

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

CABLZ, INC.,

Plaintiff,

v.

CHUMS, INC.,

Defendant.

Case No. 2:14-CV-00091

EXPERT REPORT OF STEVEN C. VISSER

G. Sosin

51. For many years prior to the 268 patent's priority date, a writer, photographer, radio personality, television producer and fisherman named Mark Sosin ("Sosin") began wearing an eyewear retainer made out of monofilament cable because he wanted an eyewear retainer that would not rub and irritate the back of his neck. See Exhibit 12.

52. I am informed that Sosin originally attached the monofilament cable to the eyeglass temples by drilling a hole through the eyeglass temples, flattening the ends of the temple bars with a file, drilling another hole at a right angle to the first hole, pushing the monofilament through the holes, tying a knot in the end of the monofilament and then jamming the knot in the hole. I am also informed that in approximately the 1970s, Sosin developed a new system for attaching 300-pound test monofilament to eyeglasses by cutting the monofilament cable to his preferred length, burning the ends of the monofilament so that they expanded, and using bait rigging floss as a temple retainer to wrap the monofilament cable and retain it against the eyeglass temples. The following are pictures of Sosin's eyewear retainer attached to a pair of Sosin's glasses:



See Exhibit 10.

Sosin could be seen wearing these eyewear retainers, which extended rearward from his head and were suspended in the air in an arc off of his shoulders and neck, on his television

show, Mark Sosin's Saltwater Journal. The following are pictures taken from videos, entitled "Pages from Mark's Journal":



See Exhibit 11 (taken from volume 1 at approximately 1:10)



See Exhibit 11 (taken from volume 1 at approximately 55:31)



See Exhibit 11 (taken from volume 3 at approximately 33:36)

53. At least as early as 2002, Sosin included the following instructions in the FAQ section of his website, marksosin.com, for how to make his monofilament line eyewear retainer:

QUESTION:

Mark, how do you make your sunglasses strap using mono?

ANSWER:

The mono that holds my sunglasses is 300 pound test. I wanted something stiff enough so that it would stay clear of my neck. In the warm weather, anything that touches the neck can irritate it. Cut the mono to your preferred length. Use a candle or match to burn both ends slightly. This causes them to swell and they won't pull through the wraps. I use bait rigging floss to wrap the mono against the temple bars of the glasses. Finish the wraps by using a separate loop of floss to pull the tag end under several wraps. You do this by laying the loop beyond the point to which you are wrapping. Make several wraps toward the end of the loop. Insert the tag end through the loop and pull the two tag ends of the loop. This will draw the floss under the last several wraps. Trim it and do the other temple bar the same way.

Mark Sosin

See Exhibit 12.

54. The Pages From Mark's Journal videos were available at least as early as 1999. See Exhibit 12. The Sosin prior art (FAQ) was publicly available on Sosin's website at least as early as March 25, 2002. See Exhibit 12. Thus, Sosin's eyewear retainer, associated public use and the materials discussed above qualify as prior art under at least 35 U.S.C. 102(a), (b) and (g)(2). Sosin's public use and the materials discussed above are not identified as cited art on the cover page of the 268 patent and do not appear to have been considered during examination on the merits.

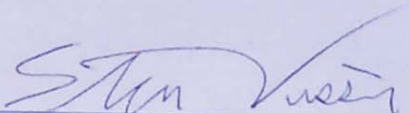
H. Dahlberg

55. In the late 1970s or early 1980s, another fisherman, Larry Dahlberg, began fastening hard monofilament to the temples of his sunglasses using a nail knot with a whip finish

I. CONCLUSION

1. As discussed in more detail above, in my opinion, most of the claims of the 268 patent are invalid as anticipated based on one or more of the prior art references discussed above. The remaining claims are an obvious combination of old and well known structures, which were not made available to the USPTO during prosecution of the 268 patent, including a cable that extends rearward from the head of the wearer and is suspended off the neck of the wearer.

2. I intend to testify about the above topics at trial. I may also provide additional overview and/or background testimony that may assist the trier of fact in understanding my opinions. I reserve the right to supplement my report after further fact discovery, if the court interprets the claims of the 268 patent or if I become aware of new information. I reserve the right to respond to the opinions offered by Cablz's expert and other witness(es) on these and related issues.


Steven C. Visser