

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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JAND, INC. D/B/A WARBY PARKER  
Petitioner,

v.

VISIBLY, INC. (formerly OPTERNATIVE, INC.)  
Patent Owner.

Case No. IPR2018-00802  
Patent No. 9,504,378

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**PETITIONER'S UPDATED EXHIBIT LIST**

## LIST OF EXHIBITS

Exhibit	Description
Ex. 1001	U.S. Patent No. 9,504,378 (the “378 patent”)
Ex. 1002	File History for U.S. Patent No. 9,504,378
Ex. 1003	U.S. Provisional Application No. 61/777,481
Ex. 1004	U.S. Patent No. 7,367,675 to Maddalena <i>et al.</i> (“Maddalena”)
Ex. 1005	U.S. Patent Application Publication No. 2013/0141697 to Berry <i>et al.</i> (“Berry”)
Ex. 1006	U.S. Patent Application Publication No. 2011/0027766 to Yoo <i>et al.</i> (“Yoo”)
Ex. 1007	U.S. Patent Application Publication No. 2012/0212706 to Chou <i>et al.</i> (“Chou”)
Ex. 1008	Reserved
Ex. 1009	Declaration of Expert Christopher Brady
Ex. 1010	<i>Curriculum vitae</i> of Expert Christopher Brady
Ex. 1011	Theodore P. Grosvenor, <i>Primary Care Optometry</i> (4th ed. 2002)
Ex. 1012	<i>Optometry: Science, Techniques and Clinical Management</i> (Mark Rosenfield & Nicola Logan, eds., 2nd ed. 2009)
Ex. 1013	Am. Acad. of Ophthalmology, <i>Clinical Optics</i> (2011-2012)
Ex. 1014	Henry B. Peters, <i>The Relationship Between Refractive Error and Visual Acuity at Three Age Levels</i> , 38 Am. J. of Optometry & Archives of Am. Acad. of Optometry 194 (1961)
Ex. 1015	U.S. Patent No. 6,386,707 to Pellicano (“Pellicano”)
Ex. 1016	<i>Visual Acuity, Hows Health</i> , <a href="https://web.archive.org/web/20120510174354/http://howshealth.com/visual-acuity/">https://web.archive.org/web/20120510174354/http://howshealth.com/visual-acuity/</a> (May 10, 2012 archive version, last visited Mar. 18, 2018)
Ex. 1017	Tina Comston, <i>Astigma-WHAT?</i> , BUCKMD BLOG (Jan. 10, 2010, 7:00 PM), <a href="https://u.osu.edu/buckmdblog/2010/01/10/a-stigma-what/">https://u.osu.edu/buckmdblog/2010/01/10/a-stigma-what/</a>
Ex. 1018	<i>Eye Test for Kids - Online E Chart Vision Test for Kids</i> , ProKerala, <a href="https://web.archive.org/web/20120429222000/http://www.prokerala.com/health/eye-care/eye-test/e-test.php">https://web.archive.org/web/20120429222000/http://www.prokerala.com/health/eye-care/eye-test/e-test.php</a> (Apr. 29, 2012 archive version,
Ex. 1019	<i>Eyefinity - EyeXam</i> , <a href="https://web.archive.org/web/20130116065402/http://www.officemate.net:80/officemate_va_eyexam.aspx">https://web.archive.org/web/20130116065402/http://www.officemate.net:80/officemate_va_eyexam.aspx</a> (January 16, 2013 archive version,

<b>Exhibit</b>	<b>Description</b>
Ex. 1020	Marcelo Sosa-Iudicissa et al., <i>Chapter 1: History of Telemedicine, in Handbook of Telemedicine</i> (O. Ferrer-Roca & M. Sosa-Iudicissa eds., 1998)
Ex. 1021	William J. Crump & Thomas Pfeil, <i>A Telemedicine Primer: An Introduction to the Technology and an Overview of the Literature</i> , 4 Archives of Family Med. 796 (1995)
Ex. 1022	Karen M. Zundel, <i>Telemedicine: history, applications, and impact on librarianship</i> , 84 Bull. Med. Libr. Ass'n 71 (Jan. 1996)
Ex. 1023	<i>EnVision - Tips &amp; Trends</i> , <a href="https://web.archive.org/web/20130118190356/http://email-vspenvision.com:80/newsletter.jsp?i=865823230258&amp;s=5y-9&amp;nn=vsp_tips_1209">https://web.archive.org/web/20130118190356/http://email-vspenvision.com:80/newsletter.jsp?i=865823230258&amp;s=5y-9&amp;nn=vsp_tips_1209</a> (January 18, 2013 archive version, last visited Mar. 16, 2018)
Ex. 1024	Trusit Dave & Yasufumi Fukuma, <i>Clinical Evaluation of the Topcon BV-1000 Automated Subjective Refraction System</i> , 81 Optometry & Vision Science 323–333 (2004)
Ex. 1025	Declaration of Michael Sawyer in Support of Petitioner's Unopposed Motion for Admission <i>Pro Hac Vice</i> of Michael Sawyer Under 37 C.F.R. § 42.10
Ex. 1026	Supplemental Declaration of Christopher Brady (served, but not filed, Oct. 16, 2018)
Ex. 1027	U.S. Patent Application Publication No. 2012/0050685 ("Bartlett")
Ex. 1028	Reserved
Ex. 1029	Deposition Transcript of Dr. Peter Thomas (dated Feb. 25, 2019)
Ex. 1030	Petitioner's Notice of Deposition of Dr. Peter Thomas (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1031	CV of Dr. Steven Lee (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)

<b>Exhibit</b>	<b>Description</b>
Ex. 1032	Biographies of Dr. Todd M. Zarwell, OD, FAAO, and Dr. Brian Chou, OD, FAAO, EyeDock (2019) (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1033	CV of Dr. Desmond J. Maddalena Optiscribe, Eyetestclinic (2010) (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1034	Online Vision Test Received Failing Grade From Optometrist, American Optometric Association (2019) (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1035	Stephanie Bell, “A Beginner’s Guide to Uncertainty of Measurement,” National Physical Laboratory, 2(11) (August 1999) (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1036	Distance calculations for U.S. Quarter viewed at 10 feet with a 640x480 webcam (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1037	Distance calculations for Credit Card viewed at 10 feet with a 320x240 webcam (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1038	SHD Pro Webcam C920 Specifications - Logitech Support (2019) (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1039	Distance calculations for U.S. Quarter viewed at 10 feet with a 1920x1080 (presented at the Feb. 25, 2019 deposition of Dr. Peter Thomas)
Ex. 1040	Reply Declaration of Dr. Christopher Brady
Ex. 1041	Transcript of Podcast, “How a SaaS Startup is Disrupting the Eye Care Industry” – with Aaron Dallek (Published Dec. 1, 2016), <i>available at</i> <a href="https://saasclub.io/podcast/saas-startup-aaron-dallek-opternative/">https://saasclub.io/podcast/saas-startup-aaron-dallek-opternative/</a> .
Ex. 1042	U.S. Patent Application Publication No. 2014/0300722 (“Garcia”)
Ex. 1043	U.S. Patent No. 8,887,052 (“Young”)

<b>Exhibit</b>	<b>Description</b>
Ex. 1044	U.S. Patent No. 7,699,471 (“Lai”)
Ex. 1045	U.S. Patent No. 9,700,201 (“Schepen”)
Ex. 1046	Reserved
Ex. 1047	Eye Test Clinic Website
Ex. 1048	Opternative.com Website archived on June 22, 2013
Ex. 1049	Opternative Press Release dated July 27, 2015
Ex. 1050	California Optometric Association, California Optometrists Caution Patients About Unapproved Online ‘Vision Tests’ After FDA Warning, dated May 9, 2018.
Ex. 1051	Amazon.com webpage for Logitech HD Pro Webcam C920, Widescreen Video Calling and Recording, 1080p Camera, Desktop or Laptop Webcam
Ex. 1052	Distance calculations for U.S. Quarter viewed at 40 cm with a 640x480 webcam
Ex. 1053	The SaaS Podcast, How a SaaS Startup is Disrupting the Eye Care Industry - with Aaron Dallek (Dec. 1, 2016)
Ex. 1054	J. Lester Feder, <i>Cell-Phone Medicine Brings Care to Patients in Developing Nations</i> , 29 Health Affairs 259–263 (Feb. 2010)
Ex. 1055	Michael DeGusta, <i>Are Smart Phones Spreading Faster than Any Technology in Human History</i> , Technology Review (May 9, 2012)

<b>Exhibit</b>	<b>Description</b>
Ex. 1056	Declaration of Matthew J. Haas (served, but not filed, Apr. 8, 2019)
Ex. 1057	Petitioner's Demonstratives

Date: June 13, 2019

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6, I certify that the foregoing Petitioner's Updated Exhibit List and Exhibit 1057 were served by email, by agreement of the parties, on the following counsel of record for patent owner:

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