above applications was refused over the registration that Petitioner is seeking to be cancelled, namely Respondent's Registration No. 3,904,929 for STEEL EAGLE. These refusals are relevant to demonstrate the likelihood of confusion between STEEL EAGLE and Petitioner's prior pleaded registrations.

**File Histories for Pleded Registrations (37 C.F.R. §2.122(e)):**

<b>Trial Exhibit</b>	<b>Mark/Reg. No.</b>	<b>App./Reg. Date</b>	<b>Goods</b>	<b>Attached</b>
11	EAGLE OPTICS Reg. No. 2,886,199	App: Oct. 5, 2000  Reg: Sep. 21, 2004	Class 9: Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore	File history from the USPTO website

<b>Trial Exhibit</b>	<b>Mark/Reg. No.</b>	<b>App./Reg. Date</b>	<b>Goods</b>	<b>Attached</b>
12	 Reg. No. 3,192,083	App: Aug. 24, 2005  Reg: Jan. 2, 2007	Class 9: Binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching  Class 35: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching	File history from the USPTO website
13	GOLDEN EAGLE Reg. No. 3,787,739	App: Dec. 8, 2006  Reg: May 11, 2010	Class 9: Binoculars	File history from the USPTO website

The file histories listed above are the prosecution file histories for Petitioner's pleaded registrations, and are relevant to the Respondent's positions concerning the strength of Petitioner's marks.

**Oklahoma Secretary of State Records (37 C.F.R. § 2.122(e)):**

<b>Trial Exhibit</b>	<b>Description of Attached Documents</b>
14	Articles of Organization for Wohali Outdoors, LLC (and certificate) from the Oklahoma Secretary of State
15	Certificate of Limited Liability Company for Wohali Outdoors, LLC, from the Oklahoma Secretary of State

These documents were obtained from the office of the Oklahoma Secretary of State and are relevant to show that Respondent, Wohali Outdoors, LLC was not formed until February 2009.

**Western District of Wisconsin Pleadings (37 C.F.R. § 2.122(e)):**

Trial Exhibit	Description of Attached Documents
16	Complaint filed by Petitioner in the case of <i>Sheltered Wings, Inc. v. Wohali Outdoors, LLC</i> , No. 11-cv-300, on April 25, 2011 in the United States District Court in the Western District of Wisconsin
17	Declaration of Brett L. Foster, filed on July 7, 2011 in the case of <i>Sheltered Wings, Inc. v. Wohali Outdoors, LLC</i> , No. 11-cv-300, in the United States District Court in the Western District of Wisconsin
18	Order Granting Petitioner’s Motion to Dismiss the Western District of Wisconsin Litigation without prejudice, dated July 25, 2011, in <i>Sheltered Wings, Inc. v. Wohali Outdoors, LLC</i> , No. 11-cv-300, in the United States District Court in the Western District of Wisconsin

The pleadings above are from a civil action for trademark infringement between Petitioner and Respondent that was previously pending in the United States District Court for the Western District of Wisconsin (the “Western District litigation”). The Western District litigation was dismissed without prejudice and is no longer pending, and these papers are relevant to demonstrate the reason the parties are involved in the instant cancellation proceeding before the Board.

**Interrogatory Answers (37 C.F.R. § 2.120(j)):**

Trial Exhibit	Description of Attached Documents
19	Wohali Outdoors, LLC's Verified Responses to Petitioner's First Set of Interrogatories, served June 8, 2012
20	<b>CONFIDENTIAL – FILED UNDER SEAL</b> Wohali Outdoors, LLC's Verified Responses to Petitioner's Third Set of Interrogatories, served February 18, 2013, and the documents referenced in the interrogatory response, namely documents originally produced at Wohali 000692-727, which were renumbered as Wohali 1004-1039, and supplemented with Wohali 1054-1079
21	Wohali Outdoors, LLC's March 29, 2013 Letter providing Supplemental Responses to Interrogatories 1, 10, 11, 12, 13, and 24 and Verification Page

**Third Party Registrations and Status Reports (37 C.F.R. § 2.122(e)):**

Trial Exhibit	Description of Attached Documents
22	U.S. Trademark Registration No. 2,084,361, owned by Nikon Corporation, for the mark EAGLEVIEW and the corresponding TSDR status report from the USPTO website
23	The prosecution file history for U.S. Trademark Registration No. 2,084,361 for the mark EAGLEVIEW from the USPTO website
24	The TSDR status report for Registration No. 2,365,057 for the mark EAGLE'S BLUFF, downloaded from the USPTO on September 27, 2013.

The exhibits above (Exhibits 22 and 23) relating to Nikon Corporation's registration for the mark EAGLEVIEW are relevant because that registration is the only other registration existing on the register that contains the term "EAGLE" in connection with binoculars. Petitioner has a consent agreement with Nikon Corporation regarding the coexistence of these registrations.

Exhibit 24, showing that the EAGLE BLUFF registration has been cancelled, is relevant because Petitioner’s EAGLE OPTICS mark was initially refused over this registration during prosecution, but it is no longer on the register.

**Internet Materials (37 C.F.R. § 2.122(e)):**

Trial Exhibit	Description of Attached Documents
25	A copy of Nikon Corporation’s current Sport Optics catalog: <a href="http://www.nikon.com/products/sportoptics/lineup/dl/catalogue/SportOptics2013-2014.pdf">http://www.nikon.com/products/sportoptics/lineup/dl/catalogue/SportOptics2013-2014.pdf</a> , downloaded on September 26, 2013.
26	Printout of <a href="http://www.opticsale.com/nikon-eagleview-8-24x25-zoom-silver-binoculars-7497-2071-prd1.html">http://www.opticsale.com/nikon-eagleview-8-24x25-zoom-silver-binoculars-7497-2071-prd1.html</a> , printed September 26, 2013, showing the Nikon Eagleview binocular status as “discontinued.”
27	Printout of <a href="http://www.opticsplanet.com/nikon-8-24x25-eagleview-zoom-ii-binoculars.html">http://www.opticsplanet.com/nikon-8-24x25-eagleview-zoom-ii-binoculars.html</a> , printed September 26, 2013, showing that Nikon’s Eagleview binoculars are no longer carried by Optics Planet.
28	Printout of <a href="http://www.authorizedoptics.com/discontinued-nikon-binoculars.html">http://www.authorizedoptics.com/discontinued-nikon-binoculars.html</a> , printed September 26, 2013, showing that Nikon’s Eagleview binoculars are discontinued.
29	Printout of <a href="http://www.kitterytradingpost.com/product.php/prodid/2598">http://www.kitterytradingpost.com/product.php/prodid/2598</a> , printed September 26, 2013, showing that Nikon’s Eagleview binoculars are discontinued.

Other than the parties’ respective registrations, the only other registration existing on the register for binoculars that contains the term “Eagle” is Nikon Corporation’s registration No. 2,084,361 for EAGLEVIEW. However, these website materials are relevant to show that it appears that Nikon Corporation’s Nikon Eagleview binocular has been discontinued.

**Transcripts to be filed (37 C.F.R. § 2.125):**

Petitioner conducted testimony depositions of two witnesses, namely Messrs. Daniel Hamilton and Benjamin Lizdas on September 10, 2013 during Petitioner's trial period. Petitioner will be serving and filing such transcripts in due course.

Date: September 27, 2013

By:           /Jennifer L. Gregor/            
James D. Peterson  
Jennifer L. Gregor  
GODFREY & KAHN, S.C.  
One East Main Street, Suite 500  
Madison, Wisconsin 53701-2719  
Tel.: (608) 257-3911  
Fax: (608) 257-0609  
Email: jpeterson@gklaw.com,  
          jgregor@gklaw.com

*Attorneys for Petitioner, Sheltered Wings, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Notice of Reliance was served by email and Federal Express overnight courier on September 27, 2013, upon the following:

Steven M. Harris (steve.harris@1926blaw.com)  
S. Max Harris (max.harris@1926blaw.com)  
DOYLE HARRIS DAVIS & HAUGHEY  
1350 South Boulder, Suite 700  
Tulsa, OK 74119

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/Jennifer L. Gregor/  
Jennifer L. Gregor

**Trademark/Service Mark Application, Principal Register****TEAS Plus Application**

Serial Number: 85708481

Filing Date: 08/21/2012

**NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.**

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<u>BLACK EAGLE</u>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	BLACK EAGLE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Sheltered Wings, Inc.
*STREET	2120 W. Greenview Drive, Suite 4
*CITY	Middleton
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	53562
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION

<b>* STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>* INTERNATIONAL CLASS</b>	009
<b>* IDENTIFICATION</b>	Binoculars
<b>* FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>* TRANSLATION</b> (if applicable)	
<b>* TRANSLITERATION</b> (if applicable)	
<b>* CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>* CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>* CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jennifer L. Gregor
<b>ATTORNEY DOCKET NUMBER</b>	067282
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.
<b>STREET</b>	780 N. Water Street
<b>CITY</b>	Milwaukee
<b>STATE</b>	Wisconsin
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>EMAIL ADDRESS</b>	docketing@gklaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys
<b>CORRESPONDENCE INFORMATION</b>	
<b>* NAME</b>	Jennifer L. Gregor
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.

<b>*STREET</b>	780 N. Water Street
<b>*CITY</b>	Milwaukee
<b>*STATE (Required for U.S. applicants)</b>	Wisconsin
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>*EMAIL ADDRESS</b>	docketing@gklaw.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jennifer L. Gregor/
<b>* SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>* DATE SIGNED</b>	08/20/2012

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 85708481**

**Filing Date: 08/21/2012**

#### To the Commissioner for Trademarks:

**MARK:** BLACK EAGLE (Standard Characters, see [mark](#))

The literal element of the mark consists of BLACK EAGLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
2120 W. Greenview Drive, Suite 4  
Middleton, Wisconsin 53562  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

**For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 009: Binoculars

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jennifer L. Gregor and all other attorneys of Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
United States

The attorney docket/reference number is 067282.

The applicant's current Correspondence Information:

Jennifer L. Gregor  
Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
414-273-3500(phone)  
414-273-5198(fax)

docketing@gklaw.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jennifer L. Gregor/ Date Signed: 08/20/2012

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

RAM Sale Number: 7392

RAM Accounting Date: 08/21/2012

Serial Number: 85708481

Internet Transmission Date: Tue Aug 21 08:34:10 EDT 2012

TEAS Stamp: USPTO/FTK-72.135.232.140-201208210834101

92839-85708481-490cc8cbe8b2b4acd726d3742

880132bf4-DA-7392-20120820150733128390

# BLACK EAGLE

## Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

### OVERVIEW

SERIAL NUMBER	85708481	FILING DATE	08/21/2012
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	REINHART, MEGHAN M	L.O. ASSIGNED	108

### PUB INFORMATION

RUN DATE	06/11/2013		
PUB DATE	N/A		
STATUS	653-SUSPENSION LETTER - MAILED		
STATUS DATE	06/10/2013		
LITERAL MARK ELEMENT	BLACK EAGLE		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

### MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	BLACK EAGLE

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Sheltered Wings, Inc.
ADDRESS	2120 W. Greenview Drive, Suite 4 Middleton, WI 53562
ENTITY	03-CORPORATION
CITIZENSHIP	Wisconsin

### GOODS AND SERVICES

INTERNATIONAL CLASS	009
DESCRIPTION TEXT	Binoculars

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	009	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"BLACK"
OWNER OF US REG NOS	3726431 3787739 3794245

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/10/2013	GNS3	O	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	012
06/10/2013	GNSL	S	LETTER OF SUSPENSION E-MAILED	011
06/10/2013	CNSL	R	SUSPENSION LETTER WRITTEN	010
06/08/2013	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
06/07/2013	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
06/07/2013	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
12/08/2012	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
12/08/2012	GNRT	F	NON-FINAL ACTION E-MAILED	005
12/08/2012	CNRT	R	NON-FINAL ACTION WRITTEN	004

12/01/2012	DOCK	D	ASSIGNED TO EXAMINER	003
08/29/2012	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
08/24/2012	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001
<b>CURRENT CORRESPONDENCE INFORMATION</b>				
ATTORNEY			Jennifer L. Gregor	
CORRESPONDENCE ADDRESS			JENNIFER L. GREGOR GODFREY & KAHN, S.C. 780 N WATER ST STE 1500 MILWAUKEE, WI 53202-3590	
DOMESTIC REPRESENTATIVE			NONE	

# BLACK EAGLE

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708481 - BLACK EAGLE - 067282  
**Sent:** 6/10/2013 7:10:55 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85708481

**MARK:** BLACK EAGLE

**\*85708481\***

**CORRESPONDENT ADDRESS:**

JENNIFER L. GREGOR

GODFREY & KAHN, S.C.

780 N WATER ST STE 1500

MILWAUKEE, WI 53202-3590

**GENERAL TRADEMARK IN**  
<http://www.uspto.gov/trademark>

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

067282

**CORRESPONDENT E-MAIL ADDRESS:**

[docketing@gklaw.com](mailto:docketing@gklaw.com)

**SUSPENSION NOTICE: NO RESPONSE NEEDED**

**ISSUE/MAILING DATE: 6/10/2013**

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the “Response to Suspension Inquiry or Letter of Suspension” form online at <http://teasroa.uspto.gov/rsi/rsi>.

**PENDING CIVIL PROCEEDING(S):** The pending civil proceeding(s) below pertains to (1) a registered mark that conflicts with applicant’s mark under Trademark Act Section 2(d), (2) a mark in a pending application(s) that could conflict with applicant’s mark under Section 2(d) if it registers, and/or (3) the registrability of applicant’s mark. *See* 15 U.S.C. §1052; 37 C.F.R. §2.83; TMEP §§716.02(a), (c)-(d), 1208 *et seq.* Because the civil proceeding(s) pertains to an issue that could directly affect whether applicant’s mark can be registered, action on this application is suspended pending termination of the civil proceeding(s). *See* 37 C.F.R. §2.67; TMEP §§716.02(a), (c)-(d).

- Cancellation No(s). 92054629

/Meghan Reinhart/

Examining Attorney

Law Office 108

(571) 272-2943

meghan.reinhart@uspto.gov

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708481 - BLACK EAGLE - 067282  
**Sent:** 6/10/2013 7:10:56 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR**  
**U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **6/10/2013** FOR U.S. APPLICATION SERIAL NO.85708481

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

## Response to Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	85708481
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 108
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>In response to the Section 2(d) refusal, Applicant notes that it has petitioned to cancel U.S. Registration No. 3,904,929 for STEEL EAGLE the "Cited Mark," owned by Wohali Outdoors, LLC. <i>See</i> Cancellation Proceeding No. 92054629, docket sheet attached as Exhibit A. Applicant's petition to cancel was filed on October 10, 2011. The currently operative pleading is Applicant's Amended Petition for Cancellation (<i>see</i> Exhibit B), which allegations have been generally denied by Wohali. <i>See</i> Exhibit C at 1. The cancellation proceeding is well underway: the Board has denied a summary judgment motion by Wohali, discovery is closed, and the parties are about to enter the trial testimony periods this summer. This proceeding is highly relevant to the instant application because if Applicant is successful in petitioning to cancel the registration for the Cited Mark, the Section 2(d) refusal will be moot.</p> <p>The owner of the Cited Mark, Wohali Outdoors, LLC also owns pending application serial nos. 85/684,377 and 85/464,085, which Applicant has opposed. <i>See</i> Opposition Proceeding Nos. 91208804 and 91205187. These opposition proceedings have been suspended pending the outcome of the cancellation proceeding.</p> <p>Accordingly, and in accordance with TMEP Â§ 716.02(a) and (d), Applicant respectfully requests that examination of the instant application be suspended pending the outcome of these TTAB proceedings. The Examining Attorney is requested to telephone the undersigned in the event that a telephone conference could expedite the processing of this application.</p>	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-160752418_exhibita.pdf</a>
<b>CONVERTED PDF FILE(S) (2 pages)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0002.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0003.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-160752418_exhibitb.pdf</a>
<b>CONVERTED PDF</b>	

<b>FILE(S)</b> (4 pages)	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0004.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0004.JPG</a>
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	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0007.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0007.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-160752418_.exhibite.pdf</a>
<b>CONVERTED PDF FILE(S)</b> (4 pages)	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0008.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0008.JPG</a>
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	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0011.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708481\xml4\ROA0011.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Exhibit A which is a Cancellation docket sheet from Cancellation Proceeding No. 92054629; Exhibit B which is Applicant's Amended Petition for Cancellation; Exhibit C which is an order denying summary judgment and regarding general denial of petition
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>DISCLAIMER</b>	No claim is made to the exclusive right to use BLACK apart from the mark as shown.
<b>PRIOR REGISTRATION(S)</b>	The applicant claims ownership of U.S. Registration Number(s) 3794245, 3787739, 3726431, and others.
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Jennifer L. Gregor/
<b>SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>DATE SIGNED</b>	06/07/2013
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Fri Jun 07 16:31:48 EDT 2013
<b>TEAS STAMP</b>	USPTO/ROA-108.196.145.185 -20130607163148614716-857 08481-500583e4cfe6fff1ae3 2dcc925bc1bdfb4412ac7e02f

321bb612a63e86437b2ec2-N/  
A-N/A-2013060716075241810  
0

PTO Form 1957 (Rev 9/2005)  
OMB No. 0651-0050 (Exp. 05/31/2014)

## Response to Office Action To the Commissioner for Trademarks:

Application serial no. **85708481** has been amended as follows:

### ARGUMENT(S)

**In response to the substantive refusal(s), please note the following:**

In response to the Section 2(d) refusal, Applicant notes that it has petitioned to cancel U.S. Registration No. 3,904,929 for STEEL EAGLE the "Cited Mark," owned by Wohali Outdoors, LLC. *See* Cancellation Proceeding No. 92054629, docket sheet attached as Exhibit A. Applicant's petition to cancel was filed on October 10, 2011. The currently operative pleading is Applicant's Amended Petition for Cancellation (*see* Exhibit B), which allegations have been generally denied by Wohali. *See* Exhibit C at 1. The cancellation proceeding is well underway: the Board has denied a summary judgment motion by Wohali, discovery is closed, and the parties are about to enter the trial testimony periods this summer. This proceeding is highly relevant to the instant application because if Applicant is successful in petitioning to cancel the registration for the Cited Mark, the Section 2(d) refusal will be moot.

The owner of the Cited Mark, Wohali Outdoors, LLC also owns pending application serial nos. 85/684,377 and 85/464,085, which Applicant has opposed. *See* Opposition Proceeding Nos. 91208804 and 91205187. These opposition proceedings have been suspended pending the outcome of the cancellation proceeding.

Accordingly, and in accordance with TMEP Â§ 716.02(a) and (d), Applicant respectfully requests that examination of the instant application be suspended pending the outcome of these TTAB proceedings. The Examining Attorney is requested to telephone the undersigned in the event that a telephone conference could expedite the processing of this application.

### EVIDENCE

Evidence in the nature of Exhibit A which is a Cancellation docket sheet from Cancellation Proceeding No. 92054629; Exhibit B which is Applicant's Amended Petition for Cancellation; Exhibit C which is an order denying summary judgment and regarding general denial of petition has been attached.

#### Original PDF file:

[evi\\_108196145185-160752418 . exhibitA.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

**Original PDF file:**

[evi\\_108196145185-160752418\\_exhibitb.pdf](#)

**Converted PDF file(s)** (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

**Original PDF file:**

[evi\\_108196145185-160752418\\_exhibitc.pdf](#)

**Converted PDF file(s)** (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

## **ADDITIONAL STATEMENTS**

### **Disclaimer**

No claim is made to the exclusive right to use BLACK apart from the mark as shown.

### **Claim of Prior Registration(s)**

The applicant claims ownership of U.S. Registration Number(s) 3794245, 3787739, 3726431, and others.

## **SIGNATURE(S)**

### **Response Signature**

Signature: /Jennifer L. Gregor/ Date: 06/07/2013

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

Signatory's Phone Number: 414-273-3500

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85708481

Internet Transmission Date: Fri Jun 07 16:31:48 EDT 2013

TEAS Stamp: USPTO/ROA-108.196.145.185-20130607163148

614716-85708481-500583e4cfe6fff1ae32dcc9

25bc1bdfb4412ac7e02f321bb612a63e86437b2e

c2-N/A-N/A-20130607160752418100

6/6/13

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v1.5

Cancellation

Number: 92054629

Filing Date: 10/10/2011

Status: Pending

Status Date: 10/10/2011

Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: Wohali Outdoors, LLC

Correspondence: S MAX HARRIS

DOYLE HARRIS DAVIS HAUGHEY  
1350 SOUTH BOULDER, SUITE 700  
TULSA, OK 74119  
UNITED STATES  
max.harris@1926blaw.com

Serial #: 77689308 [Application File](#)

Registration #: 3904929

Application Status: Cancellation Pending

Mark: STEEL EAGLE

Plaintiff

Name: Sheltered Wings, Inc.

Correspondence: JENNIFER L GREGOR

GODFREY KAHN SC  
ONE EAST MAIN STREET, SUITE 500  
MADISON, WI 53703  
UNITED STATES  
jgregor@gklaw.com

Serial #: 77060299 [Application File](#)

Registration #: 3787739

Application Status: Registered

Mark: GOLDEN EAGLE

Serial #: 77571568 [Application File](#)

Registration #: 3726431

Application Status: Registered

Mark: STRIKE EAGLE

Serial #: 77641594 [Application File](#)

Registration #: 3794245

Application Status: Registered

Mark: EAGLE OPTICS

Serial #: 78029311 [Application File](#)

Registration #: 2886199

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: EAGLE OPTICS

Serial #: 78699411 [Application File](#)

Registration #: 3192083

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: EAGLE OPTICS

Prosecution History

# Date History Text



Due Date

6/6/13

USPTO TTABVUE. Trademark Trial and Appeal Board Inquiry System

[38 06/03/2013 P OPP/RESP TO MOTION](#)  
[37 05/30/2013 PAPER RECEIVED AT TTAB](#)  
[36 05/30/2013 PAPER RECEIVED AT TTAB](#)  
[35 05/29/2013 EXT. GRANTED; PROCEEDINGS SUSPENDED PENDING DISP.OF D'S  
CONSTRUED MOT. TO LIMIT TESTIMONY](#)  
[34 05/17/2013 STIP FOR EXT](#)  
[33 05/17/2013 D'S OBJECTIONS TO P'S PRETRIAL DISCLOSURES](#)  
[32 02/06/2013 EXTENSION OF TIME GRANTED](#)  
[31 02/06/2013 STIPULATION FOR AN EXTENSION OF TIME](#)  
[30 01/15/2013 STIPULATION NOTED AND APPROVED](#)  
[29 01/08/2013 STIPULATED PROTECTIVE ORDER](#)  
[28 11/19/2012 EXTENSION OF TIME GRANTED](#)  
[27 11/19/2012 STIPULATION FOR AN EXTENSION OF TIME](#)  
[26 11/08/2012 DEF'S MOTION FOR SUMMARY JUDGMENT DENIED](#)  
[25 09/14/2012 D OPP/RESP TO MOTION](#)  
[24 09/13/2012 MOTION TO AMEND ANSWER/AMENDED ANSWER OR COUNTERCLAIM](#)  
[23 09/13/2012 D'S REPLY IN SUPPORT OF MOTION](#)  
[22 08/24/2012 DECL OF JACQUELINE SCHWARTZ \(EXHIBIT F\)](#)  
[21 08/24/2012 DECL OF JACQUELINE SCHWARTZ \(EXHIBITS A-E\)](#)  
[20 08/24/2012 DECL OF BEN LIDZAS](#)  
[19 08/24/2012 DECL OF DANIEL HAMILTON \(EXHIBITS 7-17\)](#)  
[18 08/24/2012 DECL OF DANIEL HAMILTON \(EXHIBITS 1-6\)](#)  
[17 08/24/2012 DECL OF JACQUELINE SCHWARTZ \(EXHIBITS J-K\)](#)  
[16 08/24/2012 DECL OF JACQUELINE SCHWARTZ](#)  
[15 08/24/2012 DECL OF DANIEL HAMILTON](#)  
[14 08/24/2012 P'S OPPOSITION/RESPONSE TO MOTION](#)  
[13 08/24/2012 P'S MOTION TO AMEND PLEADING/AMENDED PLEADING](#)  
[12 07/26/2012 SUSPENDED PENDING DISP OF OUTSTNDNG MOT](#)  
[11 07/20/2012 D'S MOTION FOR SUMMARY JUDGMENT](#)  
[10 07/17/2012 EXTENSION OF TIME GRANTED](#)  
[9 07/10/2012 P'S MOT FOR EXTEN. OF TIME W/ CONSENT](#)  
[8 01/05/2012 D'S MOT. TO ACCEPT LATE FILED ANSWER GRANTED; DEFAULT SET  
ASIDE; TRIAL DATES RESET](#)  
[7 12/30/2011 D'S REPLY IN SUPPORT OF MOTION](#)  
[6 12/28/2011 P'S OPPOSITION/RESPONSE TO MOTION](#)  
[5 12/13/2011 D'S MOTION TO ACCEPT LATE FILED ANSWER](#)  
[4 12/05/2011 NOTICE OF DEFAULT](#)  
[3 10/12/2011 PENDING, INSTITUTED](#)  
[2 10/12/2011 NOTICE AND TRIAL DATES SENT; ANSWER DUE:](#) 11/21/2011  
[1 10/10/2011 FILED AND FEE](#)

Results as of 06/06/2013 06:17 PM

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

_____	)	
In re Registration No. 3,904,929	)	
	)	
SHELTERED WINGS, INC.	)	
	)	Cancellation No. 92054629
Petitioner,	)	
	)	
v.	)	
	)	
WOHALI OUTDOORS, LLC	)	
	)	
Respondent.	)	
_____	)	

**AMENDED PETITION FOR CANCELLATION**

Petitioner, Sheltered Wings, Inc., (“Sheltered Wings”), a Wisconsin corporation, located and doing business at 2120 W. Greenview Drive, Suite 4, Middleton, Wisconsin 53562, believes that it is being damaged and will continue to be damaged by Registration No. 3,904,929 for the mark STEEL EAGLE (the “STEEL EAGLE Registration”) and accordingly petitions to cancel this registration.

As grounds for cancellation, Sheltered Wings alleges:

1. For years, Sheltered Wings has been engaged in the business of providing optics products, including binoculars, spotting scopes, monoculars, and related equipment, among other things.
2. Since at least as early as 1987, Sheltered Wings has continuously used the term EAGLE in its trademarks for its optics products.
3. Sheltered Wings is the owner of the following United States trademark registrations for its trademarks including the term EAGLE:



Mark/Reg. No.	Application and Registration Dates	Goods and Services	First Use in Commerce in Registration
GOLDEN EAGLE Reg. No. 3,787,739	App: Dec. 8, 2006 Reg: May 11, 2010	Class 9: Binoculars	February 2010
EAGLE OPTICS Reg. No. 2,886,199	App: Oct. 5, 2000 Reg: Sep. 21, 2004	Class 9: Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore	April 1, 1996
 Reg. No. 3,192,083	App: Aug. 24, 2005 Reg: Jan. 2, 2007	Class 9: Binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching  Class 35: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching	December 2001  1987

The registrations for the marks listed above (the “EAGLE Marks”) are valid and subsisting. Additionally, Registration Nos. 2,886,199 and 3,192,083 are incontestable in accordance with the provisions of Sections 8 and 15 of the United States Trademark Act. (15 U.S.C. §§ 1058 and 1065).

4. Sheltered Wings long has owned valuable goodwill represented by its EAGLE Marks.

5. By virtue of Sheltered Wings’ extensive use, advertising, and promotion of its EAGLE Marks, and long before the filing date of the STEEL EAGLE Registration, the EAGLE Marks became extremely well known and acquired a strong secondary meaning signifying Sheltered Wings.

6. Upon information and belief, respondent, Wohali Outdoors, LLC (“Wohali”), an Oklahoma limited liability company located at 1300 N. Industrial Blvd., Claremore, Oklahoma, 74017 is engaged in the business of providing outdoor gear including rain wear, fishing rods, binoculars, and spotting scopes.

7. Wohali owns Registration No. 3, 904,929 for the trademark STEEL EAGLE for “Magnifying optical equipment, namely, rifle scopes and binoculars,” in Class 9 (the “STEEL EAGLE Registration”), which registration was granted on January 11, 2011, based on an intent-to-use application filed on March 12, 2009.

8. Wohali did not use the trademark STEEL EAGLE in the United States for any goods or services prior to October 21, 2009, the date of first use identified in the STEEL EAGLE Registration.

9. Use by Wohali of the trademark STEEL EAGLE for the goods identified in its registration is likely to confuse the purchasing public as to the source of Wohali’s goods or to cause mistake or to deceive as to an affiliation, connection, or association with Sheltered Wings in violation of Section 2(d) of the United States Trademark Act (15 U.S.C. § 1052(d)).

10. Sheltered Wings is also being damaged by Wohali’s STEEL EAGLE Registration because the United States Trademark Office has refused registration of Sheltered Wings’ pending application Serial No. 85/095,903 for the mark EAGLE for binoculars, riflescopes, spotting scopes, and telescopes in Class 9 in view of the STEEL EAGLE Registration.

WHEREFORE, Sheltered Wings believes that it is being damaged and will continue to be damaged by the STEEL EAGLE Registration and petitions to cancel that registration.

Please deduct the requisite filing fee and any other fees associated with this proceeding from the deposit account of Godfrey & Kahn, S.C., Account No. 07-1509.

Respectfully submitted,

SHELTERED WINGS, INC.

Date: August 24, 2012

By:           /Jennifer L. Gregor/            
James D. Peterson  
Jennifer L. Gregor  
GODFREY & KAHN, S.C.  
One East Main Street, Suite 500  
Madison, Wisconsin 53701-2719  
Tel.: (608) 257-3911  
Fax: (608) 257-0609  
Email: jpeterson@gklaw.com,  
          jgregor@gklaw.com

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Goodman

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**THIS OPINION IS NOT  
A PRECEDENT  
OF THE TTAB**

Mailed: November 8, 2012

Cancellation No. 92054629

Sheltered Wings, Inc.

v.

Wohali Outdoors, LLC

Before Cataldo, Bergsman, and Wolfson, Administrative  
Trademark Judges.

**By the Board:**

This case now comes up on respondent's motion, filed July 20, 2012, for summary judgment. The motion is fully briefed. Petitioner has requested that the Board grant summary judgment in its favor as non-movant.

Additionally, petitioner filed a motion, on August 24, 2012, for leave to amend its pleading to withdraw pleaded Registration nos. 3726431 and 3794245 from the proceeding as the marks are "not currently in use with the goods identified in the registrations." In response to the motion, respondent "denies each and every allegation asserted by the Petitioner."

The motion for leave to amend is granted, and the amended petition to cancel is henceforth the operative pleading in the case. Respondent's response to the motion



## Cancellation No. 92054629

for leave to amend is treated as a general denial of the allegations in the amended petition to cancel, and therefore, a formal answer need not be filed.

We now turn to respondent's motion for summary judgment.

A party is entitled to summary judgment when it has demonstrated that there is no genuine dispute as to any material fact and that it is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). In reviewing a motion for summary judgment, the evidentiary record and all reasonable inferences to be drawn from the undisputed facts must be viewed in the light most favorable to the nonmoving party. *Olde Tyme Foods Inc. v. Roundy's Inc.*, 961 F.2d 200, 22 USPQ2d 1542, 1544 (Fed. Cir. 1992).

Upon consideration of the parties' arguments and evidence, we find that, at a minimum, genuine disputes of material fact remain with respect to the similarities or dissimilarities of the parties' marks and with respect to the strength or weakness of petitioner's pleaded marks. In view thereof, respondent's motion for summary judgment is denied.<sup>1</sup> For the same reason, petitioner's request that the Board grant summary judgment to petitioner as non-movant is

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<sup>1</sup> The fact that we have identified and discussed certain genuine disputes of material fact as a sufficient basis for denying respondent's motion for summary judgment should not be construed as a finding that these are necessarily the only disputes which remain for trial.

## Cancellation No. 92054629

also denied. *See The Clorox Co. v. Chemical Bank*, 40 USPQ2d 1098 (TTAB 1996) (Board may sua sponte enter summary judgment for non-moving party if there are no material facts in dispute and judgment is appropriate as a matter of law).<sup>2</sup>

The parties may stipulate to resolution of this proceeding by means of the Board's accelerated case resolution ("ACR") procedure, either on the current summary judgment record, or as supplemented by the parties, pursuant to an agreement to proceed under ACR. Any such agreement to proceed under ACR on the summary judgment submissions must include a stipulation that the Board may decide any genuine disputes of material fact. The parties may also stipulate to narrow the issues before the Board to streamline the case and provide a joint statement of undisputed facts. If the parties decide to proceed via ACR, they are encouraged to jointly contact the interlocutory attorney responsible for this proceeding by telephone to discuss the possibility of

---

<sup>2</sup> The parties should note that the evidence submitted in connection with the motion for summary judgment is of record only for consideration of the motion for summary judgment. Otherwise, to be considered at final hearing, any such evidence must be properly introduced in evidence during the appropriate trial period or stipulated to by the parties as of record for purposes of final decision or determination of this proceeding via accelerated case resolution ("ACR"). *See, e.g., Eveready Battery Co., Inc. v. Green Planet, Inc.*, 91 USPQ2d 1511, 1513 (TTAB 2009) (parties stipulated that evidence submitted in connection with summary judgment motion shall be deemed of record for trial pursuant to Accelerated Case Resolution (ACR)); *Levi Strauss & Co. v. R. Josephs Sportswear Inc.*, 28 USPQ2d 1464, 1465 n. 2. (TTAB 1993) (summary judgment evidence is not part of the record on final decision unless introduced into evidence during trial period).

Cancellation No. 92054629

ACR, any supplementation of the record, and an agreed-upon schedule for proceeding under ACR.

Proceedings are resumed.

Dates are reset as follows:

Expert Disclosures Due	11/19/2012
Discovery Closes	12/19/2012
Plaintiff's Pretrial Disclosures Due	2/2/2013
Plaintiff's 30-day Trial Period Ends	3/19/2013
Defendant's Pretrial Disclosures Due	4/3/2013
Defendant's 30-day Trial Period Ends	5/18/2013
Plaintiff's Rebuttal Disclosures Due	6/2/2013
Plaintiff's 15-day Rebuttal Period Ends	7/2/2013

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708481 - BLACK EAGLE - 067282  
**Sent:** 12/8/2012 12:23:46 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)  
[Attachment - 3](#)  
[Attachment - 4](#)  
[Attachment - 5](#)  
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[Attachment - 16](#)  
[Attachment - 17](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85708481

**MARK:** BLACK EAGLE

**\*85708481\***

**CORRESPONDENT ADDRESS:**

JENNIFER L. GREGOR  
GODFREY & KAHN, S.C.  
780 N WATER ST STE 1500  
MILWAUKEE, WI 53202-3590

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**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

067282

**CORRESPONDENT E-MAIL ADDRESS:**

docketing@gklaw.com

**OFFICE ACTION****STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 12/8/2012**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**Likelihood of Confusion – Section 2(d) Refusal**

Registration of the applied-for mark (BLACK EAGLE) is refused because of a likelihood of confusion with the mark in U.S. Registration No. 3904929 (STEEL EAGLE). Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; *see also In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

**Similarity of Marks**

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks

confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

Applicant's mark is "BLACK EAGLE".

Registrant's mark is "STEEL EAGLE".

The marks are similar because they all contain the term "EAGLE".

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases, such as "EAGLE", appearing in both applicant's and registrant's mark. *See Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat'l Ass'n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii).

Please note that, where the goods of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as in the case of diverse goods. *See In re Viterra Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (citing *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992)); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1348, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010); TMEP §1207.01(b). Please see Similarity of Goods section below evidencing that registrant's goods are identical to/encompass all of applicant's goods.

Accordingly, the relevant marks are sufficiently similar to support a finding of likelihood of confusion.

### Similarity of Goods

The goods of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods need only be related in some manner or the conditions surrounding their marketing be such that they will be encountered by the same consumers under circumstances that would lead to the mistaken belief that the goods originate from the same source. *Gen. Mills Inc. v. Fage Dairy Processing Indus.*, 100 USPQ2d 1584, 1597 (TTAB 2012); TMEP §1207.01(a)(i); *see On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d at 1086, 56 USPQ2d at 1475; *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Applicant's goods are " **binoculars**".

Registrant's goods are "Magnifying optical equipment, namely, rifle scopes and **binoculars**."

Therefore, registrant's goods encompass/are identical to (see bolded goods) all of applicant's goods. Accordingly, based on the similarity of the marks and the relationship of the goods, registration of the applicant's mark is refused under Section 2(d) of the Trademark Act.

Although the examining attorney has refused registration, the applicant has the option to respond to the refusal to register by submitting evidence and legal arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following requirement(s).

### **Ownership of Prior Registrations**

If applicant owns U.S. Registration Nos. 3794245, 3192083, 2886199 and other registrations, then applicant must submit for the application record a claim of ownership of these registrations. *See* 37 C.F.R. §2.36; TMEP §812. See the attached copies of the registrations. *See* TMEP §812.

Applicant may use the following format to claim ownership of these registrations:

**Applicant is the owner of U.S. Registration Nos. 3794245, 3787739, 3726431 and others.**

### **Disclaimer**

A "disclaimer" is a statement in the application record that applicant does not claim exclusive rights to an unregistrable component of a mark; a disclaimer does not affect the appearance of the mark or physically remove disclaimed matter from the mark. TMEP §§1213, 1213.10. An unregistrable component of a mark includes wording and designs that are merely descriptive of an applicant's goods. 15 U.S.C. §1052(e); *see* TMEP §§1209.03(f), 1213.03 *et seq.* Such words or designs need to be freely available for other businesses to market comparable goods and should not become the proprietary domain of any one party. *See Dena Corp. v. Belvedere Int'l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983).

Applicant must disclaim the descriptive wording "BLACK" apart from the mark as shown because it merely describes a quality, characteristic, function, feature, purpose or use of applicant's goods. *See* 15 U.S.C. §§1052(e)(1), 1056(a); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005); *In re Gyulay*, 820 F.2d 1216, 1217-18, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987); TMEP §§1213, 1213.03(a).

Specifically, the attached evidence from [www.dictionary.com](http://www.dictionary.com) shows this wording means "the color at one extreme end of the scale of grays, opposite to white, absorbing all light incident upon it". Therefore, the wording merely describes/indicates to consumers the color of applicant's binoculars. See attached webpages evidencing that black is commonly used to describe the color of binoculars.

A "disclaimer" is a statement that applicant does not claim exclusive rights to an unregistrable component

of a mark. TMEP §1213. A disclaimer does not affect the appearance of the applied-for mark. *See* TMEP §1213.10.

Failure to comply with a disclaimer requirement can result in a refusal to register the entire mark. TMEP §1213.01(b).

Applicant may submit the following standardized format for a disclaimer:

**No claim is made to the exclusive right to use “BLACK” apart from the mark as shown.**

TMEP §1213.08(a)(i); *see In re Owatonna Tool Co.*, 231 USPQ 493 (Comm’r Pats. 1983).

### **Responding to this Office Action**

**TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE:** Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, *see* TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner’s amendment will not incur this additional fee.

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

In addition, applicant filed a TEAS Plus application and therefore must respond online using the Trademark Electronic Application System (TEAS) at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp) to avoid incurring an additional fee. *See* 37 C.F.R. §2.23(a)(1), (b).

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure

to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to live status. *See* 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §§2.6, 2.66(b)(1).

### ***Telephone/Email Suggested for Questions***

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Meghan Reinhart/  
Examining Attorney  
Law Office 108  
(571) 272-2943  
meghan.reinhart@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**Print: Dec 8, 2012**

**77689308**

**DESIGN MARK**

**Serial Number**

77689308

**Status**

CANCELLATION PENDING

**Word Mark**

STEEL EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3904929

**Date Registered**

2011/01/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Wohali Outdoors, LLC LIMITED LIABILITY COMPANY OKLAHOMA 1300 N.  
Industrial Blvd. Claremore OKLAHOMA 74017

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Magnifying optical equipment, namely, rifle scopes and binoculars.  
First Use: 2009/10/21. First Use In Commerce: 2009/10/21.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STEEL" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2009/03/12

**Examining Attorney**

MCMORROW, RONALD

**Attorney of Record**

S. Max Harris

**STEEL EAGLE**

**Print: Dec 8, 2012**

**77060299**

**DESIGN MARK**

**Serial Number**

77060299

**Status**

REGISTERED

**Word Mark**

GOLDEN EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3787739

**Date Registered**

2010/05/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 W Greenview Dr, Ste 4  
Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars. First Use: 2010/02/00. First Use In Commerce:  
2010/02/00.

**Prior Registration(s)**

2886199;3192083

**Filing Date**

2006/12/08

**Examining Attorney**

LEIPZIG, MARC

**Attorney of Record**

Bennet Langlotz

# GOLDEN EAGLE

**Print: Dec 8, 2012**

**77571568**

**DESIGN MARK**

**Serial Number**

77571568

**Status**

REGISTERED

**Word Mark**

STRIKE EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3726431

**Date Registered**

2009/12/15

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 West Greenview Drive,  
Suite 4 Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars; Rifle scopes. First Use: 2009/02/01. First Use In  
Commerce: 2009/02/01.

**Filing Date**

2008/09/16

**Examining Attorney**

SAPP, HEATHER

**Attorney of Record**

Bennet K. Langlotz

# STRIKE EAGLE

**Print: Dec 8, 2012**

**77641594**

**DESIGN MARK**

**Serial Number**

77641594

**Status**

REGISTERED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

Yes

**Registration Number**

3794245

**Date Registered**

2010/05/25

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 West Greenview Drive,  
Suite 4 Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Riflescopes. First Use: 2010/03/01. First Use In Commerce:  
2010/03/01.

**Prior Registration(s)**

2886199;3192083

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2008/12/30

**Examining Attorney**

ALTREE, NICHOLAS

**Print: Dec 8, 2012**

**77641594**

**Attorney of Record**  
Bennet K. Langlotz

# EAGLE OPTICS

**Print: Dec 8, 2012**

**78029311**

**TYPED DRAWING**

**Serial Number**

78029311

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

No

**Registration Number**

2886199

**Date Registered**

2004/09/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 W. Greenview Dr. #4  
Middleton WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars, spotting scopes, and telescopes, all for use in bird  
watching, and storage cases therefore. First Use: 1996/01/01. First  
Use In Commerce: 1996/04/01.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2000/10/05

**Examining Attorney**

RADEMACHER, APRIL L.

**Attorney of Record**

Angela V. Langlotz

**Print: Dec 8, 2012**

**78699411**

**DESIGN MARK**

**Serial Number**

78699411

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

No

**Registration Number**

3192083

**Date Registered**

2007/01/02

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN Suite Four 2120 West  
Greenview Drive Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars, spotting scopes, telescopes, and storage cases therefor,  
all for use in birdwatching. First Use: 2001/05/00. First Use In  
Commerce: 2001/12/00.

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Retail  
store, mail order and online retail store services featuring  
binoculars, spotting scopes, telescopes, and storage cases therefor,  
all for use in birdwatching. First Use: 1987/00/00. First Use In  
Commerce: 1987/00/00.

**Prior Registration(s)**

2886199

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE

**Print: Dec 8, 2012**

**78699411**

MARK AS SHOWN.

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Filing Date**

2005/08/24

**Examining Attorney**

DAHLING, KRISTIN

**Attorney of Record**

Bennet K. Langlotz



The image shows a screenshot of a legal document page, likely a petition for cancellation of a trademark. The page has a blue header with the text "black" and "black". The main body of the document contains several sections, including a "black" section and a "black" section. The text is dense and appears to be a legal argument or a list of items. There are also some images and graphics on the page, including a "black" logo and a "black" logo. The page is numbered "7" at the bottom right.



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**What's Included?**

distant subjects. It distinguishes itself by its supere sharpness and contrast rendition, and with only 250 grams (or less than 9 ounces), it is a pleasant lightweight. All in all, a very handy, excellent performance binocular for daylight observation. It is always the right binocular when the outfit has to be kept to a minimum without sacrificing top performance. To keep this binocular in best form, it is protected by black rubberized armor over a rugged metal housing.

**About Leica Camera Inc.**

Leica Camera is an international company in the optical industry, with its headquarters based in Solms, Germany, and a second location in Portugal. All products from the three divisions - Photography, Hunting Lenses, and Nature Watching - have a shared mission: to deliver better images.

**SUPPLIER SKU:**

40343

**SHIPPING RESTRICTIONS:**

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**Dimensions & Specifications**

Weight	9 oz.
Size	Compact Binoculars
Eye Relief	14.6 mm

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★★★★★

Price: **\$139.98**



Zhumell 8x42mm Short Barrel Waterproof Binoculars

★★★★★

Price: **\$109.98**



Bushnell 10x42mm Legend Ultra HD Binoculars

★★★★★

Price: **\$199.98**

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Please note: Online ordering is unavailable until Saturday 5:45 PM EST. Feel free to browse our site and add items to your cart or wishlist. We apologize for the inconvenience and appreciate your patience.

**Nikon 10x50 Action VII Binocular (Black) USA**

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- Great for Birding or Hunting
- Porro Prism
- Multicoated Objectives
- Aspherical Eyepiece Lenses
- Rubber Armor
- Peel-Down Type Eyecups
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**Nikon** - Monarch ATB Binocular Tripod Adapter (Camouflage) **Price: \$20.50** [Add to Cart](#) [Add to Wishlist](#)

**Tripods/Car Mounts/Etc.** [Show more](#)

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**Books, Journals, Apparel**

**DK Publishing** - Book: Birds of North America - Eastern Region by Fred J. Aalop **Price: \$24.95** Item not for sale [Add to Cart](#)

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**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708481 - BLACK EAGLE - 067282  
**Sent:** 12/8/2012 12:23:48 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **12/8/2012** FOR U.S. APPLICATION SERIAL NO. 85708481

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) TIMELY RESPONSE IS REQUIRED:** Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **12/8/2012** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

**Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

**(3) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the**

**ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

\*\*\* User:mreinhardt \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	10744	N/A	0	0	1:00	*{v:2}{ "gj" } {v0:1}1{v0:1}{ "sz"0:1}* [bi,ti] and live[ld]
02	4767	N/A	0	0	0:07	*e{v0:1}{ "gj" } {v0:1}1{v0:1}{ "sz"0:1}* [bi,ti] and live[ld]
03	1707	N/A	0	0	0:04	e{v0:1}{ "gj" } {v0:1}1{v0:1}{ "sz"0:1}* [bi,ti] and live[ld]
04	837	N/A	0	0	0:04	e{v0:1}{ "gj" } {v0:1}1{v0:1}{ "sz"0:1}* [bi,ti] and live[ld] and "009"[cc]
05	251	0	251	212	0:03	e{v0:1}{ "gj" } {v0:1}1{v0:1}{ "sz"0:1}* [bi,ti] and live[ld] and "009"[ic]
06	231	0	231	195	0:02	e{v0:1}{ "gj" } {v0:1}1{v0:1}{ "sz"0:1}* [bi,ti] and live[ld] and "009"[ic]
07	10	0	10	8	0:07	e{v0:1}{ "gj" } {v0:1}1{v0:1}{ "sz"0:1}* [bi,ti] and live[ld] and (a b 200)[ic]
08	3488	N/A	0	0	0:03	*owl*[bi,ti] and live[ld]
09	4644	N/A	0	0	0:03	*wl*[bi,ti] and live[ld]
10	2814	N/A	0	0	0:03	*aul*[bi,ti] and live[ld]
11	21	0	21	19	0:01	(8 9 10) and 1
12	4874	N/A	0	0	0:05	*e{v}{ "gj" } {V0:1}1{v0:1}{ "Sz"0:1}* [bi,ti] and live[ld]
13	1817	N/A	0	0	0:05	*e{v}{ "gj" } {V0:1}1{v0:1}{ "Sz"0:1}* [bi,ti] and live[ld]
14	250	0	250	209	0:05	*e{v}{ "gj" } {V0:1}1{v0:1}{ "Sz"0:1}* [bi,ti] and live[ld] and "009"[ic]
15	249	0	249	208	0:04	*e{v}{ "gj" } {V0:1}1{v0:1}{ "Sz"0:1}* [bi,ti] and live[ld] and "009"[ic] not 7
16	19	0	19	15	0:04	*e{v}{ "gj" } {V0:1}1{v0:1}{ "Sz"0:1}* [bi,ti] and live[ld] and "009"[ic] not 5
17	35	0	35	23	0:02	e{v}{ "gj" } {V0:1}1{v0:1}{ "Sz"0:1}[fm] and live[ld] and "009"[ic]
18	132	0	132	91	0:02	e{v}{ "gj" } {V0:1}1{v0:1}{ "Sz"0:1}[fm] and live[ld]
19	3301	N/A	0	0	0:02	031501[dc] and live[ld]
20	613	0	7	613	0:03	031507[dc] and live[ld]
21	4	0	4	4	0:01	19 and 20
22	1671	N/A	0	0	0:04	19 and "009"[cc]
23	411	0	48	411	0:03	19 and ("009" a b 200)[ic]
24	2	0	2	2	0:01	20 and 1
25	952	N/A	0	0	0:03	*b{v}ld*[bi,ti] and live[ld]
26	17	0	17	17	0:01	*b{v}ld*[bi,ti] and live[ld] and 1
27	404	N/A	0	0	0:01	*b{v}ld*[bi,ti] and live[ld] and "009"[cc]
28	99	0	99	76	0:01	*b{v}ld*[bi,ti] and live[ld] and "009"[ic]
29	1	0	1	1	0:02	*b{v}ld*[bi,ti] and live[ld] and (a b 200)[ic]
30	11076	N/A	0	0	0:03	*bl{v}{ "ckqx":2 } { "Sz"0:1 } * [bi,ti] and live[ld]
31	64	0	64	58	0:01	*bl{v}{ "ckqx":2 } { "Sz"0:1 } * [bi,ti] and live[ld] and 1
32	1305	N/A	0	0	0:02	*bl{v}{ "ckqx":2 } { "Sz"0:1 } * [bi,ti] and live[ld] and "009"[ic]
33	652	N/A	0	0	0:01	*bla{ "ckqx":2 } { "Sz"0:1 } * [bi,ti] and live[ld] and "009"[ic]
34	515	N/A	0	0	0:03	bla{ "ckqx":2 } { "Sz"0:1 } [bi,ti] and live[ld] and "009"[ic]
35	21	0	21	20	0:01	bla{ "ckqx":2 } { "Sz"0:1 } [fm] and live[ld]
36	86226	N/A	0	0	0:11	*{v}r{v0:1}n*[bi,ti] and live[ld]
37	403	N/A	0	0	0:05	*{v}r{v0:1}n*[bi,ti] and live[ld] and 1
38	31	0	31	27	0:04	*{"iy"}r{v0:1}n*[bi,ti] and live[ld] and 1
39	698	N/A	0	0	0:04	*{"iy"}r{v0:1}n*[bi,ti] and live[ld] and "009"[ic]
40	175	0	175	149	0:04	{"iy"}r{v0:1}n*[bi,ti] and live[ld] and "009"[ic]
41	22	0	22	21	0:05	{"iy"}r{v0:1}n*[bi,ti] and live[ld] and (a b 200)[ic]
42	2578	N/A	0	0	0:40	*{"sz"}{v}lv{v0:1}r{"sz"0:1}* [bi,ti] and live[ld]
43	11	0	11	9	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}* [bi,ti] and live[ld] and 1

44	2578	N/A	0	0	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
45	250	0	250	214	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
46	9	0	9	8	0:39	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
47	5213	N/A	0	0	0:40	*{"sz"}tr{v}{"ckqx":2}{v0:1}{"Sz"0:1}*[bi,ti] and live[ld]
48	1542	N/A	0	0	0:37	*{"sz"}tr{"iy"}{"ckqx":2}{v0:1}{"Sz"0:1}*[bi,ti] and live[ld]
49	228	0	228	205	0:37	*{"sz"}tr{"iy"}{"ckqx":2}{v0:1}{"Sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
50	19	0	19	18	0:38	*{"sz"}tr{"iy"}{"ckqx":2}{v0:1}{"Sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
51	39	0	39	33	0:01	47 and 1

Session started 12/7/2012 5:56:18 AM

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Session duration 51 minutes 47 seconds

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# BLACK EAGLE

**Trademark/Service Mark Application, Principal Register****TEAS Plus Application**

Serial Number: 85708481

Filing Date: 08/21/2012

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<u>BLACK EAGLE</u>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	BLACK EAGLE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Sheltered Wings, Inc.
*STREET	2120 W. Greenview Drive, Suite 4
*CITY	Middleton
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	53562
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION

<b>* STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>* INTERNATIONAL CLASS</b>	009
<b>* IDENTIFICATION</b>	Binoculars
<b>* FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>* TRANSLATION</b> (if applicable)	
<b>* TRANSLITERATION</b> (if applicable)	
<b>* CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>* CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>* CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jennifer L. Gregor
<b>ATTORNEY DOCKET NUMBER</b>	067282
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.
<b>STREET</b>	780 N. Water Street
<b>CITY</b>	Milwaukee
<b>STATE</b>	Wisconsin
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>EMAIL ADDRESS</b>	docketing@gklaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys
<b>CORRESPONDENCE INFORMATION</b>	
<b>* NAME</b>	Jennifer L. Gregor
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.

<b>*STREET</b>	780 N. Water Street
<b>*CITY</b>	Milwaukee
<b>*STATE (Required for U.S. applicants)</b>	Wisconsin
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>*EMAIL ADDRESS</b>	docketing@gklaw.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jennifer L. Gregor/
<b>* SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>* DATE SIGNED</b>	08/20/2012

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 85708481**

**Filing Date: 08/21/2012**

#### To the Commissioner for Trademarks:

**MARK:** BLACK EAGLE (Standard Characters, see [mark](#))

The literal element of the mark consists of BLACK EAGLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
2120 W. Greenview Drive, Suite 4  
Middleton, Wisconsin 53562  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

**For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 009: Binoculars

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jennifer L. Gregor and all other attorneys of Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
United States

The attorney docket/reference number is 067282.

The applicant's current Correspondence Information:

Jennifer L. Gregor  
Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
414-273-3500(phone)  
414-273-5198(fax)

docketing@gklaw.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jennifer L. Gregor/ Date Signed: 08/20/2012

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

RAM Sale Number: 7392

RAM Accounting Date: 08/21/2012

Serial Number: 85708481

Internet Transmission Date: Tue Aug 21 08:34:10 EDT 2012

TEAS Stamp: USPTO/FTK-72.135.232.140-201208210834101

92839-85708481-490cc8cbe8b2b4acd726d3742

880132bf4-DA-7392-20120820150733128390

# BLACK EAGLE

**Generated on:** This page was generated by TSDR on 2013-09-26 13:13:16 EDT

**Mark:** BLACK EAGLE

BLACK EAGLE

**US Serial Number:** 85708481      **Application Filing Date:** Aug. 21, 2012  
**Filed as TEAS Plus:** Yes      **Currently TEAS Plus:** Yes  
**Register:** Principal  
**Mark Type:** Trademark  
**Status:** An Office action suspending further action on the application has been sent (issued) to the applicant. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.  
**Status Date:** Jun. 10, 2013

## Mark Information

**Mark Literal Elements:** BLACK EAGLE  
**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.  
**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK  
**Disclaimer:** "BLACK"

## Related Properties Information

**Claimed Ownership of US Registrations:** 3726431, 3787739, 3794245 and others

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Binoculars  
**International Class(es):** 009 - Primary Class      **U.S Class(es):** 021, 023, 026, 036, 038  
**Class Status:** ACTIVE  
**Basis:** 1(b)

## Basis Information (Case Level)

<b>Filed Use:</b> No	<b>Currently Use:</b> No	<b>Amended Use:</b> No
<b>Filed ITU:</b> Yes	<b>Currently ITU:</b> Yes	<b>Amended ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No	<b>Amended 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No	<b>Amended 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No	
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No	

## Current Owner(s) Information

**Owner Name:** Sheltered Wings, Inc.  
**Owner Address:** 2120 W. Greenview Drive, Suite 4  
 Middleton, WISCONSIN 53562  
 UNITED STATES  
**Legal Entity Type:** CORPORATION      **State or Country Where Organized:** WISCONSIN

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Jennifer L. Gregor      **Docket Number:** 067282  
**Attorney Primary Email Address:** [docketing@gklaw.com](mailto:docketing@gklaw.com)      **Attorney Email Authorized:** Yes

**Correspondent**

**Correspondent Name/Address:** JENNIFER L. GREGOR  
 GODFREY & KAHN, S.C.  
 780 N WATER ST STE 1500  
 MILWAUKEE, WISCONSIN 53202-3590  
 UNITED STATES

**Phone:** 414-273-3500

**Fax:** 414-273-5198

**Correspondent e-mail:** [docketing@gklaw.com](mailto:docketing@gklaw.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Jun. 10, 2013	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jun. 10, 2013	LETTER OF SUSPENSION E-MAILED	6332
Jun. 10, 2013	SUSPENSION LETTER WRITTEN	85323
Jun. 08, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 07, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 07, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 08, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Dec. 08, 2012	NON-FINAL ACTION E-MAILED	6325
Dec. 08, 2012	NON-FINAL ACTION WRITTEN	85323
Dec. 01, 2012	ASSIGNED TO EXAMINER	85323
Aug. 29, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 24, 2012	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information****TM Staff Information**

**TM Attorney:** REINHART, MEGHAN M

**Law Office Assigned:** LAW OFFICE 108

**File Location**

**Current Location:** TMEG LAW OFFICE 108 - EXAMINING  
 ATTORNEY ASSIGNED

**Date in Location:** Jun. 10, 2013

**Trademark/Service Mark Application, Principal Register****TEAS Plus Application**

Serial Number: 85708482

Filing Date: 08/21/2012

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">IRON EAGLE</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IRON EAGLE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Sheltered Wings, Inc.
*STREET	2120 W. Greenview Drive, Suite 4
*CITY	Middleton
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	53562
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION

<b>* STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>* INTERNATIONAL CLASS</b>	009
<b>* IDENTIFICATION</b>	Binoculars
<b>* FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>* TRANSLATION</b> (if applicable)	
<b>* TRANSLITERATION</b> (if applicable)	
<b>* CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>* CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>* CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jennifer L. Gregor
<b>ATTORNEY DOCKET NUMBER</b>	067282
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.
<b>STREET</b>	780 N. Water Street
<b>CITY</b>	Milwaukee
<b>STATE</b>	Wisconsin
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>EMAIL ADDRESS</b>	docketing@gklaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys
<b>CORRESPONDENCE INFORMATION</b>	
<b>* NAME</b>	Jennifer L. Gregor
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.

<b>*STREET</b>	780 N. Water Street
<b>*CITY</b>	Milwaukee
<b>*STATE</b> (Required for U.S. applicants)	Wisconsin
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>*EMAIL ADDRESS</b>	docketing@gklaw.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jennifer L. Gregor/
<b>* SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>* DATE SIGNED</b>	08/20/2012

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 85708482**

**Filing Date: 08/21/2012**

#### To the Commissioner for Trademarks:

**MARK:** IRON EAGLE (Standard Characters, see [mark](#))

The literal element of the mark consists of IRON EAGLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
2120 W. Greenview Drive, Suite 4  
Middleton, Wisconsin 53562  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

#### **For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 009: Binoculars

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jennifer L. Gregor and all other attorneys of Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
United States

The attorney docket/reference number is 067282.

The applicant's current Correspondence Information:

Jennifer L. Gregor  
Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
414-273-3500(phone)  
414-273-5198(fax)

docketing@gklaw.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jennifer L. Gregor/ Date Signed: 08/20/2012

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

RAM Sale Number: 7395

RAM Accounting Date: 08/21/2012

Serial Number: 85708482

Internet Transmission Date: Tue Aug 21 08:34:47 EDT 2012

TEAS Stamp: USPTO/FTK-72.135.232.140-201208210834475

86477-85708482-4901a8923d03decd8c879569e

e2e266926b-DA-7395-20120820150514034438

# IRON EAGLE

### Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

#### OVERVIEW

SERIAL NUMBER	85708482	FILING DATE	08/21/2012
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	REINHART, MEGHAN M	L.O. ASSIGNED	108

#### PUB INFORMATION

RUN DATE	06/11/2013		
PUB DATE	N/A		
STATUS	653-SUSPENSION LETTER - MAILED		
STATUS DATE	06/10/2013		
LITERAL MARK ELEMENT	IRON EAGLE		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

#### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

#### MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	IRON EAGLE

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

**CURRENT OWNER INFORMATION**

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Sheltered Wings, Inc.
ADDRESS	2120 W. Greenview Drive, Suite 4 Middleton, WI 53562
ENTITY	03-CORPORATION
CITIZENSHIP	Wisconsin

**GOODS AND SERVICES**

INTERNATIONAL CLASS	009
DESCRIPTION TEXT	Binoculars

**GOODS AND SERVICES CLASSIFICATION**

INTERNATIONAL CLASS	009	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
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**MISCELLANEOUS INFORMATION/STATEMENTS**

CHANGE IN REGISTRATION	NO
OWNER OF US REG NOS	3726431 3787739 3794245

**PROSECUTION HISTORY**

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/10/2013	GNS3	O	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	012
06/10/2013	GNSL	S	LETTER OF SUSPENSION E-MAILED	011
06/10/2013	CNSL	R	SUSPENSION LETTER WRITTEN	010
06/08/2013	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
06/07/2013	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
06/07/2013	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
12/08/2012	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
12/08/2012	GNRT	F	NON-FINAL ACTION E-MAILED	005
12/08/2012	CNRT	R	NON-FINAL ACTION WRITTEN	004
12/01/2012	DOCK	D	ASSIGNED TO EXAMINER	003

08/29/2012	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
08/24/2012	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001
<b>CURRENT CORRESPONDENCE INFORMATION</b>				
ATTORNEY			Jennifer L. Gregor	
CORRESPONDENCE ADDRESS			JENNIFER L. GREGOR GODFREY & KAHN, S.C. 780 N WATER ST STE 1500 MILWAUKEE, WI 53202-3590	
DOMESTIC REPRESENTATIVE			NONE	

# IRON EAGLE

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708482 - IRON EAGLE - 067282  
**Sent:** 6/10/2013 7:10:42 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85708482

**MARK:** IRON EAGLE

**\*85708482\***

**CORRESPONDENT ADDRESS:**

JENNIFER L. GREGOR

GODFREY & KAHN, S.C.

780 N WATER ST STE 1500

MILWAUKEE, WI 53202-3590

**GENERAL TRADEMARK IN**  
<http://www.uspto.gov/trademark>

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

067282

**CORRESPONDENT E-MAIL ADDRESS:**

docketing@gklaw.com

**SUSPENSION NOTICE: NO RESPONSE NEEDED**

**ISSUE/MAILING DATE: 6/10/2013**

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the “Response to Suspension Inquiry or Letter of Suspension” form online at <http://teasroa.uspto.gov/rsi/rsi>.

**PENDING CIVIL PROCEEDING(S):** The pending civil proceeding(s) below pertains to (1) a registered mark that conflicts with applicant’s mark under Trademark Act Section 2(d), (2) a mark in a pending application(s) that could conflict with applicant’s mark under Section 2(d) if it registers, and/or (3) the registrability of applicant’s mark. *See* 15 U.S.C. §1052; 37 C.F.R. §2.83; TMEP §§716.02(a), (c)-(d), 1208 *et seq.* Because the civil proceeding(s) pertains to an issue that could directly affect whether applicant’s mark can be registered, action on this application is suspended pending termination of the civil proceeding(s). *See* 37 C.F.R. §2.67; TMEP §§716.02(a), (c)-(d).

- Cancellation No(s). 92054629

/Meghan Reinhart/

Examining Attorney

Law Office 108

(571) 272-2943

meghan.reinhart@uspto.gov

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708482 - IRON EAGLE - 067282  
**Sent:** 6/10/2013 7:10:42 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR**  
**U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **6/10/2013** FOR U.S. APPLICATION SERIAL NO.85708482

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

## Response to Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	85708482
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 108
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>In response to the request for additional information, Applicant states that its goods would not be made of iron.</p> <p>In response to the Section 2(d) refusal, Applicant notes that it has petitioned to cancel U.S. Registration No. 3,904,929 for STEEL EAGLE the "Cited Mark," owned by Wohali Outdoors, LLC. <i>See</i> Cancellation Proceeding No. 92054629, docket sheet attached as Exhibit A. Applicant's petition to cancel was filed on October 10, 2011. The currently operative pleading is Applicant's Amended Petition for Cancellation (<i>see</i> Exhibit B), which allegations have been generally denied by Wohali. <i>See</i> Exhibit C at 1. The cancellation proceeding is well underway: the Board has denied a summary judgment motion by Wohali, discovery is closed, and the parties are about to enter the trial testimony periods this summer. This proceeding is highly relevant to the instant application because if Applicant is successful in petitioning to cancel the registration for the Cited Mark, the Section 2(d) refusal will be moot.</p> <p>The owner of the Cited Mark, Wohali Outdoors, LLC also owns pending application serial nos. 85/684,377 and 85/464,085, which Applicant has opposed. <i>See</i> Opposition Proceeding Nos. 91208804 and 91205187. These opposition proceedings have been suspended pending the outcome of the cancellation proceeding.</p> <p>Accordingly, and in accordance with TMEP § 716.02(a) and (d), Applicant respectfully requests that examination of the instant application be suspended pending the outcome of these TTAB proceedings. The Examining Attorney is requested to telephone the undersigned in the event that a telephone conference could expedite the processing of this application.</p>	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-162524942_.exhibita.pdf</a>
<b>CONVERTED PDF FILE(S) (2 pages)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0002.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0003.JPG</a>

<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-162524942_exhibitb.pdf</a>
<b>CONVERTED PDF FILE(S)</b> (4 pages)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0004.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0005.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0006.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0007.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-162524942_exhibitc.pdf</a>
<b>CONVERTED PDF FILE(S)</b> (4 pages)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0008.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0009.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0010.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708482\xml4\ROA0011.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Exhibit A which is a Cancellation docket sheet from Cancellation Proceeding No. 92054629; Exhibit B which is Applicant's Amended Petition for Cancellation; Exhibit C which is an order denying summary judgment and regarding general denial of petition
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>PRIOR REGISTRATION(S)</b>	The applicant claims ownership of U.S. Registration Number(s) 3794245, 3787739, 3726431, and others.
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Jennifer L. Gregor/
<b>SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>DATE SIGNED</b>	06/07/2013
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Fri Jun 07 17:16:29 EDT 2013
<b>TEAS STAMP</b>	USPTO/ROA-108.196.145.185 -20130607171629111153-857 08482-50067fa4ce2bdd3bd22

e3d5ea19966b407d18c813992  
352f167c224553c138950-N/A  
-N/A-20130607162524942526

PTO Form 1957 (Rev 9/2005)  
OMB No. 0651-0050 (Exp. 05/31/2014)

## **Response to Office Action To the Commissioner for Trademarks:**

Application serial no. **85708482** has been amended as follows:

### **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

In response to the request for additional information, Applicant states that its goods would not be made of iron.

In response to the Section 2(d) refusal, Applicant notes that it has petitioned to cancel U.S. Registration No. 3,904,929 for STEEL EAGLE the "Cited Mark," owned by Wohali Outdoors, LLC. *See* Cancellation Proceeding No. 92054629, docket sheet attached as Exhibit A. Applicant's petition to cancel was filed on October 10, 2011. The currently operative pleading is Applicant's Amended Petition for Cancellation (*see* Exhibit B), which allegations have been generally denied by Wohali. *See* Exhibit C at 1. The cancellation proceeding is well underway: the Board has denied a summary judgment motion by Wohali, discovery is closed, and the parties are about to enter the trial testimony periods this summer. This proceeding is highly relevant to the instant application because if Applicant is successful in petitioning to cancel the registration for the Cited Mark, the Section 2(d) refusal will be moot.

The owner of the Cited Mark, Wohali Outdoors, LLC also owns pending application serial nos. 85/684,377 and 85/464,085, which Applicant has opposed. *See* Opposition Proceeding Nos. 91208804 and 91205187. These opposition proceedings have been suspended pending the outcome of the cancellation proceeding.

Accordingly, and in accordance with TMEP § 716.02(a) and (d), Applicant respectfully requests that examination of the instant application be suspended pending the outcome of these TTAB proceedings. The Examining Attorney is requested to telephone the undersigned in the event that a telephone conference could expedite the processing of this application.

### **EVIDENCE**

Evidence in the nature of Exhibit A which is a Cancellation docket sheet from Cancellation Proceeding No. 92054629; Exhibit B which is Applicant's Amended Petition for Cancellation; Exhibit C which is an order denying summary judgment and regarding general denial of petition has been attached.

**Original PDF file:**

[evi\\_108196145185-162524942\\_exhibita.pdf](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi\\_108196145185-162524942\\_exhibitb.pdf](#)

Converted PDF file(s) (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

Original PDF file:

[evi\\_108196145185-162524942\\_exhibitc.pdf](#)

Converted PDF file(s) (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

#### **ADDITIONAL STATEMENTS**

##### **Claim of Prior Registration(s)**

The applicant claims ownership of U.S. Registration Number(s) 3794245, 3787739, 3726431, and others.

#### **SIGNATURE(S)**

##### **Response Signature**

Signature: /Jennifer L. Gregor/ Date: 06/07/2013

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

Signatory's Phone Number: 414-273-3500

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85708482

Internet Transmission Date: Fri Jun 07 17:16:29 EDT 2013

TEAS Stamp: USPTO/ROA-108.196.145.185-20130607171629

111153-85708482-50067fa4ce2bdd3bd22e3d5e

a19966b407d18c813992352f167c224553c13895

0-N/A-N/A-20130607162524942526



6/6/13

USPTO TTABVUE. Trademark Trial and Appeal Board Inquiry System



United States Patent and Trademark Office

Home | Site Index | Search | Guides | Contacts | eBusiness | eBiz alerts | News | Help



TTABVUE. Trademark Trial and Appeal Board Inquiry System

v1.5

Cancellation

Number: 92054629

Filing Date: 10/10/2011

Status: Pending

Status Date: 10/10/2011

Interlocutory Attorney: [GEORGE POLOGEORGIS](#)

Defendant

Name: [Wohali Outdoors, LLC](#)

Correspondence: [S MAX HARRIS](#)  
DOYLE HARRIS DAVIS HAUGHEY  
1350 SOUTH BOULDER, SUITE 700  
TULSA, OK 74119  
UNITED STATES  
max.harris@1926blaw.com

Serial #: [77689308](#) [Application File](#)

Registration #: [3904929](#)

Application Status: Cancellation Pending

Mark: STEEL EAGLE

Plaintiff

Name: [Sheltered Wings, Inc.](#)

Correspondence: [JENNIFER L GREGOR](#)  
GODFREY KAHN SC  
ONE EAST MAIN STREET, SUITE 500  
MADISON, WI 53703  
UNITED STATES  
jgregor@gklaw.com

Serial #: [77060299](#) [Application File](#)

Registration #: [3787739](#)

Application Status: Registered

Mark: GOLDEN EAGLE

Serial #: [77571568](#) [Application File](#)

Registration #: [3726431](#)

Application Status: Registered

Mark: STRIKE EAGLE

Serial #: [77641594](#) [Application File](#)

Registration #: [3794245](#)

Application Status: Registered

Mark: EAGLE OPTICS

Serial #: [78029311](#) [Application File](#)

Registration #: [2886199](#)

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: EAGLE OPTICS

Serial #: [78699411](#) [Application File](#)

Registration #: [3192083](#)

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: EAGLE OPTICS

Prosecution History

# Date History Text



Due Date

6/6/13

USPTO TTABVUE. Trademark Trial and Appeal Board Inquiry System

- [38](#) 06/03/2013 [P OPP/RESP TO MOTION](#)
- [37](#) 05/30/2013 [PAPER RECEIVED AT TTAB](#)
- [36](#) 05/30/2013 [PAPER RECEIVED AT TTAB](#)
- [35](#) 05/29/2013 [EXT. GRANTED; PROCEEDINGS SUSPENDED PENDING DISP.OF D'S CONSTRUED MOT. TO LIMIT TESTIMONY](#)
- [34](#) 05/17/2013 [STIP FOR EXT](#)
- [33](#) 05/17/2013 [D'S OBJECTIONS TO P'S PRETRIAL DISCLOSURES](#)
- [32](#) 02/06/2013 [EXTENSION OF TIME GRANTED](#)
- [31](#) 02/06/2013 [STIPULATION FOR AN EXTENSION OF TIME](#)
- [30](#) 01/15/2013 [STIPULATION NOTED AND APPROVED](#)
- [29](#) 01/08/2013 [STIPULATED PROTECTIVE ORDER](#)
- [28](#) 11/19/2012 [EXTENSION OF TIME GRANTED](#)
- [27](#) 11/19/2012 [STIPULATION FOR AN EXTENSION OF TIME](#)
- [26](#) 11/08/2012 [DEF'S MOTION FOR SUMMARY JUDGMENT DENIED](#)
- [25](#) 09/14/2012 [D OPP/RESP TO MOTION](#)
- [24](#) 09/13/2012 [MOTION TO AMEND ANSWER/AMENDED ANSWER OR COUNTERCLAIM](#)
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____	)	
In re Registration No. 3,904,929	)	
	)	
SHELTERED WINGS, INC.	)	
	)	Cancellation No. 92054629
Petitioner,	)	
	)	
v.	)	
	)	
WOHALI OUTDOORS, LLC	)	
	)	
Respondent.	)	
_____	)	

**AMENDED PETITION FOR CANCELLATION**

Petitioner, Sheltered Wings, Inc., (“Sheltered Wings”), a Wisconsin corporation, located and doing business at 2120 W. Greenview Drive, Suite 4, Middleton, Wisconsin 53562, believes that it is being damaged and will continue to be damaged by Registration No. 3,904,929 for the mark STEEL EAGLE (the “STEEL EAGLE Registration”) and accordingly petitions to cancel this registration.

As grounds for cancellation, Sheltered Wings alleges:

1. For years, Sheltered Wings has been engaged in the business of providing optics products, including binoculars, spotting scopes, monoculars, and related equipment, among other things.
2. Since at least as early as 1987, Sheltered Wings has continuously used the term EAGLE in its trademarks for its optics products.
3. Sheltered Wings is the owner of the following United States trademark registrations for its trademarks including the term EAGLE:



Mark/Reg. No.	Application and Registration Dates	Goods and Services	First Use in Commerce in Registration
GOLDEN EAGLE Reg. No. 3,787,739	App: Dec. 8, 2006 Reg: May 11, 2010	Class 9: Binoculars	February 2010
EAGLE OPTICS Reg. No. 2,886,199	App: Oct. 5, 2000 Reg: Sep. 21, 2004	Class 9: Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore	April 1, 1996
 Reg. No. 3,192,083	App: Aug. 24, 2005 Reg: Jan. 2, 2007	Class 9: Binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching  Class 35: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching	December 2001  1987

The registrations for the marks listed above (the “EAGLE Marks”) are valid and subsisting. Additionally, Registration Nos. 2,886,199 and 3,192,083 are incontestable in accordance with the provisions of Sections 8 and 15 of the United States Trademark Act. (15 U.S.C. §§ 1058 and 1065).

4. Sheltered Wings long has owned valuable goodwill represented by its EAGLE Marks.

5. By virtue of Sheltered Wings’ extensive use, advertising, and promotion of its EAGLE Marks, and long before the filing date of the STEEL EAGLE Registration, the EAGLE Marks became extremely well known and acquired a strong secondary meaning signifying Sheltered Wings.

6. Upon information and belief, respondent, Wohali Outdoors, LLC (“Wohali”), an Oklahoma limited liability company located at 1300 N. Industrial Blvd., Claremore, Oklahoma, 74017 is engaged in the business of providing outdoor gear including rain wear, fishing rods, binoculars, and spotting scopes.

7. Wohali owns Registration No. 3, 904,929 for the trademark STEEL EAGLE for “Magnifying optical equipment, namely, rifle scopes and binoculars,” in Class 9 (the “STEEL EAGLE Registration”), which registration was granted on January 11, 2011, based on an intent-to-use application filed on March 12, 2009.

8. Wohali did not use the trademark STEEL EAGLE in the United States for any goods or services prior to October 21, 2009, the date of first use identified in the STEEL EAGLE Registration.

9. Use by Wohali of the trademark STEEL EAGLE for the goods identified in its registration is likely to confuse the purchasing public as to the source of Wohali’s goods or to cause mistake or to deceive as to an affiliation, connection, or association with Sheltered Wings in violation of Section 2(d) of the United States Trademark Act (15 U.S.C. § 1052(d)).

10. Sheltered Wings is also being damaged by Wohali’s STEEL EAGLE Registration because the United States Trademark Office has refused registration of Sheltered Wings’ pending application Serial No. 85/095,903 for the mark EAGLE for binoculars, riflescopes, spotting scopes, and telescopes in Class 9 in view of the STEEL EAGLE Registration.

WHEREFORE, Sheltered Wings believes that it is being damaged and will continue to be damaged by the STEEL EAGLE Registration and petitions to cancel that registration.

Please deduct the requisite filing fee and any other fees associated with this proceeding from the deposit account of Godfrey & Kahn, S.C., Account No. 07-1509.

Respectfully submitted,

SHELTERED WINGS, INC.

Date: August 24, 2012

By:           /Jennifer L. Gregor/            
James D. Peterson  
Jennifer L. Gregor  
GODFREY & KAHN, S.C.  
One East Main Street, Suite 500  
Madison, Wisconsin 53701-2719  
Tel.: (608) 257-3911  
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          jgregor@gklaw.com

8291164\_1

Goodman

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**THIS OPINION IS NOT  
A PRECEDENT  
OF THE TTAB**

Mailed: November 8, 2012

Cancellation No. 92054629

Sheltered Wings, Inc.

v.

Wohali Outdoors, LLC

Before Cataldo, Bergsman, and Wolfson, Administrative  
Trademark Judges.

**By the Board:**

This case now comes up on respondent's motion, filed July 20, 2012, for summary judgment. The motion is fully briefed. Petitioner has requested that the Board grant summary judgment in its favor as non-movant.

Additionally, petitioner filed a motion, on August 24, 2012, for leave to amend its pleading to withdraw pleaded Registration nos. 3726431 and 3794245 from the proceeding as the marks are "not currently in use with the goods identified in the registrations." In response to the motion, respondent "denies each and every allegation asserted by the Petitioner."

The motion for leave to amend is granted, and the amended petition to cancel is henceforth the operative pleading in the case. Respondent's response to the motion



Cancellation No. 92054629

for leave to amend is treated as a general denial of the allegations in the amended petition to cancel, and therefore, a formal answer need not be filed.

We now turn to respondent's motion for summary judgment.

A party is entitled to summary judgment when it has demonstrated that there is no genuine dispute as to any material fact and that it is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). In reviewing a motion for summary judgment, the evidentiary record and all reasonable inferences to be drawn from the undisputed facts must be viewed in the light most favorable to the nonmoving party. *Olde Tyme Foods Inc. v. Roundy's Inc.*, 961 F.2d 200, 22 USPQ2d 1542, 1544 (Fed. Cir. 1992).

Upon consideration of the parties' arguments and evidence, we find that, at a minimum, genuine disputes of material fact remain with respect to the similarities or dissimilarities of the parties' marks and with respect to the strength or weakness of petitioner's pleaded marks. In view thereof, respondent's motion for summary judgment is denied.<sup>1</sup> For the same reason, petitioner's request that the Board grant summary judgment to petitioner as non-movant is

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<sup>1</sup> The fact that we have identified and discussed certain genuine disputes of material fact as a sufficient basis for denying respondent's motion for summary judgment should not be construed as a finding that these are necessarily the only disputes which remain for trial.

## Cancellation No. 92054629

also denied. *See The Clorox Co. v. Chemical Bank*, 40 USPQ2d 1098 (TTAB 1996) (Board may sua sponte enter summary judgment for non-moving party if there are no material facts in dispute and judgment is appropriate as a matter of law).<sup>2</sup>

The parties may stipulate to resolution of this proceeding by means of the Board's accelerated case resolution ("ACR") procedure, either on the current summary judgment record, or as supplemented by the parties, pursuant to an agreement to proceed under ACR. Any such agreement to proceed under ACR on the summary judgment submissions must include a stipulation that the Board may decide any genuine disputes of material fact. The parties may also stipulate to narrow the issues before the Board to streamline the case and provide a joint statement of undisputed facts. If the parties decide to proceed via ACR, they are encouraged to jointly contact the interlocutory attorney responsible for this proceeding by telephone to discuss the possibility of

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<sup>2</sup> The parties should note that the evidence submitted in connection with the motion for summary judgment is of record only for consideration of the motion for summary judgment. Otherwise, to be considered at final hearing, any such evidence must be properly introduced in evidence during the appropriate trial period or stipulated to by the parties as of record for purposes of final decision or determination of this proceeding via accelerated case resolution ("ACR"). *See, e.g., Eveready Battery Co., Inc. v. Green Planet, Inc.*, 91 USPQ2d 1511, 1513 (TTAB 2009) (parties stipulated that evidence submitted in connection with summary judgment motion shall be deemed of record for trial pursuant to Accelerated Case Resolution (ACR)); *Levi Strauss & Co. v. R. Josephs Sportswear Inc.*, 28 USPQ2d 1464, 1465 n. 2. (TTAB 1993) (summary judgment evidence is not part of the record on final decision unless introduced into evidence during trial period).

Cancellation No. 92054629

ACR, any supplementation of the record, and an agreed-upon schedule for proceeding under ACR.

Proceedings are resumed.

Dates are reset as follows:

Expert Disclosures Due	11/19/2012
Discovery Closes	12/19/2012
Plaintiff's Pretrial Disclosures Due	2/2/2013
Plaintiff's 30-day Trial Period Ends	3/19/2013
Defendant's Pretrial Disclosures Due	4/3/2013
Defendant's 30-day Trial Period Ends	5/18/2013
Plaintiff's Rebuttal Disclosures Due	6/2/2013
Plaintiff's 15-day Rebuttal Period Ends	7/2/2013

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708482 - IRON EAGLE - 067282  
**Sent:** 12/8/2012 12:32:50 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)  
[Attachment - 3](#)  
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85708482

**MARK:** IRON EAGLE

**\*85708482\***

**CORRESPONDENT ADDRESS:**

JENNIFER L. GREGOR  
GODFREY & KAHN, S.C.  
780 N WATER ST STE 1500  
MILWAUKEE, WI 53202-3590

**CLICK HERE TO RESPOND TO THIS LETTER**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

067282

**CORRESPONDENT E-MAIL ADDRESS:**

docketing@gklaw.com

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 12/8/2012**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**Likelihood of Confusion – Section 2(d) Refusal**

Registration of the applied-for mark (IRON EAGLE) is refused because of a likelihood of confusion with the mark in U.S. Registration No. 3904929 (STEEL EAGLE). Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; *see also In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

**Similarity of Marks**

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

Applicant's mark is "IRON EAGLE".

Registrant's mark is "STEEL EAGLE".

The marks are similar because they all contain the term "EAGLE".

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases, such as “EAGLE”, appearing in both applicant’s and registrant’s mark. See *Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and “21” CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii).

Please note that, where the goods of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as in the case of diverse goods. See *In re Viterra Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (citing *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992)); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1348, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010); TMEP §1207.01(b). Please see Similarity of Goods section below evidencing that registrant’s goods are identical to/encompass all of applicant’s goods.

Accordingly, the relevant marks are sufficiently similar to support a finding of likelihood of confusion.

### Similarity of Goods

The goods of the parties need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods need only be related in some manner or the conditions surrounding their marketing be such that they will be encountered by the same consumers under circumstances that would lead to the mistaken belief that the goods originate from the same source. *Gen. Mills Inc. v. Fage Dairy Processing Indus.*, 100 USPQ2d 1584, 1597 (TTAB 2012); TMEP §1207.01(a)(i); see *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d at 1086, 56 USPQ2d at 1475; *In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Applicant’s goods are “ **binoculars**”.

Registrant’s goods are “Magnifying optical equipment, namely, rifle scopes and **binoculars**.”

Therefore, registrant’s goods encompass/are identical to (see bolded goods) all of applicant’s goods. Accordingly, based on the similarity of the marks and the relationship of the goods, registration of the applicant’s mark is refused under Section 2(d) of the Trademark Act.

Although the examining attorney has refused registration, the applicant has the option to respond to the

refusal to register by submitting evidence and legal arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following requirement(s).

### **Ownership of Prior Registrations**

If applicant owns U.S. Registration Nos. 3794245, 3192083, 2886199 and other registrations, then applicant must submit for the application record a claim of ownership of these registrations. *See* 37 C.F.R. §2.36; TMEP §812. *See* the attached copies of the registrations. *See* TMEP §812.

Applicant may use the following format to claim ownership of these registrations:

**Applicant is the owner of U.S. Registration Nos. 3794245, 3787739, 3726431 and others.**

### **Additional Information Required**

Applicant must indicate whether its goods contain/are made of iron in order to permit proper examination of the application. *See* 37 C.F.R. §2.61(b); TMEP §§814, 1402.01(e).

Failure to respond to a request for information is an additional ground for refusing registration. *See In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701 (TTAB 2003); TMEP §814.

### **Responding to this Office Action**

**TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE:** Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

In addition, applicant filed a TEAS Plus application and therefore must respond online using the Trademark Electronic Application System (TEAS) at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp) to avoid incurring an additional fee. *See* 37 C.F.R. §2.23(a)(1), (b).

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to live status. *See* 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §§2.6, 2.66(b)(1).

### *Telephone/Email Suggested for Questions*

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Meghan Reinhart/  
Examining Attorney  
Law Office 108  
(571) 272-2943  
meghan.reinhart@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**Print: Dec 8, 2012**

**77689308**

**DESIGN MARK**

**Serial Number**

77689308

**Status**

CANCELLATION PENDING

**Word Mark**

STEEL EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3904929

**Date Registered**

2011/01/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Wohali Outdoors, LLC LIMITED LIABILITY COMPANY OKLAHOMA 1300 N.  
Industrial Blvd. Claremore OKLAHOMA 74017

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Magnifying optical equipment, namely, rifle scopes and binoculars.  
First Use: 2009/10/21. First Use In Commerce: 2009/10/21.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STEEL" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2009/03/12

**Examining Attorney**

MCMORROW, RONALD

**Attorney of Record**

S. Max Harris

**STEEL EAGLE**

**Print: Dec 8, 2012**

**77060299**

**DESIGN MARK**

**Serial Number**

77060299

**Status**

REGISTERED

**Word Mark**

GOLDEN EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3787739

**Date Registered**

2010/05/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 W Greenview Dr, Ste 4  
Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars. First Use: 2010/02/00. First Use In Commerce:  
2010/02/00.

**Prior Registration(s)**

2886199;3192083

**Filing Date**

2006/12/08

**Examining Attorney**

LEIPZIG, MARC

**Attorney of Record**

Bennet Langlotz

**GOLDEN EAGLE**

**Print: Dec 8, 2012**

**77571568**

**DESIGN MARK**

**Serial Number**

77571568

**Status**

REGISTERED

**Word Mark**

STRIKE EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3726431

**Date Registered**

2009/12/15

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 West Greenview Drive,  
Suite 4 Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars; Rifle scopes. First Use: 2009/02/01. First Use In  
Commerce: 2009/02/01.

**Filing Date**

2008/09/16

**Examining Attorney**

SAPP, HEATHER

**Attorney of Record**

Bennet K. Langlotz

# STRIKE EAGLE

**Print: Dec 8, 2012**

**77641594**

**DESIGN MARK**

**Serial Number**

77641594

**Status**

REGISTERED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

Yes

**Registration Number**

3794245

**Date Registered**

2010/05/25

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 West Greenview Drive,  
Suite 4 Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Riflescopes. First Use: 2010/03/01. First Use In Commerce:  
2010/03/01.

**Prior Registration(s)**

2886199;3192083

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2008/12/30

**Examining Attorney**

ALTREE, NICHOLAS

**Print: Dec 8, 2012**

**77641594**

**Attorney of Record**

Bennet K. Langlotz

# EAGLE OPTICS

**Print: Dec 8, 2012**

**78029311**

**TYPED DRAWING**

**Serial Number**

78029311

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

No

**Registration Number**

2886199

**Date Registered**

2004/09/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 W. Greenview Dr. #4  
Middleton WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars, spotting scopes, and telescopes, all for use in bird  
watching, and storage cases therefore. First Use: 1996/01/01. First  
Use In Commerce: 1996/04/01.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2000/10/05

**Examining Attorney**

RADEMACHER, APRIL L.

**Attorney of Record**

Angela V. Langlotz

**Print: Dec 8, 2012**

**78699411**

**DESIGN MARK**

**Serial Number**

78699411

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

No

**Registration Number**

3192083

**Date Registered**

2007/01/02

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN Suite Four 2120 West  
Greenview Drive Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars, spotting scopes, telescopes, and storage cases therefor,  
all for use in birdwatching. First Use: 2001/05/00. First Use In  
Commerce: 2001/12/00.

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Retail  
store, mail order and online retail store services featuring  
binoculars, spotting scopes, telescopes, and storage cases therefor,  
all for use in birdwatching. First Use: 1987/00/00. First Use In  
Commerce: 1987/00/00.

**Prior Registration(s)**

2886199

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE

**Print: Dec 8, 2012**

**78699411**

MARK AS SHOWN.

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Filing Date**

2005/08/24

**Examining Attorney**

DAHLING, KRISTIN

**Attorney of Record**

Bennet K. Langlotz



**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708482 - IRON EAGLE - 067282  
**Sent:** 12/8/2012 12:32:52 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **12/8/2012** FOR U.S. APPLICATION SERIAL NO. 85708482

Please follow the instructions below:

(1) **TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **TIMELY RESPONSE IS REQUIRED:** Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **12/8/2012** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

**Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

(3) **QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the**

**ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

\*\*\* User:mreinhardt \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	10744	N/A	0	0	1:00	*{v:2}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[lid]
02	4767	N/A	0	0	0:07	*e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[lid]
03	1707	N/A	0	0	0:04	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[lid]
04	837	N/A	0	0	0:04	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[lid] and "009"[cc]
05	251	0	251	212	0:03	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[lid] and "009"[ic]
06	231	0	231	195	0:02	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }[bi,ti] and live[lid] and "009"[ic]
07	10	0	10	8	0:07	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[lid] and (a b 200)[ic]
08	3488	N/A	0	0	0:03	*owl*[bi,ti] and live[lid]
09	4644	N/A	0	0	0:03	*wl*[bi,ti] and live[lid]
10	2814	N/A	0	0	0:03	*aul*[bi,ti] and live[lid]
11	21	0	21	19	0:01	(8 9 10) and 1
12	4874	N/A	0	0	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*
13	1817	N/A	0	0	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*[bi,ti] and live[lid]
14	250	0	250	209	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*[bi,ti] and live[lid] and "009"[ic]
15	249	0	249	208	0:04	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*[bi,ti] and live[lid] and "009"[ic] not 7
16	19	0	19	15	0:04	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*[bi,ti] and live[lid] and "009"[ic] not 5
17	35	0	35	23	0:02	e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }[fm] and live[lid] and "009"[ic]
18	132	0	132	91	0:02	e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }[fm] and live[lid]
19	3301	N/A	0	0	0:02	031501[dc] and live[lid]
20	613	0	7	613	0:03	031507[dc] and live[lid]
21	4	0	4	4	0:01	19 and 20
22	1671	N/A	0	0	0:04	19 and "009"[cc]
23	411	0	48	411	0:03	19 and ("009" a b 200)[ic]
24	2	0	2	2	0:01	20 and 1
25	952	N/A	0	0	0:03	*b{v}ld*[bi,ti] and live[lid]
26	17	0	17	17	0:01	*b{v}ld*[bi,ti] and live[lid] and 1
27	404	N/A	0	0	0:01	*b{v}ld*[bi,ti] and live[lid] and "009"[cc]
28	99	0	99	76	0:01	*b{v}ld*[bi,ti] and live[lid] and "009"[ic]
29	1	0	1	1	0:02	*b{v}ld*[bi,ti] and live[lid] and (a b 200)[ic]
30	11076	N/A	0	0	0:03	*bl{v}{ "ckqx":2 }{ "Sz"0:1 }*[bi,ti] and live[lid]
31	64	0	64	58	0:01	*bl{v}{ "ckqx":2 }{ "Sz"0:1 }*[bi,ti] and live[lid] and 1
32	1305	N/A	0	0	0:02	*bl{v}{ "ckqx":2 }{ "Sz"0:1 }*[bi,ti] and live[lid] and "009"[ic]
33	652	N/A	0	0	0:01	*bla{ "ckqx":2 }{ "Sz"0:1 }*[bi,ti] and live[lid] and "009"[ic]
34	515	N/A	0	0	0:03	bla{ "ckqx":2 }{ "Sz"0:1 }[bi,ti] and live[lid] and "009"[ic]
35	21	0	21	20	0:01	bla{ "ckqx":2 }{ "Sz"0:1 }[fm] and live[lid]
36	86226	N/A	0	0	0:11	*{v}r{v0:1}n*[bi,ti] and live[lid]
37	403	N/A	0	0	0:05	*{v}r{v0:1}n*[bi,ti] and live[lid] and 1
38	31	0	31	27	0:04	*{ "iy" }r{v0:1}n*[bi,ti] and live[lid] and 1
39	698	N/A	0	0	0:04	*{ "iy" }r{v0:1}n*[bi,ti] and live[lid] and "009"[ic]
40	175	0	175	149	0:04	{ "iy" }r{v0:1}n*[bi,ti] and live[lid] and "009"[ic]
41	22	0	22	21	0:05	{ "iy" }r{v0:1}n*[bi,ti] and live[lid] and (a b 200)[ic]
42	2578	N/A	0	0	0:40	*{ "sz" }{v}lv{v0:1}r{ "sz"0:1 }*[bi,ti] and live[lid]
43	11	0	11	9	0:38	*{ "sz" }{v}lv{v0:1}r{ "sz"0:1 }*[bi,ti] and live[lid] and 1

44	2578	N/A	0	0	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
45	250	0	250	214	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
46	9	0	9	8	0:39	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
47	5213	N/A	0	0	0:40	*{"sz"}tr{v}{"ckqx":2}{v0:1}{"Sz"0:1}*[bi,ti] and live[ld]
48	1542	N/A	0	0	0:37	*{"sz"}tr{"iy"}{"ckqx":2}{v0:1}{"Sz"0:1}*[bi,ti] and live[ld]
49	228	0	228	205	0:37	*{"sz"}tr{"iy"}{"ckqx":2}{v0:1}{"Sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
50	19	0	19	18	0:38	*{"sz"}tr{"iy"}{"ckqx":2}{v0:1}{"Sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
51	39	0	39	33	0:01	47 and 1

Session started 12/7/2012 5:56:18 AM

Session finished 12/7/2012 6:48:11 AM

Total search duration 8 minutes 56 seconds

Session duration 51 minutes 53 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85708482

# IRON EAGLE

**Trademark/Service Mark Application, Principal Register****TEAS Plus Application**

Serial Number: 85708482

Filing Date: 08/21/2012

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">IRON EAGLE</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	IRON EAGLE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Sheltered Wings, Inc.
*STREET	2120 W. Greenview Drive, Suite 4
*CITY	Middleton
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	53562
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION

<b>* STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>* INTERNATIONAL CLASS</b>	009
<b>* IDENTIFICATION</b>	Binoculars
<b>* FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>* TRANSLATION</b> (if applicable)	
<b>* TRANSLITERATION</b> (if applicable)	
<b>* CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>* CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>* CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jennifer L. Gregor
<b>ATTORNEY DOCKET NUMBER</b>	067282
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.
<b>STREET</b>	780 N. Water Street
<b>CITY</b>	Milwaukee
<b>STATE</b>	Wisconsin
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>EMAIL ADDRESS</b>	docketing@gklaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys
<b>CORRESPONDENCE INFORMATION</b>	
<b>* NAME</b>	Jennifer L. Gregor
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.

<b>*STREET</b>	780 N. Water Street
<b>*CITY</b>	Milwaukee
<b>*STATE</b> (Required for U.S. applicants)	Wisconsin
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>*EMAIL ADDRESS</b>	docketing@gklaw.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jennifer L. Gregor/
<b>* SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>* DATE SIGNED</b>	08/20/2012

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 85708482**

**Filing Date: 08/21/2012**

#### To the Commissioner for Trademarks:

**MARK:** IRON EAGLE (Standard Characters, see [mark](#))

The literal element of the mark consists of IRON EAGLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
2120 W. Greenview Drive, Suite 4  
Middleton, Wisconsin 53562  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

#### **For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 009: Binoculars

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jennifer L. Gregor and all other attorneys of Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
United States

The attorney docket/reference number is 067282.

The applicant's current Correspondence Information:

Jennifer L. Gregor  
Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
414-273-3500(phone)  
414-273-5198(fax)

docketing@gklaw.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jennifer L. Gregor/ Date Signed: 08/20/2012

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

RAM Sale Number: 7395

RAM Accounting Date: 08/21/2012

Serial Number: 85708482

Internet Transmission Date: Tue Aug 21 08:34:47 EDT 2012

TEAS Stamp: USPTO/FTK-72.135.232.140-201208210834475

86477-85708482-4901a8923d03decd8c879569e

e2e266926b-DA-7395-20120820150514034438

# IRON EAGLE

**Generated on:** This page was generated by TSDR on 2013-09-26 13:16:50 EDT

**Mark:** IRON EAGLE

# IRON EAGLE

**US Serial Number:** 85708482      **Application Filing Date:** Aug. 21, 2012  
**Filed as TEAS Plus:** Yes      **Currently TEAS Plus:** Yes  
**Register:** Principal  
**Mark Type:** Trademark  
**Status:** An Office action suspending further action on the application has been sent (issued) to the applicant. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.  
**Status Date:** Jun. 10, 2013

## Mark Information

**Mark Literal Elements:** IRON EAGLE  
**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.  
**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Related Properties Information

**Claimed Ownership of US Registrations:** 3726431, 3787739, 3794245 and others

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Binoculars  
**International Class(es):** 009 - Primary Class      **U.S Class(es):** 021, 023, 026, 036, 038  
**Class Status:** ACTIVE  
**Basis:** 1(b)

## Basis Information (Case Level)

<b>Filed Use:</b> No	<b>Currently Use:</b> No	<b>Amended Use:</b> No
<b>Filed ITU:</b> Yes	<b>Currently ITU:</b> Yes	<b>Amended ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No	<b>Amended 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No	<b>Amended 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No	
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No	

## Current Owner(s) Information

**Owner Name:** Sheltered Wings, Inc.  
**Owner Address:** 2120 W. Greenvew Drive, Suite 4  
Middleton, WISCONSIN 53562  
UNITED STATES  
**Legal Entity Type:** CORPORATION      **State or Country Where Organized:** WISCONSIN

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Jennifer L. Gregor      **Docket Number:** 067282  
**Attorney Primary Email Address:** [docketing@gklaw.com](mailto:docketing@gklaw.com)      **Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** JENNIFER L. GREGOR  
 GODFREY & KAHN, S.C.  
 780 N WATER ST STE 1500  
 MILWAUKEE, WISCONSIN 53202-3590  
 UNITED STATES

**Phone:** 414-273-3500

**Fax:** 414-273-5198

**Correspondent e-mail:** [docketing@gklaw.com](mailto:docketing@gklaw.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

**Prosecution History**

Date	Description	Proceeding Number
Jun. 10, 2013	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jun. 10, 2013	LETTER OF SUSPENSION E-MAILED	6332
Jun. 10, 2013	SUSPENSION LETTER WRITTEN	85323
Jun. 08, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 07, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 07, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 08, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Dec. 08, 2012	NON-FINAL ACTION E-MAILED	6325
Dec. 08, 2012	NON-FINAL ACTION WRITTEN	85323
Dec. 01, 2012	ASSIGNED TO EXAMINER	85323
Aug. 29, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 24, 2012	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information**

**TM Staff Information**

**TM Attorney:** REINHART, MEGHAN M

**Law Office Assigned:** LAW OFFICE 108

**File Location**

**Current Location:** TMEG LAW OFFICE 108 - EXAMINING  
 ATTORNEY ASSIGNED

**Date in Location:** Jun. 10, 2013

# Trademark/Service Mark Application, Principal Register

## TEAS Plus Application

Serial Number: 85708483

Filing Date: 08/21/2012

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">SILVER EAGLE</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	SILVER EAGLE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Sheltered Wings, Inc.
*STREET	2120 W. Greenview Drive, Suite 4
*CITY	Middleton
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	53562
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION

<b>* STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>* INTERNATIONAL CLASS</b>	009
<b>* IDENTIFICATION</b>	Binoculars
<b>* FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>* TRANSLATION</b> (if applicable)	
<b>* TRANSLITERATION</b> (if applicable)	
<b>* CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>* CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>* CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jennifer L. Gregor
<b>ATTORNEY DOCKET NUMBER</b>	067282
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.
<b>STREET</b>	780 N. Water Street
<b>CITY</b>	Milwaukee
<b>STATE</b>	Wisconsin
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>EMAIL ADDRESS</b>	docketing@gklaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys
<b>CORRESPONDENCE INFORMATION</b>	
<b>* NAME</b>	Jennifer L. Gregor
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.

<b>*STREET</b>	780 N. Water Street
<b>*CITY</b>	Milwaukee
<b>*STATE</b> (Required for U.S. applicants)	Wisconsin
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>*EMAIL ADDRESS</b>	docketing@gklaw.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jennifer L. Gregor/
<b>* SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>* DATE SIGNED</b>	08/20/2012

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 85708483**

**Filing Date: 08/21/2012**

#### To the Commissioner for Trademarks:

**MARK:** SILVER EAGLE (Standard Characters, see [mark](#))

The literal element of the mark consists of SILVER EAGLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
2120 W. Greenview Drive, Suite 4  
Middleton, Wisconsin 53562  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

**For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 009: Binoculars

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jennifer L. Gregor and all other attorneys of Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
United States

The attorney docket/reference number is 067282.

The applicant's current Correspondence Information:

Jennifer L. Gregor  
Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
414-273-3500(phone)  
414-273-5198(fax)

docketing@gklaw.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jennifer L. Gregor/ Date Signed: 08/20/2012

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

RAM Sale Number: 7396

RAM Accounting Date: 08/21/2012

Serial Number: 85708483

Internet Transmission Date: Tue Aug 21 08:35:22 EDT 2012

TEAS Stamp: USPTO/FTK-72.135.232.140-201208210835225

11220-85708483-490da9d301aa36d473b943de2

14fcd51a20-DA-7396-20120820150250924506

# SILVER EAGLE

### Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

#### OVERVIEW

SERIAL NUMBER	85708483	FILING DATE	08/21/2012
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	REINHART, MEGHAN M	L.O. ASSIGNED	108

#### PUB INFORMATION

RUN DATE	06/11/2013		
PUB DATE	N/A		
STATUS	653-SUSPENSION LETTER - MAILED		
STATUS DATE	06/10/2013		
LITERAL MARK ELEMENT	SILVER EAGLE		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

#### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

#### MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	SILVER EAGLE

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Sheltered Wings, Inc.
ADDRESS	2120 W. Greenview Drive, Suite 4 Middleton, WI 53562
ENTITY	03-CORPORATION
CITIZENSHIP	Wisconsin

### GOODS AND SERVICES

INTERNATIONAL CLASS	009
DESCRIPTION TEXT	Binoculars

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	009	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"SILVER"
OWNER OF US REG NOS	3726431 3787739 3794245

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/10/2013	GNS3	O	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	012
06/10/2013	GNSL	S	LETTER OF SUSPENSION E-MAILED	011
06/10/2013	CNSL	R	SUSPENSION LETTER WRITTEN	010
06/08/2013	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
06/07/2013	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
06/07/2013	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
12/08/2012	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
12/08/2012	GNRT	F	NON-FINAL ACTION E-MAILED	005
12/08/2012	CNRT	R	NON-FINAL ACTION WRITTEN	004

12/01/2012	DOCK	D	ASSIGNED TO EXAMINER	003
08/29/2012	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
08/24/2012	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	Jennifer L. Gregor
CORRESPONDENCE ADDRESS	JENNIFER L. GREGOR GODFREY & KAHN, S.C. 780 N WATER ST STE 1500 MILWAUKEE, WI 53202-3590
DOMESTIC REPRESENTATIVE	NONE

# SILVER EAGLE

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708483 - SILVER EAGLE - 067282  
**Sent:** 6/10/2013 7:10:27 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85708483

**MARK:** SILVER EAGLE

**\*85708483\***

**CORRESPONDENT ADDRESS:**

JENNIFER L. GREGOR

GODFREY & KAHN, S.C.

780 N WATER ST STE 1500

MILWAUKEE, WI 53202-3590

**GENERAL TRADEMARK IN**  
<http://www.uspto.gov/trademark>

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

067282

**CORRESPONDENT E-MAIL ADDRESS:**

docketing@gklaw.com

**SUSPENSION NOTICE: NO RESPONSE NEEDED**

**ISSUE/MAILING DATE: 6/10/2013**

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the “Response to Suspension Inquiry or Letter of Suspension” form online at <http://teasroa.uspto.gov/rsi/rsi>.

**PENDING CIVIL PROCEEDING(S):** The pending civil proceeding(s) below pertains to (1) a registered mark that conflicts with applicant’s mark under Trademark Act Section 2(d), (2) a mark in a pending application(s) that could conflict with applicant’s mark under Section 2(d) if it registers, and/or (3) the registrability of applicant’s mark. *See* 15 U.S.C. §1052; 37 C.F.R. §2.83; TMEP §§716.02(a), (c)-(d), 1208 *et seq.* Because the civil proceeding(s) pertains to an issue that could directly affect whether applicant’s mark can be registered, action on this application is suspended pending termination of the civil proceeding(s). *See* 37 C.F.R. §2.67; TMEP §§716.02(a), (c)-(d).

- Cancellation No(s). 92054629

/Meghan Reinhart/

Examining Attorney

Law Office 108

(571) 272-2943

meghan.reinhart@uspto.gov

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708483 - SILVER EAGLE - 067282  
**Sent:** 6/10/2013 7:10:28 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **6/10/2013** FOR U.S. APPLICATION SERIAL NO.85708483

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

## Response to Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	85708483
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 108
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>In response to the Section 2(d) refusal, Applicant notes that it has petitioned to cancel U.S. Registration No. 3,904,929 for STEEL EAGLE the "Cited Mark," owned by Wohali Outdoors, LLC. <i>See</i> Cancellation Proceeding No. 92054629, docket sheet attached as Exhibit A. Applicant's petition to cancel was filed on October 10, 2011. The currently operative pleading is Applicant's Amended Petition for Cancellation (<i>see</i> Exhibit B), which allegations have been generally denied by Wohali. <i>See</i> Exhibit C at 1. The cancellation proceeding is well underway: the Board has denied a summary judgment motion by Wohali, discovery is closed, and the parties are about to enter the trial testimony periods this summer. This proceeding is highly relevant to the instant application because if Applicant is successful in petitioning to cancel the registration for the Cited Mark, the Section 2(d) refusal will be moot.</p> <p>The owner of the Cited Mark, Wohali Outdoors, LLC also owns pending application serial nos. 85/684,377 and 85/464,085, which Applicant has opposed. <i>See</i> Opposition Proceeding Nos. 91208804 and 91205187. These opposition proceedings have been suspended pending the outcome of the cancellation proceeding.</p> <p>Accordingly, and in accordance with TMEP Â§ 716.02(a) and (d), Applicant respectfully requests that examination of the instant application be suspended pending the outcome of these TTAB proceedings. The Examining Attorney is requested to telephone the undersigned in the event that a telephone conference could expedite the processing of this application.</p>	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-162008602_.exhibita.pdf</a>
<b>CONVERTED PDF FILE(S)</b> (2 pages)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0002.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0003.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-162008602_.exhibitb.pdf</a>
<b>CONVERTED PDF</b>	

<b>FILE(S)</b> (4 pages)	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0004.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0004.JPG</a>
	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0005.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0005.JPG</a>
	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0006.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0006.JPG</a>
	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0007.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0007.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-162008602_.exhibitc.pdf</a>
<b>CONVERTED PDF FILE(S)</b> (4 pages)	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0008.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0008.JPG</a>
	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0009.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0009.JPG</a>
	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0010.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0010.JPG</a>
	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0011.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708483\xml4\ROA0011.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Exhibit A which is a Cancellation docket sheet from Cancellation Proceeding No. 92054629; Exhibit B which is Applicant's Amended Petition for Cancellation; Exhibit C which is an order denying summary judgment and regarding general denial of petition
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>DISCLAIMER</b>	No claim is made to the exclusive right to use SILVER apart from the mark as shown.
<b>PRIOR REGISTRATION(S)</b>	The applicant claims ownership of U.S. Registration Number(s) 3794245, 3787739, 3726431, and others.
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Jennifer L. Gregor/
<b>SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>DATE SIGNED</b>	06/07/2013
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Fri Jun 07 16:33:01 EDT 2013
<b>TEAS STAMP</b>	USPTO/ROA-108.196.145.185 -20130607163301331004-857 08483-500ac1e86cf89f8e117 0d7ba4b7814898ede97aabc4b

47fead1b289ad51205b31-N/A  
-N/A-20130607162008602024

PTO Form 1957 (Rev 9/2005)  
OMB No. 0651-0050 (Exp. 05/31/2014)

## **Response to Office Action To the Commissioner for Trademarks:**

Application serial no. **85708483** has been amended as follows:

### **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

In response to the Section 2(d) refusal, Applicant notes that it has petitioned to cancel U.S. Registration No. 3,904,929 for STEEL EAGLE the "Cited Mark," owned by Wohali Outdoors, LLC. *See* Cancellation Proceeding No. 92054629, docket sheet attached as Exhibit A. Applicant's petition to cancel was filed on October 10, 2011. The currently operative pleading is Applicant's Amended Petition for Cancellation (*see* Exhibit B), which allegations have been generally denied by Wohali. *See* Exhibit C at 1. The cancellation proceeding is well underway: the Board has denied a summary judgment motion by Wohali, discovery is closed, and the parties are about to enter the trial testimony periods this summer. This proceeding is highly relevant to the instant application because if Applicant is successful in petitioning to cancel the registration for the Cited Mark, the Section 2(d) refusal will be moot.

The owner of the Cited Mark, Wohali Outdoors, LLC also owns pending application serial nos. 85/684,377 and 85/464,085, which Applicant has opposed. *See* Opposition Proceeding Nos. 91208804 and 91205187. These opposition proceedings have been suspended pending the outcome of the cancellation proceeding.

Accordingly, and in accordance with TMEP Â§ 716.02(a) and (d), Applicant respectfully requests that examination of the instant application be suspended pending the outcome of these TTAB proceedings. The Examining Attorney is requested to telephone the undersigned in the event that a telephone conference could expedite the processing of this application.

### **EVIDENCE**

Evidence in the nature of Exhibit A which is a Cancellation docket sheet from Cancellation Proceeding No. 92054629; Exhibit B which is Applicant's Amended Petition for Cancellation; Exhibit C which is an order denying summary judgment and regarding general denial of petition has been attached.

**Original PDF file:**

[evi\\_108196145185-162008602\\_.exhibita.pdf](#)

**Converted PDF file(s)** (2 pages)

[Evidence-1](#)

[Evidence-2](#)

**Original PDF file:**

[evi\\_108196145185-162008602 . exhibitb.pdf](#)

**Converted PDF file(s)** (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

**Original PDF file:**

[evi\\_108196145185-162008602 . exhibitc.pdf](#)

**Converted PDF file(s)** (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

**ADDITIONAL STATEMENTS**

**Disclaimer**

No claim is made to the exclusive right to use SILVER apart from the mark as shown.

**Claim of Prior Registration(s)**

The applicant claims ownership of U.S. Registration Number(s) 3794245, 3787739, 3726431, and others.

**SIGNATURE(S)**

**Response Signature**

Signature: /Jennifer L. Gregor/ Date: 06/07/2013

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

Signatory's Phone Number: 414-273-3500

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85708483

Internet Transmission Date: Fri Jun 07 16:33:01 EDT 2013

TEAS Stamp: USPTO/ROA-108.196.145.185-20130607163301

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6/6/13

USPTO TTABVUE. Trademark Trial and Appeal Board Inquiry System



United States Patent and Trademark Office

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TTABVUE. Trademark Trial and Appeal Board Inquiry System

v1.5

Cancellation

Number: 92054629

Filing Date: 10/10/2011

Status: Pending

Status Date: 10/10/2011

Interlocutory Attorney: [GEORGE POLOGEORGIS](#)

Defendant

Name: [Wohali Outdoors, LLC](#)

Correspondence: [S MAX HARRIS](#)

DOYLE HARRIS DAVIS HAUGHEY  
1350 SOUTH BOULDER, SUITE 700  
TULSA, OK 74119  
UNITED STATES  
max.harris@1926blaw.com

Serial #: [77689308](#) [Application File](#)

Registration #: [3904929](#)

Application Status: Cancellation Pending

Mark: STEEL EAGLE

Plaintiff

Name: [Sheltered Wings, Inc.](#)

Correspondence: [JENNIFER L GREGOR](#)

GODFREY KAHN SC  
ONE EAST MAIN STREET, SUITE 500  
MADISON, WI 53703  
UNITED STATES  
jgregor@gklaw.com

Serial #: [77060299](#) [Application File](#)

Registration #: [3787739](#)

Application Status: Registered

Mark: GOLDEN EAGLE

Serial #: [77571568](#) [Application File](#)

Registration #: [3726431](#)

Application Status: Registered

Mark: STRIKE EAGLE

Serial #: [77641594](#) [Application File](#)

Registration #: [3794245](#)

Application Status: Registered

Mark: EAGLE OPTICS

Serial #: [78029311](#) [Application File](#)

Registration #: [2886199](#)

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: EAGLE OPTICS

Serial #: [78699411](#) [Application File](#)

Registration #: [3192083](#)

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: EAGLE OPTICS

Prosecution History

# Date History Text



Due Date

6/6/13

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____	)	
In re Registration No. 3,904,929	)	
	)	
SHELTERED WINGS, INC.	)	
	)	Cancellation No. 92054629
Petitioner,	)	
	)	
v.	)	
	)	
WOHALI OUTDOORS, LLC	)	
	)	
Respondent.	)	
_____	)	

**AMENDED PETITION FOR CANCELLATION**

Petitioner, Sheltered Wings, Inc., (“Sheltered Wings”), a Wisconsin corporation, located and doing business at 2120 W. Greenview Drive, Suite 4, Middleton, Wisconsin 53562, believes that it is being damaged and will continue to be damaged by Registration No. 3,904,929 for the mark STEEL EAGLE (the “STEEL EAGLE Registration”) and accordingly petitions to cancel this registration.

As grounds for cancellation, Sheltered Wings alleges:

1. For years, Sheltered Wings has been engaged in the business of providing optics products, including binoculars, spotting scopes, monoculars, and related equipment, among other things.
2. Since at least as early as 1987, Sheltered Wings has continuously used the term EAGLE in its trademarks for its optics products.
3. Sheltered Wings is the owner of the following United States trademark registrations for its trademarks including the term EAGLE:



Mark/Reg. No.	Application and Registration Dates	Goods and Services	First Use in Commerce in Registration
GOLDEN EAGLE Reg. No. 3,787,739	App: Dec. 8, 2006 Reg: May 11, 2010	Class 9: Binoculars	February 2010
EAGLE OPTICS Reg. No. 2,886,199	App: Oct. 5, 2000 Reg: Sep. 21, 2004	Class 9: Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore	April 1, 1996
 Reg. No. 3,192,083	App: Aug. 24, 2005 Reg: Jan. 2, 2007	Class 9: Binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching  Class 35: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching	December 2001  1987

The registrations for the marks listed above (the “EAGLE Marks”) are valid and subsisting.

Additionally, Registration Nos. 2,886,199 and 3,192,083 are incontestable in accordance with the provisions of Sections 8 and 15 of the United States Trademark Act. (15 U.S.C. §§ 1058 and 1065).

4. Sheltered Wings long has owned valuable goodwill represented by its EAGLE Marks.

5. By virtue of Sheltered Wings’ extensive use, advertising, and promotion of its EAGLE Marks, and long before the filing date of the STEEL EAGLE Registration, the EAGLE Marks became extremely well known and acquired a strong secondary meaning signifying Sheltered Wings.

6. Upon information and belief, respondent, Wohali Outdoors, LLC (“Wohali”), an Oklahoma limited liability company located at 1300 N. Industrial Blvd., Claremore, Oklahoma, 74017 is engaged in the business of providing outdoor gear including rain wear, fishing rods, binoculars, and spotting scopes.

7. Wohali owns Registration No. 3, 904,929 for the trademark STEEL EAGLE for “Magnifying optical equipment, namely, rifle scopes and binoculars,” in Class 9 (the “STEEL EAGLE Registration”), which registration was granted on January 11, 2011, based on an intent-to-use application filed on March 12, 2009.

8. Wohali did not use the trademark STEEL EAGLE in the United States for any goods or services prior to October 21, 2009, the date of first use identified in the STEEL EAGLE Registration.

9. Use by Wohali of the trademark STEEL EAGLE for the goods identified in its registration is likely to confuse the purchasing public as to the source of Wohali’s goods or to cause mistake or to deceive as to an affiliation, connection, or association with Sheltered Wings in violation of Section 2(d) of the United States Trademark Act (15 U.S.C. § 1052(d)).

10. Sheltered Wings is also being damaged by Wohali’s STEEL EAGLE Registration because the United States Trademark Office has refused registration of Sheltered Wings’ pending application Serial No. 85/095,903 for the mark EAGLE for binoculars, riflescopes, spotting scopes, and telescopes in Class 9 in view of the STEEL EAGLE Registration.

WHEREFORE, Sheltered Wings believes that it is being damaged and will continue to be damaged by the STEEL EAGLE Registration and petitions to cancel that registration.

Please deduct the requisite filing fee and any other fees associated with this proceeding from the deposit account of Godfrey & Kahn, S.C., Account No. 07-1509.

Respectfully submitted,

SHELTERED WINGS, INC.

Date: August 24, 2012

By:           /Jennifer L. Gregor/            
James D. Peterson  
Jennifer L. Gregor  
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Goodman

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**THIS OPINION IS NOT  
A PRECEDENT  
OF THE TTAB**

Mailed: November 8, 2012

Cancellation No. 92054629

Sheltered Wings, Inc.

v.

Wohali Outdoors, LLC

Before Cataldo, Bergsman, and Wolfson, Administrative  
Trademark Judges.

**By the Board:**

This case now comes up on respondent's motion, filed July 20, 2012, for summary judgment. The motion is fully briefed. Petitioner has requested that the Board grant summary judgment in its favor as non-movant.

Additionally, petitioner filed a motion, on August 24, 2012, for leave to amend its pleading to withdraw pleaded Registration nos. 3726431 and 3794245 from the proceeding as the marks are "not currently in use with the goods identified in the registrations." In response to the motion, respondent "denies each and every allegation asserted by the Petitioner."

The motion for leave to amend is granted, and the amended petition to cancel is henceforth the operative pleading in the case. Respondent's response to the motion



Cancellation No. 92054629

for leave to amend is treated as a general denial of the allegations in the amended petition to cancel, and therefore, a formal answer need not be filed.

We now turn to respondent's motion for summary judgment.

A party is entitled to summary judgment when it has demonstrated that there is no genuine dispute as to any material fact and that it is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). In reviewing a motion for summary judgment, the evidentiary record and all reasonable inferences to be drawn from the undisputed facts must be viewed in the light most favorable to the nonmoving party. *Olde Tyme Foods Inc. v. Roundy's Inc.*, 961 F.2d 200, 22 USPQ2d 1542, 1544 (Fed. Cir. 1992).

Upon consideration of the parties' arguments and evidence, we find that, at a minimum, genuine disputes of material fact remain with respect to the similarities or dissimilarities of the parties' marks and with respect to the strength or weakness of petitioner's pleaded marks. In view thereof, respondent's motion for summary judgment is denied.<sup>1</sup> For the same reason, petitioner's request that the Board grant summary judgment to petitioner as non-movant is

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<sup>1</sup> The fact that we have identified and discussed certain genuine disputes of material fact as a sufficient basis for denying respondent's motion for summary judgment should not be construed as a finding that these are necessarily the only disputes which remain for trial.

## Cancellation No. 92054629

also denied. *See The Clorox Co. v. Chemical Bank*, 40 USPQ2d 1098 (TTAB 1996) (Board may sua sponte enter summary judgment for non-moving party if there are no material facts in dispute and judgment is appropriate as a matter of law).<sup>2</sup>

The parties may stipulate to resolution of this proceeding by means of the Board's accelerated case resolution ("ACR") procedure, either on the current summary judgment record, or as supplemented by the parties, pursuant to an agreement to proceed under ACR. Any such agreement to proceed under ACR on the summary judgment submissions must include a stipulation that the Board may decide any genuine disputes of material fact. The parties may also stipulate to narrow the issues before the Board to streamline the case and provide a joint statement of undisputed facts. If the parties decide to proceed via ACR, they are encouraged to jointly contact the interlocutory attorney responsible for this proceeding by telephone to discuss the possibility of

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<sup>2</sup> The parties should note that the evidence submitted in connection with the motion for summary judgment is of record only for consideration of the motion for summary judgment. Otherwise, to be considered at final hearing, any such evidence must be properly introduced in evidence during the appropriate trial period or stipulated to by the parties as of record for purposes of final decision or determination of this proceeding via accelerated case resolution ("ACR"). *See, e.g., Eveready Battery Co., Inc. v. Green Planet, Inc.*, 91 USPQ2d 1511, 1513 (TTAB 2009) (parties stipulated that evidence submitted in connection with summary judgment motion shall be deemed of record for trial pursuant to Accelerated Case Resolution (ACR)); *Levi Strauss & Co. v. R. Josephs Sportswear Inc.*, 28 USPQ2d 1464, 1465 n. 2. (TTAB 1993) (summary judgment evidence is not part of the record on final decision unless introduced into evidence during trial period).

Cancellation No. 92054629

ACR, any supplementation of the record, and an agreed-upon schedule for proceeding under ACR.

Proceedings are resumed.

Dates are reset as follows:

Expert Disclosures Due	11/19/2012
Discovery Closes	12/19/2012
Plaintiff's Pretrial Disclosures Due	2/2/2013
Plaintiff's 30-day Trial Period Ends	3/19/2013
Defendant's Pretrial Disclosures Due	4/3/2013
Defendant's 30-day Trial Period Ends	5/18/2013
Plaintiff's Rebuttal Disclosures Due	6/2/2013
Plaintiff's 15-day Rebuttal Period Ends	7/2/2013

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))

**Subject:** U.S. TRADEMARK APPLICATION NO. 85708483 - SILVER EAGLE - 067282

**Sent:** 12/8/2012 12:59:52 PM

**Sent As:** ECOM108@USPTO.GOV

**Attachments:** [Attachment - 1](#)  
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85708483

**MARK:** SILVER EAGLE

**\*85708483\***

**CORRESPONDENT ADDRESS:**

JENNIFER L. GREGOR  
GODFREY & KAHN, S.C.  
780 N WATER ST STE 1500  
MILWAUKEE, WI 53202-3590

**CLICK HERE TO RESPOND TO THIS LETTER**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

067282

**CORRESPONDENT E-MAIL ADDRESS:**

docketing@gklaw.com

**OFFICE ACTION****STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 12/8/2012**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**Likelihood of Confusion – Section 2(d) Refusal**

Registration of the applied-for mark (SILVER EAGLE) is refused because of a likelihood of confusion with the mark in U.S. Registration No. 3904929 (STEEL EAGLE). Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; *see also In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

**Similarity of Marks**

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP

§1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

Applicant's mark is "SILVER EAGLE".

Registrant's mark is "STEEL EAGLE".

The marks are similar because they all contain the term "EAGLE".

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases, such as "EAGLE", appearing in both applicant's and registrant's mark. *See Crocker Nat'l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff'd sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat'l Ass'n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and "21" CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii).

Please note that, where the goods of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as in the case of diverse goods. *See In re Viterra Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (citing *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992)); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1348, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010); TMEP §1207.01(b). Please see Similarity of Goods section below evidencing that registrant's goods are identical to/encompass all of applicant's goods.

Accordingly, the relevant marks are sufficiently similar to support a finding of likelihood of confusion.

### **Similarity of Goods**

The goods of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods need only be related in some manner or the conditions surrounding their marketing be such that they will be encountered by the same consumers under circumstances that would lead to the mistaken belief that the goods originate from the same source. *Gen. Mills Inc. v. Fage Dairy Processing Indus.*, 100 USPQ2d 1584, 1597 (TTAB 2012); TMEP §1207.01(a)(i); *see On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d at 1086, 56 USPQ2d at 1475; *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Applicant's goods are " **binoculars**".

Registrant's goods are "Magnifying optical equipment, namely, rifle scopes and **binoculars.**"

Therefore, registrant's goods encompass/are identical to (see bolded goods) all of applicant's goods. Accordingly, based on the similarity of the marks and the relationship of the goods, registration of the applicant's mark is refused under Section 2(d) of the Trademark Act.

Although the examining attorney has refused registration, the applicant has the option to respond to the refusal to register by submitting evidence and legal arguments in support of registration. If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following requirement(s).

### **Ownership of Prior Registrations**

If applicant owns U.S. Registration Nos. 3794245, 3192083, 2886199 and other registrations, then applicant must submit for the application record a claim of ownership of these registrations. *See* 37 C.F.R. §2.36; TMEP §812. See the attached copies of the registrations. *See* TMEP §812.

Applicant may use the following format to claim ownership of these registrations:

**Applicant is the owner of U.S. Registration Nos. 3794245, 3787739, 3726431 and others.**

### **Disclaimer**

A "disclaimer" is a statement in the application record that applicant does not claim exclusive rights to an unregistrable component of a mark; a disclaimer does not affect the appearance of the mark or physically remove disclaimed matter from the mark. TMEP §§1213, 1213.10. An unregistrable component of a mark includes wording and designs that are merely descriptive of an applicant's goods. 15 U.S.C. §1052(e); *see* TMEP §§1209.03(f), 1213.03 *et seq.* Such words or designs need to be freely available for other businesses to market comparable goods and should not become the proprietary domain of any one party. *See Dena Corp. v. Belvedere Int'l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983).

Applicant must disclaim the descriptive wording "SILVER" apart from the mark as shown because it merely describes a quality, characteristic, function, feature, purpose or use of applicant's goods. *See* 15 U.S.C. §§1052(e)(1), 1056(a); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005); *In re Gyulay*, 820 F.2d 1216, 1217-18, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987); TMEP §§1213, 1213.03(a).

Specifically, the attached evidence from [www.dictionary.com](http://www.dictionary.com) shows that "SILVER" means "a lustrous grayish white or whitish gray, or the color of the metal". Therefore, the wording merely describes/indicates to consumers that applicant's binoculars are silver in color. See attached webpages evidencing that the term "SILVER" is commonly used to describe the color of binoculars.

A "disclaimer" is a statement that applicant does not claim exclusive rights to an unregistrable component

of a mark. TMEP §1213. A disclaimer does not affect the appearance of the applied-for mark. *See* TMEP §1213.10.

Failure to comply with a disclaimer requirement can result in a refusal to register the entire mark. TMEP §1213.01(b).

Applicant may submit the following standardized format for a disclaimer:

**No claim is made to the exclusive right to use “SILVER” apart from the mark as shown.**

TMEP §1213.08(a)(i); *see In re Owatonna Tool Co.*, 231 USPQ 493 (Comm’r Pats. 1983).

### **Responding to this Office Action**

**TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE:** Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, *see* TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner’s amendment will not incur this additional fee.

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

In addition, applicant filed a TEAS Plus application and therefore must respond online using the Trademark Electronic Application System (TEAS) at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp) to avoid incurring an additional fee. *See* 37 C.F.R. §2.23(a)(1), (b).

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure

to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to live status. *See* 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §§2.6, 2.66(b)(1).

### ***Telephone/Email Suggested for Questions***

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Meghan Reinhart/  
Examining Attorney  
Law Office 108  
(571) 272-2943  
meghan.reinhart@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**Print: Dec 8, 2012**

**77689308**

**DESIGN MARK**

**Serial Number**

77689308

**Status**

CANCELLATION PENDING

**Word Mark**

STEEL EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3904929

**Date Registered**

2011/01/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Wohali Outdoors, LLC LIMITED LIABILITY COMPANY OKLAHOMA 1300 N.  
Industrial Blvd. Claremore OKLAHOMA 74017

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Magnifying optical equipment, namely, rifle scopes and binoculars.  
First Use: 2009/10/21. First Use In Commerce: 2009/10/21.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STEEL" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2009/03/12

**Examining Attorney**

MCMORROW, RONALD

**Attorney of Record**

S. Max Harris

**STEEL EAGLE**

**Print: Dec 8, 2012**

**77060299**

**DESIGN MARK**

**Serial Number**

77060299

**Status**

REGISTERED

**Word Mark**

GOLDEN EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3787739

**Date Registered**

2010/05/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 W Greenview Dr, Ste 4  
Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars. First Use: 2010/02/00. First Use In Commerce:  
2010/02/00.

**Prior Registration(s)**

2886199;3192083

**Filing Date**

2006/12/08

**Examining Attorney**

LEIPZIG, MARC

**Attorney of Record**

Bennet Langlotz

# GOLDEN EAGLE

**Print: Dec 8, 2012**

**77571568**

**DESIGN MARK**

**Serial Number**

77571568

**Status**

REGISTERED

**Word Mark**

STRIKE EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3726431

**Date Registered**

2009/12/15

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 West Greenview Drive,  
Suite 4 Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars; Rifle scopes. First Use: 2009/02/01. First Use In  
Commerce: 2009/02/01.

**Filing Date**

2008/09/16

**Examining Attorney**

SAPP, HEATHER

**Attorney of Record**

Bennet K. Langlotz

**STRIKE EAGLE**

**Print: Dec 8, 2012**

**77641594**

**DESIGN MARK**

**Serial Number**

77641594

**Status**

REGISTERED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

Yes

**Registration Number**

3794245

**Date Registered**

2010/05/25

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 West Greenview Drive,  
Suite 4 Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Riflescopes. First Use: 2010/03/01. First Use In Commerce:  
2010/03/01.

**Prior Registration(s)**

2886199;3192083

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2008/12/30

**Examining Attorney**

ALTREE, NICHOLAS

**Print: Dec 8, 2012**

**77641594**

**Attorney of Record**  
Bennet K. Langlotz

# EAGLE OPTICS

**Print: Dec 8, 2012**

**78029311**

**TYPED DRAWING**

**Serial Number**

78029311

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

No

**Registration Number**

2886199

**Date Registered**

2004/09/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 W. Greenview Dr. #4  
Middleton WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars, spotting scopes, and telescopes, all for use in bird  
watching, and storage cases therefore. First Use: 1996/01/01. First  
Use In Commerce: 1996/04/01.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2000/10/05

**Examining Attorney**

RADEMACHER, APRIL L.

**Attorney of Record**

Angela V. Langlotz

**Print: Dec 8, 2012**

**78699411**

**DESIGN MARK**

**Serial Number**

78699411

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

No

**Registration Number**

3192083

**Date Registered**

2007/01/02

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN Suite Four 2120 West  
Greenview Drive Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars, spotting scopes, telescopes, and storage cases therefor,  
all for use in birdwatching. First Use: 2001/05/00. First Use In  
Commerce: 2001/12/00.

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Retail  
store, mail order and online retail store services featuring  
binoculars, spotting scopes, telescopes, and storage cases therefor,  
all for use in birdwatching. First Use: 1987/00/00. First Use In  
Commerce: 1987/00/00.

**Prior Registration(s)**

2886199

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE

**Print: Dec 8, 2012**

**78699411**

MARK AS SHOWN.

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Filing Date**

2005/08/24

**Examining Attorney**

DAHLING, KRISTIN

**Attorney of Record**

Bennet K. Langlotz





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TrailWorthy Digital Camera Binoculars

Rating 2 | 1 reviews | Write a review

Today \$33.99

Item #: 13977743

This is a premium network digital camera and binoculars in one unique electronic device. These Binoculars shoot vibrant photos of distant images, captures video and face to face communication over the internet...more

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Coleman 8x42 Signature All Terrain Waterproof Binoculars Today \$75.99

Barska 10x25 Pink Binoculars Today \$21.66

Product Details Product Reviews Product Q&A Shipping & Returns

This is a premium network digital camera and binoculars in one unique electronic device. These Binoculars shoot vibrant photos of distant images, captures video and face to face communication over the internet.

Dimensions: See Description Materials: See Description Model No: 290-D821

Features

Color Silver Number of Batteries Required 2

Was this product information helpful? Yes No

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- Binoculars Buying Guide Best Binoculars for Stargazing FAQs about Binoculars Best Binoculars Extras How to Care for Binoculars Hunting Optics Buying Guide How to Connect Your Digital Camera to your Computer FAQs about Digital Camera Terminology Tips on Buying a Digital Camera Digital Camera Glossary

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**Eagle Optics 8x21 Energy Binoculars - Silver** Item # SHL239

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Price: **\$49.99** (was \$59.99) **SALE**

**Free Shipping Available** on orders over \$50. Get it before Christmas with Free Ground when you buy today. [View All Shipping Options](#)

**ON ITS WAY FOR CHRISTMAS DAY!**

Qty:  **ADD TO CART**

**Details & Dimensions** Guarantee & Returns

**GET IT BY CHRISTMAS**

Pick up the life, roof prism binocular for use on a daytime hike, at the football game, or in the theater. The Energy has multi-coated lenses for bright views and a double-hinged design that folds into an easily portable size. With such an affordable price, you will want to order several Energy binoculars—one for yourself and more for friends.

**Optical Features**

- Multi-coated Lenses increase light transmission with multiple anti-reflective coatings on at least one lens surface.

**Construction Features**

- Roof Prism Appreciated for a streamlined shape and durability.
- Adjustable Eyepiece Tilt up and down for comfortable viewing with or without eyeglasses.
- Center Focus Wheel Adjusts both binocular barrels at the same time.
- Right Eye Dioptric Adjusts for differences in a user's eyes. Located by the right eyepiece.

**SUPPLIER SKU:** STAR-821

**SHIPPING RESTRICTIONS:** Only ships in contiguous USA.

**Dimensions & Specifications**

Weight	8 oz.
Size	Compact Binoculars
Eye Relief	8mm
Waterproof	No
Magnification	8x
Brand	Eagle Optics
Objective Lens Diameter	21mm
Field of View @ 1000 Yards	303 ft.
Exit Pupil	2.62mm
Focus Type	Center Focus
Close Focusing Distance	16 ft.
Binoculars Series	Eagle Optics Energy Binoculars
Prism Type	Roof Prism Binoculars

**Other Customers Also Viewed**

- Zhumel 10x42mm Spotting Waterproof Binoculars **★★★★★** Price: **\$139.99**
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- Bushnell 10x42mm Legend Ultra HD Binoculars **★★★★★** Price: **\$199.99**
- Nikon 10x50mm Action Binoculars **★★★★★** Price: **\$89.99**

**The Perfect Accessories**

- Zhumel Optic Cleaning Kit **★★★★★** (72 Reviews) **SALE** Price: **\$9.99** (was \$17.99) **Free Shipping Available** Qty: 1 **ADD TO CART** #ZHU002
- NanoFilm Ultra Clarity Lens Cleaner **★★★★★** (28 Reviews) **SALE** Price: **\$8.99** (was \$14.99) **Free Shipping Available** Qty: 1 **ADD TO CART** #NAN005
- NanoFilm Ultra Clarity Micro-Fiber Lens Cloth **★★★★★** (8 Reviews) **SALE** Price: **\$9.99** (was \$14.99) **Free Shipping Available** Qty: 1 **ADD TO CART** #NAN006

ITEMS 1 - 3 OF 3

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## Silver Nikon Binoculars - Met Exclusive

Item# 1000004639

★★★★★

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Ultra-compact, lightweight 4x10 DCF binocular with superior optical performance. Compact size and stylish, sophisticated design make them perfect for the opera.

- Dimensions: 3.5" length x 2" width x .75" height
- Weight: 2.5 ounces

You might also like.....



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Nikon Anniversary Series Special Edition Binoculars 6 x 15  
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Met Red Chain Opera Glasses  
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Met Black Lorgnette Opera Glasses  
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Met Black Chain Opera Glasses  
**\$55.00 Our Price**  
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Met Gold Chain Opera Glasses  
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Met Mother-of-Pearl Lorgnette Opera Glasses  
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  - Voice Changers
  - Binoculars and Scopes
  - Survival / Outdoor Gear
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  - Background Checks
  - Blog

Home > Optics - Binoculars, Monoculars, and Scopes > Binoculars **Silver** 10X25 Compact Comfort Fit Humvee

Binoculars **Silver** 10X25 Compact Comfort Fit Humvee



click to enlarge

Item #:	HMV-B-10X25UCF
Rating:	☆☆☆☆☆ Rate This Item
Retail Price:	\$39.99
Sale Price:	\$34.99 You Save 13%
Availability:	Usually ships the same business day
Quantity:	1

ADD TO CART

Sign In Register



TELL A FRIEND

Description Customer Reviews

Binoculars **Silver** 10X25 Compact Comfort Fit Humvee

Item#: HMV-B-10X25UCF

**Binoculars 10X25 Compact Comfort Fit Humvee** These 10 x 25 Binoculars are easy to carry. They are a compact package and include a case, cleaning cloth and a lanyard. Great for private investigators, sporting events or just general use Bird watchers will truly enjoy the crystal clear optics found on our entire line of binoculars.

- Specifications
- 10 X 25
  - Black and Silver Out Side Color
  - Hard Plastic case
  - Ruby Red Lens
- Includes
- Binoculars
  - Carrying Case
  - Lanyard
  - Cleaning Cloth



16 Hour Phone Recorder Sale Price: \$119.99



Spy Finder Finds all hidden cameras. Sale Price: \$79.99



Spy Pen Digital Voice Recorder Sale Price: \$89.99



Related Items In Optics - Binoculars, Monoculars, and Scopes

- Spy Periscope View over under and around maintaining an upright site picture
- Golf Range Finder Mini Spotting Scope Monocular 8X20
- 7x50 Binoculars Humvee Rubber Armor Coated
- Binoculars 16 x 32 80M / 1000M Rubber Armor Coated Humvee
- Binoculars 10X25 Compact Green Camo Humvee
- Bushnell Imageview™ 10 X 25MM Digital Imaging Binoculars
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**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708483 - SILVER EAGLE - 067282  
**Sent:** 12/8/2012 12:59:53 PM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **12/8/2012** FOR U.S. APPLICATION SERIAL NO. 85708483

Please follow the instructions below:

(1) **TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **TIMELY RESPONSE IS REQUIRED:** Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **12/8/2012** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

**Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

(3) **QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the**

**ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

\*\*\* User:mreinhardt \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	10744	N/A	0	0	1:00	*{v:2}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[ld]
02	4767	N/A	0	0	0:07	*e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[ld]
03	1707	N/A	0	0	0:04	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[ld]
04	837	N/A	0	0	0:04	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[ld] and "009"[cc]
05	251	0	251	212	0:03	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[ld] and "009"[ic]
06	231	0	231	195	0:02	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }[bi,ti] and live[ld] and "009"[ic]
07	10	0	10	8	0:07	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1 }*[bi,ti] and live[ld] and (a b 200)[ic]
08	3488	N/A	0	0	0:03	*owl*[bi,ti] and live[ld]
09	4644	N/A	0	0	0:03	*wl*[bi,ti] and live[ld]
10	2814	N/A	0	0	0:03	*aul*[bi,ti] and live[ld]
11	21	0	21	19	0:01	(8 9 10) and 1
12	4874	N/A	0	0	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*
13	1817	N/A	0	0	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*[bi,ti] and live[ld]
14	250	0	250	209	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*[bi,ti] and live[ld] and "009"[ic]
15	249	0	249	208	0:04	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*[bi,ti] and live[ld] and "009"[ic] not 7
16	19	0	19	15	0:04	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }*[bi,ti] and live[ld] and "009"[ic] not 5
17	35	0	35	23	0:02	e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }[fm] and live[ld] and "009"[ic]
18	132	0	132	91	0:02	e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1 }[fm] and live[ld]
19	3301	N/A	0	0	0:02	031501[dc] and live[ld]
20	613	0	7	613	0:03	031507[dc] and live[ld]
21	4	0	4	4	0:01	19 and 20
22	1671	N/A	0	0	0:04	19 and "009"[cc]
23	411	0	48	411	0:03	19 and ("009" a b 200)[ic]
24	2	0	2	2	0:01	20 and 1
25	952	N/A	0	0	0:03	*b{v}ld*[bi,ti] and live[ld]
26	17	0	17	17	0:01	*b{v}ld*[bi,ti] and live[ld] and 1
27	404	N/A	0	0	0:01	*b{v}ld*[bi,ti] and live[ld] and "009"[cc]
28	99	0	99	76	0:01	*b{v}ld*[bi,ti] and live[ld] and "009"[ic]
29	1	0	1	1	0:02	*b{v}ld*[bi,ti] and live[ld] and (a b 200)[ic]
30	11076	N/A	0	0	0:03	*bl{v}{ "ckqx":2 }{ "Sz"0:1 }*[bi,ti] and live[ld]
31	64	0	64	58	0:01	*bl{v}{ "ckqx":2 }{ "Sz"0:1 }*[bi,ti] and live[ld] and 1
32	1305	N/A	0	0	0:02	*bl{v}{ "ckqx":2 }{ "Sz"0:1 }*[bi,ti] and live[ld] and "009"[ic]
33	652	N/A	0	0	0:01	*bla{ "ckqx":2 }{ "Sz"0:1 }*[bi,ti] and live[ld] and "009"[ic]
34	515	N/A	0	0	0:03	bla{ "ckqx":2 }{ "Sz"0:1 }[bi,ti] and live[ld] and "009"[ic]
35	21	0	21	20	0:01	bla{ "ckqx":2 }{ "Sz"0:1 }[fm] and live[ld]
36	86226	N/A	0	0	0:11	*{v}r{v0:1}n*[bi,ti] and live[ld]
37	403	N/A	0	0	0:05	*{v}r{v0:1}n*[bi,ti] and live[ld] and 1
38	31	0	31	27	0:04	*{ "iy" }r{v0:1}n*[bi,ti] and live[ld] and 1
39	698	N/A	0	0	0:04	*{ "iy" }r{v0:1}n*[bi,ti] and live[ld] and "009"[ic]
40	175	0	175	149	0:04	{ "iy" }r{v0:1}n*[bi,ti] and live[ld] and "009"[ic]
41	22	0	22	21	0:05	{ "iy" }r{v0:1}n*[bi,ti] and live[ld] and (a b 200)[ic]
42	2578	N/A	0	0	0:40	*{ "sz" }{v}lv{v0:1}r{ "sz"0:1 }*[bi,ti] and live[ld]
43	11	0	11	9	0:38	*{ "sz" }{v}lv{v0:1}r{ "sz"0:1 }*[bi,ti] and live[ld] and 1

44	2578	N/A	0	0	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
45	250	0	250	214	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
46	9	0	9	8	0:39	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
47	5213	N/A	0	0	0:40	*{"sz"}tr{v}{ "ckqx":2}{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld]
48	1542	N/A	0	0	0:37	*{"sz"}tr{"iy"}{ "ckqx":2}{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld]
49	228	0	228	205	0:37	*{"sz"}tr{"iy"}{ "ckqx":2}{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
50	19	0	19	18	0:38	*{"sz"}tr{"iy"}{ "ckqx":2}{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
51	39	0	39	33	0:01	47 and 1

Session started 12/7/2012 5:56:18 AM

Session finished 12/7/2012 6:48:20 AM

Total search duration 8 minutes 56 seconds

Session duration 52 minutes 2 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85708483

# SILVER EAGLE

# Trademark/Service Mark Application, Principal Register

## TEAS Plus Application

Serial Number: 85708483

Filing Date: 08/21/2012

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">SILVER EAGLE</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	SILVER EAGLE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Sheltered Wings, Inc.
*STREET	2120 W. Greenview Drive, Suite 4
*CITY	Middleton
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	53562
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION

<b>* STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>* INTERNATIONAL CLASS</b>	009
<b>* IDENTIFICATION</b>	Binoculars
<b>* FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>* TRANSLATION</b> (if applicable)	
<b>* TRANSLITERATION</b> (if applicable)	
<b>* CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>* CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>* CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jennifer L. Gregor
<b>ATTORNEY DOCKET NUMBER</b>	067282
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.
<b>STREET</b>	780 N. Water Street
<b>CITY</b>	Milwaukee
<b>STATE</b>	Wisconsin
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>EMAIL ADDRESS</b>	docketing@gklaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys
<b>CORRESPONDENCE INFORMATION</b>	
<b>* NAME</b>	Jennifer L. Gregor
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.

<b>*STREET</b>	780 N. Water Street
<b>*CITY</b>	Milwaukee
<b>*STATE</b> (Required for U.S. applicants)	Wisconsin
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>*EMAIL ADDRESS</b>	docketing@gklaw.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jennifer L. Gregor/
<b>* SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>* DATE SIGNED</b>	08/20/2012

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 85708483**

**Filing Date: 08/21/2012**

#### To the Commissioner for Trademarks:

**MARK:** SILVER EAGLE (Standard Characters, see [mark](#))

The literal element of the mark consists of SILVER EAGLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
2120 W. Greenview Drive, Suite 4  
Middleton, Wisconsin 53562  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

**For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 009: Binoculars

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jennifer L. Gregor and all other attorneys of Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
United States

The attorney docket/reference number is 067282.

The applicant's current Correspondence Information:

Jennifer L. Gregor  
Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
414-273-3500(phone)  
414-273-5198(fax)

docketing@gklaw.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jennifer L. Gregor/ Date Signed: 08/20/2012

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

RAM Sale Number: 7396

RAM Accounting Date: 08/21/2012

Serial Number: 85708483

Internet Transmission Date: Tue Aug 21 08:35:22 EDT 2012

TEAS Stamp: USPTO/FTK-72.135.232.140-201208210835225

11220-85708483-490da9d301aa36d473b943de2

14fcd51a20-DA-7396-20120820150250924506

# SILVER EAGLE

**Generated on:** This page was generated by TSDR on 2013-09-26 13:20:25 EDT

**Mark:** SILVER EAGLE

SILVER EAGLE

**US Serial Number:** 85708483      **Application Filing Date:** Aug. 21, 2012  
**Filed as TEAS Plus:** Yes      **Currently TEAS Plus:** Yes  
**Register:** Principal  
**Mark Type:** Trademark  
**Status:** An Office action suspending further action on the application has been sent (issued) to the applicant. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.  
**Status Date:** Jun. 10, 2013

## Mark Information

**Mark Literal Elements:** SILVER EAGLE  
**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.  
**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK  
**Disclaimer:** "SILVER"

## Related Properties Information

**Claimed Ownership of US Registrations:** 3726431, 3787739, 3794245 and others

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Binoculars  
**International Class(es):** 009 - Primary Class      **U.S Class(es):** 021, 023, 026, 036, 038  
**Class Status:** ACTIVE  
**Basis:** 1(b)

## Basis Information (Case Level)

<b>Filed Use:</b> No	<b>Currently Use:</b> No	<b>Amended Use:</b> No
<b>Filed ITU:</b> Yes	<b>Currently ITU:</b> Yes	<b>Amended ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No	<b>Amended 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No	<b>Amended 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No	
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No	

## Current Owner(s) Information

**Owner Name:** Sheltered Wings, Inc.  
**Owner Address:** 2120 W. Greenview Drive, Suite 4  
 Middleton, WISCONSIN 53562  
 UNITED STATES  
**Legal Entity Type:** CORPORATION      **State or Country Where Organized:** WISCONSIN

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Jennifer L. Gregor      **Docket Number:** 067282  
**Attorney Primary Email Address:** [docketing@gklaw.com](mailto:docketing@gklaw.com)      **Attorney Email Authorized:** Yes

**Correspondent**

**Correspondent Name/Address:** JENNIFER L. GREGOR  
 GODFREY & KAHN, S.C.  
 780 N WATER ST STE 1500  
 MILWAUKEE, WISCONSIN 53202-3590  
 UNITED STATES

**Phone:** 414-273-3500

**Fax:** 414-273-5198

**Correspondent e-mail:** [docketing@gklaw.com](mailto:docketing@gklaw.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Jun. 10, 2013	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jun. 10, 2013	LETTER OF SUSPENSION E-MAILED	6332
Jun. 10, 2013	SUSPENSION LETTER WRITTEN	85323
Jun. 08, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 07, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 07, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 08, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Dec. 08, 2012	NON-FINAL ACTION E-MAILED	6325
Dec. 08, 2012	NON-FINAL ACTION WRITTEN	85323
Dec. 01, 2012	ASSIGNED TO EXAMINER	85323
Aug. 29, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 24, 2012	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information****TM Staff Information**

**TM Attorney:** REINHART, MEGHAN M

**Law Office Assigned:** LAW OFFICE 108

**File Location**

**Current Location:** TMEG LAW OFFICE 108 - EXAMINING  
 ATTORNEY ASSIGNED

**Date in Location:** Jun. 10, 2013

**Trademark/Service Mark Application, Principal Register****TEAS Plus Application**

Serial Number: 85708484

Filing Date: 08/21/2012

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">STRIKE EAGLE</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	STRIKE EAGLE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Sheltered Wings, Inc.
*STREET	2120 W. Greenview Drive, Suite 4
*CITY	Middleton
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	53562
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION

<b>* STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>* INTERNATIONAL CLASS</b>	009
<b>* IDENTIFICATION</b>	Binoculars
<b>* FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>* TRANSLATION</b> (if applicable)	
<b>* TRANSLITERATION</b> (if applicable)	
<b>* CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>* CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>* CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jennifer L. Gregor
<b>ATTORNEY DOCKET NUMBER</b>	067282
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.
<b>STREET</b>	780 N. Water Street
<b>CITY</b>	Milwaukee
<b>STATE</b>	Wisconsin
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>EMAIL ADDRESS</b>	docketing@gklaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys
<b>CORRESPONDENCE INFORMATION</b>	
<b>* NAME</b>	Jennifer L. Gregor
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.

<b>*STREET</b>	780 N. Water Street
<b>*CITY</b>	Milwaukee
<b>*STATE</b> (Required for U.S. applicants)	Wisconsin
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>*EMAIL ADDRESS</b>	docketing@gklaw.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jennifer L. Gregor/
<b>* SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>* DATE SIGNED</b>	08/20/2012

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 85708484**

**Filing Date: 08/21/2012**

#### To the Commissioner for Trademarks:

**MARK:** STRIKE EAGLE (Standard Characters, see [mark](#))

The literal element of the mark consists of STRIKE EAGLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
2120 W. Greenview Drive, Suite 4  
Middleton, Wisconsin 53562  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

**For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 009: Binoculars

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jennifer L. Gregor and all other attorneys of Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
United States

The attorney docket/reference number is 067282.

The applicant's current Correspondence Information:

Jennifer L. Gregor  
Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
414-273-3500(phone)  
414-273-5198(fax)

docketing@gklaw.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jennifer L. Gregor/ Date Signed: 08/20/2012

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

RAM Sale Number: 7399

RAM Accounting Date: 08/21/2012

Serial Number: 85708484

Internet Transmission Date: Tue Aug 21 08:36:00 EDT 2012

TEAS Stamp: USPTO/FTK-72.135.232.140-201208210836001

57979-85708484-4907968f9c4c9845f2f151592

76e61b4e-DA-7399-20120820145456789548

# STRIKE EAGLE

### Trademark Snap Shot Amendment & Mail Processing Stylesheet

(Table presents the data on Amendment & Mail Processing Complete)

#### OVERVIEW

SERIAL NUMBER	85708484	FILING DATE	08/21/2012
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	REINHART, MEGHAN M	L.O. ASSIGNED	108

#### PUB INFORMATION

RUN DATE	06/11/2013		
PUB DATE	N/A		
STATUS	653-SUSPENSION LETTER - MAILED		
STATUS DATE	06/10/2013		
LITERAL MARK ELEMENT	STRIKE EAGLE		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

#### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

#### MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	STRIKE EAGLE

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Sheltered Wings, Inc.
ADDRESS	2120 W. Greenview Drive, Suite 4 Middleton, WI 53562
ENTITY	03-CORPORATION
CITIZENSHIP	Wisconsin

### GOODS AND SERVICES

INTERNATIONAL CLASS	009
DESCRIPTION TEXT	Binoculars

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	009	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
OWNER OF US REG NOS	3726431 3787739 3794245

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/10/2013	GNS3	O	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	012
06/10/2013	GNSL	S	LETTER OF SUSPENSION E-MAILED	011
06/10/2013	CNSL	R	SUSPENSION LETTER WRITTEN	010
06/08/2013	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	009
06/07/2013	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	008
06/07/2013	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
12/08/2012	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
12/08/2012	GNRT	F	NON-FINAL ACTION E-MAILED	005
12/08/2012	CNRT	R	NON-FINAL ACTION WRITTEN	004
12/01/2012	DOCK	D	ASSIGNED TO EXAMINER	003

08/29/2012	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
08/24/2012	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001
<b>CURRENT CORRESPONDENCE INFORMATION</b>				
ATTORNEY			Jennifer L. Gregor	
CORRESPONDENCE ADDRESS			JENNIFER L. GREGOR GODFREY & KAHN, S.C. 780 N WATER ST STE 1500 MILWAUKEE, WI 53202-3590	
DOMESTIC REPRESENTATIVE			NONE	

# STRIKE EAGLE

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708484 - STRIKE EAGLE - 067282  
**Sent:** 6/10/2013 7:10:09 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85708484

**MARK:** STRIKE EAGLE

**\*85708484\***

**CORRESPONDENT ADDRESS:**

JENNIFER L. GREGOR

GODFREY & KAHN, S.C.

780 N WATER ST STE 1500

MILWAUKEE, WI 53202-3590

**GENERAL TRADEMARK IN**  
<http://www.uspto.gov/trademark>

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

067282

**CORRESPONDENT E-MAIL ADDRESS:**

docketing@gklaw.com

**SUSPENSION NOTICE: NO RESPONSE NEEDED**

**ISSUE/MAILING DATE: 6/10/2013**

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the “Response to Suspension Inquiry or Letter of Suspension” form online at <http://teasroa.uspto.gov/rsi/rsi>.

**PENDING CIVIL PROCEEDING(S):** The pending civil proceeding(s) below pertains to (1) a registered mark that conflicts with applicant’s mark under Trademark Act Section 2(d), (2) a mark in a pending application(s) that could conflict with applicant’s mark under Section 2(d) if it registers, and/or (3) the registrability of applicant’s mark. *See* 15 U.S.C. §1052; 37 C.F.R. §2.83; TMEP §§716.02(a), (c)-(d), 1208 *et seq.* Because the civil proceeding(s) pertains to an issue that could directly affect whether applicant’s mark can be registered, action on this application is suspended pending termination of the civil proceeding(s). *See* 37 C.F.R. §2.67; TMEP §§716.02(a), (c)-(d).

- Cancellation No(s). 92054629

/Meghan Reinhart/

Examining Attorney

Law Office 108

(571) 272-2943

meghan.reinhart@uspto.gov

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708484 - STRIKE EAGLE - 067282  
**Sent:** 6/10/2013 7:10:10 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **6/10/2013** FOR U.S. APPLICATION SERIAL NO.85708484

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

## Response to Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	85708484
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 108
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>In response to the Section 2(d) refusal, Applicant notes that it has petitioned to cancel U.S. Registration No. 3,904,929 for STEEL EAGLE the "Cited Mark," owned by Wohali Outdoors, LLC. <i>See</i> Cancellation Proceeding No. 92054629, docket sheet attached as Exhibit A. Applicant's petition to cancel was filed on October 10, 2011. The currently operative pleading is Applicant's Amended Petition for Cancellation (<i>see</i> Exhibit B), which allegations have been generally denied by Wohali. <i>See</i> Exhibit C at 1. The cancellation proceeding is well underway: the Board has denied a summary judgment motion by Wohali, discovery is closed, and the parties are about to enter the trial testimony periods this summer. This proceeding is highly relevant to the instant application because if Applicant is successful in petitioning to cancel the registration for the Cited Mark, the Section 2(d) refusal will be moot.</p> <p>The owner of the Cited Mark, Wohali Outdoors, LLC also owns pending application serial nos. 85/684,377 and 85/464,085, which Applicant has opposed. <i>See</i> Opposition Proceeding Nos. 91208804 and 91205187. These opposition proceedings have been suspended pending the outcome of the cancellation proceeding.</p> <p>Accordingly, and in accordance with TMEP § 716.02(a) and (d), Applicant respectfully requests that examination of the instant application be suspended pending the outcome of these TTAB proceedings. The Examining Attorney is requested to telephone the undersigned in the event that a telephone conference could expedite the processing of this application.</p>	
<b>EVIDENCE SECTION</b>	
<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-155329618_.exhibita.pdf</a>
<b>CONVERTED PDF FILE(S)</b> (2 pages)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0002.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0003.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-155329618_.exhibitb.pdf</a>
<b>CONVERTED PDF</b>	

<b>FILE(S)</b> (4 pages)	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0004.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0004.JPG</a>
	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0005.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0005.JPG</a>
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	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0007.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0007.JPG</a>
<b>ORIGINAL PDF FILE</b>	<a href="#">evi_108196145185-155329618_.exhibite.pdf</a>
<b>CONVERTED PDF FILE(S)</b> (4 pages)	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0008.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0008.JPG</a>
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	<a href="\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0011.JPG">\\TICRS\EXPORT16\IMAGEOUT16\857\084\85708484\xml4\ROA0011.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	Exhibit A which is a Cancellation docket sheet from Cancellation Proceeding No. 92054629; Exhibit B which is Applicant's Amended Petition for Cancellation; Exhibit C which is an order denying summary judgment and regarding general denial of petition
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>PRIOR REGISTRATION(S)</b>	The applicant claims ownership of U.S. Registration Number(s) 3794245, 3787739, 3726431, and others.
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Jennifer L. Gregor/
<b>SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>DATE SIGNED</b>	06/07/2013
<b>AUTHORIZED SIGNATORY</b>	YES
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Fri Jun 07 16:07:07 EDT 2013
<b>TEAS STAMP</b>	USPTO/ROA-108.196.145.185 -20130607160707353671-857 08484-5008f2c7fff9222d492 b6f22610738e757b4c9f413f1 32740365dfdc07b2ab6337-N/ A-N/A-2013060715532961880

PTO Form 1957 (Rev 9/2005)  
OMB No. 0651-0050 (Exp. 05/31/2014)

## **Response to Office Action To the Commissioner for Trademarks:**

Application serial no. **85708484** has been amended as follows:

### **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

In response to the Section 2(d) refusal, Applicant notes that it has petitioned to cancel U.S. Registration No. 3,904,929 for STEEL EAGLE the "Cited Mark," owned by Wohali Outdoors, LLC. *See* Cancellation Proceeding No. 92054629, docket sheet attached as Exhibit A. Applicant's petition to cancel was filed on October 10, 2011. The currently operative pleading is Applicant's Amended Petition for Cancellation (*see* Exhibit B), which allegations have been generally denied by Wohali. *See* Exhibit C at 1. The cancellation proceeding is well underway: the Board has denied a summary judgment motion by Wohali, discovery is closed, and the parties are about to enter the trial testimony periods this summer. This proceeding is highly relevant to the instant application because if Applicant is successful in petitioning to cancel the registration for the Cited Mark, the Section 2(d) refusal will be moot.

The owner of the Cited Mark, Wohali Outdoors, LLC also owns pending application serial nos. 85/684,377 and 85/464,085, which Applicant has opposed. *See* Opposition Proceeding Nos. 91208804 and 91205187. These opposition proceedings have been suspended pending the outcome of the cancellation proceeding.

Accordingly, and in accordance with TMEP § 716.02(a) and (d), Applicant respectfully requests that examination of the instant application be suspended pending the outcome of these TTAB proceedings. The Examining Attorney is requested to telephone the undersigned in the event that a telephone conference could expedite the processing of this application.

### **EVIDENCE**

Evidence in the nature of Exhibit A which is a Cancellation docket sheet from Cancellation Proceeding No. 92054629; Exhibit B which is Applicant's Amended Petition for Cancellation; Exhibit C which is an order denying summary judgment and regarding general denial of petition has been attached.

#### **Original PDF file:**

[evi\\_108196145185-155329618\\_exhibita.pdf](#)

#### **Converted PDF file(s) (2 pages)**

[Evidence-1](#)

[Evidence-2](#)

**Original PDF file:**

[evi\\_108196145185-155329618\\_exhibitb.pdf](#)

**Converted PDF file(s)** (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

**Original PDF file:**

[evi\\_108196145185-155329618\\_exhibitc.pdf](#)

**Converted PDF file(s)** (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

**ADDITIONAL STATEMENTS**

**Claim of Prior Registration(s)**

The applicant claims ownership of U.S. Registration Number(s) 3794245, 3787739, 3726431, and others.

**SIGNATURE(S)**

**Response Signature**

Signature: /Jennifer L. Gregor/ Date: 06/07/2013

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

Signatory's Phone Number: 414-273-3500

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85708484

Internet Transmission Date: Fri Jun 07 16:07:07 EDT 2013

TEAS Stamp: USPTO/ROA-108.196.145.185-20130607160707

353671-85708484-5008f2c7fff9222d492b6f22

610738e757b4c9f413f132740365dfdc07b2ab63

37-N/A-N/A-20130607155329618805

6/6/13

USPTO TTABVUE. Trademark Trial and Appeal Board Inquiry System



United States Patent and Trademark Office

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TTABVUE. Trademark Trial and Appeal Board Inquiry System

v1.5

Cancellation

Number: 92054629

Filing Date: 10/10/2011

Status: Pending

Status Date: 10/10/2011

Interlocutory Attorney: [GEORGE POLOGEORGIS](#)

Defendant

Name: [Wohali Outdoors, LLC](#)

Correspondence: [S MAX HARRIS](#)

DOYLE HARRIS DAVIS HAUGHEY  
1350 SOUTH BOULDER, SUITE 700  
TULSA, OK 74119  
UNITED STATES  
max.harris@1926blaw.com

Serial #: [77689308](#) [Application File](#)

Registration #: [3904929](#)

Application Status: Cancellation Pending

Mark: STEEL EAGLE

Plaintiff

Name: [Sheltered Wings, Inc.](#)

Correspondence: [JENNIFER L GREGOR](#)

GODFREY KAHN SC  
ONE EAST MAIN STREET, SUITE 500  
MADISON, WI 53703  
UNITED STATES  
jgregor@gklaw.com

Serial #: [77060299](#) [Application File](#)

Registration #: [3787739](#)

Application Status: Registered

Mark: GOLDEN EAGLE

Serial #: [77571568](#) [Application File](#)

Registration #: [3726431](#)

Application Status: Registered

Mark: STRIKE EAGLE

Serial #: [77641594](#) [Application File](#)

Registration #: [3794245](#)

Application Status: Registered

Mark: EAGLE OPTICS

Serial #: [78029311](#) [Application File](#)

Registration #: [2886199](#)

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: EAGLE OPTICS

Serial #: [78699411](#) [Application File](#)

Registration #: [3192083](#)

Application Status: Section 8 and 15 - Accepted and Acknowledged

Mark: EAGLE OPTICS

Prosecution History

# Date History Text



Due Date

6/6/13

USPTO TTABVUE. Trademark Trial and Appeal Board Inquiry System

[38 06/03/2013 P OPP/RESP TO MOTION](#)  
[37 05/30/2013 PAPER RECEIVED AT TTAB](#)  
[36 05/30/2013 PAPER RECEIVED AT TTAB](#)  
[35 05/29/2013 EXT. GRANTED; PROCEEDINGS SUSPENDED PENDING DISP.OF D'S  
CONSTRUED MOT. TO LIMIT TESTIMONY](#)  
[34 05/17/2013 STIP FOR EXT](#)  
[33 05/17/2013 D'S OBJECTIONS TO P'S PRETRIAL DISCLOSURES](#)  
[32 02/06/2013 EXTENSION OF TIME GRANTED](#)  
[31 02/06/2013 STIPULATION FOR AN EXTENSION OF TIME](#)  
[30 01/15/2013 STIPULATION NOTED AND APPROVED](#)  
[29 01/08/2013 STIPULATED PROTECTIVE ORDER](#)  
[28 11/19/2012 EXTENSION OF TIME GRANTED](#)  
[27 11/19/2012 STIPULATION FOR AN EXTENSION OF TIME](#)  
[26 11/08/2012 DEF'S MOTION FOR SUMMARY JUDGMENT DENIED](#)  
[25 09/14/2012 D OPP/RESP TO MOTION](#)  
[24 09/13/2012 MOTION TO AMEND ANSWER/AMENDED ANSWER OR COUNTERCLAIM](#)  
[23 09/13/2012 D'S REPLY IN SUPPORT OF MOTION](#)  
[22 08/24/2012 DECL OF JACQUELINE SCHWARTZ \(EXHIBIT F\)](#)  
[21 08/24/2012 DECL OF JACQUELINE SCHWARTZ \(EXHIBITS A-E\)](#)  
[20 08/24/2012 DECL OF BEN LIDZAS](#)  
[19 08/24/2012 DECL OF DANIEL HAMILTON \(EXHIBITS 7-17\)](#)  
[18 08/24/2012 DECL OF DANIEL HAMILTON \(EXHIBITS 1-6\)](#)  
[17 08/24/2012 DECL OF JACQUELINE SCHWARTZ \(EXHIBITS J-K\)](#)  
[16 08/24/2012 DECL OF JACQUELINE SCHWARTZ](#)  
[15 08/24/2012 DECL OF DANIEL HAMILTON](#)  
[14 08/24/2012 P'S OPPOSITION/RESPONSE TO MOTION](#)  
[13 08/24/2012 P'S MOTION TO AMEND PLEADING/AMENDED PLEADING](#)  
[12 07/26/2012 SUSPENDED PENDING DISP OF OUTSTNDNG MOT](#)  
[11 07/20/2012 D'S MOTION FOR SUMMARY JUDGMENT](#)  
[10 07/17/2012 EXTENSION OF TIME GRANTED](#)  
[9 07/10/2012 P'S MOT FOR EXTEN. OF TIME W/ CONSENT](#)  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____	)	
In re Registration No. 3,904,929	)	
	)	
SHELTERED WINGS, INC.	)	
	)	Cancellation No. 92054629
Petitioner,	)	
	)	
v.	)	
	)	
WOHALI OUTDOORS, LLC	)	
	)	
Respondent.	)	
_____	)	

**AMENDED PETITION FOR CANCELLATION**

Petitioner, Sheltered Wings, Inc., (“Sheltered Wings”), a Wisconsin corporation, located and doing business at 2120 W. Greenview Drive, Suite 4, Middleton, Wisconsin 53562, believes that it is being damaged and will continue to be damaged by Registration No. 3,904,929 for the mark STEEL EAGLE (the “STEEL EAGLE Registration”) and accordingly petitions to cancel this registration.

As grounds for cancellation, Sheltered Wings alleges:

1. For years, Sheltered Wings has been engaged in the business of providing optics products, including binoculars, spotting scopes, monoculars, and related equipment, among other things.
2. Since at least as early as 1987, Sheltered Wings has continuously used the term EAGLE in its trademarks for its optics products.
3. Sheltered Wings is the owner of the following United States trademark registrations for its trademarks including the term EAGLE:



Mark/Reg. No.	Application and Registration Dates	Goods and Services	First Use in Commerce in Registration
GOLDEN EAGLE Reg. No. 3,787,739	App: Dec. 8, 2006 Reg: May 11, 2010	Class 9: Binoculars	February 2010
EAGLE OPTICS Reg. No. 2,886,199	App: Oct. 5, 2000 Reg: Sep. 21, 2004	Class 9: Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore	April 1, 1996
 Reg. No. 3,192,083	App: Aug. 24, 2005 Reg: Jan. 2, 2007	Class 9: Binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching  Class 35: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching	December 2001  1987

The registrations for the marks listed above (the “EAGLE Marks”) are valid and subsisting.

Additionally, Registration Nos. 2,886,199 and 3,192,083 are incontestable in accordance with the provisions of Sections 8 and 15 of the United States Trademark Act. (15 U.S.C. §§ 1058 and 1065).

4. Sheltered Wings long has owned valuable goodwill represented by its EAGLE Marks.

5. By virtue of Sheltered Wings’ extensive use, advertising, and promotion of its EAGLE Marks, and long before the filing date of the STEEL EAGLE Registration, the EAGLE Marks became extremely well known and acquired a strong secondary meaning signifying Sheltered Wings.

6. Upon information and belief, respondent, Wohali Outdoors, LLC (“Wohali”), an Oklahoma limited liability company located at 1300 N. Industrial Blvd., Claremore, Oklahoma, 74017 is engaged in the business of providing outdoor gear including rain wear, fishing rods, binoculars, and spotting scopes.

7. Wohali owns Registration No. 3, 904,929 for the trademark STEEL EAGLE for “Magnifying optical equipment, namely, rifle scopes and binoculars,” in Class 9 (the “STEEL EAGLE Registration”), which registration was granted on January 11, 2011, based on an intent-to-use application filed on March 12, 2009.

8. Wohali did not use the trademark STEEL EAGLE in the United States for any goods or services prior to October 21, 2009, the date of first use identified in the STEEL EAGLE Registration.

9. Use by Wohali of the trademark STEEL EAGLE for the goods identified in its registration is likely to confuse the purchasing public as to the source of Wohali’s goods or to cause mistake or to deceive as to an affiliation, connection, or association with Sheltered Wings in violation of Section 2(d) of the United States Trademark Act (15 U.S.C. § 1052(d)).

10. Sheltered Wings is also being damaged by Wohali’s STEEL EAGLE Registration because the United States Trademark Office has refused registration of Sheltered Wings’ pending application Serial No. 85/095,903 for the mark EAGLE for binoculars, riflescopes, spotting scopes, and telescopes in Class 9 in view of the STEEL EAGLE Registration.

WHEREFORE, Sheltered Wings believes that it is being damaged and will continue to be damaged by the STEEL EAGLE Registration and petitions to cancel that registration.

Please deduct the requisite filing fee and any other fees associated with this proceeding from the deposit account of Godfrey & Kahn, S.C., Account No. 07-1509.

Respectfully submitted,

SHELTERED WINGS, INC.

Date: August 24, 2012

By:           /Jennifer L. Gregor/            
James D. Peterson  
Jennifer L. Gregor  
GODFREY & KAHN, S.C.  
One East Main Street, Suite 500  
Madison, Wisconsin 53701-2719  
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          jgregor@gklaw.com

8291164\_1

Goodman

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**THIS OPINION IS NOT  
A PRECEDENT  
OF THE TTAB**

Mailed: November 8, 2012

Cancellation No. 92054629

Sheltered Wings, Inc.

v.

Wohali Outdoors, LLC

Before Cataldo, Bergsman, and Wolfson, Administrative  
Trademark Judges.

**By the Board:**

This case now comes up on respondent's motion, filed July 20, 2012, for summary judgment. The motion is fully briefed. Petitioner has requested that the Board grant summary judgment in its favor as non-movant.

Additionally, petitioner filed a motion, on August 24, 2012, for leave to amend its pleading to withdraw pleaded Registration nos. 3726431 and 3794245 from the proceeding as the marks are "not currently in use with the goods identified in the registrations." In response to the motion, respondent "denies each and every allegation asserted by the Petitioner."

The motion for leave to amend is granted, and the amended petition to cancel is henceforth the operative pleading in the case. Respondent's response to the motion



Cancellation No. 92054629

for leave to amend is treated as a general denial of the allegations in the amended petition to cancel, and therefore, a formal answer need not be filed.

We now turn to respondent's motion for summary judgment.

A party is entitled to summary judgment when it has demonstrated that there is no genuine dispute as to any material fact and that it is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). In reviewing a motion for summary judgment, the evidentiary record and all reasonable inferences to be drawn from the undisputed facts must be viewed in the light most favorable to the nonmoving party. *Olde Tyme Foods Inc. v. Roundy's Inc.*, 961 F.2d 200, 22 USPQ2d 1542, 1544 (Fed. Cir. 1992).

Upon consideration of the parties' arguments and evidence, we find that, at a minimum, genuine disputes of material fact remain with respect to the similarities or dissimilarities of the parties' marks and with respect to the strength or weakness of petitioner's pleaded marks. In view thereof, respondent's motion for summary judgment is denied.<sup>1</sup> For the same reason, petitioner's request that the Board grant summary judgment to petitioner as non-movant is

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<sup>1</sup> The fact that we have identified and discussed certain genuine disputes of material fact as a sufficient basis for denying respondent's motion for summary judgment should not be construed as a finding that these are necessarily the only disputes which remain for trial.

## Cancellation No. 92054629

also denied. *See The Clorox Co. v. Chemical Bank*, 40 USPQ2d 1098 (TTAB 1996) (Board may sua sponte enter summary judgment for non-moving party if there are no material facts in dispute and judgment is appropriate as a matter of law).<sup>2</sup>

The parties may stipulate to resolution of this proceeding by means of the Board's accelerated case resolution ("ACR") procedure, either on the current summary judgment record, or as supplemented by the parties, pursuant to an agreement to proceed under ACR. Any such agreement to proceed under ACR on the summary judgment submissions must include a stipulation that the Board may decide any genuine disputes of material fact. The parties may also stipulate to narrow the issues before the Board to streamline the case and provide a joint statement of undisputed facts. If the parties decide to proceed via ACR, they are encouraged to jointly contact the interlocutory attorney responsible for this proceeding by telephone to discuss the possibility of

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<sup>2</sup> The parties should note that the evidence submitted in connection with the motion for summary judgment is of record only for consideration of the motion for summary judgment. Otherwise, to be considered at final hearing, any such evidence must be properly introduced in evidence during the appropriate trial period or stipulated to by the parties as of record for purposes of final decision or determination of this proceeding via accelerated case resolution ("ACR"). *See, e.g., Eveready Battery Co., Inc. v. Green Planet, Inc.*, 91 USPQ2d 1511, 1513 (TTAB 2009) (parties stipulated that evidence submitted in connection with summary judgment motion shall be deemed of record for trial pursuant to Accelerated Case Resolution (ACR)); *Levi Strauss & Co. v. R. Josephs Sportswear Inc.*, 28 USPQ2d 1464, 1465 n. 2. (TTAB 1993) (summary judgment evidence is not part of the record on final decision unless introduced into evidence during trial period).

Cancellation No. 92054629

ACR, any supplementation of the record, and an agreed-upon schedule for proceeding under ACR.

Proceedings are resumed.

Dates are reset as follows:

Expert Disclosures Due	11/19/2012
Discovery Closes	12/19/2012
Plaintiff's Pretrial Disclosures Due	2/2/2013
Plaintiff's 30-day Trial Period Ends	3/19/2013
Defendant's Pretrial Disclosures Due	4/3/2013
Defendant's 30-day Trial Period Ends	5/18/2013
Plaintiff's Rebuttal Disclosures Due	6/2/2013
Plaintiff's 15-day Rebuttal Period Ends	7/2/2013

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708484 - STRIKE EAGLE - 067282  
**Sent:** 12/8/2012 11:41:53 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)  
[Attachment - 3](#)  
[Attachment - 4](#)  
[Attachment - 5](#)  
[Attachment - 6](#)  
[Attachment - 7](#)  
[Attachment - 8](#)  
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[Attachment - 10](#)  
[Attachment - 11](#)  
[Attachment - 12](#)  
[Attachment - 13](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 85708484

**MARK:** STRIKE EAGLE

**\*85708484\***

**CORRESPONDENT ADDRESS:**

JENNIFER L. GREGOR  
GODFREY & KAHN, S.C.  
780 N WATER ST STE 1500  
MILWAUKEE, WI 53202-3590

**CLICK HERE TO RESPOND TO THIS LETTER**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

067282

**CORRESPONDENT E-MAIL ADDRESS:**

docketing@gklaw.com

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 12/8/2012**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

**Likelihood of Confusion – Section 2(d) Refusal**

Registration of the applied-for mark (STRIKE EAGLE) is refused because of a likelihood of confusion with the mark in U.S. Registration No. 3904929 (STEEL EAGLE). Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); TMEP §1207.01; *see also In re Dixie Rests. Inc.*, 105 F.3d 1405, 1406-07, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997). That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

**Similarity of Marks**

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

Applicant's mark is "STRIKE EAGLE".

Registrant's mark is "STEEL EAGLE".

The marks are similar because they all contain the term "EAGLE".

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases, such as “EAGLE”, appearing in both applicant’s and registrant’s mark. *See Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and “21” CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(ii)-(iii).

Please note that, where the goods of an applicant and registrant are identical or virtually identical, the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as in the case of diverse goods. *See In re Viterra Inc.*, 671 F.3d 1358, 1363, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (citing *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992)); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1348, 94 USPQ2d 1257, 1260 (Fed. Cir. 2010); TMEP §1207.01(b). Please see Similarity of Goods section below evidencing that registrant’s goods are identical to/encompass all of applicant’s goods.

Accordingly, the relevant marks are sufficiently similar to support a finding of likelihood of confusion.

### Similarity of Goods

The goods of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods need only be related in some manner or the conditions surrounding their marketing be such that they will be encountered by the same consumers under circumstances that would lead to the mistaken belief that the goods originate from the same source. *Gen. Mills Inc. v. Fage Dairy Processing Indus.*, 100 USPQ2d 1584, 1597 (TTAB 2012); TMEP §1207.01(a)(i); *see On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d at 1086, 56 USPQ2d at 1475; *In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 1566-68, 223 USPQ 1289, 1290 (Fed. Cir. 1984).

Applicant’s goods are “ **binoculars**”.

Registrant’s goods are “Magnifying optical equipment, namely, rifle scopes and **binoculars**.”

Therefore, registrant’s goods encompass/are identical to (see bolded goods) all of applicant’s goods. Accordingly, based on the similarity of the marks and the relationship of the goods, registration of the applicant’s mark is refused under Section 2(d) of the Trademark Act. Although the examining attorney has refused registration, the applicant has the option to respond to the refusal to register by submitting evidence and legal arguments in support of registration. If the applicant

chooses to respond to the refusal to register, the applicant must also respond to the following requirement(s).

### **Ownership of Prior Registrations**

If applicant owns U.S. Registration Nos. 3794245, 3192083, 2886199 and other registrations, then applicant must submit for the application record a claim of ownership of these registrations. *See* 37 C.F.R. §2.36; TMEP §812. *See* the attached copies of the registrations. *See* TMEP §812.

Applicant may use the following format to claim ownership of these registrations:

**Applicant is the owner of U.S. Registration Nos. 3794245, 3787739, 3726431 and others.**

### **Responding to this Office Action**

**TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE:** Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. *See* 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

In addition, applicant filed a TEAS Plus application and therefore must respond online using the Trademark Electronic Application System (TEAS) at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp) to avoid incurring an additional fee. *See* 37 C.F.R. §2.23(a)(1), (b).

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to live status. *See* 37 C.F.R. §2.66;

TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §§2.6, 2.66(b)(1).

***Telephone/Email Suggested for Questions***

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Meghan Reinhart/  
Examining Attorney  
Law Office 108  
(571) 272-2943  
meghan.reinhart@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.



**Print: Dec 8, 2012**

**77689308**

**DESIGN MARK**

**Serial Number**

77689308

**Status**

CANCELLATION PENDING

**Word Mark**

STEEL EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3904929

**Date Registered**

2011/01/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Wohali Outdoors, LLC LIMITED LIABILITY COMPANY OKLAHOMA 1300 N.  
Industrial Blvd. Claremore OKLAHOMA 74017

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Magnifying optical equipment, namely, rifle scopes and binoculars.  
First Use: 2009/10/21. First Use In Commerce: 2009/10/21.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "STEEL" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2009/03/12

**Examining Attorney**

MCMORROW, RONALD

**Attorney of Record**

S. Max Harris

**STEEL EAGLE**

**Print: Dec 8, 2012**

**77060299**

**DESIGN MARK**

**Serial Number**

77060299

**Status**

REGISTERED

**Word Mark**

GOLDEN EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3787739

**Date Registered**

2010/05/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 W Greenview Dr, Ste 4  
Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars. First Use: 2010/02/00. First Use In Commerce:  
2010/02/00.

**Prior Registration(s)**

2886199;3192083

**Filing Date**

2006/12/08

**Examining Attorney**

LEIPZIG, MARC

**Attorney of Record**

Bennet Langlotz

**GOLDEN EAGLE**

**Print: Dec 8, 2012**

**77571568**

**DESIGN MARK**

**Serial Number**

77571568

**Status**

REGISTERED

**Word Mark**

STRIKE EAGLE

**Standard Character Mark**

Yes

**Registration Number**

3726431

**Date Registered**

2009/12/15

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 West Greenview Drive,  
Suite 4 Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars; Rifle scopes. First Use: 2009/02/01. First Use In  
Commerce: 2009/02/01.

**Filing Date**

2008/09/16

**Examining Attorney**

SAPP, HEATHER

**Attorney of Record**

Bennet K. Langlotz

**STRIKE EAGLE**

**Print: Dec 8, 2012**

**77641594**

**DESIGN MARK**

**Serial Number**

77641594

**Status**

REGISTERED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

Yes

**Registration Number**

3794245

**Date Registered**

2010/05/25

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 West Greenview Drive,  
Suite 4 Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Riflescopes. First Use: 2010/03/01. First Use In Commerce:  
2010/03/01.

**Prior Registration(s)**

2886199;3192083

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2008/12/30

**Examining Attorney**

ALTREE, NICHOLAS

**Print: Dec 8, 2012**

**77641594**

**Attorney of Record**  
Bennet K. Langlotz

# EAGLE OPTICS

**Print: Dec 8, 2012**

**78029311**

**TYPED DRAWING**

**Serial Number**

78029311

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

No

**Registration Number**

2886199

**Date Registered**

2004/09/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN 2120 W. Greenview Dr. #4  
Middleton WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars, spotting scopes, and telescopes, all for use in bird  
watching, and storage cases therefore. First Use: 1996/01/01. First  
Use In Commerce: 1996/04/01.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2000/10/05

**Examining Attorney**

RADEMACHER, APRIL L.

**Attorney of Record**

Angela V. Langlotz

**Print: Dec 8, 2012**

**78699411**

**DESIGN MARK**

**Serial Number**

78699411

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

EAGLE OPTICS

**Standard Character Mark**

No

**Registration Number**

3192083

**Date Registered**

2007/01/02

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

**Owner**

Sheltered Wings, Inc. CORPORATION WISCONSIN Suite Four 2120 West  
Greenview Drive Middletown WISCONSIN 53562

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Binoculars, spotting scopes, telescopes, and storage cases therefor,  
all for use in birdwatching. First Use: 2001/05/00. First Use In  
Commerce: 2001/12/00.

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Retail  
store, mail order and online retail store services featuring  
binoculars, spotting scopes, telescopes, and storage cases therefor,  
all for use in birdwatching. First Use: 1987/00/00. First Use In  
Commerce: 1987/00/00.

**Prior Registration(s)**

2886199

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS" APART FROM THE

**Print: Dec 8, 2012**

**78699411**

MARK AS SHOWN.

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Filing Date**

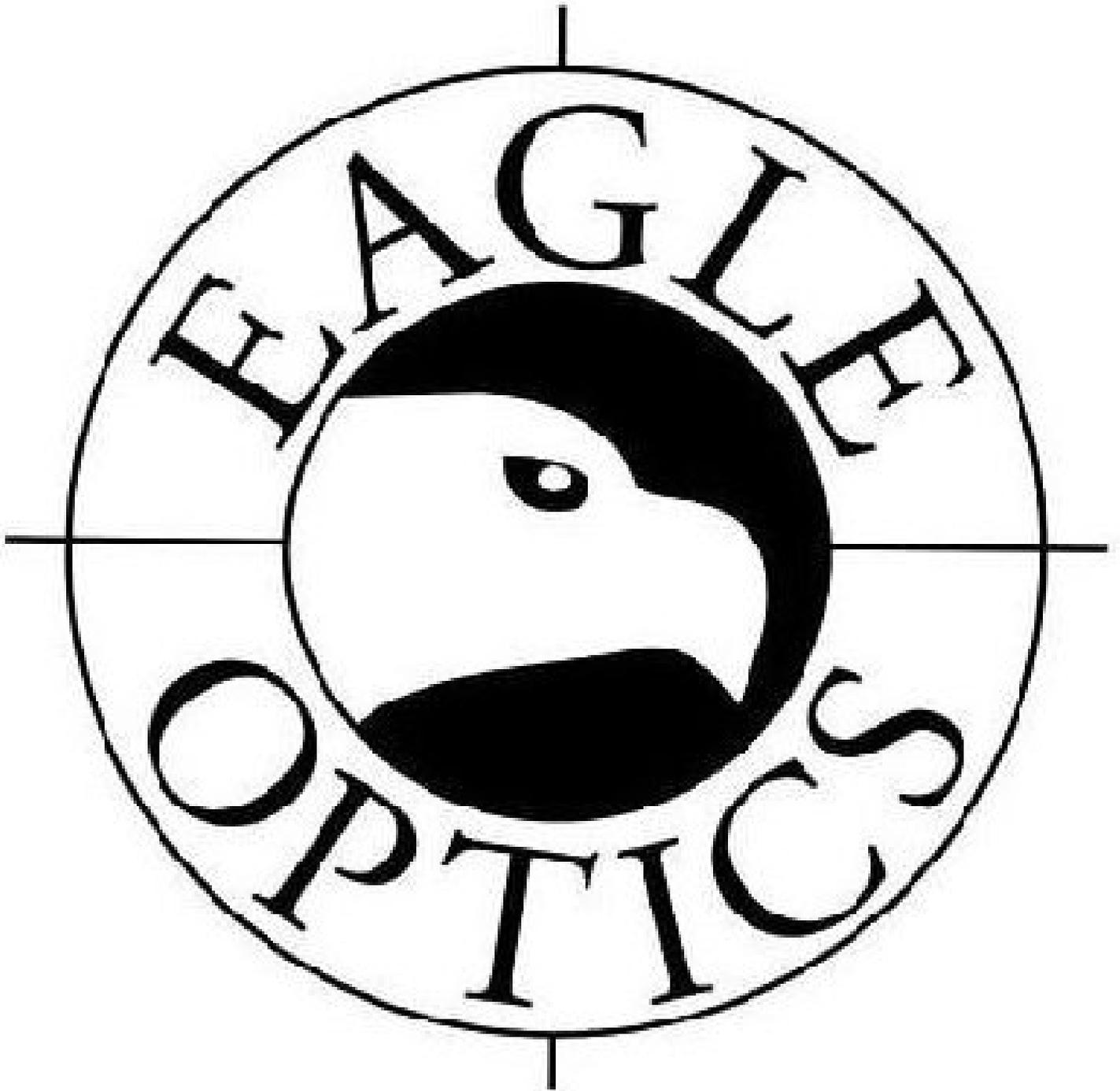
2005/08/24

**Examining Attorney**

DAHLING, KRISTIN

**Attorney of Record**

Bennet K. Langlotz



**To:** Sheltered Wings, Inc. ([docketing@gklaw.com](mailto:docketing@gklaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85708484 - STRIKE EAGLE - 067282  
**Sent:** 12/8/2012 11:41:54 AM  
**Sent As:** ECOM108@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **12/8/2012** FOR U.S. APPLICATION SERIAL NO. 85708484

Please follow the instructions below:

(1) **TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **TIMELY RESPONSE IS REQUIRED:** Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **12/8/2012** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

**Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

(3) **QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the**

**ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

\*\*\* User:mreinhardt \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	10744	N/A	0	0	1:00	*{v:2}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1}*[bi,ti] and live[ld]
02	4767	N/A	0	0	0:07	*e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1}*[bi,ti] and live[ld]
03	1707	N/A	0	0	0:04	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1}*[bi,ti] and live[ld]
04	837	N/A	0	0	0:04	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1}*[bi,ti] and live[ld] and "009"[cc]
05	251	0	251	212	0:03	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
06	231	0	231	195	0:02	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1}[bi,ti] and live[ld] and "009"[ic]
07	10	0	10	8	0:07	e{v0:1}{ "gj" }{v0:1}l{v0:1}{ "sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
08	3488	N/A	0	0	0:03	*owl*[bi,ti] and live[ld]
09	4644	N/A	0	0	0:03	*wl*[bi,ti] and live[ld]
10	2814	N/A	0	0	0:03	*aul*[bi,ti] and live[ld]
11	21	0	21	19	0:01	(8 9 10) and 1
12	4874	N/A	0	0	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1}*
13	1817	N/A	0	0	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld]
14	250	0	250	209	0:05	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
15	249	0	249	208	0:04	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld] and "009"[ic] not 7
16	19	0	19	15	0:04	*e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld] and "009"[ic] not 5
17	35	0	35	23	0:02	e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1}[fm] and live[ld] and "009"[ic]
18	132	0	132	91	0:02	e{v}{ "gj" }{V0:1}l{v0:1}{ "Sz"0:1}[fm] and live[ld]
19	3301	N/A	0	0	0:02	031501[dc] and live[ld]
20	613	0	7	613	0:03	031507[dc] and live[ld]
21	4	0	4	4	0:01	19 and 20
22	1671	N/A	0	0	0:04	19 and "009"[cc]
23	411	0	48	411	0:03	19 and ("009" a b 200)[ic]
24	2	0	2	2	0:01	20 and 1
25	952	N/A	0	0	0:03	*b{v}ld*[bi,ti] and live[ld]
26	17	0	17	17	0:01	*b{v}ld*[bi,ti] and live[ld] and 1
27	404	N/A	0	0	0:01	*b{v}ld*[bi,ti] and live[ld] and "009"[cc]
28	99	0	99	76	0:01	*b{v}ld*[bi,ti] and live[ld] and "009"[ic]
29	1	0	1	1	0:02	*b{v}ld*[bi,ti] and live[ld] and (a b 200)[ic]
30	11076	N/A	0	0	0:03	*bl{v}{ "ckqx":2}{ "Sz"0:1}*[bi,ti] and live[ld]
31	64	0	64	58	0:01	*bl{v}{ "ckqx":2}{ "Sz"0:1}*[bi,ti] and live[ld] and 1
32	1305	N/A	0	0	0:02	*bl{v}{ "ckqx":2}{ "Sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
33	652	N/A	0	0	0:01	*bla{ "ckqx":2}{ "Sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
34	515	N/A	0	0	0:03	bla{ "ckqx":2}{ "Sz"0:1}[bi,ti] and live[ld] and "009"[ic]
35	21	0	21	20	0:01	bla{ "ckqx":2}{ "Sz"0:1}[fm] and live[ld]
36	86226	N/A	0	0	0:11	*{v}r{v0:1}n*[bi,ti] and live[ld]
37	403	N/A	0	0	0:05	*{v}r{v0:1}n*[bi,ti] and live[ld] and 1
38	31	0	31	27	0:04	*{ "iy" }r{v0:1}n*[bi,ti] and live[ld] and 1
39	698	N/A	0	0	0:04	*{ "iy" }r{v0:1}n*[bi,ti] and live[ld] and "009"[ic]
40	175	0	175	149	0:04	{ "iy" }r{v0:1}n*[bi,ti] and live[ld] and "009"[ic]
41	22	0	22	21	0:05	{ "iy" }r{v0:1}n*[bi,ti] and live[ld] and (a b 200)[ic]
42	2578	N/A	0	0	0:40	*{ "sz" }{v}lv{v0:1}r{ "sz"0:1}*[bi,ti] and live[ld]
43	11	0	11	9	0:38	*{ "sz" }{v}lv{v0:1}r{ "sz"0:1}*[bi,ti] and live[ld] and 1

44	2578	N/A	0	0	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
45	250	0	250	214	0:38	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
46	9	0	9	8	0:39	*{"sz"}{v}lv{v0:1}r{"sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
47	5213	N/A	0	0	0:40	*{"sz"}tr{v}{ "ckqx":2}{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld]
48	1542	N/A	0	0	0:37	*{"sz"}tr{"iy"}{ "ckqx":2}{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld]
49	228	0	228	205	0:37	*{"sz"}tr{"iy"}{ "ckqx":2}{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld] and "009"[ic]
50	19	0	19	18	0:38	*{"sz"}tr{"iy"}{ "ckqx":2}{v0:1}{ "Sz"0:1}*[bi,ti] and live[ld] and (a b 200)[ic]
51	39	0	39	33	0:01	47 and 1

Session started 12/7/2012 5:56:18 AM

Session finished 12/7/2012 6:48:31 AM

Total search duration 8 minutes 56 seconds

Session duration 52 minutes 13 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 85708484

# STRIKE EAGLE

**Trademark/Service Mark Application, Principal Register****TEAS Plus Application**

Serial Number: 85708484

Filing Date: 08/21/2012

*NOTE: Data fields with the \* are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
<b>TEAS Plus</b>	<b>YES</b>
<b>MARK INFORMATION</b>	
*MARK	<a href="#">STRIKE EAGLE</a>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	STRIKE EAGLE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Sheltered Wings, Inc.
*STREET	2120 W. Greenview Drive, Suite 4
*CITY	Middleton
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	53562
<b>LEGAL ENTITY INFORMATION</b>	
*TYPE	CORPORATION

<b>* STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>* INTERNATIONAL CLASS</b>	009
<b>* IDENTIFICATION</b>	Binoculars
<b>* FILING BASIS</b>	SECTION 1(b)
<b>ADDITIONAL STATEMENTS INFORMATION</b>	
<b>* TRANSLATION</b> (if applicable)	
<b>* TRANSLITERATION</b> (if applicable)	
<b>* CLAIMED PRIOR REGISTRATION</b> (if applicable)	
<b>* CONSENT (NAME/LIKENESS)</b> (if applicable)	
<b>* CONCURRENT USE CLAIM</b> (if applicable)	
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Jennifer L. Gregor
<b>ATTORNEY DOCKET NUMBER</b>	067282
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.
<b>STREET</b>	780 N. Water Street
<b>CITY</b>	Milwaukee
<b>STATE</b>	Wisconsin
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>EMAIL ADDRESS</b>	docketing@gklaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys
<b>CORRESPONDENCE INFORMATION</b>	
<b>* NAME</b>	Jennifer L. Gregor
<b>FIRM NAME</b>	Godfrey & Kahn, S.C.

<b>*STREET</b>	780 N. Water Street
<b>*CITY</b>	Milwaukee
<b>*STATE</b> (Required for U.S. applicants)	Wisconsin
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE</b>	53202
<b>PHONE</b>	414-273-3500
<b>FAX</b>	414-273-5198
<b>*EMAIL ADDRESS</b>	docketing@gklaw.com
<b>*AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	275
<b>*TOTAL FEE PAID</b>	275
<b>SIGNATURE INFORMATION</b>	
<b>* SIGNATURE</b>	/Jennifer L. Gregor/
<b>* SIGNATORY'S NAME</b>	Jennifer L. Gregor
<b>* SIGNATORY'S POSITION</b>	Attorney of record, Wisconsin bar member
<b>SIGNATORY'S PHONE NUMBER</b>	414-273-3500
<b>* DATE SIGNED</b>	08/20/2012

## Trademark/Service Mark Application, Principal Register

### TEAS Plus Application

**Serial Number: 85708484**

**Filing Date: 08/21/2012**

#### To the Commissioner for Trademarks:

**MARK:** STRIKE EAGLE (Standard Characters, see [mark](#))

The literal element of the mark consists of STRIKE EAGLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
2120 W. Greenview Drive, Suite 4  
Middleton, Wisconsin 53562  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

**For specific filing basis information for each item, you must view the display within the Input Table.**

International Class 009: Binoculars

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jennifer L. Gregor and all other attorneys of Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
United States

The attorney docket/reference number is 067282.

The applicant's current Correspondence Information:

Jennifer L. Gregor  
Godfrey & Kahn, S.C.  
780 N. Water Street  
Milwaukee, Wisconsin 53202  
414-273-3500(phone)  
414-273-5198(fax)

docketing@gklaw.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Jennifer L. Gregor/ Date Signed: 08/20/2012

Signatory's Name: Jennifer L. Gregor

Signatory's Position: Attorney of record, Wisconsin bar member

RAM Sale Number: 7399

RAM Accounting Date: 08/21/2012

Serial Number: 85708484

Internet Transmission Date: Tue Aug 21 08:36:00 EDT 2012

TEAS Stamp: USPTO/FTK-72.135.232.140-201208210836001

57979-85708484-4907968f9c4c9845f2f151592

76e61b4e-DA-7399-20120820145456789548

# STRIKE EAGLE

**Generated on:** This page was generated by TSDR on 2013-09-26 13:22:38 EDT

**Mark:** STRIKE EAGLE

STRIKE EAGLE

**US Serial Number:** 85708484

**Application Filing Date:** Aug. 21, 2012

**Filed as TEAS Plus:** Yes

**Currently TEAS Plus:** Yes

**Register:** Principal

**Mark Type:** Trademark

**Status:** An Office action suspending further action on the application has been sent (issued) to the applicant. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Status Date:** Jun. 10, 2013

## Mark Information

**Mark Literal Elements:** STRIKE EAGLE

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Related Properties Information

**Claimed Ownership of US Registrations:** 3726431, 3787739, 3794245 and others

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Binoculars

**International Class(es):** 009 - Primary Class

**U.S Class(es):** 021, 023, 026, 036, 038

**Class Status:** ACTIVE

**Basis:** 1(b)

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** No

**Amended Use:** No

**Filed ITU:** Yes

**Currently ITU:** Yes

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

## Current Owner(s) Information

**Owner Name:** Sheltered Wings, Inc.

**Owner Address:** 2120 W. Greenvew Drive, Suite 4  
Middleton, WISCONSIN 53562  
UNITED STATES

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** WISCONSIN

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Jennifer L. Gregor

**Docket Number:** 067282

**Attorney Primary Email Address:** [docketing@gklaw.com](mailto:docketing@gklaw.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** JENNIFER L. GREGOR  
 GODFREY & KAHN, S.C.  
 780 N WATER ST STE 1500  
 MILWAUKEE, WISCONSIN 53202-3590  
 UNITED STATES

**Phone:** 414-273-3500

**Fax:** 414-273-5198

**Correspondent e-mail:** [docketing@gklaw.com](mailto:docketing@gklaw.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

**Prosecution History**

Date	Description	Proceeding Number
Jun. 10, 2013	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jun. 10, 2013	LETTER OF SUSPENSION E-MAILED	6332
Jun. 10, 2013	SUSPENSION LETTER WRITTEN	85323
Jun. 08, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 07, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 07, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 08, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Dec. 08, 2012	NON-FINAL ACTION E-MAILED	6325
Dec. 08, 2012	NON-FINAL ACTION WRITTEN	85323
Dec. 01, 2012	ASSIGNED TO EXAMINER	85323
Aug. 29, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 24, 2012	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information**

**TM Staff Information**

**TM Attorney:** REINHART, MEGHAN M

**Law Office Assigned:** LAW OFFICE 108

**File Location**

**Current Location:** TMEG LAW OFFICE 108 - EXAMINING  
 ATTORNEY ASSIGNED

**Date in Location:** Jun. 10, 2013

AO 120 (Rev. 08/10)

<p><b>TO:</b></p> <p style="text-align: center;"><b>Mail Stop 8</b>  <b>Director of the U.S. Patent and Trademark Office</b>  <b>P.O. Box 1450</b>  <b>Alexandria, VA 22313-1450</b></p>	<p><b>REPORT ON THE</b>  <b>FILING OR DETERMINATION OF AN</b>  <b>ACTION REGARDING A PATENT OR</b>  <b>TRADEMARK</b></p>
--	--

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court for the Western District of Wisconsin on the following

Trademarks or  Patents. (  the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 11-CV-300	DATE FILED 4/25/2011	U.S. DISTRICT COURT for the Western District of Wisconsin
PLAINTIFF Sheltered Wings, Inc.		DEFENDANT Wohali Outdoors, LLC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		See Attachment A
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
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Next page

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
--------------------

CLERK Peter Oppeneer, Clerk of Court	(BY) DEPUTY CLERK s/Lynn Kamke, Deputy Clerk	DATE 6/29/2011
---	---	-------------------

Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

Case: 3:11-cv-00300-bbc Document #: 8 Filed: 06/29/11 Page 2 of 2

AO\_120 (Rev. 08/10)

**ATTACHMENT A  
TO  
REPORT ON THE FILING OR DETERMINATION OF AN  
ACTION REGARDING A PATENT OR TRADEMARK**

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court *for the Western District of Wisconsin* on the following:

Trademark

<b>Docket No.:</b> 11-CV-300	<b>Date Filed:</b> 04/25/2011	<b>U.S. District Court:</b> for the Western District of Wisconsin
<b>Plaintiff</b>  Sheltered Wings, Inc.		<b>Defendant</b>  Wohali Outdoors, LLC
<b>Patent or Trademark No.</b>	<b>Date of Patent or Trademark</b>	<b>Holder of Patent or Trademark</b>
1. 3,192,083	01/02/2007	Sheltered Wings, Inc.
2. 2,886,199	09/21/2004	Sheltered Wings, Inc.
3. 3,794,245	05/25/2010	Sheltered Wings, Inc.
4. 3,726,431	12/15/2009	Sheltered Wings, Inc.
5. 3,787,739	05/11/2010	Sheltered Wings, Inc.
6. 3,904,929	01/11/2011	Wohali Outdoors, LLC

6294805\_1

Side - 1



**NOTICE OF ACCEPTANCE AND  
ACKNOWLEDGEMENT OF §§8 & 15  
DECLARATION  
MAILING DATE: Oct 5, 2009**

The combined declaration of use and incontestability filed in connection with the registration identified below meets the requirements of Sections 8 and 15 of the Trademark Act, 15 U.S.C. §1058 and 1065. The combined declaration is accepted and acknowledged. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

**REG NUMBER: 2886199**  
**MARK: EAGLE OPTICS**  
**OWNER: Sheltered Wings, Inc.**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID

Angela V. Langlotz  
Langlotz Patent and Trademark Works, Inc.  
P.O. Box 96503 #37585  
Washington, DC 20090-6503

PTO Form 1583 (Rev 5/2006)  
OMB No. 0651-0055 (Exp 12/31/2011)

## Combined Declaration of Use and Incontestability under Sections 8 & 15

The table below presents the data as entered.

Input Field	Entered
<b>REGISTRATION NUMBER</b>	2886199
<b>REGISTRATION DATE</b>	09/21/2004
<b>SERIAL NUMBER</b>	78029311
<b>MARK SECTION</b>	
<b>MARK</b>	EAGLE OPTICS
<b>OWNER SECTION (current)</b>	
<b>NAME</b>	Sheltered Wings, Inc.
<b>STREET</b>	2120 W. Greenview Dr. #4
<b>CITY</b>	Middleton
<b>STATE</b>	Wisconsin
<b>ZIP/POSTAL CODE</b>	53562
<b>COUNTRY</b>	United States
<b>OWNER SECTION (proposed)</b>	
<b>NAME</b>	Sheltered Wings, Inc.
<b>STREET</b>	2120 W. Greenview Dr. #4
<b>CITY</b>	Middleton
<b>STATE</b>	Wisconsin
<b>ZIP/POSTAL CODE</b>	53562
<b>COUNTRY</b>	United States
<b>EMAIL</b>	trademark@langlotz.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	Yes
<b>ATTORNEY SECTION (current)</b>	
<b>NAME</b>	Bennet Langlotz

<b>FIRM NAME</b>	986 BEDFORD ST
<b>CITY</b>	STAMFORD
<b>STATE</b>	Connecticut
<b>POSTAL CODE</b>	06905-5619
<b>COUNTRY</b>	United States
<b>PHONE</b>	877-230-5950
<b>FAX</b>	877-230-5950
<b>EMAIL</b>	trademark@langlotz.com
<b>ATTORNEY SECTION (proposed)</b>	
<b>NAME</b>	Angela V. Langlotz
<b>FIRM NAME</b>	Langlotz Patent and Trademark Works, Inc.
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<b>CITY</b>	Washington
<b>STATE</b>	District of Columbia
<b>POSTAL CODE</b>	20090-6503
<b>COUNTRY</b>	United States
<b>PHONE</b>	866-280-5242
<b>FAX</b>	866-280-5242
<b>EMAIL</b>	trademark@langlotz.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	Yes
<b>ATTORNEY DOCKET NUMBER</b>	VX-T24
<b>OTHER APPOINTED ATTORNEY</b>	Bennet K. Langlotz
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>SPECIMEN FILE NAME(S)</b>	<a href="#">\\TICRS\EXPORT8\IMAGEOUT8\780\293\78029311\xml1\81_50002.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	mark applied directly to the goods
<b>PAYMENT SECTION</b>	
<b>NUMBER OF CLASSES</b>	1

<b>NUMBER OF CLASSES PAID</b>	1
<b>SUBTOTAL AMOUNT</b>	300
<b>TOTAL FEE PAID</b>	300
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/angela v. langlotz/
<b>SIGNATORY'S NAME</b>	Angela V. Langlotz
<b>SIGNATORY'S POSITION</b>	Attorney of Record, Nevada bar member
<b>DATE SIGNED</b>	09/22/2009
<b>PAYMENT METHOD</b>	CC
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Tue Sep 22 23:22:03 EDT 2009
<b>TEAS STAMP</b>	USPTO/S08N15-66.233.135.1 86-20090922232203708465-2 886199-460a5f55fc9b74e58c 31162efbbdb8c56-CC-6042-2 0090922230338264664

**Combined Declaration of Use and Incontestability under Sections 8 & 15  
To the Commissioner for Trademarks:**

**REGISTRATION NUMBER:** 2886199

**REGISTRATION DATE:** 09/21/2004

**MARK:** EAGLE OPTICS

The owner, Sheltered Wings, Inc., having an address of  
2120 W. Greenview Dr. #4  
Middleton, Wisconsin 53562  
United States

is filing a Combined Declaration of Use and Incontestability under Sections 8 & 15.

For International Class 009, the mark is in use in commerce on or in connection with **all** of the goods or services listed in the existing registration for this specific class; **and** the mark has been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with **all** goods or services listed in the existing registration for this class. Also, no final decision adverse to the owner's claim of ownership of such mark for those goods or services exists, or to the owner's right to register the same or to keep the same on the register; and, no proceeding involving said rights pending and not disposed of in either the U.S. Patent and Trademark Office or the courts exists.

The owner is submitting one specimen for this class showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) mark applied directly to the goods.

[Specimen File 1](#)

The registrant hereby appoints Angela V. Langlotz and Bennet K. Langlotz of Langlotz Patent and Trademark Works, Inc.

P.O. Box 96503 #37585

Washington, District of Columbia 20090-6503

United States

to file this Combined Declaration of Use and Incontestability under Sections 8 & 15 on behalf of the registrant. The attorney docket/reference number is VX-T24.

A fee payment in the amount of \$300 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

**Declaration**

*The mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The mark has been in continuous use in commerce for five (5) consecutive years after the date of registration, or the date of*

*publication under Section 12(c), and is still in use in commerce. There has been no final decision adverse to the owner's claim of ownership of such mark, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the U.S. Patent and Trademark Office or in the courts.*

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /angela v. langlotz/ Date: 09/22/2009

Signatory's Name: Angela V. Langlotz

Signatory's Position: Attorney of Record, Nevada bar member

**Mailing Address (current):**

986 BEDFORD ST

STAMFORD, Connecticut 06905-5619

**Mailing Address (proposed):**

Langlotz Patent and Trademark Works, Inc.

P.O. Box 96503 #37585

Washington, District of Columbia 20090-6503

Serial Number: 78029311

Internet Transmission Date: Tue Sep 22 23:22:03 EDT 2009

TEAS Stamp: USPTO/S08N15-66.233.135.186-200909222322

03708465-2886199-460a5f55fc9b74e58c31162

efbbdb8c56-CC-6042-20090922230338264664



**ROUTING SHEET TO POST REGISTRATION (PRU)**

**Registration Number:** 2886199



**Serial Number:** 78029311



**RAM Sale Number:** 6042

**RAM Accounting Date:** 20090923

**Total Fees:** \$300

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Number of Classes Paid</u>	<u>Total Fee</u>
§8 affidavit	7205	20090922	\$100	1	1	\$100
§15 affidavit	7208	20090922	\$200	1	1	\$200

Physical Location: 650 - PUBLICATION AND ISSUE SECTION

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

**Transaction Date:** 20090922





## Change Of Correspondence Address

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	78029311
<b>REGISTRATION NUMBER</b>	2886199
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 102
<b>MARK SECTION</b>	
<b>MARK</b>	EAGLE OPTICS
<b>CORRESPONDENCE SECTION (current)</b>	
<b>ORIGINAL ADDRESS</b>	Bennet Langlotz Langlotz Patent Works, Inc. PO Box 759 Genoa Nevada 89411 United States 877 230 5950 877 230 5950 patent@langlotz.com
<b>NEW CORRESPONDENCE ADDRESS</b>	
<b>NEW ADDRESS</b>	Bennet K. Langlotz Langlotz Patent & Trademark Works, Inc. PO Box 96503 # 37585 Washington District of Columbia United States 20090-6503 877-230-5950 877-230-5950 trademark@langlotz.com
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/bennet k. langlotz/
<b>SIGNATORY NAME</b>	Bennet K. Langlotz
<b>SIGNATORY DATE</b>	08/27/2009
<b>SIGNATORY POSITION</b>	Attorney of Record, District of Columbia bar member
<b>AUTHORIZED SIGNATORY</b>	YES

**FILING INFORMATION SECTION**

<b>SUBMIT DATE</b>	Thu Aug 27 14:52:31 EDT 2009
<b>TEAS STAMP</b>	USPTO/CCA-67.169.220.35-2 0090827145231494838-77662 776-4407c2c8ddc2daffeddc0 fab3a383a34c8f-N/A-N/A-20 090827145126523067

## Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78029311
<b>REGISTRATION NUMBER</b>	2886199
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 102
<b>MARK SECTION</b>	
<b>MARK</b>	EAGLE OPTICS
<b>ATTORNEY SECTION</b>	
<b>ORIGINAL ADDRESS</b>	ST. ONGE STEWARD JOHNSON & REENS LLC 986 BEDFORD ST 03584-T0001A STAMFORD, CT 06905-5619
<b>CORRESPONDENCE SECTION</b>	
<b>ORIGINAL ADDRESS</b>	ST. ONGE STEWARD JOHNSON & REENS LLC 986 BEDFORD ST 03584-T0001A STAMFORD, CT 06905-5619
<b>NEW ATTORNEY ADDRESS</b>	
<b>STATEMENT TEXT</b>	By submission of this request, the undersigned REVOKES the power of attorney currently of record, as listed above, and hereby APPOINTS the following new attorney:
<b>NAME</b>	Bennet Langlotz
<b>FIRM NAME</b>	Langlotz Patent Works, Inc.
<b>STREET</b>	PO Box 759
<b>CITY</b>	Genoa
<b>STATE</b>	Nevada
<b>COUNTRY</b>	United States
<b>POSTAL/ZIP CODE</b>	89411

<b>PHONE</b>	877 230 5950
<b>FAX</b>	877 230 5950
<b>EMAIL</b>	patent@langlotz.com
<b>ATTORNEY AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	YES
<b>NEW CORRESPONDENCE ADDRESS</b>	
<b>NAME</b>	Bennet Langlotz
<b>FIRM NAME</b>	Langlotz Patent Works, Inc.
<b>STREET</b>	PO Box 759
<b>CITY</b>	Genoa
<b>STATE</b>	Nevada
<b>COUNTRY</b>	United States
<b>POSTAL/ZIP CODE</b>	89411
<b>PHONE</b>	877 230 5950
<b>FAX</b>	877 230 5950
<b>EMAIL</b>	patent@langlotz.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	YES
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/Daniel C. Hamilton/
<b>SIGNATORY NAME</b>	Dan Hamilton
<b>SIGNATORY DATE</b>	09/09/2008
<b>SIGNATORY POSITION</b>	President
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Tue Sep 09 09:33:56 EDT 2008
<b>TEAS STAMP</b>	USPTO/RAA-75.95.97.127-20 080909093356258632-789703 20-400aef779694e4b65c208f 1fca94ae818f-N/A-N/A-2008 0908181040203694

## **Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative**

To the Commissioner for Trademarks:

**MARK:** EAGLE OPTICS

**SERIAL NUMBER:** 78029311

**REGISTRATION NUMBER:** 2886199

**The original attorney**

ST. ONGE STEWARD JOHNSON & REENS LLC

986 BEDFORD ST

03584-T0001A

STAMFORD, CT 06905-5619

**Original Correspondence Address :**

ST. ONGE STEWARD JOHNSON & REENS LLC

986 BEDFORD ST

STAMFORD, CT 06905-5619

By submission of this request, the undersigned REVOKES the power of attorney currently of record, as listed above, and hereby APPOINTS the following new attorney:

**Newly Appointed Attorney:**

Bennet Langlotz

Langlotz Patent Works, Inc.

PO Box 759

Genoa, Nevada 89411

United States

877 230 5950

877 230 5950

**The following is to be used as the correspondence address:**

Bennet Langlotz

Langlotz Patent Works, Inc.

PO Box 759

Genoa, Nevada 89411

United States

877 230 5950

877 230 5950

patent@langlotz.com

Signature: /Daniel C. Hamilton/ Date: 09/09/2008

Signatory's Name: Dan Hamilton

Signatory's Position: President

Serial Number: 78029311

Internet Transmission Date: Tue Sep 09 09:33:56 EDT 2008

TEAS Stamp: USPTO/RAA-75.95.97.127-20080909093356258

632-78970320-400aef779694e4b65c208f1fca9

4ae818f-N/A-N/A-20080908181040203694

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

**United States Patent and Trademark Office**

**Reg. No. 2,886,199**

Registered Sep. 21, 2004

**TRADEMARK  
PRINCIPAL REGISTER**

**EAGLE OPTICS**

SHELTERED WINGS, INC. (WISCONSIN CORPORATION)  
2120 W. GREENVIEW DR. #4  
MIDDLETON, WI 53562

FOR: BINOCULARS, SPOTTING SCOPES, AND TELESCOPES, ALL FOR USE IN BIRD WATCHING, AND STORAGE CASES THEREFORE, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-1-1996; IN COMMERCE 4-1-1996.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS", APART FROM THE MARK AS SHOWN.

SER. NO. 78-029,311, FILED 10-5-2000.

APRIL L. RADEMACHER, EXAMINING ATTORNEY

---

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington , VA 22202-3514  
www.uspto.gov

Jun 9, 2004

**NOTICE OF PUBLICATION UNDER 12(a)**

- |                                      |  |
|--------------------------------------|--|
| 1. Serial No.:<br>78/029,311         | 2. Mark:<br>EAGLE OPTICS               |
| 3. International Class(es):<br>9     |  |
| 4. Publication Date:<br>Jun 29, 2004 | 5. Applicant:<br>Sheltered Wings, Inc. |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents  
U.S. Government Printing Office  
PO Box 371954  
Pittsburgh, PA 15250-7954  
Phone: (202) 512-1800

By direction of the Commissioner.

---

Correspondence Address:

ST. ONGE STEWARD JOHNSON & REENS LLC  
986 BEDFORD ST  
STAMFORD, CT 06905-5619

TMP&I

Trademark

78029311

TRADEMARK



78029311

NEW CASE DELIVERED

MAR 14 2001

LAW OFFICE 102

PROSECUTION HISTORY

Entry	Date	Initials
1.	MAR 21 2001	<i>[Signature]</i>
2.	APR 11 2002	TS
3. <i>AMOTA</i>	<i>8/29/02</i>	SEP 26 2002 <i>JP</i>
4.	OCT 16 2002	TS
5. <i>LTR</i>	<i>11-14-02</i>	DEC 10 2002 TS
6.	JAN - 8 2003	TS
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See inside of file for additional entries.

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### About *Cranes in the Mist* (cover)

**Vivian Olsen** is an artist of the Southwest who specializes in wildlife and landscapes. She has been a regular participant in the yearly *Festival of the Cranes* in Socorro where she exhibits and sells her artwork. Since 1990 her crane art has been featured several times on the program booklet covers. Vivian recently retired from teaching art professionally for 17 years, during which time she was limited to part-time work on her own art. She continued to produce for art competitions, art shows, private exhibitions and for four regional galleries. She is also an active Signature member of the New Mexico Watercolor Society.

Vivian's ink drawings include many large birds and mammals native to the West, plus landscapes from areas in and around her home in central New Mexico. Her wildlife subjects are depicted with attention to detail, portrayed in their natural habitats. She also paints in watercolor, oils, pastels and has an array of etchings, enhanced by hand painting. During the summer months she frequents the high country of Colorado and Arizona to paint on site. Her favorite scenes, though, are of her home state of New Mexico where she observes and photographs many of her subjects at the nearby Bosque del Apache Refuge.

2

CALL TOLL FREE! EAGLE OPTICS AT 800-289-1132 COPYRIGHT 2000

## GUIDE TO CHOOSING BINOCULARS

No one particular binocular is perfect for all situations, so determining your primary use is one of the most important factors in choosing the right binocular for your needs. Most models, however, are suitable for a variety of different activities like watching birds and butterflies, star gazing, nature observation, hiking, fishing, and hunting. A good pair of binoculars also brings the action at sporting events and concerts into sharper focus.

Binoculars come in a wide variety of shapes, sizes and specifications, so feel free to call Eagle Optics at 1-800-289-1132 for assistance in selecting optics that will work for you. In this guide, Eagle Optics distills fifteen years of helping our customers choose the right optics into a few questions that will help you find binoculars to match your needs.

### What size binocular do you prefer?

 **Full-size binoculars** offer the greatest light gathering ability and over-all optical performance. Larger objective lenses and prism blocks allow for greater exit pupils, providing brighter, sharper image quality. Typical full-size configurations include the 7x35, 7x50, 8x40, and 10x40 models.

**Compact binoculars** are much more portable than full-size models and may even fit into a purse or coat pocket. Smaller objective lenses limit the light gathering ability of the binocular, but may be ideal for day events. Examples of compact configurations include 7x21, 8x25, and 10x25 models.

### How much magnification do you need?

 **Higher magnifications** of 10x ("ten power") or more will help when observing at longer distances in more open terrain. When viewing raptors, waterfowl, and large wildlife, the extra magnification will give you more detail. Keep in mind that this extra magnification requires a steady hand. However, compact binoculars are so light that it takes very little hand tremor to affect your view.

**Lower magnifications** of 7x or 8x work equally well in all terrain and in a wide variety of situations. The fields of view are wider and images tend to be brighter. Wider fields of view make it easier to follow fast moving birds in thick woodland environments, scan for animals from a distance, and to follow action in sporting events or at the theatre. Low magnification in compact binoculars provides a much steadier view.

### Do your binoculars need to be waterproof?

 Binoculars are made to be used in the field. Most standard binoculars will stand up to light rain and humidity, but if you plan on extended use in bad weather, or if the binocular could be submerged, then waterproofing is suggested. Waterproof binoculars are becoming more popular and cost-effective as more people push into extreme outdoor situations. They are good for boaters, backpackers, hunters and birders that brave the elements. Waterproof optics are literally submersible and any water damage would be handled under the manufacturer's warranty.

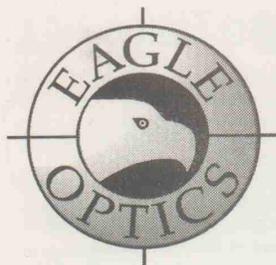
If waterproofing isn't necessary, then you can find good optical quality at considerably lower prices. Water-resistant optics will handle occasional splashes, but are not submersible.

### Will you wear eyeglasses or sunglasses?

 Many models of binoculars will allow you to view in comfort while wearing eyeglasses. These binoculars have a feature, known as long eye relief, that allows you to see the full field of view. In order to take advantage of this feature, you roll back, twist in, or pop down the rubber eyecup. Consider models with at least 15mm of eye relief.

### Special considerations for eyeglass wearers:

If you have moderate to severe astigmatism, you will need to wear glasses for serious observing. If your eye correction is for near or far sightedness, then the binocular's focusing travel will usually accommodate for these conditions and you won't need to wear your eyeglasses. Out in the field you will generally use the naked eye to locate birds before looking through your binoculars and, while not optically necessary to keep the glasses on, it is much easier to do so. Constantly taking your glasses on and off is not only frustrating, but it will slow you down when tracking fast moving birds.



# EAGLE OPTICS OPTIC OUTFITTERS EAGLE OPTICS BUYING GUIDE

Volume 13, No. 1  
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**CRANES IN THE MIST**

## WELCOME TO EAGLE OPTICS!

Thank you for your interest in Eagle Optics! As you go through our buying guide you will find that we offer a choice of equipment from every major manufacturer of visual optics. We only feature those specific models which we believe represent the best performance and value for their category. We are also offering you more in the way of monoculars, magnifiers, microscopes plus multi-tools, apparel, field furniture, navigational aides and more to help you enjoy and explore our world.

Our goal is to provide our customers with the best in customer service along with the finest optical equipment at substantial savings through our discount pricing. As an authorized dealer of each manufacturer we represent you can be assured that that your selection will include factory new equipment with all accessories as supplied by the manufacturer, including a US warranty. Most models listed in the price list are stock items, available for immediate shipment. If you are not satisfied with your purchase, you may return it in its original condition for an exchange or refund.

At Eagle Optics, we want you to select the right equipment for your needs. So, if you want honest advice, feel free to call us at 1-800-289-1132. Our knowledgeable and courteous staff will take the time needed to assist you.

Thank you for your consideration.

Sincerely,  
The Staff at Eagle Optics

**About our products:**

Prices for most items in this buying guide are found on a separate discount price list. Prices subject to change without notice.

All products from Eagle Optics come complete with a US warranty. Manufacturers will cover different forms of damage under their warranty. For information on the warranty for a specific product, please call us at 1-800-289-1132.

CALL TOLL FREE! EAGLE OPTICS AT 800-289-1132 COPYRIGHT 2000



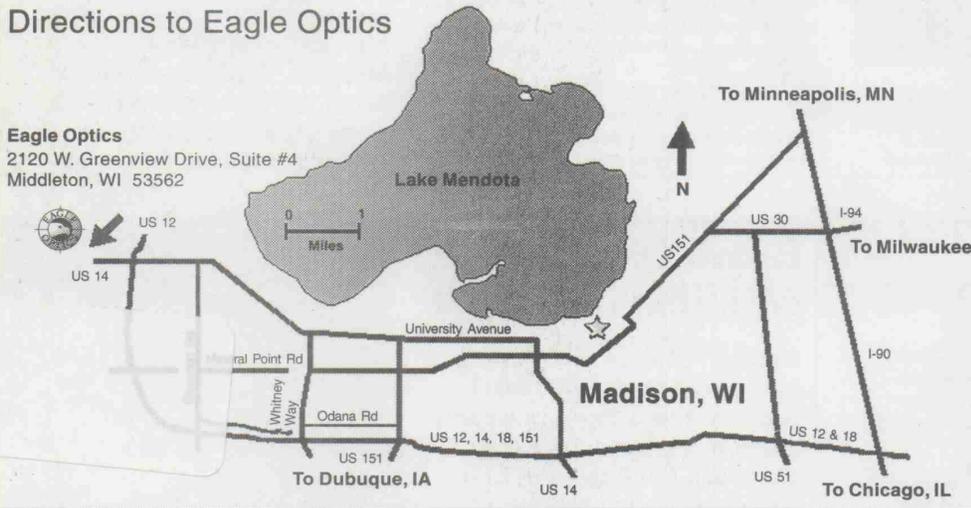
**Eagle Optics**  
2120 W. Greenview Dr. #4  
Middleton, WI 53562

Bulk Rate  
U.S. Postage  
**PAID**  
Permit No. 1547  
Madison, WI

## BINOCULARS, SPOTTING SCOPES & TRIPODS TELESCOPES & OUTDOOR ACCESSORIES

### Directions to Eagle Optics

**Eagle Optics**  
2120 W. Greenview Drive, Suite #4  
Middleton, WI 53562



**From I-90 or I-94:**  
Take Exit #142A and go west for 16 miles on US Highways 12 & 18. (This is the Beltline Highway; it has no stoplights).  
Take Exit #251 (University Avenue exit) and go west on US Highway 14 for 1.1 miles. One block past a stoplight the road will narrow from a four lane boulevard to a two lane highway. You will turn right and go north on Pinehurst Drive (by Ray-O-Vac) and go 1/2 block before you turn left and go west on S. Greenview Drive. Look for Eagle Optics at the end of this street.

### OPTICS OUTFITTERS

**ONE OF THE NATION'S LARGEST SELECTION OF BINOCULARS, SPOTTING SCOPES, ACCESSORIES AND MORE!**

Get the best information, advice and prices from Birders who know birds, birders, birding and birding equipment. We've built a nation-wide reputation on offering birders the best in selection, service and prices on quality optical products. Our customers tell us that our comprehensive buying guide is the most complete birding optic buying guide available.

Our courteous and knowledgeable sales staff will assist you in selecting from our complete and extensive inventory~your best value in quality birding equipment.

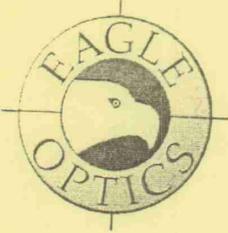
Visit us at [www.eagleoptics.com](http://www.eagleoptics.com) for our current specials and more great products!

Toll Free Order Line: 800-289-1132  
Technical Assistance: 608-836-6568  
FAX: 608-836-4416  
Email: [ernest1@eagleoptics.com](mailto:ernest1@eagleoptics.com)









# Midwest Birding Symposium

## August 30-September 2, 2001



Mark your calendar now for the 2001 Midwest Birding Symposium (MBS). Hosted by EAGLE OPTICS, BIRDER'S WORLD magazine, and the WISCONSIN SOCIETY FOR ORNITHOLOGY. This much-anticipated birding event will be held in Green Bay, Wisconsin, from Thursday, August 30, through Sunday, September 2, 2001 at the Regency Suites Hotel and KI Convention Center. This seventh biannual birding event will offer a varied menu of 28 speakers, workshops and varied field trips for birders of all levels of expertise. Located in the northeast portion of the state, Green Bay is surrounded by wetlands that vary from Lake Michigan shoreline to cattail marsh and sedge meadow. The area lies along major pathways for fall migrants.

All the proceeds from the Symposium are going to the Whooping Crane Reintroduction Project here in the Midwest with matching funds coming from the National Fish and Wildlife Foundation.

The theme of Wetlands and Wetland Species will ring through the weekend of activities that will include birding field trips, visits to nature centers and museums, and bay cruises. The roster of speakers continues to expand, with familiar faces returning to the microphone as well as experts new to the symposium experience. Speakers include John Acorn, George Archibald, Kenn Kaufman, Arthur Morris, Peter Stangel, and more will be available throughout the symposium. Highlights of the 2001 MBS will include bus trips with guides to major birding areas, nationally renowned keynote speakers, a youth day, and a market fair of birding products.

Information and reservations for the MBS can be made through the BIRDER'S WORLD magazine website - [www.birdersworld.com](http://www.birdersworld.com) <<http://www.birdersworld.com>>; by telephone, or through mail or fax. If you have questions concerning exhibitor or attendee registration, please contact Jenny Birkel at 800-558-1544, ext. 245; by fax at 262-798-6592; by e-mail at [jbirkel@kalmbach.com](mailto:jbirkel@kalmbach.com) or write to J. Birkel, c/o KPC, P.O. Box 1612, Waukesha, WI 53187-1612.

The symposium will be held at the Regency Suites Hotel and the KI Convention Center in downtown Green Bay. We encourage you to book lodging at the Regency, which will serve as host hotel and symposium headquarters. There, you will experience comfortable rooms and fine cuisine (complete with vegetarian options and full breakfasts). All meals, concurrent sessions, and keynote speakers will be scheduled at the Regency Suites Hotel and KI Convention Center. For accommodations, call 800-236-3330 and request the special Midwest Birding Symposium room rate of \$99.00.

The Green Bay Area Visitor and Convention Bureau can be reached at 888-867-3342 or through their website - [www.greenbay.org](http://www.greenbay.org). The visitor bureau will supply you with lists of hotels and motels, campsites, and RV centers should you wish to consider alternative lodging. Shopping, birding, and many other recreational opportunities abound within a short walking or driving distance of symposium headquarters. Green Bay is easily reached by auto from the north (Highway 41), south (Highways 43 and 41), and west (Highway 29). Austin Straubel Airport, served by American Eagle, Midwest Express, Northwest, United Express, and Delta/Comair, is just minutes away from the Regency Suites. Shuttle service is available.

Sponsors include Swift Instruments, Leica Sports Optics, Swarovski Optics, Kaytee Products, Inc., Wild Birds Unlimited, National Fish and Wildlife Foundation, Wisconsin Department of Natural Resources (WDNR), U.S. Fish and Wildlife Service, the Green Bay Area Visitor and Convention Bureau, Friends of Bay Beach Wildlife Sanctuary, and Mosquito Hill Nature Center.

We look forward to seeing you in Green Bay!



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Toll Free Order Line (800) 289-1132

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www.eagleoptics.com

Prices and Specifications subject to change without notice or obligation

Date: 03/16/2001

Note: The word "CALL" in the price list means that our price on the item may below "minimum advertised price".

LEICA	Leica	BINOCULARS	List Price	Our Price
040-335	Leica	8 X 20 T <sup>2</sup> BC Black	\$395.00	CALL
040-337	Leica	8 X 20 T <sup>2</sup> BCA Green RA	\$429.00	CALL
040-339	Leica	8 X 20 T <sup>2</sup> BCA Black RA	\$429.00	CALL
040-336	Leica	10 X 25 T <sup>2</sup> BC Black	\$429.00	CALL
040-338	Leica	10 X 25 T <sup>2</sup> BCA Green RA	\$459.00	CALL
040-340	Leica	10 X 25 T <sup>2</sup> BCA Black RA	\$459.00	CALL
040-016	Leica	8 X 32 BN	\$995.00	CALL
040-015	Leica	10 X 32 BN	\$1,045.00	CALL
040-018	Leica	7 X 42 BN Ultra Black	\$995.00	CALL
040-249	Leica	7 X 42 BN Green w/black eyecup	\$995.00	CALL
040-017	Leica	8 X 42 BN Ultra Black	\$1,045.00	CALL
040-250	Leica	8 X 42 BN Green w/black eyecup	\$1,045.00	CALL
040-019	Leica	10 X 42 BN Ultra Black	\$1,095.00	CALL
040-251	Leica	10 X 42 BN Green w/black eyecup	\$1,095.00	CALL
040-069	Leica	8 X 50 BN Black w/black eyecup	\$1,145.00	CALL
040-070	Leica	10 X 50 BN Black w/black eyecup	\$1,195.00	CALL
040-071	Leica	12 X 50 BN Black w/black eyecup	\$1,345.00	CALL
040-322	Leica	8 X 50 BN Hunting-D285 Kit	\$1,195.00	CALL
040-323	Leica	10 X 42 BN Hunting Kit	\$1,095.00	CALL
40510	Leica	LPF 800 Laser Rangefinder	\$449.00	\$399.00
042-162	Leica	Nacprane Neck Strap	\$59.00	\$44.00
042-163	Leica	Floatation Strap	\$59.00	\$44.00
042-211/10	Leica	Contura nylon case for Ultra	\$53.00	\$39.75
042-212/3	Leica	Field Holster for Ultra Binocs	\$105.00	\$72.50
042-168/70/71	Leica	Hard Leather Case - All full size Ultr	\$196.00	\$149.75
042-159	Leica	Neck Strap/Ultra	\$25.00	\$22.75
042-144/129	Leica	Rainguard/Ultra (or Trinovid) - Black	\$29.00	\$19.75
042-149	Leica	Neck Strap/B&A	\$25.00	\$19.00
042-198	Leica	Soft Case - Compacts - 8 X 20 BCF	\$44.00	\$38.75
042-199	Leica	Soft Case - Compacts - 10 X 25 BC	\$44.00	\$38.75

ZEISS	Zeiss	BINOCULARS	List Price	Our Price
52-20-10P	Zeiss	5 X 10 Mini Quick w/Leather Pouch	\$109.95	\$98.00
52-20-12	Zeiss	3 X 12B Mono Classic	\$309.00	\$238.00
52-20-12A	Zeiss	"Triple X" Adapter with 3 X 12B Mor	\$349.00	\$288.00
52-20-12V	Zeiss	"Triple X" Adapter with 3 X 12B Mor	\$349.00	\$288.00
52-20-50	Zeiss	4 X 12B T <sup>2</sup> Design/Selection Mon	\$219.00	\$178.00
52-20-51	Zeiss	6 X 18B T <sup>2</sup> Design/Selection Mon	\$239.00	\$198.00
52-20-52	Zeiss	8 X 20B T <sup>2</sup> Design/Selection Mon	\$259.00	\$208.00
52-20-53	Zeiss	10 X 25B T <sup>2</sup> Design/Selection Mon	\$279.00	\$228.00
52-20-27	Zeiss	8 X 20B Classic Pocket Binocular	\$399.95	\$328.00
52-20-28	Zeiss	10 X 25B Classic Pocket Binocular	\$429.95	\$348.00
52-20-40/46	Zeiss	8 X 20B Design/Selection Binocula	\$489.95	\$388.00
52-20-47/67	Zeiss	10 X 25B Design/Selection Binocula	\$529.95	\$418.00
52-30-06	Zeiss	8 X 30B/MC Diafun Binocular	\$480.00	CALL
52-30-20	Zeiss	10 X 30B/MC Diafun Binocular	\$549.00	CALL
52-35-09	Zeiss	8 X 30B/GA Classic Diafun Binoc	\$999.95	CALL
52-40-06	Zeiss	7 X 42B/GA Classic Diafun Binoc	\$1,149.95	CALL
52-40-13	Zeiss	10 X 40B/GA Classic Diafun Binoc	\$1,149.95	\$799.00
52-40-30	Zeiss	Victory 8 X 40 B T <sup>2</sup> NEW!	\$1,249.95	CALL
52-40-35	Zeiss	Victory 10 X 40 B T <sup>2</sup> NEW!	\$1,299.95	CALL
52-56-60	Zeiss	Victory 8 X 56 B T <sup>2</sup> NEW!	\$1,449.95	CALL
52-56-62	Zeiss	Victory 10 X 56 B T <sup>2</sup> NEW!	\$1,499.95	CALL

FUJINON	Fujinon	BINOCULARS	List Price	Our Price
7000823	Fujinon	8 X 23AD Air Drop Black, Red or	\$330.00	\$168.00
7307743	Fujinon	7 X 42 CD - Roof Prism, WP	\$425.00	\$458.00
7307843	Fujinon	10 X 42 CD - Roof Prism, WP	\$760.00	\$478.00
7310421	Fujinon	8 X 42 BFL - WP, CF, LER, RA	\$790.00	\$508.00
7200842	Fujinon	10 X 42 BFL - WP, CF, LER, RA	\$470.00	\$248.00
7317832	Fujinon	8 X 32 HS - CF, LER, RA	\$480.00	\$258.00
7311042	Fujinon	10 X 42 HS - CF, LER, RA	\$450.00	\$218.00
7107830	Fujinon	8 X 30 FMTR-SX - IF, LER, R	\$710.00	CALL
7107502	Fujinon	7 X 50 FMT-SX - IF, LER	\$920.00	CALL
7107507	Fujinon	7 X 50 FMTR-SX - IF, LER, R	\$1,030.00	CALL
7107516	Fujinon	10 X 70 FMT-SX - IF, LER, R	\$1,160.00	CALL
7110701	Fujinon	10 X 70 FMT-SX - IF, LER	\$1,140.00	CALL
7167000	Fujinon	16 X 70 FMT-SX - IF	\$1,240.00	CALL
7317832	Fujinon	8 X 32 HS - RP, WP, RA, IF	\$280.00	\$218.00
711042	Fujinon	10 X 42 HS - RP, WP, RA, IF	\$300.00	\$228.00
7106000	Fujinon	10 X 60 HB RP, WP, CF, Phase α	\$1,080.00	CALL
7128000	Fujinon	12 X 60 HB RP, WP, CF, Phase α	\$1,140.00	CALL
7158000	Fujinon	15 X 60 HB RP, WP, CF, Phase α	\$1,200.00	CALL
7002200	Fujinon	2X Doubler for HB Binoculars	\$250.00	CALL
7511440	Fujinon	14 X 40 Techno-Stabi	\$1,800.00	CALL

EAGLE OPTICS	Eagle	BINOCULARS	List Price	Our Price
71155	Eagle	Standard Rangefinders		
71156	Eagle	7 X 36 EO Ranger - RP, RA, C	\$700.00	\$318.00
71158	Eagle	8 X 42 EO Ranger - RP, RA, C	\$730.00	\$298.00
71160	Eagle	10 X 42 EO Ranger - RP, RA, C	\$740.00	\$308.00
71161	Eagle	10 X 50 EO Ranger - RP, RA, C	\$760.00	\$318.00
71163	Eagle	8 X 24 WP EO Ranger - RP, RA, C	\$300.00	\$98.00
71163PC	Eagle	10 X 28 WP EO Ranger - RP, RA, C	\$320.00	\$108.00
71156PC	Eagle	Phase Corrected Rangefinders		
71158PC	Eagle	8 X 42 PC EO Ranger - RP, RA	\$870.00	\$368.00
71160PC	Eagle	10 X 42 PC EO Ranger - RP, RA	\$880.00	\$398.00
71161PC	Eagle	10 X 50 PC EO Ranger - RP, RA	\$900.00	\$398.00
71163PC	Eagle	8 X 24 PC EO Ranger - RP, RA	\$350.00	\$148.00
71163PC	Eagle	10 X 28 PC EO Ranger - RP, RA	\$370.00	\$158.00
062-120EO	Eagle	Phase Corrected Rangefinders		
062-125	Eagle	8 X 32 PC EO Raptor - RP, RA	\$690.00	\$348.00
71565	Eagle	10 X 42 PC EO Raptor - RP, RA	\$549.00	\$448.00
71566	Eagle	Voyager		
71566	Eagle	8 X 25 EO Voyager - Reverse Porro	\$106.00	\$49.00
71566	Eagle	10 X 25 EO Voyager - Reverse Porro	\$120.00	\$69.00

BAUSCH & LOMB	B & L	BINOCULARS	List Price	Our Price
62-0842	B & L	8 X 42 New Elite PCRA Waterp	\$1,585.00	CALL
62-4210	B & L	10 X 42 New Elite PCRA Waterp	\$1,664.00	CALL
62-1250	B & L	12 X 50 Elite PP/RA Waterproof	\$1,737.00	CALL
61-0742	B & L	7 X 42 Discoverer/ Waterproof	\$548.00	\$338.00
61-0142	B & L	10 X 42 Discoverer/ Waterproof	\$598.00	\$368.00
61-0726	B & L	7 X 26 Custom RA - LER, Close F	\$420.00	\$248.00
61-8361	B & L	8 X 36 Custom RA - LER, Close F	\$450.00	\$288.00
12-8025	B & L	8 X 25 Legacy FRP New RA	\$97.95	\$62.00
12-0125	B & L	10 X 25 Legacy FRP New RA	\$93.95	\$62.00
12-0824	B & L	8 X 24 Legacy New Waterp	\$271.95	\$139.00
122410	B & L	10 X 24 Legacy New Waterp	\$282.95	\$159.00
12-8741	B & L	8 X 40 Legacy - RA, WA	\$189.95	\$99.00
12-1056	B & L	10 X 50 Legacy - RA, WA	\$217.95	\$115.00

SWAROVSKI	Swarovski	BINOCULARS	List Price	Our Price
46008	Swarovski	8 X 20B Mini - CF, LER (Car	\$487.78	CALL
46010	Swarovski	10 X 25B Mini - CF, LER (Car	\$532.22	CALL
54013	Swarovski	8 X 30 Classic - CF, WA (No Ca	\$665.56	CALL
54005	Swarovski	7 X 42 Classic - CF, LER (No C	\$654.44	CALL
54001	Swarovski	10 X 40 Classic - CF (No Case)	\$727.11	CALL
54014	Swarovski	8 X 30 Classic MGA - CF, WA	\$787.78	CALL
54006	Swarovski	7 X 42 Classic MGA - CF, LER	\$787.78	CALL
54002	Swarovski	10 X 40 Classic MGA - CF, RA	\$876.67	CALL
58021	Swarovski	7 X 30 WB SLC NEW! - CF, WALL	\$732.22	CALL
58025/26	Swarovski	8 X 30 WB SLC - CF, WALLER, Blac	\$887.78	CALL
58007/8	Swarovski	7 X 42 SLC Black or Green - Diop	\$1,076.67	CALL
58009/10	Swarovski	10 X 42 SLC Black or Green - Diop	\$1,143.33	CALL
58007/71	Swarovski	7 X 50 SLC Black or Green	\$1,310.00	CALL
58060/61	Swarovski	8 X 50 SLC Black or Green	\$1,365.55	CALL
58050/51	Swarovski	10 X 50 SLC Black or Green	\$1,387.78	CALL
58080/81	Swarovski	8 X 56 SLC Green	\$1,543.33	CALL
58091	Swarovski	15 X 56 SLC Green	\$1,832.22	CALL
34008	Swarovski	8.5 X 42 EL NEW! with padded alu	\$1,532.22	CALL
34010	Swarovski	10 X 42 EL NEW! with padded alu	\$1,610.00	CALL
49240	Swarovski	2X Doubler for SLC/EL Binocula	\$287.87	CALL
60131	Swarovski	Via Plus SLC Carry Case (30 & 42	\$45.75	\$35.00
49182	Swarovski	Bino Suspenders (like Bino-flex str	\$25.75	\$24.00
49172	Swarovski	Floatation Strap/Orange	\$30.90	\$27.00

KOWA	Kowa	BINOCULARS	List Price	Our Price
K742	Kowa	Sorry, Discontinued		
K1042	Kowa	Sorry, Discontinued		
K0845	Kowa	Sorry, Discontinued		
K1045	Kowa	Sorry, Discontinued		

NIKON	Nikon	BINOCULARS	List Price	Our Price
7470	Nikon	8 X 25 Travelite V	\$156.95	\$99.00
7471	Nikon	9 X 25 Travelite V	\$186.95	\$109.00
74010	Nikon	10 X 25 Travelite V	\$176.95	\$119.00
7473	Nikon	12 X 25 Travelite V	\$196.95	\$129.00
7474	Nikon	8-24 X 25 Travelite V Zoom - NEV	\$240.95	\$158.00
7315	Nikon	7 X 35 Naturalist IV	\$150.95	\$89.00
7316	Nikon	8 X 40 Egnit II	\$178.95	\$108.00
7319	Nikon	7 X 50 Shoreline	\$188.95	\$118.00
7317	Nikon	10 X 50 Lookout IV	\$206.95	\$138.00
7318	Nikon	12 X 50 Fieldmaster	\$236.95	\$148.00
7360	Nikon	7-15 X 35 Scoutmaster III Zoom	\$242.95	\$148.00
7398	Nikon	10-22 X 50 Scoutmaster XL - NEW!	\$272.95	\$168.00
7326	Nikon	8 - 24 X 25 Eagleview Zoom II	\$240.95	\$148.00
7378	Nikon	8 X 21 Medalion - NEW!	\$116.95	\$75.00
7380	Nikon	10 X 21 Medalion - NEW!	\$126.95	\$79.00
7310	Nikon	10 X 42 Attache	\$360.95	\$208.00
7344	Nikon	8 X 40 Monarch ATB	\$430.95	\$234.00
7345	Nikon	10 X 40 Monarch ATB	\$470.95	\$254.00
7446	Nikon	10 X 50 Tundra ATB - NEW!	\$384.95	\$238.00
7410	Nikon	8 X 30 E2 Series - NEW!	\$730.95	CALL
7411	Nikon	10 X 35 E2 Series - NEW!	\$800.95	CALL
7381	Nikon	8 X 32 Superior E	\$956.95	CALL
7311	Nikon	10 X 42 Superior E	\$1,230.95	CALL
7382	Nikon	12 X 50 Superior E	\$1,336.95	CALL
7346	Nikon	8 X 42 Venturer LX	\$1,694.95	CALL
7347	Nikon	10 X 42 Venturer LX	\$1,818.95	CALL
7789	Nikon	7 X 50 Prostar	\$1,484.95	CALL
7893	Nikon	10 X 70 Astrolux	\$2,100.95	CALL
7447	Nikon	18 X 70 Astrolux - NEW!	\$2,198.95	CALL
7340	Nikon	8 X 25 Mountaineer II ATB	\$318.95	CALL
7341	Nikon	10 X 25 Mountaineer II ATB	\$378.95	CALL
7401	Nikon	Buckmasters Laser 800 Rangefinde	\$558.95	\$338.00
7402	Nikon	Buckmasters Laser 800 Rangefinde	\$588.95	\$358.00
7375	Nikon	8 X 21 Buckmasters - NEW!	\$116.95	\$69.00
7377	Nikon	10 X 21 Buckmasters - NEW!	\$126.95	\$75.00
7312	Nikon	5 X 15 Titanium Pocket	\$754.95	\$418.00
7362	Nikon	7 X 15 Titanium Pocket	\$774.95	\$428.00
7391	Nikon	5 X 15 Pocket Monocular	\$310.95	\$178.00
7491	Nikon	7 X 15 Pocket Monocular - NEW!	\$336.95	\$188.00
7383	Nikon	8 X 15 Monocular	\$130.95	\$89.00
7442	Nikon	7 X 50 IF Sports & Marine - NEW!	\$414.95	\$238.00
7443	Nikon	7 X 50 IF Sports & Marine w/compa	\$548.95	\$308.00
7440	Nikon	7 X 50 Ocean Pro - NEW!	\$324.95	\$188.00
7441	Nikon	7 X 50 Ocean Pro w/Compass - NE	\$416.95	\$238.00

KEY TO ABBREVIATIONS:  
RA = Rubber Armored; WA = Wide Angle; WP = Waterproof;  
CF = Center Focus; IF = Individual Focus; WR = Water Resistant;  
RP = Roof Prism; PP = Porro Prism; LER = Long Eye Relief;



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Page 2

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Date: 03/16/2001

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BUSHNELL

Table listing Bushnell binoculars with columns for model number, description, list price, and our price. Includes models like 4 X 30 Lite Vision Compact, 8 X 40 Birder, etc.

PENTAX

Table listing Pentax binoculars with columns for model number, description, list price, and our price. Includes models like 7 X 20 Monocular/Microscope - 22X, 8 X 24 UCF G, etc.

SWIFT

Table listing Swift binoculars with columns for model number, description, list price, and our price. Includes models like 8 X 42 Warbler - NEW MODEL!, 10 X 42 Viceroy - NEW MODEL!, etc.

MINOLTA

Table listing Minolta binoculars with columns for model number, description, list price, and our price. Includes models like 8 X 25 Pocket Activa WP, 10 X 25 Pocket Activa WP, etc.

MINOX

Table listing Minox binoculars with columns for model number, description, list price, and our price. Includes models like 8 X 24 Porro prism, 10 X 25 Porro prism, etc.

CANON

Table listing Canon binoculars with columns for model number, description, list price, and our price. Includes models like 10 X 30IS - Image Stabilized Binoc., 12 X 36IS - Image Stabilized Binoc., etc.

CELESTRON

Table listing Celestron binoculars with columns for model number, description, list price, and our price. Includes models like 8 X 25 RA Monocular, 7 X 35 Bird Watchers Series, etc.

STEINER

Table listing Steiner binoculars with columns for model number, description, list price, and our price. Includes models like 8 X 22 Predator, 8 X 42 Predator, etc.

LEUPOLD

Table listing Leupold binoculars with columns for model number, description, list price, and our price. Includes models like 8 X 30 Reverse Porro - CF, FV, 10 X 30 Reverse Porro - CF, FV, etc.

BURRIS

Table listing Burris binoculars with columns for model number, description, list price, and our price. Includes models like 300160, 300161, 300171, etc.

BRUNTON

Table listing Brunton binoculars with columns for model number, description, list price, and our price. Includes models like 4022W, 4024W, 4008W, etc.



2120 W. Greenview Dr. #4 Middleton, WI 53562  
Toll Free Order (800) 289-1132

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Page 3

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Prices and Specifications subject to change without notice or obligation

Date: 03/16/2001

Note: The word "CALL" in the price list means that our price on the item may be below "minimum advertised price".

LEUPOLD		SPOTTING SCOPES		List Price	Our Price
47878	Leupold	12-40 X 80 Variable		\$1,132.10	\$648.00
42284	Leupold	Packer Tripod		\$87.50	\$69.00

BURRIS		SPOTTING SCOPES		List Price	Our Price
300120	Burris	Sorry, Discontinued			
300130	Burris	Sorry, Discontinued			
300125	Burris	Sorry, Discontinued			

BAUSCH & LOMB		SPOTTING SCOPES		List Price	Our Price
78-1800	B & L	Discoverer 60mm/15-60X Zoom		\$391.95	\$208.00
22-3030	B & L	Discoverer Camera Mount - 1000-4i		\$25.95	\$16.00
78-9107H	B & L	Discoverer Hard Case		\$76.95	\$45.00
JGBL100**	JeffG	Cor dura Nylon Case/Green for Disc		\$69.00	\$45.00
62-1548P	B & L	60mm Elite PC15-45X Zoom		\$766.95	\$378.00
62-2670P	B & L	70mm Elite PC20-80X Zoom - NE		\$877.95	\$458.00
610080	B & L	80mm Elite ED w/20-0X zoom		\$1,212.95	\$598.00

MEADE		SPOTTING SCOPES		List Price	Our Price
ETX590	Meade	ETX Spotting Scope 90mm, #13.8		\$720.00	\$428.00
ETXEC90	Meade	ETX-90/EC Astro Scope 90mm, f/11		\$1,030.00	\$595.00
ETXEC125	Meade	ETX-125/EC Astro Scope 125mm, f/11		\$1,540.00	\$888.00
7436	Meade	#497 Autostar Computer Controller		\$220.00	\$149.00
7019	Meade	tripod, Field for LX10 Field		\$295.00	\$195.00
7198	Meade	Super Wide Angle 27/32mm		\$375.00	\$239.00
7395	Meade	Piggyback Bracket - 10" SCT		\$46.00	\$29.00
7582	Meade	AC Adapter - LX10/LX50/115V		\$50.00	\$35.00
7582	Meade	AC Adapter #541 - 201XT/208XT/2		\$50.00	\$35.00

EAGLE OPTICS		SPOTTING SCOPES		List Price	Our Price
52260-EO	Eagle	Eagle Optics Voyager 80mm Scoo		\$599.00	\$328.00
EO Voyager 80mm		Scope includes a 1.25" 10mm (40X) and 20mm (20X) Plossl eyepiece, erect image diagonal, 6 X 30 finder and lens shade.			
52270-EO	Eagle	Eagle Optics Voyager 102mm Scoo		\$799.00	\$348.00
EO Voyager 102mm		Scope includes a 1.25" 10mm (50X) and 25mm (20X) Plossl eyepiece, erect image diagonal and lens shade.			
52290-EO	Eagle	15-42 X 60 "Raven" Waterproof S/		\$599.00	\$358.00

KOWA		SPOTTING SCOPES		List Price	Our Price
TSE-Z2M	Kowa	Eyepiece: 20-60X Zoom - for TS601		\$207.00	CALL
TSE-16PM	Kowa	Eyepiece: 25X - for TS601/602 & T3		\$95.00	CALL
TSE-15WM	Kowa	Eyepiece: 27X WA - for TS611-14		\$166.00	CALL
CNW-3	Kowa	Soft Case for TS-611, 613		\$60.00	\$47.00
CNW-4	Kowa	Soft Case for TS-612, 614		\$60.00	\$47.00
TSN-821M	Kowa	Spotting Scope 82mm Body/offse		\$747.00	CALL
TSN-822M	Kowa	Spotting Scope 82mm Body/strai		\$705.00	CALL
TSN-823M	Kowa	Spotting Scope 82mm Body/offse		\$1,737.00	CALL
TSN-824M	Kowa	Spotting Scope 82mm Body/strai		\$1,663.00	CALL
TSE-Z7	Kowa	Eyepiece: 20-60X Zoom		\$375.00	CALL
TSE-9W	Kowa	Eyepiece: 50X WA		\$315.00	CALL
TSE-14WB	Kowa	Eyepiece: 32X WA		\$315.00	CALL
TSE-17HC	Kowa	Eyepiece: 27X LER		\$214.00	CALL
TSE-EC	Kowa	Eyepiece Converter - Use 77mm ey		\$52.00	CALL
TSN-PA2C	Kowa	Photo Attachment/850mm f/10		\$255.00	CALL
CNW-5	Kowa	Soft Case for TS-821, 823		\$60.00	\$47.00
CNW-6	Kowa	Soft Case for TS-822, 824		\$60.00	\$47.00
TSE-CA	Kowa	Close Up Adapter - Focuses to 13 fi		\$75.00	CALL
TSN-17HB	Kowa	Eyepiece: 25X LER - For all Kowa E		\$214.00	\$139.00
TSN-21WB	Kowa	Eyepiece: 20X WA - for TSN 77mm		\$230.00	\$139.00
TSN-14W	Kowa	Eyepiece: 30X WA - for TSN 77mm		\$266.00	\$178.00
TSN-PA2	Kowa	Photo Attachment/800mm f/10 - For		\$231.00	\$168.00

FUJINON		SPOTTING SCOPES		List Price	Our Price
7307100	Fujinon	Field Scope Super 80 ED 80mm		\$1,400.00	CALL
7307101	Fujinon	Field Scope Super 80 80mm I		\$670.00	CALL
7307102	Fujinon	Super 80 ED Package w/zoom & c		\$1,650.00	CALL
7307103	Fujinon	Super 80 Package w/zoom & c		\$920.00	CALL
7307105	Fujinon	Field Scope Super 80 80mm Str		\$500.00	CALL
7307106	Fujinon	Field Scope Super 80 80mm Anj		\$600.00	CALL
7307107	Fujinon	Super 80 Package w/zoom & cas		\$632.50	CALL
7307108	Fujinon	Super 80 Package w/zoom & cas		\$522.50	CALL
7307206	Fujinon	Eyepiece: 20-60X Zoom		\$350.00	CALL
7307025	Fujinon	Eyepiece: 25X LER		\$250.00	CALL
7307030	Fujinon	Eyepiece: 30X WA		\$250.00	CALL
7307050	Fujinon	Eyepiece: 50X		\$250.00	CALL
7307080	Fujinon	Eyepiece: 80X		\$260.00	CALL
7880051	Fujinon	Carrying Case		\$75.00	\$39.00

QUESTAR		SPOTTING SCOPES		List Price	Our Price
10112	Questar	Birder Scope - 90mm/MGFL Coat		\$3,400.00	CALL
10212	Questar	Birder Scope - 90mm f/13/Enhanc		\$3,700.00	CALL
10312	Questar	Birder Scope - 90mm f/13/Enhanc		\$4,000.00	CALL

CELESTRON		SPOTTING SCOPES		List Price	Our Price
52211	Celestron	60mm Wildlife Scope, 15-45X (sal		\$250.00	\$149.00
93627	Celestron	T-Adapter (60mm Wildlife)		\$30.00	\$23.00
52200	Celestron	60mm Pro Zoom, 15-60X - (Musta		\$390.00	\$198.00
93628	Celestron	T-Adapter (60mm Zoom)		\$30.00	\$19.00
50025	Celestron	Mini Spotting Scope 15 X 30 Bras		\$99.00	\$49.00
52260	Celestron	80mm Wide View Spotting Scope		\$618.00	\$228.00
11029	Celestron	C5 Spotting Scope - 42X, 1250mm		\$1,298.00	\$588.00
93633-A	Celestron	T-Adapter (C5/89/11/14)		\$40.00	\$27.00

LEICA		SPOTTING SCOPES		List Price	Our Price
040-103	Leica	Televid 77mm Straight Body		\$845.00	CALL
040-101	Leica	Televid 77mm Angled Body		\$845.00	CALL
040-104	Leica	Televid 77mm Straight APO Body		\$1,395.00	CALL
040-102	Leica	Televid 77mm Angled APO Body		\$1,395.00	CALL
041-005	Leica	Eyepiece: 20-60X Zoom - New Vers		\$359.00	CALL
041-002	Leica	Eyepiece: 20X WA		\$219.00	CALL
041-004	Leica	Eyepiece: 32X WA		\$259.00	CALL
041-003	Leica	Eyepiece: 40X		\$189.00	CALL
042-300	Leica	Photo Adapter 800mm f/10.4		\$479.00	CALL
042-305	Leica	T2 Adapter to fit Leica cameras		\$59.00	\$49.00
013-337	Leica	UVa Protection filter		\$149.00	\$99.00
42315/10	Leica	Leica Case for Televid - Specify Str:		\$239.00	\$198.00

PENTAX		SPOTTING SCOPES		List Price	Our Price
KB61550	Pentax	Spotting Scope 80mmED w/20-60		\$1,800.00	CALL
70930	Pentax	Spotting Scope 80mmED Body or		\$1,320.00	CALL
70502	Pentax	Pentax XL-Type Eyepiece - 72X (7n		\$418.00	\$238.00
70503	Pentax	Pentax XL-Type Eyepiece - 48X (10		\$400.00	\$228.00
70504	Pentax	Pentax XL-Type Eyepiece - 36X (14		\$400.00	\$228.00
70505	Pentax	Pentax XL-Type Eyepiece - 24X (21		\$400.00	\$228.00
70506	Pentax	Pentax XL-Type Eyepiece - 18X (28		\$400.00	\$228.00
70509	Pentax	Pentax XL-Type Eyepiece - 20-80X		\$658.00	\$368.00

BUSHNELL		SPOTTING SCOPES		List Price	Our Price
78-2317	Bushnell	Spacemaster 60mm Armored w/fi:		\$483.95	\$256.00
78-1217	Bushnell	Spacemaster Camo Field Kit/15-4		\$560.95	\$296.00
78-1821	Bushnell	Spacemaster 20-45XLER Zoom Fi		\$560.95	\$298.00
**Field Kits	Bushnell	Field kits incl. Scope Body, Zoom, E		X	X
78-2207	Bushnell	Eyepiece 15-45X Zoom		\$182.95	\$80.00
844E/22	Swift	Panther Eyepiece: 22X WA (fits Spt		\$75.00	\$64.00
844PA	Swift	Photo Adapter - Adaptable to sever:		\$120.00	\$75.00
78-5456	Bushnell	15-45 X 60 Extra Wide Spotting S-		\$640.95	\$338.00
78-1050	Bushnell	Backyard Birder 10 X 50, 10" Clos		\$79.95	\$69.00
78-7325	Bushnell	Trophy 20-50 X 50mm Waterproof		\$325.95	\$188.00
78-7363	Bushnell	Trophy 20-40 X 63mm Waterproof		\$407.95	\$228.00
78-1645	Bushnell	Naturview 15-45 X 60mm LER		\$250.95	\$158.00
78-2061	Bushnell	Sportview 60mm/20-60X - w/Tabl		\$120.95	\$79.00
78-1517	Bushnell	Banner Sentry 50mm/18-36X Blac		\$180.95	\$108.00
78-1518	Bushnell	Banner Sentry 50mm/18-36X Blac		\$202.95	\$118.00
78-1519	Bushnell	Banner Sentry 50mm/18-36X Cam		\$180.95	\$108.00
78-1557	Bushnell	Banner Sentry 70mm/15-50X RA v		\$406.95	\$228.00

NIKON		SPOTTING SCOPES		List Price	Our Price
7393	Nikon	Fieldscope III - 60mm Body only -		\$690.95	CALL
7394	Nikon	Fieldscope III - 60mm Angled Box		\$812.95	CALL
7395	Nikon	Fieldscope III - 60mm ED Body or		\$1,200.95	CALL
7396	Nikon	Fieldscope III - 60mm ED Angled		\$1,322.95	CALL
7397	Nikon	Fieldscope III Outfit - str. Reg. Bo		\$1,174.95	CALL
7075-60	Nikon	Vue-Thru Case for 60mm Fieldcop		\$49.95	\$35.00
7898	Nikon	Fieldscope-78mm ED Body only -		\$2,080.95	CALL
7075-78	Nikon	Fieldscope-78mm ED Angled Box		\$2,214.95	CALL
7770	Nikon	Vue-Thru Case for 78mm Fieldscop		\$59.00	\$35.00
7772	Nikon	Photo Attachment/Fieldscope - 800		\$266.95	\$158.00
7460	Nikon	Eyepiece: 15X/19X for 60mm/78m		\$150.95	\$88.00
7461	Nikon	Eyepiece: 20X/25X for 60mm/78m		\$150.95	\$88.00
7462	Nikon	Eyepiece: 40X/50X for 60mm/78m		\$150.95	\$88.00
7943	Nikon	Eyepiece: 24X/30X WA for 60mm/		\$272.95	\$188.00
7464	Nikon	Eyepiece: 30X/38X WA for 60mm/		\$272.95	\$158.00
7671	Nikon	Eyepiece: 40X/50X WA for 60mm/		\$302.95	\$178.00
7466	Nikon	Eyepiece: 60X/75X WA for 60mm/		\$332.95	\$195.00
7467	Nikon	Eyepiece: 20-45X/25-57X Zoom for		\$326.95	\$198.00
7444	Nikon	Eyepiece 20-60x/25-75x for Fieldsc		\$426.95	\$298.00
7445	Nikon	Field Image System MX-A (compi		\$1,390.95	CALL
7355	Nikon	Field Image System MX-B (no mo		\$850.95	CALL
7351	Nikon	Sky & Earth 60mm/15-45X/Outfit I		\$578.74	\$328.00
7352	Nikon	Sky & Earth 60mm/15-45X		\$518.74	\$298.00
7353	Nikon	Sky & Earth 60mm angled body o		\$318.18	\$188.00
7075	Nikon	Sky & Earth 60mm straight body o		\$301.44	\$178.00
7455	Nikon	Vue-Thru Case for 60mm Sky & ear		\$49.95	\$35.00
7452	Nikon	Sky & Earth 80mm/20-60X/Outfit I		\$850.95	\$508.00
7451	Nikon	Sky & Earth 80mm angled/20-60X		\$810.95	\$488.00
7673	Nikon	Eyepiece: 20X/27X for Sky & Earth		\$790.95	\$478.00
7674	Nikon	Eyepiece: 25X/33X WA for Sky & Earth		\$68.95	\$47.00
7675	Nikon	Eyepiece: 15-45X/30-60X for Sky & Earth		\$138.95	\$79.00
0		Case included on 80mm Sky & Earth		\$224.95	\$128.00
7900	Nikon	Spotter XL, Waterproof - 16-47X v		\$772.95	\$418.00
6901	Nikon	Spotter XL, Waterproof Outfit/18-		\$842.95	\$468.00

SWAROVSKI		SPOTTING SCOPES		List Price	Our Price
49204	Swarovski	AT-80 80mm Scope Body - Water		\$1,085.00	CALL



**Ordering**

Please use the code, model number or description found in the Price List. All orders are subject to acceptance by Eagle Optics.

**Price List**

We attempt to keep our Price List as current and accurate as possible. We cannot be responsible for unexpected manufacturer's price changes. Therefore, we reserve the right to change prices without notice or obligation.

**Delivery**

Delivery in the 48 continental United States is by UPS Ground Service. Next Day Air, Second Day Air or Federal Express Service is available on request at additional charge quoted at the time of your order. Parcel Post shipments add \$5.00. Damaged, missing or defective merchandise claims must be made within 2 days after receipt. Please check your shipment as soon as it arrives.

**ORDER FORM**

**Returns**

Returns are accepted for full refund (excluding original shipping charges) within 30 days as long as returned product is in complete and original condition. Any show of wear, dirt, fingerprints, etc., on equipment or lenses may result in either a restocking fee or refusal to accept return. Missing warranty papers, box damage and case loss or damage will also be cause for restocking fee. If equipment is returned in poor condition, it will be regarded as used equipment. If item is returned because of optic or equipment flaws or error in shipment we will replace it or exchange it for another comparable item. This policy is necessary to cover order processing fees and expenses and to insure our customers always receive the best in mail-order product, price and service.

**Merchandise Availability**

If for any reason we cannot ship your order within 48 hours, we will notify you regarding availability. Your money will be refunded if you so request.

**Payment**

We accept Visa, Mastercard, cashier's check, money orders, and government purchase orders. Personal checks allow 15 banking days. Parcel Post will be charged additional \$5.00 handling and processing fee. Service charge of \$3.00 for orders less than \$25.00. Wisconsin residents add 5% sales tax.

**Guarantee**

All new equipment includes full manufacturer's warranty. If you are not satisfied with your purchase, you may return the equipment in new condition within 15 days from the purchase date for an exchange or refund. Returns are subject to a minimum of 3% restocking fee.

**\*Shipping, Handling & Insurance Charges - Note: Add additional \$5.00 if total order is over \$500.00**  
**Binoculars: \$10.00 Scopes: \$12.00 Tripods: \$13.00 Combination: Add \$3.00/each item Accessories: \$6.50**  
 Example of multiple item order: You order 1 tripod (\$13.00), 1 scope (\$3.00) and 1 binocular (\$3.00)

mail your order to:  
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 Middleton, WI 53562  
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 State \_\_\_\_\_ Zip Code \_\_\_\_\_  
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**Ship To:** Same   
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 City \_\_\_\_\_  
 State \_\_\_\_\_ Zip Code \_\_\_\_\_

Quantity	Code	Description	Unit Cost	Total Amount

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**Method of Payment**

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 Personal checks allow 15 business days for shipment.

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Credit Card Number \_\_\_\_\_

Expiration Date \_\_\_\_\_ Issuing Bank \_\_\_\_\_

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Signature Required \_\_\_\_\_



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<b>Tax (WI residents)</b>	
<b>Parcel Post</b>	
<b>Shipping</b>	
<b>TOTAL***</b>	

**Thank you for your order!**

ORIGINAL SPECIMEN

Internet Transmission Date:

2000/10/05

Filing Date:

2000/10/05

Serial Number:

78029311

**EAGLE OPTICS**

Lifetime warranty.

**Eagle Optics Ranger Binoculars**

The Ranger binoculars comes loaded with desirable features and are priced to make them an incredible binocular value. With these premier models you have the opportunity to own a first class, lifetime binocular with performance that rivals that of those costing significantly more!

These center focus roof prism models are offered exclusively by Eagle Optics in four sizes: 7x36, 8x42, 10x42 and 10x50. Magnified objects are highly detailed and have excellent color fidelity. Unlike some lesser quality imitations, they feature fully multi-coated lenses and high density prism glass for exceptional image brightness and resolution.

The Rangers are completely waterproof so there will be no problem with internal fogging. A precise internal focusing mechanism keeps out dust, dirt and moisture. The magnesium alloy housing is rugged, yet lightweight, with an elegant and slim, rubber armored housing for a comfortable and secure grip.

Eyeglass or sunglass wearers will appreciate the long eye relief of this glass for comfortable, unobscured viewing. A large center focus knob is conveniently located at the eyepiece end of the hinge, perfectly positioned for fine focus adjustments. For precise individual eye adjustments, a click-stop diopter adjustment is located on the right eyepiece.

The close focus ability is truly amazing with these binoculars and the Rangers make an excellent choice for the close-up nature observation of insects, butterflies and plants. Some individuals have focused as near as five feet with them! They perform so well up close that it's practically like having a field microscope and binocular all in one.



Eagle Optics 8x42 Ranger

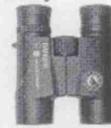
Eagle Optics 10x42 Ranger

Each Eagle Optics Ranger binocular comes with a deluxe soft carrying pouch and a neck strap.

**Rangers for Birders!**

Everything you've always wanted in a premium binocular--for less!

- Waterproof/Fogproof
- Rubber Armored
- Exceptionally Lightweight
- Fully Multi-coated Lenses
- High Density Optical Glass
- Extremely Close Focusing
- Long Eye Relief
- Center Focus
- Click-stop Diopter
- Internal Focusing
- Lifetime Warranty

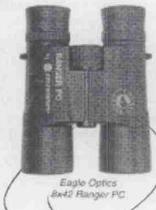


Eagle Optics 7x36 Ranger

	EYE RELIEF	FIELD OF VIEW (ft)	NEAR FOCUS	WEIGHT
7x36	19mm	374'	4'	20.0 oz
8x42	18mm	328'	5'	22.6 oz
10x42	15mm	262'	6'	23.4 oz
10x50	17mm	262'	8'	28.0 oz

**Eagle Optics Phase Corrected Rangers**

The premier Ranger binoculars are now available in phase corrected (PC) models to create a sharper view--sure to be appreciated by birders or anyone interested in the finest detail and clarity. Their close focus ability makes them an excellent choice for close up nature observation of insects, butterflies, plants and more.



Eagle Optics 8x42 Ranger PC

Phase correction forces the lightbeams, that are normally shifted when entering the binocular barrels, back into phase. This improves the image quality and contrast. Like the standard models, the Ranger PC models are loaded with desirable features that rival more costly binoculars.

When you consider the reasonable price (under \$500) of these models, the Ranger PC models should warrant serious consideration for anyone seeking a top-quality glass. The phase correction provides an additional alternative to the already extremely popular Rangers.

	EYE RELIEF	FIELD OF VIEW (ft)	NEAR FOCUS	WEIGHT
8x42	18mm	328'	5'	22.6 oz.
10x42	15mm	262'	6'	23.4 oz.
10x50	17mm	262'	8'	28.0 oz.

**Eagle Optics Mini Ranger Binoculars**

Have you been looking in the "hard-to-find-something-worth-buying" category of roof prism compacts under \$200.00? Then, here are two models that are actually worth the money!



8x24 Mini Ranger

These Rangers are completely waterproof with multi-coated lens elements. The 8x24 and 10x28 both have respectable eye relief and near focus distances. They are protected with a rubber armored covering and very lightweight. Each binocular includes a soft case and neck strap.

NEW Lower Price!	EYE RELIEF	FIELD OF VIEW (ft)	NEAR FOCUS	WEIGHT
8x24	13mm	328'	9'	5.0 oz.
10x28	12mm	257'	12'	7.0 oz.



**Eagle Optic Raptors**  
Developed by and for Leica, the industry-leading German optics company. Manufactured by Minox and protected by a lifetime limited warranty.

**QUESTIONS?**

CALL EAGLE OPTICS FOR FRIENDLY, KNOWLEDGEABLE SERVICE.

CALL TOLL FREE! EAGLE OPTICS AT 800-289-1132. COPYRIGHT 2000

**Eagle Optics Raptor PC Binoculars**

The Raptor PC models elegantly combine the classic values of superb optical performance with mechanical precision in a compact design. All this comes at an extremely affordable price with many innovative features that make them substantially higher in quality than other similarly priced models. The Raptor PC binoculars are ideal for just about any activity you undertake.



10x42 Raptor PC

Anti-reflective fully multi-coated lens elements and phase corrected prism deliver bright, high contrast and razor-sharp images in a completely waterproof and fogproof body. Add a rubber armored body and you have exceptionally sturdy binoculars for extreme environments. A rugged, waterproof internal focusing system offers a lifetime of trouble-free operation. The user-friendly ergonomic design makes them easy to handle, too. Twist-style sliding rubber eyecups are handy for eyeglass wearers who will also enjoy an extremely wide field of view in comfort because of extended eye relief.



Twist-style sliding eyecups

The 8x32 Raptor PC has almost no equal when it comes to viewing butterflies, performing particularly well at close distances. It can easily slip into a front jacket pocket or be carried from its neck strap for hours without strain. The 10x42 Raptor offers incredible value in a high magnification binocular with exceptional optical performance. Comes with a soft carry case and strap and a Leica Lifetime Warranty.

NEW!	EYE RELIEF	FIELD OF VIEW (ft)	NEAR FOCUS	WEIGHT
8x32	16mm	394'	5'	21.7 oz.
10x42	15mm	320'	9.2'	26.6 oz.

The applicant has submitted required color specimen. The USPTO has printed only one copy of the specimen, and extra copies can be produced in-house as needed.

Trademark Registration Life Expectancy Calculator			
Enter Registration or Renewal Date	Month	Day	Year
		7	29
Earliest Date Section 8 (and/or 15) could be filed	July 29, 2002		
Latest Date Section 8 could be filed	August 4, 2003		
Date registration will be cancelled in Office records, providing that applicant has not filed Section 8	February 4, 2004		
Earliest Date Sections 8 and 9 (Renewal) could be filed	January 29, 2007		
Latest Date Sections 8 and 9 (Renewal) could be filed	January 29, 2008		
Date registration will be cancelled in Office records, providing that applicant has not filed combined Section 8 & 9	February 4, 2008		

<p>Today's Date September 27, 2002</p>
<p>Enter month, day and year (four digits) numerically in the separate boxes</p>
<p>5th anniversary of registration date for Section 8, following any consecutive 5 year period of use in commerce after registration for Section 15</p>
<p>6th anniversary of registration date, plus six months</p>
<p>6 months and 6 days after last date for filing Section 8</p>
<p>6 months prior to 20th anniversary of registration date if registered before 11/16/89; 6 months prior to 10th anniversary if on or after that date</p>
<p>6 months after 20th anniversary of registration date if registered before 11/16/89; 6 months after 10th anniversary if registered on or after 11/16/89)</p>
<p>6 months and 6 days after last date for filing Section 8 &amp; 9</p>

TRADEMARK  
03584-T0001A SPM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: October 5, 2000
Trademark	EAGLE OPTICS
Law Office: 102	Trademark Attorney: April Lueders Rademacher

BOX RESPONSES – NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

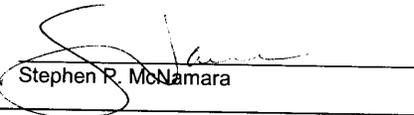
**Response to Official Action**

Dear Sir:

In response to the Office Action mailed on October 10, 2003, please enter the following Remarks.

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

1/5 Jan 2004

  
Stephen R. McNamara



01-20-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #77

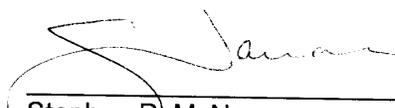
Page 2  
Serial No. 78/029,311  
Response to Official Action

**Remarks**

The Examining Attorney has refused registration of Applicant's mark EAGLE OPTICS on the basis of Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the Examining Attorney believes that Applicant's mark, when used on or in conjunction with the identified goods, so resembles the mark EAGLEVIEW, U.S. Registration No. 2,084,361 as to be likely to cause confusion, to cause mistake or to deceive.

Applicant has entered into a Consent Agreement with the owner of the cited mark. As set forth in the agreement, "the parties believe that as a result of the differences in meaning and commercial impression of their respective trademarks, the differences in commercial identities of the respective companies, and the history of co-existence of the respective trademarks in the U.S. marketplace, said marks can continue to co-exist in the marketplace and should be allowed to co-exist on the U.S. trademark register." A Copy of the Agreement is submitted herewith. Accordingly, in accordance with the Agreement, and in accordance with In re E. I. DuPont de Nemors & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973), it is requested that the refusal of registration be withdrawn and that the present application be approved for publication.

Respectfully submitted,



---

Stephen P. McNamara  
Attorney for Applicant  
ST.ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
203 324-6155

CONSENT AGREEMENT

This CONSENT AGREEMENT is made by and between **SHELTERED WINGS, INC.**, a Wisconsin corporation, with a business address of 2120 W. Greenview Drive #4, Middleton, Wisconsin 53562, U.S.A. [hereinafter "the Applicant"], and **NIKON CORPORATION**, a Japanese corporation, with a business address of 2-3, Marunouchi 3-Chome, Chiyoda-ku, Tokyo 100, Japan [hereinafter "the Registrant"].

WHEREAS, the Applicant has used the words "**EAGLE OPTICS**" as a service mark for mail order services in the field of optical products and has applied to register said words in the United States Patent and Trademark Office as a trademark for "binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefor", in Int'l. Class 9, Application Ser. No. 78/029,311, filed October 5, 2000, with an alleged date of first use of January 1, 1996; and

WHEREAS, the Registrant owns the trademark "**EAGLEVIEW**" in the United States of America, and has registered said trademark under Reg. No. 2,084,361, dated July 29, 1997, in respect of "binoculars" in Int'l. Class 9, with an alleged date of first use of November 30, 1996; and

WHEREAS, the Registrant's registration of the trademark "**EAGLEVIEW**" has been cited by a United States Patent and Trademark Office Examining Attorney as a bar to registration of the Applicant's trademark "**EAGLE OPTICS**"; and

WHEREAS, the parties believe that as a result of the differences in meaning and commercial impression of their respective trademarks, the differences in commercial identities of the respective companies, and the history of co-existence of the respective trademarks in the U.S.

marketplace, said marks can continue to co-exist in the marketplace and should be allowed to co-exist on the U.S. trademark register, subject to the following terms and conditions;

NOW, THEREFORE, the parties hereby agree as follows:

1) The Applicant acknowledges that the Registrant is the owner of the trademark "EAGLEVIEW" for the goods set forth in the aforementioned U.S. trademark registration owned by the Registrant, and the Applicant agrees to refrain from taking any action or filing any proceeding, legal or otherwise, that will hinder the Registrant in its use or registration of the word "EAGLEVIEW" as, or as part of, a trademark for said goods, or any other goods or services.

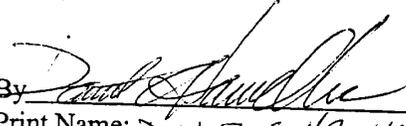
2) The Registrant agrees to refrain from taking any action or filing any proceeding, legal or otherwise, that will hinder the Applicant in its use or registration of the trademark "EAGLE OPTICS" in conjunction with "binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefor", or for related bird watching and outdoor products, unless said trademark is abandoned by the Applicant. The Registrant further acknowledges the right of the Applicant to continue its use of the words "EAGLE OPTICS" as a service mark for mail order and/or retail services in the field of bird watching and outdoor products, and optical products, as long as said words are not used in any manner which is likely to suggest that the Applicant is sponsored by the Registrant or is more than an independent re-seller and authorized dealer in the Registrant's goods.

3) The Applicant shall be entitled to file a copy of this agreement in the United States Patent and Trademark Office as evidence of the Registrant's affirmative consent to registration of the Applicant's trademark "EAGLE OPTICS" for the goods set forth in Paragraph No. 2, *supra*.

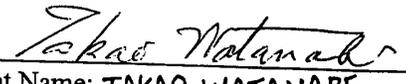
- 4) Simultaneously with the execution of this agreement, the Applicant will make a payment to the Registrant of \$ ██████.00. The Applicant shall bear its own costs and attorneys' fees relating to the negotiation, execution and performance of the agreement.
- 5) This agreement shall be effective solely in the United States of America.
- 6) This agreement may not be amended or terminated except by an instrument in writing, signed by both parties hereto.
- 7) This agreement shall inure to the benefit of and be binding upon the successors, related companies and assigns of the parties hereto.
- 8) This agreement does not create a partnership or joint venture between the parties hereto.
- 9) In the event that any trade or consumer confusion caused by the permitted use or registration of the aforementioned trademarks is brought to the attention of either of the parties hereto, they shall promptly consult with one another and take whatever steps may be reasonably necessary or desirable, and mutually agreeable, to prevent any further occurrence of confusion.

WHEREFORE, the parties have caused this agreement to be executed by their duly-authorized undersigned officers.

SHELTERED WINGS, INC.

By   
Print Name: DAWLER C. HAMILTON  
Title: PRESIDENT  
Dated: 7/7/2003

NIKON CORPORATION

By   
Print Name: TAKAO WATANABE  
Title: Executive Officer Vice-President  
Dated: 2 July 2003

# Incoming Correspondence Routing Sheet

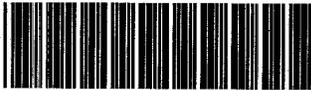
To: TMEG LAW OFFICE 102 - AWAITING RESPONSE DOCKET

Word Mark: EAGLE OPTICS

Serial No: 78029311



Mail Date: 01202004



Doc. Type: Responses to Office Actions



T.M.E.O.  
LAW OFFICE 102  
JAN 23 1 A 8:40

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**No Fee**

RAM Mail Date: 012004



TRADEMARK  
03584-T0001A SPM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: October 5, 2000
Trademark	EAGLE OPTICS
Law Office: 102	Trademark Attorney: April Lueders Rademacher

BOX RESPONSES – NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

JAN 23 10 08 AM '04  
LAW OFFICE 102  
T.M.E.O.

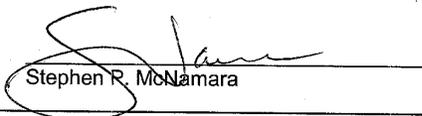
Response to Official Action

Dear Sir:

In response to the Office Action mailed on October 10, 2003, please enter the following Remarks.

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

15 Jan. 2004

  
Stephen R. McNamara



01-20-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #77

Page 2  
Serial No. 78/029,311  
Response to Official Action

**Remarks**

The Examining Attorney has refused registration of Applicant's mark EAGLE OPTICS on the basis of Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the Examining Attorney believes that Applicant's mark, when used on or in conjunction with the identified goods, so resembles the mark EAGLEVIEW, U.S. Registration No. 2,084,361 as to be likely to cause confusion, to cause mistake or to deceive.

Applicant has entered into a Consent Agreement with the owner of the cited mark. As set forth in the agreement, "the parties believe that as a result of the differences in meaning and commercial impression of their respective trademarks, the differences in commercial identities of the respective companies, and the history of co-existence of the respective trademarks in the U.S. marketplace, said marks can continue to co-exist in the marketplace and should be allowed to co-exist on the U.S. trademark register." A Copy of the Agreement is submitted herewith. Accordingly, in accordance with the Agreement, and in accordance with In re E. I. DuPont de Nemors & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973), it is requested that the refusal of registration be withdrawn and that the present application be approved for publication.

Respectfully submitted,



---

Stephen P. McNamara  
Attorney for Applicant  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
203 324-6155

CONSENT AGREEMENT

This CONSENT AGREEMENT is made by and between **SHELTERED WINGS, INC.**, a Wisconsin corporation, with a business address of 2120 W. Greenview Drive #4, Middleton, Wisconsin 53562, U.S.A. [hereinafter "the Applicant"], and **NIKON CORPORATION**, a Japanese corporation, with a business address of 2-3, Marunouchi 3-Chome, Chiyoda-ku, Tokyo 100, Japan [hereinafter "the Registrant"].

WHEREAS, the Applicant has used the words "**EAGLE OPTICS**" as a service mark for mail order services in the field of optical products and has applied to register said words in the United States Patent and Trademark Office as a trademark for "binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefor", in Int'l. Class 9, Application Ser. No. 78/029,311, filed October 5, 2000, with an alleged date of first use of January 1, 1996; and

WHEREAS, the Registrant owns the trademark "**EAGLEVIEW**" in the United States of America, and has registered said trademark under Reg. No. 2,084,361, dated July 29, 1997, in respect of "binoculars" in Int'l. Class 9, with an alleged date of first use of November 30, 1996; and

WHEREAS, the Registrant's registration of the trademark "**EAGLEVIEW**" has been cited by a United States Patent and Trademark Office Examining Attorney as a bar to registration of the Applicant's trademark "**EAGLE OPTICS**"; and

WHEREAS, the parties believe that as a result of the differences in meaning and commercial impression of their respective trademarks, the differences in commercial identities of the respective companies, and the history of co-existence of the respective trademarks in the U.S.

marketplace, said marks can continue to co-exist in the marketplace and should be allowed to co-exist on the U.S. trademark register, subject to the following terms and conditions;

NOW, THEREFORE, the parties hereby agree as follows:

1) The Applicant acknowledges that the Registrant is the owner of the trademark "EAGLEVIEW" for the goods set forth in the aforementioned U.S. trademark registration owned by the Registrant, and the Applicant agrees to refrain from taking any action or filing any proceeding, legal or otherwise, that will hinder the Registrant in its use or registration of the word "EAGLEVIEW" as, or as part of, a trademark for said goods, or any other goods or services.

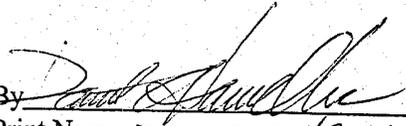
2) The Registrant agrees to refrain from taking any action or filing any proceeding, legal or otherwise, that will hinder the Applicant in its use or registration of the trademark "EAGLE OPTICS" in conjunction with "binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefor", or for related bird watching and outdoor products, unless said trademark is abandoned by the Applicant. The Registrant further acknowledges the right of the Applicant to continue its use of the words "EAGLE OPTICS" as a service mark for mail order and/or retail services in the field of bird watching and outdoor products, and optical products, as long as said words are not used in any manner which is likely to suggest that the Applicant is sponsored by the Registrant or is more than an independent re-seller and authorized dealer in the Registrant's goods.

3) The Applicant shall be entitled to file a copy of this agreement in the United States Patent and Trademark Office as evidence of the Registrant's affirmative consent to registration of the Applicant's trademark "EAGLE OPTICS" for the goods set forth in Paragraph No. 2, *supra*.

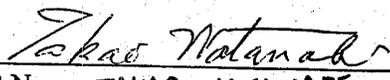
- 4) Simultaneously with the execution of this agreement, the Applicant will make a payment to the Registrant of \$ 0.00. The Applicant shall bear its own costs and attorneys' fees relating to the negotiation, execution and performance of the agreement.
- 5) This agreement shall be effective solely in the United States of America.
- 6) This agreement may not be amended or terminated except by an instrument in writing, signed by both parties hereto.
- 7) This agreement shall inure to the benefit of and be binding upon the successors, related companies and assigns of the parties hereto.
- 8) This agreement does not create a partnership or joint venture between the parties hereto.
- 9) In the event that any trade or consumer confusion caused by the permitted use or registration of the aforementioned trademarks is brought to the attention of either of the parties hereto, they shall promptly consult with one another and take whatever steps may be reasonably necessary or desirable, and mutually agreeable, to prevent any further occurrence of confusion.

WHEREFORE, the parties have caused this agreement to be executed by their duly-authorized undersigned officers.

SHELTERED WINGS, INC.

By   
Print Name: DANIEL C. HAGAN  
Title: PRESIDENT  
Dated: 7/7/2003

NIKON CORPORATION

By   
Print Name: TAKAO WATANABE  
Title: Executive Officer Vice-President  
Dated: 2 July 2003

Ms

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/029311

**APPLICANT:** Sheltered Wings, Inc.

OCT 10 2003

**CORRESPONDENT ADDRESS:**  
ST. ONGE STEWARD JOHNSON & REENS LLC  
986 BEDFORD ST  
STAMFORD, CT 06905-5619

**RETURN ADDRESS:**  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514  
**ecom102@uspto.gov**

**MARK:** EAGLE OPTICS

**CORRESPONDENT'S REFERENCE/DOCKET NO:** 03584-T0001A

**CORRESPONDENT EMAIL ADDRESS:**

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

RE: Serial Number 78/029311

On January 8, 2003, action on this application was suspended pending cancellation of Registration No. 2084361. The cancellation has been terminated. Therefore, registration is refused as follows.

The refusal as to Registration No. 2365057 is withdrawn.

**Likelihood of Confusion**

Registration was refused under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the mark for which registration is sought so resembles the mark shown in U.S. Registration No. 2084361 as to be likely, when used goods the identified goods/services, to cause confusion, or to cause mistake, or to deceive.

The examining attorney has considered the applicant's arguments carefully but has found them unpersuasive. For the reasons below, the refusal under Section 2(d) is reinstated and made FINAL.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for

similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973).

The test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison. The issue is whether the marks create the same overall impression. *Visual Information Institute, Inc. v. Vicon Industries Inc.*, 209 USPQ 179 (TTAB 1980). The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks. *Chemetron Corp. v. Morris Coupling & Clamp Co.*, 203 USPQ 537 (TTAB 1979); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106 (TTAB 1975); TMEP section 1207.01(b).

The examining attorney must look at the marks in their entireties under Section 2(d). Nevertheless, one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight is given to that dominant feature in determining whether there is a likelihood of confusion. *In re National Data Corp.*, 224 USPQ 749 (Fed. Cir. 1985); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (C.C.P.A. 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). TMEP §1207.01(b)(viii).

The applicant's mark is EAGLE OPTICS. The registered mark is EAGLEVIEW. The marks are substantially similar in appearance and commercial impression.

The dominant portion of the marks is the arbitrary term "eagle". It is this portion of the mark that consumers are most likely to recall when calling for the goods.

Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

The applicant's goods are "Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore." The registrant's goods are binoculars. The goods are closely related, namely, both identifications contain binoculars.

Because the marks are substantially similar and the goods are closely related, the similarities among the marks and the goods are so great as to create a likelihood of confusion among consumers as to the source of the goods. The examining attorney must resolve any doubt regarding a likelihood of confusion in favor of the prior registrant. *In re Hyper Shoppers (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir., 1988).

For the foregoing reasons, the refusal under Section 2(d) is reinstated and made FINAL.

#### **Response to Final Action**

Please note that the only appropriate responses to a final action are either (1) compliance with the outstanding requirements, if feasible, or (2) filing of an appeal to the Trademark Trial and Appeal Board. 37 C.F.R. §2.64(a). If the applicant fails to respond within six months of the mailing date of this refusal, this Office will declare the application abandoned. 37 C.F.R. §2.65(a).

If the applicant has any questions or needs assistance in responding to the Office action, please telephone or email the assigned examining attorney.

/alrademacher/  
April Rademacher  
Examining Attorney  
Law Office 102  
(703) 308-9102 x206  
(703) 746-8102 (fax)  
april.rademacher@uspto.gov

**How to respond to this Office Action:**

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via E-mail, visit <http://www.uspto.gov/web/trademarks/tmelecresp.htm> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/029311

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT ADDRESS:**  
ST. ONGE STEWARD JOHNSON & REENS LLC  
986 BEDFORD ST  
STAMFORD, CT 06905-5619

**RETURN ADDRESS:**  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514  
**ecom102@uspto.gov**

**MARK:** EAGLE OPTICS

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 03584-T0001A

Please provide in all correspondence:

**CORRESPONDENT EMAIL ADDRESS:**

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

Serial Number 78/029311

On January 8, 2003, action on this application was suspended pending cancellation of Registration No. 2084361. The cancellation has been terminated. Therefore, registration is refused as follows.

The refusal as to Registration No. 2365057 is withdrawn.

**Likelihood of Confusion**

Registration was refused under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the mark for which registration is sought so resembles the mark shown in U.S. Registration No. 2084361 as to be likely, when used goods the identified goods/services, to cause confusion, or to cause mistake, or to deceive.

The examining attorney has considered the applicant's arguments carefully but has found them unpersuasive. For the reasons below, the refusal under Section 2(d) is reinstated and made FINAL.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357,

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The applicant's mark is EAGLE OPTICS. The registered mark is EAGLEVIEW. The marks are substantially similar in appearance and commercial impression.

The dominant portion of the marks is the arbitrary term "eagle". It is this portion of the mark that consumers are most likely to recall when calling for the goods.

Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

The applicant's goods are "Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore." The registrant's goods are binoculars. The goods are closely related, namely, both identifications contain binoculars.

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If the applicant has any questions or needs assistance in responding to the Office action, please telephone or email the assigned examining attorney.

/alrademacher/  
April Rademacher  
Examining Attorney  
Law Office 102  
(703) 308-9102 x206  
(703) 746-8102 (fax)  
april.rademacher@uspto.gov

**How to respond to this Office Action:**

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via E-mail, visit <http://www.uspto.gov/web/trademarks/tmelecresp.htm> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/029311

APPLICANT: Sheltered Wings, Inc.

**CORRESPONDENT ADDRESS:**

ST. ONGE STEWARD JOHNSON & REENS LLC  
986 BEDFORD ST  
STAMFORD, CT 06905-5619

JAN - 8 2003

**RETURN ADDRESS:**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513  
**ecom102@uspto.gov**

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

MARK: EAGLE OPTICS

CORRESPONDENT'S REFERENCE/DOCKET NO: 03584-T0001A

CORRESPONDENT EMAIL ADDRESS:

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

RE: Serial Number 78/029311

**NOTICE OF SUSPENSION**

Action on this application is suspended pending the disposition of:

- Cancellation No(s). **92041239** *terminated*

If the applicant is a party to the above proceeding, the applicant should advise the Examining Attorney of the outcome of the proceeding when it is terminated.

The refusal as to registration No. 2365057 is continued.

/alrademacher/  
April L. Rademacher  
Examining Attorney  
Law Office 102  
(703) 308-9102 x206  
(703) 872-9166 (fax)  
april.rademacher@uspto.gov

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/029311

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT ADDRESS:**

ST. ONGE STEWARD JOHNSON & REENS LLC  
986 BEDFORD ST  
STAMFORD, CT 06905-5619

**RETURN ADDRESS:**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513  
**ecom102@uspto.gov**

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

**MARK:** EAGLE OPTICS

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 03584-T0001A

Please provide in all correspondence:

**CORRESPONDENT EMAIL ADDRESS:**

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

Serial Number 78/029311

**NOTICE OF SUSPENSION**

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- Cancellation No(s). **92041239**

If the applicant is a party to the above proceeding, the applicant should advise the Examining Attorney of the outcome of the proceeding when it is terminated.

The refusal as to registration No. 2365057 is continued.

/alrademacher/  
April L. Rademacher  
Examining Attorney  
Law Office 102  
(703) 308-9102 x206  
(703) 872-9166 (fax)  
april.rademacher@uspto.gov

TRADEMARK EXAMINATION WORKSHEET

AMENDMENT STAGE

NO CHANGE

PUBLICATION/REGISTRATION STAGE

Name: Terra Woodland

L.O. 102

Date 11/30/02 Serial No: 78/029311

INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.

**Legal Instrument Examiner (LIE)**

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Class Data	<input type="checkbox"/>	<input type="checkbox"/> Prime/International Class	<input type="checkbox"/> Goods and Services
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	<input type="checkbox"/>	<input type="checkbox"/> In Another Form	<input type="checkbox"/> Certification
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Mark Data	<input type="checkbox"/>	<input type="checkbox"/> Word Mark	<input type="checkbox"/> Pseudo Mark
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	<input type="checkbox"/>	<input type="checkbox"/> Scan Drawing	
Misc. Mark Data	<input type="checkbox"/>	<input type="checkbox"/> Mark Description	<input type="checkbox"/> Disclaimer
	<input type="checkbox"/>	<input type="checkbox"/> Lining/Stippling	<input type="checkbox"/> Name/Portrait/Consent
	<input type="checkbox"/>	<input type="checkbox"/> Translation	
Section 2(f)	<input type="checkbox"/>	<input type="checkbox"/> Section 2(f) Entire Mark	
	<input type="checkbox"/>	<input type="checkbox"/> Section 2(f) Limitation Statement	<input type="checkbox"/> Section 2(f) in Part
	<input type="checkbox"/>	<input type="checkbox"/> Amended Register	<input type="checkbox"/> Amended Register Date
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	<input type="checkbox"/>	<input type="checkbox"/> Foreign Registration Number	<input type="checkbox"/> Foreign Registration Date
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	<input type="checkbox"/>	<input type="checkbox"/> Foreign Reg. Renewal Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Date
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	<input type="checkbox"/>	<input type="checkbox"/> City	<input type="checkbox"/> State
	<input type="checkbox"/>	<input type="checkbox"/> Zip Code	
	<input type="checkbox"/>	<input type="checkbox"/> Citizenship	<input type="checkbox"/> Entity
	<input type="checkbox"/>	<input type="checkbox"/> Entity Statement	<input type="checkbox"/> Composed of
	<input type="checkbox"/>	<input type="checkbox"/> Assignment(s)/Name Change	
Amd/Corr Restr.	<input type="checkbox"/>	<input type="checkbox"/> Concurrent Use	
Prior U.S. Reg.	<input type="checkbox"/>	<input type="checkbox"/> Prior Registration	
Correspondence	<input type="checkbox"/>	<input type="checkbox"/> Attorney	<input type="checkbox"/> Domestic Representative
	<input type="checkbox"/>	<input type="checkbox"/> Attorney Docket Number	
	<input type="checkbox"/>	<input type="checkbox"/> Correspondence Firm Name/Address	

I certify that all corrections have been entered in accordance with text editing guidelines.

TERRA WOODLAND  
LIE

11/30/02  
DATE

Other: \_\_\_\_\_

TRADEMARK  
03584-T0001A SPM

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: October 5, 2000
Trademark	EAGLE OPTICS
Law Office: 102	Trademark Attorney: April Lueders Rademacher

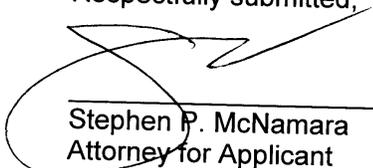
BOX RESPONSES – NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

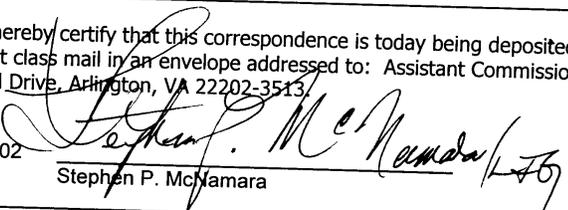
**Request for Suspension**

In response to the Office Action mailed October 16, 2002, Applicant advises that Applicant has filed a Petition For Cancellation against the cited mark EAGLEVIEW, U.S. Trademark Reg. No. 2084361.

It is respectfully requested that the present application be suspended pending the outcome of the cancellation action.

Respectfully submitted,

  
Stephen P. McNamara  
Attorney for Applicant  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
203 324-6155

<p><u>Certificate of Mailing</u>: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.</p>	
<p>11/12</p>	<p>2002  Stephen P. McNamara</p>

5

# Incoming Correspondence Routing Sheet

To: TMEG LAW OFFICE 102 - AWAITING RESPONSE DOCKET

Word Mark: EAGLE OPTICS

Serial No: 78029311



Mail Date: 11142002



Doc. Type: Responses to Office Actions



RECEIVED  
2002 NOV 27 10 09:57  
TMEG  
LAW OFFICE 102

**No Fee**

RAM Mail Date: 111402



TRADEMARK  
03584-T0001A SPM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: October 5, 2000
Trademark	EAGLE OPTICS
Law Office: 102	Trademark Attorney: April Lueders Rademacher

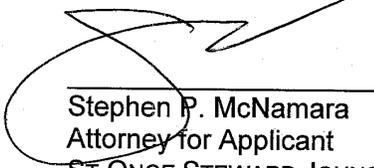
BOX RESPONSES – NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

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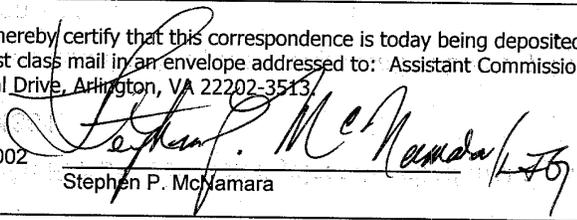
Respectfully submitted,



Stephen P. McNamara  
Attorney for Applicant  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
203 324-6155

RECEIVED  
2002 NOV 27 10:57 AM  
LAW OFFICE  
T.M.E.O.  
#002

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

11/12, 2002  
  
Stephen P. McNamara

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/029311

APPLICANT: Sheltered Wings, Inc.

OCT 16 2002

CORRESPONDENT ADDRESS:

ST. ONGE STEWARD JOHNSON & REENS LLC  
986 BEDFORD ST  
STAMFORD, CT 06905-5619

RETURN ADDRESS:

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513  
**ecom102@uspto.gov**

MARK: EAGLE OPTICS

CORRESPONDENT'S REFERENCE/DOCKET NO: 03584-T0001A

Please provide in all correspondence:

CORRESPONDENT EMAIL ADDRESS:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

RE: Serial Number 78/029311

This letter responds to the applicant's communication filed on August 29, 2002.

**Likelihood of Confusion**

Registration was refused under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the mark for which registration is sought so resembles the marks shown in U.S. Registration Nos. 2365057 and 2084361 as to be likely, when used in connection the identified goods/services, to cause confusion, or to cause mistake, or to deceive.

The examining attorney has considered the applicant's arguments carefully but has found them unpersuasive. For the reasons below, the refusal under Section 2(d) is maintained and made FINAL.

In determining whether there is a likelihood of confusion, the examining attorney must consider all circumstances surrounding the sale of the goods/services. *Industrial Nucleonic Corp. v. Hinde Engineering Co.*, 475 F.2d 1197, 177 USPQ 386 (C.C.P.A. 1973). These circumstances include the marketing channels, the identity of the prospective purchasers and the degree of similarity between the marks and between the goods/services. In comparing the marks, similarity in any one

of the elements of sound, appearance or meaning is sufficient to find a likelihood of confusion. If the goods/services of the parties differ, it is necessary to show that they are related in some manner. *In re Mack*, 197 USPQ 755 (TTAB 1977). TMEP §§1207.01 *et seq.*

The examining attorney must look at the marks in their entireties under Section 2(d). Nevertheless, one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight is given to that dominant feature in determining whether there is a likelihood of confusion. *In re National Data Corp.*, 224 USPQ 749 (Fed. Cir. 1985); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (C.C.P.A. 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). TMEP §1207.01(b)(viii).

In this case, the applicant's mark is EAGLE OPTICS. The registered marks are EAGLE'S BLUFF and EAGLEVIEW. The marks all contain the term "eagle" or a variation of "eagle". This portion of the mark is the dominant portion and thus the portion that consumers are most likely to remember when asking for the goods.

The applicant notes that there has been no confusion in the marketplace, despite more than five years of coexistence. The test under Section 2(d) of the Trademark Act is whether there is a likelihood of confusion. It is unnecessary to show actual confusion in establishing likelihood of confusion. *See Weiss Associates Inc. v. HRL Associates Inc.*, 902 F.2d 1546, 1549, 14 USPQ2d 1840, 1842-43 (Fed. Cir. 1990), and cases cited therein. TMEP §1207.01(d)(ii).

For the foregoing reasons, the refusal under Section 2(d) is maintained and made FINAL.

#### **Response to Final Action**

Please note that the only appropriate responses to a final action are either (1) compliance with the outstanding requirements, if feasible, or (2) filing of an appeal to the Trademark Trial and Appeal Board. 37 C.F.R. §2.64(a). If the applicant fails to respond within six months of the mailing date of this refusal, this Office will declare the application abandoned. 37 C.F.R. §2.65(a).

If the applicant has any questions or needs assistance in responding to the Office action, please telephone or email the assigned examining attorney.

/alrademacher/  
April L. Rademacher  
Examining Attorney  
Law Office 102  
(703) 308-9102 x206  
(703) 872-9166 (fax)  
april.rademacher@uspto.gov

#### **How to respond to this Office Action:**

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**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

TRADEMARK EXAMINATION WORKSHEET

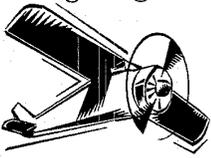
AMENDMENT STAGE

NO CHANGE

PUBLICATION/REGISTRATION STAGE

Name: David Lavine L.O. 110 Date: 09/24/02 Serial No.: 74/75/76/78 029311

INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.

Legal Instrument Examiner (LIE)			
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	<input type="checkbox"/>	Pseudo Mark	
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	<input type="checkbox"/>	Lining/Stippling	
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	<input type="checkbox"/>	Prior Registration	
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	<input type="checkbox"/>	Domestic Representative	
	<input type="checkbox"/>	Attorney Docket Number	
		<input type="checkbox"/>	E-mail address (Attorney)
		<input type="checkbox"/>	Correspondence Firm Name/Address

I certify that all corrections have been entered in accordance with text editing guidelines.

DL  
 LIE

09/24/02  
 DATE

Other: \_\_\_\_\_

TRADEMARK  
03584-T0001A SPM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: October 5, 2000
Trademark	EAGLE OPTICS
Law Office: 102	Trademark Attorney: April Lueders Rademacher

BOX RESPONSES – NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

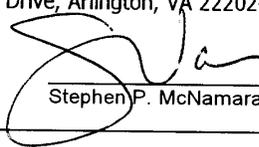
**Response to Official Action**

Dear Sir:

In response to the Office Action mailed on April 11, 2002, please enter the following Remarks.

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

August 26, 2002

  
\_\_\_\_\_  
Stephen P. McNamara

Page 2  
Serial No. 78/029,311  
Response to Official Action

**Remarks**

The Examining Attorney has refused registration of Applicant's mark EAGLE OPTICS on the basis of Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the Examining Attorney believes that Applicant's mark, when used on or in conjunction with the identified goods, so resembles the mark EAGLEVIEW, U.S. Registration No. 2,084,361 as to be likely to cause confusion, to cause mistake or to deceive. Applicant respectfully disagrees with this determination and requests reconsideration.

In determining a likelihood of confusion, it is well settled that a mark should not be dissected into component parts and then be compared to the potentially conflicting mark, for it is the impression which the mark creates as a whole that is important, and not the individual parts thereof. In this regard the Examining Attorney is respectfully referred to Massey Junior College, Inc. v. Fashion Institute of Technology, 492 F.2d 1399 (CCPA 1974) where the Court stated:

"that the marks must be considered in their entireties in determining whether there is a likelihood of confusion or mistake is a basic rule in comparison of marks."

In the prior Office Action, the prior Examiner cited numerous prior "Eagle" marks as the basis for a rejection under Section 2(d) of the Trademark Act. These included prior registrations and applications for EAGLE'S BLUFF, EAGLEVISION, EAGLE EYE, EAGLE. Clearly, the old saw about "eagle eyes" has informed the use of "Eagle" in each of these marks. The eagle is regarded as exemplifying excellent distance vision. This lends itself to use of the term "eagle" in many different marks pertaining to optical products. As such, the term "Eagle" is a relatively weak mark for optical products. In view of this, it is submitted that EAGLE OPTICS, the mark of the present application, is distinguishable from EAGLEVIEW. The marks have different commercial connotations. EAGLE OPTICS connotes high quality optical products. EAGLEVIEW connotes a product that gives the user an eagle's view. In view of the differences in the marks, and their commercial connotations, the marks are distinguishable.

Page 3  
Serial No. 78/029,311  
Response to Official Action

This conclusion is amply supported by cases relating to weak marks that are applied to similar goods. The decisions in In re Bed & Breakfast Registry, 229 U.S.P.Q. 818 (Fed.Cir. 1986) (BED & BREAKFAST REGISTRY not confusingly similar to BED & BREAKFAST INTERNATIONAL for similar services of making lodging reservations); Swatch Watch, S.A. v. Taxor, Inc., 229 U.S.P.Q. 391 (11th Cir. 1986) (T-WATCH not confusingly similar to SWATCH for watches); Bell Laboratories, Inc. v. Colonial Products, Inc., 231 U.S.P.Q. 569 (S.D.Fr. 1986) FINAL FLIP not confusingly similar to FINAL for rodenticides); In re Best Products Co., Inc., 231 U.S.P.Q. 988 (T.T.A.B. 1986) (JEWELER'S BEST for jewelry not confusingly similar to BEST JEWELERS for jewelry services); Plus Products v. Star-Kist Foods, Inc., 220 U.S.P.Q. 541 (T.T.A.B. 1983) (PLUS for pet vitamins and pet food supplements not confusingly similar to MEAT PLUS for pet food); Lindy Pen Co. v. Bic Pen Corp., 226 U.S.P.Q. 17 (9th Cir. 1984) (AUDITORS FINE POINT not confusingly similar to AUDITORS for pens); Burger King Systems, Inc. v. Sandwich Chef, Inc., 203 U.S.P.Q. 733 (C.C.P.A. 1979) (SANDWICH CHEF not confusingly similar to BURGER CHEF for restaurant services); Redken Laboratories, Inc. v. Clairol, Inc., 183 U.S.P.Q. 84 (9th Cir. 1975) (CONDITION & CURL not confusingly similar to CONDITION for hair treatments); and Sunbeam Corp. v. American Safety Razor Co., 207 U.S.P.Q. 799 (T.T.A.B. 1980) (THE LADY not confusingly similar to LADY SUNBEAM for women's razors); show that the mere use of a common word among trademarks is an insufficient basis on which to find a likelihood of confusion. Instead, the other words in the mark, and the overall impression created by the entire mark must be considered in conjunction with the goods or services recited.

Applicant's mark EAGLE OPTICS, when compared to the registered marks EAGLEVIEW, reveals visual and auditory differences in the marks that make them distinguishable when viewed as a whole. Applicant submits that the term OPTICS, when considered in conjunction with the differences in the visual appearance and auditory differences between the marks when considered in their entirety, is sufficient to distinguish its mark from the prior registered mark.

Page 4  
Serial No. 78/029,311  
Response to Official Action

Applicant also wishes to bring to the Examiner's attention that Applicant's goods have been in concurrent use in the marketplace with Registrants' goods for a period of time greater than five years.

The Applicant agrees with the Examining Attorney that each case must be analyzed in steps to determine if there is a likelihood of confusion. However, Applicant respectfully submits that up to as many as thirteen steps or factors must be considered during this analysis, not just the two steps indicated in the Office Action. In re E. I. DuPont de Nemors & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Three such additional steps to be considered:

"The conditions under which and buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated purchasing."

"The length of time during and conditions under which there has been concurrent use without evidence of actual confusion."

"The extent of potential confusion, i.e., whether *de minimus* or substantial."

Therefore, when applying these additional steps to the analysis, the products in question are binoculars, a purchase that involves an expense anywhere from \$100 to \$500, and thus is not an impulse purchase, but one where the buyer will make some study before purchasing.

Further, there have been in excess of 5 years concurrent use without any commercial conflict, and certainly without any charge of infringement or other dispute.

Finally, the extent of confusion is *de minimus*. The existence of many registered EAGLE marks on various types of optical goods leads to a determination that the mark EAGLE is weak in respect to the goods and the extent of potential confusion is *de minimus* rather than substantial.

Page 5  
Serial No. 78/029,311  
Response to Official Action

It is respectfully submitted that the foregoing Remarks respond to the issues raised in the Office Action. Accordingly, it is requested that the present application be approved for publication.

Respectfully submitted,



---

Stephen P. McNamara  
Attorney for Applicant  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
203 324-6155

3A

TRADEMARK  
03584-T0001A SPM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: October 5, 2000
Trademark	EAGLE OPTICS
Law Office: 102	Trademark Attorney: April Lueders Rademacher

BOX RESPONSES – NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

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LAW OFFICE 102  
2002 SEP -9 1 A 10: 16

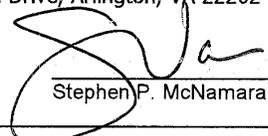
Response to Official Action

Dear Sir:

In response to the Office Action mailed on April 11, 2002, please enter the following Remarks.

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

August 26, 2002

  
\_\_\_\_\_  
Stephen P. McNamara



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**Remarks**

The Examining Attorney has refused registration of Applicant's mark EAGLE OPTICS on the basis of Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the Examining Attorney believes that Applicant's mark, when used on or in conjunction with the identified goods, so resembles the mark EAGLEVIEW, U.S. Registration No. 2,084,361 as to be likely to cause confusion, to cause mistake or to deceive. Applicant respectfully disagrees with this determination and requests reconsideration.

In determining a likelihood of confusion, it is well settled that a mark should not be dissected into component parts and then be compared to the potentially conflicting mark, for it is the impression which the mark creates as a whole that is important, and not the individual parts thereof. In this regard the Examining Attorney is respectfully referred to Massey Junior College, Inc. v. Fashion Institute of Technology, 492 F.2d 1399 (CCPA 1974) where the Court stated:

"that the marks must be considered in their entireties in determining whether there is a likelihood of confusion or mistake is a basic rule in comparison of marks."

In the prior Office Action, the prior Examiner cited numerous prior "Eagle" marks as the basis for a rejection under Section 2(d) of the Trademark Act. These included prior registrations and applications for EAGLE'S BLUFF, EAGLEVISION, EAGLE EYE, EAGLE. Clearly, the old saw about "eagle eyes" has informed the use of "Eagle" in each of these marks. The eagle is regarded as exemplifying excellent distance vision. This lends itself to use of the term "eagle" in many different marks pertaining to optical products. As such, the term "Eagle" is a relatively weak mark for optical products. In view of this, it is submitted that EAGLE OPTICS, the mark of the present application, is distinguishable from EAGLEVIEW. The marks have different commercial connotations. EAGLE OPTICS connotes high quality optical products. EAGLEVIEW connotes a product that gives the user an eagle's view. In view of the differences in the marks, and their commercial connotations, the marks are distinguishable.

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This conclusion is amply supported by cases relating to weak marks that are applied to similar goods. The decisions in In re Bed & Breakfast Registry, 229 U.S.P.Q. 818 (Fed.Cir. 1986) (BED & BREAKFAST REGISTRY not confusingly similar to BED & BREAKFAST INTERNATIONAL for similar services of making lodging reservations); Swatch Watch, S.A. v. Taxor, Inc., 229 U.S.P.Q. 391 (11th Cir. 1986) (T-WATCH not confusingly similar to SWATCH for watches); Bell Laboratories, Inc. v. Colonial Products, Inc., 231 U.S.P.Q. 569 (S.D.Fr. 1986) FINAL FLIP not confusingly similar to FINAL for rodenticides); In re Best Products Co., Inc., 231 U.S.P.Q. 988 (T.T.A.B. 1986) (JEWELER'S BEST for jewelry not confusingly similar to BEST JEWELERS for jewelry services); Plus Products v. Star-Kist Foods, Inc., 220 U.S.P.Q. 541 (T.T.A.B. 1983) (PLUS for pet vitamins and pet food supplements not confusingly similar to MEAT PLUS for pet food); Lindy Pen Co. v. Bic Pen Corp., 226 U.S.P.Q. 17 (9th Cir. 1984) (AUDITORS FINE POINT not confusingly similar to AUDITORS for pens); Burger King Systems, Inc. v. Sandwich Chef, Inc., 203 U.S.P.Q. 733 (C.C.P.A. 1979) (SANDWICH CHEF not confusingly similar to BURGER CHEF for restaurant services); Redken Laboratories, Inc. v. Clairol, Inc., 183 U.S.P.Q. 84 (9th Cir. 1975) (CONDITION & CURL not confusingly similar to CONDITION for hair treatments); and Sunbeam Corp. v. American Safety Razor Co., 207 U.S.P.Q. 799 (T.T.A.B. 1980) (THE LADY not confusingly similar to LADY SUNBEAM for women's razors); show that the mere use of a common word among trademarks is an insufficient basis on which to find a likelihood of confusion. Instead, the other words in the mark, and the overall impression created by the entire mark must be considered in conjunction with the goods or services recited.

Applicant's mark EAGLE OPTICS, when compared to the registered marks EAGLEVIEW, reveals visual and auditory differences in the marks that make them distinguishable when viewed as a whole. Applicant submits that the term OPTICS, when considered in conjunction with the differences in the visual appearance and auditory differences between the marks when considered in their entirety, is sufficient to distinguish its mark from the prior registered mark.

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Applicant also wishes to bring to the Examiner's attention that Applicant's goods have been in concurrent use in the marketplace with Registrants' goods for a period of time greater than five years.

The Applicant agrees with the Examining Attorney that each case must be analyzed in steps to determine if there is a likelihood of confusion. However, Applicant respectfully submits that up to as many as thirteen steps or factors must be considered during this analysis, not just the two steps indicated in the Office Action. In re E. I. DuPont de Nemors & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Three such additional steps to be considered:

"The conditions under which and buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated purchasing."

"The length of time during and conditions under which there has been concurrent use without evidence of actual confusion."

"The extent of potential confusion, i.e., whether *de minimus* or substantial."

Therefore, when applying these additional steps to the analysis, the products in question are binoculars, a purchase that involves an expense anywhere from \$100 to \$500, and thus is not an impulse purchase, but one where the buyer will make some study before purchasing.

Further, there have been in excess of 5 years concurrent use without any commercial conflict, and certainly without any charge of infringement or other dispute.

Finally, the extent of confusion is *de minimus*. The existence of many registered EAGLE marks on various types of optical goods leads to a determination that the mark EAGLE is weak in respect to the goods and the extent of potential confusion is *de minimus* rather than substantial.

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It is respectfully submitted that the foregoing Remarks respond to the issues raised in the Office Action. Accordingly, it is requested that the present application be approved for publication.

Respectfully submitted,



---

Stephen P. McNamara  
Attorney for Applicant  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
203 324-6155

# Incoming Correspondence Routing Sheet

To: TMEG LAW OFFICE 102 - AWAITING RESPONSE DOCKET

Word Mark: EAGLE OPTICS

Serial No: 78029311



Mail Date: 08292002



Doc. Type: Responses to Office Actions



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LAW OFFICE 102  
2002 SEP -9 A 10: 16

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**No Fee**

RAM Mail Date: 082902



## UNITED STATES PATENT AND TRADEMARK OFFICE

<b>SERIAL NO.</b> 78/029311 Sheltered Wings, Inc.		<b>APPLICANT</b> 		<b>PAPER NO.</b>	
<b>MARK</b> EAGLE OPTICS		<b>ADDRESS</b> ST. LINGE STEWARD JOHNSON & REENS LLC 986 BEDFORD ST STAMFORD, CT 06905-5619		<b>ADDRESS:</b> Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 www.uspto.gov	
<b>FORM PTO-1525 (5-90)</b>		<b>U.S. DEPT. OF COMM. &amp; TM OFFICE</b>		If no fees are enclosed, the address should include the words "Box Responses - No Fee."	
		<b>ACTION NO.</b> U2		Please provide in all correspondence:	
		<b>MAILING DATE</b> 04/11/02		1. Filing Date, serial number, mark and Applicant's name.	
		<b>REF. NO.</b> 03584-T0001A		2. Mailing date of this Office action.	
				3. Examining Attorney's name and Law Office number.	
				4. Your telephone number and ZIP code.	

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID *ABANDONMENT*. For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.

RE: Serial Number: 78/029311

This letter responds to the applicant's communication filed on June 21, 2001.

The disclaimer, the substitute specimens, and the amendment to the identification of goods have been accepted and made of record.

The refusals under Section 2(d), as to Registration Nos. 1998951, 1587502, and 1245781, have been withdrawn. The refusal under Section 2(d), as to Registration 2365057, is continued.

**Likelihood of Confusion**

Upon further consideration, the examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration No. 2084361 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP section 1207. See the enclosed registration. Every attempt is made to address all relevant issues in the first examination of trademark applications. The examining attorney regrets any inconvenience to the applicant at this time.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973).

78/029311

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The test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison. The issue is whether the marks create the same overall impression. *Visual Information Institute, Inc. v. Vicon Industries Inc.*, 209 USPQ 179 (TTAB 1980). The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks. *Chemetron Corp. v. Morris Coupling & Clamp Co.*, 203 USPQ 537 (TTAB 1979); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106 (TTAB 1975); TMEP section 1207.01(b).

The examining attorney must look at the marks in their entireties under Section 2(d). Nevertheless, one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight is given to that dominant feature in determining whether there is a likelihood of confusion. *In re National Data Corp.*, 224 USPQ 749 (Fed. Cir. 1985); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (C.C.P.A. 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). TMEP §1207.01(b)(viii).

The applicant's mark is EAGLE OPTICS. The registered mark is EAGLEVIEW. The marks are substantially similar in appearance and commercial impression. The dominant portion of the marks is the term EAGLE or EAGLE'S. It is this portion of the mark that consumers are most likely to recall when asking for the goods.

Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

The applicant's goods are "binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore". The registrant's goods are "binoculars". Both applications contain binoculars.

Because the marks are substantially similar and the goods are overlapping, the similarities among the marks and the goods are so great as to create a likelihood of confusion among consumers as to the source of the goods. The examining attorney must resolve any doubt regarding a likelihood of confusion in favor of the prior registrant. *In re Hyper Shoppers (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir., 1988).

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

78/029311

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If the applicant has any questions or needs assistance in responding to the Office action, please telephone or email the assigned examining attorney.

The Office has reassigned this application to the undersigned examining attorney.



April Lueders Rademacher  
Examining Attorney  
Law Office 102  
(703) 308-9102 x206  
(703) 872-9166 (fax)  
april.rademacher@uspto.gov (informal)  
ecom102@uspto.gov (formal)

**NOTICE FOR APPLICANTS FILING IN INTERNATIONAL CLASS 42**

Effective January 1, 2002, the 8th edition of the Nice Agreement governing the classification of goods and services divided prior International Class 42 into four service mark classes. Information about revised International Class 42 and new International Classes 43, 44, and 45 is available at [www.uspto.gov/web/offices/tac/notices/notices.htm](http://www.uspto.gov/web/offices/tac/notices/notices.htm).

*All applications filed on or after January 1, 2002, must comply with the new classification schedule.* For applications filed *before* January 1, 2002, the new classification schedule is optional. Applicants opting to amend to the new schedule must advise the assigned Examining Attorney.

\*\*\* User: alueders \*\*\* Serial Number: 74603797 \*\*\* 4/10/02 9:59:10 AM \*\*\*

[Typed Drawing]

Mark

EAGLEVIEW

Pseudo Mark

EAGLE-VIEW

Goods and Services

IC 009. US 021 023 026 036 038. G & S: binoculars. FIRST USE:  
19961130. FIRST USE IN COMMERCE: 19961130

Mark Drawing Code

(1) TYPED DRAWING

Serial Number

74603797

Filing Date

November 28, 1994

Filed ITU

FILED AS ITU

Publication for Opposition Date

July 25, 1995

Registration Number

2084361

Registration Date

July 29, 1997

Owner Name and Address

(REGISTRANT) Nikon Inc. CORPORATION NEW YORK 1300 Walt Whitman Road  
Melville NEW YORK 117473064

Assignment Recorded

ASSIGNMENT RECORDED

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Mark I. Peroff

\*\*\* Search: 11 \*\*\* Document Number: 46 \*\*\*

**\*TRADEMARK EXAMINATION WORKSHEET**

AMENDMENT STAGE     NO CHANGE     PUBLICATION/REGISTRATION STAGE

Name: MONIQUE WATTS L.O. 102    Date 10/20/01    Serial No. 78/029311

INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.

Legal Instrument Examiner (LIE)		
	Amended	Data Element
Class Data	<input type="checkbox"/>	Prime/International Class
	<input type="checkbox"/>	Goods and Services
	<input type="checkbox"/>	First Use Date
	<input type="checkbox"/>	First Use in Commerce Date
Mark Data	<input type="checkbox"/>	In Another Form
	<input type="checkbox"/>	Certification
	<input type="checkbox"/>	1b
	<input type="checkbox"/>	Word Mark
Misc. Mark Data	<input type="checkbox"/>	Pseudo Mark
	<input type="checkbox"/>	Mark Drawing Code
	<input type="checkbox"/>	Design Search Code
Section 2(f)	<input type="checkbox"/>	Sizing/Lining Code
	<input type="checkbox"/>	Mark Description
	<input type="checkbox"/>	Disclaimer
Foreign Reg. Data	<input type="checkbox"/>	Lining/Stippling
	<input type="checkbox"/>	Name/Portrait/Consent
	<input type="checkbox"/>	Translation
	<input type="checkbox"/>	Section 2(f) Entire Mark
	<input type="checkbox"/>	Section 2(f) Limitation Statement
Owner Data	<input type="checkbox"/>	Section 2(f) in Part
	<input type="checkbox"/>	Amended Register
	<input type="checkbox"/>	Amended Register Date
	<input type="checkbox"/>	Foreign Country
	<input type="checkbox"/>	44(d)
	<input type="checkbox"/>	Foreign Application Number
	<input type="checkbox"/>	Foreign Application Filing Date
Amd/Corr Restr.	<input type="checkbox"/>	Foreign Registration Number
	<input type="checkbox"/>	Foreign Registration Date
	<input type="checkbox"/>	Foreign Registration Expiration Date
	<input type="checkbox"/>	Foreign Renewal Reg. Number
	<input type="checkbox"/>	Foreign Reg. Renewal Expiration Date
	<input type="checkbox"/>	Foreign Renewal Reg. Date
	<input type="checkbox"/>	Owner Name
	<input type="checkbox"/>	DBA/AKA/TA
Prior U.S. Reg.	<input type="checkbox"/>	Address 1
	<input type="checkbox"/>	Address 2
Correspondence	<input type="checkbox"/>	City
	<input type="checkbox"/>	State
	<input type="checkbox"/>	Zip Code
Correspondence	<input type="checkbox"/>	Citizenship
	<input type="checkbox"/>	Entity
	<input type="checkbox"/>	Entity Statement
Correspondence	<input type="checkbox"/>	Composed of
	<input type="checkbox"/>	Assignment(s)/Name Change
Correspondence	<input type="checkbox"/>	Concurrent Use
Correspondence	<input type="checkbox"/>	Prior Registration
Correspondence	<input type="checkbox"/>	Attorney
Correspondence	<input type="checkbox"/>	Domestic Representative
Correspondence	<input type="checkbox"/>	Attorney Docket Number
Correspondence	<input checked="" type="checkbox"/>	Correspondence Firm Name/Address

I certify that all corrections have been entered in accordance with text editing guidelines.

**M.L.W.**  
LIE

10/20/01  
DATE

Other: \_\_\_\_\_



Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513  
www.uspto.gov

TO:  
Patricia Smith King  
King Research & Law  
222 N. Midvale Boulevard, Suite 22  
Madison, WI 53705

OCT 12 2001

Serial No.: 78/029311

Mark: EAGLE OPTICS

Applicant: Sheltered Wings, Inc.

REQUEST TO WITHDRAW AS ATTORNEY OF RECORD UNDER 37 C.F.R. SECTIONS 2.19(b)  
AND 10.40

Your petition to withdraw as the attorney of record in the above-identified application was received on June 22, 2001. It meets the requirements of 37 C.F.R. section 10.40 and is hereby granted.

All further communications regarding this application will be directed to the applicant.

A handwritten signature in cursive script, appearing to read "Thomas Shaw".

Thomas Shaw  
Managing Attorney  
Law Office 102  
(703) 308- 9102

cc:  
Sheltered Wings, Inc.  
2120 W. Greenview Dr. #4  
Middleton, WI 53562

L-102

TRADEMARK  
03584-T0001A SPM

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: October 5, 2000
Trademark	EAGLE OPTICS
Law Office: 102	Trademark Attorney: Shanna Winters

BOX RESPONSES – NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513



06-21-2001  
U.S. Patent & TMO/TM Mail Rpt Dt. #10

**Response to Official Action**

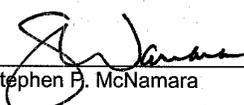
Dear Sir:

In response to the Office Action mailed on March 20, 2001, please enter the following Amendment and Remarks.

RECEIVED  
JUN 26 4 9 14  
TMO  
LAW OFFICE 102

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

June 19, 2001

  
Stephen P. McNamara

LP

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Response to Official Action

**Amendment**

Please rewrite the identification of goods, if acceptable to the Examining Attorney, to read as follows in its entirety:

BINOCULARS, SPOTTING SCOPES, AND TELESCOPES, ALL FOR USE IN BIRD WATCHING, AND STORAGE CASES THEREFORE, in international class 009

Please enter the following disclaimer:

No claim is made to the exclusive right to use "OPTICS" apart from the mark as shown */PRINT*

Please note the enclosed Power of Attorney. Please direct all future correspondence to:

[ Stephen P. McNamara  
ST.ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619 ]

Tel. 203 324-6155

**Remarks**

The Examiner has objected to the identification of goods. By the foregoing amendment, the identification of goods is amended as suggested by the Examiner; except that Applicant renews the use of "spotting scopes", which the Examiner has objected to. "Spotting scope" is a common commercial term for a type of telescope used in birdwatching that provides an upright image. Printouts showing common use of "spotting scope" in the field are enclosed. It is requested that the Examiner withdraw the objection to this term.

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Response to Official Action

The Examining Attorney has entered a requirement for disclaimer. By the foregoing Amendment the disclaimer is entered, without waiver of any common law or separate registration rights that Applicant may have in the disclaimed subject matter.

The Examiner has objected to the specimen. A Declaration and a substitute specimen are enclosed.

The Examining Attorney has refused registration of Applicant's mark EAGLE OPTICS on the basis of Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the Examining Attorney believes that Applicant's mark, when used on or in conjunction with the identified goods, so resembles the marks in U.S. Registration Nos. 2,365,057, 1,998,951, 1,587,502 and 1,245,781 as to be likely to cause confusion, to cause mistake or to deceive. Applicant respectfully disagrees with this determination and requests reconsideration.

In determining a likelihood of confusion, it is well settled that a mark should not be dissected into component parts and then be compared to the potentially conflicting mark, for it is the impression which the mark creates as a whole that is important, and not the individual parts thereof. In this regard the Examining Attorney is respectfully referred to Massey Junior College, Inc. v. Fashion Institute of Technology, 492 F.2d 1399 (CCPA 1974) where the Court stated:

"that the marks must be considered in their entireties in determining whether there is a likelihood of confusion or mistake is a basic rule in comparison of marks."

Applicant's mark EAGLE OPTICS, when compared to the cited marks in the context of the relevant goods, reveals differences in the marks that make them distinguishable when viewed as a whole. The only term common to each mark is the term EAGLE. However, it is submitted that the term EAGLE is a relatively weak mark in the context of any type of optical products, given the connotation of excellent vision associated with eagles.

Applicant's mark is EAGLE OPTICS for BINOCULARS, SPOTTING SCOPES, AND TELESCOPES, ALL FOR USE IN BIRD WATCHING, and STORAGE CASES

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Response to Official Action

THEREFORE. The products are marketed in channels of trade to consumers who obtain such equipment for bird watching. See Applicant's catalog which is submitted herewith.

EAGLE'S BLUFF, Reg. No. 2,365,057, is registered for binoculars. This mark, while using the same EAGLE prefix which is part of Applicant's mark, presents a very different commercial impression, as "Eagle's Bluff" connotes a location, e.g. a tall cliff, but does not directly call to mind an eagle per se. Confusion is not likely given the differences in the name and the commercial impressions.

EAGLEVISION, Reg. No. 1,998,951 is registered for sunglasses and sport goggles. In view of the differences between the registrant's products and the applicant's product it is submitted that there is no likelihood of confusion. Applicant's products are binoculars and scopes for bird watching. The Registrant's products are sunglasses and goggles for skiing and golf. The products serve different ends, and confusion is not likely given the differences in the name and the differences in the product.

EAGLE EYE, Reg. No. 1,587,502 is registered for variety of night vision equipment, such as infrared goggles, helmet screens and image intensifiers. The market for this product is clearly the military/police type market. It is not the same market as the very gentle art of bird watching. The products serve different ends, and confusion is not likely given the differences in the name and the differences in the product.

EAGLE, Reg. No. 1,245,781 is registered for "ophthalmic frames, and mountings" (in other words, eyeglass frames). In view of the differences between the registrant's products and the applicant's product it is submitted that there is no likelihood of confusion. Applicant's products are binoculars and scopes for bird watching. The Registrant's products are eyeglass frames. The products serve different ends, and confusion is not likely given the differences in the name and the differences in the product.

This conclusion is amply supported by the case law relating to weak marks that are applied to similar goods. The decisions in In re Bed & Breakfast Registry, 229 U.S.P.Q. 818 (Fed.Cir. 1986) (BED & BREAKFAST REGISTRY not confusingly similar

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Response to Official Action

to BED & BREAKFAST INTERNATIONAL for similar services of making lodging reservations); Swatch Watch, S.A. v. Taxor, Inc., 229 U.S.P.Q. 391 (11th Cir. 1986) (T-WATCH not confusingly similar to SWATCH for watches); Bell Laboratories, Inc. v. Colonial Products, Inc., 231 U.S.P.Q. 569 (S.D.Fr. 1986) FINAL FLIP not confusingly similar to FINAL for rodenticides); In re Best Products Co., Inc., 231 U.S.P.Q. 988 (T.T.A.B. 1986) (JEWELER'S BEST for jewelry not confusingly similar to BEST JEWELERS for jewelry services); Plus Products v. Star-Kist Foods, Inc., 220 U.S.P.Q. 541 (T.T.A.B. 1983) (PLUS for pet vitamins and pet food supplements not confusingly similar to MEAT PLUS for pet food); Lindy Pen Co. v. Bic Pen Corp., 226 U.S.P.Q. 17 (9th Cir. 1984) (AUDITORS FINE POINT not confusingly similar to AUDITORS for pens); Burger King Systems, Inc. v. Sandwich Chef, Inc., 203 U.S.P.Q. 733 (C.C.P.A. 1979) (SANDWICH CHEF not confusingly similar to BURGER CHEF for restaurant services); Redken Laboratories, Inc. v. Clairol, Inc., 183 U.S.P.Q. 84 (9th Cir. 1975) (CONDITION & CURL not confusingly similar to CONDITION for hair treatments); and Sunbeam Corp. v. American Safety Razor Co., 207 U.S.P.Q. 799 (T.T.A.B. 1980) (THE LADY not confusingly similar to LADY SUNBEAM for women's razors); show that the mere use of a common word among trademarks is an insufficient basis on which to find a likelihood of confusion. Instead, the other words in the mark, and the overall impression created by the entire mark must be considered in conjunction with the goods or services recited.

Applicant's mark EAGLE OPTICS, when compared to the registered marks EAGLE'S BLUFF, EAGLEVISION, EAGLE EYE and EAGLE and design, reveals visual and auditory differences in the marks that make them distinguishable when viewed as a whole. Applicant submits that the term OPTICS, when considered in conjunction with the differences in the visual appearance and auditory differences between the marks when considered in their entirety, is sufficient to distinguish its mark from each of the Registered marks.

Given the differences in the products, and the relative weakness of mark of the cited application, it is respectfully submitted that the potential rejection should be with-

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Response to Official Action

drawn. Such a result is consistent with other cases involving weakly suggestive marks, even where the parties goods are services are much closer than they are in this application. See, e.g., ); The Nestle Company Inc. v. Nash-Finch Co., 4 USPQ 2d 1085 (TTAB 1987) (DELI QUICK for delicatessen products not confusingly similar to famous Nestle's QUIK for chocolate milk, powdered sweetened cocoa).

The Examining Attorney has cited In re Appetito Provisions Co., 3 USPQ 2d 1553 (TTAB 1987) as support for refusal to register Applicant's mark because she feels that one feature of a mark may be more significant in creating a commercial impression and disclaimed matter is typically less significant or dominant. Applicant respectfully disagrees with this determination. The Appetito case pertains to whether the mark AP-PETITO and design is confusingly similar with APPETITO'S and an "A" design and AP-PETITO'S INC. and the design of a sandwich and the letter "A". In that instance the Board determined that a consumer would not remember the sandwich design, the letter "A" or the abbreviation "INC", only APPETITO'S. However, in the instant case, Applicant's mark and the first three Registrants' marks are word marks, with each mark containing two words and with one registration also containing the term EAGLE and a specific design feature. This set of facts differs substantially from the Appetito case where the marks were essentially one-word marks. Applicant submits that the term OPTICS, when considered in conjunction with the differences in the visual appearance and auditory differences between the marks when considered in their entirety, is sufficient to distinguish its mark from each of the registered marks.

Applicant's EAGLE OPTICS mark has a distinctly different commercial connotation than Registrant's EAGLE'S BLUFF, EAGLEVISION, EAGLE EYE, and EAGLE and design. Three of the four registered marks utilize the term EAGLE as a modifier of a second descriptive component of the respective marks. Therefore, use of the modifier in this manner suggests that Applicant's goods pertain to some type of optical equipment, while EAGLE'S BLUFF suggests the location of an eagle's nest, and EAGLEVISION, EAGLE EYE each pertain to the keen eyesight characteristic of eagles. Each use

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Response to Official Action

of the modifier "eagle" presents an entirely different commercial impression. Therefore, the overall commercial impressions created by the respective marks further differentiate the marks in the minds of consumers.

Applicant also wishes to bring to the Examiner's attention that Applicant's goods have been in concurrent use in the marketplace with Registrants' goods for a period of time greater than five years.

The Applicant agrees with the Examining Attorney that each case must be analyzed in steps to determine if there is a likelihood of confusion. However, Applicant respectfully submits that up to as many as thirteen steps or factors must be considered during this analysis, not just the two steps indicated in the Office Action. In re E. I. DuPont de Nemors & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Three such additional steps to be considered:

"The conditions under which and buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated purchasing."

"The length of time during and conditions under which there has been concurrent use without evidence of actual confusion."

"The extent of potential confusion, i.e., whether *de minimus* or substantial."

Therefore, when applying these additional steps to the analysis, Applicant's use of the mark EAGLE OPTICS presents visual and auditory differences when the marks are considered in their entirety, as well as presenting entirely different commercial impressions. Additionally, the existence of many registered EAGLE marks on various types of optical goods leads to a determination that the mark EAGLE is weak in respect to the goods and the extent of potential confusion is *de minimus* rather than substantial.

It is respectfully submitted that the foregoing Amendment and Remarks responds to the issues raised in the Office Action. Accordingly, it is requested that the present application be approved for publication.

Page 8  
Serial No. 78/029,311  
Response to Official Action

Respectfully submitted,



---

Stephen P. McNamara  
Attorney for Applicant  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
203 324-6155

RECEIVED  
St. OngeSteward Johnston & Reens

APR 26 2001

FILE \_\_\_\_\_  
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TRADEMARK  
03584-T0001A SPM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: October 5, 2000
Trademark	EAGLE OPTICS

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

Power of Attorney

Dear Sir:

Applicant, Sheltered Wings, Inc., a corporation of the State of Wisconsin, having its principal place of business at Suite Four; 2120 West Greenview Drive; Middletown, WI 53562, hereby appoints the following attorney to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Stephen P. McNamara  
Attorney for Applicant  
ST.ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905-5619  
Telephone (203) 324-6155  
Facsimile (203) 327-1096

Please direct all correspondence and other communications to the above named attorney at the above address.

Sheltered Wings, Inc.

April 23, 2001  
Date

By Daniel C. Hamilton  
Name Daniel C. Hamilton  
Title President

TRADEMARK  
03584-T0001A SPM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	Sheltered Wings, Inc.
Serial No. 78/029,311	Filing Date: 5 October 2000
Trademark	EAGLE OPTICS
Law Office: 102	Trademark Attorney: Shanna Winters

BOX RESPONSES, NO FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**Declaration in Support of Specimens**

Daniel C. Hamilton hereby declares as follows:

1. I am the President of Applicant **SHELTERED WINGS, INC.** herein; I am authorized to give this Declaration on behalf of Applicant; and I am fully familiar with Applicant's use of the subject Trademark.
2. Submitted with this Declaration are specimens of use of the Trademark EAGLE OPTICS in International Class 9, showing the mark as actually used in connection with the goods, namely, BINOCULARS, SPOTTING SCOPES, AND TELESCOPES, ALL FOR USE IN BIRDWATCHING, AND STORAGE CASES THEREFOR. The specimens submitted herewith were in use in commerce at least as early as the filing date of the application.
3. I hereby declare that all statements made herein of my own knowledge are true, all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements and the like so made may jeopardize the validity of the application or document or any registration resulting therefrom.

Page 2  
Serial No. 78/029,311  
Declaration in Support of Specimens

6/13/2001  
Date

  
Daniel C. Hamilton  
SHELTERED WINGS, INC.

Yahoo! Search Results for spotting scope

Page 1 of 2

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- [Celestron](#) - quality optics; wide range of telescopes, binoculars, **spotting scopes**, and optical accessories.

Business and Economy > Business to Business > Scientific > Astronomy > [Instruments](#)

- [Astronomics/Christophers, Ltd.](#) - mail order retailer of astronomical telescopes and accessories, CCD equipment, and birdwatching and nature study binoculars and **spotting scopes**.
- [SkyOptics.com](#) - telescopes, binoculars, **spotting-scopes** and rifle-**scopes**.

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- [Crooked Horn Outfitters, Inc.](#) - featuring specialized hunting equipment such as hunting packs, binocular systems, **spotting scope** tripod carriers, and video hip packs.

Business and Economy > Shopping and Services > Weapons > Firearms > Accessories > [Scopes, Sights, and Lasers](#)

- [Leupold](#) - US Manufacturer of Sports Optics including Riflescopes, **Spotting Scopes**, Binoculars, and Mounting Systems.

Business and Economy > Shopping and Services > Outdoors > Gear and Equipment > Binoculars > [Night Vision](#)

- [Night Vision Optics](#) - offers binoculars, goggles, rifle **scopes**, **spotting scopes**, and more.
- [Moro Vision](#) - provides binoculars, **spotting scopes**, goggles, weaponsights, and camera adaptable equipment for professional and recreational use.
- [1stNightVision.com](#) - including goggles, **spotting scopes**, and binoculars for camping, hunting, boating, and recreation.

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Canada > Business and Economy > Business to Business > Scientific > Astronomy > Instruments

- A&A Astronomical and Optical Instruments Ltd. - carries a wide range of telescopes including reflector and refractor types. Also offers binoculars, **spotting scopes**, and accessories.

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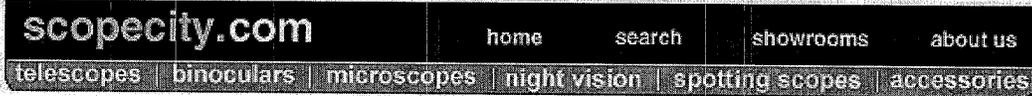
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Like every other thing, telescopes performance and usage can be enhanced through accessories. Whether it is an eyepiece, which will increase magnification or result in a wider field of view, or an image erector, or a camera adapter, an accessory is definitely a need in certain cases.



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Welcome to Celestron:

Celestron, the most established name in the optical industry, has a reputation for providing the highest quality optics at affordable prices. We are proud to offer a wide range of telescopes, binoculars, spotting scopes, and optical accessories.

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Celestron International

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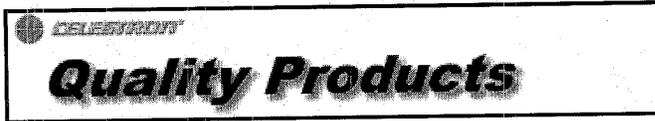
- CI-700 German Equatorial Mount 
- Ultima Eyepieces
- Axiom™ Eyepieces
- NexStar Plössl Eyepieces

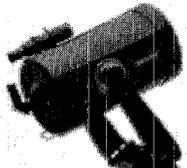
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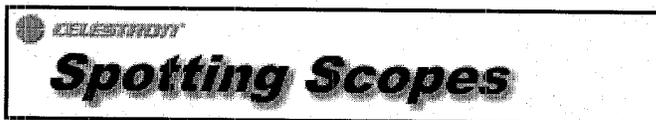
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### *Spotting Scopes*

30mm Mini Brass

60mm Wide Zoom

60mm Pro Zoom

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100 Wide View

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## WHICH SPOTTING SCOPE IS BEST FOR YOU?

There are several factors to consider when choosing a spotting scope. Listed below are the more important criteria that you may wish to consider.

### Diameter Of Objective Lens

A spotting scope is really a telescope that produces an upright image. The major function of a spotting scope, like all telescopes, is to gather incoming light. The larger the diameter of the spotting scope's objective lens, the more light it gathers, with more light translating into a brighter and better image. As the size of the objective lens increases, greater detail and clarity of image will be afforded.

### Magnification (Power)

Magnification is the degree to which the object being viewed is enlarged. Magnification, or power, in a spotting scope is a function of the relationship of two independent optical systems — the optics of the spotting scope itself and the eyepiece being used. To determine magnification, divide the focal length of the spotting scope by the focal length of the eyepiece.

By exchanging an eyepiece of one focal length for another eyepiece with a different focal length, you can increase or decrease the magnification of the spotting scope. For example, a 30mm eyepiece used on a C90 spotting scope with a 1000mm focal length would yield a magnification of 33x. A 9mm eyepiece used on the same C90 spotting scope would yield a power of 110x.

There is, however, a limit to how much you can magnify an image. As a rule of thumb, the maximum magnification is equal to 50 to 60 times the diameter (in inches) of the spotting scope's objective lens (under ideal conditions). Magnification higher than this will produce a dim and fuzzy image. In most cases, a magnification of 20 to 35x is the most useful and satisfying range to use with spotting scopes under normal daytime conditions. Zoom spotting scopes have a single, built-in eyepiece to give you a range of magnifications without the need to change eyepieces.

**Focal Length**

The distance, in an optical system, from the objective lens to the point where the instrument is in focus (the focal point). The longer the focal length of the instrument, the larger the image scale it offers.

**Near Focus**

The distance between the instrument and the nearest object you can focus on, while maintaining a good image and sharp focus, defines the near focus. Short near focus is important for close-up visual and photographic work.

**Field Of View**

The size of the area, in degrees, that can be seen while looking through the spotting scope is the angular field of view. Linear field of view refers to the width of the area that can be observed at 1,000 yards, and is expressed in feet. A larger field of view translates to a larger area seen through the spotting scope. Field of view is related to magnification, with greater magnification creating a smaller field of view, in general. The angular field of view is calculated by dividing the apparent field of the eyepiece by the magnification being used. ( $AFE \div \text{Magnification} = AFV$ ). Once the angular field of view is known, the linear field can be determined by multiplying the angular field by 52.5.

**Focal Ratio or Photographic Speed (F/Stop)**

The ratio of the focal length of the spotting scope to the diameter (aperture) of its objective lens, in millimeters. Spotting scopes with small f/stop numbers react to incoming light faster than spotting scopes with larger f/stop numbers. So, the smaller the f/stop number, the shorter your photographic exposure time.

**Exit Pupil**

The diameter, in millimeters, of the beam of light that leaves the eyepiece of the spotting scope is the "exit pupil". To calculate the exit pupil, divide the size of the objective lens, in millimeters, by the magnification of the eyepiece being used. The larger the exit pupil, the brighter the image.

**Eye Relief**

The minimum distance between the eyepiece of the spotting scope and your eye that still allows you to see the entire field of

view.

### **Coatings**

Optical coatings are important, as they determine the throughput transmission of a spotting scope. The better the quality of the lens coatings, the brighter the image will be and the higher the contrast of the image will be. Fully multi-coated lenses are the best quality you can choose.

### **Portability**

For applications such as hiking and hunting, portability is a prime factor to consider. For stationary viewing, a large diameter objective lens becomes of primary importance.

### **Versatility**

Most Celestron spotting scopes can be used three different ways: (1). As a telephoto lens when attached to a 35mm SLR camera, (2). For terrestrial observing , and (3). As a telescope. This is the kind of versatility you want.

### **Construction**

Both mechanical and optical construction are important. Alignment of the optical elements (collimation) is critical for achieving optimal results. All Celestron spotting scopes are laser aligned to ensure comfortable viewing, even during extended viewing sessions.

  
**TOP**

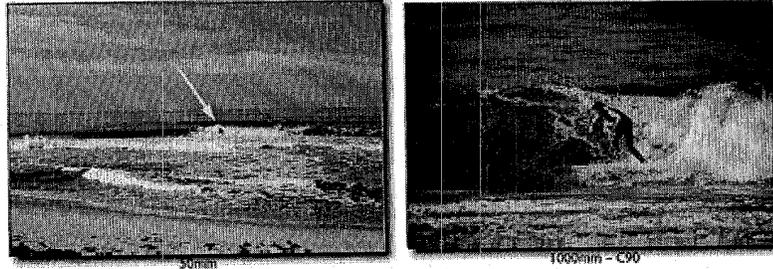
## **USING A SPOTTING SCOPE AS A TELEPHOTO LENS**

A long telephoto lens brings you close optically when you can't get close physically. Distance shrinks between you and your subject, allowing you to capture both far away and close-up images on film.

Most Celestron spotting scopes are designed to be dual purpose visual and photographic instruments. For photographic use, all that's required is a T-Adapter for the spotting scope and the correct T-ring for your particular 35mm SLR camera. With these two simple, inexpensive accessories the usability of your spotting scope is easily enhanced.

The criteria given to consider in choosing a spotting scope applies equally well when choosing a telephoto lens.

The following pictures demonstrate what a telephoto lens can do. The picture on the left is a standard 50mm photo and the picture on the right was taken with Celestron's C90 spotting scope (1000mm) at the same distance.



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TRADEMARK  
Reference No. ham-001

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2001 JUN 22 A 10 28

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**Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to: Box NEW APP FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on June 12, 2001.

Name of Person Signing Certificate: Patricia Smith King

Signature: Patricia Smith King

Date of Signing: 12 June 2001

**SERIAL NO.:** 78/029311

**FILING DATE:** October 5, 2000

**MARK:** EAGLE OPTICS

**APPLICANT:** Sheltered Wings, Inc.



06-19-2001

U.S. Patent & TMO/TM Mail Rpt Dt. #34

**Box NO FEE**

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**Application for Withdrawal from Representation of Applicant**

Sir:

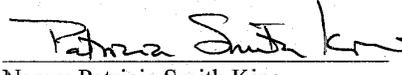
The undersigned hereby applies for withdrawal from representation of the applicant in connection with the above-identified trademark application. The basis for this request is as follows: Discharge by client (37 CFR 10.40(b)(4)).

The undersigned affirms that she has taken reasonable steps to avoid foreseeable prejudice to the rights of the applicant pursuant to 37 C.F.R. Section 10.40(a), including informing applicant of the Trademark Examiner's first Office Action in this case, the options available to applicant and the deadline date for reply to the first Office Action (September 20, 2001), by letter on April 3, 2001. I have also forwarded a copy of this withdrawal to applicant after receiving notice from applicant of my discharge from applicant's service (dated 11 June 2001), and that all pertinent paperwork, including the original Office Action in this case, has been forwarded to applicant. The applicant has informed me that he is "pursuing other counsel" on this matter and gave no reason for doing so. As evidenced by the attached Certificate of Service, a copy of this Application has been sent to the applicant.

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LAW OFFICE 102

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Respectfully submitted,

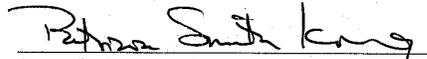


Name: Patricia Smith King  
Firm Name: King Research & Law  
Address: 222 N. Midvale Boulevard, Suite 22  
Madison, WI 53705  
Telephone : 1-608-231-2988

Dated: 12 June 2001

**Certificate of Service**

The undersigned hereby certifies that a copy of the foregoing Withdrawal as Attorney is being served upon the Applicant by first class mail on this 12th day of June, 2001, by placing the same in an envelope addressed as follows: Daniel Hamilton, President, Sheltered Wings, Inc., 2120 West Greenview Drive #4, Middleton, WI 53562.

  
Patricia Smith King

Dated: 12 June 2001

## UNITED STATES PATENT AND TRADEMARK OFFICE

PAPER NO.

## SERIAL NO.

78/029311 Sheltered Wings, Inc.

## APPLICANT

## MARK

EAGLE OPTICS

## ADDRESS

Patricia Smith King  
 KING RESEARCH & LAW  
 222 N MIDVALE BLVD STE 22  
 MADISON WI 53705-5076

## ACTION NO.

01

## MAILING DATE

03/20/01

## REF. NO.

Ham-001

FORM PTO-1525 (5-90)

U.S. DEPT. OF COMM. PAT. &amp; TM OFFICE

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Please provide in all correspondence:

1. Filing Date, serial number, mark and Applicant's name.
2. Mailing date of this Office action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and ZIP code.

**A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT.** For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.

RE: Serial Number: 78/029311

The assigned trademark attorney has reviewed the referenced application and determined the following.

REGISTRATION REFUSED -- LIKELIHOOD OF CONFUSION

The trademark attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration Nos. 2365057, 1998951, 1587502 and 1245781 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP section 1207. See the enclosed registrations.

The trademark attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the trademark attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Second, the trademark attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978).

78/029311

-2-

Applying the above analysis to this application, the trademark attorney must first conclude that the marks are similar. Applicant's mark is comprised of the terms EAGLE and OPTICS. The registrants' marks consist of the wording EAGLE/'S combined with an additional term or a design. When a mark consists of a word portion and a design portion, the word portion is more likely to be impressed upon a purchaser's memory and to be used in calling for the goods or services. *In re Appetito Provisions Co.*, 3 USPQ2d 1553 (TTAB 1987); *Amoco Oil Co. v. Amerco, Inc.*, 192 USPQ 729 (TTAB 1976). As such, the comparison between the marks in terms of their literal portions is afforded greater weight. The term OPTICS is merely descriptive and as such the term, EAGLE is the dominant component of the applicant's mark. The addition of OPTICS in this mark, or the additional terms or design in the registrants' marks does not alter the commercial impression of the marks so as to render them dissimilar.

As to the second part of the test, applicant's mark is used in conjunction with various scopes, binoculars and related optic accessories. The registrants' marks include some of the identical goods, including binoculars or related optical items. The goods of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods come from a common source. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978). As such, the goods are to some extent identical, and all are related in that they are optic accessories. Thus since the marks are similar and the goods are related, there is a likelihood of confusion and registration must be refused.

Although registration has been refused, the applicant may respond to the refusal by submitting evidence and arguments in support of registration.

#### INFORMALITIES

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informal issues.

##### *I. Identification of Goods*

The wording "spotting scopes" in the identification of goods is unacceptable as indefinite. The applicant may amend this wording to "periscopes," if accurate. TMEP section 804.

The wording "and other related accessories including optic cases and straps and optic cleaning tools" in the identification of goods is too broad because it could include items classified in other classes. The applicant must amend the identification to list each item by its common commercial name. TMEP sections 804 and 804.03. The applicant may amend this wording to "and cases and straps therefor," if accurate. TMEP section 804. As to the cleaning tools, if the applicant has access to the world wide web, it is strongly recommended that it review the Office's searchable database of the Manual of Acceptable Identifications of Goods and Services. The address for this is: <http://www.uspto.gov/cgi-bin/goods-services.pl>. **See Classification below.**

78/029311

-3-

In the identification, the applicant must use the common commercial names for the goods, be as complete and specific as possible and avoid the use of indefinite words and phrases. If the applicant chooses to use indefinite terms, such as "accessories," "components," "devices," "equipment," "materials," "parts," "systems" and "products," then those words must be followed by the word "namely" and the goods listed by their common commercial names. TMEP sections 804 and 804.08(c).

Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. Section 2.71(a); TMEP section 804.09. Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the present identification.

## II. *Disclaimer*

The applicant must disclaim the descriptive wording "optics"<sup>1</sup> apart from the mark as shown. Trademark Act Section 6, 15 U.S.C. Section 1056; TMEP sections 1213 and 1213.02(a). The wording is merely descriptive because it describes the type of goods. The computerized printing format for the *Trademark Official Gazette* requires a standard form for a disclaimer. TMEP section 1213.09(a)(i). A properly worded disclaimer should read as follows:

No claim is made to the exclusive right to use "optics" apart from the mark as shown.

*See In re Owatonna Tool Co.*, 231 USPQ 493 (Comm'r Pats. 1983).

## III. *Specimen for Goods*

The specimen is unacceptable as evidence of actual trademark use because it does not show the mark on the goods. The applicant must submit a specimen showing the mark as used in commerce. 37 C.F.R. Section 2.56. Examples of acceptable specimens are tags, labels, instruction manuals, containers or photographs that show the mark on the goods or packaging. The applicant must verify, with an affidavit or a declaration under 37 C.F.R. Section 2.20, that the substitute specimen was in use in commerce at least as early as the filing date of the application. *Jim Dandy Co. v. Siler City Mills, Inc.*, 209 USPQ 764 (TTAB 1981); 37 C.F.R. Section 2.59(a); TMEP section 905.10.

The statement supporting use of the substitute specimen must read as follows:

The substitute specimen was in use in commerce at least as early as the filing date of the application.

---

<sup>1</sup> **op-tics** (öp'tiks) *noun* (used with a *sing. verb*) *Abbr. opt.* The branch of physics that deals with light and vision, *The American Heritage® Dictionary of the English Language, Third Edition* copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from INSO Corporation; further reproduction and distribution restricted in accordance with the Copyright Law of the United States. All rights reserved.

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-4-

The applicant must sign this statement either in affidavit form or with a declaration under 37 C.F.R. Section 2.20. The following is a properly worded declaration under 37 C.F.R. Section 2.20. At the end of the response, the applicant should insert the declaration signed by someone authorized to sign under 37 C.F.R. Section 2.33(a).

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this application are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name and Position)

\_\_\_\_\_  
(Date)

*Please note:* while certain displays are proper specimens the test is clearly delineated:

In accordance with this decision, examining attorneys should accept any catalog or similar specimen as a display associated with the goods, provided that (1) it includes a picture of the relevant goods, (2) it includes the mark sufficiently near the picture of the goods to associate the mark with the goods, and (3) it includes information necessary to order the goods. Any form of advertising which satisfies these criteria should be construed as a display associated with the goods. TMEP 905.

While applicant submits a catalog, there is no order form attached and as such, the original specimens do not function as displays.

#### *IV. Classification*

Please note, if applicant amends the identification to include goods not currently in Class 9, and the applicant prosecutes this application as a combined, or multiple-class, application, the applicant must comply with each of the following:

- (1) The applicant must specifically identify the goods in each class and list the goods by international class with the classes listed in ascending numerical order. TMEP section 1113.01.
- (2) The applicant must submit a filing fee for each international class of goods not covered by the fee already paid. 37 C.F.R. Sections 2.6(a)(1) and 2.86(b); TMEP sections 810.01 and 1113.01. The fee for filing a trademark application is \$325 for each class.
- (3) The applicant must submit:
  - (a) dates of first use and first use in commerce and one specimen for each class that includes goods or services based on use in commerce under Trademark Act Section

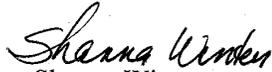
78/029311

-5-

1(a). The dates of use must be at least as early as the filing date of this application. 37 C.F.R. Sections 2.34(a)(1) and 2.86(a), and the specimen(s) must have been in use in commerce at least as early as the filing date of the application, and/or

(b) a statement of a bona fide intention to use the mark in commerce on or in connection with all the goods or services specified in each class that includes goods or services based on a bona fide intention to use the mark in commerce under Trademark Act Section 1(b).

(4) The applicant must submit an affidavit or a declaration under 37 C.F.R. Section 2.20 signed by the applicant to verify (3) above. 37 C.F.R. Sections 2.59(a) and 2.71(c).



Shanna Winters  
Trademark Attorney  
US Patent & Trademark Office  
Law Office 102  
(703) 308-9102 x.205

\*\*\* User: sblaustein \*\*\* Serial Number: 75448217 \*\*\* 3/15/01 3:25:26 PM \*

# EAGLE'S BLUFF

Mark

EAGLE'S BLUFF

Pseudo Mark

EAGLES BLUFF

Goods and Services

IC 009. US 021 023 026 036 038. G & S: optical apparatus and instruments, namely, binoculars. FIRST USE: 19981031. FIRST USE IN COMMERCE: 19981130

Mark Drawing Code

(1) TYPED DRAWING

Serial Number

75448217

Filing Date

March 11, 1998

Filed ITU

FILED AS ITU

Publication for Opposition Date

July 20, 1999

Registration Number

2365057

Registration Date

July 4, 2000

Owner Name and Address

(REGISTRANT) GUTMANN CUTLERY, INC. CORPORATION WASHINGTON 1821 Valencia Street Bellingham WASHINGTON 98226

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

MICHAEL R SCHACHT

\*\*\* Search: 4 \*\*\* Document Number: 210 \*\*\*

\*\*\* User: sblaustein \*\*\* Serial Number: 74480438 \*\*\* 3/15/01 3:25:26 PM \*

[Typed Drawing]

Mark

EAGLEVISION

Pseudo Mark

EAGLE VISION

Goods and Services

IC 025. US 022 039. G & S: clothing and headwear, namely polo-type shirts, sweatshirts, tee-shirts, hats, caps and visors. FIRST USE: 19930601. FIRST USE IN COMMERCE: 19930601

IC 009. US 021 023 026 036 038. G & S: optical products, namely non-prescription sunglasses which may be used with separate clip-on prescription lenses, and frames and lenses therefor. FIRST USE: 19930601. FIRST USE IN COMMERCE: 19930601

IC 028. US 022 023 038 050. G & S: non-prescription sport goggles for skiing, golf and other outdoor activities, which may be used with separate clip-on prescription lenses, and frames and lenses therefor. FIRST USE: 19930601. FIRST USE IN COMMERCE: 19930601

Mark Drawing Code

(1) TYPED DRAWING

Serial Number

74480438

Filing Date

January 18, 1994

Publication for Opposition Date

January 17, 1995

Registration Number

1998951

Registration Date

September 10, 1996

Owner Name and Address

(REGISTRANT) Bolle' America, Inc. CORPORATION COLORADO 3890 Elm Street Denver COLORADO 80207

Assignment Recorded

ASSIGNMENT RECORDED

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

\*\*\* Search: 4 \*\*\* Document Number: 413 \*\*\*

(cont)

\*\*\* User: sblaustein \*\*\* Serial Number: 74480438 \*\*\*

Attorney of Record  
Anthony K. Mallgren

\*\*\* Search: 4 \*\*\* Document Number: 413 \*\*\*

\*\*\* User: sblaustein \*\*\* Serial Number: 73770315 \*\*\* 3/15/01 3:25:26 PM \*

[Typed Drawing]

Mark

EAGLE EYE

Goods and Services

IC 009. US 026 039. G & S: OPTICAL EQUIPMENT, NAMELY, INFRARED GOGGLES, EYEGLASSES, HELMET SCREENS AND IMAGE INTENSIFIERS. FIRST USE: 19880223. FIRST USE IN COMMERCE: 19880223

Mark Drawing Code

(1) TYPED DRAWING

Serial Number

73770315

Filing Date

December 19, 1988

Publication for Opposition Date

December 26, 1989

Registration Number

1587502

Registration Date

March 20, 1990

Owner Name and Address

(REGISTRANT) NIGHT VISION CORPORATION CORPORATION ILLINOIS 7301 Lincoln Avenue Suite 180 Lincolnwood ILLINOIS 60646

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20001115.

Renewal

1ST RENEWAL 20001115

Live Dead Indicator

LIVE

Attorney of Record

Daniel L. Boots

\*\*\* Search: 4 \*\*\* Document Number: 512 \*\*\*

\*\*\* User: sblaustein \*\*\* Serial Number: 73371958 \*\*\* 3/15/01 3:25:27 PM \*



Mark

EAGLE

Goods and Services

IC 009. US 026. G & S: Ophthalmic Frames and Mountings and Parts  
Thereof. FIRST USE: 19801113. FIRST USE IN COMMERCE: 19801113

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Code

031701 031702 270102

Serial Number

73371958

Filing Date

June 28, 1982

Publication for Opposition Date

April 26, 1983

Registration Number

1245781

Registration Date

July 19, 1983

Owner Name and Address

(REGISTRANT) Art-Craft Optical Company, Inc. CORPORATION NEW YORK 89  
Allen St. Rochester NEW YORK 14608

Type of Mark

TRADEMARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR).

Live Dead Indicator

LIVE

Attorney of Record

EUGENE S. STEPHENS

\*\*\* Search: 4 \*\*\* Document Number: 566 \*\*\*

\*\*\* User: sblaustein \*\*\*

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Session finished 3/15/01 3:16:29 PM  
Total search duration 0:24 minutes  
Session Duration 48:31 minutes

Default NEAR limit= 1 ADJ limit= 1

**Drawing Page**

**Serial Number:**

78029311

**Applicant:**

Sheltered Wings, Inc.  
2120 W. Greenview Dr. #4  
Middleton WI USA 53562



**Date of First Use:**

01/01/1996

**Date of First Use in Commerce:**

04/01/1996

**Goods and Services:**

Binoculars, spotting scopes, telescopes and related accessories including, optics cases and straps, and optics cleaning tools.

**Mark:**

EAGLE OPTICS



NO OCR



10-05-2000

**Internet Transmission Date:**  
2000/10/05

**Serial Number:**  
78029311

**Filing Date:**  
2000/10/05



TRADEMARK APPLICATION

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

TOTAL FEES PAID: \$325

RAM SALE NUMBER: 37  
RAM ACCOUNTING DATE: 20001006



NO OCR



10-05-2000

eTeas Trademark/Service Mark Application

78029311

<SERIAL NUMBER> 78029311

<FILING DATE> 10/05/2000

<DOCUMENT INFORMATION>

<TRADEMARK/SERVICEMARK APPLICATION>

<VERSION 1.22>

<APPLICANT INFORMATION>

<NAME>	Sheltered Wings, Inc.
<STREET>	2120 W. Greenview Dr. #4
<CITY>	Middleton
<STATE>	WI
<COUNTRY>	USA
<ZIP/POSTAL CODE>	53562
<TELEPHONE NUMBER>	608-836-6568

<APPLICANT ENTITY INFORMATION>

<CORPORATION: STATE/COUNTRY OF INCORPORATION> Wisconsin

<TRADEMARK/SERVICEMARK INFORMATION>

<MARK> EAGLE OPTICS

<TYPED FORM> Yes

\* Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). \*

<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>

<USE IN COMMERCE: SECTION 1(a)> Yes

\* Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods/services. (15 U.S.C. Section 1051(a), as amended.). Applicant attaches one SPECIMEN for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services. \*

<SPECIMEN> Yes

<SPECIMEN DESCRIPTION> A page from the current Eagle Optics catalog showing a number of Eagle Optics brand binoculars.

<INTERNATIONAL CLASS NUMBER> 009

<LISTING OF GOODS AND/OR SERVICES> Binoculars, spotting scopes, telescopes and related accessories including, optics cases and straps, and optics cleaning tools.

<FIRST USE ANYWHERE DATE> 01/01/1996

<FIRST USE IN COMMERCE DATE> 04/01/1996

eTeas Trademark/Service Mark Application

78029311

**<ATTORNEY INFORMATION>**

<NAME> Patricia Smith King  
 <STREET> 222 N. Midvale Blvd., Suite 22  
 <CITY> Madison  
 <STATE> WI  
 <COUNTRY> USA  
 <ZIP/POSTAL CODE> 53705-5076  
 <E-MAIL ADDRESS> pking@kingresearch.com  
 <FIRM NAME> King Research & Law  
 <TELEPHONE NUMBER> 608-231-2988  
 <FAX NUMBER> 608-231-3918  
 <ATTORNEY DOCKET NUMBER> Ham-001

**<FEE INFORMATION>**

<TOTAL FEES PAID> 325  
 <NUMBER OF CLASSES PAID> 1  
 <NUMBER OF CLASSES> 1

**<LAW OFFICE INFORMATION>**

\* The USPTO is authorized to communicate with the applicant's attorney at the below e-mail address \*

<E-MAIL ADDRESS FOR CORRESPONDENCE> pking@kingresearch.com

**<SIGNATURE AND OTHER INFORMATION>**

\* PTO-Application Declaration: The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

\*

<SIGNATURE> /psk42/  
 <DATE> 10/05/2000  
 <NAME> Patricia Smith King  
 <TITLE> Attorney

78029311

eTeas Trademark/Service Mark Application

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**<MAILING ADDRESS>**

<LINE> Patricia Smith King  
<LINE> King Research & Law  
<LINE> 222 N. Midvale Blvd., Suite 22  
<LINE> Madison WI 53705-5076

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**<SERIAL NUMBER INFORMATION>**

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E-MAIL ADDRESS FOR ACKNOWLEDGMENT> pking@kingresearch.com

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**Drawing Page**

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**Mark:**

EAGLE OPTICS



NO OCR



10-05-2000

eTeas Trademark/Service Mark Application

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CITY Middleton  
STATE WI  
COUNTRY USA  
ZIP/POSTAL CODE 53562  
TELEPHONE NUMBER 608-836-6568  
CORPORATION: Wisconsin  
STATE/COUNTRY OF INCORPORATION  
MARK EAGLE OPTICS  
TYPED FORM Yes  
USE IN COMMERCE: Yes  
SECTION 1(a)  
SPECIMEN Yes  
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DATE 10/05/2000  
NAME Patricia Smith King  
TITLE Attorney  
LINE Patricia Smith King  
LINE King Research & Law  
LINE 222 N. Midvale Blvd., Suite 22  
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<SERIAL NUMBER> 78029311  
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<TRADEMARK/SERVICEMARK APPLICATION>  
<VERSION 1.22>

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<TYPED FORM> Yes

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<FIRST USE IN COMMERCE DATE> 04/01/1996

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<STREET> 222 N. Midvale Blvd., Suite 22

eTeas Trademark/Service Mark Application

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<FAX NUMBER> 608-231-3918  
<ATTORNEY DOCKET NUMBER> Ham-001

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<NUMBER OF CLASSES PAID> 1  
<NUMBER OF CLASSES> 1

**<LAW OFFICE INFORMATION>**

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**<SIGNATURE AND OTHER INFORMATION>**

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<SIGNATURE> /psk42/  
<DATE> 10/05/2000  
<NAME> Patricia Smith King  
<TITLE> Attorney

**<MAILING ADDRESS>**

<LINE> Patricia Smith King  
<LINE> King Research & Law  
<LINE> 222 N. Midvale Blvd., Suite 22  
<LINE> Madison WI 53705-5076

78029311

eTeas Trademark/Service Mark Application

78029311

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<RAM ACCOUNTING DATE> 20001006

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<INTERNET TRANSMISSION DATE> Thursday, 10-05-2000 17:22:28 EDT

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E-MAIL ADDRESS FOR ACKNOWLEDGMENT> pking@kingresearch.com

78029311

**Internet Transmission Date:**

2000/10/05

**Filing Date:**

2000/10/05

**Serial Number:**

78029311



TRADEMARK APPLICATION

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

TOTAL FEES PAID: \$325

RAM SALE NUMBER: 37  
RAM ACCOUNTING DATE: 20001006



NO OCR



10-05-2000

**Drawing Page**

**Serial Number:**

78029311

**Applicant:**

Sheltered Wings, Inc.  
2120 W. Greenview Dr. #4  
Middleton WI USA 53562



**Date of First Use:**

01/01/1996

**Date of First Use in Commerce:**

04/01/1996

**Goods and Services:**

Binoculars, spotting scopes, telescopes and related accessories including, optics cases and straps, and optics cleaning tools.

**Mark:**

EAGLE OPTICS



NO OCR



10-05-2000

ORIGINAL SPECIMEN

Internet Transmission Date:  
2000/10/05

Serial Number:  
78029311

Filing Date:  
2000/10/05

## EAGLE OPTICS Lifetime warranty.

### Eagle Optics Ranger Binoculars

The Ranger binoculars come loaded with desirable features and are priced to make them an incredible binocular value. With these premier models you have the opportunity to own a first class, lifetime binocular with performance that rivals that of those costing significantly more!

These center focus roof prism models are offered exclusively by Eagle Optics in four sizes: 7x36, 8x42, 10x42 and 10x50. Magnified objects are highly detailed and have excellent color fidelity. Unlike some lesser quality imitations, they feature fully multi-coated lenses and high density prism glass for exceptional image brightness and resolution.

The Rangers are completely waterproof so there will be no problem with internal fogging. A precise internal focusing mechanism keeps out dust, dirt and moisture. The magnesium alloy housing is rugged, yet lightweight with an elegant and slim, rubber armored housing for a comfortable and secure grip. Eyeglass or sunglass wearers will appreciate the long eye relief of this glass for comfortable, unobscured viewing. A large center focus knob is conveniently located at the eyepiece end of the hinge, perfectly positioned for fine focus adjustments. For precise individual eye adjustments, a click-stop diopter adjustment is located on the right eyepiece.

The close focus ability is truly amazing with these binoculars and the Rangers make an excellent choice for the close-up nature observation of insects, butterflies and plants. Some individuals have focused as near as five feet with them! They perform so well up close that it's practically like having a field microscope and binocular all in one.



*Each Eagle Optics Ranger binocular comes with a deluxe soft carrying pouch and a neck strap.*

### Eagle Optics Phase Corrected Rangers

The premier Ranger binoculars are now available in phase corrected (PC) models to create a sharper view—sure to be appreciated by birders or anyone interested in the finest detail and clarity. Their close focus ability makes them an excellent choice for close up nature observation of insects, butterflies, plants and more.

Phase correction forces the lightbeams, that are normally shifted when entering the binocular barrels, back into phase. This improves the image quality and contrast. Like the standard models, the Ranger PC models are loaded with desirable features that rival more costly binoculars.

When you consider the reasonable price (under \$500) of these models, the Ranger PC models should warrant serious consideration for anyone seeking a top-quality glass. The phase correction provides an additional alternative to the already extremely popular Rangers.

	EYE RELIEF	FIELD OF VIEW (1000)	NEAR FOCUS	WEIGHT
8x42	18mm	32°	5'	22.6 oz.
10x42	15mm	26°	6'	23.4 oz.
10x50	17mm	26°	8'	28.0 oz.

### Rangers for Birders!

Everything you've always wanted in a premium binocular—for less!  
Waterproof/Fogproof  
Rubber Armored  
Exceptionally Lightweight  
Fully Multi-coated Lenses  
High Density Optical Glass  
Extremely Close Focusing  
Long Eye Relief  
Center Focus  
Click-stop Diopter  
Internal Focusing  
Lifetime Warranty



	EYE RELIEF	FIELD OF VIEW (1000)	NEAR FOCUS	WEIGHT
7x36	19mm	37°	4'	20.0 oz.
8x42	18mm	32°	5'	22.6 oz.
10x42	15mm	26°	6'	23.4 oz.
10x50	17mm	26°	8'	28.0 oz.

### Eagle Optics Raptor PC Binoculars

The Raptor PC models elegantly combine the classic values of superb optical performance with mechanical precision in a compact design. All this comes at an extremely affordable price with many innovative features that make them substantially higher in quality than other similarly priced models. The Raptor PC binoculars are ideal for just about any activity you undertake.

Anti-reflective fully multi-coated lens elements and phase corrected prism deliver bright, high contrast and razor-sharp images in a completely waterproof and fogproof body. Add a rubber armored body and you have exceptionally sturdy binoculars for extreme environments. A rugged, waterproof internal focusing system offers a lifetime of trouble-free operation. The user-friendly ergonomic design makes them easy to handle, too. Twist-style sliding rubber eyecups are handy for eyeglass wearers who will also enjoy an extremely wide field of view in comfort because of extended eye relief.

The 8x32 Raptor PC has almost no equal when it comes to viewing butterflies, performing particularly well at close distances. It can easily slip into a front jacket pocket or be carried from its neck strap for hours without strain. The 10x42 Raptor offers incredible value in a high magnification binocular with exceptional optical performance. Comes with a soft carry case and strap and a Leica Lifetime Warranty.



	EYE RELIEF	FIELD OF VIEW (1000)	NEAR FOCUS	WEIGHT
8x32	16mm	33°	8'	21.7 oz.
10x42	15mm	30°	8.2'	26.6 oz.

### Eagle Optics Mini Ranger Binoculars

Have you been looking in the "hard-to-find-something-worth-buying" category of roof prism compact under \$200.00? Then, here are two models that are actually worth the money!

These Rangers are completely waterproof with multi-coated lens elements. The 8x24 and 10x28 both have respectable eye relief and near focus distances. They are protected with a rubber armored covering and very lightweight. Each binocular includes a soft case and neck strap.



	EYE RELIEF	FIELD OF VIEW (1000)	NEAR FOCUS	WEIGHT
8x24	13mm	32°	9'	5.0 oz.
10x28	12mm	25°	12'	7.0 oz.

### QUESTIONS?

CALL EAGLE OPTICS FOR FRIENDLY, KNOWLEDGEABLE SERVICE.

CALL TOLL FREE! EAGLE OPTICS AT 800-269-1132. COPYRIGHT 2000

The applicant has submitted required color specimen. The USPTO has printed only one copy of the specimen, and extra copies can be produced in-house as needed.

# EAGLE OPTICS

Lifetime warranty.

## Eagle Optics Ranger Binoculars

The Ranger binoculars comes loaded with desirable features and are priced to make them an incredible binocular value. With these premier models you have the opportunity to own a first class, lifetime binocular with performance that rivals that of those costing significantly more!

These center focus roof prism models are offered exclusively by Eagle Optics in four sizes: 7x36, 8x42, 10x42 and 10x50. Magnified objects are highly detailed and have excellent color fidelity. Unlike some lesser quality imitations, they feature fully multi-coated lenses and high density prism glass for exceptional image brightness and resolution.

The Rangers are completely waterproof so there will be no problem with internal fogging. A precise internal focusing mechanism keeps out dust, dirt and moisture. The magnesium alloy housing is rugged, yet lightweight, with an elegant and slim, rubber armored housing for a comfortable and secure grip.

Eyeglass or sunglass wearers will appreciate the long eye relief of this glass for comfortable, unobscured viewing. A large center focus knob is conveniently located at the eyepiece end of the hinge, perfectly positioned for fine focus adjustments. For precise individual eye adjustments, a click-stop diopter adjustment is located on the right eyepiece.

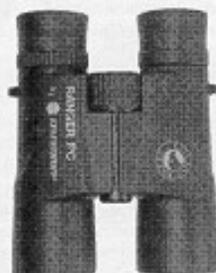
The close focus ability is truly amazing with these binoculars and the Rangers make an excellent choice for the close-up nature observation of insects, butterflies and plants. Some individuals have focused as near as five feet with them! They perform so well up close that it's practically like having a field microscope and binocular all in one.



Each Eagle Optics Ranger binocular comes with a deluxe soft carrying pouch and a neck strap.

## Eagle Optics Phase Corrected Rangers

The premier Ranger binoculars are now available in phase corrected (PC) models to create a sharper view—sure to be appreciated by birders or anyone interested in the finest detail and clarity. Their close focus ability makes them an excellent choice for close up nature observation of insects, butterflies, plants and more.



Eagle Optics 8x42 Ranger PC

Phase correction forces the lightbeams, that are normally shifted when entering the binocular barrels, back into phase. This improves the image quality and contrast. Like the standard models, the Ranger PC models are loaded with desirable features that rival more costly binoculars.

When you consider the reasonable price (under \$500) of these models, the Ranger PC models should warrant serious consideration for anyone seeking a top-quality glass. The phase correction provides an additional alternative to the already extremely popular Rangers.

	EYE RELIEF	FIELD OF VIEW (1000 YARDS)	NEAR FOCUS	WEIGHT
8x42	18mm	328'	5'	22.6 oz.
10x42	15mm	262'	6'	23.4 oz.
10x50	17mm	262'	8'	28.0 oz.

## Eagle Optics Mini Ranger Binoculars

Have you been looking in the "hard-to-find-something-worth-buying" category of roof prism compacts under \$200.00? Then, here are two models that are actually worth the money!



8x24 Mini Ranger

These Rangers are completely waterproof with multi-coated lens elements. The 8x24 and 10x28 both have respectable eye relief and near focus distances. They are protected with a rubber armored covering and very lightweight. Each binocular includes a soft case and neck strap.

New Lower Price!

	EYE RELIEF	FIELD OF VIEW (1000 YARDS)	NEAR FOCUS	WEIGHT
8x24	13mm	328'	9'	5.0 oz.
10x28	12mm	257'	12'	7.0 oz.



## Eagle Optic Raptors

Developed by and for Leica, the industry-leading German optics company. Manufactured by Minox and protected by a lifetime limited warranty.

## QUESTIONS?

CALL EAGLE OPTICS FOR FRIENDLY, KNOWLEDGEABLE SERVICE.

CALL TOLL FREE! EAGLE OPTICS AT 800-289-1132 COPYRIGHT 2000

## Rangers for Birders!

Everything you've always wanted in a premium binocular--for less!

- Waterproof/Fogproof
- Rubber Armored
- Exceptionally Lightweight
- Fully Multi-coated Lenses
- High Density Optical Glass
- Extremely Close Focusing
- Long Eye Relief
- Center Focus
- Click-stop Diopter
- Internal Focusing
- Lifetime Warranty



Eagle Optics 7x36 Ranger

	EYE RELIEF	FIELD OF VIEW (1000 YARDS)	NEAR FOCUS	WEIGHT
7x36	19mm	374'	4'	20.0 oz.
8x42	18mm	328'	5'	22.6 oz.
10x42	15mm	262'	6'	23.4 oz.
10x50	17mm	262'	8'	28.0 oz.

## Eagle Optics Raptor PC Binoculars

The Raptor PC models elegantly combine the classic values of superb optical performance with mechanical precision in a compact design. All this comes at an extremely affordable price with many innovative features that make them substantially higher in quality than other similarly priced models. The Raptor PC binoculars are ideal for just about any activity you undertake.



10x42 Raptor PC

Anti-reflective fully multi-coated lens elements and phase corrected prism deliver bright, high contrast and razor-sharp images in a completely waterproof and fogproof body. Add a rubber armored body and you have exceptionally sturdy binoculars for extreme environments. A rugged, waterproof internal focusing system offers a lifetime of trouble-free operation. The user-friendly ergonomic design makes them easy to handle, too. Twist-style sliding rubber eyecups are handy for eyeglass wearers who will also enjoy an extremely wide field of view in comfort because of extended eye relief.



Twist-style sliding eyecups.

The 8x32 Raptor PC has almost no equal when it comes to viewing butterflies, performing particularly well at close distances. It can easily slip into a front jacket pocket or be carried from its neck strap for hours without strain. The 10x42 Raptor offers incredible value in a high magnification binocular with exceptional optical performance. Comes with a soft carry case and strap and a Leica Lifetime Warranty.

	EYE RELIEF	FIELD OF VIEW (1000 YARDS)	NEAR FOCUS	WEIGHT
8x32	16mm	394'	6'	21.7 oz.
10x42	15mm	320'	8.2'	26.6 oz.

---

**From:** TMOfficialNotices@USPTO.GOV  
**Sent:** Tuesday, March 20, 2012 11:02 PM  
**To:** trademark@langlotz.com  
**Subject:** Trademark RN 3192083: Official Notice of Acceptance and Acknowledgement under Sections 8 and 15 of the Trademark Act

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**Serial Number:** 78699411  
**Registration Number:** 3192083  
**Registration Date:** Jan 2, 2007  
**Mark:** EAGLE OPTICS(STYLIZED/DESIGN)  
**Owner:** Sheltered Wings, Inc.

Mar 20, 2012

### **NOTICE OF ACCEPTANCE UNDER SECTION 8**

The declaration of use or excusable nonuse filed for the above-identified registration meets the requirements of Section 8 of the Trademark Act, 15 U.S.C. §1058. **The Section 8 declaration is accepted.**

### **NOTICE OF ACKNOWLEDGEMENT UNDER SECTION 15**

The declaration of incontestability filed for the above-identified registration meets the requirements of Section 15 of the Trademark Act, 15 U.S.C. §1065. **The Section 15 declaration is acknowledged.**

**The registration will remain in force for the class(es) listed below for the remainder of the ten-year period, calculated from the registration date, unless canceled by an order of the Commissioner for Trademarks or a Federal Court.**

**Class(es):**  
009, 035

TRADEMARK SPECIALIST  
POST-REGISTRATION DIVISION  
571-272-9500

---

### **REQUIREMENTS FOR MAINTAINING REGISTRATION**

**WARNING: Your registration will be canceled if you do not file the documents below during the specified time periods.**

#### **Requirements in the First Ten Years**

**What and When to File:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date. See 15 U.S.C. §§1058 and 1059.

#### **Requirements in Successive Ten-Year Periods**

**What and When to File:** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date. See 15 U.S.C. §§1058 and 1059.

**Grace Period Filings**

The above documents will be considered as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*\*\*The USPTO WILL NOT SEND ANY FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS. THE REGISTRANT SHOULD CONTACT THE USPTO ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.\*\*\***

To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=78699411>.

NOTE: This notice will only be available on-line the next business day after receipt of this e-mail.

PTO Form 1583 (Rev 5/2006)  
 OMB No. 0651-0055 (Exp 09/30/2014)

## Combined Declaration of Use and Incontestability under Sections 8 & 15

**The table below presents the data as entered.**

Input Field	Entered
<b>REGISTRATION NUMBER</b>	3192083
<b>REGISTRATION DATE</b>	01/02/2007
<b>SERIAL NUMBER</b>	78699411
<b>MARK SECTION</b>	
<b>MARK</b>	EAGLE OPTICS (stylized and/or with design)
<b>ATTORNEY SECTION (current)</b>	
<b>NAME</b>	Bennet Langlotz
<b>FIRM NAME</b>	LANGLOTZ PATENT & TRADEMARK WORKS, INC.
<b>STREET</b>	PO BOX 96503 # 37585
<b>CITY</b>	WASHINGTON
<b>STATE</b>	District of Columbia
<b>POSTAL CODE</b>	20090-6503
<b>COUNTRY</b>	United States
<b>PHONE</b>	877-230-5950
<b>FAX</b>	877-230-5950
<b>EMAIL</b>	trademark@langlotz.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	Yes
<b>ATTORNEY SECTION (proposed)</b>	
<b>NAME</b>	Bennet K. Langlotz
<b>FIRM NAME</b>	LANGLOTZ PATENT & TRADEMARK WORKS, INC.
<b>STREET</b>	PO BOX 96503 # 37585

<b>CITY</b>	WASHINGTON
<b>STATE</b>	District of Columbia
<b>POSTAL CODE</b>	20090-6503
<b>COUNTRY</b>	United States
<b>PHONE</b>	888-852-4246
<b>FAX</b>	888-852-4246
<b>EMAIL</b>	trademark@langlotz.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	Yes
<b>DOCKET/REFERENCE NUMBER</b>	VX-T19
<b>OTHER APPOINTED ATTORNEY</b>	Angela V. Langlotz
<b>CORRESPONDENCE SECTION (current)</b>	
<b>NAME</b>	BENNET K. LANGLOTZ
<b>FIRM NAME</b>	LANGLOTZ PATENT & TRADEMARK WORKS, INC.
<b>STREET</b>	PO BOX 96503 # 37585
<b>CITY</b>	WASHINGTON
<b>STATE</b>	District of Columbia
<b>POSTAL CODE</b>	20090-6503
<b>COUNTRY</b>	United States
<b>PHONE</b>	877-230-5950
<b>FAX</b>	877-230-5950
<b>EMAIL</b>	trademark@langlotz.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	Yes
<b>CORRESPONDENCE SECTION (proposed)</b>	
<b>NAME</b>	BENNET K. LANGLOTZ
<b>FIRM NAME</b>	LANGLOTZ PATENT & TRADEMARK WORKS, INC.
<b>STREET</b>	PO BOX 96503 # 37585
<b>CITY</b>	WASHINGTON
<b>STATE</b>	District of Columbia
<b>POSTAL CODE</b>	20090-6503

<b>COUNTRY</b>	United States
<b>PHONE</b>	888-852-4246
<b>FAX</b>	888-852-4246
<b>EMAIL</b>	trademark@langlotz.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	Yes
<b>DOCKET/REFERENCE NUMBER</b>	VX-T19
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	009
<b>GOODS OR SERVICES</b>	Binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching
<b>SPECIMEN FILE NAME(S)</b>	<a href="\\TICRS\EXPORT11\IMAGEOUT11\786\994\78699411\xml1\ 8150002.JPG">\\TICRS\EXPORT11\IMAGEOUT11\786\994\78699411\xml1\ 8150002.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	Mark as affixed to goods
<b>INTERNATIONAL CLASS</b>	035
<b>GOODS OR SERVICES</b>	Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching
<b>SPECIMEN FILE NAME(S)</b>	<a href="\\TICRS\EXPORT11\IMAGEOUT11\786\994\78699411\xml1\ 8150003.JPG">\\TICRS\EXPORT11\IMAGEOUT11\786\994\78699411\xml1\ 8150003.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	Website printout
<b>OWNER SECTION (current)</b>	
<b>NAME</b>	Sheltered Wings, Inc.
<b>STREET</b>	Suite Four
<b>CITY</b>	Middletown
<b>STATE</b>	Wisconsin
<b>ZIP/POSTAL CODE</b>	53562
<b>COUNTRY</b>	United States
<b>LEGAL ENTITY SECTION (current)</b>	
<b>TYPE</b>	corporation
<b>STATE/COUNTRY OF INCORPORATION</b>	Wisconsin
<b>PAYMENT SECTION</b>	

<b>NUMBER OF CLASSES</b>	2
<b>NUMBER OF CLASSES PAID</b>	2
<b>SUBTOTAL AMOUNT</b>	600
<b>TOTAL FEE PAID</b>	600
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/bennet k. langlotz/
<b>SIGNATORY'S NAME</b>	Bennet K. Langlotz
<b>SIGNATORY'S POSITION</b>	Attorney of Record, Nevada bar member
<b>DATE SIGNED</b>	02/07/2012
<b>SIGNATORY'S PHONE NUMBER</b>	888-852-4246
<b>PAYMENT METHOD</b>	CC
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Tue Feb 07 16:26:55 EST 2012
<b>TEAS STAMP</b>	USPTO/S08N15-66.25.71.170 -20120207162655030884-319 2083-4908aeb1a44185f69fd4 8fd51e552a8563-CC-3472-20 120207161636662439

**Combined Declaration of Use and Incontestability under Sections 8 & 15  
To the Commissioner for Trademarks:**

**REGISTRATION NUMBER:** 3192083

**REGISTRATION DATE:** 01/02/2007

**MARK:** (Stylized and/or with Design, EAGLE OPTICS)

The owner, Sheltered Wings, Inc., a corporation of Wisconsin, having an address of  
Suite Four  
Middletown, Wisconsin 53562  
United States

is filing a Combined Declaration of Use and Incontestability under Sections 8 & 15.

For International Class 009, the mark is in use in commerce on or in connection with **all** of the goods or services listed in the existing registration for this specific class: Binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching; **and** the mark has been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with **all** goods or services listed in the existing registration for this class. Also, no final decision adverse to the owner's claim of ownership of such mark for those goods or services exists, or to the owner's right to register the same or to keep the same on the register; and, no proceeding involving said rights pending and not disposed of in either the U.S. Patent and Trademark Office or the courts exists.

The owner is submitting one specimen for this class showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) Mark as affixed to goods.

[Specimen File 1](#)

For International Class 035, the mark is in use in commerce on or in connection with **all** of the goods or services listed in the existing registration for this specific class: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching; **and** the mark has been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with **all** goods or services listed in the existing registration for this class. Also, no final decision adverse to the owner's claim of ownership of such mark for those goods or services exists, or to the owner's right to register the same or to keep the same on the register; and, no proceeding involving said rights pending and not disposed of in either the U.S. Patent and Trademark Office or the courts exists. The owner is submitting one specimen for this class showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) Website printout.

[Specimen File 1](#)

The registrant's current Attorney Information: Bennet Langlotz of LANGLOTZ PATENT & TRADEMARK WORKS, INC.

PO BOX 96503 # 37585

WASHINGTON, District of Columbia (DC) 20090-6503

United States

The registrant's proposed Attorney Information: Bennet K. Langlotz of LANGLOTZ PATENT & TRADEMARK WORKS, INC.

PO BOX 96503 # 37585

WASHINGTON, District of Columbia (DC) 20090-6503

United States

The docket/reference number is VX-T19.

The Other Appointed Attorney(s): Angela V. Langlotz.

The phone number is 888-852-4246.

The fax number is 888-852-4246.

The email address is trademark@langlotz.com.

The registrant's current Correspondence Information: BENNET K. LANGLOTZ of LANGLOTZ PATENT & TRADEMARK WORKS, INC.

PO BOX 96503 # 37585

WASHINGTON, District of Columbia (DC) 20090-6503

United States

The registrant's proposed Correspondence Information: BENNET K. LANGLOTZ of LANGLOTZ PATENT & TRADEMARK WORKS, INC.

PO BOX 96503 # 37585

WASHINGTON, District of Columbia (DC) 20090-6503

United States

The docket/reference number is VX-T19.

The phone number is 888-852-4246.

The fax number is 888-852-4246.

The email address is trademark@langlotz.com.

A fee payment in the amount of \$600 will be submitted with the form, representing payment for 2 class(es), plus any additional grace period fee, if necessary.

#### **Declaration**

*The mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The mark has been in continuous use in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce. There has been no final decision adverse to the owner's claim of ownership of such mark, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the U.S. Patent and Trademark Office or in the courts.*

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /bennet k. langlotz/    Date: 02/07/2012  
Signatory's Name: Bennet K. Langlotz  
Signatory's Position: Attorney of Record, Nevada bar member  
Signatory's Phone Number: 888-852-4246

Mailing Address (**current**):  
LANGLOTZ PATENT & TRADEMARK WORKS, INC.  
PO BOX 96503 # 37585  
WASHINGTON, District of Columbia 20090-6503

Mailing Address (**proposed**):  
LANGLOTZ PATENT & TRADEMARK WORKS, INC.  
PO BOX 96503 # 37585  
WASHINGTON, District of Columbia 20090-6503

Serial Number: 78699411  
Internet Transmission Date: Tue Feb 07 16:26:55 EST 2012  
TEAS Stamp: USPTO/S08N15-66.25.71.170-20120207162655  
030884-3192083-4908aeb1a44185f69fd48fd51  
e552a8563-CC-3472-20120207161636662439





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### Swarovski EL Swarovision 10x50 Binocular

BIN-SK-35010



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# SWAROVSKI

Our Price: **\$2,649.00**  
List Price: \$2,943.33  
You Save: \$294.33 (9%)



Customer Rating: ★★★★★ (3 Reviews)  
Return Policy: 30 Day Money-Back Guarantee  
Shipping: Free Standard Overnight Shipping to the 48 contiguous States  
In stock items usually ship within 24 hours.

Availability: **In Stock**

New	Save 9%	<b>\$2,649.00</b>	<b>Add to Cart</b>
Demo	Save 15%	<b>\$2,449.99</b>	<b>Add to Cart</b>

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**Have Questions?**

Call us: 1-800-289-1132  
Email: [info@eagleoptics.com](mailto:info@eagleoptics.com)

**Store Hours:**  
Weekdays: 8:30am - 5:30pm  
Saturday: 10:00am - 2:00pm  
Sunday: Closed

**Related Videos**

- Swarovski EL Swarovision Binoculars
- Swarovski Universal Tripod Adapter

[View More >>](#)

**Similar Products**

Customers who viewed this product also viewed:

- Pentax DCF ED 8x43 Binocular  
List Price: ~~\$1,129.00~~
- Swarovski EL Swarovision 8.5x42 Binocular  
Starts at: \$2,199.99
- Swarovski EL Swarovision 10x42

Description Specifications Included Customer Reviews Media

Take a big step on your birding path by joining the [American Birding Association](#)! For a limited time, Eagle Optics makes it even easier and more affordable by giving you a **\$45 annual membership for just \$15!** To add a \$15 membership to your purchase of this binocular, use the coupon code **ABAMEMBERSHIP** during checkout.

**TRADE IN** Purchase a **NEW** Swarovski EL 42mm or EL 50mm Swarovision or SLC 42mm HD binocular by June 1, 2012, from Eagle Optics and send your older EL (non-Swarovision) or older SLC-New 10x42 (non-HD) binocular to Swarovski Optik for \$700, \$850, or \$900 back from Swarovski Optik North America! *Dollar amount is dependent on the model sent back. [View details >](#)*

When you find yourself heading up the mountain or out on the plain and nothing but the best will suffice, the revolutionary EL 50mm Swarovision is your choice. Brighter images are a sure bet as the 50mm objective lenses combine with improved coating technology that sets new standards for brilliance and image definition and guarantees optimum contrast in low light situations. Swarovski's new innovations provide virtually even images with razor-sharp clarity. With the well-known EL open-hinge design, the 50mm sits comfortably in the hand and the size is comparable to a pair of 42mm binoculars. The Swarovision comes with the Swarovski limited lifetime warranty.

**Optical Features**

High-density (HD) Glass	Enhances resolution, color, and contrast.
Fully Multi-coated Lenses	Increase light transmission with multiple anti-reflective coatings on all

**ROUTING SHEET TO POST REGISTRATION (PRU)**

**Registration Number:** 3192083



**Serial Number:** 78699411



**RAM Sale Number:** 3472

**RAM Accounting Date:** 20120208

**Total Fees:** \$600

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Number of Classes Paid</u>	<u>Total Fee</u>
§8 affidavit	7205	20120207	\$100	2	2	\$200
§15 affidavit	7208	20120207	\$200	2	2	\$400

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

**Transaction Date:** 20120207







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**Call us:** 1-800-289-1132  
**Email:** [info@eagleoptics.com](mailto:info@eagleoptics.com)

**Store Hours:**  
 Weekdays: 8:30am - 5:30pm  
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**Swarovski EL Swarovision 10x42**

[Description](#) [Specifications](#) [Included](#) [Customer Reviews](#) [Media](#)



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Purchase a **NEW** Swarovski EL 42mm or EL 50mm Swarovision or SLC 42mm HD binocular by June 1, 2012, from Eagle Optics and send your older EL (non-Swarovision) or older SLC-New 10x42 (non-HD) binocular to Swarovski Optik for \$700, \$850, or \$900 back from Swarovski Optik North America! *Dollar amount is dependent on the model sent back.* [View details >](#)

When you find yourself heading up the mountain or out on the plain and nothing but the best will suffice, the revolutionary EL 50mm Swarovision is your choice. Brighter images are a sure bet as the 50mm objective lenses combine with improved coating technology that sets new standards for brilliance and image definition and guarantees optimum contrast in low light situations. Swarovski's new innovations provide virtually even images with razor-sharp clarity. With the well-known EL open-hinge design, the 50mm sits comfortably in the hand and the size is comparable to a pair of 42mm binoculars. The Swarovision comes with the Swarovski limited lifetime warranty.

### Optical Features

High-density (HD) Glass	Enhances resolution, color, and contrast.
Fully Multi-coated Lenses	Increase light transmission with multiple anti-reflective coatings on all

Case: 3:11-cv-00300-bbc Document #: 8 Filed: 06/29/11 Page 1 of 2

AO 120 (Rev. 08/10)

TO: <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court for the Western District of Wisconsin on the following  
 Trademarks or  Patents. (  the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 11-CV-300	DATE FILED 4/25/2011	U.S. DISTRICT COURT for the Western District of Wisconsin
PLAINTIFF Sheltered Wings, Inc.		DEFENDANT Wohali Outdoors, LLC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		See Attachment A
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

Next page

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
--------------------

CLERK Peter Oppeneer, Clerk of Court	(BY) DEPUTY CLERK s/Lynn Kamke, Deputy Clerk	DATE 6/29/2011
---	---	-------------------

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

Case: 3:11-cv-00300-bbc Document #: 8 Filed: 06/29/11 Page 2 of 2

AO\_120 (Rev. 08/10)

**ATTACHMENT A  
TO  
REPORT ON THE FILING OR DETERMINATION OF AN  
ACTION REGARDING A PATENT OR TRADEMARK**

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court *for the Western District of Wisconsin* on the following:

Trademark

<b>Docket No.:</b> 11-CV-300	<b>Date Filed:</b> 04/25/2011	<b>U.S. District Court:</b> for the Western District of Wisconsin
<b>Plaintiff</b>  Sheltered Wings, Inc.		<b>Defendant</b>  Wohali Outdoors, LLC
<b>Patent or Trademark No.</b>	<b>Date of Patent or Trademark</b>	<b>Holder of Patent or Trademark</b>
1. 3,192,083	01/02/2007	Sheltered Wings, Inc.
2. 2,886,199	09/21/2004	Sheltered Wings, Inc.
3. 3,794,245	05/25/2010	Sheltered Wings, Inc.
4. 3,726,431	12/15/2009	Sheltered Wings, Inc.
5. 3,787,739	05/11/2010	Sheltered Wings, Inc.
6. 3,904,929	01/11/2011	Wohali Outdoors, LLC

6294805\_1

## Change Of Correspondence Address

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78699411
<b>REGISTRATION NUMBER</b>	3192083
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 113
<b>MARK SECTION</b>	
<b>MARK</b>	EAGLE OPTICS (stylized and/or with design)
<b>CORRESPONDENCE SECTION (current)</b>	
<b>ORIGINAL ADDRESS</b>	Bennet Langlotz Langlotz Patent Works, Inc. PO Box 759 Genoa Nevada 89411 United States 877 230 5950 877 230 5950 patent@langlotz.com
<b>NEW CORRESPONDENCE ADDRESS</b>	
<b>NEW ADDRESS</b>	Bennet K. Langlotz Langlotz Patent & Trademark Works, Inc. PO Box 96503 # 37585 Washington District of Columbia United States 20090-6503 877-230-5950 877-230-5950 trademark@langlotz.com
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/bennet k. langlotz/
<b>SIGNATORY NAME</b>	Bennet K. Langlotz
<b>SIGNATORY DATE</b>	08/27/2009
<b>SIGNATORY POSITION</b>	Attorney of Record, District of Columbia bar member
<b>AUTHORIZED SIGNATORY</b>	YES

**FILING INFORMATION SECTION**

<b>SUBMIT DATE</b>	Thu Aug 27 14:55:33 EDT 2009
<b>TEAS STAMP</b>	USPTO/CCA-67.169.220.35-2 0090827145533916825-78340 306-44080bcab8c8f8c3375ea 886c967bcb2f3-N/A-N/A-200 90827145415052957

## Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78699411
<b>REGISTRATION NUMBER</b>	3192083
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 113
<b>MARK SECTION</b>	
<b>MARK</b>	EAGLE OPTICS (stylized and/or with design)
<b>ATTORNEY SECTION</b>	
<b>ORIGINAL ADDRESS</b>	STEPHEN P. MCNAMARA ST. ONGE STEWARD JOHNSTON & REENS LLC 03584-T0002A 986 BEDFORD STREET STAMFORD, CT 06905-5619 203-327-1096 203-324-6155 tm-pto@ssjr.com
<b>CORRESPONDENCE SECTION</b>	
<b>ORIGINAL ADDRESS</b>	STEPHEN P. MCNAMARA ST. ONGE STEWARD JOHNSTON & REENS LLC 03584-T0002A 986 BEDFORD STREET STAMFORD, CT 06905-5619 203-327-1096 203-324-6155 tm-pto@ssjr.com
<b>NEW ATTORNEY ADDRESS</b>	
<b>STATEMENT TEXT</b>	By submission of this request, the undersigned REVOKES the power of attorney currently of record, as listed above, and hereby APPOINTS the following new attorney:
<b>NAME</b>	Bennet Langlotz
<b>FIRM NAME</b>	Langlotz Patent Works, Inc.

<b>STREET</b>	PO Box 759
<b>CITY</b>	Genoa
<b>STATE</b>	Nevada
<b>COUNTRY</b>	United States
<b>POSTAL/ZIP CODE</b>	89411
<b>PHONE</b>	877 230 5950
<b>FAX</b>	877 230 5950
<b>EMAIL</b>	patent@langlotz.com
<b>ATTORNEY AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	YES
<b>NEW CORRESPONDENCE ADDRESS</b>	
<b>NAME</b>	Bennet Langlotz
<b>FIRM NAME</b>	Langlotz Patent Works, Inc.
<b>STREET</b>	PO Box 759
<b>CITY</b>	Genoa
<b>STATE</b>	Nevada
<b>COUNTRY</b>	United States
<b>POSTAL/ZIP CODE</b>	89411
<b>PHONE</b>	877 230 5950
<b>FAX</b>	877 230 5950
<b>EMAIL</b>	patent@langlotz.com
<b>AUTHORIZED TO COMMUNICATE VIA E-MAIL</b>	YES
<b>SIGNATURE SECTION</b>	
<b>SIGNATURE</b>	/Daniel C. Hamilton/
<b>SIGNATORY NAME</b>	Dan Hamilton
<b>SIGNATORY DATE</b>	09/09/2008
<b>SIGNATORY POSITION</b>	President
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Tue Sep 09 09:33:56 EDT 2008
	USPTO/RAA-75.95.97.127-20 080909093356258632-789703

**TEAS STAMP**

20-400aef779694e4b65c208f  
1fca94ae818f-N/A-N/A-2008  
0908181040203694

---

## **Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative**

To the Commissioner for Trademarks:

**MARK:** EAGLE OPTICS (stylized and/or with design)

**SERIAL NUMBER:** 78699411

**REGISTRATION NUMBER:** 3192083

**The original attorney**

STEPHEN P. MCNAMARA

ST. ONGE STEWARD JOHNSTON & REENS LLC

03584-T0002A

986 BEDFORD STREET

STAMFORD, CT 06905-5619

203-327-1096

203-324-6155

tm-pto@ssjr.com

**Original Correspondence Address :**

STEPHEN P. MCNAMARA

ST. ONGE STEWARD JOHNSTON & REENS LLC

986 BEDFORD STREET

STAMFORD, CT 06905-5619

203-327-1096

203-324-6155

tm-pto@ssjr.com

By submission of this request, the undersigned REVOKES the power of attorney currently of record, as listed above, and hereby APPOINTS the following new attorney:

**Newly Appointed Attorney:**

Bennet Langlotz

Langlotz Patent Works, Inc.

PO Box 759

Genoa, Nevada 89411

United States

877 230 5950

877 230 5950

**The following is to be used as the correspondence address:**

Bennet Langlotz

Langlotz Patent Works, Inc.

PO Box 759

Genoa, Nevada 89411

United States

877 230 5950  
877 230 5950  
patent@langlotz.com

Signature: /Daniel C. Hamilton/ Date: 09/09/2008  
Signatory's Name: Dan Hamilton  
Signatory's Position: President

Serial Number: 78699411  
Internet Transmission Date: Tue Sep 09 09:33:56 EDT 2008  
TEAS Stamp: USPTO/RAA-75.95.97.127-20080909093356258  
632-78970320-400aef779694e4b65c208f1fca9  
4ae818f-N/A-N/A-20080908181040203694

**Int. Cls.: 9 and 35**

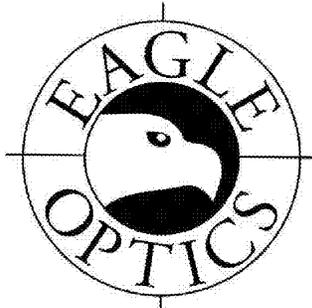
**Prior U.S. Cls.: 21, 23, 26, 36, 38, 100, 101 and 102**

**Reg. No. 3,192,083**

**United States Patent and Trademark Office**

Registered Jan. 2, 2007

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**



SHELTERED WINGS, INC. (WISCONSIN CORPORATION)  
SUITE FOUR  
2120 WEST GREENVIEW DRIVE  
MIDDLETOWN, WI 53562

FOR: BINOCULARS, SPOTTING SCOPES, TELESCOPES, AND STORAGE CASES THEREFOR, ALL FOR USE IN BIRDWATCHING, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 5-0-2001; IN COMMERCE 12-0-2001.

FOR: RETAIL STORE, MAIL ORDER AND ONLINE RETAIL STORE SERVICES FEATURING BINOCULARS, SPOTTING SCOPES, TELESCOPES,

AND STORAGE CASES THEREFOR, ALL FOR USE IN BIRDWATCHING, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 0-0-1987; IN COMMERCE 0-0-1987.

OWNER OF U.S. REG. NO. 2,886,199.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OPTICS", APART FROM THE MARK AS SHOWN.

SER. NO. 78-699,411, FILED 8-24-2005.

KRISTIN DAHLING, EXAMINING ATTORNEY

Side - 1



**NOTICE OF PUBLICATION UNDER §12(a)**  
**MAILING DATE: Sep 27, 2006**  
**PUBLICATION DATE: Oct 17, 2006**

The mark identified below will be published in the Official Gazette on Oct 17, 2006. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Certificate of Registration.

To view the Official Gazette online or to order a paper copy, visit the USPTO website at <http://www.uspto.gov/web/trademarks/tmog/> any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at <http://bookstore.gpo.gov> or 202-512-1800. To check the status of your application, go to <http://tarr.uspto.gov/>.

**SERIAL NUMBER: 78699411**  
**MARK: EAGLE OPTICS**  
**OWNER: Sheltered Wings, Inc.**

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID

STEPHEN P MCNAMARA  
ST ONGE STEWARD JOHNSTON & REENS LLC  
986 BEDFORD ST  
STAMFORD, CT 06905-5619

### Trademark Snap Shot Publication Stylesheet

(Table presents the data on Publication Approval)

#### OVERVIEW

SERIAL NUMBER	78699411	FILING DATE	08/24/2005
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	DAHLING, KRISTIN M	L.O. ASSIGNED	113

#### PUB INFORMATION

RUN DATE	08/01/2006		
PUB DATE	N/A		
STATUS	680-APPROVED FOR PUBLICATON		
STATUS DATE	07/31/2006		
LITERAL MARK ELEMENT	EAGLE OPTICS		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

#### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

#### MARK DATA

STANDARD CHARACTER MARK	NO
LITERAL MARK ELEMENT	EAGLE OPTICS

MARK DRAWING CODE	3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
COLOR DRAWING FLAG	NO
<b>CURRENT OWNER INFORMATION</b>	
PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Sheltered Wings, Inc.
ADDRESS	Suite Four 2120 West Greenview Drive Middletown, WI 53562
ENTITY	03-CORPORATION
CITIZENSHIP	Wisconsin
<b>GOODS AND SERVICES</b>	
INTERNATIONAL CLASS	009
DESCRIPTION TEXT	Binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching
INTERNATIONAL CLASS	035
DESCRIPTION TEXT	Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching

<b>GOODS AND SERVICES CLASSIFICATION</b>							
INTERNATIONAL CLASS	009	FIRST USE DATE	05/00/2001	FIRST USE IN COMMERCE DATE	12/00/2001	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	035	FIRST USE DATE	00/00/1987	FIRST USE IN COMMERCE DATE	00/00/1987	CLASS STATUS	6-ACTIVE

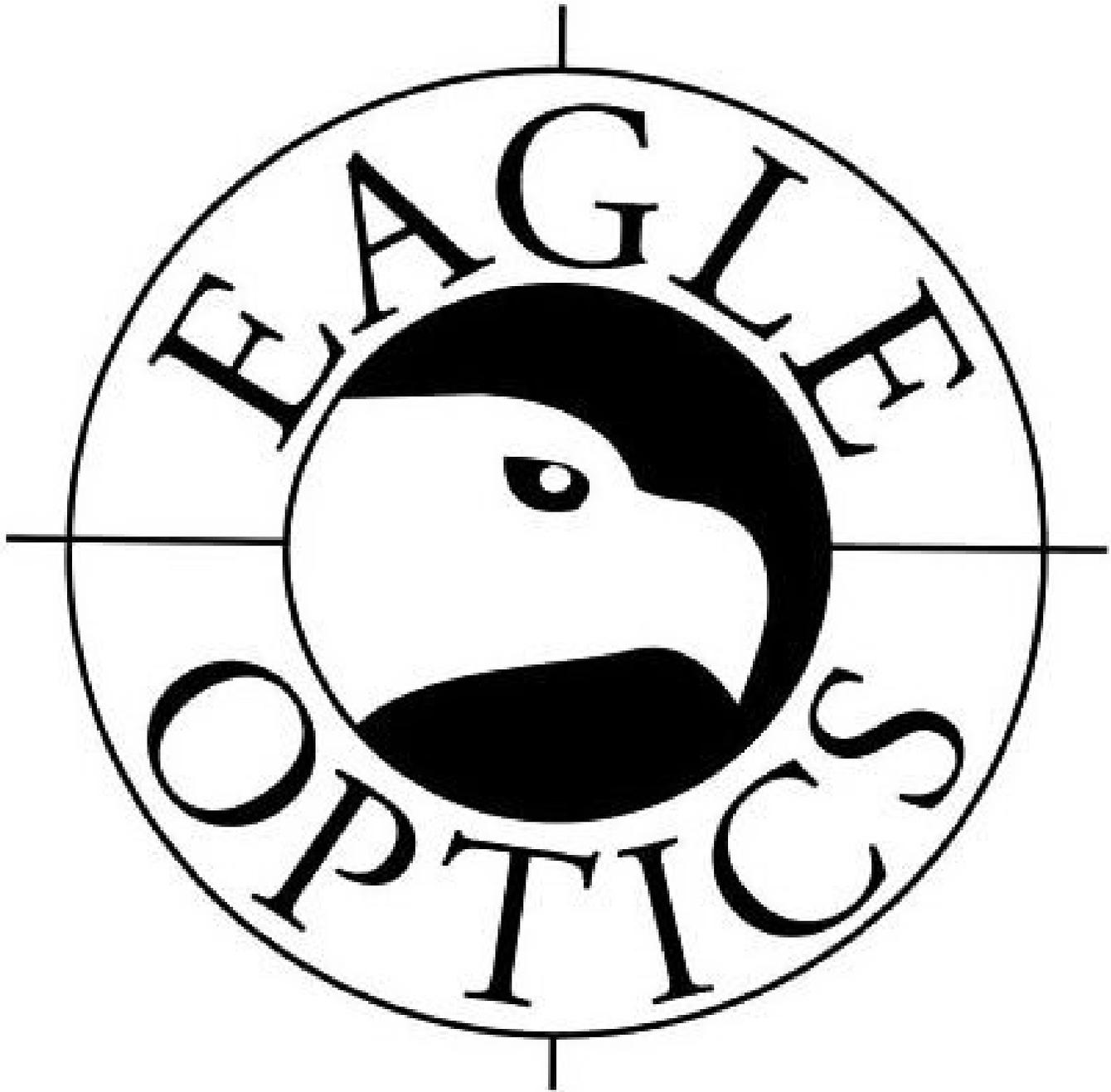
<b>MISCELLANEOUS INFORMATION/STATEMENTS</b>	
CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	OPTICS
OWNER OF US REG NOS	2886199

<b>PROSECUTION HISTORY</b>				
DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
07/31/2006	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	016

07/28/2006	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	015
07/25/2006	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	014
07/25/2006	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	013
04/27/2006	GNFR	O	FINAL REFUSAL E-MAILED	012
04/27/2006	CNFR	R	FINAL REFUSAL WRITTEN	011
04/19/2006	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	010
04/11/2006	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
04/11/2006	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	008
03/14/2006	GNRT	O	NON-FINAL ACTION E-MAILED	007
03/14/2006	CNRT	R	NON-FINAL ACTION WRITTEN	006
03/13/2006	XAEC	I	EXAMINER'S AMENDMENT ENTERED	005
03/13/2006	GNEA	F	EXAMINERS AMENDMENT E-MAILED	004
03/13/2006	CNEA	R	EXAMINERS AMENDMENT -WRITTEN	003
03/12/2006	DOCK	D	ASSIGNED TO EXAMINER	002
09/01/2005	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	Stephen P. McNamara
CORRESPONDENCE ADDRESS	STEPHEN P. MCNAMARA ST. ONGE STEWARD JOHNSTON & REENS LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619
DOMESTIC REPRESENTATIVE	NONE



## Response to Office Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	78699411
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 113
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>The Examiner has entered a final office action requesting specimens for Class 35 showing the mark as shown in the drawing. In response, Applicant submits copies of a catalog cover page and a photograph of a store banner, both which show the mark as set forth in the amended drawing filed April 11, 2006. Accordingly, approval of the application for publication is respectfully requested.</p>	
<b>GOODS AND/OR SERVICES SECTION (009)(no change)</b>	
<b>GOODS AND/OR SERVICES SECTION (035)(current)</b>	
INTERNATIONAL CLASS	035
DESCRIPTION	
Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 00/00/1987
FIRST USE IN COMMERCE DATE	At least as early as 00/00/1987
<b>GOODS AND/OR SERVICES SECTION (035)(proposed)</b>	
INTERNATIONAL CLASS	035
DESCRIPTION	
Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 00/00/1987
FIRST USE IN COMMERCE DATE	At least as early as 00/00/1987

STATEMENT TYPE	"The substitute specimen(s) was in use in commerce as of the filing date of the application."
SPECIMEN FILE NAME(S)	<a href="#">\\TICRS\EXPORT4\IMAGEOUT4\786\994\78699411\xml1\RO A0002.JPG</a>
	<a href="#">\\TICRS\EXPORT4\IMAGEOUT4\786\994\78699411\xml1\RO A0003.JPG</a>
SPECIMEN DESCRIPTION	Catalog specimen is a copy of the cover of Applicant's mail order catalog. EO-Banner specimen contains two photographs of a banner located in Applicant's retail store.
<b>SIGNATURE SECTION</b>	
DECLARATION SIGNATURE	/spmcnamara/
SIGNATORY'S NAME	Stephen P. McNamara
SIGNATORY'S POSITION	Attorney for Applicant
DATE SIGNED	07/25/2006
RESPONSE SIGNATURE	/spmcnamara/
SIGNATORY'S NAME	Stephen P. McNamara
SIGNATORY'S POSITION	Attorney for Applicant
DATE SIGNED	07/25/2006
AUTHORIZED SIGNATORY	YES
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Tue Jul 25 10:46:47 EDT 2006
TEAS STAMP	USPTO/ROA-12.170.101.6-20 060725104647611429-786994 11-340431bacbd3fb2b08eae9 170953c7ccf11-N/A-N/A-200 60725103309651855

**Response to Office Action**  
**To the Commissioner for Trademarks:**

Application serial no. **78699411** has been amended as follows:

**Argument(s)**

In response to the substantive refusal(s), please note the following:

The Examiner has entered a final office action requesting specimens for Class 35 showing the mark as shown in the drawing. In response, Applicant submits copies of a catalog cover page and a photograph of a store banner, both which show the mark as set forth in the amended drawing filed April 11, 2006. Accordingly, approval of the application for publication is respectfully requested.

**Classification and Listing of Goods/Services****Applicant hereby amends the following class of goods/services in the application as follows:**

Current: Class 035 for Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching

Original Filing Basis: 1(a).

Proposed: Class 035 for Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching

Filing Basis: 1(a).

**Section 1(a)**, Use in Commerce: The mark was first used at least as early as 00/00/1987 and first used in commerce at least as early as 00/00/1987, and is now in use in such commerce.

Applicant hereby submits a new specimen for Class 035.

The specimen(s) submitted consists of Catalog specimen is a copy of the cover of Applicant's mail order catalog. EO-Banner specimen contains two photographs of a banner located in Applicant's retail store..

For an application based on 1(a), Use in Commerce, "The substitute specimen(s) was in use in commerce as of the filing date of the application."

[Specimen File 1](#)

[Specimen File 2](#)

**Declaration Signature**

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all

statements in the original application and this submission made on information and belief are believed to be true.

Signature: /spmcmamara/ Date: 07/25/2006

Signatory's Name: Stephen P. McNamara

Signatory's Position: Attorney for Applicant

**Response Signature**

Signature: /spmcmamara/ Date: 07/25/2006

Signatory's Name: Stephen P. McNamara

Signatory's Position: Attorney for Applicant

Serial Number: 78699411

Internet Transmission Date: Tue Jul 25 10:46:47 EDT 2006

TEAS Stamp: USPTO/ROA-12.170.101.6-20060725104647611

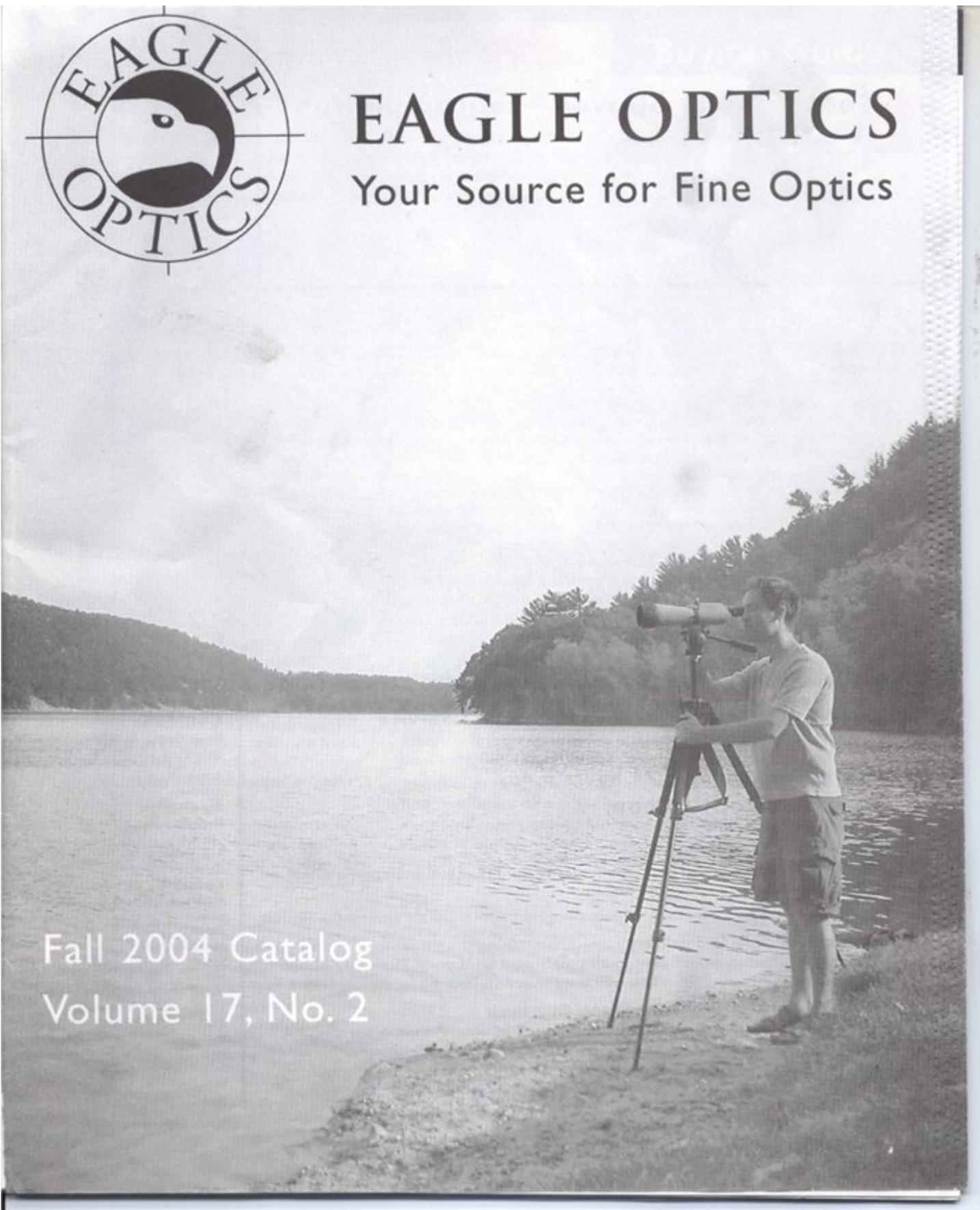
429-78699411-340431bacbd3fb2b08eae917095

3c7ccf11-N/A-N/A-20060725103309651855



# EAGLE OPTICS

Your Source for Fine Optics



Fall 2004 Catalog  
Volume 17, No. 2



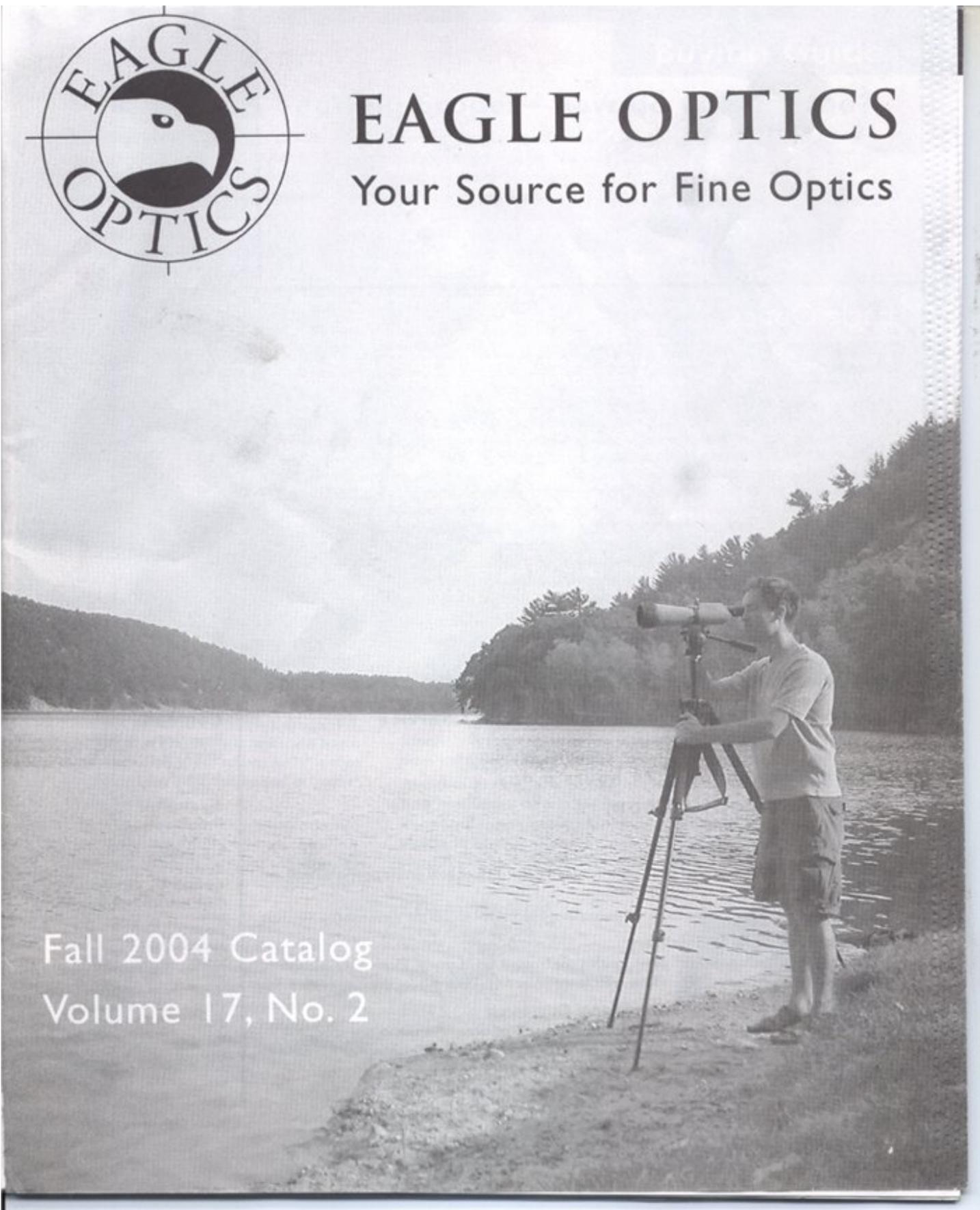
Full Banner (above), EO logo close-up (right)





# EAGLE OPTICS

Your Source for Fine Optics



Fall 2004 Catalog  
Volume 17, No. 2



Full Banner (above), EO logo close-up (right)



**To:** Sheltered Wings, Inc. ([tm-pto@ssjr.com](mailto:tm-pto@ssjr.com))  
**Subject:** TRADEMARK APPLICATION NO. 78699411 - EAGLE OPTICS - 03584-T0002A  
**Sent:** 4/27/2006 4:01:21 PM  
**Sent As:** ECOM113@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/699411

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT ADDRESS:**

STEPHEN P. MCNAMARA  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 BEDFORD STREET  
STAMFORD, CT 06905-5619

**\*78699411\***

**RETURN ADDRESS:**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MARK:** EAGLE OPTICS

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 03584-T0002A

**CORRESPONDENT EMAIL ADDRESS:**

[tm-pto@ssjr.com](mailto:tm-pto@ssjr.com)

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/699411

This letter responds to applicant's communication filed on April 11, 2006. In this communication,

applicant (1) submitted a new drawing; (2) argued against the requirement for a new matching drawing or specimen.

The amended drawing is acceptable and is made of record. The following requirements are now made FINAL: (1) matching drawing and specimen. 37 C.F.R. §2.64(a).

### **Drawing Does Not Match Specimen – International Class 35**

The mark as depicted on the drawing does not agree with the mark as it appears on the specimens submitted for International Class 35, and clarification is required. 37 C.F.R. §2.51; TMEP §807.12. Specifically, the drawing displays the mark as having vertical lines, which applicant identifies as “crosshair lines,” and the specimen does not display these lines, regardless of how closely one looks at the specimen as it appears in the record. Applicant contends that the lines are in the specimen but that they are easy to overlook. These lines are not visible in the specimen even after enlarging the specimen of record and closely examining it. In an application filed under §1(a) of the Trademark Act, the drawing of the mark must be a substantially exact representation of the mark as used on or in connection with the goods or services, *as shown by the specimen*. 37 C.F.R. §§2.51(a) and 2.72(a)(1); TMEP §807.12(a). The mark as it appears in the drawing is not visible in the specimen, therefore the drawing of the mark is not a substantially exact representation of the mark as shown by the specimen.

Applicant must either:

- (1) submit a new drawing of the mark that agrees with the mark as it appears on the specimen and that is not a material alteration of the original mark; 37 C.F.R. §2.72(a); TMEP §§807.14 *et seq*;
- (2) submit a substitute specimen that shows use of the mark as it presently appears on the drawing and is accompanied by a statement that “the substitute specimen was in use in commerce at least as early as the filing date of the application,” verified with an affidavit or a signed declaration under 37 C.F.R. §2.20; 37 C.F.R. §§2.59(a) and 2.72(a); TMEP §904.09; or
- (3) amend the application basis to intent-to-use under Section 1(b), and satisfy all the requirements for this new basis. TMEP §806.03(c).

Please note that the drawing and specimen must match for each class of goods; therefore, if applicant submits a new drawing, the specimens of record for both International Classes 9 and 35 must match the new drawing.

### **Partial Abandonment Advisory - Proper Response to Final Action**

If applicant does not respond within six months of the mailing date of this final action, then the following classes to which the final requirement applies will be **deleted** from the application: International Class 35.

The application will proceed forward for the remaining classes. 15 U.S.C. §1062(b); 37 C.F.R. §2.65(a).

Applicant may respond to this final action by:

- (1) submitting a response that fully satisfies all outstanding requirements, if feasible (37 C.F.R. §2.64(a)); and/or
- (2) filing an appeal to the Trademark Trial and Appeal Board, with an appeal fee of \$100 per class (37 C.F.R. §§2.6(a)(18) and 2.64(a); TMEP §§715.01 and 1501 *et seq*.; TBMP Chapter 1200).

In certain circumstances, a petition to the Director may be filed to review a final action that is limited to procedural issues, pursuant to 37 C.F.R. §2.63(b)(2). 37 C.F.R. §2.64(a). See 37 C.F.R. §2.146(b), TMEP §1704, and TBMP Chapter 1201.05 for an explanation of petitionable matters. The petition fee is \$100. 37 C.F.R. §2.6(a)(15).

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-

/kristindahling/  
Kristin M. Dahling  
Trademark Attorney, Law Office 113  
U.S. Patent and Trademark Office  
(571) 272-8277

**HOW TO RESPOND TO THIS OFFICE ACTION:**

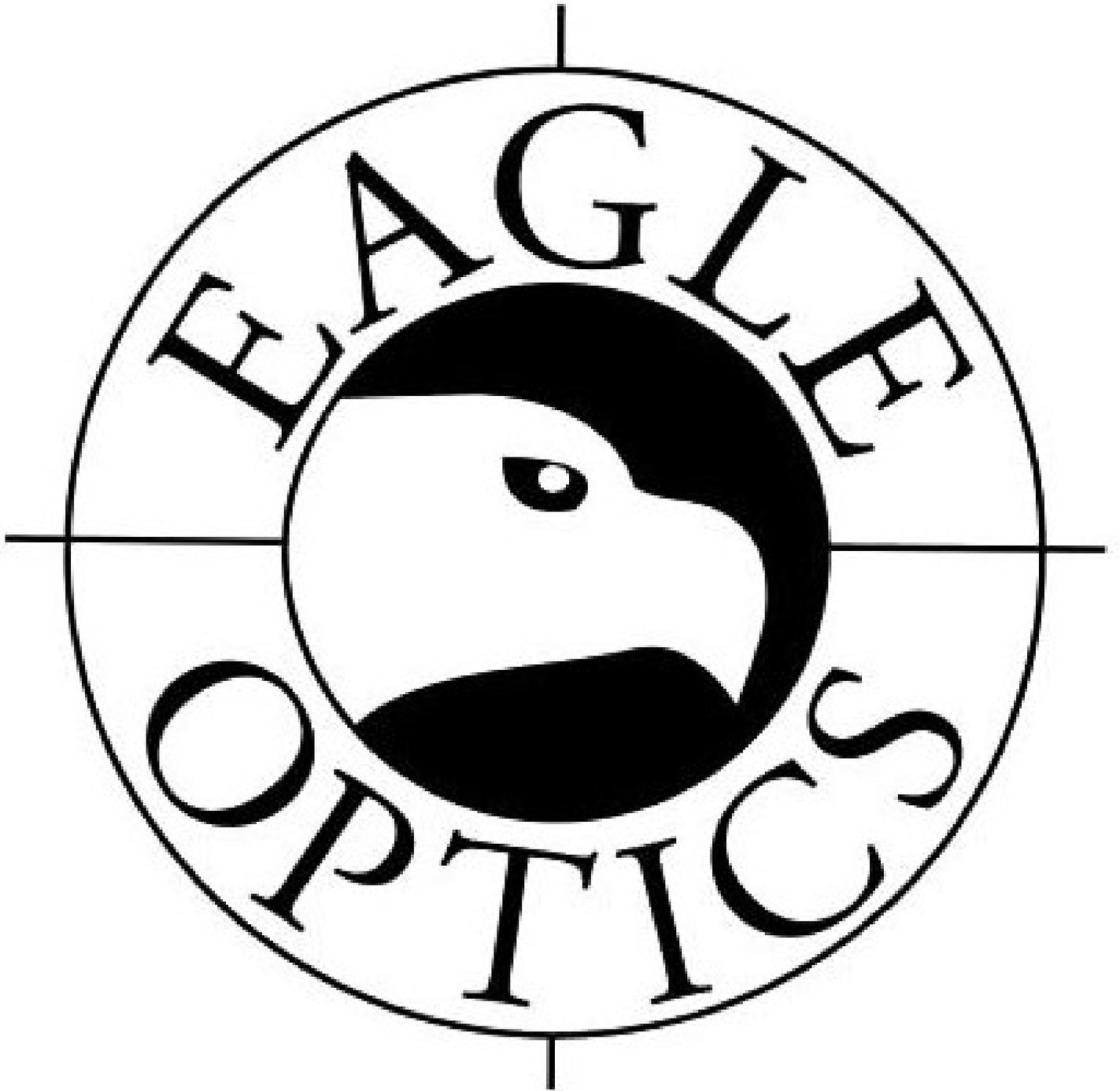
- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the date of receipt in the Office,** not the postmarked date. To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

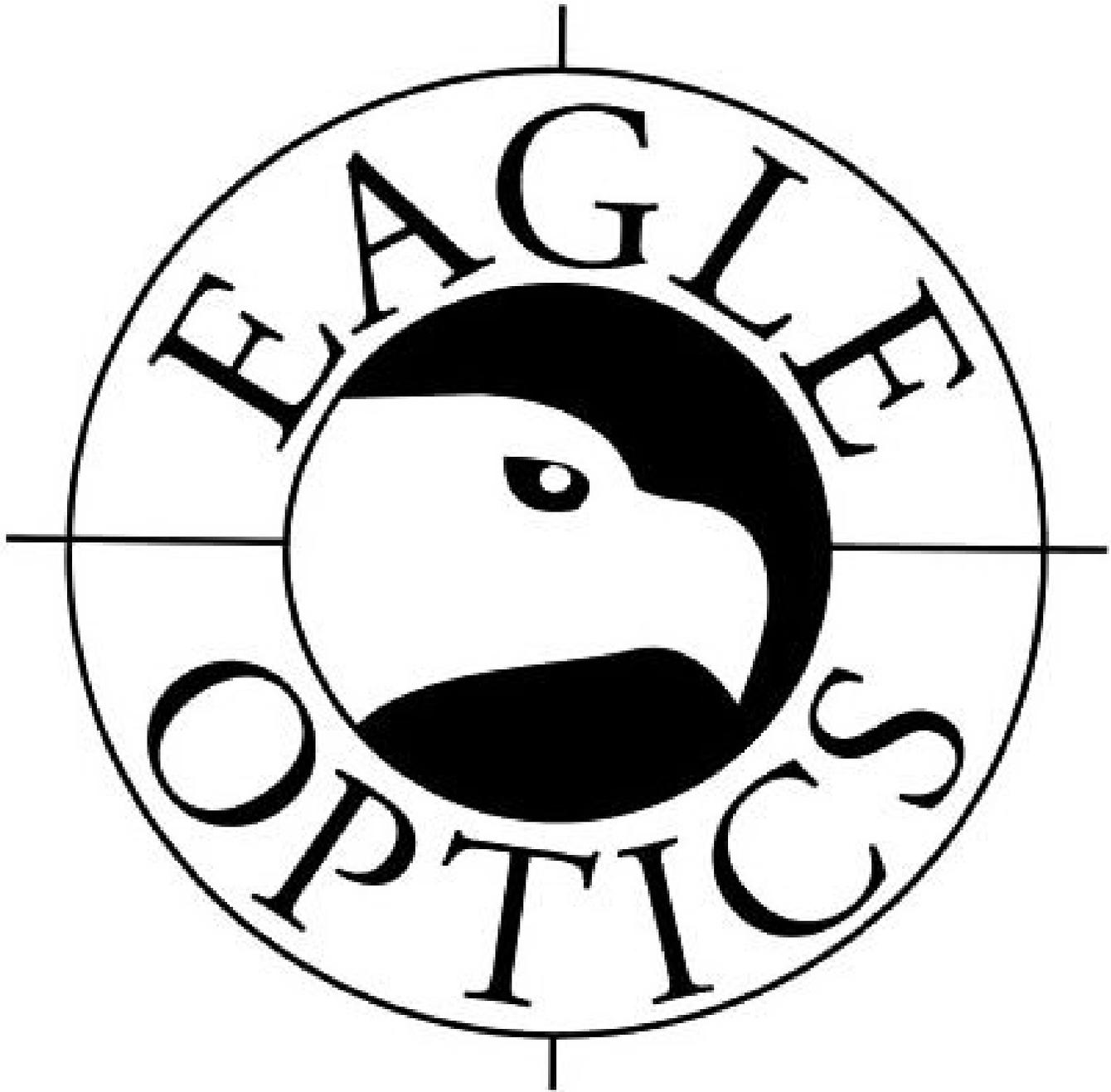
**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

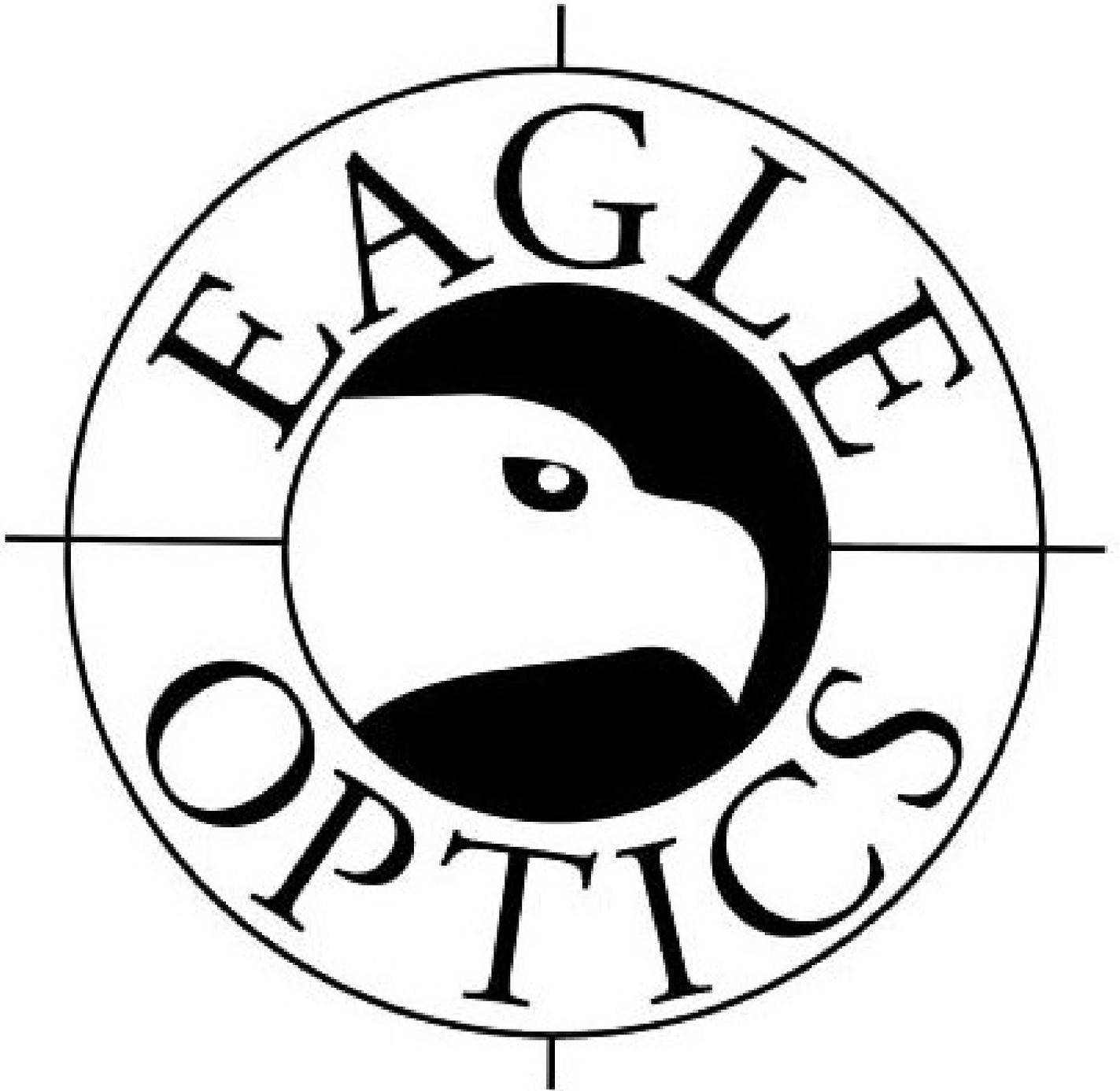
**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

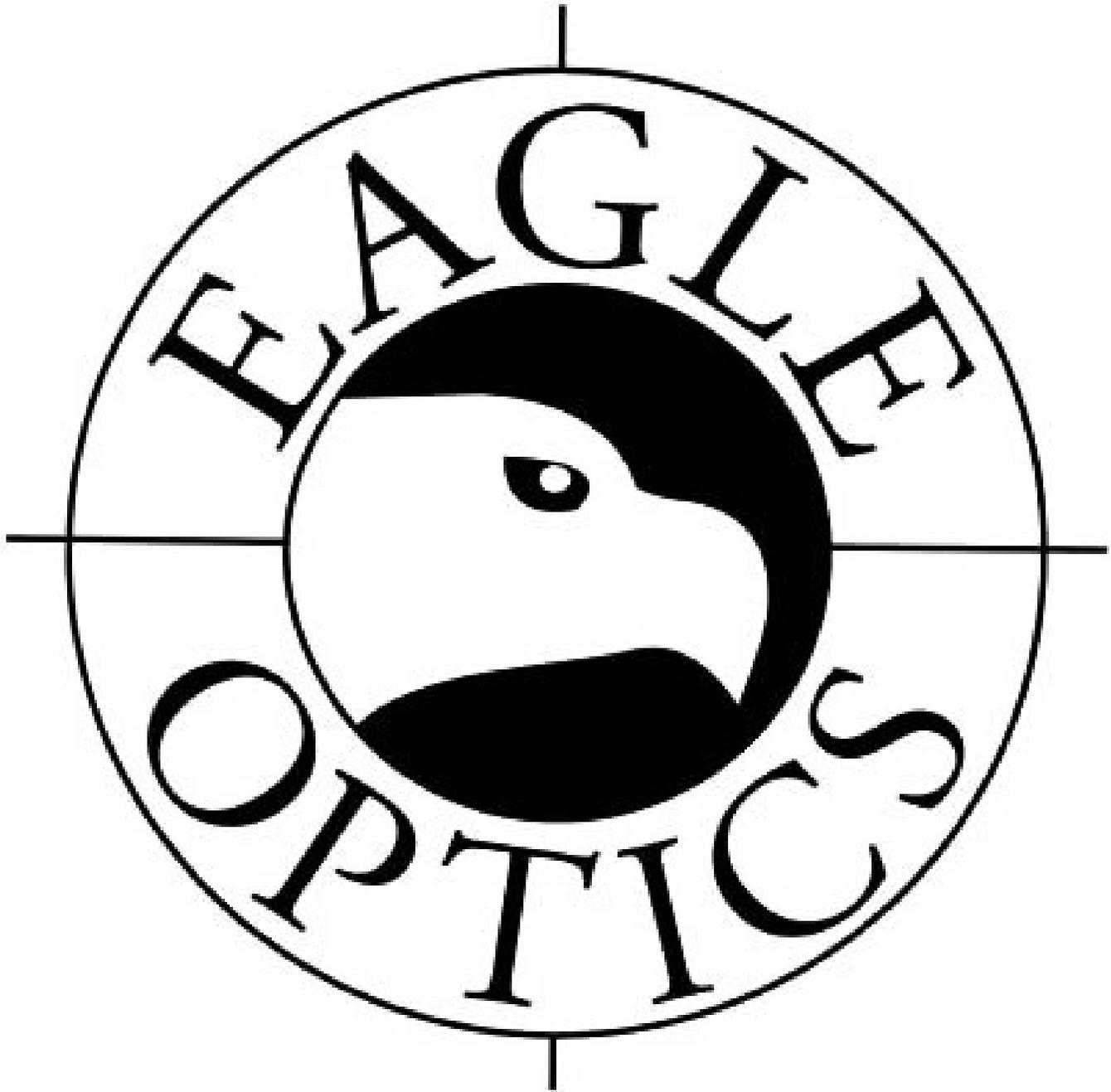
**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

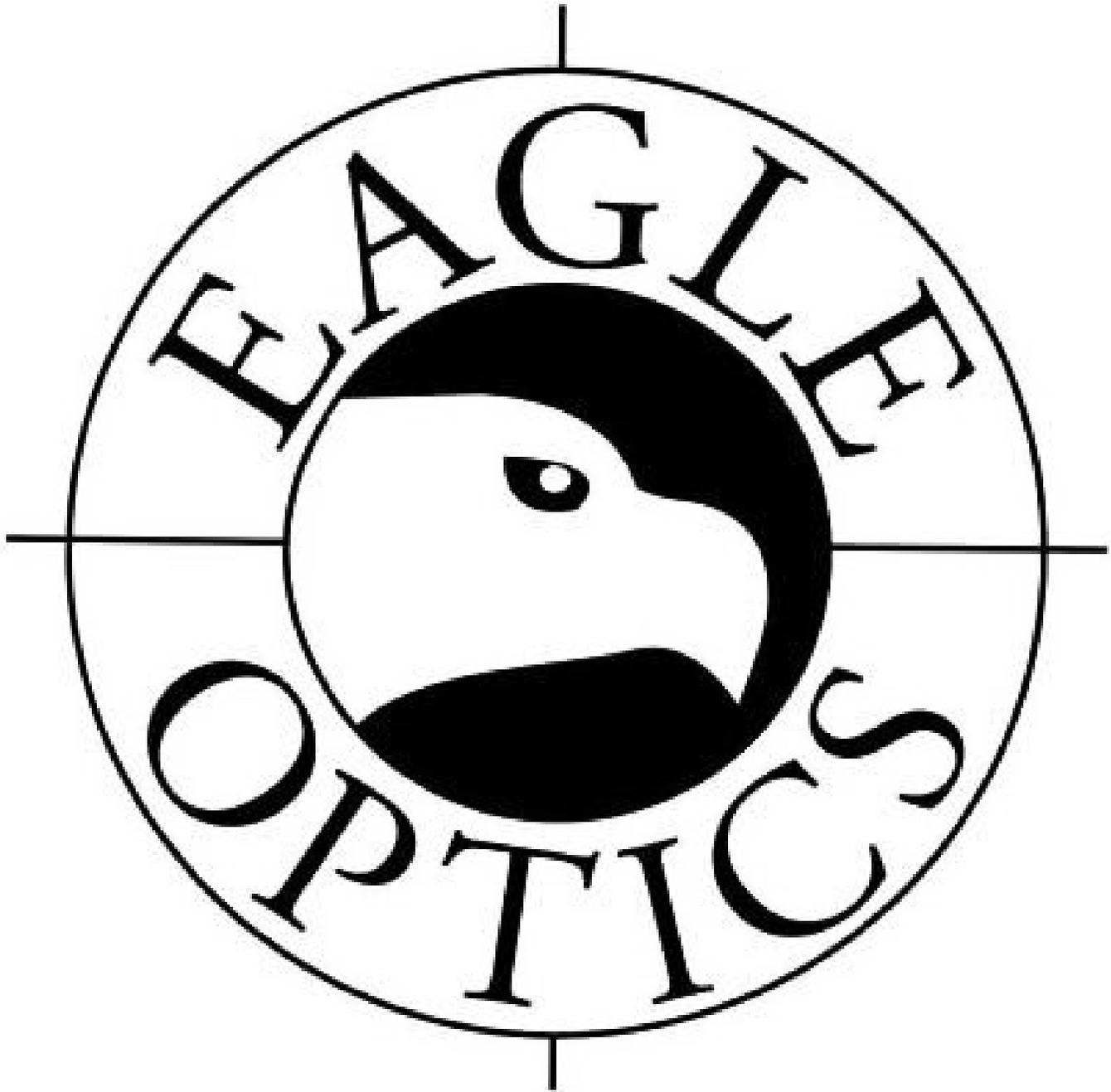
**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**











## Response to Office Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	78699411
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 113
<b>MARK SECTION (current)</b>	
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
COLOR MARK	NO
<b>MARK SECTION (proposed)</b>	
MARK FILE NAME	<a href="\\TICRS\EXPORT6\IMAGEOUT6\786\994\78699411\xml5\RO_A0002.JPG">\\TICRS\EXPORT6\IMAGEOUT6\786\994\78699411\xml5\RO_A0002.JPG</a>
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	EAGLE OPTICS
COLOR MARK	NO
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	420 x 573
<b>ARGUMENT(S)</b>	
<p>The Trademark Attorney has requested a new drawing, which is submitted herewith.</p> <p>In addition, the Trademark Attorney has objected to the class 35 specimen as not conforming to the mark shown in the drawing, in particular, as lacking the "crosshair lines" shown in the drawing. With all due respect, Applicant believes that the Class 35 specimen, which is a copy of the Applicant's webpage, does in fact have the illustrated crosshair lines. As the "crosshair lines" in question in the specimen are very fine grey lines it is possible to overlook them as they can blend into the background green of the webpage specimen. However, they can be seen in the JPG specimen originally submitted with the application (copy attached for convenience), and are also reasonably visible in the Trademark Office online PDF copy of the submitted specimen. Accordingly, Applicant requests that the Trademark Attorney reconsider and withdraw the rejection.</p>	
<b>EVIDENCE SECTION</b>	

EVIDENCE FILE NAME	<a href="#">\\TICRS\EXPORT6\IMAGEOUT6\786\994\78699411.xml5\RO A0003.JPG</a>
DESCRIPTION OF EVIDENCE FILE	Copy of Class 35 specimen submitted with application at time of filing.
<b>SIGNATURE SECTION</b>	
RESPONSE SIGNATURE	/spmcnamara/
SIGNATORY NAME	Stephen P. McNamara
SIGNATORY POSITION	Attorney for Applicant
SIGNATURE DATE	04/11/2006
<b>FILING INFORMATION SECTION</b>	
SUBMIT DATE	Tue Apr 11 09:48:48 EDT 2006
TEAS STAMP	USPTO/ROA-12.170.101.6-20 060411094848462384-786994 11-3208a1bb4bfb8956ef6dac 3e9dacabc3e5e-N/A-N/A-200 60411094433473626

PTO Form 1957 (Rev 5/2006)  
OMB No. 0651-0050 (Exp. 04/2009)

## Response to Office Action To the Commissioner for Trademarks:

Application serial no. **78699411** has been amended as follows:

### Mark

Applicant proposes to amend the mark as follows:

Original: (Stylized and/or with Design)

Proposed: EAGLE OPTICS (Stylized and/or with Design, see [mark](#))

### Argument(s)

In response to the substantive refusal(s), please note the following:

The Trademark Attorney has requested a new drawing, which is submitted herewith.

In addition, the Trademark Attorney has objected to the class 35 specimen as not conforming to the mark shown in the drawing, in particular, as lacking the "crosshair lines" shown in the drawing. With all due respect, Applicant believes that the Class 35 specimen, which is a copy of the Applicant's webpage, does in fact have the illustrated crosshair lines. As the "crosshair lines" in question in the specimen are very fine grey lines it is possible to overlook them as they can blend into the background green of the webpage

specimen. However, they can be seen in the JPG specimen originally submitted with the application (copy attached for convenience), and are also reasonably visible in the Trademark Office online PDF copy of the submitted specimen. Accordingly, Applicant requests that the Trademark Attorney reconsider and withdraw the rejection.

**Evidence**

Evidence in the nature of Copy of Class 35 specimen submitted with application at time of filing. has been attached.

[Evidence-1](#)

**Response Signature**

Signature: /spmcnamara/ Date: 04/11/2006

Signatory's Name: Stephen P. McNamara

Signatory's Position: Attorney for Applicant

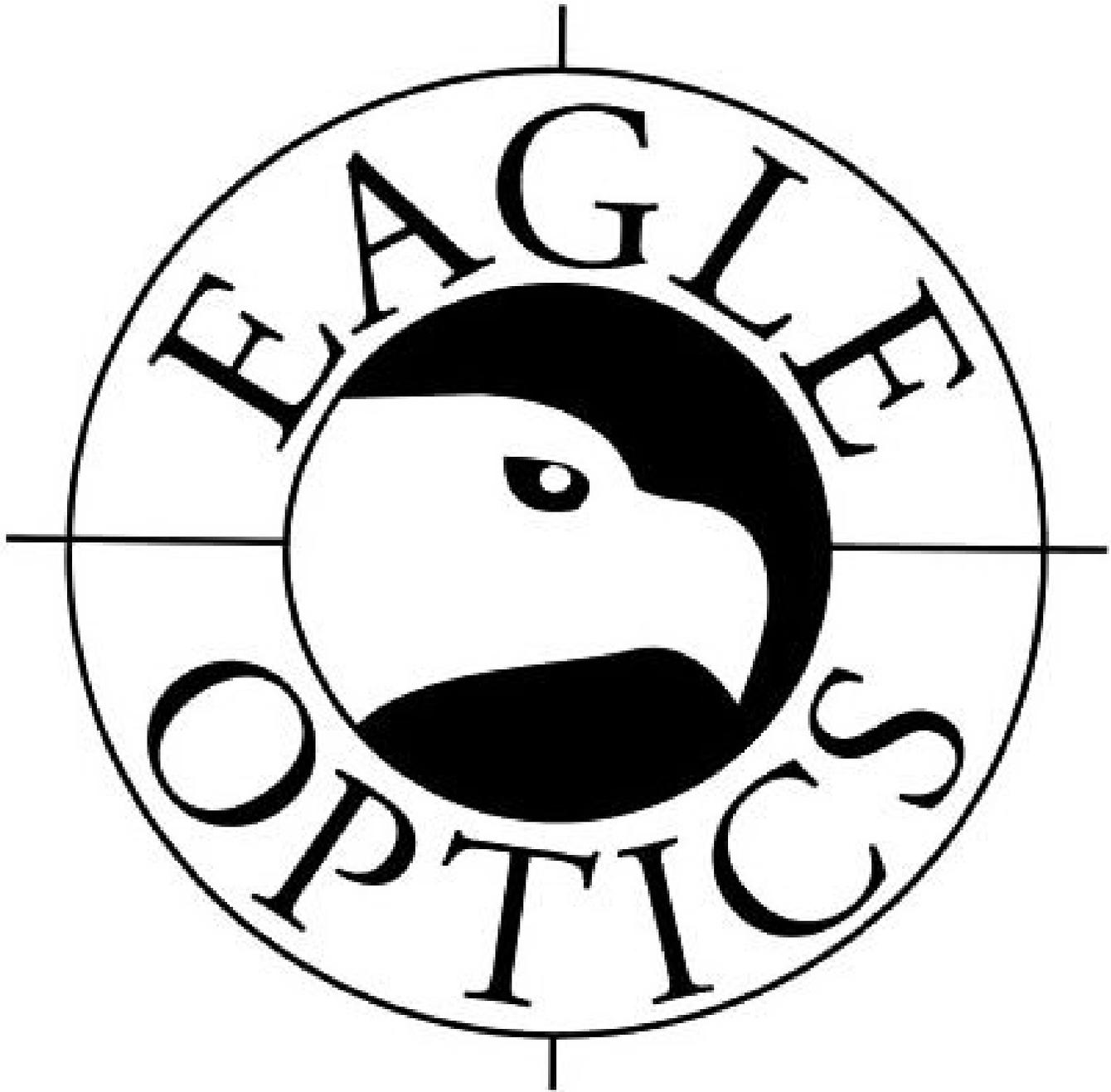
Serial Number: 78699411

Internet Transmission Date: Tue Apr 11 09:48:48 EDT 2006

TEAS Stamp: USPTO/ROA-12.170.101.6-20060411094848462

384-78699411-3208a1bb4bf8956ef6dac3e9da

cabc3e5e-N/A-N/A-20060411094433473626



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Address <http://www.eagleoptics.com/search.asp?q=denali&pid=3358>

**EAGLE OPTICS**

Carefully and Expertly selected Binoculars, Spotting Scopes, Tripods, and Accessories.

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denali

**Eagle Optics Binoculars Denali 7x32**

**Binoculars - Specifications:**

Field of View	357 ft./1000 yds.
Eye Relief	20 mm
Close Focus	12 ft.
Weight	21.5 oz.
Dimensions (HxW)	5 x 4.9 in.
Weatherproofing	Waterproof/Nitrogen Purged

Denali binoculars would be a tremendous value at TWICE their price. For less than \$100, they give serious observers a potent binocular with unrivaled value.

The Denali 7x32 gives you everything you've always wanted in a binocular -- FOR LESS!

**Special Features:**

- Wide field of view

Done Internet

start Inbox - Microsoft Out... SSJR intranet - Micro... Eagle Optics - Search... 1:31 PM

**To:** Sheltered Wings, Inc. ([tm-pto@ssjr.com](mailto:tm-pto@ssjr.com))  
**Subject:** TRADEMARK APPLICATION NO. 78699411 - EAGLE OPTICS - 03584-T0002A  
**Sent:** 3/14/2006 9:22:08 PM  
**Sent As:** ECOM113@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/699411

**APPLICANT:** Sheltered Wings, Inc.

**CORRESPONDENT ADDRESS:**

STEPHEN P. MCNAMARA  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 BEDFORD STREET  
STAMFORD, CT 06905-5619

**\*78699411\***

**RETURN ADDRESS:**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MARK:** EAGLE OPTICS

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 03584-T0002A

**CORRESPONDENT EMAIL ADDRESS:**

[tm-pto@ssjr.com](mailto:tm-pto@ssjr.com)

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/699411

This letter follows an examiner's amendment sent March 13, 2006. Upon further examination, the

examining attorney has determined that the specimens submitted for International Class 35 and the drawing submitted with the application are unacceptable for the reasons noted below. Applicant must respond to these issues. The examining attorney apologizes for the delay in making these determinations.

### **Drawing**

Applicant must submit a new drawing showing the entire mark clearly and conforming to 37 C.F.R. §§2.52, 2.53(c) and 2.54(e). The current drawing is not acceptable because extra lines appear around the borders of the drawing, and it will not reproduce satisfactorily.

The requirements for a special-form drawing are as follows:

- The drawing must appear in black and white if color is not claimed as a feature of the mark, or in color if color is claimed as a feature of the mark.
- Drawings must be made with a pen or by a process that will provide high definition when copied. A photolithographic, printer's proof copy, or other high quality reproduction of the mark may be used. All lines must be clean, sharp and solid, and must not be fine or crowded.
- The image must be no larger than 3.15 inches (8 cm) high by 3.15 inches (8cm) wide.
- If reduction of the mark to the required size renders any details illegible, then applicant may insert a statement in the application to describe the mark and these details.

37 C.F.R. §§2.52(b); TMEP §§807.04 *et seq.*

If submitted on paper, the Office prefers that the drawing be depicted on a separate sheet of non-shiny, white paper that is 8 to 8.5 inches wide and 11 to 11.69 inches long (20.3 to 21.6 cm. wide and 27.9 to 29.7 cm. long). One of the shorter sides of the sheet should be regarded as its top edge. In addition, the drawing should include the caption "DRAWING PAGE" at the top of the drawing beginning one-inch (2.5 cm) from the top edge. 37 C.F.R. §2.54; TMEP §§807.06 *et seq.*

To submit a special form drawing electronically, applicant must attach a digitized image of the mark to the submission. The digitized image must be in .jpg format, formatted at no less than 300 dots per inch and no more than 350 dots per inch. The Office recommends that the digitized image of the mark have a length and width of no smaller than 250 pixels and no larger than 944 pixels. 37 C.F.R. §2.53(c); TMEP §807.05(c). All lines in the image must be clean, sharp and solid, and not fine or crowded, and produce a high quality image when copied.

The Office strictly enforces these drawing requirements.

### **Mark Differs on Drawing and Specimens – International Class 35**

The mark as depicted on the drawing does not agree with the mark as it appears on the specimens submitted for International Class 35, and clarification is required. 37 C.F.R. §2.51; TMEP §807.12. Specifically, the drawing displays the mark as having vertical lines, which applicant identifies as "crosshair lines," and the specimen does not contain these lines.

Applicant must either:

- (1) submit a new drawing of the mark that agrees with the mark as it appears on the specimen and that is not a material alteration of the original mark; 37 C.F.R. §2.72(a); TMEP §§807.14 *et seq*;
- (2) submit a substitute specimen that shows use of the mark as it presently appears on the drawing and is accompanied by a statement that “the substitute specimen was in use in commerce at least as early as the filing date of the application,” verified with an affidavit or a signed declaration under 37 C.F.R. §2.20; 37 C.F.R. §§2.59(a) and 2.72(a); TMEP §904.09; or
- (3) amend the application basis to intent-to-use under Section 1(b), and satisfy all the requirements for this new basis. TMEP §806.03(c).

Please note that the drawing and specimen must match for each class of goods; therefore, if applicant submits a new drawing, the specimens of record for both International Classes 9 and 35 must match the new drawing.

If applicant has questions about its application or needs assistance in responding to this Office action, please telephone the assigned trademark examining attorney directly at the number below.

/kristindahling/  
Kristin M. Dahling  
Trademark Attorney, Law Office 113  
U.S. Patent and Trademark Office  
(571) 272-8277

#### **HOW TO RESPOND TO THIS OFFICE ACTION:**

- **ONLINE RESPONSE:** You may respond using the Office’s Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney’s name. **NOTE: The filing date of the response will be the date of receipt in the Office,** not the postmarked date. To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office’s Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**

\*\*\* User:kdahling \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
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Session started 3/14/2006 2:30:17 PM

Session finished 3/14/2006 2:32:47 PM

Total search duration 0 minutes 1 seconds

Session duration 2 minutes 30 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 78699411

**To:** Sheltered Wings, Inc. ([tm-pto@ssjr.com](mailto:tm-pto@ssjr.com))  
**Subject:** TRADEMARK APPLICATION NO. 78699411 - EAGLE OPTICS - 03584-T0002A  
**Sent:** 3/13/2006 3:05:13 PM  
**Sent As:** ECOM113@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 78/699411

**APPLICANT:** Sheltered Wings, Inc.

**\*78699411\***

**CORRESPONDENT ADDRESS:**

STEPHEN P. MCNAMARA  
ST. ONGE STEWARD JOHNSTON & REENS LLC  
986 BEDFORD STREET  
STAMFORD, CT 06905-5619

**RETURN ADDRESS:**

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

**MARK:** EAGLE OPTICS

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 03584-T0002A

**CORRESPONDENT EMAIL ADDRESS:**

[tm-pto@ssjr.com](mailto:tm-pto@ssjr.com)

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and email address.

Serial Number 78/699411

**EXAMINER'S AMENDMENT**

**OFFICE RECORDS SEARCH:** The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

**ADVISORY – AMENDMENTS TO GOODS/SERVICES:** If the identification of goods and/or services has been amended below, any future amendments must be in accordance with 37 C.F.R. §2.71(a)

and TMEP §1402.07(e).

**AMENDMENT(S) AUTHORIZED:** As authorized by Stephen P. McNamara on March 13, 2006, the application is amended as noted below. *If applicant disagrees with or objects to any of the amendments below, please notify the undersigned trademark examining attorney immediately.* Otherwise, no response is necessary. TMEP §707.

**Identification of Goods and Services**

The identification of goods and services is amended to read as follows. TMEP §1402.01(e).

Binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching, in International Class 9.

Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching, in International Class 35.

**Disclaimer**

-  
The following disclaimer statement is added to the record:

No claim is made to the exclusive right to use “OPTICS” apart from the mark as shown.

15 U.S.C. §1056; TMEP §§1213, 1213.03(a) and 1213.08(a)(i).

**Claim of Ownership**

The following claim of ownership is added to the record:

Applicant is the owner of U.S. Registration Nos. 2886199.

37 C.F.R. §2.36; TMEP §812.

**Description of Mark**

-  
Applicant’s description of the mark will not be printed on any registration that may issue from this application. TMEP §808.03. The description is unnecessary because the mark is composed of easily recognized letters, numerals, designs, or figurative elements. TMEP §§808.01(a) and 808.01(b).

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/kristindahling/  
Kristin M. Dahling  
Trademark Attorney, Law Office 113  
U.S. Patent and Trademark Office

(571) 272-8277

\*\*\* User:kdahling \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	P/0:01	78699411
02	3713	N/A	0	0	P/0:04	*e{v0:1}g\$11*[bi,ti] not dead[lid]
03	1496	N/A	0	0	P/0:01	*pt{"iy"}{"ckqx"}*[bi,ti] not dead[lid]
04	8	0	8	7	P/0:01	2 and 3
05	1423	N/A	0	0	P/0:01	*eagle*[bi,ti] not dead[lid] not 4
06	317	N/A	0	0	P/0:01	*optics*[bi,ti] not dead[lid] not 4
07	0	0	0	0	P/0:01	5 and 6
08	986	0	3	986	P/0:03	031716[dc] not dead[lid]
09	1	0	1	1	P/0:01	4 and 8
10	2818	N/A	0	0	P/0:03	031501[dc] not dead[lid]
11	986	N/A	0	0	P/0:03	031716[dc] not dead[lid]
12	6028	N/A	0	0	P/0:03	260108[dc] not dead[lid]
13	9563	N/A	0	0	P/0:03	260117[dc] not dead[lid]
14	42094	N/A	0	0	P/0:03	260121[dc] not dead[lid]
15	433	N/A	0	0	P/0:01	(12 13 14) and (10 2 3) not 8
16	214	N/A	0	0	P/0:01	10 and (2 3) not 8
17	630	0	2	630	P/0:01	15 16
18	646	N/A	0	0	P/0:01	5 and ("009" "035")[cc] not (4 8 17)
19	268	0	268	93	P/0:02	5 and ("009" "035" a b 200)[ic] not (4 8 17)

Session started 3/12/2006 1:55:59 PM

Session finished 3/12/2006 2:51:25 PM

Total search duration 0 minutes 35 seconds

Session duration 55 minutes 26 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 78699411

**Trademark/Service Mark Application, Principal Register****Serial Number: 78699411****Filing Date: 08/24/2005****The table below presents the data as entered.**

Input Field	Entered
<b>MARK SECTION</b>	
MARK FILE NAME	<a href="\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0002.JPG">\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0002.JPG</a>
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	EAGLE OPTICS
COLOR MARK	NO
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a stylized eagle head in profile positioned in a round background and the words "Eagle" and "Optics" located above and below the round background and curved to follow the edge of the round background and enclosed by an outer circle with top and bottom crosshair lines extending away from the outer circle and left and right crosshair lines extending from the round background across and extending from the outer circle.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	420 x 573
<b>OWNER SECTION</b>	
NAME	Sheltered Wings, Inc.
INTERNAL ADDRESS	Suite Four
STREET	2120 West Greenview Drive
CITY	Middletown
STATE	Wisconsin
ZIP/POSTAL CODE	53562

COUNTRY	United States
AUTHORIZED EMAIL COMMUNICATION	No
<b>LEGAL ENTITY SECTION</b>	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	Wisconsin
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	009
DESCRIPTION	BINOCULARS, SPOTTING SCOPES, AND TELESCOPES, ALL FOR USE IN BIRDWATCHING, AND STORAGE CASES THEREFOR
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 05/00/2001
FIRST USE IN COMMERCE DATE	At least as early as 12/00/2001
SPECIMEN FILE NAME(S)	<a href="\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0003.JPG">\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0003.JPG</a>
	<a href="\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0004.JPG">\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0004.JPG</a>
SPECIMEN DESCRIPTION	scanned images of packaging
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	035
DESCRIPTION	RETAIL STORE, MAIL ORDER AND ONLINE STORE SALES SERVICES IN THE FIELD OF BINOCULARS, SPOTTING SCOPES, AND TELESCOPES, ALL FOR USE IN BIRDWATCHING, AND STORAGE CASES THEREFOR
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 00/00/1987
FIRST USE IN COMMERCE DATE	At least as early as 00/00/1987
SPECIMEN FILE NAME(S)	<a href="\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0005.JPG">\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0005.JPG</a>
SPECIMEN DESCRIPTION	screenshot of website
<b>SIGNATURE SECTION</b>	

SIGNATORY FILE	<a href="\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0006.JPG">\\TICRS\EXPORT9\IMAGEOUT9\786\994\78699411\xml1\AP P0006.JPG</a>
SIGNATORY NAME	Daniel C. Hamilton
SIGNATORY POSITION	President
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	2
NUMBER OF CLASSES PAID	2
SUBTOTAL AMOUNT	650
TOTAL AMOUNT	650
<b>ATTORNEY</b>	
NAME	Stephen P. McNamara
FIRM NAME	St. Onge Steward Johnston & Reens LLC
STREET	986 Bedford Street
CITY	Stamford
STATE	Connecticut
ZIP/POSTAL CODE	06905-5619
COUNTRY	United States
PHONE	203-324-6155
FAX	203-327-1096
EMAIL	tm-pto@ssjr.com
AUTHORIZED EMAIL COMMUNICATION	Yes
ATTORNEY DOCKET NUMBER	03584-T0002A
OTHER APPOINTED ATTORNEY(S)	Andy I. Corea, Eileen C. DeVries, Gene S. Winter, Wesley W. Whitmyer, Jr., Stanley H. Lieberstein, Richard J. Basile, Todd M. Oberdick, David Chen, Michael W. Krenicky, Steven B. Simonis, David W. Aldrich, Hyun Jong Park, Helen M. Limoncelli and James P. Jeffry
<b>CORRESPONDENCE SECTION</b>	
NAME	Stephen P. McNamara
FIRM NAME	St. Onge Steward Johnston & Reens LLC
STREET	986 Bedford Street

CITY	Stamford
STATE	Connecticut
ZIP/POSTAL CODE	06905-5619
COUNTRY	United States
PHONE	203-324-6155
FAX	203-327-1096
EMAIL	tm-pto@ssjr.com
AUTHORIZED EMAIL COMMUNICATION	Yes
<b>FILING INFORMATION</b>	
SUBMIT DATE	Wed Aug 24 14:44:24 EDT 2005
TEAS STAMP	USPTO/BAS-12119244218-200 50824144424477370-7869941 1-2004620b6ce24acb86ada03 92a5d1e8bf7-CC-28-2005082 4142714453818

**Trademark/Service Mark Application, Principal Register****Serial Number: 78699411****Filing Date: 08/24/2005****To the Commissioner for Trademarks:****MARK:** EAGLE OPTICS (stylized and/or with design, see [mark](#))

The literal element of the mark consists of EAGLE OPTICS.

The mark consists of a stylized eagle head in profile positioned in a round background and the words "Eagle" and "Optics" located above and below the round background and curved to follow the edge of the round background and enclosed by an outer circle with top and bottom crosshair lines extending away from the outer circle and left and right crosshair lines extending from the round background across and extending from the outer circle.

The applicant, Sheltered Wings, Inc., a corporation of Wisconsin, residing at Suite Four, 2120 West Greenview Drive, Middletown, Wisconsin, United States, 53562, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

The applicant, or the applicant's related company or licensee, is using the mark in commerce, and lists below the dates of use by the applicant, or the applicant's related company, licensee, or predecessor in interest, of the mark on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

International Class 009: BINOCULARS, SPOTTING SCOPES, AND TELESCOPES, ALL FOR USE IN BIRDWATCHING, AND STORAGE CASES THEREFOR

International Class 035: RETAIL STORE, MAIL ORDER AND ONLINE STORE SALES SERVICES IN THE FIELD OF BINOCULARS, SPOTTING SCOPES, AND TELESCOPES, ALL FOR USE IN BIRDWATCHING, AND STORAGE CASES THEREFOR

In International Class 009, the mark was first used at least as early as 05/00/2001, and first used in commerce at least as early as 12/00/2001, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) scanned images of packaging.

[Specimen - 1](#)

[Specimen - 2](#)

In International Class 035, the mark was first used at least as early as 00/00/1987, and first used in commerce at least as early as 00/00/1987, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in

connection with any item in the class of listed goods and/or services, consisting of a(n) screenshot of website.

[Specimen - 1](#)

The applicant hereby appoints Stephen P. McNamara and Andy I. Corea, Eileen C. DeVries, Gene S. Winter, Wesley W. Whitmyer, Jr., Stanley H. Lieberstein, Richard J. Basile, Todd M. Oberdick, David Chen, Michael W. Krenicky, Steven B. Simonis, David W. Aldrich, Hyun Jong Park, Helen M. Limoncelli and James P. Jeffry of St. Onge Steward Johnston & Reens LLC, 986 Bedford Street, Stamford, Connecticut, United States, 06905-5619 to submit this application on behalf of the applicant. The attorney docket/reference number is 03584-T0002A.

The USPTO is authorized to communicate with the applicant or its representative at the following email address: tm-pto@ssjr.com.

A fee payment in the amount of \$650 will be submitted with the application, representing payment for 2 class(es).

**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature:

Signatory's Name: Daniel C. Hamilton

Signatory's Position: President

Signatory's Signature: [Signature](#)

Mailing Address:

Stephen P. McNamara

986 Bedford Street

Stamford, Connecticut 06905-5619

RAM Sale Number: 28

RAM Accounting Date: 08/25/2005

Serial Number: 78699411

Internet Transmission Date: Wed Aug 24 14:44:24 EDT 2005

TEAS Stamp: USPTO/BAS-12119244218-200508241444244773

70-78699411-2004620b6ce24acb86ada0392a5d

1e8bf7-CC-28-20050824142714453818







**Eagle Optics - Search - Microsoft Internet Explorer**

Address: <http://www.eagleoptics.com/search.asp?q=denali&pid=3358>

**EAGLE OPTICS**

Carefully and Expertly selected Binoculars, Spotting Scopes, Tripods, and Accessories.

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denali

**Eagle Optics Binoculars Denali 7x32**

**Binoculars - Specifications:**

Field of View	357 ft./1000 yds.
Eye Relief	20 mm
Close Focus	12 ft.
Weight	21.5 oz.
Dimensions (HxW)	5 x 4.9 in.
Weatherproofing	Waterproof/Nitrogen Purged

Denali binoculars would be a tremendous value at TWICE their price. For less than \$100, they give serious observers a potent binocular with unrivaled value.

The Denali 7x32 gives you everything you've always wanted in a binocular -- FOR LESS!

**Special Features:**

- Wide field of view

Done

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Inbox - Microsoft Out... | SSJR intranet - Micro... | Eagle Optics - Search... | 1:31 PM

APPLICANT NAME: Sheltered Wings, Inc.  
MARK: EAGLE OPTICS (stylized and/or with design)

**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant, he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature:   
Signatory's Name: Daniel C. Hamilton  
Signatory's Position: President

Date: August 10, 2005







**Eagle Optics** - Search - Microsoft Internet Explorer

Address: <http://www.eagleoptics.com/search.asp?q=denali&pid=3358>

**EAGLE OPTICS**

Carefully and Expertly selected Binoculars, Spotting Scopes, Tripods, and Accessories.

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The Denali 7x32 gives you everything you've always wanted in a binocular -- FOR LESS!

**Special Features:**

- Wide field of view

Done

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