

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

INDUSTRIAL REVOLUTION, INC.,

Petitioner

v.

HUMANGEAR, INC.

Patent Owner

inter partes review No. IPR2023-01174

U.S. Patent No. 10,555,629

PATENT OWNER'S PRELIMINARY RESPONSE

PURSUANT TO 35 U.S.C. §313 AND 37 C.F.R. §42.107

BEYER LAW GROUP, LLP
P.O. Box 51887
Palo Alto, CA 94303
Attorneys for Appellant

TABLE OF CONTENTS

	<u>PAGE</u>
1. INTRODUCTION.....	1
2. FAMILY HISTORY.....	2
3. THE PETITION ONLY CITES ART THAT IS HIGHLY CUMMULATIVE OF ART CONSIDERED DURING PROSECUTION OF THE ‘629 PATENT AND PETITIONER DOES NOT IDENTIFY ANY MATERIAL ERROR MADE BY THE EXAMINER DURING PROSECUTION – THEREFORE, INSTITUTION SHOULD BE DENIED.....	3
3.1. <u>35 U.S.C. § 325(d) – Discretionary Denial of Institution</u>	3
4. FORK RELATED TERMS AND SELECTED CLAIM FEATURES	5
4.1. <u>Concave fork bowl portion</u>	6
4.2. <u>Fork Head and a Spoon Head coupled by a Handle</u>	7
4.3. <u>Spoon Bowl Portion and the Fork Bowl Portion Face the Same Direction</u>	7
4.4. <u>Fork Head has a Plurality of Tines</u>	8
4.5. <u>Curved Side Surface of Fork Head</u>	8
4.6. <u>Chamfer on outer Tine and Fork Bowl portions forms Curved Splitting Feature</u>	9
4.7. <u>Concave Spoon Bowl Portion</u>	10
4.8. <u>Glass Reinforced Thermoplastic Material</u>	10
5. THE ART RELIED ON IN THE PETITION IS ENTIRELY CUMULATIVE OF ART CONSIDERED BY THE EXAMINER DURING PROSECUTION OF THE ‘629 PATENT.....	11
5.1. <u>The Art Relied on in Ground 1 – Feng – is highly cumulative of the Torode reference considered during prosecution of the ‘629 patent</u>	11
5.2. <u>The Art Relied on in Ground 2 – Feng/Kristiansson – is highly cumulative of art considered during prosecution of the ‘629 patent</u>	15
5.3. <u>The Art Relied on in Ground 3 – Kent/Vanderputt/Bo – is highly cumulative of art considered during prosecution of the ‘629 patent</u>	22

5.4. <u>The Art Relied on in Ground 4 – Torode/CFL Fork/Nelson – is highly cumulative of art considered during prosecution of the ‘629 patent</u>	29
6. THE PETITION DOES NOT IDENTIFY OR DEMONSTRATE A MATERIAL ERROR MADE BY THE EXAMINER DURING PROSECUTION ...	34
7. THE PETITION DOES NOT DEMONSTRATE A REASONABLE LIKELIHOOD THAT AT LEAST ONE OF THE CHALLENGED CLAIMS IS UNPATENTABLE.....	35
7.1. <u>The Petition fails to demonstrate a reasonable likelihood that any of claims 1-23 are rendered obvious by Feng (Ground 1)</u>	36
7.2. <u>The Petition fails to demonstrate a reasonable likelihood that any of claims 1-23 are rendered obvious by Feng in view of Kristiansson (Ground 2)</u>	45
7.3. <u>The Petition fails to demonstrate a reasonable likelihood that claims 1-3, 7-13, 15, 16, 22 and 23 are rendered obvious by Kent in view of Vanderputt and Bo (Ground 3) OR that claims 1-23 are rendered obvious by Torode in view of CFL Fork and Nelson (Ground 4).....</u>	47
8. CONCLUSION	48

TABLE OF AUTHORITIES

Page

Cases

<i>Advanced Bionics, LLC v. Med-El Elektromedizinische Geräte GmbH,</i> IPR2019-01469, Paper 6 at 8–9 (PTAB Feb. 13, 2020) (precedential).....	4, 5, 33, 34, 47
<i>Vital Connect, Inc. v. Bardy Diagnostics,</i> IPR2023-00381, Paper 7 at 19-20 (PTAB July 11, 2023) (routine).....	5

Statutes

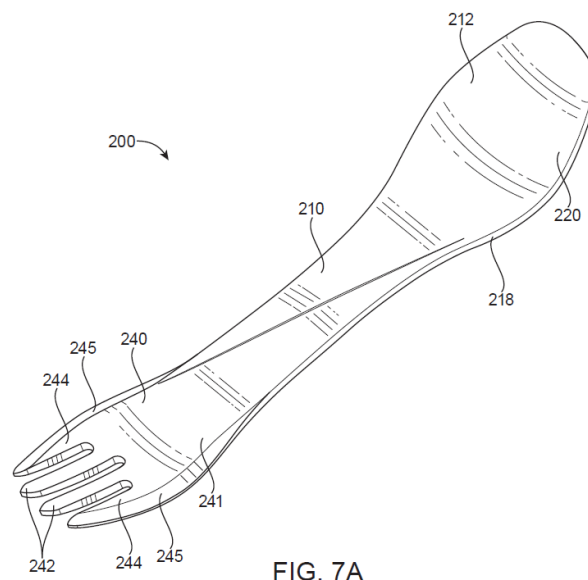
35 U.S.C. § 325(d).....	4
37 C.F.R. § 42.108(c).....	21, 29, 47

EXHIBIT TABLE

Exhibit No.	Description of Document
2001	Curriculum Vitae of Robert W. Payne
2002	Declaration of Robert W. Payne
2003	U.S. Patent No. 9,468,321
2004	U.S. Patent No. 9,468,321 file history
2005	U.S. Patent Application No. 15/268,175 file history
2006	U.S. Patent No. 10,568,447
2007	U.S. Patent No. 10,568,447 file history
2008	U.S. Patent No. 11,540,654
2009	U.S. Patent No. 11,540,654 file history
2010	U.S. Patent No. 11,503,933
2011	U.S. Patent No. 11,503,933 file history
2012	U.S. Patent No. 4,984,367 - Albanese
2013	U.S. Patent Publication No. 2003/0110644 - Miller
2014	U.S. Design Patent No. D93,956 – Wilson

1. INTRODUCTION

The subject patent, U.S. Patent No. 10,555,629 (the ‘629 patent) (*Exhibit 1001*) describes two different primary embodiments. The first primary embodiment, which is illustrated in Figs. 1A-6D, is a two-piece eating utensil composed of a spoon and fork that can be joined together in two distinct orientations. This product is marketed by the patent owner as the GoBites DUO, and will sometimes be referred to herein, as the DUO embodiment. The second primary embodiment, which is illustrated in Figs. 7A-7C and shown below, is a unitary eating utensil having spoon and fork heads on opposite ends of a handle. This product is marketed by the patent owner as the GoBites UNO, and will sometimes be referred to herein, as the UNO embodiment. The claims of the ‘629 patent are directed at the UNO embodiment – i.e., the embodiment of Figs 7A-7C.



The Humangear GoBites UNO

2. FAMILY HISTORY

The subject ‘629 patent, is part of a patent family that includes five (5) issued patents, one (1) abandoned application, and one (1) pending application. (The “Humangear Patent Family”). The applications and patents in this patent family include:

- 1) U.S. Patent No. 9,468,321 (the ‘321 patent) – *Exhibit 2003*;
- 2) U.S. Patent Application No. 15/268,175, now abandoned (the ‘175 application) - the file history of the 175 application is *Exhibit 2005*;
- 3) U.S. Patent No. 10,555,629 (the subject patent) – *Exhibit 1001*;
- 4) U.S. Patent No. 10,568,447 (the ‘447 patent) – *Exhibit 2006*;
- 5) U.S. Patent No. 11,540,654 (the ‘654 patent) – *Exhibit 2008*; and
- 6) U.S. Patent No. 11,503,933 (the ‘933 patent) – *Exhibit 2010*; and
- 7) U.S. Patent Application No. 17/993,353, pending.

The subject ‘629 patent (*Exhibit 1001*), and the ‘654 patent (*Exhibit 2008*), which is a continuation of the ‘629 patent, are each directed at the UNO embodiment. The ‘321, ‘447 and ‘933 patents (*Exhibits 2003, 2006 and 2010 respectively*) are each directed at the DUO embodiment and are therefore not referenced much in this Preliminary Response.

The abandoned application, U.S. Patent Application No. 15/268,175 (Publication No. 2017/0000276) was the child of the first patent in the family (the

‘321 patent) and the direct parent of the subject ‘629 patent. A copy of the file history of the ‘175 patent application is provided as *Exhibit 2005*.

3. THE PETITION ONLY CITES ART THAT IS HIGHLY CUMMULATIVE OF ART CONSIDERED DURING PROSECUTION OF THE ‘629 PATENT AND PETITIONER DOES NOT IDENTIFY ANY MATERIAL ERROR MADE BY THE EXAMINER DURING PROSECUTION – THEREFORE, INSTITUTION SHOULD BE DENIED

All of the patents/patent applications in the Humangear Patent Family were examined by Examiner Jason D Prone, who is an experienced examiner that has a very good understanding of the art. Thus, it is not surprising that, as will be explained in more detail Section 5 below, the various references relied upon in the Petition are merely cumulative of art consider by the Office during prosecution of the subject ‘629 patent and more generally, the Humangear Patent Family.

3.1. 35 U.S.C. § 325(d) – Discretionary Denial of Institution

35 U.S.C. Section 325(d) provides that the Director may elect not to institute a proceeding if the challenge to the patent is based on matters previously presented to the Office. Specifically, 35 U.S.C. § 325(d) states, in pertinent part:

In determining whether to institute or order a proceeding under this chapter, chapter 30, or chapter 31, the Director may take into account whether, and reject the petition or request because, **the same or**

substantially the same prior art or arguments previously were presented to the Office.

The Board has articulated a two-step framework for determining whether to deny institution of a proceeding under § 325(d). Specifically, the Board should:

(1) [determine] whether the same or substantially the same art previously was presented to the Office or whether the same or substantially the same arguments previously were presented to the Office; and

(2) if either condition of first part of the framework is satisfied, determine whether the petitioner has demonstrated that the Office erred in a manner material to the patentability of challenged claims. *Advanced Bionics, LLC v. Med-El Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 8–9 (PTAB Feb. 13, 2020) (precedential) (“*Advanced Bionics*”).

As will be explained in more detail below, the references relied upon in the various Grounds asserted in the Petition for *inter partes* review are highly cumulative of art considered during prosecution of the subject ‘629 patent. When a petition relies on art that is cumulative of art considered by the examiner (as in the present case) a petitioner must demonstrate that the Office made a **material error** regarding examination to avoid discretionary denial. *Advanced Bionics* @ pp. 8-9. Specifically, in *Advanced Bionics*, the Board stated that:

If a condition in the first part of the framework is satisfied and the petitioner fails to make a showing of material error, the Director generally will exercise discretion not to institute *inter partes* review.

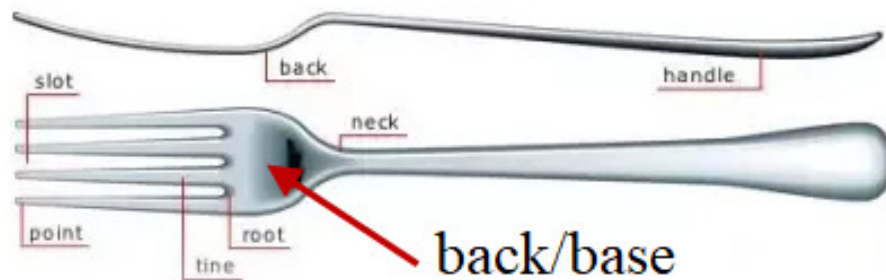
If reasonable minds can disagree regarding the purported treatment of the art or arguments, it cannot be said that the Office erred in a manner material to patentability. At bottom, this framework reflects a commitment to defer to previous Office evaluations of the evidence of record unless material error is shown. *Advanced Bionics @ pp. 8-9. (emphasis added)*

In the present case, **the Petition for *inter partes* review does not assert any material error, or even address the material-error requirement.** When a petition relies on art that is cumulative of art considered by the examiner and fails to address the material-error requirement, the petitioner fails to meet its burden, and the Board should deny institution. *Advanced Bionics @ p. 20. See also, Vital Connect, Inc. v. Bardy Diagnostics*, IPR2023-00381, Paper 7 at 19-20 (PTAB July 11, 2023) (Routine). As such, in this case, the Board should deny institution of the requested IPR.

4. FORK RELATED TERMS AND SELECTED CLAIM FEATURES

As background to the discussion below it is helpful to understand certain features of a fork. A standard fork includes a handle and a plurality of tines. The region between the “root” of the tines and the “neck” that transitions between the

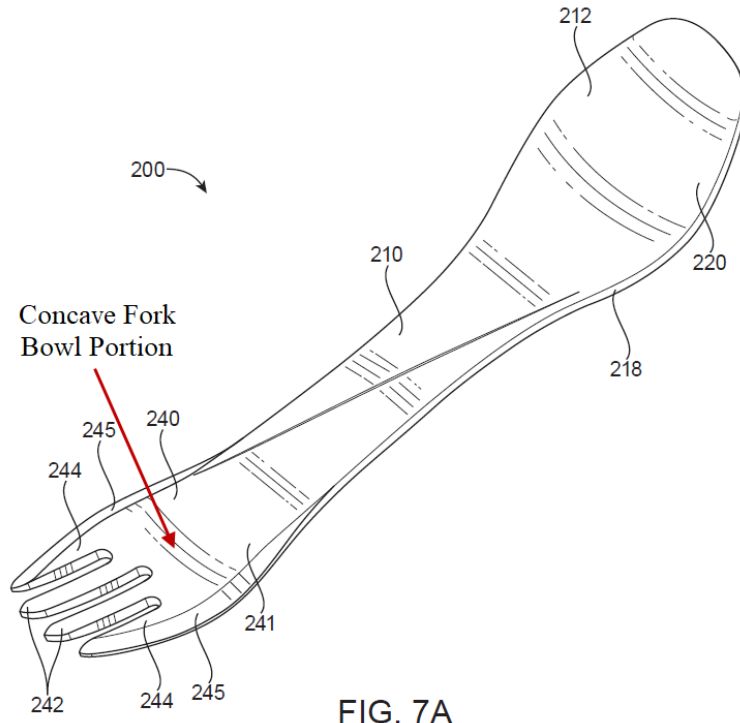
fork head and the handle is often referred to as the “back” or “base” of the fork. This area of the fork is pertinent to the present case because most of the claims require that the fork head have a “concave fork bowl portion.”



Several of the terms utilized in some of the various claims are also worth noting.

4.1. Concave fork bowl portion.

Independent claims 1, 8, and 15 of the ‘629 patent each require a fork head that includes a “concave fork bowl portion.” This requires that the base of the fork head has curvature in two dimensions to define a recessed region – i.e., the “bowl” portion. This is different than most forks including the fork head illustrated above in which the base is curved in one direction (thereby looking somewhat trough-like) when viewed from the side and does not form a recessed bowl portion. A representative concave fork bowl portion can be seen in Fig. 7A of the ‘629 patent reproduced below.



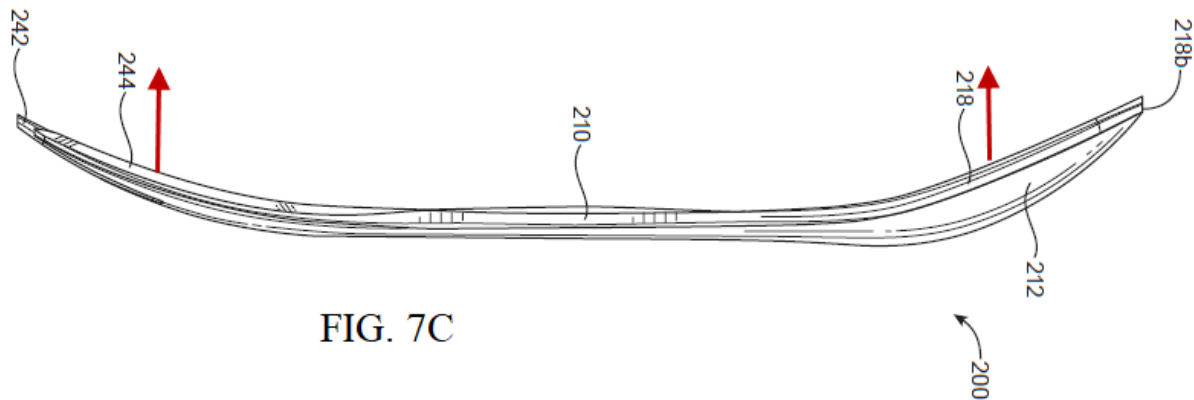
4.2. Fork Head and a Spoon Head coupled by a Handle

Separate fork and spoon heads are provided on opposite ends of a handle. These features can also be readily seen in Fig. 7A of the '629 patent reproduced above.

4.3. Spoon Bowl Portion and the Fork Bowl Portion Face the Same Direction

The spoon and fork bowls both face in the same direction. Thus, for example, if the utensil is placed on a table or other surface with the concave spoon bowl facing

up, the fork bowl also faces up. This is contrasted with some two headed sporks in which the spoon head and the fork head face in opposite directions (i.e., the fork head would face down when the spoon head is facing up).

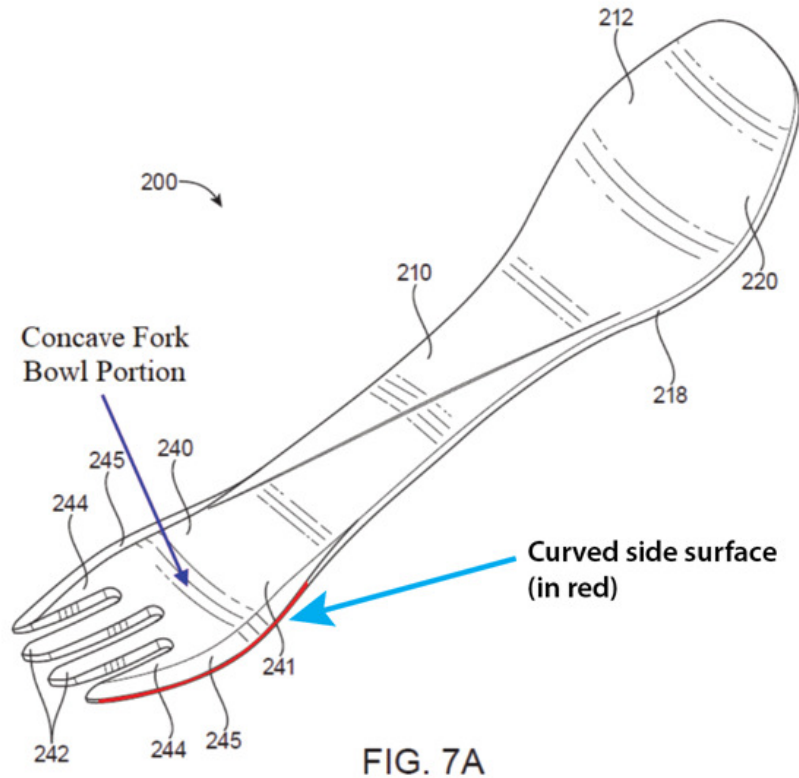


4.4. Fork Head has a Plurality of Tines

The fork head has a plurality of tines, which of course is common for forks.

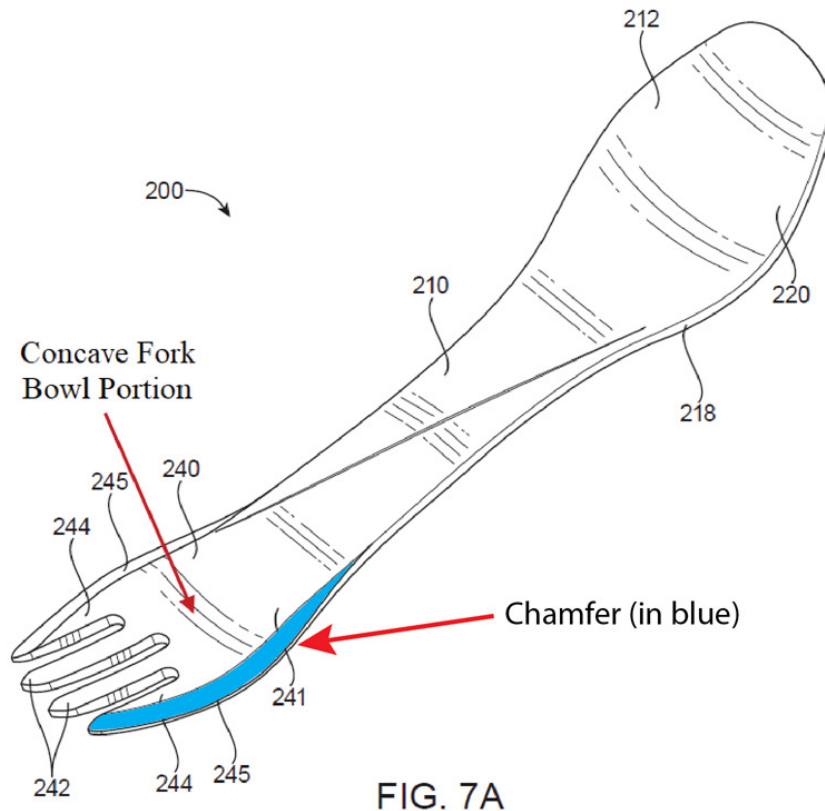
4.5. Curved Side Surface of Fork Head

One (or both) side edge(s) of the Fork Head define(s) a curved side surface in which the curvature extends along both a corresponding outer tine edge and a corresponding side edge of the fork bowl portion. In the reproduction of Fig. 7A below, one of the curved side surfaces is highlighted by use of a red line.



4.6. Chamfer on outer Tine and Fork Bowl portions forms Curved Splitting Feature

One (or both) sides of the fork head include a chamfer that extends along both the corresponding outer tine and the corresponding fork bowl portion such that the corresponding curved side surface of the fork head defines a curved splitting feature. In the embodiment shown in Fig. 7A, the chamfers are labeled 245. In the image below one of the chamfers is highlighted by blue coloring.



4.7. Concave Spoon Bowl Portion

The spoon head also includes a spoon bowl portion (again requiring curvature in two dimensions to define a recessed bowl region), which of course is standard for spoon heads.

4.8. Glass Reinforced Thermoplastic Material

Dependent claims 7, 13 and 23 each require that the eating utensil be formed from a glass reinforced thermoplastic material. Independent claim 8 more specifically requires the use of a glass filled nylon thermoplastic material.

5. THE ART RELIED ON IN THE PETITION IS ENTIRELY CUMULATIVE OF ART CONSIDERED BY THE EXAMINER DURING PROSECUTION OF THE ‘629 PATENT

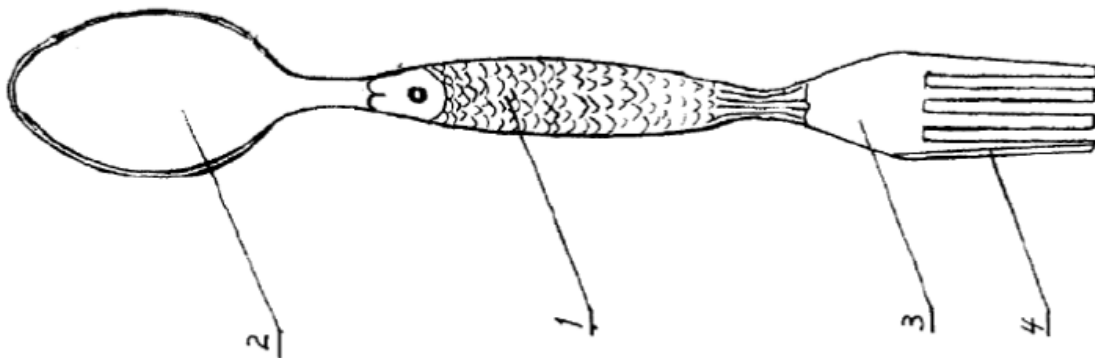
5.1. The Art Relied on in Ground 1 – Feng – is highly cumulative of the Torode reference considered during prosecution of the ‘629 patent

Ground 1 of the Petition for *inter partes* review alleges that all of the claims of the ‘629 patent are obvious over (not anticipated by) Chinese Utility Model Publication No. 2062986 (Feng)(*Exhibit 1004*) standing alone.

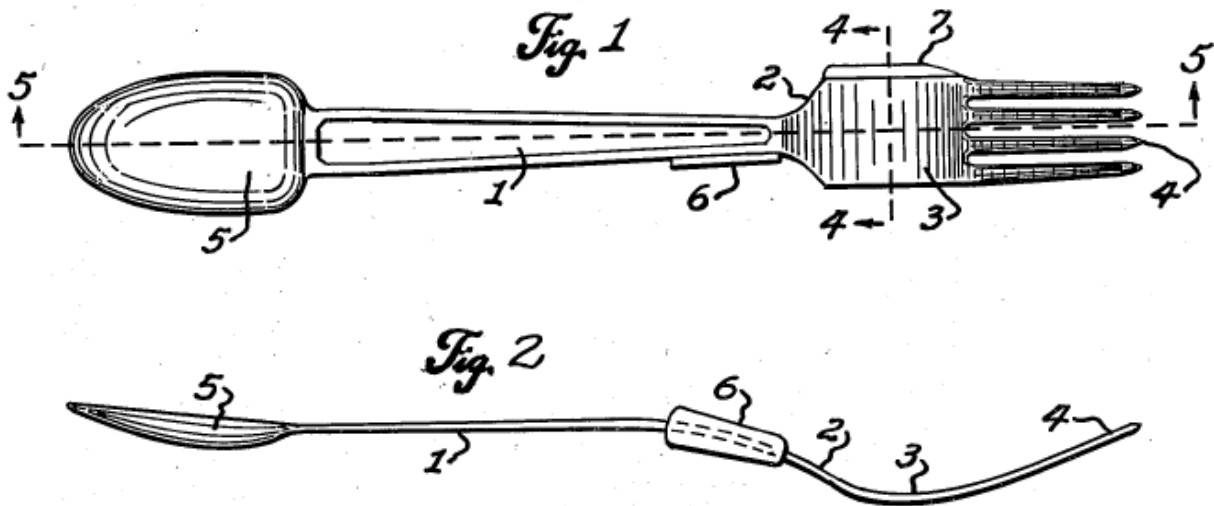
The Feng reference is highly cumulative of the Torode reference – U.S. Patent No. 2,318,129 (*Exhibit 1009*) which was considered during prosecution of the ‘629 patent. The Torode reference **was originally identified and cited by the Examiner Prone** in the first substantive office action in the first application in the Humangear patent family – U.S. Patent No. 9,468,321, which is the grandparent of the subject ‘629 patent. *See Exhibit 2004, page 94 - in the List of References Cited by Examiner that accompanied the Office Action dated 10/28/15.* The Torode reference was also considered by Examiner Prone during prosecution of the ‘629 patent. *See, Exhibit 1003, page 184* indicating that the reference was considered on April 15, 2019.

The similarity of the Feng and Torode references can be seen in the images from the respective publications that are reproduced below.

Feng - Chinese Utility Model Publication No. 2062986 (the only Figure)

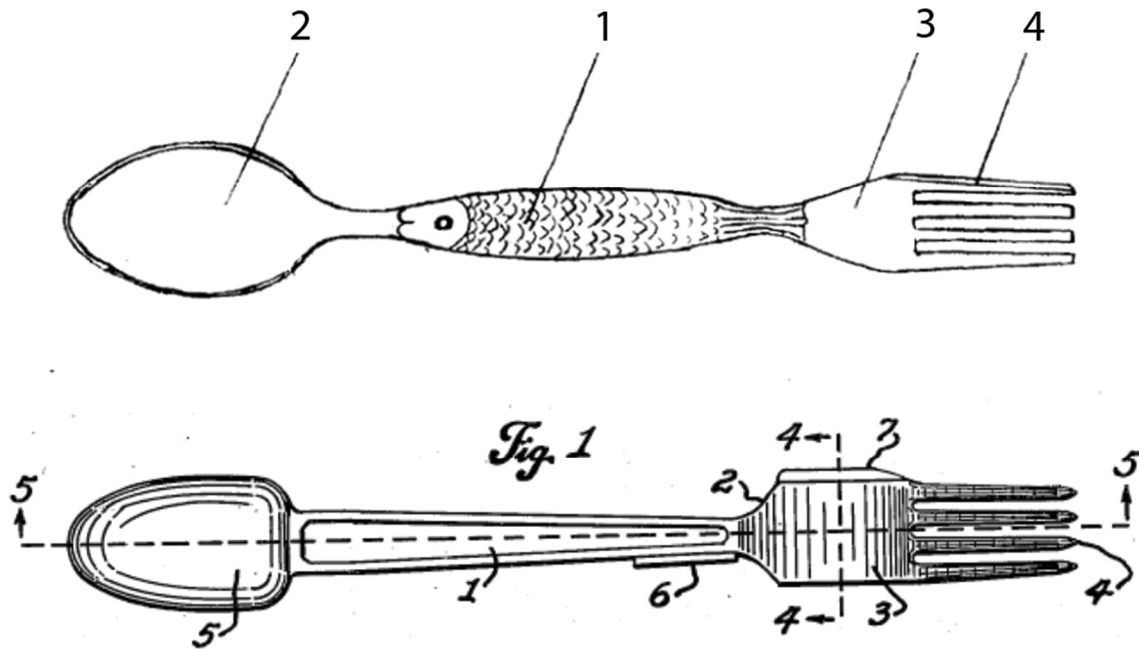


Torode – U.S. Patent No. 2,318,129 – Figs. 1 and 2



As can be seen in the images above, Both Feng and Torode are eating utensils having spoon and fork heads on opposite ends of a handle. Both have a cutting feature on a side edge of the fork head i.e., “blade 4” on the fork head in Feng vs. knife blade portion 7 in Torode. Feng’s blade 4 is referenced in the “Description” portion of the specification that appears in Exhibit 1004, page 3. Torode’s knife blade portion is referenced at Col. 2, line 14 of Torode – Exhibit 1009, page 2. These

similarities are even easier to see when a mirrored version of the Feng utensil is positioned adjacent to the top view of Torode as presented below.



Neither Feng nor Torode have a “concave fork bowl portion” as required by independent claims 1, 8 and 15, or the corresponding “first concave bowl portion” of independent claim 9. Since Feng only shows a top view, it is unclear whether the base portion of Feng’s fork head 3 is entirely planar or curves in one dimension, but it is not bowl-shaped. As can best be seen in the side profile presented in Fig. 2 of Torode, the base of the Torode fork head (referred to as fork body 3 in the specification) curves in one dimension, but is not bowl-shaped (i.e., it doesn’t curve in two dimensions to form a recessed bowl region. In that sense, the Torode that

was considered by the Examiner would appear to be more relevant than the cited Feng reference.

Neither Feng nor Torode have an outer tine that together with the concave fork (first) bowl portion define a curved side surface, or a chamfer coupled to the curved side surface to define a curved splitting feature as required by independent claims 1, 8, 9 and 15.

Neither Feng nor Torode describe an eating utensil formed from a glass filled nylon as required by independent claim 8.

In view of the foregoing, it is clear that for the purposes of analysis of the patentability of the issued claims of the subject '629 patent, the teachings of Feng are substantially the same as the teachings of the Torode reference and that therefore, Feng is merely cumulative of the Torode reference that was considered during prosecution of the '629 patent and originally cited by Examiner Prone in the grandparent of the '629 patent.

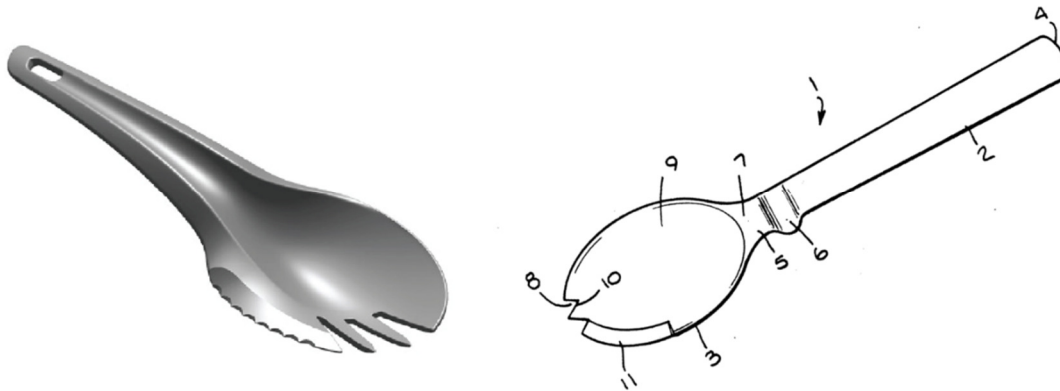
Since Feng lacks several elements of the various independent claims and is merely cumulative of art considered during prosecution of the '629 patent, Ground 1 does not demonstrate a reasonable likelihood that any of the claims in the '629 patent are unpatentable. As such, Ground 1 does not provide a basis for instituting an *inter partes* review of the subject '629 patent.

5.2. The Art Relied on in Ground 2 – Feng/Kristiansson – is highly cumulative of art considered during prosecution of the ‘629 patent

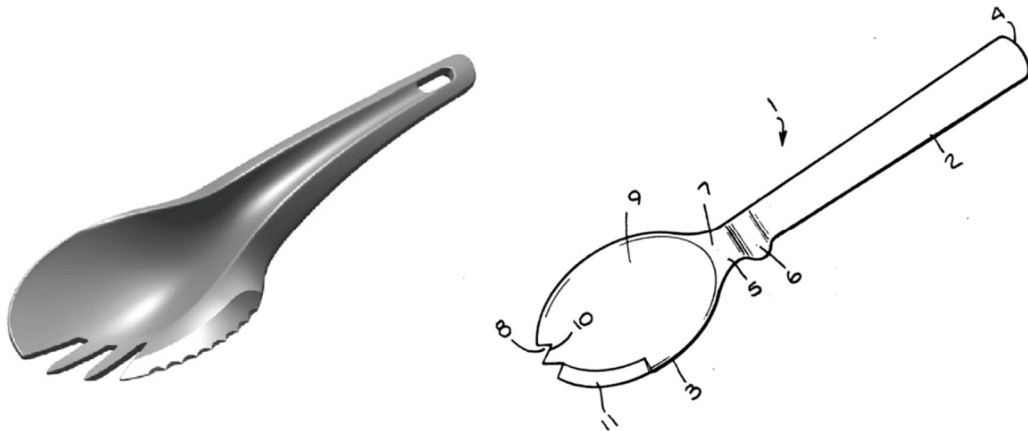
Ground 2 of the Petition alleges that all of the claims of the ‘629 patent are obvious based on the combination of Chinese Utility Model Publication No. 2062986 (Feng) (*Exhibit 1004*) and European Design No. 001805383 (Kristiansson) (*Exhibit 1005*).

The primary Feng reference (*Exhibit 1004*) is highly cumulative of the Torode reference (*Exhibit 1009*) as discussed above in section 5.1. For conciseness, the discussion of the similarities between Feng and Torode will not be repeated here.

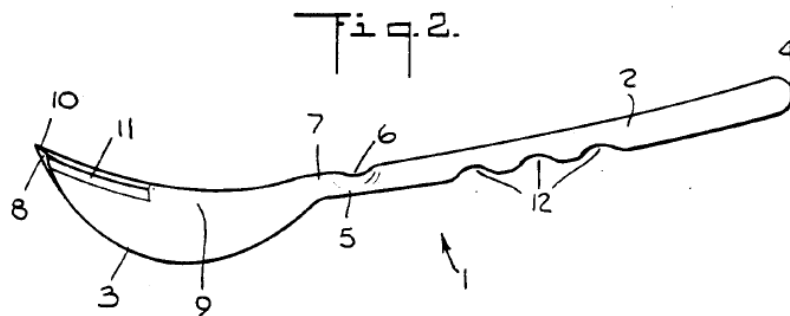
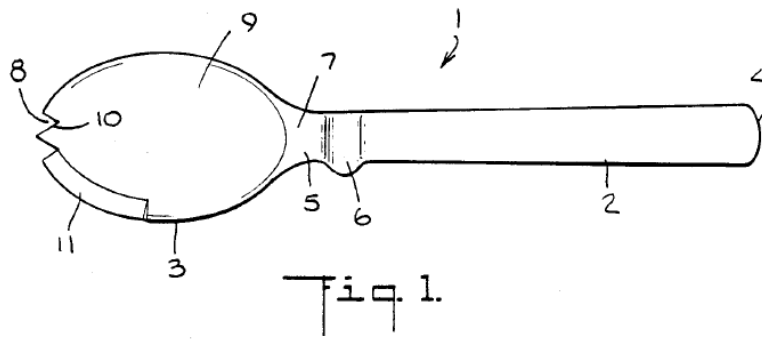
The Kristiansson reference is a single headed utensil that serves as a combination spoon, fork and knife. The utensil head is fashioned as a spoon bowl with two central tines and a blade along one edge of the spoon bowl. The Kristiansson reference is also highly cumulative of art considered by Examiner Prone during prosecution of the ‘629 patent – as for example, U.S. Patent No. 4,984,367 (Albanese) (*Exhibit 2012*). Images of the Kristiansson and Albanese references are shown side-by-side below.



Like Kristiansson, Albanese describes a single headed utensil that serves as a combination spoon, fork and knife. The Albanese reference includes a spoon bowl (concave recess 9), a central tine 8 at the distal end of the spoon bowl that acts as a “fork means” and a curved cutting edge 11 that extends along a curved lateral side of the spoon bowl. *See also, Col. 3, lines 9-15 and 31-33 of Albanese – Exhibit 2012, page 4.* In the images below, Kristiansson is mirrored which makes the similarities of Kristiansson and Albanese even more apparent.



The “bowl” aspect of the Albanese spoon bowl is best illustrated in the side view of Fig. 2 reproduced below.



The Albanese reference was originally cited by Examiner Prone during prosecution of the parent ‘175 application where it was used as a tertiary reference in the rejections of one of the then pending claims. *(See, e.g., page 10 of the Office*

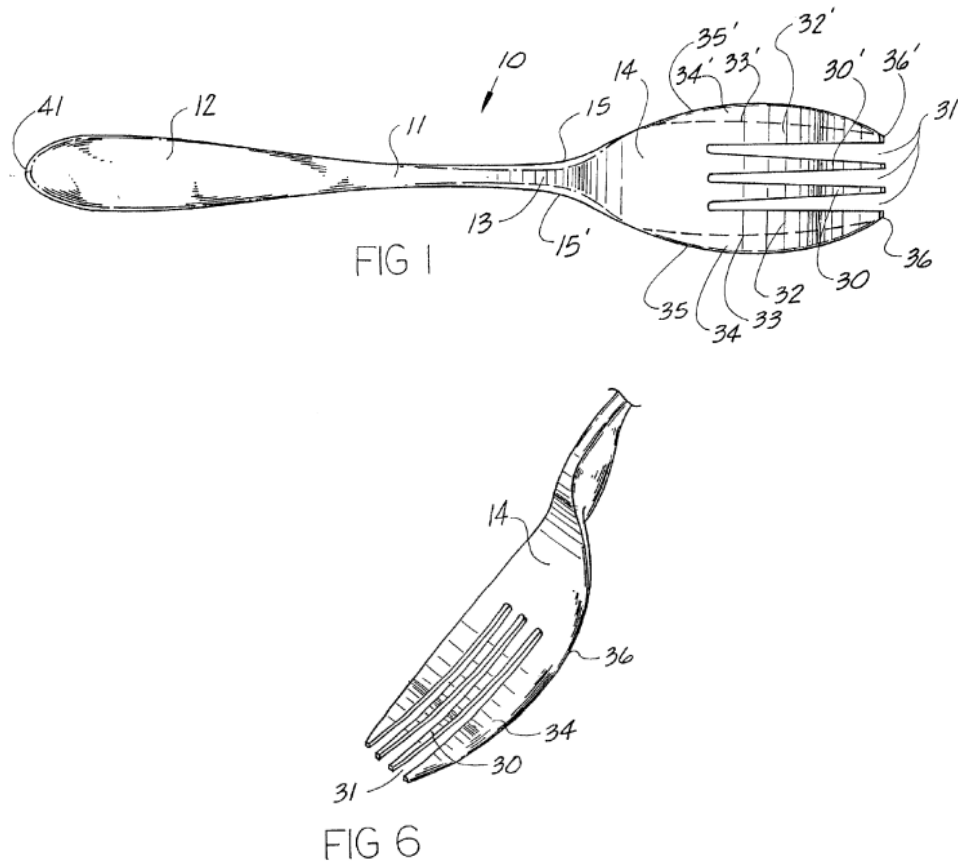
Action in the ‘175 patent application dated February 5, 2018 - Exhibit 2005, page 195 – and the accompanying Notice of References Cited by the Examiner – Exhibit 2005, page 201). The Albanese reference was also considered by Examiner Prone during prosecution of the subject ‘629 patent, although it was not used in any rejections. See, Exhibit 1003, page 264. As such, the Examiner was well aware of art analogous to Kristiansson during prosecution of the subject patent.

Kristiansson was cited in the Petition for its showing of a chamfered surface on a curved outer edge of a utensil head. For that purpose, Kristiansson is merely cumulative of the cutting edge 11 on the curved outer edge of the Albanese utensil head. Although not particularly relevant to the cumulativeness analysis, the Petition fails to identify any motivation whatsoever in Kristiansson or elsewhere that would motivate those skilled in the art to modify Feng’s fork head to include a concave bowl-shaped portion given that the Feng design already has a spoon head on the opposite end of the handle.

Furthermore, for the purpose alleged in the Petition, Kristiansson is also cumulative to the fork head shown in U.S. Patent Publication No. 2003/0110644 (Miller). (*Exhibit 2013*). Miller discloses a fork head having a curved outer edge 35 that is sharpened to form a blade edge 36 as seen in Fig. 6. The Miller reference was clearly carefully considered by the Examiner given it was the **primary** reference applied in the art-based rejections made during prosecution of the subject ‘629

patent. *See, e.g., pages 5-20 of the Office Action dated April 19, 2019. (Exhibit 1003, pages 163-177).* The referenced fork head proposed by Miller is shown below.

Miller - U.S. Patent Publication No. 2003/0110644



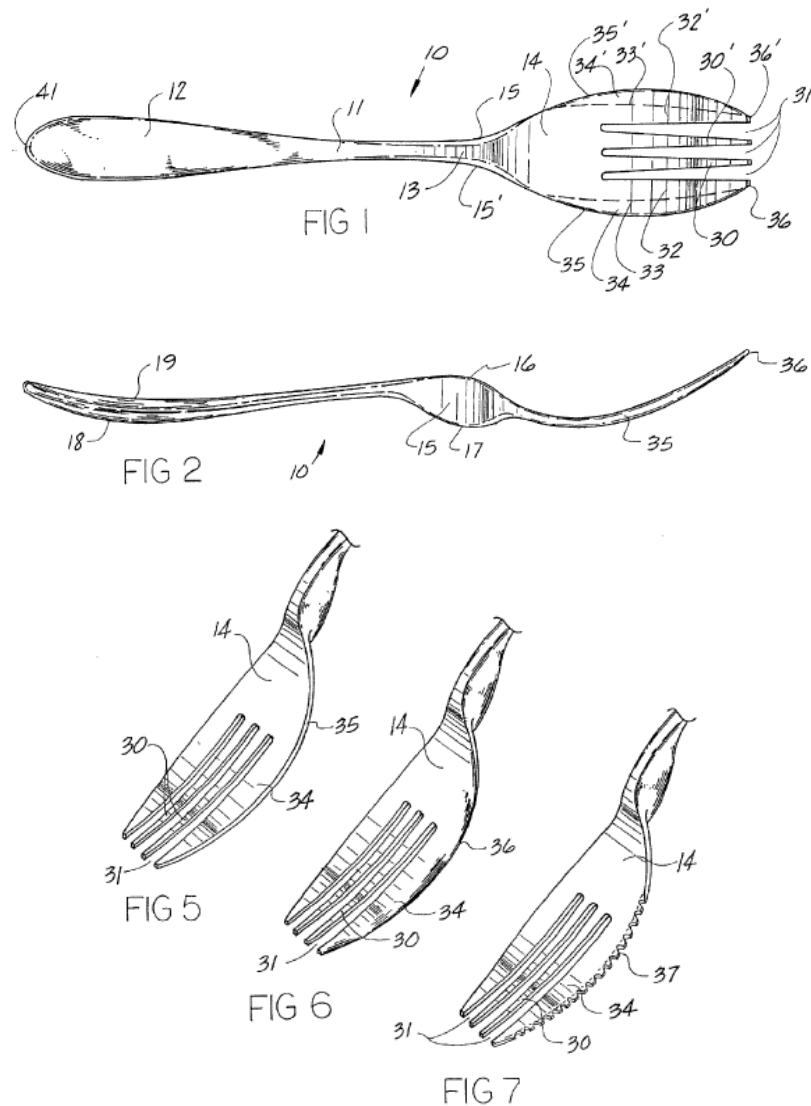
In the description, Miller indicates that curvature and sharpening of the outer edge of the fork head improves its cutting abilities. For example, paragraph [0041] of Miller reads:

[0041] It is the curvature of this outer edge **35** and **35'** that give this fork **10** its superior cutting abilities. Referring now to FIG. 5, the outer edge **35** may be comprised of a non sharpened or dull edge. Greater cutting abilities may be realized if the outer edge is sharpened

to give it a blade edge 36, as shown in FIG. 6. The defined blade edge 36 may comprise the entire, or merely a portion of the outer edge area 34. In the alternative, a serrated edge 37 may also be defined on the outer edge area 34, as depicted in FIG. 7. The outer edges 35 and 35' may differ in their edges, so that the fork 10 has a combination of outer edges 35 and 35' that are dull and sharpened, dull and serrated, or sharpened and serrated. Preferably, a blade edge 36 or a dull edge 35 is used, since the curvature of the edges 35 and 35' allow for a smooth cutting, and not for a sawing motion which is most beneficial for serrated edges. Where the dull edge 35 is used, this fork 10 has less chance of being converted into a weapon in an undesired manner, since there is no true blade edge 36. (*Emphasis ours*). (See, Exhibit 2013, pages 7-8).

This paragraph [0041] of Miller was even specifically identified by Examiner Prone at page 11 of the Office Action of April 19, 2019. (*See, Exhibit 1003, page 169*).

Thus, it can't be said that the Examiner did not appreciate either the relevance or the limitations of the Miller reference. For completeness, several figures from Miller are reproduced below. Figures 1 and 2 are top and side views of the fork and Figs. 5-7 illustrate several different fork head edge configurations – e.g., Fig. 5 shows a non-sharpened edge; Fig. 6 shows a sharpened edge; and Fig. 7 shows a serrated edge.



In view of all of the foregoing, it is clear that: (1) the combination of Feng and Kristiansson is merely cumulative of art that was known, understood and considered by the Examiner during prosecution of the '629 patent; and (2) Ground 2 of the Petition does not demonstrate a reasonable likelihood that any of the challenged claims are unpatentable. Therefore, pursuant to 37 CFR 42.108(c), Count 2 does not provide a basis for instituting the requested *inter partes* review.

Still further, the secondary Kristiansson reference shows the same design as the Wildo spork which was cited and considered by the Examiner during prosecution of the child U.S. Patent No. 11,540,654. See IDS filed July 14, 2022 (*see, Exhibit 2009, pages 126, 138*) and marked considered by Examiner Prone in a paper that accompanied the Final Office Action of October 13, 2022 (*See Exhibit 2009, page 104*). The child ‘654 patent includes claims that are at least as broad as the claims in the ‘629 patent. Thus, the prosecution history of the family makes it clear that the Examiner would not have considered the Kristiansson reference to have any impact whatsoever on the patentability of the ‘629 patent.

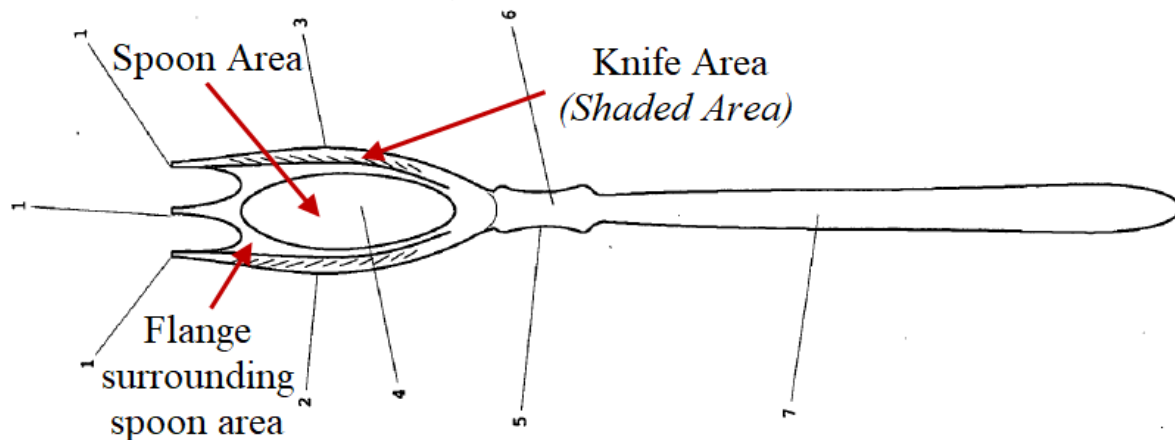
5.3. The Art Relied on in Ground 3 – Kent/Vanderputt/Bo – is highly cumulative of art considered during prosecution of the ‘629 patent

Ground 3 of the Petition alleges that claims 1-3, 7-13, 15, 16, 22 and 23 of the ‘629 patent are obvious based on the combination of U.S. Patent Publication 2008/0201959 (Kent) (*Exhibit 1006*); U.S. Patent No. 6,119,351 (Vanderputt) (*Exhibit 1007*); and Chinese Publication No. 103504965 (Bo) (*Exhibit 1008*).

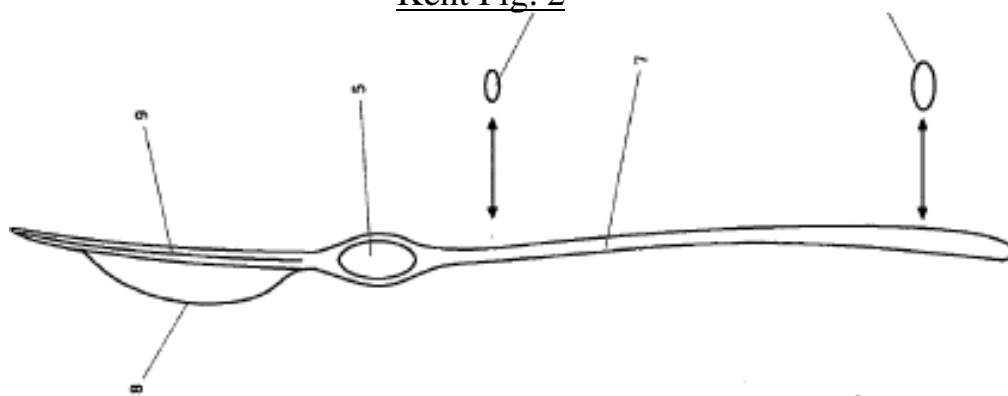
The primary reference in the third asserted ground, Kent, shows another single headed eating utensil designed to perform the tasks of a spoon, fork and knife. In this design, knife edges are provided on opposite sides of a spoon area and fork prongs extend distally from the spoon area.

Figures 1 and 2 of Kent (reproduced below) show top and side views of the Kent One-Piece Eating Utensil respectively. The Kent design includes a “hollowed out center section that is the spoon area.” *See, Kent [0010] Exhibit 1006, Page 4.* There appears to be a flange type surface that surrounds the spoon area and blunted knife edges are provided on opposite sides of the utensil head. As can be seen in the top view of Fig. 1, the knife areas (which are understood to be the shaded areas in Fig. 1) appear to be spaced apart from the spoon area by the flange type surface.

Kent – Fig. 1

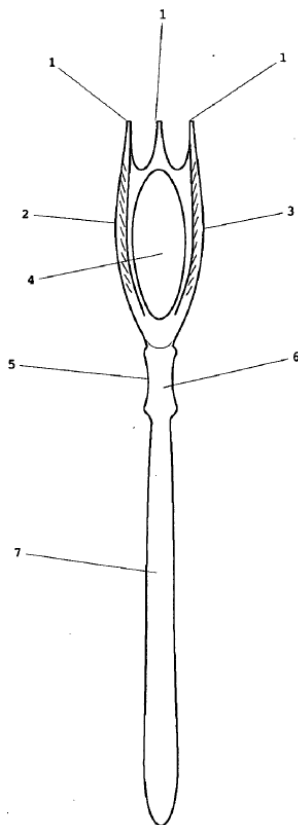


Kent Fig. 2

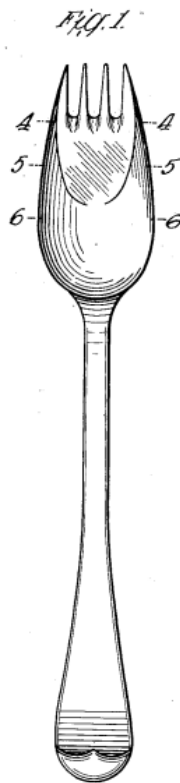


Again, at best, the Kent reference is cumulative of other single headed utensils designed to perform the tasks of a spoon, fork and knife. As discussed above with respect to Ground 2, Examiner Prone was well aware of single headed utensils configured to provide spoon, fork, and knife-like functionality. For example, the Albanese reference (*Exhibit 2012*) discussed above is one such example. Design patent No. D93,956 (Wilson) (*Exhibit 2014*) is another example. Like Albanese, the Wilson reference was first cited by Examiner Prone (not the Patentee) during prosecution of the parent '175 application. (*See, Notice of References Cited by the Examiner that accompanied the Office Action dated September 9, 2017 in the '175 patent application dated February 5, 2018 - Exhibit 2005, page 247*). The Wilson reference was also considered (although not applied) by Examiner Prone during prosecution of the subject '629 patent. *See, Exhibit 1003, page 266*.

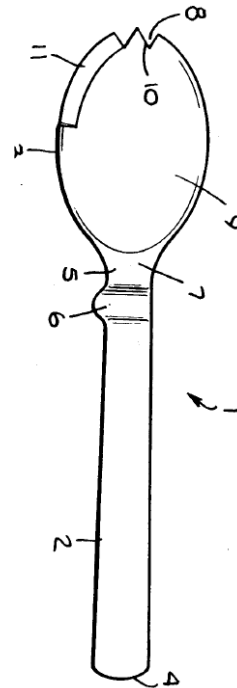
Kent



Wilson



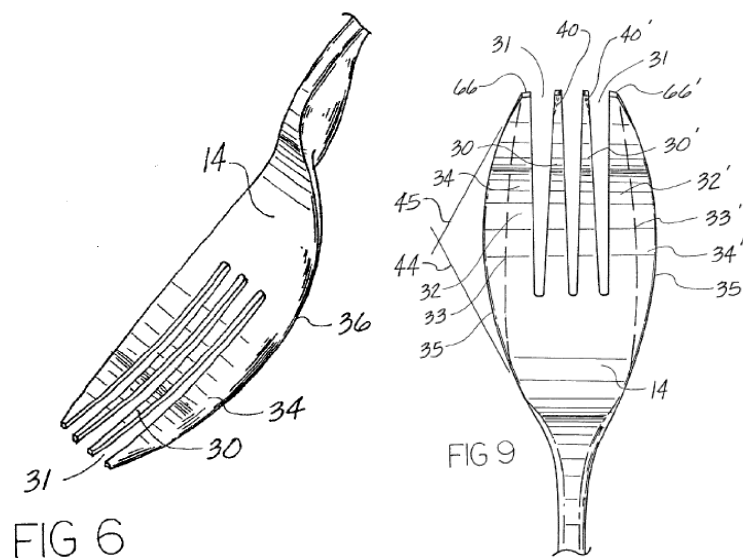
Albanese



The base reference relied upon in ground 3 (Kent) shows a single headed utensil having a spoon bowl portion 4, fork prongs 1, and a blunted knife edge 2 that extends along a curved side edge of the utensil. Both the Albanese and Wilson references include each of these elements as well. Thus, the Kent reference is also highly cumulative of art that was not only known and considered by Examiner Prone during prosecution of the subject '629 patent, but also originally identified by Examiner Prone.

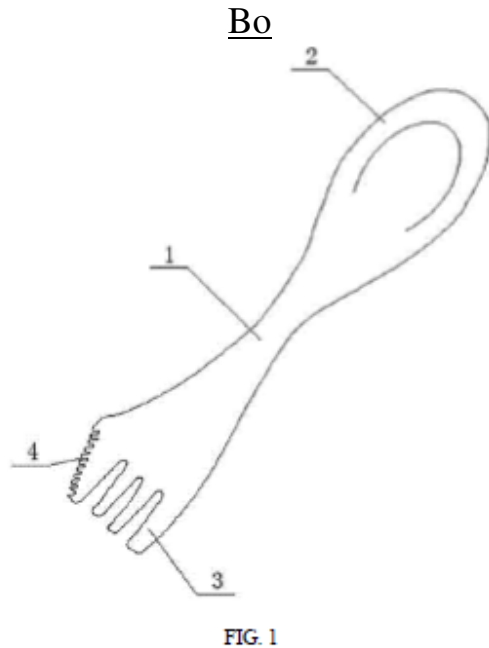
Vanderputt

In Ground 3, Vanderputt is used only for its teaching of a beveled fork head – with the assertion that it would be obvious to modify Kent with the oblique beveled edge of Vanderputt. This element is intended to address a concern that Kent may not disclose a chamfer that is oblique in relation to the curved side surface. Fig. 6 of the Miller reference, (which was the primary reference relied upon by the Examiner during prosecution of the subject ‘629 patent) clearly shows that the blade edge 36 is oblique in relation to the curved outer edge 35 of the fork head. Note, the different shading of the “blade” portion of Fig. 6 relative to the remainder of the tine.



Thus, for the purposes used in the Petition, Vanderputt is cumulative of art that was well known to Examiner Prone during prosecution of the subject ‘629 patent.

The Petition acknowledges that neither Kent nor Vanderputt disclose a utensil having distinct spoon and fork heads on opposite end of a handle. Thus, the Petition relies on Chinese Patent Application No. 103504965 (Bo) as teaching a two headed spork. However, Bo appears to be a near copy of the well-known Light-My-Fire spork (referred to as LMFS) that Petitioner previously sold and which was not only considered by Examiner Prone, but was applied as a secondary reference in some of the rejections made during prosecution of the ‘629 patent. *See, e.g., Section 9 (pages 7 & 8) and sections 13-21 (pages 10-20) of the Office Action dated April 19, 2019 - Exhibit 1003, pages 165-166 and 168-178.* Thus, Bo is also highly cumulative of art considered during prosecution of the ‘629 patent.



Light-My-Fire Spork¹



In view of the foregoing, it is clear that: (1) the Kent, Vanderputt and Bo references proffered in Ground 3 are each highly cumulative of art that was known, understood and considered by Examiner Prone during prosecution of the '629 patent; and (2) Ground 3 of the Petition does not demonstrate a reasonable likelihood that

¹ The Light-My-Fire spork is referenced twice on the face of the '629 patent and the image shown is taken from the cited reference: Light My Fire Spork Medium BPA-Free Tritan Spork with Full-Sized Spoon, Fork and Serrated Knife Edge, Dec. 2, 2009; https://www.amazon.com/Light-Fire-BPA-Free-Full-Sized-Serrated/dp/B00B5A2YX0/ref=sr_1_2_sspa?ie=UTF8&qid=1544804816&sr=8-2-spons&keywords=light+my+fire+spork&psc=1 Note that the image is rotated to match the orientation of the image in the Bo reference.

any of the challenged claims are unpatentable. Therefore, pursuant to 37 CFR 42.108(c), Count 3 does not provide a basis for instituting the requested *inter partes* review.

5.4. The Art Relied on in Ground 4 – Torode/CFL Fork/Nelson – is highly cumulative of art considered during prosecution of the ‘629 patent

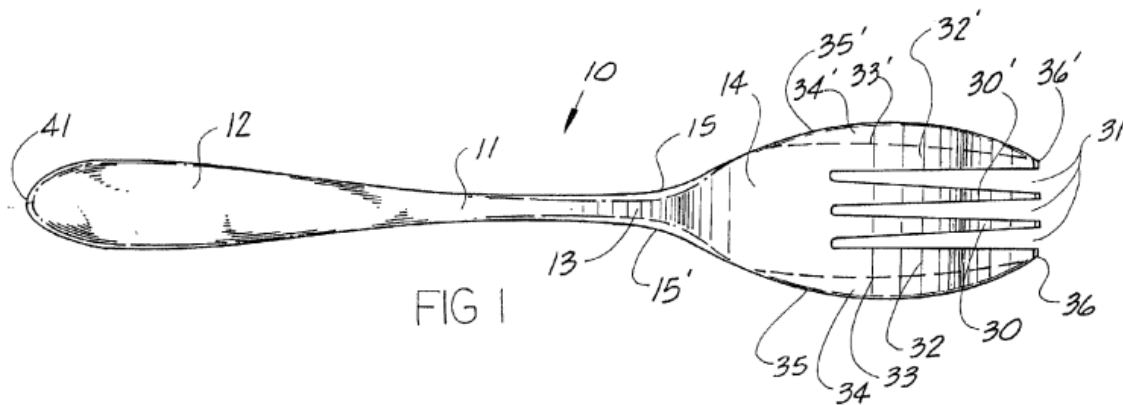
Ground 4 of the Petition alleges that all of the claims of the ‘629 patent are obvious based on the combination of U.S. Patent No. 2,318,129 (Torode) (*Exhibit 1009*); a publication referred to as the CFL Oyster Fork (*Exhibit 1010*); and U.S. Patent No. 2,318,129 (Nelson) (*Exhibit 1011*).

The primary Torode reference was explicitly considered by the Examiner during prosecution of the ‘629 patent. Specifically, Torode was cited in the IDS filed December 7, 2018 (*Exhibit 1003, page 262*) and considered on April 15, 2019 (*Exhibit 1003, page 184*).

The Petition attempts to diminish the weight of the Examiner’s perception of the Torode reference by pointing out that in the subject case, Torode was cited as part of an IDS that included 149 other references. (*Paper 2, page 21*). The Petition fails to mention that **the Torode reference was actually first cited by the Examiner (not the applicant) in the very first Office Action in the Humangear Patent Family**. Specifically, in the list of references cited by the Examiner in the

Office Action dated October 15, 2015 (*Exhibit 2004, Page 94*). It is noted that in the list of references cited by the Examiner in first Office action in the Humangear patent family, the Examiner took the unusual step of citing 71 references having a large number of different features. This shows that the Examiner had a very good understanding of the art in the crowded eating utensils field of endeavor. Regardless, the primary Torode reference was explicitly considered during prosecution of the '629 patent.

The CFL Oyster Fork (*Exhibit 1010*) is cited as teaching of a fork head having a chamfer on a curved side surface. This is highly cumulative of the Miller reference – U.S. Patent Publication No. 2003/00110644 which was the primary reference utilized during prosecution of the subject '629 patent. Specifically, both include fork heads with curved outer edges with a sharpened wider outer tine. Both are curved upward towards their distal tip, but neither have a concave fork bowl portion or a separate spoon head.



CFL Oyster Fork



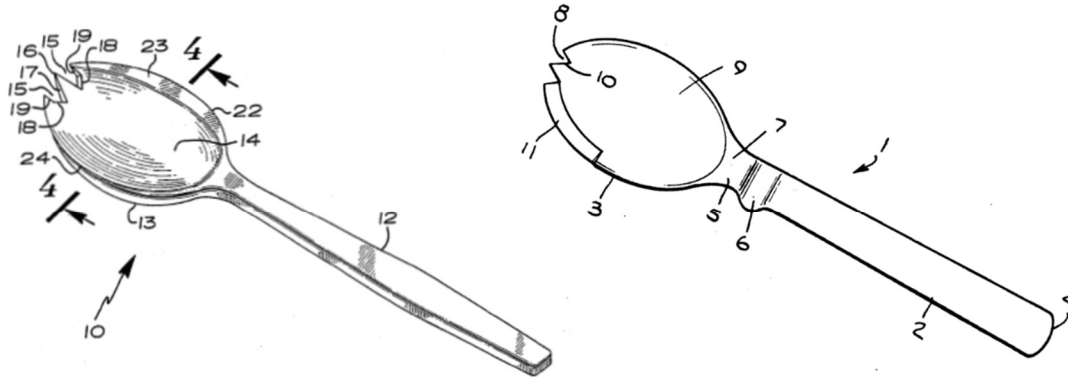
In the Petition, the CFL Oyster is cited as teaching a fork head having a sharpened surface that extends along a curved side surface of the fork head including the outer tine to form a curved splitting feature. This is exactly what was shown in the primary Miller reference relied upon by the Examiner during prosecution of the subject '629 patent. Thus, the CFL Oyster fork is merely cumulative of art explicitly considered by Examiner Prone during prosecution of the subject '629 patent.

The third reference relied upon by the Petitioner in Ground 4 is Nelson's U.S. Patent No. 4,535,538 (*Exhibit 1011*). The Nelson reference is another combination

utensil having a single head that is designed to function as a spoon, fork and knife. The utensil includes a concave “scoop” (spoon bowl) with a plurality of tines on its distal end. One edge of the scoop has a bevel edge 23 along its entire length.

In Ground 4, the Petitioner appears to acknowledge that the combination of Torode and the CFL Oyster Fork would not include the required “concave fork bowl” as required in all of the claims of the subject ‘629 patent. However, the Petition asserts that it would have been obvious to further modify the Torode/CFL Oyster Fork combination to incorporate the bowl basin 14 formed by concavo-convex scoop 13 shown in Nelson.

Like Kristiansson, the Nelson reference is highly cumulative of the Albanese reference - U.S. Patent No. 4,984,367 (*Exhibit 2012*) which is reproduced below beside Nelson for reference. Especially for the stated purpose of showing a spoon head having a bowl portion together with a distal tine.



In view of the foregoing, it is clear that each of the three references relied upon by the Petitioner in Ground 4 are either a reference that was explicitly considered by the Examiner (Torode) or merely cumulative of art considered by the Examiner during prosecution of the '629 patent (CFL Oyster Fork and Nelson). More specifically:

- 1) the CFL Oyster Fork reference is cumulative of Miller which was the primary reference utilized during prosecution of the subject '629 patent; and
- 2) the Nelson reference is cumulative of Albanese reference which was applied in rejections made during prosecution of the immediate parent of the '629 patent – i.e., the '175 application.

6. THE PETITION DOES NOT IDENTIFY OR DEMONSTRATE A MATERIAL ERROR MADE BY THE EXAMINER DURING PROSECUTION

As summarized in Section 3 of this Preliminary response, when the art relied upon in a Petition for *inter partes* review is the same or cumulative of art that was considered during prosecution of the challenged patent, the petitioner must demonstrate that the Office erred in a manner material to the patentability of the challenged claims. *Advanced Bionics* at 8–9. In this case the Petition does not assert that a material error was made by the Examiner during prosecution, and makes no effort to even address the material error requirement. Rather, in each of the 4 asserted Grounds, the Petitioner simply proposes a different combination of references that are entirely cumulative of art considered during prosecution of the ‘629 patent and alleges that various claims of the subject ‘629 patent are obvious in view of the proposed combinations. By failing to point out any material errors made by the Office during prosecution of the ‘629 patent, the Petition fails to meet the standard articulated in *Advanced Bionics* to support institution of an *inter partes* review. In view of the foregoing, in accordance with its precedence, the Board should deny institution of the requested *inter partes* review of the subject U.S. Patent No. 10,555,629 for at least this reason.

**7. THE PETITION DOES NOT DEMONSTRATE A REASONABLE
LIKELIHOOD THAT AT LEAST ONE OF THE CHALLENGED
CLAIMS IS UNPATENTABLE**

The Petitioner asserts that the combinations set forth in claims 1-23 of the ‘629 patent are all obvious in view of various combinations of prior art. These assertions effectively propose that taken in isolation, each individual element of the claims can be found in some type of prior eating utensil and that therefore the claimed combinations are merely “design choices” that any person of ordinary skill in the art could have magically come up with. There are several flaws with this assertion. Initially, there is nothing in the references relied upon themselves that would motivate those skilled in the art to design an eating utensil (i.e., a spork) with the claimed combination of features.

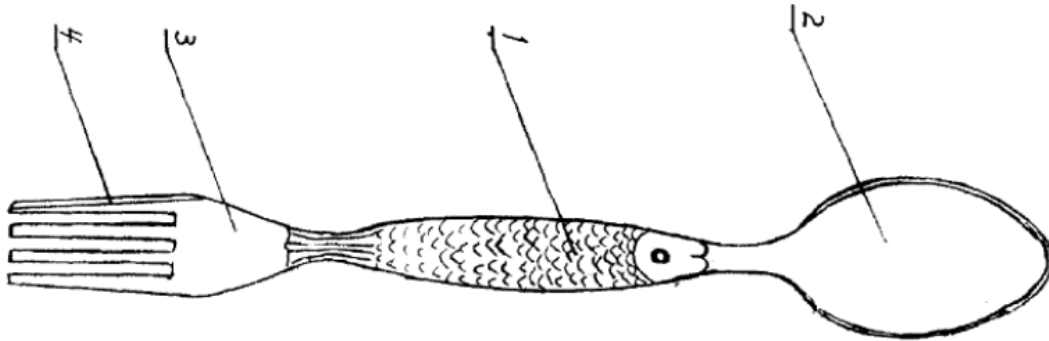
Further, as discussed above in Section 5, all of the art relied on in the various Grounds is highly cumulative of the art that was before the Examiner, making it clear from the record that during prosecution, the Examiner was aware of (and had in front of him) art showing each of the various claim features in isolation. Thus, the Petitioner simply disagrees with the determination of patentability made by the Examiner (a) without identifying any more relevant prior art than reviewed by the Examiner, (b) without showing that the Examiner misunderstood the scope and/or content of the prior art, and (c) without alleging material errors made by the Examiner.

Spoons, forks, knives, and combination utensils have been around for literally hundreds of years. The Examiner explicitly considered well over two hundred references and was undoubtedly exposed to hundreds more. The patentee and/or their retained expert appear to have commissioned searches that undoubtedly exposed hundreds more, with the expert report submitted by the Petitioner (*Exhibit 1002*) alone referencing dozens of prior art utensils. Yet in all that searching by the Office and on behalf of the Petitioner – no one has identified any reference that provides the unique combinations of features recited in the independent claims of the subject ‘629 patent – despite the fact that taken in isolation, each element can be found in some prior art utensil. That is strong evidence that the claimed combinations were far from obvious to those of ordinary skill in the relevant utensils art.

Some of the failings of the asserted Grounds are discussed next.

7.1. The Petition fails to demonstrate a reasonable likelihood that any of claims 1-23 are rendered obvious by Feng (Ground 1)

The only image provided in the Feng reference is reproduced below.



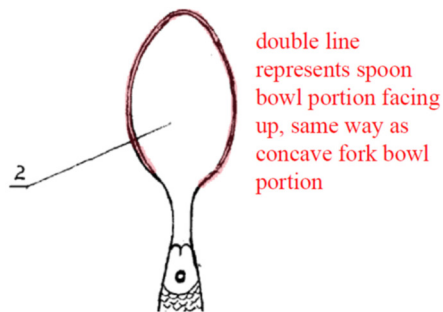
Independent Claim 1

As is apparent from the figure, the Feng reference lacks several elements of claim 1, for example, Feng does not disclose or reasonably suggest any of:

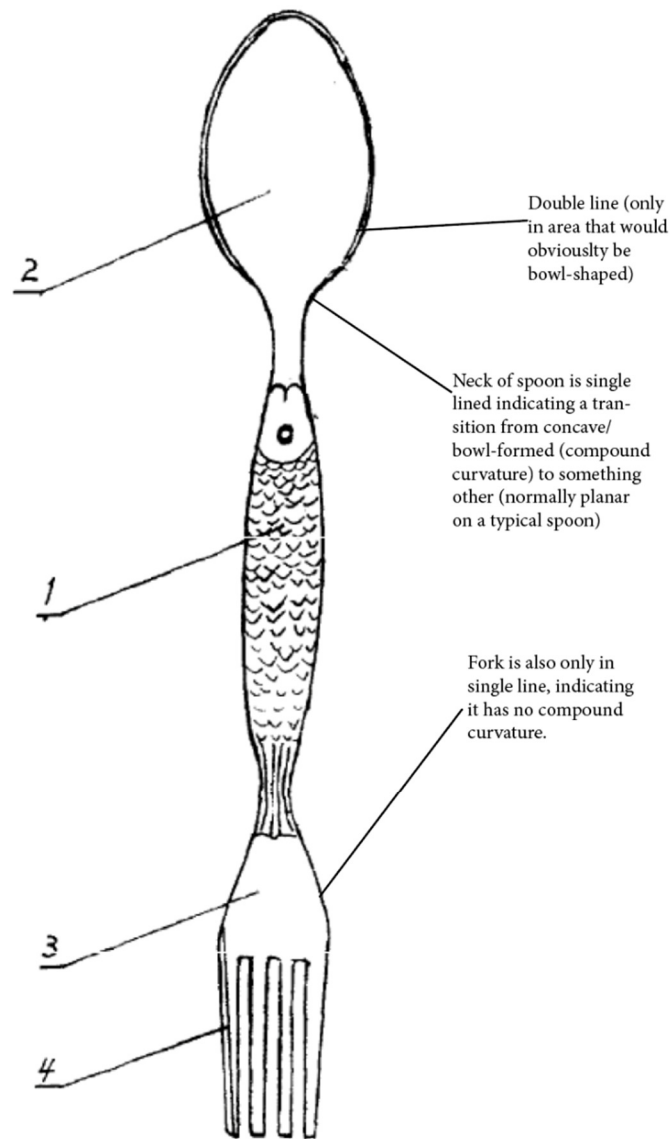
- (i) a fork head having a **concave bowl portion**;
- (ii) an outer one of the tines and concave fork bowl portion defining a chamfer and a curved side surface;
- (iii) a curved splitting feature.

Feng does not provide a side view, and therefore it is unclear whether the back portion of the fork is planar or curved in one dimension. Regardless, it is clear that the fork head does not have a concave bowl portion as required by claim 1. In the Petition, the Petitioner points to the curvature in the neck region (between the handle 1 and back of the fork head 3) as allegedly “consistent with” the fork head 3 being a

concave fork bowl. Such an assertion is clearly misleading. The fork head shown in the Feng reference does not have any surface shading or edge lining that even remotely suggests the presence of a concave fork bowl. Double edge lines are shown on the periphery of spoon head to suggest that the spoon bowl has a concave shape. This point is even highlighted in the Petition as can be seen in the image below taken from the Petition (*see, Paper 2, page 28*).



As can be seen in the image below, no such double edge lines are used on the fork head which makes it very clear that Feng does not teach a concave fork bowl despite the assertion in the Petition to the contrary.



The Petition appears to acknowledge the weakness of this argument by asserting in Ground 2 that it would be obvious to modify Feng to include a concave bowl. Since that combination is a separate asserted Ground, the inappropriateness of that combination will be discussed below in the response to the second asserted Ground.

Claim 1 requires that an outer one of the tines and the concave fork bowl portion define a curved side surface. That is, the curvature of the fork head must extend both along the tine and along a fork bowl portion. In contrast, the side edges of Feng's outer tines are straight. Thus, Feng does not include the claimed curved side surface.

Still further, Feng's blade 4 is substantially straight. At a minimum, the side edge of the outer tine on which the corresponding portion of blade extends is straight – not curved as required by claim 1. Thus, there is no curved splitting feature that is formed on the outer tine and concave fork bowl portion as required by claim 1.

For at least the reasons set forth above, it is clear that Feng lacks several elements of claim 1 and that Feng alone would not have remotely motivated persons of ordinary skill in the art to create a spork having the combination of elements set forth in claim 1. As such, Ground 1 in the Petition does not establish a reasonable likelihood that claim 1 is unpatentable.

Independent Claim 8

The Feng reference also lacks several elements of claim 8, for example, Feng does not disclose or reasonably suggest any of:

- (i) a fork head having a **concave fork bowl** portion;

- (ii) a first outer one of **the tines and the concave fork bowl portion defining first curved side surface**;
- (iii) a first chamfer extending along the curved first outer tine and concave fork bowl portion to define a first **curved splitting feature**;
- (iv) a eating utensil formed from a glass filled nylon thermoplastic material;
- (v) a second outer one of **the tines and the concave fork bowl portion defining second curved side surface**;
- (vi) a second chamfer extending along the curved second outer tine and concave fork bowl portion to define a **second curved splitting feature**;

Distinctions (i) – (iii) are generally similar to the distinction (i)-(iii) discussed above with respect to claim 1. Therefore, the Ground 1 does not establish a reasonable likelihood that claim 8 is unpatentable for at least the same reasons discussed above in the discussion of claim 1.

Furthermore, claim 8 requires that the eating utensil be formed from a glass filled nylon thermoplastic material. Feng contemplates forming his utensil by casting a plastic material, but does not even remotely suggest the use of a glass-filled nylon. In support of their assertion of obviousness, the Petition points to a passage from the Smith Declaration – specifically Exhibit 1002 at ¶212, which essentially make an unsupported assertion that “it would be obvious for a POSITA to try glass reinforced plastic as an alternative...”. Initially, it is pointed out that claim 8 requires

use of a glass filled nylon thermoplastic material – not merely a glass reinforced plastic as referred to in the declaration. Furthermore, the Smith declaration makes reference to dozens of prior art utensils and the Petitioner’s representatives presumably reviewed hundreds of prior art utensils and combination utensils. The fact that they were unable to identify any prior art utensils whatsoever that utilized a glass-reinforced plastic material, much less the claimed glass-filled nylon is strong evidence of the non-obviousness of this material selection – particularly given the increased structural strength and stiffness provided by glass-filled nylon as pointed out at Col. 6, lines 21-26 of the ‘629 patent (Exhibit 1001, Page 30). Therefore, Ground 1 does not establish a reasonable likelihood that claim 8 is unpatentable for this additional reason as well.

Still further, claim 8 requires that the outer tines/fork bowl portions on both sides of the fork head must have the curved and chamfered splitting features. Although Feng does suggest that one or two sides of the fork head may include a blade 4, the second blade, like the first would not extend along a curved second outer edge of the second tine and fork bowl portion as required by claim 8 and would not form a second curved splitting feature as required by claim 8. Therefore, Ground 1 does not establish a reasonable likelihood that claim 8 is unpatentable for this additional reason as well.

Independent Claim 9

Independent claim 9 has a scope somewhat similar to claim 1, although it differs from claim 1 in that it refers to a utensil having first and second heads on opposite ends of the handle rather than explicitly referring to the heads as fork and spoon heads respectively.² Thus, as relevant to the asserted Ground 1, the Petition does not establish a reasonable likelihood that claim 9 is unpatentable over the Feng reference. Similarly to claim 1, the Feng reference does not disclose or reasonably suggest any of:

- (i) a second head having **tines** and a **first concave bowl** portion;
- (ii) an outer one of **the tines and the first concave bowl portion defining first curved side surface**;
- (iii) a chamfer extending along the curved first outer tine and first concave bowl portion to define a first **curved splitting feature**;

Distinctions (i) – (iii) are generally similar to the distinction (i)-(iii) discussed above with respect to claim 1. Therefore, the Petition does not establish a reasonable

² A certificate of correction was entered that corrected inconsistencies in line 19 of claim 9 that referred the fork and spoon heads as opposed to the first and second heads. See, e.g., Exhibit 1001, page 35.

likelihood that claim 9 is unpatentable for at least the same reasons discussed above in the discussion of claim 1.

Independent Claim 15

Independent claim 15 is generally broader than independent claim 1 in that it is directed at a utensil having a fork head on a handle rather than requiring spoon and fork heads on coupled by the handle. However, each of the three elements of claim 1 discussed above that are missing from Feng, are also required by independent claim 15. More specifically, Feng does not disclose or reasonably suggest any of:

- (i) A fork head having a **concave bowl portion**.
- (ii) An outer one of the tines and concave fork bowl portion defining a chamfer and a curved side surface.
- (iii) A curved splitting feature.

Distinctions (i) – (iii) are generally similar to the distinction (i)-(iii) discussed above with respect to claim 1. Therefore, Ground 1 does not establish a reasonable likelihood that claim 15 is unpatentable for at least the same reasons discussed above in the discussion of claim 1.

7.2. The Petition fails to demonstrate a reasonable likelihood that any of claims 1-23 are rendered obvious by Feng in view of Kristiansson (Ground 2)

Several of the failings of the Feng reference are pointed out in the discussion of Ground 1 above. Apparently perceiving the deficiencies of their argument relative to Ground 1, Petitioner offers Kristiansson as a secondary reference. The Kristiansson reference is a single headed utensil that serves as a combination spoon, fork and knife. The utensil head is fashioned as a spoon bowl with a couple of central tines and a chamfered blade along one edge of the spoon bowl.

Realizing that Feng lacks several features required by claim 1, Petitioner effectively asserts in Ground 2 that it would have been obvious to modify the fork back of Feng to: (i) form a concave fork bowl portion; and (ii) provide a curved side surface based on the teachings of Kristiansson and because of allegedly “known advantages of a fork that functions similarly to a spoon and because curved side surfaces are known to improve cutting.”

The Petition does not point to any teaching in either Feng or Kristiansson themselves that would motivate a person of ordinary skill in the art to make the proposed combination. The Petition also fails to explain why one of ordinary skill in the art would be motivated to provide a concave fork bowl portion on the Feng fork head when Feng’s utensil has a separate spoon head. Rather, the alleged motivation is effectively simply that taken individually, various claim elements are

known in the art and therefore the claimed combination is merely “a matter of design choice.”

The arguments proffered for Ground 2 in the Petition are no better for any of the other independent claims 8, 9, or 15. In each case the Petition and the accompanying expert declaration effectively asserts that it would be a simple “matter of design choice” to combine Feng and Kristiansson to meet similar claim limitations. The arguments are even more superficial for some of the other claim elements – for example independent claim 8 requires that the eating utensil be formed from a glass filled nylon thermoplastic resin (which as described in the specification is particularly suitable for its increased structural strength and stiffness – *see, e.g., Col. 6, lines 21-27 of the ‘629 patent – Exhibit 1001, page 30*). The Petitioner wasn’t even able to identify another utensil made from a glass filled nylon thermoplastic, much less articulate why a person of ordinary skill in the art would be motivated to select the use of a glass filled nylon out of the plethora of available thermoplastic and other materials as the material to be used to form the Feng silverware.

As stated above, spoons, forks, knives, and combination utensils have been around for literally hundreds of years. The Examiner explicitly considered over two hundred references and was undoubtedly exposed to hundreds more. The patentee and/or their retained expert appear to have commissioned searches that undoubtedly

exposed hundreds more, with the expert report (*Exhibit 1002*) alone referencing dozens of prior art utensils. Yet in all that searching by Office and on behalf of the Petitioner – no one has identified any reference that provides the unique combination of features recited in claim 1 of the subject ‘629 patent – despite the fact that taken in isolation, each element can be found in some prior art utensil. That is strong evidence that the combination of claim 1 was far from obvious to those of ordinary skill in the relevant utensils art.

As should be apparent from the discussion of the cumulateness of the Feng and Kristiansson references set forth in Section 5.2 as well as the plethora of art cited by the Examiner during prosecution of the Humangear Patent Family, the Examiner was well aware of the existence of the various features in isolation. Thus, the Petition simply disagrees with the determination of patentability made by the Examiner without identifying any more relevant prior art than reviewed by the Examiner, without showing that the Examiner misunderstood the scope and/or content of the prior art, and without alleging material errors made by the Examiner. As such, the Petition has not met its burden of showing that there is a reasonable likelihood that at least one of the claims challenged in the Petition is unpatentable.

7.3. The Petition fails to demonstrate a reasonable likelihood that claims 1-3, 7-13, 15, 16, 22 and 23 are rendered obvious by Kent in view of

Vanderputt and Bo (Ground 3) OR that claims 1-23 are rendered obvious by Torode in view of CFL Fork and Nelson (Ground 4)

Although the specific combination of references asserted in Grounds 3 and 4 are different than the references relied on in Grounds 1 and 2, as shown above in Sections 5.3 and 5.4, the art relied on in those Grounds is no more relevant (and realistically less relevant) than the prior art reviewed by the Examiner. The Petition fails to provide any compelling showing of a motivation that would cause a person of ordinary skill in the art to make the combinations the references in a manner that would read on any of the claims on the ‘629 patent. The Petition also fails to show that the Examiner misunderstood the scope and/or content of the prior art. Thus, neither Ground 3 nor Ground 4 of the Petition demonstrate that there is a reasonable likelihood that at least one of the claims in the ‘629 patent is unpatentable.

8. CONCLUSION

The Petition relies entirely on art that is cumulative to art considered by Examiner Prone during prosecution of the ‘629 patent. Stated another way, the art relied on in the various Grounds is no more relevant (and realistically less relevant) than the prior art reviewed by the Examiner during examination. The Petition fails to show that the Examiner misunderstood the scope and/or content of any of the prior art. The Petition doesn’t even allege, much less identify any material errors made by the Examiner as required by the Board’s precedent under *Advanced Bionics*. For

all of these reasons, the Petition fails to demonstrate that there is a reasonable likelihood that at least one of the claims in the '629 patent is unpatentable. Since the Petitioner has failed to meet its burden of showing that there is a reasonable likelihood that at least one of the claims is unpatentable, the requested *inter partes* review should not be instituted pursuant 37 CFR 42.108 (c).

Respectfully submitted,

/Steve D Beyer/

Steve D Beyer
Registration No. 31,234

BEYER LAW GROUP LLP
Attorneys for Patent Owner

CERTIFICATE OF COMPLIANCE

I hereby certify that this paper complies with the type-volume limitation of 37 C.F.R. § 42.24 because it contains 8121 words (as determined by the Microsoft Word word-processing system used to prepare this brief), excluding the parts of the paper exempted by 37 C.F.R. § 42.24 (b).

By: /Steve D Beyer/

Steve D Beyer

Registration No. 31,234

CERTIFICATION OF SERVICE (37 C.F.R. §§ 42.6(E), 42.105(A))

The undersigned hereby certifies that a copy of the foregoing **PATENT OWNER HUMANGEAR, INC's PRELIMINARY RESPONSE** was served on September 25, 2023 via email directed to counsel of record for the Petitioner at the following:

Kevin S. Costanza (Reg. No. 37,801)
SEED IP LAW GROUP LLP
KevinCo@seedip.com

Bradley J. Zentz (Reg. No. 76,666)
SEED IP LAW GROUP LLP
BradZ@seedip.com

LitStaff@seedip.com

CC to: Robert Payne
payne@bobpayne.com

CC to: Patrick Benedicto
pbenedicto@beyerlaw.com

Date: September 25, 2023

By: /Steve D Beyer/

Steve D Beyer
Registration No. 31,234
Beyer Law Group LLP
2595 E. Bayshore Road, Suite 100
Palo Alto, CA 94303
Telephone: (650) 842-1300
Fax: (650) 842-1301
sbeyer@beyerlaw.com