PTO Form 1960 (Rev 9/2007)

OMB No. xxxx-xxxx (Exp. x/xxxx)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78903884
LAW OFFICE ASSIGNED	LAW OFFICE 108
MARK SECTION (no change)	
ARGUMENT(S)	

The Examining Attorney has maintained the refusal issued in the instant application under Section 2(d) of the Trademark Act, because it was found that the mark, SEAHAWK, when used on or in connection with the specified goods, so resembles the mark in U.S. Registration No. 1400222 as to be likely to cause confusion, to cause mistake, or to deceive. The Applicant respectfully reiterates its disagreement with the Examining Attorney, and requests reconsideration of the refusal to register based on the arguments submitted previously, incorporated by reference herein, and supplemented by those set forth *infra*.

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In determining whether two marks are likely to be confused under Trademark Act Section 2 (d), a series of factors are examined, each factor playing a more dominant or diminished role depending on the facts of the case. 15 U.S.C. Section 1053(d); *In re E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 U.S.P.Q. 563 (C.C.P.A. 1973). As stated in arguments previously submitted and further discussed below, an analysis of all the relevant factors supports a finding that confusion is not "likely", rending the refusal under Section 2(d) inappropriate.

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It is a well established principle of trademark law that in order to support a holding of likelihood of confusion, the respective goods at issue must be related in some manner, or the conditions and activities surrounding the marketing of the goods are such that they would or could be encountered by the same persons under circumstances that could give rise to the mistaken belief that they originate from the same producer. *In re Hal Leonard Publishing Corp.*, 15 U.S.P.Q.2d 1574, 1575 (T.T.A.B. 1990), *citing In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (T.T.A.B. 1978). The Examining Attorney bases her refusal to register the instant application on the relatedness of the goods covered by the cited registration and this application. While the goods may be broadly related in the sense that the goods are "optical" in nature, the mere supposition that the goods of the respective parties may be sold in the same broad field "is not sufficient to demonstrate that a genuine issue exists concerning likelihood of confusion." *Electronic Design & Sales Inc. v. Electronic Data Syst. Corp.*, 954 F.2d 713, 716, 716 U.S.P.Q.2d 1388 (Fed. Cir. 1992) (citing *Astra*

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As evidence that the goods offered by Applicant and those offered by Registrant are related, or are of a kind likely to emanate from a single source, the Examining Attorney provides 14 third-party registrations. However, numerous of these registrations include such a broad scope of goods as to significantly limit their probative value in this regard. For example, in addition to "binoculars" and "safety goggles", Registration No. 2647909 includes "magnets", and "pre-recorded videos, CD-

ROMS, and DVDs featuring information about animals" as well as numerous other goods in Class 9. Similarly, Registration No. 2705039 is the name of a team in the Women's United Soccer Association, and includes goods and services in a variety of classes ranging from pajamas to microscopes. Further, Registration No. 2909536 includes "electric cigar lighters for land vehicles" and "electronic pocket translators" as well as "binoculars" and "protective eyewear". Finally, Registration No. 3025158 covers a variety of goods in Class 9, including "slot machines". Given the broad scope of goods each of the above registrations covered, they are inappropriate to show the goods of Applicant and those of Registrant are related. Using any of the above third-party registrations to demonstrate relatedness of the goods would be akin to arguing that slot machines and protective eyewear are related based on third-party registrations. If third-party registrations alone were sufficient to prove relatedness, "then virtually all consumer products and services would be related." *CNL Tampa Int'l Hotel Partenrship, LP v. Palazzolo*, Opposition No. 91163724 (March 7, 2006) (102 third-party registration with both parties goods and services insufficient to establish a likelihood of confusion).

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In addition to the above-discussed third-party registrations, the Examining Attorney cites Registration Nos. 2273229, 2057613, 2138609, and 2320324 as further evidence that the goods of Applicant and those of Registrant are related. While initially, Applicant notes that the scope of goods protected under each of these third-party registrations are of such a broad nature as to make their probative value significantly limited, the Examining Attorney should note that each of these registrations were previously owned by Central Manufacturing Co., an entity owned by Leo Stoller.<!--[if !supportFootnotes]-->[1]<!--[endif]--> On July 14, 2006, the United States Patent and Trademark Office sanctioned Leo Stoller, limiting his privilege to practice before the USPTO based on violations of his responsibilities under Patent and Trademark Rule 10.18(b). Exhibit G. In relevant part the TTAB noted that the website of Leo Stoller purported to "control over 10,000 famous trademarks" but exhibits from the website failed to demonstrate the offering for sale any goods or services, other than the "rental" of the marks themselves, thereby questioning whether there was any actual demonstrable use of marks owned by Leo Stoller or entities in his control. *Id.* Based on these sanctions and the previous fraudulent conduct of Leo Stoller, the instantly cited registrations are of no probative value in establishing the goods of Applicant and those of Registrant are related.

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Finally with respect to the third-party registrations cited by the Examining Attorney, it is necessary to note that Registration Nos. 2724438 and 2610371, do not include "binoculars" in the identification of goods. Exhibits H & I. Instead, in both registrations, "binoculars" appears in brackets indicating that goods have been deleted from the registration (see TMEP 1402.12) and is therefore inapplicable to the analysis at hand.<!--[if !supportFootnotes]-->[2]<!--[endif]-->

As further proof that the goods offered by the respective parties are related, the Examining Attorney provides website excerpts. The website excerpts provided are for general retail sale or sale of third party goods. That noncompeting products are sold in the same store does not establish that products are related or that there is a likelihood of confusion; many stores offer highly disparate goods. *Recot v. Becton*, 214 F.3d 1322, 54 U.S.P.Q.2d 1894 (Fed. Cir. 2000); *Hi-Country Foods Corp. v. High Country Beef Jerky*, 4 U.S.P.Q.2d 1169, 1171-72 (T.T.A.B. 1987) ("no 'per se' rule that all food products are related goods by ... virtue of their capability of being sold in the same food

markets"); *see also* Kirkpatrick, Richard L., *Likelihood of Confusion in Trademark Law* Section 5:12.2. In that regard, it should be noted that the same websites referenced by the Examining Attorney also sell items such as Global Positioning Systems, MP3 players, and fishing tackle. Certainly, such demonstrates that the websites at issue are resellers of a broad selection of items, and are of limited value in establishing a connection between protective eyewear and binoculars. While the similar goods to those of the respective parties are occasionally sold through the same online retail channels (albeit under different categories, arguably akin to different departments in the traditional brick and mortar retail outlet) the offerings of the Registrant and of the Applicant are clearly not competitive, and the goods are not interchangeable, making it unlikely that any confusion will result. Using the websites of online retail stores cited in the instant office action to demonstrate the relatedness of the goods would be akin to arguing that "fishing tackle" and protective eyewear are related because they are sold on the same website.

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Finally, as further support to demonstrate that the offerings of Applicant and those of Registrant are related, the Examining Attorney provides excerpts from articles. However, such articles when taken in context do not stand for the proposition that the goods are related. While it is acknowledged that the articles provided by the Examining Attorney do in fact contain both the terms "binocular" and "protective eyewear" the two terms are used in a context that does not indicate that goods are related. For example, the article, *RING OF FIRE; How to Enjoy a Must-See Astronomical Phenomenon*, cited by the Examining Attorney in the instant Office Action if anything indicates that the respective terms, "binoculars" and "protective eyewear" are completely unrelated. In principle part, this article is about an eclipse: "on Jan. 4, the moon will move within the sun's borders, but won't block all its light... This phenomenon _known as the Ring of Fire_hasn't been visible from Southern California at sunset since before the height of the Roman Empire." While the articles refer to both "binoculars" and "protective eyewear", nowhere in the articles does it indicate that the goods are used interchangeably or together. Instead, for example, the *Ring of Fire* article discusses viewing the eclipse: "Project the eclipse on to a piece of paper. You can do so by allowing sunlight to pass through one of the front lenses of a pair of binoculars. Don't look at the sun with unprotected eyes while positioning your binoculars or you'll risk retina damage." The article itself fails to indicate, as the Examiner purports, that "binoculars" and "protective eyewear" are related or are used interchangeably. To utilize articles as evidence that goods are related for a likelihood of confusion analysis, it is necessary to consider the manner in which the relevant terms are utilized in the articles. By taking the articles out of context to establish likelihood of confusion, as the Examining Attorney has done in the instant case, would ultimately result in a finding of relatedness for virtually all consumer products and services. The articles provided by the Examining Attorney do not support the proposition that the goods are related and are accordingly of no value in the likelihood of confusion analysis.

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In light of the foregoing and in consideration of the arguments submitted previously, the Applicant maintains that the threshold of a "probability" of confusion has not been met in this case. The differences between the parties' offerings render the possibility of consumer confusion quite remote. Considering the totality of the circumstances, the Applicant therefore submits that consumer confusion is not likely and respectfully requests that the Examining Attorney withdraw the refusal under Section 2(d) of the Trademark Act, and approve this application for publication.

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In view of the amendments and remarks set forth herein, and in further view of the fact that a search of the Office records found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), the Applicant believes that the Office Action has been fully responded to and believes the application is in condition for registration. It is respectfully requested that the Examining Attorney reconsider the refusal to register and pass this application to registration on the Principal Register.

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Applicant notes that a Notice of Appeal is being filed concurrently with the submission of this response.

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In the event the Examining Attorney has any queries regarding the instantly submitted amendments and remarks, the Applicant's attorney respectfully requests the courtesy of a telephone conference to discuss any matters in need of attention.

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<!--[if !supportFootnotes]-->[1]<!--[endif]--> These registrations are now in the name of The Society for the Preservation of Trademark Abuse LLC, established to obtain the trademarks being auction by Order of the United States Bankruptcy Court for the Northern District of Illinois. *In re Leo Stoller*, Case No. 05 B 64075 (August. 2007) (Exhibit F).

<!--[if !supportFootnotes]-->[2]<!--[endif]--> Registration No. 2610371 similarly deleted "safety goggles" from the identification of goods and therefore contains neither "binoculars" nor any form of protective eyewear.

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	decision; USPTO sanction order.
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SIGNATORY'S NAME	Michelle P. Ciotola
SIGNATORY'S POSITION	Applicant's Attorney
DATE SIGNED	12/12/2007
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Dec 12 15:12:12 EST 2007
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Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **78903884** has been amended as follows:

ARGUMENT(S)
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As evidence that the goods offered by Applicant and those offered by Registrant are related, or are of a kind likely to emanate from a single source, the Examining Attorney provides 14 third-party registrations. However, numerous of these registrations include such a broad scope of goods as to significantly limit their probative value in this regard. For example, in addition to "binoculars" and "safety goggles", Registration No. 2647909 includes "magnets", and "pre-recorded videos, CD-ROMS, and DVDs featuring information about animals" as well as numerous other goods in Class 9. Similarly, Registration No. 2705039 is the name of a team in the Women's United Soccer Association, and includes goods and services in a variety of classes ranging from pajamas to microscopes. Further, Registration No. 2909536 includes "electric cigar lighters for land vehicles" and "electronic pocket translators" as well as "binoculars" and "protective eyewear". Finally, Registration No. 3025158 covers a variety of goods in Class 9, including "slot machines". Given the broad scope of goods each of the above registrations covered, they are inappropriate to show the goods of Applicant and those of Registrant are related. Using any of the above third-party registrations to demonstrate relatedness of the goods would be akin to arguing that slot machines and protective eyewear are related based on third-party registrations. If third-party registrations alone were sufficient to prove relatedness, "then virtually all consumer products and services would be related." *CNL Tampa Int'l Hotel Partenrship, LP v. Palazzolo*, Opposition No. 91163724 (March 7, 2006) (102 third-party registration with both parties goods and services insufficient to establish a likelihood of confusion).

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In addition to the above-discussed third-party registrations, the Examining Attorney cites Registration Nos. 2273229, 2057613, 2138609, and 2320324 as further evidence that the goods of Applicant and those of Registrant are related. While initially, Applicant notes that the scope of goods protected under each of these third-party registrations are of such a broad nature as to make their probative value significantly limited, the Examining Attorney should note that each of these registrations were previously owned by Central Manufacturing Co., an entity owned by Leo Stoller.<!--[if !supportFootnotes]-->[1]<!--[endif]--> On July 14, 2006, the United States Patent and Trademark Office sanctioned Leo Stoller, limiting his privilege to practice before the USPTO based on violations of his responsibilities under Patent and Trademark Rule 10.18(b). Exhibit G. In relevant part the TTAB noted that the website of Leo Stoller purported to "control over 10,000 famous trademarks" but exhibits from the website failed to demonstrate the offering for sale any goods or services, other than the "rental" of the marks themselves, thereby questioning whether there was any actual demonstrable use of marks owned by Leo Stoller or entities in his control. *Id.* Based on these sanctions and the previous fraudulent conduct of Leo Stoller, the instantly cited registrations are of no probative value in establishing the goods of Applicant and those of Registrant are related.

<!--[if !supportEmptyParas]--> <!--[endif]-->

Finally with respect to the third-party registrations cited by the Examining Attorney, it is necessary to note that Registration Nos. 2724438 and 2610371, do not include "binoculars" in the identification of goods. Exhibits H & I. Instead, in both registrations, "binoculars" appears in brackets indicating that goods have been deleted from the registration (see TMEP 1402.12) and is therefore inapplicable to the analysis at hand.<!--[if !supportFootnotes]-->[2]<!--[endif]-->

As further proof that the goods offered by the respective parties are related, the Examining Attorney provides website excerpts. The website excerpts provided are for general retail sale or sale of third party goods. That noncompeting products are sold in the same store does not establish that products are related or that there is a likelihood of confusion; many stores offer highly disparate goods. *Recot v. Becton*, 214 F.3d 1322, 54 U.S.P.Q.2d 1894 (Fed. Cir. 2000); *Hi-Country Foods Corp. v. High Country Beef Jerky*, 4 U.S.P.Q.2d 1169, 1171-72 (T.T.A.B. 1987) ("no 'per se' rule that all food products are related goods by ... virtue of their capability of being sold in the same food markets"); *see also* Kirkpatrick, Richard L., *Likelihood of Confusion in Trademark Law* Section 5:12.2. In that regard, it should be noted that the same websites referenced by the Examining Attorney also sell items such as Global Positioning Systems, MP3 players, and fishing tackle. Certainly, such demonstrates that the websites at issue are resellers of a broad selection of items, and are of limited value in establishing a connection between protective eyewear and binoculars. While the similar goods to those of the respective parties are occasionally sold through the same online retail channels (albeit under different categories, arguably akin to different departments in the traditional brick and mortar retail outlet) the offerings of the Registrant and of the Applicant are clearly not competitive, and the goods are not interchangeable, making it unlikely that any confusion will result. Using the websites of online retail stores cited in the instant office action to demonstrate the relatedness of the goods would be akin to arguing that "fishing tackle" and protective eyewear are related because they are sold on the same website.

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Finally, as further support to demonstrate that the offerings of Applicant and those of Registrant are related, the Examining Attorney provides excerpts from articles. However, such articles when taken in context do not stand for the proposition that the goods are related. While it is acknowledged that the articles provided by the Examining Attorney do in fact contain both the terms "binocular" and "protective eyewear" the two terms are used in a context that does not indicate that goods are related. For example, the article, *RING OF FIRE; How to Enjoy a Must-See Astronomical Phenomenon*, cited by the Examining Attorney in the instant Office Action if anything indicates that the respective terms, "binoculars" and "protective eyewear" are completely unrelated. In principle part, this article is about an eclipse: "on Jan. 4, the moon will move within the sun's borders, but won't block all its light... This phenomenon _known as the Ring of Fire_hasn't been visible from Southern California at sunset since before the height of the Roman Empire." While the articles refer to both "binoculars" and "protective eyewear", nowhere in the articles does it indicate that the goods are used interchangeably or together. Instead, for example, the *Ring of Fire* article discusses viewing the eclipse: "Project the eclipse on to a piece of paper. You can do so by allowing sunlight to pass through one of the front lenses of a pair of binoculars. Don't look at the sun with unprotected eyes while positioning your binoculars or you'll risk retina damage." The article itself fails to indicate, as the Examiner purports, that "binoculars" and "protective eyewear" are related or are used interchangeably. To utilize articles as evidence that goods are related for a likelihood of confusion analysis, it is necessary to consider the manner in which the relevant terms are utilized in the articles. By taking the articles out of context to establish likelihood of

confusion, as the Examining Attorney has done in the instant case, would ultimately result in a finding of relatedness for virtually all consumer products and services. The articles provided by the Examining Attorney do not support the proposition that the goods are related and are accordingly of no value in the likelihood of confusion analysis.

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In light of the foregoing and in consideration of the arguments submitted previously, the Applicant maintains that the threshold of a "probability" of confusion has not been met in this case. The differences between the parties' offerings render the possibility of consumer confusion quite remote. Considering the totality of the circumstances, the Applicant therefore submits that consumer confusion is not likely and respectfully requests that the Examining Attorney withdraw the refusal under Section 2 (d) of the Trademark Act, and approve this application for publication.

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In view of the amendments and remarks set forth herein, and in further view of the fact that a search of the Office records found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), the Applicant believes that the Office Action has been fully responded to and believes the application is in condition for registration. It is respectfully requested that the Examining Attorney reconsider the refusal to register and pass this application to registration on the Principal Register.

<!--[if !supportEmptyParas]--> <!--[endif]-->

Applicant notes that a Notice of Appeal is being filed concurrently with the submission of this response.

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In the event the Examining Attorney has any queries regarding the instantly submitted amendments and remarks, the Applicant's attorney respectfully requests the courtesy of a telephone conference to discuss any matters in need of attention.

<!--[if !supportEmptyParas]--> <!--[endif]-->

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<!--[if !supportFootnotes]-->

<!--[endif]-->

<!--[if !supportFootnotes]-->[1]<!--[endif]--> These registrations are now in the name of The Society for the Preservation of Trademark Abuse LLC, established to obtain the trademarks being auction by Order of the United States Bankruptcy Court for the Northern District of Illinois. *In re Leo Stoller*, Case No. 05 B 64075 (August. 2007) (Exhibit F).

<!--[if !supportFootnotes]-->[2]<!--[endif]--> Registration No. 2610371 similarly deleted "safety goggles" from the identification of goods and therefore contains neither "binoculars" nor any form of protective eyewear.

EVIDENCE

Evidence in the nature of website excerpts; online encyclopedia entries; dictionary entries; UPSTO TARR printouts; Bankruptcy Court decision; USPTO sanction order. has been attached.

Original PDF file:

http://tgate/PDF/RFR/2007/12/12/20071212151212568231-78903884-002_001/evi_1217889104-145220785_._Exhibits_A_-_E_12-12-2007.pdf

Converted PDF file(s) (23 pages)

Evidence-1
Evidence-2
Evidence-3
Evidence-4
Evidence-5
Evidence-6
Evidence-7
Evidence-8
Evidence-9
Evidence-10
Evidence-11
Evidence-12
Evidence-13
Evidence-14
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Original PDF file:

http://tgate/PDF/RFR/2007/12/12/20071212151212568231-78903884-002_002/evi_1217889104-145220785_._Exhibits_F_-_I_12-12-2007.pdf

Converted PDF file(s) (33 pages)

Evidence-1
Evidence-2
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SIGNATURE(S)
Request for Reconsideration Signature
Signature: /Michelle P. Ciotola/ Date: 12/12/2007
Signatory's Name: Michelle P. Ciotola
Signatory's Position: Applicant's Attorney

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the applicant or (2) a person(s) with legal authority to bind the applicant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 78903884
Internet Transmission Date: Wed Dec 12 15:12:12 EST 2007
TEAS Stamp: USPTO/RFR-12.178.89.104-2007121215121256
8231-78903884-410176553168682f515995bda4
980d91-N/A-N/A-20071212145220785451

EXHIBIT A

Binoculars

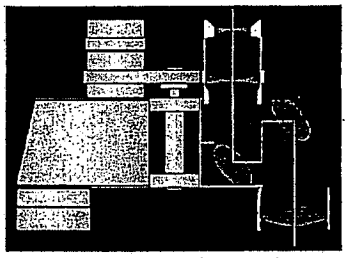
From Wikipedia, the free encyclopedia

Binocular telescopes, or **binoculars**, (also known as field glasses) are two identical or mirror-symmetrical telescopes mounted side-by-side and aligned to point accurately in the same direction, allowing the viewer to use both eyes (binocular vision) when viewing distant objects. Most are sized to be held using both hands, although there are much larger types.

Unlike a monocular telescope, binoculars give users a three-dimensional image: the two views, presented from slightly different viewpoints to each of the viewer's eyes, merge to produce a single perceived view with a sensation of depth, allowing distances to be estimated. There is no need to close or obstruct one eye to avoid confusion, as is usual with monocular telescopes. When using hand-held binoculars the two hands and the head form a steady three-point platform, with less tendency to shake than a single-eye instrument.

Contents

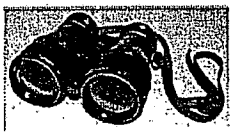
- 1 Optical design
  - 1.1 Galilean binoculars
  - 1.2 Porro prism binoculars
  - 1.3 Roof prism binoculars
  - 1.4 Porro vs. Roof prisms
- 2 Optical parameters
- 3 Optical coatings
- 4 Mechanical design
  - 4.1 Focusing and adjustment
  - 4.2 Image stabilization
  - 4.3 Alignment
- 5 Applications
  - 5.1 General use
  - 5.2 Military
  - 5.3 Astronomical
- 6 Manufacturers
- 7 See also
- 8 Notes
- 9 References
- 10 External links



A typical Porro prism binocular design

Optical design

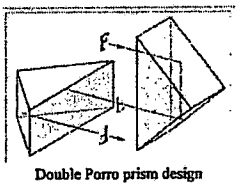
Galilean binoculars



Galilean binoculars

Almost from the invention of the telescope in the 17th century the advantages of mounting two of them side by side for binocular vision seems to have been explored[1]. Most early binoculars used Galilean optics; that is they used a convex objective and a concave eyepiece lens. The Galilean design has the advantage of presenting an erect image but has a narrow field of view and is not capable of very high magnification. This type of construction is still used in very cheap models and in "opera glasses" or theater glasses.

Porro prism binoculars



Double Porro prism design

Named after Italian optician Ignazio Porro who patented this image erecting system in 1854 and later refined by makers like Carl Zeiss in the 1890's[1], binoculars of this type use a **Porro prism** in a double prism Z-shaped configuration to erect the image. This feature results in binoculars that are wide, with objective lenses that are well separated but offset from the eyepieces. Porro prism designs have the added benefit of folding the optical path so that the physical length of the binoculars is less than the focal length of the objective and wider spacing of the objectives gives better sensation of depth.

Roof prism binoculars

Abbe-Koenig "roof prism" design

Binoculars using **Roof prisms** may have appeared as early as the 1880s in a design by Achille Victor Emile Daubresse[2] [3]. Most roof prism binoculars use either the Abbe-Koenig prism (named after Ernst Karl Abbe and Albert Koenig and patented by Carl Zeiss in 1905)[4] or Schmidt-Pechan prism (invented in 1899) designs to erect the image and fold the optical path. They are narrower, more compact, and more expensive than those that use Porro prisms. They have objective lenses that are approximately in line with the eyepieces.

Porro vs. Roof prisms

Aside from the difference in price and portability noted above these two designs have effects on reflections and brightness. Porro-prism binoculars will inherently produce an intrinsically brighter image than roof-prism binoculars of the same magnification, objective size, and optical quality, as less light is absorbed along the optical path. However, as of 2005, the optical quality of the best roof-prism binoculars with up-to-date coating processes as used in Schmidt-Pechan models is comparable with the best Porro glasses, and it appears that roof prisms will dominate the market for high-quality portable binoculars in spite of their higher price. The major European optical manufacturers (Leica, Zeiss, Swarovski) have discontinued their Porro lines; Japanese manufacturers (Nikon, Fujinon, etc.) may follow suit.

Optical parameters

Binoculars are usually designed for the specific application for which they are intended. Those different designs create certain optical parameters (some of which may be listed on the prism cover plate of the binocular). Those parameters are:

Parameters listed on the prism cover plate describing a 7 power magnification binocular with a 50 mm Objective diameter and a 372-foot (113 m) Field of view at 1,000 yards (1,000 m).

Magnification - The ratio of the focal length of the eyepiece divided into the focal length of the objective gives the linear magnifying power of binoculars (sometimes expressed as "diameters"). A magnification of factor 7, for example, produces an image as if one were 7 times closer to the object. The amount of magnification depends upon the application the binoculars are designed for. Hand-held binoculars have lower magnifications so they will be less susceptible to shaking. A larger magnification leads to a smaller field of view.

Objective diameter – The diameter of the objective lens determines how much light can be gathered to form an image. It is usually expressed in millimeters.

It is customary to categorize binoculars by the magnification × the objective diameter; e.g. 7×50.

Field of view - The field of view of binoculars is determined by its optical design. It is usually notated in a linear value, such as how many feet (meters) in width will be seen at 1,000 yards (or 1,000 m), or in an angular value of how many degrees can be viewed.

Exit pupil - Binoculars concentrate the light gathered by the objective into a beam, the exit pupil, whose diameter is the objective diameter divided by the magnifying power. For maximum effective light-gathering and brightest image, the exit pupil should equal the diameter of the fully dilated iris of the human eye—about 7 mm, reducing with age. Light gathered by a larger exit pupil is wasted. For daytime use an exit pupil of 3 mm—matching the eye's contracted pupil—is sufficient. However, a larger exit pupil makes alignment of the eye easier and avoids dark vignetting intruding from the edges.

Eye relief - Eye relief is the distance from the rear eyepiece lens to where the image is formed. It determines the distance the observer must position his or her eye behind the eyepiece in order to see an unvignetted image. The longer the focal length of the eyepiece, the greater the eye relief. Binoculars may have eye relief ranging from few millimeters to 2.5 centimeters or more. Eye relief can be particularly important for eyeglass wearers. The eye of an eyeglass wearer is typically further from the eye piece which necessitates a longer eye relief in order to still see the entire field of view. Binoculars with short eye relief can also be hard to use in instances where it is difficult to hold them steady.

Optical coatings

Since binoculars may have 16 air-to-glass surfaces, with light lost at every surface, optical coatings can significantly affect their image quality. When light strikes an interface between two materials of different refractive index (e.g., at an air-glass interface), some of the light is transmitted, some reflected. In any sort of image-forming optical instrument (telescope, camera, microscope, etc.), ideally no light should be reflected; instead of forming an image, light which reaches the viewer after being reflected is distributed in the field of view, and reduces the contrast between the true image and the background. Reflection can be reduced, but not eliminated, by applying optical coatings to interfaces. Each time light enters or leaves a piece of glass; about 5% is reflected back. This "lost" light bounces around inside the binoculars, making the image hazy and hard to see. Lens coatings effectively lower reflection losses, which finally results in a brighter and sharper image. For example, 8x40 binoculars with good optical coatings will yield a brighter image than uncoated 8x50 binoculars. Light can also be reflected from the interior of the instrument, but it is simple to minimize this to negligible proportions. Contrast is also improved by good coating due to the partial elimination of internal reflections.

U.S. Navy binoculars

A classic lens-coating material is magnesium fluoride; it reduces reflections from 5% to 1%. Modern lens coatings consist of complex multi-layers and reflect only 0.25% or less to yield an image with maximum brightness and natural colors. For roof-prisms, anti-phase shifting coatings are sometimes used which significantly improve contrast. The presence of a coating is typically denoted on binoculars by the following terms:

- coated optics: one or more surfaces coated.
- fully coated: all air-to-glass surfaces coated. Plastic lenses, however, if used, may not be coated.
- multi-coated: one or more surfaces are multi-layer coated.
- fully multi-coated: all air-to-glass surfaces are multi-layer coated.

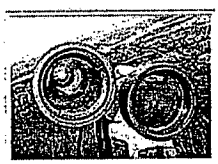
Phase-corrected prism coating and dielectric prism coating are recent (in 2005) effective techniques for reducing reflections.

Mechanical design

Focusing and adjustment

Binoculars to be used to view objects that are not at a fixed distance must have a focusing arrangement. Traditionally, two different arrangements have been used to provide focus. Binoculars with "independent focus" require the two telescopes to be focused independently by adjusting each eyepiece, thereby changing the distance between ocular and objective lenses. Binoculars designed for heavy field use, such as military applications, traditionally have used independent focusing. Because general users find it more convenient to focus both tubes with one adjustment action, a second type of binocular incorporates "central focusing", which involves rotation of a central focusing wheel. In addition, one of the two eyepieces can be further adjusted to compensate for differences between the viewer's eyes (usually by rotating the eyepiece in its mount). This is known as a diopter. Once this adjustment has been made for a given viewer, the binoculars can be refocused on an object at a different distance by using the focusing wheel to move both tubes together without eyepiece readjustment.

There are also "focus-free" or "fixed-focus" binoculars. They have a depth of field from a relatively large closest distance to infinity, and perform exactly the same as a focusing model of the same optical quality (or lack of it) focused on the middle distance.


Binoculars with internal elements visible

Zoom binoculars, while in principle a good idea, are generally considered not to perform very well. [1] (http://www.monkoptics.co.uk/aboutbinoculars.html) [2] (http://outside.away.com/outside/gear/gearguy/200202/20020213.html)

Most modern binoculars have hinged-telescope construction that enables the distance between eyepieces to be adjusted to accommodate viewers with different eye separation. This adjustment feature is lacking on many older binoculars.

Image stabilization

Shake can be much reduced, and higher magnifications used, with binoculars using image-stabilization technology. Parts of the instrument which change the position of the image may be held steady by powered gyroscopes or by powered mechanisms driven by gyroscopic or inertial detectors, or may be mounted in such a way as to oppose and dampen sudden movement. Stabilization may be enabled or disabled by the user as required. These techniques allow binoculars up to 20× to be hand-held, and much improve the image stability of lower-power instruments. There are some disadvantages: the image may not be quite as good as the best unstabilized binoculars when tripod-mounted, stabilized binoculars also tend to be more expensive and heavier than similarly specified non-stabilised binoculars.

Alignment

Well-collimated binoculars, when viewed through human eyes and processed by a human brain, should produce a single circular, apparently three-dimensional image, with no visible indication that one is actually viewing two distinct images from slightly different viewpoints. Departure from the ideal will cause, at best, vague discomfort and visual fatigue, but the perceived field of view will be close to circular anyway. The cinematic convention used to represent a view through binoculars as two circles partially overlapping in a figure-of-eight shape is not true to life.

Misalignment is remedied by small movements to the prisms, often by turning screws accessible without opening the binoculars, or by adjusting the position of the objective via eccentric rings built into the objective cell. Alignment is usually done by a professional although instructions for checking binoculars for collimation errors and for collimating them can be found on the Internet.

Applications

General use

Coin-operated binoculars

Hand-held binoculars range from small 3x10 Galilean opera glasses, used in theaters, to glasses with 7 to 12 diameters magnification and 30 to 50 mm objectives for typical outdoor use. Porro prism models predominate although bird watchers and hunters tend to prefer, and are prepared to pay for, the lighter but more expensive roof-prism models.

Many tourist attractions have installed pedestal-mounted, coin-operated binoculars to allow visitors to obtain a closer view of the attraction. In the United Kingdom, 20 pence often gives a couple of minutes of operation, and in the United States, one or two quarters gives between one-and-a-half to two-and-a-half minutes.

Military

People in Orchid, Florida use binoculars for birdwatching.

Binoculars have a long history of military use. Galilean designs were widely used up to the end of the 19th century when they gave way to porro prism types. Binoculars constructed for general military use tend to be more heavily ruggedized than their civilian counterparts. They generally avoid more fragile center focus arrangements in favor of independent focus. Prism sets in military binoculars may have redundant aluminized coatings on their prism sets to guarantee they don't lose their reflective qualities if they get wet. Military binoculars of the cold war era were sometimes fitted with passive sensors that detected active IR emissions, while modern ones usually are fitted with filters blocking laser beams. Further, binoculars designed for military usage may include a stadiametric reticle in one ocular in order to facilitate range estimation.

There are binoculars designed specifically for civilian and military use at sea. Hand held models will be 5x to 7x but with very large prism sets combined with eyepieces designed to give generous eye relief. This optical combination prevents the image vignetting or going dark when the binoculars are pitching and vibrating relative to the viewer's eye. Large, high-magnification, models with large objectives are also used in fixed mountings.

Very large binocular naval rangefinders (up to 15 meters separation of the two objective lenses, weight 10 tons, for ranging World War II naval gun targets 25 km away) have been used, although late-20th century technology made this application redundant.

Astronomical

Naval ship binoculars

Binoculars are widely used by amateur astronomers; their wide field of view making them useful for comet and supernova seeking (giant binoculars) and general observation (portable binoculars). The Galilean moons of Jupiter, Ceres, Neptune, Pallas and Titan are invisible to the naked eye but can readily be seen with binoculars. Although technically visible unaided in pollution-free skies, Uranus and Vesta require binoculars for practical observation.

10x50 binoculars are limited to a magnitude of around +9.5, which means asteroids like Interamnia, Davida, Europa and, except under exceptional conditions Hygiea, are too faint to be seen with binoculars. Likewise too faint to be seen with binoculars are all moons except the Galileans and Titan, and the dwarf planets Pluto and Eris.

Of particular relevance for low-light and astronomical viewing is the ratio between magnifying power and objective lens diameter. A lower magnification facilitates a larger field of view which is useful in viewing large deep sky objects such as the Milky Way, nebula, and galaxies, though the large exit pupil means some of the gathered light is wasted. The large exit pupil will also image the night sky background, effectively decreasing contrast, making the detection of faint objects more difficult except perhaps in remote locations with negligible light pollution. Binoculars specifically for most astronomical uses have higher magnification and a larger aperture objective because the diameter of the objective lens determines the faintest star that can be observed.

Much larger binoculars have been made by amateur telescope makers, essentially using two refracting or reflecting astronomical telescopes, with mixed results. A very large professional instrument, although not one that would normally be called binoculars, is the Large Binocular Telescope in Arizona, USA, which produced its "First Light" image on October 26, 2005. The LBT comprises two 8-meter reflector telescopes. While obviously not intended to be held to the eyes of a viewer, it uses two telescopes to view the same object, giving higher resolving power than a single instrument of the same light-gathering power, and allowing interferometric use.

Manufacturers

Some notable binocular manufacturers as of 2005:

1. European brands

- Leica GmbH (Ultravid, Duovid, Geovid: all are Roof)
- Minox
- Swarovski Optik (SLC, EL: all are Roof; Habicht: Porro, but to be discontinued)
- Zeiss GmbH (FL,Victory, Conquest: all are Roof; 7x50 BGAT/T: Porro, 15x60 BGA/T Porro, discontinued)
- Eschenbach Optik GmbH (Farlux, Trophy, Adventure, Sektor...; some are Roof, some are Porro)
- Docter (the former Carl Zeiss Jena plant in Eisfeld. Nobilem 7x50, 8x56, 10x50, 15x60: Porro; Docter 7x40, 8x40, 10x40: roofs)
- Optolyth (Royal: Roof; Alpin: Porro)
- Steiner GmbH (Commander, Nighthunter: Porro; Predator, Wildlife: Roof)

2. Japanese brands

- Canon Inc. (I.S. series, Porro variants?)
- Nikon Co. (High Grade series, Monarch series, RAII, Spotter series: Roof; Prostar series, Superior E series, E series, Action EX series: Porro)

- Fujinon Co. (FMTSX, MTSX series: Porro)
- Kowa Co. (BD series: Roof)
- Pentax Co. (DCFSP/XP series; Roof, UCF series: Inverted Porro; PCFV/WP/XCF series: Porro)
- Olympus Co. (EXWPI series: Roof)
- Vixen Co. (Apex/Apex Pro: Roof; Ultima: Porro)*
- Zenith
- Miyauchi Co. (Specialized in over-sized Porro binocualars)

* Also sells OEM products manufactured by the KAMAKURA KOKI CO. LTD. of Japan.

3. Chinese brands

In the early years of the 21st century, some mid-priced binoculars have become available in the internal Chinese market. A few of them are said to be comparable both in performance and in price to some of the better brands, with the great majority of them being inferior.

- Sicong (from Xian Stateoptics. Navigator series: Roof; Ares series: Porro)
- WDtian (from Yunnan State optics, all Porro)
- Yunnan State optics (MS series: Porro)

4. American brands

- Alpen*
- Barska
- Brunton, Inc.
- Bushnell Performance Optics*
- Carson Optical
- Leupold & Stevens, Inc.*
- Simmons
- Vortex Optics
- Weaver
- William Optics
- Zen-Ray Optics (http://www.zen-ray.com) SUMMIT, Vista Series WP binoculars

* Also sells OEM products manufactured by the KAMAKURA KOKI CO. LTD. of Japan.

5. Russian brands

- Yukon Advanced Optics
- Baigish
- Kronos
- Russian Military Binoculars (BPOc 10x42 7x30, BKFC series)

See also

- Anti-fogging treatment of optical surfaces
- Binoviewer
- David Blair (naval officer)

Notes

1. ^ [a] [b] Europa.com (http://www.europa.com/~telscope/binohist.txt) - The Early History of the Binocular
2. ^ groups.google.co.ke (http://groups.google.co.ke/group/sci.astro.amateur/tree/browse_frm/month/2002-08/5a0a50e6887feb69?rnum=71&_done=%2Fgroup%2Fsci.astro.amateur%2Fbrowse_frm%2Fmonth%2F2002-
3. ^ photodigital.net (http://www.photodigital.net/lists/rec.photo.equipment.misc/4/0455.html) - rec.photo.equipment.misc Discussion: Achille Victor Emile Daubresse, forgotten prism inventor
4. ^ Company7.com (http://www.company7.com/zeiss/history.html) - A History Of A Most Respected Name In Optics

References

- Nightskyinfo.com, *A Guide to Binoculars (http://www.nightskyinfo.com/binoculars)* , Emil Neata
- The history of the telescope & the binocular (http://www.europa.com/~telscope/binotele.htm) , *The First 300 Years of Binocular Telescopes (http://www.europa.com/~telscope/binilhst.txt)* , Peter Abrahams, May 2002

External links

- A Guide to Binoculars (http://www.nightskyinfo.com/binoculars)

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Categories: All articles with unsourced statements | Articles with unsourced statements since June 2007 | Optical devices

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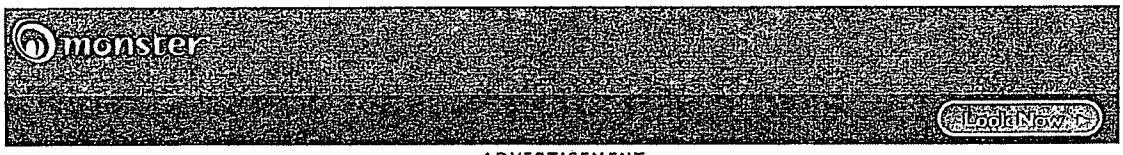

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bin·oc·u·lar [buh-**nok**-yuh-ler, bahy-] Pronunciation Key – Show IPA Pronunciation

-noun

1. Usually, **binoculars.** Also called **pair of binoculars, prism binoculars.** an optical device, providing good depth effect, for use with both eyes, consisting of two small telescopes fitted together side by side, each telescope having two prisms between the eyepiece and objective for erecting the image.

-adjective

2. involving both eyes: *binocular vision.*

[Origin: 1705-15; BIN- + OCULAR.]

—Related forms

bin·oc·u·lar·i·ty, *noun*
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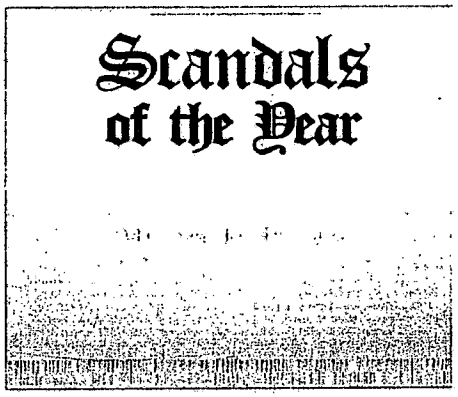
bin·oc·u·lar (bə-nŏk'yə-lər, bī-) Pronunciation Key

adj.

1. Relating to, used by, or involving both eyes at the same time: *binocular*



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vision.
2. Having two eyes arranged to produce stereoscopic vision.

n. An optical device, such as a pair of field glasses or opera glasses, designed for simultaneous use by both eyes and consisting of two small telescopes joined with a single focusing device. Often used in the plural.

bin·oc'u·lar'i·ty (-lăr'ĭ-tē) *n.*, **bin·oc'u·lar·ly** *adv.*

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binoculars

noun
an optical instrument designed for simultaneous use by both eyes

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binoculars [bi'nokjuləz] *noun plural*
an instrument for making distant objects look nearer, with separate eyepieces for each eye
Example: *He looked at the ship on the horizon through his binoculars.*

Arabic: ملظار ذو عتسّتين
Chinese (Simplified): 双眼望远镜
Chinese (Traditional): 雙眼望遠鏡
Czech: dalekohled (pro obě oči)
Danish: kikkert
Dutch: verrekijker
Estonian: binokkel
Finnish: kiikari
French: jumelles
German: das Fernglas
Greek: κιάλια
Hungarian: távcső
Icelandic: sjónauki
Indonesian: keker, teropong
Italian: binocolo
Japanese: 双眼鏡
Latvian: binoklis
Lithuanian: žiūronai
Norwegian: kikkert
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Portuguese (Brazil): binóculo
Portuguese (Portugal): binóculo
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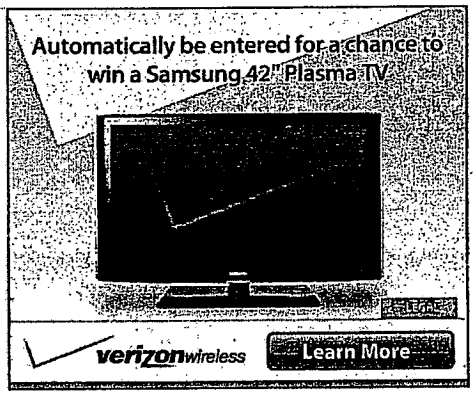
binocular (bə-nŏk'yə-lər) Pronunciation Key

Adjective Relating to or involving both eyes at once, as in binocular vision.

Noun An optical device, such as a pair of field glasses, consisting of two small telescopes, designed for use by both eyes at once. Often used in the plural as *binoculars.*



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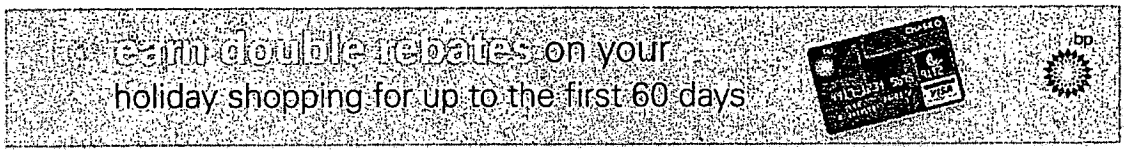

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eye·wear [ahy-wair] Pronunciation Key – Show IPA Pronunciation

-noun

any of various devices, as spectacles, contact lenses, or goggles, for aiding the vision or protecting the eyes.

[Origin: 1925–30; EYE + WEAR,]

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eye·wear ('wâr') Pronunciation Key

n.

1. Eyeglasses, goggles, or other objects worn over the eyes.
2. Fashionable eyeglasses.

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Main Entry: **eye·wear**
Pronunciation: `'I-"wa(&)r, -"we(&)r`
Function: *noun*
: corrective or protective devices (as glasses or contact lenses) for the eyes

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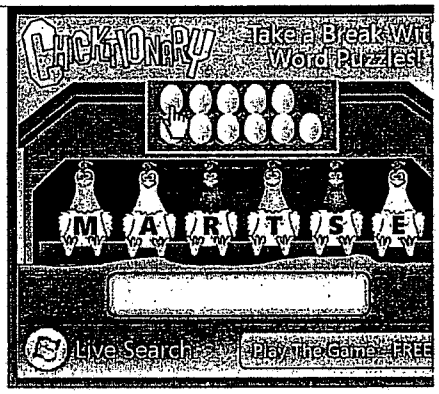

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EXHIBIT D

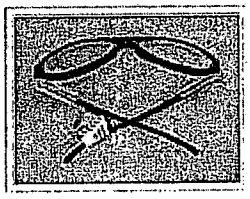
Eye protection

From Wikipedia, the free encyclopedia
(Redirected from Protective eyewear)

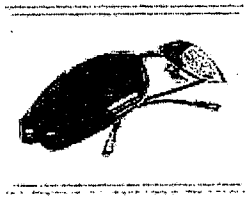
Also see Personal protective equipment: Eye protection. **Eye protection** refers to protective clothing for the eyes, which comes in many types depending upon the threat that is to be reduced.

- **Safety glasses** protect against flying debris but may also protect against visible and near visible light or radiation.
- **Sunglasses** protect against high levels of visible and ultraviolet light.
- **Welding glass** is a more extreme implementation of the same idea, suited to the more intense light generated during welding. Grade 14 welding glass (which is much stronger than sunglasses) can also be used to stare directly at the sun (i.e. to view a solar eclipse).
- **Goggles** are forms of protective eyewear that usually enclose or protect the eye area in order to prevent particulates, infectious fluids, or chemicals from striking the eyes.
- **Laser protection eyewear** is used to protect eyes from damage from visible and invisible wavelegths of laser light. They can be similar to goggles or be lenses incorporated into other pieces of protective eyewear. Intrabeam viewing of lasers usually requires a low power laser even with protective goggles. Laser protection goggles work on the basis that laser light is one frequency, making it easy to filter out. Laser goggles are subject to degradation and damage like any other kind of eyewear. See laser safety for further information.
- **Visors**.

Prices depend on the cost, quality, wavelength(s), and type of goggle/lens. Prices range from $20 for a single lens to thousands of dollars per set of goggles.

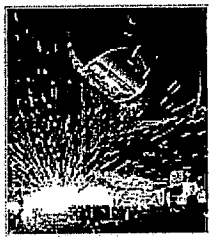


Safety glasses

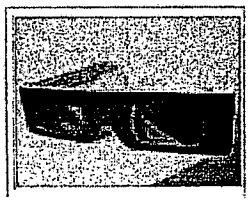


Sunglasses

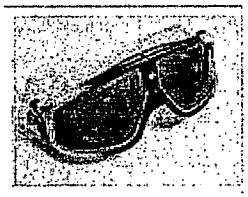
A sailor using welding goggles



An airman using a welding mask



Solar eclipse glasses



Swim goggles

A military scientist using laser protection eyewear

Infection control eye protection

The gold-impregnated faceshield of spacesuits protects astronauts from direct Sun rays.

External links

- http://radsafe.berkeley.edu/lsreyewr.html
- Eye Safety. When Eye Injuries Occur (http://www.opticsplace.com/article_31/eye_safety._when_eye_injuries_occur.htm)

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Categories: Eye | Safety equipment

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EXHIBIT E

Personal protective equipment

From Wikipedia, the free encyclopedia

Personal protective equipment (PPE) refers to protective clothing, helmets, goggles, or other gear designed to protect the wearer's body or clothing from injury by electrical hazards, heat, chemicals, and infection, for job-related occupational safety and health purposes, and in sports, martial arts, combat, etc. Personal armor is combat-specialized protective gear.

PPE can also be used to protect the working environment from pollution or infection from the worker, for example in a microchip factory.

The protection may be important in both ways, as with the use of disposable gloves by surgeons and dentists.

Protective clothing is also worn for contact sports, such as ice hockey and American football. Baseball players wear sliding shorts and a cup under their pants. See baseball clothing and equipment, goalie mask, jockstrap.

In British legislation the term PPE does not cover items such as armour.

Common protective materials include Nomex and Kevlar.

The terms "protective gear" and "protective clothing" are in many cases interchangeable; "protective clothing" is applied to traditional categories of clothing, and "gear" is a more general term and preferably means uniquely protective categories, such as pads, guards, shields, masks, etc.

For riding a motorcycle, protective headgear and eyegear are required by law in many countries.

Contents

- 1 Respiratory protection
- 2 Protective headgear
  - 2.1 Helmets
  - 2.2 Masks
  - 2.3 Eye protection
  - 2.4 Hearing protection
  - 2.5 Other head/neck protection
- 3 Arm/shoulder protection
- 4 Hand protection
- 5 Body protection
- 6 Leg/hip protection
- 7 Protective footwear
- 8 Protective garments
  - 8.1 Complete suits

Filter mask

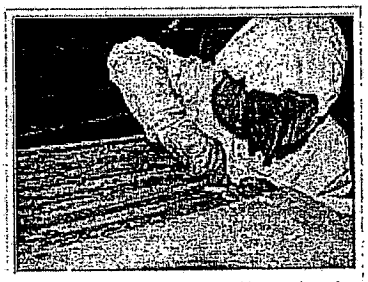
- 8.2 Other garments
- 9 Sets of equipment
  - 9.1 Other personal protective equipment
- 10 For horses
- 11 See also

Respiratory protection

- Filter mask
- Gas mask
- Air-purifying respirator
- Self Contained Breathing Apparatus, including scuba sets.

Protective headgear

Helmets



a beekeeping hat, veil, and suit

- Helmet
- Batting helmet
- Bicycle helmet
- Cricket helmet
- Diving helmet
- Football helmet
- Hard hat
- Hockey helmet
- Motorcycle helmet
- Welding helmet
- Riotsquad#Helmets

Masks

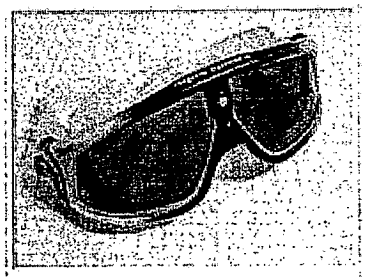
Some masks made of hard material like those used by goaltenders in ice hockey (a goalie mask) and catchers in baseball as protection against being struck in the face.

- For gasmasks and similar, see #Respiratory protection.
- Face shield
- CPR mask
- Goalie mask
- Face cage
- Visor (ice hockey)
- Diving mask
- Paintball masks

Eye protection

Also see Eye protection.

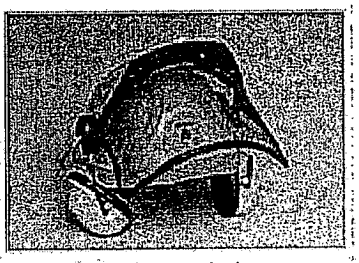
- Some helmets also protect the eyes.
- blowtorch goggles: see this image
- Goggles
- Safety glasses
- Infection control glasses
- Sunglasses
- Visor
- Baseball cap (its peak provides some protection against sun dazzle)



Goggles

Hearing protection

- Ear defenders
- Earplug
- Earmuffs
- Earpads/earflaps



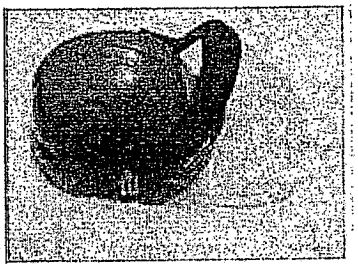
ear defenders and visor on a safety helmet

Other head/neck protection

- Throat guard
- Headguard (Head guard)
- Boxing headgear
- Mouth guard
- Mouthpiece
- Armored/insulated hood

Arm/shoulder protection

- Shoulder pads
- Hand guard
- Forearm guard
- Fist guard
- Knuckle guard
- Wrist guard
- Elbow guard
- Elbow pad
- Hand/wrist wraps
    - Boxing tape, handwrap gauze



Safety helmet with visor

Hand protection

nitrile glove

- Gloves are available to protect against:
  - Chemicals, contamination and infection (e.g. disposable latex/vinyl/nitrile gloves)
  - Extremes of temperature (e.g. oven gloves, welder's gloves)
  - Mechanical hazards (e.g. rigger gloves, chainmail gloves)
  - Lacerations and other wounds from sharp objects
- Baseball glove
- Belay gloves
- Cycling gloves
- Falconry gloves
- Hockey glove
- Wicket-keeper's gloves

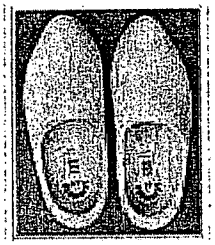
Body protection

- - Also see #Protective garments
- Athletic supporter/protective cup
- Chestguard (Chest guard, Hogu)
- Rib guard
- Abdomen guard (cricket box)

Leg/hip protection

- Foot guard
- Hip pads (Hip pad)
- Knee pads
- Instep guard/instep protector
- Shin guard (shin guards)
- Combined knee-shin guards
- Padded shorts
- Bouldering mat
- Chaps are individual pant leggings made of leather and worn by farriers, cowboys, and rodeo contestants to protect the legs from contact with hooves, thorny undergrowth, and other such work hazards. May also be made of other materials for leg protection against other hazards, such as "rain chaps" of waterproof materials, or "saw chaps" of Kevlar for chainsaw workers.

Protective footwear


clogs

- Clogs
- Steel-toe boots
- Hobnailed boots
- Combat boot

Protective garments

Protective suit is an umbrella term for any suit or clothing which protects the wearer. Any specific design of suit may offer protection against biological and chemical chemical agents, particle radiation (alpha) and/or radiation (delta and gamma), and may offer flash protection in the case of bomb disposal suits. Most forms of industrial clothing are protective clothing. Personal protective equipment includes:

Complete suits

The word "chemsuit" is sometimes used to mean a real chemical-protection suit, as well as fictional.

- Biohazard suit
- Boilersuit
- NBC or WMD suits
- Hazmat suit
- Bomb disposal suits
- Fire protection suit
- Riding suits (abrasion-proof: made of leather, kevlar, ballistic nylon, cordura, etc., and waterproof)
- spacesuit
- Splash suit, to protect against splashing chemicals
- Wetsuit and drysuit
- Immersion suit

Other garments

- Body armor:
  - bullet-proof vest
  - Historical armor
  - Futuristic powered armor.
- Apron (protects the body and other clothing from dirt) (also used as distinction by waiters)
- Nappy ("diaper" in American English)
- Motorcycle armor
- Protective vest
- Sun protective clothing
- Condom

Sets of equipment

- Chainsaw protection (especially a helmet with face guard, hearing protection, kevlar chaps, anti-vibration gloves, and safety boots). Specific information about chainsaw protection is given in the chainsaw safety clothing article.
- Bee keepers wear various levels of protection depending on the temperament of their bees and the reaction of the bees to nectar availability. At minimum most bee keepers wear a brimmed hat and a veil made of hardware cloth similar to window screen material. The next level of protection is offered by leather gloves with long gauntlets and by some way of keeping bees from crawling up one's trouser legs. In extreme cases, shirts and trousers are also fabricated to serve as barriers to the bees' stingers.
- Diving equipment (scuba gear)

Other personal protective equipment

- Lifejacket
- Hardhat mounted mirrors
- Fall-arrest equipment (i.e., if someone falls, to stop the fall without injury)
- Safety leash (to keep, e.g. a snowboard or surfboard within reach)
- Anti-rape female condom
- Chastity belt
- Warning equipment: flashing lights, reflective strips, reflectors, etc
- High-visibility clothing (to ensure visibility to prevent accidents)

For horses

For equestrians, protection of their horses is not less important:

- Tail guard
- Polo wraps

See also

- Safe Handling of Hazardous Drugs
- Hazmat
- Biohazard
- Bomb disposal
- Industrial clothing
- NBC suit
- Motorcycle safety clothing
- Chainsaw safety clothing

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Categories: Cleanup from October 2006 | All pages needing cleanup | Survival skills | Safety clothing | Headgear | Protective gear | Sports clothing

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EXHIBIT F

IN THE UNITED STATES BANKRUPTCY COURT
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In re:	)	
	)	
LEO STOLLER,	)	Case No. 05 B 64075
	)	
Debtor.	)	
	)	Honorable Jack B. Schmetterer
	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER APPROVING SALE OF DEBTOR'S ASSETS

Upon consideration of the motion (the "Sale Motion") of Richard M. Fogel, not individually, but as chapter 7 trustee herein (the "Trustee"), pursuant to 11 U.S.C. § 363(b) and Fed. R. Bankr. P. 2002, 6004 and 9006, for authority to sell the Debtors' Assets for $7,500, or such higher amounts as may be realized through competitive bidding, and for related relief, it appearing to the Court as follows:

THE COURT HEREBY FINDS that:

A. Findings and Conclusions stated during the following hearings on July 24, 2007 and August 7, 2007, and the findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Fed. R. Bankr. Proc. 7052, made applicable to this proceeding pursuant to Fed. R. Bankr. Proc. 9014.

B. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

C. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Sale Motion and the APA.

D. Notice of the Sale Motion, the Auction, and the Sale Hearing has been given in accordance with Sections 102(1) and 363 of the Bankruptcy Code, Fed. R. Bankr. Proc. 2002, 6004, 9006, 9007, and 9008, the local rules of this Court, the Sale Procedures Order, and the

APA. The foregoing notice constitutes good and sufficient notice of the Sale Motion, the Auction, and the Sale Hearing, and no other or further notice of the Sale Motion, the Auction, the Sale Hearing or the entry of this Order need be given.

E. A reasonable opportunity has been afforded any interested party to make a higher or better offer for the Assets during the Auction within the time period ordered or to object and be heard regarding the Sale Motion.

F. Sound business reasons exist for the Trustee's sale of the Assets pursuant to the APA. Entry into the APA and the consummation of the Sale contemplated thereby constitute the exercise by the Trustee's of sound business judgment and such acts are in the best interests of the Debtor, his estate and its creditors. Two major creditors supported the Trustee's Motion; no creditor opposed it.

G. Based on the results of the Auction, the Society for the Prevention of Trademark Abuse, LLC or its respective designees (collectively, the "Purchaser") made the only offer received for the Assets within the time period ordered, which offer was in the amount of $7,500.00.

H. The sale consideration to be realized by the Debtor's estate pursuant to the APA is fair and reasonable since it was the only valid offer received.

I. The APA and the transactions contemplated by the APA were negotiated and have been and are undertaken by the Trustee and the Purchaser at arm's length, without collusion and in good faith within the meaning of Section 363(m) of the Bankruptcy Code. The Auction conducted in accordance with the Sale Procedures Order entered on June 1, 2007, was conducted in good faith within the meaning of Section 363(m) of the Bankruptcy Code. As a result of the foregoing, the Trustee and the Purchaser are entitled to the protections of Section 363(m) of the Bankruptcy Code with respect to all aspects of the APA.

J. The Purchase Price under the APA is fair and reasonable and is sufficient value for the Assets, since it was the only valid offer received. Therefore, the Sale contemplated by the APA is in the best interests of the Debtor and his estate, its creditors and other parties in interest.

K. In the absence of a stay pending appeal, the Purchaser will be acting in good faith pursuant to Section 363(m) of the Bankruptcy Code in closing the transactions contemplated by the APA ~~at any time on or before August 17, 2007.~~

L. The Court incorporates by reference as if fully set forth herein the additional findings of fact and conclusions of law set forth on the record of the Auction and Sale Hearing.

For all of the foregoing and after due deliberation, the Court **ORDERS, ADJUDGES, AND DECREES THAT:**

1. The Sale Motion, the APA, the Auction, and the transactions contemplated thereby are hereby approved.

2. Pursuant to Section 363(b) of the Bankruptcy Code, the Trustee is authorized to sell the Assets to the Purchaser upon the terms and subject to the conditions set forth in the APA.

3. The Trustee and the Purchaser are hereby authorized to take all actions and execute all documents and instruments that the Trustee or the Purchaser deem necessary or appropriate to implement and effectuate the transactions contemplated by the APA.

4. The Sale of the Assets to the Purchaser shall be free and clear of all liens and all other claims whatsoever pursuant to Section 363(f) of the Bankruptcy Code, whether known or unknown, including, but not limited to, liens and claims of any of the Debtor's creditors, vendors, suppliers, employees or lessors, and the Purchaser shall not be liable in any way (as a successor to the Debtor or otherwise) for any claims that any of the foregoing or any other third party may have against the Debtor or the Assets. Any and all alleged liens and claims on the Assets shall be transferred, affixed, and attached to the proceeds of the Sale, with the same validity, priority, force, and effect as such liens had been upon such property immediately prior to the Closing.

5. Subject to the payment by the Purchaser to the Trustee of the consideration provided for in the APA, effective as of the Closing, the sale of the Assets by the Trustee to the Purchaser shall constitute a legal, valid and effective transfer of the Assets and shall vest the Purchaser with all right, title, and interest of the Debtor (and the Trustee and the Estate) in and to the Assets, free and clear of all liens pursuant to Section 363(f) of the Bankruptcy Code.

6. Notwithstanding any other provisions contained herein, if it is established after the Closing that the Debtor transferred the Stock to a third-party transferee, and such transfer may be avoided by the Trustee pursuant to the provisions of chapter 5 of the Bankruptcy Code, the Trustee shall commence and prosecute such adversary proceeding(s) against such transferee(s) as may be necessary to avoid such transfers.

7. The sale of the Assets to the Purchaser under the APA will constitute a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and the laws of the State of Illinois. The transfer of the Assets by the Trustee to the Purchaser is a legal, valid and effective transfer of the Assets notwithstanding any requirement for approval or consent of any person.

8. The Purchaser is hereby granted and is entitled to the protections provided to a good-faith purchaser under Section 363(m) of the Bankruptcy Code.

9. Pursuant to Sections 105(a) and 363 of the Bankruptcy Code, all Persons served with a copy of this Order are enjoined from taking any action against the Purchaser or the Assets to recover any claim which such Person had solely against the Debtor or the Assets.

10. Pursuant to Bankruptcy Rule 7062, this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing.

11. This Court shall retain exclusive jurisdiction through the earlier of dismissal or closing of the Debtor's case to interpret and enforce the provisions of the APA, the Sale Procedures Order, and this Order in all respects and further to hear and determine all matters arising from the construction or implementation of this Order or the APA and any and all

disputes between the Debtor and/or the Purchaser, as the case may be; provided, however, that in the event the Court abstains from exercising or declines to exercise such jurisdiction or is without jurisdiction with respect to the APA, Sale Procedures Order, or this Order, such abstention, refusal or lack of jurisdiction shall have no effect upon, and shall not control, prohibit, or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter.

12. The provisions of this Order are nonseverable and mutually dependent.

13. This Order shall inure to the benefit of the Purchaser, the Trustee, and their respective successors and assigns and shall be binding upon any trustee, party, entity or other fiduciary that may be appointed in connection with this case or any other or further cases involving the Debtor, whether under Chapter 7, Chapter 11 or Chapter 13 of the Bankruptcy Code.

14. Each and every federal, state, and local governmental agency, department or entity may accept the filing of any and all documents and instruments necessary and appropriate to implement, effectuate or consummate the transactions contemplated by the APA and this Order.

15. The Trustee is hereby authorized to execute and deliver any and all instruments as may be required to effectuate the terms of the APA and this Order. The Trustee and each other person having duties or responsibilities under the APA, any agreements related thereto or this Order, and their respective members, directors, officers, general partners, agents, representatives, and attorneys, are authorized and empowered - subject to the terms and conditions contained in the APA and the schedules annexed thereto - to carry out all of the provisions of the APA and any related agreements; to issue, execute, deliver, file, and record, as appropriate, the documents evidencing and consummating the APA, and any related agreements; to take any and all actions contemplated by the APA, any related agreements or this Order; and to issue, execute, deliver, file, and record, as appropriate, such other contracts, instruments, releases, indentures, mortgages, deeds, bills of sale, assignments, leases, or other agreements or documents and to

perform such other acts and execute and deliver such other documents, as are consistent with, and necessary or appropriate to implement, effectuate and consummate, the APA, any related agreement and this Order and the transactions contemplated thereby and hereby, all without further application to, or order of, the Court or further action by their respective directors, stockholders, or partners, and with like effect as if such actions had been taken by unanimous action of the respective directors, stockholders, and partners of such entities. The Trustee shall be, and hereby is, authorized to certify or attest to any of the foregoing actions (but no such certification or attestation shall be required to make any such action valid, binding, and enforceable). The Trustee is further authorized and empowered to cause to be filed with the secretary of state of any state or other applicable officials of any applicable governmental units any and all certificates, agreements, or amendments necessary or appropriate to effectuate the transactions contemplated by the APA, any related agreements and this Order, including amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings, or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as the Trustee may determine is necessary or appropriate. The execution of any such document or the taking of any such action shall be, and hereby is, deemed conclusive evidence of the authority of such person to so act. Without limiting the generality of the foregoing, this Order shall constitute all approvals and consents, if any, required by the corporation laws of the State of Illinois and all other applicable business corporation, trust, and other laws of the applicable governmental units with respect to the implementation and consummation of the APA, any related agreements and this Order, and the transactions contemplated thereby and hereby.

16. In the absence of any entity obtaining a stay pending appeal, if the Trustee and the Purchaser close under the APA, the Purchaser shall be entitled to the protection of Section 363(m) of the Bankruptcy Code as to all aspects of the transaction pursuant to the APA if this Order or any authorization contained herein is reversed or modified on appeal.

17. The APA and any related agreements may be modified, amended or supplemented by APA of the Trustee and the Purchaser without further action of the Court; provided that any such modification, amendment or supplement is not material and substantially conforms to and effectuates the APA.

18. All proceeds paid by the Purchaser to the Trustee for the Assets shall be held by the Trustee pending further order of the Court.

19. This Order is not intended to, nor shall it, amend, expand or increase the rights, obligations or responsibilities of the parties to the APA.

ENTER:

Jack B. Schmetterer
United States Bankruptcy Judge

Entered this 8 day of August 2007.

AUG - 8 2007

ENTERED

AUG - 8 2007

JACK B. SCHMETTERER BANKRUPTCY JUDGE
UNITED STATES BANKRUPTCY COURT

EXHIBIT G

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

July 14, 2006

Leo Stoller
7115 W. North Avenue #272
Oak Park, Illinois 60302

Dear Mr. Stoller:

By order dated March 28, 2006, you were informed that the United States Patent and Trademark Office (USPTO) was considering imposing sanctions against you under 37 C.F.R. §10.18(c),[1] and you were allowed thirty days in which to show cause why sanctions should not be imposed. On April 26, 2006, after an extension of time to respond was granted, you filed your response to the order to show cause.

BACKGROUND

Summary of the March 28, 2006 show cause order

The show cause order noted that you and entities you control filed more than 1100 requests for extension of time to file notices of opposition between November 2005 and March 2006. The order noted, further, that the sheer number of such filings by one person is unprecedented and raises serious questions about whether the filings were undertaken for an improper purpose in violation of 37 C.F.R. § 10.18(b)(2), such as for harassment or unnecessary delay of the targeted applications.

The show cause order made reference to the numerous sanctions imposed on you, over many years, in past TTAB proceedings as evidence of your pattern of misconduct and abuse of the TTAB's

[1] The authority to impose sanctions under 37 C.F.R. §10.18(c) has been delegated to the Chief Administrative Trademark Judge from the General Counsel under authority delegated to him by the Under Secretary of Commerce and Director of the United States Patent and Trademark Office.

processes.[2] The show cause order alluded also to your conduct in Federal court proceedings that resulted in negative comment, chastisement, and the imposition of sanctions. In light of your well-documented history, it was concluded that you most likely had an improper purpose in filing such an extraordinary number of extensions of time to oppose.

You were instructed specifically that your response to the show cause order include, for each of the marks for which you requested an extension of time to file an opposition, evidence

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[2] In particular, the following cases were cited in the show cause order: *S. Indus. v. Lamb-Weston, Inc.*, 45 USPQ2d 1293 (TTAB 1997) (submission of fraudulent certificate of mailing and certificate of service); *S Indus. v. S&W Sign Co.*, Opp. No. 91102907 (Dec. 16, 1999) (fraudulent allegations of ongoing settlement negotiations; allegations of non-receipt of papers found not credible); *Central Mfg. Inc. v. Third Millennium Technology, Inc.*, 61 USPQ2d 1210 (TTAB 2001) (submission of false statements in order to secure extension of time to oppose); *S Indus., Inc. v. Casablanca Indus., Inc.*, Canc. No. 92024330 (Oct. 3, 2000) (dilatory tactics throughout proceeding); *Central Mfg., Inc. v. Flex-Coil Ltd.*, Opp. No. 91117069 (Feb. 19, 2002) ("opposer's representative has filed … numerous papers [for] the sole purpose of harassing applicant, apparently until it capitulates"); *Bacu USA Safety, Inc. v. Central Mfg. Co.*, Canc. No. 92032631 (Jul 24, 2003) ("respondent has … failed to show cause why sanctions should not be imposed on it for filing the groundless Rule 11 motion, [and] has … compounded its wrong by filing a groundless motion for reconsideration"); *S Indus. v. JL Audio, Inc.*, Opp. No. 91110672 (May 13, 2003) (finding opposers' claim "without exception, completely devoid of merit"; opposers engaged in "a pattern of voluminous and piece-meal motion practice against which [they] were warned"); *Central Mfg. Co. V. Astec Indus., Inc.*, Opp. No. 91116821 (Sept. 3, 2003) (judgment entered against opposer for filing abusive Rule 11 motions); *Central Mfg. Co. V. Medtronic Sofamor Danek, Inc.*, Opp. Nos. 91154585, 91154617 (Feb. 19, 2004) (sanctions imposed for filing meritless motions for the purpose of harassment and delay); *Central Mfg. Co. v. Premium Prods. Co.*, Opp. No. 91159950 (Sep. 29, 2004) (sanctions granted for opposer's bad faith omission of date from metered mail); *Leo Stoller v. Northern Telepresence Corp.*, Opp. No. 91162195 (Feb. 11, 2005) (Board found that opposer had submitted untimely extensions of time to oppose notwithstanding use of certificates of mailing and declarations to the contrary; opposition dismissed); *Bacu USA Safety, Inc. v. S Indus., Inc.*, Opp. No. 91108769 (Aug. 14, 2002) ("applicant's pattern of behavior … reveals a deliberate strategy of delay, evasion and harassment …, implied threats to the Commissioner, and … a direct violation of a Board order").

that supports a claim that you may be damaged by registration of the mark.

Finally, you were informed that the sanctions being considered included terminating or vacating any extension of time to oppose found to have been filed in violation of the applicable rules, restriction of your right to appear before the USPTO on your own behalf or as an officer, director, or partner of any entity you control, and/or restriction of your right to request extensions of time to oppose on behalf of yourself or any entity you control.

Summary of Response

Your four-page response, to which you attached many pages of exhibits, consists of quotations from the show cause order, citation to certain cases to which you were a party and in which no sanctions were imposed on you, coupled with a request that the USPTO not impose any sanctions based on your past practices before the TTAB and other tribunals, and general comments concerning your basis for filing the numerous requests for extensions of time to oppose, without mention of any particular request.

References to Other Proceedings

In asking that the USPTO not sanction you for your past conduct in TTAB cases and the cases in other tribunals, you point out that the Executive Committee for the federal judicial district of the Northern District of Illinois issued you a citation on December 15, 2005, allowing you time to show cause why "reasonable and necessary restraints" should not be imposed upon you in view of your activities in the lawsuits brought by you or your wholly-owned companies, before the Court. The Executive Committee quoted Judge Coar in *Central Mfg. Co. v. Brett,*[3] 78 USPQ2d 1662, 1664 (N.D. Ill. 2005) as follows:

> Indeed, as several judges (including this one) have previously noted, Stoller appears to be running an industry that produces often spurious, vexatious, and harassing federal litigation … Plaintiff and one or more of his corporate entities have been involved in at least 49 cases

[3] The Executive Committee referenced the case as: Case No. 04 C 3049, *Stealth Ind. Inc. v. George Brett & Brett.*

> in this district alone. Of these, at least 47 purport to involve trademark infringement … No court has ever found infringement in any trademark allegedly held by Stoller or his related companies in any reported opinion.

You also noted that, after filing your response, the Executive Committee ruled, without further explanation, as follows:

> The Executive Committee of the Northern District of Illinois has considered your response to the citation issued to you on December 15, 2005. After discussion, the Committee will take no further action in this matter.

> You then referred to an order in *Leo Stoller d/b/a Central Mfg. Co. v. WFJM Enterprises, Inc.*, Opposition No. 91155814 (TTAB May 5, 2004), in which the TTAB denied, as premature, a motion to impose sanctions on you.

Finally, in asking that the USPTO not sanction you for your past conduct, you refer to the "*S Industries v. Genie Door*"[4] case wherein the now Chief Judge of the Northern District of Illinois declined, eight years ago, to impose sanctions stating, in part, "the court, however, cannot base its decision to award fees on the plaintiff's conduct in other cases with other defendants."[5]

Comments Regarding Current Extension Requests

You assert that none of the extensions that you have filed on your own behalf or on behalf of entities you control was made for any improper purpose or for harassment or delay. The show cause order specifically required you to provide, for each of the marks for which you have requested an extension of time to oppose, evidence supporting a claim that you may be damaged by registration of the mark. In response, you assert that you have met the standard for filing an extension of time to oppose, because all such extension requests "are not based upon the potential opposer being damaged by a registration, but are based upon the potential opposer merely having an opportunity to

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[4] The copy of the order provided with your response did not include the caption of the case. It appears that the correct designation of the case is *S Industries, Inc. v. GMI Holdings, Inc.*, Case No. 96 C 2232 (N.D. Ill. 1998).

[5] While the Court did not award fees to defendant (GMI), the Court did award costs to defendant.

investigate the facts, obtain documentation, and to enable the potential opposer to consider its position with regard to potential opposition of an application." You did not provide information regarding any specific steps you have taken with regard to any application for which you have obtained an extension of time to conduct such an investigation.

With respect to the requirement that you support your claim of damage, you state that, through entities which you control, you "hold rights to over 100 Federal Trademark Registrations" and hold "Common Law rights to several thousand trademarks and slogans which can be found at www.rentamark.com." You submitted, as exhibits, excerpts from the referenced website, including a "list of emarks" to which you claim rights. You state that, for each extension filed, you relied on common law rights to a trademark that was, in your opinion, confusingly similar to the applicant's mark.[6]

In requesting that you not be sanctioned, you ask that the USPTO merely give you "... some direction to keep Leo Stoller on a proper course...."

Activities Since Issuance of the Show Cause Order

Since the date of the show cause order, you have filed requests for extension of time to oppose against more than 400 additional applications, bringing the total since November 2005 to over 1800, as compared to only six you filed in the five-month period between June and October 2005. In particular, USPTO records show that during the past year you have filed requests for extension of time to oppose as follows:

June 2005	**1**
September 2005	**3**
October 2005	**2**
November 2005	**47**
December 2005	**238**

[6] "For each of the extensions that Leo Stoller filed, Leo Stoller held Common Law rights to a trademark that was in Leo Stoller's opinion, confusingly similar to the *potential opposer's* mark." (Emphasis added.) It is assumed that your reference to "potential opposer's mark" was intended, rather, as a reference to the marks against which you filed the extension requests.

January 2006	188
February 2006	151
March 2006	717
April 2006	423
May 2006	63
Total	1,833

In your response to the show cause order, you stated that you had ceased filing extensions of time to oppose in those cases in which you would have relied on your alleged common law rights. It appears that you have done so.

Since the issuance of the order to show cause, you have contacted directly at least some of the applicants whose applications are the subjects of your requests to extend time to oppose. The TTAB has received informal complaints, formal requests for reconsideration of certain, specific extension requests, and at least one objection to the granting of any more extension requests. The nature of your contact, according to the applicant for application Serial No. 76616350, was "a large package of materials requesting money" in exchange for settlement.[7] Apart from their substantive content, your contact letters request that the receiving applicant consent to an additional 90-day extension of time to oppose, further informing the addressee that such consent will be assumed if you do not hear from the applicant by a date certain and that you will file a "stipulated" request for an additional 90-day extension.[8]

APPLICABLE RULES

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[7] Contacting your potential adversary is not *per se* prohibited conduct. Indeed, many potential opposers do so in order to explore the possibility of initiating good faith, bilateral settlement discussion. Inasmuch as the substance of your contact is being addressed separately in connection with the requests being filed by the applicants who have taken formal steps to seek redress, the USPTO will not discuss in detail the "large package of materials" and other features of the contact letter.

[8] Under TTAB rules, you would not be permitted an additional 90-day extension after receiving a first 90-day extension. "After receiving one or two extensions of time totaling ninety days, a person may file one final request for an extension of time for an additional sixty days...No further extensions of time to file an opposition will be granted under any circumstances." Trademark Rule 2.102(c)(3); 37 C.F.R. §2.102(c)(3).

Trademark Rule 2.102 provides, in relevant part, for the filing of requests to extend the time to oppose as follows:

> **(a)** Any person who believes that … it would be damaged by the registration of a mark on the Principal Register may file … a written request … to extend the time for filing an opposition. … Electronic signatures pursuant to § 2.193(c)(1)(iii) are required for electronically filed extension requests.
>
> **(c)** …. Requests to extend the time for filing an opposition must be filed as follows:
>
> > (1) A person may file a first request for either a thirty-day extension of time, which will be granted upon request, or a ninety-day extension of time, which will be granted only for good cause shown.

Trademark Rule 2.193(c)(2) provides in relevant part as follows:

> The presentation to the Office (whether by signing, filing, submitting, or later advocating) of any document by a party, whether a practitioner or non-practitioner, constitutes a certification under § 10.18(b) of this chapter. Violations of § 10.18(b)(2) of this chapter by a party, whether a practitioner or non-practitioner, may result in the imposition of sanctions under § 10.18(c) of this chapter.

Patent and Trademark Office Rule 10.18 provides as follows:

> (b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that-
>
> > (2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that- (i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office; (ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal

of existing law or the establishment of new law; (iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and (iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of-

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

...

(6) Terminating the proceedings in the Patent and Trademark Office.

DISCUSSION

Your assertion that you have met the standard for filing requests for extension of time to oppose and that you need not submit evidence supporting a claim that you may be damaged by registration of the marks in the subject applications amounts to a failure to respond meaningfully to the show cause order. While an unchallenged request for extension of time to oppose, when accompanied by a minimal statement of good cause, is rarely

denied,[9] your filing of more than 1100 requests for extension of time to oppose within the few months preceding the date of the show cause order suggested a serious violation of your responsibilities as a party before the USPTO. The show cause order thus required you to demonstrate more than what might have been required in the ordinary case to support a single request for extension of time. In particular, you were required to demonstrate that the extension requests were not filed for improper purposes but, instead, were based on cognizable rights you may have arising under the Trademark Act.

Addressing directly the issue of your belief that you will be damaged, you indicate that you own over 100 federal registrations for trademarks and that you have common law rights in several thousand trademarks and slogans, referring to your website and attaching pages from your website to your response. Your submissions do not substantiate your rights in any of the claimed marks, let alone support a colorable claim of damage. For example, you did not submit copies of the registration certificates of the registered trademarks you claim to own. Nor did you even clearly identify your registered trademarks and the goods and services for which they are registered.

In support of your claim of damage to your purported common law trademarks, you provided a listing of your claimed trademarks, running to almost 150 pages (50 terms listed on each page). The listing was derived from your website and includes nothing more than the listing of the marks themselves. You submitted no evidence of products or services bearing these alleged marks, no evidence that you have sold any products or services under these marks, and no evidence of your advertising of goods or services with these marks.

At your website, you offer to "RENT-A-FAMOUS slogan" and offer "Famous Trademarks for Rent On-Line." Your website states that you "control over 10,000 famous trademarks…." Nonetheless, the exhibits from your website do not demonstrate your offering for sale any goods or services, other than the "rental" of the marks themselves, nor do the website exhibits demonstrate the use of any of the asserted terms as trademarks. These excerpts from your website, rather than evidencing support of any purported claim for damage, reinforce the conclusion that you are holding up thousands of applications in an attempt to coerce applicants

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[9] *But see*, TBMP § 210, 211 (2d ed. rev. 2004)(regarding requests by applicants that the TTAB reconsider granted requests for extensions of time to oppose or deny subsequent requests).

to license, *i.e.*, "rent," trademarks to which you have not demonstrated any proprietary right. *Cf. Central Mfg. Co. v. Brett*, 78 USPQ2d 1662, 1675 (N.D. Ill. 2005) ("Leo Stoller and his companies present paradigmatic examples of litigants in the business of bringing oppressive litigation designed to extract settlement.")

Finally, in requesting that the USPTO not sanction you for your past conduct, you reference in your response two court cases and a single TTAB case in which sanctions were not imposed on you. Although these other tribunals have for various reasons declined to impose sanctions, their decisions also contain findings supporting the conclusion that your recent activities in the TTAB are not isolated or anomalous, but rather reflect a pattern of harassing behavior. The rationales used by those other tribunals for declining to impose sanctions do not apply here, where the behavior is of such a systematic nature as to raise the potential cost of seeking a trademark for the public generally.

DETERMINATION

Your filing of an extraordinary number of requests for extension of time to oppose, particularly in light of your past behavior before the TTAB and the courts, constitutes a violation of your responsibilities under Patent and Trademark Rule 10.18(b). That rule provides that, by filing a paper (including the extension requests at issue here), you represent, among other things, that "[t]he paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office" and that "[t]he claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law." Patent and Trademark Rule 10.18(b)(2).

Extensions of time to oppose are granted *ex parte*, typically upon a minimal showing of good cause. Nonetheless, the requirements for an extension of time to oppose are clear: "Any person *who believes that he, she or it would be damaged by the registration of a mark* ... may file in the Office a written request ... to extend the time for filing an opposition." Trademark Rule 2.102(a) (emphasis added). Thus, while the potential opposer's showing

need not be extensive and the TTAB's examination of extension requests is usually cursory, Trademark Rule 2.102 and Patent and Trademark Rule 10.18 require that all requests for extension of time be based on a good faith belief that the potential opposer would be damaged by the potential registration.

The show cause order invited you to demonstrate that your filing of each of the extraordinary number of requests for extension of time to oppose was not improper. ("Any such showing should include evidence that supports a claim that you may be damaged by the registration of each of the marks for which an extension of time to oppose has been filed.") While extensions of time to investigate potential claims are common, the potential opposer must still hold some reasonable belief that it would be damaged by registration of the mark in question. Notwithstanding the opportunity offered to you to demonstrate such a belief, you have declined to make any such showing.

Any impropriety with respect to the letters you have sent to applicants against whose applications you have filed requests to extend time to oppose is not now under review. Nonetheless, the manner in which you request "consent" for prospective further requests to extend time to oppose, such consent being necessary under Trademark Rule 2.102(c)(3), is indicative of your motivation in filing the requests to extend time to oppose that are now under scrutiny. Specifically, your intimation that the individual applicant's consent is presumed if you do not receive an objection is in contradiction of your actual knowledge that any such consent must be explicit. *See Central Manufacturing, Inc. v. Third Millennium Technology, Inc.*, 61 USPQ2d 1210 (TTAB 2001) (misrepresenting that applicant has "agreed" to the third and fourth requests to extend time to oppose). Thus, your contact letters, providing misinformation as to the requirements for the final extension request permitted under Trademark Rule 2.102(c)(3), support the finding that the extension requests at issue here were filed for improper purposes, specifically "...to obtain additional time to harass applicant, to obtain unwarranted extensions of the opposition period, and to waste resources of applicant and the Board." *Id.* at 1216.

In view thereof, it is determined that you have not made a showing that you have a colorable claim of damage justifying the extension requests filed during the period in question and have failed to establish good cause for filing such requests. It is determined, further, that you filed the extension requests for improper purposes, namely, to harass the applicants to pay you to

avoid litigation or to license one of the marks in which you assert a baseless claim of rights. Your misuse of the TTAB's procedures dictates that the USPTO impose on you an appropriate sanction.

Sanctions Imposed

In deciding what sanctions to impose, the USPTO considered the egregious nature and extent of your recent misconduct, including the impact of the misconduct on TTAB proceedings. You have been granted 90-day extensions of time to oppose more than 1800 applications. The effect has been to delay by at least three months the issuance of trademark registrations for each of those applications. In addition, the TTAB has had to divert significant resources to answering telephone inquiries from applicants or their representatives concerning your numerous filings. And the applicants against whom you have filed requests for extension of time to oppose have begun to submit formal objections that the TTAB must decide.

Also, the USPTO found it reasonable and proper to consider your recent misconduct in the context of your well-documented pattern of misconduct during many years of litigation before the TTAB and the courts as set out in the show cause order, which included the sampling of TTAB cases in which sanctions were imposed against you[10] and the case in the Northern District of Illinois.[11] Cf. C.

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[10] Indeed, irregularities with respect to your filing of requests to extend time to oppose have been considered previously. *See, for example, Stoller v. Northern Telepresence Corp.*, 152 Fed. Appx. 923, 2005 WL 2813750 (Fed. Cir. 2005), affirming the TTAB's decision denying as untimely your request(s). *See also Central Manufacturing, Inc. v. Third Millennium Technology, Inc.*, 61 USPQ2d 1210 (TTAB 2001), imposing a sanction, for a period of one year, which required the actual signature of the adverse party for any request to extend time to oppose filed by you in which it was alleged that such request was being sought on consent, or had been agreed to, or in which there was any allegation of any type of settlement discussion. This sanction was imposed because the TTAB found that the applicant had not "agreed" to the extension requests, that the parties were not engaged in bilateral settlement discussions, and that applicant had not invited opposer to proffer a settlement agreement, all determinations being contrary to your proffered reasons for seeking the extensions at issue therein. The TTAB further found that you "filed papers based on false statements and material misrepresentations and, moreover, … engaged in a pattern of submitting such filings to this Board."

Wright & A. Miller, 5A Fed. Prac. & Pro. Civ.3d § 1336.1 (2006) (appropriate to consider prior behavior in other cases when exercising a court's inherent authority); Fed. R. Civ. P. 11, Advisory Committee's Note (1993) (same consideration appropriate under Rule 11). While the USPTO has considered findings made by other tribunals, the pattern of activities in the TTAB alone justify the sanctions imposed below.

The following sanctions are, therefore, hereby imposed:

Grant of Extension Requests Vacated

The approval of each request for extension of time to oppose that you have filed since November 2005 is hereby vacated.[12]

Two-Year Prohibition On Filing Extension Requests

You are hereby prohibited for a period of TWO YEARS from the date of this order from filing, on your own behalf or as an officer, director, or partner of any entity you control, any request for extension of time to oppose under Trademark Rule 2.102. This two-year prohibition applies whether or not you are represented by an attorney.

Requirement Of Attorney Representation For Any Future Extension Requests

You are PERMANENTLY prohibited from appearing before the USPTO on your own behalf or as an officer, director, or partner of any

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[11] In contrast to the two cited orders of the Northern District of Illinois in which the Executive Committee and the Court declined to impose sanctions, that court has chastised and sanctioned you numerous times. *See, e.g., S Industries, Inc. v. JL Audio, Inc.*, 29 F. Supp.2d 878 (N.D. Ill. 1998) ("This has not been a good year for Plaintiff in the Northern District of Illinois, but, then again, Plaintiff has not been a good litigant."), referencing several other cases before the Court that had been decided against you. *See also Central Mfg. Co. v. Pure Fishing, Inc.*, 2005 WL 3090998 (N.D. Ill. 2005) (and cases cited therein), in which the court imposed the sanction of dismissing plaintiff's claim and granting defendant's counterclaims to cancel registrations you own and for declaratory and injunctive relief. (The *Pure Fishing* case is suspended pending resolution of your petition in bankruptcy.)

[12] Extension requests granted more than 90 days ago have now expired. This sanction is, thus, moot with respect to such requests. But, if you have filed a notice of opposition against any of the involved marks, such notice of opposition is rendered untimely by this sanction, and any such opposition shall be dismissed.

entity you control for the purpose of filing any request to extend time to file a notice of opposition or any paper associated therewith. Any such future request must be filed by an attorney, who will be bound to act in accordance with USPTO Rule 10.18(b).

Request For "Direction"

Finally, you requested "direction" in how to proceed before the TTAB. As a frequent party to proceedings before the TTAB during the past ten years, you have been informed repeatedly about how the TTAB expects proceedings to be conducted. In the past, you have often ignored the direction given you by the TTAB, in the form of information or reprimand, or have found a way to side step such direction with improper or bad faith conduct.

The USPTO provides information to parties and the public electronically in a user-friendly format. The Trademark Act, the rules of practice in matters before the TTAB, The Trademark Trial and Appeal Board Manual of Procedure (2d ed. rev. 2004), and answers to frequently asked questions are all available for viewing and downloading at www.uspto.gov. While an individual may represent himself or herself (or a business in which he or she is an officer or partner) before the USPTO, *see* Patent and Trademark Rule 10.14(e), the TTAB "strongly recommend[s]" that a party be represented by an "attorney familiar with trademark law." TBMP §114.01 (2d ed. rev. 2004). Those who choose to represent themselves occasionally call the TTAB with questions and are provided procedural information. Overall, after being directed to the TBMP, they abide by the rules. Thus, there is no reason for the USPTO to conclude that the explanations provided in the TBMP are too complicated for *pro se* litigants, particularly for ones with an extensive history of practice before the TTAB.

Consequently, the TTAB's "direction" to you will remain the same that it has been for many years and the same as that given to other litigants representing themselves: engage an experienced trademark lawyer. Failing that, read and follow the applicable statute, rules, and cases and consult the TBMP for guidance.

Potential for Imposition of Broader Sanctions

The applicable rules permit broader sanctions. For instance, the USPTO considered whether to bar you permanently from filing

extension requests or to require that you be represented by an attorney with respect to any future Board matter, not just requests for extensions of time to oppose. At this time, the USPTO has restricted the sanctions imposed herein to those closely related to your recent misconduct and, it believes, the minimum necessary to prevent such misconduct in the future. Nonetheless, the question of broader sanctions will be revisited if you commit further improprieties in proceedings before the TTAB.

So ordered.

/signed/

J. David Sams
Chief Administrative Trademark Judge
Trademark Trial and Appeal Board
United States Patent and Trademark Office

EXHIBIT H

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-12-06 09:25:38 ET

Serial Number: 75205462 Assignment Information Trademark Document Retrieval

Registration Number: 2724438

Mark

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-06-10

Filing Date: 1996-11-27

Transformed into a National Application: No

Registration Date: 2003-06-10

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-12-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. SAFILO - SOCIETA AZIONARIA FABRICA ITALIANA LAVORAZIONE OCCHIALI S.P.A.

Address:

SAFILO - SOCIETA AZIONARIA FABRICA ITALIANA LAVORAZIONE OCCHIALI S.P.A.
PIAZZA TIZIANO, 8
32044 PIEVE DI CADORE
Italy
Legal Entity Type: Corporation
State or Country of Incorporation: Italy

GOODS AND/OR SERVICES

International Class: 003
Class Status: Active
perfumes, eau de toilette
Basis: 1(a)
First Use Date: 1996-11-27
First Use in Commerce Date: 1996-11-27

International Class: 009
Class Status: Active
spectacles and sunglasses; eyeglass frames, cases, clip ons, hinges, temples sold as a unit with spectacles and sunglasses, chains and lenses for spectacles and sunglasses, parts and accessories therefor; contact lenses and containers therefor; safety goggles, protective helmets; parts and accessories therefor
Basis: 1(a)
First Use Date: 1996-11-27
First Use in Commerce Date: 1996-11-12

ADDITIONAL INFORMATION

Description of Mark: The mark consists of the letter "C" in fanciful design.

Design Search Code(s):
26.03.03 - Incomplete ovals; Ovals, incomplete
26.03.12 - Ovals with bars, bands and lines
27.03.01 - Geometric figures forming letters, numerals or punctuation

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2003-11-03 - Section 7 correction issued

2003-07-07 - Section 7 amendment filed

2003-07-07 - PAPER RECEIVED

2003-06-10 - Registered - Principal Register

2003-04-30 - PAPER RECEIVED

2003-04-17 - Allowed for Registration - Principal Register (SOU accepted)

2003-04-10 - Statement of use processing complete

2002-12-19 - Amendment to Use filed

2002-12-23 - PAPER RECEIVED

2003-01-09 - Extension 5 granted

2002-06-21 - Extension 5 filed

2001-12-19 - Extension 4 granted

2001-12-05 - Extension 4 filed

2001-07-10 - Extension 3 granted

2001-06-20 - Extension 3 filed

2001-03-26 - Extension 2 granted

2000-12-18 - Extension 2 filed

2000-08-21 - Extension 1 granted

2000-06-20 - Extension 1 filed

1999-12-21 - Notice of allowance - mailed

1999-09-28 - Published for opposition

1999-08-27 - Notice of publication

1999-05-10 - Approved for Pub - Principal Register (Initial exam)

1999-05-10 - Assigned To Examiner

1999-04-15 - Communication received from applicant

1998-10-15 - Final refusal mailed

1998-08-17 - Communication received from applicant

1998-02-17 - Non-final action mailed

1998-01-07 - Communication received from applicant

1997-07-07 - Non-final action mailed

1997-07-03 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

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Correspondent
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HUNTON & WILLIAMS LLP

EXHIBIT I

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-12-12 10:30:17 ET

Serial Number: 76028313 Assignment Information Trademark Document Retrieval

Registration Number: 2610371

Mark (words only): SONIC EXPLORER

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2007-09-13

Filing Date: 2000-04-17

Transformed into a National Application: No

Registration Date: 2002-08-20

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2007-10-09

LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Bowen Hill, Ltd.

Address:
Bowen Hill, Ltd.
Suite 713, 7F., Wing on Plaza 62 Mody Road, Tsim Sha Tsui East
Kowloon
Hong Kong
Legal Entity Type: DOMESTIC CORPORATION
State or Country Where Organized: Hong Kong

GOODS AND/OR SERVICES

International Class: 009
Class Status: Active
Scientific, apparatus, namely, audio magnifiers
Basis: 1(a)
First Use Date: 2000-01-21
First Use in Commerce Date: 2000-01-21

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-10-09 - Case File In TICRS

2007-09-13 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-09-11 - Assigned To Paralegal

2007-08-27 - Section 8 (6-year) and Section 15 Filed

2007-08-27 - TEAS Section 8 & 15 Received

2007-07-25 - Attorney Revoked And/Or Appointed

2007-07-25 - TEAS Revoke/Appoint Attorney Received

2002-08-20 - Registered - Principal Register

2002-06-01 - Allowed for Registration - Principal Register (SOU accepted)

2002-05-23 - Statement of use processing complete

2002-05-13 - Amendment to Use filed

2002-05-13 - PAPER RECEIVED

2001-12-11 - Notice of allowance - mailed

2001-09-18 - Published for opposition

2001-08-29 - Notice of publication

2001-06-17 - Approved for Pub - Principal Register (Initial exam)

2001-04-03 - Communication received from applicant

2000-10-04 - Non-final action mailed

2000-09-21 - Assigned To Examiner

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