Exhibit 1

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ASPEX EYEWEAR, INC., and CONTOUR OPTIK, INC., Plaintiffs, vs. MARCHON EYEWEAR, INC., Defendant.	Case No. CV 06-08000 JFW (CWx) **SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT** **DEMAND FOR JURY TRIAL**

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The Plaintiffs, Aspex Eyewear, Inc. ("Aspex"), and Contour Optik, Inc. ("Contour"), (collectively referred to as "Plaintiffs"), by their attorneys, as and for their Second Amended Complaint herein against Marchon Eyewear, Inc., ("Defendant"), allege the following:

JURISDICTION AND VENUE

1. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, 281, and 283.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1338 (a), as this action arises under an Act of Congress relating to patents.

3. Venue is properly established in this Court pursuant to 28 U.S.C. §§1391(b) and (c) and/or §1400, as, upon information and belief, Marchon has engaged in acts of infringement within the jurisdiction of this Court, including this Judicial District, which acts are the subject of this Complaint.

PARTIES

4. Aspex is a corporation duly organized and existing under the laws of the state of Delaware having its principal place of business at: 2755 S.W. 32nd Avenue, Pembroke Park, Florida 33023.

5. Contour is a corporation of Taiwan, whose post office address is 6 Industrial Fifth Road, Tou Chiau Industrial Park, Chiayl 621, Taiwan.

6. Upon information and belief, Marchon is a corporation organized and existing under the laws of New York, with its principal place of business at 35 Hub Drive, Melville, New York 11747.

FACTUAL BACKGROUND

7. On February 5, 2002 Revolution Eyewear, Inc. ("Revolution") filed an action against Aspex Eyewear, Inc. et al. for infringement of U.S. Patent No. 6,343,858 ("the '858 patent") in this Court (Case No. 02-1087 MMM (CWx)).

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8. On February 12, 2002, the United States Patent and Trademark Office issued United States Patent No. US RE37,545E ("the '545 patent")(a copy of which is attached as Exhibit A), entitled "Auxiliary Lenses for Eyeglasses", in the name of the inventor Richard Chao. The '545 Patent is a reissue of United States Patent No. 5,568,207 ("the '207 patent"), which issued on October 22, 1996 to Mr. Chao. Aspex and Contour are each co-owners of an undivided one-half interest in and to the '545 patent.

9. On September 10, 2002, Aspex answered the Complaint in Case No. 02-1087, and counterclaimed for infringement of Plaintiffs' '545 patent by Revolution's magnetic clip-on eyewear.

10. By Order of August 8, 2003, the Court in Case No. 02-1087 granted Revolution's motion for summary judgment of non-infringement with respect to asserted claims 6 and 32 of the '545 patent, but denied Revolution's motion for summary judgment of non-infringement with respect to asserted claim 22.

11. By Order of April 11, 2005 in Case No. 02-1087, Revolution's claims for infringement of the '858 patent were dismissed for lack of standing.

12. By Order of April 30, 2007, the Court in Case No. 02-1087, granted Aspex's motion for partial summary judgment that Revolution literally infringed claim 22 of the '545 patent.

13. By Order of April 30, 2007, the Court in Case No. 02-1087, denied Revolution's motion for summary judgment that claim 22 the '545 patent is invalid.

14. Claim 22 of the '545 patent is directed to a primary spectacle frame only, not a primary frame/auxiliary frame combination. As construed by the Court in Case No. 02-1087, no limitation respecting an auxiliary frame appears in claim 22, other than the requirement that the first magnetic members of the primary

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frame must be capable of engaging the second magnetic members of an auxiliary frame when the second magnetic members are placed above the first magnetic members, so that the auxiliary frame lenses are located front of the primary frame lenses.

15. In denying Revolution's motion for summary judgment of non-infringement of claim 22, the Court in Case No. 02-1087 held that Aspex had offered admissible evidence that Revolution's accused primary spectacle frames were capable of satisfying the requirements of claim 22, as construed by the Court, without modifying the primary spectacle frames in any way. The Court rejected Revolution's argument that Plaintiffs had to establish infringement of claim 22 based on the auxiliary spectacle frame actually sold by Revolution (which Revolution contended could not be mounted on top of the primary frame without misalignment of the primary frame and auxiliary frame lenses), reasoning that claim 22 is simply directed to a primary spectacle frame that is capable of magnetically attracting an auxiliary spectacle frame in proper alignment when the auxiliary frame is placed on top of the primary frame.

16. Upon information and belief, during the pendency of Case No. 02-1087, Marchon and Revolution entered into a patent license agreement under certain of Revolution's patents, pursuant to which Marchon was given the right to manufacture, and/or sell, and/or offer for sale bottom-mounted magnetic clip-on eyewear in the United States.

17. Upon information and belief, soon thereafter, Marchon began selling and/or offering for sale, in this judicial district and elsewhere, bottom-mounted magnetic clip-on eyewear incorporating the substantially identical primary spectacle frame design used in the Revolution magnetic clip-on products accused of infringement by Plaintiffs in Case No. 02-1087.

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18. Upon information and belief, Marchon's magnetic clip-on eyewear incorporating Revolution's primary spectacle frame design have been sold and continue to be sold in this judicial district and elsewhere under the "Calvin Klein," "Nike" and "Flexon" brands.

COUNT I – PATENT INFRINGEMENT – THE '545 PATENT

19. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 18, inclusive, as if fully repeated herein.

20. Contour and Aspex are the assignees of record of the '545 patent, each owning a one-half undivided interest, and thereby establishing joint ownership by Contour and Aspex over the '545 patent.

21. The invention described and claimed in the '545 patent has been accepted by the eyewear and fashion eyewear industries and is of great utility and value.

22. Upon information and belief, Marchon, well knowing of the '545 patent, has infringed and continues to infringe at least claim 22 of the '545 patent by selling and/or offering for sale in this judicial district and elsewhere, without limitation, bottom-mounted magnetic clip-on eyewear under the Calvin Klein, Nike and Flexon brands incorporating primary spectacle frames satisfying each and every element of claim 22, both literally, and under the doctrine of equivalents. Exemplary model numbers of the accused eyewear include, without limitation, Calvin Klein model numbers 5121MGB and 5119MGB, Nike 4009MGB and the Flexon Magnetics 703MAG product.

23. Upon information and belief, Marchon, well knowing of the '545 patent, has infringed and continues to infringe at least claim 22 of the '545 patent by selling and/or offering for sale in this judicial district and elsewhere, without limitation, Marchon's bottom-mounted magnetic clip-on eyewear incorporating primary spectacle frames satisfying each and every element of claim 22, both

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literally and under the doctrine of equivalents. Exemplary models of the accused eyewear include those marked with production numbers MAR000005-MAR000008, MAR000013, MAR000017-18, MAR000029, MAR000031-MAR000047, MAR000050, MAR000052, and MAR000054 from the samples produced by Marchon to Plaintiffs on May 25, 2007.

24. Marchon's infringing eyewear, as alleged above, have not been manufactured or authorized in any manner by Aspex or Contour, and Marchon has not been authorized or otherwise granted the right to manufacture, offer for sale, sell or otherwise distribute eyewear covered by the '545 patent.

25. Marchon has notice of its infringement, as prescribed in 35 U.S.C. §287. Marchon's infringement of the '545 patent has been willful and deliberate.

26. Upon information and belief, Marchon will continue to infringe upon the '545 patent to the irreparable damage of Plaintiffs, unless enjoined by the Court. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs request that this Court grant Judgment in their favor, and award them the following relief:

1. Declare that Marchon's acts and conduct infringe the '545 patent and the exclusive rights in said patent held by the Plaintiffs;

2. Declare that such infringement is willful;

3. Pursuant to 35 U.S.C. §283, enter a permanent injunction which:

a. Enjoins Marchon, its officers, agents, employees, privies, subsidiaries, successors, and assigns and all holding by, through or under them, and all those acting for them or in their behalf, from infringing upon the '545 patent; and

b. Enjoins Marchon, its directors, officers, agents, employees, representatives, and all other persons in active participation with them, to recall from all distributors, wholesalers, retailers and all others known to

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Marchon, all products which infringe upon the '545 patent, and requires Marchon to file with this court and to serve upon the Plaintiffs, within 30 days after service of the Court's Order as herein prayed, a report in writing under oath setting forth in detail the manner and form in which Marchon has complied with the Court's order;

4. Require Marchon to account to Plaintiffs for all profits and expenses realized by Marchon and any subsidiary of Marchon;

5. Pursuant to 35 U.S.C. §284, award the Plaintiffs damages adequate to compensate for the infringement, but in no event less than a reasonable royalty, together with interest and costs, taking account of Plaintiffs' actual damages and Marchon's profits as a result of the infringement;

6. Pursuant to 35 U.S.C. §284, order that any award of damages be trebled;

7. Pursuant to 35 U.S.C. §285, find that this case is exceptional and award the Plaintiffs reasonable attorney fees as the prevailing party;

8. Grant such other and further relief as the equity of the case may require and as this Court may deem just and proper, together with costs and disbursements of this action, including attorneys' fees.

DATED: June 4, 2007

Respectfully submitted,

GREENBERG TRAURIG, LLP

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JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs demand a jury trial as to all issues triable at law, and respectfully request an early trial.

DATED: June 4, 2007

Respectfully submitted,

GREENBERG TRAURIG, LLP

LEWIS BRISBOIS BISGAARD & SMITH LLP

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EXHIBIT "A"

US00RE37545E

(19) **United States**
(12) **Reissued Patent**
Chao

(10) **Patent Number: US RE37,545 E**
(45) **Date of Reissued Patent: Feb. 12, 2002**

(54) **AUXILIARY LENSES FOR EYEGLASSES**

(75) Inventor: **Richard Chao**, Chia Yi Hsien (TW)

(73) Assignees: **Contour Optik, Inc.**, Chiayi (TW); **Asahi Optical Co., Ltd.**

(21) Appl. No.: **09/182,862**

(22) Filed: **Oct. 21, 1998**

Related U.S. Patent Documents

Reissue of:

(64) Patent No.: **5,568,207**
Issued: **Oct. 22, 1996**
Appl. No.: **08/554,854**
Filed: **Nov. 7, 1995**

(51) **Int. Cl.**[7] **G02C 7/08; G02C 9/00**
(52) **U.S. Cl.** **351/57; 351/47**
(58) **Field of Search** 351/47, 57, 41, 351/44; 2/441, 443

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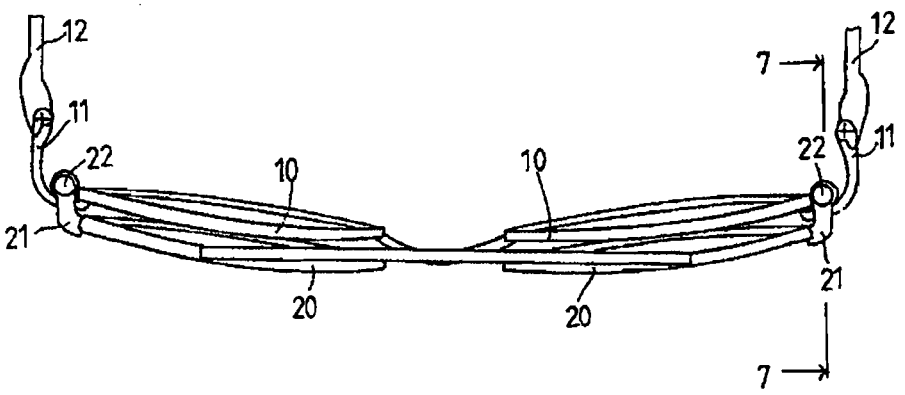
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Primary Examiner—Huy Mai
(74) *Attorney, Agent, or Firm*—Morgan & Finnegan, L.L.P.

(57) **ABSTRACT**

An eyeglass device includes a primary and an auxiliary spectacle frames for supporting lenses. The primary spectacle frame includes two legs pivotally coupled to two side extensions and includes two magnetic members secured in the rear and side portions. The auxiliary spectacle frame includes two legs engaged on the primary spectacle frame and each having a magnetic member for engaging with the magnetic members of the primary spectacle frame so as to secure the spectacle frames together and so as to prevent the auxiliary spectacle frame from moving downward relative to the primary spectacle frame.

34 Claims, 2 Drawing Sheets



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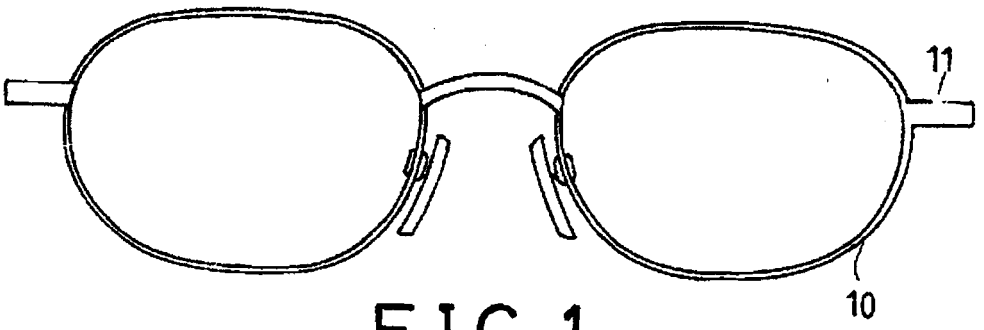


FIG. 1

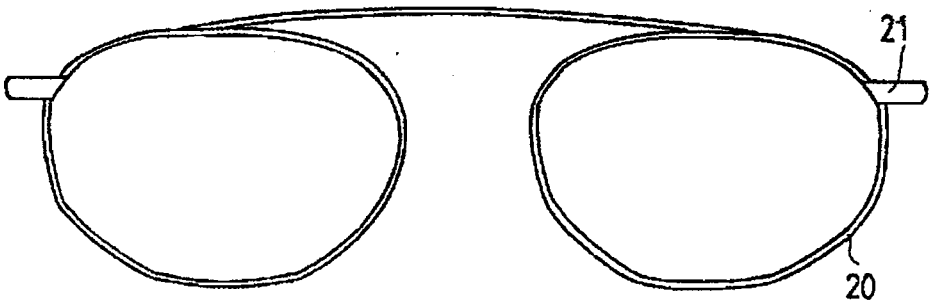


FIG. 2

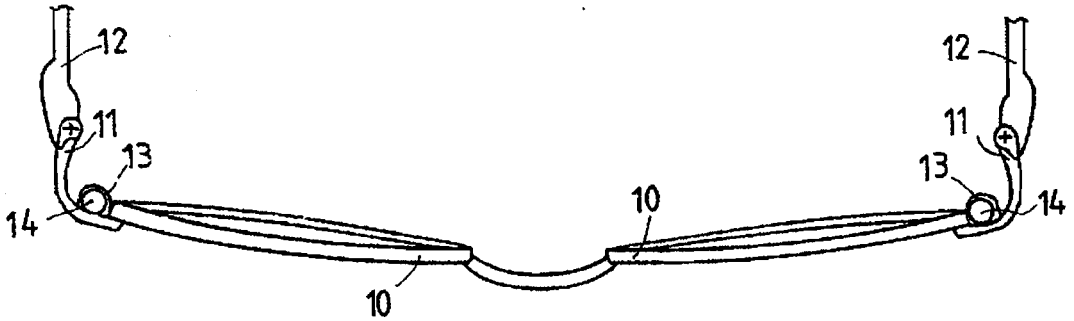


FIG. 3

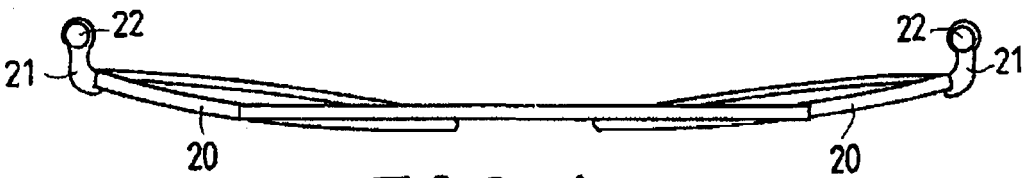


FIG. 4

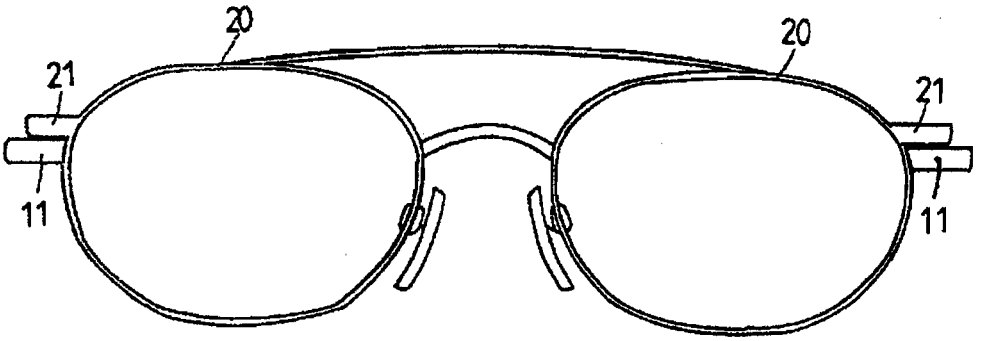


FIG. 5

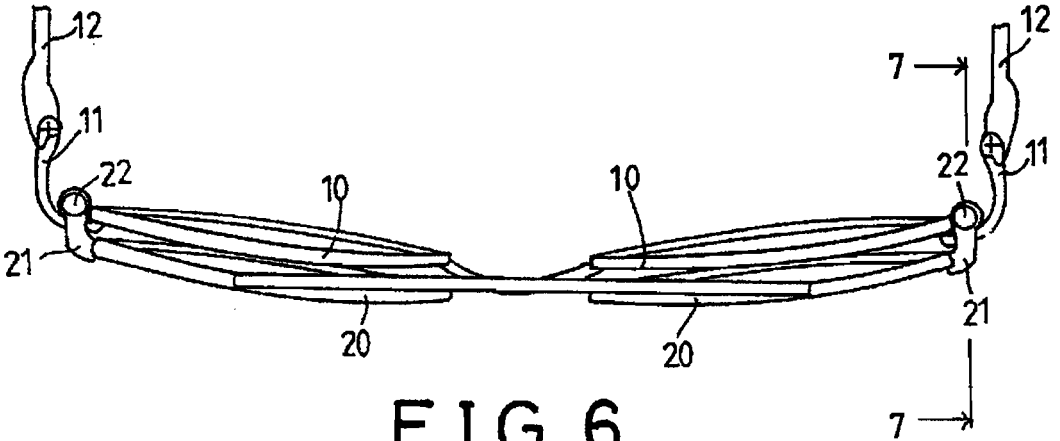


FIG. 6

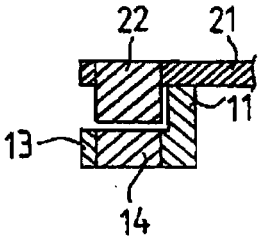


FIG. 7

AUXILIARY LENSES FOR EYEGLASSES

Matter enclosed in heavy brackets [ ] appears in the original patent but forms no part of this reissue specification; matter printed in italics indicates the additions made by reissue.

BACKGROUND OF THE INVENTION

1. Field of the Invention

The present invention relates to auxiliary lenses, and more particularly to auxiliary lenses for eyeglasses.

2. Description of the Prior Art

A typical spectacle frame having an attachable one-piece slide-on rim is disclosed in U.S. Pat. No. 4,070,103 to Meeker. In Meeker, a spectacle frame includes a magnetic material secured to the peripheral portion thereof for facilitating attachment of the auxiliary lens rim cover to the spectacle frame. The lens rim cover also includes a magnetic strip for engaging with the magnetic material of the spectacle frame.

Another typical eyeglasses are disclosed in U.S. Pat. No. 5,416,537 to Sadler and comprise first magnetic members secured to the temporal portions of the frames and second magnetic members secured to the corresponding temporal portions of the auxiliary lenses.

In both of the eyeglasses, the auxiliary lenses are simply attached to the frames by magnetic materials and have no supporting members for preventing the auxiliary lenses from moving downward relative to the frames such that the auxiliary lenses may easily move downward relative to the frames and may be easily disengaged from the frames when the users conduct jogging or jumping exercises. In addition, the magnetic materials are embedded in the frames of the primary lenses and of the auxiliary lenses such that the frames should be excavated with four or more cavities for engaging with the magnetic members and such that the strength of the frames is greatly decreased.

The present invention has arisen to mitigate and/or obviate the afore-described disadvantages of the conventional spectacle frames.

SUMMARY OF THE INVENTION

The primary objective of the present invention is to provide auxiliary lenses which may be stably secured and supported on the frames.

In accordance with one aspect of the invention, there is provided an eyeglass device comprising a primary spectacle frame for supporting primary lenses therein, the primary spectacle frame including two side portions each having an extension extended therefrom for pivotally coupling a leg means thereto, the primary spectacle frame including two rear and side portions each having a projection secured thereto, the primary spectacle frame including an upper portion, a pair of first magnetic members secured in the projections respectively, an auxiliary spectacle frame for supporting auxiliary lenses therein, the auxiliary spectacle frame including two side portions each having an arm extended therefrom for extending over and for engaging with the upper portion of the primary spectacle frame, and a pair of second magnetic members secured to the arms respectively for engaging with the first magnetic members of the primary spectacle frame so as to secure the auxiliary spectacle frame to the primary spectacle frame. The arms are engaged with and supported on the upper portion of the primary spectacle frame so as to allow the auxiliary spectacle frame to be stably supported on the primary spectacle frame and so as to prevent the auxiliary spectacle frame from moving downward relative to and so as to prevent the auxiliary spectacle frame from being disengaged from the primary spectacle frame.

The projections and the first magnetic members are arranged lower than the upper portion of the primary spectacle frame, the second magnetic members are extended downward toward the projections for hooking on the primary spectacle frame so as to further secure the auxiliary spectacle frame to the primary spectacle frame. The auxiliary spectacle frame may be prevented from disengaging from the primary spectacle frame.

Further objectives and advantages of the present invention will become apparent from a careful reading of a detailed description provided hereinbelow, with appropriate reference to accompanying drawings.

BRIEF DESCRIPTION OF THE DRAWINGS

FIGS. **1** and **2** are front views of a spectacle frame and of auxiliary lenses in accordance with the present invention respectively;

FIGS. **3** and **4** are top views of the spectacle frame and of the auxiliary lenses respectively;

FIG. **5** is a front view of the spectacle frame and the auxiliary lenses combination;

FIG. **6** is a top view of the spectacle frame and the auxiliary lenses combination; and

FIG. **7** is a cross sectional view taken along lines **7**—**7** of FIG. **6**,

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

Referring to the drawings, and initially to FIGS. **1** to **4**, an eyeglass device in accordance with the present invention comprises a primary spectacle frame **10** for supporting primary lenses therein. The primary spectacle frame **10** includes two side portions each having an extension **11** extended rearward therefrom for pivotally coupling leg **12** thereto. The primary spectacle frame **10** includes two projections **13** secured to the rear and side portions thereof for supporting magnetic members **14** therein. An auxiliary spectacle frame **20** is provided for supporting the auxiliary lenses therein and includes two side portions each having an arm **21** extended rearward therefrom for extending over and for engaging with the upper portion of the primary spectacle frame **10** (FIGS. **5** and **6**). The auxiliary spectacle frame **20** also includes two magnetic members **22** secured to the arms **21** therefor for engaging with the magnetic members **14** of the primary spectacle frame **10** such that the auxiliary spectacle frame **20** may be stably supported on the primary spectacle frame **10**, best shown in FIGS. **5** and **6**.

It is to be noted that the arms **21** are engaged with and are supported on the upper portion of the primary spectacle frame **10** such that the auxiliary spectacle frame **20** may be stably supported and secured to the primary spectacle frame **10**. The auxiliary spectacle frame **20** will not move downward relative to the primary spectacle frame and will not be easily disengaged from the primary spectacle frame when the users conduct jogging or jumping exercises.

It is further to be noted that the projections **13** and the magnetic members **14** are secured to the primary spectacle frame **10** and the magnetic members **22** are secured in the arms **21**. The magnetic members **14**, **22** are not embedded in the frames **10**, **20** such that the frames **10**, **20** are not required to be formed with cavities therein and such that the strength of the frames **10**, **20** will not be decreased.

As shown in FIGS. 3–7, the engaging surfaces between magnetic members 14 in primary spectacle frame 10 and the magnetic members 22 in the auxiliary spectacle frame 20 lie in a plane that is substantially horizontal when the eyeglass device is worn.

Referring next to FIG. **7**, it is preferable that the projections **13** and the magnetic members **14** are located slightly lower than the upper portion of the primary spectacle frame **10**; and the end portions of the arms **21** and/or the magnetic members **22** are slightly extended downward toward the projections **13** such that the arms **21** and the magnetic members **22** may hook on the primary spectacle frame **10** and such that the auxiliary spectacle frame **20** may further be stably supported and secured to the primary spectacle frame **10**.

In one embodiment, as shown in FIG. 7, magnetic members 14 and 22 are not in contact with each other; magnetic members 14 and 22 are engaged with, but not supported on, each other. Instead, the arm 21 securing the magnetic member 22 is supported on an upper side portion of the primary spectacle frame 10. As shown in FIG. 7, the upper side portion can be an upper part of the side portion securing the projection 13.

Accordingly, the eyeglass device in accordance with the present invention includes an auxiliary spectacle frame that may be stably secured to the primary spectacle frame and will not move downward relative to the primary spectacle frame and will not be easily disengaged from the primary spectacle frame when the users conduct jogging or jumping exercises. In addition, the magnetic members are not embedded in the frames such that the strength of the frames will not be decreased.

Although this invention has been described with a certain degree of particularity, it is to be understood that the present disclosure has been made by way of example only and that numerous changes in the detailed construction and the combination and arrangement of parts may be resorted to without departing from the spirit and scope of the invention as hereinafter claimed.

I claim:

1. An eyeglass device comprising:

a primary spectacle frame for supporting primary lenses therein, said primary spectacle frame including two side portions each having an extension extended therefrom for pivotally coupling a leg means thereto, said primary spectacle frame including two rear and side portions each having a projection secured thereto, said primary spectacle frame including an upper side portion,

a pair of first magnetic members secured in said projections respectively,

an auxiliary spectacle frame for supporting auxiliary lenses therein, said auxiliary spectacle frame including two side portions each having an arm extended therefrom for extending over and for engaging with said upper side portion of said primary spectacle frame, and

a pair of second magnetic members secured to said arms respectively for engaging with said first magnetic members of said primary spectacle frame so as to secure said auxiliary spectacle frame to said primary spectacle frame,

said arms being engaged with and supported on said upper side portion of said primary spectacle frame so as to allow said auxiliary spectacle frame to be stably supported on said primary spectacle frame and so as to prevent said auxiliary spectacle frame from moving downward relative to said primary spectacle frame and so as to prevent said auxiliary spectacle frame from being disengaged from said primary spectacle frame.

2. An eyeglass device according to claim **1**, wherein said projections and said first magnetic members are arranged lower than said upper side portion of said primary spectacle frame, said second magnetic members are extended downward toward said projections for hooking on said primary spectacle frame so as to further secure said auxiliary spectacle frame to said primary spectacle frame.

3. An eyeglass device as recited in claim 1 wherein the first and the second magnetic members are magnets.

4. An eyeglass device comprising:

a primary spectacle frame for supporting primary lenses therein with the lenses defining a vertical plane, the primary spectacle frame including two side portion extensions extended therefrom for pivotally coupling a leg thereto and a first magnet having a horizontal surface and secured to said side portion extensions of the primary spectacle frame, and

an auxiliary spectacle frame for supporting auxiliary lenses therein, and for disposing in front of the primary spectacle frame, the auxiliary spectacle frame including two auxiliary side portions, the auxiliary spectacle frame including two second magnets, each secured to one of the auxiliary side portions for respectively engaging the horizontal surface of one of the first magnets so as to secure the auxiliary spectacle frame to the primary spectacle frame.

5. An eyeglass device as recited in claim 4 wherein at least an end portion of one auxiliary side portion extends downward toward one of the side portions of the primary spectacle frame for hooking on the primary spectacle frame such that the auxiliary spectacle frame is further stably supported and secured to the primary spectacle frame.

6. An eyeglass device comprising:

a primary spectacle frame for supporting primary lenses therein;

the primary spectacle frame including two side portion extensions extended therefrom for pivotally coupling a leg thereto; and

the primary spectacle frame including two first magnetic members respectively having a horizontal surface and being secured to one of the side portions extensions of the primary spectacle frame; and

an auxiliary spectacle frame for supporting auxiliary lenses therein, and for disposing in front of the primary spectacle frame, the auxiliary spectacle frame including two auxiliary side portions, wherein the auxiliary spectacle frame further includes two second magnetic members each secured to one of the auxiliary side portions and having a horizontal surface for coupling a corresponding horizontal surface of one of the first magnetic members so as to secure the auxiliary spectacle frame to the primary spectacle frame.

7. An eyeglass device as recited in claim 6 wherein the second magnetic members are magnets.

8. An eyeglass device as recited in claim 6 wherein the first magnetic members are magnets.

9. An eyeglass device as recited in claim 6 wherein the first and the second magnetic members are magnets.

10. An eyeglass device as recited in claim 9 wherein the auxiliary side portions are respectively supported on a corresponding extension and the first magnetic members are not in contact with the second magnetic members.

11. An eyeglass device as recited in claim 6 wherein the auxiliary side portions are respectively supported on a corresponding extension and the first magnetic members are not in contact with the second magnetic members.

12. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions, each of said extensions having a front side, a rear side and a first magnetic member secured to said rear side,

an auxiliary spectacle frame including two side portions each having an arm extended therefrom for extending toward and beyond said rear side, each of said arms containing a second magnetic member, and

said arms and said first and second magnetic members cooperating to stably support said auxiliary spectacle frame on said primary spectacle frame.

13. The eyeglass device according to claim 12, wherein said first and second magnets members are magnets.

14. An eyeglass device comprising:

a primary spectacle frame for supporting primary lenses therein, said primary spectacle frame including two side portion extensions extended therefrom for pivotally coupling a leg, each of said extensions also including an outer side, an inner side, and a top side with a projection secured to said inner side, each of said projections respectively securing a first magnetic member, and

an auxiliary spectacle frame for supporting auxiliary lenses therein, said auxiliary spectacle frame including two side portions each having an arm extended therefrom, said auxiliary spectacle frame further including a pair of second magnetic members secured to said arms respectively for engaging said first magnetic members of said primary spectacle, each of said arms adapted to extend over one of said top sides.

15. The eyeglass device according to claim 14, wherein said first and second magnets members are magnets.

16. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions, each of said extensions having a front side and a rear side with a first magnetic member secured to said rear side, and

an auxiliary spectacle frame including two side portions, each of said side portions having an arm extended therefrom for extending beyond said rear side, said arms containing corresponding second magnetic members, said arms and said first and second magnetic members supporting said auxiliary spectacle frame on said primary spectacle frame.

17. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions, each of said extensions extending laterally away from one another and rearwardly of said frame, each of said extensions having a top side, a front side and a rear side with a first magnetic member secured to said rear side, and

an auxiliary spectacle frame including two side portions each having an arm extending from said front side over said top side, said arms containing corresponding second magnetic members, said arms and said first and second magnetic members supporting said auxiliary spectacle frame on said primary spectacle frame.

18. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions extending rearwardly therefrom having a top side and a rear side with a first magnetic member secured thereto, and

an auxiliary spectacle frame including two arms for extending over a corresponding top side of said extensions, said arms respectively containing second magnetic members for cooperation with said first magnetic members and downwardly extended end portions for hooking said auxiliary spectacle frame to said primary spectacle frame, said arms and said first and second magnetic members supporting said auxiliary spectacle frame on said primary spectacle frame.

19. An eyeglass device comprising:

a primary spectacle frame for supporting primary lenses therein having two side portion extensions, said side portion extensions each having a top side and a projection attached to a rear side thereof, each of said projections securing a first magnetic member, and

an auxiliary spectacle frame including two arms for extending over and engaging a corresponding top side of said side portion extensions, said arms respectively containing second magnetic members and downwardly extended end portions, at least said arms and said first and second magnetic members supporting said auxiliary spectacle frame on said primary spectacle frame.

20. An eyeglass device comprising:

a primary spectacle frame for supporting primary lenses therein having two side portion extensions having a top side and a rear side with a first magnetic member secured to said rear side, and

an auxiliary spectacle frame including two arms for extending over and engaging a corresponding top side of said extensions, said arms respectively containing downwardly extended second magnetic members for hooking said auxiliary spectacle frame to said primary spectacle frame, said arms and said first and second magnetic members cooperating to support said auxiliary spectacle frame on said primary spectacle frame.

21. An eyeglass device comprising:

a primary spectacle frame for supporting primary lenses therein having an extension at each side for pivotal coupling to a leg, each of said extensions having a front side, a rear side, a top side and a projection attached to said rear side, each of said projections securing first magnetic members, and

an auxiliary spectacle frame for supporting auxiliary lenses therein and including two side portions, each of said side portions having an arm extended therefrom and adapted to extend from said front side to beyond said rear side of said extension of said primary spectacle frame, said arms each containing corresponding second magnetic members, said arms locating each of said second magnetic members in an engagement position to engage respective first magnetic members of said primary spectacle frame and inhibit relative vertical movement therebetween.

22. An eyeglass device comprising:

a primary spectacle frame for supporting primary lenses therein and having two side portion extensions extending rearwardly therefrom and having a front side, a rear side, a top side, and a rear end, each of said rear ends pivotally coupling a leg configured to conform to a user at a distal end thereof, each of said extensions of said primary spectacle frame further having a projection attached to each of said rear sides, and a pair of first magnetic members respectively secured in said projections, said first magnetic members capable of engaging second magnetic members of an auxiliary spectacle frame so that lenses of an auxiliary spectacle frame are located in front of said primary lenses.

23. An eyeglass device comprising:

an auxiliary spectacle frame for supporting auxiliary lenses therein, said frame including a front side, a rear side, and oppositely positioned side portions, each of said side portions having an arm extended therefrom, each of said arms having a rearwardly directed free end for securing a magnetic member, and a pair of magnetic members respectively secured in the free ends of

said arms, said arms and said pair of magnetic members adapted to extend across respective side portions of a primary spectacle frame so that said pair of magnetic members can vertically engage corresponding magnetic members on a primary spectacle frame.

24. An eyeglass device comprising:

an auxiliary spectacle frame for supporting auxiliary lenses therein, said frame including a front side, a rear side, and oppositely positioned side portions, each of said side portions having an arm extended therefrom, each of said arms having a rearwardly directed end for securing a magnetic member, a pair of magnetic members respectively located at said ends of said arms, each of said ends further including a downwardly extended end portion for hooking onto a primary spectacle, said arms and said pair of magnetic members adapted to extend across respective side portions of a primary spectacle frame so that said pair of magnetic members can engage corresponding magnetic members on a primary spectacle frame.

25. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions extending therefrom and adapted to pivotally couple a leg thereto, said extensions each having a front side, a rear side, a top side and a projection extending from said rear side, each of said projections securing a first magnetic member, and

an auxiliary spectacle frame including two side portions each having an arm extended therefrom for extending over said top side, said arms containing corresponding second magnetic members, said arms with said second magnetic members engaging said first magnetic members thereby securing said auxiliary frame to said primary spectacle frame to prevent said auxiliary spectacle frame from moving downward relative to and/or disengaging from said primary spectacle frame.

26. An eyeglass device, comprising:

a primary spectacle frame for supporting primary lenses therein;

a pair of extensions mounted to said primary spectacle frame at laterally spaced locations and each projecting toward a wearer when the eyeglass device is worn;

a first pair of magnetic members, each affixed to a respective one of a pair of projections attached to a rear side of said extensions so as to be concealed by said extensions when said eyeglass is worn, said first pair of magnetic members each having a first surface;

an auxiliary spectacle frame for supporting auxiliary lenses therein;

a pair of spaced apart arms mounted to said auxiliary spectacle frame and projecting toward the wearer when the eyeglass device is worn; and

a second pair of magnetic members, each affixed to said pair of arms, said second pair of magnetic members each having a second surface, said auxiliary spectacle frame capable of being supported by said primary spectacle frame by mounting said second pair of magnetic members to said first pair of magnetic members, said first and second surfaces being oppositely directed so that said surfaces are juxtaposed.

27. An eyeglass device according to claim 26 wherein said auxiliary frame includes an abutment surface for engagement with an oppositely directed surface on said primary frame to inhibit relative movement therebetween.

28. An eyeglass device according to claim 27 wherein said abutment surface is provided on each of said arms on said auxiliary frame.

29. An eyeglass device according to claim 27 wherein said extensions are located adjacent respective ones of said arms.

30. An eyeglass device according to claim 29 wherein said auxiliary frame includes an abutment surface for engagement with an oppositely directed surface on said primary frame to inhibit relative movement therebetween.

31. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions extending rearwardly therefrom with a top side and a rear side with a first magnetic member secured thereto, and

an auxiliary spectacle frame including two arms for extending over a corresponding top side of said extensions, said arms respectively containing second magnetic members for cooperation with said first magnetic members and downwardly extended end portions for hooking said auxiliary spectacle frame to said primary spectacle frame, said arms and said first and second magnetic members supporting said auxiliary spectacle frame on said primary spectacle frame, wherein at least one of said first magnetic members and said second magnetic members are magnets.

32. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions, each of said extensions having a front side, a rear side and a first magnetic member secured to said rear side,

an auxiliary spectacle frame including two side portions each having an arm extended therefrom and traversing said extension from said front side to said rear side, each of said arms containing a second magnetic member, and

said first and second magnetic members engaging one another to support said auxiliary spectacle frame on said primary spectacle frame.

33. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions, each of said extensions having a front side, a rear side and a first magnetic member secured to said rear side,

an auxiliary spectacle frame including two side portions each having an arm extended therefrom, each of said arms containing a second magnetic member, said arms extending across said extension from said front side to said rear side, and

said arms and said first and second magnetic members stably support said auxiliary spectacle frame on said primary spectacle frame.

34. An eyeglass device comprising:

a primary spectacle frame having two side portion extensions with a front side, a rear side and a first magnetic member

an auxiliary spectacle frame including two side portions each having an arm extended therefrom, each of said arms containing a second magnetic member, said arms extending across a respective extension from said front side to said rear side so that said first and second magnetic members engage one another whereby said auxiliary spectacle frame is supported by said primary spectacle frame.

* * * * *

PROOF OF SERVICE

Aspex Eyewear v. Marchon Eyewear, Inc., et al - File No. 28450-8

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 221 North Figueroa Street, Suite 1200, Los Angeles, California 90012.

On **June 4, 2007,** I served the following document(s) described as **SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT; DEMAND FOR JURY TRIAL** on all interested parties in this action by placing [X] a true [ ] the original - thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

PLEASE SEE ATTACHED MAILING LIST

[X] (BY MAIL, 1013a, 2015.5 C.C.P.)

[X] I am readily familiar with the firm's practice for collection and processing of correspondence for mailing. Under that practice, this document will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (BY FACSIMILE) At or before 5:00 p.m., I caused said document(s) to be transmitted by facsimile pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was 213.250.7900. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The document was transmitted by facsimile transmission, and the sending facsimile machine properly issued a transmission report confirming that the transmission was complete and without error.

[X] [FEDERAL] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 4, 2007, at Los Angeles, California.

Cora Ruvalcaba

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PROOF OF SERVICE

Aspex Eyewear v. Marchon Eyewear, Inc., et al - File No. 28450-8

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Exhibit 2

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

ASPEX EYEWEAR, INC. and CONTOUR OPTIK, INC., Plaintiffs,	Case No. CV 06-08000 MMM (CWx) ~~[PROPOSED]~~ ORDER DISMISSING

vs.

MARCHON EYEWEAR, INC.,

Defendant.

AND RELATED COUNTERCLAIMS.

CLAIMS AND COUNTERCLAIMS WITH PREJUDICE

CTRM: Hon. Margaret M. Morrow
780, Roybal Federal Bldg.

The Court, having considered the stipulation of the parties and for good cause shown, it is HEREBY ORDERED that:

1. The above captioned action, including all claims and counterclaims, is dismissed in its entirety with prejudice, pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure. Each party will bear its own fees and costs.

IT IS SO ORDERED.

Dated: February 8, 2008

Margaret M. Morrow
United States District Court Judge