

PATENT ASSIGNMENT COVER SHEET

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RESUBMIT DOCUMENT ID:	103674670
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Property Type	Number
Application Number:	14163320
Patent Number:	7441675
Patent Number:	7757895
Patent Number:	8636178
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DATE SIGNED:	03/28/2016
This document serves as an Oath/Declaration (37 CFR 1.63).	
Total Attachments: 16	

Exhibit 1010-0001

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PATENT ASSIGNMENT

This Patent Assignment is made by the herein-identified Inventor/Assignor to the herein-identified Assignee as of the date entered below and subscribed to by the Inventor/Assignor of the below-identified Patent Application.

WHEREAS, Brian Lau, an individual, having an address of 3508 Linneman, Glenview, IL 60025 (herein, "Assignor"), is an inventor and owner of a certain invention described in an application for United States Letters Patent titled as:

FLEXIBLE PANEL PITCHER

(hereinafter, the "Invention"); and

WHEREAS, Michael McGinley, an individual, having an address of 4013 West 69th Street, Prairie Village, KS 66208 (herein, "Assignee"), desires to acquire all of the Inventor's/Assignor's right, title, and interest in and to the Invention identified herein and any patents that may issue therefrom.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. **ASSIGNMENT.** Assignor hereby sells, assigns, transfers, and conveys unto Assignee, its successors and assigns, all of Assignor's right, title, and interest in and to the Invention identified herein, the patent application filed thereon, any continuation, division, continuation-in-part, reissue or reexamination applications and any patents, U.S. or foreign, that may issue therefrom, the same to be held and enjoyed by Assignee for its own use and benefit and for the use and benefit of its successors and assigns, to the full end of the term of any patent that may issue therefrom, as fully and entirely as same would have been held by Assignor had this assignment not been made.

2. **RIGHTS INCLUDED.** The transfer and assignment, as described above, shall also include the right to sue for past infringements (whether known or unknown) of the Invention identified herein, and any patents that may issue therefrom, and to hold for Assignee's own use all recoveries had in such suits, without need for accounting to Assignor. In any such litigation, Assignor shall provide reasonable cooperation, at Assignee's expense.

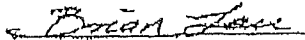
3. **REPRESENTATIONS.** Assignor represents and warrants that Assignor, together with Gary L. Murphy and Hilbert Computing, Inc., has the sole and exclusive ownership interest in and title to the Invention; that Assignor has not granted to any third party any rights that would conflict, in any material way, with the rights granted herein to Assignee; that, to the knowledge of Assignor, the Invention is not being infringed by any third party; and that Assignor, has the full right, power, and authority to make this assignment.

4. **COMMUNICATIONS.** Assignor hereby authorizes Assignee, with respect to the Invention and any patent that may issue therefrom, to communicate with the United States Office of Patents and Trademarks with the same effect as though such communications were made by or with Assignor directly.

5. **FURTHER ASSURANCES.** Assignor agrees to execute and deliver to Assignee and to perform such tasks as Assignee may reasonably require in order to vest in Assignee full and complete record title to the invention identified herein and any patent that may issue therefrom.

IN WITNESS WHEREOF, said Inventor/Assignor has executed this Assignment as of this _____ day of February, 2004.

Assignor


Brian Lau

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MICHAEL L. MCGINLEY, et al.,

Plaintiffs,

vs.

MUNCHKIN, INC.,

Defendant.

Case No. 09-0257-CV-W-GAF

AFFIDAVIT OF BRIAN C. LAU

Brian C Lau, being first duly sworn upon his oath, deposes and says:

1. My name is Brian C. Lau. I am over 18 years old and live at 3508 Linneman, Glenview, Illinois.

2. I am identified as an inventor of the flexible panel pitcher device (the "Invention") identified in United States Letters Patent No. 7,441,675 (the "'675 Patent"). A true and accurate copy of the '675 Patent is attached to this affidavit as Exhibit 1.

3. In February 2004, for good and valuable consideration, I voluntarily sold, assigned, transferred and conveyed all of my right, title and interest in and to the Invention and the '675 Patent (and any continuations, etc. thereon) to Michael L. McGinley pursuant to a written assignment agreement. A true and genuine copy of the written assignment agreement is attached to this affidavit as Exhibit 2. My signature appears on page 2. I signed the agreement in Glenview, Illinois in February 2004.

4. The assignment agreement attached as Exhibit 2 is valid and accurately states the assignment I made. I do not question or challenge the assignment.

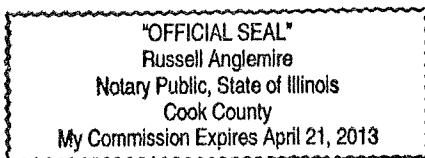
5. All of the statements in this affidavit are true and based on my personal knowledge.

Dated: 1/20/2010

Brian Lau
Brian C. Lau

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 20th day of January 2010.



[Signature]
Notary Public

My Commission Expires: April 21st, 2013

EXHIBIT 1



US007441675B2

(12) **United States Patent**
McGinley et al.

(10) **Patent No.:** **US 7,441,675 B2**
(45) **Date of Patent:** **Oct. 28, 2008**

(54) **FLEXIBLE PANEL PITCHER**

(76) **Inventors:** **Michael L. McGinley**, 4013 W. 69th St.,
Prairie Village, KS (US) 66208; **Brian**
Lau, 3508 Linneman, Glenview, IL (US)
60025

(*) **Notice:** Subject to any disclaimer, the term of this
patent is extended or adjusted under 35
U.S.C. 154(b) by 268 days.

(21) **Appl. No.:** **10/770,325**

(22) **Filed:** **Feb. 2, 2004**

(65) **Prior Publication Data**
US 2004/0155070 A1 Aug. 12, 2004

Related U.S. Application Data

(63) Continuation-in-part of application No. 10/357,651,
filed on Feb. 4, 2003, now abandoned.

(51) **Int. Cl.**
B65D 37/00 (2006.01)
B65D 35/22 (2006.01)
B65D 6/28 (2006.01)

(52) **U.S. Cl.** 222/129; 222/210; 222/574;
220/609; 220/904

(58) **Field of Classification Search** 222/206-215,
222/566-574, 129, 94; 220/608, 609, 904,
220/530, 9.4, 23.88, 666, 669; 215/382,
215/400; 229/400

See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

33,737	A	*	11/1861	Fitts	119/65
2,333,014	A	*	10/1943	Kennedy	220/645
2,872,081	A	*	2/1959	Randall	222/183
3,729,553	A	*	4/1973	Gold et al.	424/44
4,609,113	A	*	9/1986	Seki	215/382
4,756,439	A	*	7/1988	Perock	68/233
4,886,206	A	*	12/1989	Martinez	229/123.1
4,955,503	A	*	9/1990	Propes	220/526
RE35,933	E	*	10/1998	Scholl	220/695
5,960,987	A	*	10/1999	Solland et al.	220/834

* cited by examiner

Primary Examiner—Kevin P. Shaver

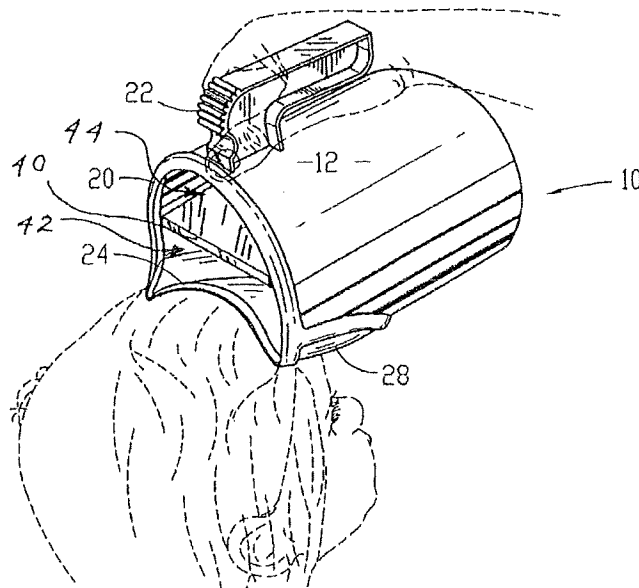
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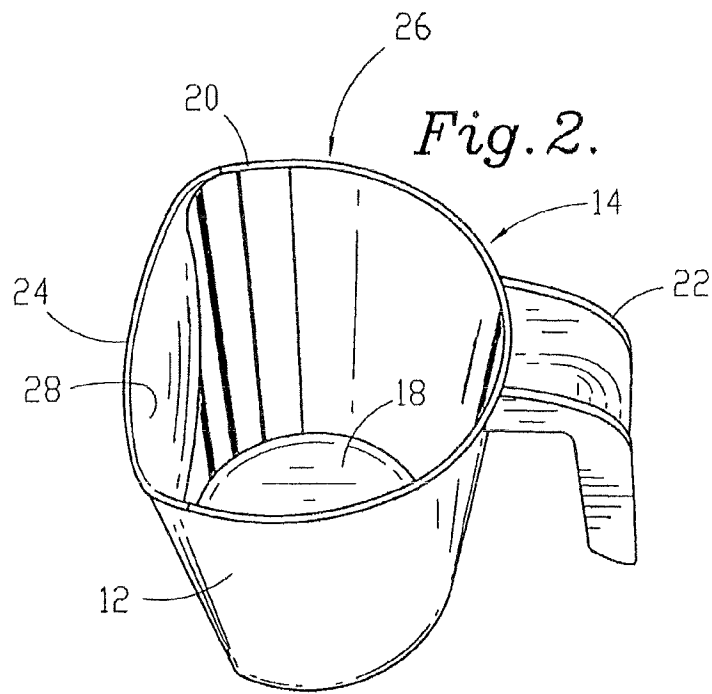
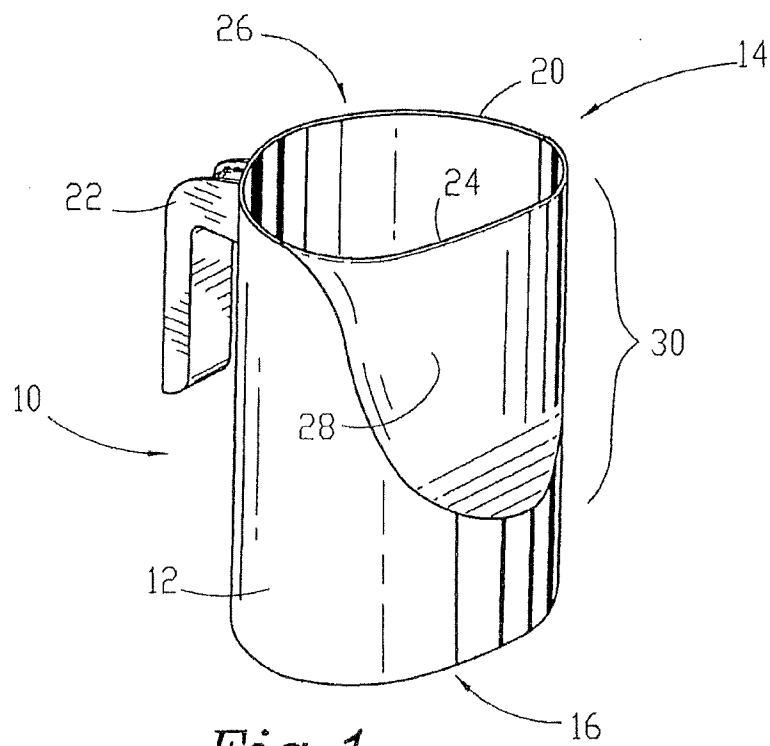
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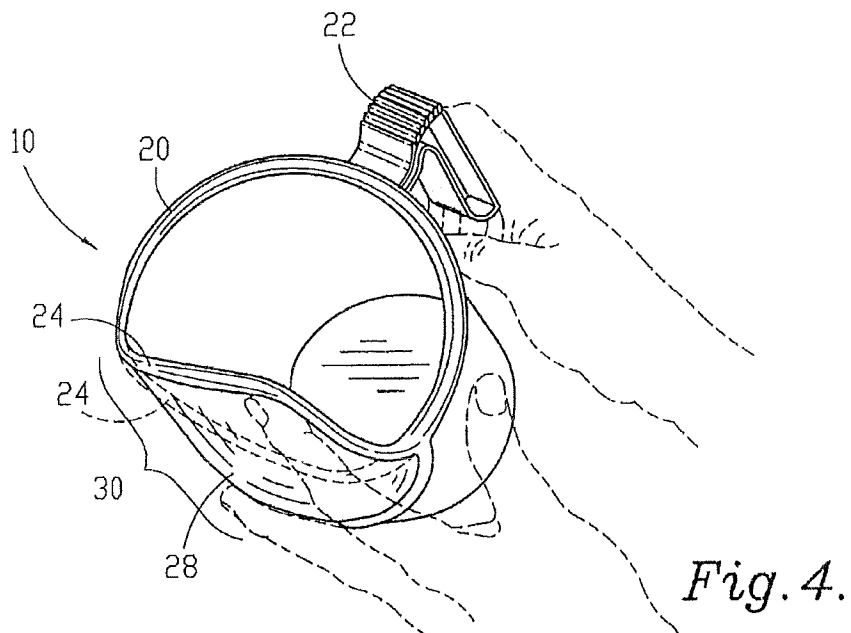
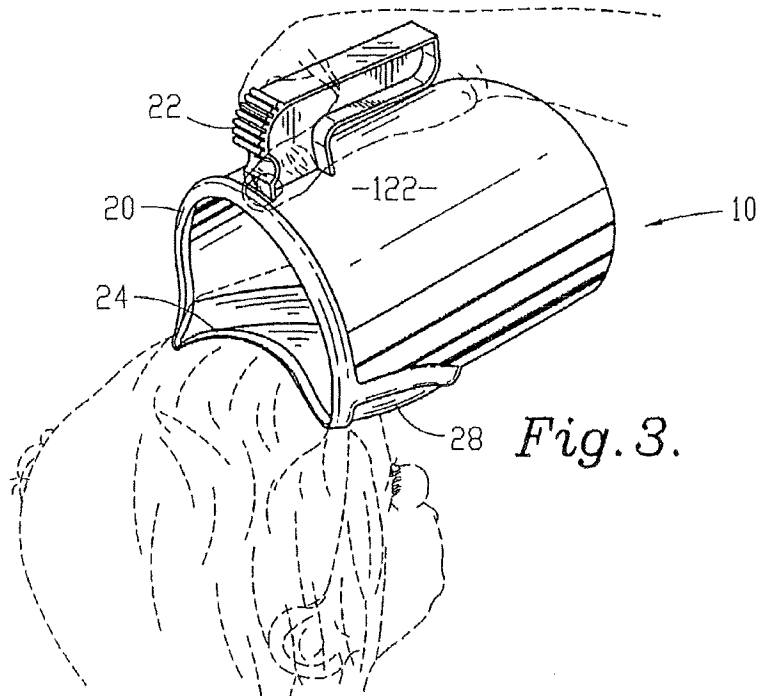
(57) **ABSTRACT**

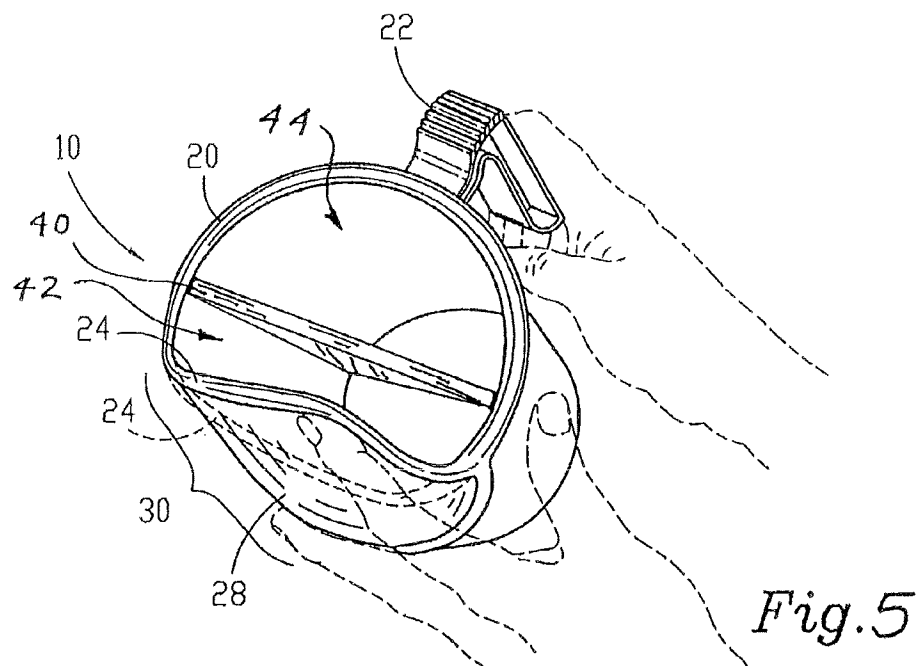
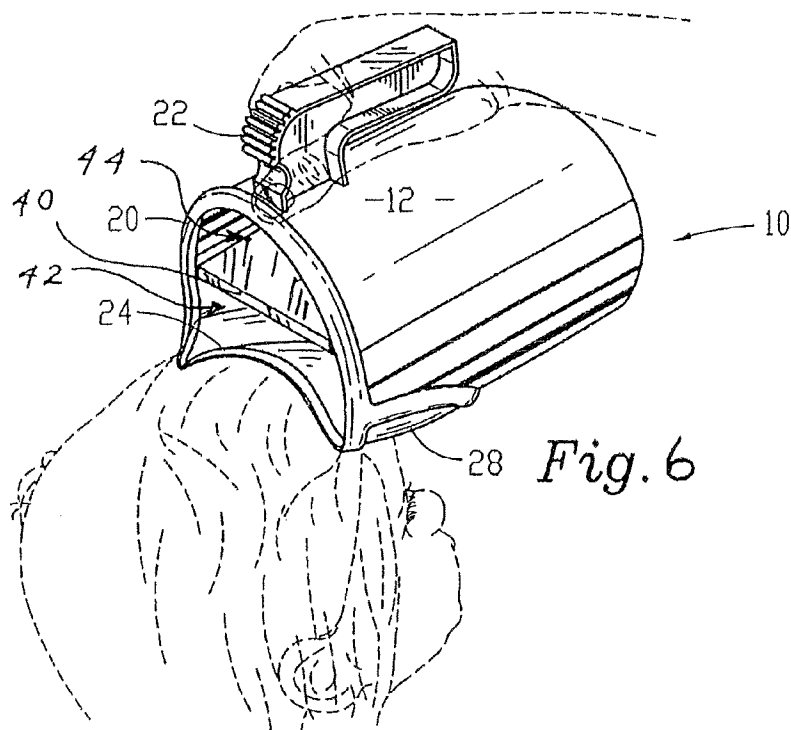
A container or pitcher is provided having a flexible side wall portion and rim portion of the container which can conform to the shape of an object to which the pitcher is applied to thereby direct fluid flow from the pitcher over a broader area and to prevent fluid from flowing from the pitcher and underneath the rim of the pitcher and onto portions of the object to which it is not desirable to apply the fluid.

12 Claims, 3 Drawing Sheets









FLEXIBLE PANEL PITCHER

This is a continuation-in-part of application Ser. No. 10/357,651 filed Feb. 4, 2003 now abandoned.

FIELD OF THE INVENTION

The present invention relates to containers, specifically containers used to hold fluids and, in particular, a container having a flexible side wall portion and rim portion which is capable of conforming to the shape of an object to which the pitcher is applied to more particularly direct the flow of fluid from the pitcher and to prevent the flow of fluid from the pitcher and onto areas to which application of the fluid is not intended.

BACKGROUND OF THE INVENTION

When using pitchers to pour fluids, it is frequently desired to pour a stream of the fluid into a specific location, such as a glass or other container. Alternatively, it may be useful to use a container or a pitcher that does not provide an actual spout, but rather, simply has a rim when it is desired to pour a greater amount of fluid or broader stream of fluid onto an object such as when rinsing a floor or an automobile. However, both of these types of containers and pouring operations present specific drawbacks to particular applications. For example, when using a pitcher having a spout, the fluid that is poured from the pitcher can only be applied to a particular area, specifically, that area determined by the stream of fluid as it exits the spout. While this is useful for pouring water into a glass, another container or a specific area, it is not useful for applying the fluid to a larger area. Also, the use of a spout while narrowing the stream of water, nevertheless, provides a narrow column-like stream of water which, when it contacts the object or container toward which it is directed, will flow in all directions.

The other case of pouring a fluid from a container—that is the case of a bucket or other broad-rimmed container—also presents limitations with respect to the pouring of a fluid. In the case of a bucket or a pitcher having no spout, the water will flow from the pitcher over the rim or edge of the pitcher and create a broad stream of fluid flowing from the pitcher which will be related to the angle of the longitudinal axis of the pitcher as it moves from vertical to horizontal. To state the obvious, when the longitudinal axis of the pitcher (that is the axis passing through the bottom of the pitcher and the top of the pitcher) is parallel to vertical, no fluid will flow from the pitcher. As the longitudinal axis is tilted increasingly toward a horizontal plane, more and more fluid will flow over the rim of the pitcher, and the stream flowing from the pitcher will be increasingly wide. While such a spoutless pitcher, such as a bucket, provides a wide stream of fluid which is useful in, for example, rinsing an area, there is still no control over the distribution of that stream over the object on which it is poured. Specifically, if a stream of water is poured from a bucket, when the stream of water contacts the object on which it is poured, the water will flow in all directions and will not be limited to a single direction of flow. Even if the rim of the pitcher is pressed directly against the object onto which the fluid is to flow, the fluid will flow back toward the pitcher and underneath the pitcher and onto portions of the object which are near the side wall of the pitcher.

In the specific case of rinsing shampoo and other hair treatments from the head of a child, this “backflow” from a pitcher can provide compelling support for the Victorian premise that children should be seen and not heard. Specifi-

cally, the backflow of rinse water from a pitcher that is used to dip bath water and to lift it to rinse the head of a child can cause shampoo and other hair and scalp treatments to flow down the forehead of the child and into the eyes and face of the child. This will cause the child to notify the parent of the situation through loud screams, tears and arm movements. The prospect of rinsing soap suds into the eyes and mouth and nose of a child is not pleasant for either the parent or the child and can lead to difficulties as bath time approaches. Usually it is the case that the best of attempts to try to limit this problem are unsuccessful. Asking the child to close his or her eyes tightly while the rinsing is proceeding will be only partially successful. The child, for one reason or another, may open their eyes during the rinsing procedure whereupon the soapy water contacts and stings their eyes. Alternatively, the child may improperly time the closing of their eyes with the application of the rinse water and receive a stinging realization of their incapacity to coordinate their eyelid movements. Even should the parent attempt to assist the situation by placing a hand across the forehead of the child, some soapy water will inevitably trickle down the forehead of the child and into the child's eyes, mouth or nose.

Therefore, it would be a great benefit if a rinse container or pitcher could be provided which would prevent the flow of rinse water from a rinse pitcher or container and back underneath the rim of the container thereby providing specific, directional application of rinse water to an object such as a child's head.

Yet another benefit would be obtained from a pitcher or rinse container which could provide a broad flow of rinse water to an object to more efficiently rinse the object and while providing means for directing the flow of the rinse water from the pitcher and onto the object while preventing the backflow of rinse water onto areas of the object to which rinse water is not intended to be applied.

It would still be a further benefit if such a pitcher or rinsing container could conform to the shape of the object to which the rinse water in the pitcher was to be applied thereby restricting the portions of the object which will receive rinse water from those portions of the object which will not receive rinse water. These objects and benefits and more are provided by the present invention which is more completely described hereinafter.

SUMMARY OF THE INVENTION

The present invention solves the preceding problems and improves the state of the art by providing a pitcher for holding solutions such as rinse water or shampoo or other liquids to allow application of those liquids to a localized portion of the body such as the head. The present invention provides a flexible panel and/or flexible rim portion of the container which conforms to the shape of the an object, such as the head of an individual, to allow application of the fluid to the body and to prevent misapplication of the fluid by preventing fluid from flowing underneath the rim and onto body parts to which it is not desired to apply the fluid.

In one embodiment, the invention provides a flexible panel which can conform to the shape of the child's head or other object to effectively seal off passage of fluids back under the flexible rim thereby allowing application of the fluid, such as rinse water, to the child's hair while preventing the flow of rinse water and a rinse water-shampoo mixture down into the child's face and eyes.

In another embodiment a divider panel is provided within the container to provide a second source of fluid flow onto the object to which the container is applied to provide a source of

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flow that is not partially deflected from the object by the deflection of the flexible panel as it conforms to the shape of the child's head or other object to which the flexible panel is applied.

These other objects are intended to be illustrative of the invention and are not meant in a limiting sense. Many possible embodiments of the invention may be made and will be evident upon a study of the following specification and accompanying drawings. Various features and subcombinations of invention may be employed without reference to other features and subcombinations. Other objects and advantages of this invention will become apparent from the following description and drawings, wherein is set forth by way of illustration and example, an embodiment of this invention.

DESCRIPTION OF THE DRAWINGS

Preferred embodiments of the invention, illustrative of the best modes in which the applicant has contemplated applying the principles, are set forth in the following description and are shown in the drawings and are particularly and distinctly pointed out and set forth in the appended claims.

FIG. 1 is a top and side perspective view of the pitcher of the present invention showing the flexible panel which comprises a portion of the side wall of the container and the top edge of the side wall of the container;

FIG. 2 is a top and interior perspective view of the embodiment of FIG. 1 and showing the flexible wall opposite the handle;

FIG. 3 shows the application of an embodiment of the invention to the head of a child to allow water to flow over the child's hair and back of the head while the flexible panel and flexible rim conform to the shape of the child's head and prevents water from flowing down the front of the child's head and into the child's eyes and face;

FIG. 4 shows the embodiment of FIG. 4 having a flexible panel and flexible rim and showing the panel and rim in a depressed position and showing the panel and rim in phantom lines in a relaxed or undeformed position,

FIG. 5 shows an embodiment of the invention having a divider placed within the container to provide a second source of fluid flow; and

FIG. 6 shows the embodiment of FIG. 5 applied to the head of a child to allow water to flow over the child's hair and back of the head and having a divider panel within the container to provide a second source of fluid flow that is not affected by the deflection of the flexible panel.

DESCRIPTION OF THE PREFERRED EMBODIMENT

Referring now to FIG. 1, an embodiment of the inventive container 10 is shown which is comprised of generally continuous side wall 12 which can be of any convenient shape, spanning shapes from square to circular to polygonal. Continuous side wall 12 terminates at either end in upper side wall end 14, and lower side wall end. Continuous side wall 12 can be formed of rubber or plastic or metal or wood or any material which will serve to hold a fluid within continuous side wall 12. Connected to a lower side wall end 16 is bottom or bottom panel 18 (FIG. 2) which serves to close lower side wall end 16 thereby allowing a fluid to be held within continuous side wall 12 and to bottom 18. It will be appreciated that, depending on the material used for the construction of side wall 12, bottom 18 could be constructed with the forming of side wall 12 thus forming a unitary construction of side wall 12 and bottom 18. As shown in FIG. 1, upper side wall

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end 14, depending on the material used for the construction of side wall 12, can form in and of itself a side wall rim 20, or an additional structure 20 (FIG. 3) can be attached to upper side wall end 14 to form a discreet side wall rim 20 (FIG. 3). Generally, side wall rim 20 will take the shape of upper side wall end 14, however, alternatively, decorative materials could be used to modify the shaping of side wall rim 20. For further convenience, and depending on the size of container 10, a handle 22 can be attached to side wall 12 to assist in the manipulation of container 10.

Side wall rim 20, in a preferred embodiment is comprised of side wall portion 24, which is a generally flat portion of side wall rim 20, and which may, therefore, differ, generally, in its shape as compared to the remainder of side wall rim 12 and side wall 20. For example, if side wall 12, in its construction, comprises a cylindrical container, then side wall rim 20 will be comprised of a generally circular side wall rim portion 26 and a generally flat side wall rim portion or side wall segment or rim segment 24. The utility and benefits of generally flat rim segment 24 will be described hereinafter. In a preferred embodiment, and in the vicinity of generally flat side wall rim portion 24, is flexible panel 28 which extends from side wall 12 toward generally flat side wall rim segment 24 to connect side wall 12 with rim segment 24. It will be appreciated by those skilled in the art that flexible panel 28 and rim segment 24 can be comprised of the same materials or of different materials depending on the choice of construction. For example, flexible panel 28 may be thin flexible plastic, or a flexible rubber panel, or a waterproof canvas which is attached to side wall 12 and which extends upwardly toward upper side wall end 14 to connect with or form side wall rim segment 24. In such a construction, rim segment 24 could be of a different material which connects with flexible panel 28 or, for example, if a waterproof canvas were used, the canvas could be wrapped over a flexible cord or wire which would form rim segment 24. Therefore, it will be appreciated by those skilled in the art that one of the objects of a preferred embodiment of the present invention is to provide a flexible, shapable wall segment 30 of either side wall 12 or rim 20, or both rim 20 and side wall 12 which can conform to the shape of an object against which this flexible portion of container 10 is pressed.

Referring now to FIG. 4, the flexibility and construction of the novel flexible side wall portion and rim portion of container 10 will be further described. As is shown in FIG. 4, flexible panel 28 and rim segment 24 are deformable and can be pressed inwardly from the position shown in phantom lines and toward the interior of container 10. The benefits of this flexibility or malleability of flexible panel 28 and rim segment 24 are that the pouring portion of side wall rim 20, which is generally rim segment 24, can be formed, by compression of container 10 against the object on which fluid is to be poured, to the shape of the object which is to receive the fluid which is within container 10. Referring to both FIGS. 3 and 4, it is shown that flexible panel 28 and side wall rim 24 are capable of deformation inwardly. This feature of container 10 allows container 10 to be placed against an object, in this case, the forehead of a child (FIG. 3) to have flexible panel 28 and side wall rim 24 registerably mate with the head of the child to provide a wide pouring spout and wide volume of fluid therefor which can be evacuated from container 10 and poured onto the head of the child to rinse the hair of the child.

It will further be appreciated that it is the flexible character of panel 28 and side wall rim 24 which allow for the registerable mating of the flexible portion of container 10. Flexible wall portion 30 (FIGS. 1 and 4), made up of flexible panel 28 and side wall rim segment 24, conforms to the shape of the

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object or, in this case, the head of a child onto which fluid is to be poured from container 10, and thus, reducing or preventing the flow of fluid from container 10 and back under side wall rim 24 and panel 28. This benefit is particularly useful with respect to rinsing shampoo or other hair products from the hair of a child. The prevention of rinse fluid from draining underneath the side wall rim of a container to allow the rinse fluids and shampoo to run down the forehead of a child and into the eyes, nose and mouth prevent the unpleasantness of eyes stinging from the shampoo or other product being rinsed from the child's hair. The construction of flexible wall portion 30 can be continuous between panel 28 and rim segment 24 (FIGS. 1 and 2), or flex panel 28 and rim 24 can be separate constructions which join together FIGS. 3 and 4 to provide a flexible rim segment and side wall portion of container 10. For example, flex panel 28 could be formed from a flexible plastic, or a rubber panel or a waterproof cloth panel which connects with a rim segment 24 which is constructed of a flexible wire covered with sponge or covered with rubber or covered with a waterproof fabric. Alternatively, rim segment 24 could be a piece of rubber or piece of sponge which is placed across a rigid portion of side wall 12 which comprises any portion of side wall rim 20. In this construction, only the malleable or flexible rim segment 24 would conform to the shape of the object against which container 10 is pressed. In this embodiment only rim segment 24 is flexible and no flex panel is provided to connect between side wall 12 and rim segment 24. In such an embodiment, side wall 12 continues to join rim segment 24, and the flexible, malleable aspect is contained solely within side wall rim segment 24.

As has been described, the benefits of the present invention are achieved by a container having a flexible side wall segment and/or a flexible rim segment which allow close contact of the container with an object or the head of a child to prevent the wash back or flow of fluid from the container underneath the rim and side wall of the container, and which, thereby when rinsing the head of a child, prevents soapy water from getting into the eyes and face of the child. Further, the present invention, as previously described, allows the flexible portion of the container to mold to a shape against which it is pressed and to allow large volumes of fluid to be passed from the container onto the object by virtue of the generally flat rim segment which may contain a rubber cushion to ease contact with the head. It will further be appreciated that in an alternative embodiment of this invention, the side wall could be provided with a concave portion which would generally conform to the curvature of a child's head and the side wall would be provided with a malleable rim segment on the concave side wall portion. The malleable rim segment portion would more closely register with the child's head than with the concave side wall segment thereby directing the flow of water over the child's head and preventing the flow of water back underneath the side wall of the container.

Referring now to FIG. 5, an alternative embodiment of the present invention is shown wherein a divider panel 40 is formed or inserted within container 10 to divide the interior space defined by continuous 12 into a first compartment 42 and a second compartment 44. As has previously been described, an important aspect of the present invention is the provision of a flexible panel 28, or, alternatively, a malleable rim segment 24 which can conform to the shape of the objects against which container 10 is pressed. It will be appreciated that as flexible panel 28 is depressed inwardly to conform to the shape of the object against which container 10 is pressed that there can be a tendency for the water contained in container 10 to be diverted to one side or the other (i.e., the lower outside edges of flexible panel 28) as the middle portion of

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flex panel 28 is depressed inwardly, and therefore, becomes a high point which can shed water towards the outside edges as shown in FIG. 3. The alternative embodiment shown in FIGS. 5 and 6 provides a means for providing a secondary water supply which is captured within the second compartment 44. As container 10 is pressed against an object and tipped upwardly as is shown in FIG. 6, water contained in second compartment 44 will flow along divider panel 40 and will flow outwardly evenly across the width of divider panel 40 and onto the object against which container 10 is depressed. At the same time, water contained within first compartment 42 will, depending upon the degree of inward depression formed in flex panel 28 by the pressure flex panel 28 against an object, will tend to divert a greater portion of the fluid contained in first compartment 42 toward the outer, lower edges of flex panel 28 and away from the higher portion of flex panel 28 presented by the compression of flex panel 28 against an object. In this manner, the alternate embodiment of the present invention containing divider panel 40 provides increase flow of fluid across the area of the object that is causing the greater deflection of flex panel 28 by providing two separate sources of fluid. The first source of fluid being contained in first compartment 42 which flows outwardly across flex panel 28 and is susceptible to a degree of diversion depending upon the degree of flexing of flex panel 28 and a second component of fluid contained in second compartment 44 which will flow independently of the amount of depression or flexation of flex panel 28 as it flows outwardly from second compartment 44 across the surface of divider panel 40 to flow onto the object against which container 10 is compressed.

It will be appreciated by those skilled in the art that divider panel 40 may be either fixed in place within container 10, or panel 40 may be insertable and removable within container 10 through the use of a frictional fit of divider panel 40 within container 10, or by the use of support tracks formed into side wall 12 and/or bottom 18 of container 10.

As required, detailed embodiments of the present inventions are disclosed herein; however, it is to be understood that the disclosed embodiments are merely exemplary of the invention, which may be embodied in various forms. Therefore, is specific structural and functional details disclosed herein are not to be interpreted as limiting, but merely as a basis for the claims and as a representative basis for teaching one skilled in the art to variously employ the present invention in virtually any appropriately detailed structure.

In the foregoing description, certain terms have been used for brevity, clearness and understanding; but no unnecessary limitations are to be implied therefrom beyond the requirements of the prior art, because such terms are used for descriptive purposes and are intended to be broadly construed. Moreover, the description and illustration of the inventions is by way of example, and the scope of the inventions is not limited to the exact details shown or described.

Certain changes may be made in embodying the above invention, and in the construction thereof, without departing from the spirit and scope of the invention. It is intended that all matter contained in the above description and shown in the accompanying drawings shall be interpreted as illustrative and not meant in a limiting sense.

Having now described the features, discoveries and principles of the invention, the manner in which the inventive container or pitcher is constructed and used, the characteristics of the construction, and advantageous, new and useful results obtained; the new and useful structures, devices, elements, arrangements, parts and combinations, are set forth in the appended claims.

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It is also to be understood that the following claims are intended to cover all of the generic and specific features of the invention herein described, and all statements of the scope of the invention which, as a matter of language, might be said to fall therebetween.

The invention claimed is:

1. A container comprising:

a generally rigid continuous side wall terminating in an upper side wall end and a lower side wall end and defining an inward space bounded by said continuous side wall, 10
a bottom closing said lower side wall end with said upper side wall end being generally open,
an inwardly flexible panel forming a portion of said side wall and extending to form at least a portion of said upper side wall end, said flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper side wall end, and 15
a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel. 20

2. The container as claimed in claim 1 further comprising a rim attached to said upper side wall end. 25

3. The container as claimed in claim 2 wherein said rim is comprised of a sponge material.

4. The container as claimed in claim 2 wherein said rim is comprised of rubber.

5. The container as claimed in claim 2 wherein said rim is comprised of cloth.

6. The container as claimed in claim 1 further comprising a handle.

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7. A container comprising:

a generally rigid continuous side wall having an upper side wall end and a lower side wall end and defining an inward space bounded by said continuous sidewall, 5
a bottom attached to said lower side wall end with said upper side wall end being generally open,
a rim connected to said upper side wall end,
a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against,
an inwardly flexible panel forming a portion of said side wall and connecting with said inwardly flexible rim portion, said inwardly flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper side wall end, and
a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel. 10

8. The container as claimed in claim 7 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.

9. The container as claimed in claim 8 wherein said rim is comprised of a sponge material.

10. The container as claimed in claim 8 wherein said rim is comprised of rubber.

11. The container as claimed in claim 8 wherein said rim is comprised of cloth. 15

12. The container as claimed in claim 7 further comprising a handle. 20

* * * * *

EXHIBIT 2

PATENT ASSIGNMENT

This Patent Assignment is made by the herein-identified Inventor/Assignor to the herein-identified Assignee as of the date entered below and subscribed to by the Inventor/Assignor of the below-identified Patent Application.

WHEREAS, Brian Lau, an individual, having an address of 3508 Linneman, Glenview, IL 60025 (herein, "Assignor"), is an inventor and owner of a certain invention described in an application for United States Letters Patent titled as:

FLEXIBLE PANEL PITCHER

(hereinafter, the "Invention"); and

WHEREAS, Michael McGinley, an individual, having an address of 4013 West 69th Street, Prairie Village, KS 66208 (herein, "Assignee"), desires to acquire all of the Inventor's/Assignor's right, title, and interest in and to the Invention identified herein and any patents that may issue therefrom.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. **ASSIGNMENT.** Assignor hereby sells, assigns, transfers, and conveys unto Assignee, its successors and assigns, all of Assignor's right, title, and interest in and to the Invention identified herein, the patent application filed thereon, any continuation, division, continuation-in-part, reissue or reexamination applications and any patents, U.S. or foreign, that may issue therefrom, the same to be held and enjoyed by Assignee for its own use and benefit and for the use and benefit of its successors and assigns, to the full end of the term of any patent that may issue therefrom, as fully and entirely as same would have been held by Assignor had this assignment not been made.

2. **RIGHTS INCLUDED.** The transfer and assignment, as described above, shall also include the right to sue for past infringements (whether known or unknown) of the Invention identified herein, and any patents that may issue therefrom, and to hold for Assignee's own use all recoveries had in such suits, without need for accounting to Assignor. In any such litigation, Assignor shall provide reasonable cooperation, at Assignee's expense.

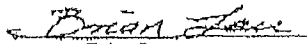
3. **REPRESENTATIONS.** Assignor represents and warrants that Assignor, together with Gary L. Murphy and Hilbert Computing, Inc., has the sole and exclusive ownership interest in and title to the Invention; that Assignor has not granted to any third party any rights that would conflict, in any material way, with the rights granted herein to Assignee; that, to the knowledge of Assignor, the Invention is not being infringed by any third party; and that Assignor, has the full right, power, and authority to make this assignment.

4. **COMMUNICATIONS.** Assignor hereby authorizes Assignee, with respect to the Invention and any patent that may issue therefrom, to communicate with the United States Office of Patents and Trademarks with the same effect as though such communications were made by or with Assignor directly.

5. **FURTHER ASSURANCES.** Assignor agrees to execute and deliver to Assignee and to perform such tasks as Assignee may reasonably require in order to vest in Assignee full and complete record title to the invention identified herein and any patent that may issue therefrom.

IN WITNESS WHEREOF, said Inventor/Assignor has executed this Assignment as of this _____ day of February, 2004.

Assignor


Brian Lau

1519440.1



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/255,797	01/28/2014	8636178	SCP001-327224	4030

24030 7590 01/08/2014
POL SINELLI PC
900 West 48th Place
Suite 900
KANSAS CITY, MO 64112-1895

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 244 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Michael L. McGinley, Prairie Village, KS;
Brian Lau, Glenview, IL;

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation, and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage and facilitate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or **Fax** (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

24030 7590 09/30/2013
POL SINELLI PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112



Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

John C. McMahon	(Depositor's name)
	(Signature)
12/09/2013	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224	4030

TITLE OF INVENTION: FLEXIBLE PANEL PITCHER

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$890	\$300	\$0	\$1190	12/30/2013

EXAMINER	ART UNIT	CLASS-SUBCLASS
BUECHNER, PATRICK M	3754	222-465100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 John C. McMahon
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☒ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fees, any deficiency, or credit any overpayment, to Deposit Account Number 50-12531 (enclose an extra copy of this form).

12/13/2013 SDENB082 00000039 12255797

01 FC:2501
02 FC:1504

890.00 OP
300.00 OP

5. **Change in Entity Status** (from status indicated above)

- ☐ Applicant certifying micro entity status. See 37 CFR 1.29
- ☐ Applicant asserting small entity status. See 37 CFR 1.27
- ☐ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see form PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date 12/09/2013

Typed or printed name John C. McMahon

Registration No. 29,415

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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LAW OFFICE OF JOHN C. McMAHON

Patent, Trademark & Copyright Causes

P.O. Box 860305
Shawnee, Kansas 66286

21911W 66th Street, Suite 210
Shawnee, Kansas 66226

Telephone: (913) 422-5222
Facsimile: (913) 422-5295

December 9, 2013

JOHN C. McMAHON

Of Counsel
CYNTHIA L. SCHALLER

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Enclosed is our check no. 1435 in the amount of \$1190.00 for the payment of the issue fee and publication fee due on the following patent:

Application Number: 12/255,797
Filing Date: 10/22/2008
Inventor: Michael McGinley
Due Date: 12/30/2013

IMPORTANT: Please send all correspondence, notices or receipts relating to the above patent to:

Law Office of John C. McMahon
P.O. Box 860305
Shawnee, Kansas 66286

The Director is hereby authorized to charge any deficiency in the required fee, or to credit any overpayment to Account No. 50-1253.

Respectfully submitted,



John C. McMahon

JCM:mm
Enclosures



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

24030 7590 09/30/2013
POL SINELLI PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

EXAMINER

BUECHNER, PATRICK M

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 09/30/2013

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/255,797

10/22/2008

Michael L. McGinley

SCP001-327224

4030

TITLE OF INVENTION: FLEXIBLE PANEL PITCHER

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$890	\$300	\$0	\$1190	12/30/2013

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

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700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224	4030

TITLE OF INVENTION: FLEXIBLE PANEL PITCHER

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$890	\$300	\$0	\$1190	12/30/2013

EXAMINER	ART UNIT	CLASS-SUBCLASS
BUECHNER, PATRICK M	3754	222-465100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). <input type="checkbox"/> Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached. <input type="checkbox"/> "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.	2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. <div> 1 _____ 2 _____ 3 _____ </div>
---	---

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ Applicant certifying micro entity status. See 37 CFR 1.29

NOTE: Absent a valid certification of Micro Entity Status (see form PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

☐ Applicant asserting small entity status. See 37 CFR 1.27

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

☐ Applicant changing to regular undiscounted fee status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224	4030

24030 7590 09/30/2013
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700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

EXAMINER

BUECHNER, PATRICK M

ART UNIT	PAPER NUMBER
----------	--------------

3754

DATE MAILED: 09/30/2013

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 26 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 26 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability	Application No. 12/255,797	Applicant(s) MCGINLEY ET AL.	
	Examiner PATRICK M. BUECHNER	Art Unit 3754	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed December 11, 2012.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.
2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.
3. ☒ The allowed claim(s) is/are 2-5,8-11,34 and 35. As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a) ☐ All b) ☐ Some *c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ 3. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material 4. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____	5. <input type="checkbox"/> Examiner's Amendment/Comment 6. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 7. <input type="checkbox"/> Other _____
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/P. M. B./ Examiner, Art Unit 3754	/KEVIN P. SHAVER/ Supervisory Patent Examiner, Art Unit 3754
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DETAILED ACTION

Notice of Pre-AIA or AIA Status

1. The present application is being examined under the pre-AIA first to invent provisions.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 11, 2012 has been entered.

Response to Arguments

3. Applicant's arguments, see pages 6-8, filed December 11, 2012, with respect to claims 2-5, 8-11, 34, and 35 (as amended) have been fully considered and are persuasive. The rejection of claims 2-5, 8-11, 34, and 35 (as amended) has been withdrawn.

Allowable Subject Matter

4. Claims 2-5, 8-11, 34, and 35 are allowed.

5. The following is an examiner's statement of reasons for allowance: the prior art fails to disclose or fairly teach, either alone or in combination, the combination of features as recited in amended claims 34 and 35, from which the remaining claims

Art Unit: 3754

depend, for the reasons discussed in Applicant's arguments, see pages 6-8, filed December 11, 2012.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. The prior art made of record in form PTO-892 and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICK M. BUECHNER whose telephone number is (571)270-5171. The examiner can normally be reached on 8-5 Mon through Fri, alt Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patrick M. Buechner
/P. M. B./
Examiner, Art Unit 3754

/KEVIN P. SHAVER/
Supervisory Patent Examiner, Art Unit 3754

Notice of References Cited	Application/Control No. 12/255,797		Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.	
	Examiner PATRICK M. BUECHNER		Art Unit 3754	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-7,757,895	07-2010	McGinley et al.	222/129
*	B	US-7,441,675	10-2008	McGinley et al.	222/129
*	C	US-7,988,011	08-2011	Guevara, Raul	220/484
*	D	US-8,087,595	01-2012	Freese, Lawrence O.	239/377
*	E	US-8,444,022	05-2013	Holcomb et al.	222/214
*	F	US-2009/0032551	02-2009	McGinley et al.	222/129
*	G	US-2009/0045229	02-2009	McGinley et al.	222/465.1
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			


FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS


*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Issue Classification 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner PATRICK M BUECHNER	Art Unit 3754

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant															
<input type="checkbox"/> CPA <input checked="" type="checkbox"/> T.D. <input type="checkbox"/> R.1.47															
Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
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	14		30												
	15		31												
	16		32												

/PATRICK M BUECHNER/ Examiner.Art Unit 3754	09/25/2013	Total Claims Allowed:	
(Assistant Examiner)	(Date)	10	
/KEVIN P SHAVER/ Supervisory Patent Examiner.Art Unit 3754	09/25/2013	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	34	2 and 3

Search Notes 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner PATRICK M BUECHNER	Art Unit 3754

CPC- SEARCHED		
Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
222	215,210,574,573,572,94,	12/17/09	mac
220	904,561,9.3,666,669,834,555,904	12/17/09	mac
215	400	12/17/09	mac
68	233	12/17/09	mac
4	515	6/29/12	mc
all above	updated	9/24/2013	PMB
222	465.1	9/24/2013	PMB

SEARCH NOTES		
Search Notes	Date	Examiner
Forward and backward searches provided on EAST for best references.	12/17/09	mac
Search updated.	5/10/10	mac
Search updated.	11/17/10	mac
Search updated.	6/29/12	mc
updated EAST search history attached	9/24/2013	PMB

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner
222	215,210,574,573,572,94,465.1	9/24/2013	PMB

/P.M.B./ Examiner.Art Unit 3754	
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INTERFERENCE SEARCH

US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner
220	215,210,574,573,572,94,	9/24/2013	PMB
215	400	9/24/2013	PMB
68	233	9/24/2013	PMB
4	515	9/24/2013	PMB

/P.M.B./
Examiner.Art Unit 3754

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	25	("5507431" "5950834" "3733620" "4609113" "6470705" "1225511" "2333014" "3729553" "4886206" "5415305" "RE35933" "2610490" "4756439" "5960987" "6708838" "0033737" "4955503" "2872081" "6241388").PN.	US-PGPUB; USPAT; USOCR	OR	ON	2013/09/24 15:37
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L4	10	((BRIAN) near2 (LAU)).INV.	US-PGPUB; USPAT; USOCR	OR	ON	2013/09/24 15:39
L5	0	((BRIAN) near2 (LAU)).INV.	EPO; JPO; DERWENT	OR	ON	2013/09/24 15:39
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L10	20	("0880522" "1699459" "20040149783" "20090032551" "20090045229" "7441675" "7854357" "D172675" "D278928" "D279310" "D323204" "D375139" "D416978" "D447788" "D468799" "D525340" "D614261").PN. OR ("D635641").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2013/09/24 15:47
L11	3	("2009/0032551").URPN.	USPAT	OR	ON	2013/09/24 15:48
L12	1	("2004/0155070").URPN.	USPAT	OR	ON	2013/09/24 15:48
L13	16	("20040155070" "20060137490" "20090307912" "2812121" "3254409" "3595446" "4609113" "4756439" "5960987" "6848339" "7441675" "D555036" "D562159" "D615424").PN. OR ("8444022").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2013/09/24 15:48
L14	16	("20040155070" "20060137490" "20090307912" "2812121" "3254409" "3595446" "4609113" "4756439" "5960987" "6848339" "7441675" "D555036" "D562159" "D615424").PN. OR ("8444022").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2013/09/24 15:49
L15	2	("2004/0149783").URPN.	USPAT	OR	ON	2013/09/24 15:50

Exhibit 1010-0038

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L18	35	("2546052" "2772823" "2812126" "2812127" "2839234" "3269644" "3301458" "3302858" "3421680" "3488201" "3995806" "4166566" "4312450" "4605142" "4767035" "4799619").PN. OR ("4886206").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2013/09/24 15:52
L19	24	("0606295" "1987232" "2827648" "2988769" "3671992" "4083466").PN. OR ("4756439").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2013/09/24 15:52
L20	18	("0033737" "2333014" "2872081" "3729553" "4609113" "4756439" "4886206" "4955503" "5960987" "RE35933").PN. OR ("7441675").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2013/09/24 15:53
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L23	3284	(222/215,210,574,573,572,94).CCLS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/09/24 17:07
L24	1702	(220/904,561,9.3,666,834,555).CCLS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/09/24 17:08
L25	202	(215/400).CCLS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2013/09/24 17:08
L26	92	(68/233).CCLS.	US-PGPUB; USPAT; USOCR;	OR	OFF	2013/09/24 17:08

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EAST Search History (I nterference)

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L29	0	(68/233).CCLS.	UPAD	OR	OFF	2013/09/24 17:20
L30	0	(215/400).CCLS.	UPAD	OR	OFF	2013/09/24 17:20
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L32	3	(222/215,210,574,573,572,94).CCLS.	UPAD	OR	OFF	2013/09/24 17:20

9/ 24/ 2013 5:21:15 PM
C:\ Users\ pbuechner\ Documents\ EAST\ Workspaces\ 12255797.wsp




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BIB DATA SHEET

CONFIRMATION NO. 4030

SERIAL NUMBER 12/255,797	FILING or 371(c) DATE 10/22/2008 RULE	CLASS 222	GROUP ART UNIT 3754	ATTORNEY DOCKET NO. SCP001-327224	
APPLICANTS Michael L. McGinley, Prairie Village, KS; Brian Lau, Glenview, IL; ** CONTINUING DATA ***** This application is a CIP of 10/770,325 02/02/2004 PAT 7441675 which is a CIP of 10/357,651 02/04/2003 ABN ** FOREIGN APPLICATIONS ***** ** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** ** SMALL ENTITY ** 11/03/2008					
Foreign Priority claimed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 35 USC 119(a-d) conditions met <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Verified and /PATRICK M BUECHNER/ Acknowledged Examiner's Signature	<input type="checkbox"/> Met after Allowance Initials	STATE OR COUNTRY KS	SHEETS DRAWINGS 5	TOTAL CLAIMS 12	INDEPENDENT CLAIMS 2
ADDRESS POLSINELLI PC 700 West 47th Street Suite 1000 KANSAS CITY, MO 64112 UNITED STATES					
TITLE FLEXIBLE PANEL PITCHER					
FILING FEE RECEIVED 462	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:		<input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees (Filing) <input type="checkbox"/> 1.17 Fees (Processing Ext. of time) <input type="checkbox"/> 1.18 Fees (Issue) <input type="checkbox"/> Other _____ <input type="checkbox"/> Credit		

<i>Index of Claims</i> 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner PATRICK M BUECHNER	Art Unit 3754

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant		<input type="checkbox"/> CPA		<input checked="" type="checkbox"/> T.D.		<input type="checkbox"/> R.1.47			
CLAIM		DATE							
Final	Original	12/17/2009	05/10/2010	11/20/2010	06/29/2012	09/24/2013			
	1	-	-	-	-	-			
	2	✓	✓	✓	✓	=			
	3	✓	✓	✓	✓	=			
	4	✓	✓	✓	✓	=			
	5	✓	✓	✓	✓	=			
	6	✓	✓	✓	✓	-			
	7	-	-	-	-	-			
	8	✓	✓	✓	✓	=			
	9	✓	✓	✓	✓	=			
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	11	✓	✓	✓	✓	=			
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	33	✓	-	-	-	-			
	34		✓	✓	✓	=			
	35		✓	✓	✓	=			

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6620832128 b001



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 www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224

24030
 POLSINELLI SHUGHART PC
 700 West 47th Street
 Suite 1000
 KANSAS CITY, MO 64112



CONFIRMATION NO. 4030



OC000000058292483

Cc: Michael L. McGinley
 4013 West 69th Street
 Prairie Village, KS 4013

Date Mailed: 12/21/2012

DENIAL OF REQUEST FOR POWER OF ATTORNEY

The request for Power of Attorney filed 12/11/12 is acknowledged. However, the request cannot be granted at this time for the reason stated below.

- ☐ The Power of Attorney you provided did not comply with the new Power of Attorney rules that became effective on June 25, 2004. See 37 CFR 1.32.
- ☐ The revocation is not signed by the applicant, the assignee of the entire interest, or one particular principal attorney having the authority to revoke.
- ☐ The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.
- ☐ The person signing for the assignee has omitted their empowerment to sign on behalf of the assignee.
- ☐ The inventor(s) is without authority to appoint attorneys since the assignee has intervened as provided by 37 CFR 3.71.
- ☒ The signature(s) of Brian Lau, a co-inventor in this application, has been omitted. The Power of Attorney will be entered upon receipt of confirmation signed by said co-inventor(s).
- ☐ The person(s) appointed in the Power of Attorney is not registered to practice before the U.S. Patent and Trademark Office.

Questions relating to this Notice should be directed to the Application Assistance Unit.

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224

24030
POL SINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

CONFIRMATION NO. 4030
MISCELLANEOUS NOTICE



Date Mailed: 12/24/2012

A communication which cannot be delivered in electronic form has been mailed to the applicant.



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224

CONFIRMATION NO. 4030

24030
 POLSINELLI SHUGHART PC
 700 West 47th Street
 Suite 1000
 KANSAS CITY, MO 64112



Cc: Michael L. McGinley
 4013 West 69th Street
 Prairie Village, KS 4013

Date Mailed: 12/21/2012

DENIAL OF REQUEST FOR POWER OF ATTORNEY

The request for Power of Attorney filed 12/11/12 is acknowledged. However, the request cannot be granted at this time for the reason stated below.

- ☐ The Power of Attorney you provided did not comply with the new Power of Attorney rules that became effective on June 25, 2004. See 37 CFR 1.32.
- ☐ The revocation is not signed by the applicant, the assignee of the entire interest, or one particular principal attorney having the authority to revoke.
- ☐ The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.
- ☐ The person signing for the assignee has omitted their empowerment to sign on behalf of the assignee.
- ☐ The inventor(s) is without authority to appoint attorneys since the assignee has intervened as provided by 37 CFR 3.71.
- ☒ The signature(s) of Brian Lau, a co-inventor in this application, has been omitted. The Power of Attorney will be entered upon receipt of confirmation signed by said co-inventor(s).
- ☐ The person(s) appointed in the Power of Attorney is not registered to practice before the U.S. Patent and Trademark Office.

Questions relating to this Notice should be directed to the Application Assistance Unit.

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

Exhibit 1010-0046



Handwritten: JRM
RCE

PTO/SB/30 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	12/255,797
Filing Date	October 22, 2008
First Named Inventor	Michael L. McGinley
Art Unit	3754
Examiner Name	Melvin A. Cartagena
Attorney Docket Number	11,439

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other _____

- b. ☒ Enclosed

i. ☒ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/ Declaration(s)

iv. ☒ Other Extension of Time

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other _____

3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 50-1253.

i. ☐ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other _____

12/12/2012 ZJUHAR1 00000034 12255797

01 FC:2801

465.00 OP

- b. ☒ Check in the amount of \$ 465 & 285 enclosed

- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	December 5, 2012
Name (Print/Type)	John C. McMahon	Registration No.	29,415

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature		Date	December 5, 2012
Name (Print/Type)	John C. McMahon		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Exhibit 1010-0047



PTO/SB/30 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	12/255,797
Filing Date	October 22, 2008
First Named Inventor	Michael L. McGinley
Art Unit	3754
Examiner Name	Melvin A. Cartagena
Attorney Docket Number	11,439

COPY

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other _____

- b. ☒ Enclosed

i. ☒ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/ Declaration(s)

iv. ☒ Other Extension of Time

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

- b. ☐ Other _____

3. Fees

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed. The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 50-1253.

i. ☐ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other _____

- b. ☒ Check in the amount of \$ 465 & 285 enclosed

- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	December 5, 2012
Name (Print/Type)	John C. McMahon	Registration No.	29,415

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature		Date	December 5, 2012
Name (Print/Type)	John C. McMahon		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Exhibit 1010-0048



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR EXTENSION OF TIME

Applicant: Michael L. McGinley, et al.

Serial No.: 12/255,797

Date: December 5, 2012

Filed: October 22, 2008

Group Art Unit: 3754

Docket No.: 11,439

Exam: Melvin A. Cartagena

For: FLEXIBLE PITCHER WITH CURVED DIVIDER

Kansas City, MissouriMail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant petitions the Commissioner of Patents and Trademarks to extend the time for response to the Office Action dated July 5, 2012 for two months, from October 5, 2012, to December 5, 2012.

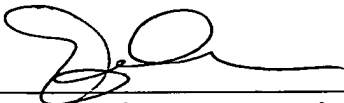
Small Entity Status has been established.

A check in the amount of \$285.00 is included to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to Deposit Account No. 50-1253. A duplicate copy of this sheet is enclosed.

Respectfully submitted,


Michael L. McGinley, et al.

JCM:lm
PO Box 30069
Kansas City, Missouri 64112
Phone: (816) 531-3470

By 
John C. McMahon
Reg. No. 29,415
Attorney

I hereby certify that this
correspondence is being deposited
with the United States Postal
Service as first class mail in an
envelope addressed to:
Mail Stop RCE
Commissioner for Patents,
P.O. Box 1450, Alexandria, VA
22313-1450 on December 5, 2012.

Michael L. McGinley, et al.
(Applicant)

By 
December 5, 2012
(Date of Signature)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR EXTENSION OF TIME

COPY

Applicant: Michael L. McGinley, et al.

Serial No.: 12/255,797

Date: December 5, 2012

Filed: October 22, 2008

Group Art Unit: 3754

Docket No.: 11,439

Exam: Melvin A. Cartagena

For: FLEXIBLE PITCHER WITH CURVED DIVIDER

Kansas City, MissouriMail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant petitions the Commissioner of Patents and Trademarks to extend the time for response to the Office Action dated July 5, 2012 for two months, from October 5, 2012, to December 5, 2012.

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Respectfully submitted,

Michael L. McGinley, et al.

JCM:lm
PO Box 30069
Kansas City, Missouri 64112
Phone: (816) 531-3470

By



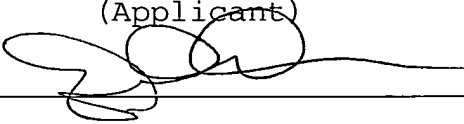
John C. McMahon
Reg. No. 29,415
Attorney

I hereby certify that this
correspondence is being deposited
with the United States Postal
Service as first class mail in an
envelope addressed to:

Mail Stop RCE
Commissioner for Patents,
P.O. Box 1450, Alexandria, VA
22313-1450 on December 5, 2012.

Michael L. McGinley, et al.
(Applicant)

By



December 5, 2012

(Date of Signature)

Case Docket No.: 11,439

PATENT

Date: December 5, 2012



In re application of: Michael L. McGinley et al.

Serial No.: 12/255,797

Group Art Unit: 3754

Filed: October 22, 2008

Examiner: Melvin A. Cartagena

For: FLEXIBLE PITCHER WITH CURVED DIVIDER

Mail Stop RCE
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Transmitted herewith is an Amendment in the above-identified application with the following documents:

- ☒ Small Entity Status of this application has been previously established and continues.
- ☒ Request for Extension of Time and fee are enclosed.
- ☒ Request for Continued Examination and fee are enclosed.
- ☒ No additional filing fee is required.
- ☒ The fee has been calculated as shown below:

			SMALL ENTITY		OTHER THAN SMALL ENTITY	
CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDL. FEE	RATE	ADDL. FEE
TOTAL 10 Minus 21 = 0			x 30 = \$ 0		x 60 = \$	
INDEP 2 Minus 3 = 0			x 125 = \$ 0		x 250 = \$	
TOTAL FEE			\$ 0		\$	

____ Please charge Deposit Account No. 50-1253 in the amount of \$____.
A duplicate copy of this sheet is attached.

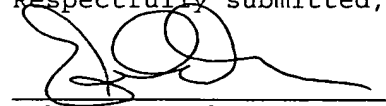
____ A Check No. ____ in the amount of \$____ is attached.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-1253. A duplicate copy of this sheet is attached.

☒ Any filing fees under 37 C.F.R. 1.16 for presentation of extra claims.

☒ Any patent application processing fees under 37 C.F.R. 1.17.

Respectfully submitted,


John C. McMahon
Reg. No. 29,415

PO Box 30069
Kansas City, Missouri 64112
Telephone: (816) 531-3470

Exhibit 1010-0053

Case Docket No.: 11,439



PATENT

Date: December 5, 2012

In re application of: Michael L. McGinley, et al.

Serial No.: 12/255,797

Group Art Unit: 3754

Filed: October 22, 2008

Examiner: Melvin A. Cartagena

For: FLEXIBLE PITCHER WITH CURVED DIVIDER

COPY

Mail Stop RCE
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Transmitted herewith is an Amendment in the above-identified application with the following documents:

- ☒ Small Entity Status of this application has been previously established and continues.
- ☒ Request for Extension of Time and fee are enclosed.
- ☒ Request for Continued Examination and fee are enclosed.
- ☒ No additional filing fee is required.
- ☒ The fee has been calculated as shown below:

					SMALL ENTITY		OTHER THAN SMALL ENTITY	
CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR		PRESENT EXTRA	RATE	ADDL. FEE	RATE	ADDL. FEE
TOTAL	10	Minus	21	=	0	x 30 = \$ 0	x 60 = \$	
INDEP	2	Minus	3	=	0	x 125 = \$ 0	x 250 = \$	
TOTAL FEE						\$ 0	\$	

____ Please charge Deposit Account No. 50-1253 in the amount of \$ _____.
A duplicate copy of this sheet is attached.

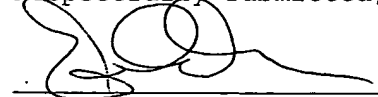
____ A Check No. ____ in the amount of \$ _____ is attached.

☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-1253. A duplicate copy of this sheet is attached.

☒ Any filing fees under 37 C.F.R. 1.16 for presentation of extra claims.

☒ Any patent application processing fees under 37 C.F.R. 1.17.

Respectfully submitted,


John C. McMahon
Reg. No. 29,415

PO Box 30069
Kansas City, Missouri 64112
Telephone: (816) 531-3470

Exhibit 1010-0054



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

A M E N D M E N T

Applicant: Michael L. McGinley, et al.

Serial No.: 12/255,797

Date: December 5, 2012

Filed: October 22, 2008

Group Art Unit: 3754

Docket No.: 11,439

Exam: Melvin A. Cartagena

For: FLEXIBLE PITCHER WITH CURVED DIVIDER

Kansas City, Missouri

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office action mailed July 5, 2012, kindly
amend the above captioned application for patent as follows:

IN THE CLAIMS:

1. (canceled)
2. (Previously Presented) The container as claimed in claim 34 further comprising a rim attached to said upper side wall end.
3. (Original) The container as claimed in claim 2 wherein said rim is comprised of a sponge material.
4. (Original) The container as claimed in claim 2 wherein said rim is comprised of rubber.
5. (Original) The container as claimed in claim 2 wherein said rim is comprised of cloth.
6. (Canceled)
7. (canceled)
8. (Previously Presented) The container as claimed in claim 35 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.
9. (Original) The container as claimed in claim 8 wherein said rim is comprised of a sponge material.

10. (Original) The container as claimed in claim 8 wherein said rim is comprised of rubber.

11. (Original) The container as claimed in claim 8 wherein said rim is comprised of cloth.

12-33. (Canceled)

34. (Currently Amended) A container comprising:

a generally ~~rigid~~ continuous sidewall terminating in an

upper sidewall end and a lower sidewall end and

defining an inward fluid holding space bounded by said continuous sidewall, said continuous sidewall having a

flexible portion thereof that defines a generally flat sidewall section and a generally non flexible portion joined on either end to the flexible portion,

a bottom closing said lower sidewall end with said upper

sidewall end being generally open, and

a generally flat inwardly flexible panel forming a portion

of said generally flat sidewall section and extending to form at least a portion of said upper sidewall end,

the flexible panel facing outwardly and being sized,

shaped and sufficiently pliable to matingly mold to the

head of a person during use; said flexible panel having

a generally smooth inward surface for unobstructed fluid flow out of said open upper sidewall end, and a handle located on the non flexible portion opposite the flexible panel to allow a user to lift and pour the container when filled with liquid.

35. (Currently Amended) A container comprising:

a generally rigid continuous sidewall having an upper sidewall end and a lower sidewall end and defining an inward fluid holding space bounded by said continuous sidewall, said continuous sidewall having a flexible portion thereof that defines a generally flat sidewall section and a generally non flexible portion joined on either end to the flexible portion,

a bottom attached to said lower sidewall end with said upper sidewall end being generally open,

a rim connected to said upper sidewall end,

a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against, and

an inwardly flexible and pliable panel forming a portion of said generally flat sidewall section and connecting with said inwardly flexible rim portion, said inwardly flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper

sidewall end and an outward facing surface that is
sized and shaped to matingly mold to the head of a
person during use, and
a handle joined to the non flexible portion opposite the
flexible portion to provide for lifting and pouring of
the contents of the container by a user.

REMARKS:

The Office action of July 5, 2012 has been received and carefully considered. A Request for Continued Examination is submitted herewith. Reconsideration of the application in view of the present amendment and the Request for Continued Examination is respectfully requested.

The previous claims were rejected upon the basis of various combinations of Glintz, Propes and Perock.

Independent Claims 34 and 35 have been amended to emphasize the differences of the present invention in comparison to the prior art and are now urged to patentably distinguish over the art of record.

In particular, applicant's container is for pouring rinse water on a person's head, especially a child's head, in a way to keep soap out of the eyes of the receiver. For this purpose, a flexible wall is provided that has an outward facing surface that is pliable and is designed to matingly mold to the head of the receiver so as to seal with their head. Other than the flexible panel, the remainder of the side wall is generally non flexible and has a handle opposite the flexible panel. The non-flexible side wall allows a user to pick up the container with the handle, as the non-flexible sidewall allows the container to be self supported both to hold the liquid therein and to not collapse around the handle due to the weight of the liquid.

The Glintz reference is the principal reference cited. The

container in Glintz is all manufactured of the same material which is obviously somewhat pliable, as it becomes depressed along the top edge when a person's neck is placed thereon. However, Glintz is not designed for collecting and lifting water, but rather for directing water to a drain thereof. Glintz would not work with a handle nor is it likely to be raisable when raised full of liquid, as it is overall too pliable to be self supporting in such a situation. Applicant has resolved this issue by making only a portion of the container flexible and the remainder non flexible to support both the liquid and be able to be raised by the handle without collapse.

Furthermore, applicant's claims call for the flexible panel to have a flat outer surface that is sized and shaped to be able to matingly conform to the head of the person receiving the flow from the container. While Glintz has sidewalls, it is clear that they are designed to receive and be depressed by the neck of the person using the device by depressing the top edge of the wall. Nothing in Glintz suggests having an outward facing surface that mates with the head of the user or how to do this since no means are provided in Glintz to lift the basin thereof.

The Propes reference is not seen to disclose any additional structure that is missing from Glintz.

The Perock reference teaches a container with a flexible portion; however, the flexible portion has a three dimensional structure that clearly is for purposes other than mating with the

head of a person. It certainly does not teach a flat pliable surface that is useable in conjunction with the present invention nor how to combine such with Glintz to provide the structure called for in the claims. Furthermore, since Glintz is for the purpose of collecting water from a shampoo and Perock is a washboard container, there is no apparent reason or teaching to combine anything taught in the two references to come up with a device for pouring water on the head of a child to rinse away soap. Consequently, Claims 33 and 34, along with the claims that depend from, them are urged to be patentable over the art of record.

It is noted that a new power of attorney to the undersigned is submitted herewith.

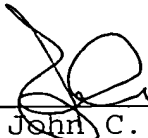
Michael L. McGinley
Serial No. 12/255,797

PATENT

The Examiner is invited to contact the undersigned by telephone, if prosecution of this application can be expedited thereby.

Respectfully Submitted,
Michael L. McGinley, et al.

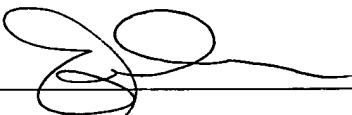
JCM:lm
PO Box 30069
Kansas City, Missouri
64112
Phone: (816) 531-3470

By: 
John C. McMahon
Reg. No. 29,415
Attorney

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450 on
December 5, 2012.

Michael L. McGinley, et al.
(Applicant)

By 
December 5, 2012

(Date of Signature)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael McGinley, et al.

Serial No.: 12/255,797

Date: December 3, 2012

Group Art Unit: 3754

Filed: October 22, 2008

Exam: Melvin A. Cartagena

Docket No. 11,439

For: FLEXIBLE PANEL PITCHER WITH CURVED DIVIDER

Kansas City, Missouri

POWER OF ATTORNEY

Commissioner For Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicant and assignee of the interest of Brian Lau, Michael McGinley, hereby appoints John C. McMahon, Reg. No. 29,415, and Cynthia L. Schaller, Reg. No. 34,245, members of the bar of the

State of Missouri, whose postal address is PO Box 860305,
Shawnee, Kansas 66286, telephone (816) 531-3470, as my attorneys,
with full power of substitution, to prosecute this application,
to make alterations and amendments therein, to receive the
patent, and to transact all business in the Patent Office
connection therewith.

All prior powers of attorney in connection with this
application are hereby revoked.

Signed this 3rd day of December, 2012.

Michael L. McGinley
Michael L. McGinley, Inventor

Michael L. McGinley
Michael L. McGinley, Assignee

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/255,797		Filing Date 10/22/2008		<input type="checkbox"/> To be Mailed	
APPLICATION AS FILED – PART I										
(Column 1)			(Column 2)			SMALL ENTITY <input checked="" type="checkbox"/> OR		OTHER THAN SMALL ENTITY		
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	OR	RATE (\$)	FEE (\$)			
<input type="checkbox"/> BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(j))	minus 20 =	*	X \$	=	OR	X \$	=			
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$	=		X \$	=			
<input type="checkbox"/> APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).									
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.										
APPLICATION AS AMENDED – PART II										
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	12/11/2012	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	* 10	Minus	** 20	=	0	OR	X \$	=	
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	=	0	OR	X \$	=	
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))										
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))										
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE		
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	Total (37 CFR 1.16(i))	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	*	Minus	**	=		OR	X \$	=	
	Independent (37 CFR 1.16(h))	*	Minus	***	=		OR	X \$	=	
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))										
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))										
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE		
<p>* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.</p> <p>** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".</p> <p>*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".</p> <p>The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.</p>										

Legal Instrument Examiner:
/LASHAWN MORGAN/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224	4030

24030 7590 07/05/2012
POL SINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

EXAMINER

CARTAGENA, MELVIN A

ART UNIT	PAPER NUMBER
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3754

NOTIFICATION DATE	DELIVERY MODE
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07/05/2012

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspt@polsinelli.com

Office Action Summary	Application No.	Applicant(s)	
	12/255,797	MCGINLEY ET AL.	
	Examiner	Art Unit	
	MELVIN CARTAGENA	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-12,34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-12,34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3754

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 8, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,733,620 to Glintz.

Glintz shows a container as seen in Figs. 1-3, having a generally rigid continuous side walls 26, 28, 30 and 32, a closed lower wall end 36 and an open upper wall side defining an inward space, a rim 50; The walls are generally smooth and inwardly flexible, see column 2, lines 56-64.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,733,620 to Glintz in view of US 4,955,503 to Propes.

Glintz shows all claimed features as discussed above except for a container handle. Propes shows a flexible container as seen in Fig. 1, having container handles 34. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to

Art Unit: 3754

modify the device of Glintz by including a handle to improve handling of the container as taught by Propes.

5. Claims 3, 4, 5, 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,733,620 to Glintz in view of 4,756,439 to Perock.

Glintz shows all claimed features as discussed above but is silent about the material used to make the container's rim. Perock shows a plastic container, seen in Figs. 1 and 2, where a portion of the sidewall and the rim are flexible, the container may also be made from other materials which offer the same flexibility, see column 3, lines 35-40. Using alternative materials to make the container, presents no novel or unexpected result over the materials used in the references. Use of such different materials to make the container in lieu of those used in the references solves no stated problem and would be an obvious matter of design choice within the skill of the art. In re Launder, 42 CCPA 886, 222 F.2d 371, 105 USPQ 446 (1955); Flour City Architectural Metals v. Alpana Aluminum Products, Inc., 454 F. 2d 98, 172 USPQ 341 (8th Cir. 1972); National Connector Corp. v. Malco Manufacturing Co., 392 F.2d 766. 157 USPQ 401 (8th Cir.) cert. denied, 393 U.S. 923, 159 USPQ 799 (1968).

Response to Arguments

6. Applicant's arguments filed December 06, 2011 have been fully considered but they are not persuasive. In response to applicant's argument that the device of Glintz does not have any rigid wall and that all the walls are collapsible, the structure of the device of Glintz is substantially rigid enough to maintain its shape until one of the walls is deformed by the head of a user and returns to its original shape after use.

Art Unit: 3754

In response to applicant's argument that the device of Glintz does not have a separate flexible panel, all claimed side and bottom panels form the container, the device of Glintz is formed with all panels defining a water holding structure and with the capability that one of the panels can be deformed to accommodate a user head as claimed.

In response to applicant's argument that it would be impermissible to add a handle to the device of Glintz because of the added weight of the user head and the water contained in the container, it is noted that this limitations requiring the container to be handle holding the user head and holding gallons of water are not found in the rejected claims, furthermore, a handle would facilitate handling the container while accommodating a user or when the container is transported or during empty stowing.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3754

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELVIN CARTAGENA whose telephone number is (571)272-4924. The examiner can normally be reached on M-TH (8:30AM to 7:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. C./

Examiner, Art Unit 3754

/KEVIN P. SHAVER/

Supervisory Patent Examiner, Art Unit 3754

EAST Search History

EAST Search History (Prior Art)


Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	32	("2475259" "3377631" "3465370").PN. OR ("3733620").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2012/06/29 17:14
L2	10	("2475259").URPN.	USPAT	OR	OFF	2012/06/29 17:17
L3	71	4/515.ccls.	USPAT	OR	OFF	2012/06/29 17:19

EAST Search History (Interference)

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6/ 29/ 2012 6:11:33 PM

C:\ Users\ mcartagena\ Documents\ EAST\ Workspaces\ 12\ 12,255,797.wsp

<i>Index of Claims</i> 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner Melvin A Cartagena	Art Unit 3754

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant		<input type="checkbox"/> CPA		<input type="checkbox"/> T.D.		<input type="checkbox"/> R.1.47			
CLAIM		DATE							
Final	Original	12/17/2009	05/10/2010	11/20/2010	06/29/2012				
	1	-	-	-	-				
	2	✓	✓	✓	✓				
	3	✓	✓	✓	✓				
	4	✓	✓	✓	✓				
	5	✓	✓	✓	✓				
	6	✓	✓	✓	✓				
	7	-	-	-	-				
	8	✓	✓	✓	✓				
	9	✓	✓	✓	✓				
	10	✓	✓	✓	✓				
	11	✓	✓	✓	✓				
	12	✓	✓	✓	✓				
	13	-	-	-	-				
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	28	-	-	-	-				
	29	-	-	-	-				
	30	-	-	-	-				
	31	-	-	-	-				
	32	✓	-	-	-				
	33	✓	-	-	-				
	34		✓	✓	✓				
	35		✓	✓	✓				

Search Notes 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner Melvin A Cartagena	Art Unit 3754

SEARCHED			
Class	Subclass	Date	Examiner
222	215,210,574,573,573,94,	12/17/09	mac
220	904,561,9.3,666,669,834,555,904	12/17/09	mac
215	400	12/17/09	mac
68	233	12/17/09	mac
4	515	6/29/12	mc

SEARCH NOTES		
Search Notes	Date	Examiner
Forward and backward searches provided on EAST for best references.	12/17/09	mac
Search updated.	5/10/10	mac
Search updated.	11/17/10	mac
Search updated.	6/29/12	mc

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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POLSINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY MO 64112

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Application of

McGinley, et al.

Application No. 12/255,797

: DECISION ON PETITION

Filed: October 22, 2008

Attorney Docket No. **SCP001-327224**

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 30, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 1, 2011. A Notice of Abandonment was mailed June 22, 2011.

The amendment filed December 6, 2011, is noted.

The address cited on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address cited on petition. All future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application is being forwarded to Technology Center 3700, GAU 3754 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

In re Application No. 12/255,797

Cc:

Richard Stitt

6201 College Boulevard, Suite 500

Overland Park, KS 66211

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
SCP001 327224

First named inventor: McGinley, Michael

Application No.: 12/255,797

Art Unit: 3754

Filed: October 22, 2008

Examiner: Cartagena, Melvin A.

Title: FLEXIBLE PANEL PITCHER

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 930.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity – fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in
the form of Amendment and Remarks (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Exhibit 1010-0078

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Richard P. Stitt/

Signature

December 6, 2011

Date

Richard P. Stitt

Typed or printed name

35,693

Registration Number, if applicable

6201 College Boulevard, Suite 500

Address

913 234 7524

Telephone Number

Overland Park, KS 66211

Address

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☐ Other: _____**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300._____
Date_____
Signature_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Patent Application Fee Transmittal

Application Number:	12255797			
Filing Date:	22-Oct-2008			
Title of Invention:	FLEXIBLE PANEL PITCHER			
First Named Inventor/Applicant Name:	Michael L. McGinley			
Filer:	Richard P. Stitt			
Attorney Docket Number:	SCP001-327224			
Filed as Small Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Petition-revive unintent. abandoned appl	2453	1	930	930
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Exhibit 1010-0081

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				930

Electronic Acknowledgement Receipt

EFS ID:	11555094
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Customer Number:	24030
Filer:	Richard P. Stitt
Filer Authorized By:	
Attorney Docket Number:	SCP001-327224
Receipt Date:	06-DEC-2011
Filing Date:	22-OCT-2008
Time Stamp:	17:01:36
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$930
RAM confirmation Number	4712
Deposit Account	501662
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /zip	Pages (if appl.)
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Exhibit 1010-0083

1	Transmittal Letter	Transmittal.pdf	277069	no	2
			12606bfaa3ab5b6c50cc40825a573f37485754d8		
Warnings:					
Information:					
2	Amendment/Req. Reconsideration-After Non-Final Reject	AmendmentAndResponse.pdf	86378	no	10
			2aeb09c932568c874011b52aed40943fbee6b7a7f		
Warnings:					
Information:					
3	Petition for review by the Office of Petitions.	PetitonforRevival.pdf	234403	no	3
			dc11686bfb1a193eb551f670cd4fce0f6a2e32de		
Warnings:					
Information:					
4	Fee Worksheet (SB06)	fee-info.pdf	30115	no	2
			31e7204cd4cd477386e97721881876fbb894fd6		
Warnings:					
Information:					
Total Files Size (in bytes):			627965		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	12/255,797	
	Filing Date	October 22, 2008	
	First Named Inventor	McGinley, Michael	
	Art Unit	3754	
	Examiner Name	CARTAGENA, Melvin A.	
Total Number of Pages in This Submission	-11-	Attorney Docket Number	SCP001 327224

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks _____ Petition to Revoke		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Richard P. Stitt		
Signature	/Richard P. Stitt/		
Printed name	Richard P. Stitt		
Date	December 6, 2011	Reg. No.	35,693

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PATENT

File No. SCP001.327224

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
	:	
Michael L. McGinley	:	Patent Art Unit: 3754
	:	
Serial No. 12/255,797	:	Examiner: Melvin A. Cartagena
	:	
Filed: October 22, 2008	:	Confirmation No. 4030
	:	
For: FLEXIBLE PANEL PITCHER	:	

Request for Reconsideration

Commissioner for Patents
Alexandria, VA 22313

Sir:

In response to the June 22, 2011 Notice of Abandonment and the November 30, 2011 Office Action, a Petition to Revive has been filed. Please enter the following response to the issues presented in the November 30, 2011 Office Action in the above-identified application.

Listing of the Claims begins on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

The following Listing of Claims will replace all prior versions, and listings, of claims in the application.

LISTING OF CLAIMS:

1. (Cancelled).
2. (Previously Presented) The container as claimed in claim 34 further comprising a rim attached to said upper side wall end.
3. (Original) The container as claimed in claim 2 wherein said rim is comprised of a sponge material.
4. (Original) The container as claimed in claim 2 wherein said rim is comprised of rubber.
5. (Original) The container as claimed in claim 2 wherein said rim is comprised of cloth.
6. (Previously Presented) The container as claimed in claim 34 further comprising a handle.
7. (Cancelled).
8. (Previously Presented) The container as claimed in claim 35 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.
9. (Original) The container as claimed in claim 8 wherein said rim is comprised of a sponge material.
10. (Original) The container as claimed in claim 8 wherein said rim is comprised of rubber.

11. (Original) The container as claimed in claim 8 wherein said rim is comprised of cloth.

12. (Previously Presented) The container as claimed in claim 35 further comprising a handle.

Claims 13 - 33 (Cancelled).

34. (currently amended) A container comprising:

a generally rigid continuous sidewall terminating in an upper sidewall end and a lower sidewall end and defining an inward fluid holding space bounded by said continuous sidewall, said continuous sidewall having a portion thereof that defines a generally flat sidewall section,

a bottom closing said lower sidewall end with said upper sidewall end being generally open, and

a generally flat inwardly flexible panel forming a portion of said generally flat sidewall section and extending to form at least a portion of said upper sidewall end, said flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper sidewall end.

35. (currently amended) A container comprising:

a generally rigid continuous sidewall having an upper sidewall end and a lower sidewall end and defining an inward fluid holding space bounded by said continuous sidewall, said continuous sidewall having a portion thereof that defines a generally flat sidewall section,

a bottom attached to said lower sidewall end with said upper sidewall end being generally open,

a rim connected to said upper sidewall end,
a portion of said rim being sufficiently inwardly flexible to conform to the shape of an
object to which said rim is pressed against, and
an inwardly flexible panel forming a portion of said generally flat sidewall section and
connecting with said inwardly flexible rim portion, said inwardly flexible panel
having a generally smooth inward surface for unobstructed fluid flow out of said
open upper sidewall end.

REMARKS

In the November 30, 2010 Final Office Action, all of the claims stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

None of the claims are amended by this Response. Claims 2-6, 8-12, 34 and 35 are pending, with claims 34 and 35 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the following comments.

Rejections - 35 U.S.C. § 102

In paragraph 2 of the Office Action, claims 2, 8, 34 and 35 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,733,620 (Glintz).

Independent claims 34 and 35 recite a combination of four features not found in Glintz: (1) a generally **rigid** continuous **sidewall**; combined with (2) “a generally **flat sidewall section**” of said generally rigid continuous sidewall; combined with (3) “a generally flat **inwardly flexible panel forming a portion of said generally flat sidewall section**; and combined with (4) fluid-holding. This combination of structures is not disclosed or suggested by Glintz or any other prior art of record. Glintz has four flat sidewall sections, none of which are rigid and all of which are collapsible. Also, the Glintz tray **20** is not fluid holding unless a liner is added and tray **20** is modified by plugging the outlet in some fashion or by folding the outlet up and into the interior of Glintz tray **20**.

Referring to Glintz Figs. 3 and 4, the Glintz sidewalls are formed of a single material, all of which is stated to be “deformable” to enable the sidewalls to collapse under the weight of the user’s neck . . .” (Col. 1, Lines 13-16) This manner of deformability is disclosed in Glintz Fig. 1.

Glintz admits that the four corners of the Glintz sidewalls have fold lines **52** to allow the entire Glintz sidewall to collapse as shown in Fig. 4. (Col. 2, lines 51-55). And, Glintz does not have a separate flexible panel that is distinct from the generally rigid continuous sidewall as does the claimed invention. Glintz states at column 2, lines 56-61:

“Further, the tray **20** is constructed of material that may be deformed in the manner illustrated in Fig. 1 of the drawings when the person’ neck **18** is disposed across the upper edge portion of the front wall **26** of the tray **20** . . . “

Fig. 3 (Glintz)

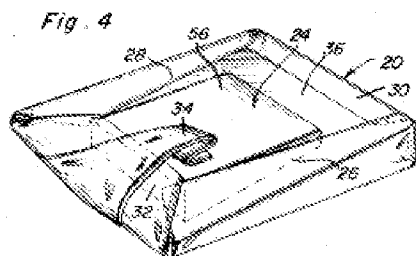
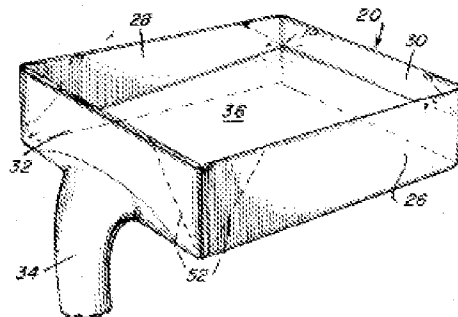


Fig. 4 (Glintz)

Figs. 3 and 4 of Glintz.

Also, Glintz by its terms does not have "a generally rigid continuous sidewalls 26, 28, 30 and 32. Rather, Glintz states that it has "a shape retaining material but a material that may be folded and/or collapsed under pressure." (Column 1, lines 7-8). This collapsing and folding and deformability of the Glintz sidewalls is further supported in Glintz at the following locations:

The deformability of the sidewall enables the latter to collapse under the weight of the user's neck and to conform to the shape of the lower portion of the user's neck . . . (Column 1, lines 13-17).

Fig. 1 is a perspective view of the collapsible bed shampoo basin assembly of the instant invention . . . (Column 1, lines 60-61).

Fig. 4 is a perspective view of the bed shampoo basin assembly illustrated in a folded condition for storage . . . (Column 2, lines 1-3).

Referring now more specifically to the drawings, the numeral 10 generally designates the collapsible bed shampoo basin assembly of the instant invention. (Column 2, lines 6-8).

The four-corner portions of the tray 20 are provided with fold lines 52 and the material of which the tray 20 is constructed is impervious to water and of a type enable the tray corner portions and the tray outlet neck 34 to be folded in to the positions illustrated in Fig. 4 of the drawings for compact storage of the tray 20. (Column 2, lines 51-55).

Further, the tray 20 is constructed of a material that may be deformed in the manner illustrated in Fig. 1 of the drawings, one of the person's neck 18 is disposed across the upper edge portion of the front wall 26 of the tray. . . . (Column 2, lines 55-60).

The pad 24 may be constructed of generally the same deformable material from which the tray 20 is constructed . . . (Column 3, lines 2-4).

Therefore the specification of Glintz clearly demonstrates the entirety of tray **20** is comprised of a deformable, collapsible and foldable material. The Glintz tray **20** lacks the rigid continuous sidewall of claims 34 and 35.

The container claimed in claim 34 or 35 includes two separate elements: (1) a generally rigid continuous sidewall; and (2) an inwardly flexible panel that is capable of inward deformation so as to conform to the shape of an object, e.g., the shape of a child's head. The Glintz tray **20** has only a single element – a collapsible, deformable sidewall. As such, Glintz lacks an element present in claims 34 and 35 and anticipation is not established.

Further, the Glintz tray **20** is not fluid holding. The structure of Glintz tray **20** includes in integral neck **34** which acts as a drain and is not closeable. (Column 2, line 30-31). The only way for the Glintz tray **20** to be fluid holding is by adding in liner **22** coupled with the draping of liner outlet neck **48** "over the other margin edge portion of the sidewall **32** of tray **20** so to prevent the initial hair shampooing fluids from draining from liner **22**." (Column 3, lines 28-37).

Therefore the Glintz device is not fluid holding as claimed in claims 34 and 35. Glintz can only be fluid holding either by plugging the neck **34** of the Glintz tray **20** or the neck being manipulated to be above the fluid level. Thus, Glintz is not a fluid-holding container unless it is modified.

The claims are not anticipated since Glintz does not disclose a generally rigid sidewall combined with an inwardly flexible panel forming a portion of the generally flat sidewall section and Glintz is not fluid holding without modification. Withdrawal of this rejection is respectfully requested.

Rejections - 35 U.S.C. § 103

In paragraphs 4 and 5 of the Office Action, claims 6 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Glintz in view of U.S. Patent No. 4,955,503 to Propes.

Claims 6 and 12 add a “handle” to the subject matter of the independent claim. The combination of Glintz and Propes (for teaching a handle) would be inoperable. Since the Glintz device is stated to be constructed of a collapsible, deformable material, the attachment of a handle to carry the Glintz device would not have a sufficiently strong sidewall to support the weight of the fluid in the Glintz container. A fully developed adult human head without hair will weigh between 8 and 12 pounds. One gallon of water weighs 8.35 pounds. Therefore, if the Glintz sidewall would deform when a human head is placed on the sidewall it would deform when attempting to hold the sidewall by an attached handle when water was in the Glintz device. Such deformation would make the claimed invention inoperable for its intended use.

In addition, dependent claims 6 and 12 are allowable over the prior art of record in that they depend from independent claim 34 or 35, and therefore are allowable for the reasons stated above. Also, the dependent claims are further allowable because they include additional limitations. Thus, since the prior art of record does not disclose or suggest the invention as set forth in independent claim 34 or 35, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

In paragraphs 6 of the Office Action, claims 3, 4, 5, 9, 10 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Glintz in view of U.S. Patent No. 4,756,439 to Perock.

These dependent claims are allowable over the prior art of record in that they depend from independent claim 34 or 35, and therefore are allowable for the reasons stated above. Also, the dependent claims are further allowable because they include additional limitations. Thus, since the prior art of record does not disclose or suggest the invention as set forth in independent

claim 34 or 35, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Applicant respectfully requests that the rejections be withdrawn in view of the above comments. Applicant respectfully asserts that claims 2-6, 8-12, 34 and 35 are in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

/Richard P. Stitt/
Richard P. Stitt
Reg. No. 35,693

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/255,797		Filing Date 10/22/2008		<input type="checkbox"/> To be Mailed	
APPLICATION AS FILED – PART I										
(Column 1)			(Column 2)			SMALL ENTITY <input checked="" type="checkbox"/> OR		OTHER THAN SMALL ENTITY		
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	OR	RATE (\$)	FEE (\$)			
<input type="checkbox"/> BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(j))	minus 20 =	*	X \$	=	OR	X \$	=			
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$	=		X \$	=			
<input type="checkbox"/> APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).									
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.										
APPLICATION AS AMENDED – PART II										
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	12/06/2011	CLAIMS REMAINING AFTER AMENDMENT	MINUS	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)
	Total (37 CFR 1.16(i))	* 12	Minus	** 20	= 0	X \$30 =	0	OR	X \$	=
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0	X \$125 =	0	OR	X \$	=
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))										
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))								OR		
						TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT	MINUS	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X \$	=	OR	X \$	=
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X \$	=	OR	X \$	=
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))										
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))								OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	
<p>* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.</p> <p>** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".</p> <p>*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".</p> <p>The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.</p>										

Legal Instrument Examiner:
/MERILYN WATTS/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224	4030

24030 7590 06/22/2011
POL SINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

EXAMINER

CARTAGENA, MELVIN A

ART UNIT	PAPER NUMBER
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3754

NOTIFICATION DATE	DELIVERY MODE
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06/22/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspt@polsinelli.com

Notice of Abandonment	Application No.	Applicant(s)	
	12/255,797	MCGINLEY ET AL.	
	Examiner	Art Unit	
	MELVIN CARTAGENA	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 30 November 2010.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/KEVIN P. SHAVER/
Supervisory Patent Examiner, Art Unit 3754

/M. C./
Examiner, Art Unit 3754

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/255,797	10/22/2008	Michael L. McGinley	SCP001-327224	4030

24030 7590 11/30/2010
POL SINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

EXAMINER

CARTAGENA, MELVIN A

ART UNIT	PAPER NUMBER
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3754

NOTIFICATION DATE	DELIVERY MODE
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11/30/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspt@polsinelli.com

Office Action Summary	Application No. 12/255,797	Applicant(s) MCGINLEY ET AL.	
	Examiner Melvin A. Cartagena	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-12,34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-12,34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the appeal brief filed on August 16, 2010, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Kenneth Bomberg.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2, 8, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,733,620 to Glintz.

Glintz shows a container as seen in Figs. 1-3, having a generally rigid continuous side walls 26, 28, 30 and 32, a closed lower wall end 36 and an open upper wall side defining an inward space, a rim 50; The walls are generally smooth and inwardly flexible, see column 2, lines 56-64.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,733,620 to Glintz in view of US 4,955,503 to Propes.

Glintz shows all claimed features as discussed above except for a container handle. Propes shows a flexible container as seen in Fig. 1, having container handles 34. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Glintz by including a handle to improve handling of the container as taught by Propes.

6. Claims 3, 4, 5, 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,733,620 to Glintz in view of 4,756,439 to Perock.

Glintz shows all claimed features as discussed above but is silent about the material used to make the container's rim. Perock shows a plastic container, seen in Figs. 1 and 2, where a

portion of the sidewall and the rim are flexible, the container may also be made from other materials which offer the same flexibility, see column 3, lines 35-40. Using alternative materials to make the container, presents no novel or unexpected result over the materials used in the references. Use of such different materials to make the container in lieu of those used in the references solves no stated problem and would be an obvious matter of design choice within the skill of the art. In re Launder, 42 CCPA 886, 222 F.2d 371, 105 USPQ 446 (1955); Flour City Architectural Metals v. Alpana Aluminum Products, Inc., 454 F. 2d 98, 172 USPQ 341 (8th Cir. 1972); National Connector Corp. v. Malco Manufacturing Co., 392 F.2d 766. 157 USPQ 401 (8th Cir.) cert. denied, 393 U.S. 923, 159 USPQ 799 (1968).

Response to Arguments

7. Applicant's arguments with respect to claims 2-6, 8-12, 34 and 35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on M-TH (8:30AM to 7:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
12/255,797
Art Unit: 3754

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth Bomberg/
Primary Examiner, Art Unit 3754 (Acting Supervisor)
/M. A. C./
Examiner, Art Unit 3754

Notice of References Cited	Application/Control No. 12/255,797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.	
	Examiner Melvin A. Cartagena	Art Unit 3754	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-3,733,620	05-1973	Glantz, Georgia E.	4/515
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			


FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.


Search Notes 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner Melvin A Cartagena	Art Unit 3754

SEARCHED			
Class	Subclass	Date	Examiner
222	215,210,574,573,573,94,	12/17/09	mac
220	904,561,9.3,666,669,834,555,904	12/17/09	mac
215	400	12/17/09	mac
68	233	12/17/09	mac

SEARCH NOTES		
Search Notes	Date	Examiner
Forward and backward searches provided on EAST for best references.	12/17/09	mac
Search updated.	5/10/10	mac
Search updated.	11/17/10	mac

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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<i>Index of Claims</i> 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner Melvin A Cartagena	Art Unit 3754

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant		<input type="checkbox"/> CPA		<input type="checkbox"/> T.D.		<input type="checkbox"/> R.1.47			
CLAIM		DATE							
Final	Original	12/17/2009	05/10/2010	11/20/2010					
	1	-	-	-					
	2	✓	✓	✓					
	3	✓	✓	✓					
	4	✓	✓	✓					
	5	✓	✓	✓					
	6	✓	✓	✓					
	7	-	-						
	8	✓	✓	✓					
	9	✓	✓	✓					
	10	✓	✓	✓					
	11	✓	✓	✓					
	12	✓	✓	✓					
	13	-	-	-					
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	30	-	-	-					
	31	-	-	-					
	32	✓	-	-					
	33	✓	-	-					
	34		✓	✓					
	35		✓	✓					

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L27	64	("0121921" "0367157" "0573625" "0717148" "0772763" "1825188" "2434279" "2455607" "2471302" "2475259" "2504646" "2514584" "2547810" "2548301" "2564190" "2600392" "2600557" "2658512" "2803834" "3058122" "3292186" "3465370" "3733620" "3816858" "3854148" "4068326" "4074369" "4547919" "4935971").PN. OR ("4419774" "5022102").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/11/20 12:52
L28	62	("0121921" "20050283901" "2475259" "2850742" "3377631" "3465370" "4069523" "4216551" "4267609" "4419774" "4763364" "5022102" "5305481"	US-PGPUB; USPAT; USOCR	OR	ON	2010/11/20 12:57

		"5377365" "5526539" "5661857" "5978980" "6085367" "6230338" "6799336" "6925660" "D456944").PN. OR ("3465370" "3733620" "5946745" "7707663").URPN.				
L29	101	222/210.ccls.	USPAT	OR	ON	2010/11/20 15:12
L30	561	222/215.ccls.	USPAT	OR	ON	2010/11/20 15:12
L31	338	222/572.ccls.	USPAT	OR	ON	2010/11/20 15:12
L32	127	222/573.ccls.	USPAT	OR	ON	2010/11/20 15:12
L33	81	222/574.ccls.	USPAT	OR	ON	2010/11/20 15:12
L34	22	("0606295" "1987232" "2827648" "2988769" "3671992" "4083466").PN. OR ("4756439").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/11/20 15:12
L35	201	220/530.ccls.	US-PGPUB; USPAT; USOCR	OR	ON	2010/11/20 15:13
L36	177	220/904.ccls.	US-PGPUB; USPAT; USOCR	OR	ON	2010/11/20 15:13
L37	231	15/264.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2010/11/20 15:13
L38	22	("0606295" "1987232" "2827648" "2988769" "3671992" "4083466").PN. OR ("4756439").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/11/20 15:13

L39	38	("2069089" "2627735" "2652701" "2671326" "4210141" "4235348" "4609113" "4762229" "5169026" "5323928" "5749491" "D168784").PN. OR ("1133050" "1212378" "2069345" "5899354").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/11/20 15:13
L40	41	("4061242" "4164299" "4491234" "4860891" "4927046" "5054661" "5297695" "5392969" "5400916").PN. OR ("RE35933").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/11/20 15:13

EAST Search History (Interference)

< This search history is empty >

11/ 20/ 10 3:14:37 PM
**C:\ Documents and Settings\ mcartagena\ My Documents\ EAST\ Workspaces\ 12
 \ 12,255,797.wsp**

Attorney Docket No. SCP001.327224

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD
OF PATENT APPEALS AND INTERFERENCES

In re application of	:	
	:	Appeal No.:
Michael L. McGinley	:	
	:	Art Unit: 3754
Serial No.: 12/255,797	:	
	:	Examiner: Melvin A. Cartagena
Filed: October 22, 2008	:	
	:	Confirmation No. 4030
For: FLEXIBLE PANEL PITCHER	:	

APPEAL BRIEF

Commissioner for Patents
Alexandria, VA 22313

Sir:

Transmitted herewith is Applicant's Brief on Appeal in the above-identified application.

David J. McCrosky
Reg. No. 56,232
Polsinelli Shughart, P.C.
1515 Wynkoop Street, Suite 600
Denver, Colorado 80202
(303) 572-9300

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APPENDIXES

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1. Real Party in Interest

The real party at interest in the above-identified patent application is the sole inventor,
Michael L. McGinley.

2. Related Appeals and Interferences

Appellant and Appellant's legal representatives are not aware of any appeals or interferences relating to the above-identified patent application.

3. Status of Claims

Claims 2-6, 8-12, 34 and 35 are pending in this application. Claims 2-6, 8-12, 34 and 35 stand rejected in the Final Office Action of May 14, 2010. All of the pending claims are on appeal.

4. Status of Amendments

All claim amendments have been entered and considered by Examiner Cartagena.

5. Summary of Claimed Subject Matter

The container of claim 34 comprises a generally rigid continuous sidewall 12, a bottom 18 and a generally flat inwardly flexible panel 28. The generally rigid continuous sidewall 12 terminates in an upper sidewall end 14 and a lower sidewall end 16 and defines an inward space bounded by the continuous sidewall 12. See Figs. 1-4. The continuous sidewall 12 has a portion thereof that defines a generally flat sidewall section 30. See p. 10, ll. 1-4 of the specification. The bottom 18 closes the lower sidewall end 16 with the upper sidewall end 14 being generally open. See p. 7, ll. 19-22. The generally flat inwardly flexible panel 28 forms a portion of the generally flat sidewall section 30 and extends to form at least a portion of the upper sidewall end 14. See p. 8, ll. 20-23. The flexible panel 28 has a generally smooth inward surface for unobstructed fluid flow out of the open upper sidewall end 14. Figs. 1-4.

The container of claim 35 comprises a generally rigid continuous sidewall 12, a bottom 18, a rim 20 and an inwardly flexible panel 28. The generally rigid continuous sidewall 12 has an upper sidewall end 14 and a lower sidewall end 16 and defines an inward space bounded by the continuous sidewall 12. See Figs. 1-4. The continuous sidewall 12 has a portion thereof that defines a generally flat sidewall section 30. See p. 10, ll. 1-4. The bottom 18 is attached to the lower sidewall end 16 with the upper sidewall end 14 being generally open. The rim 20 is connected to the upper sidewall end 14. A portion 24 of the rim 20 is sufficiently inwardly flexible to conform to the shape of an object to which the rim 20 is pressed against. See p. 9, ll. 10-12; Figs. 3 and 4. The inwardly flexible panel 28 forms a portion of the generally flat sidewall section 30 and connects with the inwardly flexible rim portion 24. See p. 8, ll. 20-23. The inwardly flexible panel 28 has a generally smooth inward surface for unobstructed fluid flow out of the open upper sidewall end 14. See Figs. 1-4.

6. Grounds of Rejection to be Reviewed on Appeal

The grounds of rejection to be reviewed on appeal are presented as follows:

- (A) Whether claims 2, 8, 34 and 35 are unpatentable under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,609,113 to Seki.
- (B) Whether claims 6 and 12 are unpatentable under 35 U.S.C. § 103(a) over the Seki patent and U.S. Patent No. 4,955,503 to Propes.
- (C) Whether claims 3-5 and 9-11 are unpatentable under 35 U.S.C. § 103(a) over the Seki patent and U.S. Patent No. 4,756,439 to Perock.

7. Arguments

The claims on appeal are not anticipated by U.S. Patent No. 4,609,113 (hereinafter “Seki”) and are not rendered obvious by Seki in view of U.S. Patent No. 4,955,503 (hereinafter “Propes”) or U.S. Patent No. 4,756,439 (hereinafter “Perock”).

BRIEF SUMMARY OF THE ARGUMENTS

- The claims are not anticipated by Seki because Seki does not disclose a generally flat sidewall section.
- The claims are not anticipated by Seki because Seki does not disclose a generally flat inwardly flexible panel or an inwardly flexible panel.
- The claims are not anticipated by Seki because Seki does not disclose a smooth inward surface of the inwardly flexible panel.
- The claims are not anticipated by Seki because Seki does not disclose a portion of the rim that is sufficiently inwardly flexible to conform to the shape of an object.
- The claims are not obvious because there is no apparent reason, motivation, suggestion or teaching to modify Seki.

The foregoing arguments are explained in more detail below.

A. Rejection under 35 U.S.C. § 102(b) over Seki.

1. Seki does not disclose the claimed flat side wall section of claims 34 and 35.

The examiner has rejected independent claims 34 and 35 as being anticipated by Seki.

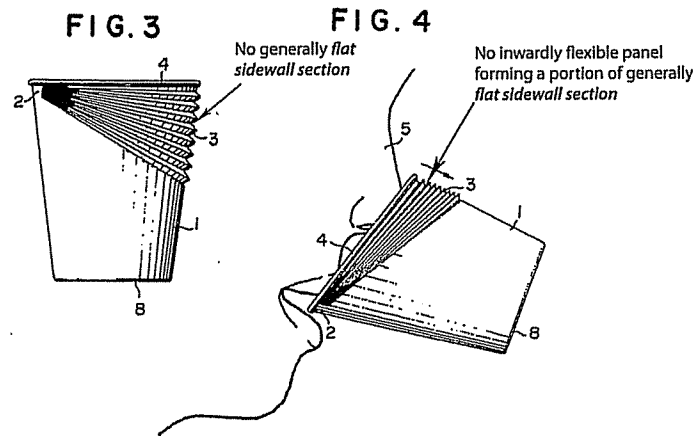
Claims 34 and 35 are directed to a container comprising a generally rigid continuous sidewall.

The sidewall defines an inward space and has a portion that defines a ***generally flat side wall section***.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” MPEP § 2131 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

The examiner does not address the claimed generally flat sidewall section in the Final Office Action and alleges that the “walls in the device of Seki are generally flat” in the Advisory Action. The Final Office Action and the Advisory Action fail to point out what part of Seki’s cup is considered a ***generally flat sidewall section***.

Seki discloses a cylindrical drinking cup to facilitate drinking without the user having to tilt the head back to drink the last contents. The cup has a cylindrical side wall 1 that does not have a generally flat side wall section. Bellows-like corrugations 3 are disposed on a rear portion of the cylindrical side wall 1 and allow the nose bridge 5 of the user to push the bellows 3 in the direction of the arrows in Fig. 4. Referring to annotated Fig. 3 below, the cylindrical side wall 1 and the corrugations 3 are cylindrical and do not teach Appellant’s claimed generally flat side wall section. Therefore, claims 34 and 35 are not anticipated because each and every element as set forth in the claim is not found in Seki.



Annotated Figs. 3 and 4 of Seki.

2. *Seki does not teach the generally flat inwardly flexible panel recited in claim 34.*

In addition to the generally flat sidewall section, independent claim 34 requires “a generally flat inwardly flexible panel forming a portion of said generally flat sidewall section.” Claim 35 recites an inwardly flexible panel that forms a portion of the generally flat sidewall section.

Referring to Annotated Fig 4, it follows then that Seki does not disclose a generally flat inwardly flexible panel forming a portion of said generally flat sidewall section since, as explained above, Seki does not teach a generally flat sidewall section. Likewise, an inwardly flexible panel forming a portion of the generally flat sidewall section cannot be disclosed by Seki.

Furthermore, “inward space” is defined in the claims as the space “bounded by said continuous sidewall.” Since “inward space” is defined, an inwardly flexible panel would therefore be expected to flex toward or into the defined inward space. The corrugations 3 of Seki do not flex toward or into an inward space defined by the side wall 1. Thus, Seki does not disclose the claimed inwardly flexible panel.

Since the inwardly flexible panel is not taught in Seki, each and every element as set forth in the claim is not found in Seki.

3. *A smooth inward surface of the inwardly flexible panel, as claimed in claims 34 and 35, is not disclosed in Seki.*

Claims 34 and 35 specify that the generally flat inwardly flexible panel has a generally smooth inward surface for unobstructed fluid flow. While the inward surface of Seki is not illustrated, given the bellow-like corrugations 3, it is likely that the inward surface of Seki is not smooth. Indeed, as can be seen in Figs. 3 and 4, Seki separates the smooth surface 2 from the movable portion, i.e., the corrugations 3. Thus, Seki teaches an immovable portion that is smooth (smooth surface 2) and a movable portion that is not smooth (corrugations 3) but does not teach ***both*** a generally flat inwardly flexible panel and a generally smooth inward surface. Therefore, the rejection should be reversed.

4. *Seki does not disclose a portion of the rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against, as claimed in claim 35.*

As noted above, claim 35 defines “inward space” as the space bounded by the continuous sidewall. The container claimed in claim 35 includes a portion of the rim that is sufficiently inwardly flexible so as to conform to the shape of an object, e.g., the shape of a child’s head, to which the rim is pressed against. Seki’s rim is not inwardly flexible. Furthermore, the inwardly flexible rim portion of claim 35 is connected to the inwardly flexible panel which forms a portion of the generally flat sidewall section, which is described above. Each and every element of claim 35 is not disclosed since Seki does not disclose (1) a generally flat sidewall section, (2) an inwardly flexible panel forming a portion of the generally flat sidewall section, and (3) a rim being sufficiently inwardly flexible to conform to the shape of an object.

Reversal of the anticipation rejection is respectfully requested.

B. Rejection under 35 U.S.C. § 103(a) over Seki in view of Propes.

The examiner has combined Seki with Propes to reject claims 6 and 12. Referring to paragraph 4 of the Final Office Action, the rejection refers to features that are not in the claims. Claims 6 and 12 do not require a “container divider” or a “dividing wall.” Appellant objects to any interpretation of claims 6 and 12 that imports a “container divider” or a “dividing wall” into the claims.

The dependent claims are allowable over the prior art of record in that they depend from independent claim 34 or 35, and therefore are allowable for the reasons stated above. Also, the dependent claims are further allowable because they include additional limitations. Thus, since the prior art of record does not disclose or suggest the invention as set forth in independent claim 34 or 35, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

C. Rejection under 35 U.S.C. § 103(a) over Seki in view of Perock.

The examiner has combined Seki with Perock and used design choice to reject claims 3-5 and 9-11. The analysis for determining obviousness or nonobviousness was reiterated in *KSR Int’l co. v. Teleflex, Inc.* 550 U.S. 398, 127 S. Ct. 1727, 82 U.S.P.Q.2d 1385 (2007): “the scope and content of the prior art are ... determined; differences between the prior art and the claims at issue are ... ascertained; and the level of ordinary skill in the pertinent art resolved.” *KSR Int’l Co.*, 127 S.Ct 1729-1730 (quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966)). In addition, “[r]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

The examiner has used impermissible hindsight by viewing claims 3-5 and 9-11 as a roadmap to modify Seki. There is no apparent reason, suggestion, motivation or teaching for one of ordinary skill in the art to modify Seki with the claimed materials.

The rejection makes conclusory statements such as “[u]se of such different materials to make the container in lieu of those used in the references solves no stated problem and would be an obvious matter of design choice within the skill of the art.” In concluding that the claimed limitations are an obvious matter of design choice, the examiner has not set forth an articulated reason or rational underpinning to support the conclusion. There is no apparent reason, motivation, teaching or suggestion as to why one of ordinary skill in the art would modify the paper cup of Seki with the materials described in Perock. In regards to the claimed materials that are not disclosed in Perock, such as the sponge material and cloth, the rejection fails to explain why there is an apparent reason, motivation, suggestion or teaching to modify Seki and Perock. The obviousness rejection should be reversed since impermissible hindsight was used and a *prima facie* case of obviousness has not been established.


Moreover, dependent claims 3-5 and 9-11 are allowable over the prior art of record in that they depend from independent claim 34 or 35, and therefore are allowable for the reasons stated above. Also, the dependent claims are further allowable because they include additional limitations. Thus, since the prior art of record does not disclose or suggest the invention as set forth in independent claim 34 or 35, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Reversal of the obviousness rejections is respectfully requested.

8. Conclusion

In view of the foregoing, Appellant respectfully asserts that claims 2-6, 8-12, 34 and 35 are not disclosed or suggested in the cited references, either alone or in combination. Thus, Appellant respectfully requests that the rejections of claims 2-6, 8-12, 34 and 35 be reversed, and that all pending claims be allowed. If there are any questions regarding this Brief, please contact the undersigned.

Respectfully submitted,


David J. McCrosky
Reg. No. 56,232

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Dated: August 16, 2010

A - Claims Appendix

2. The container as claimed in claim 34 further comprising a rim attached to said upper side wall end.
3. The container as claimed in claim 2 wherein said rim is comprised of a sponge material.
4. The container as claimed in claim 2 wherein said rim is comprised of rubber.
5. The container as claimed in claim 2 wherein said rim is comprised of cloth.
6. The container as claimed in claim 34 further comprising a handle.
8. The container as claimed in claim 35 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.
9. The container as claimed in claim 8 wherein said rim is comprised of a sponge material.
10. The container as claimed in claim 8 wherein said rim is comprised of rubber.
11. The container as claimed in claim 8 wherein said rim is comprised of cloth.
12. The container as claimed in claim 35 further comprising a handle.
34. A container comprising:

a generally rigid continuous sidewall terminating in an upper sidewall end and a lower sidewall end and defining an inward space bounded by said continuous sidewall, said continuous sidewall having a portion thereof that defines a generally flat sidewall section,

a bottom closing said lower sidewall end with said upper sidewall end being generally open,

a generally flat inwardly flexible panel forming a portion of said generally flat sidewall section and extending to form at least a portion of said upper sidewall end, said flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper sidewall end.

35. A container comprising:

a generally rigid continuous sidewall having an upper sidewall end and a lower sidewall end and defining an inward space bounded by said continuous sidewall, said continuous sidewall having a portion thereof that defines a generally flat sidewall section,

a bottom attached to said lower sidewall end with said upper sidewall end being generally open,

a rim connected to said upper sidewall end,

a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against,

an inwardly flexible panel forming a portion of said generally flat sidewall section and connecting with said inwardly flexible rim portion, said inwardly flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper sidewall end.

B - Evidence Appendix

None.

C. - Related Proceeding Appendix

None.

Electronic Patent Application Fee Transmittal

Application Number:	12255797			
Filing Date:	22-Oct-2008			
Title of Invention:	FLEXIBLE PANEL PITCHER			
First Named Inventor/Applicant Name:	Michael L. McGinley			
Filer:	David J. McCrosky/Mary Notter			
Attorney Docket Number:	SCP001-327224			
Filed as Small Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Notice of appeal	2401	1	270	270
Filing a brief in support of an appeal	2402	1	270	270
Post-Allowance-and-Post-Issuance:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension-of-Time:				
Miscellaneous:				
Total in USD (\$)				540

Electronic Acknowledgement Receipt

EFS ID:	8230092
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Customer Number:	24030
Filer:	David J. McCrosky/Mary Notter
Filer Authorized By:	David J. McCrosky
Attorney Docket Number:	SCP001-327224
Receipt Date:	16-AUG-2010
Filing Date:	22-OCT-2008
Time Stamp:	19:48:59
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 540
RAM confirmation Number	7800
Deposit Account	501662
Authorized User	


The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)

Exhibit 1010-0133

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Notice of Appeal Filed	NoticeOfAppeal.pdf	136965 3eaa5e576b1c1b4e28381235c5f695b81126c9d5	no	1
Warnings:					
Information:					
2	Appeal Brief Filed	AppealBrief.pdf	1087596 f62f6c9ae890426a3701eaf7c6476f854c92b1d5	no	19
Warnings:					
Information:					
3	Fee Worksheet (PTO-875)	fee-info.pdf	31925 f79764f1fb4e16f90f0d27689b2379cfb8c7418a	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			1256486		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES		Docket Number (Optional) SCP001-327224								
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 5px;">In re Application of Michael L. McGinley</td> </tr> <tr> <td style="width: 50%; padding: 5px;">Application Number 12/255,797</td> <td style="width: 50%; padding: 5px;">Filed October 22, 2008</td> </tr> <tr> <td colspan="2" style="padding: 5px;">For FLEXIBLE PANEL PITCHER</td> </tr> <tr> <td style="padding: 5px;">Art Unit 3754</td> <td style="padding: 5px;">Examiner Melvin A. Cartagena</td> </tr> </table>		In re Application of Michael L. McGinley		Application Number 12/255,797	Filed October 22, 2008	For FLEXIBLE PANEL PITCHER		Art Unit 3754	Examiner Melvin A. Cartagena
In re Application of Michael L. McGinley										
Application Number 12/255,797	Filed October 22, 2008									
For FLEXIBLE PANEL PITCHER										
Art Unit 3754	Examiner Melvin A. Cartagena									
Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.										
The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ <u>540.00</u>										
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ <u>270.00</u>										
<input type="checkbox"/> A check in the amount of the fee is enclosed.										
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.										
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.										
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. <u>501662</u> .										
<input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.										
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.										
I am the										
<input type="checkbox"/> applicant/inventor.										
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)										
<input checked="" type="checkbox"/> attorney or agent of record. <u>56232</u>										
Registration number _____										
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____										
<div style="text-align: right;">  Signature David J. McCrosky Typed or printed name 720.931.1165 Telephone number August 16, 2010 Date </div>										
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.										
<input type="checkbox"/> *Total of _____ forms are submitted.										

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT

File No. SCP001.327224

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
	:	
Michael L. McGinley	:	Patent Art Unit: 3754
	:	
Serial No. 12/255,797	:	Examiner: Melvin A. Cartagena
	:	
Filed: October 22, 2008	:	Confirmation No. 4030
	:	
For: FLEXIBLE PANEL PITCHER	:	

Request for Reconsideration

Commissioner for Patents
Alexandria, VA 22313

Sir:

In response to the May 14, 2010 Final Office Action, please amend the above-identified patent application as follows:

Listing of the Claims begins on page 2 of this paper. Claims 2-6, 8-12, 34 and 35 are pending, with claims 34 and 35 being the only independent claims.

Remarks/Arguments begin on page 5 of this paper.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/255,797

10/22/2008

Michael L. McGinley

SCP001

4030

24030 7590 06/21/2010

POLSINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

EXAMINER

CARTAGENA, MELVIN A

ART UNIT

PAPER NUMBER

3754

NOTIFICATION DATE

DELIVERY MODE

06/21/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspt@polsinelli.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 12/255,797	Applicant(s) MCGINLEY ET AL.	
	Examiner Melvin A. Cartagena	Art Unit 3754	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 June 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
The walls in the device of Seki are generally flat and generally inwardly flexible to accommodate to the shape of a user head as claimed by the applicant.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Kevin P. Shaver/
 Supervisory Patent Examiner, Art Unit 3754

/M. A. C./
 Examiner, Art Unit 3754

File No. SCP001.327224

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
	:	
Michael L. McGinley	:	Patent Art Unit: 3754
	:	
Serial No. 12/255,797	:	Examiner: Melvin A. Cartagena
	:	
Filed: October 22, 2008	:	Confirmation No. 4030
	:	
For: FLEXIBLE PANEL PITCHER	:	

Request for Reconsideration

Commissioner for Patents
Alexandria, VA 22313

Sir:

In response to the May 14, 2010 Final Office Action, please amend the above-identified patent application as follows:

Listing of the Claims begins on page 2 of this paper. Claims 2-6, 8-12, 34 and 35 are pending, with claims 34 and 35 being the only independent claims.

Remarks/Arguments begin on page 5 of this paper.

The following Listing of Claims will replace all prior versions, and listings, of claims in the application.

LISTING OF CLAIMS:

1. (Cancelled).
2. (Previously Presented) The container as claimed in claim 34 further comprising a rim attached to said upper side wall end.
3. (Original) The container as claimed in claim 2 wherein said rim is comprised of a sponge material.
4. (Original) The container as claimed in claim 2 wherein said rim is comprised of rubber.
5. (Original) The container as claimed in claim 2 wherein said rim is comprised of cloth.
6. (Previously Presented) The container as claimed in claim 34 further comprising a handle.
7. (Cancelled).
8. (Previously Presented) The container as claimed in claim 35 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.
9. (Original) The container as claimed in claim 8 wherein said rim is comprised of a sponge material.
10. (Original) The container as claimed in claim 8 wherein said rim is comprised of rubber.

11. (Original) The container as claimed in claim 8 wherein said rim is comprised of cloth.

12. (Previously Presented) The container as claimed in claim 35 further comprising a handle.

Claims 13 - 33 (Cancelled).

34. (Previously Presented) A container comprising:

a generally rigid continuous sidewall terminating in an upper sidewall end and a lower sidewall end and defining an inward space bounded by said continuous sidewall, said continuous sidewall having a portion thereof that defines a generally flat sidewall section,

a bottom closing said lower sidewall end with said upper sidewall end being generally open,

a generally flat inwardly flexible panel forming a portion of said generally flat sidewall section and extending to form at least a portion of said upper sidewall end, said flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper sidewall end.

35. (Previously Presented) A container comprising:

a generally rigid continuous sidewall having an upper sidewall end and a lower sidewall end and defining an inward space bounded by said continuous sidewall, said continuous sidewall having a portion thereof that defines a generally flat sidewall section,

a bottom attached to said lower sidewall end with said upper sidewall end being generally open,

a rim connected to said upper sidewall end,

a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against,

an inwardly flexible panel forming a portion of said generally flat sidewall section and connecting with said inwardly flexible rim portion, said inwardly flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper sidewall end.

REMARKS

In the May 14, 2010 Final Office Action, all of the claims stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

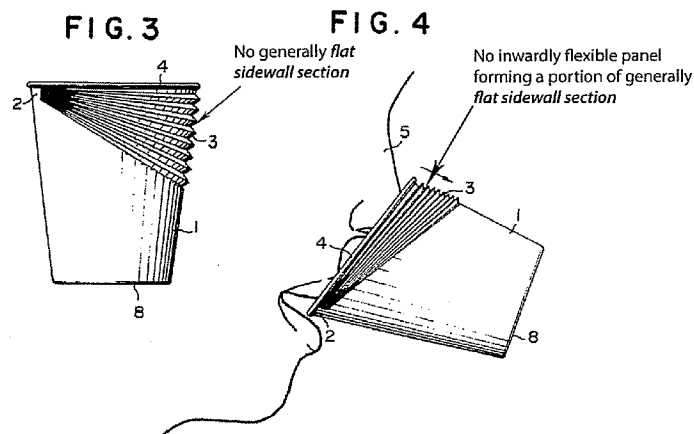
None of the claims are amended by this Response. Claims 2-6, 8-12, 34 and 35 are pending, with claims 34 and 35 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the following comments.

Rejections - 35 U.S.C. § 102

In paragraph 2 of the Office Action, claims 2, 8, 34 and 35 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,609,113 (Seki).

Independent claims 34 and 35 recite a continuous sidewall having a portion thereof that defines a ***generally flat sidewall section***. Both claims 34 and 35 define an inward space bounded by the continuous sidewall. Claim 34 also requires a ***generally flat inwardly flexible panel*** forming a portion of the ***generally flat sidewall section***. Independent claim 35 requires an ***inwardly flexible panel*** forming a portion of the ***generally flat sidewall section***. This structure is not disclosed or suggested by Seki or any other prior art of record.

Referring to Annotated Figures 3 and 4 below, the cup in Seki has a cylindrical sidewall 1 with a smooth surface 2 and corrugations 3. Seki's cup does not have a generally flat sidewall section. Moreover, Seki's cup does not have an inwardly flexible panel forming a portion of a generally flat sidewall section.



Annotated Figs. 3 and 4 of Seki.

The container claimed in claim 34 or 35 includes an inwardly flexible panel that is capable of inward deformation so as to conform to the shape of an object, e.g., the shape of a child's head. This inwardly flexible panel forms a portion of the generally flat sidewall section.

The claims are not anticipated since Seki does not disclose (1) a generally flat sidewall section and (2) an inwardly flexible panel forming a portion of the generally flat sidewall section. Withdrawal of this rejection is respectfully requested.

Rejections - 35 U.S.C. § 103

In paragraphs 4 and 5 of the Office Action, claims 3-6 and 9-12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Seki in view of U.S. Patent No. 4,955,503 or U.S. Patent No. 4,756,439.

Claims 6 and 12 do not require a "container divider" or a "dividing wall," which are discussed in the rejection of claims 6 and 12. Applicant objects to any interpretation of claims 6 and 12 that imports a "container divider" or a "dividing wall" into the claims.

The dependent claims are allowable over the prior art of record in that they depend from independent claim 34 or 35, and therefore are allowable for the reasons stated above. Also, the

dependent claims are further allowable because they include additional limitations. Thus, since the prior art of record does not disclose or suggest the invention as set forth in independent claim 34 or 35, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Applicant respectfully requests that the rejections be withdrawn in view of the above comments.

* * *

Applicant respectfully asserts that claims 2-6, 8-12, 34 and 35 are in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

/David J. McCrosky/
David J. McCrosky
Reg. No. 56,232

POLSINELLI SHUGHART, P.C.
1515 Wynkoop Street, Suite 600
Denver, CO 80202
(720) 931-1165

Dated: June 10, 2010

Electronic Acknowledgement Receipt

EFS ID:	7787751
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Customer Number:	24030
Filer:	David J. McCrosky/Erin Perry
Filer Authorized By:	David J. McCrosky
Attorney Docket Number:	SCP001
Receipt Date:	10-JUN-2010
Filing Date:	22-OCT-2008
Time Stamp:	14:53:55
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Amendment After Final	ReqReconsid.pdf	74229 ed886c73be789945ffed976e7e9d82c511b65216	no	7

Warnings:

Information:

Exhibit 1010-0146

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/255,797		Filing Date 10/22/2008		<input type="checkbox"/> To be Mailed	
APPLICATION AS FILED – PART I										
(Column 1)			(Column 2)			SMALL ENTITY <input checked="" type="checkbox"/> OR		OTHER THAN SMALL ENTITY		
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	OR	RATE (\$)	FEE (\$)			
<input type="checkbox"/> BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X \$	=		X \$	=			
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$	=		X \$	=			
<input type="checkbox"/> APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).									
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.					TOTAL		TOTAL			
APPLICATION AS AMENDED – PART II										
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	06/10/2010	CLAIMS REMAINING AFTER AMENDMENT	MINUS	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)
	Total (37 CFR 1.16(i))	* 12	Minus	** 20	= 0	X \$26 =	0		X \$	=
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0	X \$110 =	0		X \$	=
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))										
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))										
						TOTAL ADD'L FEE	0		TOTAL ADD'L FEE	
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT	MINUS	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X \$	=		X \$	=
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X \$	=		X \$	=
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))										
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))										
						TOTAL ADD'L FEE			TOTAL ADD'L FEE	
<p>* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.</p> <p>** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".</p> <p>*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".</p> <p>The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.</p>										

Legal Instrument Examiner:
/LASHAWN MORGAN/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/255,797

10/22/2008

Michael L. McGinley

SCP001

4030

24030 7590 05/14/2010
POL SINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

EXAMINER

CARTAGENA, MELVIN A

ART UNIT

PAPER NUMBER

3754

NOTIFICATION DATE

DELIVERY MODE

05/14/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspt@polsinelli.com

Office Action Summary	Application No. 12/255,797	Applicant(s) MCGINLEY ET AL.	
	Examiner Melvin A. Cartagena	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-12,34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-12,34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on March 27, 2010 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 7,441,675 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 8, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,609,113 to Seki.

Seki shows a container as seen in Figs. 3 and 4, having a generally rigid continuous side wall with a closed lower side wall end and an open upper wall side defining an inward space, a generally smooth inwardly flexible panel 3 forming a portion of the side wall and surface and a rim 4 attached to the upper side wall end.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,609,113 to Seki in view of US 4,955,503 to Propes.

Seki shows all claimed features as discussed above except for a container divider and a container handle. Propes shows a flexible container as seen in Fig. 1, having an interior space partitioned by a wall 12 extending from the bottom of the container to the top of the container and container handles 34. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Seki by including a dividing wall and handle for dispensing multiple products from multiple compartments simultaneously and to improve handling of the container as taught by Propes.

5. Claims 3, 4, 5, 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,609,113 to Seki in view of 4,756,439 to Perock.

Seki shows all claimed features as discussed above but is silent about the material used to make the container's rim. Perock shows a plastic container, seen in Figs. 1 and 2, where a portion of the sidewall and the rim are flexible, the container may also be made from other materials which offer the same flexibility, see column 3, lines 35-40. Using alternative materials to make the container, presents no novel or unexpected result over the materials used in the references. Use of such different materials to make the container in lieu of those used in the references solves no stated problem and would be an obvious matter of design choice within the skill of the art. In re Launder, 42 CCPA 886, 222 F.2d 371, 105 USPQ 446 (1955); Flour City Architectural Metals v. Alpana Aluminum Products, Inc., 454 F. 2d 98, 172 USPQ 341 (8th Cir. 1972); National Connector Corp. v. Malco Manufacturing Co., 392 F.2d 766. 157 USPQ 401 (8th Cir.) cert. denied, 393 U.S. 923, 159 USPQ 799 (1968).

Response to Arguments

6. Applicant's arguments with respect to claims 2-6, 8-12, 34 and 35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on M-TH (8:30AM to 7:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
12/255,797
Art Unit: 3754

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. C./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art Unit 3754

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L15	98	222/210.ccls.	USPAT	OR	ON	2010/05/10 11:04
L16	556	222/215.ccls.	USPAT	OR	ON	2010/05/10 11:04
L17	337	222/572.ccls.	USPAT	OR	ON	2010/05/10 11:04
L18	126	222/573.ccls.	USPAT	OR	ON	2010/05/10 11:04
L19	80	222/574.ccls.	USPAT	OR	ON	2010/05/10 11:04
L20	851	222/94.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2010/05/10 11:04
L21	80	222/574.ccls.	USPAT	OR	ON	2010/05/10 11:04
L22	37	("2069089" "2627735" "2652701" "2671326" "4210141" "4235348" "4609113" "4762229" "5169026" "5323928" "5749491" "D168784").PN. OR ("1133050" "1212378" "2069345" "5899354").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/05/10 11:04
L23	29	("3185353" "4243162" "4401241").PN. OR ("4572412"). URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/05/10 11:04


L24	21	("0606295" "1987232" "2827648" "2988769" "3671992" "4083466").PN. OR ("4756439"). URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2010/05/10 11:05
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EAST Search History (I nterference)

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5/ 10/ 10 11:05:27 AM

**C:\ Documents and Settings\ mcartagena\ My Documents\ EAST\ Workspaces\ 10
\ 10,770,325.wsp**

<i>Index of Claims</i> 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner Melvin A Cartagena	Art Unit 3754

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant				<input type="checkbox"/> CPA		<input type="checkbox"/> T.D.		<input type="checkbox"/> R.1.47	
CLAIM		DATE							
Final	Original	12/17/2009	05/10/2010						
	1	-	-						
	2	✓	✓						
	3	✓	✓						
	4	✓	✓						
	5	✓	✓						
	6	✓	✓						
	7	-	-						
	8	✓	✓						
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	10	✓	✓						
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	12	✓	✓						
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	31	-	-						
	32	✓	-						
	33	✓	-						
	34		✓						
	35		✓						


Search Notes 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner Melvin A Cartagena	Art Unit 3754

SEARCHED			
Class	Subclass	Date	Examiner
222	215,210,574,573,573,94,	12/17/09	mac
220	904,561,9.3,666,669,834,555,904	12/17/09	mac
215	400	12/17/09	mac
68	233	12/17/09	mac

SEARCH NOTES		
Search Notes	Date	Examiner
Forward and backward searches provided on EAST for best references.	12/17/09	mac
Search updated.	5/10/10	mac

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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Application Number 	Application/Control No. 12/255,797	Applicant(s)/Patent under Reexamination MCGINLEY ET AL.	
Document Code - DISQ		Internal Document – DO NOT MAIL	

TERMINAL DISCLAIMER	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Date Filed : 02/27/10	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by:
Denise L. Boyd

U.S. Patent and Trademark Office

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Date:	February 26, 2010	
Serial No.:	12/255,797	<u>Conf. No. 4030</u>
Filing Date:	October 22, 2008	
Applicant:	MCGINLEY, Michael L.	
Title:	FLEXIBLE PANEL PITCHER	
Examiner:	CARTAGENA, Melvin A	
Art Unit:	3754	

MAIL STOP: AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

AMENDMENT AND REMARKS

Please enter the following Amendment and Remarks into the above-identified Application in response to the Office Action mailed January 4, 2010.

A **Listing of the Claims** reflecting any Amendments begins on page 2 of this paper.

Remarks begin on page 5 of this paper.

An **Appendix** presenting a Terminal Disclaimer is included after page 9 of this paper.

CLAIMS LISTING and AMENDMENTS

1. (Cancelled).
2. (currently amended) The container as claimed in claim ~~32~~ 34 further comprising a rim attached to said upper side wall end.
3. (Original) The container as claimed in claim 2 wherein said rim is comprised of a sponge material.
4. (Original) The container as claimed in claim 2 wherein said rim is comprised of rubber.
5. (Original) The container as claimed in claim 2 wherein said rim is comprised of cloth.
6. (currently amended) The container as claimed in claim ~~32~~ 34 further comprising a handle.
7. (Cancelled).
8. (currently amended) The container as claimed in claim ~~33~~ 35 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.
9. (Original) The container as claimed in claim 8 wherein said rim is comprised of a sponge material.

10. (Original) The container as claimed in claim 8 wherein said rim is comprised of rubber.

11. (Original) The container as claimed in claim 8 wherein said rim is comprised of cloth.

12. (currently amended) The container as claimed in claim ~~33~~ 35 further comprising a handle.

Claims 13 - 31 (Cancelled).

Claims 32 and 33 (Cancelled).

34. (NEW) A container comprising:

a generally rigid continuous sidewall terminating in an upper sidewall end and a lower sidewall end and defining an inward space bounded by said continuous sidewall, said continuous sidewall having a portion thereof that defines a generally flat sidewall section,

a bottom closing said lower sidewall end with said upper sidewall end being generally open,

a generally flat inwardly flexible panel forming a portion of said generally flat sidewall section and extending to form-at least a portion of said upper sidewall end, said flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper sidewall end.

35. (NEW) A container comprising:

a generally rigid continuous sidewall having an upper sidewall end and a lower sidewall end and defining an inward space bounded by said continuous sidewall, said continuous sidewall having a portion thereof that defines a generally flat sidewall section,

a bottom attached to said lower sidewall end with said upper sidewall end being generally open,

a rim connected to said upper sidewall end,

a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against,

an inwardly flexible panel forming a portion of said generally flat sidewall section and connecting with said inwardly flexible rim portion, said inwardly flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper sidewall end.

Remarks

Claims 32 and 33 are cancelled. Claims 34 and 35 are presented for entry into the case. Claims 2-6, have been amended to depend from newly entered claim 34 and claims 8-12 have been amended to depend from newly entered claim 35.

Both new independent claims 34 and 35 recite the limitation of “said sidewall having a portion thereof that defines a generally flat sidewall section”. Claim 34 further recites “a generally flat inward flexible panel forming a portion of said generally flat sidewall section” Claim 35 further recites, “an inwardly flexible panel forming a portion of said generally flat sidewall section”.

This flat sidewall section that is flexible is a limitation is not present in the claims of U.S. Patent No. 7,441,675, but it is supported in drawing Figures 2 and 9. Therefore no new matter has been entered into the case. It is believed this new limitation avoids the “same invention” type double patenting identified by the Examiner.

The flat sidewall section is a particular benefit to the user of the device as it avoids the obstruction presented by the nose of the person against whom the device is being applied.

Terminal Disclaimer to Avoid Obviousness-type Double Patenting

A Terminal Disclaimer is presented herewith to avoid a rejection based on obviousness-type double patenting with respect to previously issued patent number 7,441,675.

Applicant's Comments on Previously Submitted Prior Art

The Applicant submits the following arguments which are believed to distinguish new independent claims 34 and 35 over each of the previously submitted prior art references.

USPN 33,737 R.B. FITTS

USPN 1,225,511 G.B. SEXTON

The present invention is distinguished as the present invention claims a generally rigid continuous sidewall having a portion thereof that defines a generally flat sidewall section. These references do not teach or suggest either of these limitations.

USPN 2,610,490 E.S. TUPPER

USPN 3,729,553 D. GOLD

USPN 4,609,113 SEKI

USPN 4,886,206 MARTINEZ

USPN 4,955,503 PROPE

USPN 5, 415,305 DRAKE-TIPTON

REISSUE 35,933 SCHOLL

USPN 6,708,838 BERGMAN

The present invention recites a generally rigid continuous sidewall having a generally flat sidewall section and an inwardly flexible panel within the generally flat sidewall section. These references do not teach or suggest either of these limitations.

USPN 4,756,439 PEROCK

The present invention recites a generally rigid continuous sidewall having a generally flat sidewall section and an inwardly flexible panel within the generally flat sidewall

section. Perock shows both an outwardly curved movable section and outwardly extending section having multiple corners. Neither of the Perock movable sections is a generally flat surface and neither is operable as an inwardly flexible panel. The present invention would not be obvious in view of Perock as there would be no useful purpose to pressing the Perock movable section inwardly while rubbing the Perock workpiece on the outside of the movable section. Therefore, Perock could not suggest the present invention to one skilled in the art.

USPN 5,507,431 BERTONE

Bertone shows a container having four flat sides with one side having a collapsible spout which may be folded outwardly or folded inwardly to close the container. Claim 34 calls for “a generally flat inwardly flexible panel forming a portion of said flat panel sidewall section. Bertone does not present a “generally flat inwardly flexible panel. The flexible portion of Bertone is V-shaped and not generally flat. As to claim 35, Bertone does not have the limitation of “a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against.” The Bertone V-shaped spout cannot conform to the shape of an object to which the rim is pressed, rather the Bertone spout would collapse inwardly into its closed position.

USPN 6,470,705 BRIDE-FLYNN

Flynn shows a polyethylene bag which is flexible on all sides and has no rigid sidewall, therefore the present invention is distinguished over Bride-Flynn.

INVENTOR: MCGINLEY, Michael L.
Appl. No. 12/255,797
Amdt. dated February 26, 2010
Reply to Office Action of January 04, 2010

Conclusion

In view of the recited limitations of new independent claims 34 and 35, from which all other claims depend, it is believed that patentable subject matter is present and that all claims may be passed to issue.

Respectfully submitted,

/Richard P. Stitt/
RICHARD P. STITT
Patent Office Reg. No. 35,693
Polsinelli Shughart, P.C.
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700 W. 47th Street
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Attorneys for Applicant

INVENTOR: MCGINLEY, Michael L.
Appl. No. 12/255,797
Amdt. dated February 26, 2010
Reply to Office Action of January 04, 2010

Appendix

1. Terminal Disclaimer

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

SCP001 327224

In re Application of: McGINLEY, MICHAEL L.

Application No.: 12/255,797

Filed: October 22, 2008

For: FLEXIBLE PANEL PITCHER

The owner*, McGinley, Michael L., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent** No. 7,441,675 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said **prior patent** is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said **prior patent** later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 35,693

/Richard P. Stitt/

Signature

Feb. 27, 2010

Date

Richard P. Stitt

Typed or printed name

913-234-7524

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Exhibit 1010-0169

Electronic Patent Application Fee Transmittal

Application Number:	12255797			
Filing Date:	22-Oct-2008			
Title of Invention:	FLEXIBLE PANEL PITCHER			
First Named Inventor/Applicant Name:	Michael L. McGinley			
Filer:	Richard P. Stitt			
Attorney Docket Number:	SCP001			
Filed as Small Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Statutory disclaimer	2814	1	70	70
Total in USD (\$)				70

Electronic Acknowledgement Receipt

EFS ID:	7104017
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Customer Number:	24030
Filer:	Richard P. Stitt
Filer Authorized By:	
Attorney Docket Number:	SCP001
Receipt Date:	27-FEB-2010
Filing Date:	22-OCT-2008
Time Stamp:	12:22:55
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 70
RAM confirmation Number	7269
Deposit Account	501662
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:
Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Transmittal Letter	TransmittalForm.pdf	261329 85de7740f7e6d0dccc547e96a9411d29b5d12be6	no	2
Warnings:					
Information:					
2	Amendment/Req. Reconsideration-After Non-Final Reject	ResponseToOfficeAction.pdf	42999 9d83c8eef64d4f313430da2ae08345f7f4c1fe7f	no	9
Warnings:					
Information:					
3	Terminal Disclaimer Filed	TerminalDisclaimerin12255797.pdf	162422 140287fe4609c3c9928c788d61c9216423709a55	no	1
Warnings:					
Information:					
4	Fee Worksheet (PTO-875)	fee-info.pdf	29637 d62c6fddcd4fb17f35455d430186c4b49630815b5	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			496387		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	12/255,797	
	Filing Date	October 22, 2008	
	First Named Inventor	McGinley, Michael L.	
	Art Unit	3754	
	Examiner Name	CARAGENA, Melvin A	
Total Number of Pages in This Submission	-12-	Attorney Docket Number	SCP001 327224

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<div style="border: 1px solid black; padding: 2px; min-height: 100px;"> Remarks </div>		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Polsinelli Shughart, PC	
Signature	/Richard P. Stitt/	
Printed name	Richard P. Stitt	
Date	Feb. 27, 2010	Reg. No. 35,693

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/255,797		Filing Date 10/22/2008		<input type="checkbox"/> To be Mailed	
APPLICATION AS FILED – PART I										
(Column 1)			(Column 2)		SMALL ENTITY <input checked="" type="checkbox"/> OR			OTHER THAN SMALL ENTITY		
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	OR	RATE (\$)	FEE (\$)			
<input type="checkbox"/> BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X \$	=		X \$	=			
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$	=		X \$	=			
<input type="checkbox"/> APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).									
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL				
APPLICATION AS AMENDED – PART II										
(Column 1)			(Column 2)		SMALL ENTITY OR			OTHER THAN SMALL ENTITY		
AMENDMENT	02/27/2010	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR	RATE (\$)	ADDITIONAL FEE (\$)	
	Total (37 CFR 1.16(i))	* 12	Minus	** 20	= 0	X \$26 =	0	OR	X \$ =	
	Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0	X \$110 =	0	OR	X \$ =	
	<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))									
	<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))									
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE		
AMENDMENT	Total (37 CFR 1.16(i))	*	Minus	**	=	X \$ =		OR	X \$ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X \$ =		OR	X \$ =	
	<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))									
	<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))									
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE		
<p>* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.</p> <p>** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".</p> <p>*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".</p> <p>The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.</p>										

Legal Instrument Examiner:
/ERIC V. BURNS/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

12/255,797

10/22/2008

Michael L. McGinley

SCP001

4030

24030 7590 01/04/2010
POL SINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112

EXAMINER

CARTAGENA, MELVIN A

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

01/04/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 12/255,797	Applicant(s) MCGINLEY ET AL.	
	Examiner Melvin A. Cartagena	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-12,32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-12,32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9092009</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3754

DETAILED ACTION

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 2-6, 8-12, 32 and 33 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-12 of prior U.S. Patent No. 7,441,675. This is a double patenting rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571)272-4924. The examiner can normally be reached on M-F (8:30AM to 7:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A. C./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art Unit 3754

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	554	222/215.ccls.	USPAT	OR	ON	2009/12/17 14:32
L2	98	222/210.ccls.	USPAT	OR	ON	2009/12/17 14:32
L3	80	222/574.ccls.	USPAT	OR	ON	2009/12/17 14:32
L4	126	222/573.ccls.	USPAT	OR	ON	2009/12/17 14:33
L5	335	222/572.ccls.	USPAT	OR	ON	2009/12/17 14:33
L6	841	222/94.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:33
L7	175	220/904.ccls.	US-PGPUB; USPAT; USOCR	OR	ON	2009/12/17 14:33
L8	39	220/561.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:33
L9	113	220/9.3.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:33
L10	48	68/233.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:33
L11	226	15/264.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:33

L12	392	220/666.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:34
L13	600	220/669.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:34
L14	600	220/669.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:34
L15	600	220/669.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:34
L16	116	220/834.ccls.	US-PGPUB; USPAT; USOCR	OR	ON	2009/12/17 14:34
L17	405	220/555.ccls.	US-PGPUB; USPAT; USOCR	OR	ON	2009/12/17 14:34
L18	98	222/210.ccls.	USPAT	OR	ON	2009/12/17 14:34
L19	130	215/400.ccls.	US-PGPUB; USPAT; EPO; JPO; DERWENT; IBM_TDB	OR	ON	2009/12/17 14:34
L20	175	220/904.ccls.	US-PGPUB; USPAT; USOCR	OR	ON	2009/12/17 14:35
L21	37	("2069089" "2627735" "2652701" "2671326" "4210141" "4235348" "4609113" "4762229" "5169026" "5323928" "5749491" "D168784").PN. OR ("1133050" "1212378" "2069345"	US-PGPUB; USPAT; USOCR	OR	ON	2009/12/17 14:35

		"5899354").URPN.				
L22	72	("0606295" "1567931" "1711876" "1819913" "1927751" "1987232" "2546052" "2772823" "2812126" "2812127" "2827648" "2839234" "2865420" "2988769" "3269644" "3301458" "3302858" "3421680" "3488201" "3671992" "3889684" "3995806" "4083466" "4166566" "4312450" "4316070" "4605142" "4628932" "4767035" "4799619" "4951666" "5074300" "5133348" "5277180" "5356426" "5456704" "5716388" "6251131").PN. OR ("4756439" "4886206" "6470705").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2009/12/17 14:35
L23	20	("0606295" "1987232" "2827648" "2988769" "3671992" "4083466").PN. OR ("4756439"). URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2009/12/17 14:35


L24	29	("3185353" "4243162" "4401241").PN. OR ("4572412"). URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2009/12/17 14:35
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EAST Search History (Interference)

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\ 10,770,325.wsp**

Search Notes 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner Melvin A Cartagena	Art Unit 3754

SEARCHED			
Class	Subclass	Date	Examiner
222	215,210,574,573,573,94,	12/17/09	mac
220	904,561,9.3,666,669,834,555,904	12/17/09	mac
215	400	12/17/09	mac
68	233	12/17/09	mac

SEARCH NOTES		
Search Notes	Date	Examiner
Forward and backward searches provided on EAST for best references.	12/17/09	mac

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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Doc code: IDS

Receipt date: 09/09/2009

PTO/SB/08a (06-09)

Doc description: Information Disclosure Statement (IDS) Filed

Approved for use through 07/31/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**
(Not for submission under 37 CFR 1.99)

Application Number	12255797
Filing Date	2008-10-22
First Named Inventor	McGinley, Michael L.
Art Unit	3754
Examiner Name	CARTAGENA, MELVIN A
Attorney Docket Number	SCP001 327224

U.S.PATENTS[Remove](#)

Examiner Initial*	Cite No	Patent Number	Kind Code ¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
	1	0033737		1861-11-19	Fitts, R.B.	Generally relevant
	2	1225511		1917-05-08	Sexton, G. B.	Generally relevant
	3	2333014		1943-10-26	Kennedy	Generally relevant
	4	2610490		1952-09-16	Tupper, E.S.	Generally relevant
	5	2872081		1959-02-03	Randall	Generally relevant
	6	3729553		1973-04-24	Gold et al.	Divider 15
	7	4609113		1986-09-02	Seki	Generally relevant
	8	4756439		1988-07-12	Perock, M.J.	Mouth 24,71 and sides 25,26

Receipt date: 09/09/2009

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Examiner Name	CARTAGENA, MELVIN A
Attorney Docket Number	SCP001 327224

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /M.C./ (12/30/2009)

9	4886206		1989-12-12	Martinez, B.E.	Spout 3
10	4955503		1990-09-11	Propes	Divider 12
11	5415305		1995-05-16	Drake-Tipton et al.	Generally relevant
12	5507431		1996-04-16	Bertone	Spout, Fig. 3
13	RE35933		1998-10-27	Scholl	Divider 44
14	5950834		1999-09-14	Woodnorth et al.	Divider 24, 30
15	5960987		1999-10-05	Solland et al.	Generally relevant
16	6241388		2001-06-05	Terramani	Divider 44
17	6470705		2002-10-29	Bride-Flynn	Generally relevant
18	6708838		2004-03-23	Bergman et al.	Generally relevant

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Receipt date: 09/09/2009 INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		12255797
	Filing Date		2008-10-22
	First Named Inventor	McGinley, Michael L.	
	Art Unit	3754	
	Examiner Name	CARTAGENA, MELVIN A	
	Attorney Docket Number	SCP001 327224	

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /M.C./ (12/30/2009)

Examiner Initial*	Cite No	Publication Number	Kind Code ¹	Publication Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
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Examiner Signature	/Melvin Cartagena/ (12/30/2009)	Date Considered	12/30/2009
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<i>Index of Claims</i> 	Application/Control No. 12255797	Applicant(s)/Patent Under Reexamination MCGINLEY ET AL.
	Examiner Melvin A Cartagena	Art Unit 3754

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant <input type="checkbox"/> CPA <input type="checkbox"/> T.D. <input type="checkbox"/> R.1.47										
CLAIM		DATE								
Final	Original	12/17/2009								
	1	-								
	2	✓								
	3	✓								
	4	✓								
	5	✓								
	6	✓								
	7	-								
	8	✓								
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	31	-								
	32	✓								
	33	✓								



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BIB DATA SHEET

CONFIRMATION NO. 4030

SERIAL NUMBER 12/255,797	FILING or 371(c) DATE 10/22/2008 RULE	CLASS 222	GROUP ART UNIT 3754	ATTORNEY DOCKET NO. SCP001	
APPLICANTS Michael L. McGinley, Prairie Village, KS; Brian Lau, Glenview, IL; ** CONTINUING DATA ***** This application is a CIP of 10/770,325 02/02/2004 PAT 7,441,675 which is a CIP of 10/357,651 02/04/2003 ABN ** FOREIGN APPLICATIONS ***** ** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** ** SMALL ENTITY ** 11/03/2008					
Foreign Priority claimed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 35 USC 119(a-d) conditions met <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Verified and /MELVIN A CARTAGENA/ Acknowledged Examiner's Signature	<input type="checkbox"/> Met after Allowance Initials	STATE OR COUNTRY KS	SHEETS DRAWINGS 5	TOTAL CLAIMS 12	INDEPENDENT CLAIMS 2
ADDRESS POLSINELLI SHUGHART PC 700 West 47th Street Suite 1000 KANSAS CITY, MO 64112 UNITED STATES					
TITLE FLEXIBLE PANEL PITCHER					
FILING FEE RECEIVED 462	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:		<input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees (Filing) <input type="checkbox"/> 1.17 Fees (Processing Ext. of time) <input type="checkbox"/> 1.18 Fees (Issue) <input type="checkbox"/> Other _____ <input type="checkbox"/> Credit		

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		12255797
	Filing Date		2008-10-22
	First Named Inventor	McGinley, Michael L.	
	Art Unit	3754	
	Examiner Name	CARTAGENA, MELVIN A	
	Attorney Docket Number	SCP001 327224	

U.S.PATENTS							Remove
Examiner Initial*	Cite No	Patent Number	Kind Code ¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear	
	1	0033737		1861-11-19	Fitts, R.B.	Generally relevant	
	2	1225511		1917-05-08	Sexton, G. B.	Generally relevant	
	3	2333014		1943-10-26	Kennedy	Generally relevant	
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10	4955503		1990-09-11	Propes	Divider 12
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15	5960987		1999-10-05	Solland et al.	Generally relevant
16	6241388		2001-06-05	Terramani	Divider 44
17	6470705		2002-10-29	Bride-Flynn	Generally relevant
18	6708838		2004-03-23	Bergman et al.	Generally relevant

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(Not for submission under 37 CFR 1.99)

Application Number	12255797
Filing Date	2008-10-22
First Named Inventor	McGinley, Michael L.
Art Unit	3754
Examiner Name	CARTAGENA, MELVIN A
Attorney Docket Number	SCP001 327224

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☐ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

☐ See attached certification statement.

☐ Fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☒ None

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature	/Richard P. Stitt/	Date (YYYY-MM-DD)	2009-09-09
Name/Print	Richard P. Stitt	Registration Number	35,693

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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Electronic Acknowledgement Receipt

EFS ID:	6041718
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Customer Number:	24030
Filer:	Richard P. Stitt
Filer Authorized By:	
Attorney Docket Number:	SCP001
Receipt Date:	09-SEP-2009
Filing Date:	22-OCT-2008
Time Stamp:	18:35:54
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Information Disclosure Statement (IDS) Filed (SB/08)	IDS12797SB08a.pdf	611167 93091d427084355614b4c1c4cb97bb4a43244c01	no	5

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New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/255,797	10/22/2008	Michael L. McGinley	SCP001

CONFIRMATION NO. 4030

POA ACCEPTANCE LETTER

24030
POL SINELLI SHUGHART PC
700 West 47th Street
Suite 1000
KANSAS CITY, MO 64112



Date Mailed: 03/19/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/11/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/lvongxay/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/255,797	10/22/2008	Michael L. McGinley	SCP001 NEW

CONFIRMATION NO. 4030

POWER OF ATTORNEY NOTICE



Shughart Tomson & Kitroy, P.C.
Twelve Wyandotte Plaza
120 West 12th Street
Kansas City, MO 64105

Date Mailed: 03/19/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/11/2009.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/lvongxay/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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**POWER OF ATTORNEY
OR
REVOCATION OF POWER OF ATTORNEY
WITH A NEW POWER OF ATTORNEY
AND
CHANGE OF CORRESPONDENCE ADDRESS**

Application Number	12/255,797
Filing Date	10/22/2008
First Named Inventor	MCGINLEY, Michael L.
Title	FLEXIBLE PANEL PITCHER
Art Unit	3754
Examiner Name	N/A
Attorney Docket Number	SCP001

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

24030

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

☐ The address associated with the above-mentioned Customer Number.

OR

☒ The address associated with Customer Number:

24030

OR

☐ Firm or Individual Name

Address

City

State

Zip

Country

Telephone

Email

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.

Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____

SIGNATURE of Applicant or Assignee of Record

Signature

Brian Lau

Date

2/11/09

Name

Brian Lau

Telephone

Title and Company

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Electronic Acknowledgement Receipt

EFS ID:	4946334
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Correspondence Address:	Shughart Tomson & Kitroy, P.C. Twelve Wyandotte Plaza 120 West 12st Street - Kansas City MO 64105 US 8164213355 -
Filer:	Richard P. Stitt/Darla Faulhaber
Filer Authorized By:	Richard P. Stitt
Attorney Docket Number:	SCP001 NEW
Receipt Date:	11-MAR-2009
Filing Date:	22-OCT-2008
Time Stamp:	14:50:45
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	BrianLauPOA.pdf	47934 0c9110d5993350e0c4d7ba248f3b00a363084c08	no	1

Warnings:

Information:

Total Files Size (in bytes):	47934
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New Applications Under 35 U.S.C. 111

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New International Application Filed with the USPTO as a Receiving Office

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/255,797	10/22/2008	Michael L. McGinley	SCP001 NEW

CONFIRMATION NO. 4030

MISCELLANEOUS NOTICE



OC000000034620070

Shughart Tomson & Kitroy, P.C.
Twelve Wyandotte Plaza
120 West 12th Street
Kansas City, MO 64105

Date Mailed: 02/25/2009

A communication which cannot be delivered in electronic form has been mailed to the applicant.



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/255,797	10/22/2008	Michael L. McGinley	SCP001 NEW

CONFIRMATION NO. 4030

PUBLICATION NOTICE



OC000000034624521

Shughart Tomson & Kitroy, P.C.
Twelve Wyandotte Plaza
120 West 12th Street
Kansas City, MO 64105

Title:FLEXIBLE PANEL PITCHER

Publication No.US-2009-0045229-A1

Publication Date:02/19/2009

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

The publication may be accessed through the USPTO's publically available Searchable Databases via the Internet at www.uspto.gov. The direct link to access the publication is currently <http://www.uspto.gov/patft/>.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Alexandria, VA 22313-1450 or via the Internet.

In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently <http://pair.uspto.gov/>. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at 1-866-217-9197.

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/255,797	10/22/2008	Michael L. McGinley	SCP001 NEW

CONFIRMATION NO. 4030

Shughart Tomson & Kitroy, P.C.
 Twelve Wyandotte Plaza
 120 West 12th Street
 Kansas City, MO 64105



Cc: POLSINELLI SHUGHART PC
 700 WEST 47TH STREET
 SUITE 1000
 KANSAS CITY, MO 64112

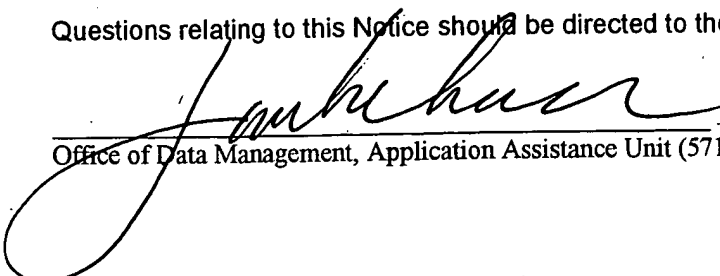
Date Mailed: 02/18/2009

DENIAL OF REQUEST FOR POWER OF ATTORNEY

The request for Power of Attorney filed 02/13/2009 is acknowledged. However, the request cannot be granted at this time for the reason stated below.

- ☐ The revocation is not signed by the applicant, the assignee of the entire interest, or one particular principal attorney having the authority to revoke.
- ☐ The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.
- ☐ The person signing for the assignee has omitted their empowerment to sign on behalf of the assignee.
- ☐ The inventor(s) is without authority to appoint attorneys since the assignee has intervened as provided by 37 CFR 3.71.
- ☒ The signature(s) of BRIAN LAU, a co-inventor in this application, has been omitted. The Power of Attorney will be entered upon receipt of confirmation signed by said co-inventor(s).
- ☐ The person(s) appointed in the Power of Attorney is not registered to practice before the U.S. Patent and Trademark Office.

Questions relating to this Notice should be directed to the Application Assistance Unit.


 Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS	Application Number	12/255,797
	Filing Date	10/22/2008
	First Named Inventor	MCGINLEY, Michael L.
	Title	FLEXIBLE PANEL PITCHER
	Art Unit	3754
	Examiner Name	N/A
	Attorney Docket Number	SCP001

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

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OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

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☒ The address associated with Customer Number:

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OR

☐ Firm or Individual Name

Address

City

State

Zip

Country

Telephone

Email

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.

☐ Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____
SIGNATURE of Applicant or Assignee of Record

Signature	<i>Michael L. McGinley</i>	Date	2/4/09
Name	Michael L. McGinley	Telephone	816-531-3290
Title and Company	President, SC Products		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Electronic Acknowledgement Receipt

EFS ID:	4795083
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Correspondence Address:	Shughart Tomson & Kitroy, P.C. Twelve Wyandotte Plaza 120 West 12st Street - Kansas City MO 64105 US 8164213355 -
Filer:	Richard P. Stitt/Darla Faulhaber
Filer Authorized By:	Richard P. Stitt
Attorney Docket Number:	SCP001 NEW
Receipt Date:	13-FEB-2009
Filing Date:	22-OCT-2008
Time Stamp:	18:38:00
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	McGinleyPower12255797124.pdf	1224112 3842c7ea8fc69f85841d3f79755e2ff10cb6b9f6	no	1

Warnings:

Information:

Total Files Size (in bytes):	1224112
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New Applications Under 35 U.S.C. 111

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New International Application Filed with the USPTO as a Receiving Office

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Date:	January 14, 2009
Serial No.:	12/255,797
Filing Date:	October 22, 2008
Applicant:	MCGINLEY, Michael L.
Title:	FLEXIBLE PANEL PITCHER
Examiner:	Ruth M. Lloyd
Art Unit:	3754

MAIL STOP: AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO NON-COMPLIANT AMENDMENT

PRELIMINARY AMENDMENT

In response to the Non-Compliant Amendment mailed on January 6, 2009, please enter the following Amendment into the above-identified Application.

A **Listing of the Claims** reflecting any Amendments begins on page 2 of this paper.

CLAIMS LISTING and AMENDMENTS

1. (Cancelled).
 2. (previously presented) The container as claimed in claim 32 further comprising a rim attached to said upper side wall end.
 3. (Original) The container as claimed in claim 2 wherein said rim is comprised of a sponge material.
 4. (Original) The container as claimed in claim 2 wherein said rim is comprised of rubber.
 5. (Original) The container as claimed in claim 2 wherein said rim is comprised of cloth.
 6. (previously presented) The container as claimed in claim 32 further comprising a handle.
 7. (Cancelled).
 8. (previously presented) The container as claimed in claim 33 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.
 9. (Original) The container as claimed in claim 8 wherein said rim is comprised of a sponge material.
 10. (Original) The container as claimed in claim 8 wherein said rim is comprised of rubber.
 11. (Original) The container as claimed in claim 8 wherein said rim is comprised of cloth.
 12. (previously presented) The container as claimed in claim 33 further comprising a handle.
- Claims 13 - 31 (Cancelled).

Claims 32 (previously presented) A container comprising:
a generally rigid continuous side wall terminating in an upper side wall end and a lower side wall end and defining an inward space bounded by said continuous sidewall,
a bottom closing said lower side wall end with said upper side wall end being generally open,
an inwardly flexible panel forming a portion of said side wall and extending to form at least a portion of said upper side wall end, said flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper side wall end, and
a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel.

Claim 33 (previously presented) A container comprising:
a generally rigid continuous side wall having an upper side wall end and a lower side wall end and defining an inward space bounded by said continuous sidewall,
a bottom attached to said lower side wall end with said upper side wall end being generally open,
a rim connected to said upper side wall end,
a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against,
an inwardly flexible panel forming a portion of said side wall and connecting with said inwardly flexible rim portion, said inwardly flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper side wall end, and
a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel.

INVENTOR: MCGINLEY, Michael L.
Serial No. 12/255,797

Respectfully submitted,

/Richard P. Stitt/
RICHARD P. STITT
Patent Office Reg. No. 35,693
Shughart Thomson & Kilroy, P.C.
Suite 1800
120 W. 12th Street
Kansas City, MO 64105
Tel: 816-374-0583
Fax: 816-374-0509

Attorneys for Applicant

Electronic Acknowledgement Receipt

EFS ID:	4613677
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Correspondence Address:	Shughart Tomson & Kitroy, P.C. Twelve Wyandotte Plaza 120 West 12st Street - Kansas City MO 64105 US 8164213355 -
Filer:	Richard P. Stitt/Darla Faulhaber
Filer Authorized By:	Richard P. Stitt
Attorney Docket Number:	SCP001 NEW
Receipt Date:	14-JAN-2009
Filing Date:	22-OCT-2008
Time Stamp:	16:51:12
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Applicant Response to Pre-Exam Formalities Notice	Response_to_Non-Compliant_Amendment.pdf	28763 38f4a0187a6235e43c61f9a5bacbb99c780c038e	no	4

Warnings:

Information:

Total Files Size (in bytes):	28763
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New Applications Under 35 U.S.C. 111

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UNITED STATES DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

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Alexandria, Virginia 22313-1450
www.uspto.gov

e 01/06/2009

Shughart Tomson & Kitroy, P.C.
Twelve Wyandotte Plaza
120 West 12th Street
Kansas City, MO 64105

Paper No.

Application No.:	12/255,797 	Date Mailed:	01/06/2009
First Named Inventor:	McGinley, Michael, L.	Examiner:	CARTAGENA, MELVIN A
Attorney Docket No.:	SCP001 NEW	Art Unit:	3754
Confirmation No.:	4030	Filing Date:	10/22/2008

Please find attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 12/255,797	Applicant(s) MCGINLEY ET AL.	
		Art Unit 3700	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 22 October, 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: CLAIMS NOT ON A SEPARATE SHEET.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only) If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable /RUTH M. LLOYD/

Telephone No: (571)272-4366



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
12/255,797	10/22/2008	3754	462	SCP001 NEW	12	2

CONFIRMATION NO. 4030

Shughart Tomson & Kitroy, P.C.
Twelve Wyandotte Plaza
120 West 12th Street
Kansas City, MO 64105

FILING RECEIPT



Date Mailed: 11/12/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

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Domestic Priority data as claimed by applicant

This application is a CIP of 10/770,325 02/02/2004 PAT 7,441,675
which is a CIP of 10/357,651 02/04/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/03/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/255,797**

Projected Publication Date: 02/19/2009

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

FLEXIBLE PANEL PITCHER

Preliminary Class

222

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Date:	October 22, 2007
Serial No.:	N/A
Filing Date:	EVEN DATE HEREWITH
Applicant:	MCGINLEY, Michael L.
Title:	FLEXIBLE PANEL PITCHER
Examiner:	
Art Unit:	

MAIL STOP: AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRELIMINARY AMENDMENT

Please enter the following Amendment into the above-identified Application.

A **Listing of the Claims** reflecting any Amendments begins on page 2 of this paper.

CLAIMS LISTING and AMENDMENTS

1. (Cancelled).
 2. (previously presented) The container as claimed in claim 32 further comprising a rim attached to said upper side wall end.
 3. (Original) The container as claimed in claim 2 wherein said rim is comprised of a sponge material.
 4. (Original) The container as claimed in claim 2 wherein said rim is comprised of rubber.
 5. (Original) The container as claimed in claim 2 wherein said rim is comprised of cloth.
 6. (previously presented) The container as claimed in claim 32 further comprising a handle.
 7. (Cancelled).
 8. (previously presented) The container as claimed in claim 33 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.
 9. (Original) The container as claimed in claim 8 wherein said rim is comprised of a sponge material.
 10. (Original) The container as claimed in claim 8 wherein said rim is comprised of rubber.
 11. (Original) The container as claimed in claim 8 wherein said rim is comprised of cloth.
 12. (previously presented) The container as claimed in claim 33 further comprising a handle.
- Claims 13 - 31 (Cancelled).

Claims 32 (previously presented) A container comprising:
a generally rigid continuous side wall terminating in an upper side wall end and a lower side wall end and defining an inward space bounded by said continuous sidewall,
a bottom closing said lower side wall end with said upper side wall end being generally open,
an inwardly flexible panel forming a portion of said side wall and extending to form at least a portion of said upper side wall end, said flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper side wall end, and
a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel.

Claim 33 (previously presented) A container comprising:
a generally rigid continuous side wall having an upper side wall end and a lower side wall end and defining an inward space bounded by said continuous sidewall,
a bottom attached to said lower side wall end with said upper side wall end being generally open,
a rim connected to said upper side wall end,
a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against,
an inwardly flexible panel forming a portion of said side wall and connecting with said inwardly flexible rim portion, said inwardly flexible panel having a generally smooth inward surface for unobstructed fluid flow out of said open upper side wall end, and

INVENTOR: MCGINLEY, Michael L.
Serial No. N/A

a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel.

Respectfully submitted,

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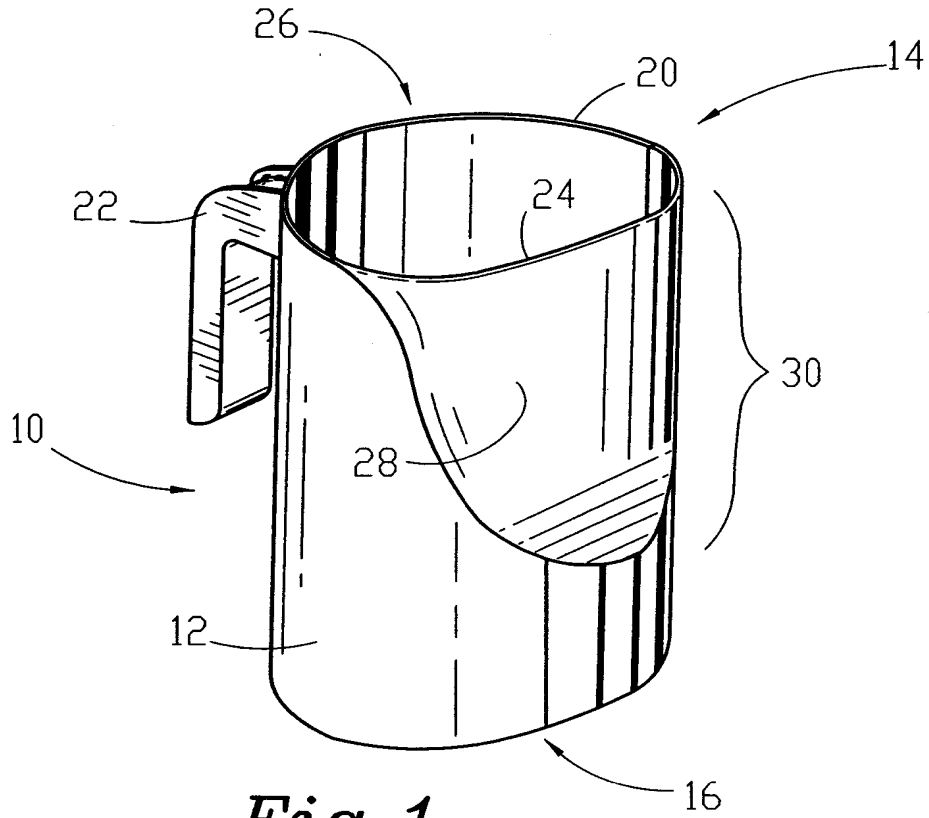


Fig. 1.

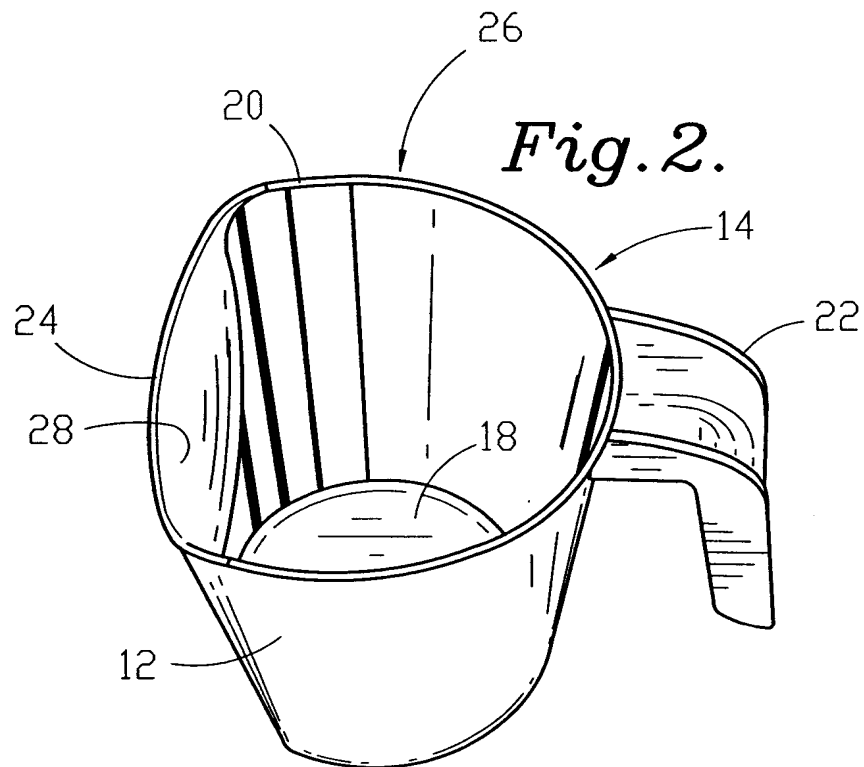
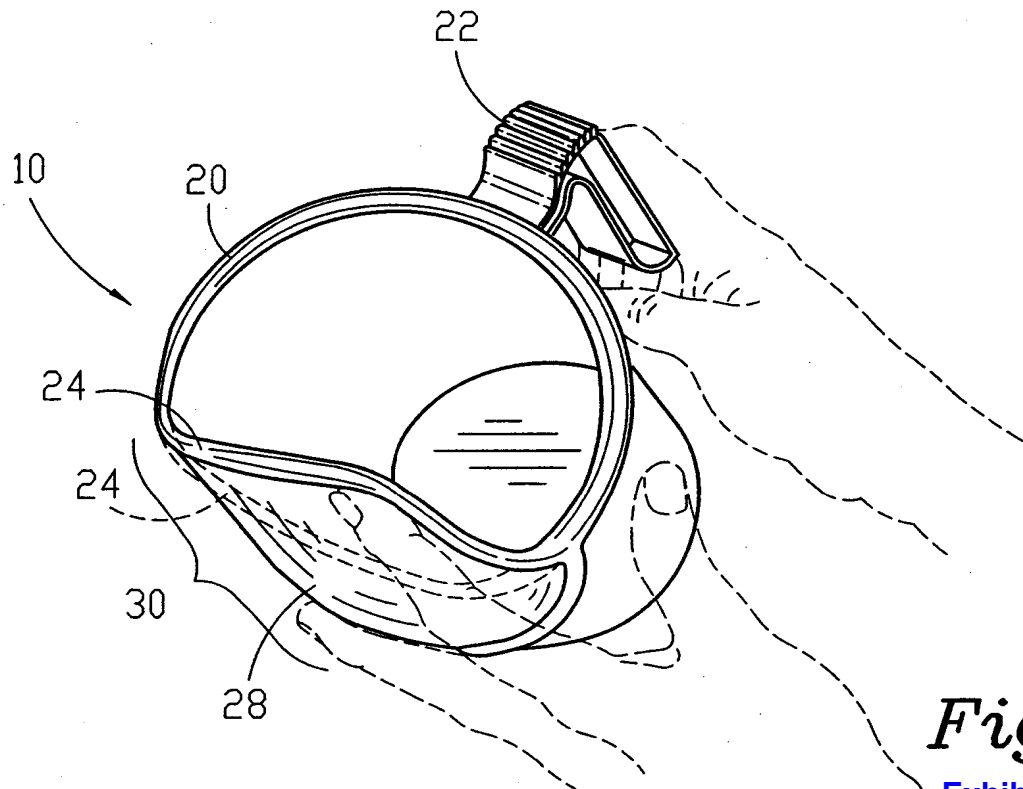
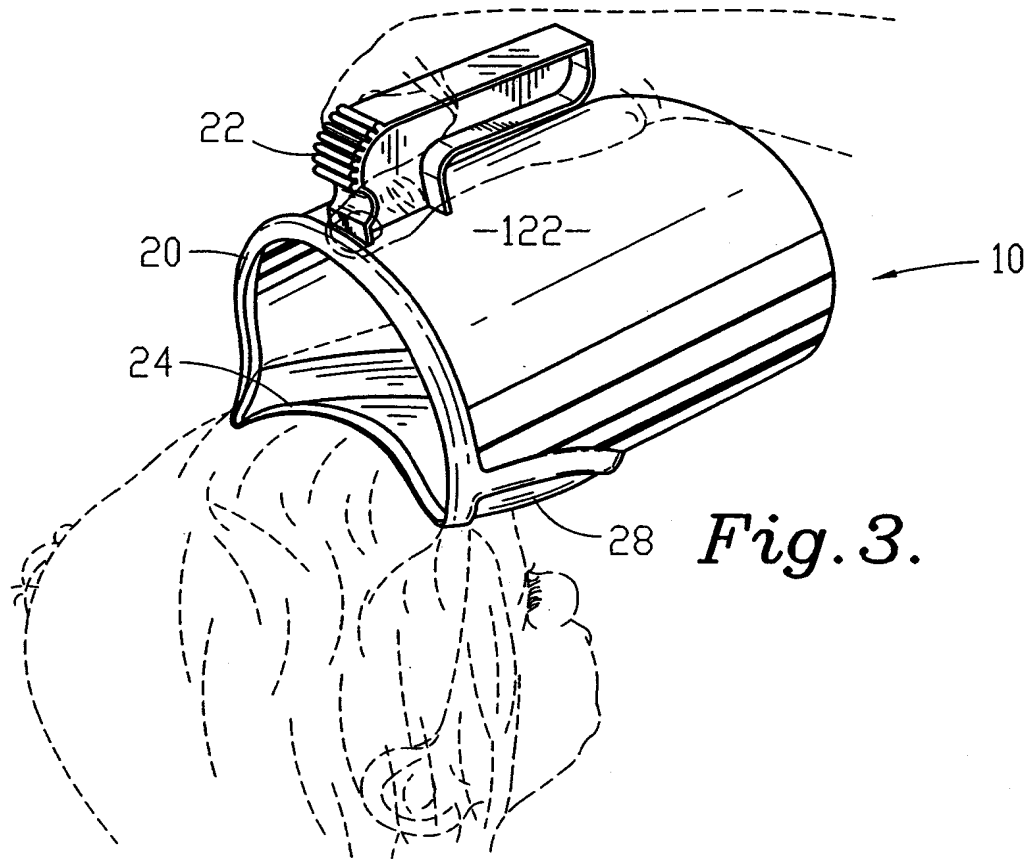
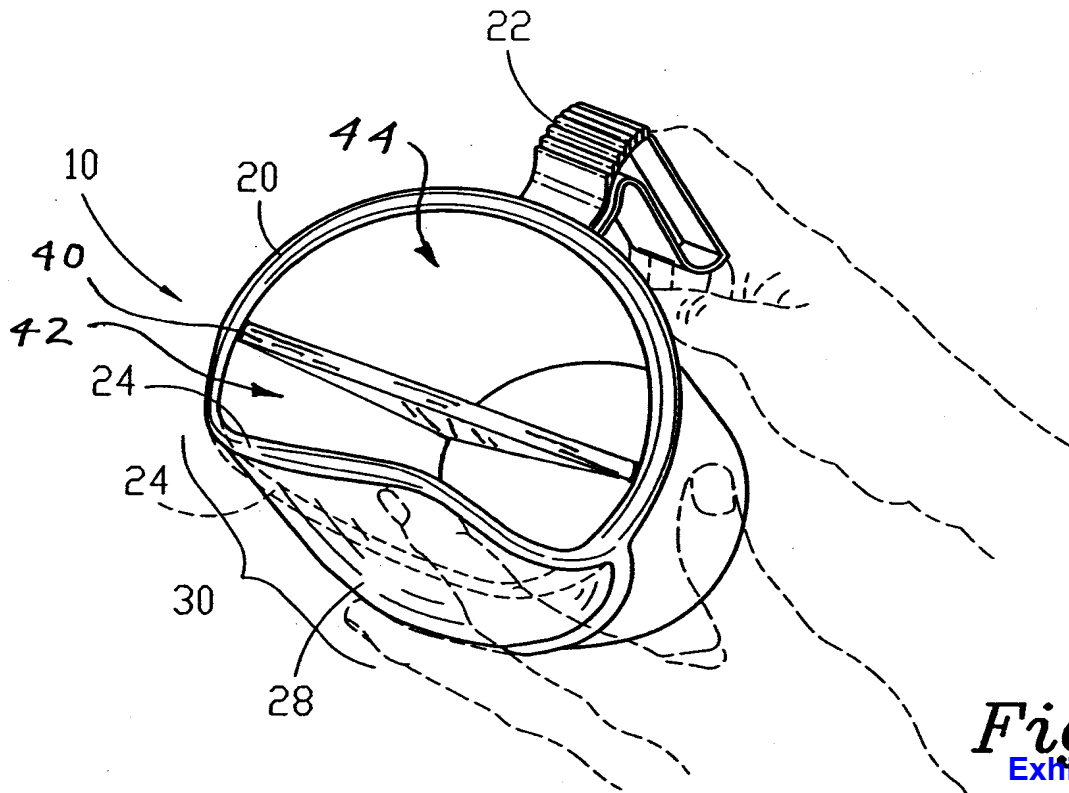
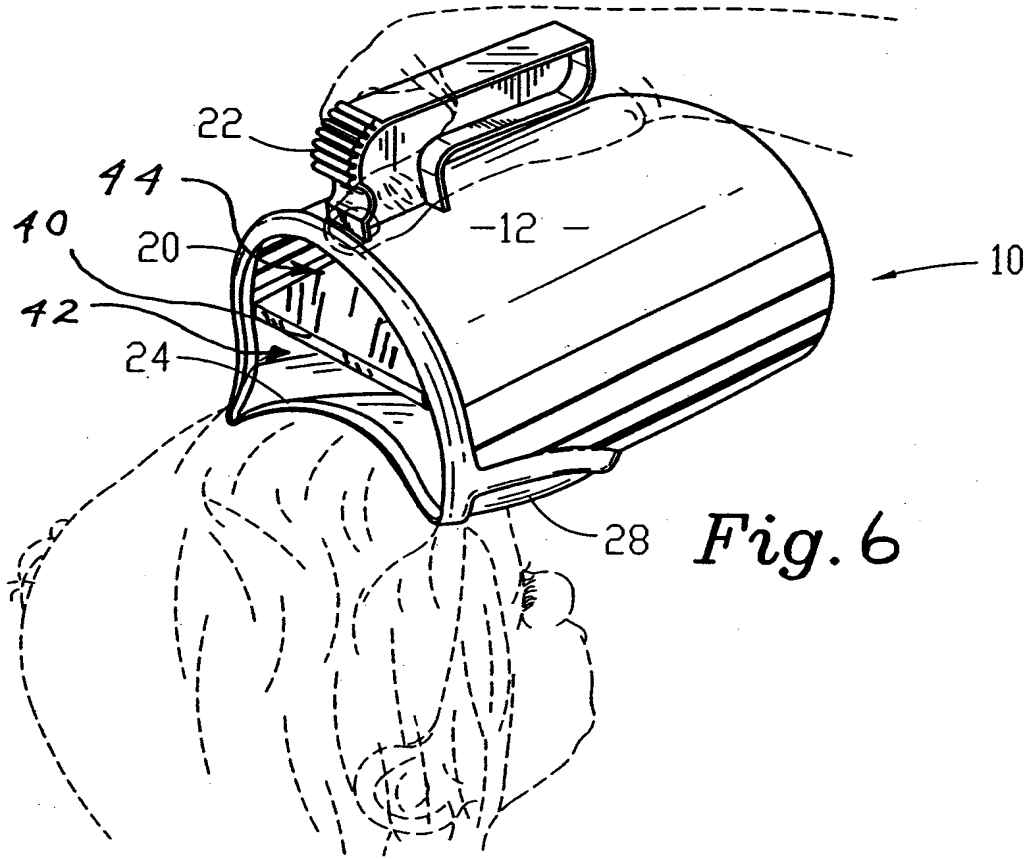
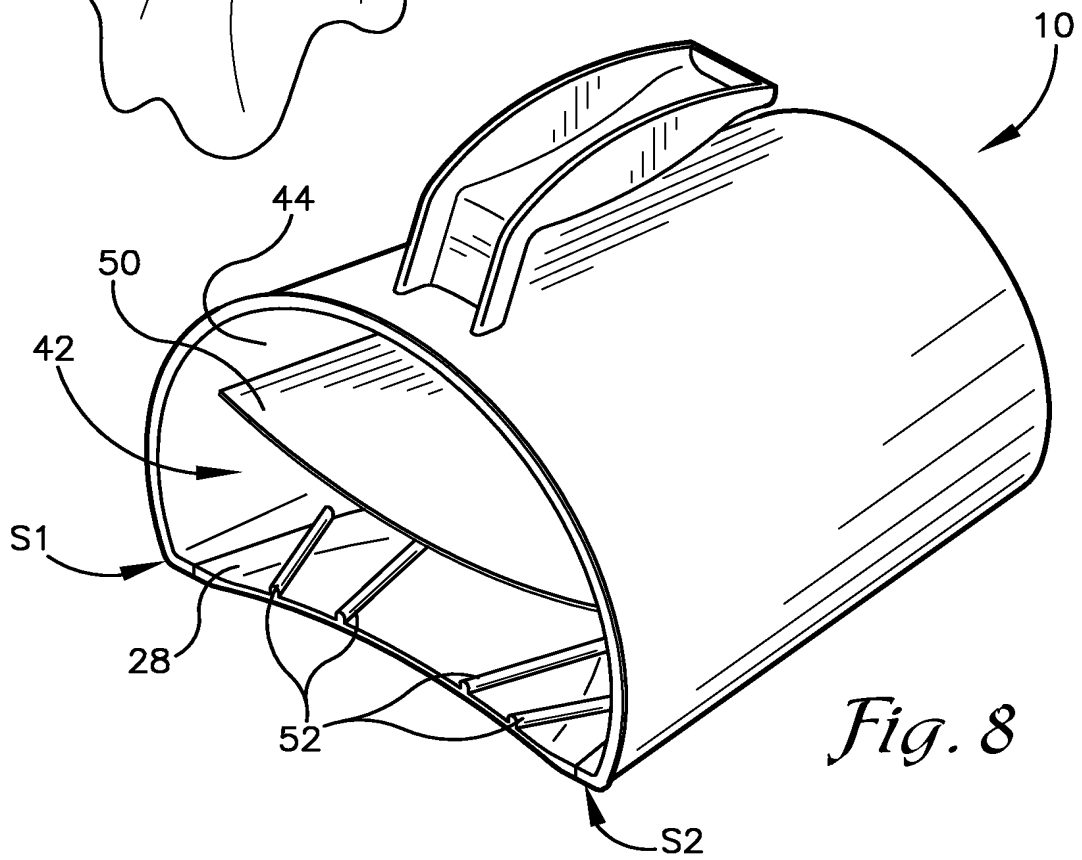
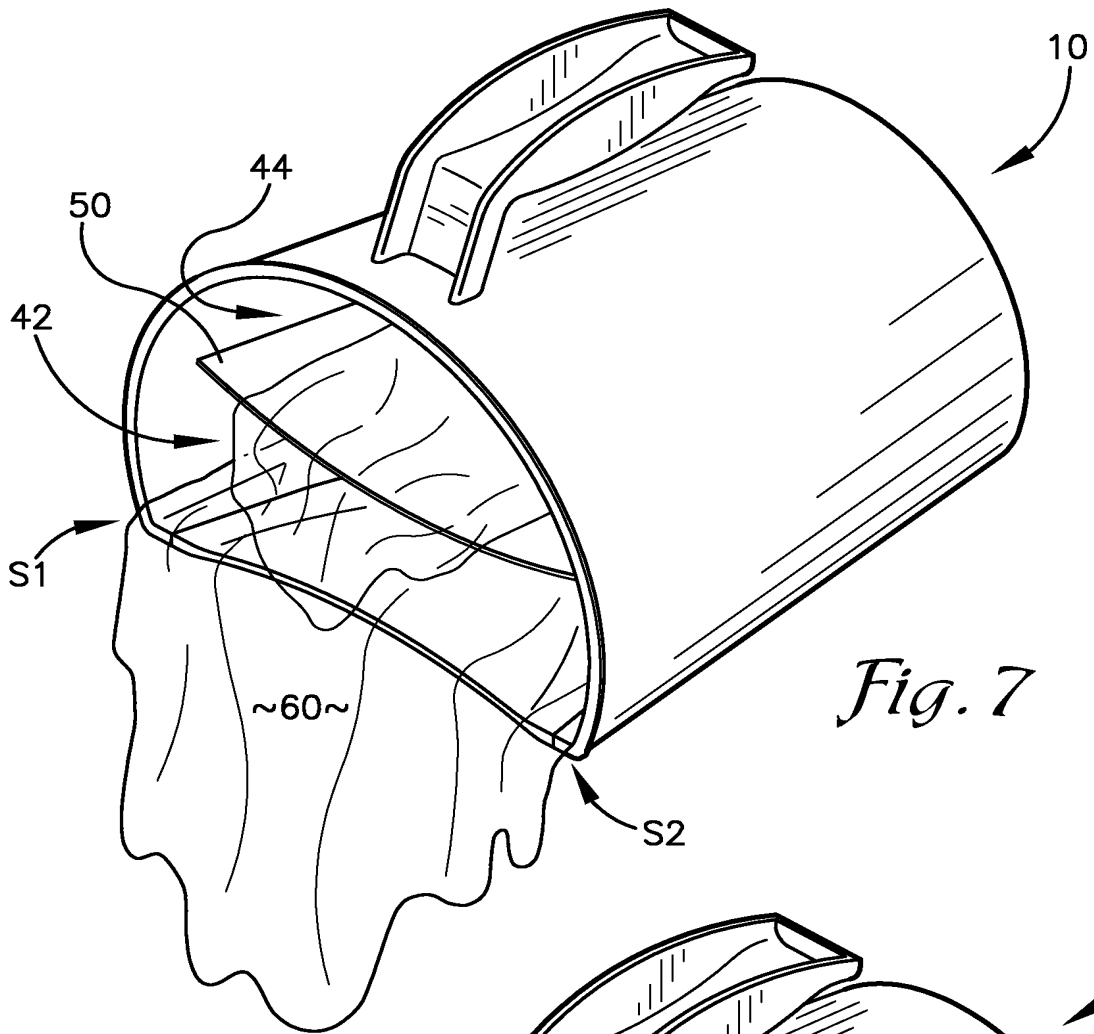


Fig. 2.





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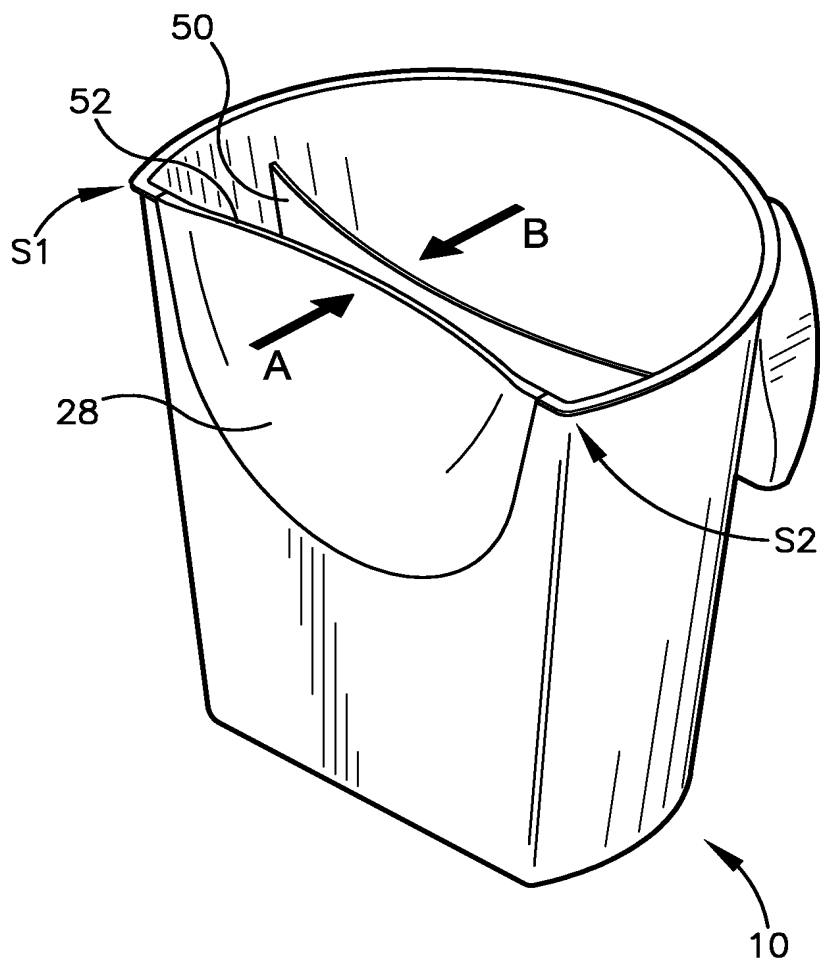


Fig. 9

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FLEXIBLE PANEL PITCHER

Continuation Data

[0001] This is a continuation-in-part of Application Serial No. 10/770,325 filed February 2, 2004 and which was a continuation-in-part of Application Serial No. 10/357,651 filed February 4, 2003.

Field of the Invention

[0002] The present invention relates to containers, specifically containers used to hold fluids and, in particular, a container having a flexible side wall portion and rim portion which is capable of conforming to the shape of an object to which the pitcher is applied to more particularly direct the flow of fluid from the pitcher and to prevent the flow of fluid from the pitcher and onto areas to which application of the fluid is not intended.

Background of the Invention

[0003] When using pitchers to pour fluids, it is frequently desired to pour a stream of the fluid into a specific location, such as a glass or other container. Alternatively, it may be useful to use a container or a pitcher that does not provide an actual spout, but rather, simply has a rim when it is desired to pour a greater amount of fluid or broader stream of fluid onto an object such as when rinsing a floor or an automobile. However, both of these types of containers and pouring operations present specific drawbacks to particular applications. For example, when using a pitcher having a spout, the fluid that

is poured from the pitcher can only be applied to a particular area, specifically, that area determined by the stream of fluid as it exits the spout. While this is useful for pouring water into a glass, another container or a specific area, it is not useful for applying the fluid to a larger area. Also, the use of a spout while narrowing the stream of water, nevertheless, provides a narrow column-like stream of water which, when it contacts the object or container toward which it is directed, will flow in all directions.

[0004] The other case of pouring a fluid from a container -- that is the case of a bucket or other broad-rimmed container -- also presents limitations with respect to the pouring of a fluid. In the case of a bucket or a pitcher having no spout, the water will flow from the pitcher over the rim or edge of the pitcher and create a broad stream of fluid flowing from the pitcher which will be related to the angle of the longitudinal axis of the pitcher as it moves from vertical to horizontal. To state the obvious, when the longitudinal axis of the pitcher (that is the axis passing through the bottom of the pitcher and the top of the pitcher) is parallel to vertical, no fluid will flow from the pitcher. As the longitudinal axis is tilted increasingly toward a horizontal plane, more and more fluid will flow over the rim of the pitcher, and the stream flowing from the pitcher will be increasingly wide. While such a spoutless pitcher, such as a bucket, provides a wide stream of fluid which is useful in, for example, rinsing an area, there is still no control over the distribution of that stream over the object on which it is poured. Specifically, if a stream of water is poured from a bucket, when the stream of water contacts the object on which it is poured, the water will flow in all directions and will not be limited to a single direction of flow. Even if the rim of the pitcher is pressed directly against -the object onto which the fluid is to flow, the fluid will flow back toward the pitcher and

underneath the pitcher and onto portions of the object which are near the side wall of the pitcher.

[0005] In the specific case of rinsing shampoo and other hair treatments from the head of a child, this "backflow" from a pitcher can provide compelling support for the Victorian premise that children should be seen and not heard. Specifically, the backflow of rinse water from a pitcher that is used to dip bath water and to lift it to rinse the head of a child can cause shampoo and other hair and scalp treatments to flow down the forehead of the child and into the eyes and face of the child. This will cause the child to notify the parent of the situation through loud screams, tears and arm movements. The prospect of rinsing soap suds into the eyes and mouth and nose of a child is not pleasant for either the parent or the child and can lead to difficulties as bath time approaches. Usually it is the case that the best of attempts to try to limit this problem are unsuccessful. Asking the child to close his or her eyes tightly while the rinsing is proceeding will be only partially successful. The child, for one reason or another, may open their eyes during the rinsing procedure whereupon the soapy water contacts and stings their eyes. Alternatively, the child may improperly time the closing of their eyes with the application of the rinse water and receive a stinging realization of their incapacity to coordinate their eyelid movements. Even should the parent attempt to assist the situation by placing a hand across the forehead of the child, some soapy water will inevitably trickle down the forehead of the child and into the child's eyes, mouth or nose.

[0006] Therefore, it would be a great benefit if a rinse container or pitcher could be provided which would prevent the flow of rinse water from a rinse pitcher or container

and back underneath the rim of the container thereby providing specific, directional application of rinse water to an object such as a child's head.

[0007] Yet another benefit would be obtained from a pitcher or rinse container which could provide a broad flow of rinse water to an object to more efficiently rinse the object and while providing means for directing the flow of the rinse water from the pitcher and onto the object while preventing the backflow of rinse water onto areas of the object to which rinse water is not intended to be applied.

[0008] It would still be a further benefit if such a pitcher or rinsing container could conform to the shape of the object to which the rinse water in the pitcher was to be applied thereby restricting the portions of the object which will receive rinse water from those portions of the object which will not receive rinse water. These objects and benefits and more are provided by the present invention which is more completely described hereinafter.

Summary of the Invention

[0009] The present invention solves the preceding problems and improves the state of the art by providing a pitcher for holding solutions such as rinse water or shampoo or other liquids to allow application of those liquids to a localized portion of the body such as the head. The present invention provides a flexible panel and/or flexible rim portion of the container which conforms to the shape of the an object, such as the head of an individual, to allow application of the fluid to the body and to prevent misapplication of the fluid by preventing fluid from flowing underneath the rim and onto body parts to which it is not desired to apply the fluid.

[0010] In one embodiment, the invention provides a flexible panel which can conform to the shape of the child's head or other object to effectively seal off passage of fluids back under the flexible rim thereby allowing application of the fluid, such as rinse water, to the child's hair while preventing the flow of rinse water and a rinse water-shampoo mixture down into the child's face and eyes.

[0011] In another embodiment a divider panel is provided within the container to provide a second source of fluid flow onto the object to which the container is applied to provide a source of flow that is not partially deflected from the object by the deflection of the flexible panel as it conforms to the shape of the child's head or other object to which the flexible panel is applied.

[0012] These other objects are intended to be illustrative of the invention and are not meant in a limiting sense. Many possible embodiments of the invention may be made and will be evident upon a study of the following specification and accompanying drawings. Various features and subcombinations of invention may be employed without reference to other features and subcombinations. Other objects and advantages of this invention will become apparent from the following description and drawings, wherein is set forth by way of illustration and example, an embodiment of this invention.

Description of the Drawings

[0013] Preferred embodiments of the invention, illustrative of the best modes in which the applicant has contemplated applying the principles, are set forth in the following description and are shown in the drawings and are particularly and distinctly pointed out and set forth in the appended claims.

[0014] Fig. 1 is a top and side perspective view of the pitcher of the present invention showing the flexible panel which comprises a portion of the side wall of the container and the top edge of the side wall of the container;

[0015] Fig. 2 is a top and interior perspective view of the embodiment of Fig. 1 and showing the flexible wall opposite the handle;

[0016] Fig. 3 shows the application of an embodiment of the invention to the head of a child to allow water to flow over the child's hair and back of the head while the flexible panel and flexible rim conform to the shape of the child's head and prevents water from flowing down the front of the child's head and into the child's eyes and face;

[0017] Fig. 4 shows the embodiment of Fig. 4 having a flexible panel and flexible rim and showing the panel and rim in a depressed position and showing the panel and rim in phantom lines in a relaxed or undepressed position,

[0018] Fig. 5 shows an embodiment of the invention having a divider placed within the container to provide a second source of fluid flow; and

[0019] Fig. 6 shows the embodiment of Fig. 5 applied to the head of a child to allow water to flow over the child's hair and back of the head and having a divider panel within the container to provide a second source of fluid flow that is not affected by the deflection of the flexible panel.

[0020] Fig. 7 shows an alternate embodiment having a curved divider panel **50** which separates container **10** into first and second fluid holding compartments;

[0021] Fig. 8 shows an alternate embodiment of the embodiment of Fig. 7 showing fluid directing ridges **52** provided on the inside surface of flexible panel **28**; and

[0022] Fig. 9 is a top front and right side perspective view of the embodiments of Figs. 7 and 8 showing the flexing of flexible panel **28** inwardly along the direction indicated by Arrow **A** and toward curved divider panel **50** which is curved toward flexible panel **28** and in the direction indicated by Arrow **B**.

Description of the Preferred Embodiment

[0023] As required, detailed embodiments of the present inventions are disclosed herein; however, it is to be understood that the disclosed embodiments are merely exemplary of the invention, which may be embodied in various forms. Therefore, is specific structural and functional details disclosed herein are not to be interpreted as limiting, but merely as a basis for the claims and as a representative basis for teaching one skilled in the art to variously employ the present invention in virtually any appropriately detailed structure.

[0024] Referring now to Fig. 1, an embodiment of the inventive container **10** is shown which is comprised of generally continuous side wall **12** which can be of any convenient shape, spanning shapes from square to circular to polygonal. Continuous side wall **12** terminates at either end in upper side wall end **14**, and lower side wall end. Continuous side wall **12** can be formed of rubber or plastic or metal or wood or any material which will serve to hold a fluid within continuous side wall **12**. Connected to a lower side wall end **16** is bottom or bottom panel **18** (Fig. 2) which serves to close lower side wall end **16** thereby allowing a fluid to be held within continuous side wall **12** and to bottom **18**. It will be appreciated that, depending on the material used for the construction of side wall **12**, bottom **18** could be constructed with the forming of side

wall **12** thus forming a unitary construction of side wall **12** and bottom **18**. As shown in Fig. 1, upper side wall end **14**, depending on the material used for the construction of side wall **12**, can form in and of itself a side wall rim **20**, or an additional structure **20** (Fig. 3) can be attached to upper side wall end **14** to form a discreet side wall rim **20** (Fig. 3). Generally, side wall rim **20** will take the shape of upper side wall end **14**, however, alternatively, decorative materials could be used to modify the shaping of side wall rim **20**. For further convenience, and depending on the size of container **10**, a handle **22** can be attached to side wall **12** to assist in the manipulation of container **10**.

[0025] Side wall rim **20**, in a preferred embodiment is comprised of side wall portion **24**, which is a generally flat portion of side wall rim **20**, and which may, therefore, differ, generally, in its shape as compared to the remainder of side wall rim **12** and side wall **20**. For example, if side wall **12**, in its construction, comprises a cylindrical container, then side wall rim **20** will be comprised of a generally circular side wall rim portion **26** and a generally flat side wall rim portion or side wall segment or rim segment **24**. The utility and benefits of generally flat rim segment **24** will be described hereinafter. In a preferred embodiment, and in the vicinity of generally flat side wall rim portion **24**, is flexible panel **28** which extends from side wall **12** toward generally flat side wall rim segment **24** to connect side wall **12** with rim segment **24**. It will be appreciated by those skilled in the art that flexible panel **28** and rim segment **24** can be comprised of the to same materials or of different materials depending on the choice of construction. For example, flexible panel **28** may be thin flexible plastic, or a flexible rubber panel, or a waterproof canvas which is attached to side wall **12** and which extends upwardly toward upper side wall end **14** to connect with or form side wall rim segment **24**. In such a

construction, rim segment **24** could be of a different material which connects with flexible panel **28** or, for example, if a waterproof canvas were used, the canvas could be wrapped over a flexible cord or wire which would form rim segment **24**. Therefore, it will be appreciated by those skilled in the art that one of the objects of a preferred embodiment of the present invention is to provide a flexible, shapeable wall segment **30** of either side wall **12** or rim **20**, or both rim **20** and side wall **12** which can conform to the shape of an object against which this flexible portion of container **10** is pressed.

[0026] Referring now to Fig. 4, the flexibility and construction of the novel flexible side wall portion and rim portion of container **10** will be further described. As is shown in Fig. 4, flexible panel **28** and rim segment **24** are deformable and can be pressed inwardly from the position shown in phantom lines and toward the interior of container **10**. The benefits of this flexibility or malleability of flexible panel **28** and rim segment **24** are that the pouring portion of side wall rim **20**, which is generally rim segment **24**, can be formed, by compression of container **10** against the object on which fluid is to be poured, to the shape of the object which is to receive the fluid which is within container **10**. Referring to both Figs. 3 and 4, it is shown that flexible panel **28** and side wall rim **24** are capable of deformation inwardly. This feature of container **10** allows container **10** to be placed against an object, in this case, the forehead of a child (Fig. 3) to have flexible panel **28** and side wall rim **24** registerably mate with the head of the child to provide a wide pouring spout and wide volume of fluid therefor which can be evacuated from container **10** and poured onto the head of the child to rinse the hair of the child.

[0027] It will further be appreciated that it is the flexible character of panel **28** and side wall rim **24** which allow for the registerable mating of the flexible portion of

container **10**. Flexible wall portion **30** (Fig. 1 and 4), made up of flexible panel **28** and side wall rim segment **24**, conforms to the shape of the object or, in this case, the head of a child onto which fluid is to be poured from container **10**, and thus, reducing or preventing the flow of fluid from container **10** and back under side wall rim **24** and panel **28**. This benefit is particularly useful with respect to rinsing shampoo or other hair products from the hair of a child. The prevention of rinse fluid from draining underneath the side wall rim of a container to allow the rinse fluids and shampoo to run down the forehead of a child and into the eyes, nose and mouth prevent the unpleasantness of eyes stinging from the shampoo or other product being rinsed from the child's hair. The construction of flexible wall portion **30** can be continuous between panel **28** and rim segment **24** (Figs. 1 and 2), or flex panel **28** and rim **24** can be separate constructions which join together Figs. 3 and 4 to provide a flexible rim segment and side wall portion of container **10**. For example, flex panel **28** could be formed from a flexible plastic, or a rubber panel or a waterproof cloth panel which connects with a rim segment **24** which is constructed of a flexible wire covered with sponge or covered with rubber or covered with a waterproof fabric. Alternatively, rim segment **24** could be a piece of rubber or piece of sponge which is placed across a rigid portion of side wall **12** which comprises any portion of side wall rim **20**. In this construction, only the malleable or flexible rim segment **24** would conform to the shape of the object against which container **10** is pressed. In this embodiment only rim segment **24** is flexible and no flex panel is provided to connect between side wall **12** and rim segment **24**. In such an embodiment, side wall **12** continues to join rim segment **24**, and the flexible, malleable aspect is contained solely within side wall rim segment **24**.

[0028] As has been described, the benefits of the present invention are achieved by a container having a flexible side wall segment and/or a flexible rim segment which allow close contact of the container with an object or the head of a child to prevent the wash back or flow of fluid from the container underneath the rim and side wall of the container, and which, thereby when rinsing the head of a child, prevents soapy water from getting into the eyes and face of the child. Further, the present invention, as previously described, allows the flexible portion of the container to mold to a shape against which it is pressed and to allow large volumes of fluid to be passed from the container onto the object by virtue of the generally flat rim segment which may contain a rubber cushion to ease contact with the head. It will further be appreciated that in an alternative embodiment of this invention, the side wall could be provided with a concave portion which would generally conform to the curvature of a child's head and the side wall would be provided with a malleable rim segment on the concave side wall portion. The malleable rim segment portion would more closely register with the child's head than with the concave side wall segment thereby directing the flow of water over the child's head and preventing the flow of water back underneath the side wall of the container.

[0029] Referring now to Fig. 5, an alternative embodiment of the present invention is shown wherein a divider panel **40** is formed or inserted within container **10** to divide the interior space defined by continuous **12** into a first compartment **42** and a second compartment **44**. As has previously been described, an important aspect of the present invention is the provision of a flexible panel **28**, or, alternatively, a malleable rim segment **24** which can conform to the shape of the objects against which container 10 is

pressed. It will be appreciated that as flexible panel **28** is depressed inwardly to conform to the shape of the object against which container **10** is pressed that there can be a tendency for the water contained in container **10** to be diverted to one side or the other (i.e., the lower outside edges of flexible panel **28**) as the middle portion of flex panel **28** is depressed inwardly, and therefore, becomes a high point which can shed water towards the outside edges as shown in Fig. 3. The alternative embodiment shown in Figs. 5 and 6 provides a means for providing a secondary water supply which is captured within the second compartment **44**. As container **10** is pressed against an object and tipped upwardly as is shown in Fig. 6, water contained in second compartment **44** will flow along divider panel **40** and will flow outwardly evenly across the width of divider panel **40** and onto the object against which container **10** is depressed. At the same time, water contained within first compartment **42** will, depending upon the degree of inward depression formed in flex panel **28** by the pressure flex panel **28** against an object, will tend to divert a greater portion of the fluid contained in first compartment **42** toward the outer, lower edges of flex panel **28** and away from the higher portion of flex panel **28** presented by the compression of flex panel **28** against an object. In this manner, the alternate embodiment of the present invention containing divider panel **40** provides increase flow of fluid across the area of the object that is causing the greater deflection of flex panel **28** by providing two separate sources of fluid. The first source of fluid being contained in first compartment **42** which flows outwardly across flex panel **28** and is susceptible to a degree of diversion depending upon the degree of flexing of flex panel **28** and a second component of fluid contained in second compartment **44** which will flow independently

of the amount of depression or flexion of flex panel **28** as it flows outwardly from second compartment **44** across the surface of divider panel **40** to flow onto the object against which container **10** is compressed.

[0030] It will be appreciated by those skilled in the art that divider panel **40** may be either fixed in place within container **10**, or panel **40** may be insertable and removable within container **10** through the use of a frictional fit of divider panel **40** within container **10**, or by the use of support tracks formed into side wall **12** and/or bottom **18** of container **10**.

[0031] Referring now to Fig. 7, an alternate embodiment of the present invention is shown in which container **10** is provided with a generally curved divider panel **50** which separates container **10** into two fluid holding compartments. A first fluid holding compartment **44** and a second fluid holding compartment **42** are separated by curved divider panel **50**. It will be appreciated that first compartment **44** and second compartment **42** typically will both hold the same fluid although different fluids might be placed into each. As shown in the embodiment of Fig. 7, curved divider panel **50** is provided with a curvature in which the panel **50** is curved toward flexible panel **28**. This curvature of panel **50** provides a fluid directing feature to the shape of curved divider panel **50**. The curvature of panel **50** generally directs the flow of water held within second compartment **44** into the center of curved divider panel **50** as it flows out of container **10** and onto the head of a child or other person against whom flexible panel **28** has been pressed. It will be appreciated that the curvature of panel **50** thereby directs the fluid contained in second compartment **44** generally onto the center of the head of the child and avoids even distribution of the water across the width of curved

divider panel **50** as the water is being poured out of second compartment **44**. The benefit of the curvature of divider panel **50** is that the majority of the rinse fluid contained within compartment **44** is placed onto the center of the child's head and is not wasted by pouring down either side of the child's head nor does it contribute to an increased probability of shampoo suds being washed into the eyes of the child. As previously described for other embodiments, flexible panel **28** of the embodiment shown in Fig. 7 becomes inwardly flexed toward curved divider panel **50** when container **10** is pressed against the forehead of a child while rinsing shampoo from the child's head. It also will be appreciated that during the course of flexing, flexible panel **28**, as it is pressed against the head of a child, a certain amount of fluid will be directed to the lower portions of flexible panel **28** which are designated in Fig. 7 as **S1** and **S2**. By providing curvature to curved panel **50**, to increase the water flow towards the center of the child's head, curve divider panel **50** helps compensate for any increase in water flow from first compartment **42** which is directed to the areas **S1**, **S2** due to the upward or inward flexing of flexible panel **28** as it is pressed against the forehead of a child.

[0032] Referring now to Fig. 8, an embodiment is shown in which fluid directing ridges **52** are included on the inside surface of flexible panel **28**. Ridges **52** are included to assist in reducing the amount of water which flows out the side areas **S1**, **S2** of flexible panel **28** as it flexed against the head of a child. It will be appreciated that ridges **52** are, in a preferred embodiment, molded of the same material which flexible panel **28** is constructed. Alternatively, ridges **52** could be separately constructed and affixed to flexible panel **28**, however, it is desirable that ridges **52** do not obstruct the flexibility of panel **28** as it should be readily shapeable or moldable against the contours

of the forehead of a child. It will be appreciated by those skilled in the art that fluid directing ridges **52** will assist in reducing the amount of fluid which is directed along a path at either side of flexible panel **28** as indicated by arrows **S1** and **S2** of Fig. 8. In this manner, ridges **52**, in conjunction with the curvature of panel **50**, will generally increase the amount of water flow from compartments **42**, **44** which is directed towards the center of the head of a child.

[0033] Referring now to Fig. 9, the exterior of the embodiments of Figs. 7 and 8 is shown with flexible panel **28** being presented slightly inwardly flexed along the direction indicated by Arrow **A**, and with Arrow **B**. Fig. 9 shows the general direction of the depression or curvature provided in curved divider panel **50**. The embodiment of Fig. 9 shows flexible panel **28** as being directly connected or molded onto container sidewall **12** with the upper edge **52** of flexible panel **28** providing the flexible rim segment **24** of the sidewall rim **20** of sidewall **12**.

[0034] In the foregoing description, certain terms have been used for brevity, clearness and understanding; but no unnecessary limitations are to be implied therefrom beyond the requirements of the prior art, because such terms are used for descriptive purposes and are intended to be broadly construed. Moreover, the description and illustration of the inventions is by way of example, and the scope of the inventions is not limited to the exact details shown or described.

[0035] Certain changes may be made in embodying the above invention, and in the construction thereof, without departing from the spirit and scope of the invention. It is intended that all matter contained in the above description and shown in the to

accompanying drawings shall be interpreted as illustrative and not meant in a limiting sense.

[0036] Having now described the features, discoveries and principles of the invention, the manner in which the inventive container or pitcher is constructed and used, the characteristics of the construction, and advantageous, new and useful results obtained; the new and useful structures, devices, elements, arrangements, parts and combinations, are set forth in the appended claims.

[0037] It is also to be understood that the following claims are intended to cover all of the generic and specific features of the invention herein described, and all statements of the scope of the invention which, as a matter of language, might be said to fall therebetween.

CLAIMS

Having thus described the invention, what is claimed as new and desired to be secured by Letters Patent is as follows:

1. A container comprising:
a generally rigid continuous side wall terminating in an upper side wall end and a lower side wall end and defining an inward space bounded by said continuous sidewall, a bottom closing said lower side wall end, and
an inwardly flexible panel forming a portion of said side wall and extending to form at least a portion of said upper side wall end, said flexible panel having a generally smooth inward surface for unobstructed fluid flow.
2. The container as claimed in claim 1 further comprising a rim attached to said upper side wall end.
3. The container as claimed in claim 2 wherein said rim is comprised of a sponge material.
4. The container as claimed in claim 2 wherein said rim is comprised of rubber.
5. The container as claimed in claim 2 wherein said rim is comprised of cloth.

6. The container as claimed in claim 1 further comprising a handle.

7. The container as claimed in claim 1 further comprising a divider spanning the interior of said container, said divider being oriented generally parallel to said flexible panel.

8. The container as claimed in claim 1 further comprising a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel.

9. A container comprising:
a generally rigid continuous side wall having an upper side wall end and a lower side wall end and defining an inward space bounded by said continuous sidewall,
a bottom attached to said lower side wall end,
a rim connected to said upper side wall end,
a portion of said rim being sufficiently inwardly flexible to conform to the shape of an object to which said rim is pressed against, and
an inwardly flexible panel forming a portion of said side wall and connecting with said inwardly flexible rim portion, said inwardly flexible panel having a generally smooth inward surface for unobstructed fluid flow.

10. The container as claimed in claim 9 at least a portion of said side wall is concave, said concave side wall portion having a rim portion of a flexible material.

11. The container as claimed in claim 10 wherein said rim is comprised of a sponge material.

12. The container as claimed in claim 10 wherein said rim is comprised of rubber.

13. The container as claimed in claim 10 wherein said rim is comprised of cloth.

14. The container as claimed in claim 9 further comprising a handle.

15. The container as claimed in claim 9 further comprising a divider spanning the interior of said container, said divider being oriented generally parallel to said flexible panel.

16. The container as claimed in claim 9 further comprising a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel.

17. A container comprising:
a generally rigid continuous side wall having an upper end and a lower end said side wall defining a container body,
a bottom joined to said lower side wall end to define an inward fluid-holding interior, said upper end comprising
a rim having a flexible rim segment,
a void in said side wall adjacent to said flexible rim segment,
an inwardly flexing panel spanning said side wall void and extending to connect with said flexible rim segment, said inwardly flexing panel having a smooth inward-facing surface for unobstructed fluid flow and said flexing panel being conformable to the shape of an object pressed against said flexing panel, and
a divider spanning said interior and contacting said bottom to define first and second fluid-holding portions of said interior, said divider being oriented generally parallel to said flexible panel, said first and second fluid-holding portions operating to approximately concurrently pour a fluid onto the object pressed against said flexing panel.

18. The container as claimed in claim 17 wherein said rim segment is comprised of a sponge material.

19. The container as claimed in claim 17 wherein said rim segment is comprised of a rubber material.

20. The container as claimed in claim 17 wherein said rim segment is comprised of said flexible panel.

21. The container as claimed in claim 17 further comprising a handle.

Abstract

A container or pitcher is provided having a flexible side wall portion and rim portion of the container which can conform to the shape of an object to which the pitcher is applied to thereby direct fluid flow from the pitcher over a broader area and to prevent fluid from flowing from the pitcher and underneath the rim of the pitcher and onto portions of the object to which it is not desirable to apply the fluid.

Electronic Patent Application Fee Transmittal

Application Number:				
Filing Date:				
Title of Invention:	FLEXIBLE PANEL PITCHER			
First Named Inventor/Applicant Name:	Michael L. McGinley			
Filer:	Richard P. Stitt			
Attorney Docket Number:	SCP001 NEW			
Filed as Small Entity				
Utility under 35 USC 111(a) Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Utility filing Fee (Electronic filing)	4011	1	82	82
Utility Search Fee	2111	1	270	270
Utility Examination Fee	2311	1	110	110
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
Total in USD (\$)				462

Electronic Acknowledgement Receipt

EFS ID:	4155498
Application Number:	12255797
International Application Number:	
Confirmation Number:	4030
Title of Invention:	FLEXIBLE PANEL PITCHER
First Named Inventor/Applicant Name:	Michael L. McGinley
Customer Number:	24030
Filer:	Richard P. Stitt
Filer Authorized By:	
Attorney Docket Number:	SCP001 NEW
Receipt Date:	22-OCT-2008
Filing Date:	
Time Stamp:	12:56:03
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 462
RAM confirmation Number	8448
Deposit Account	121660
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:
Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Oath or Declaration filed	CIPDec.pdf	1150848	no	2
			c74835ca0fcd6cf7b1d0dd1ca5197053601c9484		
Warnings:					
Information:					
2	Preliminary Amendment	PreliminaryAmendment.pdf	26774	no	4
			8c1471bacc3d26b31175dd03003c64ca868f1f23		
Warnings:					
Information:					
3	Drawings-only black and white line drawings	McGinleyCIPFigs1to9.pdf	127356	no	5
			ce8b38582efc61a65ec1eae61dc94f948a220fc6		
Warnings:					
Information:					
4		CIPFlexiblePitcherApplication.pdf	77437	yes	22
			0228acc0760568ff3c5294f3a3228d03cf416f2f		
	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Specification		1	16	
	Claims		17	21	
	Abstract		22	22	
Warnings:					
Information:					
5	Fee Worksheet (PTO-06)	fee-info.pdf	32773	no	2
			831c3dd6d930349c5266d17f29786cb6e5014fd4		
Warnings:					
Information:					
Total Files Size (in bytes):			1415188		

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New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

FLEXIBLE PANEL PITCHER

described and claimed in the specification, which is filed herewith.

I hereby state that I have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to in the oath or declaration.

I acknowledge the duty to disclose to the Patent and Trademark Office information which is material to patentability of this application as defined in 37, C.F.R. 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

Claim of Priority

I hereby claim the benefit under Title 35, United States Code, Sec. 120, of any United States application listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Sec. 112, if any, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Sec. 1.56, which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Appl. Ser. No.

10/357,651

Filing Date

February 04, 2003

Status

Pending

Power of Attorney

I hereby appoint Malcolm A. Litman, Reg. No. 19,579; Dennis Crawford, Reg. No. 28,940; Marcia J. Rodgers, Reg. No. 33,765 and Richard P. Stitt, Reg. No. 35,693 all members of the bars of the State of Missouri and/or State of Kansas, or Registered Patent Agents before the U.S. Patent Office and whose postal address is:

Shughart Thomson & Kilroy, P.C.,
Twelve Wyandotte Plaza,
120 West 12th Street,
Kansas City, Missouri 64105,
Telephone (816) 421-3335

as my attorneys, with full power of substitution, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith in my behalf.

Declaration

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 2/2/04

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Date: 2/2/04

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Filing Date: 10/22/08

Approved for use through 7/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number

12/255,797**APPLICATION AS FILED – PART I**

(Column 1) (Column 2)

FOR	NUMBER FILED	NUMBER EXTRA
BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A
SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A
TOTAL CLAIMS (37 CFR 1.16(i))	12 minus 20 =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	2 minus 3 =	*
APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$270 (\$135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR	
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))		

SMALL ENTITY

OR

OTHER THAN SMALL ENTITY

RATE (\$)	FEE (\$)
N/A	82
N/A	270
N/A	110
x\$26	
x\$110	
195	
TOTAL	462

RATE (\$)	FEE (\$)
N/A	
N/A	
N/A	
x\$52	
x\$220	
390	
TOTAL	

* If the difference in column 1 is less than zero, enter "0" in column 2.

APPLICATION AS AMENDED – PART II

(Column 1) (Column 2) (Column 3)

AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total (37 CFR 1.16(i))	*	Minus **	=
Independent (37 CFR 1.16(h))	*	Minus ***	=
Application Size Fee (37 CFR 1.16(s))			
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))			

SMALL ENTITY

OR

OTHER THAN SMALL ENTITY

RATE (\$)	ADDITIONAL FEE (\$)
X =	
X =	
N/A	
TOTAL ADD'T FEE	

RATE (\$)	ADDITIONAL FEE (\$)
X =	
X =	
N/A	
TOTAL ADD'T FEE	

(Column 1) (Column 2) (Column 3)

AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total (37 CFR 1.16(i))	*	Minus **	=
Independent (37 CFR 1.16(h))	*	Minus ***	=
Application Size Fee (37 CFR 1.16(s))			
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))			

RATE (\$)	ADDITIONAL FEE (\$)
X =	
X =	
N/A	
TOTAL ADD'T FEE	

OR

RATE (\$)	ADDITIONAL FEE (\$)
X =	
X =	
N/A	
TOTAL ADD'T FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Exhibit 1010-0258

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875					Application or Docket Number 12/255,797		Filing Date 10/22/2008		<input type="checkbox"/> To be Mailed	
APPLICATION AS FILED – PART I										
(Column 1)			(Column 2)			SMALL ENTITY <input checked="" type="checkbox"/> OR		OTHER THAN SMALL ENTITY		
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)		RATE (\$)	FEE (\$)			
<input type="checkbox"/> BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A			N/A				
<input type="checkbox"/> EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A				
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X \$ =		OR	X \$ =				
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X \$ =			X \$ =				
<input type="checkbox"/> APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).									
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.					TOTAL		TOTAL			
APPLICATION AS AMENDED – PART II										
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	10/22/2008	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	RATE (\$)	ADDITIONAL FEE (\$)		
Total (37 CFR 1.16(i))	* 12	Minus	** 20	= 0	X \$26 =	0	OR	X \$ =		
Independent (37 CFR 1.16(h))	* 2	Minus	*** 3	= 0	X \$110 =	0	OR	X \$ =		
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))										
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR			
					TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE		
(Column 1)			(Column 2)			SMALL ENTITY OR		OTHER THAN SMALL ENTITY		
AMENDMENT	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	RATE (\$)	ADDITIONAL FEE (\$)			
Total (37 CFR 1.16(i))	*	Minus	**	X \$ =		OR	X \$ =			
Independent (37 CFR 1.16(h))	*	Minus	***	X \$ =		OR	X \$ =			
<input type="checkbox"/> Application Size Fee (37 CFR 1.16(s))										
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR			
					TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE		
<p>* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.</p> <p>** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".</p> <p>*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".</p> <p>The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.</p>										

Legal Instrument Examiner:
/RUTH M. LLOYD/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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