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17 Attorneys for Plaintiff
18 SNAP INC.

19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA

21 SNAP INC.,

Plaintiff,

v.

DREW HIRSHFELD in his capacity as
Acting Director of the United States
Patent and Trademark Office, and THE
UNITED STATES PATENT AND
TRADEMARK OFFICE,

Defendants.

CASE NO. _____

**COMPLAINT FOR RELIEF PURSUANT
TO 15 U.S.C. § 1071**

1 Plaintiff Snap Inc. (“Snap”), by its undersigned attorneys, Debevoise & Plimpton
2 LLP, for its Complaint against Defendants Drew Hirshfeld, in his official capacity as the
3 Acting Director of the United States Patent and Trademark Office (the “Director”) and
4 the United States Patent and Trademark Office (the “USPTO”) alleges as follows:

5 **PRELIMINARY STATEMENT**

6 1. In 2016, Snap introduced the SPECTACLES brand of wearable digital video
7 cameras to be used with its famous Snapchat app. The SPECTACLES product captures
8 images and, more recently, enables users to experience augmented reality (AR). The
9 SPECTACLES name evokes an incongruity between an 18th century term for corrective
10 eyewear and Snap’s high-tech 21st century smart glasses. SPECTACLES also is
11 suggestive of the camera’s purpose, to capture and share unusual, notable, or entertaining
12 scenes (*i.e.*, “spectacles”) and while also encouraging users to make “spectacles” of
13 themselves.

14 2. The Trademark Trial and Appeal Board (“TTAB”) affirmed the USPTO’s
15 refusal to register the SPECTACLES trademark based on the remarkable position that
16 “spectacles” is a generic term that the consuming public primarily understands to
17 designate an entire class of goods (*i.e.*, cameras), rather than the source of those goods.
18 But the consuming public, the media, and Snap’s competitors all refer to the type of
19 products sold under the SPECTACLES mark as “smart glasses” or “camera glasses,” not
20 “spectacles.” Moreover, the media and consuming public understands that
21 SPECTACLES is a brand of smart glasses made by Snap.

1 3. For example, a December 8, 2021 article entitled “Snap is already delivering
2 on the future Meta is promising” observes that “Spectacles won’t be alone for long.
3 Facebook is working on its own pair of AR smartglassesSimilarly, Google acquired
4 smartglasses maker North last year in a move that could signal another attempt at an AR
5 wearable And Apple has long been rumored to be planning to add a pair of
6 smartglasses to its smartwatch and earbuds wearable family”¹ Similarly, a
7 December 2, 2021 article reviewed “The Best 8 Smart Glasses of 2021.”² The article
8 explains that “[s]mart glasses are set to be the next big thing in technology . . . that puts
9 cameras and headphones into what look like normal sunglasses,” and ranked
10 SPECTACLES as the smart glasses that are “Best for Video.” These articles are
11 representative of the public’s understanding that “spectacles” simply is not the word used
12 to refer to smart glasses.

13 4. Through this action, Snap appeals to this Court for a fair and full
14 consideration of the public’s understanding that SPECTACLES is not a generic term and
15 is entitled to registration on the Principal Register.

19 ¹ See [https://qz.com/2099747/snap-is-offering-the-metaverse-while-meta-talks-
20 about-the-future/](https://qz.com/2099747/snap-is-offering-the-metaverse-while-meta-talks-about-the-future/) (last visited January 4, 2022)

21 ² See <https://www.lifewire.com/best-smart-glasses-4172796> (last visited January 4,
2022).

1 **PARTIES, JURISDICTION AND VENUE**

2 5. Plaintiff Snap Inc. is a corporation organized under the laws of the state of
3 Delaware, with its principal place of business at 3000 31st Street, Santa Monica,
4 California 90405.

5 6. Defendant Drew Hirshfeld is the Acting Director of the United States Patent
6 and Trademark Office with an address at P.O. Box 1450, Alexandria, Virginia 22313-
7 1450.

8 7. Defendant United States Patent and Trademark Office is a federal agency
9 within the United States Department of Commerce. The agency is located at 600 Dulany
10 Street, Alexandria, Virginia 22314.

11 8. This Court has jurisdiction over the subject matter of this action pursuant to
12 Section 21(b) of the U.S. Trademark Act of 1946 (the “Lanham Act”), as amended, 15
13 U.S.C. 1071(b), which provides that a party dissatisfied with a final decision of the
14 Trademark Trial and Appeal Board (“TTAB”) may institute a new civil action in Federal
15 District Court challenging such decision. This Court also has subject matter jurisdiction
16 pursuant to 28 U.S.C. § 1331.

17 9. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e)(1)(C)
18 because Plaintiff Snap has a principal place of business in this district.

19 **FACTUAL BACKGROUND**

20 10. Snap is a camera company that believes that reinventing the camera
21 represents its greatest opportunity to improve the way that people live and communicate.

1 Snap empowers people to express themselves, live in the moment, learn about the world,
2 and have fun together.

3 11. Snap's flagship product, Snapchat, is a mobile application that helps people
4 communicate visually with friends and family through short videos and images called
5 Snaps, which they can create with the camera on their phone. In September 2016, Snap
6 announced it was broadening its product and service offerings by selling a wearable
7 digital video camera housed in a pair of fashionable sunglasses under the SPECTACLES
8 brand. The SPECTACLES camera can connect seamlessly with the Snapchat app to
9 capture photos and videos from a human perspective. Snap's SPECTACLES
10 announcement received significant and widespread media attention, and was one of the
11 most-watched tech product launches of the year.

12 12. Snap's SPECTACLES camera has been the subject of significant unsolicited
13 media coverage and third-party recognition. Between September 24, 2016 and April 18,
14 2017, Snap's SPECTACLES v.1 camera product garnered over 13,000 U.S.-based media
15 articles, news stories, and other third-party media publications. The collective
16 circulation, website visitors, and broadcast audience for media outlets covering
17 SPECTACLES v.1 in the U.S. resulted in an estimated one billion+ impressions. The
18 publicity value of such media coverage was over \$35 million based on the estimated price
19 that professional media buyers would pay for that amount of exposure for that particular
20 outlet and factors, including the average cost per impression, length of article/segment,
21 and engagement level. Snap's SPECTACLES v.3 camera generated over 650 U.S.-based

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