

4. On information and belief, Callaway is a Delaware corporation with an office and principal place of business at 2180 Rutherford Road, Carlsbad, California 92008. Defendant is a citizen of the states of Delaware and California.

5. On information and belief, Callaway is in the business of manufacturing various types of golf clubs, golf balls, and associated golf equipment and accessories and is offering for sale and selling such products within the Eastern District of Texas and throughout the United States and elsewhere throughout the world. On information and belief, Callaway sells such products directly through on- and off-course golf retailers and sporting goods retailers, through wholly owned domestic and foreign subsidiaries, to foreign distributors, through online sales at its web site www.Shop.CallawayGolf.com, and by phone at 1.877.CALLAWAY.

II. JURISDICTION AND VENUE

6. This action arises under the Patent Laws of the United States, Title 35, United States Code; the Trademark Laws of the United States, Title 15, United States Code; and the common law of unfair competition and unjust enrichment.

7. This Court has jurisdiction of the subject matter of the patent claims herein pursuant to 28 U.S.C. §§ 1331 and 1338(a), and of the trademark claims herein pursuant to 15 U.S.C. § 1125(a) (Section 43 of the Lanham Act). This Court has supplemental jurisdiction over the common law claims of unfair competition and unjust enrichment pursuant to 28 U.S.C. § 1367.

8. Venue is proper in this district court pursuant to 28 U.S.C. § 1391(c) and 1400(b).

III. FACTUAL BACKGROUND

9. Among the types of golf clubs manufactured by Callaway and sold in the Eastern District of Texas and elsewhere throughout the United States and the world are certain golf

putters sold under the name “Odyssey” that bear the designations: White Hot XG #7; White Hot XG #7 Long Putter; Black Series I #7; and White Hot XG Sabertooth. Each of the foregoing products infringes one or more claims of the ‘927 Patent, and, on information and belief, such infringement continues to the present time.

10. On information and belief, Callaway’s infringement of the ‘927 Patent has at all times been and continues to be willful, objectively reckless, and committed with full knowledge of the ‘927 Patent.

11. Plaintiff, in addition to being the named inventor and patentee of the ‘927 Patent, also does business as EZ Line Putters, a business for the design, sale and licensing of golf putters sold under the name EZ Line Putter. Plaintiff has operated EZ Line Putters continuously since about February 5, 1999. EZ Line Putters has a web site for the promotion and sale of such putters at www.ezlineputters.com.

12. At least about as early as March 1999, and in about November 2001, and again in about 2004, in the conduct of his business at EZ Line Putters, Plaintiff provided information to Callaway concerning his concepts, ideas and designs for improved golf putters and offered Callaway a license under his patents, including the ‘927 Patent. Plaintiff’s EZ Line Putter designs encompassed the new concepts, ideas and designs, structures and physical properties that Plaintiff knew, and Callaway came to know, to provide improved golfing results when used as intended. Plaintiff also served as a consultant to Callaway in connection with a lawsuit that Callaway had at that time with another party.

13. As a result of Plaintiff’s contacts with Callaway through the years, Callaway has had actual knowledge of Plaintiff’s ‘927 Patent and of his EZ Line Putter golf putter concepts and designs continuously since at least as early as March 1999.

14. Despite the advantages inherent to Plaintiff's patented putters, and Callaway's knowledge of such advantages, Callaway on at least two occasions refused to take a license under Plaintiff's patents.

15. On information and belief, despite having received information concerning Plaintiff's putter concepts, ideas and designs and refusing to take a license under Plaintiff's patents, Callaway introduced the infringing Odyssey White Hot XG #7 and White Hot XG #7 Long Putter, Odyssey Black Series I #7, and the White Hot XG Sabertooth putter lines starting in about August 2006, and for a full year in 2007. On information and belief, infringing sales of these putter product lines continue to the present time.

16. On information and belief, Callaway's profit margins increased year after year from 2006 to 2007 based in substantial part on sales of the White Hot XG #7, White Hot XG #7 Long Putter, Odyssey Black Series I #7, and the White Hot XG Sabertooth putter product lines, all of which are among the products alleged herein to infringe the '927 Patent.

17. At no time did Callaway acknowledge to Plaintiff its use of Plaintiff's putter concepts, ideas and designs and of the inventions disclosed and claimed in the '927 Patent, nor did Callaway request a license thereunder, despite one having been being proffered by Plaintiff, before it introduced said products into the marketplace, knowing full well of the existence of the '927 Patent.

18. Callaway's willful infringement of the '927 Patent and its misappropriation of Plaintiff's golf putter concepts, ideas and designs has damaged Plaintiff in his business and caused the loss of potential opportunities to sell or license his patented putter designs as a result.

19. Callaway in bad faith has unjustly misappropriated the results of the skill, expenditures and labors of Plaintiff, a competitor of Callaway's in the business of designing and

selling golf putters, for its own use and profit.

20. By reason of all of the aforesaid acts, Plaintiff has been damaged by Callaway's infringement of the '927 Patent and its misappropriation of his putter concepts, ideas and designs.

Count 1 (Patent Infringement)

21. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1 through 20 as if fully set forth herein.

22. Callaway's aforesaid activities constitute infringement of one or more of the claims of the '927 Patent.

23. On information and belief, Callaway will continue to infringe the '927 Patent unless enjoined by this Court.

24. As a result of Callaway's infringing conduct, Plaintiff has been irreparably damaged to an extent not yet determined and Plaintiff will continue to be irreparably damaged by such acts in the future unless Callaway is enjoined by this Court from committing further acts of infringement.

25. Plaintiff is entitled to recover damages in an amount that adequately compensates him for Callaway's willful infringement, which damages should be increased up to three times the amount found or assessed.

Count 2 (Trade Dress Infringement and Unfair Competition)

26. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1 through 25 as if fully set forth herein.

27. Plaintiff's golf putters, including the EZ Line Putter's color, shape, design, and overall commercial impression are inherently distinctive.

28. Plaintiff has acquired trade dress rights in the non-functional elements of its golf putters including the EZ Line Putter color, shape, design, and overall commercial impression.

29. Callaway's White Hot XG Marxman Blade putter, among others, incorporates colors, shapes, non-functional design features and an overall commercial impression that consumers associate with Plaintiff's golf putters including the EZ Line Putter.

30. Callaway's use of Plaintiff's golf putter colors, shapes, design features and overall commercial impression trades off of Plaintiff's goodwill and reputation associated with Plaintiff's golf putters including the EZ Line Putter.

31. Callaway's use of the White Hot XG Marxman Blade putter, among others, is confusingly similar to Plaintiff's golf putter colors, shapes, non-functional design features and overall commercial impression and constitutes infringement of Plaintiff's trade dress rights and unfair competition under the Lanham Act and the common law.

32. Callaway's infringement of Plaintiff's rights has irreparably damaged Plaintiff and continues to irreparably damage plaintiff.

33. Plaintiff is entitled to all damages for infringement, including any statutory damages under the Lanham Act.

34. Callaway's aforesaid activities in misappropriating Plaintiff's putter concepts, ideas and designs constitute unfair competition under the Trademark Laws of the United States, 15 United States Code, section 1125(a) (section 43 of the Lanham Act), and under the common law.

35. As a result of Callaway's misappropriation of his putter concepts, ideas and designs, Plaintiff has been irreparably damaged to an extent not yet determined and Plaintiff will

continue to be irreparably damaged by such acts in the future unless Callaway is enjoined by this Court from committing further acts of unfair competition.

36. By reason of such misappropriation, Plaintiff is entitled to recover damages in an amount that adequately compensates him for Callaway's unfair competition.

Count 3 (Unjust Enrichment)

37. Plaintiff repeats and realleges each and every allegation set forth in Paragraphs 1 through 36 as if fully set forth herein.

38. As an intended, direct, foreseeable and proximate cause of Callaway's wrongful and unjustified conduct, Plaintiff is suffering and will continue to suffer injury as set forth herein, including damages in the form of lost business opportunities and lost profits from the sale or licensing of his golf putter concepts, ideas and designs.

39. Plaintiff is entitled to the return, by way of disgorgement, restitution, divestiture, and/or other equitable remedy, of such monies, and is entitled to an order enjoining Callaway from engaging in future unjustified conduct that is similar to the conduct complained of herein.

40. In partial or full alternative to the preceding claims for relief, Plaintiff has no adequate remedy at law for the injunctive relief sought herein and seeks such relief to remedy otherwise irreparable harm.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for relief against Callaway as follows:

- (a) Determining Callaway to be liable to Plaintiff for infringement of the '927 Patent;

(b) Awarding Plaintiff damages to compensate for Callaway's infringement;

(c) Determining that Callaway's infringement was willful;

(d) Increasing the damages up to three times, pursuant to 35 U.S.C. § 284;

(e) Preliminarily and permanently enjoining Callaway, its subsidiaries, affiliates, officers, agents and employees from further infringement of the '927 Patent;

(f) Determining that this is an exceptional case, pursuant to 35 U.S.C. § 285 and awarding Plaintiff his attorneys' fees;

(g) Determining that Callaway has competed unfairly with Plaintiff in misappropriating his trade dress rights in the non-functional elements of his golf putters including the EZ Line Putters color, shape, design, and overall commercial impression, and Plaintiff's golf putter concepts, ideas and designs, and that Plaintiff has been damaged as a result of such unfair competition;

(h) Awarding Plaintiff damages to compensate for Callaway's unfair competition;

(i) Preliminarily and permanently enjoining Callaway, its subsidiaries, affiliates, officers, agents and employees from unfairly competing further with Plaintiff;

(j) Determining that Callaway has been unjustly enriched as a result of its unlawful and unjust activities in respect of Plaintiff and awarding Plaintiff his damages as a result; and

(k) Granting Plaintiff such other and further relief as the Court may find just and equitable to remedy such unfair competition and unjust enrichment.

V. DEMAND FOR JURY TRIAL

Pursuant to Rule 38, Fed. R. Civ. P., Plaintiff hereby demands a trial by jury for all issues triable of right by a jury in this case.

Date: July 10, 2008

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[54] PUTTER HEAD

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[22] Filed: Feb. 15, 1990

[51] Int. Cl.⁵ A63B 53/00

[52] U.S. Cl. 273/162 E; 273/164; 273/167 R; 273/167 H; 273/169

[58] Field of Search 273/162 E, 183 D, 194 A, 273/164, 169, 170, 171, 167 A, 167 E, 167 F, 167 H, 167 K, 173, 174, 163 R

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Primary Examiner—George J. Marlo

[57] ABSTRACT

A golf putter includes a horizontal flange extending rearward from the upper edge of a blade having a front face for striking golf balls. A pair of spaced apart narrow walls also extend rearward from the rear surface of the striking face and define an open space into which a golf ball may be wedged and retrieved. The flange and narrow walls provide weight centered on the blade's sweet spot. The upper surface of the flange may be provided with a sighting line to line up the putt with a target. The lower edges of the blade and vertical walls provide reduced resistance from grass during putting.

2 Claims, 1 Drawing Sheet

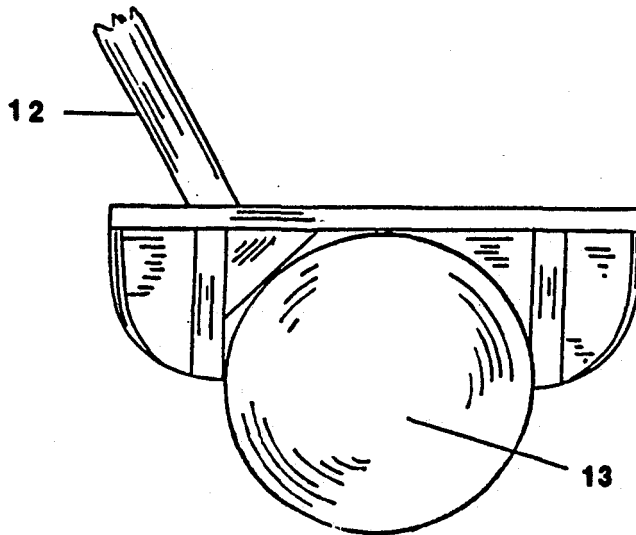


Fig. 1

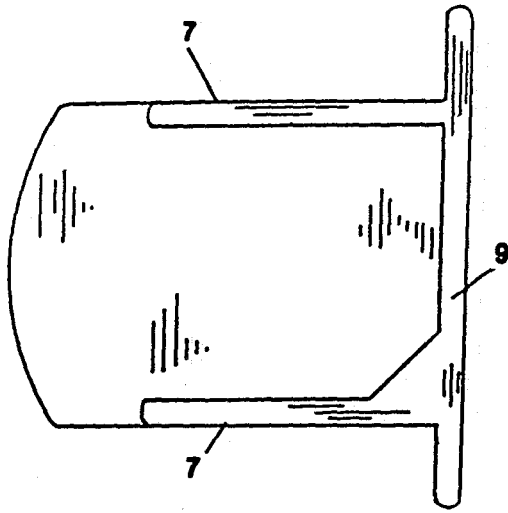


Fig. 2

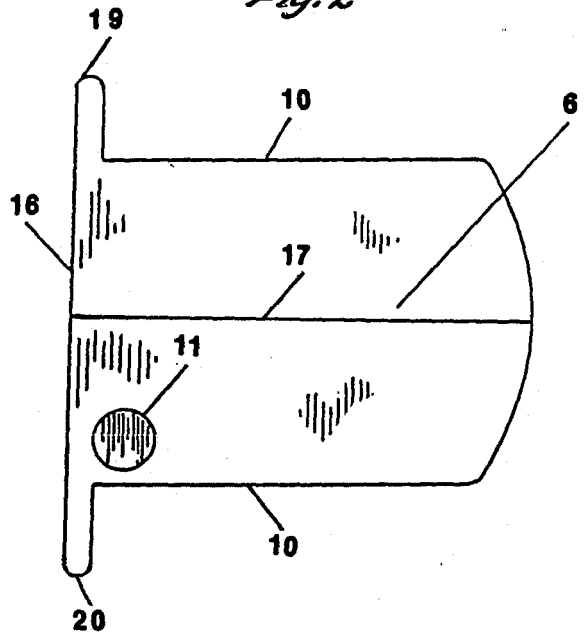


Fig. 3

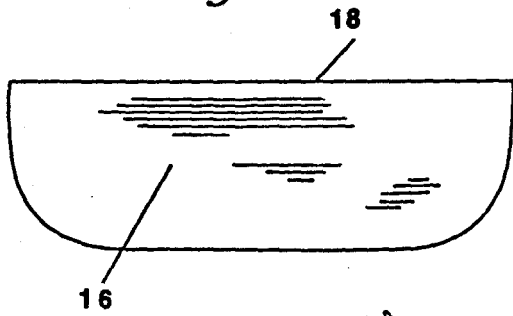
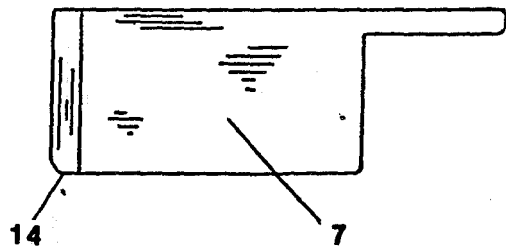
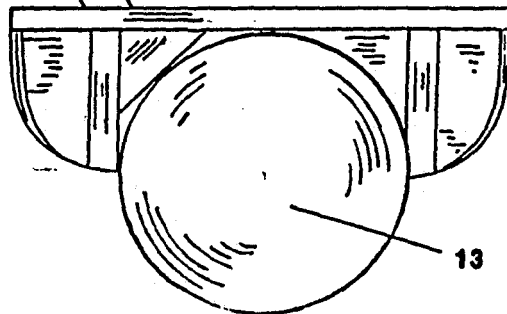


Fig. 4



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Fig. 5



PUTTER HEAD

BACKGROUND OF THE INVENTION

1. Field of the Invention

The putter head is a part of a golf club called a putter which consists of a head, shaft and grip. This invention is the head.

2. Description of the Prior Art

Putter heads made with flanges and sighting aids. Most of the soles are wide which makes it difficult to hit out of deep grass.

The sighting aids are short, the weight of the flanges are not positioned directly behind the hitting area and do not provide substantial weight in the flange to produce inertial energy. Putter flangers are not made with sides that are spaced to pick up a golf ball.

SUMMARY OF THE INVENTION

The object of my invention is to provide a putter that is balanced, easy to line up, hit out of deep grass, easy to control and can pick up a golf ball out of a putting cup.

This putter head is different due to the combination of the position, weight distribution, length and shape of the flange, the thin sole, rounded sole, one piece solid cast and is able to lift a golf ball. The center of the flange is positioned in the center of the toe 19 and heel 20 of the blade. The flat flange is an extension of the top of the blade to provide clearance to allow the golfer to hit the ball out of deep grass from off the green which is often necessary.

The distance between the inside of the sides 7 of the putter head is slightly smaller than a golf ball. When the putter head is placed over a golf ball and pressure is applied downward, the ball will become wedged between the sides 7. This wedging action can be used to lift the ball off the green and out of water. The putter head is small enough to enter the putting hole cup to retrieve a golf ball.

The bottom of the sides 7 of the flange is parallel to the top of the flange. This supports the flange and keeps the flange parallel to the ground while addressing the ball to line up the sighting line with the target.

The sides 7 are extensions of the blade 9 and flange of the putter.

The distance from the top of the flange 18 to the bottom of the sides 7 is the same as the height of the face 16.

In FIG. 2 the sides 10 of the flange and the line in the center of the flange are perpendicular to the face of the blade. The line in the center of the flange and the weight are centered with the sweet spot.

The weight distribution in the flange and sides are a major factor to produce inertial energy on the down swing to help the putter to go through the hitting area. With the weight of the flange and sides 7 centered directly behind the hitting area, it provides a solid feel and directional control.

The narrow rounded sole and sides are designed to reduce the resistance from the grass.

The narrow blade 9 allows most of the weight of the putter head to be placed in the flange and sides.

DESCRIPTION OF THE DRAWING

FIG. 1 is a bottom view showing the width of the blade 9, sides 7, the length and distance between the sides 7.

FIG. 2 is a top view of the putter head, showing the centering, length and width of the flange with relation to the face 16. The hole 11 is for a shaft.

FIG. 3 is a front view of the putter head showing the flat top of the flange and shape of the face 16.

FIG. 4 is a side view of the putter head, showing the position, height, thickness of the flange, face 16, and the narrow rounded sole 14. The shape and length of the side 7. The flat of the putter head 18.

FIG. 5 show a back view with a golf ball wedged between the inside of the sides 7 and part of a shaft 12 to show the shaft position.

DESCRIPTION OF THE PREFERRED EMBODIMENT

Flange 6 FIG. 2 is scientifically balanced, so that the center of the flange is on center with the sweet spot. (part of the face where the ball should be struck for the best feel and consistency).

The width and weight of the flange and the sides are designed to widen the sweet spot. The weight distribution of the flange and sides are to produce inertial energy and to reduce the twist of the blade on an off hit.

The length of the flange from the face to the back of the flange is slightly shorter than the heel 20 to the toe 19 of the face to conform with the United States Golf Association Rules.

The height of the flange is to allow a ball to become wedged between the sides 7 and is positioned to place the weight directly behind the center of the hitting area for directional control and to make it easier to putt from off the green in deeper grass.

The line 17 on the center of the flange is a sighting line perpendicular to the face, indicates the sweet spot and to line up the putt with a target.

The distance between the inside of the sides 7 as shown in FIG. 1 is positioned to allow a ball to be wedged between them. The rounded bottom is to allow the sides to slip through the grass.

The sides 10 of the flange 6 are perpendicular to the face for line up, as shown in FIG. 2.

The sole 14, FIG. 4, is narrow and rounded to slide over the grass if the golfer should hit the grass.

FIG. 3 shows the shape of the face 16 and the flat top of the flange.

The head is one piece solid cast made of materials commonly used in making putters.

The face is a flat surface, all edges are parallel, or rounded.

I claim:

1. A putter head comprising a blade having a front face including a sweet spot for striking a golf ball, a rear surface, a sole and weight distribution means including means for retrieving a golf ball, said retrieving means being defined by two substantially vertical, narrow walls, generally coextensive in height with that of said blade, on opposite sides of said sweet spot and extending rearward from said rear surface of said blade, the spaced apart distance between said walls being such that a golf ball to be retrieved can become wedged therebetween when the putter head is placed over a golf ball and pressure is applied downward, the bottom edges of said walls providing reduced resistance from grass while putting, said weight distribution means including a horizontal flange extending rearward from said blade, substantially perpendicular thereto, and generally coextensive with the upper edges of said blade and said parallel walls, whereby said flange and said

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walls provide weight centered directly behind the sweet spot to provide a solid feel and directional control in putting.

2. A putter head as recited in claim 1 including a

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sighting line of the upper surface of said flange and generally perpendicular to said striking face for lining up the putt with a target.

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