IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SHARKNINJA OPERATING LLC and SHARKNINJA SALES COMPANY, Plaintiffs, v. DYSON, INC. and DYSON TECHNOLOGY LIMITED, Defendants.	C.A. No. 1:23-cv-11277 **JURY TRIAL DEMANDED**

ANSWER AND COUNTERCLAIM TO COMPLAINT FOR DECLARATORY JUDGMENT

Dyson, Inc. and Dyson Technology Limited (collectively, "Dyson") through their undersigned attorneys respond to the allegations in Plaintiffs' Complaint for Declaratory Judgment as follows:

NATURE OF ACTION

Paragraph No. 1: This is an action for declaratory judgment, seeking a declaration of noninfringement with respect to U.S. Patent No. 11,044,979 ("the '979 patent") (Ex. A) under the patent laws of the United States, 35 U.S.C. § 100 et seq., and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202. By this action, SharkNinja seeks to resolve an actual, immediate, and substantial controversy with Dyson as to the '979 patent.

Answer to Paragraph No. 1: Dyson admits that SharkNinja Operating LLC and SharkNinja Sales Company (collectively, "SharkNinja") have filed a complaint seeking a declaration of noninfringement with respect to U.S. Patent No. 11,044,979 ("the '979 Patent"). SharkNinja infringes the '979 Patent, as set forth herein, and Dyson admits that SharkNinja's infringement causes an actual, immediate, and substantial controversy. The remainder of this

SharkNinja Ex. 1012
SharkNinja Inc. et al., v. Dyson Technology Limited.
IPR2024-00993
Page 1 of 442

paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

THE PARTIES

Paragraph No. 2: Plaintiff SharkNinja Operating LLC is a limited liability company organized and existing under the laws of Delaware, having a principal place of business at 89 A Street, Suite 100, Needham, Massachusetts 02494. SharkNinja has been based in Massachusetts for almost 20 years, moving its headquarters from Montreal, Canada to Massachusetts in 2003. Its current headquarters in Needham, Massachusetts, pictured below, house over 750 employees, including research and development, sales, marketing and corporate leadership personnel. SharkNinja's Massachusetts headquarters are home to a vast number of its employees and operations.

Answer to Paragraph No. 2: Dyson admits that SharkNinja Operating LLC is a limited liability company organized and existing under the laws of Delaware, having a principal place of business at 89 A Street, Suite 100, Needham, Massachusetts, 02494. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 3: Plaintiff SharkNinja Sales Company is a Delaware Corporation organized and existing under the laws of Delaware, having a principal place of business at 89 A Street, Suite 100, Needham, Massachusetts 02494.

Answer to Paragraph No. 3: Admitted.

Paragraph No. 4: Upon information and belief, Defendant Dyson, Inc. is a corporation organized and existing under the laws of the State of Illinois, having a principal place of business at 600 W. Chicago Avenue, Suite 275, Chicago, IL 60654.

Answer to Paragraph No. 4: Dyson, Inc. admits that it is a corporation organized and existing under the laws of the state of Illinois. Dyson, Inc. denies that its principal place of business is 600 W. Chicago Avenue, Suite 275, Chicago, IL 60654. Except as specifically admitted herein, Dyson, Inc. denies the remaining allegations of paragraph 4.

Paragraph No. 5: Upon information and belief, Defendant Dyson Technology Limited is a limited company organized and existing under the laws of the United Kingdom, having a principal place of business at Tetbury Hill, Malmesbury, Wiltshire, United Kingdom, SN16 0RP.

Answer to Paragraph No. 5: Dyson Technology Limited admits that it is a private limited company organized and existing under the laws of England and Wales, with its principal place of business at Malmesbury, SN16, 0RP, United Kingdom. Except as specifically admitted herein, Dyson Technology Limited denies the remaining allegations of paragraph 5.

Paragraph No. 6: Upon information and belief, Dyson UK is the current assignee of the ’979 Patent.

Answer to Paragraph No. 6: Dyson admits that the ’979 Patent is legally and correctly assigned to Dyson Technology Limited, which owns all rights, title, and interest in and to same.

Paragraph No. 7: Dyson sent SharkNinja a letter on May 31, 2023 entitled “Notice of Infringement of U.S. Patent No. 11,044,979” on behalf of both Dyson US and Dyson UK, suggesting that Dyson US also has rights in the ’979 patent. SharkNinja thus names Dyson US in this Complaint out of an abundance of caution to include all potential right-holders in the ’979 Patent.

Answer to Paragraph No. 7: Dyson admits that on May 31, 2023, Dyson, Inc. and Dyson Technology Limited sent a letter to SharkNinja Operating LLC and SharkNinja Sales Co. regarding SharkNinja's ongoing infringement of Dyson's '979 Patent. Dyson further admits that Dyson, Inc. is the exclusive U.S. distributor of Dyson hair stylers, including the Dyson Airwrap® multi-styler, accessories, and parts in the United States. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

JURISDICTION AND VENUE

Paragraph No. 8: This Court has subject matter jurisdiction over SharkNinja's Declaratory Judgment Complaint under 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202. As explained below, there is a definite, concrete, and substantial controversy between the parties, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment

Answer to Paragraph No. 8: Dyson admits that this Court has subject matter jurisdiction over SharkNinja's complaint under 28 U.S.C. §§ 1331, 1338, 2201, and 2202. Dyson admits that there is a definite, concrete, and substantial controversy between the parties of sufficient immediacy and reality to warrant relief but denies that SharkNinja is entitled to any such relief. Instead, as detailed herein, Dyson is entitled to relief for SharkNinja's infringement of the '979 Patent. Except as specifically admitted herein, Dyson denies the remaining allegations of paragraph 8.

Paragraph No. 9: This Court has personal jurisdiction over Dyson because Dyson has not only directed communications to SharkNinja in this District threatening legal action against SharkNinja but also has consciously and purposely engaged in actions to avail itself of the jurisdiction of this District, including that it has regularly and systematically transacted business in

this District and that it indicated in this District its intention to assert its rights under the '979 patent by pursuing claims of infringement against SharkNinja. Dyson's purposeful actions include sending a letter dated May 31, 2023 to SharkNinja at its headquarters at Needham, Massachusetts, which is in this District, accusing SharkNinja of infringing the '979 Patent. Dyson's May 31, 2023 letter did not offer a license and, instead, sought "a prompt but graceful exit of the Shark FlexStyle™ Air Styling and Drying System from the U.S. market," including in particular this District where SharkNinja has substantial sales, substantial offers for sale, and substantial promotional activity relating to the Shark FlexStyle™ Air Styling and Drying System. For example, SharkNinja designs and tests the Shark FlexStyle™ Air Styling and Drying System in this District, and its US sales and marketing organizations for the product are also located in this District.

Answer to Paragraph No. 9: Denied.

Paragraph No. 10: In addition, on information and belief, Dyson also maintains a Service Center for its products at 162 Cordaville Road, Suite 160, Southborough, MA 01772 ("Southborough Service Center"), which it markets on its website at https://www.dyson.com/support/service-centers/southborough. On information and belief, the Southborough Service Center is a physical location operated by Dyson, as shown below:

Answer to Paragraph No. 10: Dyson admits that a Dyson Service Center is located at 162 Cordaville Road, Suite 160, Southborough, MA 01772. Dyson admits that https://www.dyson.com/support/service-centers/southborough is a website for this Dyson Service Center. Except as specifically admitted herein, Dyson denies the remaining allegations of paragraph 10.

Paragraph No. 11: The Southborough Service Center also maintains a Facebook page at https://www.facebook.com/DysonServiceCenterMarlborough/. The Southborough Service

Center's Facebook page has advertised Dyson hair care products that, according to Dyson's May 31, 2023 letter, use technology disclosed in the '979 patent, including the Dyson Airwrap™ hair styling product since at least 2020, as shown below:

Answer to Paragraph No. 11: Dyson admits that https://www.facebook.com/DysonServiceCenterMarlborough/ is the Facebook page for the Dyson Service Center located in Southborough, MA. Dyson admits that the screen shots in paragraph 11 can be found at this Facebook page. Dyson admits that the Dyson Airwrap® uses technology disclosed and claimed in the '979 Patent. Except as specifically admitted herein, Dyson denies the remaining allegations of paragraph 11.

Paragraph No. 12: On information and belief, customers can purchase Dyson hair care products that, according to Dyson's May 31, 2023 letter, use technology disclosed in the '979 patent, including the Dyson Airwrap™ hair styling product, at the Southborough Service Center, which also promotes cross-selling opportunities and services to existing customers to promote sales.

Answer to Paragraph No. 12: Dyson admits that the Dyson Airwrap® includes technology disclosed and claimed in the '979 Patent. Dyson further admits that end-customers can purchase the Dyson Airwrap® hair styling product at the Southborough Service Center. Except as specifically admitted herein, Dyson denies the remaining allegations of paragraph 12.

Paragraph No. 13: On information and belief, customers also can purchase Dyson hair care products that, according to Dyson's May 31, 2023 letter, use technology disclosed in the '979 patent, including the Dyson Airwrap™ hair styling product, throughout the District, including at stores such as Best Buy (available at South Bay Center location in Dorchester, MA and stores in Braintree, Mansfield, Dedham, Watertown, Everett, Dorchester, and Saugus),

Sephora (available at Sephora Cambridgeside location in Cambridge, MA, Sephora North Street location in Boston, MA, Sephora in Braintree, MA and Sephora in Burlington, MA), Neiman Marcus (available at Copley Place location in Boston, MA), Nordstrom (available at Natick, MA location and Burlington, MA location), and Ulta Beauty (available at South Bay Expansion location in Dorchester, MA Gateway Center location in Everett, MA, and stores in Braintree, Foxborough, Northborough, Hudson, and Bellingham). On information and belief, Dyson has substantial sales, substantial offers for sale, and substantial promotional activity relating to the Dyson Airwrap™ in the District.

Answer to Paragraph No. 13: Dyson admits that the Dyson Airwrap® includes technology disclosed and claimed in the '979 Patent. Dyson further admits that end-customers also purchase Dyson hair care products, including the Dyson Airwrap® hair styling product at stores such as Best Buy, Sephora, Neiman Marcus, Nordstrom, and Ulta Beauty. Except as specifically admitted herein, Dyson denies the remaining allegations of paragraph 13.

Paragraph No. 14: Dyson also has previously availed itself of the District by bringing litigation in the District, including against SharkNinja's predecessor—Euro-Pro Operating LLC. *See Dyson Inc. v. Euro-Pro Operating LLC*, C.A. No. 1:09-cv-11745-WGY (D. Mass.) (false advertising and unfair business practices).

Answer to Paragraph No. 14: Dyson admits that it previously filed the Complaint in the case *Dyson Inc. v. Euro-Pro Operating LLC*, C.A. No. 1:09-cv-11745-WGY (D. Mass.). The remainder of the allegations in this paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 15: The actions set forth above bear a direct connection to, and form the basis for, SharkNinja's claims against Dyson and have created a real, live, immediate, and justiciable case or controversy between SharkNinja and Dyson. Dyson has asserted rights under a patent based on certain identified ongoing or planned activity of SharkNinja, and SharkNinja contends that it has the right to engage in the accused activity without license. In addition, SharkNinja now reasonably apprehends a patent infringement lawsuit by Dyson. The details relating to Dyson's actions to create this controversy are described in further detail in the Factual Background section below, which are incorporated by reference here

Answer to Paragraph No. 15: Dyson admits that there is a real, live, immediate, and justiciable case or controversy between SharkNinja and Dyson concerning SharkNinja's infringement of Dyson's patent rights. Dyson further admits that it has rights under a United States patent that are infringed by certain identified ongoing or planned activity of SharkNinja in the United States. Dyson admits that SharkNinja has no license from Dyson. Dyson incorporates by reference its responses in the Factual Background section below. The remainder of the allegations in this paragraph comprise legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 16: Dyson has thus established sufficient minimum contacts with the District of Massachusetts such that Dyson is subject to specific personal jurisdiction for this Complaint. Further, the exercise of personal jurisdiction based on these repeated and highly-pertinent contacts does not offend traditional notions of fairness and substantial justice.

Answer to Paragraph No. 16: This paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 17: Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1400, including because, under Federal Circuit law, venue in declaratory judgment actions for noninfringement of patents is determined under the general venue statute, 28 U.S.C. § 1391.

Answer to Paragraph No. 17: This paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 18: Under 28 U.S.C. § 1391(b)(1), venue is proper in any judicial district where a defendant resides. An entity with the capacity to sue and be sued, such as Dyson, is deemed to reside, if a defendant, in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question under 28 U.S.C. § 1391(c). As discussed above, Dyson is subject to personal jurisdiction with respect to this action, and thus, for the purposes of this action, venue is proper under 28 U.S.C. § 1391(b)(1). In addition, venue is proper for Dyson Technology Limited in any District, as a foreign defendant. 28 U.S.C. § 1391(c)(3).

Answer to Paragraph No. 18: This paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 19: For the reasons set forth above, venue is also proper under 28 U.S.C. § 1391(b)(2), given that a substantial part of the events or omissions giving rise to the claim

occurred and/or a substantial part of property that is the subject of the action is situated in this District.

Answer to Paragraph No. 19: Admitted.

FACTUAL BACKGROUND

Paragraph No. 20: Plaintiff SharkNinja is a worldwide leader and innovator in the housewares industry. It offers more than 21 categories of products that include hair care products, vacuum cleaners, and kitchen appliances. SharkNinja has a rich history of providing "five star" products to consumers at affordable prices.

Answer to Paragraph No. 20: Dyson denies that SharkNinja is a worldwide leader or innovator in the housewares industry or otherwise. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 21: SharkNinja devotes significant resources to its research and development, which has resulted in, among other things, development of innovative products and product features. Indeed, SharkNinja's efforts have resulted in the development of its innovative Shark® haircare products that are well known for their quality, ease of use, and innovative technology. These include, but are not limited to, the Shark FlexStyle™ products and Shark HyperAir™ Hair Dryer products. SharkNinja's efforts have also resulted in the development of its innovative Shark® cleaning products. These include, but are not limited to, the Shark AI Ultra Robot™ 2-in-1 vacuum, the Shark® Stratos™ upright and cordless vacuum cleaners, Shark® Cordless Pro Vacuum, and Shark® Wandvac® Cordless Self-Empty System. SharkNinja's efforts have also resulted in the development of its Ninja® kitchen appliances that are also well known for their quality, ease of use, and innovative technology. These include, but are not

limited to, the Ninja® Foodi® pressure cooker, Ninja® Speedi™ rapid cooker, Ninja® Creami® ice cream maker, Ninja® Foodi® indoor grills, Ninja Woodfire™ outdoor grill, Ninja® Foodi® Power Blender, and Ninja® 12-in-1 smart oven products.

Answer to Paragraph No. 21: Dyson admits that SharkNinja sells products under the trade names identified in paragraph 21. Dyson denies that any such products are innovative. Dyson is without knowledge sufficient to form a belief as to the truth of any remaining allegations in this paragraph and therefore denies them.

Paragraph No. 22: SharkNinja's innovative products are sold by retailers as well as through direct marketing to consumers through the use of infomercials and on the Internet.

Answer to Paragraph No. 22: Dyson denies that SharkNinja's products are "innovative," but admits that the FlexStyle and other SharkNinja products are sold by retailers as well as through direct marketing to consumers on the Internet in the United States. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 23: On August 24, 2022 (with a formal launch date of September 6, 2022), SharkNinja accepted orders for a new and innovative hair care product called the Shark FlexStyle™ Air Styling & Drying System, which can rotate back and forth from a powerful hair dryer to a multi-styling tool with just a twist. The FlexStyle™ offers smart hair care features at affordable prices.

Answer to Paragraph No. 23: Dyson is without knowledge sufficient to form a belief as to the truth of the allegations in this paragraph and therefore denies them.

Paragraph No. 24: Dyson sent a letter to SharkNinja's Needham, Massachusetts headquarters dated May 31, 2023 ("May 31, 2023 Letter") and directed to the Chief Legal

Officer of SharkNinja. This letter purports to be on behalf of both Dyson UK and Dyson US. In the letter, Dyson wrongly accused SharkNinja of "infringing at least claim 1 of the '979 Patent." Dyson demanded that SharkNinja "immediately cease infringement" and respond to Dyson by June 7, 2023 to "negotiate a prompt but graceful exit of the Shark FlexStyle™ Air Styling & Drying System from the U.S. market." Dyson noted that should SharkNinja fail to exit, "Dyson . . . will pursue all legal remedies available."

Answer to Paragraph No. 24: Dyson admits that Dyson Technology Limited and Dyson, Inc. sent a letter directed to the Chief Legal Officer of SharkNinja to SharkNinja's Needham, Massachusetts headquarters dated May 31, 2023. A copy of the letter is attached hereto as **Exhibit B.** The contents of the letter speak for themselves and are incorporated herein by reference. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 25: Dyson has taken similar threatening actions in other jurisdictions with respect to foreign counterparts of the '979 Patent, which resulted in immediate litigation. In Germany, Dyson UK sent a letter to SharkNinja Germany GmbH ("SharkNinja Germany") and SharkNinja Europe Limited ("SharkNinja Europe") on March 8, 2023, accusing the Shark FlexStyleTM Air Styling & Drying System of allegedly infringing EP 3 119 234 B1. Shortly thereafter, on March 14, 2023, Dyson UK sued SharkNinja Europe and SharkNinja Germany on EP 3 119 234 B1.

Answer to Paragraph No. 25: Dyson admits that Dyson sent letters to SharkNinja Germany GmbH and SharkNinja Europe Limited on March 8, 2023. Copies of the letters are attached to hereto as **Exhibit C** and **Exhibit D**, respectively**.** The contents of the letters speak for themselves and are incorporated herein by reference. Dyson admits that On March 14, 2023,

Dyson Technology Limited sued SharkNinja Germany GmbH and SharkNinja Europe Limited in Germany for infringement of EP(DE) 3 119 234 B1 ("EP 234"). The '979 Patent is in the same patent family as EP 234. On May 4, 2023, the Munich Regional Court I in Germany entered a preliminary injunction against Shark for infringement of claims 1 and 10 of EP 234. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 26: In France, Dyson UK sent a letter to SharkNinja France on March 8, 2023, accusing the Shark FlexStyle™ Air Styling & Drying System of allegedly infringing EP 3 119 234 B1. On the previous day, on March 7, 2023, Dyson UK had also sent a letter to SharkNinja Germany on accusing the Shark FlexStyle™ Air Styling & Drying System of allegedly infringing EP 3 119 234 B1 in France. Shortly thereafter, Dyson UK sued SharkNinja France and SharkNinja Europe on EP 3,119,234B1 in France, and a writ of summons was delivered to SharkNinja France on April 4, 2023.

Answer to Paragraph No. 26: Dyson admits that on March 7, 2023, Dyson UK sent a letter to SharkNinja Germany on accusing the Shark FlexStyle™ Air Styling & Drying System of allegedly infringing EP 3 119 234 B1 in France. A copy of the letter is attached hereto as **Exhibit E.** Dyson also admits that Dyson sent a letter to SharkNinja France on March 8, 2023. A copy of the letter is attached hereto as **Exhibit F.** The contents of the letters speak for themselves and are incorporated herein by reference. Dyson further admits that on April 19, 2023, Dyson Technology Limited sued SharkNinja France and SharkNinja Europe Limited in France for infringement of EP 234. A request for preliminary injunction is pending in France. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 27: In Korea, Dyson sent a letter to Cosmo Corp., a distributor of the Shark FlexStyle™ Air Styling & Drying System, on June 1, 2023, in which Dyson accuses the Shark FlexStyle™ Air Styling & Drying System of infringing KR 102143436 B1 and KR 102179911 B1, and threatens legal action.

Answer to Paragraph No. 27: Dyson admits that Dyson sent a letter to Cosmo Corp. on June 1, 2023. A copy of the letter is attached hereto as **Exhibit G.** The contents of the letter speak for themselves and are incorporated herein by reference. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 28: While these foreign counterparts are different patents under different patent laws, and with different legal scope than the ’979 patent, they nonetheless contribute to the substantiality and immediacy of the controversy between SharkNinja and Dyson with respect to the ’979 patent.

Answer to Paragraph No. 28: This paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 29: Based on the May 31, 2023 Letter and the activities listed immediately above with respect to foreign counterparts of the ’979 patent, there is a substantial controversy between SharkNinja and Dyson as to whether the Shark FlexStyle™ Air Styling & Drying System infringes the ’979 Patent. SharkNinja and Dyson have adverse legal interests with respect to the question of infringement of the ’979 patent, especially since there is already ongoing litigation in Germany and France over Dyson’s patents that are counterparts to the ’979 patent. Given Dyson’s demand that SharkNinja “immediately cease infringement” by discontinuing the Shark FlexStyle™

Air Styling & Drying System, and to respond by June 7, 2023, along with the activities on the foreign counterparts set forth above, the dispute between SharkNinja and Dyson is immediate and real.

Answer to Paragraph No. 29: This paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

COUNT I
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE ’979 PATENT

Paragraph No. 30: SharkNinja incorporates the preceding paragraphs as if fully set forth herein.

Answer to Paragraph No. 30: Dyson incorporates its responses to the preceding paragraphs as if fully set forth herein.

Paragraph No. 31: The Shark FlexStyle™ Air Styling & Drying System is a revolutionary product that can act as a fast, powerful hair dryer, and with just a twist transforms into an ultra-versatile multifunction hair styling product, as shown below:



Answer to Paragraph No. 31: Dyson denies that the FlexStyle is a revolutionary product. Dyson denies that the image above, included in SharkNinja's complaint, accurately depicts the FlexStyle currently on-sale in the United States. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 32: The Shark FlexStyle™ Air Styling & Drying System can include several attachments, including the Auto-Wrap Curler accessory, pictured below. The Auto-Wrap Curler wraps, curls, and sets users' hair by using air to wrap slightly damp hair around the barrel and dry it in place. The Shark FlexStyle™ Air Styling & Drying System can include two curlers to allow users to curl their hair in different directions.



Answer to Paragraph No. 32: Dyson admits that the FlexStyle system can include several attachments, including the two Auto-Wrap Curler accessories, pictured above. Dyson further admits that the Auto-Wrap Curlers wrap, curl, and set a user's hair by using air to wrap slightly damp hair around the barrel and dry it in place, as described and claimed in the '979

Patent. Dyson is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph and therefore denies them.

Paragraph No. 33: SharkNinja has not infringed and does not infringe any claim of the '979 patent, either literally or under the doctrine of equivalents, under 35 U.S.C. § 271, including but not limited to through SharkNinja's making, using, selling, offering for sale, importing, and/or supplying SharkNinja's Shark FlexStyle™ Air Styling & Drying System, including the Auto-Wrap Curler. SharkNinja's Shark FlexStyle™ Air Styling & Drying System does not infringe for multiple reasons, including, but not limited to, those identified below.

Answer to Paragraph No. 33: Denied.

Paragraph No. 34: For example, SharkNinja's Shark FlexStyle™ Air Styling & Drying System does not meet at least the element "wherein the outlet in the cylindrical second portion of the attachment comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment" as recited in independent claim 1 of the '979 patent.

Answer to Paragraph No. 34: Denied.

Paragraph No. 35: For example, the FlexStyle™ Auto-Wrap Curler accessory has openings that do not extend continuously to a distal end of the attachment, as required by claim 1. The FlexStyle™ product has multiple openings for fluid air to exit the attachment, and those openings extend only a portion of the curler and cease long before a distal end of the attachment.

Answer to Paragraph No. 35: Denied.

Paragraph No. 36: The FlexStyle™ design is in stark contrast to the embodiments of the '979 patent, wherein the outlets extend continuously along the attachment to the distal end. For example, as shown below in Figure 3a of the '979 patent, the outlets (labeled 100), extend all the way to the distal end (the component labeled 36):

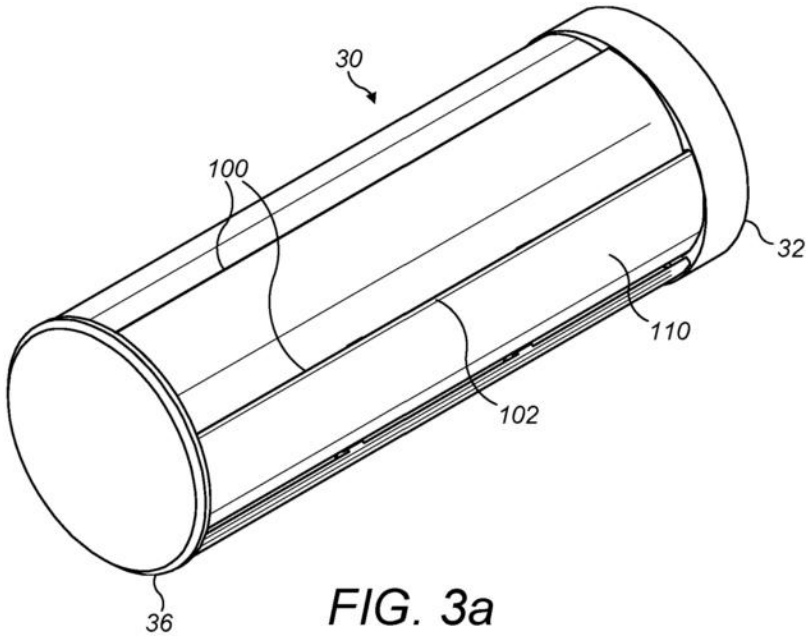


FIG. 3a

Answer to Paragraph No. 36: Denied.

Paragraph No. 37: The distinction above between the FlexStyle™ and claim 1 is one of the principal bases on which Dyson obtained its claims from the U.S. Patent and Trademark Office ("PTO"). After several rejections and amendments, including an appeal, Dyson finally agreed to an amendment that put the claims into allowable state required by the Examiner, by replacing the language "at least one slot extending continuously towards a distal end of the attachment" with "at least one slot extending continuously from the proximal first portion to a distal end of the attachment." May 10, 2021 Notice of Allowability at 3. Thus, the FlexStyle™, which does not have any "slot" that extends continuously to a distal end of the attachment, does not infringe either literally or under the doctrine of equivalents.

Answer to Paragraph No. 37: Dyson admits that the May 10, 2021, Notice of Allowability states: "Claim(s) 1, 3, 5, 7-16, and 36-38 (as amended below) is/are allowable…. Claim 1: Line 4-5: replace "towards a distal" with ---continuously from the proximal first portion to a distal---…. Claim 17: Line 6-7: replace "towards a distal" with ---continuously from the

proximal first portion to a distal---…. The claims in the instant invention have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose or, in combination, make obvious the invention set forth in claims 1 and 17." A complete copy of the notice of allowance is attached hereto as **Exhibit H.** The contents of the notice of allowance speak for themselves and are incorporated herein by reference. Dyson denies that FlexStyle lacks the claimed "at least one slot extending continuously from the proximal first portion to a distal end of the attachment." The remainder of this paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 38: As another example, SharkNinja's Shark FlexStyle™ Air Styling & Drying System also does not meet at least the element "wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment and is configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion, wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot" as recited in independent claim 1 of the '979 patent.

Answer to Paragraph No. 38: Dyson denies that FlexStyle lacks the element "wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment and is configured to direct fluid flow emitted from the outlet tangentially along

and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion, wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot" as recited in independent claim 1 of the '979 Patent. The remainder of this paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 39: For example, the FlexStyle™ Auto-Wrap Curler accessory has openings that are defined by rectangular baffles. The openings are entirely defined by such baffles, which are internal to the device and do not constitute an "external surface," and no part of the openings are defined by any external surface of a substantially contiguous wall of the attachment. The separateness of the openings from the convex outer surface is made even more acute by the physical separation (in both the horizontal and vertical direction) between the openings and the convex outer surface of the curler. In particular, the curler includes a vertical sidewall that separates the openings from the convex outer surface of the curler, and the wall and outer surface are separated by an observable gap.

Answer to Paragraph No. 39: Denied.

Paragraph No. 40: The FlexStyle™ design is in stark contrast to embodiments of the '979 patent, in which the outlet is formed in part by an external surface of a substantially contiguous wall of the attachment, as shown for example in an annotated Figure 5b of the '979 patent submitted by Dyson to the PTO (shown below) (December 22, 2020 Appeal Brief at 4):

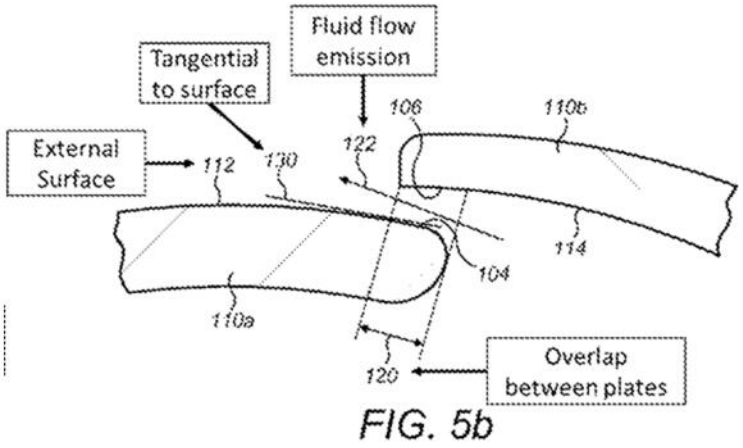


FIG. 5b

As shown above, the outlet through which fluid air (labelled 122) travels is defined in part by the "External Surface" of the attachment (labelled 112).

Answer to Paragraph No. 40: Denied.

Paragraph No. 41: The distinction above between the FlexStyle™ and claim 1 is one of the principal bases on which Dyson obtained its claims from the PTO. To try to avoid prior art, Dyson repeatedly was forced to amend the claims to require that the external surface that at least partially defines the outlet is a "substantially contiguous wall" of the attachment, and that the "external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot." Dec. 11, 2017 Amendment at 2-4; May 10, 2018 Amendment at 2-4; Feb. 18, 2020 Amendment at 2. As demonstrated above, the openings in the FlexStyle™ Auto-Wrap Curler accessory are defined by internal rectangular baffles that are not an external surface of a substantially contiguous wall of the attachment nor an outermost surface of the attachment, let alone one that extends along the entire length of the attachment. Thus, the FlexStyle™ does not infringe either literally or under the doctrine of equivalents.

Answer to Paragraph No. 41: The December 11, 2017 Amendment, May 10, 2018 Amendment, and February 18, 2020 Amendment are attached hereto as **Exhibits I**, **J**, and **K**,

respectively. The contents of the amendments speak for themselves and are incorporated herein by reference. The remainder of this paragraph comprises legal conclusions to which no response is required. To the extent a response is required, Dyson is without knowledge sufficient to form a belief as to the truth of such allegations and therefore denies them.

Paragraph No. 42: As another example, SharkNinja's Shark FlexStyle™ Air Styling & Drying System does not meet at least the element "wherein the outlet in the cylindrical second portion of the attachment comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment" as recited in independent claim 17 of the '979 patent, for the same reasons as those set forth above for claim 1.

Answer to Paragraph No. 42: Denied.

Paragraph No. 43: As another example, SharkNinja's Shark FlexStyle™ Air Styling & Drying System does not have at least "wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment and is configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion, wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot" as recited in independent claim 17 of the '979 patent, for the same reasons as those set forth above for claim 1.

Answer to Paragraph No. 43: Denied.

Paragraph No. 44: SharkNinja is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that SharkNinja and the SharkNinja Shark FlexStyle™ Air Styling & Drying System do not infringe any claim of the '979 patent, either literally or under the doctrine of equivalents.

Answer to Paragraph No. 44: Denied.

RESPONSE TO PRAYER FOR RELIEF

Plaintiffs SharkNinja Operating LLC and SharkNinja Sales Company are not entitled to any relief whatsoever, whether recited in the Complaint or otherwise.

COUNTERCLAIM FOR PATENT INFRINGEMENT

Counter-Plaintiffs Dyson, Inc. and Dyson Technology Limited (collectively, "Dyson") hereby counterclaim against Counter-Defendants SharkNinja Operating LLC and SharkNinja Sales Company (collectively, "Shark"), seeking damages and other relief for patent infringement, and allege on information and belief, as follows:

NATURE OF THE ACTION

1. This is a civil action for infringement. This action is based upon the Patent Laws of the United States, 35 U.S.C. § 271 *et seq*.

THE PARTIES

2. Counter-Plaintiff Dyson, Inc. is an Illinois corporation with its principal place of business at 1330 W. Fulton Street, 5th Floor, Chicago, Illinois, 60607.

3. Counter-Plaintiff Dyson Technology Limited is a private limited company organized and existing under the laws of England and Wales, with its principal place of business at Tetbury Hill, Malmesbury SN16, 0RP, United Kingdom.

4. According to the Complaint at ¶ 2, and as admitted by Shark, Counter-Defendant SharkNinja Operating LLC is a limited liability company organized and existing under the laws

of Delaware, having a principal place of business at 89 A Street, Suite 100, Needham, Massachusetts 02494.

5. According to the Complaint at ¶ 3, and as admitted by Shark, Counter-Defendant SharkNinja Sales Company is a Delaware Corporation organized and existing under the laws of Delaware, having a principal place of business at 89 A Street, Suite 100, Needham, Massachusetts 02494.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this counterclaim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Shark because each of Defendants SharkNinja Operating LLC and SharkNinja Sales Company voluntarily filed this case in this District, and each has a principal place of business in this District. Further, on information and belief, Shark has conducted and is conducting substantial business in this District, both generally and with respect to the allegations in this Counter-Complaint, and Shark has committed one or more acts of infringement in this District. Shark has waived any claim that the Court lacks personal jurisdiction over Shark.

8. Venue is proper in this District because each of Defendants SharkNinja Operating LLC and SharkNinja Sales Company voluntarily filed this case in this District, and each has a principal place of business in this District. Further, on information and belief, Shark has conducted and is conducting substantial business in this District, both generally and with respect to the allegations in this Counter-Complaint, and Shark has committed, and is continuing to commit, acts of patent infringement in this District by making, using, importing, selling, or

offering to sell infringing hair stylers, accessories, and parts that infringe Dyson's asserted patent. Shark has waived any claim that the Court lacks proper venue.

ASSERTED PATENT

9. Dyson has invested heavily in developing the technology implemented in its inventions, including the asserted patent.

10. On June 29, 2021, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 11,044,979 ("the '979 Patent" and/or "the asserted patent"), titled "ATTACHMENT FOR A HAND HELD APPLIANCE," naming Alasdair Michael MacLaine as inventor.

11. A true and correct copy of the '979 Patent was attached to Shark's Complaint as **Exhibit A**.

12. Dyson Technology Limited owns all rights, title, and interest in and to the '979 Patent and has the right to sue and recover for past, present, and future infringement.

13. Dyson, Inc. is the exclusive U.S. distributor of Dyson hair stylers, including the Dyson Airwrap® multi-styler, accessories, and parts in the United States.

BACKGROUND AND FACTS:

THE DYSON AIRWRAP® MULTI-STYLER

14. The Dyson Airwrap® multi-styler (hereinafter, "Dyson Airwrap®") embodies one or more of the claims of the '979 Patent.

15. Dyson is a British-headquartered technology company, founded by inventor James Dyson. Dyson is known for revolutionary designs in devices that operate using airflow, including vacuum cleaners, air purifiers, and hair dryers and stylers.

16. Innovative airflow technology has been at the heart of Dyson's engineering from the beginning. Starting with the DC01 upright vacuum cleaner that was launched in 1993,

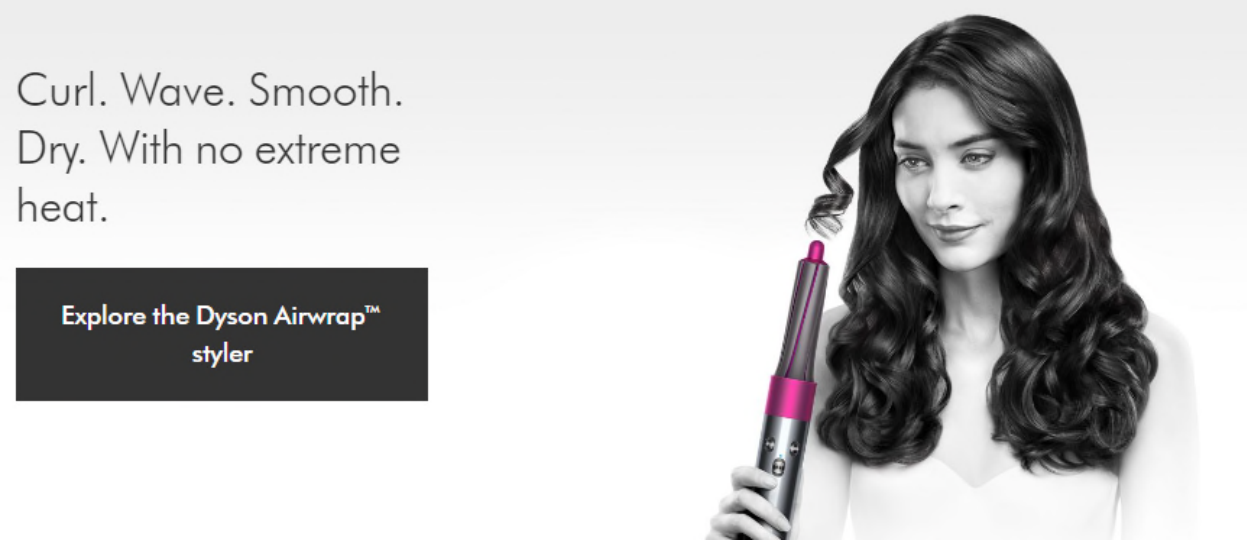
innovative airflow design was at the core of Dyson vacuum cleaners with Dyson's pioneering cyclonic technology.

17. When Dyson expanded into fans and purifiers, Dyson engineered bladeless machines to multiply and project airflow farther, without the "choppy" airflow of traditional bladed fans.

18. Dyson adapted its knowledge of airflow to develop innovative hair styling tools that use Dyson's airflow technologies to achieve the same styles as traditional hair stylers, but reduce the reliance on the high temperatures used by traditional hair stylers to maintain hair health.

19. Dyson's first product in hair care—the Dyson Supersonic™ hand-held hair dryer—launched in 2016 and became an instant critical and commercial success.

20. Two years later, in 2018, Dyson launched the Dyson Airwrap®, an all-in-one styler that could curl, wave, smooth, and dry hair without the use of extreme heat.



21. The Dyson Airwrap® is conceived and designed to take advantage of airflow that uses the Coanda effect—an aerodynamic phenomenon— where a high-velocity jet of air naturally attaches to and follows an adjacent surface, due to differences in pressure.

22. The Dyson Airwrap® harnesses the Coanda effect by creating a circumferential flow of air around the cylindrical shaped barrels of the tool. The airflow attracts a hair tress to the barrel, encouraging hair to wrap itself around the barrel and thereby curling it.

23. Developing and optimizing the Dyson Airwrap® was no easy feat, and it took many iterations to perfect the curling barrels featured on the Dyson Airwrap® styler.

24. Dyson is known throughout the world for designing, manufacturing and selling visually appealing, high quality and innovative household appliances, including vacuums, air purifiers and haircare products.

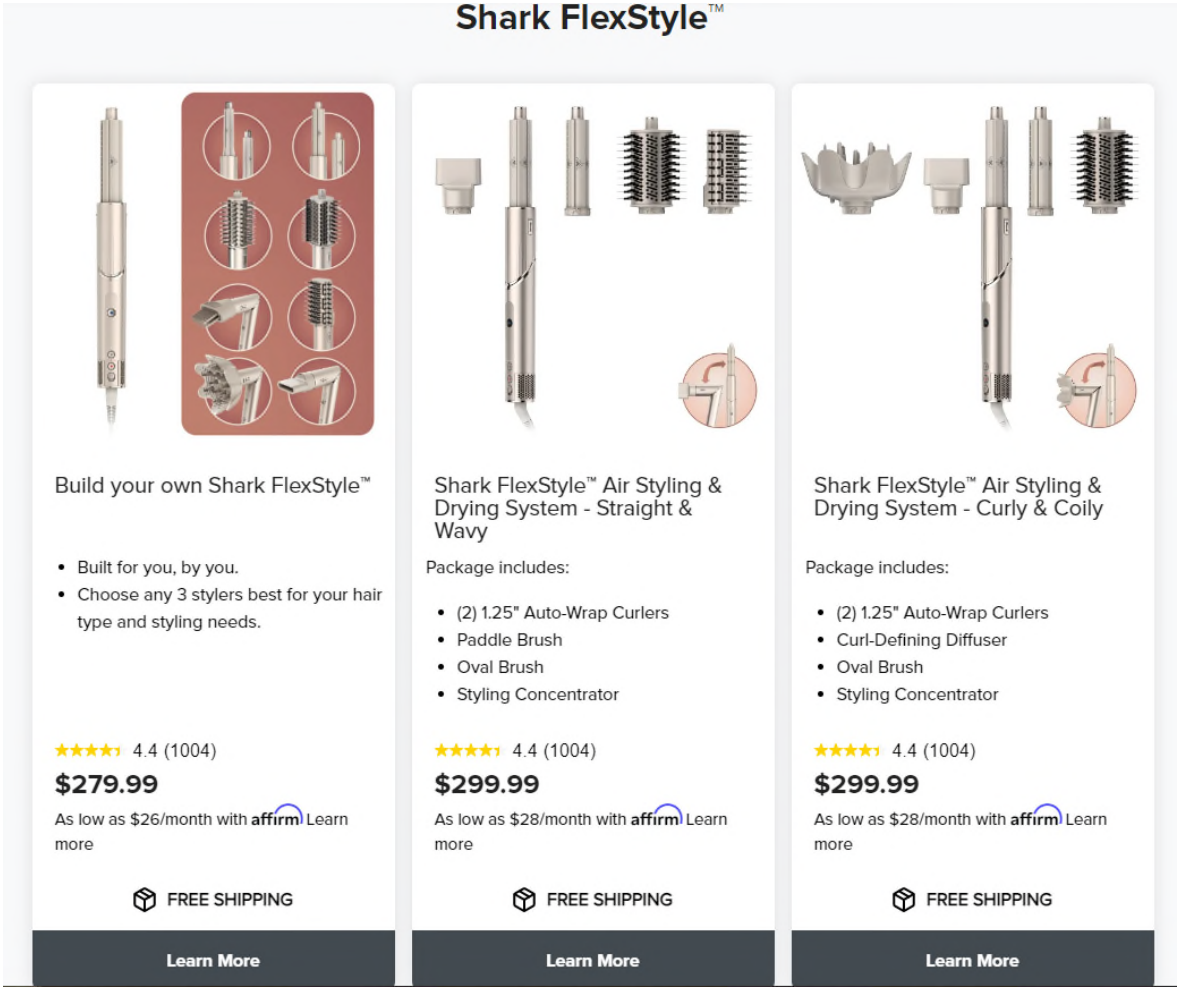
25. Since launching, the Dyson Airwrap® has been a tremendous commercial success and is an award-winning design. By way of example and without limitation, the Airwrap® was a winner of Harper's Bazaar Hair Awards 2023 "Best for Damaged Hair" category; a recipient of Allure's Best of Beauty Award in 2022, 2021, and 2020; on the list of Elle Beauty Awards 2022: Hair Care Winners; a recipient of SELF's 2022 Healthy Beauty Award "Best At-Home Hair Tool" category; on the list of Good Housekeeping's Beauty Awards 2021: Best in Beauty Award Hall of Fame; a recipient of the 2020 Glamour Beauty Award; a winner of Women's Health 2021 Healthy Hair Award: "Best Hot Tool For Straight Hair" category; a 2019 CEW Beauty Awards Winner for best Hair Tools; and a 2018 Beauty Innovator Award from Refinery29. The Airwrap® has also been the subject of news coverage by reputable and widely circulated publications such as *Forbes*, *Harper's Bazaar*, *Time* and *Vogue*.

26. Dyson's success in hair care was no accident; rather, it was the product of years of research, development, engineering, design, and substantial monetary and capital investment. Dyson conducted extensive research in the field of hair science, including a global study that revealed misconceptions around hair damage and unhealthy styling habits. **Exhibit 1**. The work

has spanned more than a decade and included investment of over £100 million into laboratories around the world. Today, there are thousands of Dyson engineers and scientists working globally to continue their research into developing hair styling tools and products for all hair types and styles with less damage.

THE INFRINGING SHARK FLEXSTYLE™

27. On information and belief, Shark makes, uses, offers for sale, sells, and/or imports the Shark FlexStyle (hereinafter, "FlexStyle") in the United States and markets it as the Shark FlexStyle™ Air Styling & Drying System, as shown in **Exhibit 2** and the image below.



28. On information and belief, and as shown above and in **Exhibit 3**, the FlexStyle is available for purchase in the United States, and in this District.

29. On information and belief, the FlexStyle is designed to utilize airflow and the Coanda effect in order to automatically wrap, curl, and set hair in the same manner as is described in the ’979 Patent and as implemented in the Dyson Airwrap®. For example, as shown in the image below, an advertisement for the FlexStyle calls out the “Coanda Technology” that “wraps, curls, [and] sets” hair.



30. On information and belief, Shark knowingly and intentionally copied elements of the Dyson Airwrap® to design and create the FlexStyle.

31. **Exhibit 4** shows a *2022 Annual Results Presentation* by JS Global Lifestyle Company Limited, Shark’s parent company, in which it touts the success of the FlexStyle.

32. On information and belief, Shark knows that the FlexStyle is Shark’s “version of the Dyson Airwrap.” **Exhibit 4** at 19.

33. On information and belief, Shark considers its product the “ultimate answer to fast, easy styling” because, as noted above, the FlexStyle takes advantage of Coanda effect to encourage “automatic curling.” *Id.*

34. On information and belief, Shark knows that the market considers the FlexStyle "a dupe for Dyson" Airwrap®. **Exhibit 4** at 19; *see also* **Exhibit 5**.



35. On information and belief, Shark's business strategy is to undercut sales of the Dyson Airwrap® with its FlexStyle, which it touts as "half the price and just as good." **Exhibit 4** at 19.

36. For example, Shark has made performance comparisons between the FlexStyle and the Dyson Airwrap with commentary on the packaging alleging "[F]aster Dry Time vs. Dyson AirWrap."



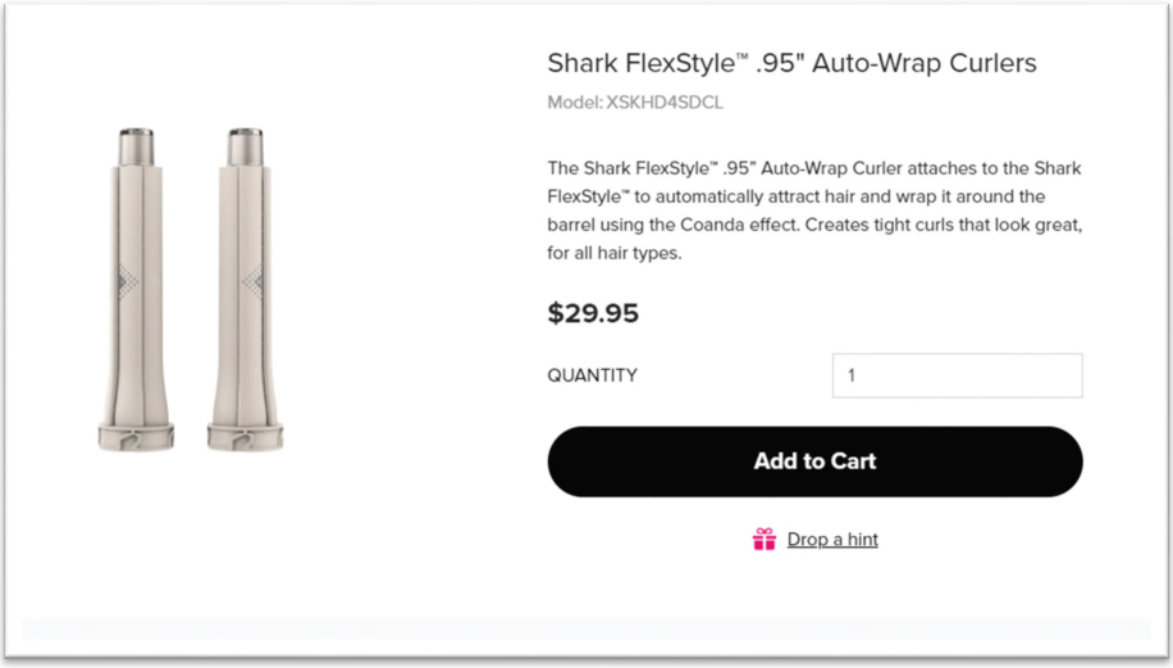
37. As a further example, on information and belief, Shark has used Google Ads in at least the United Kingdom to bid on keywords such as "Airwrap dupe."

38. As shown in **Exhibit 6**, the FlexStyle has been referred in the market to as "[a] Dyson dupe," that is "[p]owered by the same Coanda self-curling tech that . . . put Dyson's AirWrap on the map."

39. In addition to selling the FlexStyle, Shark also sells spare barrel attachments for the FlexStyle called the Shark FlexStyle .95" Autowrap Curlers and the Shark FlexStyle 1.25" Autowrap Curlers (hereinafter, "FlexStyle Autowrap attachments"), shown below.



40. On information and belief, when used as intended, the FlexStyle Autowrap attachments also utilize airflow powered by the Coanda effect in order to automatically wrap, curl, and set hair in the same manner as is described in the '979 Patent and as implemented in the Dyson Airwrap®. **Exhibit 7**; **Exhibit 8**.



COUNT I.

INFRINGEMENT OF U.S. PATENT NO. 11,044,979

41. Paragraphs 1 through 40 are incorporated by reference as though fully stated herein.

42. The ’979 Patent is valid and enforceable.

43. As shown in **Exhibit 2**, the FlexStyle and the FlexStyle Autowrap attachments meet each and every limitation of at least claim 1 of the ’979 Patent, either literally and/or under the doctrine of equivalents.

44. On information and belief, Shark had actual knowledge of the ’979 Patent at least as early as March 7, 2023.

45. Shark touts that it “takes intellectual property very seriously and takes active steps to avoid violations of any valid intellectual property rights of others.” **Exhibit 9**. On information and belief, based on Shark’s statements that it takes active steps to avoid violations of third party

intellectual property rights, Shark knew of its infringement of the ’979 Patent at least as early as March 7, 2023.

46. In the alternative, on information and belief, Shark had actual knowledge of and/or was willfully blind as to the existence of the ’979 Patent as of its issuance on June 29, 2021.

47. In the alternative, on information and belief, and based on the fact that Shark “takes intellectual property very seriously and takes active steps” with regard to “any valid intellectual property rights of others,” Shark was willfully blind as to its infringement of the ’979 Patent as of its issuance on June 29, 2021.

48. On information and belief, Shark became aware of the ’979 Patent during development and/or product launch of the Shark FlexStyle.

49. In the alternative, during development and product launch of the Shark FlexStyle and thereafter, Shark was willfully blind to its infringement of the ’979 Patent. Shark had a subjective belief and knowledge of a high probability that Dyson had U.S. patent rights that would cover the Shark FlexStyle, Shark FlexStyle .95” Autowrap Curlers and/or the Shark FlexStyle 1.25” Autowrap Curlers and took deliberate action to avoid learning that fact.

50. Shark is and was aware that Dyson is a competitor in the market for hair stylers that take advantage of airflow that uses the Coanda effect. More specifically, Shark is and was aware of the Dyson Airwrap®.

51. Shark is and was aware that Dyson holds many patents, including U.S. patents, in the area of consumer products using airflow.

52. Shark is and was aware that Dyson vigorously enforces its U.S. patent rights.

53. On March 7 and March 8, 2023, Dyson Technology Limited sent Shark letters in Germany, France, and the United Kingdom regarding Shark's infringement of EP(DE) 3 119 234 B1 and EP(FR) 3 119 234 B1 ("EP 234"). Shark responded to those letters on March 14, 2023. The '979 Patent is in the same patent family as EP 234.

54. On March 14, 2023, Dyson Technology Limited sued Shark in Germany for infringement of EP 234.

55. On April 4, 2023, Dyson Technology Limited served Shark in France with proceedings for infringement of EP 234. A request for preliminary injunction is pending in France.

56. On May 4, 2023, the Munich Regional Court I in Germany entered a preliminary injunction against Shark for infringement of claims 1 and 10 of EP 234. **Exhibit 10**.

57. On May 31, 2023, Dyson sent Shark a letter regarding Shark's ongoing infringement of Dyson's '979 Patent in the United States and Shark's knowledge thereof. **Exhibit B.**

58. On or around May 26, 2023, the Munich Regional Court I in Germany entered a final judgment and injunction against Shark for infringement of claims 1 and 10 of EP 234. **Exhibit 11**.

59. On June 6, 2023, Shark filed the Complaint in this Action. Shark's Complaint recites arguments for non-infringement that are substantially the same as those Shark advanced in the Munich Regional Court I in Germany, and which were rejected by that Court when it entered a final judgment against Shark for infringement of claims 1 and 10 of EP 234.

60. Shark's June 6, 2023, Complaint does not mention or disclose the final judgment and injunction of the Munich Regional Court I in Germany against Shark for infringement of

claims 1 and 10 of EP 234, despite the fact that Shark was aware of the final judgment and injunction at the time of filing.[1]

61. Shark has directly infringed and continues to directly infringe at least claim 1 of the ’979 Patent under 35 U.S.C. § 271(a) by making, using, importing, selling, and/or offering to sell the FlexStyle and the FlexStyle Autowrap attachments.

62. Shark has induced infringement and continues to induce infringement of at least claim 1 of the ’979 Patent in violation of 35 U.S.C. § 271(b), either literally and/or under the doctrine of equivalents. On information and belief, Shark, knowing (or willfully blind to the fact) as of June 29, 2021 that the FlexStyle and/or the FlexStyle Autowrap attachments meet each and every element of at least claim 1 of the ’979 Patent, has acted with specific intent to induce third parties, including end users, to use and/or assemble, without license or authority, the FlexStyle and/or the FlexStyle Autowrap attachments in a manner that infringes one or more claims of the ’979 Patent.[2]

63. In the alternative, on information and belief, Shark, knowing as of March 7, 2023, that the FlexStyle and/or the FlexStyle Autowrap attachments meet each and every element of at least claim 1 of the ’979 Patent, has acted with specific intent to induce third parties, including end users, to use and/or assemble, without license or authority, the FlexStyle and/or the FlexStyle Autowrap attachments in a manner that infringes one or more claims of the ’979 Patent.

[1] On information and belief, Shark has recently filed a nullity action regarding EP 234 in Germany, which is in its early stages.

[2] *See, e.g.*, https://res.cloudinary.com/sharkninja-na/video/upload/q_auto,f_auto/v1682355293/SharkUS/ISH%202023/Flexstyle/Styling%20Videos/44_Wavy_Mini_Curlers_2023-03-31.mov
https://res.cloudinary.com/sharkninja-na/video/upload/q_auto,f_auto/v1682022166/SharkUS/ISH%202023/Flexstyle/Styling%20Videos/Tips_for_Curl_Longevity_For_Straight_Wavy_Hair.mp4

64. Shark has contributed to the infringement by third parties, including end users, of at least claim 1 of the ’979 Patent in violation of 35 U.S.C. § 271(c), either literally or under the doctrine of equivalents. On information and belief, Shark imported, sold, and/or offered to sell the FlexStyle, its accessories and parts, and the FlexStyle Autowrap attachments, that act as a material component of the claims of the ’979 Patent, knowing (or willfully blind as to) the same to be especially made or especially adapted for use in an infringement of the ’979 Patent, and which are not a staple article or commodity of commerce suitable for substantial non-infringing use.

65. Shark’s infringement has damaged and injured, and continues to damage and injure, Dyson. The injury to Dyson is irreparable and will continue unless and until Shark is enjoined from further infringement.

66. As discussed in detail herein, on information and belief Shark has engaged and is engaging in willful and deliberate infringement of the ’979 Patent.

67. Despite knowing of (or being willfully blind to) Dyson’s ’979 Patent, including without limitation by virtue of (a) its knowledge of Dyson, the Airwrap®, and Dyson’s patent rights, discussed herein, (b) the pending German and French patent litigations involving EP 234, (c) the Munich Regional Court preliminary injunction against Shark for infringement of EP 234, (d) the Munich Regional Court I in Germany’s final judgment and injunction against Shark for infringement of claims 1 and 10 of EP 234, and (e) Dyson’s letter to Shark regarding its infringement of Dyson’s ’979 Patent, Shark knowingly and intentionally continues to make, use, offer for sale, sell, and/or import its FlexStyle, its parts and accessories, and the FlexStyle Autowrap curlers in the United States.

68. On information and belief, Shark's infringement of the '979 Patent has been and continues to be deliberate and/or intentional.

69. Shark's infringement of the '979 Patent has been and continues to be willful, wanton, malicious, bad-faith, deliberate, consciously wrongful, flagrant, and/or characteristic of a pirate.

70. Such willful, wanton, malicious, bad-faith deliberate, consciously wrongful, flagrant infringement justifies an increase of up to three times the damages to be assessed pursuant to 35 U.S.C. § 284.

71. Shark's actions, including but not limited to its willful, wanton, malicious, bad-faith deliberate, consciously wrongful, flagrant infringement and its filing of the Complaint in this Action (which failed to mention or disclose the final judgment and injunction of the Munich Regional Court I in Germany against Shark for infringement of claims 1 and 10 of EP 234) further qualifies this action as an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Dyson respectfully requests that this Court:

A. Enter a judgment in favor of Dyson and against Shark, finding that Shark has infringed and continues to infringe one or more claims of the '979 Patent;

B. Enter a judgment in favor of Dyson and against Shark, finding that Shark has induced, and continues to induce, the infringement of one or more claims of the '979 Patent;

C. Enter a judgment in favor of Dyson and against Shark, finding that Shark has contributorily infringed and continues to contributorily infringe one or more claims of the '979 Patent;

D. Enter a judgment in favor of Dyson and against Shark, finding that Shark has willfully infringed one or more claims of the ’979 Patent;

E. Enter a judgment in favor of Dyson and against Shark, awarding Dyson damages in an amount to be proven at trial sufficient to compensate Dyson for Shark’s past infringement and any continuing future infringement of the ’979 Patent through the date such judgment is entered, but not less than a reasonable royalty for Shark’s infringement;

F. Enter a judgment in favor of Dyson and against Shark, awarding Dyson pre-judgment and post-judgment interest pursuant to 35 U.S.C. § 284;

G. Enter a judgment in favor of Dyson and against Shark, awarding Dyson increased damages pursuant to 35 U.S.C. § 284, in an amount up to three times the amount of actual damages awarded to Dyson, by reason of Shark’s willful infringement of the ’979 Patent;

H. Enter a judgment in favor of Dyson and against Shark, declaring this case exceptional under 35 U.S.C. § 285 and awarding Dyson its reasonable attorneys’ fees, expenses, and costs incurred in prosecuting this action;

I. Enter a judgment in favor of Dyson and against Shark, issuing a permanent injunction enjoining Shark, its officers, directors, servants, managers, employees, agents, attorneys, successors and assignees, and all persons in active concert or participation with any of them, from further acts of infringement of the ’979 Patent;

J. Deny all claims for relief and relief sought in Shark’s Complaint; and

K. Grant Dyson such other and further relief as this Court may deem just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Dyson hereby demands a jury trial on all issues triable by a jury.

Dated: June 9, 2023

Respectfully submitted,

/s/ Michael G. Strapp

Michael G. Strapp (BBO #653884)

DLA Piper LLP (US)
33 Arch Street, 26th Floor
Boston, MA 02110-1447
Telephone: 617.406.6031
Facsimile: 617.406.6100
michael.strapp@us.dlapiper.com

Attorneys for Defendants

Of Counsel and *pro hac vice* forthcoming:

Paul R. Steadman
Paulina Starostka
DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Tel: 312.368.2135
Fax: 312.251.2850
paul.steadman@us.dlapiper.com
paulina.starostka@us.dlapiper.com

Helena Kiepura
DLA PIPER LLP (US)
500 Eighth Street, NW
Washington, DC 20004
Tel: 202.733.4000
Fax: 202.799.500
helena.kiepura@us.dlapiper.com

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 9, 2023

/s/ Michael G. Strapp
Michael G. Strapp

EXHIBIT A

Case 2:23-cv-21274-ADB Document 1-16 Entered on FLSD Docket 06/06/2023 Page 1 of 442

US011044979B2

(12) **United States Patent**
MacLaine

(10) **Patent No.: US 11,044,979 B2**
(45) **Date of Patent: Jun. 29, 2021**

(54) **ATTACHMENT FOR A HAND HELD APPLIANCE**

(71) Applicant: **Dyson Technology Limited**, Wiltshire (GB)

(72) Inventor: **Alasdair Michael MacLaine**, London (GB)

(73) Assignee: **DYSON TECHNOLOGY LIMITED**, Malmesbury (GB)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **14/656,357**

(22) Filed: **Mar. 12, 2015**

(65) **Prior Publication Data**

US 2015/0265024 A1 Sep. 24, 2015

(30) **Foreign Application Priority Data**

Mar. 20, 2014 (GB) 1404982
Mar. 20, 2014 (GB) 1404985

(51) **Int. Cl.**
A45D 20/50 (2006.01)
A46B 9/02 (2006.01)
(Continued)

(52) **U.S. Cl.**
CPC ***A45D 20/50*** (2013.01); ***A45D 20/12*** (2013.01); ***A46B 9/023*** (2013.01); ***A46B 15/003*** (2013.01)

(58) **Field of Classification Search**
CPC ... A45D 1/02; A45D 2/06; A45D 2/10; A45D 2/125; A45D 2/127; A45D 2/14;
(Continued)

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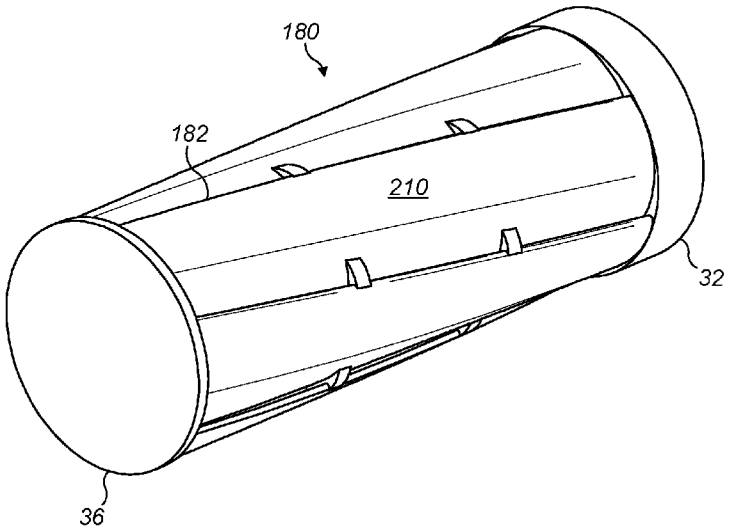
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(Continued)

Primary Examiner — Yogesh P Patel
Assistant Examiner — Jennifer Gill
(74) *Attorney, Agent, or Firm* — Morrison & Foerster LLP

(57) **ABSTRACT**

An attachment for a hand held appliance comprising an inlet; an outlet; and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment and wherein the outlet is at least partially defined by an external surface of the attachment wherein fluid emitted from the outlet is blown along the external surface. The slot extends substantially along the length of the attachment. The outlet comprises slots radially spaced around the attachment. Fluid emitted from the outlet flows around the external surface of the attachment, tangentially to the external surface, and is attracted to the surface of the attachment. The attachment has a longitudinal axis extending from the first end to the distal end and the at least one slot may be parallel to the longitudinal axis.

32 Claims, 17 Drawing Sheets



(51) **Int. Cl.**
A45D 20/12 (2006.01)
A46B 15/00 (2006.01)

(58) **Field of Classification Search**
CPC A45D 2/24; A45D 2/2407; A45D 2/2414; A45D 2/2421; A45D 2/245; A45D 2/2457; A45D 2/2485; A45D 2/2492; A45D 20/10; A45D 20/122; A45D 20/124; A45D 20/50; A45D 2/12; A45D 2/22; A45D 2/2464; A45D 20/12; A45D 4/04; A45D 4/08; A45D 4/12; A45D 6/02; A45D 7/02; A46B 9/023; A46B 15/003
USPC 132/210, 211, 227, 268; 219/226; 34/96–99; D28/10, 12, 15, 18; D32/31
See application file for complete search history.

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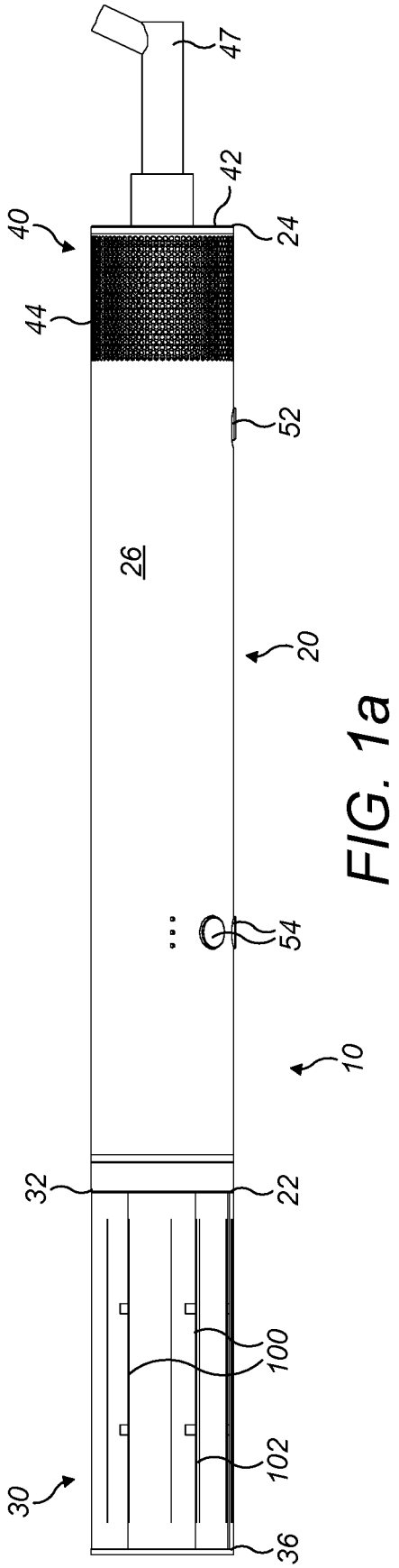

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FIG. 1a

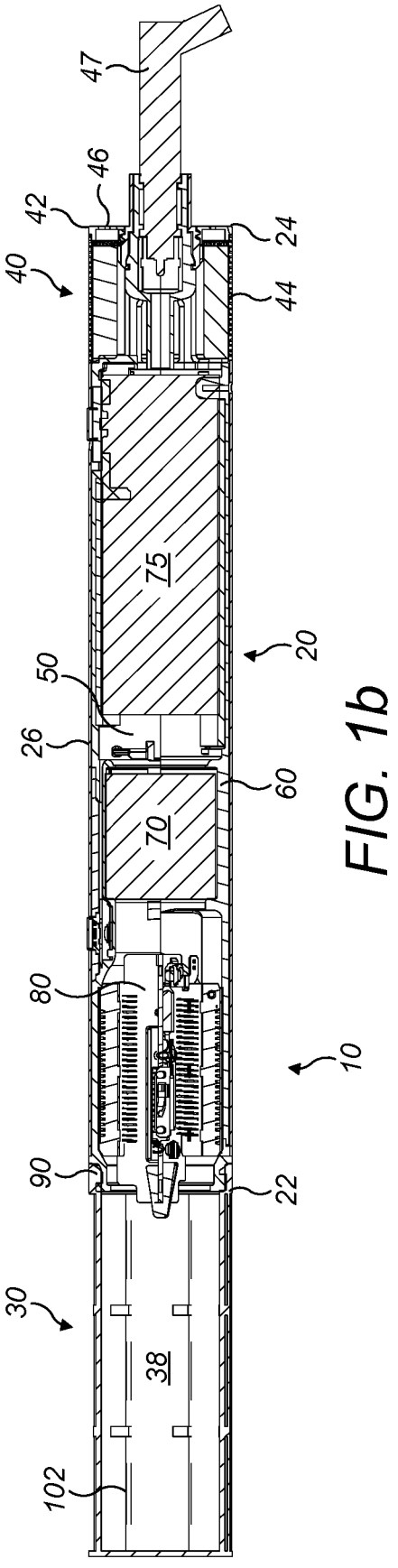

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FIG. 1b

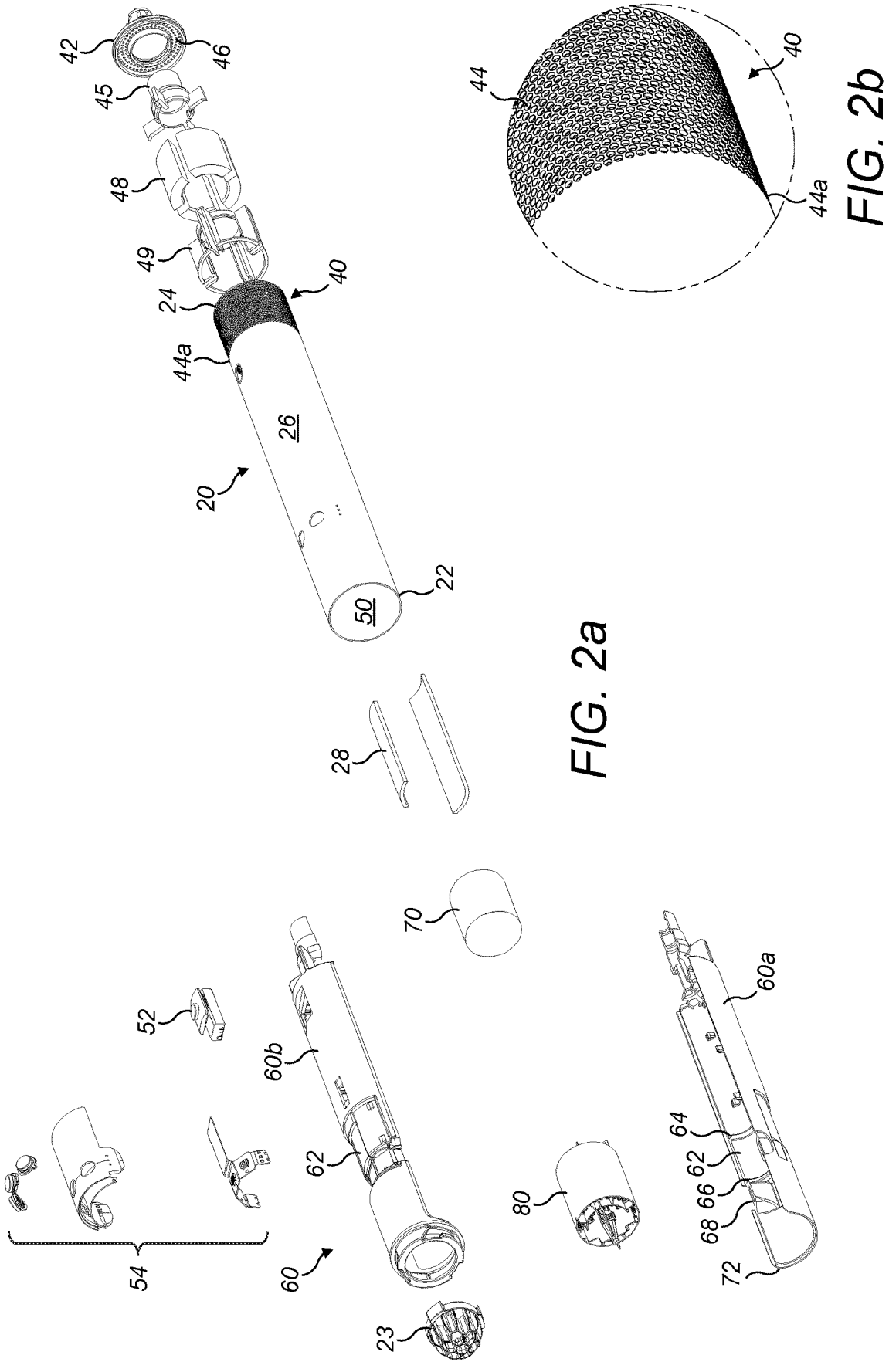

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FIG. 2a

FIG. 2b

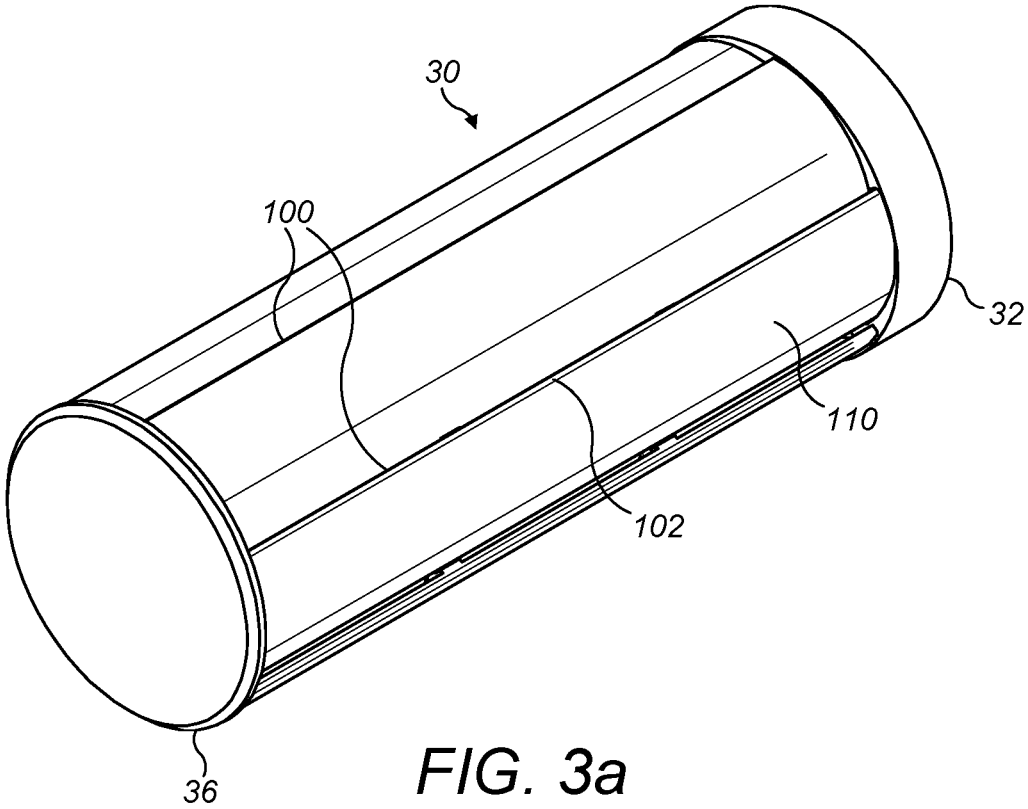


FIG. 3a

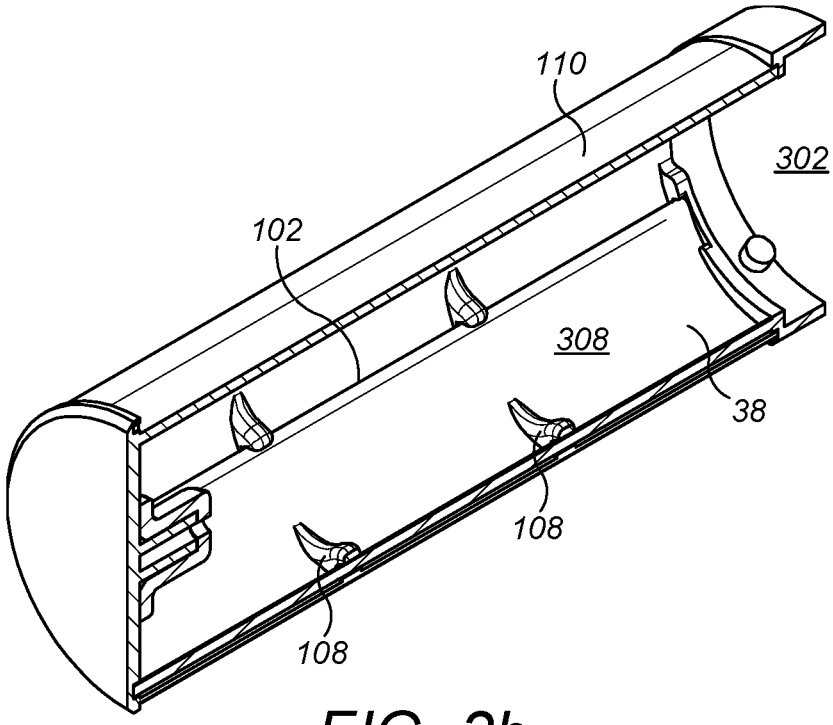


FIG. 3b

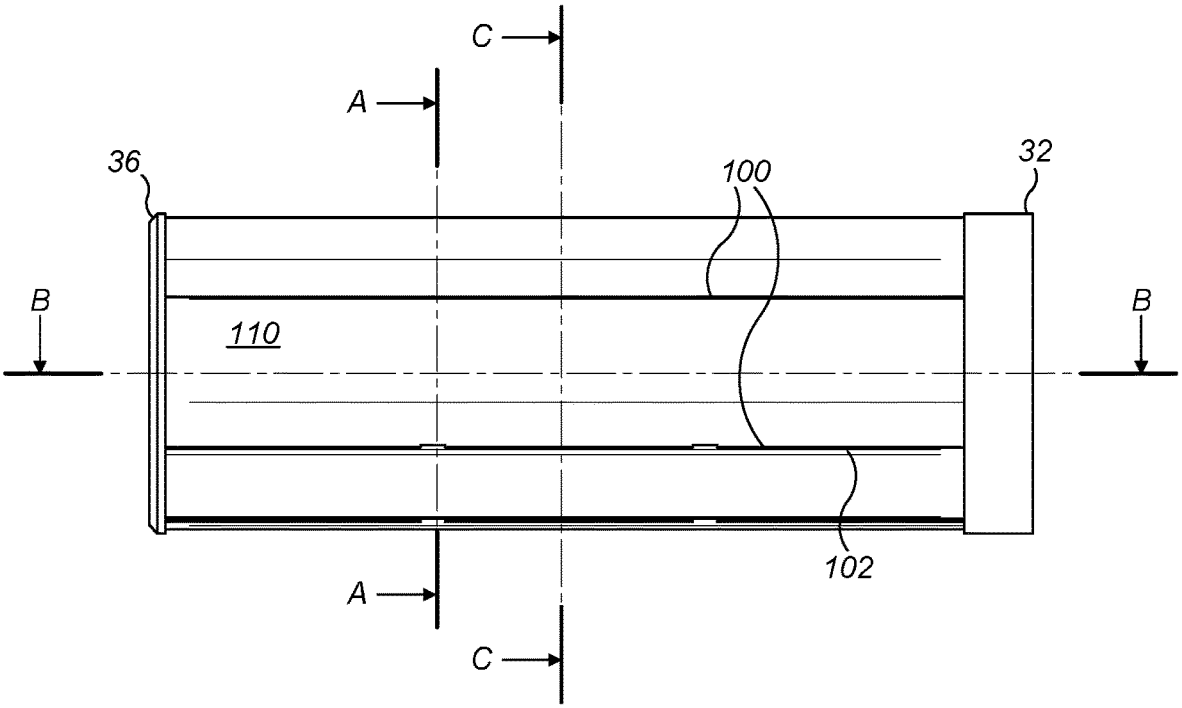


FIG. 4a

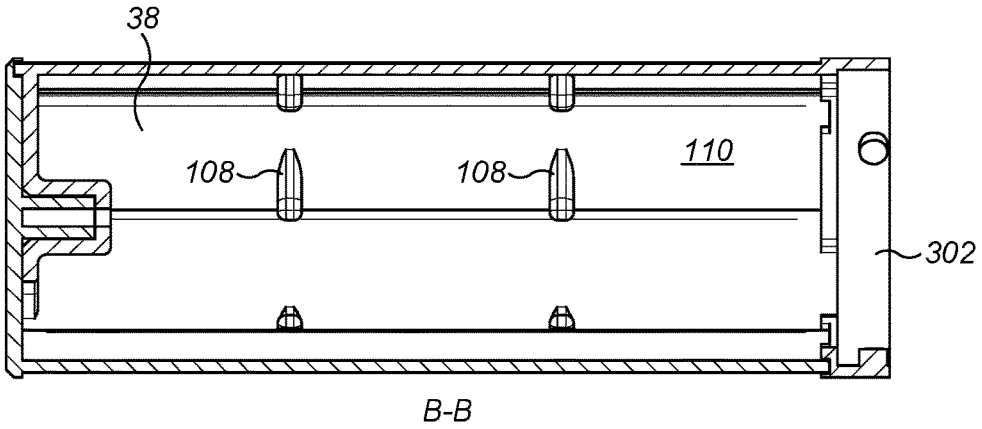


FIG. 4b

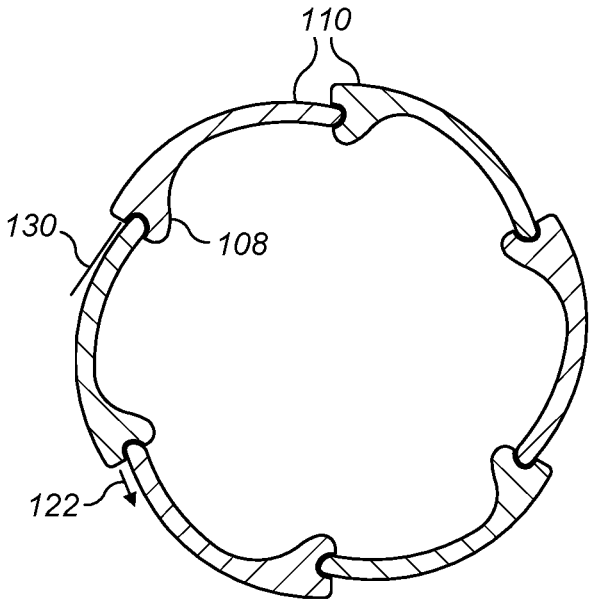


FIG. 5a

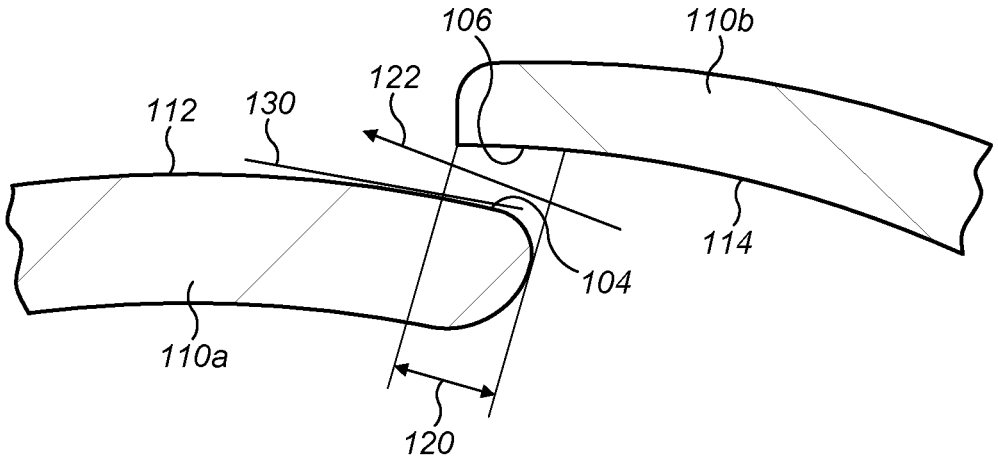


FIG. 5b

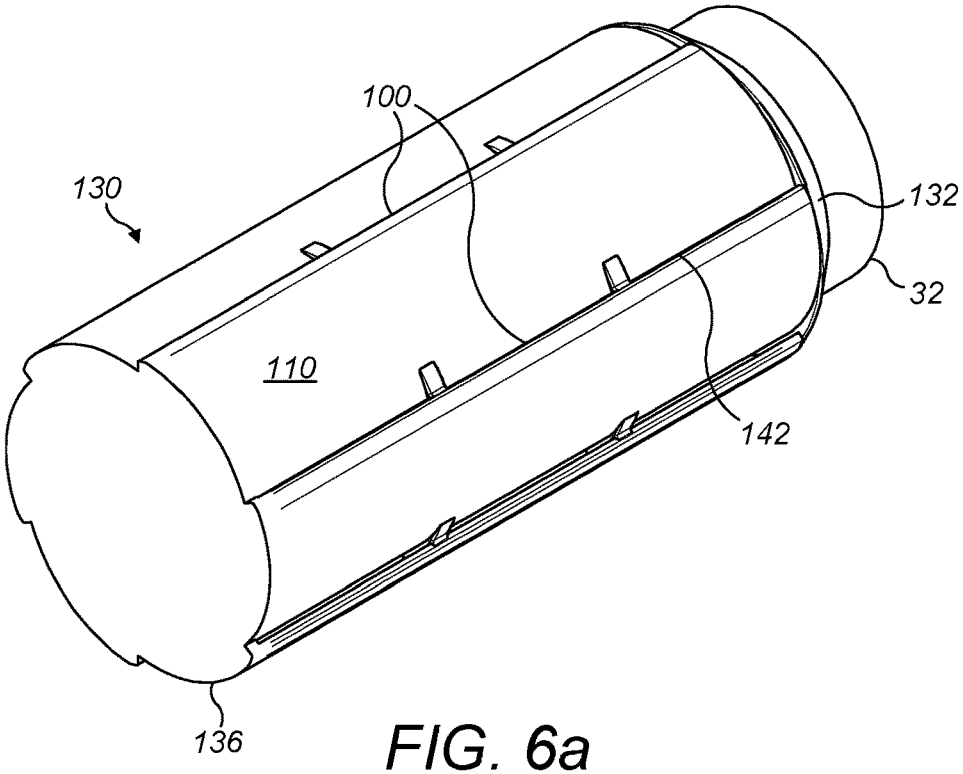


FIG. 6a

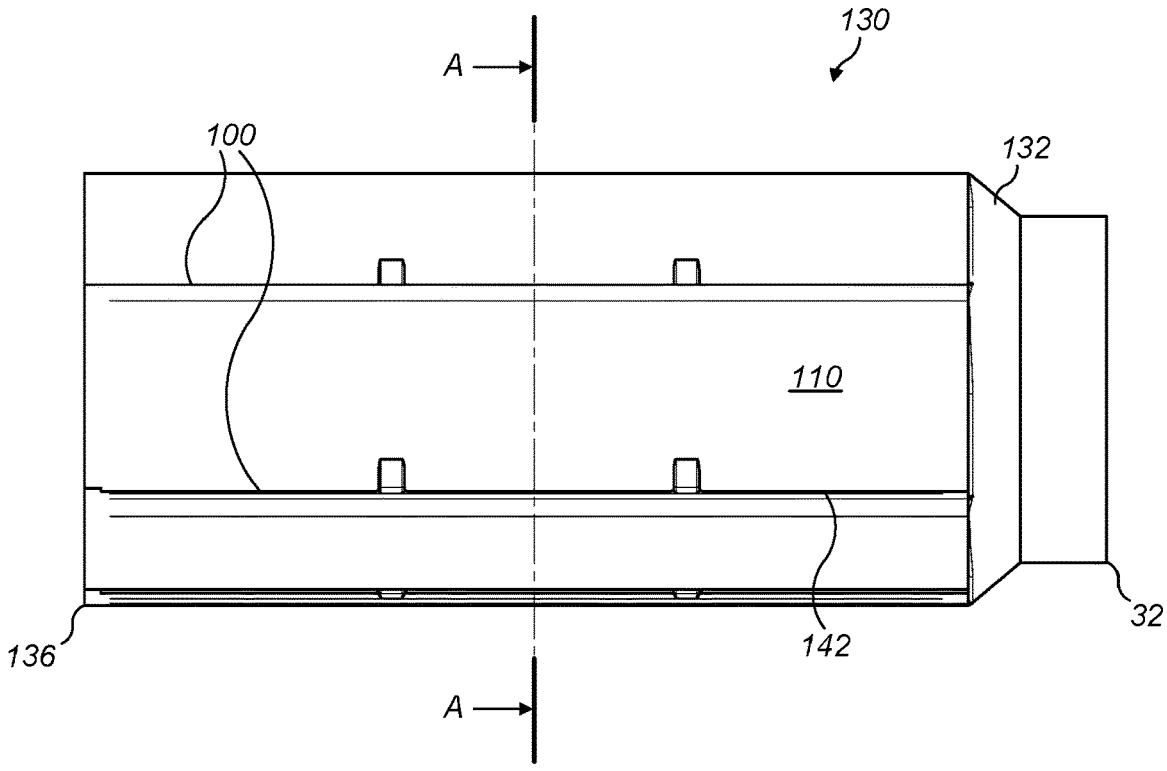


FIG. 6b

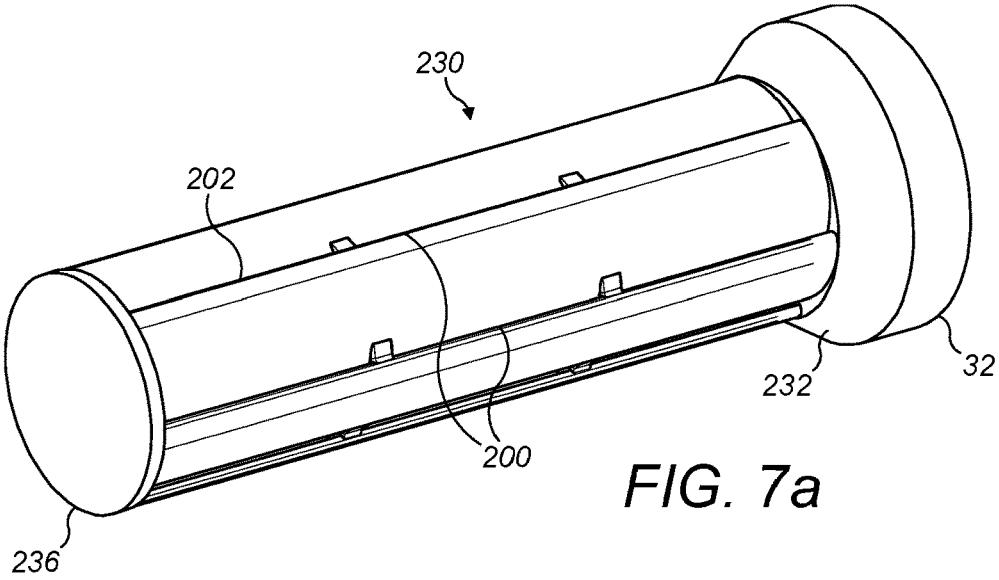


FIG. 7a

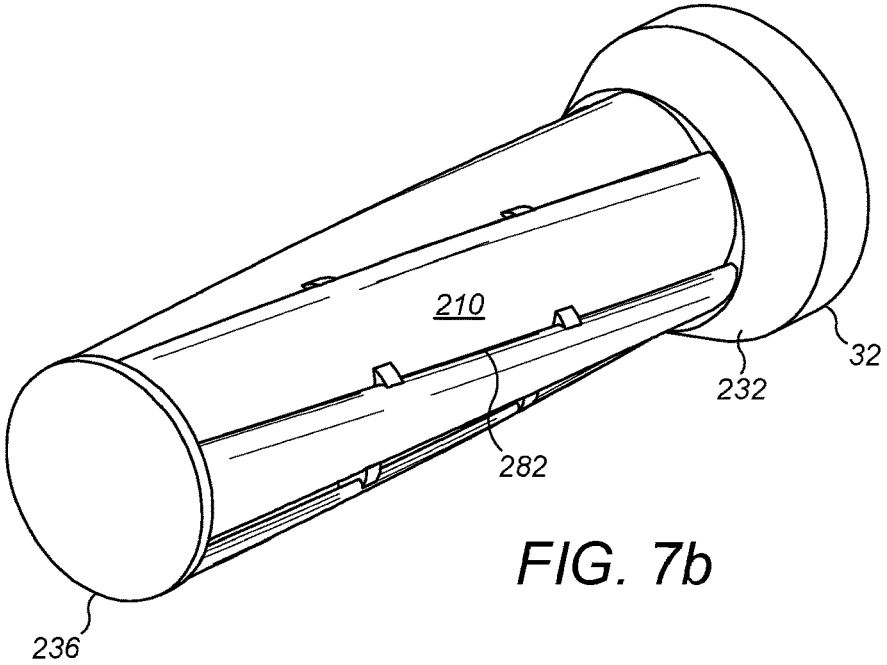


FIG. 7b

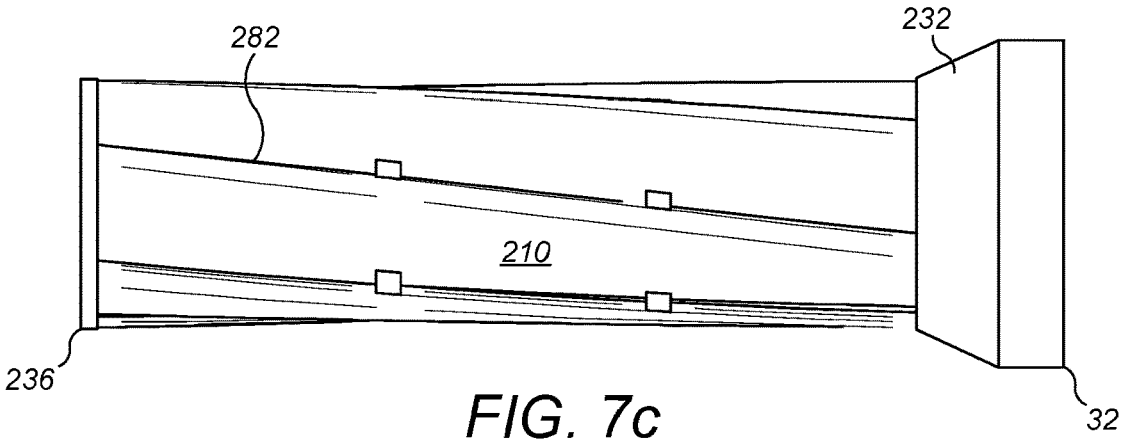


FIG. 7c

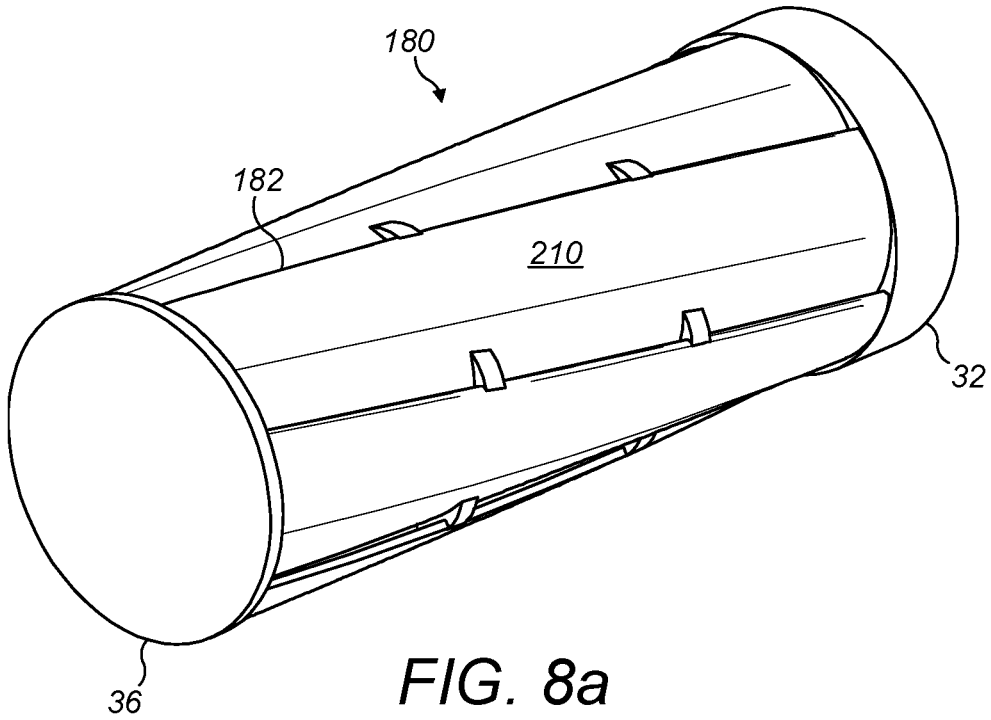


FIG. 8a

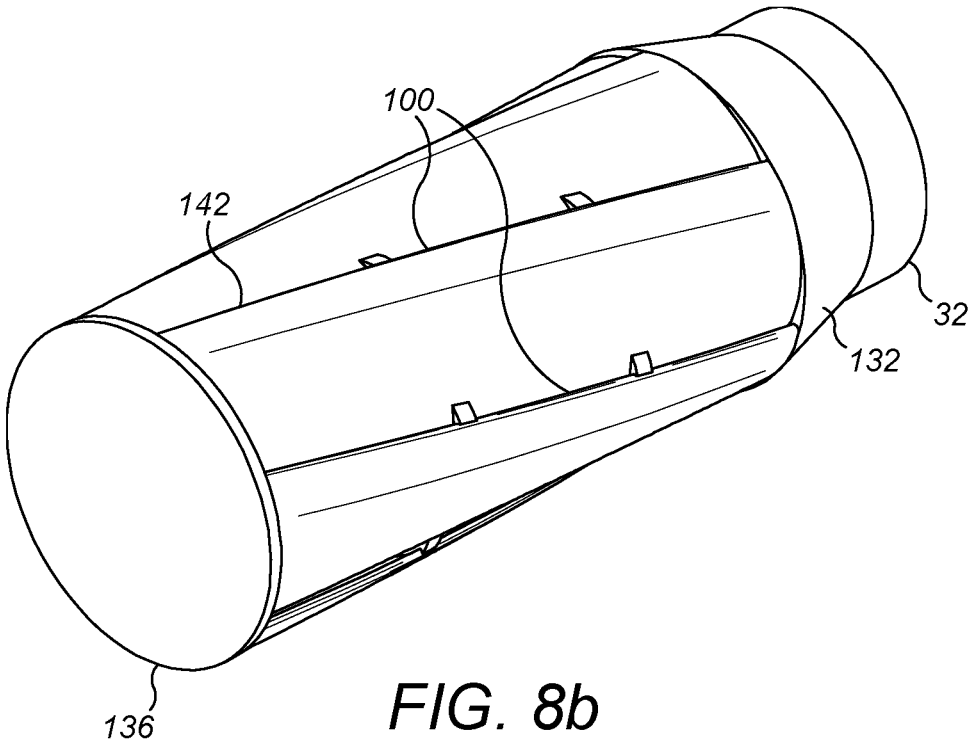


FIG. 8b

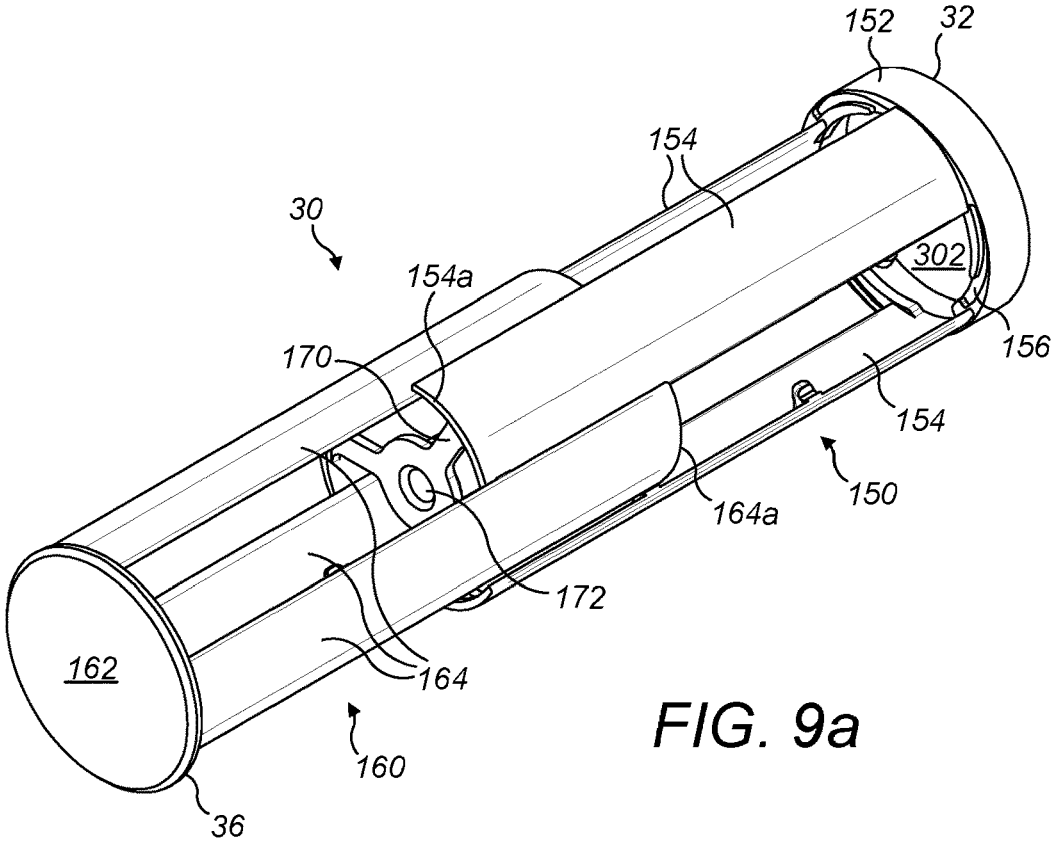

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FIG. 9a

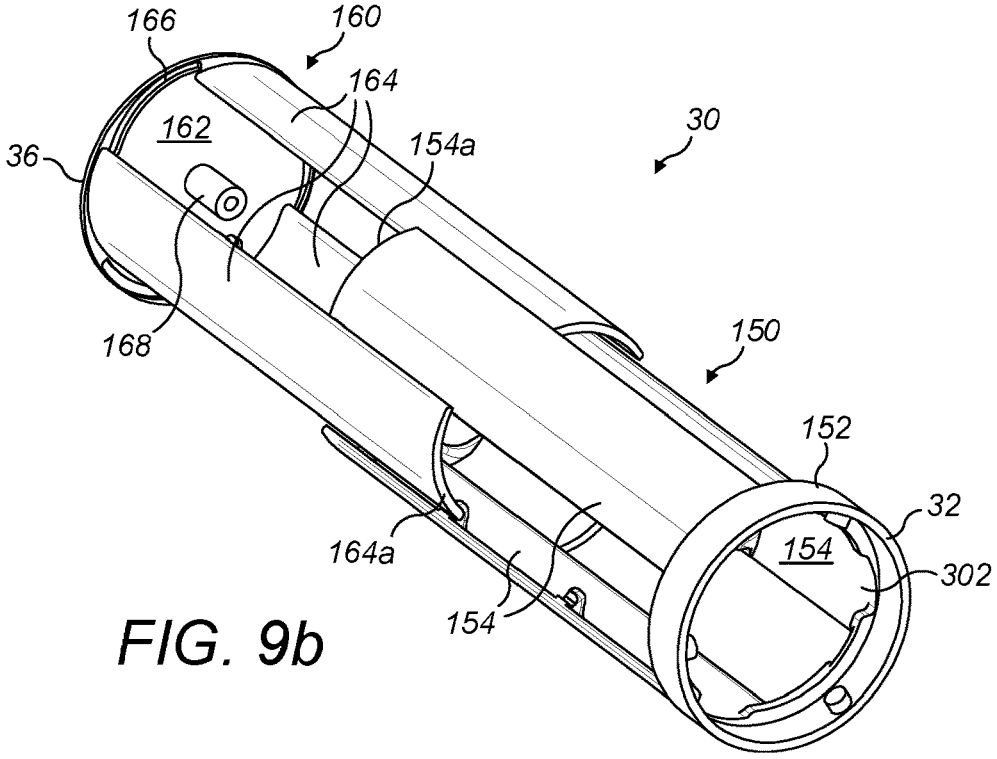

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FIG. 9b

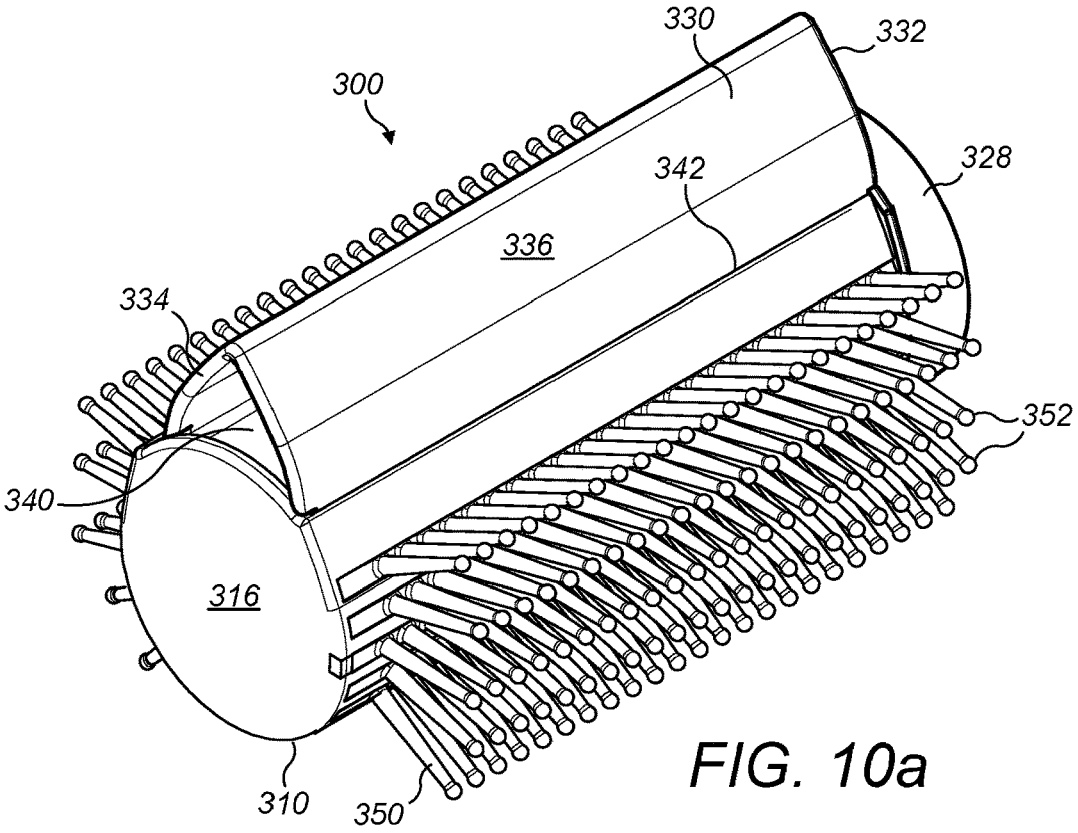


FIG. 10a

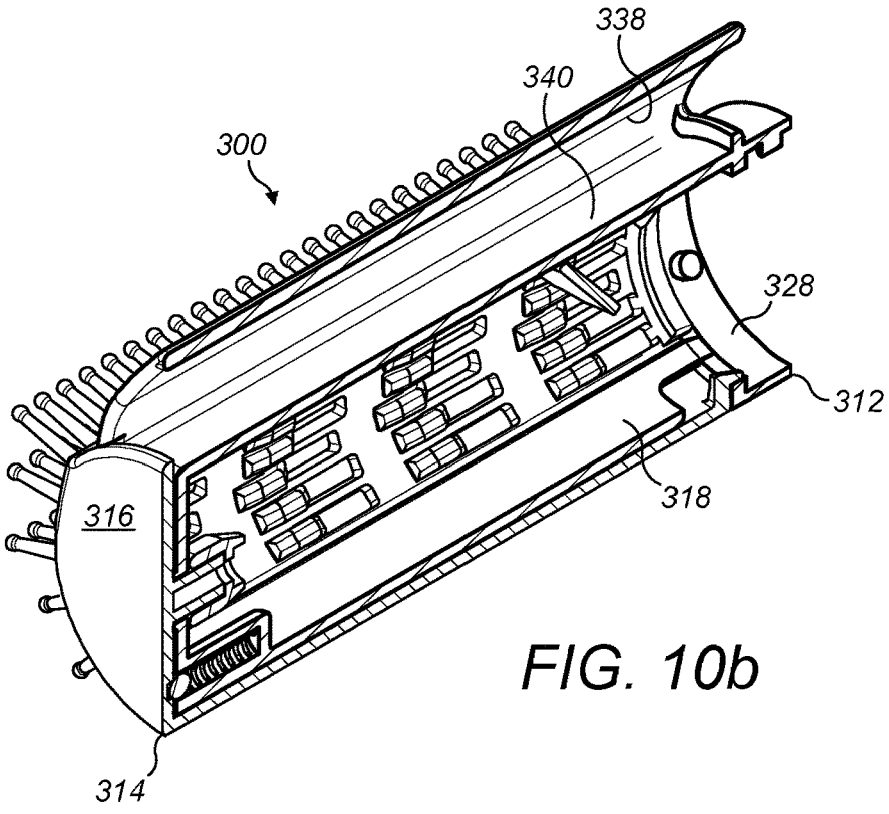


FIG. 10b

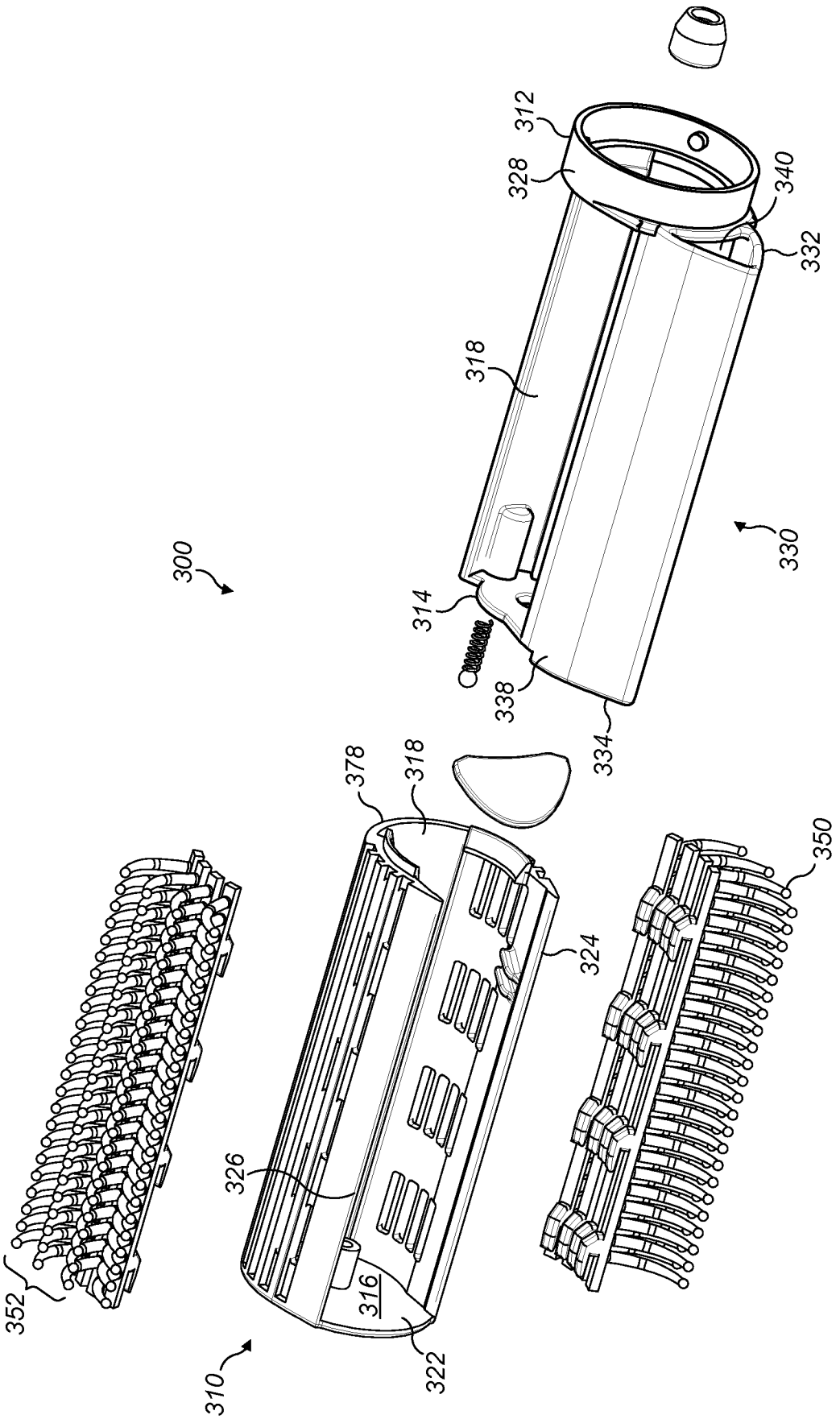

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FIG. 11a

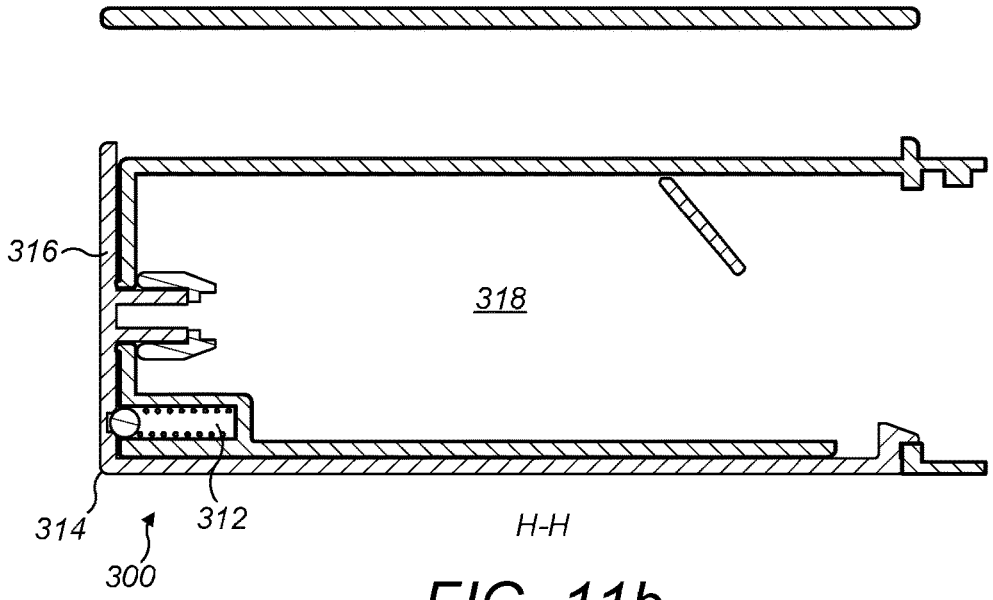


FIG. 11b

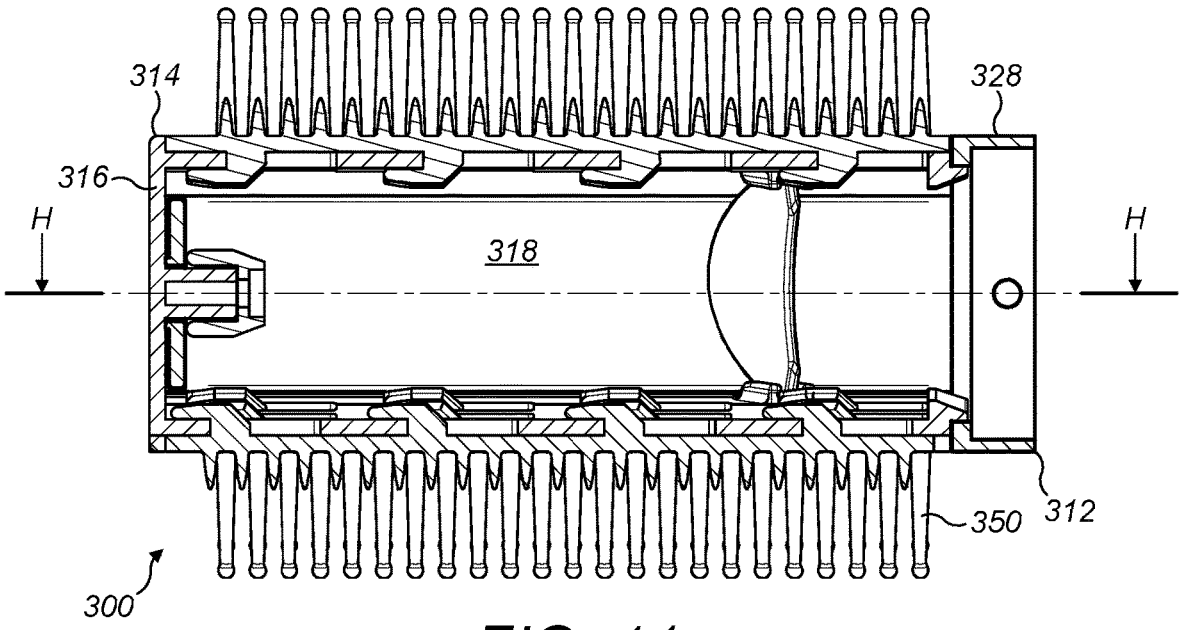


FIG. 11c

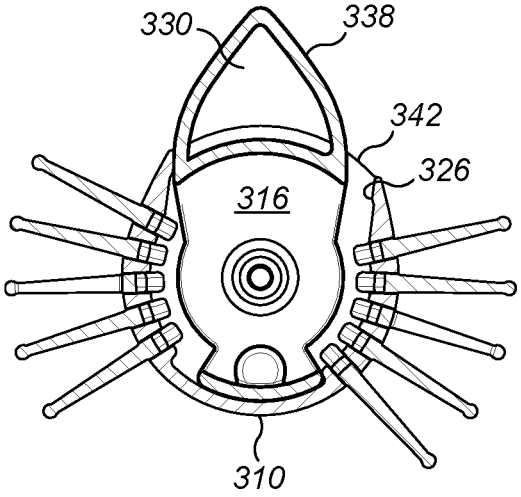


FIG. 12a

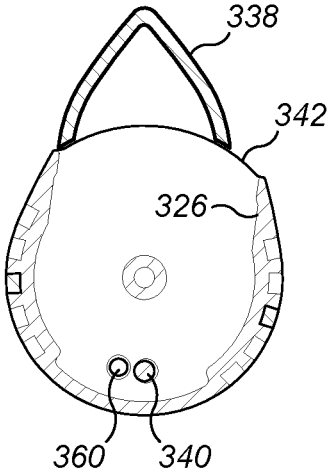


FIG. 12b

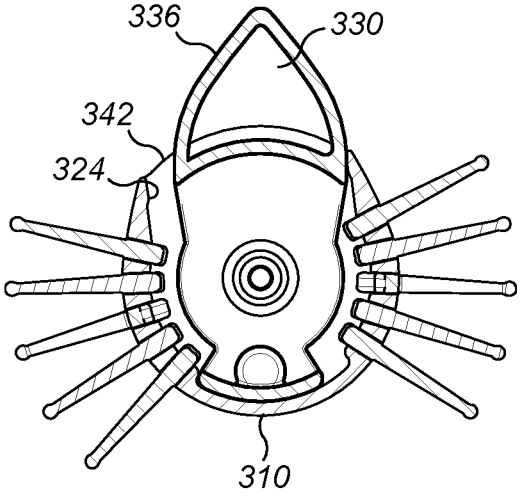


FIG. 13a

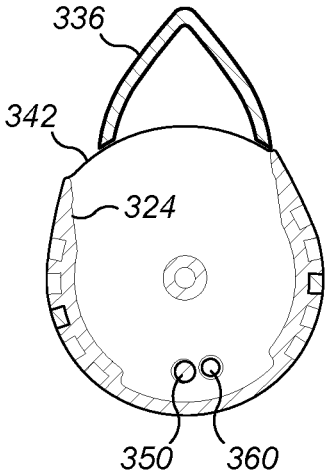


FIG. 13b

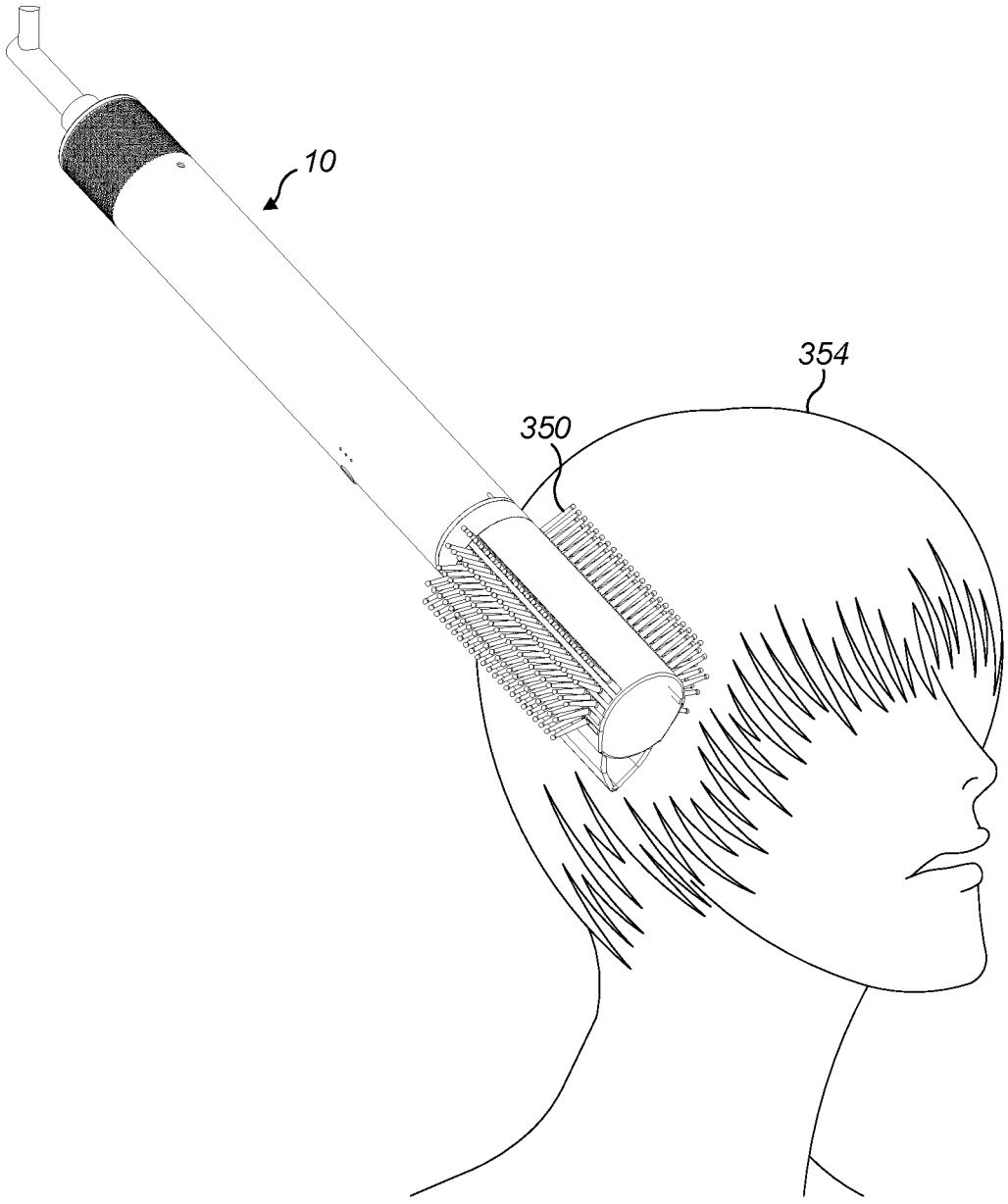


FIG. 14

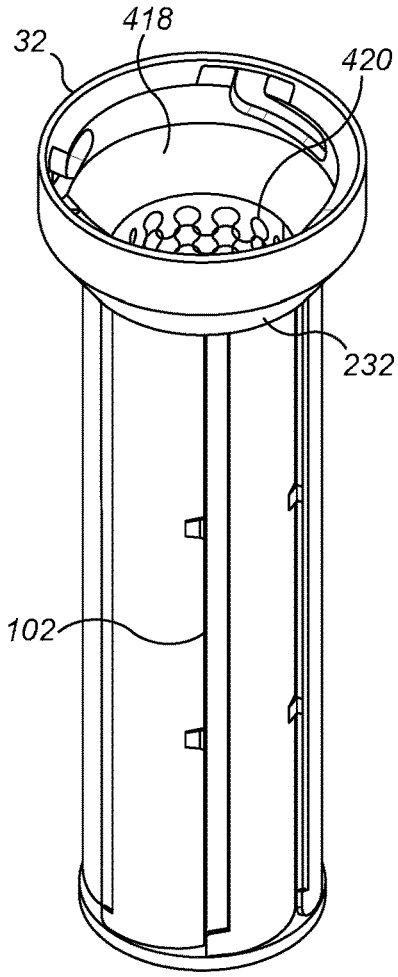


FIG. 15a

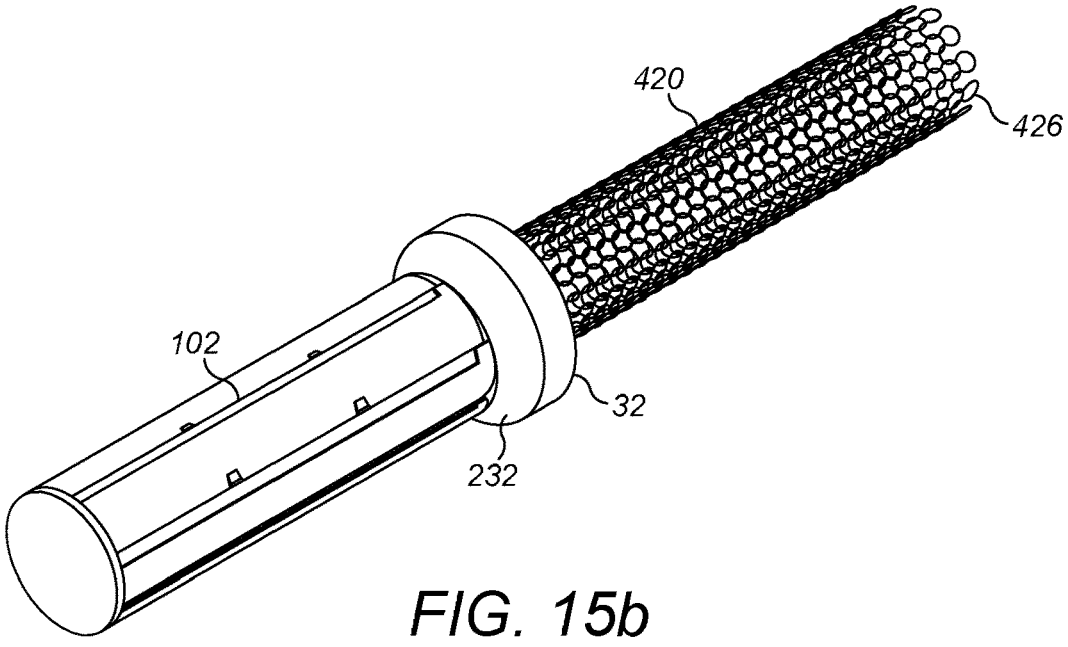


FIG. 15b

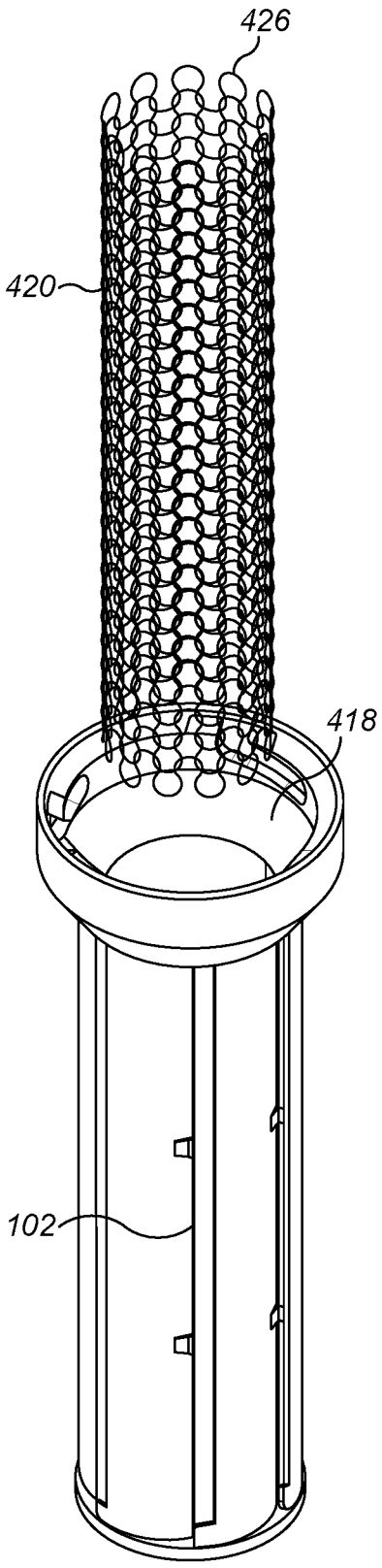


FIG. 15c

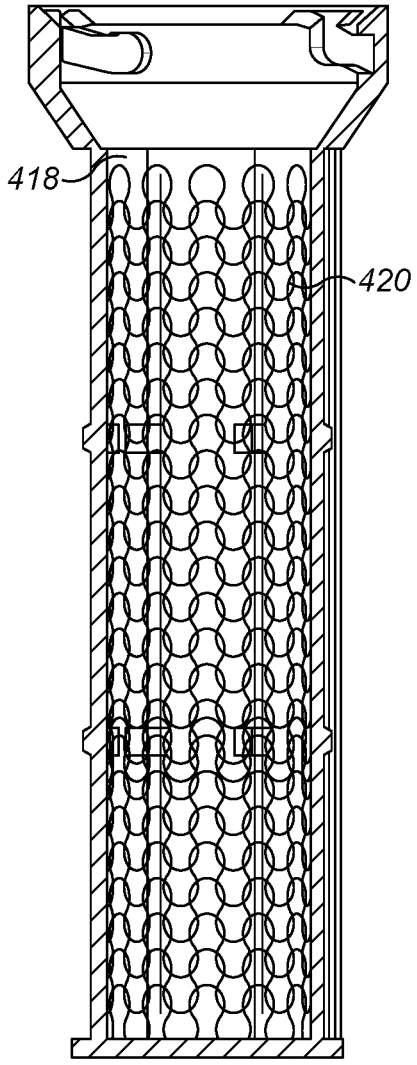


FIG. 15d

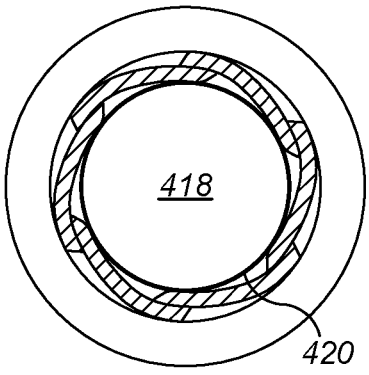


FIG. 15e

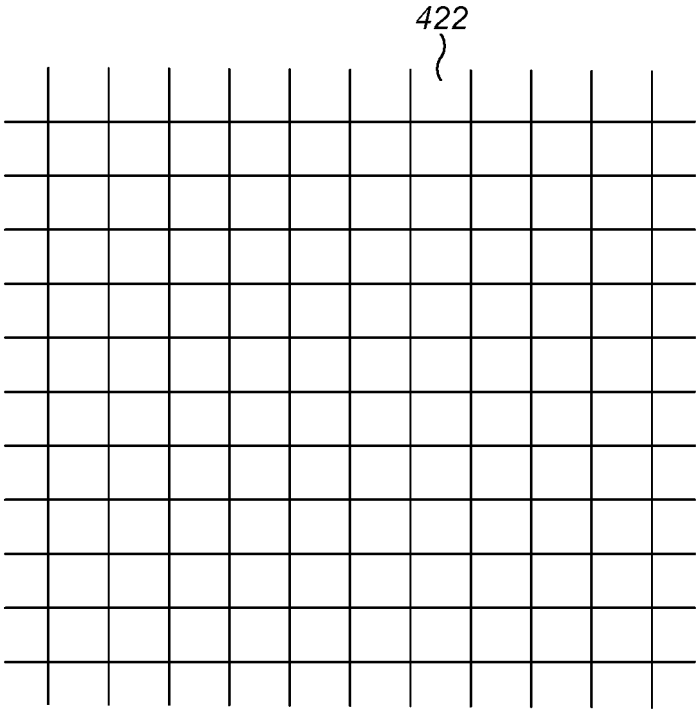


FIG. 16a

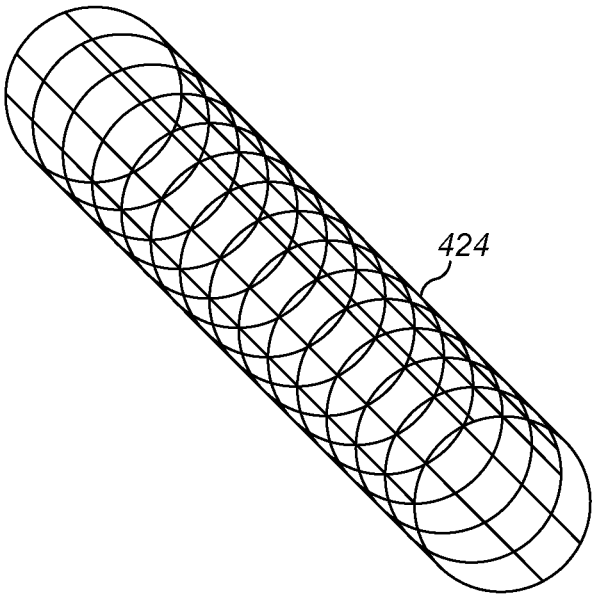


FIG. 16b

ATTACHMENT FOR A HAND HELD APPLIANCE

REFERENCE TO RELATED APPLICATIONS

This application claims the priority of United Kingdom Application Nos. 1404982.9, and 1404985.2, both filed Mar. 20, 2014, the entire contents of which are incorporated herein by reference.

FIELD OF THE INVENTION

This invention relates to an attachment for a hand held appliance, in particular a hair care appliance such as a hot styling brush.

BACKGROUND OF THE INVENTION

In a conventional hot styling brush, air is sucked into an inlet by a fan unit and directed towards the hair by an attachment or head. Depending on the style desired, the air may or may not be heated. The head or attachment often includes bristles onto which hair is wrapped and held for styling. The air is generally blown out of the head or attachment normal to the surface of the head.

SUMMARY OF THE INVENTION

The present invention provides an attachment for a hand held appliance comprising an inlet, an outlet, and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment and wherein the outlet is at least partially defined by an external surface of the attachment wherein fluid emitted from the outlet is blown along the external surface.

Preferably, the slot extends substantially along the length of the attachment.

It is preferred that the outlet comprises a plurality of slots radially spaced around the attachment.

Preferably, fluid emitted from the outlet flows around the external surface of the attachment. It is preferred that the fluid emitted from the outlet is tangential to the external surface of the attachment. Preferably, the fluid emitted from the outlet is attracted to the surface of the attachment.

By having the fluid exiting the fluid outlet travelling around the outer surface of the head hair is attracted to the surface and easily wraps around to create the style.

It is preferred that the attachment is generally cylindrical.

Preferably, the outlet comprises two slots.

It is preferred that the attachment has a longitudinal axis extending from the first end to the distal end and the at least one slot is parallel to the longitudinal axis.

Alternatively, the attachment has a longitudinal axis extending from the first end to the distal end and the at least one slot is non-parallel to the longitudinal axis. It is preferred that the at least one slot is helical with respect to the longitudinal axis.

A curved slot changes the direction that fluid flows out from the fluid outlet tending to give a flow that is more normal to the surface of the attachment and this improves the hold of the hair around the attachment.

Preferably, the attachment further comprises a flow directing element between the inlet and the outlet. The flow directing element also changes the direction that fluid flows out from the fluid outlet tending to give a flow that is more normal to the surface of the attachment and this improves the hold of the hair around the attachment. In addition, the flow directing element reduces the velocity of the fluid within the attachment which in turn reduces the noise produced by the attachment.

It is preferred that the flow directing element comprises a perforated layer. Preferably, the perforated layer is formed from a mesh or weave of an elongate material. It is preferred that the elongate material is a wire. Preferably, the flow directing element extends substantially along the length of the at least one slot. It is preferred that the flow directing element extends substantially around an inner circumference of the attachment.

According to a second aspect, the invention provides a hand held appliance comprising a handle having a fluid flow path from an inlet to an outlet and a fan unit for drawing fluid into the fluid inlet and an attachment for attaching to the handle, the attachment comprising an inlet, an outlet, and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment and wherein the outlet is at least partially defined by an external surface of the attachment and fluid emitted from the outlet is blown along the external surface.

According to a third embodiment, the invention provides an attachment for a hand held appliance comprising a first part and a second part, the first part comprising a first end of the attachment and at least one plate extending from the first end, the second part comprising a second end of the attachment and at least one further plate extending from the second end wherein when the first part and the second part are connected at least two slots are formed between the at least one plate and the at least one further plate, the at least two slots defining a fluid outlet for the attachment.

Preferably, the first end of the attachment comprises a fluid inlet into the attachment.

It is preferred that the first end of the attachment includes a supporting ring for supporting the at least one plate.

Preferably, the supporting ring comprises at least one recess for housing an end of the at least one further plate.

It is preferred that the supporting ring is additionally a collar for attaching the attachment to the appliance.

Preferably, the first part of the attachment includes a supporting scaffold located at or near a distal end to the first end of the first part of the attachment.

It is preferred that the supporting scaffold is attached to the at least one plate.

Preferably, the supporting scaffold includes a part of a fixture for fixing the first part and the second part together.

It is preferred that the second end of the attachment includes at least one further recess for housing an end of the at least one plate.

Preferably, the second end of the attachment includes another part of a fixture for fixing the first and the second part together.

It is preferred that one or more of the at least one plate and the at least one further plate are arcuate.

Preferably, one or more of the at least one plate and the at least one further plate extend orthogonally from a respective end.

Alternatively, the at least one plate and the at least one further plate curve round a longitudinal axis of the attachment.

Preferably, the at least one plate and the at least one further plate are helical.

It is preferred that the at least one plate and the at least one further plate are helical in a clockwise direction from the first end.

Case 2:23-cv-21274-ADB Document 1-16 Filed 06/06/23 Page 23 of 28

A curved slot changes the direction that fluid flows out from the fluid outlet tending to give a flow that is more normal to the surface of the attachment and this improves the hold of the hair around the attachment.

Preferably, a gap formed between the at least one plate and the at least one further plate is defined by a spacer.

It is preferred that a pair of spacers is provided longitudinally spaced along the at least one plate and the at least one further plate.

Any spacers maintain the gap between the two parts forming the slot or thickness of the slot. It is advantageous for these to all be substantially equal is this creates an even flow around the attachment.

Preferably, at least one of the at least one plate and the at least one further plate is lined with a material.

It is preferred that every plate is lined with material.

Preferably, the material absorbs sounds and/or vibrations.

It is preferred that the material is Kevlar or wool.

Preferably, the attachment further comprises a flow directing element between the fluid inlet and the fluid outlet. The flow directing element also changes the direction that fluid flows out from the fluid outlet tending to give a flow that is more normal to the surface of the attachment and this improves the hold of the hair around the attachment. In addition, the flow directing element reduces the velocity of the fluid within the attachment which in turn reduces the noise produced by the attachment.

It is preferred that the flow directing element comprises a perforated layer.

Preferably, the perforated layer is formed from a mesh or weave of an elongate material.

It is preferred that the elongate material is a wire.

Preferably, the flow directing element extends substantially along the length of the at least one slot.

It is preferred that the flow directing element extends substantially around an inner circumference of the attachment.

According to a fourth aspect, the invention provides a hand held appliance comprising a handle having a fluid flow path from a fluid inlet to a fluid outlet and a fan unit for drawing fluid into the fluid inlet and an attachment for attaching to the handle, the attachment comprising a first part and a second part, the first part comprising a first end of the attachment and at least one plate extending from the first end, the second part comprising a second end of the attachment and at least one further plate extending from the second end wherein when the first part and the second part are connected at least two slots are formed between the at least one plate and the at least one further plate, the at least two slots defining a fluid outlet for the attachment.

In one embodiment the appliance is a hair care appliance.

In another embodiment the appliance is a hot styling appliance such as a hot styling appliance such as a hot styling brush.

The invention will now be described by example, with reference to the accompanying drawings, of which:

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. **1***a* shows an example of an appliance according to the invention;

FIG. **1***b* shows a cross section through the appliance shown in FIG. **1***a;*

FIG. **2***a* shows an exploded view of some of the handle components of the device of FIG. **1***a;*

FIG. **2***b* shows an enlarged section of the fluid inlet;

FIGS. **3***a* and **3***b* show an isometric view and an isometric cross section through a first attachment according to the invention;

FIGS. **4***a* and **4***b* show a side view and a side view cross section through the first attachment;

FIGS. **5***a* and **5***b* show cross sections through the first attachment;

FIGS. **6***a* and **6***b* show an isometric view and a side view through a second attachment;

FIG. **7***a* shows an isometric view through another attachment;

FIGS. **7***b* and **7***c* show an isometric view and a side view through a further attachment;

FIG. **8***a* shows an isometric view of a fifth attachment;

FIG. **8***b* shows an isometric view of a sixth attachment;

FIGS. **9***a* and **9***b* show isometric views of a two part assembly for an attachment;

FIGS. **10***a* and **10***b* show an isometric view and an isometric cross section through a further attachment according to the invention;

FIGS. **11***a,* **11***b* and **11***c* show a side view and a side view cross sections through the further attachment;

FIGS. **12***a* and **12***b* show cross sections through the further attachment in a first position;

FIGS. **13***a* and **13***b* show cross sections through the further attachment in a second position;

FIG. **14** shows schematically the further attachment in use; and

FIG. **15***a* shows an isometric view of another attachment;

FIG. **15***b* shows different component parts of the other attachment;

FIG. **15***c* shows the different component parts from the inlet end;

FIG. **15***d* shows a cross section through the side of the other attachment;

FIG. **15***e* shows a cross section through the other attachment; and

FIGS. **16***a* and **16***b* show an alternative sock for the other attachment.

DETAILED DESCRIPTION OF THE INVENTION

FIGS. **1***a* and **1***b* shows a hot styling brush **10** with a handle **20** and a detachable head or attachment **30** which is attaches at the distal end **22** of the handle **20** to the fluid inlet **40**.

The handle **20** has an outer wall **26** which is generally tubular and includes the fluid inlet **40** at and adjacent one end **24**. The fluid inlet **40** comprises a first set of apertures **44** which extend radially around the handle **20** and along the outer wall **26** of the handle from the handle end **24**. The handle end **24** is covered by an end wall **42** which is also perforated with a second set of apertures **46** that extend through the end wall **42** of the handle. Thus, the fluid inlet **40** extends around, along and across the handle **20**. The end wall **42** is orthogonal to the outer wall **26** and an inner wall **60** of the handle.

The handle **20** also includes a fan unit **70** which comprises a fan and a motor which drives the fan and in use, draws fluid in through the fluid inlet **40**, along a fluid flow path **50** which extends through the length of the handle **20**. The fluid is optionally heated by a heater **80** before entering an inner cavity **38** of the head **30**. A nozzle **23** may be included at distal end **22** of handle **20** to shape fluid flow as it enters the head **30**.

The head **30** includes a fluid outlet **100** which in this example comprises parallel slots **102** each extending towards a second end **36** of the head and radially around the head **30**. This arrangement enables fluid to exit the head all the way around the head and for the majority of the length of the head **30** maximising a hair styling region of the product.

In use, hair is wrapped around the head **30** whilst air or fluid exits through the slots **102** drying the hair and/or styling the hair into curls or waves. The hair wraps automatically due to the flow of air around the surface of the head **30**. The air or fluid can be heated but this is not essential.

Power is provided to the appliance via a power cable **47** which preferably extends from a plug or other power source through the end wall **42** of the handle **20** into the cable mount **45**. The handle **20** also houses a PCB **75** which is electrically connected to the cable **48**, the fan unit **70** and the heater **80** by internal wiring (not shown). An on/off switch **52** and control buttons **54** are provided and connected to the PCB **75** to allow the user to select one of a range of temperature and flow settings.

FIG. **2***a* shows an exploded view of various parts of the handle **20** in more detail. The handle **20** is tubular and the outer wall **26** of the handle **20** is a cylindrical sleeve made from for example an extruded tube or rolled sheet of metal such as aluminium, an aluminium alloy or a steel. The handle connects to a head **30** at a first end **22** and at the distal, second end **24** a fluid inlet **40** is provided. The fluid inlet **40** is a first means of filtering fluid that enters the fluid flow path **50**.

The fluid inlet **40** comprises a plurality of apertures extending around, along and across the handle **20**. Having an inlet that extends in three dimensions has advantages particularly when used with hair grooming appliances. Firstly, if the appliance is placed on a surface whilst switched on only a small part of the inlet surface area will be blocked or have restricted flow of fluid into the appliance. This protects the fan unit and particularly the motor of the fan unit from running with too low a flow rate as this can cause overheating of the motor and cause damage to the motor.

Secondly, often hair care appliances are used with a styling product such as a mousse, gel or spray. These products are typically either applied by a hand or directly to the hair as a mist. After application by a hand, some of the product will be retained on the skin which is then transferred to the appliance when held. This can block at least some of the apertures **44** that extend around and along the handle **20**. However, the apertures **46** that extend under the handle and across the end wall **42** of the handle will be unaffected. When a product is applied as a mist, it can settle on the appliance and again block or restrict at least some of the apertures of the fluid inlet **40**. However, by having apertures that extend around, along and across the handle **20** the risk of blocking the fluid inlet **40** is reduced.

The apertures are preferably circular with a diameter of 0.2 to 1.6 mm. The diameter of the apertures can vary along, around and across the handle **20**. It is advantageous to space the apertures regularly around, along and across the fluid inlet **40**. Not only is this visually pleasing but it also has the technical advantage that there is no weak region of the fluid inlet **40** where blockage of a portion is more likely or would have more impact on the flow into the fluid inlet **40**. The inlet is designed so that the flow into the inlet is even at least around the circumference of the handle **20**.

A foam block **48** is provided which, in use, is inserted into the second end **24** of the handle **20** and may be positioned within the handle **20** by a foam block mount **49**. The foam block **48** is a second means of filtering the fluid that passes through the primary fluid inlet **40** into the primary fluid flow path **50**. It is advantageous that the foam block **48** extends beyond or further towards the first end **22** of the handle than the primary fluid inlet **40** as this ensures that fluid that has entered the primary fluid inlet **40** has passed through the foam block **48** so has had two stages of filtration. In other words, the foam block **48** extends from the second end **24** of the handle **20** past the downstream end **44***a* of the fluid inlet.

The foam block **48** shown is cylindrical and substantially fills the area within the handle **20** at the primary fluid inlet **40**. This is to ensure that all fluid that enters the primary fluid inlet through first apertures **44** that extend around and along the handle and fluid that enters through second apertures **46** that extend across and through the end wall **42** of the handle **20** passes through this second stage of filtration. The foam block **48** extends longitudinally from the second end **24** of the handle **20** further than the first apertures **42** of the primary fluid inlet **40**.

The first apertures **44** that extend along and around the outer wall **26** are machined, punched or laser cut from the extruded tube or sheet metal that the outer wall **26** is formed from.

The handle **20** has an outer wall **26** and an inner wall **60**, the outer wall **26** slides over the inner wall **60** to form the finished product. The inner wall **60** is a duct which surrounds and defines a fluid flow path **50** through the appliance. The outer wall **26** includes a grippable portion and in these examples, includes the fluid inlet **40** into the fluid flow path **50**. An insulting layer of material **28** is provided within the inner wall **60**. The insulating layer is a foam or a felt and insulates the handle from noise produced by the fan unit **70**, heat produced by the operation of the appliance, vibrations caused by the fan unit and noise produced within the appliance by the flow of fluid through the fluid flow path **50**. The insulating layer absorbs energy including airborne noise.

The inner wall **60** provides a housing **62** in which a fan unit **70** is disposed. The housing **62** is cylindrical and has an inwardly protruding ledge **64**,**66** disposed one at each end of the housing **62** which maintain the position of the fan unit **70** within the handle **20**. The inner wall **60** is made from two parts a first part **60***a* and a second part **60***b* which is moulded separately. This enables easier assembly of the fan unit **70** within the handle **20** than a one piece inner wall. A similar pair of inwardly protruding ledges **68**, **72** maintains the position of the heater **80** within the handle **20**.

Although the outer wall **26** of the handle **20** has been described as being made from an extruded tube or a rolled sheet of metal, alternatives methods of manufacture and materials could be used; these include, but are not limited to, a plastic extrusion/moulded tube or a composite tube such as carbon fibre reinforced plastic.

The fluid outlet **100** of the head **30** will now be described in more detail, referring in particular to FIGS. **3***a*, **3***b*, **4***a*, **4***b*, **5***a* and **5***b*. The head **30** is essentially cylindrical and has a first end **32** for connection to a handle **20** and a second end **36** distal to the first end **32**. The head **30** extends longitudinally from the first end **32** to the second end **26** continuing a line described by the handle **20** (FIG. **1***a*) so is approximately the same diameter as the handle. Within the head **30** is an inner cavity **38** and fluid that has been drawn into the fluid flow path **50** within the handle **20** by the fan unit **70** enters the inner cavity **38** via an aperture **302** in the first end **32** of the head **30**.

The fluid outlet **100** is formed from a number of parallel slots **102** which extend along the length of the head **30** from the first end **32** to the second end **36**. The slots **102** are formed from an overlap **120** (FIG. **5***b*) formed between adjacent plates **110** which results in fluid being directed between a radially inner surface **104** formed from the outer surface **112** of a first plate **110***a* and a radially outer surface **106** formed from the inner surface **114** of a second plate **110***b*. The fluid **122** flowing out of the slot **102** is tangential **130** to the outer surface **112** of the plate **110***a* and joins with the fluid flowing out of the other slots of the fluid outlet **100** forming a fluid flow around the circumference of the head **30**. Thus, the fluid **122** is blown out along the external surface of the head and this encourages hair to wrap around the head **30** automatically.

The fluid **122** exiting the slots **102** is attracted to the curved surface of the head **30** by the Coanda effect. This in turn causes hair that is presented to the head **30** to automatically wrap around the surface and then styled into curls. As air is blown down the length of the hair, wet hair is dried more quickly than conventionally and as the wrapping process occurs without the use of bristles, the hair can slide off the head **30** once it is dry or styled so there is no tangling.

To maintain the size of each slot **102**, spacers **108** are provided. In this example, a pair of spacers **108** is provided to maintain each slot **102** size. Each one of the pair of spacers **108** is longitudinally spaced along the slot **102** and the plate **110**. The spacers **108** join adjacent plates **110** together.

Advantageously, each plate **110** is lined with a felt like material **308** such as Kevlar or wool (see FIG. **3***b*). The material **308** does not extend over each slot **102** so the fluid exiting the fluid outlet **100** does not pass through the layer of material **308**. This layer serves to absorb some of the noise produced by the fluid flowing through the head **30** from the inlet to the head **30** at aperture **302** to the fluid outlet **100**. Such a layer of material **308** is as applicable for other heads herein described such as heads **130**, **180** and **230**.

FIGS. **6***a* and **6***b* show an alternative head **130**, all features identical to those previously described have the same reference numerals. The head **130** has a larger diameter than the handle **20** so is used to create larger curls. The head **130** has a first end **32** for connection to the handle **20** and this is the same diameter as the handle **20**, within a collar **132** of the head **130**, the diameter of the head **130** increases to the larger diameter prior to the fluid outlet **100** formed by slots **142** and then continues at a constant diameter to the second end **136**. An inner fluid cavity (not shown) is larger than for the head **30** of FIG. **3***a*. In this example the number of plates **110** and slots **102** is the same i.e. six as for the head described with respect to FIG. **3***a*. Alternatively, a larger or smaller number of plates **110** and slots **142** could be used.

FIG. **7***a* shows a further head **230**. This head **230** has a reduced diameter compared with the handle **20**. The first end **32** is substantially the same diameter as the handle **20** for connection thereto, and then within a collar **232** the diameter of the head **230** decreases to the reduced diameter prior to the fluid outlet **200** formed by slots **202** and continues at a constant diameter to the second end **236**. This head **230** is used to create tighter curls.

The slots **202** for this head extend longitudinally straight from the first end **32** to the second end **236** as was the case for slots **102** in heads **30**, **130**.

In another embodiment, as shown in FIGS. **7***b* and **7***c*, a further head **280** has slots **282** which curve around the head **280** forming a spiral or helical pattern around the head **230**.

The slots **282** curve by an angle α of 45° from the longitudinal axis A-A of the handle **20** and head **280**. In this example the slots **282** curve in a clockwise direction from the first end **34** of the head **280** towards the second end **236** of the head. The slots **282** are formed as before between adjacent overlapping plates **210** however, in order to form the curved slots **282**, the plates **210** do not extend along the longitudinal axis of the head **280** but also curve by an angle of 45°. Using angled slots changes the profile of the fluid exiting from the head. The airflow exiting from the slots is more normal to the slot when angled slots are used. This has benefits including enabling more hair to be wrapped around the head also, the hair is retained on the head more easily leading to a potentially quicker styling process.

The slots can be curved in a clockwise or and anticlockwise direction from the longitudinal axis A-A of the handle **20**. Whilst an angle of 45° has been illustrated, improved wrapping is seen even at an angle of 1°.

FIG. **8***a* shows a head **180** which is substantially the same diameter as the handle **20**. The slots **182** are curved or spiral around the head **180** in the same manner as head **280**.

FIG. **8***b* shows a head **380** which has a larger diameter than the handle, and is similar to head **130** except it has curved or spiralling slots **382** around the head **380**.

FIGS. **9***a* and **9***b* show a way of assembling head **30**. A first part **150** is formed from the first end **32** and has a collar **152** and a first set of plates **154** which are joined to or formed integrally with the collar **152**. A second part **160** is formed from the second end **36** and has an end wall **162** and a second set of plates **164** which are joined to or formed integrally with the end wall **162**. The first set of plates **154** and second set of plates **164** each comprise non-adjacent plates **110** enabling the first part **150** and the second part **160** to be slotted together to form the head **30**. Between each of the first set of plates **154**, a recess **156** is provided in the connecting ring **152** adapted to accommodate the distal end **164***a* of the second set of plates **164** from the end wall **162**. A similar set of recesses **166** is provided in the end wall **162** and is adapted to accommodate the distal end **154***a* of the first set of plates from the collar **32**.

In order to retain the first part **150** and the second part **160** of the head **30** in the assembled condition, a protruding screw hole **168** is provided. Near the distal end **154***a* of the first set of plates **154** a support scaffold **170** is provided and this has two functions. A first function is to support the first set of plates **154** and maintain their relative positions towards the distal end **154***a* and a second function is to provide part of the fixing mechanism. In this example, the support scaffold **170** has a central aperture **172** through which the protruding screw hole **168** passes on assembly of the head **30***a* and a screw, for example can be inserted to fix the two parts **150**, **160** of the head together.

FIGS. **15***a*, **15***b*, **15***c*, **15***d* and **15***e* show a head **400** all features identical to those previously described have the same reference numerals. This head **400** has a reduced diameter compared with the handle **20**. The slots **102** extend longitudinally from the first end **32** to the second end **236**, however the slots could be curved as described with respect to FIGS. **7***a* and **7***b*.

Internal of the head **400**, within the cavity **418** formed within the head **400**, an internal sock **420** is provided. This sock **420** is a mesh formed from a metal wire. The sock **420** can be in the knitted form **426** shown in FIG. **15***b*. Alternatively as shown in FIGS. **16***a* and **16***b* the sock **420** is a tube **424** formed from a woven mesh **422** having generally square apertures.

The sock **420** diffuses the fluid flowing in the cavity **418** within the head **400** and slows down the longitudinal velocity of the flow. This results in more even wrapping of hair around the head **400** as the direction of fluid exiting the head **400** is more normal to the slots **102**. The sock **420** extends along the length of the slots **102** within the head **400**. The size of the apertures in the mesh is important; if they are too small the flow becomes too restricted and there is an increased chance of them clogging over time. An aperture size of around 1.6 mm has been found to provide the benefit without undue restriction.

FIGS. **10***a*, **10***b*, **11***a*-**11***c* and **12** show various views of another head **300** which has a directed fluid flow. The head **300** has a first cylindrical part **310** and a second triangular part **330** that together form the fluid outlet **320**.

The second triangular part **330** has a first end **312** for connection to a handle **20** via a collar **328** and extends longitudinally to a second end **314** The first cylindrical part **310** has an aperture **322** extending from a first end **378** to a second end which is defined by end wall **316**. The aperture **322** is defined by a first edge **324** and a second edge **326**. An inner cavity **318** is formed within the head **300** when the second triangular part **330** is slid into the first cylindrical part **310**. The first end **278** of the first cylindrical part **310** abuts a downstream end of the collar **328** and the second end **314** of the second triangular part **330** abuts the end wall **316** when the attachment is formed.

The second triangular part **330** has a first end **332** and a second end **334** and is formed from a first side **336**, a second side **338** and an internal wall **340**. The second triangular part **330** fits within the aperture **322** and extends outwardly beyond the first cylindrical part **310**.

The second triangular part **330** is movable relative to the first cylindrical part **310**. In this example, the second triangular part **330** is fixed with respect to the handle **20** and the first cylindrical part **310** is moveable relative to both the second triangular part **330** and the handle **20**. This enables the outlet slot **342** to be partially defined by one or the other of the first edge **324** and the second edge **326**.

In one position, referring now to FIGS. **12***a* and **12***b*, the first edge **324** along with a first side **336** of the second triangular part **330** define the limits of the outlet slot **342**. The second triangular part **330** moves with respect to the first cylindrical part **310** so the outlet slot **342** is alternatively defined by the second edge **326** and the second side **338** as shown in FIGS. **13***a* and **13***b*.

The second triangular part **330** rotates with respect to the first cylindrical part **310** in order to change the position of the outlet slot **342**. The first cylindrical part **310** is temporarily retained in a position by the use of a detent mechanism.

The end wall **316** of the first cylindrical part **310** includes a first recess **340** and a second recess **350** each of which adapted to partially accommodate a ball bearing **360**. The ball bearing **360** is biased towards the end wall **316** by a spring **362** (see FIG. **11***b*). There are a number of suitable alternatives that could be used instead of this method of retaining one part with respect to the other part such as a plastic bump feature or a piece of sprung metal.

Referring now to FIGS. **12***a* and **12***b*, when the second triangular part **330** is in a first position with respect to the first cylindrical part **310**, the outlet slot **342** is formed from first side **336** and first edge **324** and the ball bearing **360** is accommodated by the first recess. By manually rotating the second triangular part **330** with respect to the first cylindrical part **310** the force of the spring **362** retaining the ball bearing **360** within the first recess **340** is overcome and the second triangular part **330** can be rotated with respect to the first cylindrical part **310** to move the ball bearing **360** into the second recess **350** and changing the position of the outlet slot **328** so it is now formed from the second edge **326** and the second side **338**.

The first cylindrical part **310** includes bristles **350** arranged in this example in parallel rows **352** on either side of the aperture **322**. The rows **352** of bristles **350** extend from near the outlet slot **342** around the head **300** but in this example the bristles **350** do not extend all the way around the head **300**, there is a gap in the rows **352** diametrically opposite the outlet slot **320**.

Referring now to FIG. **14**, when hair **354** is being styled, the action of drawing the bristles **350** down through the hair **354** opens the outlet slot **342** on the side next to the hair **354**. The position of the outlet slot **342** is movable by hand or by the friction or force of combing through the hair.

The use of a combination of a directed outlet slot **342** and bristles **350** means that the hair is dried and/or styled more quickly than conventionally as the fluid exiting from the outlet slot **342** is blown down the hair **354**. The fluid exiting the outlet slot **342** is attracted to the surface of the second triangular part **330** which in turn attracts the hair **354** to the second triangular part **330**. The bristles **350** separate and detangle individual strands of the hair **354** and this combination gives fast drying and a smother result.

In use as shown in FIG. **14**, this head is designed to be pulled through the hair with the slot **328** adjacent the hair **354**. Fluid is blown out of the slot **328** as the appliance is moved along the hair **354** so the hair is both heated and brushed. Having the slot **328** on either side of the head **356** means that the same head **300** can be used for both sides of the head and both the underside and the topside of the hair **354**.

In each of the examples given, the head **30**, **130**, **180**, **230**, **300** in connected to handle **20** via a collar and a twist lock joint. Referring to FIG. **7***b*, three protrusions **234** are provided on the internal surface of the collar **232** (one not shown). The protrusions **234** are adapted to engage a slot **90** (see FIG. **1***b*) or three separate slots provided near the distal end **22** of the handle **20**. The slot **90** extends at least partially around an outer surface of the inner wall **60** and is helical so both a rotational and longitudinal movement is required to attach or remove the head from the handle **20**. This is one example of a fixing mechanism, it will be apparent to the skilled person that other equally acceptable alternative mechanisms could be used.

The heads **30**, **130**, **180** and **230** described with respect to FIGS. **3***a* to **9***b* could be provided with bristles. For these heads **30**, **130**, **180** and **230** as the slots are arranged all the way around the head, any bristles would be arranged all the way around the head. An example would be to have one or more rows of bristles at least located on every other plate **110**, **210**.

The invention has been described in detail with respect to a hot styling brush however, it is applicable to any appliance that draws in a fluid and directs the outflow of that fluid from the appliance including a hairdryer.

The appliance can be used with or without a heater; the action of the outflow of fluid at high velocity has a drying effect.

The heads have been described as being manufactured by attaching a first part to the second part using a screw however, as the skilled person will be aware, a number of different fixing methods can be used such as, but not limited to gluing or using ultrasonic welding.

Case 2:23-cv-21274-ADB Document 1-16 Filed 06/06/23 Page 27 of 28

The fluid that flows through the appliance is generally air, but may be a different combination of gases or gas and can include additives to improve performance of the appliance or the impact the appliance has on an object the output is directed at for example, hair and the styling of that hair. Such additives include but are not limited to hairspray and serums for example.

The heads **30**, **130**, **230** are all generally cylindrical in shape, however as the skilled person would realise, alternative shapes could be used such as ovals.

The invention is not limited to the detailed description given above. Variations will be apparent to the person skilled in the art.

The invention claimed is:

1. An attachment for a hand held appliance comprising an inlet in a proximal first portion of the attachment; an outlet in a cylindrical second portion of the attachment; and a fluid flow path between the inlet and the outlet, wherein the outlet in the cylindrical second portion of the attachment comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment, wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment and is configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion, wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot, and wherein the distal end of the attachment is closed.

2. The attachment of claim **1**, wherein the outlet comprises a plurality of slots radially spaced around the attachment.

3. The attachment of claim **1**, wherein the attachment is configured so that, in use, the fluid emitted from the outlet is attracted to the external surface of the attachment.

4. The attachment of claim **1**, wherein the outlet comprises two slots.

5. The attachment of claim **1**, wherein the attachment has a longitudinal axis and the at least one slot is parallel to the longitudinal axis.

6. The attachment of claim **1**, wherein the attachment has a longitudinal axis and the at least one slot is non-parallel to the longitudinal axis.

7. The attachment of claim **6**, wherein the at least one slot is helical with respect to the longitudinal axis.

8. The attachment of claim **1**, further comprising a flow directing element between the inlet and the outlet.

9. The attachment of claim **8**, wherein the flow directing element comprises a perforated layer.

10. The attachment of claim **9**, wherein the perforated layer is formed from a mesh or weave of an elongate material.

11. The attachment of claim **9**, wherein the perforated layer is formed from a mesh or a weave of elongate wire.

12. The attachment of claim **9**, wherein the flow directing element extends substantially along a length of the at least one slot.

13. The attachment of claim **9**, wherein the flow directing element extends substantially around an inner circumference of the attachment.

14. The attachment of claim **1**, wherein the wall comprises a plurality of plates.

15. The attachment of claim **1**, wherein the at least one slot is formed by a gap between adjacent sections of the wall that are joined by at least one spacer disposed between the beginning of the at least one slot and the end of the at least one slot to maintain the gap.

16. The attachment of claim **15**, wherein the at least one spacer extends from an edge of a first section of the adjacent sections of the wall to an edge of a second section of the adjacent sections of the wall.

17. A hand held appliance comprising a handle having a fluid flow path from a handle inlet to a handle outlet, a fan unit for drawing fluid into the handle inlet, and an attachment for attaching to the handle, the attachment comprising an inlet in a proximal first portion of the attachment; an outlet in a cylindrical second portion of the attachment; and a fluid flow path between the inlet and the outlet, wherein the outlet in the cylindrical second portion of the attachment comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment, wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment and is configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion, wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot, and wherein the distal end of the attachment is closed.

18. The appliance of claim **17**, wherein the outlet comprises a plurality of slots radially spaced around the attachment.

19. The appliance of claim **17**, wherein the attachment is configured so that, in use, the fluid emitted from the outlet is attracted to the external surface of the attachment.

20. The appliance of claim **17**, wherein the outlet comprises two slots.

21. The appliance of claim **17**, wherein the attachment has a longitudinal axis and the at least one slot is parallel to the longitudinal axis.

22. The appliance of claim **17**, wherein the attachment has a longitudinal axis and the at least one slot is non-parallel to the longitudinal axis.

23. The appliance of claim **22**, wherein the at least one slot is helical with respect to the longitudinal axis.

24. The appliance of claim **17**, further comprising a flow directing element between the inlet and the outlet.

25. The appliance of claim **24**, wherein the flow directing element comprises a perforated layer.

26. The appliance of claim **25**, wherein the perforated layer is formed from a mesh or weave of an elongate material.

27. The appliance of claim **24**, wherein the flow directing element extends substantially along a length of the at least one slot.

28. The appliance of claim **25**, wherein the perforated layer is formed from a mesh or a weave of elongate wire.

29. The appliance of claim **24**, wherein the flow directing element extends substantially around an inner circumference of the attachment.

30. The appliance of claim **17**, wherein the appliance is a hair care appliance.

31. The appliance of claim **17**, wherein the appliance is a hot styling appliance.

Case 2:23-cv-01274-ADB Document 1-16 Filed 06/06/23 Page 28 of 28

32. The appliance of claim **17**, wherein the appliance is a hot styling brush.

* * * * *

EXHIBIT B

dyson

By email and courier

Pedro J. Lopez-Baldrich
Chief Legal Officer, EVP

SharkNinja Operating LLC
SharkNinja Sales Co.
89 A Street, Suite 100
Needham, MA 02494

pbaldrich@sharkninja.com

May 31, 2023

Dear Mr. Lopez-Baldrich

RE: Notice of Infringement of U.S. Patent No. 11,044,979

Dyson, Inc. and Dyson Technology Limited (collectively, "**Dyson**") hereby remind SharkNinja Operating LLC and SharkNinja Sales Company (collectively, "**SharkNinja**") of its infringement of United States Patent No. 11,044,979 ("**the '979 Patent**"), titled ATTACHMENT FOR A HAND HELD APPLIANCE, as a result of products made, used, tested, sold, offered for sale and/or imported by SharkNinja. A copy of the '979 Patent is attached to this letter for your convenience. Dyson believes SharkNinja is already on notice of the '979 Patent and SharkNinja's infringement. In particular, given the timing of launch of the Shark FlexStyle™ Air Styling and Drying System, and the similarities between the FlexStyle™ and Dyson's patented Airwrap™ multi-styler system, SharkNinja was either aware of or willfully blind to the '979 Patent during development and launch of FlexStyle™. SharkNinja is certainly aware of the pending patent actions in France and Germany asserting EP 3 119 234 B1, which is in the same patent family as the '979 Patent, and the May 4, 2023 injunction issued by the Munich Regional Court I in Germany for infringement of claims 1 and 10 of EP 234.



SharkNinja infringes at least claim 1 of the '979 Patent by making, using, testing, selling, offering for sale and/or importing into the United States products including, but not limited to, hair stylers, accessories, and parts related to the Shark FlexStyle™ Air Styling and Drying System, as well as any other SharkNinja products, either alone or in combination, that operate in substantially the same manner.

Dyson does not and has never authorized SharkNinja's use, import or sale, or SharkNinja's customers' use of Dyson patented technology. SharkNinja must immediately cease infringement of the '979 Patent. Dyson would welcome the opportunity to enter into constructive discussions with SharkNinja to negotiate a prompt but graceful exit of the Shark FlexStyle™ Air Styling and Drying System from the U.S. market. Without such exit, however, Dyson reserves all rights and will pursue all legal remedies available.

Given the ongoing infringement (of the '979 Patent in the US and of other patents in the same family in other jurisdictions where the patent is in force), and SharkNinja's prior notice, as well as the ongoing litigation in Germany and France, we request your response by June 7, 2023.

Yours sincerely,

George Sevier
Head of IP Enforcement, Brands & Licensing
Dyson Technology Limited

Attachment (1)



US011044979B2

(12) **United States Patent**
MacLaine

(10) **Patent No.: US 11,044,979 B2**
(45) **Date of Patent: Jun. 29, 2021**

(54) **ATTACHMENT FOR A HAND HELD APPLIANCE**

(71) Applicant: **Dyson Technology Limited**, Wiltshire (GB)

(72) Inventor: **Alasdair Michael MacLaine**, London (GB)

(73) Assignee: **DYSON TECHNOLOGY LIMITED**, Malmesbury (GB)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **14/656,357**

(22) Filed: **Mar. 12, 2015**

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(30) **Foreign Application Priority Data**

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Mar. 20, 2014 (GB) 1404985

(51) **Int. Cl.**
A45D 20/50 (2006.01)
A46B 9/02 (2006.01)
(Continued)

(52) **U.S. Cl.**
CPC ***A45D 20/50*** (2013.01); ***A45D 20/12*** (2013.01); ***A46B 9/023*** (2013.01); ***A46B 15/003*** (2013.01)

(58) **Field of Classification Search**
CPC ... A45D 1/02; A45D 2/06; A45D 2/10; A45D 2/125; A45D 2/127; A45D 2/14;
(Continued)

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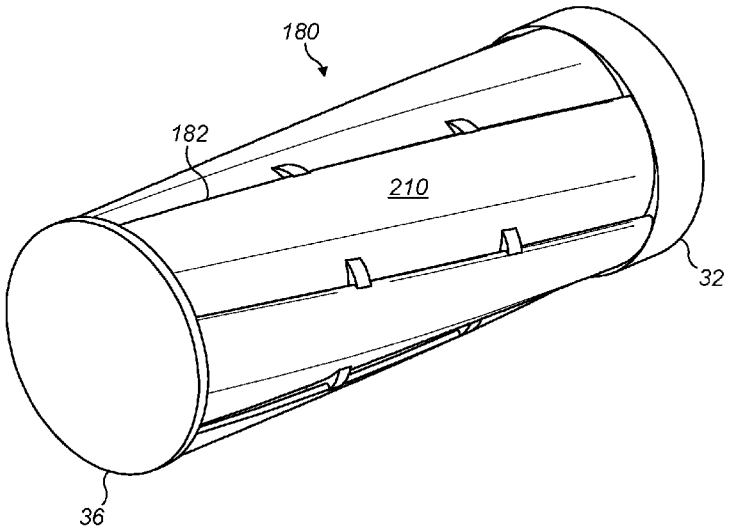
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Primary Examiner — Yogesh P Patel
Assistant Examiner — Jennifer Gill
(74) *Attorney, Agent, or Firm* — Morrison & Foerster LLP

(57) **ABSTRACT**

An attachment for a hand held appliance comprising an inlet; an outlet; and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment and wherein the outlet is at least partially defined by an external surface of the attachment wherein fluid emitted from the outlet is blown along the external surface. The slot extends substantially along the length of the attachment. The outlet comprises slots radially spaced around the attachment. Fluid emitted from the outlet flows around the external surface of the attachment, tangentially to the external surface, and is attracted to the surface of the attachment. The attachment has a longitudinal axis extending from the first end to the distal end and the at least one slot may be parallel to the longitudinal axis.

32 Claims, 17 Drawing Sheets



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(58) **Field of Classification Search**
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USPC 132/210, 211, 227, 268; 219/226; 34/96–99; D28/10, 12, 15, 18; D32/31
See application file for complete search history.

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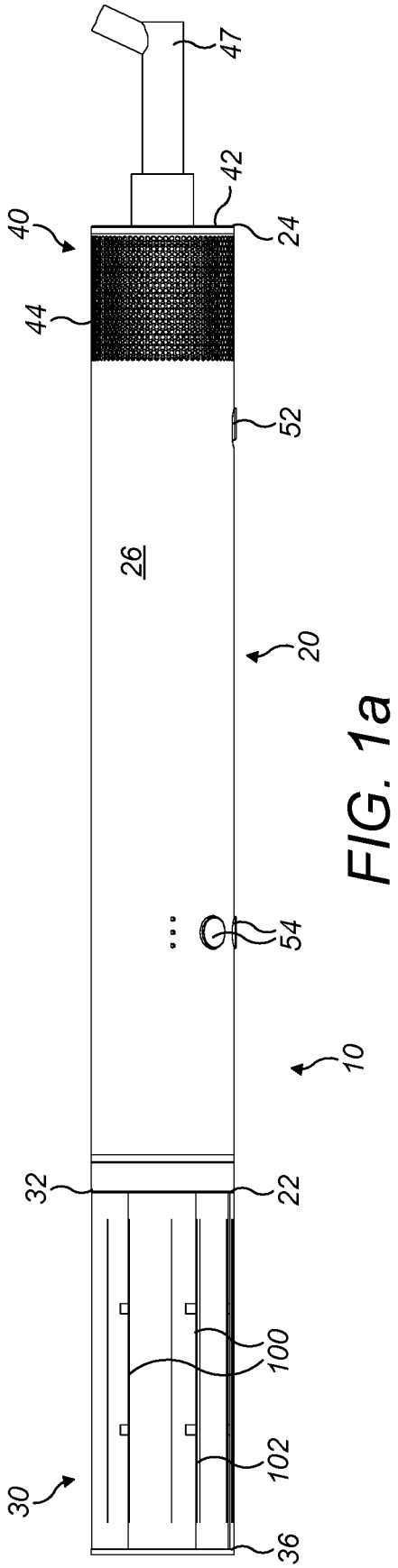

47
42
40
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26
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32
22
100
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36

FIG. 1a

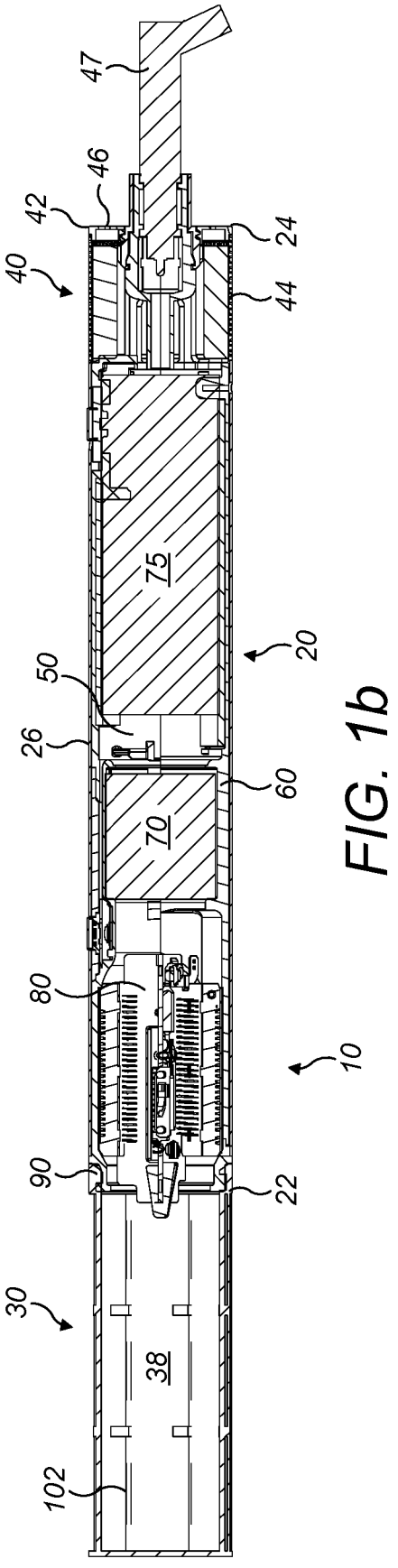

47
46
42
40
24
44
75
20
50
26
60
70
80
10
90
22
30
38
102

FIG. 1b

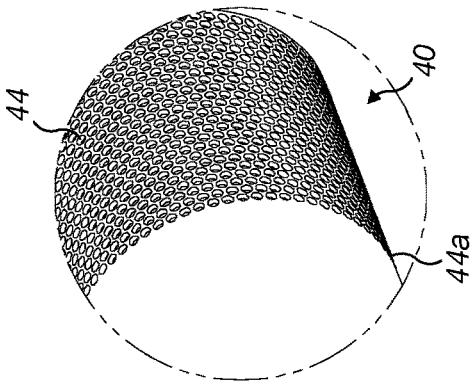

44
40
44a

FIG. 2b

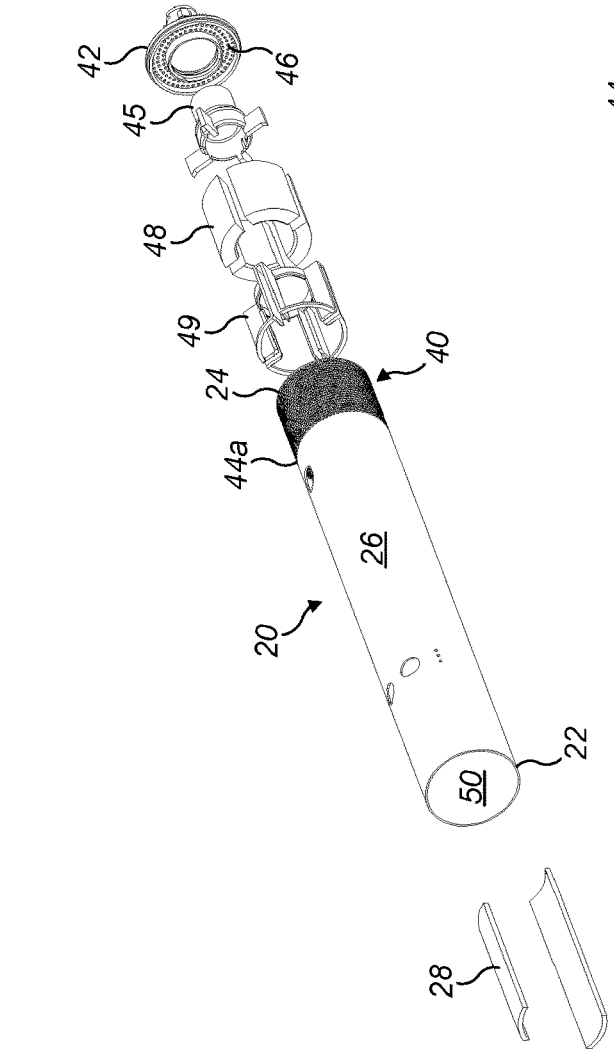
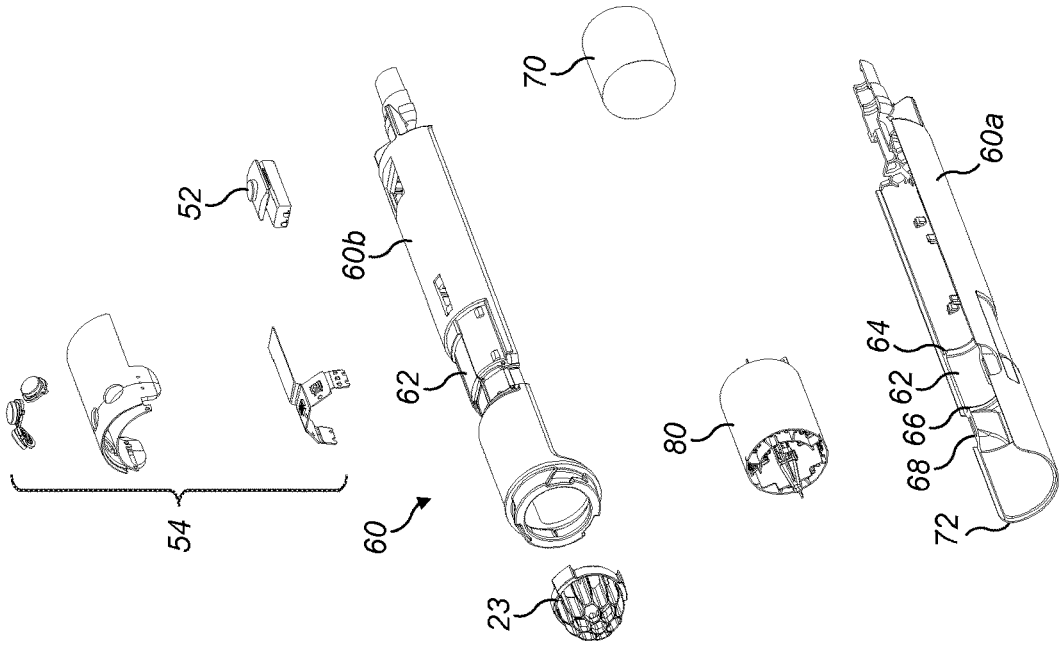

42
46
45
48
49
24
40
44a
26
20
50
22
28

FIG. 2a


70
52
60b
62
54
60
23
80
60a
64
62
66
68
72

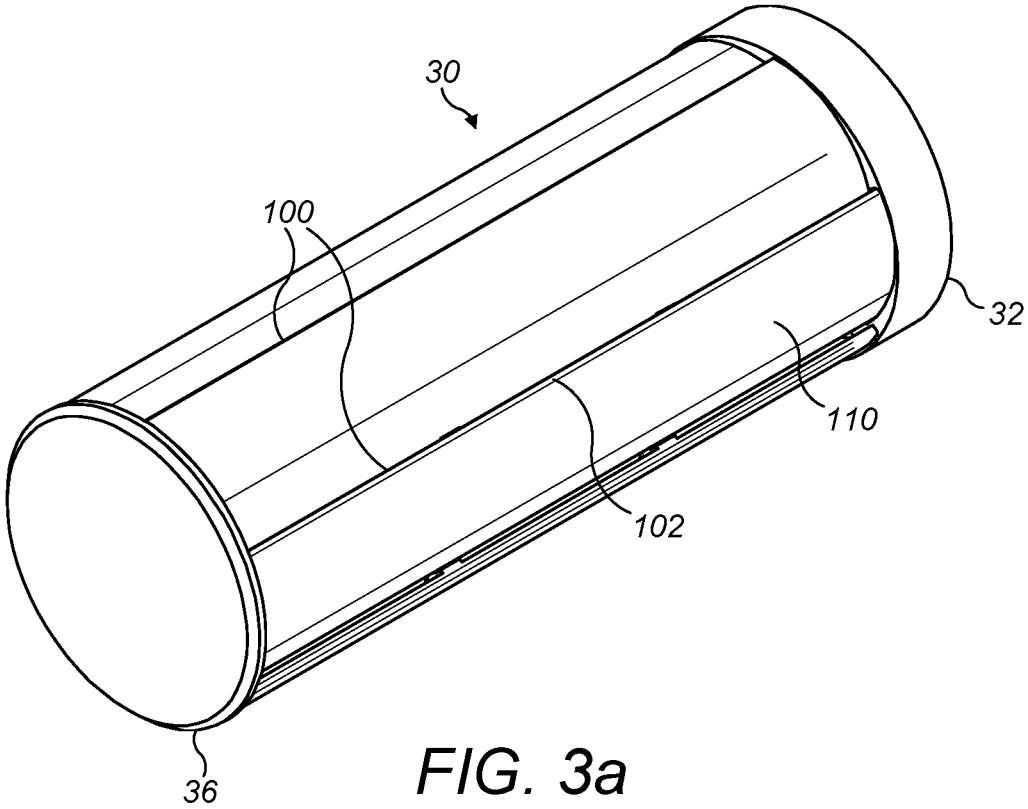


FIG. 3a

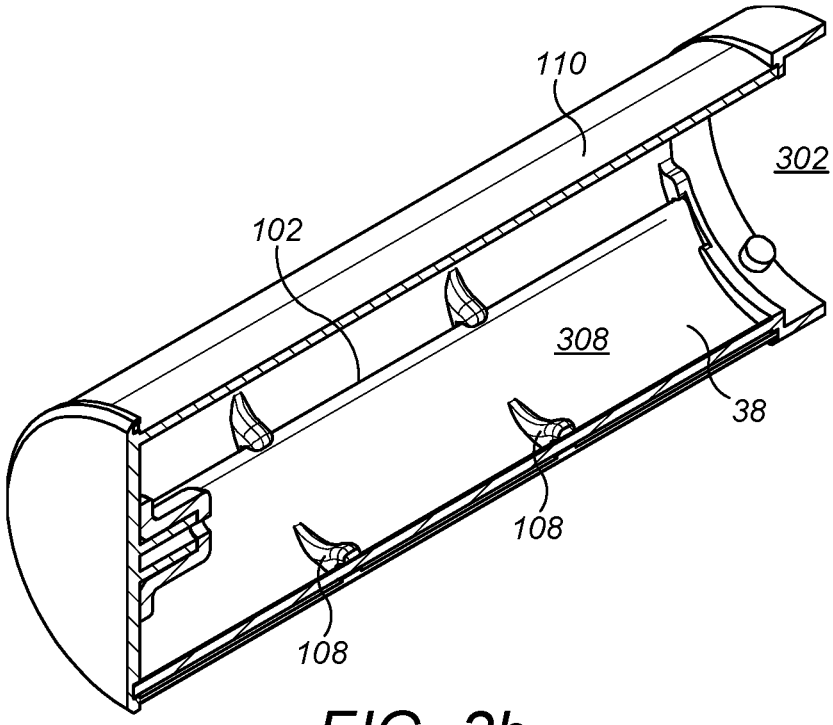


FIG. 3b

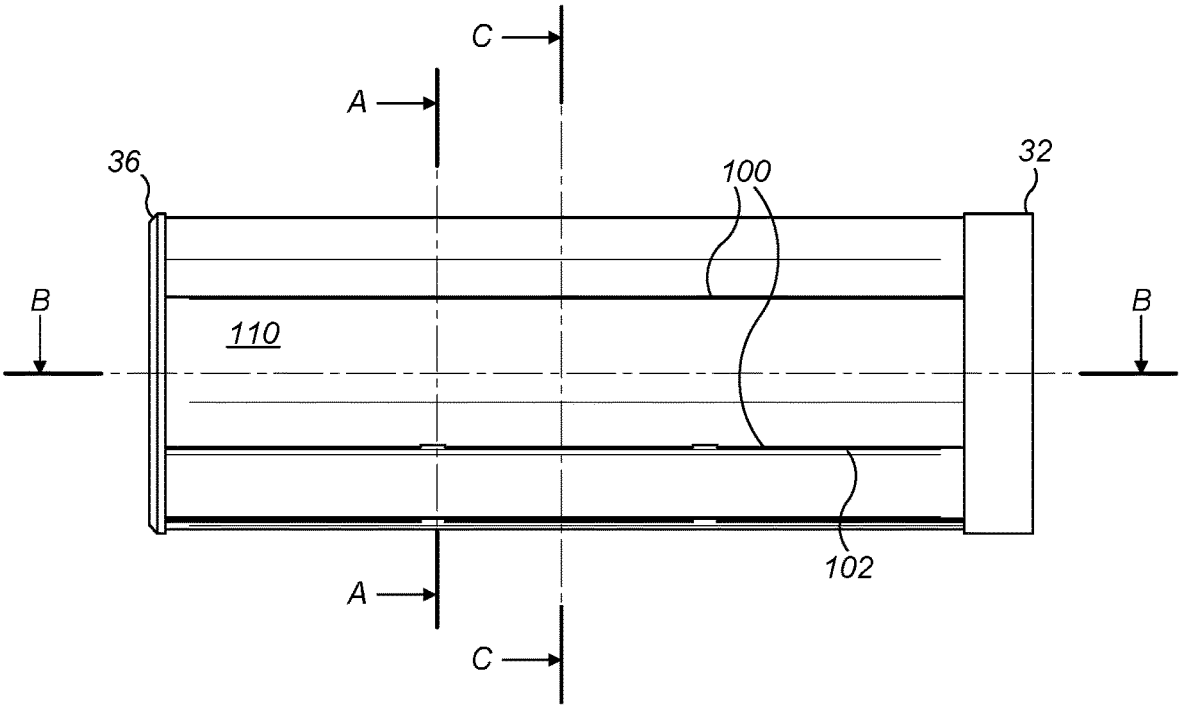


FIG. 4a

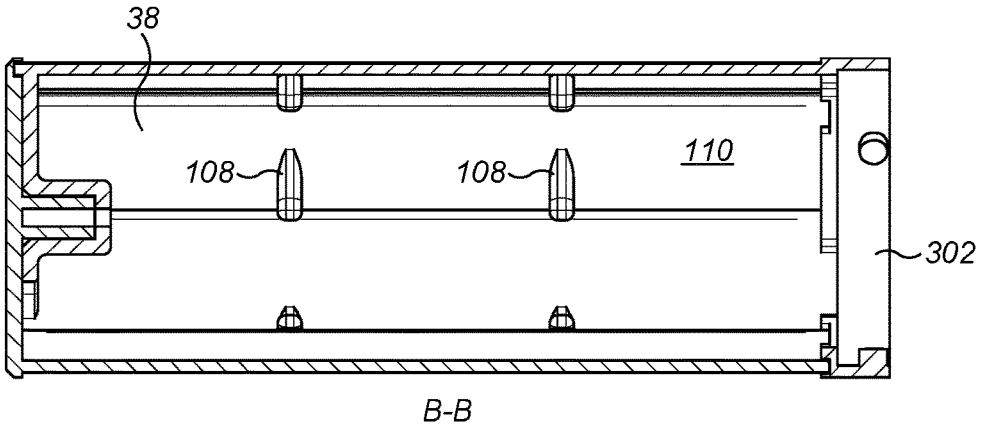


FIG. 4b

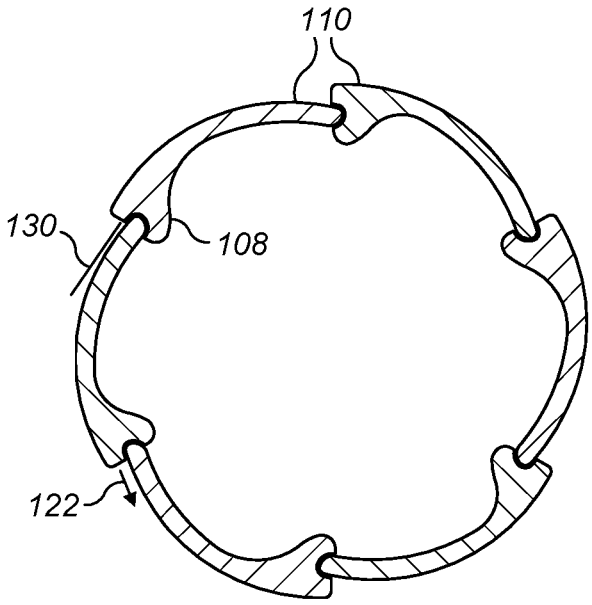


FIG. 5a

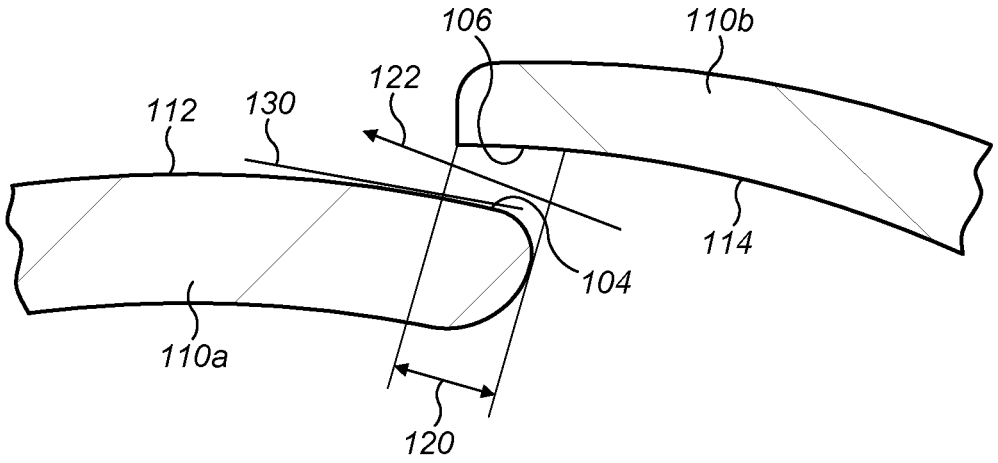


FIG. 5b

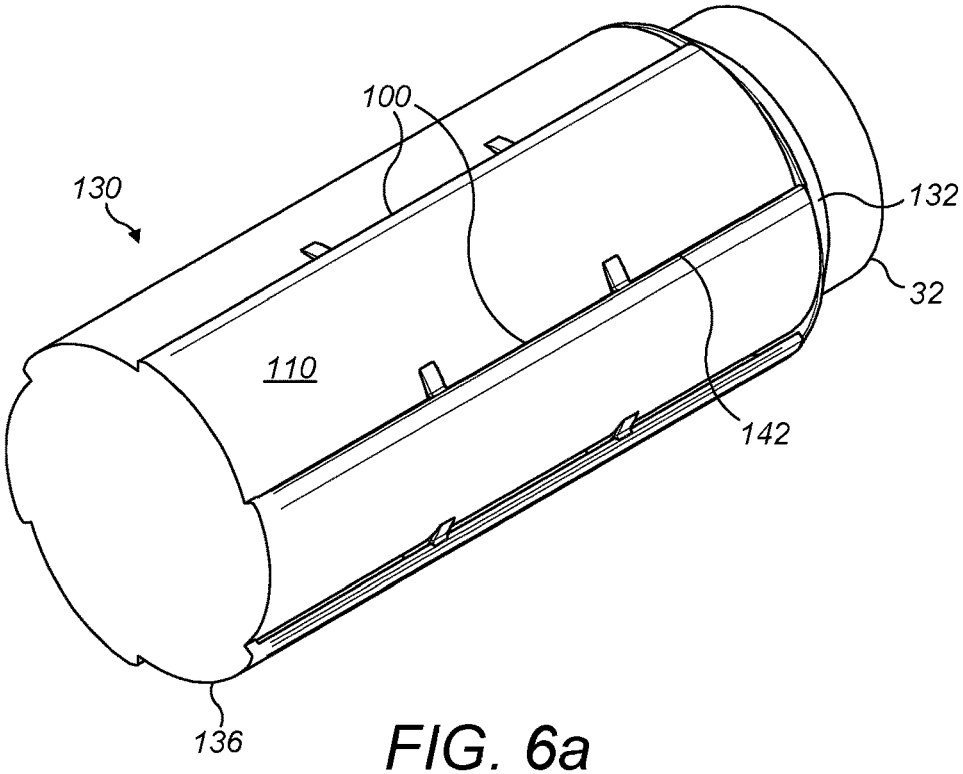


FIG. 6a

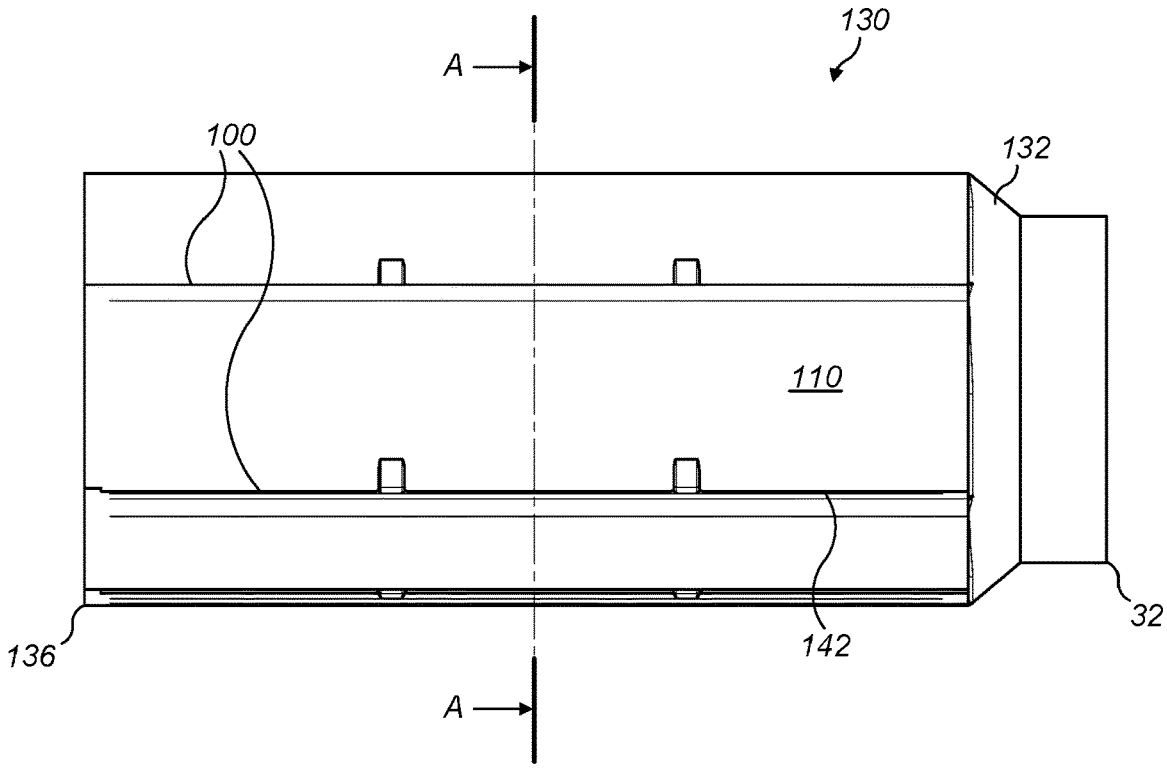


FIG. 6b

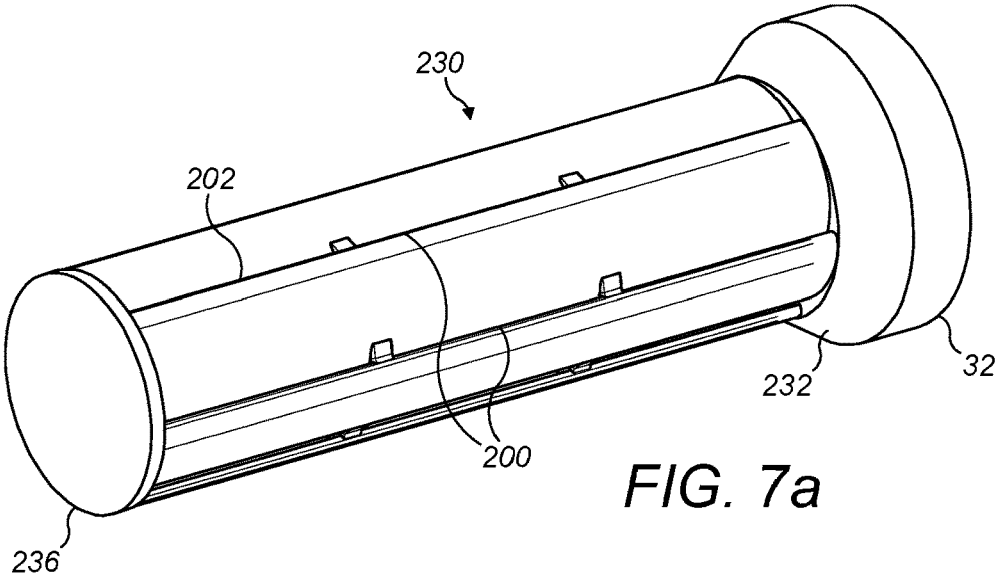


FIG. 7a

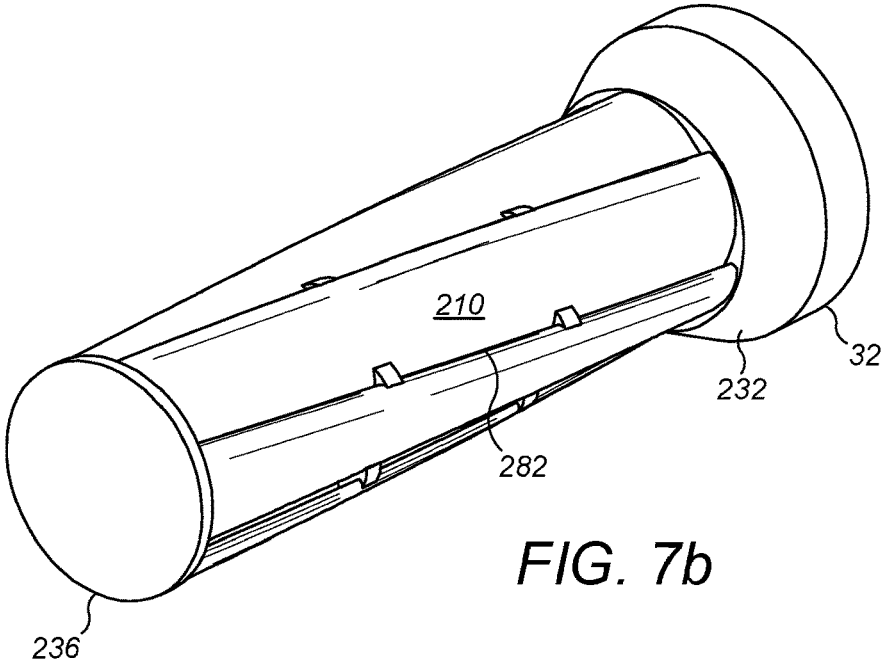


FIG. 7b

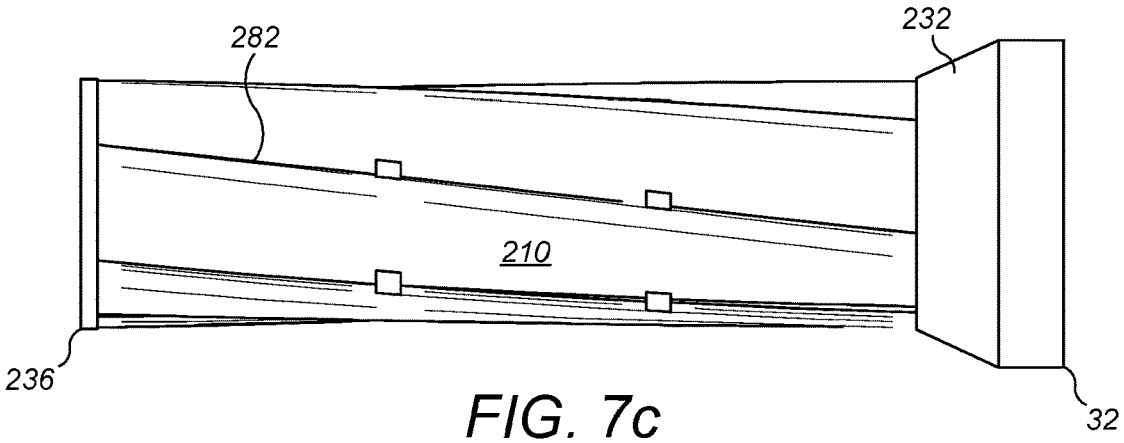


FIG. 7c

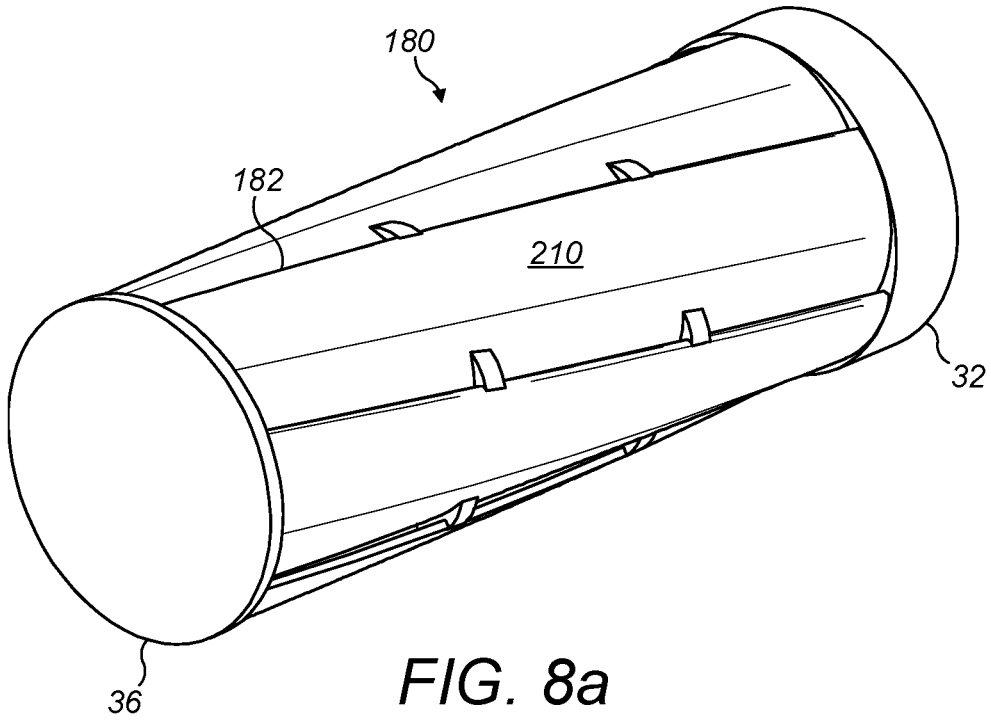


FIG. 8a

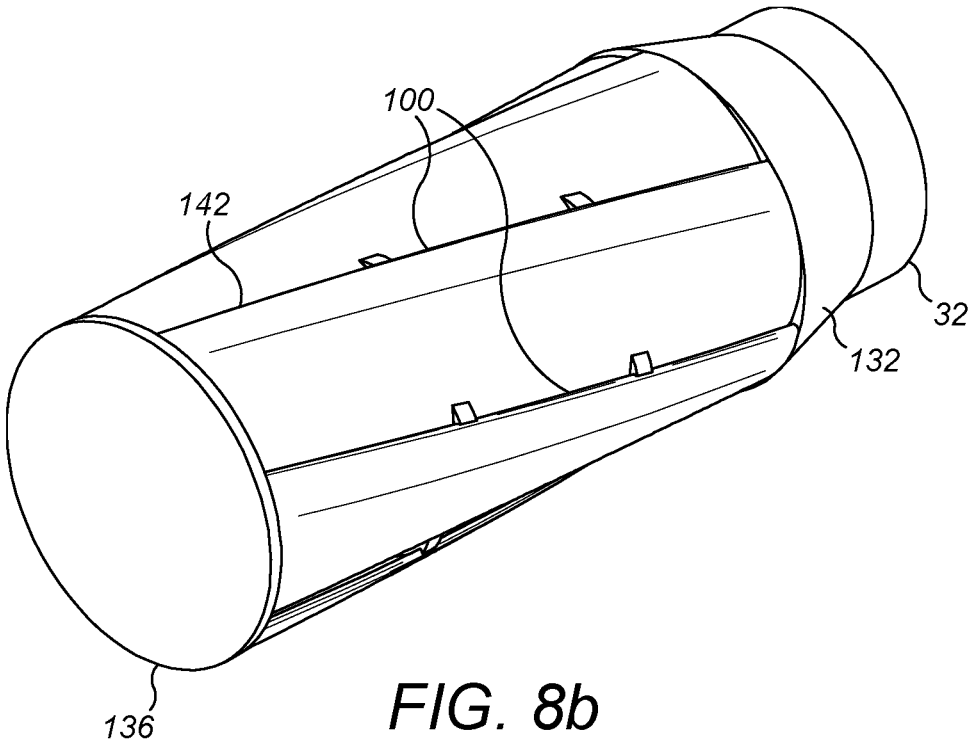


FIG. 8b

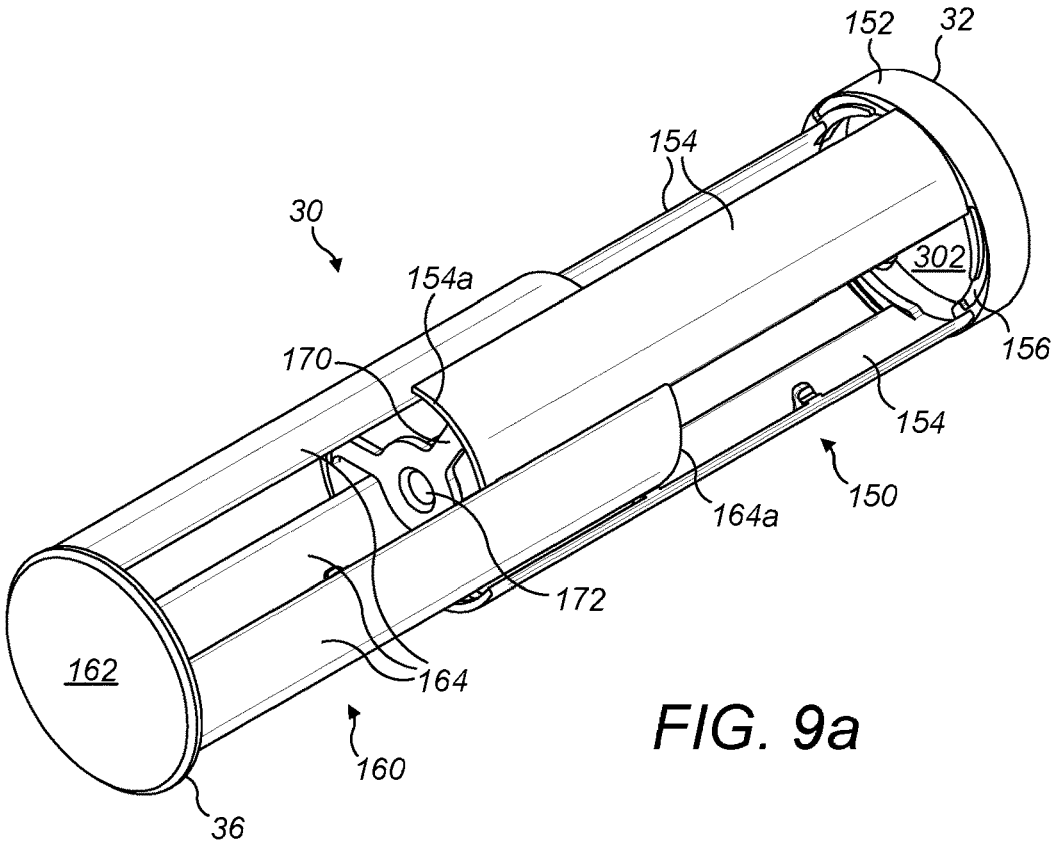

152
32
154
30
154a
302
156
170
154
150
164a
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162
164
160
36

FIG. 9a

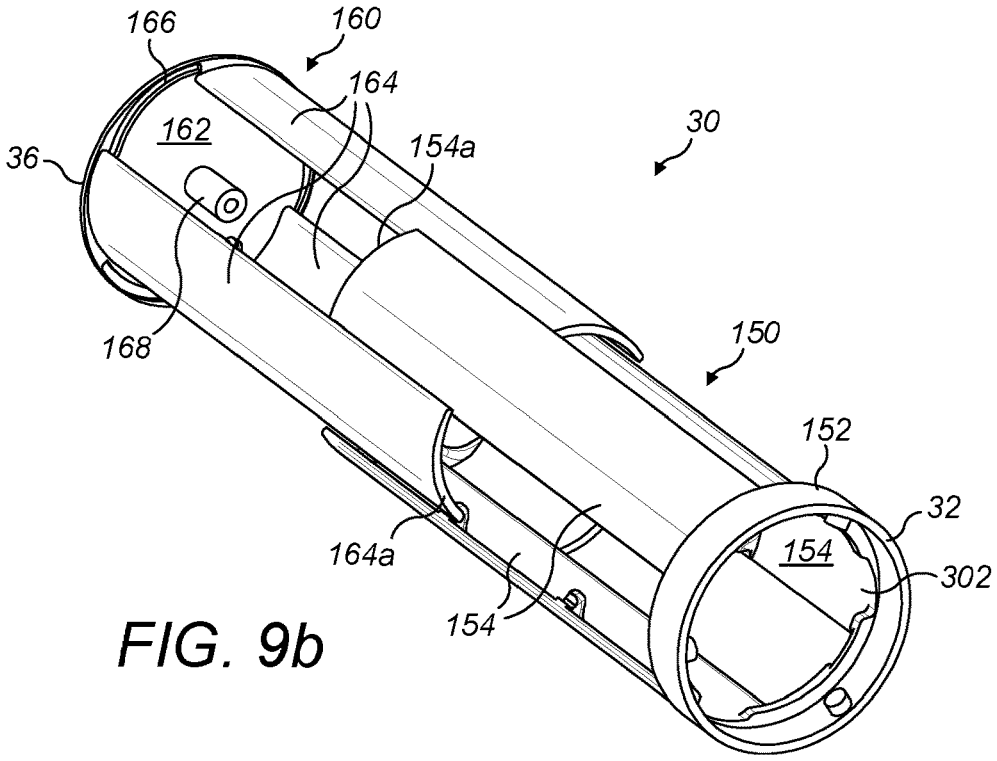

166
160
164
162
154a
30
36
150
168
152
32
154
164a
302
154

FIG. 9b

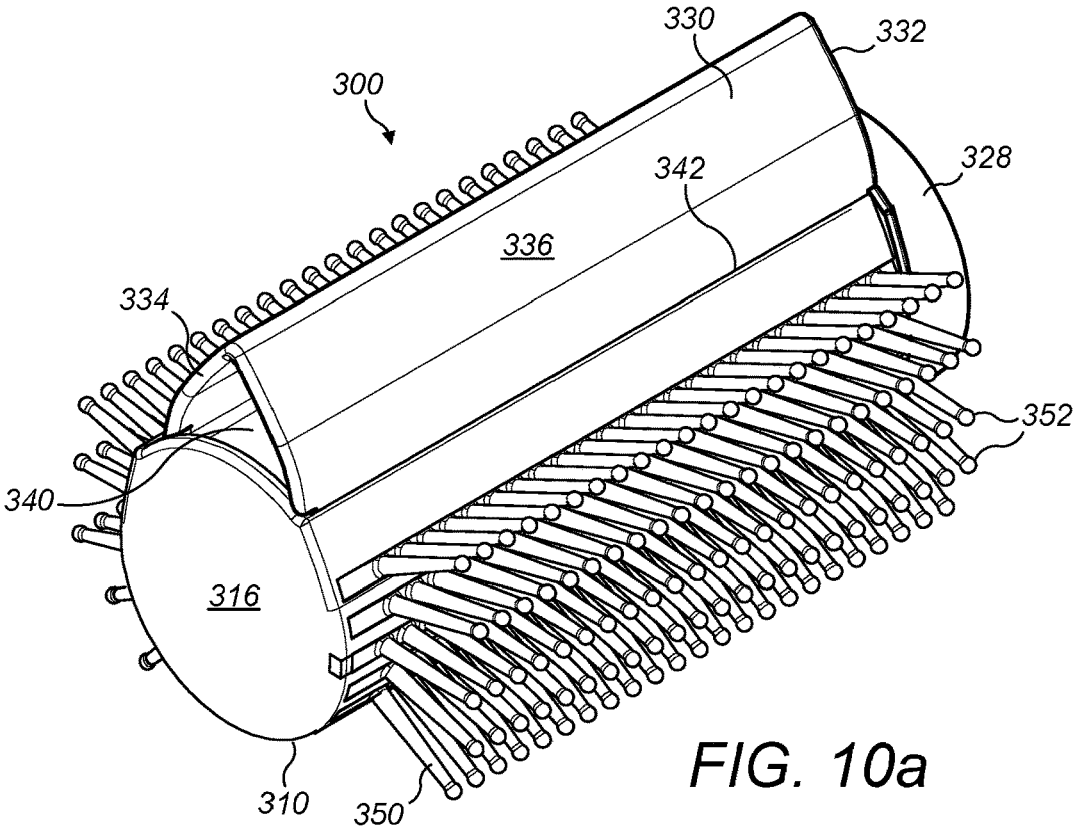


FIG. 10a

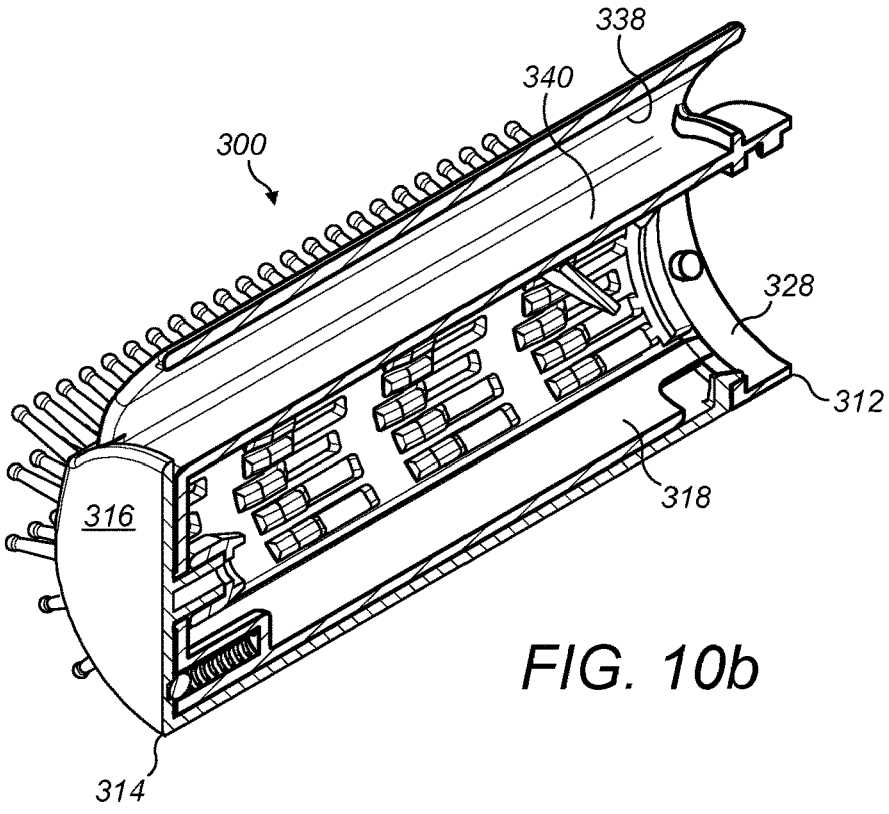


FIG. 10b

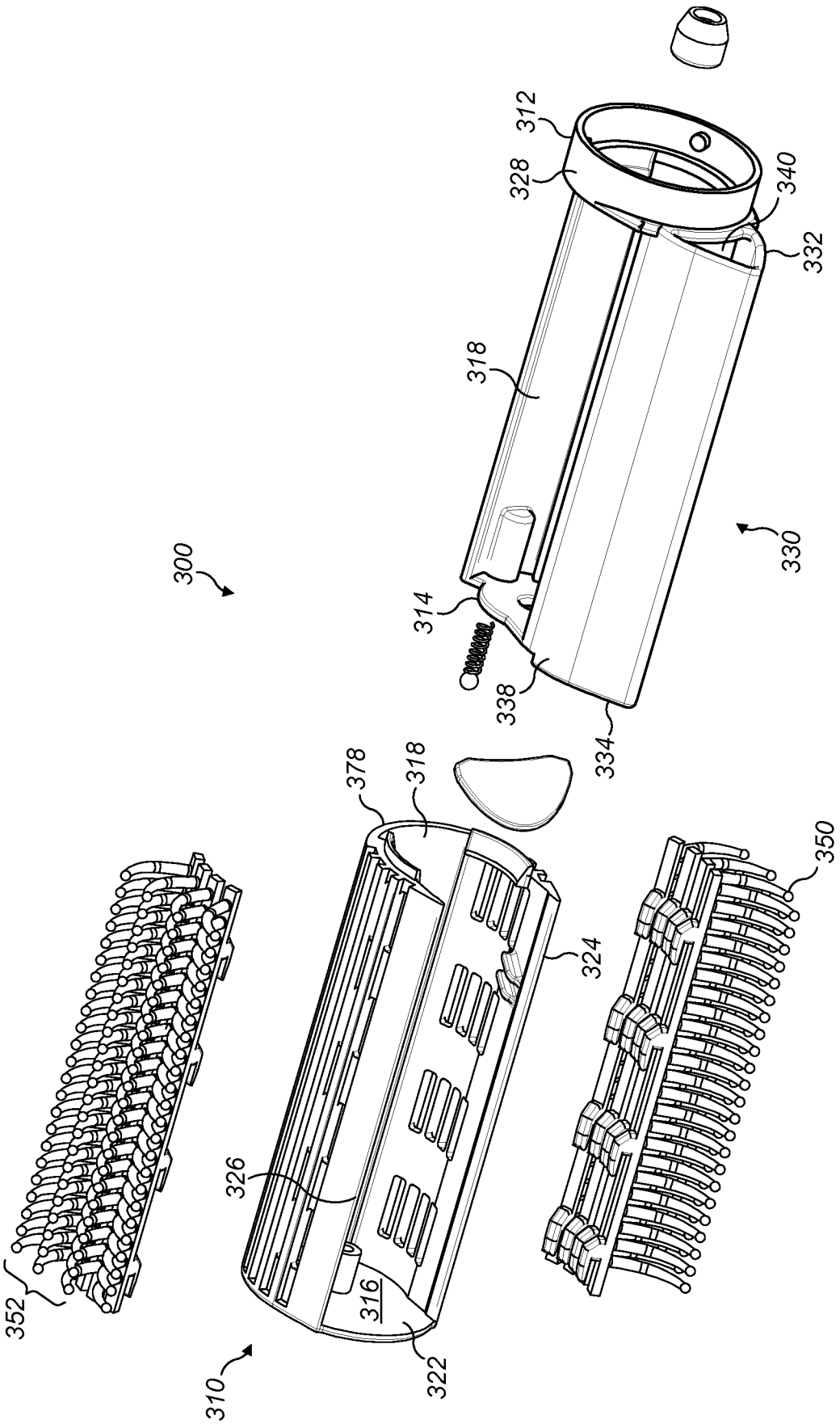

300
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352
378

FIG. 11a

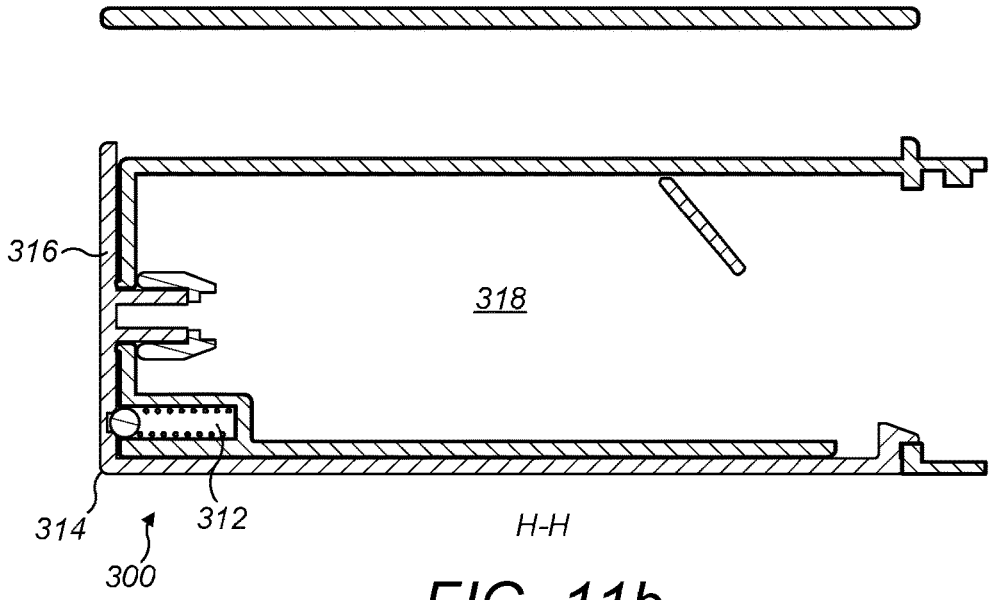


FIG. 11b

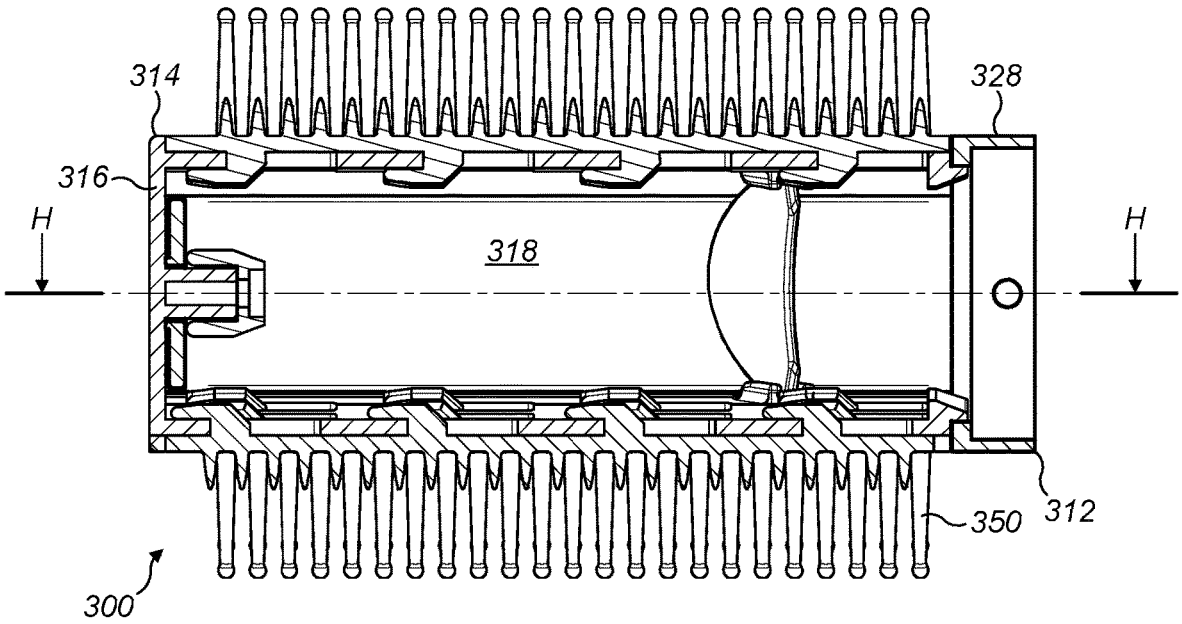


FIG. 11c

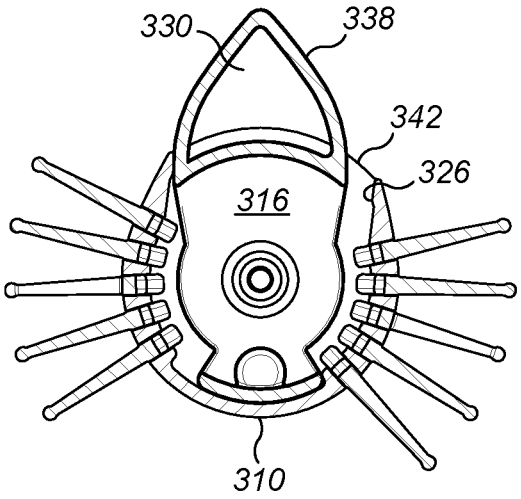


FIG. 12a

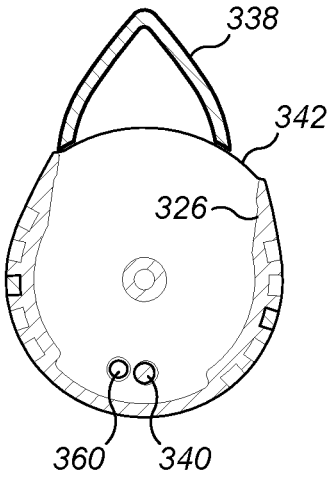


FIG. 12b

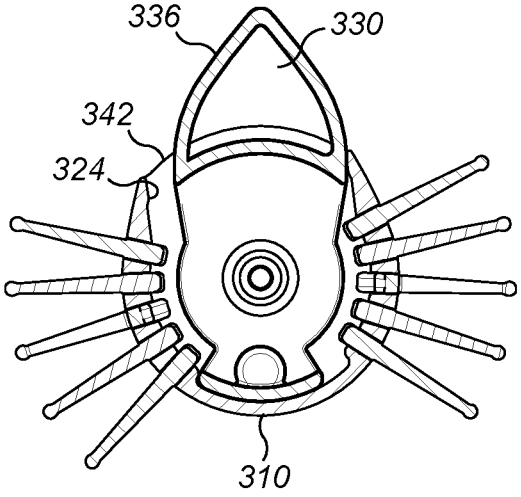


FIG. 13a

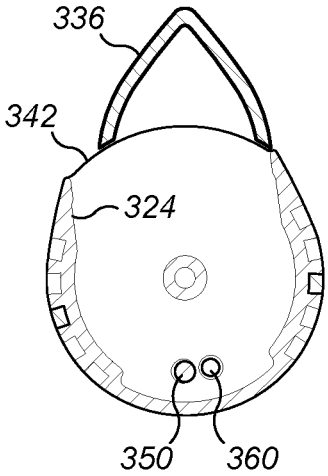


FIG. 13b

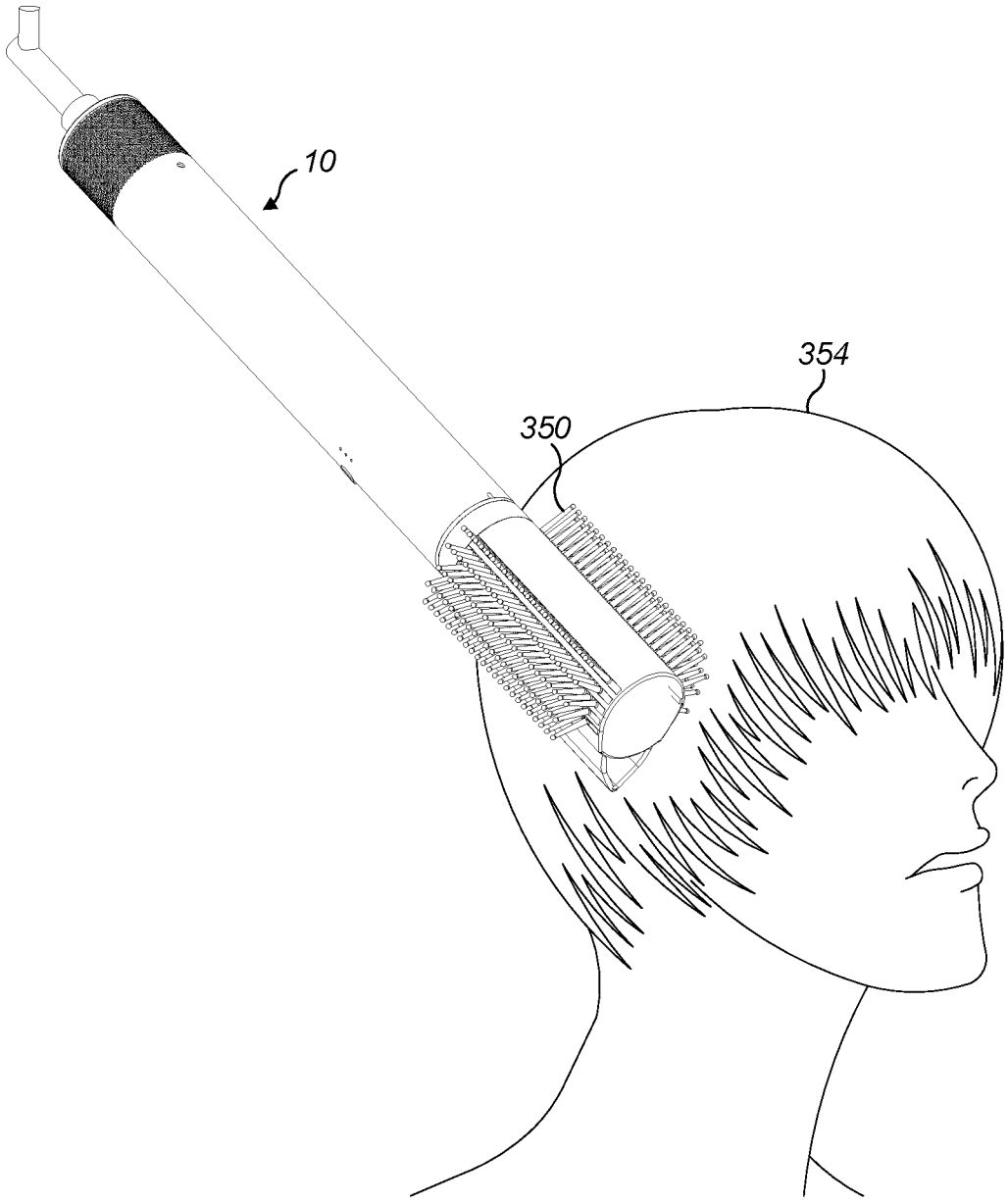


FIG. 14

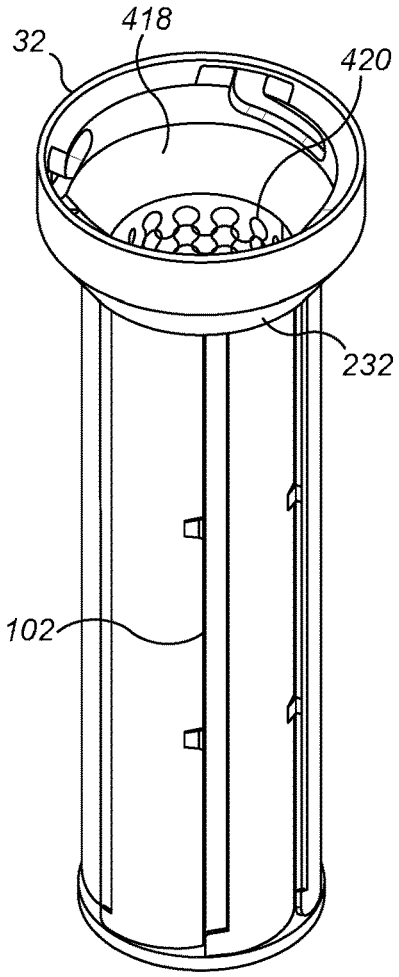


FIG. 15a

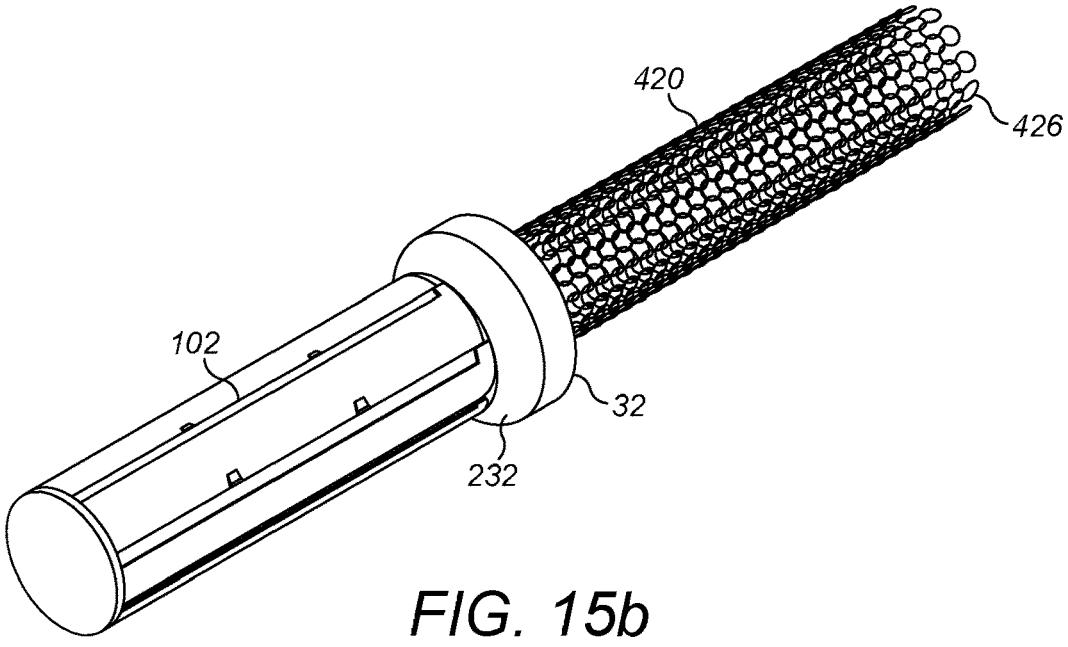


FIG. 15b

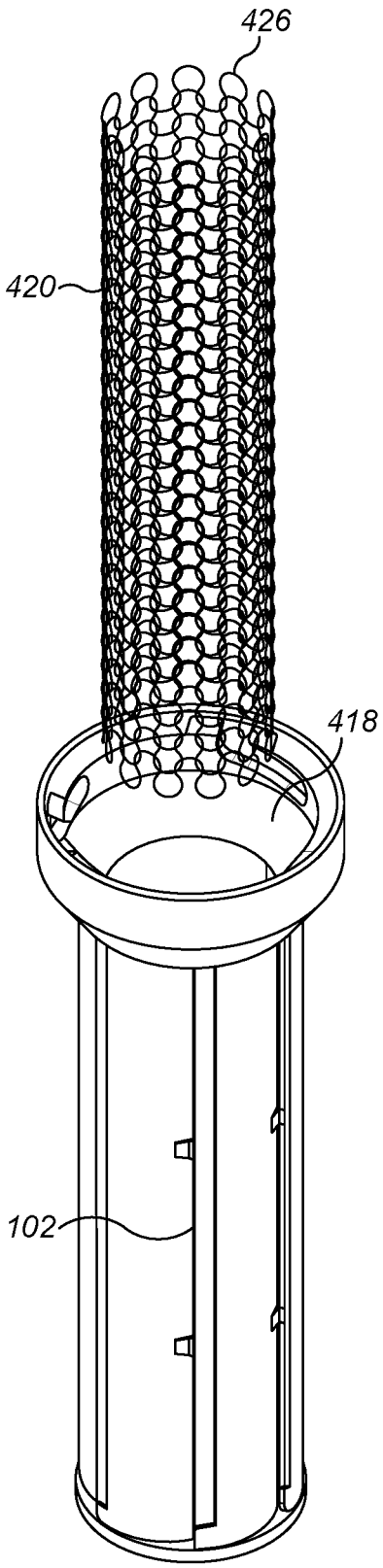


FIG. 15c

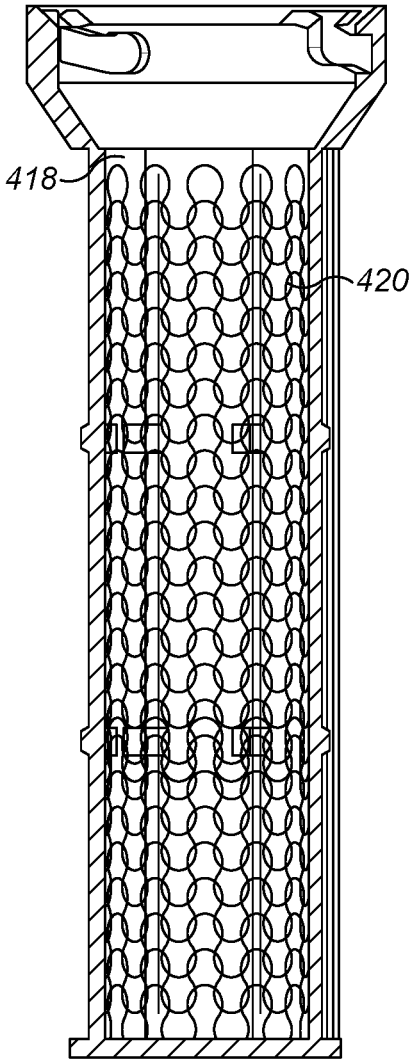


FIG. 15d

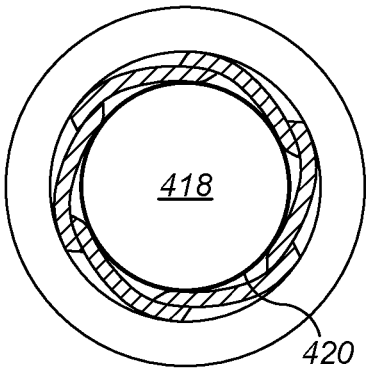


FIG. 15e

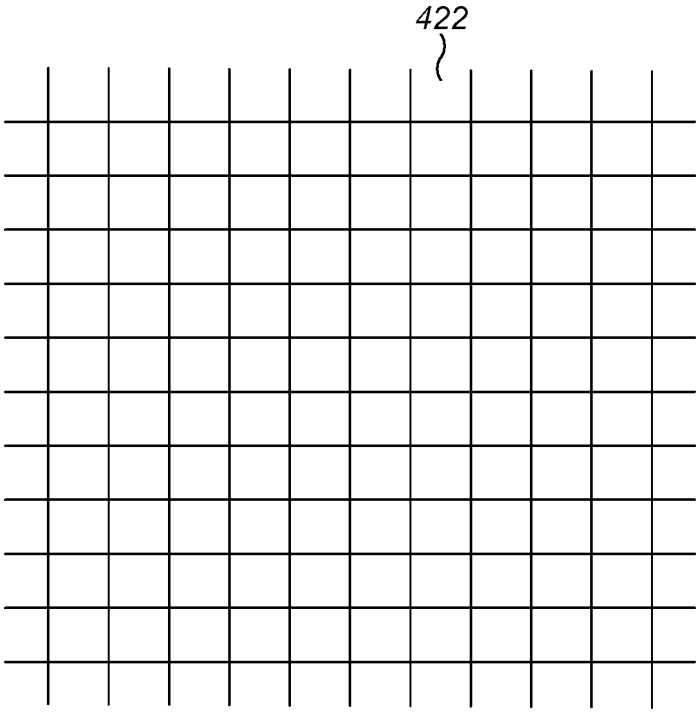


FIG. 16a

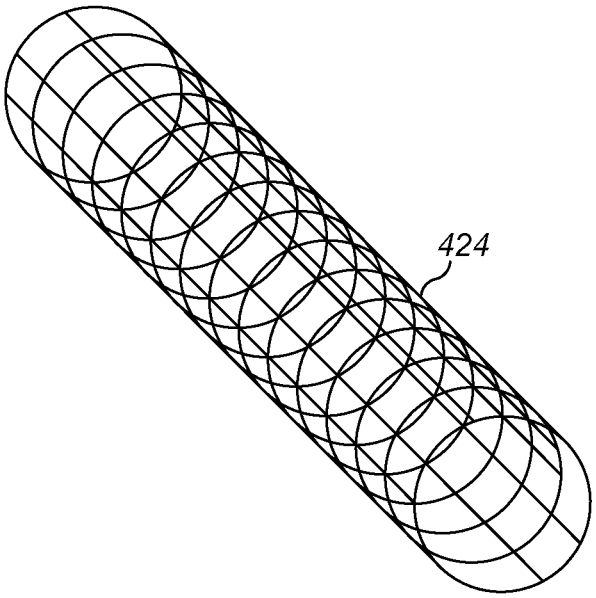


FIG. 16b

ATTACHMENT FOR A HAND HELD APPLIANCE

REFERENCE TO RELATED APPLICATIONS

This application claims the priority of United Kingdom Application Nos. 1404982.9, and 1404985.2, both filed Mar. 20, 2014, the entire contents of which are incorporated herein by reference.

FIELD OF THE INVENTION

This invention relates to an attachment for a hand held appliance, in particular a hair care appliance such as a hot styling brush.

BACKGROUND OF THE INVENTION

In a conventional hot styling brush, air is sucked into an inlet by a fan unit and directed towards the hair by an attachment or head. Depending on the style desired, the air may or may not be heated. The head or attachment often includes bristles onto which hair is wrapped and held for styling. The air is generally blown out of the head or attachment normal to the surface of the head.

SUMMARY OF THE INVENTION

The present invention provides an attachment for a hand held appliance comprising an inlet, an outlet, and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment and wherein the outlet is at least partially defined by an external surface of the attachment wherein fluid emitted from the outlet is blown along the external surface.

Preferably, the slot extends substantially along the length of the attachment.

It is preferred that the outlet comprises a plurality of slots radially spaced around the attachment.

Preferably, fluid emitted from the outlet flows around the external surface of the attachment. It is preferred that the fluid emitted from the outlet is tangential to the external surface of the attachment. Preferably, the fluid emitted from the outlet is attracted to the surface of the attachment.

By having the fluid exiting the fluid outlet travelling around the outer surface of the head hair is attracted to the surface and easily wraps around to create the style.

It is preferred that the attachment is generally cylindrical.

Preferably, the outlet comprises two slots.

It is preferred that the attachment has a longitudinal axis extending from the first end to the distal end and the at least one slot is parallel to the longitudinal axis.

Alternatively, the attachment has a longitudinal axis extending from the first end to the distal end and the at least one slot is non-parallel to the longitudinal axis. It is preferred that the at least one slot is helical with respect to the longitudinal axis.

A curved slot changes the direction that fluid flows out from the fluid outlet tending to give a flow that is more normal to the surface of the attachment and this improves the hold of the hair around the attachment.

Preferably, the attachment further comprises a flow directing element between the inlet and the outlet. The flow directing element also changes the direction that fluid flows out from the fluid outlet tending to give a flow that is more normal to the surface of the attachment and this improves the hold of the hair around the attachment. In addition, the flow directing element reduces the velocity of the fluid within the attachment which in turn reduces the noise produced by the attachment.

It is preferred that the flow directing element comprises a perforated layer. Preferably, the perforated layer is formed from a mesh or weave of an elongate material. It is preferred that the elongate material is a wire. Preferably, the flow directing element extends substantially along the length of the at least one slot. It is preferred that the flow directing element extends substantially around an inner circumference of the attachment.

According to a second aspect, the invention provides a hand held appliance comprising a handle having a fluid flow path from an inlet to an outlet and a fan unit for drawing fluid into the fluid inlet and an attachment for attaching to the handle, the attachment comprising an inlet, an outlet, and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment and wherein the outlet is at least partially defined by an external surface of the attachment and fluid emitted from the outlet is blown along the external surface.

According to a third embodiment, the invention provides an attachment for a hand held appliance comprising a first part and a second part, the first part comprising a first end of the attachment and at least one plate extending from the first end, the second part comprising a second end of the attachment and at least one further plate extending from the second end wherein when the first part and the second part are connected at least two slots are formed between the at least one plate and the at least one further plate, the at least two slots defining a fluid outlet for the attachment.

Preferably, the first end of the attachment comprises a fluid inlet into the attachment.

It is preferred that the first end of the attachment includes a supporting ring for supporting the at least one plate.

Preferably, the supporting ring comprises at least one recess for housing an end of the at least one further plate.

It is preferred that the supporting ring is additionally a collar for attaching the attachment to the appliance.

Preferably, the first part of the attachment includes a supporting scaffold located at or near a distal end to the first end of the first part of the attachment.

It is preferred that the supporting scaffold is attached to the at least one plate.

Preferably, the supporting scaffold includes a part of a fixture for fixing the first part and the second part together.

It is preferred that the second end of the attachment includes at least one further recess for housing an end of the at least one plate.

Preferably, the second end of the attachment includes another part of a fixture for fixing the first and the second part together.

It is preferred that one or more of the at least one plate and the at least one further plate are arcuate.

Preferably, one or more of the at least one plate and the at least one further plate extend orthogonally from a respective end.

Alternatively, the at least one plate and the at least one further plate curve round a longitudinal axis of the attachment.

Preferably, the at least one plate and the at least one further plate are helical.

It is preferred that the at least one plate and the at least one further plate are helical in a clockwise direction from the first end.

A curved slot changes the direction that fluid flows out from the fluid outlet tending to give a flow that is more normal to the surface of the attachment and this improves the hold of the hair around the attachment.

Preferably, a gap formed between the at least one plate and the at least one further plate is defined by a spacer.

It is preferred that a pair of spacers is provided longitudinally spaced along the at least one plate and the at least one further plate.

Any spacers maintain the gap between the two parts forming the slot or thickness of the slot. It is advantageous for these to all be substantially equal is this creates an even flow around the attachment.

Preferably, at least one of the at least one plate and the at least one further plate is lined with a material.

It is preferred that every plate is lined with material.

Preferably, the material absorbs sounds and/or vibrations.

It is preferred that the material is Kevlar or wool.

Preferably, the attachment further comprises a flow directing element between the fluid inlet and the fluid outlet. The flow directing element also changes the direction that fluid flows out from the fluid outlet tending to give a flow that is more normal to the surface of the attachment and this improves the hold of the hair around the attachment. In addition, the flow directing element reduces the velocity of the fluid within the attachment which in turn reduces the noise produced by the attachment.

It is preferred that the flow directing element comprises a perforated layer.

Preferably, the perforated layer is formed from a mesh or weave of an elongate material.

It is preferred that the elongate material is a wire.

Preferably, the flow directing element extends substantially along the length of the at least one slot.

It is preferred that the flow directing element extends substantially around an inner circumference of the attachment.

According to a fourth aspect, the invention provides a hand held appliance comprising a handle having a fluid flow path from a fluid inlet to a fluid outlet and a fan unit for drawing fluid into the fluid inlet and an attachment for attaching to the handle, the attachment comprising a first part and a second part, the first part comprising a first end of the attachment and at least one plate extending from the first end, the second part comprising a second end of the attachment and at least one further plate extending from the second end wherein when the first part and the second part are connected at least two slots are formed between the at least one plate and the at least one further plate, the at least two slots defining a fluid outlet for the attachment.

In one embodiment the appliance is a hair care appliance.

In another embodiment the appliance is a hot styling appliance such as a hot styling appliance such as a hot styling brush.

The invention will now be described by example, with reference to the accompanying drawings, of which:

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. **1***a* shows an example of an appliance according to the invention;

FIG. **1***b* shows a cross section through the appliance shown in FIG. **1***a;*

FIG. **2***a* shows an exploded view of some of the handle components of the device of FIG. **1***a;*

FIG. **2***b* shows an enlarged section of the fluid inlet;

FIGS. **3***a* and **3***b* show an isometric view and an isometric cross section through a first attachment according to the invention;

FIGS. **4***a* and **4***b* show a side view and a side view cross section through the first attachment;

FIGS. **5***a* and **5***b* show cross sections through the first attachment;

FIGS. **6***a* and **6***b* show an isometric view and a side view through a second attachment;

FIG. **7***a* shows an isometric view through another attachment;

FIGS. **7***b* and **7***c* show an isometric view and a side view through a further attachment;

FIG. **8***a* shows an isometric view of a fifth attachment;

FIG. **8***b* shows an isometric view of a sixth attachment;

FIGS. **9***a* and **9***b* show isometric views of a two part assembly for an attachment;

FIGS. **10***a* and **10***b* show an isometric view and an isometric cross section through a further attachment according to the invention;

FIGS. **11***a,* **11***b* and **11***c* show a side view and a side view cross sections through the further attachment;

FIGS. **12***a* and **12***b* show cross sections through the further attachment in a first position;

FIGS. **13***a* and **13***b* show cross sections through the further attachment in a second position;

FIG. **14** shows schematically the further attachment in use; and

FIG. **15***a* shows an isometric view of another attachment;

FIG. **15***b* shows different component parts of the other attachment;

FIG. **15***c* shows the different component parts from the inlet end;

FIG. **15***d* shows a cross section through the side of the other attachment;

FIG. **15***e* shows a cross section through the other attachment; and

FIGS. **16***a* and **16***b* show an alternative sock for the other attachment.

DETAILED DESCRIPTION OF THE INVENTION

FIGS. **1***a* and **1***b* shows a hot styling brush **10** with a handle **20** and a detachable head or attachment **30** which is attaches at the distal end **22** of the handle **20** to the fluid inlet **40**.

The handle **20** has an outer wall **26** which is generally tubular and includes the fluid inlet **40** at and adjacent one end **24**. The fluid inlet **40** comprises a first set of apertures **44** which extend radially around the handle **20** and along the outer wall **26** of the handle from the handle end **24**. The handle end **24** is covered by an end wall **42** which is also perforated with a second set of apertures **46** that extend through the end wall **42** of the handle. Thus, the fluid inlet **40** extends around, along and across the handle **20**. The end wall **42** is orthogonal to the outer wall **26** and an inner wall **60** of the handle.

The handle **20** also includes a fan unit **70** which comprises a fan and a motor which drives the fan and in use, draws fluid in through the fluid inlet **40**, along a fluid flow path **50** which extends through the length of the handle **20**. The fluid is optionally heated by a heater **80** before entering an inner cavity **38** of the head **30**. A nozzle **23** may be included at distal end **22** of handle **20** to shape fluid flow as it enters the head **30**.

The head **30** includes a fluid outlet **100** which in this example comprises parallel slots **102** each extending towards a second end **36** of the head and radially around the head **30**. This arrangement enables fluid to exit the head all the way around the head and for the majority of the length of the head **30** maximising a hair styling region of the product.

In use, hair is wrapped around the head **30** whilst air or fluid exits through the slots **102** drying the hair and/or styling the hair into curls or waves. The hair wraps automatically due to the flow of air around the surface of the head **30**. The air or fluid can be heated but this is not essential.

Power is provided to the appliance via a power cable **47** which preferably extends from a plug or other power source through the end wall **42** of the handle **20** into the cable mount **45**. The handle **20** also houses a PCB **75** which is electrically connected to the cable **48**, the fan unit **70** and the heater **80** by internal wiring (not shown). An on/off switch **52** and control buttons **54** are provided and connected to the PCB **75** to allow the user to select one of a range of temperature and flow settings.

FIG. **2***a* shows an exploded view of various parts of the handle **20** in more detail. The handle **20** is tubular and the outer wall **26** of the handle **20** is a cylindrical sleeve made from for example an extruded tube or rolled sheet of metal such as aluminium, an aluminium alloy or a steel. The handle connects to a head **30** at a first end **22** and at the distal, second end **24** a fluid inlet **40** is provided. The fluid inlet **40** is a first means of filtering fluid that enters the fluid flow path **50**.

The fluid inlet **40** comprises a plurality of apertures extending around, along and across the handle **20**. Having an inlet that extends in three dimensions has advantages particularly when used with hair grooming appliances. Firstly, if the appliance is placed on a surface whilst switched on only a small part of the inlet surface area will be blocked or have restricted flow of fluid into the appliance. This protects the fan unit and particularly the motor of the fan unit from running with too low a flow rate as this can cause overheating of the motor and cause damage to the motor.

Secondly, often hair care appliances are used with a styling product such as a mousse, gel or spray. These products are typically either applied by a hand or directly to the hair as a mist. After application by a hand, some of the product will be retained on the skin which is then transferred to the appliance when held. This can block at least some of the apertures **44** that extend around and along the handle **20**. However, the apertures **46** that extend under the handle and across the end wall **42** of the handle will be unaffected. When a product is applied as a mist, it can settle on the appliance and again block or restrict at least some of the apertures of the fluid inlet **40**. However, by having apertures that extend around, along and across the handle **20** the risk of blocking the fluid inlet **40** is reduced.

The apertures are preferably circular with a diameter of 0.2 to 1.6 mm. The diameter of the apertures can vary along, around and across the handle **20**. It is advantageous to space the apertures regularly around, along and across the fluid inlet **40**. Not only is this visually pleasing but it also has the technical advantage that there is no weak region of the fluid inlet **40** where blockage of a portion is more likely or would have more impact on the flow into the fluid inlet **40**. The inlet is designed so that the flow into the inlet is even at least around the circumference of the handle **20**.

A foam block **48** is provided which, in use, is inserted into the second end **24** of the handle **20** and may be positioned within the handle **20** by a foam block mount **49**. The foam block **48** is a second means of filtering the fluid that passes through the primary fluid inlet **40** into the primary fluid flow path **50**. It is advantageous that the foam block **48** extends beyond or further towards the first end **22** of the handle than the primary fluid inlet **40** as this ensures that fluid that has entered the primary fluid inlet **40** has passed through the foam block **48** so has had two stages of filtration. In other words, the foam block **48** extends from the second end **24** of the handle **20** past the downstream end **44***a* of the fluid inlet.

The foam block **48** shown is cylindrical and substantially fills the area within the handle **20** at the primary fluid inlet **40**. This is to ensure that all fluid that enters the primary fluid inlet through first apertures **44** that extend around and along the handle and fluid that enters through second apertures **46** that extend across and through the end wall **42** of the handle **20** passes through this second stage of filtration. The foam block **48** extends longitudinally from the second end **24** of the handle **20** further than the first apertures **42** of the primary fluid inlet **40**.

The first apertures **44** that extend along and around the outer wall **26** are machined, punched or laser cut from the extruded tube or sheet metal that the outer wall **26** is formed from.

The handle **20** has an outer wall **26** and an inner wall **60**, the outer wall **26** slides over the inner wall **60** to form the finished product. The inner wall **60** is a duct which surrounds and defines a fluid flow path **50** through the appliance. The outer wall **26** includes a grippable portion and in these examples, includes the fluid inlet **40** into the fluid flow path **50**. An insulting layer of material **28** is provided within the inner wall **60**. The insulating layer is a foam or a felt and insulates the handle from noise produced by the fan unit **70**, heat produced by the operation of the appliance, vibrations caused by the fan unit and noise produced within the appliance by the flow of fluid through the fluid flow path **50**. The insulating layer absorbs energy including airborne noise.

The inner wall **60** provides a housing **62** in which a fan unit **70** is disposed. The housing **62** is cylindrical and has an inwardly protruding ledge **64**,**66** disposed one at each end of the housing **62** which maintain the position of the fan unit **70** within the handle **20**. The inner wall **60** is made from two parts a first part **60***a* and a second part **60***b* which is moulded separately. This enables easier assembly of the fan unit **70** within the handle **20** than a one piece inner wall. A similar pair of inwardly protruding ledges **68**, **72** maintains the position of the heater **80** within the handle **20**.

Although the outer wall **26** of the handle **20** has been described as being made from an extruded tube or a rolled sheet of metal, alternatives methods of manufacture and materials could be used; these include, but are not limited to, a plastic extrusion/moulded tube or a composite tube such as carbon fibre reinforced plastic.

The fluid outlet **100** of the head **30** will now be described in more detail, referring in particular to FIGS. **3***a*, **3***b*, **4***a*, **4***b*, **5***a* and **5***b*. The head **30** is essentially cylindrical and has a first end **32** for connection to a handle **20** and a second end **36** distal to the first end **32**. The head **30** extends longitudinally from the first end **32** to the second end **26** continuing a line described by the handle **20** (FIG. **1***a*) so is approximately the same diameter as the handle. Within the head **30** is an inner cavity **38** and fluid that has been drawn into the fluid flow path **50** within the handle **20** by the fan unit **70** enters the inner cavity **38** via an aperture **302** in the first end **32** of the head **30**.

The fluid outlet **100** is formed from a number of parallel slots **102** which extend along the length of the head **30** from the first end **32** to the second end **36**. The slots **102** are formed from an overlap **120** (FIG. **5***b*) formed between adjacent plates **110** which results in fluid being directed between a radially inner surface **104** formed from the outer surface **112** of a first plate **110***a* and a radially outer surface **106** formed from the inner surface **114** of a second plate **110***b*. The fluid **122** flowing out of the slot **102** is tangential **130** to the outer surface **112** of the plate **110***a* and joins with the fluid flowing out of the other slots of the fluid outlet **100** forming a fluid flow around the circumference of the head **30**. Thus, the fluid **122** is blown out along the external surface of the head and this encourages hair to wrap around the head **30** automatically.

The fluid **122** exiting the slots **102** is attracted to the curved surface of the head **30** by the Coanda effect. This in turn causes hair that is presented to the head **30** to automatically wrap around the surface and then styled into curls. As air is blown down the length of the hair, wet hair is dried more quickly than conventionally and as the wrapping process occurs without the use of bristles, the hair can slide off the head **30** once it is dry or styled so there is no tangling.

To maintain the size of each slot **102**, spacers **108** are provided. In this example, a pair of spacers **108** is provided to maintain each slot **102** size. Each one of the pair of spacers **108** is longitudinally spaced along the slot **102** and the plate **110**. The spacers **108** join adjacent plates **110** together.

Advantageously, each plate **110** is lined with a felt like material **308** such as Kevlar or wool (see FIG. **3***b*). The material **308** does not extend over each slot **102** so the fluid exiting the fluid outlet **100** does not pass through the layer of material **308**. This layer serves to absorb some of the noise produced by the fluid flowing through the head **30** from the inlet to the head **30** at aperture **302** to the fluid outlet **100**. Such a layer of material **308** is as applicable for other heads herein described such as heads **130**, **180** and **230**.

FIGS. **6***a* and **6***b* show an alternative head **130**, all features identical to those previously described have the same reference numerals. The head **130** has a larger diameter than the handle **20** so is used to create larger curls. The head **130** has a first end **32** for connection to the handle **20** and this is the same diameter as the handle **20**, within a collar **132** of the head **130**, the diameter of the head **130** increases to the larger diameter prior to the fluid outlet **100** formed by slots **142** and then continues at a constant diameter to the second end **136**. An inner fluid cavity (not shown) is larger than for the head **30** of FIG. **3***a*. In this example the number of plates **110** and slots **102** is the same i.e. six as for the head described with respect to FIG. **3***a*. Alternatively, a larger or smaller number of plates **110** and slots **142** could be used.

FIG. **7***a* shows a further head **230**. This head **230** has a reduced diameter compared with the handle **20**. The first end **32** is substantially the same diameter as the handle **20** for connection thereto, and then within a collar **232** the diameter of the head **230** decreases to the reduced diameter prior to the fluid outlet **200** formed by slots **202** and continues at a constant diameter to the second end **236**. This head **230** is used to create tighter curls.

The slots **202** for this head extend longitudinally straight from the first end **32** to the second end **236** as was the case for slots **102** in heads **30**, **130**.

In another embodiment, as shown in FIGS. **7***b* and **7***c*, a further head **280** has slots **282** which curve around the head **280** forming a spiral or helical pattern around the head **230**. The slots **282** curve by an angle α of 45° from the longitudinal axis A-A of the handle **20** and head **280**. In this example the slots **282** curve in a clockwise direction from the first end **34** of the head **280** towards the second end **236** of the head. The slots **282** are formed as before between adjacent overlapping plates **210** however, in order to form the curved slots **282**, the plates **210** do not extend along the longitudinal axis of the head **280** but also curve by an angle of 45°. Using angled slots changes the profile of the fluid exiting from the head. The airflow exiting from the slots is more normal to the slot when angled slots are used. This has benefits including enabling more hair to be wrapped around the head also, the hair is retained on the head more easily leading to a potentially quicker styling process.

The slots can be curved in a clockwise or and anticlockwise direction from the longitudinal axis A-A of the handle **20**. Whilst an angle of 45° has been illustrated, improved wrapping is seen even at an angle of 1°.

FIG. **8***a* shows a head **180** which is substantially the same diameter as the handle **20**. The slots **182** are curved or spiral around the head **180** in the same manner as head **280**.

FIG. **8***b* shows a head **380** which has a larger diameter than the handle, and is similar to head **130** except it has curved or spiralling slots **382** around the head **380**.

FIGS. **9***a* and **9***b* show a way of assembling head **30**. A first part **150** is formed from the first end **32** and has a collar **152** and a first set of plates **154** which are joined to or formed integrally with the collar **152**. A second part **160** is formed from the second end **36** and has an end wall **162** and a second set of plates **164** which are joined to or formed integrally with the end wall **162**. The first set of plates **154** and second set of plates **164** each comprise non-adjacent plates **110** enabling the first part **150** and the second part **160** to be slotted together to form the head **30**. Between each of the first set of plates **154**, a recess **156** is provided in the connecting ring **152** adapted to accommodate the distal end **164***a* of the second set of plates **164** from the end wall **162**. A similar set of recesses **166** is provided in the end wall **162** and is adapted to accommodate the distal end **154***a* of the first set of plates from the collar **32**.

In order to retain the first part **150** and the second part **160** of the head **30** in the assembled condition, a protruding screw hole **168** is provided. Near the distal end **154***a* of the first set of plates **154** a support scaffold **170** is provided and this has two functions. A first function is to support the first set of plates **154** and maintain their relative positions towards the distal end **154***a* and a second function is to provide part of the fixing mechanism. In this example, the support scaffold **170** has a central aperture **172** through which the protruding screw hole **168** passes on assembly of the head **30***a* and a screw, for example can be inserted to fix the two parts **150**, **160** of the head together.

FIGS. **15***a*, **15***b*, **15***c*, **15***d* and **15***e* show a head **400** all features identical to those previously described have the same reference numerals. This head **400** has a reduced diameter compared with the handle **20**. The slots **102** extend longitudinally from the first end **32** to the second end **236**, however the slots could be curved as described with respect to FIGS. **7***a* and **7***b*.

Internal of the head **400**, within the cavity **418** formed within the head **400**, an internal sock **420** is provided. This sock **420** is a mesh formed from a metal wire. The sock **420** can be in the knitted form **426** shown in FIG. **15***b*. Alternatively as shown in FIGS. **16***a* and **16***b* the sock **420** is a tube **424** formed from a woven mesh **422** having generally square apertures.

The sock **420** diffuses the fluid flowing in the cavity **418** within the head **400** and slows down the longitudinal velocity of the flow. This results in more even wrapping of hair around the head **400** as the direction of fluid exiting the head **400** is more normal to the slots **102**. The sock **420** extends along the length of the slots **102** within the head **400**. The size of the apertures in the mesh is important; if they are too small the flow becomes too restricted and there is an increased chance of them clogging over time. An aperture size of around 1.6 mm has been found to provide the benefit without undue restriction.

FIGS. **10***a*, **10***b*, **11***a*-**11***c* and **12** show various views of another head **300** which has a directed fluid flow. The head **300** has a first cylindrical part **310** and a second triangular part **330** that together form the fluid outlet **320**.

The second triangular part **330** has a first end **312** for connection to a handle **20** via a collar **328** and extends longitudinally to a second end **314** The first cylindrical part **310** has an aperture **322** extending from a first end **378** to a second end which is defined by end wall **316**. The aperture **322** is defined by a first edge **324** and a second edge **326**. An inner cavity **318** is formed within the head **300** when the second triangular part **330** is slid into the first cylindrical part **310**. The first end **278** of the first cylindrical part **310** abuts a downstream end of the collar **328** and the second end **314** of the second triangular part **330** abuts the end wall **316** when the attachment is formed.

The second triangular part **330** has a first end **332** and a second end **334** and is formed from a first side **336**, a second side **338** and an internal wall **340**. The second triangular part **330** fits within the aperture **322** and extends outwardly beyond the first cylindrical part **310**.

The second triangular part **330** is movable relative to the first cylindrical part **310**. In this example, the second triangular part **330** is fixed with respect to the handle **20** and the first cylindrical part **310** is moveable relative to both the second triangular part **330** and the handle **20**. This enables the outlet slot **342** to be partially defined by one or the other of the first edge **324** and the second edge **326**.

In one position, referring now to FIGS. **12***a* and **12***b*, the first edge **324** along with a first side **336** of the second triangular part **330** define the limits of the outlet slot **342**. The second triangular part **330** moves with respect to the first cylindrical part **310** so the outlet slot **342** is alternatively defined by the second edge **326** and the second side **338** as shown in FIGS. **13***a* and **13***b*.

The second triangular part **330** rotates with respect to the first cylindrical part **310** in order to change the position of the outlet slot **342**. The first cylindrical part **310** is temporarily retained in a position by the use of a detent mechanism.

The end wall **316** of the first cylindrical part **310** includes a first recess **340** and a second recess **350** each of which adapted to partially accommodate a ball bearing **360**. The ball bearing **360** is biased towards the end wall **316** by a spring **362** (see FIG. **11***b*). There are a number of suitable alternatives that could be used instead of this method of retaining one part with respect to the other part such as a plastic bump feature or a piece of sprung metal.

Referring now to FIGS. **12***a* and **12***b*, when the second triangular part **330** is in a first position with respect to the first cylindrical part **310**, the outlet slot **342** is formed from first side **336** and first edge **324** and the ball bearing **360** is accommodated by the first recess. By manually rotating the second triangular part **330** with respect to the first cylindrical part **310** the force of the spring **362** retaining the ball bearing **360** within the first recess **340** is overcome and the second triangular part **330** can be rotated with respect to the first cylindrical part **310** to move the ball bearing **360** into the second recess **350** and changing the position of the outlet slot **328** so it is now formed from the second edge **326** and the second side **338**.

The first cylindrical part **310** includes bristles **350** arranged in this example in parallel rows **352** on either side of the aperture **322**. The rows **352** of bristles **350** extend from near the outlet slot **342** around the head **300** but in this example the bristles **350** do not extend all the way around the head **300**, there is a gap in the rows **352** diametrically opposite the outlet slot **320**.

Referring now to FIG. **14**, when hair **354** is being styled, the action of drawing the bristles **350** down through the hair **354** opens the outlet slot **342** on the side next to the hair **354**. The position of the outlet slot **342** is movable by hand or by the friction or force of combing through the hair.

The use of a combination of a directed outlet slot **342** and bristles **350** means that the hair is dried and/or styled more quickly than conventionally as the fluid exiting from the outlet slot **342** is blown down the hair **354**. The fluid exiting the outlet slot **342** is attracted to the surface of the second triangular part **330** which in turn attracts the hair **354** to the second triangular part **330**. The bristles **350** separate and detangle individual strands of the hair **354** and this combination gives fast drying and a smother result.

In use as shown in FIG. **14**, this head is designed to be pulled through the hair with the slot **328** adjacent the hair **354**. Fluid is blown out of the slot **328** as the appliance is moved along the hair **354** so the hair is both heated and brushed. Having the slot **328** on either side of the head **356** means that the same head **300** can be used for both sides of the head and both the underside and the topside of the hair **354**.

In each of the examples given, the head **30**, **130**, **180**, **230**, **300** in connected to handle **20** via a collar and a twist lock joint. Referring to FIG. **7***b*, three protrusions **234** are provided on the internal surface of the collar **232** (one not shown). The protrusions **234** are adapted to engage a slot **90** (see FIG. **1***b*) or three separate slots provided near the distal end **22** of the handle **20**. The slot **90** extends at least partially around an outer surface of the inner wall **60** and is helical so both a rotational and longitudinal movement is required to attach or remove the head from the handle **20**. This is one example of a fixing mechanism, it will be apparent to the skilled person that other equally acceptable alternative mechanisms could be used.

The heads **30**, **130**, **180** and **230** described with respect to FIGS. **3***a* to **9***b* could be provided with bristles. For these heads **30**, **130**, **180** and **230** as the slots are arranged all the way around the head, any bristles would be arranged all the way around the head. An example would be to have one or more rows of bristles at least located on every other plate **110**, **210**.

The invention has been described in detail with respect to a hot styling brush however, it is applicable to any appliance that draws in a fluid and directs the outflow of that fluid from the appliance including a hairdryer.

The appliance can be used with or without a heater; the action of the outflow of fluid at high velocity has a drying effect.

The heads have been described as being manufactured by attaching a first part to the second part using a screw however, as the skilled person will be aware, a number of different fixing methods can be used such as, but not limited to gluing or using ultrasonic welding.

The fluid that flows through the appliance is generally air, but may be a different combination of gases or gas and can include additives to improve performance of the appliance or the impact the appliance has on an object the output is directed at for example, hair and the styling of that hair. Such additives include but are not limited to hairspray and serums for example.

The heads **30**, **130**, **230** are all generally cylindrical in shape, however as the skilled person would realise, alternative shapes could be used such as ovals.

The invention is not limited to the detailed description given above. Variations will be apparent to the person skilled in the art.

The invention claimed is:

1. An attachment for a hand held appliance comprising an inlet in a proximal first portion of the attachment; an outlet in a cylindrical second portion of the attachment; and a fluid flow path between the inlet and the outlet, wherein the outlet in the cylindrical second portion of the attachment comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment, wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment and is configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion, wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot, and wherein the distal end of the attachment is closed.

2. The attachment of claim **1**, wherein the outlet comprises a plurality of slots radially spaced around the attachment.

3. The attachment of claim **1**, wherein the attachment is configured so that, in use, the fluid emitted from the outlet is attracted to the external surface of the attachment.

4. The attachment of claim **1**, wherein the outlet comprises two slots.

5. The attachment of claim **1**, wherein the attachment has a longitudinal axis and the at least one slot is parallel to the longitudinal axis.

6. The attachment of claim **1**, wherein the attachment has a longitudinal axis and the at least one slot is non-parallel to the longitudinal axis.

7. The attachment of claim **6**, wherein the at least one slot is helical with respect to the longitudinal axis.

8. The attachment of claim **1**, further comprising a flow directing element between the inlet and the outlet.

9. The attachment of claim **8**, wherein the flow directing element comprises a perforated layer.

10. The attachment of claim **9**, wherein the perforated layer is formed from a mesh or weave of an elongate material.

11. The attachment of claim **9**, wherein the perforated layer is formed from a mesh or a weave of elongate wire.

12. The attachment of claim **9**, wherein the flow directing element extends substantially along a length of the at least one slot.

13. The attachment of claim **9**, wherein the flow directing element extends substantially around an inner circumference of the attachment.

14. The attachment of claim **1**, wherein the wall comprises a plurality of plates.

15. The attachment of claim **1**, wherein the at least one slot is formed by a gap between adjacent sections of the wall that are joined by at least one spacer disposed between the beginning of the at least one slot and the end of the at least one slot to maintain the gap.

16. The attachment of claim **15**, wherein the at least one spacer extends from an edge of a first section of the adjacent sections of the wall to an edge of a second section of the adjacent sections of the wall.

17. A hand held appliance comprising a handle having a fluid flow path from a handle inlet to a handle outlet, a fan unit for drawing fluid into the handle inlet, and an attachment for attaching to the handle, the attachment comprising an inlet in a proximal first portion of the attachment; an outlet in a cylindrical second portion of the attachment; and a fluid flow path between the inlet and the outlet, wherein the outlet in the cylindrical second portion of the attachment comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment, wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment and is configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion, wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot, and wherein the distal end of the attachment is closed.

18. The appliance of claim **17**, wherein the outlet comprises a plurality of slots radially spaced around the attachment.

19. The appliance of claim **17**, wherein the attachment is configured so that, in use, the fluid emitted from the outlet is attracted to the external surface of the attachment.

20. The appliance of claim **17**, wherein the outlet comprises two slots.

21. The appliance of claim **17**, wherein the attachment has a longitudinal axis and the at least one slot is parallel to the longitudinal axis.

22. The appliance of claim **17**, wherein the attachment has a longitudinal axis and the at least one slot is non-parallel to the longitudinal axis.

23. The appliance of claim **22**, wherein the at least one slot is helical with respect to the longitudinal axis.

24. The appliance of claim **17**, further comprising a flow directing element between the inlet and the outlet.

25. The appliance of claim **24**, wherein the flow directing element comprises a perforated layer.

26. The appliance of claim **25**, wherein the perforated layer is formed from a mesh or weave of an elongate material.

27. The appliance of claim **24**, wherein the flow directing element extends substantially along a length of the at least one slot.

28. The appliance of claim **25**, wherein the perforated layer is formed from a mesh or a weave of elongate wire.

29. The appliance of claim **24**, wherein the flow directing element extends substantially around an inner circumference of the attachment.

30. The appliance of claim **17**, wherein the appliance is a hair care appliance.

31. The appliance of claim **17**, wherein the appliance is a hot styling appliance.

32. The appliance of claim **17**, wherein the appliance is a hot styling brush.

* * * * *

EXHIBIT C

Dr. Constanze Krenz
Julia Oertel
DLA Piper UK LLP
Maximilianstraße 2
D-80539 München
T +49 89 23 23 72 262
F +49 89 23 23 72 100
E constanze.krenz@dlapiper.com
E julia.oertel@dlapiper.com
W www.dlapiper.com

SharkNinja Germany GmbH
zu Händen der Geschäftsführer,
Herren Paul Cosimo Carbone und Thomas Anthony Brown
c/o Regus Management GmbH
Excellent Business Cener 10. + 11. Stock
Westhafenplatz 1
60327 Frankfurt am Main

Unser Zeichen
MG/398223/388

08. März 2023

Vorab per E-Mail an pcarbone@sharkninja.com, tomb@sharkninja.com, kundendienst-de@sharkninja.com

EILT!

Abmahnung aufgrund von Patentverletzung

Sehr geehrte Damen und Herren,

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Das EP 234 betrifft ein Handgerät, insbesondere eine Haarbehandlungsgerät („*hair care appliance*“), bei welchem ein Fluid wie etwa Luft zunächst angesaugt wird und durch einen Auslass wieder aus dem Gerät oder dessen Aufsatz geleitet wird, um Haare beispielsweise zu wellen oder locken.

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München Telefonzentrale:
+49 89 23 23 72 0

DLA Piper UK LLP

Frankfurt am Main
Neue Mainzer Straße 6-10
60311 Frankfurt am Main
T: +49 69 271 33 0
F: +49 69 271 33 100
E: reception.frankfurt@dlapiper.com

Dr. Ulf Andresen [1, 6]
Dr. Tim Arndt [1]
Dr. Emanuel H. F. Ballo [1]
Dr. Florian Biesalski, LL.M. [1]
Florian Bruder, M.Jur. (Oxford) [1]
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Kais Torchani, LL.M. (American University in Cairo)
Jana Weichseldorfer-Spuhl

Hamburg
Alter Wall 4
20457 Hamburg
T: +49 40 188 88 0
F: +49 40 188 88 111
E: reception.hamburg@dlapiper.com

Dr. Kai Bodenstedt, LL.M. (Edinburgh) [1, 10]
Sebastian Decker, LL.M. (Manchester), LL.M. (Rotterdam) [1]
Prof. Dr. Stefan Engels [1, 14]
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Dr. Tobias Pielow
Friederike Rickers
David Schele
Philipp Schmechel, LL.M. (Sydney)
Jan Schürmann
Rune Weltz LL.M. (UCT)

Köln
Augustinerstraße 10
50667 Köln
T: +49 221 277 277 0
F: +49 221 277 277 111
E: reception.cologne@dlapiper.com

Dr. Gunne W. Bähr, LL.M. [1]
Dr. Philipp Cepl [1, 11]
Michael Cieslarczyk [1]
Dr. Cornelius Frie [1]
Prof. Dr. Ludger Giesberts, LL.M. (LSE) [1, 17]
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Manuel Baroch Castellví
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Gabriele Engels, LL.M. [11]
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Dr. Cornelia Wendel
Dario Westarp
Philip Weyand, LL.M. (Köln/Paris I)
Gabriela von Wietersheim [7]
Muhammet Yavuz
Yannick Aaron Zirnstein

München
Maximilianstraße 2
80539 München
T: +49 89 23 23 72 0
F: +49 89 23 23 72 100
E: reception.munich@dlapiper.com

Dr. Thilo von Bodungen, LL.M. (NYU) [1]
Sylvia Ebersberger [1]
Dr. Thomas Gädtke [1]
Dr. Markus Gampp, LL.M. (San Diego) [1]
Dr. Martin Haller [1]
Pascal R. Kremp, LL.M. (Wake Forest) [1, 10]
Dr. Jan Geert Meents [1]
Lars Reubekeul [1, 22]
Dr. Dietmar Schulz, LL.M. (Edinburgh) [1]
Gerald Schumann [1]
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Dr. Manuel Indlekofer, LL.M. (Chicago-Kent)
Dr. Constanze Krenz
Hanna Lütkens, LL.M. (Melbourne)
Marcel Nurk
Dr. Susanne Weckbach

Eleni Alexiou
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Ronja Carstens, LL.M. (Dublin)
Luisa Domenichini, LL.M., (U.C. Berkeley) [3]
Dr. Richard Falk, LL.M. (London)
Ekaterina Filikhina
Betina Fischer
Dr. Carmen Födisch
Dr. Felisa Frey [10]
Andreas Friedberger
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Markus Kotowski, LL.M. (Melbourne)
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Lennart Spiller
Dr. Catharina Voß
Vincent Wehner
Christina Welpot, LL.M. (Duke) [3, 20]
Sabrina Wimmer
Michael Georg Ziegaus

Of Counsel:
Lothar Böhm (Frankfurt)
Dr. Thomas Fausten (Köln)
Rainer Funke (Hamburg)
Dr. Tillmann Hädrich, LL.M. (Hamburg)
Martin Heinsius (Frankfurt) [6]
Thomas Kretschmann (Köln)
Wolfgang May (Köln)
Jürgen Roters (Köln)
Dr. Christoph Stoecker, LL.M. (Sydney) (Hamburg)
Univ.-Prof. Dr. Jürgen Taeger (Köln)

1 Partner
2 Fachanwalt für Internationales Wirtschaftsrecht
3 Attorney at Law (New York)
4 Solicitor (England & Wales)
5 Notar
6 Steuerberater
7 Maître en Droit (Paris)
8 Maître en Droit (Tours)
9 Licencié en Droit (Paris)
10 Fachanwalt für Arbeitsrecht
11 Fachanwalt für Gewerblichen Rechtsschutz
12 Fachanwalt für Handels- und Gesellschaftsrecht
13 Fachanwalt für Steuerrecht
14 Fachanwalt für Urheber- und Medienrecht
15 Fachanwalt für Versicherungsrecht
16 Fachanwalt für Informationstechnologierecht
17 Magister rerum publicarum
18 Diplom-Finanzwirt (FH)
19 MRICS
20 Wirtschaftsmediator (MuCDR)
21 Maitrise en droit
22 Fachanwalt für Bau- und Architektenrecht
23 Immobilienökonom (IRE|BS)
24. Attorney and Counselor at Law (New York)
25. Maître en droit
26. Rein Rechtsanwalt

Der unabhängige Anspruch 1 des EP 234 schützt:

1.1 Aufsatz (30, 130, 180, 230) für ein Handgerät, der

1.2 einen Einlass an einem ersten Ende (32);

1.3 einen Auslass (100, 200); und

1.4 einen Fluidströmungspfad zwischen dem Einlass und dem Auslass umfasst,

1.5 wobei der Aufsatz allgemein zylindrisch ist und

1.6 wobei der Auslass (100, 200) mindestens einen Schlitz (102, 182, 202, 282) umfasst, der sich von der Nähe des ersten Endes (32) des Aufsatzes zu einem distalen Ende (36) des Aufsatzes erstreckt,

1.7 wobei sich der mindestens eine Schlitz (102, 182, 202, 282) im Wesentlichen entlang der Länge des Aufsatzes erstreckt und

1.8 wobei der Auslass (100, 200) zumindest zum Teil durch eine Außenfläche des Aufsatzes definiert wird, dadurch gekennzeichnet, dass

1.9 der Auslass dazu konfiguriert ist, aus dem Auslass (100, 200) ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten.

Der unabhängige Anspruch 10 des EP 234 schützt:

10.1 Handgerät, das

10.2 einen Griff (20) mit einem Fluidströmungspfad von einem Einlass (40) zu einem Auslass und

10.3 einer Gebläseeinheit (70) zum Saugen von Fluid in den Fluideinlass und

10.4 einen Aufsatz zum Aufsetzen auf den Griff (20) umfasst,

10.5 wobei der Aufsatz einem vorhergehenden Anspruch entspricht.

Unsere Mandantin hat festgestellt, dass Sie entsprechende, das EP 234 patentverletzende Handgeräte nebst Aufsätzen unter der Produktbezeichnung *„Shark FlexStyle Haarstyler und -trockner“* seit Kurzem auf der Website https://beauty.sharkclean.de anbieten und über diese in Verkehr bringen. Die Verletzung von EP 234 wird bei einem Vergleich Ihres Produkts mit den Merkmalen der oben genannten Ansprüche 1 und 10 von EP 234 offensichtlich.

Im Detail:

I.

Gegenstand des Anspruchs 1

Anspruch 1 betrifft einen Aufsatz für ein Handgerät (Merkmal 1.1), wobei der Aufsatz über einen Einlass an einem ersten Ende und einen Auslass („outlet“) verfügt (Merkmale 1.2 und 1.3) und zwischen Einlass und Auslass ein Fluidströmungspfad existiert (Merkmal 1.4). Eine entsprechende Darstellung findet sich beispielsweise in Fig. 3a des EP 234 (Ergänzungen hinzugefügt):

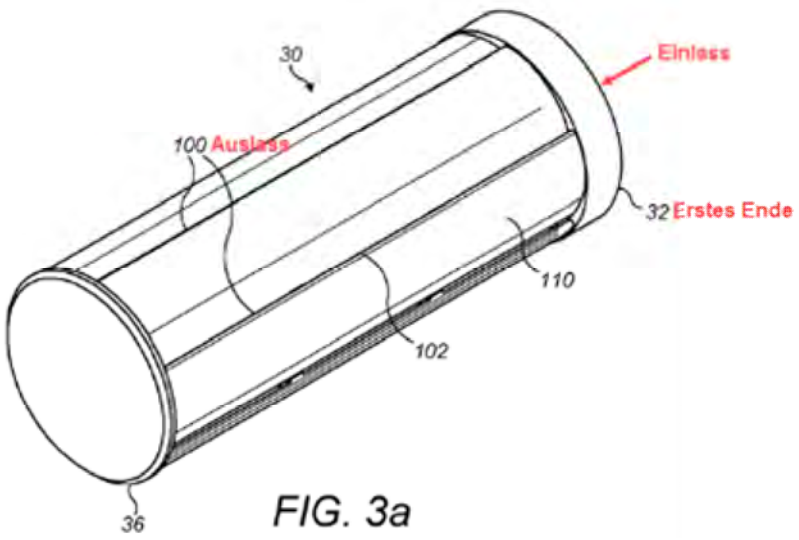


FIG. 3a

Hierzu ist in Abs. [0050] EP 234 wie folgt ausgeführt:

[0050] The head 30 includes a fluid outlet 100 which in this example comprises parallel slots 102 each extending towards a second end 36 of the head and radially around the head 30. This arrangement enables fluid to exit the head all the way around the head and for the majority of the length of the head 30 maximising a hair styling region of the product.

Zu Deutsch:

> *[0050] Der Kopf 30 beinhaltet einen* ***Fluidauslass 100, der in diesem Beispiel parallele Schlitze 102 umfasst, die sich jeweils zu einem zweiten Ende 36 des Kopfs und radial um den Kopf 30 herum erstrecken****. Diese Anordnung ermöglicht, dass Fluid den ganzen Weg um den Kopf herum und über den größten Teil der Länge des Kopfs 30 aus dem Kopf austritt, wodurch ein Haarstylingbereich des Produkts maximiert wird.*

Den Fluidströmungspfad haben wir zu Veranschaulichkeitszwecken in Fig. 3b des EP 234 kenntlich gemacht:

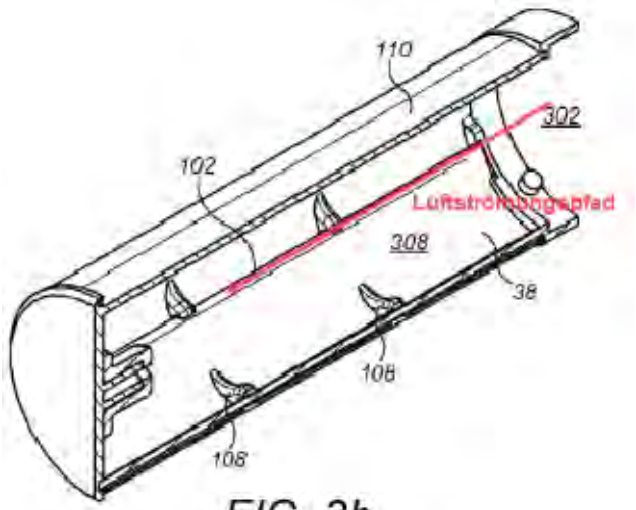


FIG. 3b

Der Aufsatz ist gemäß **Merkmal 1.5** allgemein zylindrisch.

Der Auslass des Aufsatzes wird im Rahmen der Merkmale 1.6 bis 1.9 weiter spezifiziert.

Gemäß **Merkmal 1.6** umfasst der Auslass mindestens einen Schlitz ("slot"), der sich von der Nähe des ersten Endes des Aufsatzes zu dem zweiten Ende des Aufsatzes erstreckt. Bei dem ersten und zweiten Ende des Aufsatzes handelt es sich um dessen sich gegenüberliegende, distale Enden.

Merkmal 1.7 spezifiziert weiter, dass sich der mindestens eine Schlitz im Wesentlichen entlang der Länge des Aufsatzes erstrecken soll. Ein derartiger Schlitz ist beispielsweis in Fig. 3a des EP 234 mit der Bezugsziffer 102 gezeigt (vgl. rote Hervorhebung):

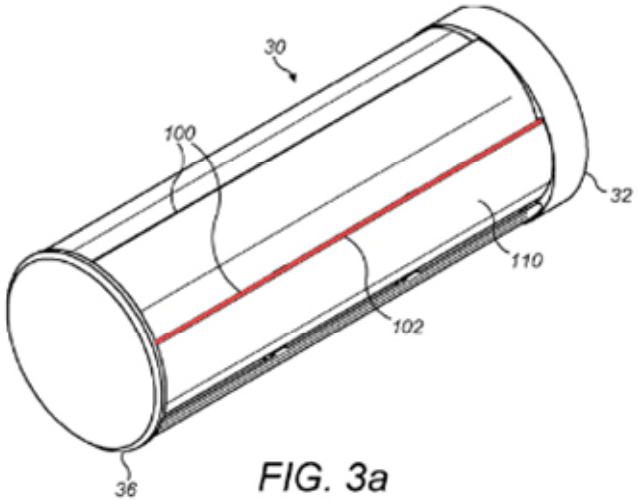


FIG. 3a

Wie sich aus Abs. [0066] EP 234 ergibt, können die Schlitze sogenannte Abstandshalter („spacer“) aufweisen, die zur Wahrung der Abmessung eines einzelnen Schlitzes verwendet werden.

[0066] To maintain the size of each slot 102, spacers 108 are provided. In this example, a pair of spacers 108 is provided to maintain each slot 102 size. Each one of the pair of spacers 108 is longitudinally spaced along the slot 102 and the plate 110. The spacers 108 join adjacent plates 110 together.

Zu Deutsch:

> *„[0066] Um die Größe der Schlitze 102 beizubehalten, sind Abstandshalter 108 vorgesehen. Im vorliegenden Beispiel ist* ***ein Paar von Abstandshaltern 108 vorgesehen, um die Größe der Schlitze 102 beizubehalten****. Jeder der Abstandshalterpaare 108 ist in Längsrichtung entlang* ***des Schlitzes*** *102 und der Platte 110 angeordnet. Die Abstandshalter 108 verbinden benachbarte Platten 110 miteinander.“*

Bei den Abstandshaltern handelt es sich mithin um Bestandteile des Schlitzes, sie bilden jedoch nicht dessen seitliche Begrenzung.

Darüber hinaus soll der Auslass („outlet“) gemäß **Merkmal 1.8** jedenfalls zum Teil durch die Außenfläche des Aufsatzes definiert werden. Die Außenfläche kann beispielsweise durch eine Mehrzahl von Platten (110) gebildet werden, die so zueinander angeordnet werden, dass ein Schlitz entsteht, der zugleich – gegebenenfalls zusammen mit weiteren Schlitzen – den Auslass (100) bildet, wobei anspruchsgemäß nicht ausgeschlossen ist, dass weitere Elemente – wie die untere Platte – gegebenenfalls an der Ausbildung des Auslasses mitwirken (vgl. Fig. 3a, nachfolgend eingeblendet und Außenfläche markiert), siehe ergänzend Abs. [0050] EP 234 (oben eingeblendet).

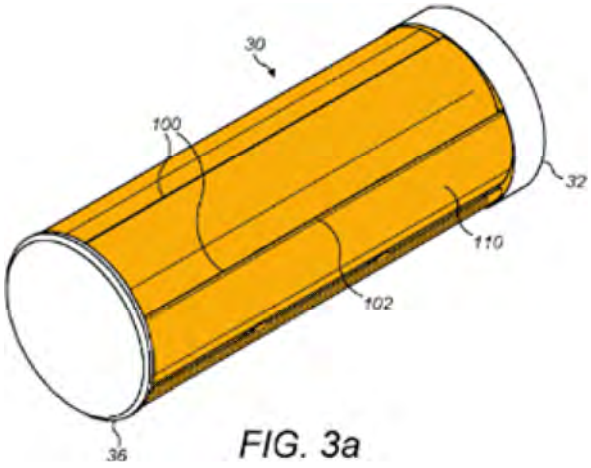


FIG. 3a

[farbliche Hervorhebungen unsererseits]

Damit zusammenhängend charakterisiert **Merkmal 1.9** weiter, dass der Auslass dazu konfiguriert sein soll, aus dem Auslass ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten.

Das Fluid wird tangential im Nahbereich der Außenfläche geleitet, so dass es an der gekrümmten Außenfläche anliegt, vgl. auch Fig. 5A, 5B EP 234, und daher um die Außenfläche herum („around“) folgt (und nicht geradlinig weiterfließt), da sich das aus den mehreren Schlitzen austretende Fluid zu einem Fluidstrom verbindet.

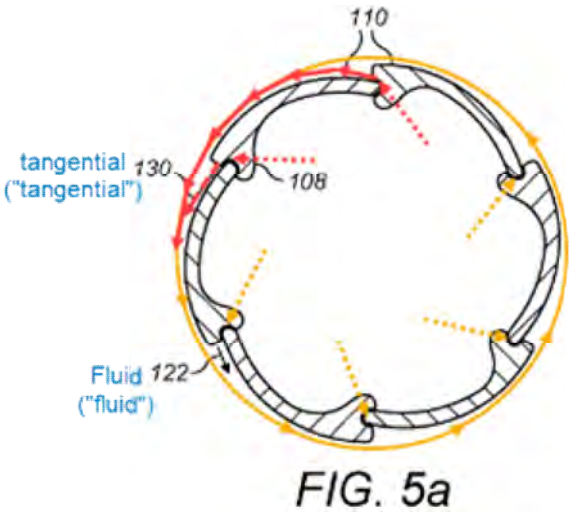


FIG. 5a

[farbliche Hervorhebungen unsererseits]

Der eben beschriebene Effekt, wonach das Fluid von der Außenfläche angezogen wird, wird auch als Coanda-Effekt bezeichnet (vgl. Abs. [0065] EP 234). Hierdurch wird erreicht, dass sich das Haar automatisch um den Aufsatz wickelt, ohne dass dieses von Hand eingedreht werden muss. (vgl. auch Abs. [0064], [0065] EP 234).

II.

Gegenstand des Anspruch 10

Ein patentgemäßes Beispiel der beanspruchten Erfindung nach Anspruch 10 des EP 234 ist in der sogleich abgebildeten Figur 1a des EP 234 ersichtlich. Sie zeigt die Außenansicht eines Handgeräts im Sinne des **Merkmals 10.1** des Anspruchs 1 des EP 234 sowie dessen Griff (Bz. 20) und Einlass (Bz. 40).

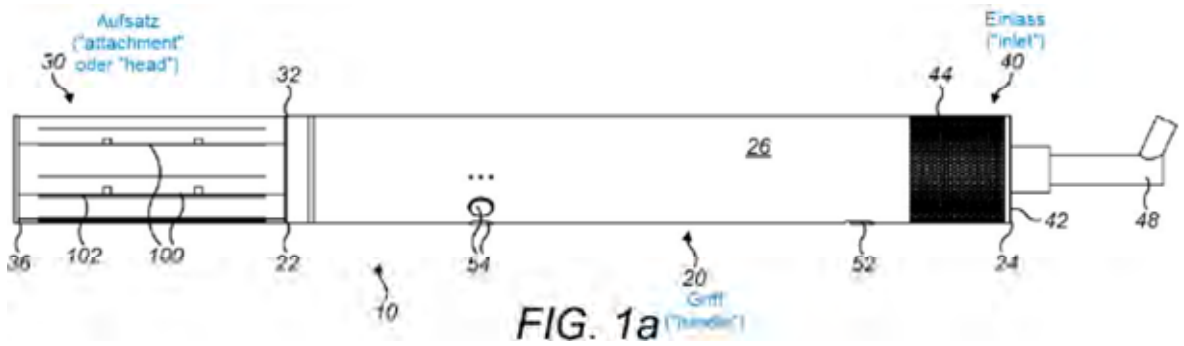


FIG. 1a

[farbliche Ergänzungen unsererseits]

Auch bei Anspruch 10 ist gemäß **Merkmal 10.2** ein Fluidströmungspfad erforderlich. Im Rahmen des Merkmals 10.2 ist der maßgebliche Einlass bzw. Auslass der des Griffes, nicht der des Aufsatzes.

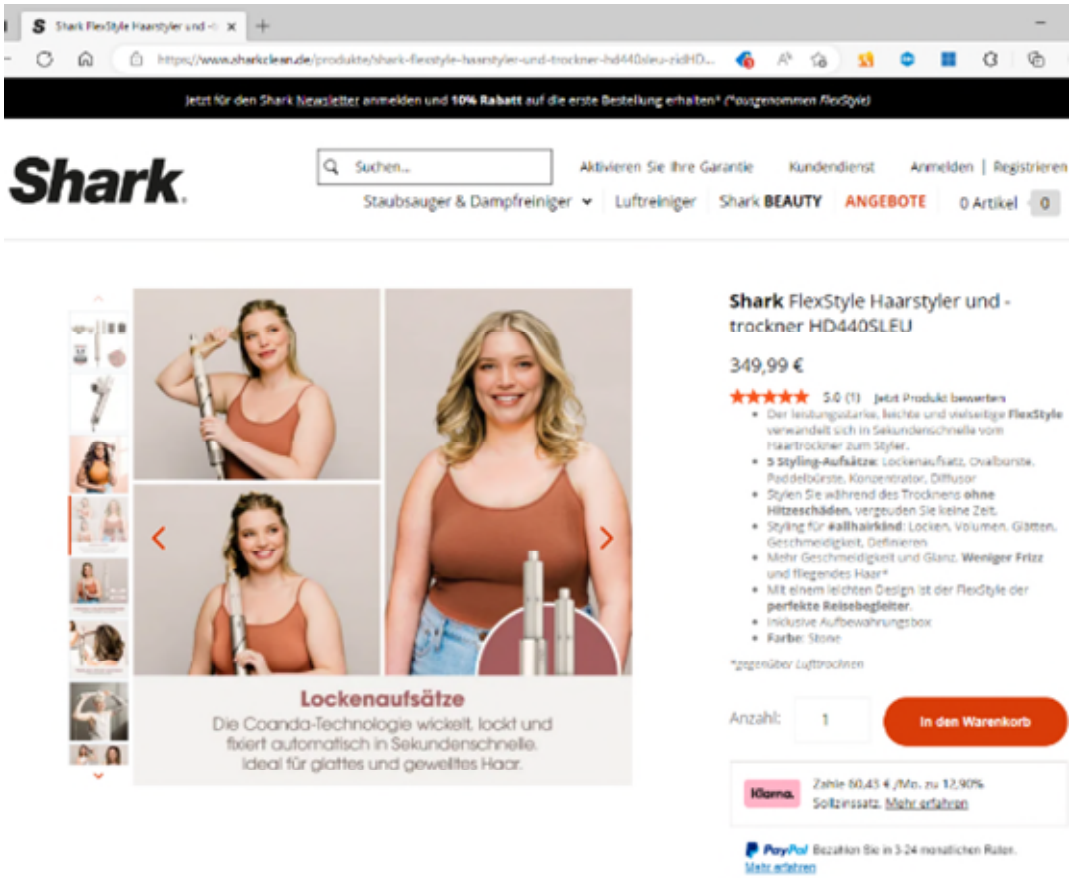
Gemäß **Merkmal 10.3** ist ferner eine Gebläseeinheit erforderlich, die nach der Beschreibung einen Ventilator und einen Motor umfassen kann. Letzterer treibt den Ventilator an, um so das Fluid über den Einlass in das Handgerät bzw. den Fluidströmungspfad einzusagen, vgl. Abs. [0049] EP 234.

Hinsichtlich der **Merkmale 10.4 und 10.5** – dem Aufsatz zum Aufsetzen auf den Griff, der einem dem Anspruch 10 vorhergehenden Anspruch entspricht – verweisen wir ebenfalls auf unsere Ausführungen zu Anspruch 1.

III.

Patentverletzung

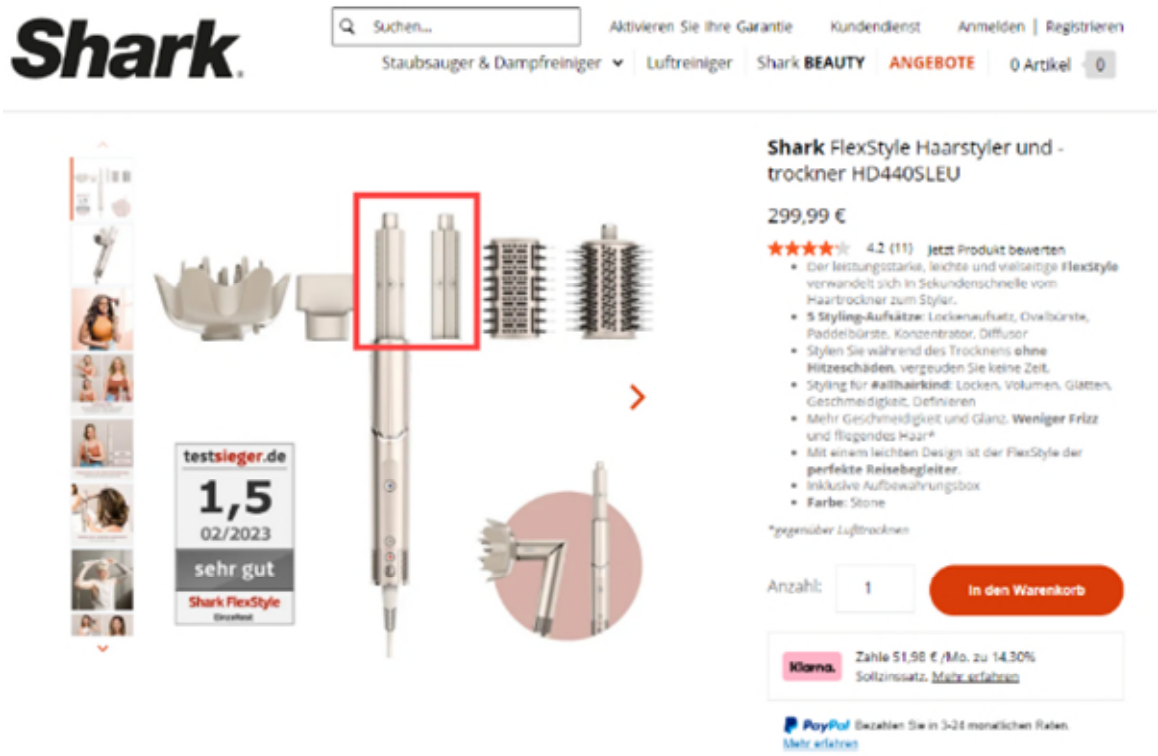
Wie bereits einleitend ausgeführt, bieten Sie den „Shark FlexStyle Haarstyler“ über die deutschsprachige Webseite https://beauty.sharkclean.de für Deutschland an und vertreiben diesen gemeinsam mit der SharkNinja Europe Limited im deutschen Markt. Das Angebot des „Shark FlexStyle Haarstyler und -trockner HD440SLEU“ auf der deutschen Webseite haben wir der Vollständigkeit halber eingeblendet:



Shark FlexStyle Haarstyler und -trockner HD440SLEU - Jetzt kaufen bei Shark DE! (sharkclean.de)

Eine Lieferung ist den Lieferbedingungen auf der Website zufolge nach Deutschland möglich. Dies wird auch im Rahmen des Bezahlvorgangs ersichtlich. Sie ebenso wie SharkNinja Europe Limited sind gemeinsam auf dem Griff der Verletzungsform 2 wie auch auf der Kartonage des FlexStyle genannt.

Der Lieferumfang des „*Shark FlexStyle Haarstyler*“ (HD440SLEU) umfasst insgesamt fünf „Styling-Aufsätze“, u.a. den vorliegend relevanten Lockenaufsatz (nachfolgend hervorgehoben):



Shark FlexStyle Haarstyler und -trockner HD440SLEU - Jetzt kaufen bei Shark DE! (sharkclean.de)

Bei dem auf der Website angebotenen *FlexStyle* nebst Lockenaufsätzen handelt es sich um die Verletzungsformen 1 und 2 (auch „*Verletzungsformen*“), da diese von der technischen Lehre der Ansprüche 1 und 10 des EP 234 Gebrauch machen.

1. Verwirklichung des Anspruch 1 (Verletzungsform 1)

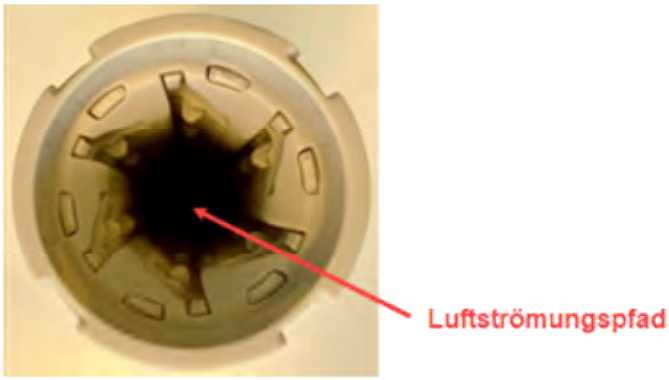
Der rechte und linke Lockenaufsatz (gemeinsam auch „*Verletzungsform 1*“) des *FlexStyle* verwirklicht sämtliche Merkmale des Anspruchs 1 des hiesigen EP 234. Die beiden Aufsätze sind hinsichtlich ihres Aufbaus und ihrer Wirkweise identisch und unterscheiden sich lediglich in der Richtung des Luftflusses (einmal mit und einmal gegen den Uhrzeigersinn), abhängig davon, auf welcher Kopfseite das Haar gestylt wird. Ob die Luftflussrichtung mit oder gegen den Uhrzeigersinn ist, ist für die Frage der Patentverletzung jedoch irrelevant. Beide Aufsätze verwirklichen in gleicher Weise die anspruchsgemäße Lehre.

Bei der Verletzungsform 1 handelt es sich um einen Aufsatz für ein Handgerät entsprechend **Merkmal 1.1**. Dies veranschaulichen sowohl der nachfolgend eingeblendete Ausschnitt eines Produktvideos als auch die nachfolgenden Fotos von der Verletzungsform 1.



Die einzelnen Bauteile und deren Ausgestaltung sind in den nachfolgenden Abbildungen noch einmal genauer dargestellt. Die obige Einblendung soll in erster Linie der Orientierung dienen.

Die Verletzungsform 1 hat entsprechend **Merkmal 1.2 und 1.3** einen Einlass an ihrem ersten Ende sowie einen Auslass. Der Einlass ist auf dem oben eingeblendeten und dem nachfolgenden Foto ersichtlich, welches die Öffnung bzw. den Einlass am ersten Ende, mithin dem Ende, an welchem der Aufsatz mit dem Griff verbunden wird, zeigt. In dieser Öffnung ist auch der Luftströmungspfad erkennbar, durch welchen sich die Luft, die über den Griff in die Verletzungsform 1 gelangt, bewegt, um über den Auslass aus dem Gerät zu entweichen und die Haare zu locken.



Der Auslass ist in der nachfolgenden Abbildung beispielhaft gelb markiert:



Der Aufsatz ist, wie auf den vorangehenden Fotos erkennbar, auch allgemein zylindrisch gemäß **Merkmal 1.5**.

Der Auslass der Verletzungsform 1 umfasst mehrere Schlitze gemäß **Merkmal 1.6**. Die Schlitze erstrecken sich jeweils von der Nähe des ersten Endes der Verletzungsform 1 zu deren zweitem Ende. Ein einzelner Schlitz ist in der nachfolgenden Abbildung zu sehen, wobei dessen jeweilige Enden vergrößert dargestellt sind:



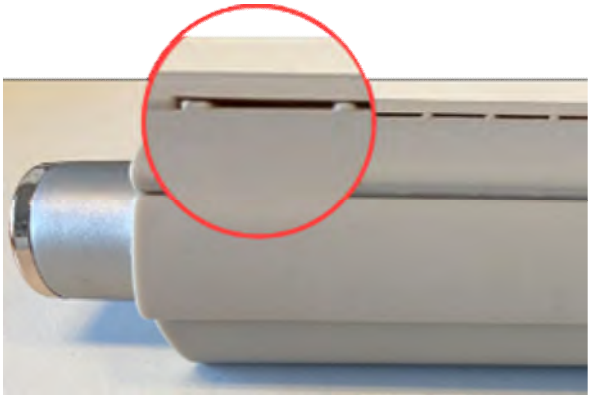
Dass unter jeder der Platten ein solcher Schlitz angeordnet ist, verdeutlich beispielsweise die nachfolgende Abbildung:

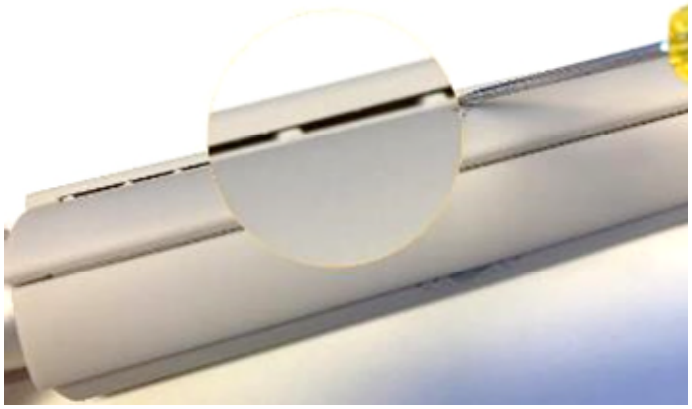


Die Fotos belegen auch, dass sich jeder der Schlitze der Verletzungsform 1 entsprechend **Merkmal 1.7** im Wesentlichen entlang der gesamten Länge des Aufsatzes erstreckt.

Soweit in den Abbildungen Stege erkennbar sind, handelt es sich hierbei um die auch im EP 234 angesprochenen Abstandshalter zur Wahrung der Abmessungen der jeweiligen Schlitze. Dass die

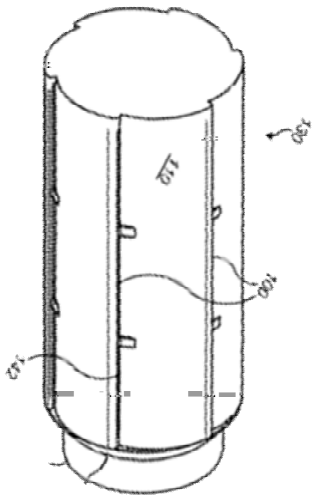
Abstandshalter nicht die äußeren Enden eines Schlitzes definieren, zeigt sich vor allem an dem Umstand, dass die Stege mit der jeweils oberen Platte nicht fest verbunden sind und die obere Platte auch mit einem Fingernagel o. ä. leicht angehoben werden kann:





Vergleicht man die Verletzungsform 1 mit beispielsweise Fig. 6a des EP 234, wird noch einmal deutlich, dass die Merkmale in identischer Weise verwirklicht sind:

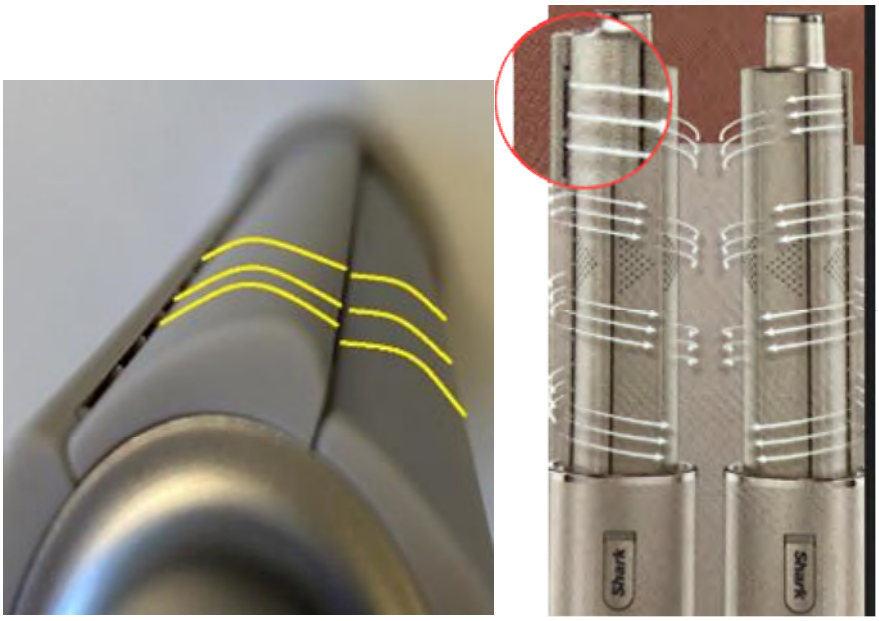




Darüber hinaus wird der Auslass der Verletzungsform 1 entsprechend **Merkmal 1.8** jedenfalls zum Teil durch die Außenfläche des Aufsatzes definiert. Dies wird auf den vorangehenden Fotos der Verletzungsform 1 ersichtlich, da der Auslass durch die Anordnung der Platten zueinander definiert wird.



Bei der Verletzungsform 1 fließt die aus dem Schlitz austretende Luft aufgrund der Tatsache, dass die untere Platte als Teil der Außenfläche unmittelbar unter dem Slot angeordnet ist, tangential zur äußeren Fläche und wird von dieser (aufgrund des Coanda Effekts) angezogen und verbindet sich, weiter unterhalb, mit der aus den anderen Schlitzen austretenden Luft zu einem Luftstrom um die Außenfläche der Verletzungsform 1 herum. Wir haben die Strömungslinien der Luft in der nachfolgenden Abbildung gelb hervorgehoben:

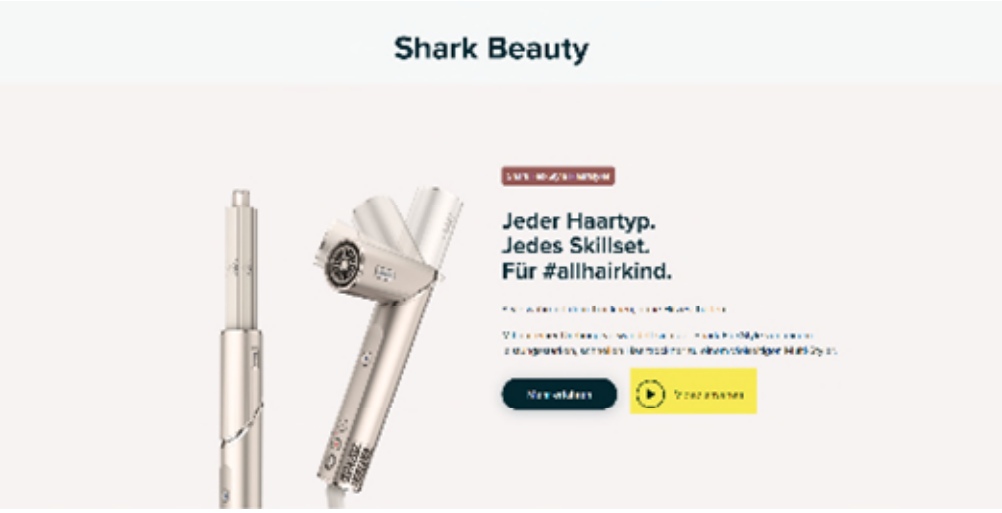


Dies entspricht der Darstellung der Luftzirkulation, wie sie auf dem Karton, in welchem die Verletzungsformen versendet werden, aufgedruckt (siehe obige Abbildung rechtsseitig) und auf der Webseite dargestellt ist (siehe nachfolgende Abbildung)



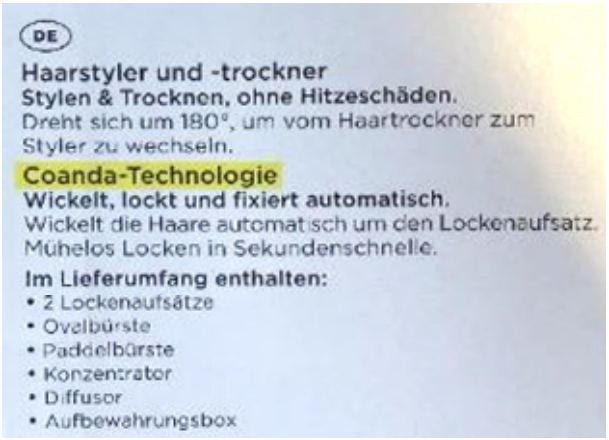
Shark FlexStyle Haarstyler und -trockner HD440SLEU - Jetzt kaufen bei Shark DE! (sharkclean.de)

Wir verweisen ergänzend auf ein Video, das ebenfalls über die deutschsprachige Webseite abrufbar ist Shark Beauty | Haarpflege & Haarstyling Geräte - Shark DE (sharkclean.de)





Wie sich aus den obigen Einblendungen sowie ebenfalls aus Angaben auf dem Karton der Verletzungsformen ergibt, werben Sie auch explizit mit dem Coanda-Effekt.



(Foto der Kartonage)

Damit verwirklicht die Verletzungsform 1 alle Merkmale des Anspruchs 1 des EP 234.

2. Verwirklichung des Anspruch 10 (Verletzungsform 2)

Der Griff in Kombination mit der Verletzungsform 1 als Aufsatz bilden gemeinsam ein Handgerät („*Verletzungsform 2*“), welches auch sämtliche Merkmale des Anspruchs 10 des hiesigen EP 234 verwirklicht.

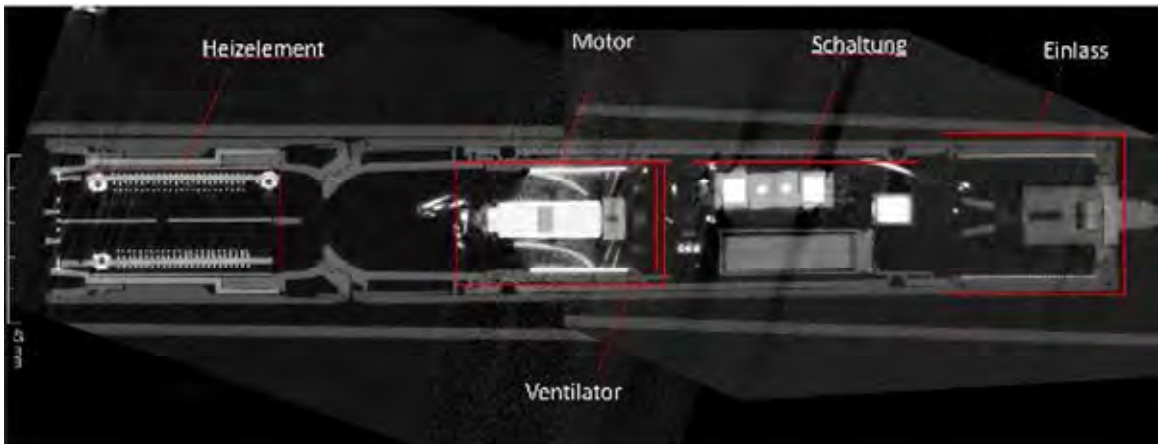
Bei der Verletzungsform 2 handelt es sich um ein Handgerät (**Merkmal 10.1**).

Sie enthält einen Griff, durch welchen entsprechend **Merkmal 10.2** ein Fluidströmungspfad von Einlass zum Auslass verläuft. Auf den nachfolgenden Fotos sind Griff, Einlass und Auslass (perforierte Fläche rechts am Griff) erkennbar.





Auch enthält die Verletzungsform 2 eine patentgemäße Gebläseeinheit gemäß **Merkmal 10.3**, die einen Ventilator und einen Motor umfasst.



CT Scan der Verletzungsform 2

Bei der Verletzungsform 1 handelt es sich um einen Aufsatz, der im Sinne des **Merkmals 10.4** zum Anbringen an den Griff gedacht ist. Im Übrigen verweisen wir hinsichtlich der durch die Verletzungsform 2 ebenfalls verwirklichten **Merkmale 10.4 und 10.5** auf unsere vorangegangenen Ausführungen zur Verletzungsform 1.

Ihr Anbieten und Inverkehrbringen sowie Einführen und Besitzen zu diesen Zwecken der Verletzungsformen, stellt eine Verletzung des deutschen Teils von EP 234 nach den einschlägigen Bestimmungen des § 9 Nr. 1 PatG dar. Unsere Mandantin hat daher einen Anspruch auf Unterlassung der Verletzungshandlungen, Vernichtung der verletzenden Produkte, Rückruf sowie Auskunft und Rechnungslegung im Zusammenhang mit den Verletzungshandlungen. Zudem steht ihr dem Grunde nach ein Schadensersatzanspruch zu. Da sie nicht gewillt ist, diese Verletzungshandlungen weiter zu dulden, fordern wir Sie auf,

> **es unverzüglich zu unterlassen, die patentverletzenden Haarstyling-Geräte in der Bundesrepublik Deutschland anzubieten, in Verkehr zu bringen oder zu benutzen oder zu solchen Zwecken einzuführen oder zu besitzen, einschließlich der Entfernung aller patentverletzenden Geräte von Ihrer Website**.

Unsere Mandantin hat uns ermächtigt, Ihnen Gelegenheit zur außergerichtlichen Beilegung des Streitverhältnisses zu geben. Bevor wir weitere rechtliche Schritte einleiten, geben wir Ihnen daher die Möglichkeit, die Angelegenheit durch Unterzeichnung einer Unterlassungserklärung zu regeln. Als Anlage fügen wir den Entwurf einer solchen Erklärung nach deutschem Recht bei (**Anlage 4**) und bitten Sie, uns diese aufgrund der Dringlichkeit der Angelegenheit bis spätestens

Montag, 13. März 2023, 12 Uhr CET

zu übermitteln. Sie können die unterzeichnete Unterlassungserklärung vorab per Fax an die Faxnummer **+49 89 23 23 72 100** oder vorab per E-Mail an **constanze.krenz@dlapiper.com** zurücksenden.

Im Falle der Nichtbeachtung der oben genannten Verpflichtungen sind wir angewiesen, unverzüglich rechtliche Schritte gegen Sie einzuleiten, um die verletzenden Aktivitäten zu unterbinden.

Mit freundlichen Grüßen

Dr. Constanze Krenz
– Rechtsanwältin –

Anlagen:

1. Anlage: Kopie der Patentschrift
2. Anlage: Maschinenübersetzung des EP 234
3. Auszug aus dem Register des Deutschen Patent- und Markenamts
4. Anlage: Unterlassungserklärung

Dr Constanze Krenz
Julia Oertel
DLA Piper UK LLP
Maximilianstrasse 2
D-80539 Munich
T +49 89 23 72 262
F +49 89 23 72 100
E constanze.krenz@dlapiper.com
E julia.oertel@dlapiper.com
W www.dlapiper.com

DLA PIPER

ENGLISH MACHINE TRANSLATION

SharkNinja Germany GmbH
to the attention of the directors
Mr Paul Cosimo Carbone and Thomas Anthony Brown
c/o Regus Management GmbH
Excellent Business Cener 10th + 11th floor
Westhafenplatz 1
60327 Frankfurt am Main

Our sign
MG/398223/388

08 March 2023

Vorab per E-Mail an pcarbone@sharkninja.com, tomb@sharkninja.com, kundendienst-de@sharkninja.com

URGENT!

Warning due to patent infringement

Dear Ladies and Gentlemen,

We hereby give notice that **Dyson Technology Limited**, Tetbury Hill, Malmesbury, Wiltshire SN16 0RP, United Kingdom (hereinafter referred to as the "*Client*"), has appointed us to represent its legal interests. Corresponding authorisation is assured by a lawyer.

Our client is part of the Dyson Group, a global technology company. Its product portfolio includes, inter alia, high-quality hair care appliances. It is the sole and unrestricted proprietor of the European patent EP 3 119 234 ("**EP 234**"), the German part of which is in force. A copy of the patent specification (**Annex 1**) together with the German machine translation (**Annex 2**) and an extract from the register of the German Patent and Trade Mark Office (**Annex 3**) are attached to this letter.

EP 234 relates to a hand-held *appliance*, in particular a *hair care appliance,* in which a fluid such as air is first sucked in and then directed out of the appliance or its attachment through an outlet, for example to curl or wave hair.

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The Munich branch is registered with the Munich Local Court (PR 1949).

Munich switchboard:
+49 89 23 23 72 0

The independent claim 1 of EP 234 protects:

1.1 Attachment (30, 130, 180, 230) for a hand-held unit, the

1.2 an inlet at a first end (32);

1.3 an outlet (100, 200); and

1.4 comprises a fluid flow path between the inlet and the outlet,

1.5 wherein the attachment is generally cylindrical and

1.6 wherein the outlet (100, 200) comprises at least one slot (102, 182, 202, 282) extending from proximate the first end (32) of the attachment to a distal end (36) of the attachment,

1.7 wherein the at least one slot (102, 182, 202, 282) extends substantially along the length of the attachment; and

1.8 wherein the outlet (100, 200) is defined at least in part by an outer surface of the attachment, characterised in that

1.9 the outlet is configured to direct fluid expelled from the outlet (100, 200) tangentially around the outer surface of the attachment.

The independent claim 10 of EP 234 protects:

10.1 Handheld device that

10.2 a handle (20) having a fluid flow path from an inlet (40) to an outlet; and

10.3 a blower unit (70) for sucking fluid into the fluid inlet; and

10.4 comprises an attachment to be placed on the handle (20),

10.5 wherein the attachment corresponds to a preceding claim.

Our client has discovered that you have recently been offering corresponding hand-held appliances and attachments which infringe EP 234 under the product name "*Shark FlexStyle Hair Styler and Dryer*" on the website https://beauty.sharkclean.de and have been marketing them via this website. The infringement of EP 234 becomes obvious when comparing your product with the features of claims 1 and 10 of EP 234 mentioned above.

In detail:

I.

Subject-matter of claim 1

Claim 1 relates to an attachment for a handheld device (feature 1.1), the attachment having an inlet at a first end and an outlet (features 1.2 and 1.3), and a fluid flow path existing between the inlet and outlet (feature 1.4). A corresponding illustration can be found, for example, in Fig. 3a of EP 234 (additions added):

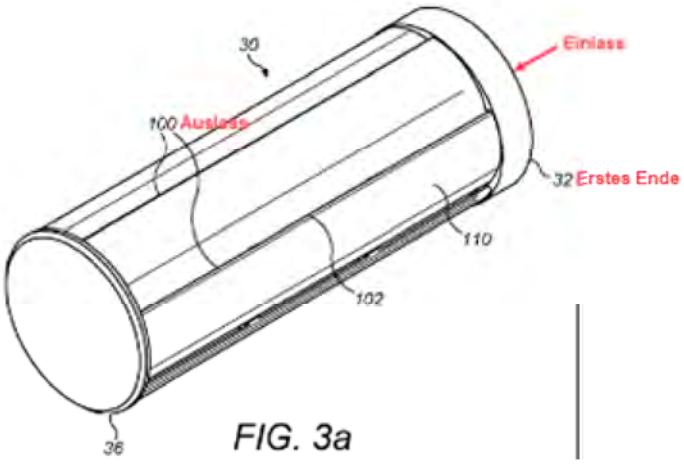


FIG. 3a

Paragraph [0050] EP 234 states the following:

[0050] The head 30 includes a fluid outlet 100 which in this example comprises parallel slots 102 each extending towards a second end 36 of the head and radially around the head 30. This arrangement enables fluid to exit the head all the way around the head and for the majority of the length of the head 30 maximising a hair styling region of the product.

For illustrative purposes, we have marked the fluid flow path in Fig. 3b of EP 234:

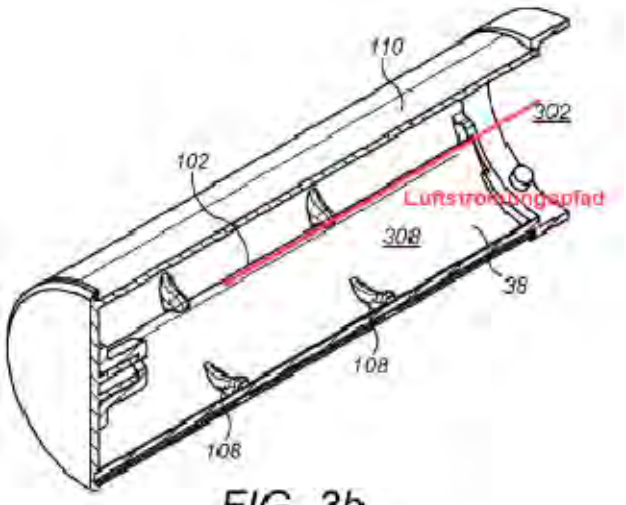


FIG. 3b

The attachment is generally cylindrical according to **feature 1.5.**

The outlet of the attachment is further specified within the scope of features 1.6 to 1.9.

According to **feature 1.6,** the outlet comprises at least one slot extending from near the first end of the attachment to the second end of the attachment. The first and second ends of the attachment are opposite distal ends thereof.

Feature 1.7 further specifies that the at least one slot shall extend substantially along the length of the attachment. Such a slot is shown, for example, in Fig. 3a of EP 234 with reference number 102 (cf. red highlighting):

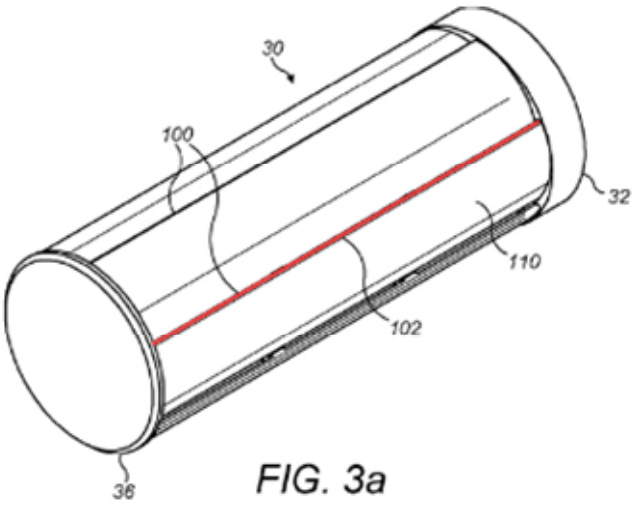


FIG. 3a

As can be seen from para [0066] EP 234, the slots may have so-called spacers which are used to maintain the dimension of a single slot.

[0066] To maintain the size of each slot 102, spacers 108 are provided. In this example, a pair of spacers 108 is provided to maintain each slot 102 size. Each one of the pair of spacers 108 is longitudinally spaced along the slot 102 and the plate 110. The spacers 108 join adjacent plates 110 together.

The spacers are therefore components of the slot, but they do not form its lateral boundary.

Furthermore, the outlet according to **feature 1.8 is** to be defined, at least in part, by the outer surface of the attachment. The outer surface can, for example, be formed by a plurality of plates (110) which are arranged in relation to each other in such a way that a slot is formed which at the same time - possibly together with further slots - forms the outlet (100), whereby, according to the claim, it is not excluded that further elements - such as the lower plate - possibly participate in the formation of the

outlet (cf. Fig. 3a, shown below and outer surface marked), see supplementary para [0050] EP 234 (shown above).

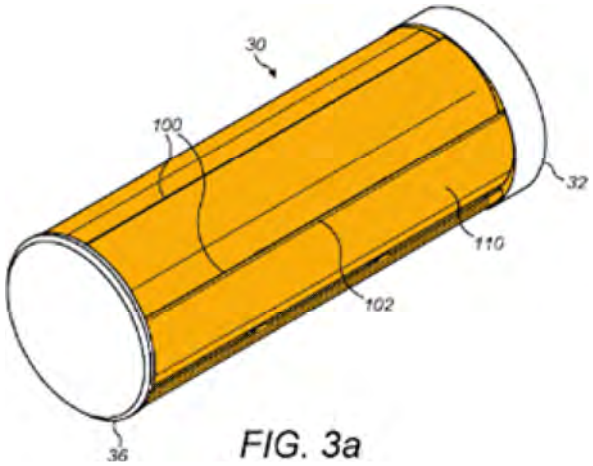


FIG. 3a

[colour emphasis on our part]

Relatedly, feature 1.9 further characterises that the outlet shall be configured to direct fluid expelled from the outlet tangentially around the outer surface of the attachment.

The fluid is directed tangentially in close proximity to the outer surface so that it is attracted to the curved outer surface, cf. also Fig. 5A, 5B EP 234, and therefore follows ("around") the outer surface (and does not continue to flow in a straight line) as the fluid emerging from the multiple slots combines to form a fluid flow.

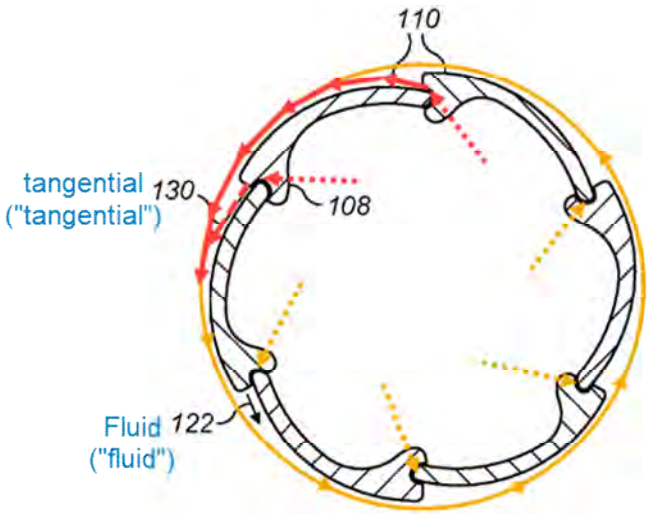


FIG. 5a

[colour emphasis on our part]

The effect just described, whereby the fluid is attracted to the outer surface, is also known as the Coanda effect (cf. par. [0065] EP 234). This causes the hair to automatically wrap around the attachment without having to be twisted in by hand. (cf. also para. [0064], [0065] EP 234).

II.

Subject matter of claim 10

A patent example of the claimed invention according to claim 10 of EP 234 is shown in Figure 1a of EP 234 , which is reproduced below. It shows the external view of a hand-held device within the meaning of **feature 10.1 of** claim 1 of EP 234 as well as its handle (ref. 20) and inlet (ref. 40).

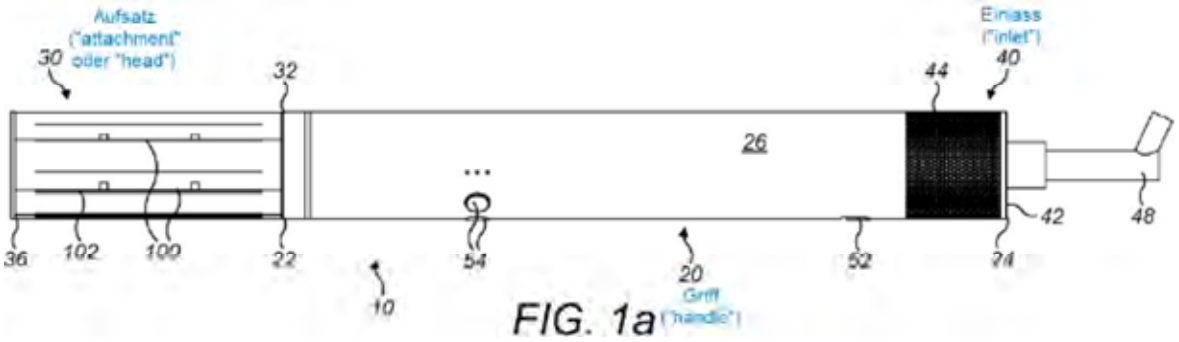


FIG. 1a

[coloured additions on our part]

Also in claim 10, **feature 10.2** requires a fluid flow path. In the context of feature 10.2, the relevant inlet or outlet is that of the handle, not that of the attachment.

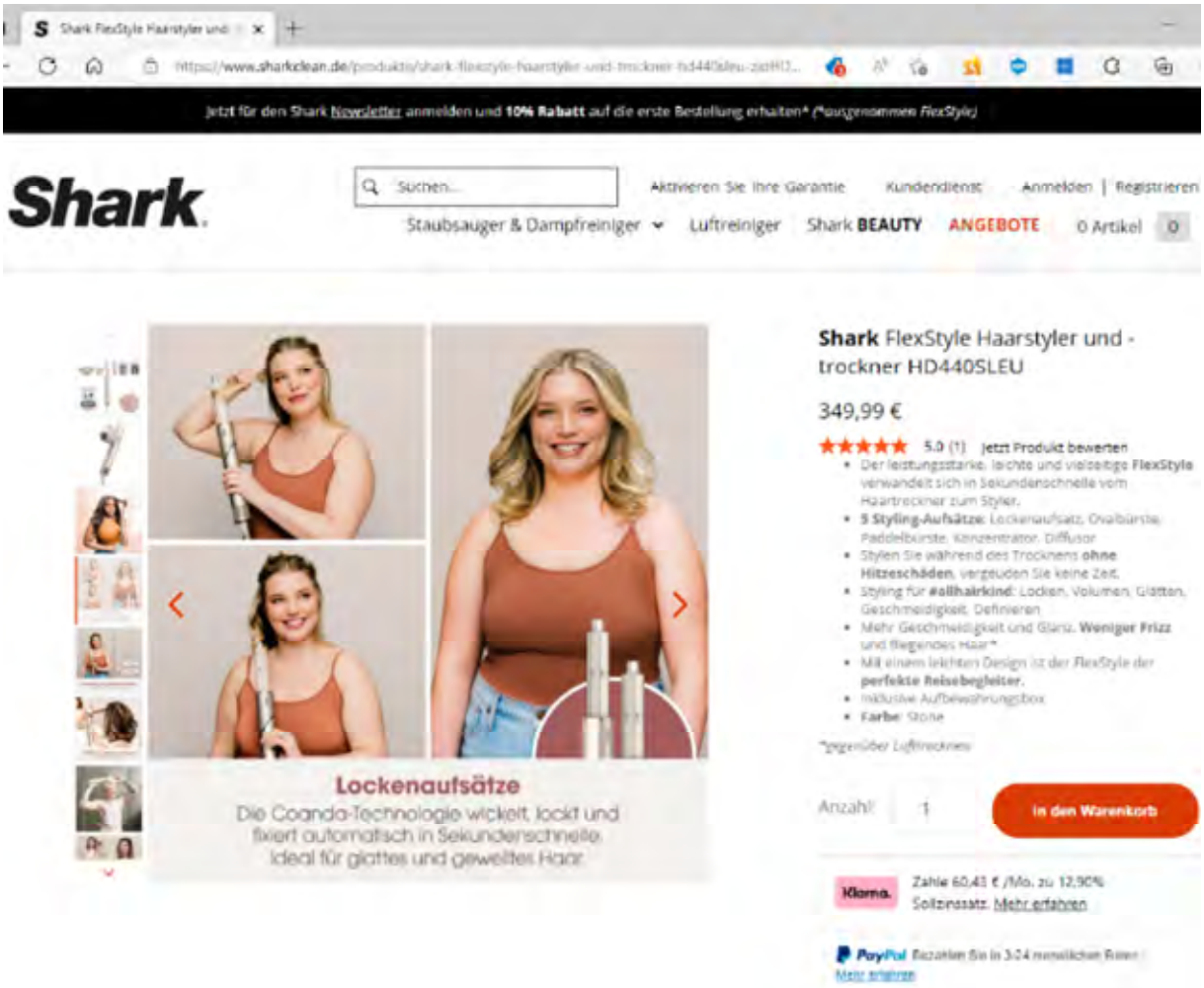
According to **feature 10.3,** a blower unit is also required, which according to the description may comprise a fan and a motor. The latter drives the fan so as to introduce the fluid via the inlet into the handheld device or the fluid flow path, cf. par. [0049] EP 234.

With regard to **features 10.4 and 10.5** - the attachment for fitting on the handle, which corresponds to a claim preceding claim 10 - we also refer to our comments on claim 1.

III

Patent infringement

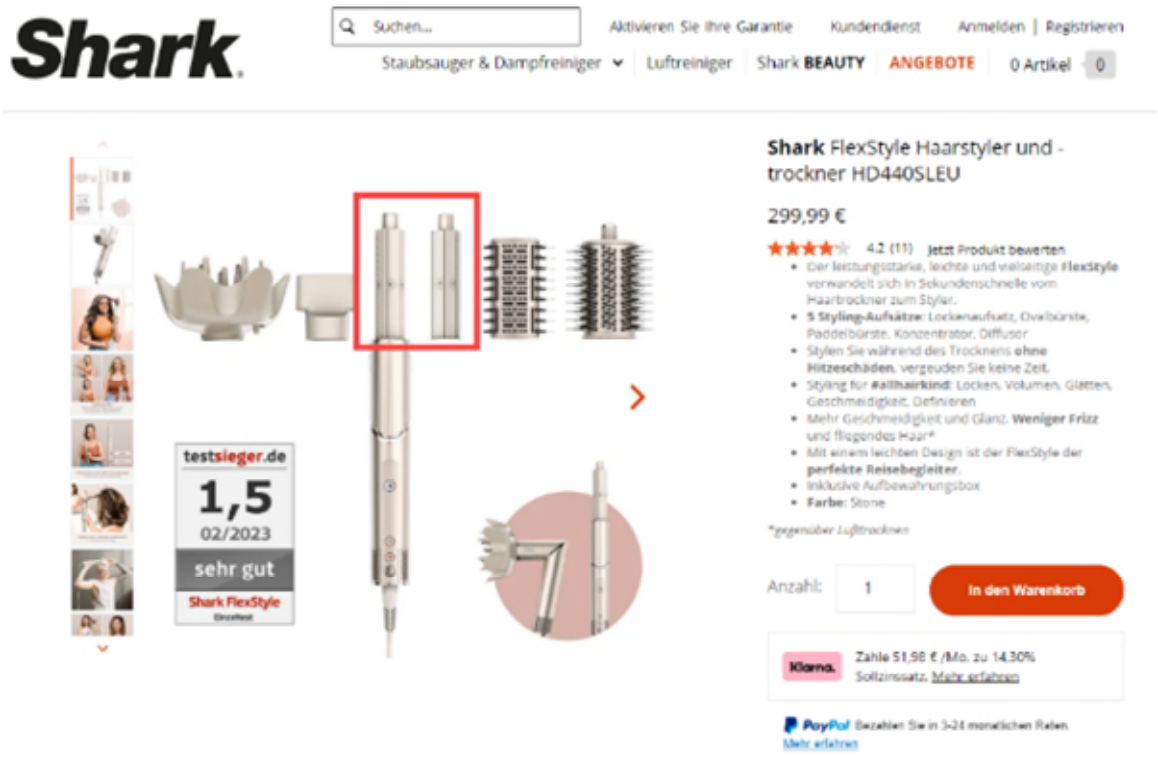
As already stated in the introduction, you offer the "Shark FlexStyle Hair Styler" via the German-language website https://beauty.sharkclean.de for Germany and distribute this together with SharkNinja Europe Limited in the German market. For the sake of completeness, we have included the offer of the "Shark FlexStyle Hair Styler and Dryer HD440SLEU" on the German website:



Shark FlexStyle Hair Styler and Dryer HD440SLEU - Buy now at Shark UK! sharkclean.com)

According to the delivery conditions on the website, delivery is possible to Germany. This is also evident during the payment process. Your company as well as SharkNinja Europe Limited are both mentioned on the handle of infringement form 2 as well as on the box of the FlexStyle.

The scope of delivery of the "*Shark FlexStyle Hair Styler*" (HD440SLEU) includes a total of five "styling attachments", including the curling attachment relevant here (highlighted below):



Shark FlexStyle Hair Styler and Dryer HD440SLEU - Buy now at Shark UK! (sharkclean.com)

The FlexStyle offered on the website together with curling attachments are infringement forms 1 and 2 (also "*infringement forms*"), as they make use of the technical teaching of claims 1 and 10 of EP 234s.

1. Realisation of claim 1 (infringement form 1)

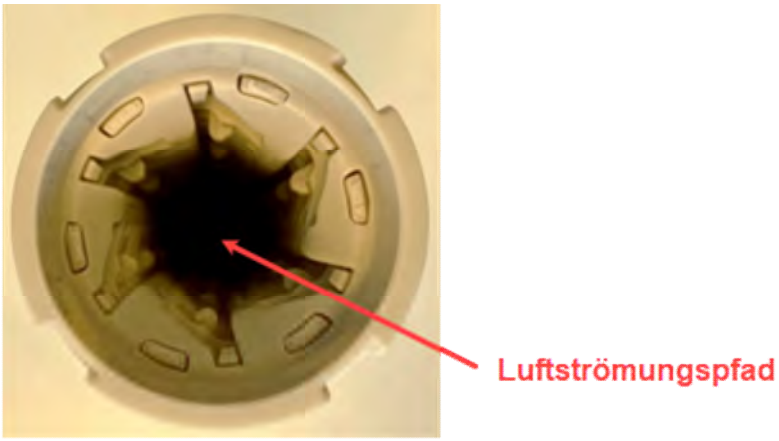
The right and left curling attachment (together also "*infringement form 1*") of the *FlexStyle* realise all features of claim 1 of the present EP 234. The two attachments are identical with regard to their construction and their mode of operation and differ only in the direction of the air flow (one clockwise and one counterclockwise), depending on which side of the head the hair is styled. Whether the air flow direction is clockwise or counterclockwise is, however, irrelevant for the question of patent infringement. Both attachments implement the claim teaching in the same way.

Infringement form 1 is an attachment for a hand-held device according to **feature 1.1.** This is illustrated both by the excerpt of a product video shown below and by the following photos of infringement form 1.



The individual components and their design are shown in more detail in the following illustrations. The above illustration is primarily intended for orientation purposes.

In accordance with **features 1.2 and 1.3,** the infringement form 1 has an inlet at its first end and an outlet. The inlet can be seen in the photo above and in the photo below, which shows the opening or inlet at the first end, i.e. the end at which the attachment is connected to the handle. In this opening, the air flow path can also be seen, through which the air that enters the infringement form 1 via the handle, flows in order to escape the attachment through the outlet and curl the hair.



The outlet is marked yellow in the following illustration as an example:



The attachment is also generally cylindrical according to **feature 1.5,** as can be seen in the previous photos.

The outlet of the infringement form 1 comprises a plurality of slots according to **feature 1.6.** The slots each extend from the near first end of the infringement form 1 to the second end thereof. A single slot is shown in the figure below with its respective ends shown enlarged:

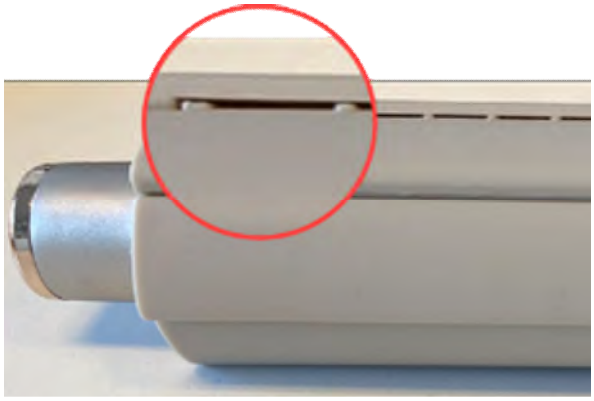


The fact that such a slot is located under each of the panels is illustrated, for example, in the following figure:



The photographs also demonstrate that each of the slots of the infringement form 1 extends substantially along the entire length of the attachment, in accordance with **feature 1.7.**

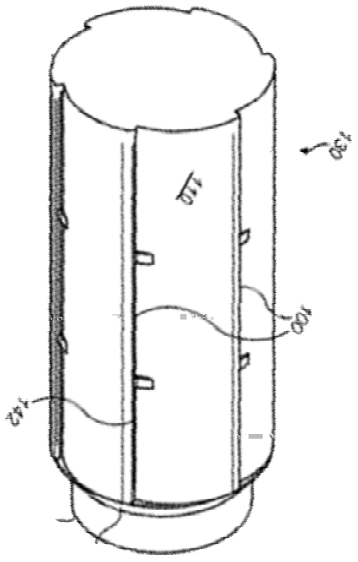
As far as fillets are visible in the illustrations, these are the spacers also mentioned in EP 234 for maintaining the dimensions of the respective slots. The fact that the spacers do not define the outer ends of a slot is shown above all by the fact that the fillets are not firmly connected to the respective upper plate and the upper plate can also be easily lifted with a fingernail or similar:





Comparing the infringement form 1 with, for example, Fig. 6a of EP 234 , it becomes clear once again that the features are realised in an identical manner:



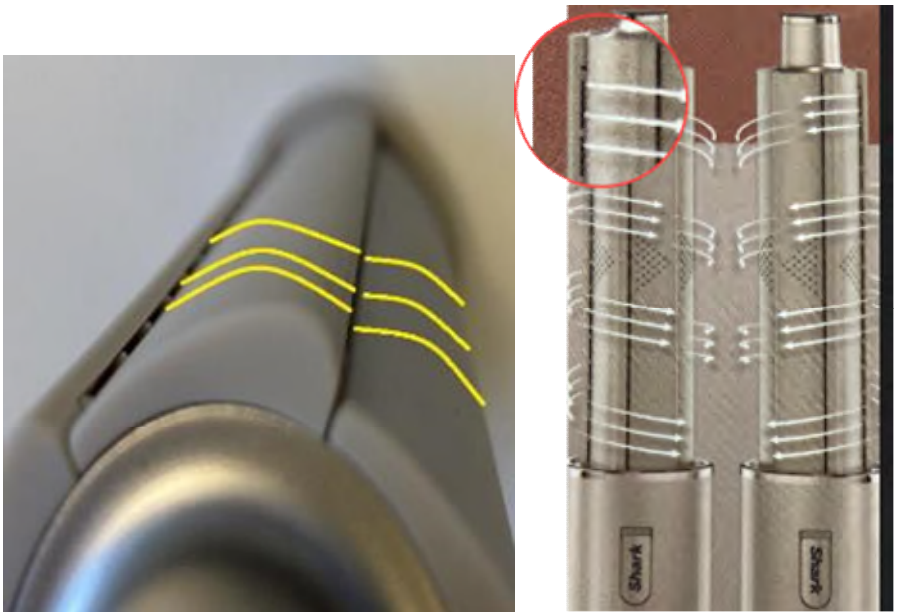


Furthermore, in accordance with **feature 1.8**, the outlet of the infringement form 1 is defined, at least in part, by the outer surface of the attachment. This can be seen in the preceding photos of

the infringement form 1, as the outlet is defined by the arrangement of the plates in relation to each other.



In the case of violation shape 1, due to the fact that the lower plate as part of the outer surface is located directly downstream the slot, the air exiting the slot flows tangentially to the outer surface and (due to the Coanda effect) becomes attracted to the curved outer surface, and further downstream becomes combined with the air exiting the other slots to form an air flow around the outer surface of the violation shape 1 under attack. We have highlighted the air flow lines in yellow in the figure below:

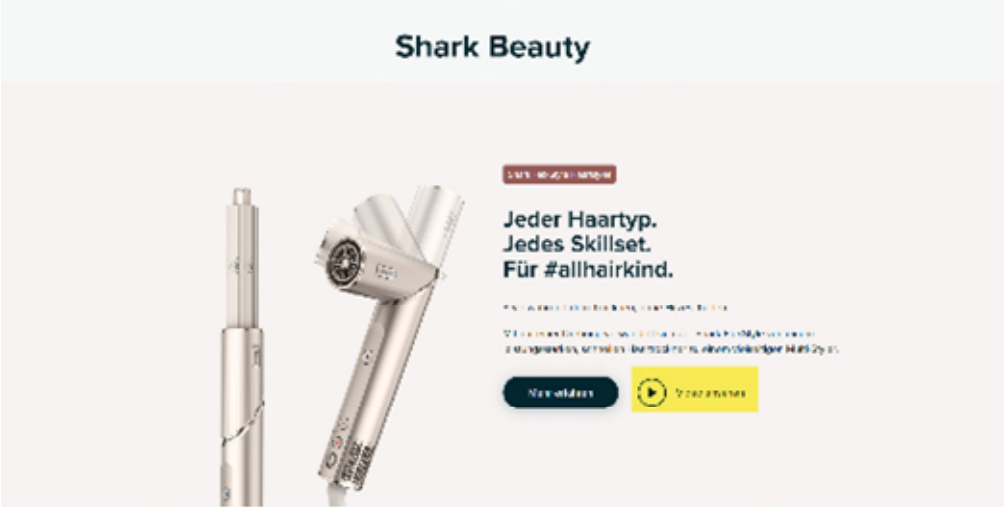


This corresponds to the representation of the air circulation as printed on the box in which the infringement forms are shipped (see above figure on the right-hand side) and shown on the web-site (see following figure)



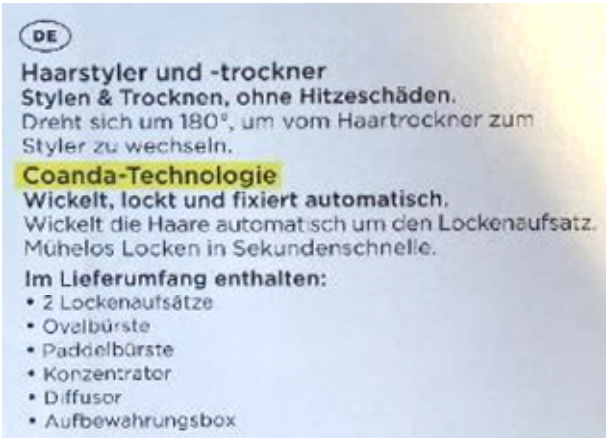
Shark FlexStyle Hair Styler and Dryer HD440SLEU - Buy now at Shark UK! (sharkclean.com)

We also refer to a video that is also available on the German-language website Shark Beauty | Haarpflege & Haarstyling Geräte - Shark DE (sharkclean.de)





As can be seen from the above inserts as well as from information on the cardboard of the infringement forms, also explicitly advertises the Coanda effect.



(Photo of the cardboard box)

Thus, the infringing form 1 realises all the features of claim 1 of EP 234 .

2. Realisation of claim 10 (infringement form 2)

The handle in combination with the infringement form 1 as an attachment together *form* a hand-held device ("*infringement form 2*"), which also realises all features of claim 10 of the present EP 234.

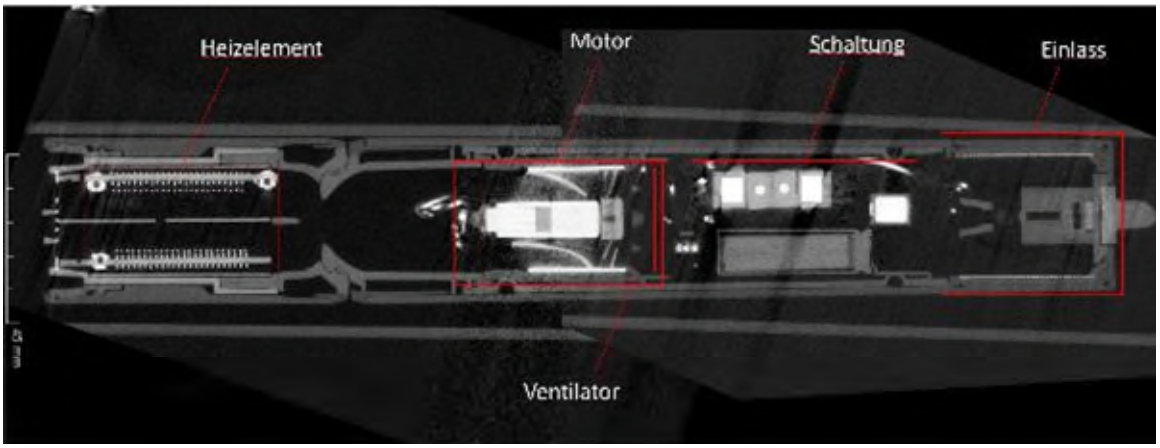
The infringement form 2 is a hand-held device (**feature 10.1**).

It contains a handle through which a fluid flow path runs from inlet to outlet according to **feature 10.2.** The handle, inlet and outlet (perforated area on the right of the handle) can be seen in the following photos.





Also, the infringing form 2 in suit includes a patent-pending blower unit according to **feature 10.3,** which comprises a fan and a motor.



CT scan of the infringement form 2

Infringing shape 1 is an attachment intended to be attached to the handle within the meaning of **feature 10.4. For the** rest, we refer to our previous remarks on the infringing form 1 with regard to the **features 10.4 and 10.5 which are** also realised by the infringing form 2 in suit.

Your offering and putting on the market as well as importing and possessing for these purposes the infringing forms constitute an infringement of the German part of EP 234 according to the relevant provisions of Sec. 9 No. 1 Patent Act. Our client is therefore entitled to cease and desist from the

infringing acts, to destroy and recall the infringing products as well as to information and an accounting in connection with the infringing acts. Further, our client can claim for damages on the merits. As they are not willing to tolerate these infringing acts any longer, we request you,

> **immediately cease and desist from offering, placing on the market or using the infringing hair styling appliances in the Federal Republic of Germany or importing or possessing them for such purposes, including the removal of all infringing appliances from your website.**

Our client has authorised us to give you the opportunity to settle the dispute out of court. Before we take further legal action, we are therefore giving you the opportunity to settle the matter by signing a cease-and-desist declaration. As an attachment, we enclose the draft of such a declaration under German law (**Annex 4**) and ask you, due to the urgency of the matter, to send it to us no later than

Monday, 13. March 2023, 12 p.m. CET

to send it to us. You can also return the signed declaration of discontinuance in advance by fax to the German fax number **+49 89 23 72 100** or in advance by e-mail to **constanze.krenz@dlapiper.com**.

In the event of non-compliance with the above obligations, we are instructed to take immediate legal action against you to stop the infringing activities.

With kind regards

Dr. Constanze Krenz
- Attorney
at Law -

Attachments:

1. Annex: Copy of the patent specification
2. Appendix: Machine translation of EP 234
3. Extract from the Register of the German Patent and Trade Mark Office
4. Annex: Cease and desist declaration

EXHIBIT D

Dr. Constanze Krenz
Julia Oertel
DLA Piper UK LLP
Maximilianstraße 2
D-80539 München
T +49 89 23 23 72 262
F +49 89 23 23 72 100
E constanze.krenz@dlapiper.com
E julia.oertel@dlapiper.com
W www.dlapiper.com

SharkNinja Europe Limited
zu Händen der Geschäftsführer,
Herren David Stevenson und Wang Xuning
3150 Century Way
Leeds, LS15 8ZB
Großbritannien

Unser Zeichen
MG/398223/388

08. März 2023

Vorab per Mail an dstevenson@sharkninja.com
sowie customerservice-uk@sharkninja.com

EILT!

Abmahnung aufgrund von Patentverletzung

Sehr geehrte Damen und Herren,

wir zeigen an, dass uns die **Dyson Technology Limited**, Tetbury Hill, Malmesbury, Wiltshire SN16 0RP, Großbritannien (nachfolgend „*Mandantin*“), mit der Wahrnehmung ihrer rechtlichen Interessen beauftragt hat. Entsprechende Bevollmächtigung wird anwaltlich versichert.

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Das EP 234 betrifft ein Handgerät, insbesondere eine Haarbehandlungsgerät („*hair care appliance*“), bei welchem ein Fluid wie etwa Luft zunächst angesaugt wird und durch einen Auslass wieder aus dem Gerät oder dessen Aufsatz geleitet wird, um Haare beispielsweise zu wellen oder locken.

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Eine Liste der Büros und regulatorische Informationen sind zu finden auf dlapiper.com.

Die Münchner Zweigniederlassung ist registriert beim Amtsgericht München (PR 1949).

München Telefonzentrale:
+49 89 23 23 72 0

DLA Piper UK LLP

Frankfurt am Main
Neue Mainzer Straße 6-10
60311 Frankfurt am Main
T: +49 69 271 33 0
F: +49 69 271 33 100
E: reception.frankfurt@dlapiper.com

Dr. Ulf Andresen [1, 6]
Dr. Tim Arndt [1]
Dr. Emanuel H. F. Ballo [1]
Dr. Florian Biesalski, LL.M. [1]
Florian Bruder, M.Jur. (Oxford) [1]
Dr. Wolfram Distler [1]
Dr. Björn Enders [1, 6, 9, 13, 18]
Andreas Füchsel, LL.M. (Miami) [1]
Dr. Burkhard Führmeyer, LL.M. [1, 11]
Dr. Marc Jacob, LL.M. (Harvard) [1]
Dr. Wolfgang Jäger [1]
Lars Jessen
Dr. Jens Kirchner [1, 10]
Dr. Roland Maaß, LL.M. (NYU) [1]
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Semin O [1]
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Dr. Konrad Rohde, LL.M. (NWU) [1, 6]
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Dr. Mathias Schulze Steinen, LL.M. [1]
Dr. Daniel H. Sharma, LL.M. (Durham) [1, 4]

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Dr. Hans-Peter Löw
Prof. Dr. Jürgen Taschke

Dr. Raimund Behnes [6]
Sonja Beier, LL.M.
Thomas Gericke [13]
Nils Grunicke
Kaja Herrmann [10]
Niels Hoffmann
Andreas Intelmann
David Kappel
Miray Kavruk, LL.M. (Sydney)
Tatiana Marzoli LL.M. (London)
Eike Neugebauer

Ilgin Ayhan
Sahra Basak
Fabia Brauckhoff
Albina Daka [6]
Konstantin Decker-Horz, LL.M. [23]
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Florian Hader, LL.M. [6, 26]
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Philipp Meyer
Friederike Meyer zu Wendischhoff
Lisa-Marie Mönch
Moritz Mursa, LL.M. [7]
Anna Lena Katharina Nowicki
Daniel Osmanovic, LL.M.
Sarah-Maria Otto, LL.M. (Stellenbosch)
Juliane Poss, LL.M. (Hong Kong)
Dr. Philipp Reclam, LL.M. (Melbourne)
Wolfgang Reul [6, 26]
Patrick Reuter
Dr. Anna Rogler
Theresa Sauerwein
Theresa Schenk
Manuel Schreck
Christopher Singer
Janina Tackmann [6, 26]
Emel Toluay-Ayhan
Elena Vadolas
Kais Torchani, LL.M. (American University in Cairo)
Jana Weichseldorfer-Spuhl

Hamburg
Alter Wall 4
20457 Hamburg
T: +49 40 188 88 0
F: +49 40 188 88 111
E: reception.hamburg@dlapiper.com

Dr. Kai Bodenstedt, LL.M. (Edinburgh) [1, 10]
Sebastian Decker, LL.M. (Manchester), LL.M. (Rotterdam) [1]
Prof. Dr. Stefan Engels [1, 14]
Verena Grentzenberg [1]
Dr. Justus Herrlinger [1]
Dr. Nils Krause, LL.M. (Durham) [1, 4, 12, 13]
Dr. Henriette Norda, LL.M. (Chicago) [1, 10]
Dr. Benjamin Parameswaran [1]
Dr. Michael Stulz-Herrnstadt [1]

Dr. Beatrice Brunn, MCL (Mannheim/Adelaide)
Dr. Nico Brunotte, LL.M. (Cambridge) [16]
Dr. Philipp Clemens
Christoph Engelmann
Nils Grunicke
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Florian Jeske
Saskia MacLaughlin, LL.M. [10]
Dr. Isaschar Nicolaysen, LL.M. (NYU)
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Cristina Helena Villafrade, LL.M. (LSE)

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Anne-Kathrin Hoppe
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Sophie von Mandelsloh
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Katharina Pauls
Dr. Denise Peter
Dr. Tobias Pielow
Friederike Rickers
David Schele
Philipp Schmechel, LL.M. (Sydney)
Jan Schürmann
Rune Weltz LL.M. (UCT)

Köln
Augustinerstraße 10
50667 Köln
T: +49 221 277 277 0
F: +49 221 277 277 111
E: reception.cologne@dlapiper.com

Dr. Gunne W. Bähr, LL.M. [1]
Dr. Philipp Cepl [1, 11]
Michael Cieslarczyk [1]
Dr. Cornelius Frie [1]
Prof. Dr. Ludger Giesberts, LL.M. (LSE) [1, 17]
Guido Kleve [1]
Dr. Andreas Meyer-Landrut [1]
Jan Pohle [1]
Dr. Frank Roth [1]
Kerstin Schnabel [1]
Dr. Christian Schneider [1, 15]
Dr. Kai Tumbrägel, LL.M. (Cape Town) [1]

Dr. Enno Ahlenstiel
Dr. Thorsten Ammann
Manuel Baroch Castellví
Timo Betjemann
Dr. David Buntenbroich
Marx Dauth, LL.M. (Köln/Paris I) [7]
Gabriele Engels, LL.M. [11]
Dr. Dominique Ferrari
Dr. Anja Köritz, LL.M.
Saskia Laïs-Jansen
Dr. Volker Lemmer
Dr. med. Kokularajah Paheenthararajah
Dr. Thilo Streit, LL.M. (Austin)
Lukas Weidner

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Dr. Marcel Mennemann
Liza Michelsen
Hubertus Neu
Christopher Ollech
Dr. Nadine Pieper, LL.M. (London)
Verena Reichstein
Anja Reuter, LL.M. (Köln/Paris I) [7]
Dr. Stephanie Reuvers, LL.M. (Cape Town)
Andreas Rüdiger
Dr. Charlotte Schubert
Dr. Elisabeth Spiecker
Hauke Tammert
Dr. Ricardo Vocke-Kerkhof
Lennart Wagner, LL.M.
Dr. Cornelia Wendel
Dario Westarp
Philip Weyand, LL.M. (Köln/Paris I)
Gabriela von Wietersheim [7]
Muhammet Yavuz
Yannick Aaron Zirnstein

München
Maximilianstraße 2
80539 München
T: +49 89 23 23 72 0
F: +49 89 23 23 72 100
E: reception.munich@dlapiper.com

Dr. Thilo von Bodungen, LL.M. (NYU) [1]
Sylvia Ebersberger [1]
Dr. Thomas Gädtke [1]
Dr. Markus Gampp, LL.M. (San Diego) [1]
Dr. Martin Haller [1]
Pascal R. Kremp, LL.M. (Wake Forest) [1, 10]
Dr. Jan Geert Meents [1]
Lars Reubekeul [1, 22]
Dr. Dietmar Schulz, LL.M. (Edinburgh) [1]
Gerald Schumann [1]
Michaela Sopp [1]
Simon Vogel, LL.M. (USC) [1]

Dr. Christoph Dachner
Silke Goschler [8, 20]
Georg Haberkorn
Dr. Katia Helbig, LL.M. (Edinburgh)
Dr. Manuel Indlekofer, LL.M. (Chicago-Kent)
Dr. Constanze Krenz
Hanna Lütkens, LL.M. (Melbourne)
Marcel Nurk
Dr. Susanne Weckbach

Eleni Alexiou
Lucas Blum
Ronja Carstens, LL.M. (Dublin)
Luisa Domenichini, LL.M., (U.C. Berkeley) [3]
Dr. Richard Falk, LL.M. (London)
Ekaterina Filikhina
Betina Fischer
Dr. Carmen Födisch
Dr. Felisa Frey [10]
Andreas Friedberger
Dr. Lilian Gutkin
Dr. Benedikt Hammerschmid, LL.M., (Stellenbosch)
Annika Heinz
Thomas Michael Herbst
Lennart Kähling
Dr. Holger Kastler
David Kleß
Christian Köhli [25]
Markus Kotowski, LL.M. (Melbourne)
Valerie Krappitz
Monika Marincic
Philipp Moser
Julia Oertel
Andreas Pavelec
Katharina Alessandra Plass
Thomas Rüsing, LL.M. (Lissabon)
Oliver Schmidt
Christopher Serke
Lennart Spiller
Dr. Catharina Voß
Vincent Wehner
Christina Welpot, LL.M. (Duke) [3, 20]
Sabrina Wimmer
Michael Georg Ziegaus

Of Counsel:
Lothar Böhm (Frankfurt)
Dr. Thomas Fausten (Köln)
Rainer Funke (Hamburg)
Dr. Tillmann Hädrich, LL.M. (Hamburg)
Martin Heinsius (Frankfurt) [6]
Thomas Kretschmann (Köln)
Wolfgang May (Köln)
Jürgen Roters (Köln)
Dr. Christoph Stoecker, LL.M. (Sydney) (Hamburg)
Univ.-Prof. Dr. Jürgen Taeger (Köln)

1 Partner
2 Fachanwalt für Internationales Wirtschaftsrecht
3 Attorney at Law (New York)
4 Solicitor (England & Wales)
5 Notar
6 Steuerberater
7 Maître en Droit (Paris)
8 Maître en Droit (Tours)
9 Licencié en Droit (Paris)
10 Fachanwalt für Arbeitsrecht
11 Fachanwalt für Gewerblichen Rechtsschutz
12 Fachanwalt für Handels- und Gesellschaftsrecht
13 Fachanwalt für Steuerrecht
14 Fachanwalt für Urheber- und Medienrecht
15 Fachanwalt für Versicherungsrecht
16 Fachanwalt für Informationstechnologierecht
17 Magister rerum publicarum
18 Diplom-Finanzwirt (FH)
19 MRICS
20 Wirtschaftsmediator (MuCDR)
21 Maitrise en droit
22 Fachanwalt für Bau- und Architektenrecht
23 Immobilienökonom (IRE|BS)
24. Attorney and Counselor at Law (New York)
25. Maître en droit
26. Kein Rechtsanwalt

Der unabhängige Anspruch 1 des EP 234 schützt:

1.1 Aufsatz (30, 130, 180, 230) für ein Handgerät, der

1.2 einen Einlass an einem ersten Ende (32);

1.3 einen Auslass (100, 200); und

1.4 einen Fluidströmungspfad zwischen dem Einlass und dem Auslass umfasst,

1.5 wobei der Aufsatz allgemein zylindrisch ist und

1.6 wobei der Auslass (100, 200) mindestens einen Schlitz (102, 182, 202, 282) umfasst, der sich von der Nähe des ersten Endes (32) des Aufsatzes zu einem distalen Ende (36) des Aufsatzes erstreckt,

1.7 wobei sich der mindestens eine Schlitz (102, 182, 202, 282) im Wesentlichen entlang der Länge des Aufsatzes erstreckt und

1.8 wobei der Auslass (100, 200) zumindest zum Teil durch eine Außenfläche des Aufsatzes definiert wird, dadurch gekennzeichnet, dass

1.9 der Auslass dazu konfiguriert ist, aus dem Auslass (100, 200) ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten.

Der unabhängige Anspruch 10 des EP 234 schützt:

10.1 Handgerät, das

10.2 einen Griff (20) mit einem Fluidströmungspfad von einem Einlass (40) zu einem Auslass und

10.3 einer Gebläseeinheit (70) zum Saugen von Fluid in den Fluideinlass und

10.4 einen Aufsatz zum Aufsetzen auf den Griff (20) umfasst,

10.5 wobei der Aufsatz einem vorhergehenden Anspruch entspricht.

Unsere Mandantin hat festgestellt, dass Sie entsprechende, das EP 234 patentverletzende Handgeräte nebst Aufsätzen unter der Produktbezeichnung *„Shark FlexStyle Haarstyler und -trockner“* seit Kurzem auf der Website https://beauty.sharkclean.de anbieten und über diese in Verkehr bringen. Die Verletzung von EP 234 wird bei einem Vergleich Ihres Produkts mit den Merkmalen der oben genannten Ansprüche 1 und 10 von EP 234 offensichtlich.

Im Detail:

I.

Gegenstand des Anspruchs 1

Anspruch 1 betrifft einen Aufsatz für ein Handgerät (Merkmal 1.1), wobei der Aufsatz über einen Einlass an einem ersten Ende und einen Auslass („outlet“) verfügt (Merkmale 1.2 und 1.3) und zwischen Einlass und Auslass ein Fluidströmungspfad existiert (Merkmal 1.4). Eine entsprechende Darstellung findet sich beispielsweise in Fig. 3a des EP 234 (Ergänzungen hinzugefügt):

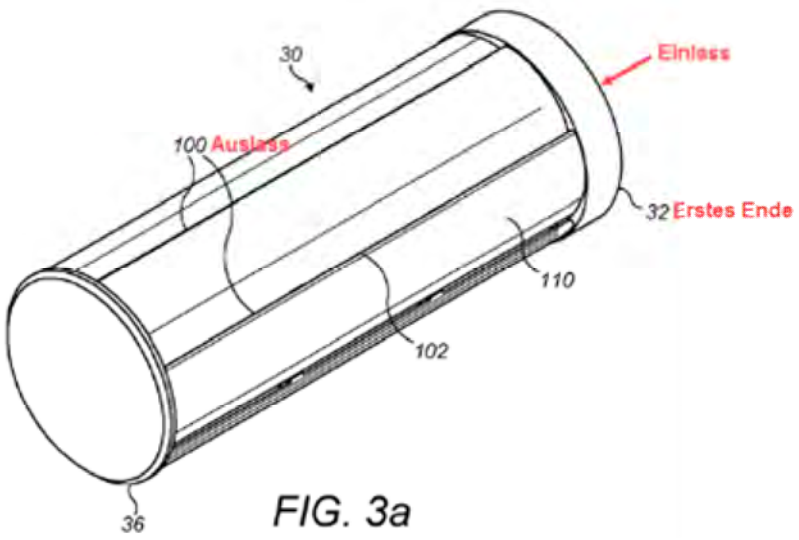


FIG. 3a

Hierzu ist in Abs. [0050] EP 234 wie folgt ausgeführt:

[0050] The head 30 includes a fluid outlet 100 which in this example comprises parallel slots 102 each extending towards a second end 36 of the head and radially around the head 30. This arrangement enables fluid to exit the head all the way around the head and for the majority of the length of the head 30 maximising a hair styling region of the product.

Zu Deutsch:

> *[0050] Der Kopf 30 beinhaltet einen* ***Fluidauslass 100, der in diesem Beispiel parallele Schlitze 102 umfasst, die sich jeweils zu einem zweiten Ende 36 des Kopfs und radial um den Kopf 30 herum erstrecken****. Diese Anordnung ermöglicht, dass Fluid den ganzen Weg um den Kopf herum und über den größten Teil der Länge des Kopfs 30 aus dem Kopf austritt, wodurch ein Haarstylingbereich des Produkts maximiert wird.*

Den Fluidströmungspfad haben wir zu Veranschaulichkeitszwecken in Fig. 3b des EP 234 kenntlich gemacht:

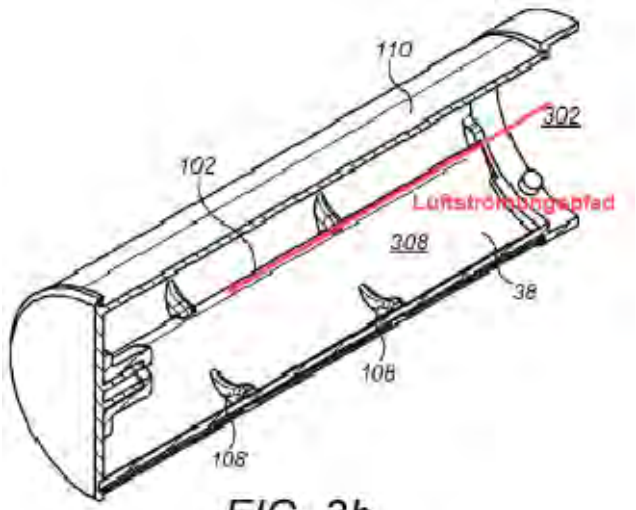


FIG. 3b

Der Aufsatz ist gemäß **Merkmal 1.5** allgemein zylindrisch.

Der Auslass des Aufsatzes wird im Rahmen der Merkmale 1.6 bis 1.9 weiter spezifiziert.

Gemäß **Merkmal 1.6** umfasst der Auslass mindestens einen Schlitz ("slot"), der sich von der Nähe des ersten Endes des Aufsatzes zu dem zweiten Ende des Aufsatzes erstreckt. Bei dem ersten und zweiten Ende des Aufsatzes handelt es sich um dessen sich gegenüberliegende, distale Enden.

Merkmal 1.7 spezifiziert weiter, dass sich der mindestens eine Schlitz im Wesentlichen entlang der Länge des Aufsatzes erstrecken soll. Ein derartiger Schlitz ist beispielsweis in Fig. 3a des EP 234 mit der Bezugsziffer 102 gezeigt (vgl. rote Hervorhebung):

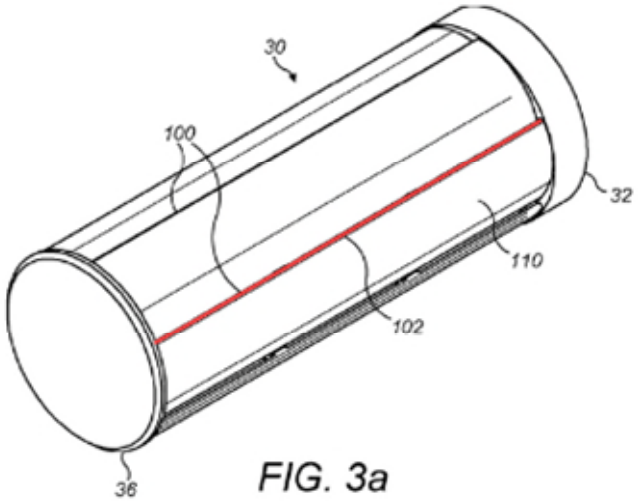


FIG. 3a

Wie sich aus Abs. [0066] EP 234 ergibt, können die Schlitze sogenannte Abstandshalter („spacer“) aufweisen, die zur Wahrung der Abmessung eines einzelnen Schlitzes verwendet werden.

[0066] To maintain the size of each slot 102, spacers 108 are provided. In this example, a pair of spacers 108 is provided to maintain each slot 102 size. Each one of the pair of spacers 108 is longitudinally spaced along the slot 102 and the plate 110. The spacers 108 join adjacent plates 110 together.

Zu Deutsch:

> *„[0066] Um die Größe der Schlitze 102 beizubehalten, sind Abstandshalter 108 vorgesehen. Im vorliegenden Beispiel ist* ***ein Paar von Abstandshaltern 108 vorgesehen, um die Größe der Schlitze 102 beizubehalten****. Jeder der Abstandshalterpaare 108 ist in Längsrichtung entlang* ***des Schlitzes*** *102 und der Platte 110 angeordnet. Die Abstandshalter 108 verbinden benachbarte Platten 110 miteinander.“*

Bei den Abstandshaltern handelt es sich mithin um Bestandteile des Schlitzes, sie bilden jedoch nicht dessen seitliche Begrenzung.

Darüber hinaus soll der Auslass („outlet“) gemäß **Merkmal 1.8** jedenfalls zum Teil durch die Außenfläche des Aufsatzes definiert werden. Die Außenfläche kann beispielsweise durch eine Mehrzahl von Platten (110) gebildet werden, die so zueinander angeordnet werden, dass ein Schlitz entsteht, der zugleich – gegebenenfalls zusammen mit weiteren Schlitzen – den Auslass (100) bildet, wobei anspruchsgemäß nicht ausgeschlossen ist, dass weitere Elemente – wie die untere Platte – gegebenenfalls an der Ausbildung des Auslasses mitwirken (vgl. Fig. 3a, nachfolgend eingeblendet und Außenfläche markiert), siehe ergänzend Abs. [0050] EP 234 (oben eingeblendet).

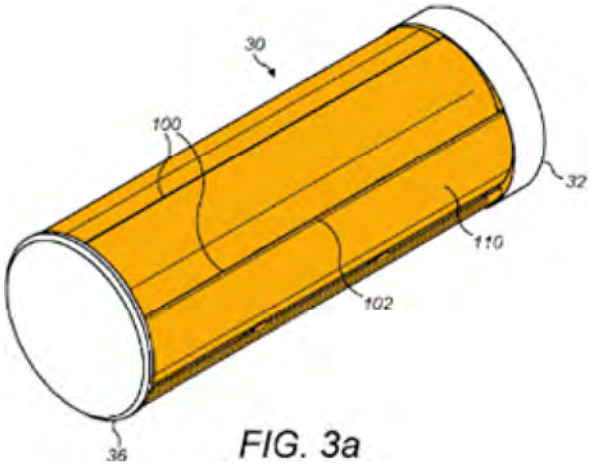


FIG. 3a

[farbliche Hervorhebungen unsererseits]

Damit zusammenhängend charakterisiert **Merkmal 1.9** weiter, dass der Auslass dazu konfiguriert sein soll, aus dem Auslass ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten.

Das Fluid wird tangential im Nahbereich der Außenfläche geleitet, so dass es an der gekrümmten Außenfläche anliegt, vgl. auch Fig. 5A, 5B EP 234, und daher um die Außenfläche herum („around“) folgt (und nicht geradlinig weiterfließt), da sich das aus den mehreren Schlitzen austretende Fluid zu einem Fluidstrom verbindet.

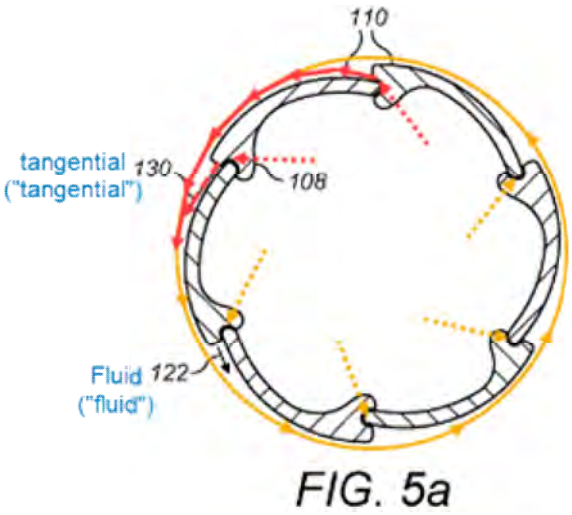


FIG. 5a

[farbliche Hervorhebungen unsererseits]

Der eben beschriebene Effekt, wonach das Fluid von der Außenfläche angezogen wird, wird auch als Coanda-Effekt bezeichnet (vgl. Abs. [0065] EP 234). Hierdurch wird erreicht, dass sich das Haar automatisch um den Aufsatz wickelt, ohne dass dieses von Hand eingedreht werden muss. (vgl. auch Abs. [0064], [0065] EP 234).

II.

Gegenstand des Anspruch 10

Ein patentgemäßes Beispiel der beanspruchten Erfindung nach Anspruch 10 des EP 234 ist in der sogleich abgebildeten Figur 1a des EP 234 ersichtlich. Sie zeigt die Außenansicht eines Handgeräts im Sinne des **Merkmals 10.1** des Anspruchs 1 des EP 234 sowie dessen Griff (Bz. 20) und Einlass (Bz. 40).

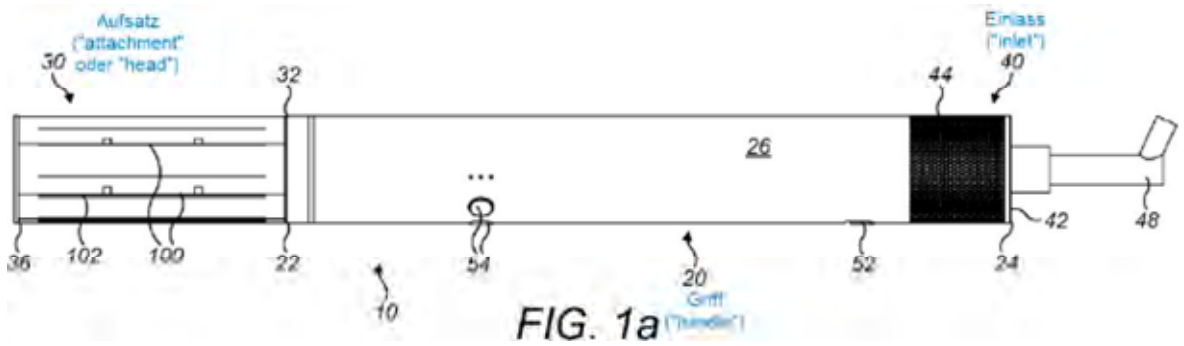


FIG. 1a

[farbliche Ergänzungen unsererseits]

Auch bei Anspruch 10 ist gemäß **Merkmal 10.2** ein Fluidströmungspfad erforderlich. Im Rahmen des Merkmals 10.2 ist der maßgebliche Einlass bzw. Auslass der des Griffes, nicht der des Aufsatzes.

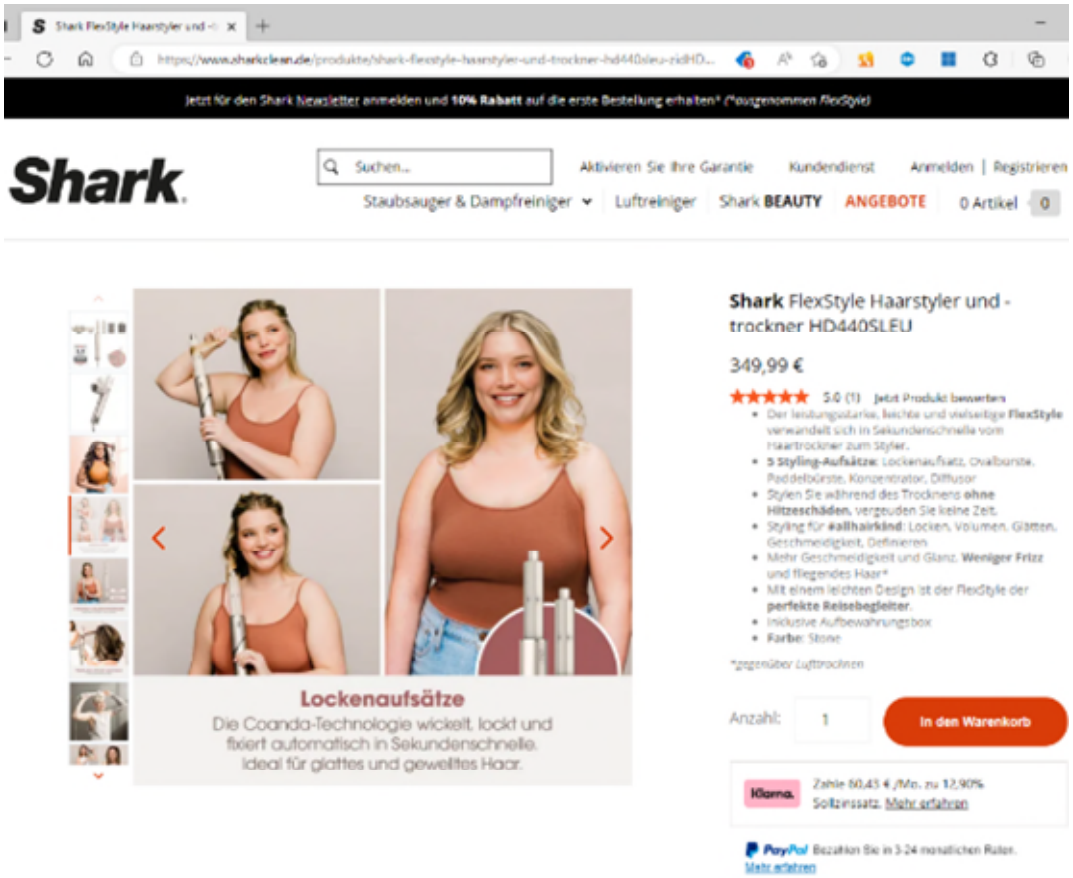
Gemäß **Merkmal 10.3** ist ferner eine Gebläseeinheit erforderlich, die nach der Beschreibung einen Ventilator und einen Motor umfassen kann. Letzterer treibt den Ventilator an, um so das Fluid über den Einlass in das Handgerät bzw. den Fluidströmungspfad einzusagen, vgl. Abs. [0049] EP 234.

Hinsichtlich der **Merkmale 10.4 und 10.5** – dem Aufsatz zum Aufsetzen auf den Griff, der einem dem Anspruch 10 vorhergehenden Anspruch entspricht – verweisen wir ebenfalls auf unsere Ausführungen zu Anspruch 1.

III.

Patentverletzung

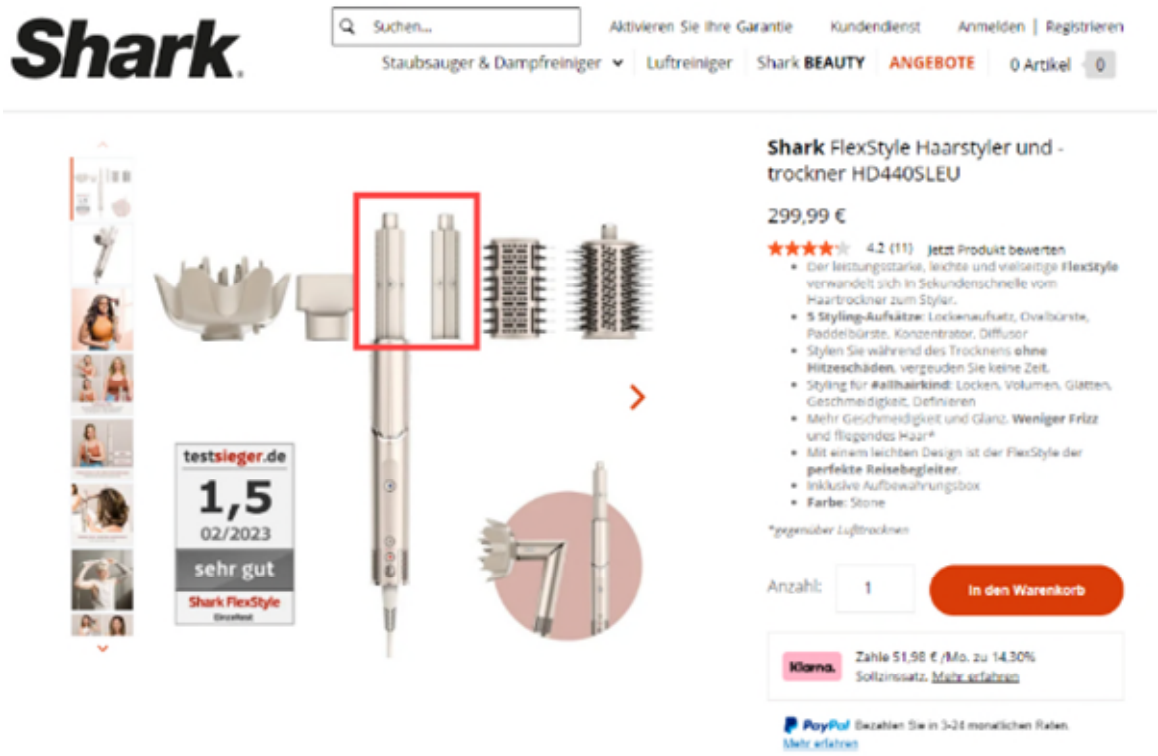
Wie bereits einleitend ausgeführt, bieten Sie den „Shark FlexStyle Haarstyler“ über die deutschsprachige Webseite https://beauty.sharkclean.de für Deutschland an und vertreiben diesen gemeinsam mit der SharkNinja Deutschland GmbH im deutschen Markt. Das Angebot des „Shark FlexStyle Haarstyler und -trockner HD440SLEU“ auf der deutschen Webseite haben wir der Vollständigkeit halber eingeblendet:



Shark FlexStyle Haarstyler und -trockner HD440SLEU - Jetzt kaufen bei Shark DE! (sharkclean.de)

Eine Lieferung ist den Lieferbedingungen auf der Website zufolge nach Deutschland möglich. Dies wird auch im Rahmen des Bezahlvorgangs ersichtlich. Sie ebenso wie SharkNinja Germany GmbH sind gemeinsam auf dem Griff der Verletzungsform 2 wie auch auf der Kartonage des FlexStyle genannt.

Der Lieferumfang des „*Shark FlexStyle Haarstyler*“ (HD440SLEU) umfasst insgesamt fünf „Styling-Aufsätze“, u.a. den vorliegend relevanten Lockenaufsatz (nachfolgend hervorgehoben):



Shark FlexStyle Haarstyler und -trockner HD440SLEU - Jetzt kaufen bei Shark DE! (sharkclean.de)

Bei dem auf der Website angebotenen *FlexStyle* nebst Lockenaufsätzen handelt es sich um die Verletzungsformen 1 und 2 (auch „*Verletzungsformen*“), da diese von der technischen Lehre der Ansprüche 1 und 10 des EP 234 Gebrauch machen.

1. Verwirklichung des Anspruch 1 (Verletzungsform 1)

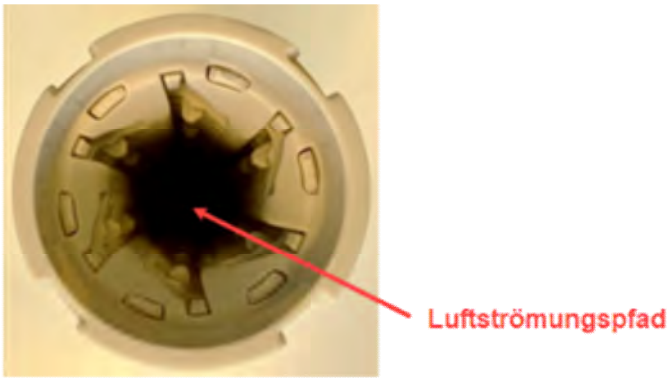
Der rechte und linke Lockenaufsatz (gemeinsam auch „*Verletzungsform 1*“) des *FlexStyle* verwirklicht sämtliche Merkmale des Anspruchs 1 des hiesigen EP 234. Die beiden Aufsätze sind hinsichtlich ihres Aufbaus und ihrer Wirkweise identisch und unterscheiden sich lediglich in der Richtung des Luftflusses (einmal mit und einmal gegen den Uhrzeigersinn), abhängig davon, auf welcher Kopfseite das Haar gestylt wird. Ob die Luftflussrichtung mit oder gegen den Uhrzeigersinn ist, ist für die Frage der Patentverletzung jedoch irrelevant. Beide Aufsätze verwirklichen in gleicher Weise die anspruchsgemäße Lehre.

Bei der Verletzungsform 1 handelt es sich um einen Aufsatz für ein Handgerät entsprechend **Merkmal 1.1**. Dies veranschaulichen sowohl der nachfolgend eingeblendete Ausschnitt eines Produktvideos als auch die nachfolgenden Fotos von der Verletzungsform 1.



Die einzelnen Bauteile und deren Ausgestaltung sind in den nachfolgenden Abbildungen noch einmal genauer dargestellt. Die obige Einblendung soll in erster Linie der Orientierung dienen.

Die Verletzungsform 1 hat entsprechend **Merkmal 1.2 und 1.3** einen Einlass an ihrem ersten Ende sowie einen Auslass. Der Einlass ist auf dem oben eingeblendeten und dem nachfolgenden Foto ersichtlich, welches die Öffnung bzw. den Einlass am ersten Ende, mithin dem Ende, an welchem der Aufsatz mit dem Griff verbunden wird, zeigt. In dieser Öffnung ist auch der Luftströmungspfad erkennbar, durch welchen sich die Luft, die über den Griff in die Verletzungsform 1 gelangt, bewegt, um über den Auslass aus dem Gerät zu entweichen und die Haare zu locken.



Der Auslass ist in der nachfolgenden Abbildung beispielhaft gelb markiert:



Der Aufsatz ist, wie auf den vorangehenden Fotos erkennbar, auch allgemein zylindrisch gemäß **Merkmal 1.5**.

Der Auslass der Verletzungsform 1 umfasst mehrere Schlitze gemäß **Merkmal 1.6**. Die Schlitze erstrecken sich jeweils von der Nähe des ersten Endes der Verletzungsform 1 zu deren zweitem Ende. Ein einzelner Schlitz ist in der nachfolgenden Abbildung zu sehen, wobei dessen jeweilige Enden vergrößert dargestellt sind:



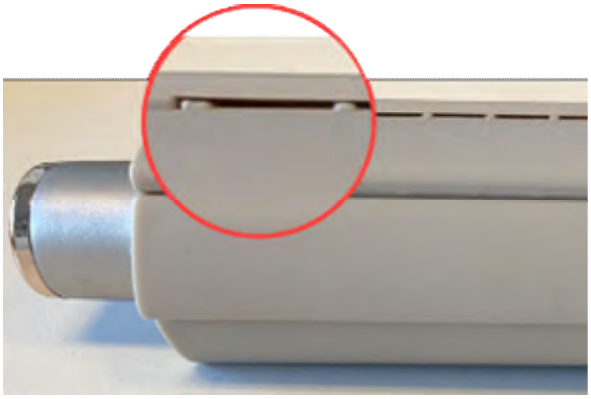
Dass unter jeder der Platten ein solcher Schlitz angeordnet ist, verdeutlich beispielsweise die nachfolgende Abbildung:

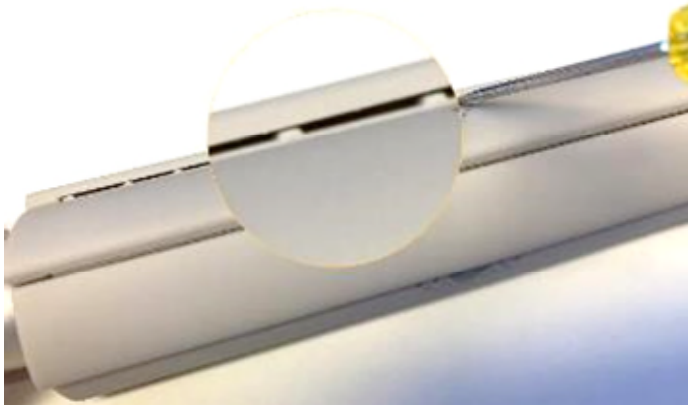


Die Fotos belegen auch, dass sich jeder der Schlitze der Verletzungsform 1 entsprechend **Merkmal 1.7** im Wesentlichen entlang der gesamten Länge des Aufsatzes erstreckt.

Soweit in den Abbildungen Stege erkennbar sind, handelt es sich hierbei um die auch im EP 234 angesprochenen Abstandshalter zur Wahrung der Abmessungen der jeweiligen Schlitze. Dass die

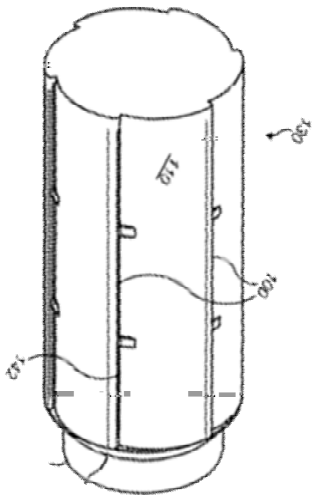
Abstandshalter nicht die äußeren Enden eines Schlitzes definieren, zeigt sich vor allem an dem Umstand, dass die Stege mit der jeweils oberen Platte nicht fest verbunden sind und die obere Platte auch mit einem Fingernagel o. ä. leicht angehoben werden kann:





Vergleicht man die Verletzungsform 1 mit beispielsweise Fig. 6a des EP 234, wird noch einmal deutlich, dass die Merkmale in identischer Weise verwirklicht sind:

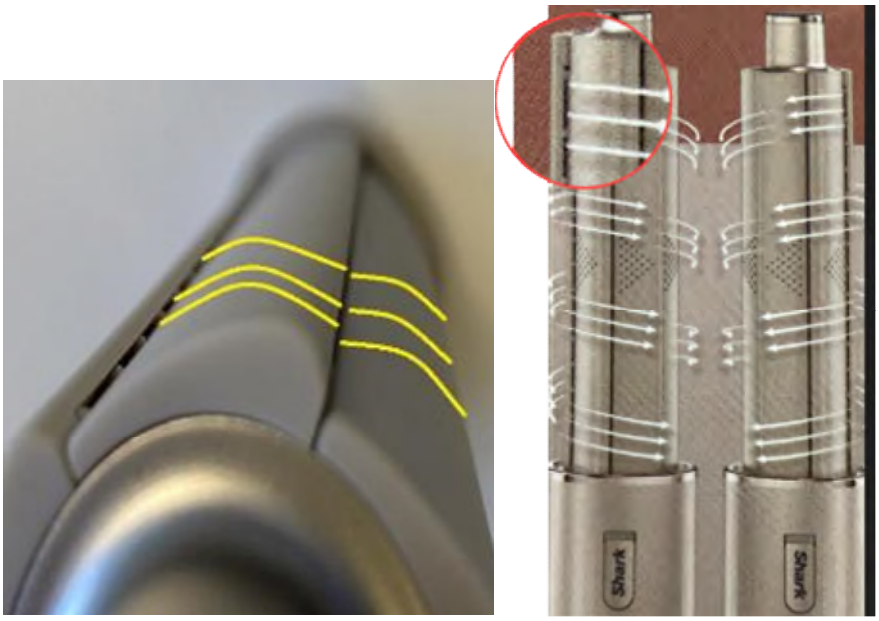




Darüber hinaus wird der Auslass der Verletzungsform 1 entsprechend **Merkmal 1.8** jedenfalls zum Teil durch die Außenfläche des Aufsatzes definiert. Dies wird auf den vorangehenden Fotos der Verletzungsform 1 ersichtlich, da der Auslass durch die Anordnung der Platten zueinander definiert wird.



Bei der Verletzungsform 1 fließt die aus dem Schlitz austretende Luft aufgrund der Tatsache, dass die untere Platte als Teil der Außenfläche unmittelbar unter dem Slot angeordnet ist, tangential zur äußeren Fläche und wird von dieser (aufgrund des Coanda Effekts) angezogen und verbindet sich, weiter unterhalb, mit der aus den anderen Schlitzen austretenden Luft zu einem Luftstrom um die Außenfläche der Verletzungsform 1 herum. Wir haben die Strömungslinien der Luft in der nachfolgenden Abbildung gelb hervorgehoben:

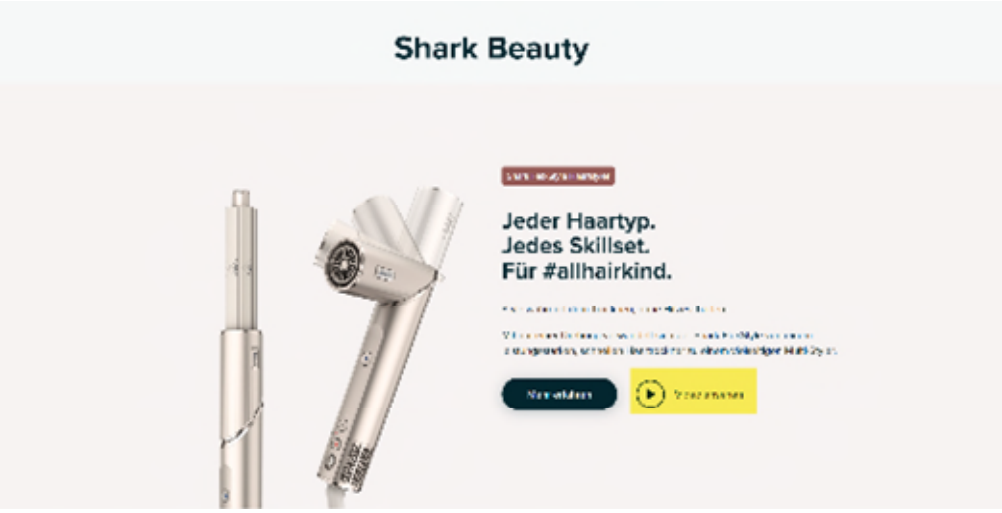


Dies entspricht der Darstellung der Luftzirkulation, wie sie auf dem Karton, in welchem die Verletzungsformen versendet werden, aufgedruckt (siehe obige Abbildung rechtsseitig) und auf der Webseite dargestellt ist (siehe nachfolgende Abbildung)



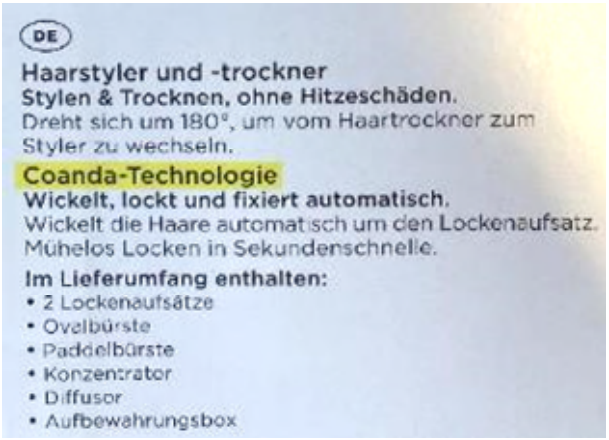
Shark FlexStyle Haarstyler und -trockner HD440SLEU - Jetzt kaufen bei Shark DE! (sharkclean.de)

Wir verweisen ergänzend auf ein Video, das ebenfalls über die deutschsprachige Webseite abrufbar ist Shark Beauty | Haarpflege & Haarstyling Geräte - Shark DE (sharkclean.de)





Wie sich aus den obigen Einblendungen sowie ebenfalls aus Angaben auf dem Karton der Verletzungsformen ergibt, werben Sie auch explizit mit dem Coanda-Effekt.



(Foto der Kartonage)

Damit verwirklicht die Verletzungsform 1 alle Merkmale des Anspruchs 1 des EP 234.

2. Verwirklichung des Anspruch 10 (Verletzungsform 2)

Der Griff in Kombination mit der Verletzungsform 1 als Aufsatz bilden gemeinsam ein Handgerät („*Verletzungsform 2*“), welches auch sämtliche Merkmale des Anspruchs 10 des hiesigen EP 234 verwirklicht.

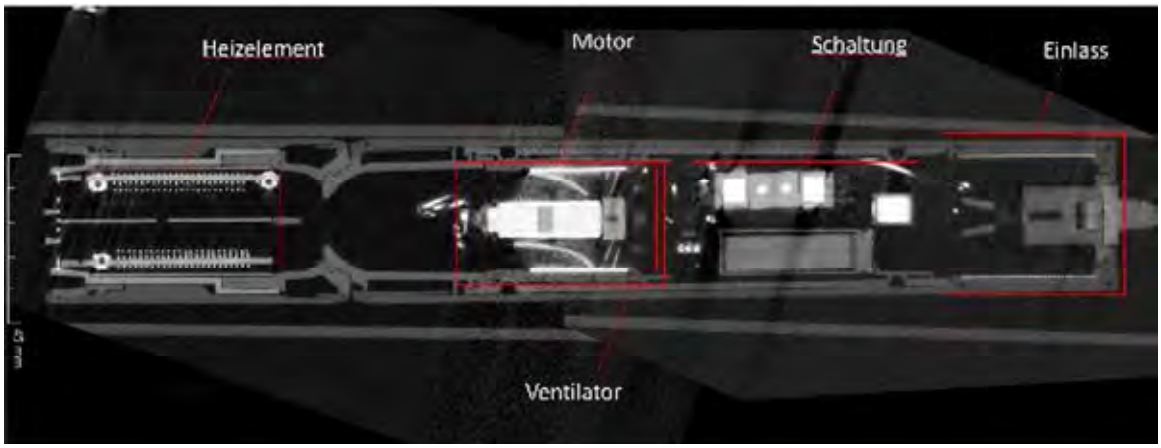
Bei der Verletzungsform 2 handelt es sich um ein Handgerät (**Merkmal 10.1**).

Sie enthält einen Griff, durch welchen entsprechend **Merkmal 10.2** ein Fluidströmungspfad von Einlass zum Auslass verläuft. Auf den nachfolgenden Fotos sind Griff, Einlass und Auslass (perforierte Fläche rechts am Griff) erkennbar.





Auch enthält die Verletzungsform 2 eine patentgemäße Gebläseeinheit gemäß **Merkmal 10.3**, die einen Ventilator und einen Motor umfasst.



CT Scan der Verletzungsform 2

Bei der Verletzungsform 1 handelt es sich um einen Aufsatz, der im Sinne des **Merkmals 10.4** zum Anbringen an den Griff gedacht ist. Im Übrigen verweisen wir hinsichtlich der durch die Verletzungsform 2 ebenfalls verwirklichten **Merkmale 10.4 und 10.5** auf unsere vorangegangenen Ausführungen zur Verletzungsform 1.

Ihr Anbieten und Inverkehrbringen sowie Einführen und Besitzen zu diesen Zwecken der Verletzungsformen, stellt eine Verletzung des deutschen Teils von EP 234 nach den einschlägigen Bestimmungen des § 9 Nr. 1 PatG dar. Unsere Mandantin hat daher einen Anspruch auf Unterlassung der Verletzungshandlungen, Vernichtung der verletzenden Produkte, Rückruf sowie Auskunft und Rechnungslegung im Zusammenhang mit den Verletzungshandlungen. Zudem steht ihr dem Grunde nach ein Schadensersatzanspruch zu. Da sie nicht gewillt ist, diese Verletzungshandlungen weiter zu dulden, fordern wir Sie auf,

> **es unverzüglich zu unterlassen, die patentverletzenden Haarstyling-Geräte in der Bundesrepublik Deutschland anzubieten, in Verkehr zu bringen oder zu benutzen oder zu solchen Zwecken einzuführen oder zu besitzen, einschließlich der Entfernung aller patentverletzenden Geräte von Ihrer Website**.

Unsere Mandantin hat uns ermächtigt, Ihnen Gelegenheit zur außergerichtlichen Beilegung des Streitverhältnisses zu geben. Bevor wir weitere rechtliche Schritte einleiten, geben wir Ihnen daher die Möglichkeit, die Angelegenheit durch Unterzeichnung einer Unterlassungserklärung zu regeln. Als Anlage fügen wir den Entwurf einer solchen Erklärung nach deutschem Recht bei (**Anlage 4**) und bitten Sie, uns diese aufgrund der Dringlichkeit der Angelegenheit bis spätestens

Montag, 13. März 2023, 12 Uhr CET

zu übermitteln. Sie können die unterzeichnete Unterlassungserklärung vorab per Fax an die Faxnummer **+49 89 23 23 72 100** oder vorab per E-Mail an **constanze.krenz@dlapiper.com** zurücksenden.

Im Falle der Nichtbeachtung der oben genannten Verpflichtungen sind wir angewiesen, unverzüglich rechtliche Schritte gegen Sie einzuleiten, um die verletzenden Aktivitäten zu unterbinden.

Mit freundlichen Grüßen

Dr. Constanze Krenz
– Rechtsanwältin –

Anlagen:

1. Anlage: Kopie der Patentschrift
2. Anlage: Maschinenübersetzung des EP 234
3. Auszug aus dem Register des Deutschen Patent- und Markenamts
4. Anlage: Unterlassungserklärung

Dr Constanze Krenz
Julia Oertel
DLA Piper UK LLP
Maximilianstrasse 2
D-80539 Munich
T +49 89 23 72 262
F +49 89 23 72 100
E constanze.krenz@dlapiper.com
E julia.oertel@dlapiper.com
W www.dlapiper.com

DLA PIPER

ENGLISH MACHINE TRANSLATION

SharkNinja Europe Limited
to the attention of the directors
Mr David Stevenson and Wang Xuning
3150 Century Way
Leeds, LS15 8ZB
United Kingdom

Our sign
MG/398223/388

08 March 2023

In advance via e-mail to dstevenson@sharkninja.com and customerservice-uk@sharkninja.com

URGENT!

Warning due to patent infringement

Dear Ladies and Gentlemen,

We hereby give notice that **Dyson Technology Limited**, Tetbury Hill, Malmesbury, Wiltshire SN16 0RP, United Kingdom (hereinafter referred to as the "*Client*"), has appointed us to represent its legal interests. Corresponding authorisation is assured by a lawyer.

Our client is part of the Dyson Group, a global technology company. Its product portfolio includes, inter alia, high-quality hair care appliances. It is the sole and unrestricted proprietor of the European patent EP 3 119 234 ("**EP 234**"), the German part of which is in force. A copy of the patent specification (**Annex 1**) together with the German machine translation (**Annex 2**) and an extract from the register of the German Patent and Trade Mark Office (**Annex 3**) are attached to this letter.

EP 234 relates to a hand-held *appliance*, in particular a *hair care appliance,* in which a fluid such as air is first sucked in and then directed out of the appliance or its attachment through an outlet, for example to curl or wave hair.

The independent claim 1 of EP 234 protects:

1.1 Attachment (30, 130, 180, 230) for a hand-held unit, the

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A list of partners may be inspected at the registered office, 160 Aldersgate Street, London EC1A 4HT, and at the address shown at the top of this letter. Partner means a member of a limited liability partnership.

A list of offices and regulatory information can be found at dlapiper.com.

The Munich branch is registered with the Munich Local Court (PR 1949).

Munich switchboard:
+49 89 23 23 72 0

1.2 an inlet at a first end (32);

1.3 an outlet (100, 200); and

1.4 comprises a fluid flow path between the inlet and the outlet,

1.5 wherein the attachment is generally cylindrical and

1.6 wherein the outlet (100, 200) comprises at least one slot (102, 182, 202, 282) extending from proximate the first end (32) of the attachment to a distal end (36) of the attachment,

1.7 wherein the at least one slot (102, 182, 202, 282) extends substantially along the length of the attachment; and

1.8 wherein the outlet (100, 200) is defined at least in part by an outer surface of the attachment, characterised in that

1.9 the outlet is configured to direct fluid expelled from the outlet (100, 200) tangentially around the outer surface of the attachment.

The independent claim 10 of EP 234 protects:

10.1 Handheld device that

10.2 a handle (20) having a fluid flow path from an inlet (40) to an outlet; and

10.3 a blower unit (70) for sucking fluid into the fluid inlet; and

10.4 comprises an attachment to be placed on the handle (20),

10.5 wherein the attachment corresponds to a preceding claim.

Our client has discovered that you have recently been offering corresponding hand-held appliances and attachments which infringe EP 234 under the product name "*Shark FlexStyle Hair Styler and Dryer*" on the website https://beauty.sharkclean.de and have been marketing them via this website. The infringement of EP 234 becomes obvious when comparing your product with the features of claims 1 and 10 of EP 234 mentioned above.

In detail:

I.

Subject-matter of claim 1

Claim 1 relates to an attachment for a handheld device (feature 1.1), the attachment having an inlet at a first end and an outlet (features 1.2 and 1.3), and a fluid flow path existing between the inlet and

outlet (feature 1.4). A corresponding illustration can be found, for example, in Fig. 3a of EP 234 (additions added):

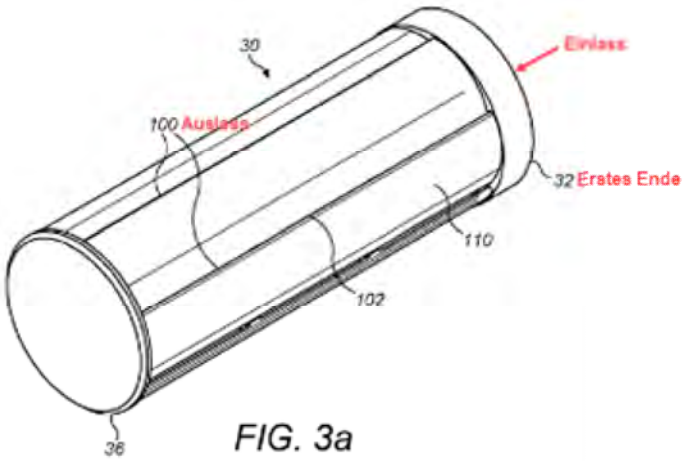


FIG. 3a

Paragraph [0050] EP 234 states the following:

[0050] The head 30 includes a fluid outlet 100 which in this example comprises parallel slots 102 each extending towards a second end 36 of the head and radially around the head 30. This arrangement enables fluid to exit the head all the way around the head and for the majority of the length of the head 30 maximising a hair styling region of the product.

For illustrative purposes, we have marked the fluid flow path in Fig. 3b of EP 234:

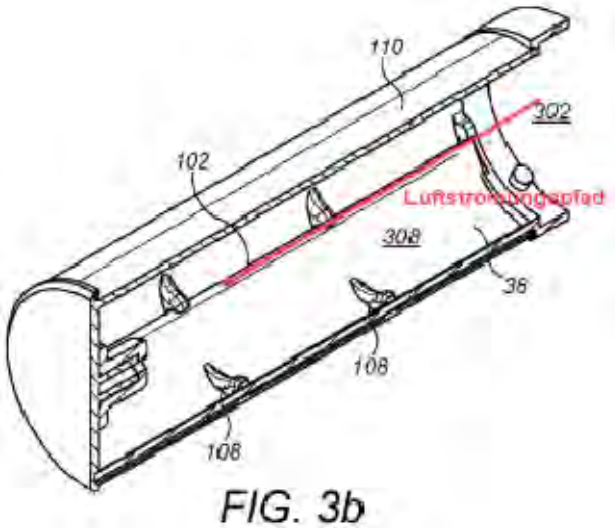


FIG. 3b

The attachment is generally cylindrical according to **feature 1.5.**

The outlet of the attachment is further specified within the scope of features 1.6 to 1.9.

According to **feature 1.6,** the outlet comprises at least one slot extending from near the first end of the attachment to the second end of the attachment. The first and second ends of the attachment are opposite distal ends thereof.

Feature 1.7 further specifies that the at least one slot shall extend substantially along the length of the attachment. Such a slot is shown, for example, in Fig. 3a of EP 234 with reference number 102 (cf. red highlighting):

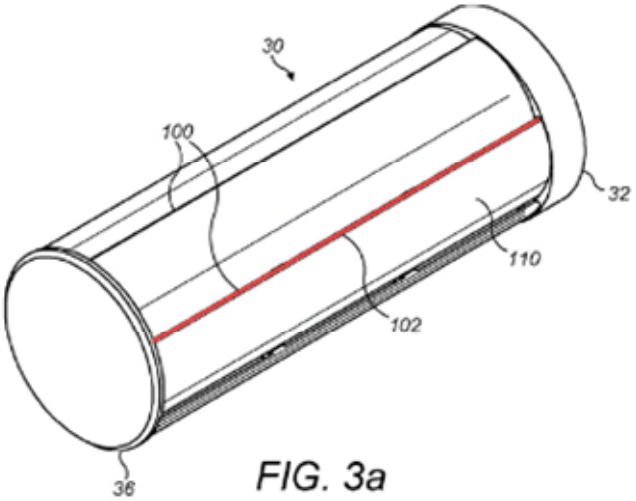


FIG. 3a

As can be seen from para [0066] EP 234, the slots may have so-called spacers which are used to maintain the dimension of a single slot.

[0066] To maintain the size of each slot 102, spacers 108 are provided. In this example, a pair of spacers 108 is provided to maintain each slot 102 size. Each one of the pair of spacers 108 is longitudinally spaced along the slot 102 and the plate 110. The spacers 108 join adjacent plates 110 together.

The spacers are therefore components of the slot, but they do not form its lateral boundary.

Furthermore, the outlet according to **feature 1.8 is** to be defined, at least in part, by the outer surface of the attachment. The outer surface can, for example, be formed by a plurality of plates (110) which are arranged in relation to each other in such a way that a slot is formed which at the same time - possibly together with further slots - forms the outlet (100), whereby, according to the claim, it is not excluded that further elements - such as the lower plate - possibly participate in the formation of the outlet (cf. Fig. 3a, shown below and outer surface marked), see supplementary para [0050] EP 234 (shown above).

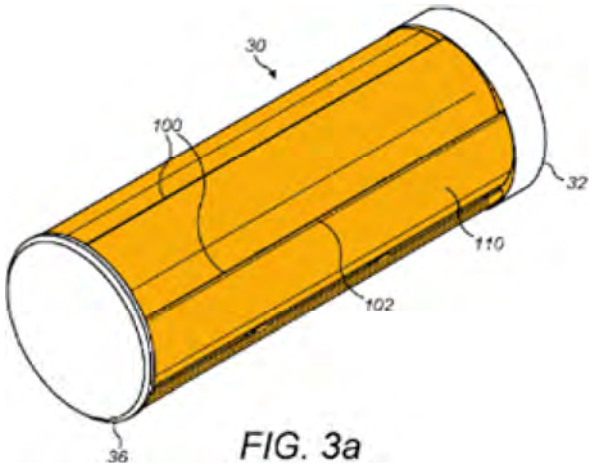


FIG. 3a

[colour emphasis on our part]

Relatedly, feature 1.9 further characterises that the outlet shall be configured to direct fluid expelled from the outlet tangentially around the outer surface of the attachment.

The fluid is directed tangentially in close proximity to the outer surface so that it is attracted to the curved outer surface, cf. also Fig. 5A, 5B EP 234, and therefore follows ("around") the outer surface (and does not continue to flow in a straight line) as the fluid emerging from the multiple slots combines to form a fluid flow.

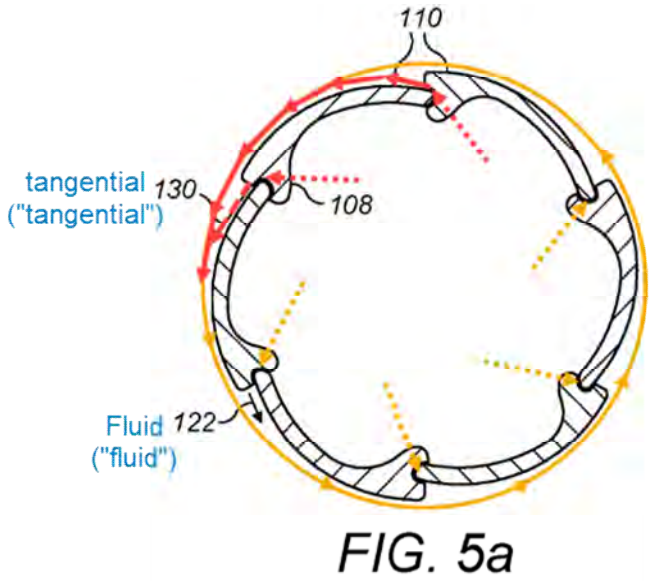


FIG. 5a

[colour emphasis on our part]

The effect just described, whereby the fluid is attracted to the outer surface, is also known as the Coanda effect (cf. par. [0065] EP 234). This causes the hair to automatically wrap around the attachment without having to be twisted in by hand. (cf. also para. [0064], [0065] EP 234).

II.

Subject matter of claim 10

A patent example of the claimed invention according to claim 10 of EP 234 is shown in Figure 1a of EP 234 , which is reproduced below. It shows the external view of a hand-held device within the meaning of **feature 10.1 of** claim 1 of EP 234 as well as its handle (ref. 20) and inlet (ref. 40).

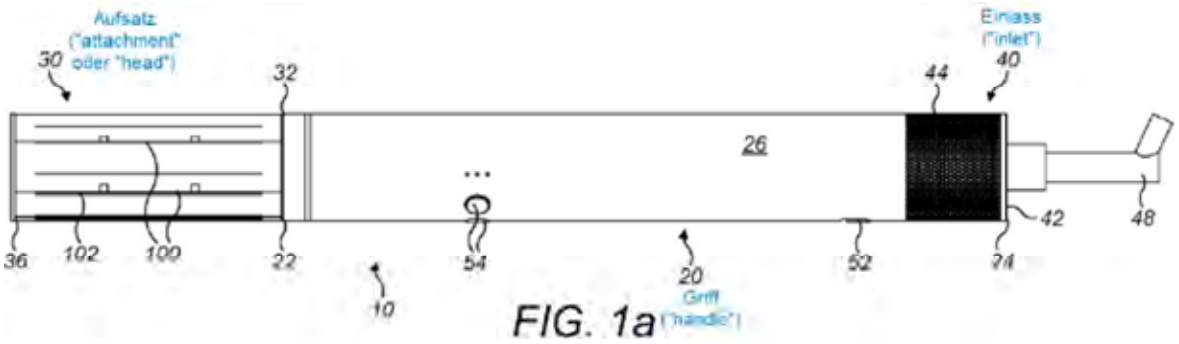


FIG. 1a

[coloured additions on our part]

Also in claim 10, **feature 10.2** requires a fluid flow path. In the context of feature 10.2, the relevant inlet or outlet is that of the handle, not that of the attachment.

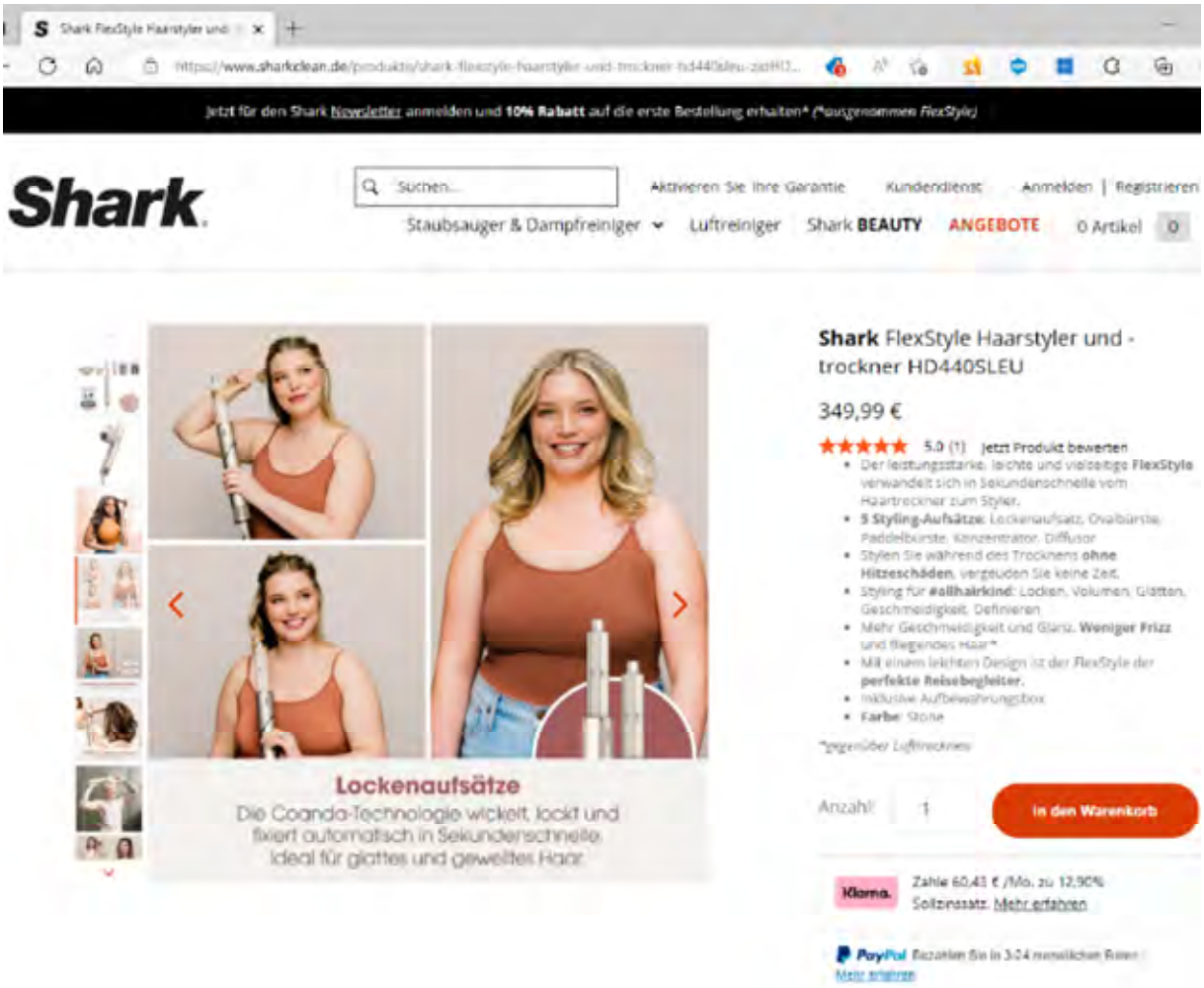
According to **feature 10.3,** a blower unit is also required, which according to the description may comprise a fan and a motor. The latter drives the fan so as to introduce the fluid via the inlet into the handheld device or the fluid flow path, cf. par. [0049] EP 234.

With regard to **features 10.4 and 10.5** - the attachment for fitting on the handle, which corresponds to a claim preceding claim 10 - we also refer to our comments on claim 1.

III

Patent infringement

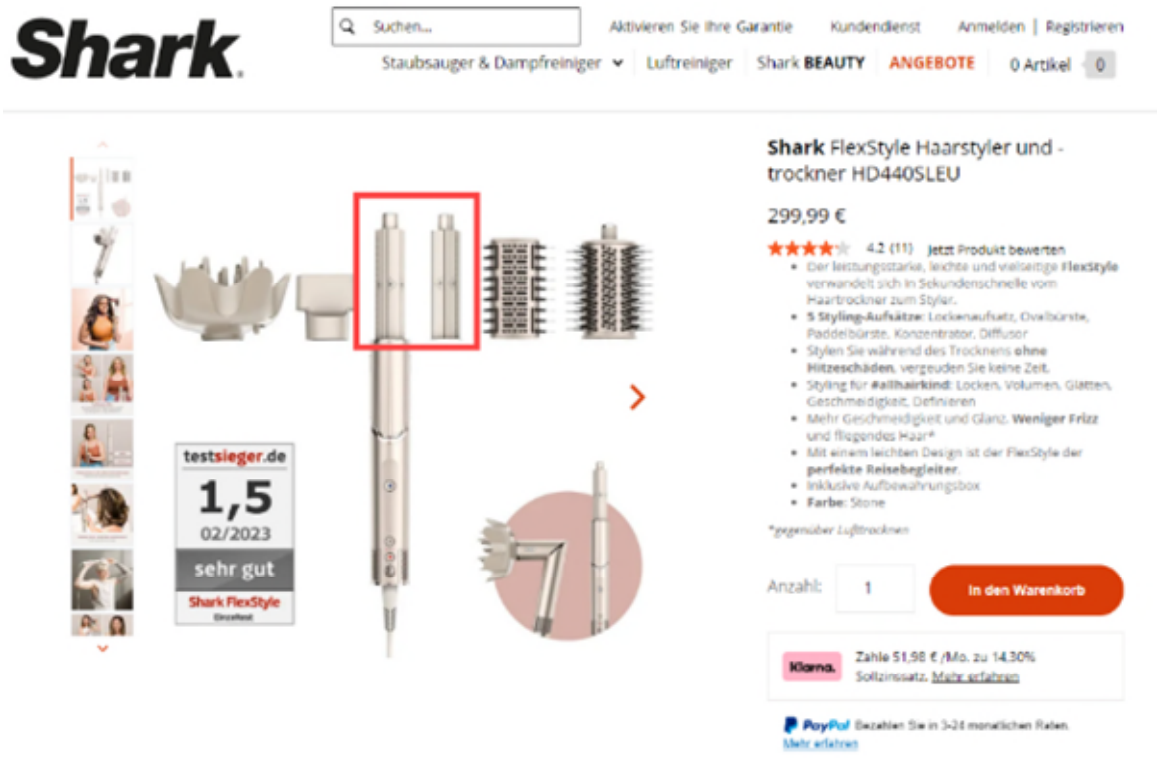
As already stated in the introduction, you offer the "Shark FlexStyle Hair Styler" via the German-language website https://beauty.sharkclean.de for Germany and distribute this together with SharkNinja Germany GmbH in the German market. For the sake of completeness, we have included the offer of the "Shark FlexStyle Hair Styler and Dryer HD440SLEU" on the German website:



Shark FlexStyle Hair Styler and Dryer HD440SLEU - Buy now at Shark UK! sharkclean.com)

According to the delivery conditions on the website, delivery is possible to Germany. This is also evident during the payment process. Your company as well as SharkNinja Germany GmbH are both mentioned on the handle of infringement form 2 as well as on the box of the FlexStyle.

The scope of delivery of the "*Shark FlexStyle Hair Styler*" (HD440SLEU) includes a total of five "styling attachments", including the curling attachment relevant here (highlighted below):



Shark FlexStyle Hair Styler and Dryer HD440SLEU - Buy now at Shark UK! (sharkclean.com)

The FlexStyle offered on the website together with curling attachments are infringement forms 1 and 2 (also "*infringement forms*"), as they make use of the technical teaching of claims 1 and 10 of EP 234s.

1. Realisation of claim 1 (infringement form 1)

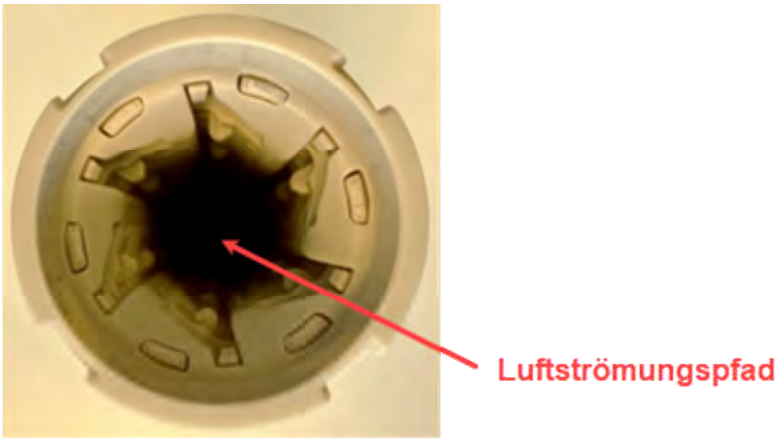
The right and left curling attachment (together also "*infringement form 1*") of the *FlexStyle* realise all features of claim 1 of the present EP 234. The two attachments are identical with regard to their construction and their mode of operation and differ only in the direction of the air flow (one clockwise and one counterclockwise), depending on which side of the head the hair is styled. Whether the air flow direction is clockwise or counterclockwise is, however, irrelevant for the question of patent infringement. Both attachments implement the claim teaching in the same way.

Infringement form 1 is an attachment for a hand-held device according to **feature 1.1.** This is illustrated both by the excerpt of a product video shown below and by the following photos of infringement form 1.



The individual components and their design are shown in more detail in the following illustrations. The above illustration is primarily intended for orientation purposes.

In accordance with **features 1.2 and 1.3,** the infringement form 1 has an inlet at its first end and an outlet. The inlet can be seen in the photo above and in the photo below, which shows the opening or inlet at the first end, i.e. the end at which the attachment is connected to the handle. In this opening, the air flow path can also be seen, through which the air that enters the infringement form 1 via the handle, flows in order to escape the attachment through the outlet and curl the hair.



The outlet is marked yellow in the following illustration as an example:



The attachment is also generally cylindrical according to **feature 1.5,** as can be seen in the previous photos.

The outlet of the infringement form 1 comprises a plurality of slots according to **feature 1.6.** The slots each extend from the near first end of the infringement form 1 to the second end thereof. A single slot is shown in the figure below with its respective ends shown enlarged:

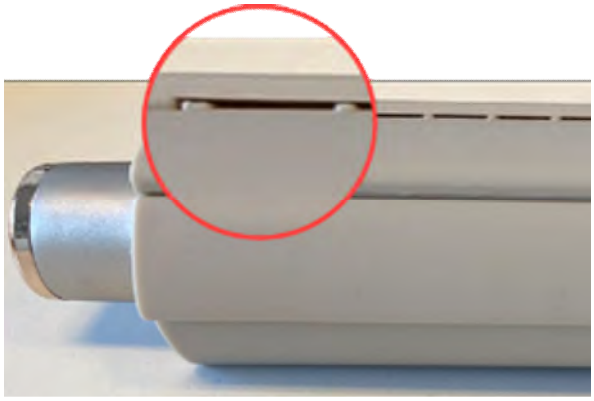


The fact that such a slot is located under each of the panels is illustrated, for example, in the following figure:



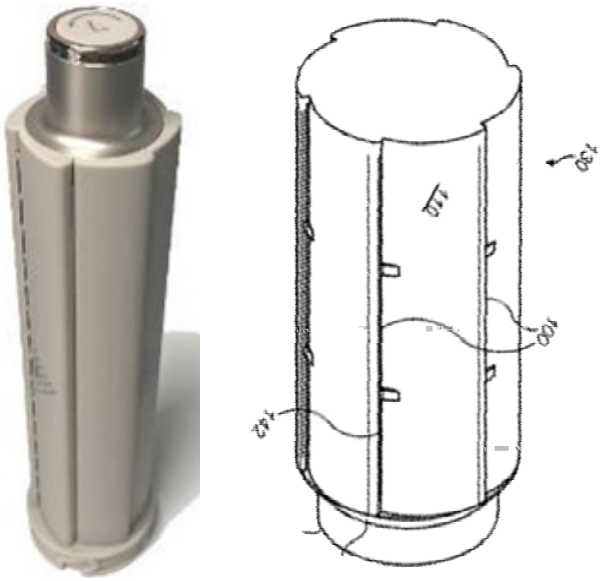
The photographs also demonstrate that each of the slots of the infringement form 1 extends substantially along the entire length of the attachment, in accordance with **feature 1.7.**

As far as fillets are visible in the illustrations, these are the spacers also mentioned in EP 234 for maintaining the dimensions of the respective slots. The fact that the spacers do not define the outer ends of a slot is shown above all by the fact that the fillets are not firmly connected to the respective upper plate and the upper plate can also be easily lifted with a fingernail or similar:





Comparing the infringement form 1 with, for example, Fig. 6a of EP 234 , it becomes clear once again that the features are realised in an identical manner:

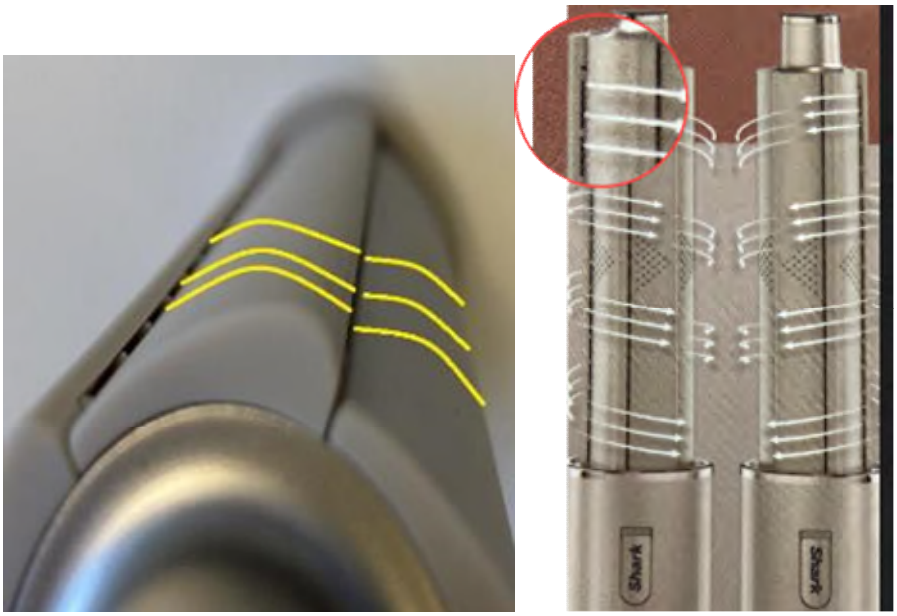


Furthermore, in accordance with **feature 1.8**, the outlet of the infringement form 1 is defined, at least in part, by the outer surface of the attachment. This can be seen in the preceding photos of

the infringement form 1, as the outlet is defined by the arrangement of the plates in relation to each other.



In the case of violation shape 1, due to the fact that the lower plate as part of the outer surface is located directly downstream the slot, the air exiting the slot flows tangentially to the outer surface and (due to the Coanda effect) becomes attracted to the curved outer surface, and further downstream becomes combined with the air exiting the other slots to form an air flow around the outer surface of the violation shape 1 under attack. We have highlighted the air flow lines in yellow in the figure below:

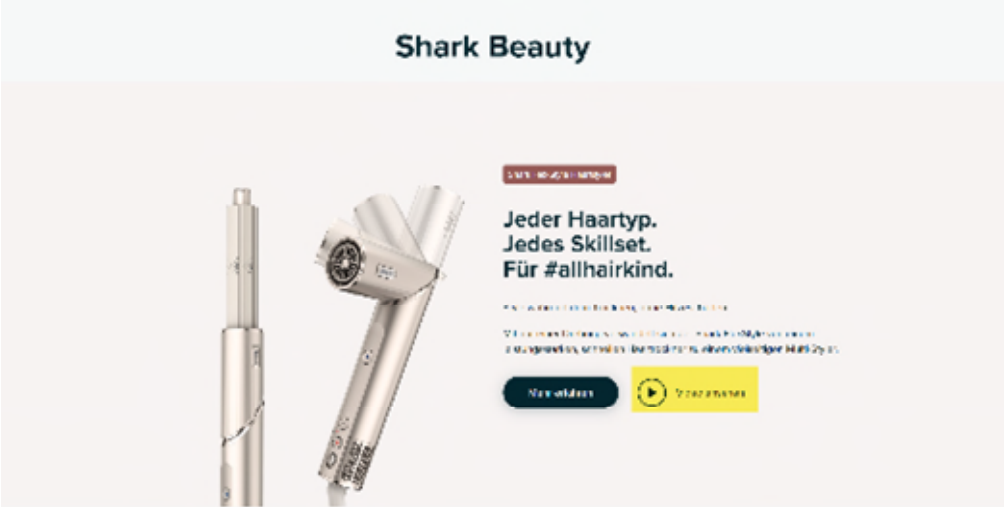


This corresponds to the representation of the air circulation as printed on the box in which the infringement forms are shipped (see above figure on the right-hand side) and shown on the web-site (see following figure)



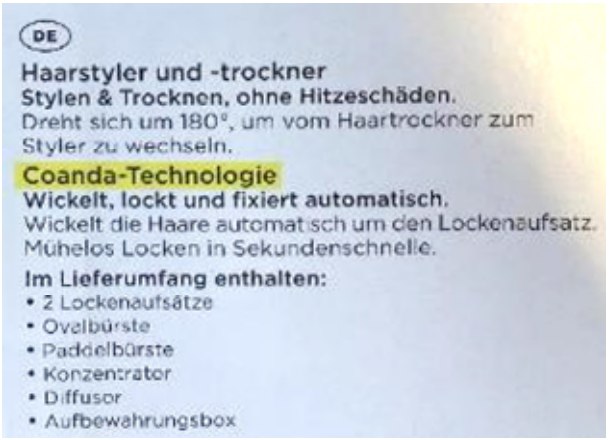
Shark FlexStyle Hair Styler and Dryer HD440SLEU - Buy now at Shark UK! (sharkclean.com)

We also refer to a video that is also available on the German-language website Shark Beauty | Haarpflege & Haarstyling Geräte - Shark DE (sharkclean.de)





As can be seen from the above inserts as well as from information on the cardboard of the infringement forms, also explicitly advertises the Coanda effect.



(Photo of the cardboard box)

Thus, the infringing form 1 realises all the features of claim 1 of EP 234 .

2. Realisation of claim 10 (infringement form 2)

The handle in combination with the infringement form 1 as an attachment together *form* a hand-held device ("*infringement form 2*"), which also realises all features of claim 10 of the present EP 234.

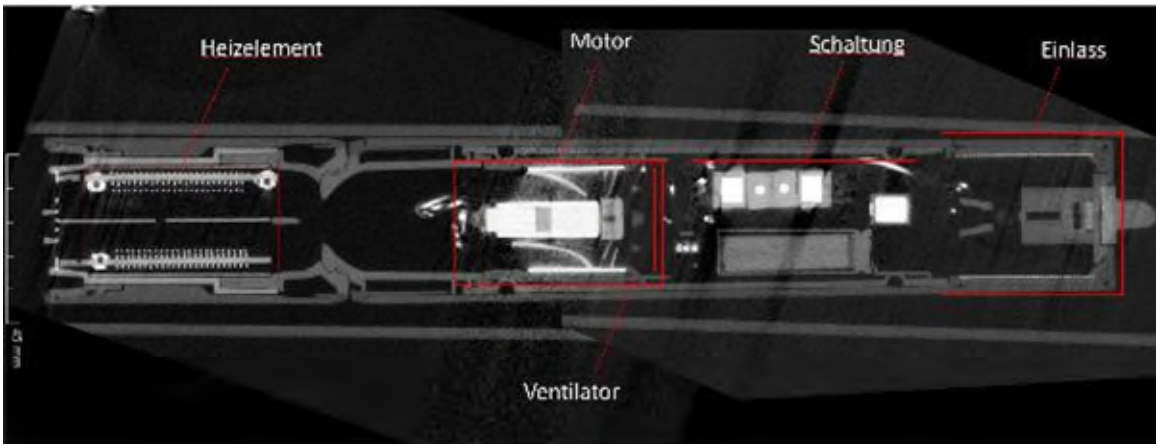
The infringement form 2 is a hand-held device (**feature 10.1**).

It contains a handle through which a fluid flow path runs from inlet to outlet according to **feature 10.2.** The handle, inlet and outlet (perforated area on the right of the handle) can be seen in the following photos.





Also, the infringing form 2 in suit includes a patent-pending blower unit according to **feature 10.3,** which comprises a fan and a motor.



CT scan of the infringement form 2

Infringing shape 1 is an attachment intended to be attached to the handle within the meaning of **feature 10.4. For the** rest, we refer to our previous remarks on the infringing form 1 with regard to the **features 10.4 and 10.5 which are** also realised by the infringing form 2 in suit.

Your offering and putting on the market as well as importing and possessing for these purposes the infringing forms constitute an infringement of the German part of EP 234 according to the relevant provisions of Sec. 9 No. 1 Patent Act. Our client is therefore entitled to cease and desist from the

infringing acts, to destroy and recall the infringing products as well as to information and an accounting in connection with the infringing acts. Further, our client can claim for damages on the merits. As they are not willing to tolerate these infringing acts any longer, we request you,

> **immediately cease and** desist **from offering, placing on the market or using the infringing hair styling appliances in the Federal Republic of Germany or importing or possessing them for such purposes, including the removal of all infringing appliances from your website.**

Our client has authorised us to give you the opportunity to settle the dispute out of court. Before we take further legal action, we are therefore giving you the opportunity to settle the matter by signing a cease-and-desist declaration. As an attachment, we enclose the draft of such a declaration under German law (**Annex 4**) and ask you, due to the urgency of the matter, to send it to us no later than

Monday, 13. March 2023, 12 p.m. CET

to send it to us. You can also return the signed declaration of discontinuance in advance by fax to the German fax number **+49 89 23 72 100** or in advance by e-mail to **constanze.krenz@dlapiper.com**.

In the event of non-compliance with the above obligations, we are instructed to take immediate legal action against you to stop the infringing activities.

With kind regards

Dr. Constanze Krenz
- Attorney
at Law -

Attachments:

1. Annex: Copy of the patent specification
2. Appendix: Machine translation of EP 234
3. Extract from the Register of the German Patent and Trade Mark Office
4. Annex: Cease and desist declaration

EXHIBIT E

DLA PIPER

DLA Piper France LLP
27, rue Laffitte
75009 PARIS
France
T: +33 (0)1 40 15 24 00
F: +33 (0)1 40 15 24 01
dlapiper.com

Toque R235

SharkNinja Germany GmbH
c/o Regus Management GmbH
WesthafenPlatz 1
60327 Frankfurt am Main
Germany

Our reference
FV/CM

SharkNinja Europe Limited
3150 Century way,
Thorpe Park,
Leeds LS15 8 ZB
UK

March 7, 2023

Re: Infringement of EP 3.119.234 (French part).

Sir,

1. We represent the interests of **Dyson Technology Limited**, Tetbury Hill, Malmesbury, Wiltshire SN16 0RP, United Kingdom (hereinafter referred to as "**Dyson**").

Our client is part of the Dyson Group, a global technology company. As you are no doubt aware, its product portfolio includes, inter alia, high-quality hair care appliances. Dyson is the sole owner of European patent EP 3.119.234 granted on November 17, 2021, filed on 6 March 2015, claiming English priorities GB 201404985 and GB 201404982, both dated 20 March 2014.

This patent protects an "Attachment for a hand held appliance" and has effect in France.

In particular, Claim 1, protects *an attachment for a hand held appliance comprising an inlet at a first end; an outlet; and a fluid flow path between the inlet and the outlet, wherein the attachment is generally cylindrical and wherein the outlet comprises at least one slot extending from near the first end of the attachment towards a distal end of the attachment, wherein the at least one slot extends substantially along the length of the attachment, and wherein the outlet is at least partially defined by an external surface of the attachment, characterised in that the outlet is configured to direct fluid emitted from the outlet tangentially around the external surface of the attachment.*

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A list of our offices and regulatory information can be found at dlapiper.com

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Claim 10 protects *A hand held appliance comprising a handle having a fluid flow path from an inlet to an outlet and a fan unit for drawing fluid into the fluid inlet and an attachment for attaching to the handle the attachment according to any preceding claim.*

2. Our client's attention has been drawn to your announcement on the website sharkclean.fr of the upcoming availability on the French market of your product called SHARK FLEXSTYLE.

Specially this product is a hair Dryer combining 5 accessories, 2 of which are in the form of a barrel which our client considers to infringe at least independent claim 1 and dependent claim 10 of EP 3 119 234.

You will find below a picture of this accessory referred in Shark's French offer as "Coanda effect loopers"



FlexStyle - Champagne [HD440SLEU]

★★★★★ 5.0 (1) Rédiger un avis

299,99 €

Bientôt disponible ! Inscrivez-vous à la liste d'attente ci-dessous pour être informé.e de son lancement.

Profitez-en : jusqu'au 12 mars à 23h59, vous pouvez remporter l'un des 10 FlexStyle mis en jeu ! Pour participer, cliquez sur le lien.

- **Pivote à 180° pour sécher ou styliser** – transformez votre routine avec un séchage puissant et rapide et un coiffage polyvalent
- **5 accessoires :** Boucleurs à effet Coanda, brosse plate, brosse ovale, concentrateur et diffuseur
- **Stylisez et séchez en un seul geste, sans dommages thermiques**
- Idéal pour tous les types de cheveux
- Des cheveux plus doux et brillants, avec **moins de frisottis et de mèches rebelles***
- Léger et polyvalent, **idéal en voyage**
- **Comprend un coffret de rangement**
- Couleur : Champagne

3. We consider that offering for sale, and selling in France the FLEXSTYLE device along with those two Coanda effect loopers infringes Dyson patent rights under article L 613-3 of French IP Code which reads : *The following are prohibited, in the absence of the consent of the owner of the patent:*

(a) The manufacture, offering, placing on the market, use, import, export, transshipment, or possession for the aforesaid purposes of the product subject to the patent.

4. Since the launching of the FlexStyle product is not effective yet on the French territory, Dyson is not aware of which Shark company will be directly involved in such marketing in France.

We have therefore been instructed by Dyson to formally request that both SharkNinja Germany and SharkNinja Europe limited whose coordinates appear on the current FlexStyle cardboxes offered for sale and sold within the European market, to :

- **Refrain** from exporting, placing on the market, importing and using in France the FlexStyle hairdryer with reference HD 440SLEU or any other reference, equipped with **any Coanda effect looper infringing claim 1 and 10 of EP 3119234.**

- **remove** from all websites that you directly or indirectly administer and social media accounts that you operate, as well as from any other physical or electronic media of any kind any offer for sale or announcement of the upcoming launch in France, of the FlexStyle hair dryer equipped with such loopers.

Should there be any other SharkNinja affiliate involved in placing the FlexStyle product on the French market, (including Euro-Pro limited cited on the *sharkclean.fr* website and located at the same address as SharkNinja Europe Limited) we count on your seriousness to notify them of the content of this warning letter.

Of Course, Shark may very well decide to launch the Hair dryer including all other accessories provided the current Coanda effect loopers are removed from the package.

Were Shark to launch the Shark FlexStyle in France including the Coanda effect loopers, then our client will be at liberty to implement any procedure to ensure the protection of her rights and to grant her compensation for the damage she would suffer on the French territory.

This letter does not imply any waiver by our client of all or any of its rights and actions in any jurisdiction, which are all reserved, particularly with regard to all of the uses referred to above.

In accordance with the rules of our profession, we are of course at the disposal of your counsel to discuss with him the terms of this letter.

Yours sincerely

Frank Valentin
Avocat à la Cour, Partner

frank.valentin@dlapiper.com

DLA Piper France LLP

Cédric Meiller
Avocat à la Cour, Senior Associate

Cedric.meiller@dlapiper.com

DLA Piper France LLP

EXHIBIT F

DLA PIPER

DLA Piper France LLP
(Toque R235)

Pièce n° 13

DLA Piper France LLP
27, rue Laffitte
75009 PARIS
France
T: +33 (0)1 40 15 24 00
F: +33 (0)1 40 15 24 01
dlapiper.com

Toque R235

SharkNinja France
c/o Emergence
121 Rue d'Aguesseau
92100 Boulogne-Billancourt

Notre reference
FV/CM

Lettre recommandée avec accusé de réception

Paris, le 8 mars 2023

Objet : Atteinte imminente au droit de brevet EP 3 119 234

Monsieur le Directeur,

Nous représentons les intérêts de la société de droit anglais Dyson Technology Limited, dont le siège social est sis Tetbury Hill, Malmesbury, Wiltshire SN16 0RP, Royaume-Uni (ci-après dénommée "Dyson").

Notre cliente fait partie du groupe Dyson, une entreprise technologique mondiale qui fabrique et commercialise notamment des appareils de soins capillaires de haute qualité.

Dyson est propriétaire du brevet européen EP 3 119 234 délivré le 17 novembre 2021, déposé le 6 mars 2015, revendiquant les priorités anglaises GB 201404985 et GB 201404982, toutes deux datées du 20 mars 2014.

Ce brevet protège un "accessoire pour appareil portable" et produit ses effets en France.

Sa revendication 1 a pour objet *un Accessoire pour un appareil portable comprenant une entrée à une première extrémité; une sortie et un trajet d'écoulement de fluide entre l'entrée et la sortie, l'accessoire étant gènéralement cylindrique et dans lequel la sortie comprend au moins une fente s'étendant depuis la proximité de la premiére extrémité de l'accessoire en direction d'une extrémité distale de l'accessoire, dans lequel au moins une fente s'étend sensiblement sur la longueur de l'accessoire et dans lequel la sortie est au moins en partie définie par une surface externe de l'accessoire, caractérisé en ce que la sortie est conçue pour diriger un fluide émis depuis la sortie de façon tangentielle autour de la surface externe de l'accessoire.*

Sa revendication 10 protège de son côté, un *Appareil portable comprenant une poignée ayant un trajet d'écoulement de fluide depuis une entrée vers une sortie et une unité ventilateur destinée à aspirer un fluide dans l'entrée de fluide et un accessoire destiné à être fixé à la poignée, l'accessoire étant selon l'une quelconque des revendications précédentes.*

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DLA PIPER

Vous trouverez pour votre information une copie de ce titre jointe au présent courrier.

L'attention de notre cliente a été attirée par l'annonce sur le site web accessible à l'url www.sharkclean.fr de la disponibilité prochaine sur le marché français du produit appelé Shark FlexStyle. Ce produit est un sèche-cheveux combinant 5 accessoires, dont 2 désignés comme "boucleurs".

Cet accessoire est ainsi représenté dans l'offre française de Shark et désigné comme "boucleur à effet Coanda" :



FlexStyle - Champagne [HD440SLEU]

★★★★★ 5.0 (1) Rédiger un avis

299,99 €

Bientôt disponible ! Inscrivez-vous à la liste d'attente ci-dessous pour être informé.e de son lancement.

Profitez-en : jusqu'au 12 mars à 23h59, vous pouvez remporter l'un des 10 FlexStyle mis en jeu ! Pour participer, cliquez sur le lien.

- **Pivote à 180° pour sécher ou styliser** – transformez votre routine avec un séchage puissant et rapide et un coiffage polyvalent
- **5 accessoires :** Boucleurs à effet Coanda, brosse plate, brosse ovale, concentrateur et diffuseur
- **Stylisez et séchez en un seul geste, sans dommages thermiques**
- Idéal pour tous les types de cheveux
- Des cheveux plus doux et brillants, avec **moins de frisottis et de mèches rebelles***
- Léger et polyvalent, **idéal en voyage**
- **Comprend un coffret de rangement**
- Couleur : Champagne

Notre cliente estime que la mise sur le marché, l'offre à la vente et la vente en France de l'appareil FlexStyle muni de ses deux accessoires "boucleurs à effet Coanda" porterait atteinte aux droits de brevet de Dyson en vertu de l'article L. 613-3 du Code de la propriété intellectuelle, lequel dispose que :

> *« Sont interdites, sans le consentement du propriétaire du brevet :*
>
> *(a) La fabrication, l'offre, la mise dans le commerce, l'utilisation, l'importation, l'exportation, le transbordement ou la détention aux fins précitées du produit objet du brevet. »*

Le lancement du produit FlexStyle n'étant pour l'instant pas effectif sur le territoire français, Dyson a mis en connaissance de cause de l'atteinte imminente portée à ses droits les sociétés SharkNinja Germany et SharkNinja Europe Limited, dont les coordonnées figurent sur les emballages du produit FlexStyle actuellement vendu hors du territoire français.

Dans la mesure où votre société, compte tenu de son objet social, pourrait également être impliquée, nous croyons utile de vous en aviser également et vous mettons formellement en demeure de :

- vous abstenir de mettre sur le marché, d'importer et d'utiliser en France le sèche-cheveux FlexStyle référencé HD 440SLEU ou toute autre référence, équipé de tout boucleur à effet Coanda contrefaisant les revendications 1 et 10 du brevet EP 3 119 234 appartenant à Dyson ;

DLA PIPER

- retirer de tous les sites Internet que vous administrez directement ou indirectement et des comptes de médias sociaux que vous gérez, ainsi que de tout autre support physique ou électronique de quelque nature que ce soit, toute offre de vente ou annonce du lancement prochain en France du sèche-cheveux FlexStyle équipé de tels boucleurs.

Il est en revanche possible pour Shark de lancer sur le territoire français un sèche-cheveux avec tous autres accessoires et à condition que les boucleurs à effet Coanda soient retirés de l'emballage.

La présente lettre n'implique aucune renonciation de notre cliente à tout ou partie de ses droits et actions dans toute juridiction, notamment en ce qui concerne l'ensemble des utilisations visées ci-dessus.

Conformément aux règles de notre profession, nous sommes bien entendu à la disposition de votre conseil pour discuter avec lui des termes de la présente lettre.

Veuillez agréer, Monsieur le directeur, l'expression de nos sentiments distingués.

Frank Valentin
Avocat à la Cour, Partner

frank.valentin@dlapiper.com

DLA Piper France LLP

Cédric Meiller
Avocat à la Cour, Senior Associate

Cedric.meiller@dlapiper.com

DLA Piper France LLP

PJ. Traduction française du Fascicule du brevet invoqué EP 3 119 234

(19) Europäisches Patentamt
European Patent Office
Office européen des brevets

EP3119234B1

(11)

(12)

FASCICULE DE BREVET EUROPÉEN

(45) Date de publication et mention de la délivrance du brevet :
17.11.2021 Bulletin 2021/46

(21) Numéro de demande :
15709327.9

(0) Date de dépôt : **06.03.2015**

(51) Int Cl. :
A46B 15/00 *(2006.01)* ***A45D 20/50*** *(2006.01)*
A45D 20/12 *(2006.01)* ***A46B 9/02 (2006.01)***

(86) Numéro de la demande internationale
: **PCT/GB2015/050659**

(87) Numéro de publication internationale : **WO 2015/140506 (24.09.2015 Gazette 2015/38)**

(54) **ACCESSOIRE POUR UN APPAREIL PORTABLE**

AUFSATZ FÜR EIN HANDGERÄT

(84) États contractants désignés :
AL AT BE BG CH CY CZ DE DK EE ES FI FR GR HR HU IE IS IT LI LT LU LV MC MK MT NL NO PL PT RO RS SE SI SK SM TR

(30) Priorité : **20.03.2014 GB 201404982**
20.03.2014 GB 201404985

(43) Date de publication de la demande :
25.01.2017 Bulletin 2017/04

(73) Propriétaire : **Dyson Technology Limited**
Malmesbury, Wiltshire SN16 0RP (GB)

(72) Inventeur : **MACLAINE, Alasdair**
Malmesbury, Wiltshire SN16 0RP (GB)

(74) Représentant : **Mackisack, Anna Elizabeth et al**
Dyson Technology Limited
Département de la propriété intellectuelle Tetbury Hill
Malmesbury, Wiltshire SN16 0RP (GB)

(56) Références citées :
JP-A- S6 241 606
US-A- 3 981 313
US-A1- 2004 129 289

ACCESSOIRE POUR APPAREIL PORTABLE

Note : Dans un délai de neuf mois à compter de la publication de la mention de la délivrance du brevet européen dans le Bulletin européen des brevets, toute personne peut notifier à l'Office européen des brevets une opposition à

EP 3 119 234 B1

ce brevet, conformément au règlement d'exécution. La notification d'opposition n'est réputée avoir été déposée qu'après paiement de la taxe d'opposition. (Art. 99(1) de la Convention sur le brevet européen).

Imprimé par Jouve, 75001 PARIS
(FR)

Description

[0001] La présente invention concerne un accessoire pour un appareil portable, en particulier un appareil de soins capillaires tel qu'une brosse de coiffage à chaud.

[0002] Dans une brosse de coiffage à chaud classique, l'air est aspiré dans une entrée par un ventilateur et dirigé vers les cheveux par un accessoire ou une tête. Selon le style recherché, l'air peut être chauffé ou non. La tête ou l'accessoire comprend souvent des poils sur lesquels les cheveux sont enveloppés et maintenus pour le coiffage. L'air est généralement soufflé hors de la tête ou de l'accessoire normalement à la surface de la tête US 2004/0129289 A1 décrit un soin de coiffage et de bouclage ayant un accessoire pour mettre les cheveux en forme.

[0003] Brevet numéro JP S6241606A (Matsushita Electric Works Ltd) décrit un appareil de soins capillaires comportant un accessoire recevant un flux d'air d'un ventilateur dans une poignée. L'accessoire a un corps cylindrique avec un ensemble de sorties d'air réparties le long et autour du corps. Plusieurs rangées de poils s'étendent sur toute la longueur du corps.

[0004] La présente invention concerne un accessoire pour un appareil portable tel que défini dans la revendication 1. Les caractéristiques préférées de l'invention sont exposées dans les revendications dépendantes. La présente invention fournit un accessoire pour un appareil portable comprenant une

[0005] entrée à une première extrémité ; une sortie ; et un chemin d'écoulement de fluide entre l'entrée et la sortie, dans lequel l'accessoire est généralement cylindrique et dans lequel la sortie comprend au moins une fente s'étendant depuis la proximité de la première extrémité de l'accessoire vers une extrémité distale de l'accessoire, dans lequel ladite au moins une fente s'étend sensiblement le long de la longueur de l'accessoire et dans lequel la sortie est au moins partiellement définie par une surface externe de l'accessoire et est configurée pour diriger le fluide émis par la sortie tangentiellement autour de la surface extérieure de l'attachement.

[0006] Il est préférable que la sortie comprenne une pluralité de fentes espacées radialement autour de l'accessoire.

[0007] Du fait que le fluide sorte de la sortie de fluide en se déplaçant autour de la surface extérieure de la tête, les cheveux sont attirés vers la surface et s'enroulent facilement autour pour créer le style.

[0008] De préférence, la sortie comprend deux fentes.

[0009] Il est préférable que l'accessoire ait un axe longitudinal s'étendant de la première extrémité à l'extrémité distale et ladite au moins une fente est parallèle à l'axe longitudinal.

[0010] En variante, l'accessoire a un axe longitudinal s'étendant de la première extrémité à l'extrémité distale et ladite au moins une fente est non parallèle à l'axe longitudinal. Il est préférable que ladite au moins une fente soit hélicoïdale par rapport à l'axe longitudinal.

[0011] Une fente incurvée change la direction dans laquelle le fluide s'écoule de la sortie du fluide, tendant à donner un écoulement plus normal à la surface de l'accessoire et ceci améliore la tenue des cheveux autour de l'accessoire.

[0012] De préférence, l'accessoire comprend en outre un élément de guidage de l'écoulement entre l'entrée et la sortie. L'élément de guidage de l'écoulement modifie également la direction dans laquelle le fluide s'écoule depuis la sortie, ayant tendance à donner un écoulement qui est plus normal à la surface de l'accessoire, ce qui améliore la tenue des cheveux autour de l'accessoire. De plus, l'élément de guidage de l'écoulement réduit la vitesse du fluide à l'intérieur de l'accessoire, ce qui en conséquence réduit le bruit produit par l'accessoire.

[0013] Il est préférable que l'élément de guidage de l'écoulement comprenne une couche perforée. De préférence, la couche perforée est formée d'une maille ou d'un tissage d'un matériau allongé. Il est préférable que le matériau allongé soit un fil. De préférence, l'élément de guidage de l'écoulement s'étend de manière substantielle sur la longueur de ladite au moins une fente. Il est préférable que l'élément de guidage de l'écoulement s'étende de manière substantielle autour d'une circonférence interne de l'accessoire.

[0014] Selon un deuxième aspect, l'invention propose un appareil portable comprenant une poignée ayant un chemin d'écoulement de fluide d'une entrée à une sortie et une unité de ventilation pour aspirer du fluide dans l'entrée de fluide et un accessoire pour se fixer à la poignée, l'accessoire selon l'une quelconque des revendications 1 à 9.

[0015] Selon un troisième aspect qui n'entre pas dans le cadre de l'invention, la présente divulgation fournit un accessoire pour un appareil portable comprenant une première partie et une deuxième partie, la première partie comprenant une première extrémité de l'accessoire et au moins une plaque s'étendant depuis la première extrémité, la seconde partie comprenant une seconde extrémité de l'accessoire et au moins une autre plaque s'étendant depuis la seconde extrémité, dans laquelle, lorsque la première partie et la seconde partie sont connectées, au moins deux fentes sont formées entre ladite au moins une plaque et ladite au moins une autre plaque, lesdites au moins deux fentes définissant une sortie de fluide pour l'accessoire.

[0016] De préférence, la première extrémité de l'accessoire comprend une entrée de fluide dans l'accessoire.

[0017] Il est préférable que la première extrémité de l'attache comprenne un anneau de support pour supporter ladite au moins une plaque.

[0018] De préférence, l'anneau de support comprend au moins un évidement pour loger une extrémité de ladite au moins une autre plaque.

[0019] Il est préférable que l'anneau de support soit en plus un collier pour fixer l'accessoire à l'appareil.

[0020] De préférence, la première partie de l'accessoire comprend un échafaudage de support situé à ou près d'une extrémité distale de la première extrémité de la première partie de l'accessoire.

[0021] Il est préférable que l'échafaudage de support soit fixé à l'au moins une plaque.

[0022] De préférence, l'échafaudage de support comprend une partie d'un dispositif de fixation pour fixer la première partie et la deuxième partie ensemble.

[0023] Il est préférable que la seconde extrémité de l'accessoire comprenne au moins un autre évidement pour loger une extrémité de ladite au moins une plaque.

[0024] De préférence, la seconde extrémité de l'accessoire comprend une autre partie d'un dispositif de fixation pour fixer la première et la seconde partie ensemble.

[0025] Il est préférable qu'une ou plusieurs de ladite au moins une plaque et de ladite au moins une autre plaque soient arquées.

[0026] De préférence, une ou plusieurs de ladite au moins une plaque et de ladite au moins une autre plaque s'étendent orthogonalement depuis une extrémité respective.

[0027] En variante, ladite au moins une plaque et ladite au moins une autre plaque s'incurvent autour d'un axe longitudinal de l'accessoire.

[0028] De préférence, ladite au moins une plaque et ladite au moins une autre plaque sont hélicoïdales.

[0029] Il est préférable que ladite au moins une plaque et ladite au moins une autre plaque soient hélicoïdales dans le sens des aiguilles d'une montre à partir de la première extrémité.

[0030] Une fente incurvée modifie la direction dans laquelle le fluide s'écoule de la sortie du fluide, tendant à donner un écoulement plus normal à la surface de l'accessoire, ce qui améliore la tenue des cheveux autour de l'accessoire.

[0031] De préférence, un espace formé entre ladite au moins une plaque et ladite au moins une autre plaque est défini par une entretoise.

[0032] Il est préférable qu'une paire d'entretoises soit prévue, espacée longitudinalement le long de ladite au moins une plaque et de ladite au moins une autre plaque.

[0033] Les entretoises éventuelles maintiennent l'écart entre les deux parties formant la fente ou l'épaisseur de la fente. Il est avantageux qu'ils soient tous sensiblement égaux, car cela crée un flux régulier autour de l'accessoire.

[0034] De préférence, au moins une de ladite au moins une plaque et de ladite au moins une autre plaque est revêtue d'un matériau.

[0035] Il est préférable que chaque plaque soit doublée d'un matériau.

[0036] De préférence, le matériau absorbe les sons et/ou les vibrations.

[0037] Il est préférable que le matériau soit du Kevlar ou de la laine.

[0038] De préférence, l'accessoire comprend en outre un élément de guidage de l'écoulement entre l'entrée de fluide et la sortie de fluide. L'élément de guidage de l'écoulement change également la direction dans laquelle le fluide s'écoule de la sortie du fluide, tendant à donner un écoulement plus normal à la surface de l'accessoire, ce qui améliore la tenue des cheveux autour de l'accessoire. En outre, l'élément de guidage de l'écoulement réduit la vitesse du fluide à l'intérieur de l'accessoire, ce qui réduit le bruit produit par l'accessoire.

[0039] Il est préférable que l'élément de guidage de l'écoulement comprenne une couche perforée.

[0040] De préférence, la couche perforée est formée d'une maille ou d'un tissage d'un matériau allongé.

[0041] Il est préférable que le matériau allongé soit un fil.

[0042] De préférence, l'élément de guidage de l'écoulement s'étend sensiblement sur la longueur de ladite au moins une fente.

[0043] Il est préférable que l'élément de guidage de l'écoulement s'étende sensiblement autour d'une circonférence intérieure de l'accessoire.

[0044] Selon un quatrième aspect qui n'entre pas dans le cadre de l'invention, la présente divulgation fournit un appareil portable comprenant une poignée ayant un trajet d'écoulement de fluide depuis une entrée de fluide jusqu'à une sortie de fluide et une unité de ventilation pour aspirer du fluide dans l'entrée de fluide et un accessoire destiné à être fixé à la poignée, l'accessoire comprenant une première partie et une seconde partie, la première partie comprenant une première extrémité de l'accessoire et au moins une plaque s'étendant à partir de la première extrémité, la seconde partie comprenant une seconde extrémité de l'accessoire et au moins une autre plaque s'étendant à partir de la seconde extrémité, dans laquelle lorsque la première partie et la seconde partie sont connectées, au moins deux fentes sont formées entre ladite au moins une plaque et ladite au moins une autre plaque, les au moins deux fentes définissant une sortie de fluide pour l'accessoire.

[0045] Dans un mode de réalisation, l'appareil est un appareil de soins capillaires.

[0046] Dans un autre mode de réalisation, l'appareil est un appareil de coiffage à chaud tel qu'une brosse de coiffage à chaud.

[0047] L'invention va maintenant être décrite à l'aide d'exemples, en référence aux dessins annexés, dont :

- La figure 1a montre un exemple d'appareil selon l'invention ;
- La figure 1b montre une coupe transversale de l'appareil illustré à la figure 1a ;
- La figure 2a montre une vue éclatée de certains des composants de la poignée du dispositif de la figure 1a ;
- La figure 2b montre une section agrandie de l'entrée de fluide ;
- Les figures 3a et 3b montrent une vue isométrique et une section transversale isométrique à travers un premier accessoire selon l'invention ;
- Les figures 4a et 4b montrent une vue latérale et une coupe transversale de vue latérale à travers le premier accessoire ;
- Les figures 5a et 5b montrent des coupes transversales à travers le premier accessoire ;
- Les figures 6a et 6b montrent une vue isométrique et une vue latérale à travers un deuxième accessoire ;
- La figure 7a montre une vue isométrique à travers un autre accessoire ;
- Les figures 7b et 7c montrent une vue isométrique et une vue latérale à travers un autre accessoire ;
- La figure 8a montre une vue isométrique d'un cinquième accessoire ;
- La figure 8b montre une vue isométrique d'un sixième accessoire ;
- La figure 9 montre un assemblage en deux parties pour un accessoire ;
- Les figures 10a et 10b montrent une vue isométrique et une coupe isométrique à travers un autre accessoire non conforme à l'invention ;
- Les figures 11a, 11b et 11c montrent une vue latérale et une vue latérale en coupe de l'autre fixation ;
- Les figures 12a et 12b montrent des coupes transversales de l'autre accessoire dans une première position ;
- Les figures 13a et 13b montrent des coupes transversales de l'autre fixation dans une deuxième position ;
- La figure 14 montre schématiquement l'autre accessoire en cours d'utilisation ; et
- La figure 15a montre une vue isométrique d'un autre accessoire ;
- La figure 15b montre différents composants de l'autre accessoire ;
- La figure 15c montre les différents composants depuis l'extrémité d'entrée ;
- La figure 15d montre une coupe transversale à travers le côté de l'autre accessoire ;
- La figure 15e montre une coupe transversale à travers l'autre fixation ; et
- Les figures 16a et 16b montrent une chaussette alternative pour l'autre fixation.
- Les figures 1a et 1b montrent une brosse de coiffage à chaud 10 avec un manche 20 et une tête ou un accessoire détachable 30 qui est fixé à l'extrémité distale 22 du manche 20 à l'entrée de fluide 40.

[0048] La poignée 20 a une paroi extérieure 26 qui est généralement tubulaire et comprend l'entrée de fluide 40 au niveau et à proximité d'une extrémité 24. L'entrée de fluide 40 comprend un premier ensemble d'ouvertures 44 qui s'étendent radialement autour de la poignée 20 et le long de la paroi extérieure 26 de la poignée à partir de l'extrémité 24 de la poignée. L'extrémité de la poignée 24 est couverte par une paroi d'extrémité 42 qui est également perforée d'un second ensemble d'ouvertures 46 qui s'étendent à travers la paroi d'extrémité 42 de la poignée. Ainsi, l'entrée de fluide 40 s'étend autour, le long et en travers de la poignée 20. La paroi d'extrémité 42 est orthogonale à la paroi extérieure 26 et à une paroi intérieure 60 de la poignée.

[0049] La poignée 20 comprend également une unité de ventilation 70 qui comprend un ventilateur et un moteur qui entraîne le ventilateur et, en cours d'utilisation, aspire le fluide par l'entrée de fluide 40, le long d'un trajet d'écoulement de fluide 50 qui s'étend sur la longueur de la poignée 20. Le fluide est éventuellement chauffé par un élément chauffant 80 avant de pénétrer dans une cavité interne 38 de la tête 30.

[0050] La tête 30 comprend une sortie de fluide 100 qui, dans cet exemple, comprend des fentes parallèles 102 s'étendant chacune vers une seconde extrémité 36 de la tête et radialement autour de la tête 30. Cette disposition permet au fluide de sortir de la tête tout autour de la tête et sur la majorité de la longueur de la tête 30, ce qui maximise la zone de coiffage du produit.

[0051] Lors de l'utilisation, les cheveux sont enroulés autour de la tête 30 tandis que l'air ou le fluide sort par les fentes 102 pour sécher les cheveux et/ou les coiffer en boucles ou en ondulations. Les cheveux s'enroulent automatiquement grâce à l'écoulement de l'air autour de la surface de la tête 30. L'air ou le fluide peut être chauffé, mais ce n'est pas essentiel.

[0052] L'appareil est alimenté en électricité par un câble d'alimentation 48 qui s'étend de préférence à partir d'une prise ou d'une autre source d'alimentation à travers la paroi d'extrémité 42 de la poignée 20. La poignée 20 abrite également un circuit imprimé 75 qui est relié électriquement au câble 48, à l'unité de ventilation 70 et à l'appareil de chauffage 80 par un câblage interne (non représenté). Un interrupteur marche/arrêt 52 et des boutons de commande

54 sont prévus et connectés à la carte de circuit imprimé 75 pour permettre à l'utilisateur de sélectionner l'un des nombreux réglages de température et de débit.

[0053] La figure 2a représente une vue éclatée de différentes parties de la poignée 20 de manière plus détaillée. La poignée 20 est tubulaire et la paroi extérieure 26 de la poignée 20 est un manchon cylindrique réalisé par exemple à partir d'un tube extrudé ou d'une feuille laminée de métal tel que l'aluminium, un alliage d'aluminium ou un acier. La poignée est reliée à une tête 30 à une première extrémité 22 et à la seconde extrémité distale 24, une entrée de fluide 40 est prévue. L'entrée de fluide 40 est un premier moyen de filtrer le fluide qui entre dans le trajet d'écoulement de fluide 50.

[0054] L'entrée de fluide 40 comprend une pluralité d'ouvertures s'étendant autour, le long et en travers de la poignée 20. Le fait d'avoir une entrée qui s'étend en trois dimensions présente des avantages, en particulier lorsqu'elle est utilisée avec des appareils de soins capillaires. Tout d'abord, si l'appareil est placé sur une surface alors qu'il est allumé, seule une petite partie de la surface de l'entrée sera bloquée ou aura un écoulement limité du fluide dans l'appareil. Cela protège l'unité de ventilation et en particulier le moteur de l'unité de ventilation d'un fonctionnement avec un débit trop faible, car cela peut provoquer une surchauffe du moteur et l'endommager.

[0055] Deuxièmement, les appareils de soins capillaires sont souvent utilisés avec un produit coiffant tel qu'une mousse, un gel ou un spray. Ces produits sont généralement appliqués à la main ou directement sur les cheveux sous forme de brume. Après l'application manuelle, une partie du produit est retenue sur la peau et est ensuite transférée sur l'appareil lorsqu'il est tenu. Cela peut bloquer au moins certaines des ouvertures 44 qui s'étendent autour et le long de la poignée 20. Cependant, les ouvertures 46 qui s'étendent sous la poignée et à travers la paroi d'extrémité 42 de la poignée ne seront pas affectées. Lorsqu'un produit est appliqué sous forme de brouillard, il peut se déposer sur l'appareil et bloquer ou restreindre à nouveau au moins certaines des ouvertures de l'entrée de fluide 40. Cependant, en ayant des ouvertures qui s'étendent autour, le long et à travers la poignée 20, le risque de bloquer l'entrée de fluide 40 est réduit.

[0056] Les ouvertures sont de préférence circulaires et ont un diamètre de 0,2 à 1,6 mm. Le diamètre des ouvertures peut varier le long, autour et en travers de la poignée 20. Il est avantageux d'espacer régulièrement les ouvertures autour, le long et en travers de l'entrée de fluide 40. Non seulement cela est visuellement agréable mais cela présente également l'avantage technique qu'il n'y a pas de zone faible de l'entrée de fluide 40 où le blocage d'une partie est plus probable ou aurait plus d'impact sur l'écoulement dans l'entrée de fluide 40. L'entrée est conçue de manière à ce que l'écoulement dans l'entrée soit régulier au moins autour de la circonférence de la poignée 20.

[0057] Il est prévu un bloc de mousse 48 qui, en cours d'utilisation, est inséré dans la seconde extrémité 24 de la poignée 20. Le bloc de mousse 48 est un deuxième moyen de filtrer le fluide qui passe par l'entrée de fluide primaire 40 dans le trajet d'écoulement de fluide primaire 50. Il est avantageux que le bloc de mousse 48 s'étende au-delà ou plus loin vers la première extrémité 22 de la poignée que l'entrée de fluide primaire 40 car cela garantit que le fluide qui a pénétré dans l'entrée de fluide primaire 40 est passé à travers le bloc de mousse 48 et a donc subi deux étapes de filtration. En d'autres termes, le bloc de mousse 48 s'étend de la seconde extrémité 24 de la poignée 20 jusqu'à l'extrémité aval 44a de l'entrée de fluide.

[0058] Le bloc de mousse 48 représenté est cylindrique et remplit sensiblement la zone de la poignée 20 au niveau de l'entrée primaire de fluide 40. Ceci permet de s'assurer que tout le fluide qui entre dans l'entrée de fluide primaire par les premières ouvertures 44 qui s'étendent autour et le long de la poignée et le fluide qui entre par les secondes ouvertures 46 qui s'étendent à travers la paroi d'extrémité 42 de la poignée 20 passe par cette seconde étape de filtration. Le bloc de mousse 48 s'étend longitudinalement à partir de la seconde extrémité 24 de la poignée 20 plus loin que les premières ouvertures 42 de l'entrée de fluide primaire 40.

[0059] Les premières ouvertures 44 qui s'étendent le long et autour de la paroi extérieure 26 sont usinées, poinçonnées ou découpées au laser dans le tube ou la feuille de métal extrudé dont est formée la paroi extérieure 26.

[0060] La poignée 20 comporte une paroi extérieure 26 et une paroi intérieure 60, la paroi extérieure 26 glissant sur la paroi intérieure 60 pour former le produit fini. La paroi intérieure 60 est un conduit qui entoure et définit un trajet d'écoulement de fluide 50 à travers l'appareil. La paroi extérieure 26 comprend une partie saisissable et, dans ces exemples, comprend l'entrée de fluide 40 dans le trajet d'écoulement de fluide 50. Une couche isolante de matériau 28 est prévue à l'intérieur de la paroi interne 60. La couche isolante est une mousse ou un feutre et isole la poignée du bruit produit par l'unité de ventilation 70, de la chaleur produite par le fonctionnement de l'appareil, des vibrations provoquées par l'unité de ventilation et du bruit produit à l'intérieur de l'appareil par l'écoulement du fluide dans le trajet d'écoulement du fluide 50. La couche isolante absorbe l'énergie, y compris les bruits aériens.

[0061] La paroi intérieure 60 constitue un logement 62 dans lequel est disposée une unité de ventilation 70. Le logement 62 est cylindrique et possède un rebord 64, 66 faisant saillie vers l'intérieur, disposé à chaque extrémité du logement 62, qui maintient la position de l'unité de ventilation 70 à l'intérieur de la poignée 20. La paroi interne 60 est faite de deux parties : une première partie 60a et une seconde partie 60b qui est moulée séparément. Cela permet un assemblage plus facile de l'unité de ventilation 70 dans la poignée 20 qu'une paroi interne en une seule pièce. Une paire similaire de rebords 68, 72 faisant saillie vers l'intérieur maintient la position de l'appareil de chauffage 80 dans la poignée 20.

[0062] Bien que la paroi extérieure 26 de la poignée 20 ait été décrite comme étant fabriquée à partir d'un tube extrudé ou d'une feuille de métal laminée, d'autres méthodes de fabrication et matériaux pourraient être utilisés ;

ceux-ci comprennent, sans s'y limiter, un tube extrudé/moulé en plastique ou un tube composite tel qu'un plastique renforcé par des fibres de carbone.

[0063] La sortie de fluide 100 de la tête 30 va maintenant être décrite plus en détail, en se référant notamment aux figures 3a, 3b, 4a, 4b, 5a et 5b. La tête 30 est essentiellement cylindrique et présente une première extrémité 32 destinée à être raccordée à une poignée 20 et une seconde extrémité 36 distale par rapport à la première extrémité 32. La tête 30 s'étend longitudinalement de la première extrémité 32 à la seconde extrémité 26 en suivant une ligne décrite par le manche 20 (figure 1a) et a donc approximativement le même diamètre que le manche. Une cavité interne 38 se trouve à l'intérieur de la tête 30 et le fluide qui a été aspiré dans le trajet d'écoulement du fluide 50 à l'intérieur de la poignée 20 par l'unité de ventilation 70 entre dans la cavité interne 38 via une ouverture 302 dans la première extrémité 32 de la tête 30.

[0064] La sortie de fluide 100 est formée d'un certain nombre de fentes parallèles 102 qui s'étendent sur la longueur de la tête 30 de la première extrémité 32 à la seconde extrémité 36. Les fentes 102 sont formées à partir d'un chevauchement 120 (figure 5b) formé entre des plaques adjacentes 110, ce qui a pour effet de diriger le fluide entre une surface radialement intérieure 104 formée à partir de la surface extérieure 112 d'une première plaque 110a et une surface radialement extérieure 106 formée à partir de la surface intérieure 114 d'une seconde plaque 110b. Le fluide 122 s'écoulant par la fente 102 est tangentiel 130 à la surface extérieure 112 de la plaque 110a et rejoint le fluide s'écoulant par les autres fentes de la sortie de fluide 100 en formant un flux de fluide autour de la circonférence de la tête 30. Ainsi, le fluide 122 est soufflé le long de la surface externe de la tête et cela favorise l'enroulement automatique des cheveux autour de la tête 30.

[0065] Le fluide 122 sortant des fentes 102 est attiré vers la surface courbe de la tête 30 par l'effet Coanda. Ceci a pour effet que les cheveux présentés à la tête 30 s'enroulent automatiquement autour de la surface et sont ensuite coiffés en boucles. Comme l'air est soufflé sur toute la longueur des cheveux, les cheveux mouillés sont séchés plus rapidement que d'habitude et comme le processus d'enroulement se produit sans l'utilisation de poils, les cheveux peuvent glisser de la tête 30 une fois qu'ils sont secs ou coiffés, ce qui évite tout emmêlement.

[0066] Pour maintenir la taille de chaque fente 102, des entretoises 108 sont prévues. Dans cet exemple, une paire d'entretoises 108 est prévue pour maintenir la taille de chaque fente 102. Chacune de la paire d'entretoises 108 est espacée longitudinalement le long de la fente 102 et de la plaque 110. Les entretoises 108 relient les plaques 110 adjacentes.

[0067] Avantageusement, chaque plaque 110 est revêtue d'un matériau de type feutre 308 tel que du Kevlar ou de la laine (voir figure 3b). Le matériau 308 ne s'étend pas sur chaque fente 102 de sorte que le fluide sortant de la sortie de fluide 100 ne traverse pas la couche de matériau 308. Cette couche sert à absorber une partie du bruit produit par le fluide s'écoulant à travers la tête 30 depuis l'entrée de la tête 30 au niveau de l'ouverture 302 jusqu'à la sortie de fluide 100. Une telle couche de matériau 308 est également applicable à d'autres têtes décrites dans le présent document, telles que les têtes 130, 180 et 230.

[0068] Les figures 6a et 6b montrent une autre tête 130, toutes les caractéristiques identiques à celles décrites précédemment ont les mêmes numéros de référence. La tête 130 a un diamètre plus grand que le manche 20 et est donc utilisée pour créer des boucles plus larges. La tête 130 a une première extrémité 32 pour la connexion au manche 20 et elle a le même diamètre que le manche 20, à l'intérieur d'un col 132 de la tête 130, le diamètre de la tête 130 augmente jusqu'au plus grand diamètre avant la sortie de fluide 100 formée par les fentes 142 et continue ensuite à un diamètre constant jusqu'à la deuxième extrémité 136. Une cavité intérieure de fluide (non représentée) est plus grande que pour la tête 30 de la figure 3a. Dans cet exemple, le nombre de plaques 110 et de fentes 102 est le même, c'est-à-dire six, que pour la tête décrite par rapport à la figure 3a.

En variante, un nombre plus grand ou plus petit de plaques 110 et de fentes 142 pourrait être utilisé.

[0069] La figure 7a montre une autre tête 230. Cette tête 230 présente un diamètre réduit par rapport à la poignée 20. La première extrémité 32 a sensiblement le même diamètre que le manche 20 pour être raccordée à celui-ci, puis à l'intérieur d'une collerette 232, le diamètre de la tête 230 diminue jusqu'au diamètre réduit avant la sortie de fluide 200 formée par les fentes 202 et se poursuit à diamètre constant jusqu'à la deuxième extrémité 236. Cette tête 230 est utilisée pour créer des boucles plus serrées.

[0070] Les fentes 202 de cette tête s'étendent longitudinalement en ligne droite de la première extrémité 32 à la seconde extrémité 236 comme c'était le cas pour les fentes 102 des têtes 30, 130.

[0071] Dans un autre mode de réalisation, tel que représenté sur les figures 7b et 7c, une autre tête 280 comporte des fentes 282 qui s'incurvent autour de la tête 280 en formant un motif en spirale ou hélicoïdal autour de la tête 230. Les fentes 282 se courbent selon un angle α de 45° par rapport à l'axe longitudinal A-A de la poignée 20 et de la tête 280. Dans cet exemple, les fentes 282 s'incurvent dans le sens des aiguilles d'une montre depuis la première extrémité 34 de la tête 280 vers la seconde extrémité 236 de la tête. Les fentes 282 sont formées comme précédemment entre les plaques 210 adjacentes qui se chevauchent ; cependant, afin de former les fentes incurvées 282, les plaques 210 ne s'étendent pas le long de l'axe longitudinal de la tête 280 mais s'incurvent également selon un angle de 45°. L'utilisation de fentes inclinées modifie le profil du fluide sortant de la tête. Le flux d'air sortant des fentes est plus normal à la fente lorsque des fentes angulaires sont utilisées. Ceci présente des avantages, notamment celui de permettre d'enrouler plus de cheveux autour de la tête, et de retenir plus facilement les cheveux sur la tête, ce qui permet un processus de coiffage potentiellement plus rapide.

[0072] Les fentes peuvent être courbées dans le sens des aiguilles d'une montre ou dans le sens inverse à partir de l'axe longitudinal A-A de la poignée 20. Bien qu'un angle de 45° ait été illustré, l'emballage est amélioré même avec un angle de 1°.

[0073] La figure 8a montre une tête 180 qui a sensiblement le même diamètre que le manche 20. Les fentes 182 sont incurvées ou spiralées autour de la tête 180 de la même manière que la tête 280.

[0074] La figure 8b montre une tête 380 dont le diamètre est supérieur à celui du manche, et qui est similaire à la tête 130, sauf qu'elle comporte des fentes incurvées ou en spirale 382 autour de la tête 380.

[0075] Les figures 9a et 9b montrent un mode d'assemblage de la tête 30. Une première partie 150 est formée à partir de la première extrémité 32 et comporte un collier 152 et un premier ensemble de plaques 154 qui sont jointes au collier 152 ou formées d'un seul tenant avec celui-ci. Une deuxième partie 160 est formée à partir de la deuxième extrémité 36 et comporte une paroi d'extrémité 162 et un deuxième ensemble de plaques 164 qui sont jointes à la paroi d'extrémité 162 ou formées d'un seul tenant avec elle. Le premier jeu de plaques 154 et le second jeu de plaques 164 comprennent chacun des plaques non adjacentes 110 permettant à la première partie 150 et à la seconde partie 160 d'être fendues ensemble pour former la tête 30. Entre chacun des premiers jeux de plaques 154, un évidement 156 est prévu dans l'anneau de liaison 152 adapté pour recevoir l'extrémité distale 164a du second jeu de plaques 164 depuis la paroi d'extrémité 162. Un ensemble similaire d'évidements 166 est prévu dans la paroi d'extrémité 162 et est adapté pour recevoir l'extrémité distale 154a du premier ensemble de plaques du collier 32.

[0076] Afin de retenir la première partie 150 et la deuxième partie 160 de la tête 30 à l'état assemblé, un trou de vis en saillie 168 est prévu. Près de l'extrémité distale 154a du premier ensemble de plaques 154, un échafaudage de support 170 est prévu et il a deux fonctions. Une première fonction est de supporter le premier ensemble de plaques 154 et de maintenir leurs positions relatives vers l'extrémité distale 154a et une seconde fonction est de fournir une partie du mécanisme de fixation. Dans cet exemple, l'échafaudage de support 170 présente une ouverture centrale 172 à travers laquelle passe le trou de vis en saillie 168 lors de l'assemblage de la tête 30a et une vis, par exemple, peut être insérée pour fixer les deux parties 150, 160 de la tête ensemble.

[0077] Les figures 15a, 15b, 15c, 15d et 15e montrent une tête 400 dont toutes les caractéristiques identiques à celles décrites précédemment ont les mêmes numéros de référence. Cette tête 400 présente un diamètre réduit par rapport au manche 20. Les fentes 102 s'étendent longitudinalement de la première extrémité 32 à la seconde extrémité 236, cependant les fentes pourraient être incurvées comme décrit en regard des figures 7a et 7b.

[0078] A l'intérieur de la tête 400, à l'intérieur de la cavité 418 formée dans la tête 400, une chaussette interne 420 est prévue. Cette chaussette 420 est une maille formée à partir d'un fil métallique. La chaussette 420 peut se présenter sous la forme tricotée 426 représentée sur la figure 15b. En variante, comme illustré sur les figures 16a et 16b, la chaussette 420 est un tube 424 formé à partir d'un maillage tissé 422 présentant des ouvertures généralement carrées.

[0079] La chaussette 420 diffuse le fluide s'écoulant dans la cavité 418 à l'intérieur de la tête 400 et ralentit la vitesse longitudinale de l'écoulement. Il en résulte un enroulement plus régulier des cheveux autour de la tête 400 car la direction du fluide sortant de la tête 400 est plus normale aux fentes 102. La chaussette 420 s'étend sur la longueur des fentes 102 à l'intérieur de la tête 400. La taille des ouvertures dans la maille est importante ; si elles sont trop petites, le flux devient trop restreint et il y a un risque accru qu'elles se bouchent avec le temps. Une taille d'ouverture d'environ 1,6 mm a été trouvée pour fournir l'avantage sans restriction excessive.

[0080] Les figures 10a, 10b, 11a-11c et 12 montrent différentes vues d'une tête 300, non conforme à l'invention, qui présente un écoulement de fluide dirigé. La tête 300 comporte une première partie cylindrique 310 et une deuxième partie triangulaire 330 qui forment ensemble la sortie de fluide 320.

[0081] La deuxième partie triangulaire 330 a une première extrémité 312 pour la connexion à une poignée 20 via un collier 328 et s'étend longitudinalement jusqu'à une deuxième extrémité 314 La première partie cylindrique 310 a une ouverture 322 s'étendant d'une première extrémité 378 à une deuxième extrémité qui est définie par la paroi d'extrémité 316. L'ouverture 322 est définie par un premier bord 324 et un second bord 326. Une cavité intérieure 318 est formée à l'intérieur de la tête 300 lorsque la deuxième partie triangulaire 330 est glissée dans la première partie cylindrique 310. La première extrémité 278 de la première partie cylindrique 310 bute contre une extrémité aval du collier 328 et la seconde extrémité 314 de la seconde partie triangulaire 330 bute contre la paroi d'extrémité 316 lorsque la fixation est formée.

[0082] La deuxième partie triangulaire 330 a une première extrémité 332 et une deuxième extrémité 334 et est formée d'un premier côté 336, d'un deuxième côté 338 et d'une paroi interne 340. La deuxième partie triangulaire 330 s'insère dans l'ouverture 322 et s'étend vers l'extérieur au-delà de la première partie cylindrique 310.

[0083] La deuxième partie triangulaire 330 est mobile par rapport à la première partie cylindrique 310. Dans cet exemple, la deuxième partie triangulaire 330 est fixe par rapport à la poignée 20 et la première partie cylindrique 310 est mobile par rapport à la fois à la deuxième partie triangulaire 330 et à la poignée 20. Ainsi, la fente de sortie 342 peut être partiellement définie par l'un ou l'autre du premier bord 324 et du deuxième bord 326.

[0084] Dans une position, en se référant maintenant aux figures 12a et 12b, le premier bord 324 ainsi qu'un premier côté 336 de la deuxième partie triangulaire 330 définissent les limites de la fente de sortie 342. La deuxième partie triangulaire 330 se déplace par rapport à la première partie cylindrique 310 de sorte que la fente de sortie 342 est alternativement définie par le deuxième bord 326 et le deuxième côté 338, comme illustré sur les figures 13a et 13b.

[0085] La deuxième partie triangulaire 330 tourne par rapport à la première partie cylindrique 310 afin de modifier la position de la fente de sortie 342. La première partie cylindrique 310 est temporairement retenue dans une position par l'utilisation d'un mécanisme de détente.

[0086] La paroi d'extrémité 316 de la première partie cylindrique 310 comprend un premier évidement 340 et un second évidement 350, chacun étant adapté pour recevoir partiellement un roulement à billes 360. Le roulement à billes 360 est poussé vers la paroi d'extrémité 316 par un ressort 362 (voir figure 11b). Il existe un certain nombre d'alternatives appropriées qui pourraient être utilisées à la place de cette méthode de retenue d'une partie par rapport à l'autre partie, telles qu'une bosse en plastique ou une pièce métallique à ressort.

[0087] En se référant maintenant aux figures 12a et 12b, lorsque la deuxième partie triangulaire 330 est dans une première position par rapport à la première partie cylindrique 310, la fente de sortie 342 est formée à partir du premier côté 336 et du premier bord 324 et le roulement à billes 360 est logé par le premier évidement. En faisant tourner manuellement la deuxième partie triangulaire 330 par rapport à la première partie cylindrique 310, la force du ressort 362 retenant le roulement à billes 360 dans le premier évidement 340 est surmontée et la deuxième partie triangulaire 330 peut être tournée par rapport à la première partie cylindrique 310 pour déplacer le roulement à billes 360 dans le deuxième évidement 350 et changer la position de la fente de sortie 328 de sorte qu'elle est maintenant formée par le deuxième bord 326 et le deuxième côté 338.

[0088] La première partie cylindrique 310 comprend des poils 350 disposés dans cet exemple en rangées parallèles 352 de part et d'autre de l'ouverture 322. Les rangées 352 de poils 350 s'étendent depuis la proximité de la fente de sortie 342 autour de la tête 300 mais dans cet exemple les poils 350 ne s'étendent pas tout autour de la tête 300, il y a un espace dans les rangées 352 diamétralement opposé à la fente de sortie 320.

[0089] En se référant maintenant à la figure 14, lorsque les cheveux 354 sont coiffés, l'action de tirer les poils 350 vers le bas à travers les cheveux 354 ouvre la fente de sortie 342 sur le côté proche des cheveux 354. La position de la fente de sortie 342 peut être déplacée à la main ou par la friction ou la force du peignage des cheveux.

[0090] L'utilisation d'une combinaison d'une fente de sortie dirigée 342 et de poils 350 signifie que les cheveux sont séchés et/ou coiffés plus rapidement que de manière conventionnelle car le fluide sortant de la fente de sortie 342 est soufflé le long des cheveux 354. Le fluide sortant de la fente de sortie 342 est attiré par la surface de la deuxième partie triangulaire 330 qui attire à son tour les cheveux 354 vers la deuxième partie triangulaire 330. Les poils 350 séparent et démêlent les mèches individuelles des cheveux 354 et cette combinaison permet un séchage rapide et un résultat plus doux.

[0091] En utilisation, comme le montre la figure 14, cette tête est conçue pour être tirée à travers les cheveux avec la fente 328 adjacente aux cheveux 354. Le fluide est expulsé de la fente 328 lorsque l'appareil est déplacé le long des cheveux 354, de sorte que les cheveux sont à la fois chauffés et brossés. Le fait d'avoir la fente 328 de chaque côté de la tête 356 signifie que la même tête 300 peut être utilisée pour les deux côtés de la tête et pour le dessous et le dessus des cheveux 354.

[0092] Dans chacun des exemples donnés, la tête 30, 130, 180, 230, 300 est reliée à la poignée 20 par l'intermédiaire d'un collier et d'un joint à verrouillage rotatif. En se référant à la figure 7b, trois saillies 234 sont prévues sur la surface interne du collier 232 (une non représentée). Les saillies 234 sont adaptées pour s'engager dans une fente 90 (voir figure 1b) ou dans trois fentes séparées prévues près de l'extrémité distale 22 de la poignée 20. La fente 90 s'étend au moins partiellement autour d'une surface extérieure de la paroi interne 60 et est hélicoïdale, de sorte qu'un mouvement à la fois rotatif et longitudinal est nécessaire pour fixer ou retirer la tête de la poignée 20. Ceci est un exemple de mécanisme de fixation, il sera évident pour l'homme du métier que d'autres mécanismes alternatifs tout aussi acceptables pourraient être utilisés.

[0093] Les têtes 30, 130, 180 et 230 décrites en relation avec les figures 3a à 9 pourraient être munies de poils. Pour ces têtes 30, 130, 180 et 230, les fentes étant disposées tout autour de la tête, les poils seraient disposés tout autour de la tête. Un exemple serait d'avoir une ou plusieurs rangées de poils situées au moins sur une plaque sur deux 110, 210.

[0094] L'invention a été décrite en détail en ce qui concerne une brosse de coiffure chaude, mais elle est applicable à tout appareil qui aspire un fluide et dirige l'écoulement de ce fluide à partir de l'appareil, y compris un sèche-cheveux.

[0095] L'appareil peut être utilisé avec ou sans chauffage ; l'action de l'écoulement du fluide à grande vitesse a un effet de séchage.

[0096] Les têtes ont été décrites comme étant fabriquées en fixant une première partie à la seconde partie à l'aide d'une vis ; cependant, comme le sait l'homme du métier, un certain nombre de méthodes de fixation différentes peuvent être utilisées, telles que, sans s'y limiter, le collage ou le soudage par ultrasons.

[0097] Le fluide qui circule dans l'appareil est généralement de l'air, mais peut être une combinaison différente de gaz ou de gaz et peut inclure des additifs pour améliorer les performances de l'appareil ou l'impact de l'appareil sur un objet vers lequel la sortie est dirigée, par exemple, les cheveux et le coiffage de ces cheveux. De tels additifs comprennent, sans s'y limiter, des laques et des sérums par exemple.

[0098] Les têtes 30, 130, 230 sont toutes de forme généralement cylindrique, mais comme l'homme du métier s'en rendra compte, d'autres formes non conformes à l'invention pourraient être utilisées, comme des ovales.

Revendications

1. Accessoire (30, 130, 180, 230) pour un appareil portable comprenant une entrée à une première extrémité (32) ;

une sortie (100, 200) ;

et un trajet d'écoulement de fluide entre l'entrée et la sortie, l'accessoire étant généralement cylindrique et dans lequel la sortie (100, 200) comprend au moins une fente (102, 182, 202, 282) s'étendant depuis la proximité de la première extrémité (32) de l'accessoire en direction d'une extrémité distale (36) de l'accessoire, dans lequel l'au moins une fente (102, 182, 202, 282) s'étend sensiblement sur la longueur de l'accessoire et dans lequel la sortie (100, 200) est au moins en partie définie par une surface externe de l'accessoire, caractérisé en ce que la sortie est conçue pour diriger un fluide émis depuis la sortie (100, 200) de façon tangentielle autour de la surface externe de l'accessoire.

2. Accessoire selon la revendication 1, dans lequel la sortie (100, 200) comprend une pluralité de fentes espacées radialement autour de l'accessoire.

3. Accessoire selon l'une quelconque des revendications précédentes, dans lequel la sortie (100, 200) comprend deux fentes.

4. Accessoire selon l'une quelconque des revendications précédentes, l'accessoire possédant un axe longitudinal (A-A) s'étendant depuis la première extrémité vers l'extrémité distale (36) et l'au moins une fente (102) étant parallèle à l'axe longitudinal.

5. Accessoire selon l'une quelconque des revendications 1 à 4, l'accessoire possédant un axe longitudinal (A-A) s'étendant depuis la première extrémité vers l'extrémité distale (36) et l'au moins une fente (90) n'étant pas parallèle à l'axe longitudinal.

6. Accessoire selon la revendication 5, dans lequel l'au moins une fente est hélicoïdale par rapport à l'axe longitudinal.

7. Accessoire selon l'une quelconque des revendications précédentes, comprenant en outre un élément de guidage de l'écoulement entre l'entrée et la sortie.

8. Accessoire selon la revendication 7, dans lequel l'élément de guidage de l'écoulement s'étend sensiblement sur la longueur de l'au moins une fente.

9. Accessoire selon l'une quelconque des revendications 7 et 8, dans lequel l’élément de guidage de l'écoulement s'étend sensiblement autour d'une circonférence interne de l'accessoire.

10. Appareil portable comprenant une poignée (20) ayant un trajet d'écoulement de fluide depuis une entrée (40) vers une sortie et une unité ventilateur (70) destinée à aspirer un fluide dans l'entrée de fluide et un accessoire destiné à être fixé à la poignée (20), l'accessoire étant selon l'une quelconque des revendications précédentes.

Numéro de suivi
AR870007464426 21A

Lettre **Recommandée**
AVIS DE RÉCEPTION

LA POSTE

Présentée, avisée le : **13/03/2023**
Distribuée le : **13/03/2023**

Nom du destinataire ou de son mandataire :
Sharkninja France

Signature du destinataire ou de son mandataire :

EMMANUEL

Pièce d'identité présentée :

Identifiant facteur : cEFMSDAyNjIwMjMtMDMtMTNUMTA6MzE6MjErMDE6MDA=

Conservez cet avis de réception, il sera nécessaire en cas de réclamation. Cette preuve doit être conservée sous la forme sous laquelle elle vous a été transmise. Les conditions spécifiques de vente de la Lettre recommandée sont disponibles sur le site **www.laposte.fr**

Destinataire de la lettre recommandée

SHARKNINJA FRANCE
co Emergence Monsieur le Directeur
121 RUE D AGUESSEAU
92100 BOULOGNE BILLANCOURT

Renvoyer à l'adresse ci-dessous

M. Valentin Frank
27 RUE LAFFITTE
DLA PIPER FRANCE LLP
75009 PARIS

ECOLOGIC
Priorité neutralité carbone
laposte.fr/neutralitecarbone

DLA Piper France LLP
27, rue Laffitte
75009 PARIS
France
T: +33 (0)1 40 15 24 00
F: +33 (0)1 40 15 24 01
dlapiper.com

Toque R235

SharkNinja France
c/o Emergence
121 Rue d'Aguesseau
92100 Boulogne-Billancourt

Our reference
FV/CM
CME/CME/398223/388
FRM/10780005.1

Registered letter with acknowledgement of receipt

Paris, 8 March 2023

Re: Imminent infringement of patent EP 3 119 234

Mr Director,

We represent the interests of Dyson Technology Limited, a company incorporated in England, whose registered office is at Tetbury Hill, Malmesbury, Wiltshire SN16 0RP, United Kingdom ("Dyson").

Our client is part of the Dyson Group, a global technology company that manufactures and markets high-quality hair care appliances.

Dyson is the owner of European patent EP 3 119 234 granted on 17 November 2021, filed on 6 March 2015, claiming English priorities GB 201404985 and GB 201404982, both dated 20 March 2014.

This patent protects a "portable device accessory" and is taking effect in France.

Claim 1 relates to *an attachment for a portable device comprising an inlet at a first end; an outlet and a fluid flow path between the inlet and the outlet, the attachment being generally cylindrical and wherein the outlet comprises at least one slot extending from adjacent the first end of the fitting towards a distal end of the attachment, wherein at least one slot extends substantially the length of the attachment and wherein the outlet is at least in part defined by an external surface of the attachment, characterised in that the outlet is arranged to direct fluid emitted from the outlet tangentially around the external surface of the attachment*.

In turn, claim 10 protects a *Portable Apparatus comprising a handle having a fluid flow path from an inlet to an outlet and a fan unit for drawing fluid into the fluid inlet and an attachment for attachment to the handle, the attachment being according to any one of the preceding claims.*

For your information, you will find a copy of this title attached to this letter.

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Paris switchboard
+33 (0)1 40 15 24 00

Our client attention has been drawn to the announcement on the website www.sharkclean.fr of the forthcoming availability on the French market of the product Shark FlexStyle. This product is a hairdryer combining 5 accessories, 2 of which are designated as "curlers".

This accessory is represented in Shark's French range and is called the "Coanda effect curler":



FlexStyle - Champagne [HD440SLEU]

★★★★★ 5.0 (1) Rédiger un avis

299,99 €

Bientôt disponible ! Inscrivez-vous à la liste d'attente ci-dessous pour être informé.e de son lancement.

Profitez-en : jusqu'au 12 mars à 23h59, vous pouvez remporter l'un des 10 FlexStyle mis en jeu ! Pour participer, cliquez sur le lien.

- **Pivote à 180° pour sécher ou styliser** – transformez votre routine avec un séchage puissant et rapide et un coiffage polyvalent
- **5 accessoires :** Boucleurs à effet Coanda, brosse plate, brosse ovale, concentrateur et diffuseur
- **Stylisez et séchez en un seul geste, sans dommages thermiques**
- Idéal pour tous les types de cheveux
- Des cheveux plus doux et brillants, avec **moins de frisottis et de mèches rebelles***
- Léger et polyvalent, **idéal en voyage**
- **Comprend un coffret de rangement**
- Couleur : Champagne

Our client believes that the placing on the market, offering for sale and sale in France of the FlexStyle appliance with its two "Coanda effect curler" accessories would infringe Dyson's patent rights under Article L. 613-3 of the French Intellectual Property Code, which provides that :

> *"The following are prohibited without the consent of the patent owner:*
>
> *(a) Manufacturing, offering, placing on the market, using, importing, exporting, transhipping or holding for the aforementioned purposes the product which is the subject of the patent".*

As the FlexStyle product has not yet been launched in France, Dyson has informed SharkNinja Germany and SharkNinja Europe Limited, whose contact details appear on the packaging of the FlexStyle product currently sold outside France, of the imminent infringement of its rights.

Insofar as your company, given its corporate purpose, could also be involved, we believe it would be useful to advise you of this as well, and formally put you on notice to :

- refrain from placing on the market, importing and using in France the FlexStyle hair dryer referenced HD 440SLEU or any other reference, equipped with any Coanda effect curler infringing claims 1 and 10 of patent EP 3 119 234 belonging to Dyson;

- remove from all websites that you directly or indirectly administer and social media accounts that you manage, as well as from any other physical or electronic medium of any nature whatsoever, any offer to sell or announcement of the forthcoming launch in France of the FlexStyle hairdryer equipped with such loopers.

On the other hand, Shark may launch a hairdryer in France with any other accessories, provided that the Coanda-effect curlers are removed from the packaging.

This letter does not imply any waiver by our customer of all or part of its rights and actions in any jurisdiction, in particular with regard to all of the uses referred to above.

In accordance with the rules of our profession, we are of course at your counsel's disposal to discuss the terms of this letter.

Yours sincerely

Frank Valentin
Avocat à la Cour, Partner

frank.valentin@dlapiper.com

DLA Piper France LLP

Cédric Meiller
Barrister, Senior Associate

Cedric.meiller@dlapiper.com

DLA Piper France LLP

PJ. French translation of the Booklet of the patent invoked EP 3 119 234

EXHIBIT G

KIM & CHANG
김·장 법률사무소

서울특별시 종로구 사직로8길 39 (우) 03170
Website: www.kimchang.com E-mail: lawkim@kimchang.com
전화: 02)3703-1114 팩스: 02)737-9091/9092

2023년 6월 1일

내용 증명 우편

수 신 : ㈜코스모앤컴퍼니
서울특별시 강남구 테헤란로 238, 9 층 (역삼동, 마크로젠빌딩)
대표이사 김석근
전화번호 02-6201-6825

이 우편물은 2023-06-01
제 3100253032322호에 의하여
내용증명우편물로 발송하였음을 증명함
광화문우체국장
대한민국 KOREA

발 신 : 김 ·장 법률사무소
서울특별시 종로구 사직로 8 길 39 (내자동)
변호사 장덕순

다이슨 테크놀러지 리미티드의 대리인
영국 윌트셔 에스엔 16 0 알피 멜메스버리 테트버리힐

제 목 : 대한민국 특허 제 2143436 호 및 2179911 호에 대한 안내의 건

광화문 2023 0

1. 저희는 다이슨 테크놀러지 리미티드(dyson technology limited)(이하, "**다이슨**")의 위임을 받아 귀사에 본 서신을 보냅니다.

2. 다이슨은 영국의 대표적인 가전기업으로서, 다이슨 디지털 모터라는 혁신적인 모터를 개발하였고, 전세계에서 먼지 봉투 없는 진공청소기, 무선청소기, 날개 없는 선풍기는 물론, 다이슨 슈퍼소닉™ 헤어 드라이어(Dyson Supersonic™ Hair Dryer) 및 다이슨 에어랩™ 스타일러(Dyson Airwrap™ Styler) 등의 모발 케어 기구와 같은 혁신적인 가전 제품을 개발, 제조 및 판매함으로써 글로

벌 가전 시장의 혁신을 주도하고 있는 회사입니다.

3. 이러한 혁신적인 기술 개발을 통해 다이슨은 세계 각국에서 모발 케어 기구 관련 특허권을 다수 보유하고 있습니다. 특히, 다이슨 에어랩™ 스타일러 (Dyson Airwrap™ Styler) 제품은 2020 년 8 월 5 일 등록된 특허 제 2143436 호(이하, "**본건 특허 1**") 및 2020 년 11 월 11 일 등록된 특허 제 2179911 호(이하, "**본건 특허 2**")가 적용된 제품입니다(첨부 1 및 2 참조).

4. 그런데 다이슨은 최근 귀사가 본건 특허 1 및 2 의 기술적 특징을 채용한 "샤크 플렉스타일 헤어스타일러 컴팩트" 및 "사크 플렉스타일 헤어스타일러 풀패키지" 제품(이하, "샤크 플렉스타일 제품")을 수입하여 아래 GS 샵 홈페이지를 통하여 판매하고 있다는 사실을 알게 되었습니다(첨부 3 참조).

5. 또한, 다이슨은 귀사가 2023 년 6 월 1 일 라이브 커버스 방송 및 2023 년 6 월 4 일 홈쇼핑을 방송을 통해 샤크 플렉스타일 제품을 판매할 예정이라는 사실도 알게 되었습니다(첨부 4 참조).

6. 다이슨은 귀사가 판매 중인 샤크 플렉스타일 제품을 살펴본 결과, 본건 특허 1 및 2 의 전부 또는 일부 청구항들의 구성을 그대로 구비하고 있다고 판단하고 있습니다. 따라서 위 제품을 수입 및/또는 판매하는 귀사의 행위는 특허법상의 특허 침해 행위에 해당하며, 그러한 침해행위에 대하여 귀사는 민·형사상 법적 책임을 지게 될 수 있습니다. 다이슨은 독일 등 유럽에서도 본건 특허 1 및 2 에 상응하는 유럽특허 EP3119234 호의 특허침해를 이유로 샤크 플렉스타일 제품에 대한 법적 조치를 취하고 있는 상황입니다.

7. 다이슨은 본 사안이 복잡한 법률 분쟁으로 확대됨 없이 원활하게 해결되기를 진심으로 바라면서, 귀사가 다음의 사항을 이행해주실 것을 요청합니다.

가. 본건 특허 1 및 2 의 존속 기간이 만료될 때까지 샤크 플렉스타일 제품의 한국 내 모든 수입 및 판매 행위를 즉시 중단하고, 2023 년 6 월 1 일 밤 9 시 GS 샵에서 판매가 예정된 라이브 커머스 '샤피라이브' 방송 및 2023 년 6 월 4 일 저녁 8 시 35 분 TV 홈쇼핑 '샵라이브' 방송을 즉시 취소해 주시기 바랍니다..

나. 귀사가 현재까지 1) 수입한 샤크 플렉스타일 제품의 수량, 수입 가격, 수입액, 수입 기간, 2) 판매한 샤크 플렉스타일 제품의 수량, 판매 가격, 판매액, 판매기간 및 3) 재고 수량 및 재고액, 4) 샤크 플렉스타일 제품을 제조하여 귀사에 수출한 회사의 이름, 연락처 및 각 제조 회사별 판매 수량을 문서로 다이슨에 알려주시기 바랍니다.

다. 다이슨의 직원 또는 다이슨이 지정하는 대리인의 입회 하에 귀사의 사업장, 창고 등에 현재 보관되어 있는 샤크 플렉스타일 제품을 확인할 수 있도록 조치해 주시기 바랍니다.

8. 위에서 요청한 "2023 년 6 월 1 일 밤 9 시 GS 샵에서 판매가 예정된 라이브 커머스 '샤피라이브' 방송 및 2023 년 6 월 4 일 저녁 8 시 35 분 TV 홈쇼핑 '샵라이브' 방송 즉시 취소"는 곧바로 이행해 주시고, 나머지 요청사항들에 대해서는 본 서신을 수령하신 날로부터 7 일 이내에 본 서신에 대한 귀사의 입장을 정리한 회신을 보내 주시기 바랍니다. 만약, 귀사가 다이슨의 상기 요구사항들을 무시하고 지적재산권 침해행위를 계속한다면, 다이슨은 적절한 법적 조치를 취할 수 밖에 없다는 점을 양지하시기 바랍니다.

9. 본 서신 및 회신과 관련하여 궁금하신 사항이 있는 경우 언제든지 다이슨의 대리인인 저희에게 연락 주시기 바라며, 귀사의 성의 있는 회신을 기다리겠습니다.

다이슨을 대리하여

김·장 법률사무소

변호사 장덕순 (전화: 02-3703-1830)

변리사 최규완 (전화: 02-2122-3594)

[첨부]

첨부 1: 대한민국 특허 제 2143436 호 공보 사본

첨부 2: 대한민국 특허 제 2179911 호 공보 사본

첨부 3: GS 샵 홈페이지에 게재된 제품 관련 사진

첨부 4: 2023.5.30. 08:43 전자신문 뉴스 사진

EXHIBIT H

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

25227 7590 05/10/2021

MORRISON & FOERSTER LLP
2100 L STREET, NW
SUITE 900
WASHINGTON, DC 20037

EXAMINER
GILL, JENNIFER FRANCES

ART UNIT	PAPER NUMBER
3772	

DATE MAILED: 05/10/2021

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/656,357	03/12/2015	Alasdair Michael MACLAINE	42466-20933.00	9085

TITLE OF INVENTION: ATTACHMENT FOR A HAND HELD APPLIANCE

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	$1200	$0.00	$0.00	$1200	08/10/2021

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: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (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)

25227 7590 05/10/2021
MORRISON & FOERSTER LLP
2100 L STREET, NW
SUITE 900
WASHINGTON, DC 20037

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 transmitted to the USPTO via EFS-Web or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/656,357	03/12/2015	Alasdair Michael MACLAINE	42466-20933.00	9085

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nonprovisional	UNDISCOUNTED	$1200	$0.00	$0.00	$1200	08/10/2021

EXAMINER	ART UNIT	CLASS-SUBCLASS
GILL, JENNIFER FRANCES	3772	132-271000

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 03-09 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 _____
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 must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). 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. Fees submitted: ❑ Issue Fee ❑ Publication Fee (if required) ❑ Advance Order - # of Copies _____

4b. Method of Payment: *(Please first reapply any previously paid fee shown above)*

❑ Electronic Payment via EFS-Web ❑ Enclosed check ❑ Non-electronic payment by credit card (Attach form PTO-2038)

❑ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

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 forms 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: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

SharkNinja Ex. 1012
Page 198 of 442

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MORRISON & FOERSTER LLP
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SUITE 900
WASHINGTON, DC 20037

EXAMINER	
GILL, JENNIFER FRANCES	
ART UNIT	**PAPER NUMBER**
3772	

DATE MAILED: 05/10/2021

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

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

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.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B 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 30 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. 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.

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.** 14/656,357	**Applicant(s)** MACLAINE, Alasdair Michael	
	Examiner JENNIFER GILL	**Art Unit** 3772	**AIA (FITF) Status** Yes

-- 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 appeal brief filed 12/22/20 & interview 4/9/21.
   ☐ 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 1,3,5,7-17,19,21 and 23-38 . 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. ☐ Notice of References Cited (PTO-892)
2. ☑ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 7/14/20.
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.
4. ☑ Interview Summary (PTO-413), Paper No./Mail Date. 4/9/21.
5. ☑ Examiner's Amendment/Comment
6. ☑ Examiner's Statement of Reasons for Allowance
7. ☐ Other _____.

/JENNIFER GILL/ EXAMINER, Art Unit 3772	/YOGESH P PATEL/ Primary Examiner, Art Unit 3772

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement(s) (IDS) submitted on 7/14/20 was/were filed in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement(s) has/have been considered by the examiner.

Election/Restrictions

Claim(s) 1, 3, 5, 7-16, and 36-38 (as amended below) is/are allowable. The restriction requirement between the appliance and attachment combination and the attachment, as set forth in the Office action mailed on 9/16/16, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim. Claim(s) 17, 19, 21, and 23-35**, directed to the appliance in combination with the attachment of claim 1 is no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See In re Ziegler, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in an interview with Christopher Gloria on 4/9/21.

The application has been amended as follows:

Claim 1:

Line 4-5: replace "towards a distal" with ---continuously from the proximal first portion to a distal---.

Line 11: replace "a length" with ---an entire length---.

Claim 17:

Line 2: replace "handle inlet" with ---a handle inlet---.

Line 6-7: replace "towards a distal" with ---continuously from the proximal first portion to a distal---.

Line 12: replace "the wall" with ---the substantially contiguous wall---.

Line 12: replace "a length" with ---an entire length---.

Claims 36-38:

Line 1: replace "The appliance of claim" with ---The attachment of claim---.

Allowable Subject Matter

Claim(s) 1, 3, 5, 7-17, 19, 21, and 23-38, as amended above, is/are allowed.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The claims in the instant invention have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose or, in combination, make obvious the invention set forth in **claims 1 and 17**. No prior art of record discloses or, in combination, makes obvious the attachment comprising an inlet at a proximal first portion of the attachment; an outlet in a cylindrical second portion of the attachment; and a fluid flow path between the inlet and the outlet, wherein the outlet in the cylindrical second portion of the attachment comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment, wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment and is configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion, wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot, and wherein the distal end of the attachment is closed.

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

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER GILL whose telephone number is (571)270-1797. The examiner can normally be reached on Mon-Thurs 10am-6pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at http://www.uspto.gov/interviewpractice.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacqueline Johanas can be reached on 571-270-5085. 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 https://ppair-my.uspto.gov/pair/PrivatePair. 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.

/JENNIFER GILL/
EXAMINER, Art Unit 3772
/YOGESH P PATEL/
Primary Examiner, Art Unit 3772

EXHIBIT I

Docket No.: 424662093300
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Alasdair Michael MACLAINE

Application No.: 14/656,357 | Confirmation No.: 9085

Filed: March 12, 2015 | Art Unit: 3776

For: ATTACHMENT FOR A HAND HELD APPLIANCE | Examiner: Jennifer Frances Gill

AMENDMENT UNDER 37 C.F.R. 1.111

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

Dear Sir:

In response to the Office Action mailed August 9, 2017, the period for response having been extended one (1) month to December 11, 2017, and pursuant to action on the Request for Continued Examination filed concurrently herewith, please amend this application as follows.

Amendments to the claims begin on page 2 of this paper.

Remarks begin on page 6 of this paper.

AMENDMENTS TO THE CLAIMS

1. (Currently Amended) An attachment for a hand held appliance comprising an inlet; an outlet; and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment, [[and]] wherein the outlet is at least partially defined by an external surface of the attachment and is configured to direct fluid flow emitted from the outlet along and around the external surface of the attachment, and wherein the external surface of the attachment forms an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot.

2. (Canceled)

3. (Original) The attachment of claim 1, wherein the outlet comprises a plurality of slots radially spaced around the attachment.

4. (Original) The attachment of claim 1, wherein the fluid emitted from the outlet is tangential to the external surface of the attachment.

5. (Previously Presented) The attachment of claim 1, wherein the attachment is configured so that, in use, the fluid emitted from the outlet is attracted to the surface of the attachment.

6. (Original) The attachment of claim 1, wherein the attachment is generally cylindrical.

7. (Original) The attachment of claim 1, wherein the outlet comprises two slots.

8. (Previously Presented) The attachment of claim 1, wherein the attachment has a longitudinal axis extending from the inlet end to the distal end and the at least one slot is parallel to the longitudinal axis.

9. (Previously Presented) The attachment of claim 1, wherein the attachment has a longitudinal axis extending from the inlet end to the distal end and the at least one slot is non-parallel to the longitudinal axis.

10. (Original) The attachment of claim 9, wherein the at least one slot is helical with respect to the longitudinal axis.

11. (Original) The attachment of claim 1, further comprising a flow directing element between the inlet and the outlet.

12. (Original) The attachment of claim 11, wherein the flow directing element comprises a perforated layer.

13. (Original) The attachment of claim 12, wherein the perforated layer is formed from a mesh or weave of an elongate material.

14. (Original) The attachment of claim 13, wherein the elongate material is a wire.

15. (Previously Presented) The attachment of claim 12, wherein the flow directing element extends substantially along a length of the at least one slot.

16. (Original) The attachment of claim 12, wherein the flow directing element extends substantially around an inner circumference of the attachment.

17. (Withdrawn-Currently Amended) A hand held appliance comprising a handle having a fluid flow path from handle inlet to a handle outlet, a fan unit for drawing fluid into the handle inlet, and an attachment for attaching to the handle, the attachment comprising an inlet; an outlet; and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment, [[and]] wherein the outlet is at least partially defined by an external surface of the attachment and is configured to direct

fluid flow emitted from the outlet along and around the external surface of the attachment, and wherein the external surface of the attachment forms an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot.

18. (Canceled)

19. (Withdrawn) The appliance of claim 17, wherein the outlet comprises a plurality of slots radially spaced around the attachment.

20. (Withdrawn) The appliance of claim 17, wherein the fluid emitted from the outlet is tangential to the external surface of the attachment.

21. (Withdrawn-Previously Presented) The appliance of claim 17, wherein the attachment is configured so that, in use, the fluid emitted from the outlet is attracted to the surface of the attachment.

22. (Withdrawn) The appliance of claim 17, wherein the attachment is generally cylindrical.

23. (Withdrawn) The appliance of claim 17, wherein the outlet comprises two slots.

24. (Withdrawn-Previously Presented) The appliance of claim 17, wherein the attachment has a longitudinal axis extending from the inlet end to the distal end and the at least one slot is parallel to the longitudinal axis.

25. (Withdrawn-Previously Presented) The appliance of claim 17, wherein the attachment has a longitudinal axis extending from the inlet end to the distal end and the at least one slot is non-parallel to the longitudinal axis.

26. (Withdrawn) The appliance of claim 25, wherein the at least one slot is helical with respect to the longitudinal axis.

27. (Withdrawn) The appliance of claim 17, further comprising a flow directing element between the inlet and the outlet.

28. (Withdrawn) The appliance of claim 27, wherein the flow directing element comprises a perforated layer.

29. (Withdrawn) The appliance of claim 28, wherein the perforated layer is formed from a mesh or weave of an elongate material.

30. (Withdrawn) The appliance of claim 29, wherein the elongate material is a wire.

31. (Withdrawn-Previously Presented) The appliance of claim 27, wherein the flow directing element extends substantially along a length of the at least one slot.

32. (Withdrawn) The appliance of claim 27, wherein the flow directing element extends substantially around an inner circumference of the attachment.

33. (Withdrawn) The appliance of claim 17, wherein the appliance is a hair care appliance.

34. (Withdrawn) The appliance of claim 17, wherein the appliance is a hot styling appliance.

35. (Withdrawn) The appliance of claim 17, wherein the appliance is a hot styling brush.

REMARKS

Claims 1 and 17 have been amended. Support for the amendment is found throughout the specification, including in FIGs. 1a to 9b. Claims 2 and 18 have been canceled. No new matter has been added.

With respect to all claim amendments, Applicant has not dedicated to the public or abandoned any unclaimed subject matter. These amendments have been made only in the interest of progressing the prosecution of this application, and do not indicate that these amendments are necessary for patentability. Moreover, Applicant has not acquiesced to any rejections and/or objections made by the Patent Office. Applicant reserves the right to pursue prosecution of any presently excluded claim embodiments in a future continuation and/or divisional application.

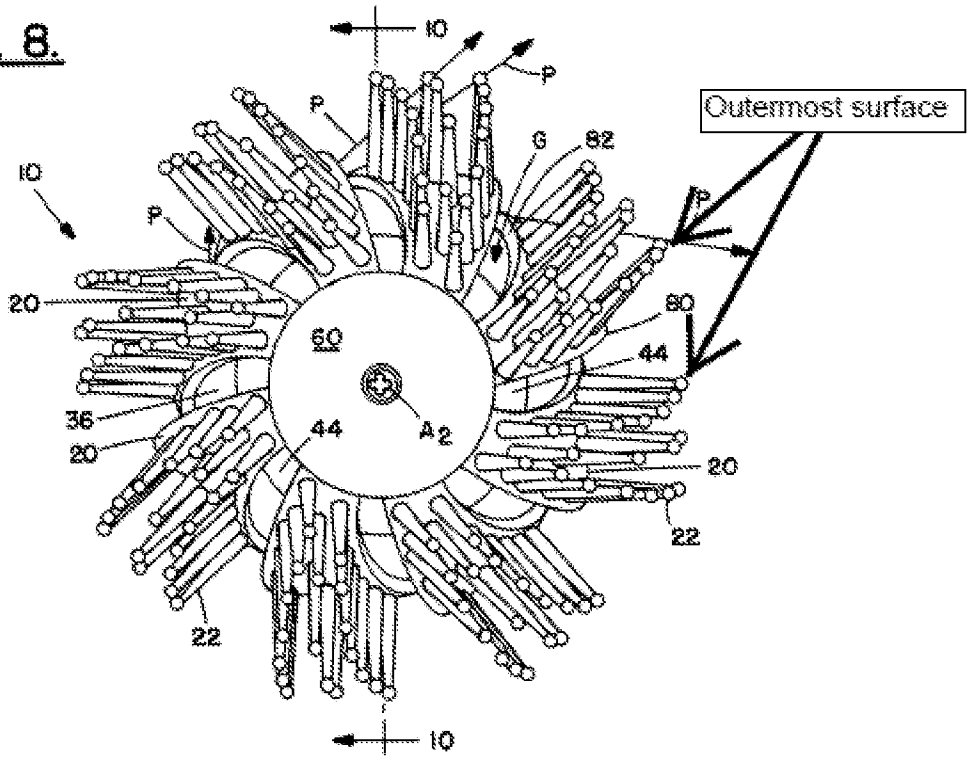
Applicant's representative, Christopher Gloria, thanks Examiner Gill for the courtesy of the telephonic interview of November 15, 2017. During the interview, participants discussed the AFCP 2.0 Amendment filed November 9, 2017. The Examiner asserted that the amendment would constitute new matter since the specification describes embodiments that include bristles. As an alternative, the Examiner suggested amending the claims to include the rib structure that joins adjacent walls together in some embodiments. Participants also discussed Lindsey's teaching away from a cylindrical shape for the attachment.

Claims 1-5, 7, 9-13, and 15-16 are rejected under 35 USC 102(a)(1) on Lindsey (US 5,868,148). Claims 1-8, 11-13, and 15-16 are rejected under 35 USC 102(a)(1) on McDougall (US 5,212,366). Claims 11-16 are rejected under 35 USC 103 over Lindsey in view of Tomaro (US 4,295,283). These rejections are respectfully traversed.

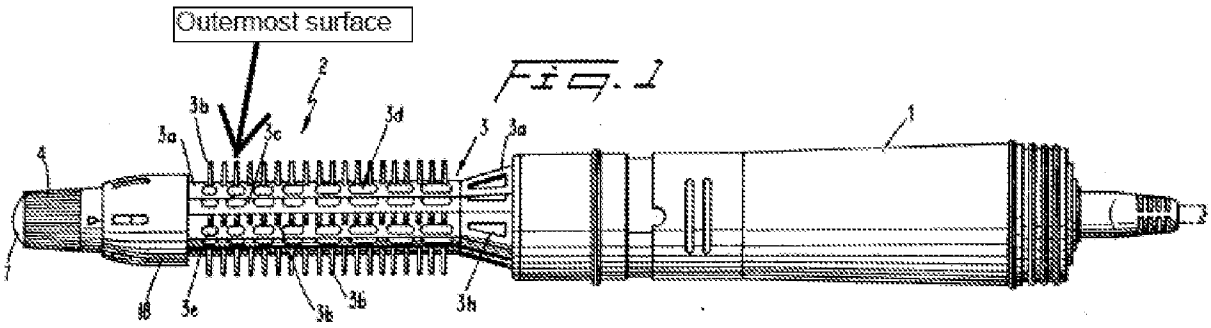
Amended claim 1 has been amended to recite that "the external surface of the attachment forms an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot." Thus, the external surface—the surface that the outlet is configured to direct fluid flow along and around—forms the outermost surface of the attachment at least for the length of the attachment along which the at least one slot extends.

The references fail to disclose or suggest that "the external surface of the attachment forms an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot," as recited in amended claim 1. For example, as illustrated in the below annotation of Lindsey's FIG. 8, the outermost surface of Lindsey's attachment from the beginning of the gaps to the end of the gaps is formed by the prongs 22, not by the surface of the vanes 20 that the Examiner equates with the external surface recited in the claims.

FIG. 8.



McDougall suffers from a similar deficiency in that the teeth 3b form the outermost surface of the attachment, not the surface that the Examiner equates with the external surface recited in the claims, as illustrated in the below annotation of FIG. 1 of McDougall.



Thus, the references fail to disclose or suggest that "the external surface of the attachment forms an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot," as recited in amended claim 1.

Accordingly, the rejection of claim 1, as amended, should be withdrawn. The rejection of dependent claims 3-16 should be withdrawn at least for the respective dependencies of the claims.

In view of the above, early action allowing claims 1, 3-17, and 19-35 is solicited.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief, including extensions of time, and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **424662093300**.

Dated: December 11, 2017

Respectfully submitted,

Electronic signature: /christopher gloria/
Christopher Gloria
Registration No.: 71,907
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 400
McLean, Virginia 22102
(703) 760-7389

va-508510

EXHIBIT J

Docket No.: 42466-20933.00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Alasdair Michael MACLAINE

Application No.: 14/656,357 | Confirmation No.: 9085

Filed: March 12, 2015 | Art Unit: 3776

For: ATTACHMENT FOR A HAND HELD APPLIANCE | Examiner: Jennifer Frances Gill

AMENDMENT UNDER 37 C.F.R. 1.111

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

Dear Sir:

In response to the Office Action mailed January 10, 2018, the period for response having been extended one (1) month to May 10, 2018, please amend this application as follows.

Amendments to the claims begin on page 2 of this paper.

Remarks begin on page 6 of this paper.

va-515400

AMENDMENTS TO THE CLAIMS

1. (Currently Amended) An attachment for a hand held appliance comprising an inlet; an outlet; and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment, wherein the outlet is at least partially defined by an external surface of a wall of the attachment and is configured to direct fluid flow emitted from the outlet along and around the external surface of the ~~attachment~~ wall, and wherein the external surface of the ~~attachment forms~~ wall is an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot.

2. (Canceled)

3. (Original) The attachment of claim 1, wherein the outlet comprises a plurality of slots radially spaced around the attachment.

4. (Original) The attachment of claim 1, wherein the fluid emitted from the outlet is tangential to the external surface of the attachment.

5. (Previously Presented) The attachment of claim 1, wherein the attachment is configured so that, in use, the fluid emitted from the outlet is attracted to the surface of the attachment.

6. (Original) The attachment of claim 1, wherein the attachment is generally cylindrical.

7. (Original) The attachment of claim 1, wherein the outlet comprises two slots.

8. (Previously Presented) The attachment of claim 1, wherein the attachment has a longitudinal axis extending from the inlet end to the distal end and the at least one slot is parallel to the longitudinal axis.

9. (Previously Presented) The attachment of claim 1, wherein the attachment has a longitudinal axis extending from the inlet end to the distal end and the at least one slot is non-parallel to the longitudinal axis.

10. (Original) The attachment of claim 9, wherein the at least one slot is helical with respect to the longitudinal axis.

11. (Original) The attachment of claim 1, further comprising a flow directing element between the inlet and the outlet.

12. (Original) The attachment of claim 11, wherein the flow directing element comprises a perforated layer.

13. (Original) The attachment of claim 12, wherein the perforated layer is formed from a mesh or weave of an elongate material.

14. (Original) The attachment of claim 13, wherein the elongate material is a wire.

15. (Previously Presented) The attachment of claim 12, wherein the flow directing element extends substantially along a length of the at least one slot.

16. (Original) The attachment of claim 12, wherein the flow directing element extends substantially around an inner circumference of the attachment.

17. (Withdrawn-Currently Amended) A hand held appliance comprising a handle having a fluid flow path from handle inlet to a handle outlet, a fan unit for drawing fluid into the handle inlet, and an attachment for attaching to the handle, the attachment comprising an inlet; an outlet; and a fluid flow path between the inlet and the outlet, wherein the outlet comprises at least one slot extending from near an inlet end of the attachment towards a distal end of the attachment, wherein the outlet is at least partially defined by an external surface of a wall of the attachment and is configured to

direct fluid flow emitted from the outlet along and around the external surface of the ~~attachment~~ wall, and wherein the external surface of the ~~attachment forms~~ wall is an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot.

18. (Canceled)

19. (Withdrawn) The appliance of claim 17, wherein the outlet comprises a plurality of slots radially spaced around the attachment.

20. (Withdrawn) The appliance of claim 17, wherein the fluid emitted from the outlet is tangential to the external surface of the attachment.

21. (Withdrawn-Previously Presented) The appliance of claim 17, wherein the attachment is configured so that, in use, the fluid emitted from the outlet is attracted to the surface of the attachment.

22. (Withdrawn) The appliance of claim 17, wherein the attachment is generally cylindrical.

23. (Withdrawn) The appliance of claim 17, wherein the outlet comprises two slots.

24. (Withdrawn-Previously Presented) The appliance of claim 17, wherein the attachment has a longitudinal axis extending from the inlet end to the distal end and the at least one slot is parallel to the longitudinal axis.

25. (Withdrawn-Previously Presented) The appliance of claim 17, wherein the attachment has a longitudinal axis extending from the inlet end to the distal end and the at least one slot is non-parallel to the longitudinal axis.

26. (Withdrawn) The appliance of claim 25, wherein the at least one slot is helical with respect to the longitudinal axis.

27. (Withdrawn) The appliance of claim 17, further comprising a flow directing element between the inlet and the outlet.

28. (Withdrawn) The appliance of claim 27, wherein the flow directing element comprises a perforated layer.

29. (Withdrawn) The appliance of claim 28, wherein the perforated layer is formed from a mesh or weave of an elongate material.

30. (Withdrawn) The appliance of claim 29, wherein the elongate material is a wire.

31. (Withdrawn-Previously Presented) The appliance of claim 27, wherein the flow directing element extends substantially along a length of the at least one slot.

32. (Withdrawn) The appliance of claim 27, wherein the flow directing element extends substantially around an inner circumference of the attachment.

33. (Withdrawn) The appliance of claim 17, wherein the appliance is a hair care appliance.

34. (Withdrawn) The appliance of claim 17, wherein the appliance is a hot styling appliance.

35. (Withdrawn) The appliance of claim 17, wherein the appliance is a hot styling brush.

36. (New) The appliance of claim 1, wherein the wall comprises a plurality of plates.

37. (New) The appliance of claim 1, wherein the at least one slot is formed by a gap between adjacent wall sections that are joined by at least one spacer disposed between the beginning of the at least one slot and the end of the at least one slot to maintain the gap.

38. (New) The appliance of claim 37, wherein the at least one spacer extends from an edge of a first wall section to an edge of a second wall section.

REMARKS

Claims 1 and 17 have been amended. New claims 36, 37, and 38 have been added. Support for the amendments and new claims is found throughout the specification and drawings, including in FIGs. 3a-9b and paragraph [0093] of the published application. No new matter has been added. After entry of this amendment, claims 1, 3-17, and 19-38 will be pending. Claims 17 and 19-35 are withdrawn.

With respect to all claim amendments, Applicant has not dedicated to the public or abandoned any unclaimed subject matter. These amendments have been made only in the interest of progressing the prosecution of this application, and do not indicate that these amendments are necessary for patentability. Moreover, Applicant has not acquiesced to any rejections and/or objections made by the Patent Office. Applicant reserves the right to pursue prosecution of any presently excluded claim embodiments in a future continuation and/or divisional application.

Claims 1, 3-5, 7, and 9-10 are rejected under 35 USC 102(a)(1) on Lindsey (US 5,868,148). Claims 1, 3-8, 11-13 and 15-16 are rejected under 35 USC 102(a)(1) on McDougall (US 5,212,366). Claims 11-16 are rejected under 35 USC 103 over Lindsey in view of Tomaro (US 4,295,283). These rejections are respectfully traversed.

Claim 1 has been amended to recite, *inter alia*, that "the outlet is at least partially defined by an external surface of a wall of the attachment and is configured to direct fluid flow emitted from the outlet along and around the external surface of the wall, and wherein the external surface of the wall is an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot." Thus, amended claim 1 requires that the wall that at least partially defines the outlet form the outermost surface of the attachment.

The references fail to disclose or suggest that "the external surface of the wall [that at least partially defines the outlet] is an outermost surface of the attachment along a length of the attachment from a beginning of the at least one slot to an end of the at least one slot," as recited in amended claim 1. In both Lindsay and McDougall, the outermost surface of the attachment along the outlet is formed by the ends of the bristles. The walls from which these bristles extend—the walls forming the outlets—do not form the outermost surface of the attachment, as required by amended claim 1. Tomaro fails to cure this deficiency.

Accordingly, the rejections of claim 1, as amended, should be withdrawn. The rejections of dependent claims 3-17 should be withdrawn at least for the respective dependencies of the claims.

In view of the above, early action allowing claims 1, 3-17, and 19-38 is solicited.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicants petition for any required relief, including extensions of time, and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **42466-20933.00**.

Dated: May 10, 2018

Respectfully submitted,

Electronic signature: /christopher gloria/
Christopher Gloria
Registration No.: 71,907
MORRISON & FOERSTER LLP
1650 Tysons Blvd, Suite 400
McLean, Virginia 22102
(703) 760-7389

va-515400

EXHIBIT 1

Dyson's conducts its largest global hair study, revealing misconceptions around hair damage and unhealthy styling habits

Dyson's Global Study builds on our engineering team's decade of hair science knowledge, providing a deeper insight into consumer styling habits and attitudes.

Dyson announces the results of its global hair study[1] that investigates consumer attitudes, global hair profiles, hair health perceptions, and styling habits. Understanding hair types and maintaining hair health sits at the core of our research and development. For the past decade, Dyson engineers and scientists continue to invest in global hair laboratories across the world. We relentlessly experiment and test and deliver machines which style hair better, limiting exposure to extreme heat damage.

Our new global hair study not only builds on our deep hair science knowledge, it unlocks a better understanding of consumer habits and attitudes towards hair.

Can damaged hair be healthy hair?

The study, undertaken by 23,000 respondents from 23 markets[2] around the world revealed that 70% of people perceive that they have damaged hair. Their top concerns were dandruff, hair loss and greying hair. Interestingly, a similar percentage (67%) agree their hair is healthy, despite being damaged. Respondents from the AMERICAS' are most likely to agree that they have healthy hair (80%), followed by EMEA (68%) and APAC (58%).



"Dandruff, hair loss and greying hair are not forms of damage, but scalp and hair growth concerns. Hair damage refers to the breakdown of the hair cuticle and cortex, which can lead to your hair looking frizzy, dull, or snapping off. The best way to achieve healthy hair is through prevention and minimising exposure to causes of damage. This includes extreme heat which makes hair weaker and more susceptible to breakage and split ends." **Rob Smith, Dyson Senior Principal Hair Scientist**

Globally, healthy hair is described as shiny (36%), smooth (29%), as well as linked to a healthy scalp (26%). Dyson's hair science knowledge reveals that healthy hair reflects light. When hair is exposed to extreme temperatures, small pores can appear within the strands. These scatter light in all directions, decreasing shine.



Consumers brush off post pandemic styling blues

With the pandemic a part of everyone's lives, the study sought to understand the impact of COVID-19 lockdowns on styling behaviors, washing and styling habits, how long styles last, reasons for styling and the impact of weather on styling behavior. Due to the pandemic, 6 in 10 globally reported a change in their hair habits, however 20% returned to their usual routine. A younger demographic (18-29 year olds) say that their styling behavior changed during COVID-19 but reverted to their usual routine (20%). They wash their hair less (14%), style hair less (23%) but use more hair products (6%); compared to other age groups.

Be cautious of over-washing your hair

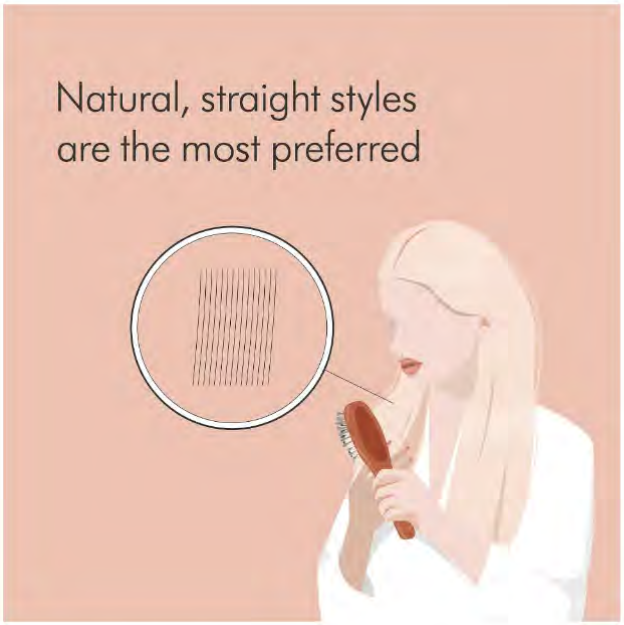
The study revealed that 8 in 10 respondents wash their hair every day or every two days. There is a slight tendency for washing hair in the evening, and this is most pronounced in APAC – with the highest results in Taiwan (84%) and Japan (81%). However, in the Americas, people are likely to wash their hair in the morning.



Smith continues, *"How often you wash your hair depends on your hair type, level of activity and environment. Over-washing can be very damaging, stripping the scalp of natural oils while leaving hair dry. Generally, the greasier your hair or scalp is, the more often you can consider washing your hair. Straight hair may feel limp more easily due to oil build-up, while waves, curls and coils absorb oil and require less washing. Be gentle to your scalp, and use shampoos suited for your hair type. Be mindful to consider the pollution levels in your environment and wash off pollution from hair too, as a combination of pollution and ultraviolet elements can cause increased levels of hair damage."*

Straighter styles rule

When it comes to style, the overall preference is for straighter styles (36%), followed by middle or side partings (31%). Regardless of whether an electrical hair appliance or a styling product is used, respondents tend to style their hair in the morning, with some choosing to retouch it during the day. The most common reasons for styling hair are cited as meeting friends/going out (33%) or leaving for work (33%), with both strongly over-indexing in APAC (41% and 43% respectively). However, always styling hair is more of a habit in the Americas and EMEA.

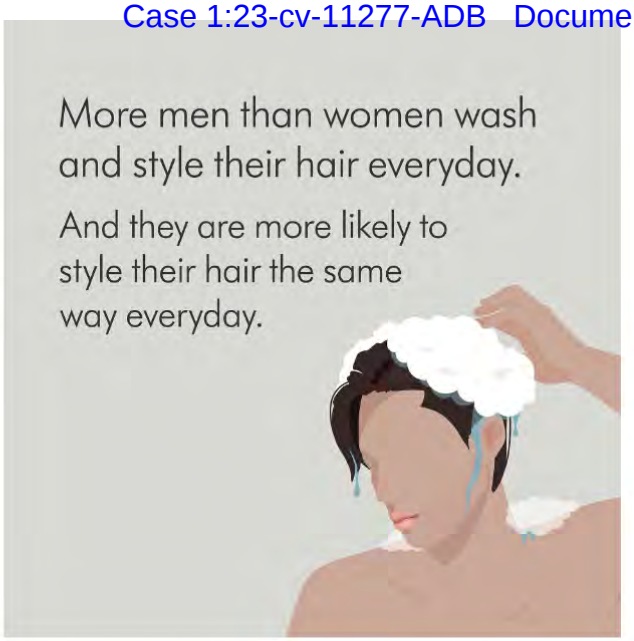


Most used styling products vs frequency of usage

Standard conditioner is the most used hair product, with around half of respondents in all regions using this. The second topmost used hair product is hair serum/oil (43%), which over-indexes in APAC but is lowest in EMEA. In the third spot is hair holding products/spray (global 39%) where the Americas over-index (44%).

Frequency of usage was also surveyed and this revealed that hair holding spray, moisturising products, shine enhancers and standard conditioners are the hair products used most frequently, at least 3-4 times a week. Across all products, usage is higher in APAC and Americas and lowest in EMEA. Most products are also used before styling.

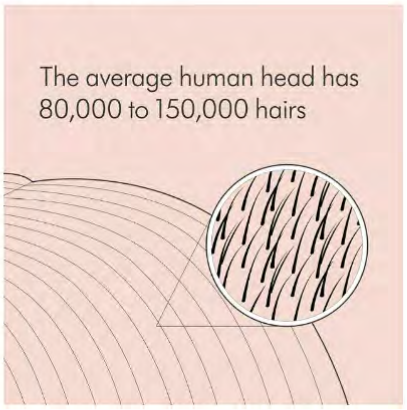
Haircare for men

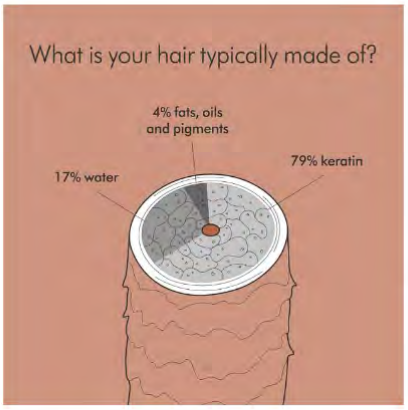


The global hair study also shed some light on the hair habits of men. Some differences from women - men are more likely to wash their hair every day (49% vs. 32%) and wash their hair in the morning (38% vs. women 33%). They are also more likely to describe their hair as not damaged compared to women (35% vs. 24%). When it comes to styling, men generally style their hair in the morning and the top reason for styling is to head to work (men 38% vs. women 33%).

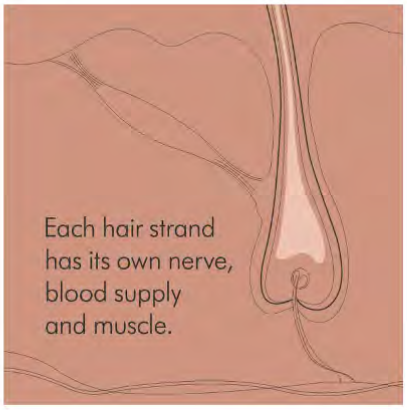
An interesting finding is that although women are more likely to own or use more styling products compared to men, men use theirs more frequently. Women over-index in using heat protect product before styling (83%) while men over-index in using heat protect product after styling (48%). This higher frequency goes hand-in-hand with men being less concerned about heat damage (50% vs 62%). They are also less likely to be the sole users of their electrical devices (49% vs. 63%) and are also more likely to use someone else's products (8% vs 3%).

All about hair











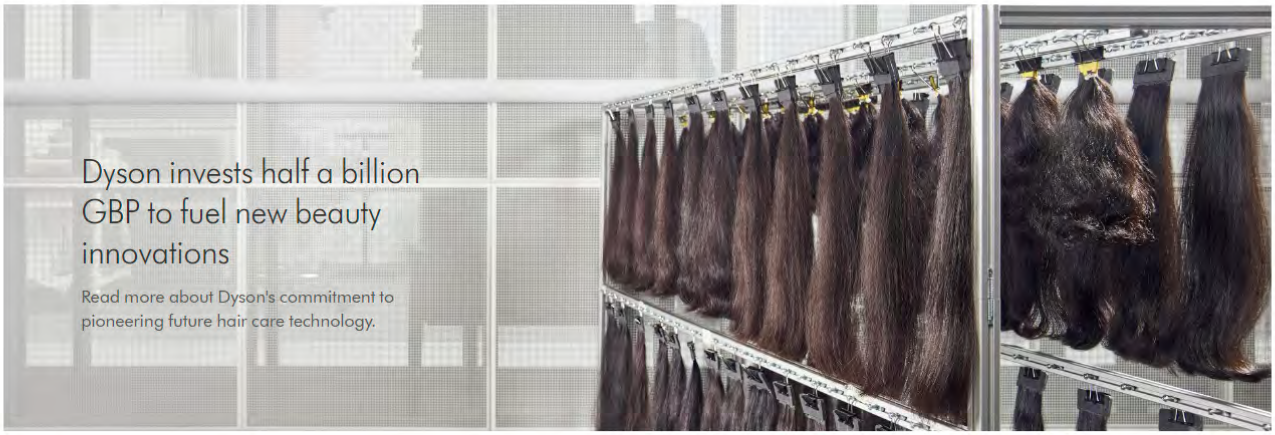


ABOUT THE DYSON GLOBAL HAIR STUDY 2022

The Dyson Global Hair Study 2022 is a 21-minute online interview undertaken by 23,000 respondents across 23 markets – United States, Canada, United Kingdom, Ireland, France, Italy, Spain, Germany, Switzerland, Austria, Sweden, Russia, Turkey, Australia, Mainland China, Hong Kong SAR, Taiwan region, Japan, South Korea, Singapore, Malaysia, Thailand and Vietnam. Fieldwork was conducted between November 29, 2021 – December 21, 2021.

[1] 21-minute online interviews conducted between 29th November 2021 – 21st December 2021, 1,000 interviews per market in total, 23,000 interviews.

[2] 23 markets: United States, Canada, United Kingdom, Ireland, France, Italy, Spain, Germany, Switzerland, Austria, Sweden, Russia, Turkey, Australia, Mainland China, Hong Kong SAR, Taiwan Region, Japan, South Korea, Singapore , Malaysia, Thailand and Vietnam.





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Emails us at USPR@Dyson.com

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Sustainability
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James Dyson Book: Invention: a Life

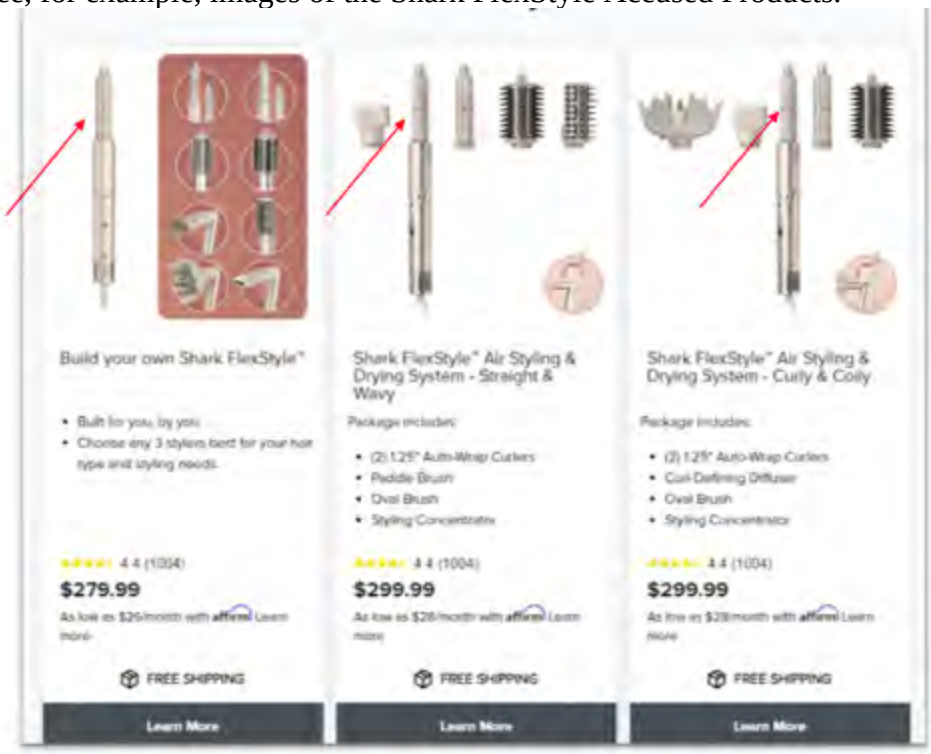
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https://www.dyson.com/newsroom/news/corporate/dyson-global-hair-study#:~:text=Dyson%E2%80%99s%20Global%20Study%20builds%20on%20our%20engineering%20team%E2%80%99s,hair%20profiles%2C%20hair%20health%20perceptions%2C%20and%20styling%20habits

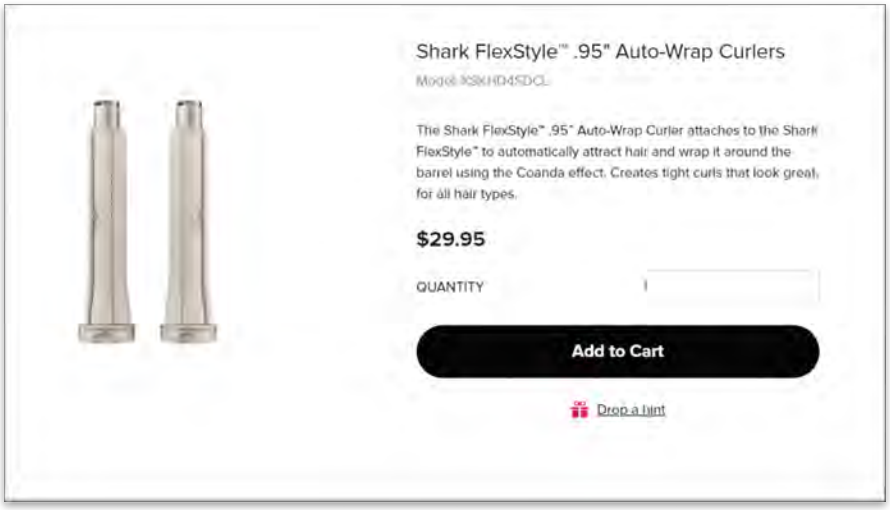
EXHIBIT 2

PRELIMINARY INFRINGEMENT CLAIM CHART OF U.S. PATENT NO. 11,044,979

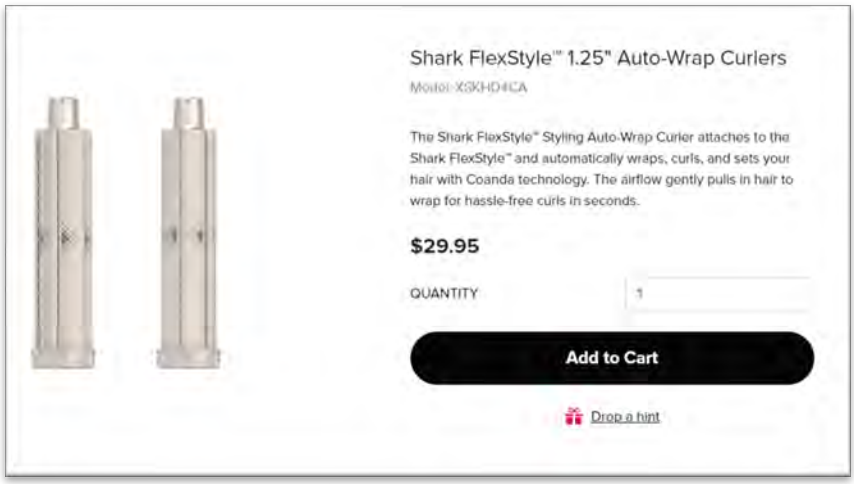
The Shark FlexStyle, Shark FlexStyle .95" Auto-Wrap Curlers, and the Shark FlexStyle 1.25" Auto-Wrap Curlers (collectively, "the Shark FlexStyle Accused Products") include each and every limitation of exemplary claim 1 of U.S. Patent No. 11,044,979 ("the '979 Patent"), either literally or under the doctrine of equivalents.

'979 Patent	**Exemplary Evidence of Infringement**
1[pre] An attachment for a hand held appliance comprising	To the extent the preamble is limiting, the Shark FlexStyle Accused Products include an attachment for a hand held appliance. See, for example, images of the Shark FlexStyle Accused Products.  *See* Shark website.[1]

[1] https://www.sharkclean.com/page/sharkbeauty-shop-all.



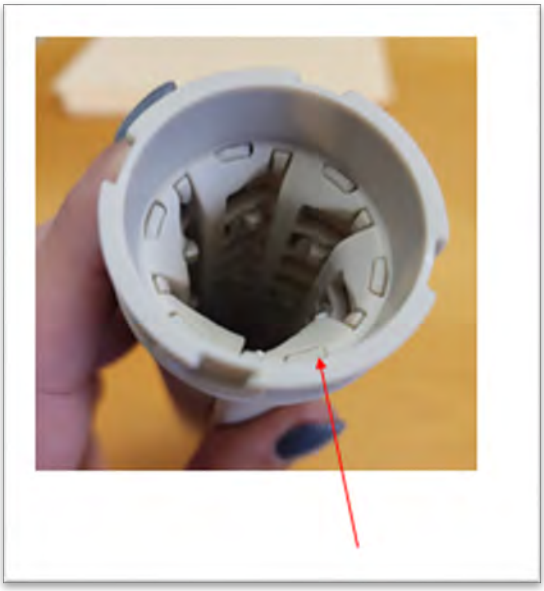
See Shark website.[2]



See Shark website.[3]

1[a] an inlet in a proximal first portion of the attachment;	The Shark FlexStyle Accused Products include an inlet in a proximal first portion of the attachment. See, for example, images of the Shark FlexStyle Accused Products:

[2] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL.
[3] https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.

	  *See* Shark website, 0.95" and 1.25" Auto Wrap Curlers.[4] *See also*  
1[b] an outlet in a cylindrical second portion of the attachment; and	The Shark FlexStyle Accused Products include an outlet in a cylindrical second portion of the attachment. See, for example, images of the Shark FlexStyle Accused Products:

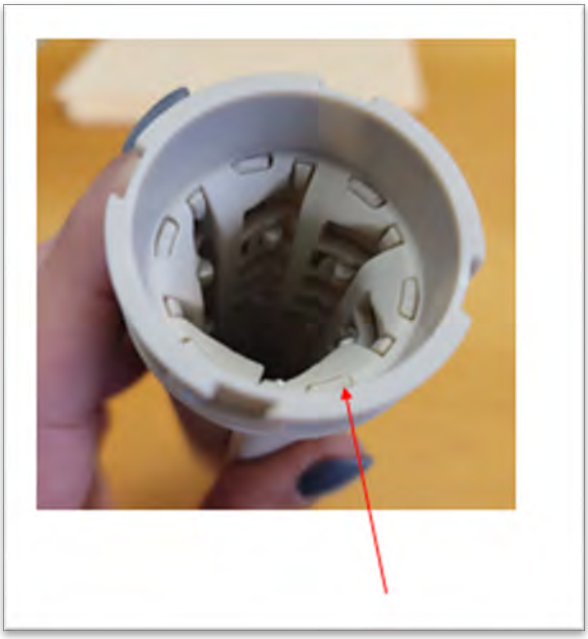
[4] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL; https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.



See Shark website, 0.95” and 1.25” Auto Wrap Curlers. [5]

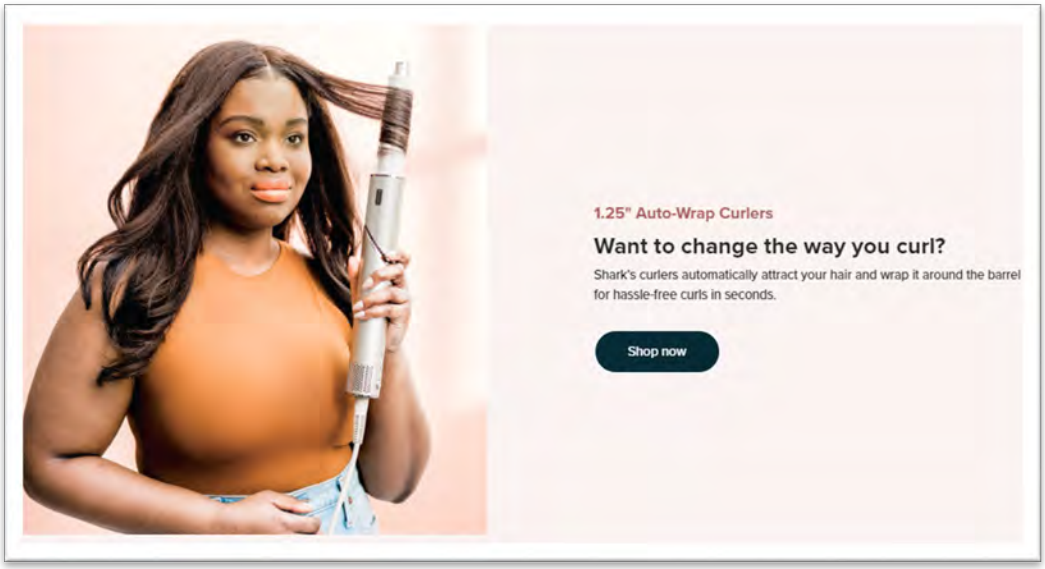
See also

[5] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL; https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.

	
1[c] a fluid flow path between the inlet and the outlet,	The Shark FlexStyle Accused Products include a fluid flow path between the inlet and the outlet. See, for example, images of the Shark FlexStyle Accused Products: 



See Shark website (annotations in original).[6]



See Shark website.[7]

[6] https://www.sharkclean.com/products/shark-flexstyle-air-styling-drying-system-straight-wavy-zidHD430?utm_source=MICROSOFT&utm_medium=cpc&utm_campaign=Search_Shark_Phrase_Brand_Flexstyle&utm_adgroup=Flexstyle&utm_term=shark%20flexstyle&gclid=76dc6fad96ed1a6fe0380bc27eec7f7a&gclsrc=3p.ds&msclkid=76dc6fad96ed1a6fe0380bc27eec7f7a.

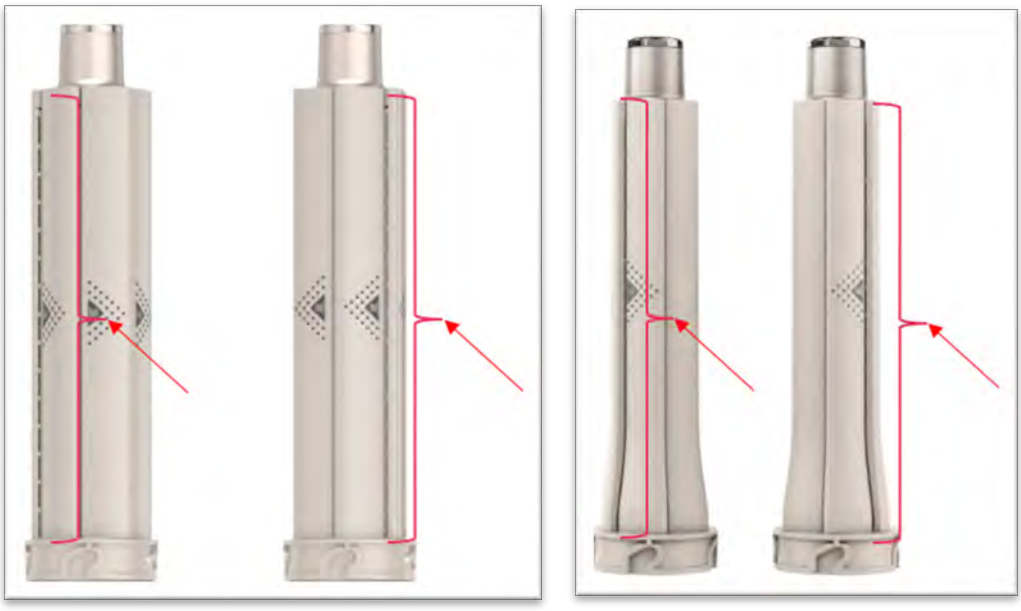
[7] https://www.sharkclean.com/page/sharkbeauty-flexstyle?_ga=2.15716913.601253584.1668962874-1260388521.1668453308.



See Shark website, .95” and 1.25” Auto Wrap Curlers. [8]

See also

[8] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL; https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.

	
1[d] wherein the outlet in the cylindrical second portion of the attachment comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment,	The Shark FlexStyle Accused Products include an outlet in the cylindrical second portion of the attachment that comprises at least one slot extending continuously from the proximal first portion to a distal end of the attachment. See, for example, images of the Shark FlexStyle Accused Products: 

	See Shark website, .95" and 1.25" Auto Wrap Curlers. [9] *See also* 
1[e] wherein the outlet is at least partially defined by an external surface of a substantially contiguous wall of the attachment	The Shark FlexStyle Accused Products include an outlet that is at least partially defined by an external surface of a substantially contiguous wall of the attachment. See, for example, images of the Shark FlexStyle Accused Products: 

[9] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL; https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.

	See Shark website, 0.95” and 1.25” Auto Wrap Curlers.[10] *See also* 
1[f] and is configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion,	The Shark FlexStyle Accused Products are configured to direct fluid flow emitted from the outlet tangentially along and around the external surface of the substantially contiguous wall to form a circumferential fluid flow around the cylindrical second portion of the attachment that encourages hair to automatically wrap around the cylindrical second portion. See, for example, images of the Shark FlexStyle Accused Products:

[10] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL; https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.

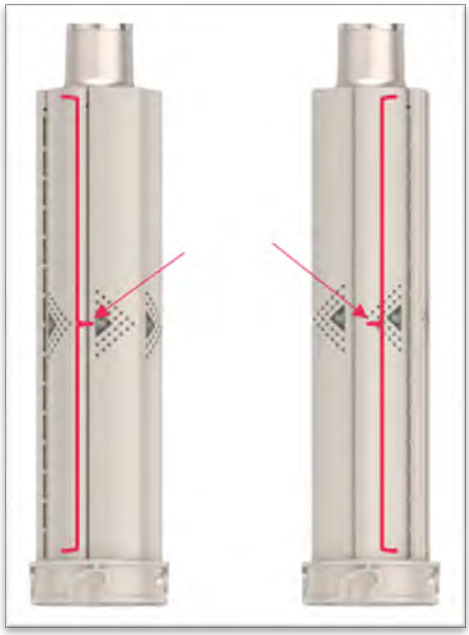


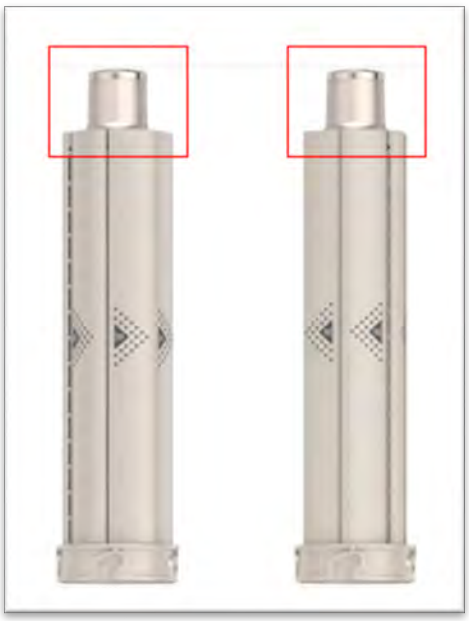
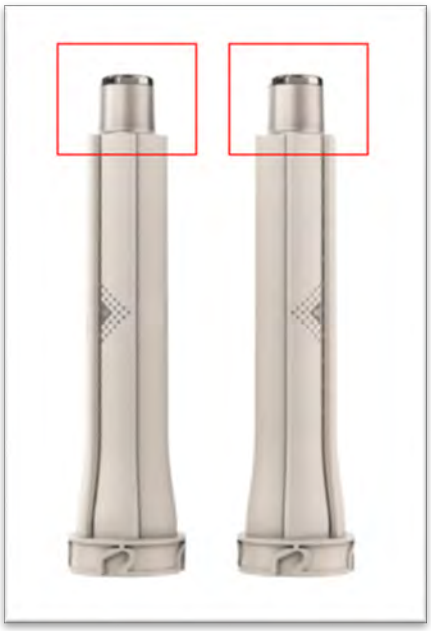
See Shark website (annotations in original).[11]



See Shark website, 0.95” and 1.25” Auto Wrap Curlers.[12]

[11] https://www.sharkclean.com/products/shark-flexstyle-air-styling-drying-system-straight-wavy-zidHD430.
[12] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL; https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.

	See also 
1[g] wherein the external surface of the substantially contiguous wall is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot,	The Shark FlexStyle Accused Products include an external surface of the substantially contiguous wall that is an outermost surface of the attachment along an entire length of the attachment from a beginning of the at least one slot to an end of the at least one slot. See, for example, images of the Shark FlexStyle Accused Products:  

	See Shark website, 0.95" and 1.25" Auto Wrap Curlers.[13] *See also* 
1[h] and wherein the distal end of the attachment is closed.	The Shark FlexStyle Accused Products include a distal end of the attachment that is closed. See, for example, images of the Shark FlexStyle Accused Products:  

[13] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL; https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.

	See Shark website, 0.95” and 1.25” Auto Wrap Curlers.[14] *See also*  

[14] https://www.sharkclean.com/products/shark-flexstyle-.95%22-auto-wrap-curlers-zidXSKHD4SDCL; https://www.sharkclean.com/products/shark-flexstyle-1.25%22-auto-wrap-curlers-zidXSKHD4CA.

EXHIBIT 3



Hair Stylers

Any hair type. Any skill set. For All Hairkind™.

Style while you dry, with no heat damage. With just a twist, Shark FlexStyle™ transforms from a fast, powerful hair dryer into an ultra-versatile multi-styler. Lightweight and powerful, it's the ultimate answer to fast, easy styling.

Shop all | Build your own

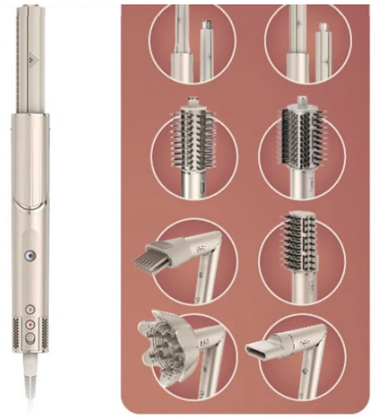
Build your own | Accessories | Styling tips

Feedback

SAVE 10%



Find your perfect match—or build the ultimate bundle.



Build your own Shark FlexStyle™

- Built for you, by you.
- Choose any 3 stylers best for your hair type and styling needs.

4.4 (1015)

$279.99

As low as $26/month with affirm Learn more

FREE SHIPPING

Learn More



Shark FlexStyle™ Air Styling & Drying System - Straight & Wavy

Package includes:

- (2) 1.25" Auto-Wrap Curlers
- Paddle Brush
- Oval Brush
- Styling Concentrator

4.4 (1015)

$299.99

As low as $28/month with affirm Learn more

FREE SHIPPING

Learn More



Shark FlexStyle™ Air Styling & Drying System - Curly & Coily

Package includes:

- (2) 1.25" Auto-Wrap Curlers
- Curl-Defining Diffuser
- Oval Brush
- Styling Concentrator

4.4 (1015)

$299.99

As low as $28/month with affirm Learn more

FREE SHIPPING

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Can your styler—or d[illegible]r—do this?

using dual bristles, there are endless powerful ways for you to flex.

See it in action

Choose any 3 stylers

Build the perfect tool for your hair type.

Every head of hair has its own story. So we've developed a unique experience to build a styler bundle, with just the tools you need for a Shark FlexStyle™ as unique as you are.

Build your own

Curl, volumize, smooth, dry.

Meet the accessories that'll unlock limitless styles, with no heat damage.





NEW: 0.95" Auto-Wrap Curlers

Slim curls. Big confidence.

Creates tight curls that look great with no heat damage. Works best on short and medium length hair.

Shop now

Styling tips For All Hairkind™.











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SharkNinja Ex. 1012
Page 256 of 442

EXHIBIT 4



HIGH-QUALITY INNOVATIVE LIFESTYLE

2022年度业绩发布会
2022 ANNUAL RESULTS PRESENTATION

JS 环球生活有限公司
JS GLOBAL LIFESTYLE COMPANY LIMITED
(Incorporated in the Cayman Islands with limited liability)
Stock code: 1691

JS Global

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Table of contents

1	FY2022 Financial Updates	4
2	FY2022 Business Updates	12
3	ESG	24
4	Strategic reorganization - The Proposed Spin-off	28
5	Strategy and Outlook	33

SharkNinja Ex. 1012
Page 260 of 442

JS Global



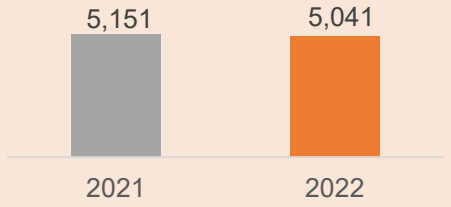
FY2022 Financial Updates

JS Global

2022 Key financial metrics

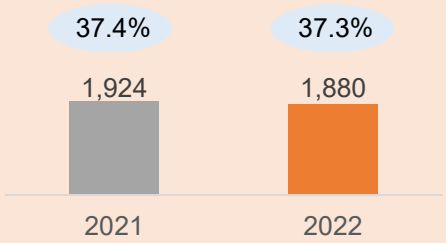
Unit: USD mn

Revenue



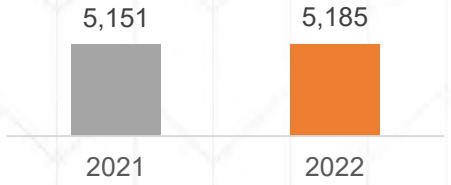
Revenue in 2022
USD 5,041mn
-2.1%

Gross profit and margin



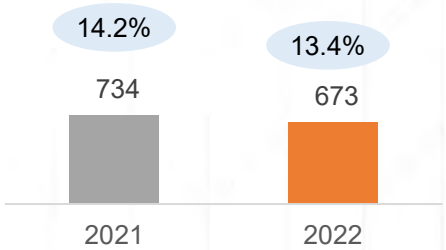
Gross profit in 2022
USD 1,880mn
GPM -0.1ppt

Revenue (constant currency)



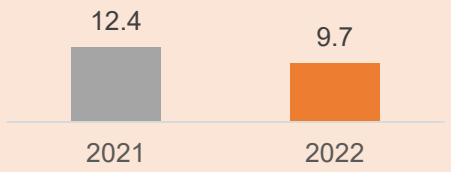
Revenue (cc) in 2022
USD 5,185mn
+0.7%

Adjusted EBITDA and margin(1)



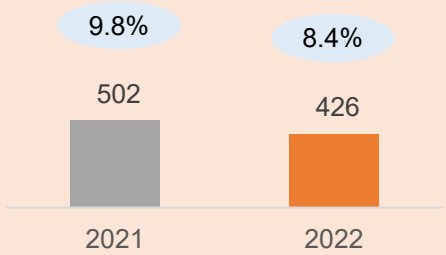
Adj. EBITDA in 2022
USD 673mn
-8.2%

Earnings per share (cents)



EPS in 2022
USD9.7cents
-21.8%

Adjusted net profit and margin(2)



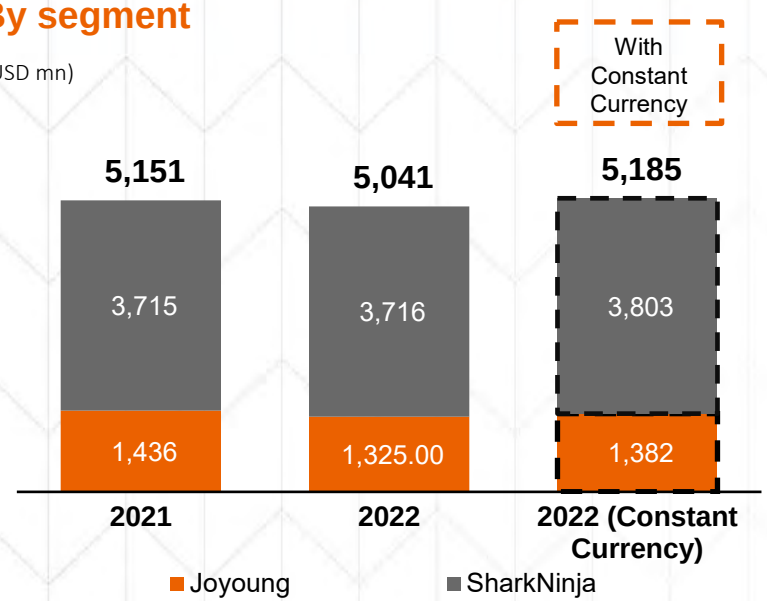
Adj. net profit in 2022
USD 426mn
-15.3%

(1) Adjustments for EBITDA included stock-based compensation, gain/(loss) on financial assets at fair value and non-recurring bonus. The adjusted EBITDA was non-audited number.
(2) Adjustments for net income included amortization of intangible assets arising from acquisition of SN, stock-based compensation and gain/(loss) on financial assets at fair value and non-recurring bonus. The adjusted net income was non-audited number.

Revenue stable despite challenging YoY comps and macro environment

By segment

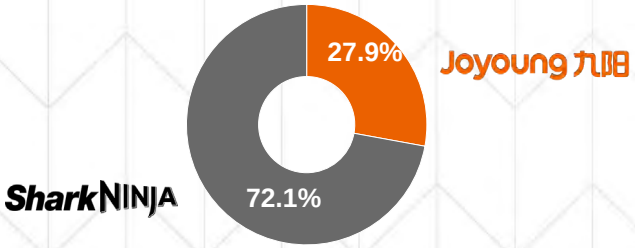
(USD mn)



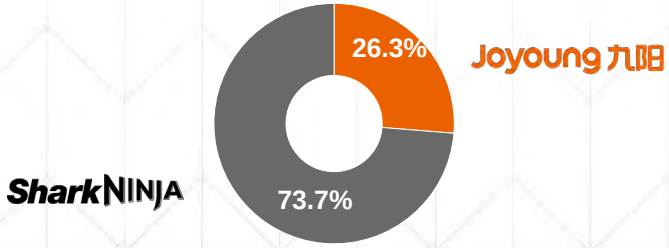
	YoY	YoY (cc)
Total:	-2.1%	+0.7%
SharkNinja:	Flat	+2.4%
Joyoung:	-7.7%	-3.7%

- The SharkNinja segment achieved growth of 2.4% to $3.803 billion on a constant currency basis in 2022. While SharkNinja has already achieved extraordinary performance in 2021, its market share kept increasing in 2022, which was attributable to its development strategy to keep exploring new opportunities in both existing and new markets along with the successful launch of products into new categories.
- Revenue from the Joyoung segment fell by 3.7% year-on-year on a constant currency basis, mainly due to the slowdown of China's economic growth, slow recovery of consumer demand and negative impact from COVID-19 interruption in 2022. However, after the launch of new products with cutting-edge technology and healthy concept in 2022, Joyoung achieved superior market performance compared with peers in the air fryer, rice cooker, high speed blender and other sectors.

2021 Revenue by segment



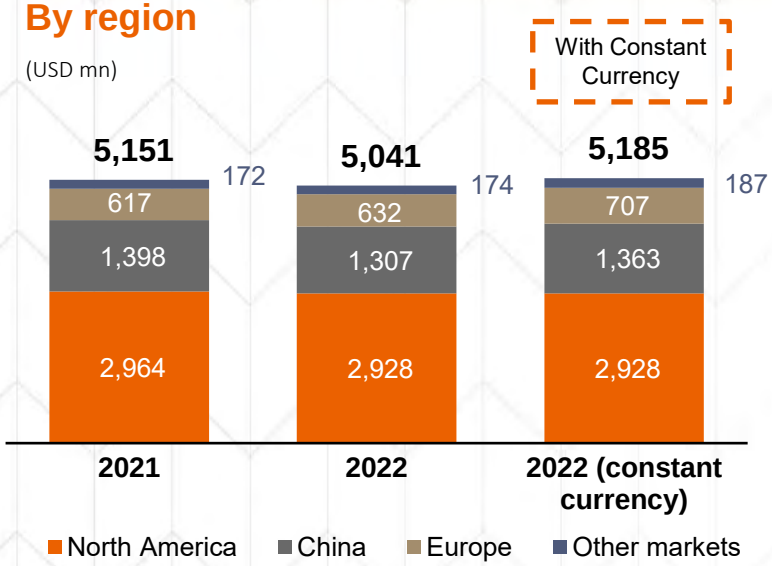
2022 Revenue by segment



Continued market share gains across different markets

By region

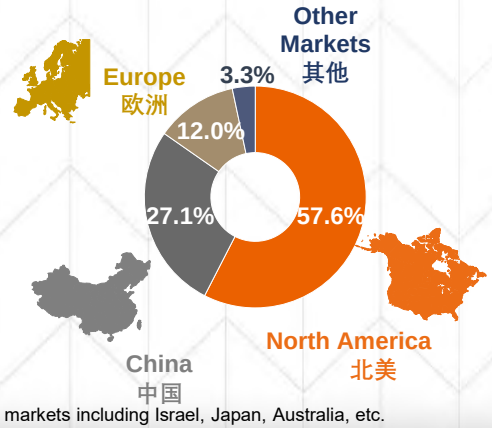
(USD mn)



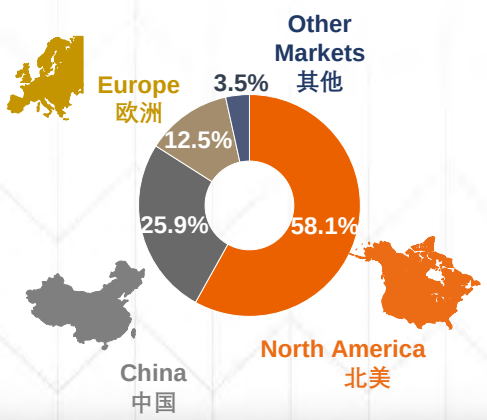
	YoY	YoY (cc)
Total:	**-2.1%**	**+0.7%**
Other Markets(1):	**+1.2%**	**+8.8%**
Europe(2):	**+2.5%**	**+14.6%**
China:	**-6.5%**	**-2.5%**
North America:	**-1.2%**	**-1.2%**

- Regionally, although the North American market is facing a historically high level of inflation, we have continuously executed effective business strategies and launched new products that are popular among consumers, which helped us to achieve a continuous increase in market share. Revenue from the North American market declined slightly by 1.2% in 2022.
- The European market was mainly affected by the uncertain geopolitical situation and the unfavorable exchange rate factors such as the depreciation of the British pound and the euro against the U.S. dollar. Revenue in the European region grew strongly by 14.6% year-on-year on a constant currency basis attributable to continued market share gains in UK and growth in other countries.
- Total revenue generated from China saw a year-on-year drop of approximately 2.5% under constant currency. Total revenue generated from other markets achieved a year-on-year growth of 8.8% under constant currency.

2021 Revenue by region



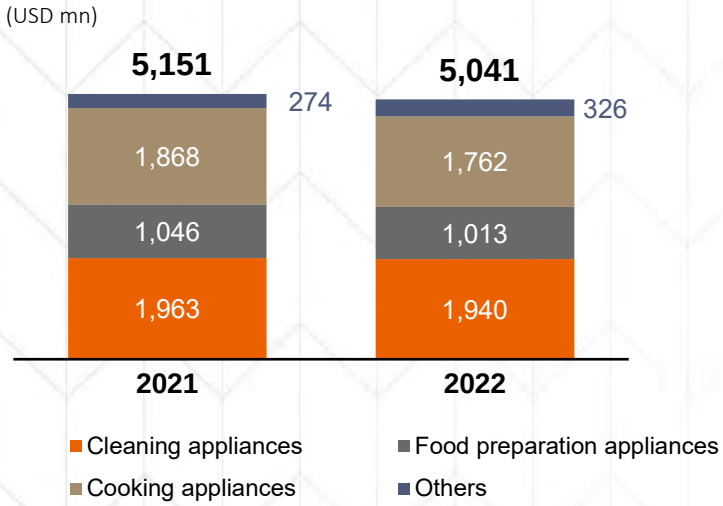
2022 Revenue by region



(1) Other markets including Israel, Japan, Australia, etc.
(2) Europe including UK, Germany, France, Italy, Spain, etc.

Other category saw strong revenue growth while core categories slightly declined

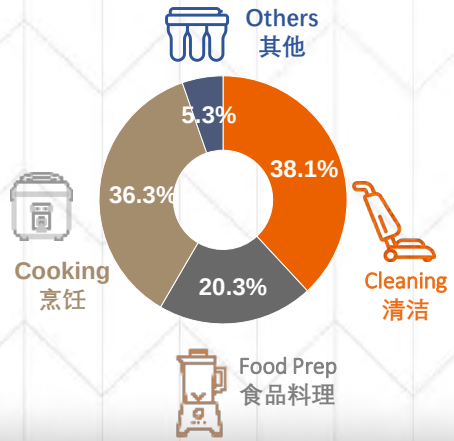
By product category



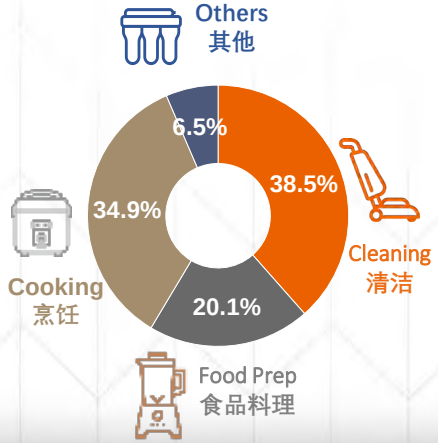
	YoY
Total:	**-2.1%**
Others:	+18.9%
Cooking appliances:	-5.7%
Food prep:	-3.1%
Cleaning appliances:	-1.1%

- Revenue slightly declined across Cooking, Cleaning, and Food Preparation category in 2022. However, we still gained market shares in most of our categories/products, such as cordless vacuum, rice cooker and air fryer, which showed the ability to outperform the industry in a less favorable market.
- The revenue from others category achieved year-on-year growth of 18.9%, mainly driven by the strong performance of newly-launched products including air purifiers, hair dryers (FlexStyle), and water purification products.

2021 Revenue by product category

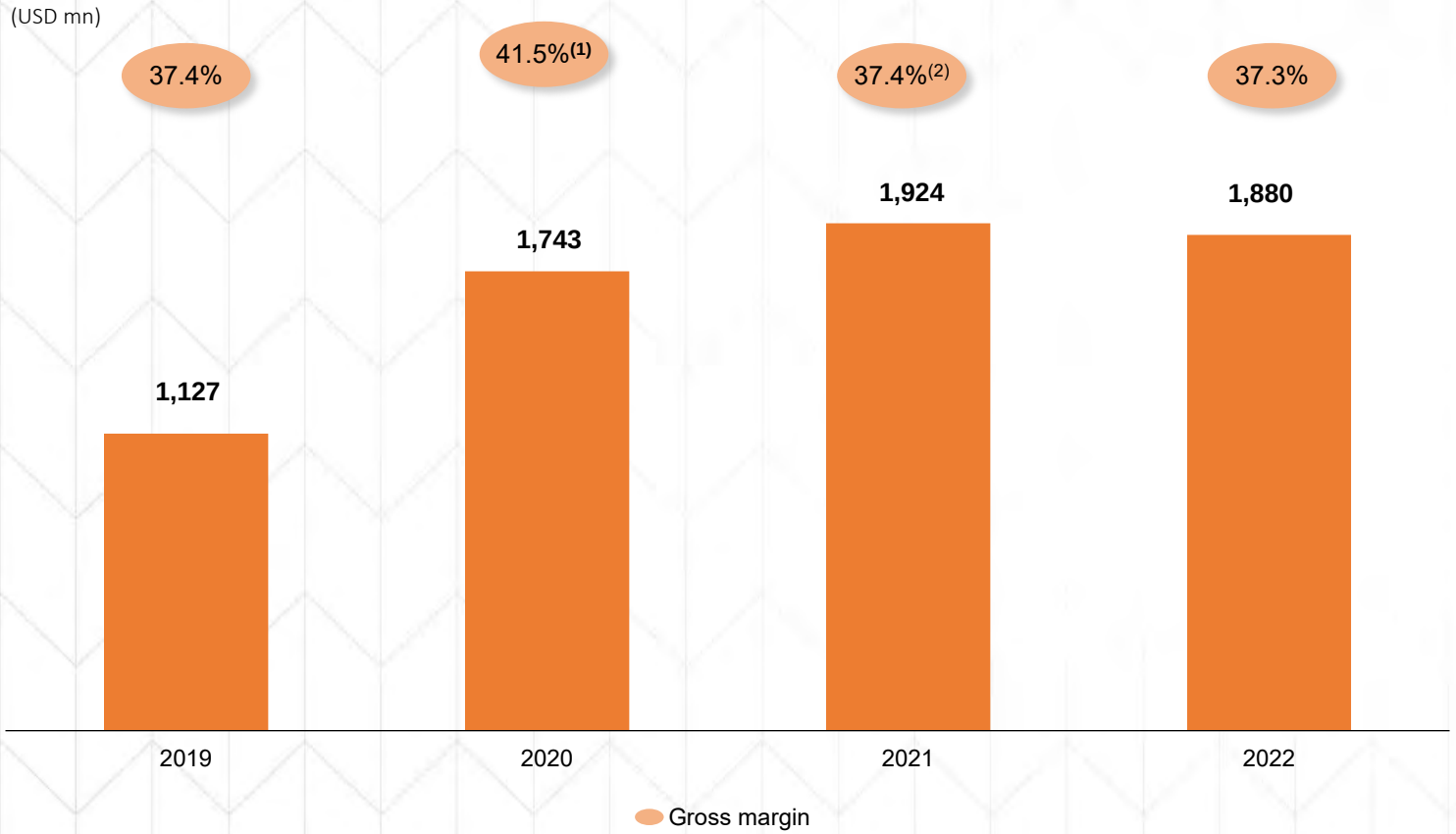


2022 Revenue by product category



Stable Gross margin despite headwinds

Evolution of gross profit and margin



- The Gross profit margin in 2022 is 37.3%. The year-on-year decrease of 0.1 percentage point in gross profit margin was mainly due to certain cost headwinds (higher container and commodity cost) and more investment in promotions, partially offset by favorable product mix and tariff exclusions on certain goods imported from China to the U.S. which were announced on 23 Mar 2022.

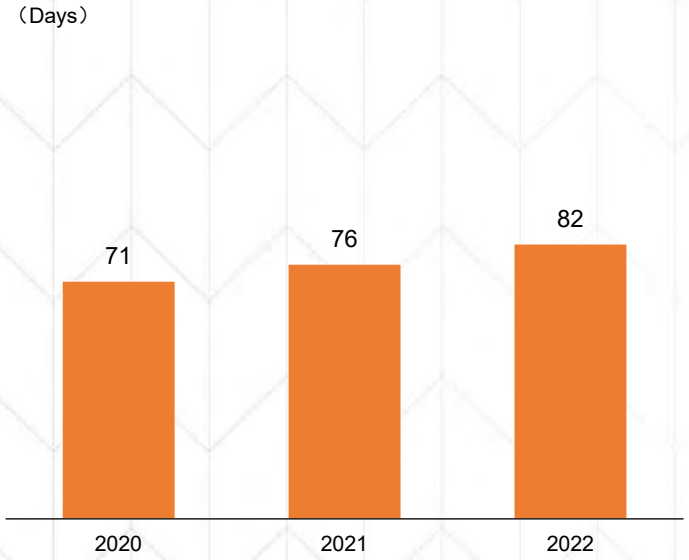
(1) The gross margin of 2020 included tariff refund of $38.1m which was related to 2019. If not for such refund, the gross margin would be 40.6% in 2020.

(2) One major reason for the decrease in gross margin of 2021 was due to the recognition of some freight expenses into COGS.

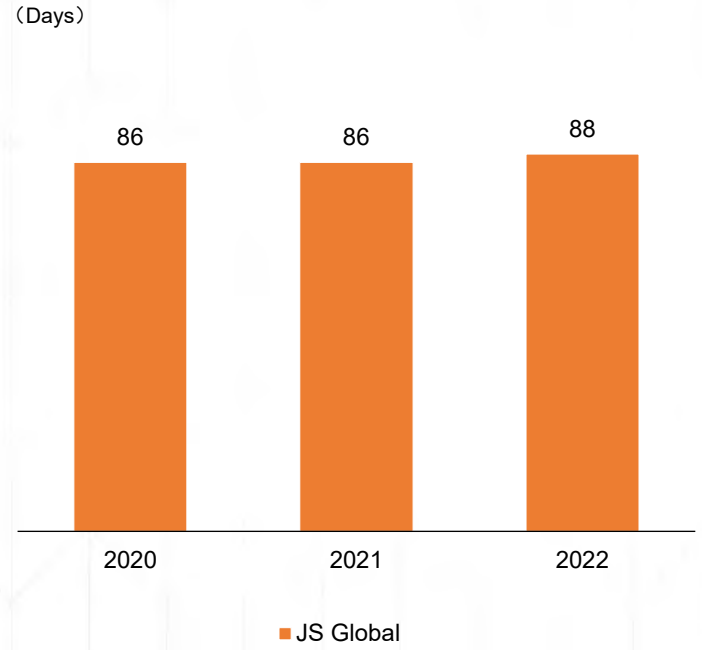
Sufficient working capital and healthy cashflows

Working capital management

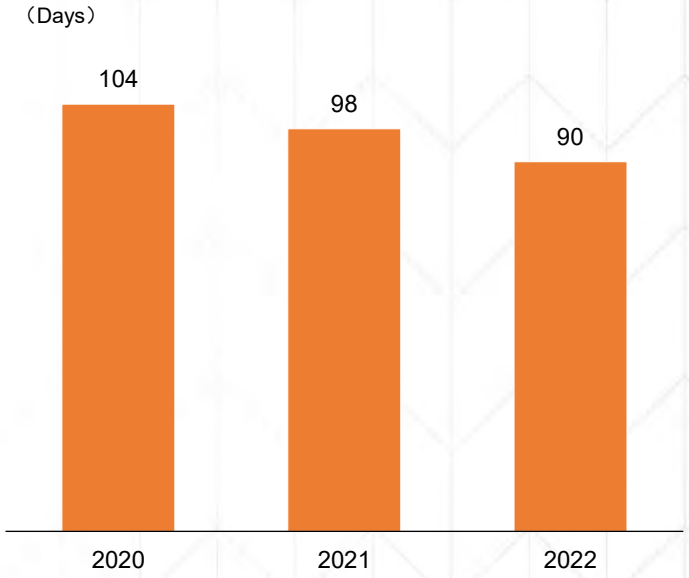
Inventory turnover days(1)



Trade and bill receivables turnover days(2)



Trade and bill payables turnover days(3)



(1) Turnover days of average inventories equals average inventories divided by cost of sales and multiplied by the number of days in the period. Average inventories equal inventories at the beginning of the period plus inventories at the end of the period, divided by two.

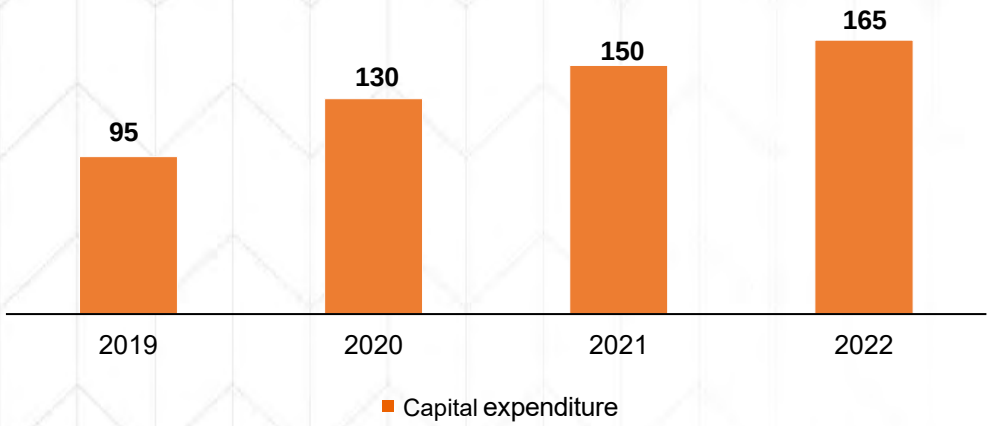
(2) Turnover days of average trade and bill receivables equals average trade and bill receivables divided by revenue and then multiplied by the number of days in the period. Average trade and bill receivables equal trade and bill receivables (net of impairment) at the beginning of the period plus trade and bill receivables at the end of the period, divided by two.

(3) Turnover of average trade and bill payables equals average trade and bill payables divided by cost of sales and then multiplied by the number of days in the period. Average trade and bill payables equals trade and bill payables (net of impairment) at the beginning of the period plus trade and bill payables at the end of the period, divided by two.

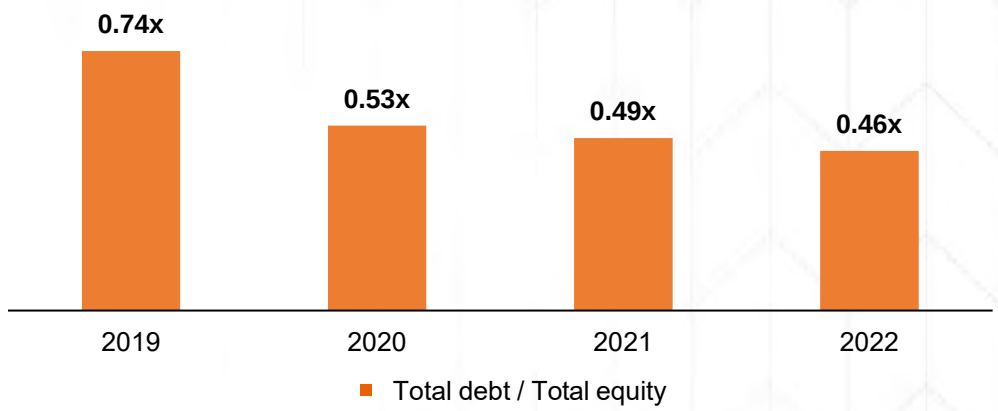
Balanced capital structure

Capital expenditure

(USD mn)

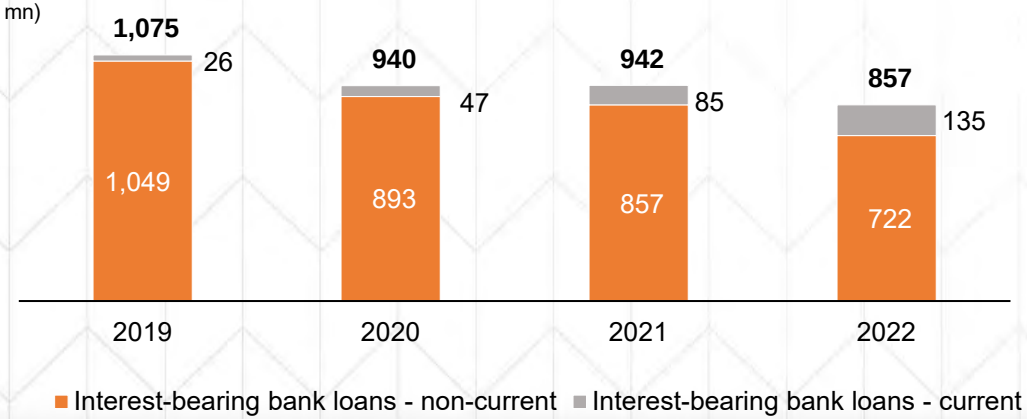


Total debt / Total equity

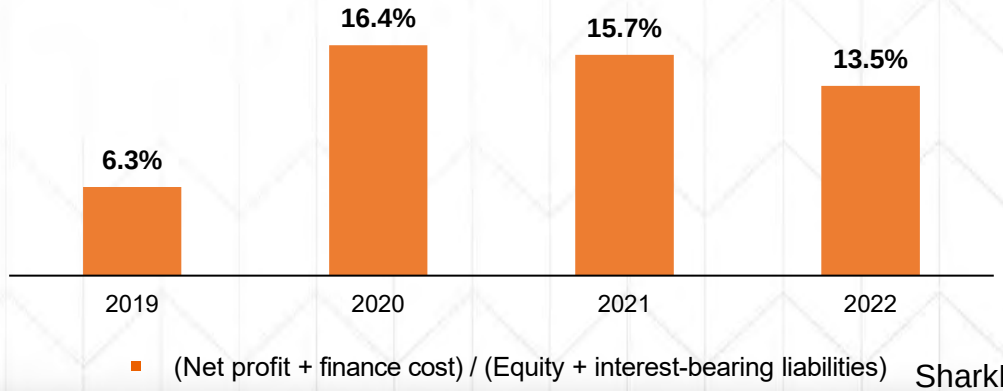


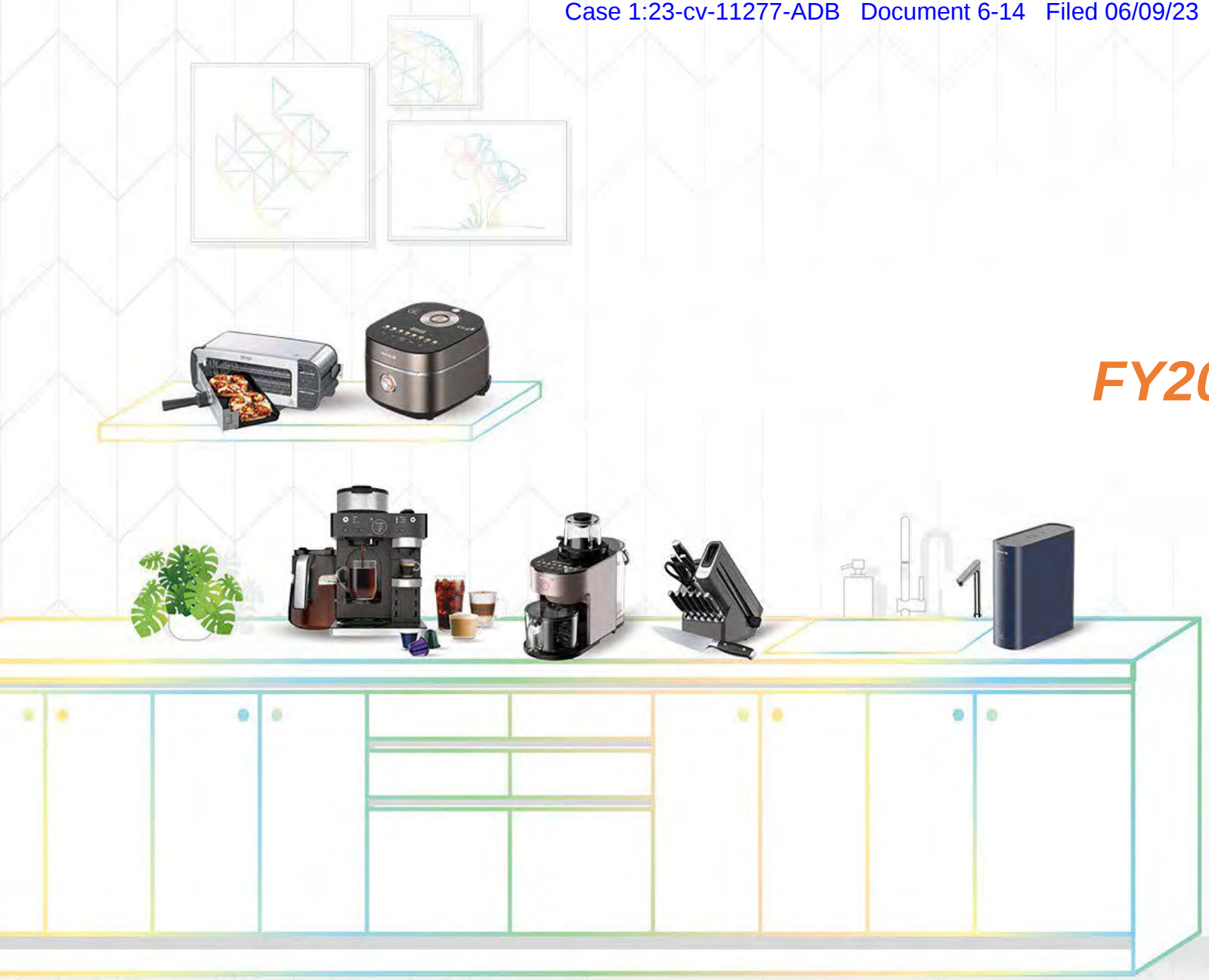
Debt profile and maturities

(USD mn)



ROIC





FY2022 Business Updates

JS Global delivered strong results, anchored by our growth strategy

1. Our business is resilient, **growing,** and **diversified**
2. We continue to **grow market share in existing categories**, across our major markets
3. **New Category Entry** – 2021 launches annualized in 2022, while major 2022 launches helped close the year strong
4. **International expansion** outside our core markets continues to grow via Shark & Ninja brands
5. The **strength of our growth strategy** and skill to navigate the current macro environment will deliver another solid year

*What sets us apart is our **high quality**, **rapid product innovation**, that **consistently** delivers **extraordinary value** to our consumers, across **multiple categories** and **geographies***

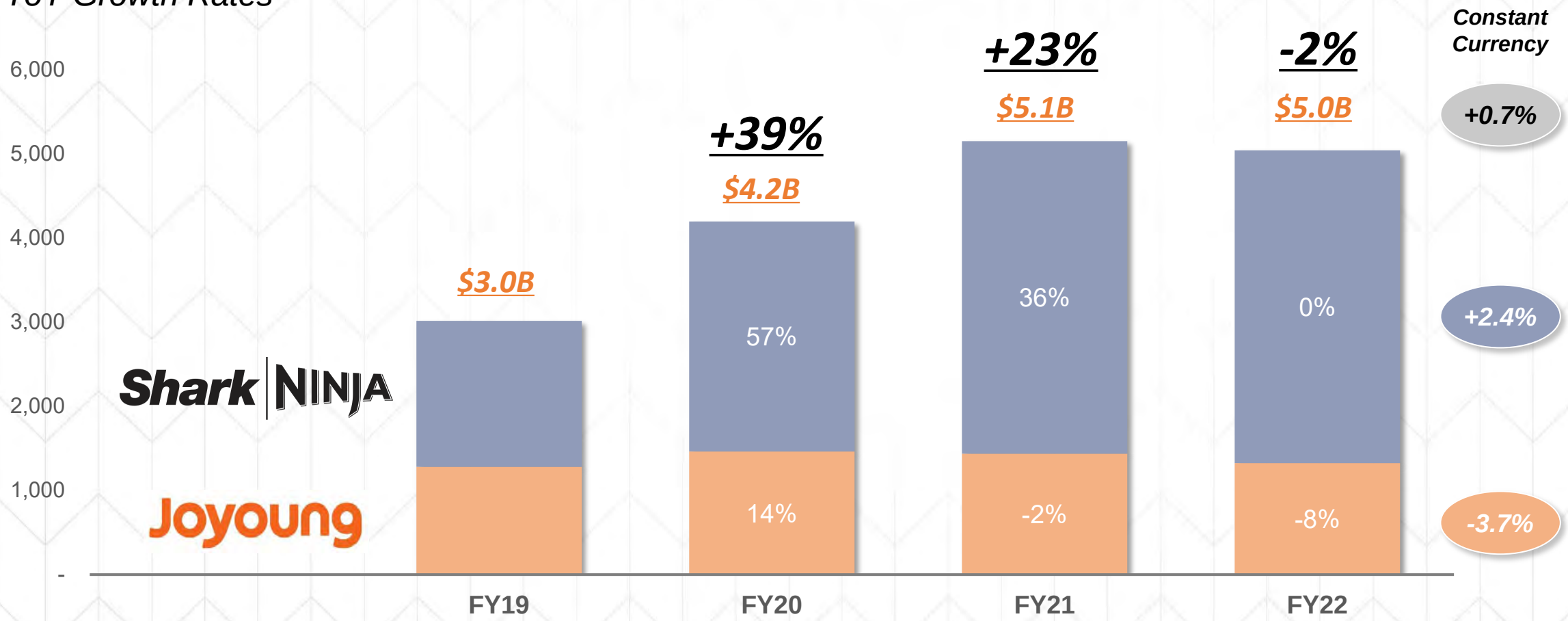
Industry leading organic top and bottom-line growth over last 3 years → +67% sales, +82% adj. net profit

FY22 Performance	*v. FY21*	*v. FY20*	*v. FY19*
Net Sales	-2.1% **+0.7%** (constant currency)	+20%	+67%
Adj. Net Profit	-15.3%	+2%	+82%

SharkNinja Ex. 1012
Page 271 of 442

#1. Our brands are strong, and increasingly diversified

FY Net Sales *(USD mn)*
YoY Growth Rates



#2. Market share leader in US and UK

As a small household appliance market leader across core markets, JS Global achieved significant market share expansion YoY in our existing categories

Ending December 2022, v. Ending December 2021

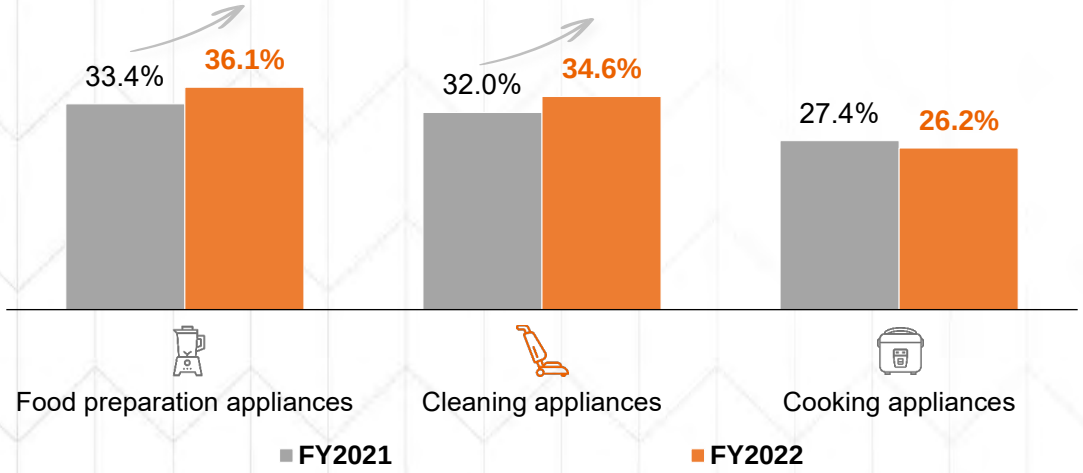
US market

#1 vacuum brand

#1 floorcare brand

#1 small kitchen appliance brand

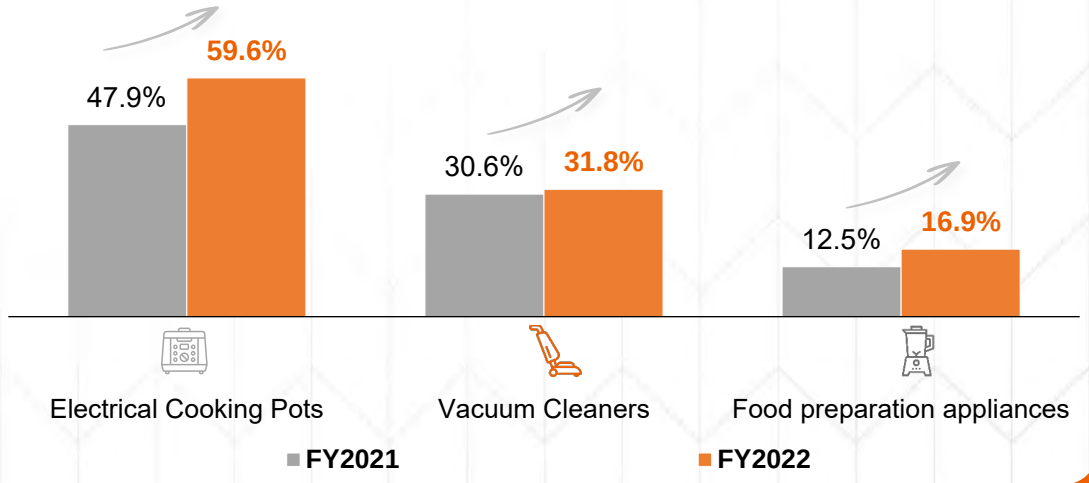
Market share evolution in each category in the US in FY2022(2)



UK market (1)

Continued improvement in market share across all categories

Market share evolution in each category in Great Britain in FY2022(3)



(1) Excludes Northern Ireland.
(2) US Market share data source: The NPD Group / Retail Tracking Service, U.S. dollar sales, Jan-Dec 2021, 2022.
(3) UK Market share data source: GfK; Market Intelligence; Value Sales, GB; Jan-Dec 2021, 2022.

SharkNinja Ex. 1012
Page 273 of 442

US market share trajectory: recently entered categories

SharkNinja's new categories quickly gaining share in US market

	December 2021	1 year later….	December 2022
Kitchenware *(Cookware & Cutlery)*	3.0%	~$3.4 billion US Market FY	**4.5%**
Air Purifiers	3.0%	$800+ million US Market FY	**6.4%**
Hair Care *(Hair Dryers & Hot Air Stylers)*	0.8%	~$1.0 billion US Market FY	**7.4%**
Ice Cream	23.7%	~$125 million US Market FY	**60.5%**

Category Expansion – key 2022 launches (SharkNinja)

In 2022, we continued to bring new products to market across new and existing categories

Ninja™ Foodi™ NeverDull® Premium 13-Piece Wood Series Knife System





Ninja™ CREAMi® Deluxe 11-in-1 XL Ice Cream Maker

Shark Air Purifier 3-in-1





Shark FlexStyle™

JS Global

Category Expansion

Shark FlexStyle™ Air Styling & Drying System

InStyle

Shark's Coveted Hair Styling System Keeps Selling Out on Amazon — but It's Finally Back (for Now)

USA TODAY

Shark just launched its version of the Dyson Airwrap—and it's half the price

BYRDIE

Dyson Airwrap Multi-Styler vs. Shark FlexStyle: Which Is Better?

HUFFPOST

Viral TikTok Products That Make Perfect Holiday Gifts

TODAY

Shark's new multi-styling hair tool can dry, curl and volumize – what you need to know

allure

The Best Hair, Makeup, and Nails at the 2022 Emmy Awards



PureWow

We Compared Conair Hot Rollers to Shark FlexStyle—Here's What We Found

BEST PRODUCTS

SHARK'S FLEXSTYLE SYSTEM DEMOCRATIZES HIGH-END HAIRSTYLING

morning HONEY

WWD

Shark's New Flexstyle Drying and Styling System Is Finally Back In Stock Today

techradar.

Dyson Airwrap vs Shark FlexStyle: which is the best premium multistyler hair tool?

NEW YORK POST

We tried the new Shark FlexStyle hair styler: is it a dupe for Dyson?

STYLECASTER

Here's Why The Shark Styler Is Better Than Dyson's Beloved AirWrap – Hint: It's Half The Price & Just As Good

Existing Category Expansion – key 2022 launches (Joyoung)



High-speed cell-wall breaking blender P557



0-coating rice cooker N1



Air fryer VF736



Water purifier RF660s



Xiaomowang frying pan CJ599



Hand-wash-free blender Y751



0-coating rice cooker N7



Air fryer VF739



Water purifier RF960



Damowang frying pan CJ895

#3. New Category Entry – key 2022 launches (SharkNinja)

- Adjacent Category -





Shark HydroVac™

- New Category -



Ninja Woodfire™

New Category Entry

- During 2022, SharkNinja continued to demonstrate the ability to execute on its growth strategy, and entered two new categories → **2-in-1 Floor Cleaning** and **Outdoor Grills**

#4. International expansion outside core markets

Extraordinary revenue growth outside our core markets

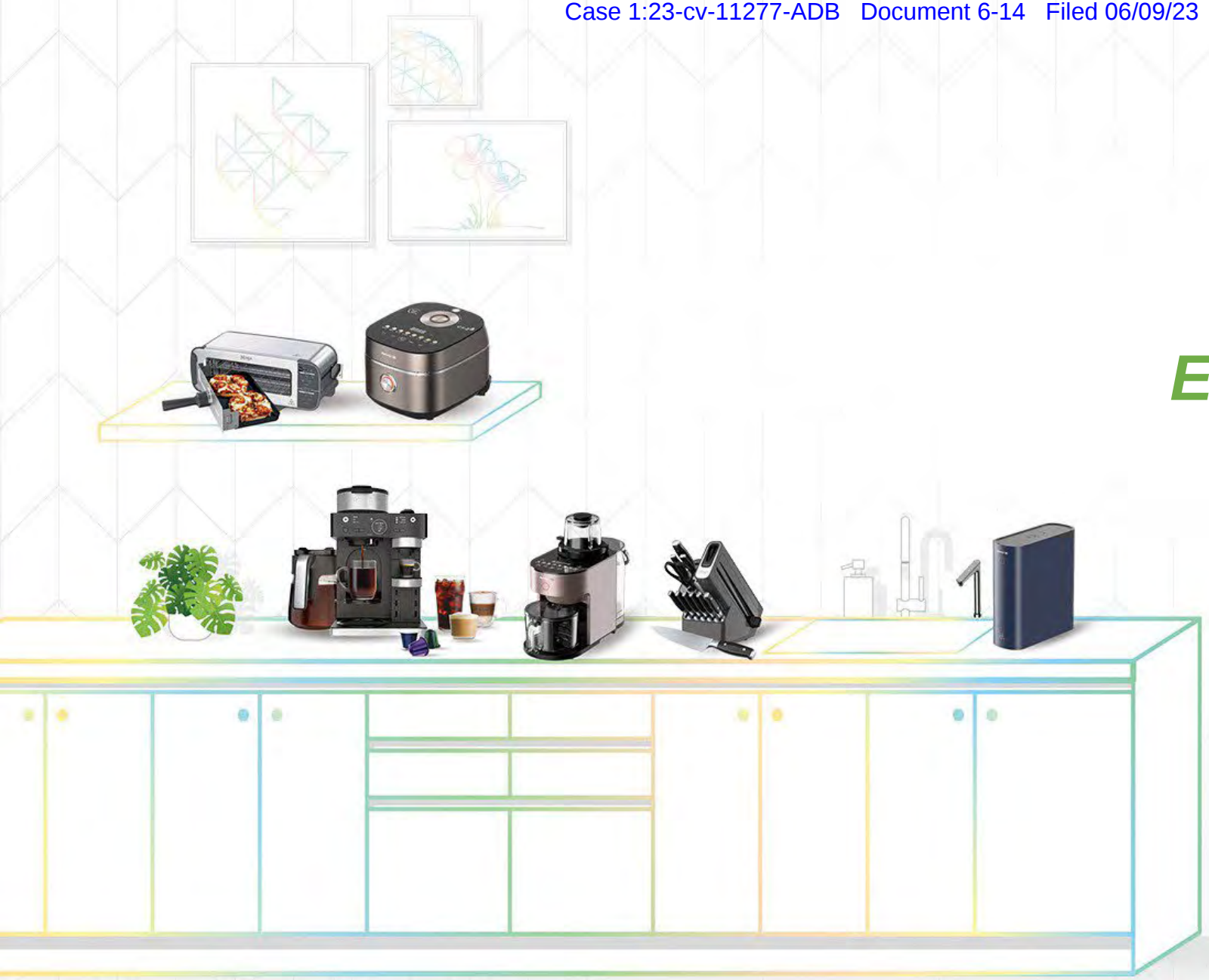
FY22 Performance	v. FY21	v. FY21 (CC)	*v. FY19*
North America	-1%	-1%	*101%*
China	-7%	-3%	*3%*
Europe	3%	15%	*185%*
Other Markets	1%	9%	*162%*

SharkNinja Ex. 1012
Page 279 of 442

#5. Navigating the global macro environment

Macro Factor	Status / Mitigation
Ocean Freight	■ Ocean freight costs **became a gross margin tailwind at the end of 2022, into 2023** ■ Leveraging our global scale alongside long-term relationships and new partners to drive favorable contract terms for the North American and European markets
Inflation - FX, Commodities	■ Commodity & component costs **expected to come off peaks from 2021/22** ■ Continue to achieve economies of scale by aggregating SharkNinja and Joyoung volume, enhancing bargaining power with suppliers
Supply Chain Stabilization	■ **Subcomponent supply remains secure by leveraging JSG buying power** ■ Continue to assess & execute on multiple mitigation strategies; design optimization, new factory partnership, subcomponent localization, spot buys ■ Efforts to continue optimizing our diversified supply chain persist
Inventory Health	■ **Proactive steps taken in 1H'22, and throughout the back half of 2022 to right size inventory at retail and our global supply network** ■ Resulting in healthy retailer inventory levels of both Shark and Ninja products
Consumer Demand	■ While we saw YoY market declines across multiple categories that we operate in, we continued to gain market share in most of the categories we participate in ➢ **Showcasing brand strength of Shark and Ninja**
Economic Uncertainty	■ **Proven track record of effective P&L management** through uncertain times, leveraging our global expense base ■ **Continue to invest in R&D and Advertising** to drive New Product and International Market expansion ■ **Cost Optimization initiatives** remain a major focus to fuel our future growth

JS Global



ESG

Well-recognized ESG performance

HKQAA-Hang Seng Sustainability Rating
JS Global Lifestyle was awarded **A**, outperforming **80%** peers in the industry

Improved from **A-** in 2021 to **A** in 2022

FTSE Russell ESG Ratings
JS Global Lifestyle scored **3.1** in 2022 while the average score for the industry was **2.3**

Improved from **2.8** in 2021 to **3.1** in 2022

S&P Global Dow Jones Corporate Sustainability Assessment (CSA)
JS Global Lifestyle scored **56**, ranked in the **Top 5%** of the industry

Improved from **45** in 2021 to **56** in 2022

Globally renowned financial magazine *Institutional Investor*
JS Global Lifestyle rank **#3** in the industry for **Best ESG**(1)

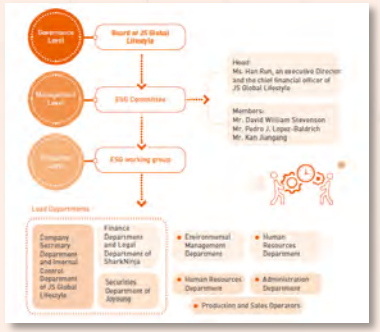
Hang Seng Corporate Sustainability Benchmark Index
JS Global Lifestyle was selected as a **constituent stock** in 2022

(1) Source: ranking by Institutional Investor Journal released on 23 June 2022

Establishing a complete ESG system

Sustainability management

- Refined **ESG Framework**, and disclosed **JSG Environmental, Social and Governance (ESG) Management Measures**, setting systematic rules and standard procedures for ESG matters
- SharkNinja hired first-ever Director of Sustainability, leading the global SharkNinja Sustainability team, and set up official ESG website
- No violations of laws and regulations was recorded in 2022



Supply chain management

- **Further incorporating ESG factors into supplier selection**. SharkNinja required all prospective suppliers to complete either a BSCI or SEDEX SMETA third party audit, while Joyoung conducted auditing of 26 suppliers and kept monitoring their ESG practice
- Maintained routine and productive engagement with suppliers. SharkNinja conducted at least one training for its tier 1 suppliers every year, while Joyoung organized 51 supplier trainings, covering 221 suppliers
- Required all suppliers to abide by **the Supplier Code of Conduct**, ensuring a **reliable and responsible supply chain**. Joyoung aimed to ensure **100% suppliers to be ISO 9001 certified**



Products and services

- **Invested over USD 225 mn+ in R&D** in 2022 and owned **over 14, 600 patents** as of 31 Dec 2022
- Maintained high standard quality control programs based on ISO 9001 standards**. No product recall due to quality issues in 2022**
- Ensuring customers were highly satisfied with our services, Joyoung achieved **97.4% customer satisfaction** with after sale services in 2022
- Launched a series of new products, Joyoung's water purifier products won **3 awards in 2022 China kitchen and sanitary industry Innovation and development Summit**



- Operated comprehensive information security management programs, under which **no information leakage incident occurred in 2022**. Joyoung underwent **ISO 27001** information security management system review by a third-party professional firm, while SharkNinja had information security programs detailing cybersecurity and privacy protection procedures and incident response plan

Becoming the industry benchmark for ESG practice

Environmental protection & management

- **Systemtically working towards the environmental goals**, focusing on five major environmental impacts: greenhouse gas emissions, energy consumption, materials consumption, water consumption and waste production, and continued to carry out follow-up plans
- SharkNinja European headquarter in UK has **achieved carbon neutrality**
- Total photovoltaic power generated Joyoung in 2022 was **3,053,413 kWh**, representing **a self-consumption rate of 87%**
- SharkNinja developed food waste mitigation solutions in 2022, lauching products that can help customers to easily turn food disposal scraps into compost
- SharkNinja refined scope 3 carbon accounting in 2022, as well as completed company-wide scope 1 and scope 2 carbon assessment following **ISO 14064:2018** greenhouse gas accounting standard
- JS improved climate related risk and opportunity identification, analysed financial impact and possible response plans based TCFD framework
- SharkNinja's distribution center in U.K. is **BREEAM certified**
- SharkNinja's headquarters received **LEED Silver certification**
- Joyoung passed **ISO 14001:2015 Environmental Management System certification**



Social welfare





- SharkNinja devoted **USD 1.39mn** in charitable activities, with 342 **volunteers** contributing over **2,500 hours** of volunteer services
- Joyoung Foundation has funded **1,330 schools**, **benefited 736,766 students**, with total charitable expenditure **over RMB 63mn**
- The "Joyoung Charity Kitchen" project have built **1,353 kitchens**, which **benefited over 500k students and teachers,** with the total charitable donation over **RMB 61mn**

Employee management

- JS has improved labor management related issue scores significantly for **S&P CSA, FTSE and HKQAA-Hang Seng Sustainability Rating**
- SharkNinja strenthend **Diversity, Equity & Inclusion (DEI)** practices, enhancing DEI educations through employee training, on-site DEI library and global monthly DEI newsletter
- SharkNinja China won 2022 Greater Suzhou Best Employer Award
- Joyoung set up tailored programs for employees of various functions and levels. The average training hours per employee in 2022 was over **80 hours**
- JS guaranteed the employment opportunities of the disabled, with SharkNinja and Joyoung employing **41** and **38 emplyees with disabilities, respectively**







Strategic reorganization - The Proposed Spin-off

Transaction overview

Background and Overview	• After assessing the overall market positions of "Shark", "Ninja" and "Joyoung" brands across different regions, the Company recognized that success in each market requires geography-specific considerations and focus. Therefore, the Company believes that the best strategy to drive long-term business growth and enhance its presence in localized markets is to "break up" the Company into its two primary delineated markets: (i) APAC region and (ii) North America, Europe, and other selected international markets: o JS Global, which will remain listed on the Hong Kong Stock Exchange, focuses on the APAC region including Greater China o SharkNinja Group, the SpinCo, which will seek separate listing on the U.S. Stock Exchange, focuses on North America, Europe, and other selected international markets excluding APAC region
The Proposed Spin-off and Distribution	• Each of the JS Global's Shareholders to be entitled to **a pro rata distribution** of all JS Global's shareholding in SharkNinja in proportion to their respective shareholdings in JS Global • Precise distribution ratio to be determined at a time closer to the Proposed Spin-off • Subject to approval by Company shareholders by way of an ordinary resolution in EGM
The Possible Offering	• **Up to 20%** of SharkNinja's shares on a fully diluted basis • **Combination of new and existing shares** of SharkNinja (1), precise combination to be determined • **Up to 6-month** lock-up on remaining shares (2) • Subject to approval by the minority Company shareholders by way of an ordinary resolution in EGM

(1) With potential for only new shares
(2) Refers to all shares of SharkNinja to be distributed by the Company to the Company Shareholders under the Proposed Distribution (other than any Sell Down Shares of SharkNinja that are sold in the Possible Offering)

Separation expected to create two strong independent businesses: JS Group and SharkNinja Group

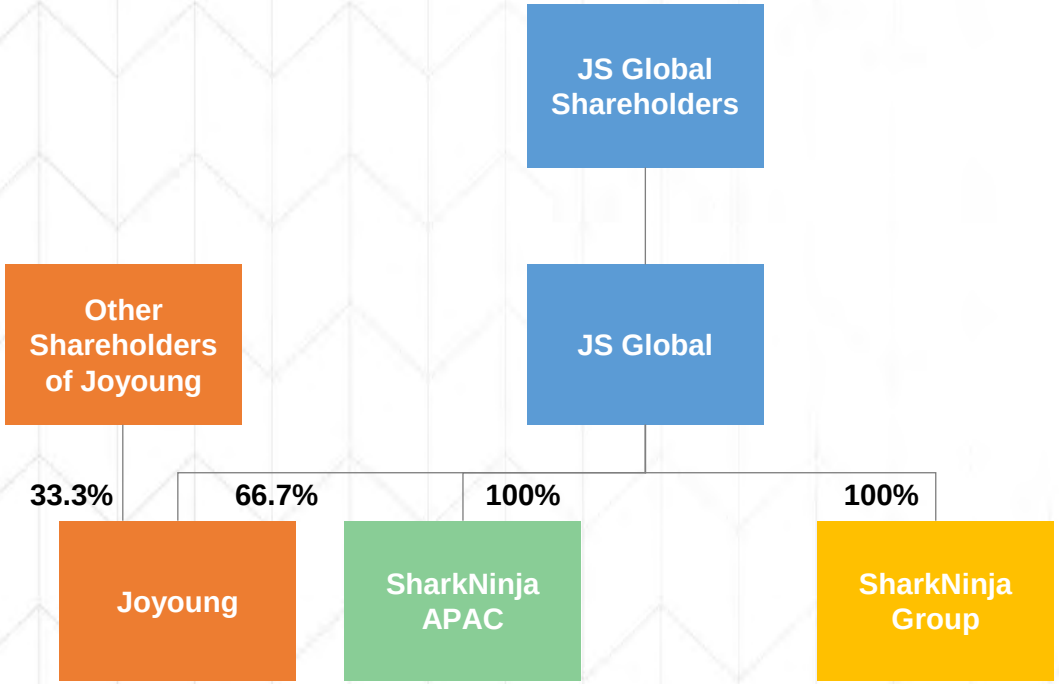
	JS Group		SharkNinja Group
	Joyoung	SharkNinja APAC	
Products	• Mainly kitchen appliances 	• SharkNinja products for Asia Pacific including Greater China that cater to local consumer preferences 	• SharkNinja products for the U.S., Europe and other selected international markets 
Target Regions	• Greater China and potentially other APAC countries/regions	• Asia Pacific (including Greater China)	• North America, Europe and other selected international markets (excluding Asia Pacific and Greater China)
Distribution (1)	• Local retailers and distributors • Online e-commerce platforms	• Local retailers and distributors • Online e-commerce platforms including direct-to-consumer	• Local retailers and distributors • Online e-commerce platforms including direct-to-consumer
Research and Development	• The JS Group and the SharkNinja Group will continue to run its own R&D, while being able to leverage each other's strengths in product development capabilities		
Supply Chain	• While each of the JS Group and the SharkNinja Group will have sourcing function to support its own sourcing needs, the JS Group will assist the SharkNinja Group to source components used in the production of home appliances from OEM suppliers in Mainland China		

(1) The distribution channels do not overlap between the JS Group and SharkNinja Group

SharkNinja Ex. 1012
Page 287 of 442

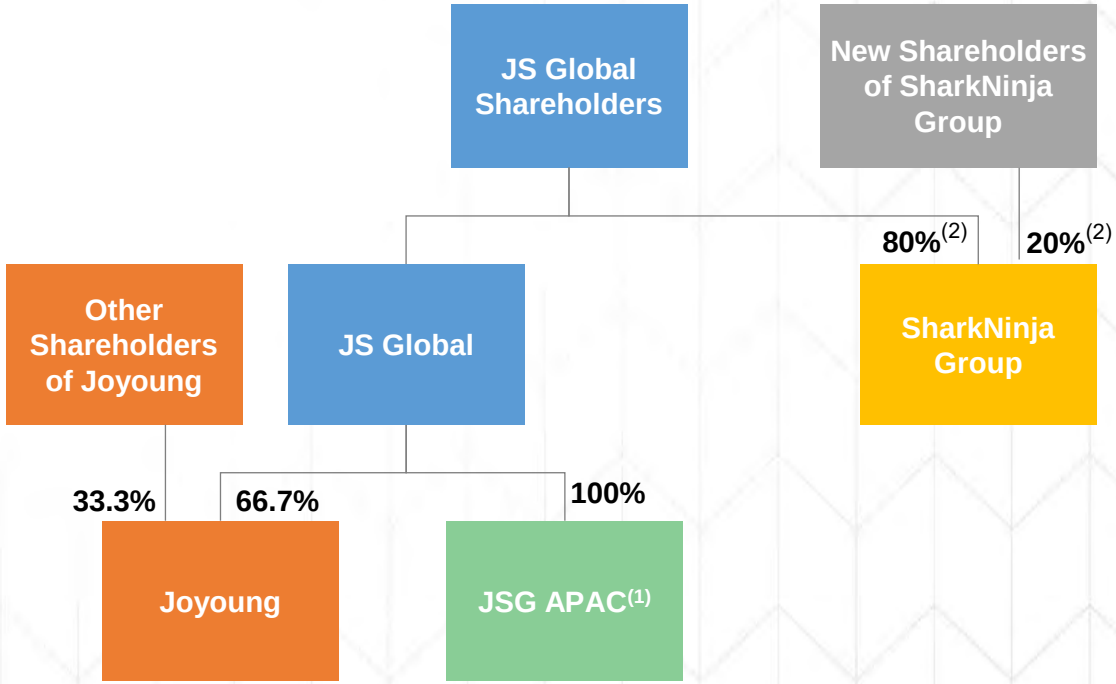
Shareholding structure pre and post transaction

Before the completion of the Proposed Spin-off, the Proposed Distribution and the Possible Offering



Upon the completion of the Proposed Spin-off, the Proposed Distribution and the Possible Offering

Assuming the Possible Offering is proceeded with to the maximum extent in terms of new offer shares



(1) JSG APAC will be leading the design, production, marketing and distribution of Shark and Ninja brands of products in Greater China and Asia Pacific Region upon completion of the Proposal
(2) Based on a fully diluted basis

SharkNinja Ex.1012
Page 288 of 442

Anticipated benefits of the Spin-off

1

Attractive value proposition for shareholders and investors

- Provide shareholders and investors with greater disclosures on the businesses and financial status of both JS Group and SharkNinja Group
- Provide shareholders with greater flexibility to adjust their investment exposure
- Enable investors to make informed investment decisions

2

Enhance geographic focus and operational efficiency

- Well positioned for continued growth, driven by strong innovation capabilities and localized business strategies aimed at respective markets
- Faster response to the needs of local consumers and markets
- Effectively capitalize on business opportunities that will lead to improved operating and financial performance

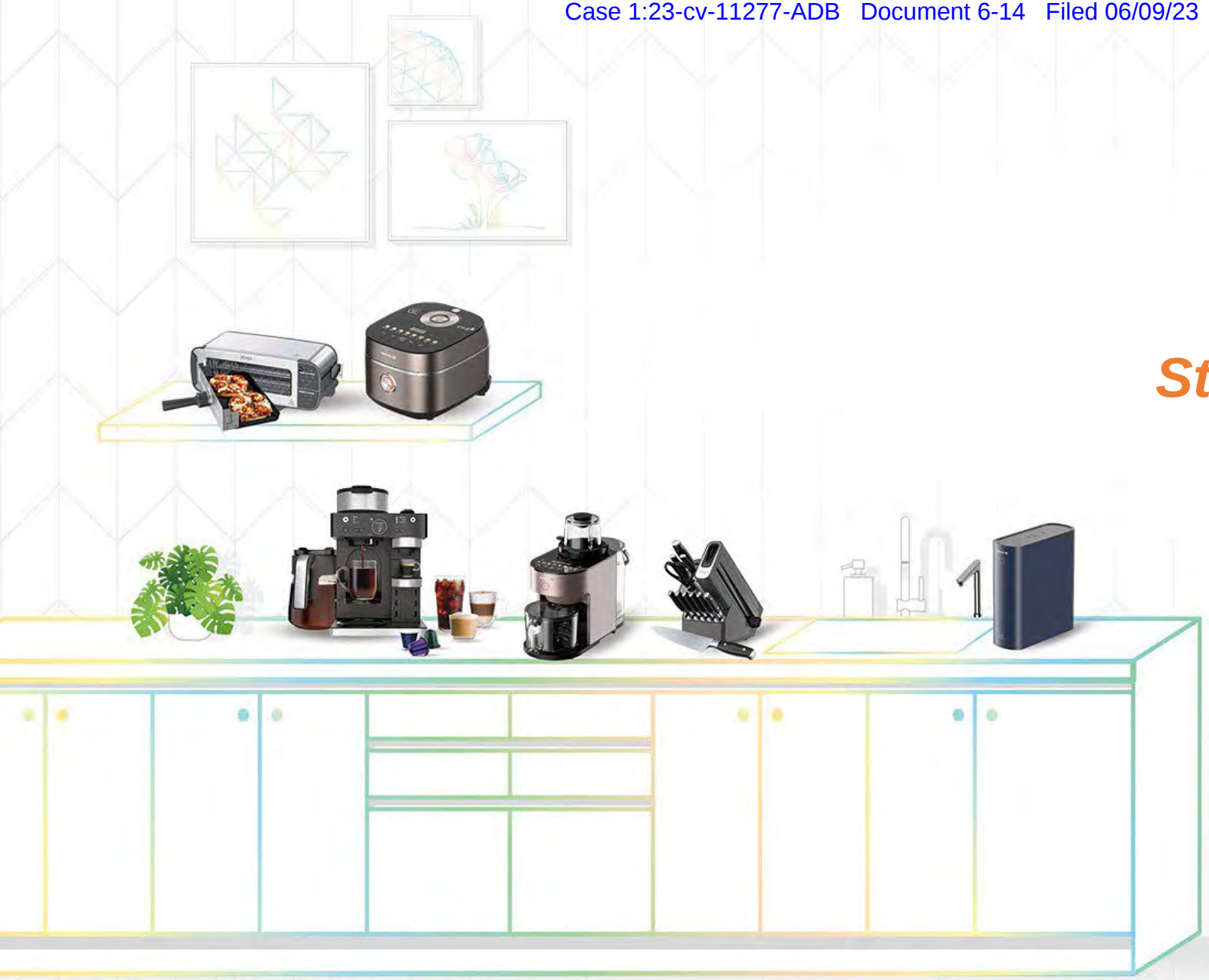
3

Ensure more effective and independent corporate governance for sustainable development

- Enable more focused development and strategic planning without overlapping of executive directors and senior managers of the two businesses(1)
- Achieve sustainable competitive advantages through tailor-made social and environmental practices
- Improve the ability to recruit, motivate and retain management and key personnel for both Groups

(1) After the Proposed Spin-off and the Proposed Distribution, there is expected to be no overlapping of executive directors and senior managers between the SharkNinja Group and the JS Group except for Mr. Wang Xuning, who is expected to act as a director of both the JS Group and the SharkNinja Group.

SharkNinja Ex. 1012
Page 289 of 442



Strategy and Outlook

A strategy to ensure lasting growth

How we DELIVER → Focus on the Consumer

Develop and commercialize innovative products, combining powerful technology with appealing designs

Drive sustainable long-term growth through sales network and product category expansion

How we GROW

Existing Categories

Dominant market share

Continued innovation

New Categories

Entry into new and adjacent product categories

Enrich product mix in recently launched new categories

Internationalization

Expansion of Shark & Ninja brands in APAC

Growth in Europe

Expansion in France, Germany, Spain, Italy

Our Outlook

Superior navigation of global macro economic challenges

Continue to exceed overall market performance

APAC OUTLOOK – *How we GROW*

New Markets

Expansion of Shark & Ninja brands in APAC

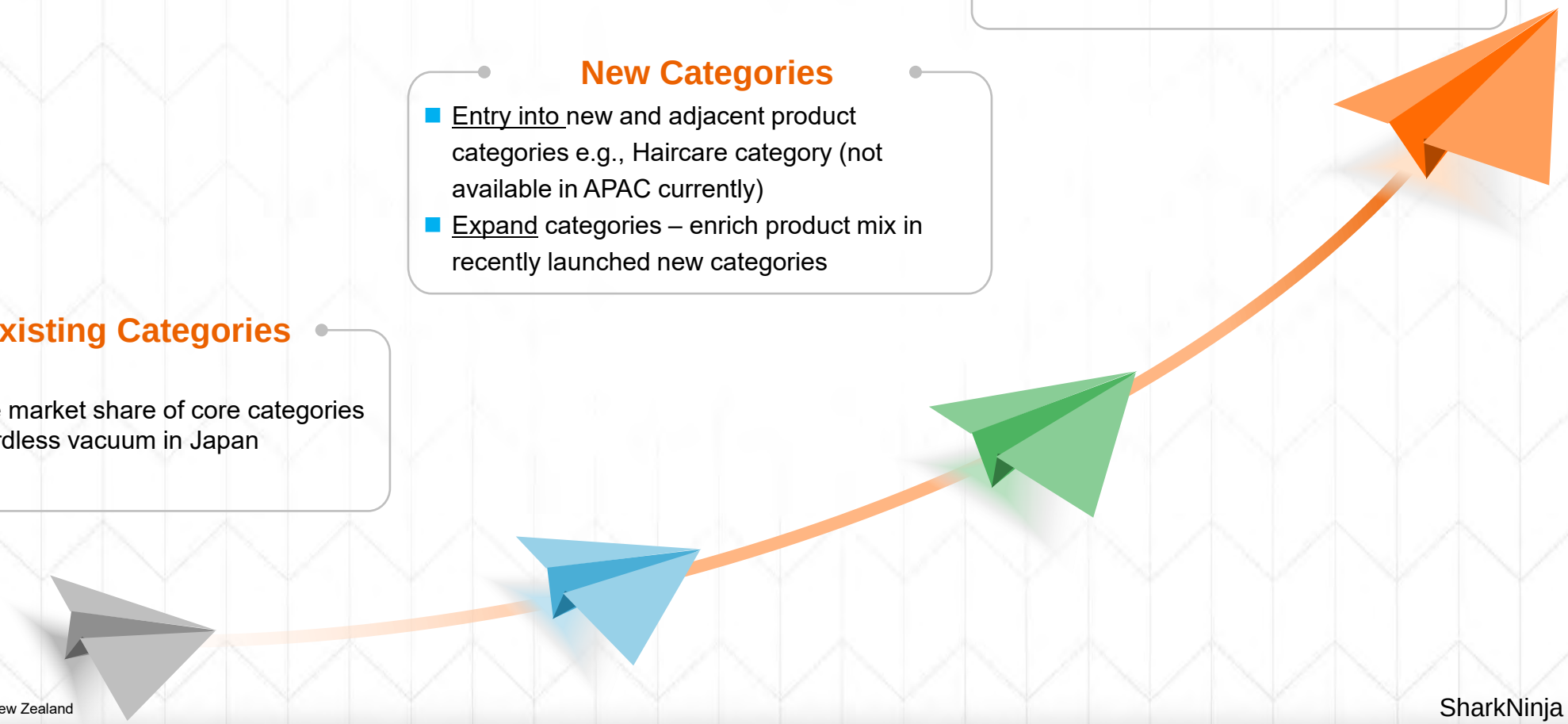
- **Go direct**: ANZ(1), India, Vietnam
- **Distribution**: ASEAN(ex-Vietnam)

New Categories

- Entry into new and adjacent product categories e.g., Haircare category (not available in APAC currently)
- Expand categories – enrich product mix in recently launched new categories

Existing Categories

- Improve market share of core categories e.g., cordless vacuum in Japan



(1) ANZ refers to Australia and New Zealand

Our mission

“Positively impact people’s lives around the world every day through transformational, innovative and design-driven smart home products”




JS
Global

EXHIBIT 5

Comments

FASHION & BEAUTY

We tried the new Shark FlexStyle hair styler: is it a dupe for Dyson?

By Sophie Cannon September 7, 2022 10:00am Updated

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Here at The Post, we are sharks when it comes to finding the perfect dupe.

From Doc Martens to the viral Home Depot 12-foot skeleton, we are always on the hunt to save you money and find twinning products to beloved items that may not be as attainable for all shoppers.

One of those coveted items is the Dyson Airwrap, with an extreme inventory issue and $600 price tag. We personally love our model, but even the New York Post struggled to get our hands on one for many months.

During that time, we rounded up some dupes for the viral hair dryer, but as of Sept. 6 there is a new multi-styler in town that was rumored to blow the rest out of the water.

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HAIR

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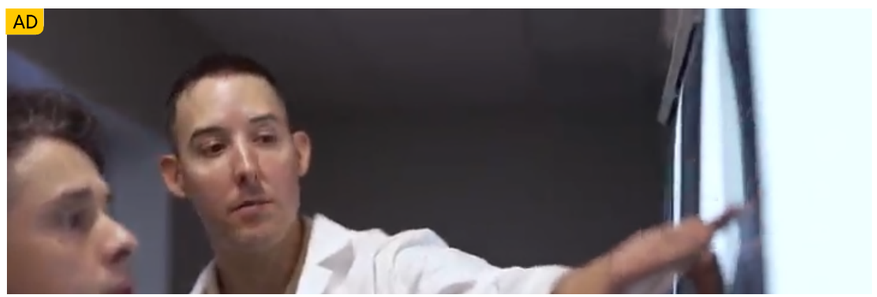
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AD





We're talking about the new Shark FlexStyle, which we covered earlier in August when it was released for preorders. The hair tool starts at just $250, which is less than half the price of its main competitor.

1 of 3



Sophie Canon

BUY NOW

For a brief refresher, the Shark FlexStyle uses the same Coanda airflow technology to wrap the hair automatically, resulting in frizz-free curls without the typical kinks left by traditional curling irons. The styler also comes with options for other attachments like a paddle brush, oval brush, styling concentrator and a curl-defining diffuser.

Lastly, unlike the Dyson, the FlexStyler can bend at a 90-degree angle to become a hair dryer and diffuser with the attachment. This flex (we understand the name now!) is great to get the best angle when drying hair, and also is far more comfortable on the wrists when dealing with a lot of hair.

Our review of the new Shark FlexStyle:

Can it curl like the Dyson Airwrap?

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STUDENT LOANS



Starting with hair 90% dry on the left, I dried one side of my head with the Dyson and one side with Shark. Can you tell which is which?

Sophie Cannon

Since we now have both the Dyson Airwrap and the new Shark FlexStyle on hand, it is obviously time for a curl-off.

The auto-wrapping ability of both devices is really what all of the buzz is about, and since they both use Coanda airflow to make alleged perfect ringlets, this was the perfect test to compare the two multi-stylers. Both require hair to be 80-90% damp, and both need to be fed sectioned pieces of hair, so for this review I simply split my hair down the middle (Gen Z is loving the middle part right now anyway) and got to work.

To note from the start, while both the older model of the Dyson and this new Shark styler use two different barrel attachments to curl air to the left and the right, the new Dyson Airwrap Complete for 2022 uses only one, with the ability to switch directions — one point to Dyson there.

The curling process itself was relatively the same, aside from having to switch the Shark barrel a few times. Both models have options to adjust the heat and the power of the air, as well as a button for a blast of cool air to set the curl. The Dyson is a bit easier to use, as the buttons are all closer together, while the Shark takes two hands, or at least more practice to learn where all the buttons are.



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With Dyson on the left and Shark on the right, you can see that tighter curls are easier with the Dyson, while loose waves are seen when using the Shark, especially on longer, heavy hair.

Sophie Cannon

After curling the hair on either side, what do you think?

I personally didn't see too much of a difference, and for $350 more, I don't think the Dyson side looks $350 better than the Shark side. However, when used on longer, heavy hair, the Dyson does have more curling power, as seen in the photo above. For looser waves, the Shark can be used, and you may want to pick up some hairspray should you want the tighter curls that Dyson produced.

Pros:

- Far less expensive than the Dyson, starting at just $250
- The curls are easy to make, with similar buttons and features to the Dyson
- Comes with all the attachments needed to curl, blow dry and straighten, with options to customize for your hair type
- The device can twist to become a hair dryer at a right angle, making drying and diffusing easier than using it in the stick form

Cons:

- The auto-wrap curlers only go one direction, similar to the older Dyson model
- Does not come with a luxury case or heat-protecting pad
- For heavier or longer hair, the Shark falls a bit flat when using the auto-curling barrels

SHARK

DYSON

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31:33

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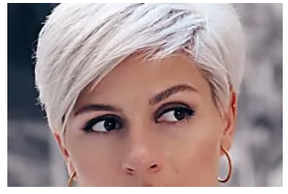
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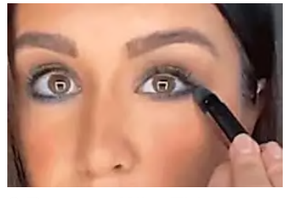
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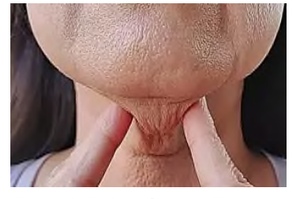
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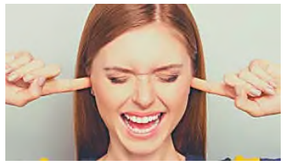
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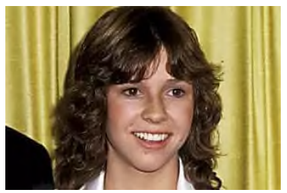
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2 Viewing

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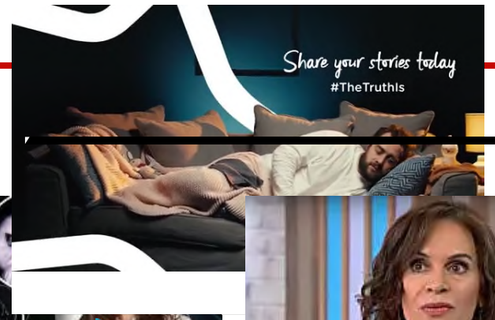
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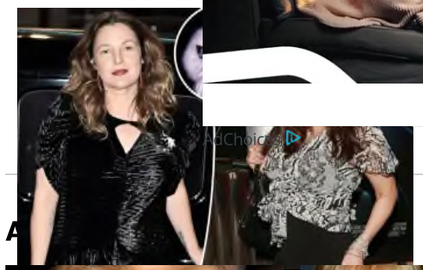
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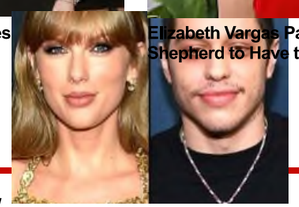
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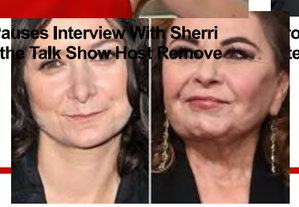
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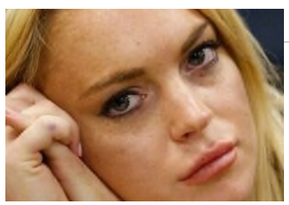
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EXHIBIT 6

Lifestyle > I Tried It

SHARK'S FLEXSTYLE SYSTEM DEMOCRATIZES HIGH-END HAIRSTYLING

It's *way* more than just a Dyson dupe.



BY EUNICE LUCERO-LEE UPDATED: OCT 14, 2022



EUNICE LUCERO-LEE

There are a lot of cool things out there that make us wonder — do they really work? In our I Tried It series, we set out to use them in the real world and have determined that, in fact, they really do.

The Product on Trial

The Shark FlexStyle Air Styling and Drying System

The Tester

Eunice Lucero-Lee, Dyson AirWrap owner, volume-seeker

The Brief

I've been covering beauty since 2004 and was a hair editor for 5 years, so to say that I've seen almost every recent hair innovation come and go isn't an exaggeration. Everything from using bubble-tonged irons to rotating machines that sucked your hair into a wheel, to the TikTok-assisted rebirth of roller-girl feathering — I've seen it, tried it, and depending on my current state of self-control, have probably bought it.

When Dyson came out with their revolutionary SuperSonic blow-dryers a few years ago, followed by the AirWrap Complete Multi-Styler last 2019, as expected, I set out to get to the bottom of all that tech — and, yes, immediately put it on top of my birthday gift list. It's been my bestie all throughout the pandemic (and yup, I blow-dry my hair every day, ring the alarm) and chalking it up to the brand's non-damaging Coanda technology, my locks are the longest and, dare I say, healthiest they've been in years.

Shark Beauty FlexStyle Air Styling and Drying System

Enter: Shark's FlexStyle. Powered by the same Coanda self-curling tech that pretty



$280 AT SHARKCLEAN.COM

much put Dyson's AirWrap on the map, and equipped with similar snap-on accessories such as auto-curlers, brush heads, a diffuser, and a concentrator, it's easy to see why people would consider it for what it was: A Dyson dupe, at half the price.

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EUNICE LUCERO-LEE

SO, WHAT IS IT?

The Shark FlexStyle is a versatile, multi-accessory styling tool that allows users to create multiple hairstyles with one machine simply by switching out its attachments. On its own and twisted in an “L” (or “7”) shape, it’s a fast, high-powered, non-heat-damaging blow dryer. Twisted back into its original straight position, it becomes a base for several styling head attachments: two auto-curlers, two brush heads (one volumizing brush, one paddle brush), one concentrator nozzle, and one diffuser. Depending on the bundle you go with, you can choose three or go with all of them, the latter of which I was sent for this review.



SHARK

Note: My hair type is straight, super fine, and super long. On hair charts, I can fall anywhere under a 1A or 2B at my most texturized, aka between stick-straight and ever-so-slightly wavy, depending on what the NYC weather throws at me for the day. I opted to test the actual blow dryer, the volumizing brush, and the auto-curler attachments. I didn't test the diffuser, which is an attachment for curly to coily hair types, and the concentrator nozzle, because I simply never need one IRL for my already-straight tresses.

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THE SETUP

I showered and used my current shampoo and conditioner in rotation, which was a straightforward, non-stripping moisturizing duo for fine hair. I usually use a hair mask after conditioning and spritz my tresses with a detangler after I rinse — being past my bra line, it can tangle after washing — but for the purposes of this review, I decided to keep it to the basics for now.

After combing and detangling (Tangle Teezer FTW!), I switched on the blow dryer. First impression: This thing has *power.* It's definitely stronger than the blow-dryer head attachment of my Dyson, and as such, dried my hair quicker and more thoroughly in a short time (~10 minutes). That said, it's also louder and sounded tinnier (owners of skittish pets, be warned), and is something you'll notice the moment it turns on — there's definitely no build-up of power here: It starts on *strong*, and you have to adjust or lower it to your desired level.

I dried my hair to the recommended 90% dry/10% damp level (which, I just realized, is how I've been going through life anyway, gasp) and noticed that although it was definitely dry, it wasn't as smooth or shiny as it usually gets, which I attributed to the higher heat factor. (No worries: It also had a Cool Shot button, which I will go into more detail about later.)

Next is my favorite part: *va-va-volume!* To prep, I used a few spritzes of a hydrating hair essence to lubricate my strands because otherwise, with my hair type, tugging it through bristles would be like dragging a chair across a carpet — it's just not happening.

I'm Asian with long, straight hair, so it's no surprise that volume is one of my biggest challenges. The Shark FlexStyle oval volumizing brush comes

with two (!) different kinds of bristles — one for smoothing and volumizing and one for detangling — so yeah, my carpet analogy? It did not happen! Usually, even when primed with a detangler or leave-in conditioner, my hair still needs a bit of tugging while being urged through a curling brush. Not here: My sections went smoothly yet firmly through the bristles in one pass, and I was left with a smoother, shinier, bouncier result.



EUNICE LUCERO-LEE

The auto-curlers were next, and immediately off the bat, I appreciated that they had L and R indicators to help awkward curlers like me figure

things out at a glance (the Dyson doesn't, BTW, and that's also mainly why I find those attachments tedious to use).

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If you're new to the Coanda train, it basically allows each attachment to aerodynamically curl your own hair around it — it's really trippy to watch for the first time, honestly, like literal sorcery — and unlike your run-of-the-mill ceramic curling iron, these prongs stay relatively warm enough for you to safely adjust your hair on it.

Not that you would have to have any direct contact with the hot surface, either: Each of these attachments has a designated "Cool Touch Location," or little spots or grips that don't heat up, that allow you to safely maneuver and adjust without singeing yourself.

I separated my hair into left and right, then top and bottom sections, and curled each one using the corresponding auto-curler. My whole head took about 20-25 minutes.



EUNICE LUCERO-LEE

The Verdict

Not gonna lie: The Shark FlexStyle is, unabashedly, a copy of what we all know the Dyson SuperSonic and AirWrap systems to be — but with a few distinct, democratic improvements.

First, unlike the Dyson AirWrap Complete multi-styler that allows you to remove the blow-drying head as another accessory, the FlexStyle has a blow-dryer as its base attachment, leaving you with one less thing to remove or lug around. The FlexStyle blow-dryer is also more powerful, drying hair faster and more thoroughly than its pricier counterpart.

The fact that the volumizing brush attachment comes with a mix of bristles is a tiny but helpful tweak that fine-haired people like me will really, really appreciate, too. It's also a whopper of a brush, which meant it covered more surface area and cut my styling time in half.

The auto-curlers are also very impressive; I love that you only get two in a bundle (versus the Dyson AirWrap, which gives you four, which honestly feels superfluous and, for everyday use, can be two too many), and they're clearly labeled in the direction they rotate.

I very rarely curl my hair, and when I do, I want to keep it as straightforward as possible; the FlexStyle not only does the work for me but, similar to the Dyson, it also allows me to spot-curl in places and sections that I might have missed. The FlexStyle styling guide also said to hold each ringlet on the barrel for 10 seconds, then keep it for another 10 while pressing the Cool Shot button to set each curl. What a great tip!

The only gripe I have is that using any curler with Coanda technology has a learning curve, and that depending on your skill level, ringlets usually come out looking a bit flimsier and more stretched out. Because of Coanda's non-damaging effect, sections attach to the barrel thinner and more evenly (for better or worse), which means that it can take a *lot* of time to get through a long, thick head of hair. It also takes a bit of practice — and some soft brushing — to get your curls to fall uniformly, but once you have the rhythm and technique down, it's very easy … almost fun!

And of course, the $64-million question: Does it really give Dyson results but at half the price? Yes, it does. Shark also allows you to choose which attachments you want, depending on your hair type and texture needs (a diffuser can be a game changer for curly hair types, for one), and the blow-dryer is even streamlined enough to pack into a suitcase with no

bulk. *All at less than $270*. Competition definitely improves the product, and we're here for it!

SHOP THE SHARK FLEXSTYLE AIR STYLING AND DRYING SYSTEM



EUNICE LUCERO-LEE

senior editor

Eunice Lucero-Lee is the Senior Editor for Best Products, and is a beauty, astrology, and pop culture obsessive whose work has been featured in publications such as *Cosmopolitan*, *Esquire*, *The Numinous*, and *woman&home*, among many others. A (very) proud cat mom, she spends her time in Manhattan obsessing over celebrity natal charts,...

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Shark FlexStyle™ .95" Auto-Wrap Curlers

Model: XSKHD4SDCL

The Shark FlexStyle™ .95” Auto-Wrap Curler attaches to the Shark FlexStyle™ to automatically attract hair and wrap it around the barrel using the Coanda effect. Creates tight curls that look great, for all hair types.

$29.95

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Shark FlexStyle™ .95" Auto-Wrap Curlers **$29.95** Add to Cart

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Shark FlexStyle™ .95" Auto-Wrap Curlers **$29.95**

EXHIBIT 8

Dive Into Savings — Up to $85 Off | * Details & Exclusions

The SharkNinja Family: Shark | NINJA

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0



Shark FlexStyle™ 1.25" Auto-Wrap Curlers

Model: XSKHD4CA

The Shark FlexStyle™ Styling Auto-Wrap Curler attaches to the Shark FlexStyle™ and automatically wraps, curls, and sets your hair with Coanda technology. The airflow gently pulls in hair to wrap for hassle-free curls in seconds.

$29.95

QUANTITY 1

Add to Cart

Drop a hint

60-day money-back guarantee

Free shipping on orders $99 or more

Exclusive warranty from Shark®

10% off first purchase when you sign up for email

Feedback

SAVE 10%

Shark FlexStyle™ 1.25" Auto-Wrap Curlers **$29.95** Add to Cart

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EXHIBIT 9

https://www.prnewswire.com/news-releases/sharkninja-confident-that-it-will-prevail-in-irobots-latest-patent-play-301218415.html

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SharkNinja Confident That It Will Prevail in iRobot's Latest Patent Play

NEWS PROVIDED BY
SharkNinja →
29 Jan, 2021, 21:53 ET

SHARE THIS ARTICLE

NEEDHAM, Mass., Jan. 29, 2021 /PRNewswire/ -- SharkNinja Operating LLC (SharkNinja), an innovation leader in the consumer floorcare industry, offers consumers high quality robotic vacuums at an extraordinary value. This week, iRobot Corp. (iRobot) filed a complaint at the International Trade Commission (ITC) asking the ITC to exclude SharkNinja's ION Robot, IQ Robot and AI Robot vacuums from entering the United States based on allegations of patent infringement.

In 2019, iRobot filed a patent infringement case against SharkNinja in the United States District Court for the District of Massachusetts alleging infringement of six patents and seeking a preliminary injunction with respect to three of them. The District Court denied iRobot's request for an injunction, and only three of the six patents now remain in the case. In the meantime, The United States Patent Office (Patent Office) has instituted proceedings to re-assess the validity of those three patents, already having found that there is a "reasonable likelihood" that all of the claims iRobot asserted against SharkNinja in those patents are invalid.

iRobot has now attacked SharkNinja's robotic vacuums in a different forum with different patents. But SharkNinja believes that iRobot's new allegations also are unfounded. SharkNinja takes intellectual property very seriously and takes active steps to avoid violations of any valid intellectual property rights of others. SharkNinja intends to aggressively defend itself against iRobot's ill-founded claims of patent infringement and is confident that it will continue to prevail in these disputes In fact, SharkNinja filed a request with the Patent Office in 2020 asking it to invalidate one of the patents only now being asserted by iRobot in the ITC case. That proceeding is pending at the Patent Office.

SharkNinja remains committed to providing innovative robotic vacuums with advanced cleaning features to our consumers at incredible value.

About SharkNinja

SharkNinja is an innovation leader in the housewares industry and creator of the familiar household brands Shark® and Ninja®. SharkNinja provides the latest in easy-to-use innovative technology with a growing line of solutions that consist of Shark cleaning and home care products and Ninja kitchen appliances. Products are sold at major retailers and through distributors around the world. Ninja and Shark are registered trademarks of SharkNinja Operating LLC .SharkNinja is a subsidiary of JS Global (HKEX: 1691 HK) a leader in small household appliance innovation.

For more information, contact Dan O'Shaughnessy, at DOShaughnessy@sharkninja.com or visit sharkninja.com.

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EXHIBIT 10

Bronx County, New York
United States

I, Erik Werner, hereby declare as follows:

1. My name is Erik Werner. I provide this declaration on behalf of Inwood Hill Translations, Inc. at the request of DLA Piper LLP.

2. I am a professional translator, fluent in German and English. I am the President and Managing Partner at Inwood Hill Translations, Inc.

3. I reviewed the original German version of this document and prepared the English translation of the German Judgment attached hereto. To the best of my knowledge, the English translation is a true, complete, and accurate translation of the German Judgment.

4. In signing this declaration, I recognize that the declaration will be filed as evidence in a case before the United States District Court for the District of Delaware. I also recognize that I may be subject to cross-examination in the case and that cross-examination will take place within the United States. If cross-examination is required of me, I will appear for cross-examination within the United States during the time allotted for cross-examination.

5. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. These statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 U.S.C. § 1001).

Signed this 7th day of June, 2023

Erik Werner
(President, Inwood Hill Translations, Inc.)

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County of BRONX
SUBSCRIBED AND SWORN TO ME
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STEPHEN REICH
Notary Public, State of New York
No. 01RE6145199
Qualified in Bronx County
My Commission Expires May 1, 2026

- Certified Copy -

Munich I Regional Court

Case no.: 7 O 3236/23



IN THE NAME OF THE PEOPLE

In the matter

Dyson Technology Limited, represented by the Director, Wiltshire SN16 ORP, Tetbury Hill, Malmesbury, United Kingdom
- Injunction Plaintiff -

Attorneys of record:
Rechtsanwälte **DLA Piper UK LLP,** Maximilianstrasse 2, 80539 Munich, ref. no.: MG/398223/388

versus

1) **SharkNinja Europe Limited,** represented by the Director, c/o Regus Management GmbH, Excellent Business Center 10. + 11th floor, Westhafenplatz 1, 60327 Frankfurt
- Injunction Defendant 1) -

Attorneys of record:
Rechtsanwälte **Finnegan Europe (Germany) LLP,** Thierschplatz 6, 80538 Munich, ref. no.: 16325.8050-234-JCH/DZS

2) **SharkNinja Germany GmbH,** represented by its managing directors Mr. Paul Cosimo Carbone and Mr. Thomas Anthony Brown, c/o Regus Management GmbH, Excellent Business Center 10. + 11th floor, Westhafenplatz 1, 60327 Frankfurt
- Injunction Defendant 2) -

Attorneys of record:
Rechtsanwälte **Finnegan Europe (Germany) LLP,** Thierschplatz 6, 80538 Munich, ref. no.: 16325.8050-234-JCH/DZS

Intervenor 1):
SharkNinja Germany GmbH, represented by its managing directors Mr. Paul Cosimo Carbone and Mr. Thomas Anthony Brown, c/o Regus Management GmbH, Excellent Business Center 10. + 11th floor, Westhafenplatz 1, 60327 Frankfurt

Attorneys of record:
Rechtsanwälte **Finnegan Europe (Germany) LLP,** Thierschplatz 6, 80538 Munich, ref. no.: 16325.8050-234-JCH/DZS

the Munich I Regional Court – 7th Civil Division – through Presiding Judge Dr. Schön at the Regional Court, Judge Kuttenkeuler at the Regional Court, and Judge Dr. Schacht, M.A. at the Regional Court, on the basis of the oral hearing on 04 May 2023, pronounces the following

Final Judgment

I. Injunction Defendants are ordered, on penalty of an administrative fine of up to EUR 250,000.00 to be determined by the Court for every case of violation, alternatively imprisonment for contempt of court, or imprisonment for contempt of court of up to six months, with imprisonment for contempt of court is to be enforced upon the legal representatives,

to cease and desist

1.

offering, putting on the market or utilizing or importing or stocking for the cited purposes in the Federal Republic of Germany

an attachment for a hand held appliance,

comprising an inlet at a first end; an outlet; and a fluid flow path between the inlet and the outlet, wherein the attachment is generally cylindrical and wherein the outlet comprises at least one slot extending from near the first end of the attachment towards a distal end of the attachment, wherein the at least one slot extends substantially along the length of the attachment and wherein the outlet is at least partially defined by an external surface of the attachment, characterized in that the outlet is configured to direct fluid emitted from the outlet tangentially around the external surface of the attachment.

(EP 3 119 234, claim 1)

2.

offering, putting on the market or utilizing or importing or stocking for the cited purposes in the Federal Republic of Germany,

a hand held appliance,

comprising a handle (20) having a fluid flow path from an inlet (40) to an outlet and a fan unit (70) for drawing fluid into the fluid inlet and an attachment for attaching to the handle (20), the attachment according to claim 1.

(EP 3 119 234, claim 10)

II. Injunction Defendants bear the costs of the dispute jointly and severally.

III. The judgment is provisionally enforceable.

signed

Dr. Schön	Kuttenkeuler	Dr. Schacht, M.A.
Presiding Judge at the Regional Court	Judge at the Regional Court	Judge at the Regional Court

- Certified Copy -

Pronounced on 4 May 2023

signed
Miller, Court Clerk
Office Registrar



[Seal: Regional Court of Bavaria]

Certified to be a true copy
Munich, 4 May 2023

signed
Miller, Court Clerk
Office Registrar

- Beglaubigte Abschrift-

Landgericht München I

Az.: 7 O 3236/23

IM NAMEN DES VOLKES

In dem Rechtsstreit

Dyson Technology Limited, vertreten durch d. Direktor, Wiltshire SN16 0RP, Tetbury Hill, Malmesbury, Vereinigtes Königreich
- Verfügungsklägerin -

Prozessbevollmächtigte:
Rechtsanwälte **DLA Piper UK LLP**, Maximilianstraße 2, 80539 München, Gz.: MG/398223/388

gegen

1) **SharkNinja Europe Limited**, vertreten durch d. Direktor, c/o Regus Management GmbH, Excellent Business Center 10. + 11. Stock, Westhafenplatz 1, 60327 Frankfurt
- Verfügungsbeklagte zu 1) -

Prozessbevollmächtigte:
Rechtsanwälte **Finnegan Europe (Germany) LLP**, Thierschplatz 6, 80538 München, Gz.: 16325.8050-234-JCH/DZS

2) **SharkNinja Germany GmbH**, vertreten durch ihre Geschäftsführer Herrn Paul Cosimo Carbone und Herrn Thomas Anthony Brown, c/o Regus Management GmbH, Excellent Business Center 10. + 11. Stock, Westhafenplatz 1, 60327 Frankfurt
- Verfügungsbeklagte zu 2) -

Prozessbevollmächtigte:
Rechtsanwälte **Finnegan Europe (Germany) LLP**, Thierschplatz 6, 80538 München, Gz.: 16325.8050-234-JCH/DZS

Nebenintervenientin zu 1:
SharkNinja Germany GmbH, vertreten durch ihre Geschäftsführer Herrn Paul Cosimo Carbone und Herrn Thomas Anthony Brown, c/o Regus Management GmbH, Excellent Business Center 10. + 11. Stock, Westhafenplatz 1, 60327 Frankfurt

Prozessbevollmächtigte:
Rechtsanwälte **Finnegan Europe (Germany) LLP**, Thierschplatz 6, 80538 München, Gz.: 16325.8050-234-JCH/DZS

erlässt das Landgericht München I - 7. Zivilkammer - durch den Vorsitzenden Richter am Landgericht Dr. Schön, den Richter am Landgericht Kuttenkeuler und den Richter am Landgericht Dr. Schacht, M.A. aufgrund der mündlichen Verhandlung vom 04.05.2023 folgendes

E n d u r t e i l

I. Die Verfügungsbeklagten werden verurteilt, es bei Meidung eines vom Gericht für jeden Fall der Zuwiderhandlung festzusetzenden Ordnungsgeldes bis zu 250.000,00 EUR, ersatzweise Ordnungshaft, oder Ordnungshaft bis zu 6 Monaten, wobei die Ordnungshaft an dem gesetzlichen Vertreter zu vollstrecken ist und insgesamt zwei Jahre nicht übersteigen darf,

zu unterlassen,

1.

einen Aufsatz für ein Handgerät,

in der Bundesrepublik Deutschland anzubieten, in Verkehr zu bringen oder zu gebrauchen oder zu den genannten Zwecken entweder einzuführen oder zu besitzen,

der einen Einlass an einem ersten Ende; einen Auslass; und einen Fluidströmungspfad zwischen dem Einlass und dem Auslass umfasst, wobei der Aufsatz allgemein zylindrisch ist und wobei der Auslass mindestens einen Schlitz umfasst, der sich von der Nähe des ersten Endes des Aufsatzes zu einem distalen Ende des Aufsatzes erstreckt, wobei sich der mindestens eine Schlitz im Wesentlichen entlang der Länge des Aufsatzes erstreckt und wobei der Auslass zumindest zum Teil durch eine Außenfläche des Aufsatzes definiert wird, dadurch gekennzeichnet, dass der Auslass dazu konfiguriert ist, aus dem Auslass ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten

(EP 3 119 234, Anspruch 1).

2.

ein Handgerät,

in der Bundesrepublik Deutschland anzubieten, in Verkehr zu bringen oder zu gebrauchen oder zu den genannten Zwecken entweder einzuführen oder zu besitzen,

das einen Griff (20) mit einem Fluidströmungspfad von einem Einlass (40) zu einem Auslass und einer Gebläseeinheit (70) zum Saugen von Fluid in den Fluideinlass und einen Aufsatz zum Aufsetzen auf den Griff (20) umfasst, wobei der Aufsatz Anspruch 1 entspricht.

(EP 3 119 234, Anspruch 10).

III. Die Verfügungsbeklagten tragen die Kosten des Rechtsstreits gesamtschuldnerisch.

IV. Das Urteil ist vorläufig vollstreckbar.

gez

Dr. Schön	Kuttenkeuler	Dr. Schacht, M.A.
Vorsitzender Richter	Richter	Richter
am Landgericht	am Landgericht	am Landgericht

- Beglaubigte Abschrift-

Verkündet am 04.05.2023

gez.

Miller, JSekr`in

Urkundsbeamtin der Geschäftsstelle



Für die Richtigkeit der Abschrift
München, 04.05.2023

gez.
Miller, JSekr`in
Urkundsbeamtin der Geschäftsstelle

EXHIBIT 11

Bronx County, New York
United States

I, Erik Werner, hereby declare as follows:

1. My name is Erik Werner. I provide this declaration on behalf of Inwood Hill Translations, Inc. at the request of DLA Piper LLP.

2. I am a professional translator, fluent in German and English. I am the President and Managing Partner at Inwood Hill Translations, Inc.

3. I reviewed the original German version of this document and prepared the English translation of the German Judgment attached hereto. To the best of my knowledge, the English translation is a true, complete, and accurate translation of the German Judgment.

4. In signing this declaration, I recognize that the declaration will be filed as evidence in a case before the United States District Court for the District of Delaware. I also recognize that I may be subject to cross-examination in the case and that cross-examination will take place within the United States. If cross-examination is required of me, I will appear for cross-examination within the United States during the time allotted for cross-examination.

5. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. These statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both (18 U.S.C. § 1001).

Signed this 7th day of June, 2023

Erik Werner
(President, Inwood Hill Translations, Inc.)

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County of BRONX
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• Stephen Reich •
NEW YORK NOTARY PUBLIC

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NOTARY PUBLIC
STATE OF NEW YORK

STEPHEN REICH
Notary Public, State of New York
No. 01RE6145199
Qualified in Bronx County
My Commission Expires May 1, 2026

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Munich I Regional Court

Case no.: 7 O 3236/23



IN THE NAME OF THE PEOPLE

In the matter

Dyson Technology Limited, represented by the Director, Wiltshire SN16 ORP, Tetbury Hill, Malmesbury, United Kingdom
- Injunction Plaintiff -

Attorneys of record:
Rechtsanwälte **DLA Piper UK LLP,** Maximilianstrasse 2, 80539 Munich, ref. no.: MG/398223/388

versus

1) **SharkNinja Europe Limited,** represented by the Director, c/o Regus Management GmbH, Excellent Business Center 10. + 11th floor, Westhafenplatz 1, 60327 Frankfurt
   - Injunction Defendant 1) -

   Attorneys of record:
   Rechtsanwälte **Finnegan Europe (Germany) LLP,** Thierschplatz 6, 80538 Munich, ref. no.: 16325.8050-234-JCH/DZS

2) **SharkNinja Germany GmbH,** represented by its managing directors Mr. Paul Cosimo Carbone and Mr. Thomas Anthony Brown, c/o Regus Management GmbH, Excellent Business Center 10. + 11th floor, Westhafenplatz 1, 60327 Frankfurt
   - Injunction Defendant 2) -

   Attorneys of record:
   Rechtsanwälte **Finnegan Europe (Germany) LLP,** Thierschplatz 6, 80538 Munich, ref. no.: 16325.8050-234-JCH/DZS

Intervenor 1):
SharkNinja Germany GmbH, represented by its managing directors Mr. Paul Cosimo Carbone and Mr. Thomas Anthony Brown, c/o Regus Management GmbH, Excellent Business Center 10. + 11th floor, Westhafenplatz 1, 60327 Frankfurt

Attorneys of record:
Rechtsanwälte **Finnegan Europe (Germany) LLP,** Thierschplatz 6, 80538 Munich, ref. no.: 16325.8050-234-JCH/DZS

for patent infringement EP 3 119 234

the Munich I Regional Court – 7th Civil Division – through Presiding Judge Dr. Schön at the Regional Court, Judge Kuttenkeuler at the Regional Court, and Judge Dr. Schacht, M.A. at the Regional Court, on the basis of the oral hearing on 04 May 2023, pronounces the following

Final Judgment

I. Injunction Defendants are ordered, on penalty of an administrative fine of up to EUR 250,000.00 to be determined by the Court for every case of violation, alternatively imprisonment for contempt of court, or imprisonment for contempt of court of up to six months, with imprisonment for contempt of court is to be enforced upon the legal representatives,

to cease and desist

1.

offering, putting on the market or utilizing or importing or stocking for the cited purposes in the Federal Republic of Germany

an attachment for a hand held appliance,

comprising an inlet at a first end; an outlet; and a fluid flow path between the inlet and the outlet, wherein the attachment is generally cylindrical and wherein the outlet comprises at least one slot extending from near the first end of the attachment towards a distal end of the attachment, wherein the at least one slot extends substantially along the length of the attachment and wherein the outlet is at least partially defined by an external surface of the attachment, characterized in that the outlet is configured to direct fluid emitted from the outlet tangentially around the external surface of the attachment.

(EP 3 119 234, claim 1)

2.

offering, putting on the market or utilizing or importing or stocking for the cited purposes in the Federal Republic of Germany,

a hand held appliance (20) comprising a handle having a fluid flow path from an inlet (40) to an outlet and a fan unit (70) for drawing fluid into the fluid inlet and an attachment for attaching to the handle (20), the attachment according to claim 1.

(EP 3 119 234, claim 10)

II. Injunction Defendants bear the costs of the dispute jointly and severally.

III. The judgment is provisionally enforceable.

Facts of the case

1 Injunction Plaintiff is suing Injunction Defendants for alleged infringement of the German part of European patent EP 3 119 234.

2 Injunction Plaintiff belongs to the Dyson Group, a global technology company. It specializes in the development and manufacture of high-quality household appliances, in particular vacuum cleaners, hygiene, room air conditioning and hair care appliances.

3 Injunction Plaintiff is the holder of the European patent 3 119 234 B1, which was filed on 6 March 2015, claiming the two priorities GB 201404985 and GB 201404982, each of 20 March 2014. The notice of grant was published on 17 November 2021. The patent has been validated for the Federal Republic of Germany and is in force (hereinafter: injunction patent; Exhibit AST 3, AST 2). The injunction patent relates to an attachment for a hand held appliance, in particular a hair care appliance.

4 Claim 1 of the injunction patent reads:

> "An attachment (30, 130, 180, 230) for a hand held appliance comprising an inlet at a first end (32); an outlet (100, 200), and a fluid flow path between the inlet and the outlet, wherein the attachment is generally cylindrical and wherein the outlet (100, 200) comprises at least one slot (102, 182, 202, 282) extending from near the first end (32) of the attachment towards a distal end (36) of the attachment, wherein the at least one slot (102, 182, 202, 282) extends substantially along the length of the attachment and wherein the outlet (100, 200) is at least partially defined by an external surface of the attachment,
>
> characterised in that
>
> the outlet is configured to direct fluid emitted from the outlet (100, 200) tangentially around the external surface of the attachment."

5 Claim 10 of the injunction patent:

> „A hand held appliance comprising a handle (20) having a fluid flow path from an inlet (40) to an outlet and a fan unit (70) for drawing fluid into the fluid inlet and an attachment for attaching to the handle (20), the attachment according to any preceding claim."

6 Injunction Defendant 1) is a British company and together with Injunction Defendant 2) part of the SharkNinja group. Injunction Defendant 2) has its registered office in Germany.

7 Injunction Defendant 1) sells the product "Shark FlexStyle Hair Styler" along with curling attachments (hereinafter: challenged embodiment) via its website https://beauty.sharkclean.de , which can be accessed in Germany. The Hair Styler includes, among other things, a right and a left curling attachment. The two attachments are identical in terms of their structure and mode of action and differ only in the direction of the air flow (one clockwise and one counterclockwise), depending on which side of the head the hair is being styled (infringing embodiment 1). The handle in combination with infringing embodiment 1 as an attachment together form a hand held appliance and thus "infringing embodiment 2."

8 In the legal notice of the website https://beauty.sharkclean.de, which can be accessed in Germany, Injunction Defendant 2) is designated as responsible for the challenged embodiment under the German Federal Act on Privacy in Telecommunications and Telemedia (TTDSG):

Information about the company:
Service provider (according to Section 5 TTDSG): **SharkNinja Germany GmbH**
c/o Regus Management GmbH. Excellent Business Center, Westhafenplatz 1, 60327 Frankfurt am Main
Represented by the managing directors David W. Stevenson and Thomas Gass
Phone: 0800 000 9063
Email: kundendienst-de@sharkninja.com
Frankfurt am Main Local Court, HRB 116322

Legal Notice – Shark DE (sharkclean.de)

9 In a letter dated 8 March 2023, Injunction Plaintiff unsuccessfully warned Injunction Defendants to cease and desist the alleged infringement of the injunction patent through the challenged embodiment (Exhibit AST 9).

10 At the time of the oral hearing, Injunction Defendants filed a nullity action with the Federal Patent Court, but had not yet paid the advance on costs. During the oral hearing, Injunction Defendant's legal representative assured that the court costs advance for the nullity action will be paid.

11 **Injunction Plaintiff submits** that the challenged embodiment directly and literally infringed claim 1 and claim 10 of the injunction patent if the features are correctly interpreted. Infringing embodiment 1 realized claim 1, infringing embodiment 2 realized claim 10. The urgency period was complied with and the doubts raised by Injunction Defendants about the legal validity were all unfounded. The balancing of interests also came out in its favor. Service to Injunction Defendant 1) via Injunction Defendant 2) as its branch was effective. By appearing on the challenged embodiment and on the Internet, Injunction Defendant 2) created the legal appearance of a branch of Injunction Defendant 1). The territorial jurisdiction of the Munich I Regional Court was unaffected by this in accordance with Section 32 of the German Code of Civil Procedure (ZPO). In the absence of a legitimate interest, the intervention by Injunction Defendant 2) on the side of Injunction Defendant 1) was ineffective.

12 **Injunction Plaintiff requests**

as stated in the operative provisions of the judgment.

13 **Injunction Defendants request**

the dismissal of the application for the issuance of a preliminary injunction.

14 **Injunction Defendants are of the opinion that** the injunction patent was neither infringed nor legally valid. Features 1.7, 1.8 and 1.9 were not realized when interpreted correctly. Feature 1.7 was not realized because the challenged embodiment comprised multiple slots and not just one as claimed by feature 1.7. A realization of feature 1.8 failed because the outlet in the challenged embodiment was not defined by the arrangement of adjacent plates to each other, but between the inner structure of the attachment and the inner surface of the plate mounted on the inner structure. Moreover, the outlet was not defined by the arrangement of adjacent plates to one another, as required by the correct interpretation of feature 1.8. Feature 1.9 was not realized because the outlet was not configured to direct fluid emitted from the outlet tangentially around the external surface of the attachment.

15 Even if one – unjustifiably – assumed an infringement, the issuance of a preliminary injunction failed for lack of grounds for injunction. There was no temporal urgency, since Injunction Plaintiff had already become aware of the challenged embodiment well before the date it had stated. Irrespective of this, the injunction patent was not legally valid, which would be shown by the nullity action they had initiated at the Federal Patent Court. The injunction patent was anticipated with

novelty-destroying effect in relation to four citations and was also inventively anticipated by the prior art. The person skilled in the art would have arrived at the subject matter of the two claims 1 and 10 asserted here without any inventive step. In any case, with regard to feature 1.9, there would be an inadmissible extension, in the alternative, the invention would not be feasibly disclosed assuming only a single slot that directs the air around the entire external surface of the attachment. Due to these deficiencies of the motion for injunctive relief in factual and legal terms, the balancing of interests also argued for them in other respects.

16 In addition, the territorial jurisdiction of the Munich I Regional Court in relation to Injunction Defendant 1) was not given, since Injunction Plaintiff was relying for the purpose of service on Section 21 ZPO and thus had chosen the Frankfurt am Main Regional Court as the local court of the registered office of the branch.

17 The intervention on the part of Injunction Defendant 1) declared by Injunction Defendant 2) was permissible because there was a risk of joint claims. The legal interest required for an admissible intervention also followed from the fact that if the motion for injunctive relief was granted, Injunction Defendant 2) would no longer be able to purchase its products from Injunction Defendant 1) in order to sell them in its own name and for its own account. Injunction Defendant 1) would no longer be able to deliver to Injunction Defendant 2) any product quotas that had already been agreed and paid for in fulfillment of its legal obligations towards Injunction Defendant 2). The procurement of the challenged embodiments from Injunction Defendant 1) thus justified a legal interest of Injunction Defendant 2) in Injunction Defendant 1) prevailing in the present dispute.

18 **The Court**, by order of 15 March 2023, gave Injunction Defendant the opportunity to comment on the motion for injunctive relief of Injunction Plaintiff of 14 March 2023 by 22 March 2023. By order of 22 March 2023, the Court summoned to the date for the oral hearing. At the oral hearing, the legal representatives of Injunction Defendant 2) also entered an appearance for Injunction Defendant 1) after the Court had pointed out existing doubts about the prerequisites for the intervention or its substantiation.

19 **In other respects**, reference is made to the pleadings exchanged by the parties including Exhibits as well as the minutes of the oral hearing on 4 May 2023.

Grounds for the decision

20 The admissible request for the issuance of a preliminary injunction is well-founded.

21 The territorial jurisdiction of the Munich I Regional Court to decide on the application against Injunction Defendant 2) is given (A. I.). The motion regarding the effectiveness of the intervention of Injunction Defendant 2) in favor of Injunction Defendant 1) was settled as a result of the appointment of the legal representative of Injunction Defendant 2) also for Injunction Defendant 1) within the deadline (A. II.).

22 Based on the injunction patent, Injunction Plaintiff has a claim for injunctive relief under Article 64 (1), (3) EPC in conjunction with Section 139 para. 1 sentence 1, 9 sentence 2 no. 1 of the German Patent Act (PatG), Sections 940, 936, 920 et seq. ZPO (B.). Furthermore, there are grounds for injunction, since a temporal urgency has been substantiated (C. I.) and the balancing of interests to be carried out also argues in favor of Injunction Plaintiff (C. II.).

A.

I.

23 The Munich I Regional Court has territorial jurisdiction for issuing the preliminary injunction against Injunction Defendant 2) pursuant to Sections 937, 943, 32 ZPO.

24 According to Section 937 ZPO, the territorial and subject-matter jurisdiction of the injunction court is based on the court in the main proceedings. According to Section 943 ZPO, the main court is the court of first instance.

25 Injunction Plaintiff asserts that Injunction Defendant 1) distributed the challenged embodiment in the territory of the Federal Republic of Germany and Injunction Defendant 2) supported it in doing so. Based on this submission, the territorial jurisdiction of the Munich I Regional Court is fulfilled for both Injunction Defendants according to Section 32 ZPO.

26 The fact that Injunction Plaintiff additionally relies on Section 21 ZPO for service on Injunction Defendant 1) via Injunction Defendant 2) as its branch does not conflict with the territorial jurisdiction of the Munich I Regional Court. If the territorial jurisdiction of several courts is justified

for an action according to the place of jurisdiction regulations, without the exclusive territorial jurisdiction of a court being given, the claimant has the choice between the multiple eligible courts according to Section 35 ZPO. The choice is regularly exercised by bringing an action before the selected court. With the occurrence of pendency, the effective exercise of an option right that also exists at the time of exercise becomes binding and irrevocable (BeckOK ZPO/Toussaint, 48th Ed. 1 March 2023, ZPO Section 35).

27 However, an application for attachment or an application for the issuance of a preliminary injunction does not constitute an exercise of the option right. This follows from the fact that the main proceedings are not pending (Karlsruhe Higher Regional Court NJW 1973, 1509, cited in MüKoZPO/Patzina, 6th Ed. 2020, Section 35 margin no. 5). Consequently, Injunction Plaintiff has not yet made a choice for the place of jurisdiction in Frankfurt am Main regarding Injunction Defendant 1) that would exclude a prosecution of the dispute against it at the tortious place of jurisdiction under Section 32 ZPO.

II.

28 At the time of the oral hearing, the attorneys of record of Injunction Defendant 2) also entered an appearance as attorneys of record for 1) after the Court noted that it was critical of the prerequisites for the intervention and its substantiation. In any case, the motion filed by Injunction Plaintiff for establishing the ineffectiveness of the intervention has thus been resolved, regardless of any further effects of the declaration of accession. This is because the interest pursued by Injunction Plaintiff with this application consisted solely in obtaining an enforceable order against Injunction Defendant 1) by applying for the court to determine the ineffectiveness of the intervention and the simultaneously applied for default judgment against Injunction Defendant 1). Since Injunction Defendant 1) was present at the hearing as a result of the appointment of counsel and thus independently of the effectiveness of the intervention, both the application for the default judgment and the determination of the ineffectiveness of the intervention have been settled. None of the parties opposed this, so that the intervening dispute only still had to be decided within the framework of the costs; Section 91a ZPO by analogy (cf. D. below).

B.

I.

29 The injunction patent relates to an attachment for a hand held appliance, in particular for a hair care appliance; para. [0001].

1.

30 The injunction patent specification states regarding the previously known prior art that in conventional hot styling brushes air would be sucked in through an inlet and directed towards the hair to be styled by an attachment or head. The attachment or head often included bristles onto which the hair to be styled could be wrapped. According to prior art document US 2004/0129289 A1, the air was blown out of the head or attachment "normally" to its surface; para. [0002].

31 The prior art document JP S6241606A described a hair care appliance having an attachment receiving airflow from a fan in a handle. The attachment had a cylindrical body with an array of air outlets distributed throughout the attachment. Several rows of bristles also extended along the length of the body of the attachment; para. [0003].

2.

32 Against this background, the object set for the injunction patent – which it does not define itself – is the improvement of the prior art.

3.

33 As a solution, the injunction patent presents claims 1 and 10 asserted here, which can be structured as follows in accordance with Injunction Plaintiff's suggestion:

"1.

1.1 An attachment (30, 130, 180, 230) for a hand held appliance comprising

1.2 an inlet at a first end (32);

1.3 an outlet (100, 200); and

1.4 a fluid flow path between the inlet and the outlet,

1.5 wherein the attachment is generally cylindrical and

1.6 wherein the outlet (100, 200) comprises at least one slot (102, 182, 202, 282) extending from near the first end (32) of the attachment towards a distal end (36) of the attachment,

1.7 wherein the at least one slot (102, 182, 202, 282) extends substantially along the length of the attachment and

1.8 wherein the outlet (100, 200) is at least partially defined by an external surface of the attachment,

characterized in that

1.9 the outlet is configured to direct fluid emitted from the outlet (100, 200) tangentially around the external surface of the attachment."

"10.

10.1 A hand held appliance comprising

10.2 a handle (20) having a fluid flow path from an inlet (40) to an outlet and

10.3 a fan unit (70) for drawing fluid into the fluid inlet and

10.4 an attachment for attaching to the handle (20),

10.5 the attachment according to any preceding claim."

4.

34 With regard to the discussion between the parties on the interpretation of the injunction patent, the following comments, which are made on the basis of claim 1, are merited.

a)

35 The device claim in dispute relates to a generally cylindrical attachment, the outlet of which comprises at least one slot extending along its length and is at least partially defined by an external surface of the attachment. The attachment is configured to direct emitted fluid tangentially around the external surface of the attachment.

b)

36 Feature 1.5 relates to the spatial and physical design of the attachment. According to the wording, it should be "generally cylindrical." According to the general mathematical understanding of language, a cylinder is a geometric body in which two parallel, flat, congruent base surfaces are connected by a sheath. It is also essential that the lines or areas connecting the base areas run parallel to the central axis. The bases can be designed differently.

37 According to settled case law of the German Federal Court of Justice, the linguistic or scientifically logic meaning of the terms used in the claim is however not relevant for the interpretation of a patent, but their technical meaning, which is to be determined in consideration of the object and the solution as they objectively arise from the patent (cf. only German Federal Court of Justice (BGH), GRUR 1975, 422 [424] – Streckwalze [Stretch roller]); GRUR 1999, 909 [912] – Spannschraube [Tensioning screw]). According to Article 69 (1) sentence 2 EPC and Section 14 sentence 2 PatG, when determining the meaning of the claim, the description and drawings that explain and illustrate the technical teaching of the patent claim must also be consulted (cf. BGH GRUR 2021, 574 margin nos. 24, 25 Kranarm [Crane arm]; GRUR 2012, 1124 margin no. 27 – Polymerschaum [Polymer foam I]; BGH GRUR 2020, 159 margin no. 18 – [Steering gear]).

38 The attachments shown in the figures do not have a cylindrical shape that deviates from the conventional understanding described. Rather, in para. [0098], the injunction patent states clearly that the bodies identified by reference numerals 30, 130 and 230 in the figures are to be regarded as "generally cylindrical." The injunction patent therefore considers the following configurations

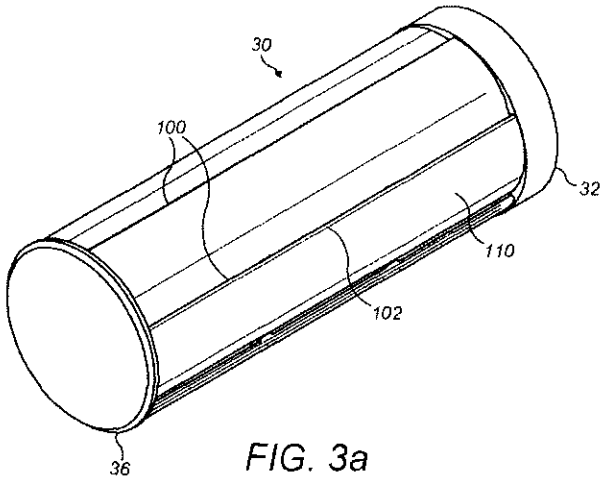


FIG. 3a

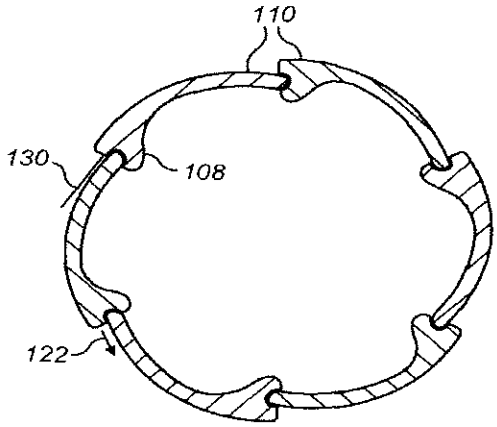


FIG. 5a

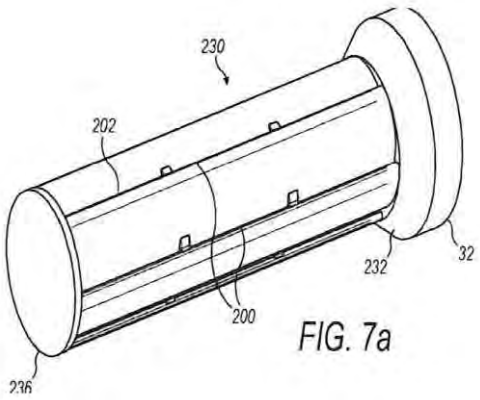


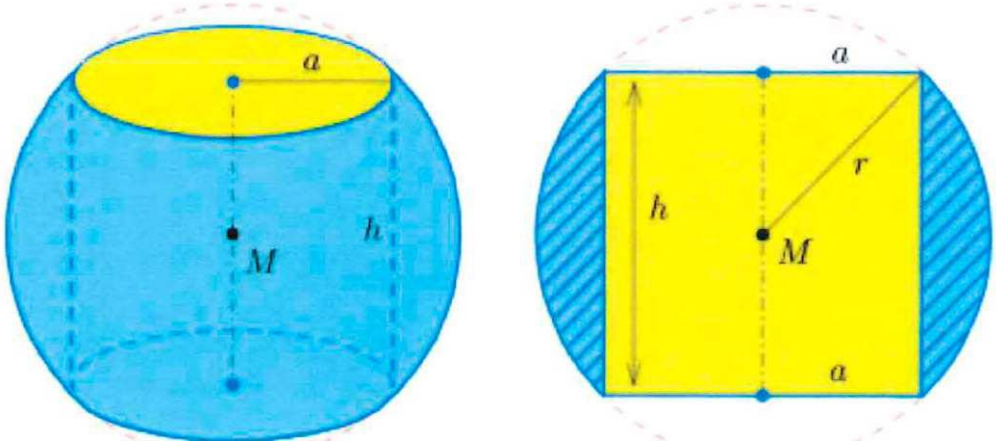
FIG. 7a

as "generally cylindrical" for the purposes of feature 1.5. In para. [0063], this is once again expressly clarified for attachment (30).

39 Those skilled in the art will recognize that "generally cylindrical" means the external surface of the attachment.

40 An understanding according to which the feature "generally cylindrical" also includes configurations with concave and convex external surfaces therefore goes beyond the literal meaning of the injunction patent. Para. [0098] already cited discloses that oval configurations are specifically not claimed.

41 Contrary to what Injunction Defendants believe, the forms they have submitted are therefore not covered by feature 1.5:



42 Contrary to the opinion of Injunction Defendants, Figures 5a and 7a also do not disclose a broader understanding of feature 1.5. The person skilled in the art, who in this case is a mechanical engineer (technical college) with several years of experience in the design of electronic hair care products such as hair dryers and/or curling irons, can already see from the figures themselves that the parts (external surfaces) connecting the base surfaces are parallel to each other and are not concave or convex. He is reinforced in this understanding by para. [0098].

43 Therefore, the narrower interpretation of the case law of the Federal Court of Justice cited by Injunction Defendants compared to the view of Injunction Defendants [sic], according to which the interpretation must not lead to contradictions with the description and the figures (BGH GRUR 2016, 361 – Fugenband [Joint tape]; 2015, 875 – Rotorelemente [Rotor elements]; 2008, 887 –

Momentanpol II [Instantaneous center of rotation II]; 2009, 653 – Strassenbaumaschine [Road construction machine]), does not preclude this. The opposite is the case.

44 There are no indications in the injunction patent to support Injunction Defendant's assumption that only the inner cavity of the attachment ("inner cavity" 38, para. [0063]) had to comprise a cylindrical configuration. As previously stated, "generally cylindrical" is intended to claim a shape that refers to the external surface of the attachment.

45 Functionally, too, no further interpretation is warranted. On the contrary, the person skilled in the art recognizes that with regard to feature 1.9 and para. [0064] and para. [0065] together with the Coanda effect mentioned there, it is particularly advantageous if the attachment and thus its external surface is configured cylindrically. This is namely achieved all the better with a generally cylindrical external surface.

c)

46 Feature 1.6 defines the outlet of the attachment introduced in feature 1.3 in spatio-physical terms as comprising at least one slot extending from near the first end of the attachment referred to in feature 1.2 towards a distal end thereof. The wording "slot" suggests that the opening must be elongated.

47 This is confirmed by all of the exemplary embodiments. Figures 3a and 3b disclose an elongated slot (102). It is no different with Figure 7a (202). Figures 7b and 7c similarly show an elongated slot (282). Likewise Figure 8a (182).

48 The at least one slot must be located near the first end of the attachment. The first end is at the inlet and thus in the area of the attachment where it is attached to a hand held appliance. The at least one slot is not implemented directly at the distal end, as the phrase "from near" discloses. A certain distance from the distal end is therefore in accordance with the claim. The person skilled in the art will interpret the claim in such a way that the totality of its features results in a meaningful whole (cf. BGHZ 180, 215 = GRUR 2009, 653 margin no. 16 – Strassenbaumaschine ; BGH GRUR 2008, 887 margin no. 21 – Momentanpol II). He will therefore also look at feature 1.7 for a more detailed definition of "near," according to which the slot should extend "substantially along the length of the attachment." From this, the skilled person will appreciate that the slot is so near to the first end that it extends substantially along the length of the attachment.

d)

49 Feature 1.7 further defines the slot disclosed in feature 1.6 by claiming in spatio-physical terms that it extends substantially along the length of the attachment. By using the phrase "substantially," the

person skilled in the art recognizes that the slot does not have to extend over the entire length of the attachment, but it has to extend by far the majority of the length.

50 The specific configuration of the at least one slot is left to the person skilled in the art. According to para. [0066] and Figures 3b and 4b, the at least one slot may comprise spacers (108, "spacers"). Whether the at least one slot is designed in one piece or in multiple pieces is left in the hands of a person skilled in the art by the injunction patent. The same applies to the question of whether the slot – and thus the outlet – is to find solely by the external surface of the attachment or only partially by the external surface and partly by an internal structure.

e)

51 In feature 1.8, the injunction patent claims the outlet as being partially formed ("defined") by an external surface of the attachment. According to para. [0064] in connection with Figure 5b, this can be done by two overlapping plates (120):

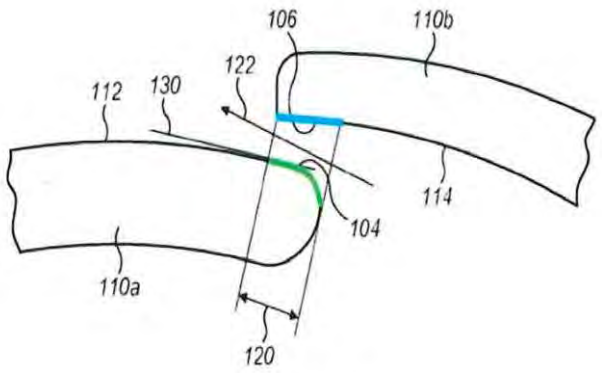
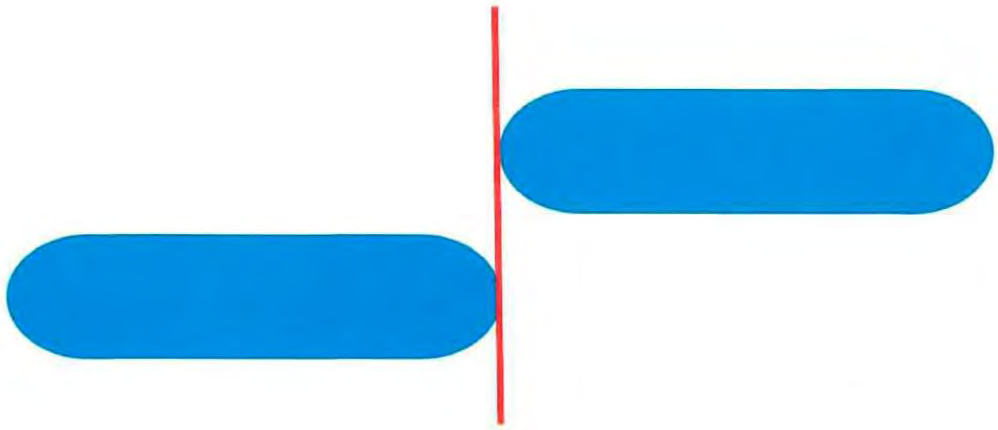


FIG. 5b

(colored markings by Injunction Defendants)

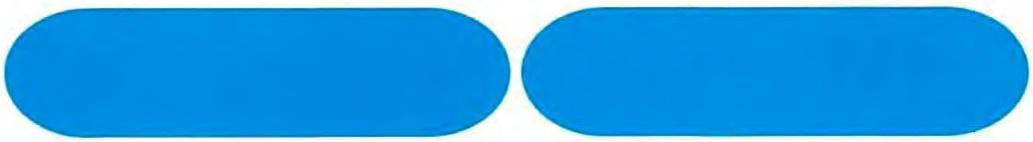
52 Based on its wording, the feature is not limited to this embodiment. The literal meaning also does not require a corresponding interpretation, since the spatio-physical definition is clear in this respect and there are no apparent indications of denaturing this information with a functional interpretation. The literal meaning also includes configurations in which the plates do not exactly overlap, but only intersect at their respective edges:



(drawing by the Court)

53 In this embodiment covered by the wording of feature 1.8, the outlet is at least partially defined by an external surface of the attachment, namely the rear end of the lower plate and the front end of the upper plate.

54 The following embodiment would also be covered by feature 1.8:



(drawing by the Court)

55 The feature also leaves open which part of the external surface of the attachment partially defines the outlet. It is not necessary for two different parts of the external surface of the attachment to also define the outlet. Finally, the person skilled in the art recognizes that the term "defined" means that a part of the external surface of the attachment helps shape the outlet spatially and physically.

56 To the extent that Injunction Defendants argue that the technical and functional purpose of feature 1.8 was to ensure the simplest possible design, this is reflected neither in the wording of the claim nor in the description.

f)

57 Feature 1.9 claims the configuration of the outlet such that the fluid emitted from it is directed tangentially around the external surface of the attachment. This distinguishes the injunction patent

from the prior art cited, in which the air is emitted straight ("normally") to the external surface of the attachment; para. [0002].

58 The design of the outlet specified in feature 1.8 only by part of the attachment is thus further specified by feature 1.9. Tangentially means in the literal sense that a straight line touches a given curve at a point. The person skilled in the art will interpret feature 1.9 based on this understanding as well, taking into account the disclosure in para. [0064] of the description and Figure 5b.

59 In the light of para. [0064] of the description and Figure 5b, those skilled in the art will recognize that the injunction patent considers the air emitted from the outlet as a tangent and the external surface of the attachment as the given circle:

> *„The fluid 122 flowing out of the slot 102 is tangential 130 to the outer surface 112 of the plate 110a (…)"*

60 Thus, the outlet must be configured so that the emitted fluid actually moves tangentially to the outside of the attachment after exiting the outlet. Furthermore, the configuration, and hence the spatio-physical configuration of the attachment, must be such as to direct the emitted fluid around the external surface of the outlet.

61 The person skilled in the art interprets directing around the external surface such that it does not necessarily mean directing around 360 degrees, i.e. the entire external surface of the attachment. However, the use of "around" is interpreted by the person skilled in the art as meaning that the air flow must in any case be guided around part of the attachment, which is generally cylindrical in accordance with feature 1.5. For him, directing around the external surface of the cylindrical attachment means that the fluid should not only flow on the external surface where it exits, but also on another partial surface of the external surface that lies at a different angle to the external surface of the outlet. The injunction patent does not claim a complete flow around the entire external surface.

62 The injunction patent does not claim how the outlet is to be designed specifically for this purpose, but leaves it to the person skilled in the art. True, in para. [0011], the person skilled in the art is given specific design advice, namely to design the slot in a rounded ("curved") manner. However, the embodiment was not included in claim 1, so that it includes but is not limited to it. The same applies to the flow directing element referred to in para. [0012], which is only claimed in sub-claim 7. Thus, both a merely serving design of the outlet, which only allows or enables the directing around the attachment, and an active design in which the outlet itself achieves the directing directly are covered.

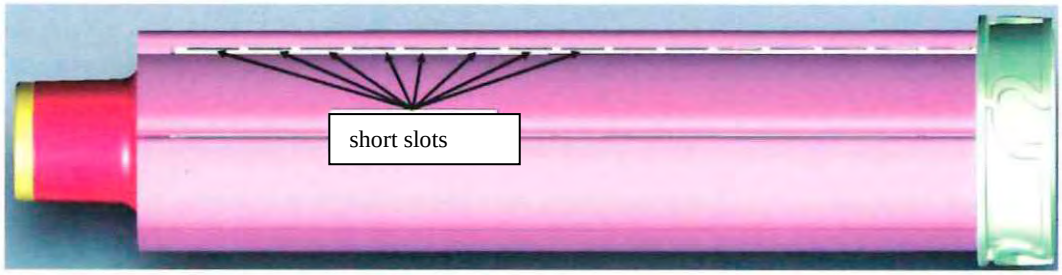
II.

63 The challenged embodiment makes use of all the features of claim 1 and claim 10 of the injunction patent, Section 9 sentence 2 no. 1 PatG. In particular, features 1.7, 1.8 and 1.9 that are in dispute between the parties are realized.

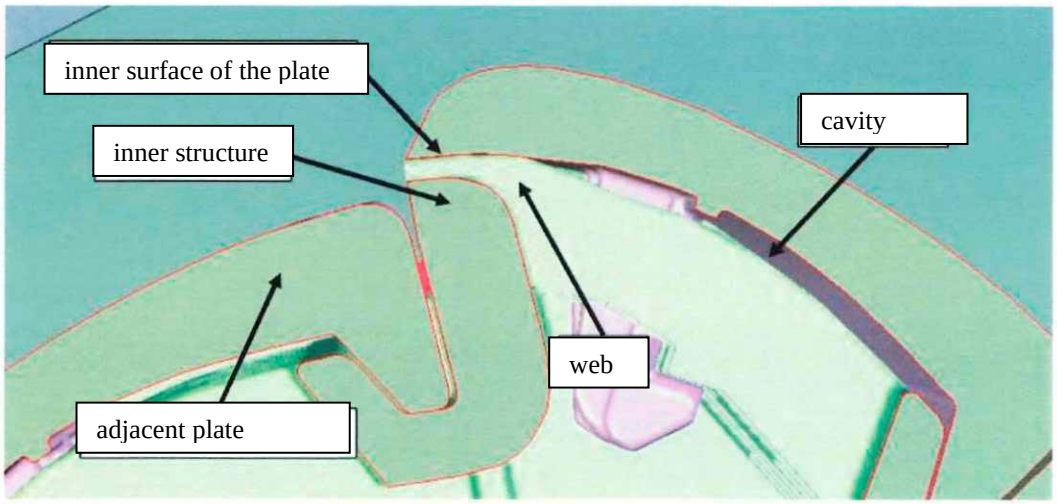
1.

64 The challenged embodiment realizes feature 1.7 because it comprises an elongated opening (slot) that extends along the length of the attachment.

65 The fact that this one slot is interrupted by numerous elements, which Injunction Defendants refer to as "inner structure," does not preclude the realization of the feature.



(drawing with labeling by Injunction Defendants, response to the motion, p. 12)



(drawing with labeling added by Injunction Defendants, rejoinder, p. 10)

66 It can remain open whether the "inner structure" constitutes spacers within the meaning of the injunction patent. The specific design of the slot is not specified by the injunction patent in

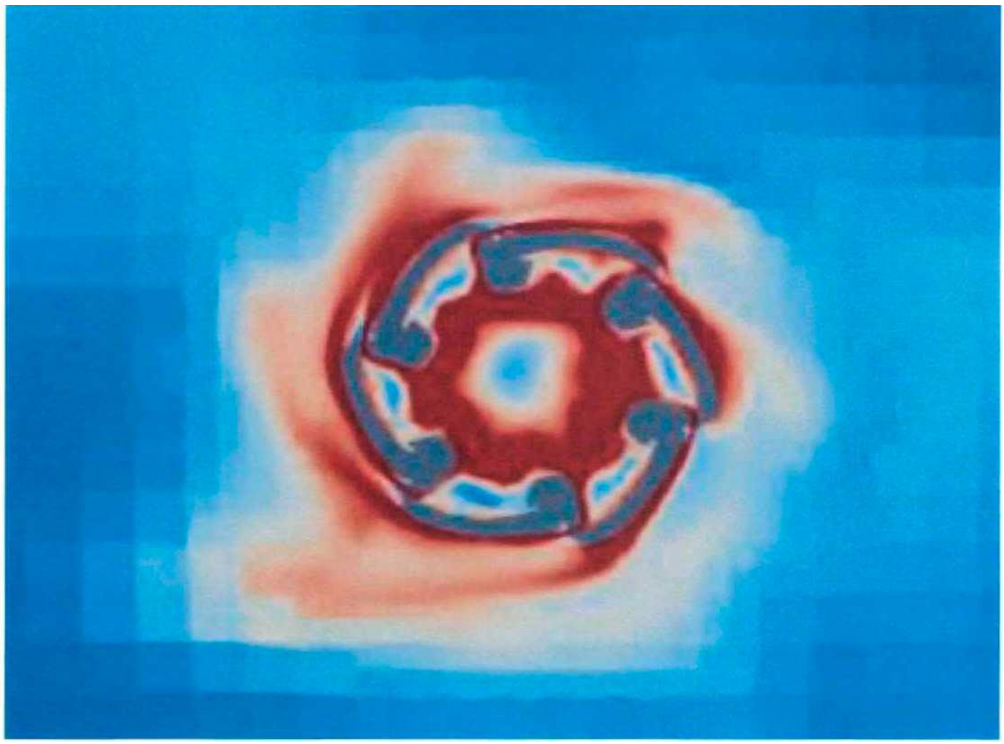
feature 1.7. Therefore, even such configurations are included that combine a row of individual slots in accordance with the intended purpose and function to form a slot that extends substantially along the length of the attachment. This is the case for the challenged embodiment.

2.

67 In the challenged embodiment, part of the outlet is defined by an external surface of the attachment, so that feature 1.8 is fulfilled. Contrary to the view of Injunction Defendants, an overlapping of two plates for the design of the outlet is not solely in accordance with the claim; rather, other outlet designs are also covered in which an – unspecified – part of the external surface of the attachment at least partially defines the outlet. Based on Injunction Defendants' representation on page 10 of their rejoinder (cf. feature 1.7 above), it can be seen that the upper red line of the upper plate defines the upper part of the outlet. The top red line corresponds to an external surface of the attachment.

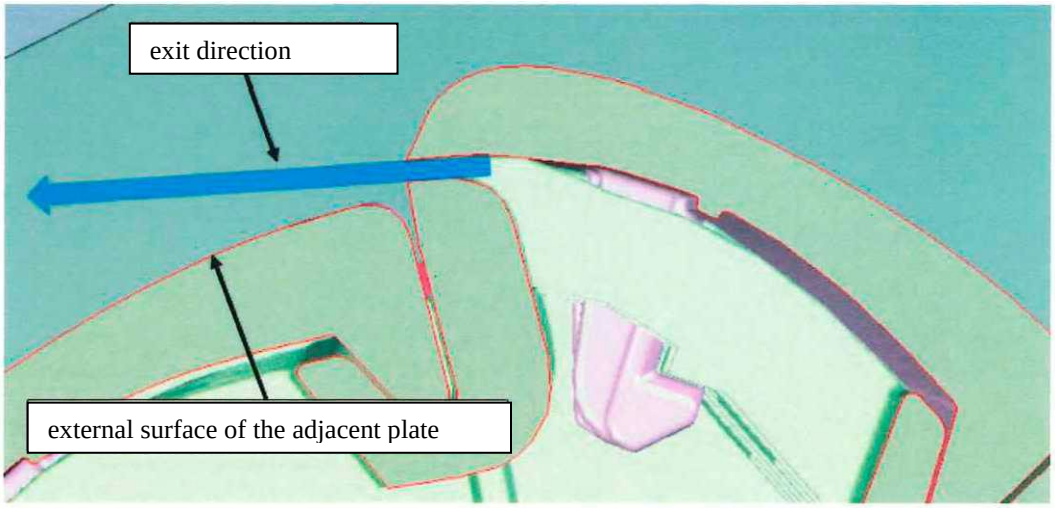
3.

68 The presently challenged product of Injunction Defendants comprises a rounded outlet in accordance with para. [0011], in which two plates overlap as in Fig. 5b of the injunction patent (cf. drawing in the rejoinder, p. 10, top). Furthermore, the challenged embodiment indisputably directs the emitted air around the external surface of the attachment.



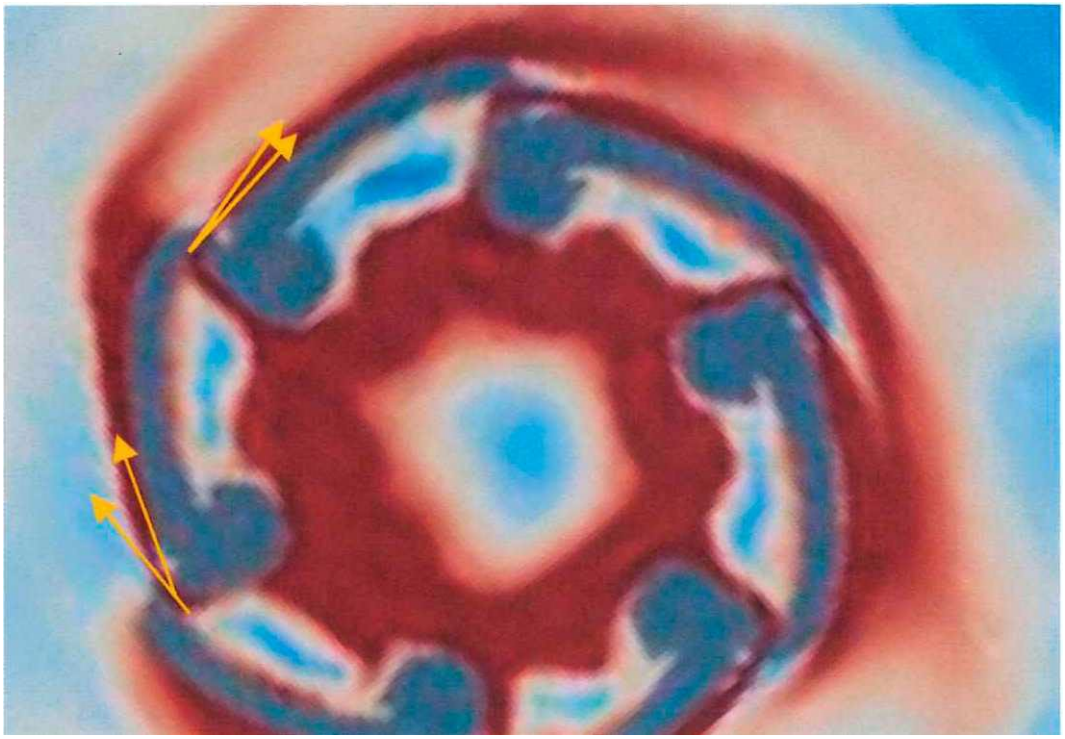
(image from Injunction Defendants, response to the motion, p. 14)

69 Injunction Defendants submit that their product did not emit fluid tangentially to the external surface of the attachment. They state that the outlet in the challenged embodiment was configured to emit the air in a direction across the external surface away from the attachment. Only outside the outlet was the emitted air directed tangentially around the external surface of the attachment due to the so-called Coanda effect. They refer here to another drawing that is intended to show the exit direction of the fluid in the challenged embodiment in a "simplified" manner:



(drawing with labeling by Injunction Defendants, response to the motion, p. 18)

70 In fact, in Injunction Defendants' "Shark FlexStyle hair styler," the emitted air also moves tangentially to the external surface of the attachment. However, this is sometimes difficult to recognize because the external surface is interrupted directly in front of the outlet as a result of the design with the so-called "inner structure." As the arrows inserted in Injunction Defendants' figure make clear, the air is emitted in such a way that, once it has passed the gap created by the inner structure, it flows along the external surface, touching it in the process:



71 The two outer arrows show the direction in which the air should flow according to the submission of Injunction Defendant. The two inner arrows, on the other hand, indicate the actual direction of flow. This is in accordance with the claim.

4.

72 The challenged embodiment further comprises a hand held appliance having an attachment in accordance with claim 1, which is why claim 10 of the injunction patent is also realized.

III.

73 Injunction Defendants have standing to be sued. Injunction Defendant 1) sells the challenged embodiment to Germany (Exhibit AST 1). Injunction Defendant 2) at least provides assistance here by taking on services such as sending advertising emails (AST 8, page 4) and taking over customer service for the appliances sold by Injunction Defendant 1) in Germany (Exhibit AST 1, page 3).

74 The risk of repetition required for an injunction is therefore given. A claim for injunctive relief pursuant to Article 64 (1), 3 EPC in conjunction with Section 139 para. 1 sentence 1, 9 sentence 2 no. 1 PatG, Sections 940, 936, 920 et seq. ZPO is thus given.

C.

75 The issuance of a preliminary injunction is furthermore only justified if, in addition to the claim for injunctive relief, grounds for injunction are substantiated. According to Sections 940, 936, 920 et seq. ZPO, the issuance of a preliminary injunction requires an objectively justified risk that the enforcement of the injunction plaintiff's rights could be thwarted or frustrated by means of a judgment only obtained in the main proceedings. On the one hand, this requires a purely temporal urgency (I.) that speaks for the urgent measure and, on the other hand, a weighing of the conflicting interests between the disadvantages threatening the property right holder without the issuance of the requested injunction to be weighed against the interests of the injunction defendant who is being sued as the infringer (II.). The existence of grounds for injunction must be presented and substantiated by the injunction plaintiff (cf. settled case law, cf. Munich I Regional Court GRUR-RS 2022, 26511 margin no. 62 – fingolimod with reference to Munich Higher Regional Court GRUR-RS 2021, 12272).

I.

1.

76 Injunction Plaintiff complied with the one-month deadline, which is still valid for patent matters within the scope of the Munich Higher Regional Court and which is quite questionable with regard to Article 3 (1) of the Enforcement Directive.

77 Injunction Plaintiff has substantiated that it only became aware on 14 February 2023 that the challenged embodiment was being offered for sale in Germany (cf. Exhibit AST 7).

2.

78 The challenges directed against this by Injunction Defendants remain unsuccessful. The start of the one-month period presupposes reliable knowledge of the offense and the perpetrator. The rights holder is not obliged to initiate injunction proceedings due to an insufficient factual basis for which he is not responsible. As soon as the patent proprietor has the allegedly patent-infringing product in his hands, he is obliged to quickly and comprehensively examine the object in question for the existence of an infringement of property rights, i.e. to initiate the necessary investigations as soon

as possible, to bring them to a conclusion with resolve and, if there is a positive finding, to then pursue the resulting claims for prohibition without undue hesitation. In general, he may nevertheless take a safe path and procure all means of substantiation that may become necessary in the event of a conceivable defensive behavior of the opponent (Munich Higher Regional Court GRUR-RR 2021, 297, 298 et seq. – Cinacalcet). Measured against this standard, the action of Injunction Plaintiff was within the 1-month urgency period.

a)

79 As evidenced by Exhibit AST 14, Injunction Plaintiff did already learn of the challenged embodiment at the IFA in early September 2022. However, it had no knowledge that it was also being sold in Germany or was to be sold there. Only one variant for the US market and one for the UK market was shown at the IFA.

b)

80 The email dated 26 January 2023 described in the affidavit (Exhibit AST 7) may potentially have given it knowledge that the "Shark FlexStyle Hair Styler" would soon be sold in Germany. In this respect, a risk of first infringement could have existed. However, this presupposes that Injunction Plaintiff would have had reliable knowledge of the perpetrator. The email was sent by Injunction Defendant 2). It is not clear from this whether it is or will be a contractual partner. Since Injunction Defendant is part of a global company with numerous companies, Injunction Plaintiff could not tell from the email alone which company was carrying out which infringing act.

81 In fact, the challenged embodiment is not sold in Germany by the German Injunction Defendant 2), but by the English Injunction Defendant 1). This shows that there was no reliable knowledge of the offense and the *perpetrator* at the time the email was received. It was not foreseeable for Injunction Plaintiff who would commit the infringing act. It was also unreasonable for Injunction Plaintiff to sue the user of the email without certain knowledge of its perpetration.

c)

82 Even if one were to have a different opinion on this, the one-month deadline would be met. This is because due to the actual sale of the challenged embodiment, a risk of recurrence has arisen, which sets its own urgency period in motion (Munich Higher Regional Court, Mitt. 1999, 223 (227 et seq.); Cepl/Voss/Voss Section 940 margin no. 97; Retzer, in: Harte-Bavendamm/Henning-Bodewig, German Act Against Restraints of Competition (UWG), 5th Edition 2021, Section 12 margin no. 79 – also with further references to dissenting opinions). Exactly one month has passed since the knowledge of the actual sale of the challenged

embodiment in Germany by Injunction Defendant 1) with the support of Injunction Defendant 2) and the receipt of the motion for injunctive relief; the temporal urgency is therefore given.

II.

83 The outcome of the balancing of interests to be carried out when examining the grounds for injunction is in favor of Injunction Plaintiff. In patent disputes, the requirement of the grounds for injunction also includes the question of the legal validity of the injunction patent. This is sufficiently secured in the present case (1.). The balancing of interests turns out in favor of Injunction Plaintiff in other respects as well (2.).

1.

a)

84 According to the settled case law of the Court, the Union Court of Justice may be concurred with (cf. ECJ GRUR Int 2020, 1071 margin no. 48 = BeckRS 2020, 490 – Paroxetine; GRUR 2022, 811 margin no. 41 – Phoenix Contact/Harting) that (in any case) for European patents, it can be assumed that there is a presumption of validity for them from the time of publication of their grant and that from this point in time they fully enjoy the protection guaranteed by Directive 2004/48, among other things.

85 If one wanted to see this differently, the respective Higher Regional Court would have to initiate a new preliminary ruling procedure at the Union Court of Justice as the last instance in the injunction proceedings pursuant to Article 267 (3) TFEU and seek clarification from it. Refusing to comply with a preliminary decision of the Union Court of Justice with the argument that the facts on which the decision is based were incorrect would be contrary to European law and would give rise to a state liability case (Wegener, in: Calliess/Rufffert, TEU/TFEU, Article 267 TFEU, 6th Edition 2022, margin no. 52; Karpenstein, in: Grabitz/Hilf, Das Recht der Europäischen Union [The law of the European Union], as of: 78th Suppl. January 2023, Article 267 margin no. 105 et seqq.; Ehricke, in: Streinz, TEU/TFEU, 3rd Edition 2018, Article 267 margin no. 72).

86 For the examination of the sufficiently secured legal validity of the injunction patent to be carried out in the context of the grounds for injunction, the case law of the Munich I Regional Court presented means that due to the presumption of validity, a secured legal validity must initially be assumed and it is incumbent on the injunction defendant in the two-sided preliminary injunction proceedings to refute this presumption (cf. Munich I Regional Court GRUR 2022, 1808 margin no. 68 – Fingolimod; dissenting opinion Düsseldorf Regional Court GRUR 2022, 1806 margin no. 61 – MS-Therapie III [MS therapy III]). In this respect, the injunction defendant bears the burden of proof and onus of substantiation (cf. Heinze, GRUR 2022, 1795, 1798).

87 If the injunction defendant has presented and, if necessary, substantiated significant reasons which, to the conviction of the Court, justify a sufficient probability of the revocation of the injunction patent in the individual case and thus vitiate the presumption of validity, it is incumbent on the injunction plaintiff to in turn demonstrate and, if necessary, substantiate that the legal validity of the injunction patent is sufficiently secured despite the attacks against it (cf. Munich I Regional Court GRUR 2023, 152 margin no. 60 et seqq. – Bortezomib; GRUR-RS 2022, 44524 margin no. 87 et seqq. – Haarschneidegerät [Hair clipper]; GRUR 2022,1808 margin no. 68 – Fingolimod), i.e. it can be forecast with a high degree of probability (cf. Munich I Regional Court GRUR-RS 2021, 37988 margin no. 46 – Sorafenibtosylat [Sorafenib tosylate]).

88 Irrespective of the question as to why there is no need for validity proceedings in the case at hand, doubts about the legal validity of the injunction patent can only be reflected in a rejection of the motion for injunctive relief if the property right of injunction is challenged with an opposition or an nullity action, because this is the only way the patent can actually be brought down (Düsseldorf Higher Regional Court InstGE 7, 147 – Kleinleistungsschalter [Miniature circuit-breaker]; Munich I Regional Court, loc. cit.). It therefore generally does not suffice to simply point out grounds for opposition or nullity in the preliminary injunction proceedings, which could lead to the revocation of the injunction patent, as long proceedings were not actually initiated before the German Patent and Trademark Office, the European Patent Office (hereinafter: EPO), the Federal Patent Court and, in future, before the Unified Patent Court at the latest by the end of the last oral hearing in the injunction proceedings, in which a revocation or declaration of nullity of the patent can be ordered on the basis of that submission. If there is only a short period of time between the injunction defendant's knowledge of the allegation of infringement and the hearing date, within which injunction defendant cannot reasonably be expected to challenge the injunction patent with a formal legal remedy, it must at least be foreseeable without any doubt that the legal validity of the injunction property right will be challenged in due course (Düsseldorf Higher Regional Court InstGE 12, 114 = BeckRS 2010, 15862 – Harnkatheterset [Urinary catheter set]; Munich I Regional Court, loc. cit.).

89 According to these standards, the Court is convinced that the legal validity of the injunction patent is sufficiently secured. The attacks against the validity of the injunction patent, put forward in the pleadings and in the oral hearing, do not justify denying the grounds for injunction. Taking into account the submissions made by both parties, the Court is convinced that the injunction patent is legally valid.

b)

90 Even if one did not wish to follow this view and wanted to adhere to the case law of the Higher Regional Courts in Munich, Düsseldorf and Karlsruhe, the Court is convinced that in the present

situation, it is not permissible to demand a successful completion of validity proceedings. According to the case law of the Düsseldorf Higher Regional Court, namely, there is sufficient conviction to issue a preliminary injunction with regard to the legal validity of the injunction patent if the infringement court, based on its own assessment of the technical matter concerned, is convinced (in the sense of sufficient substantiation) that the injunction property right is legally valid because the lack of patentability of its subject matter will not be able to be determined (Düsseldorf Higher Regional Court GRUR-RS 2021, 4420 margin no. 22 – Cinacalcet II – cited at Düsseldorf Regional Court GRUR 2022, 1806 margin no. 53 – MS-Therapie III). This should in turn be the case if, from the point of view of the infringement court, there are either more arguments in favor of patentability than against it or (with regard to the distribution of the burden of proof applicable in validity proceedings) there are just as many arguments against it as for it, so that the existence of a ground for revocation or nullity will ultimately remain unresolved (Düsseldorf Higher Regional Court GRUR-RS 2021, 4420 margin no. 22 – Cinacalcet II). The consequence of this is that the infringement court, if it had to decide on the matter itself instead of the Patent Office or the Federal Patent Court, would have to affirm the legal validity (Düsseldorf Higher Regional Court GRUR-RS 2018, 1291 margin no. 57 – Rasierklingen [Razor blades] – cited at Düsseldorf Regional Court GRUR 2022, 1806 margin no. 53 – MS-Therapie III).

91 Measured by this standard, the Court, which is composed of three professional judges experienced in patent law, does not believe that validity proceedings are necessary. Based on its own expertise and with the help of qualified submissions by the parties, accompanied by patent attorneys, the Court is able to assess the legal validity of the injunction patent with the certainty required in the injunction proceedings. The technology does not show a level of complexity that would make it impossible for the Court, after the necessary familiarization, to obtain a well-founded overview of the validity situation and to make a well-founded assessment. As will be shown, the citations by Injunction Defendants all date from the past millennium; there is no patent thicket, as is sometimes the case in the telecommunications sector. The technology in dispute can also be perceived visually and haptically and is therefore also directly accessible to professional judges who have not received academic training. The refusal of a preliminary injunction with the mere reference to the absence of successfully survived legal validity proceedings would therefore not only be contrary to European law, but would also be tantamount to a judicial denial of rights.

92 The Court was unable to consider other aspects that could speak in favor of issuing a preliminary injunction due to Injunction Plaintiff's lack of submissions. In particular, in case constructions in which the end product sold by the patent proprietor is essentially reflected in the injunction patent, a special need for protection can result from the fact that there is a risk of price erosion or that protection through other legal mechanisms (trademark protection, competition law, etc.) does not offer comparable protection.

93 The Court cannot assess the extent to which these requirements are met in the present case. According to the presentation in the application, Injunction Plaintiff has been offering the product "Dyson Airwrap" since 2018, which is characterized in particular by the use of the Coanda effect, with great economic success. Injunction Plaintiff did not put forward the price of the original product and the infringing product. Nor was the risk of price erosion discussed. In addition, there is also no submission as to whether the "Coanda effect" described in the description of the injunction patent – which did not find its way into the patent claims – could also be protected with other legal mechanisms and there is accordingly a special need for Injunction Plaintiff to be able to assert the patent claim in the injunction proceedings.

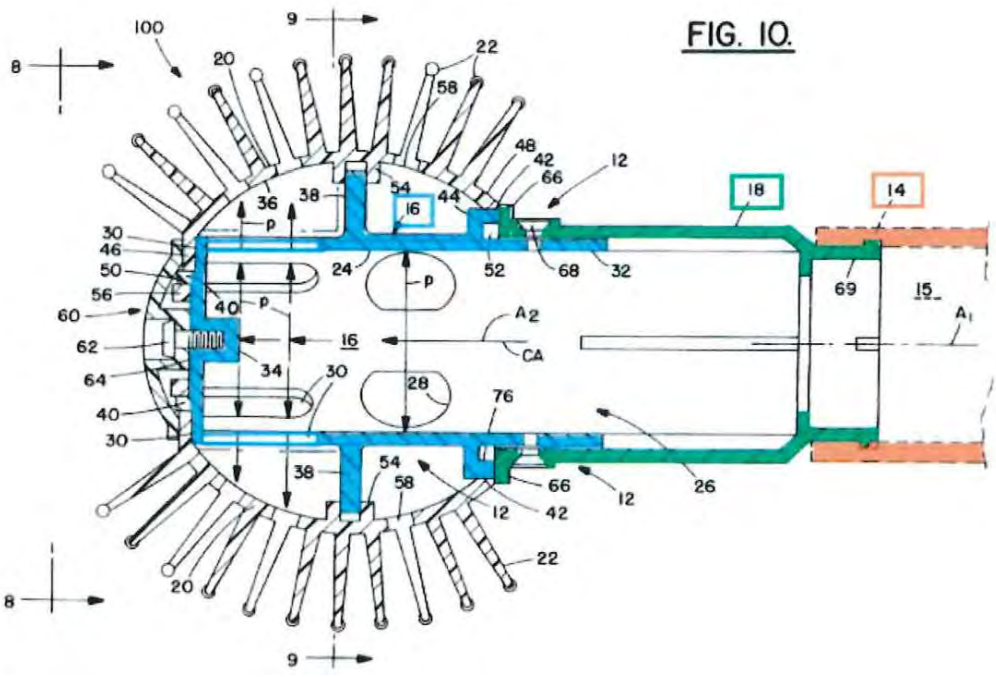
c)

aa)

94 The citation D 1 (US 5,868,148) does not anticipate the subject matter of the injunction patent with detrimental effect to novelty.

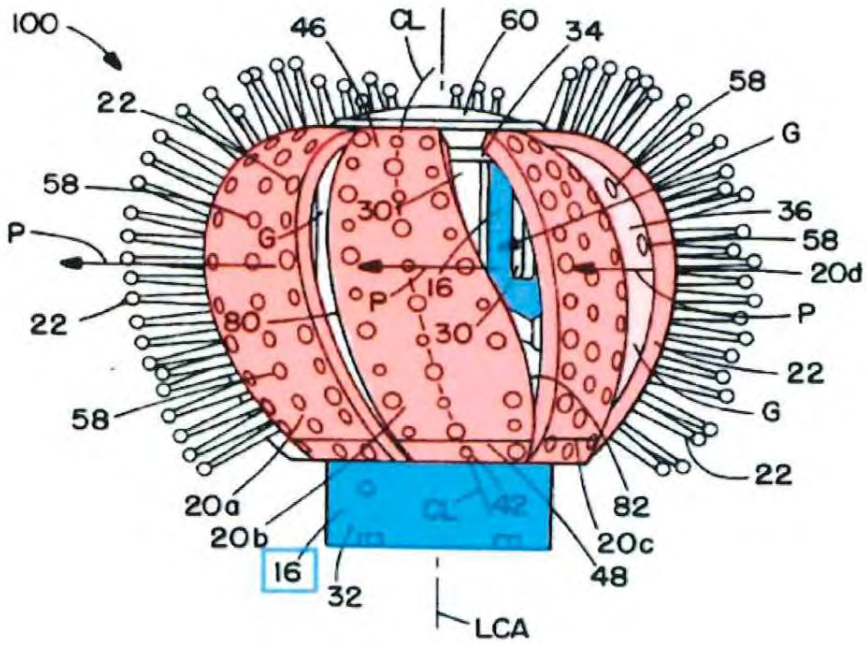
(1.)

95 The prior art document D1 was published on 9 February 1999 and thus before the priority date of the injunction patent of 20 March 2014 (Exhibit FIN 1). It refers to an attachment in the form of a hair styler to control the air flow of a "hair blower." Figure 10 of D1 reproduced below shows a hair styler 100, consisting of a core 16 (highlighted in blue) and a connector sleeve 18 (highlighted in green), around the core 16 with the indicated outlet 14 (highlighted in brown). of a hair blower 15 (D1, column 5, lines 18 to 20, column 8, lines 7 to 9):



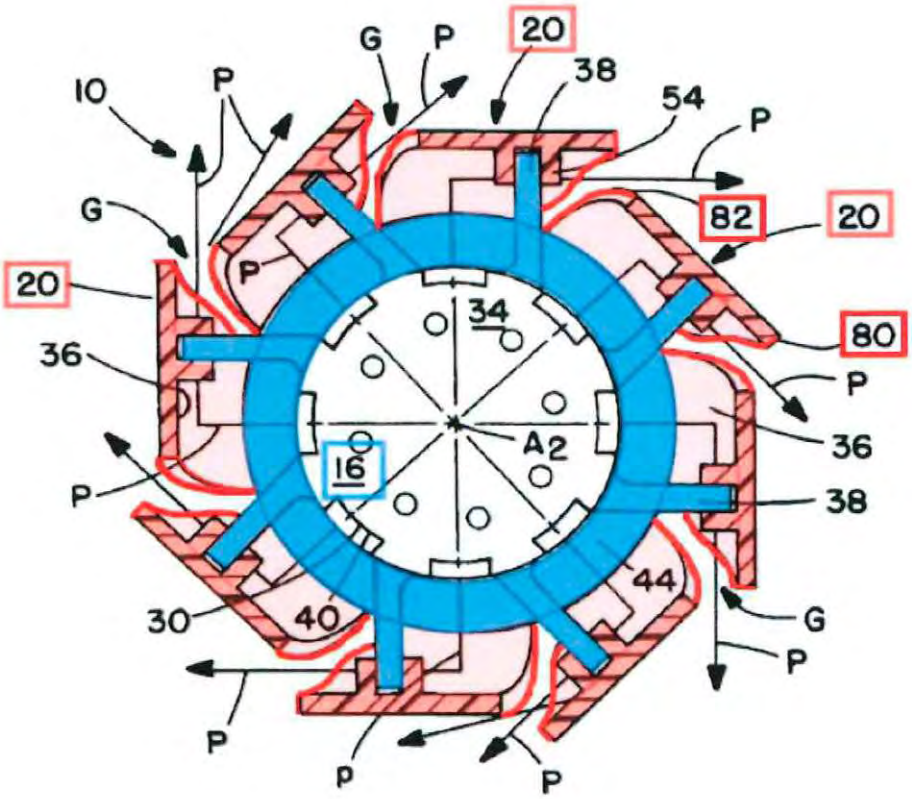
(coloring by Injunction Defendants, response to the motion, p. 21)

96 Arranged along the length of core 16 are elongated vanes 20 (D1, column 5, lines 32-38). Figure 11 of D1 reproduced below shows the core 16 (highlighted in blue) with the elongated vanes 20 surrounding it (highlighted in red) in a top view, with the connector sleeve 18 removed from the core 16:



(coloring by Injunction Defendants, response to the motion, p. 22)

97 Figure 9 of D1 shows a cross section of the core 16 (highlighted in blue) with the elongated vanes 20 surrounding it (highlighted in red), which are limited on the one hand by the respective side edges 80 and on the other hand by the respective trailing side edges 82:



(2.)

98 As explained under point B. I. 4. b (margin no. 36 et seqq.), feature 1.5 is to be interpreted in such a way that a cylindrical attachment is claimed. The term "generally" has no meaning that would allow a configuration that deviates significantly from the cylindrical shape.

99 Accordingly, curved attachments in which the parts connecting the base surfaces (external surfaces) do not run parallel to one another are not in accordance with the claim. D1, in contrast, does not disclose a cylindrical shape of the attachment. Both in Figure 9 and in Figure 11, the connecting lines do not run parallel to one another and are therefore not cylindrical.

100 The disclosure passage in column 3, lines 59 to 65 does not contain a cylindrical design either:

„The vanes preferably are elongated, and when mounted onto the coupler means or core, they are disposed longitudinally along and generally parallel to the central axis of the internal chamber of the coupler means or core, such that the vanes have a front end distal to the entrance end of the internal chamber, and a back end proximate to the entrance end of the internal chamber.“

101 The citation describes at this point that the external surfaces ("vanes") extend parallel to the central axis of the core. What is not disclosed is that the vanes themselves run parallel to one another. The disclosure passage thus does not describe anything other than what is shown in Figures 9 and 11, namely convex external surfaces which run parallel to the core but not parallel to one another and are therefore not cylindrical.

bb)

102 The citation D2 (CH 617 332, Exhibit FIN 11) likewise does not conflict with the novelty of the subject matter of claim 1 of the injunction patent. The citation D2 was filed on 15 June 1977 and published on 30 May 1980.

(1.)

103 The prior art document D2 refers to an attachment 6, 7 for a hot-air hairdressing appliance 1 to 3 (D2, summary). The attachment consists of an attachment part 7 and several brushes 6, which can be inserted into the central opening 8 of the attachment part 7 to style the hair (D2, abstract; claim 1). The attachment part 7 is attached by means of an attachment sleeve 4 in the mouth area of the hot-air hairdressing appliance 1 to 3 (D2, abstract; claim 1). For this purpose, the plug-on part 7 is detachably inserted into the cylindrical air outlet nozzle 2 (D2, column 2, lines 7 to 10; claim 7). The attachment sleeve 4 carries a plurality of tubes 5 arranged in a ring-like manner with blow-out openings 10 on the jacket side (D2, summary; column 2, lines 10 to 13). The tubes 5 run parallel to one another and are each radially spaced, with the tubes 5 enclosing an interior space 8 (D2, column 2, lines 10 to 13):

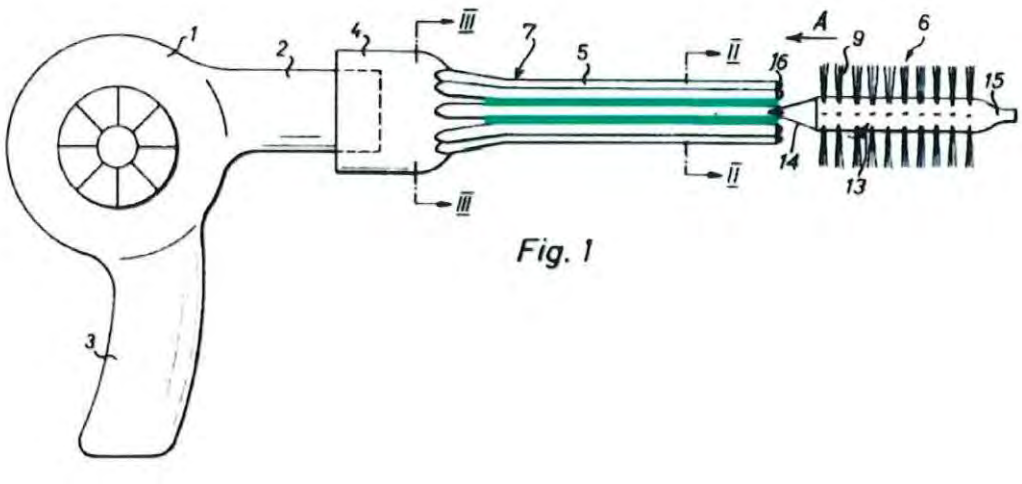


Fig. 1

(emphasis added by Injunction Defendants, rejoinder, p. 27)

(2.)

104 Feature 1.6, namely the extension of at least one slot from near the first end of the outlet to a distal end, is not disclosed by D2.

105 Even if one were to join Injunction Defendants in presuming the disclosure of a slot in accordance with the claim, feature 1.6 would not be previously described.

106 The attachment of citation D2 comprises an attachment sleeve 4. The attachment part 7 is detachably pushed over the attachment sleeve onto the cylindrical air outlet nozzle 2 of the hair dryer. The attachment sleeve defines the first end of the attachment (32) within the meaning of feature 1.2 or 1.6 of the injunction patent. At the other, distal end of the attachment sleeve, a plurality of tubes 5 arranged in a ring with blow-out openings 10 on the external side are arranged. Injunction Defendant believes that at least one slot is marked in green in the figure above. However, it can also be seen from the figure that this slot does not extend from near the first end of the attachment, since it only begins in the second quarter of the attachment. Feature 1.6 is therefore not disclosed. The remaining disclosure content of citation D2 does not go beyond that of the figure according to Fig. 1 with regard to feature 1.6.

107 Furthermore, D2 does not disclose feature 1.9. In this regard, Injunction Defendants refer to Figure 2 in connection with the description passage in column 2, lines 47-49. The entire section reads as follows:

"With the attachment part 7 of the device placed on the hot-air hairdressing appliance, it functions in such a way that a brush 6 is initially pushed into the central part 8. A strand of hair is then pulled over the brush 6 and twisted onto it. The hot air emerging from the holes 10 of the tubes 5 and the central opening 12 flows against this hair roller. Since the holes 10 are directed tangentially, it is avoided that hot air is blown directly against the scalp." (column 2, lines 41-49)

108 Figure 2 discloses the following:

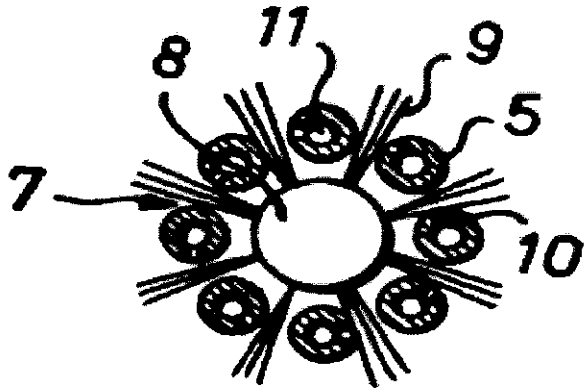


Fig. 2

109 The last sentence of the cited passage relating to the tangential orientation of the holes does not disclose feature 1.9 even in conjunction with Figure 2. After all, the person skilled in the art will read not only the two disclosure passages highlighted by Injunction Defendants, but the description as a whole. In doing so, he will also take note of the above-mentioned description passage in column 2, lines 16-19. From this, he will infer that the tangential alignment described in column 2, lines 47-49 refers to a circle drawn through the center of the tubular ring, but not – as required by feature 1.9 – to the external surface of the attachment. Thus, the configuration of the outlet for emitting the fluid tangentially to the external surface of the attachment is not disclosed.

c)

110 The citation D3 (JP 59-129009, Exhibit FIN 12, 12a, 12b) was published on 25 July 1984, almost 30 years before the priority date of the injunction patent.

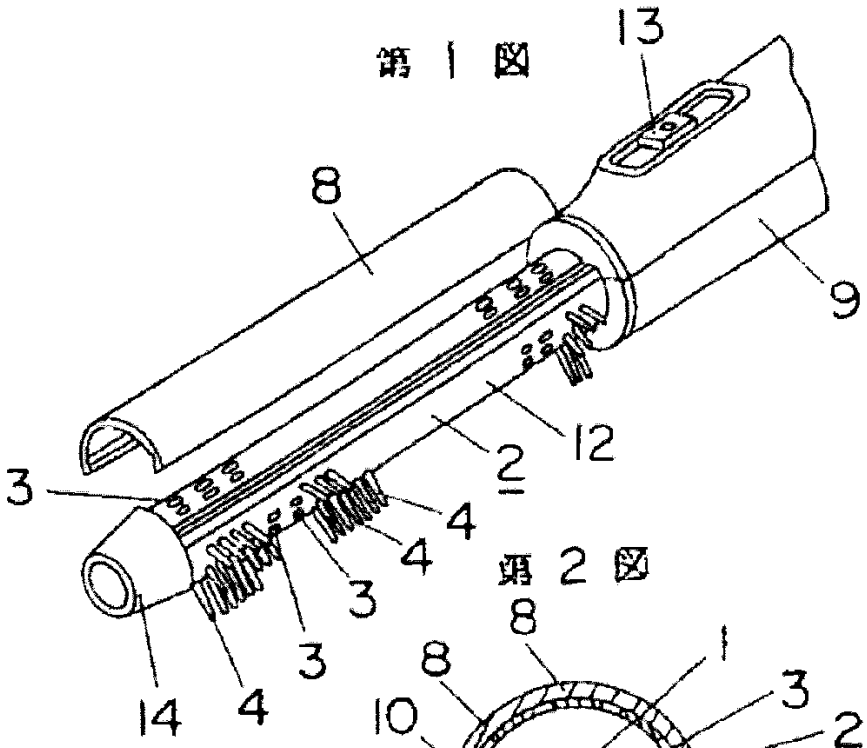
aa)

111 It describes as disadvantageous prior art of hair dryer attachments that are suitable for curling hair that the attachment of an arcuate opening and closing element closes some of the hot air outlets so that hot air is only emitted in one direction. Closing part of the hot air outlets poses a problem that the temperature of the hot air discharged becomes unusually high, which may cause burns and damage to the hair, and malfunction of the hair dryer itself; cf. Exhibit FIN 12b "3. Description of the prior art."

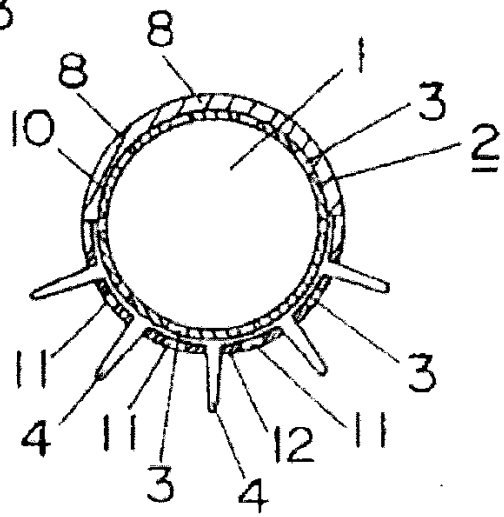
112 The citation therefore has the object to provide an attachment for a hair dryer that allows both brushing and curling but prevents overheating during brushing to prevent burns and damage to the hair and to reduce hair dryer failure due to overheating; cf. Exhibit FIN 12b "3. Object of the invention."

113 As a solution, D3 describes an attachment in which the arcuate element 8 shown in Figures 1 and 2 is replaced by an arcuate hot air guide part 6 and this hot air guide part 6 is attached at a distance to the cylindrical body 2. As a result, warm air can escape from the cylindrical body 2 via hot air outlet channels 3 into the gap 5 between the arcuate hot air guide part 6.

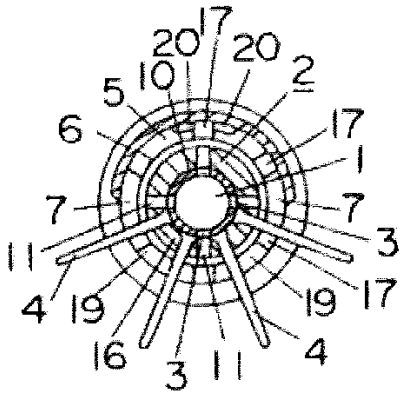
第 1 図



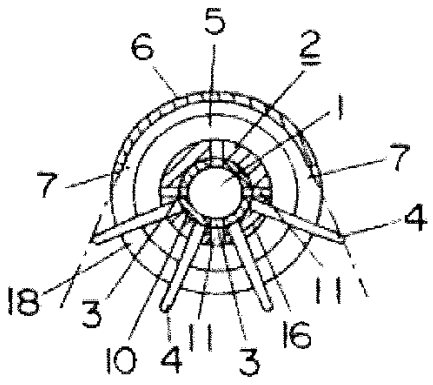
第 2 図



第 14 図



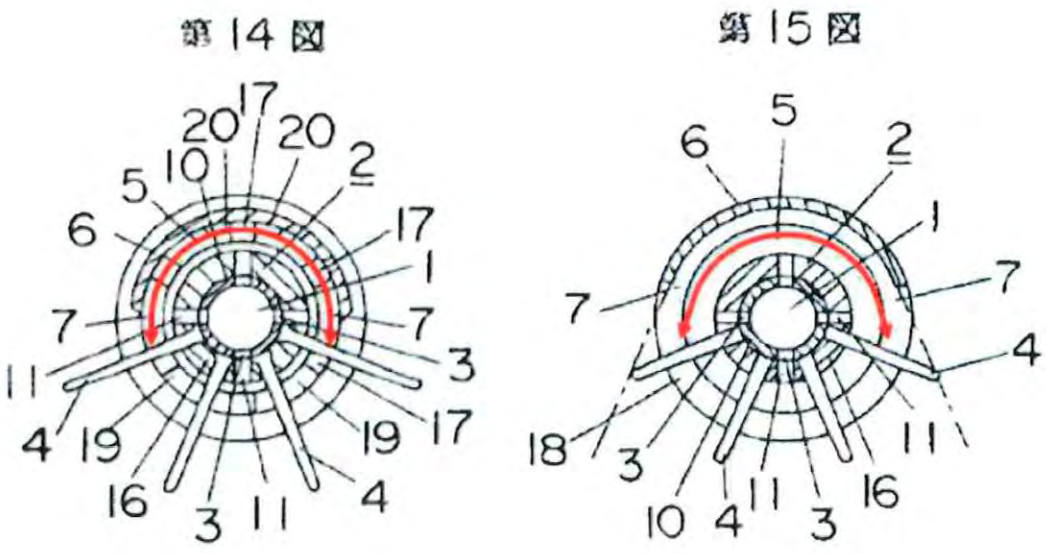
第 15 図



114 Figure 15 shows, according to the description, a cross-sectional view of another example according to this invention, in which, at the open edges (7) of the intermediate gaps (5) which are formed between the outer periphery of the attachment body (2) and the edges of the hot air guide element (6), the hot air outlet direction runs along the open edges (7), in other words, at which the tips of the bristles (4) are positioned on the tangential extension line of the open edges (7), so that the hot air can be evenly directed over the entire bristles (4).

bb)

115 Injunction Defendants claim that the open edges 7 of the intermediate gap 5 on both sides were formed by the overlapping of the arcuate hot air guide element 6 with the cylindrical attachment main part 2, like the slot in Figures 5a and 5b of the injunction patent. Those skilled in the art would therefore derive from Figures 14 and 15 that hot air exiting the hot air outlets 3 was directed tangentially around the external surface of the attachment through the two intermediate gaps 5 at their respective open edges 7. Those skilled in the art would appreciate that the slot in the form of the open edges 7 of the intermediate gap 5 in D3 behaves in the same manner as the outlet openings in Figures 5a and 5b of the injunction patent. The tangential configuration was also claimed by claim 2 of D3. Therefore, feature 1.9 was also disclosed:



(image with emphasis added by Injunction Defendants; rejoinder, p. 36)

116 A tangential exit direction was moreover expressly explained with regard to Figure 15 in the description of D3:

> *„FIG. 15 shows a cross-sectional view of another embodiment of the invention. At the open end (7) of the gap (5) formed between the outer circumference of the attachment body (2) and the side edge of the hot air guide piece (6), the tip of the bristle (4) is positioned on the tangential extension line of the opening end (7), that is, in the hot air discharge direction at the opening end (7), and as a result, hot air is evenly sent to the entire bristles (4).“*

cc)

117 Neither the disclosure passages indicated by the Injunction Defendants nor other passages in D3 describe to the person skilled in the art an outlet that is configured in the sense of feature 1.9 of the injunction patent. The quoted description passage in conjunction with Figure 15 discloses to the skilled person that the hot air is not actually emitted tangentially to the external surface, but only tangentially to an imaginary extension of the external surface. Furthermore, no tangential relationship is actually established between the emitted air and the tip of the outermost bristle. The emitted air behaves tangentially to the tip of the outer bristle 4, which ensures that it is still caught by the air flow. This is shown by line 18 in Figure 15.

118 Also not disclosed is the configuration of the outlet for directing around the external surface of the attachment. This is because in Figure 15, it is shown in connection with the relevant passage in the description that the hot air is directed "over" the entire bristles and thus precisely away from the external surface of the attachment and not around it.

119 There is also a lack of the requirement for the fluid to be directed around the external surfaces. The citation is completely provided with openings, so that the fluid flowing out already prevents a flowing around.

d)

120 A lack of novelty cannot be assumed with regard to D4 (WO 2007/022600 A1, Exhibit FIN 13, 13a). This citation was filed on 25 August 2006 claiming priority of 26 August 2005.

aa)

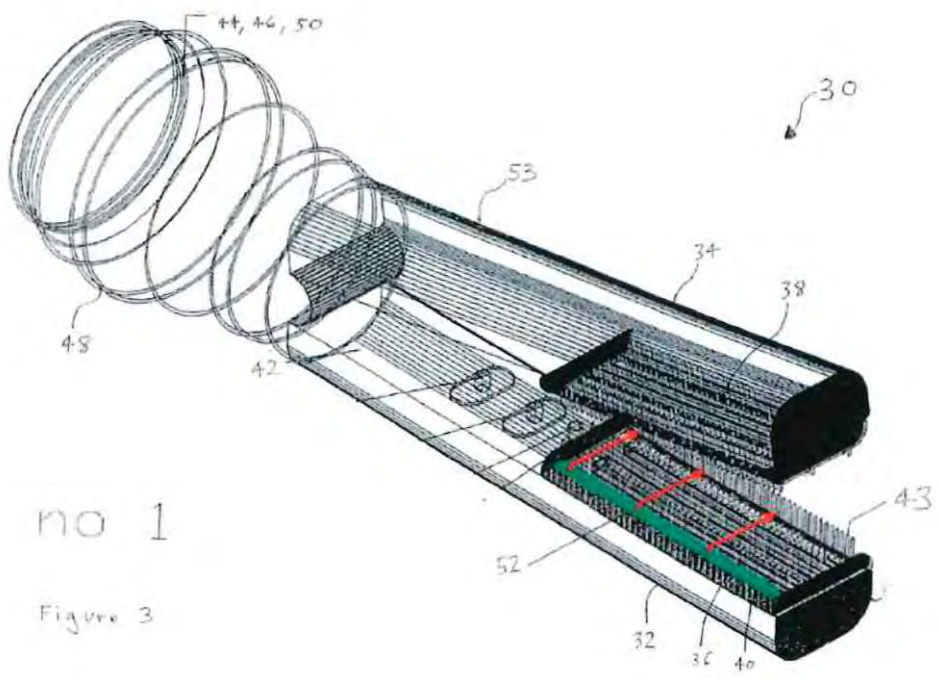
121 D4 likewise relates to a hair styling device in the form of an elongated arm. The citation discloses on page 4, lines 12-15 and page 5, lines 8-11 an embodiment in which an elongate air outlet (52) runs

parallel to the elongate arm (52) with a hair receiving surface (36) extending over at least part of the arm. The air outlet 52 is configured to blow air across the hair receiving surface 36 and thereby substantially along the length of the hair lying perpendicular to the arm 32 on the surface 36. As Injunction Defendants themselves point out, the hair styling device claimed with D4 has a modular structure and includes a handle to which the elongated arm or tongs are detachably connected:

> "*The the hairstyling device is of modular design and includes a handle or hand grip 53 to which the arm 22 or tongs are detachably connected.*" (D4, page 5, lines 20 through 21).

bb)

122 D4 thus does not disclose, as required by feature 1.6, that the slot extends from near the first end of the attachment towards a distal end of the attachment. Furthermore, it does not describe that the slot extends substantially along the length of the attachment in accordance with feature 1.7. The attachment according to D4 consists of the elongated arm and the handle. However, the slot/outlet only extends along one part, namely the arm. This makes up only one part of the attachment. Thus, the slot is neither "near the first end of the attachment" nor does it extend "substantially along the length of the attachment." This is shown by Injunction Defendants themselves with the labeling of Figure 3 when they mark the air outlet green:



(Image of Injunction Defendants with their markings, nullity action, p. 63)

123 Furthermore, the figures, in particular Figure 3a cited by Injunction Defendants in conjunction with page 5, lines 25-27, do not indicate to the skilled person a configuration of the outlet for directing the emitted fluid around the external surface of the attachment:

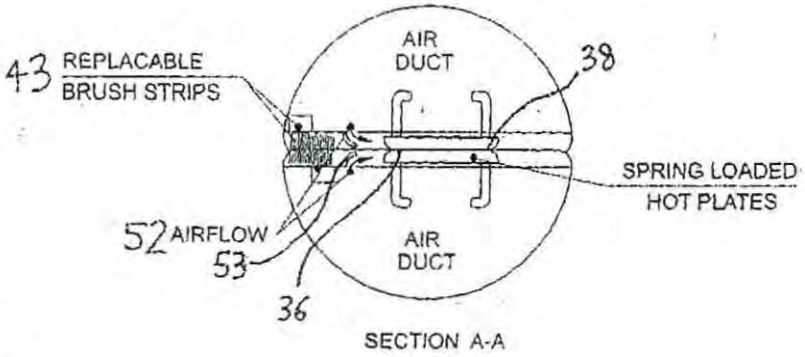


Figure 3A

"The configuration of the elongate air outlet 52 is shown in section A-A of figure 3a. The air exiting the elongate air outlet 52 is deflected by a shroud 53 across the hair receiving surfaces 36 and 38 as indicated by the airflow lines."

124 There is no direct and unambiguous disclosure of the airflow around the external surface either in these description passages or elsewhere in D4. The person skilled in the art only recognizes that the air flow is "deflected" by the shroud 53. D4 does not directly show how the airflow continues to flow after leaving the outlet, and the person skilled in the art also cannot recognize on the basis of his general knowledge that this happens around the external surface in the sense of feature 1.9.

d)

125 The Court cannot identify a lack of inventive step over citation D1 in conjunction with the common general knowledge.

aa)

126 According to the case law of the Federal Court of Justice, the assessment of inventive step is a question of law that must be assessed by way of an evaluative appraisal of the factual circumstances that are directly or indirectly suitable as indications of the prerequisites for discovering the solution of the invention (BGH GRUR 2012, 378 – Installiereinrichtung II [Installation device II]). The decisive factor is whether the prior art on the priority date rendered the subject matter of the invention obvious to the person skilled in the art. On the one hand, this requires that the person skilled in the art, with the knowledge and skills acquired through his

training and professional experience, was in a position to develop the solution to the technical problem in accordance with the invention from what was already available. Secondly, the person skilled in the art must have had a reason to follow the path of the invention. As a rule, this requires impulses, suggestions, indications or other occasions that go beyond the identifiability of the technical problem (BGH BeckRS 2018, 13279 – Tongeber für Einparkhilfesysteme von Fahrzeugen [Sound generator for parking assistance systems of vehicles]). Only in this case can the necessarily ex-post judicial assessment that the person skilled in the art would have arrived at the subject matter of the invention without inventive effort be objectified in a way that ensures legal certainty for the property right holder and for his competitors (Düsseldorf Higher Regional Court GRUR-RS 2020 , 37066 margin no. 93 – Decodieranordnung [Decoding arrangement]).

127 According to settled case law, the choice of the starting point for the assessment of inventive step requires justification, which usually lies in the efforts of the person skilled in the art to find a better solution for a specific purpose than the known prior art makes available (BGH GRUR 2009, 382 – Olanzapin [Olanzapine]).

128 The extent and the degree of concretization of the suggestions in the prior art required by the person skilled in the art to develop a well-known solution in a particular way is a question of the individual case according to the case law of the Federal Court of Justice, the answer to which requires an overall assessment of all relevant factual elements. It is not only express references to the person skilled in the art that are relevant here. Rather, characteristics of the technical field in question, in particular relating to the training of specialists, the usual procedure for the development of innovations, technical requirements resulting from the design or the application of the object in question and non-technical specifications can also play a role (BGH GRUR 2014, 647 – Farbversorgungsystem [Paint supply system] margin no. 25).

129 According to the case law of the Düsseldorf Higher Regional Court, no reasonable argument for the granting of inventive step may be found any longer (cf. Düsseldorf Higher Regional Court, op. cit., margin no. 92 with reference to BGH GRUR 1987, 284 – Transportfahrzeug II [Transport vehicle II]; Karlsruhe Higher Regional Court GRUR-RR 2019, 41082 – Reifenreparaturset [Tire repair set]; Düsseldorf Higher Regional Court GRUR-RR 2007, 259 – Thermocycler; Düsseldorf Higher Regional Court, Mitt. 1997, 253 – Steinknacker [Rock cracker]).

bb)

130 Based on these principles, D1 gives the skilled person no reason to further develop the attachment described there, which consists of a "core" (16) with an "internal chamber (26) and overlying "vanes" (20), in the direction of the teaching according to the injunction patent. This also does not result from the description passage referenced by Injunction Defendants:

> „*The vanes preferably are elongated, and when mounted onto the coupler means or core, they are disposed longitudinally along and generally parallel to the central axis of the internal chamber of the coupler means or core, such that the vanes have a front end distal to the entrance end of the internal chamber, and a back end proximate to the entrance end of the internal chamber.*
>
> (D1, column 3, lines 59 through 65)

131 Injunction Defendants have not explained, nor is it otherwise apparent, why the person skilled in the art would have used D1 as the starting point for his considerations regarding an improvement of attachments for hand held appliances. It is also not clear why, starting from D1, the person skilled in the art would have developed it in the direction of the invention according to the injunction patent with a generally cylindrical shape. As a matter of fact, D1 gives no indication that a generally cylindrical configuration would have any advantage over others. From the description passage cited by Injunction Defendants, the person skilled in the art can only gather that elongated vanes running generally parallel to the central axis of the internal chamber result in them having a front end that is distal to the entrance end of the internal chamber and a rear end that is close to the entrance end of the internal chamber. Nothing further can be derived from the description passage by the person skilled in the art. He is not encouraged by this to improve the invention of D1 to the effect of designing the attachment in a generally cylindrical manner.

132 D4 does not mention the Coanda effect – which is mentioned in the description of the injunction patent – so that there is no reason for the person skilled in the art to facilitate or influence certain fluid flows by a cylindrical configuration of the external surface of the attachment.

e)

133 With regard to the principles of the case law described under 5 a), claim 1 of the injunction patent is also not rendered on this by citation D5 (JP 11-178631, Exhibit FIN 14, 14a, 14b) in combination with prior art document D1. The statements of Injunction Defendant that D5 disclosed all the features of claim 1 with the exception of feature 1.9, which is why the objective task was to modify D5 in such a way that it achieved the technical effect of feature 1.9, cannot be followed.

134 Injunction Defendants already cannot be followed in the assumption that D5 disclosed all of the features except for feature 1.9. The person skilled in the art does not derive a generally cylindrical shape of the attachment from D5. True, Injunction Defendants accurately state that the invention according to D5 comprises a cylinder (34). Around this, however, a bristle base (2) is formed, which is not cylindrical but has a convex shape. It therefore corresponds to that in D1, which has already been characterized as not generally cylindrical in the sense of feature 1.5 (cf. margin no. 36 et seqq.). This structure is described very clearly in para. [0005] of D5:

> *„Accordingly, the present invention provides a brush having a bristle base in which a large number of bristles protrude from the surface thereof is connected to an air blowing port of a hair dryer main body, and the brush is In a hair dryer with a brush for blowing air or steam from a hair dryer main body through a discharge port formed in a bristle base, the bristle base of the brush is formed so that the outline of its longitudinal cross section forms a convex curve."*
>
> (emphasis added by the Court)

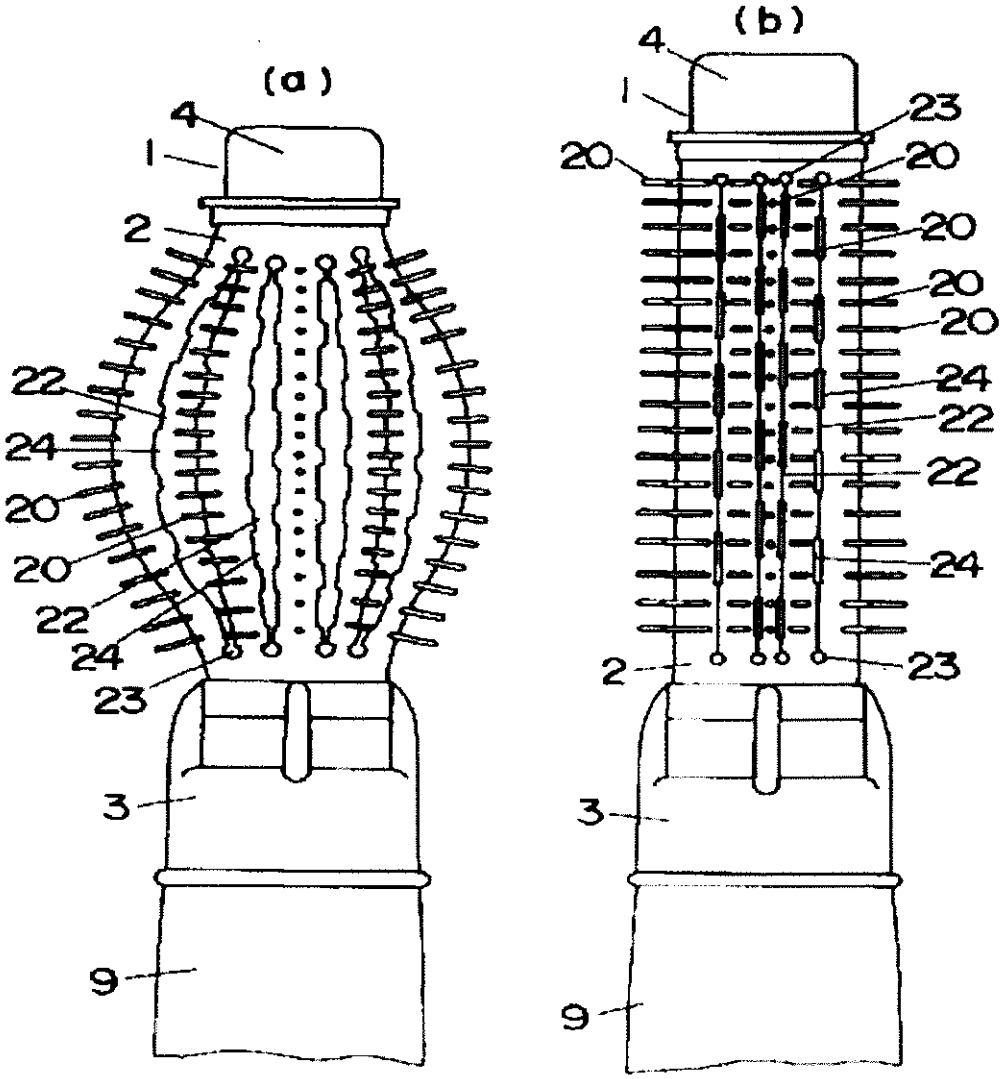
135 The same applies to claim 1. As the sub-claims 7-9 show, the citation is also specifically interested in changing or increasing the rate of curvature. In para. [0028], the citation explains the advantages obtained thereby as follows based on its embodiment according to claim 1:

> *"As previously explained, since a hair dryer with a brush according to this invention, where a brush having a bristle base in which a plurality of bristles protrude from the surface thereof is connected to the blowing port of the hair dryer main body, and which blows the air or the steam from the hair dryer main body through the discharge ports formed in the bristle base of the above brush, characterized in that the bristle base of the above brush is formed so that the outer contour of its longitudinal cross section forms a convex curve, this invention enables the warm airflow or steam to be directed flowingly along the inner surface of the bristle base to the middle of the brush and only then blown out, thereby in turn improving the fixing ability, since the amount of the outflowing airflow or steam in the middle area of the brush on which the hair is wound increases."*

136 In para. [0030], the citation discloses that the placement of a support member within the bristle base may be advantageous to prevent crushing of the bristle base and to maintain the curve shape.

137 It is true that Figures 5 and 6 also show a cylindrical shape of the bristle carrier.

【図５】



138 However, from the outlined overall context of the invention and para. [0018], which deals with Figures 5 and 6, it is clear to the person skilled in the art that a cylindrical shape is not desired for the use of the device:

"In this brush 1, by changing the distance between the brush bases 3 and 4 as described above, and expanding the middle portion of the bristle base 2 outward, the brush 1 does not have a simple cylindrical shape, but has an arcuate cross section in the axial direction. In addition, the smaller the distance, the smaller the radius of curvature of the arc. The hair can be wrapped in an arc of curvature."

(emphasis added by the Court)

139 Because of this, it cannot be assumed that the person skilled in the art would not have selected the convex design of the external surface, but rather the cylindrical one, as the starting point for improving D5 and would have arrived at D1 on this basis. He would have had no reason at all to reject the claimed convex external surface of the attachment based on its own statements in D5 and to instead take up the cylindrical design shown in only 3 figures. Injunction Defendants do not submit anything in this regard, either. Accordingly, it cannot be presumed that the person skilled in the art would have subsequently arrived at the subject matter of claim 1 of the injunction patent with the aid of D1. After all, D1 specifically shows a convex external surface, which the person skilled in the art in D5 – in the opinion of Injunction Defendants – actually wanted to depart from.

f)

140 Claim 1 of the injunction patent does not inadmissibly go beyond the content of the application in the version originally filed (Article 138 (1c) EPC, Article II Section 6 para. 1 no. 3 of the German Law on International Patent Conventions (IntPatÜbkG)). There is no inadmissible extension with regard to feature 1.9.

141 In this regard, the original application (Exhibit FIN 10) discloses on page 1, lines 26-29:

„Preferably, fluid emitted from the outlet flows around the external surface of the attachment. It is preferred that the fluid emitted from the outlet is tangential to the external surface of the attachment."

142 On page 9, lines 6-10, it is specifically disclosed regarding the outlet:

„The head 30 includes a fluid outlet 100 which in this example comprises parallel slots 102 each extending towards a second end 36 of the head and radially around the head 30. This arrangement enables fluid to exit the head all the way around the head and for the majority of the length of the head 30 maximising a hair styling region of the 10 product."

(emphasis added by the Court)

143 On page 12, lines 20-29, among other things, Figure 5b is explained in more detail and it is stated as in para. [0064] of the injunction patent:

> "*The slots 102 are formed from an overlap 120 (Figure 5b) formed between adjacent plates 110 which results in fluid being directed between a radially inner surface 104 formed from the outer surface 112 of a first plate 110a and a radially outer surface 106 formed from the inner surface 114 of a second plate 110b. The fluid 122 flowing out of the slot 102 is 25 tangential 130 to the outer surface 112 of the plate 110a and joins with the fluid flowing out of the other slots of the fluid outlet 100 forming a fluid flow around the circumference of the head 30. Thus, the fluid 122 is blown out along the external surface of the head and this encourages hair to wrap around the head 30 automatically.*
>
> (emphasis added by the Court)

144 Those skilled in the art will understand from these passages in the description that an appropriate design of the outlet can ensure that the emitted air is directed tangentially around the external surface of the attachment. Hence, feature 1.9 is disclosed to those skilled in the art.

g)

145 The Court is not convinced that the invention is not feasibly disclosed. According to the interpretation of the Court, it is not claimed that the emitted air is directed around the entire external surface of the attachment (cf. margin no. 62). Since Injunction Defendants' line of argument is based on this inaccurate assumption and the assertion that a direction completely around is not feasible with only a single slot according to feature 1.6, this challenge to validity remains unsuccessful.

h)

146 The foregoing remarks on the validity of claim 1 also apply mutatis mutandis to claim 10 of the injunction patent.

II.

147 The balancing of interests that must always be carried out, taking into account the special features of this individual case, favors Injunction Plaintiff.

148 In principle, the interest of the injunction plaintiff/applicant in the issuance of an injunction takes precedence if the claim for injunctive relief and the legal validity have been adequately substantiated. The refusal of a preliminary injunction can only be considered if the disadvantages arising for the injunction defendant from its enforcement go well beyond the interventions usually associated with an injunction (Munich Regional Court GRUR 2023, 152 margin no. 104 – Bortezomib). There are no tangible indications of this in the case at hand.

149 There are no persuasive reasons why Injunction Plaintiff should reasonably be expected to accept the continued presence of the patent-infringing product and instead be referred to claims for damages if Injunction Defendant is convicted in main proceedings.

150 Injunction Defendants could and should have known, at the latest since the cease-and-desist warning on 8 March 2023, that the challenged embodiment distributed by them infringes the injunction patent.

151 As already described above, the present situation is also characterized by the fact that the number of patents in this area is manageable compared to, for example, the telecommunications area. This is already evident from the fact that all of the citations produced by Injunction Defendants were published before the turn of the millennium. Injunction Defendants were therefore certainly capable, to the conviction of the Court, of ascertaining the property right situation before entering the market and of reacting – for example with a nullity action. However, they opted for a different strategy, for the consequences of which they have to answer in the present balancing of interests.

152 Furthermore, it is not apparent that Injunction Defendants or third parties would be dependent on distributing the product protected by the injunction patent. Against this background, a deferral of the claim for injunctive relief by way of the preliminary injunction is ruled out.

153 Finally, there is no doubt that the damage caused as a result of a preliminary injunction that subsequently proved to be unlawful can be compensated by Injunction Plaintiff, since it is a globally operating company that, like Injunction Defendant 1), moreover also has its registered office in the United Kingdom.

D.

154 The decision on costs follows from Section 91 ZPO with regard to the motions for injunctive relief and from Section 91a ZPO with regard to the settled dispute on the effectiveness of the intervention.

155 The costs for the latter were to be borne by Injunction Defendants, since Injunction Plaintiff would have prevailed in the event of non-settlement. In particular, Injunction Defendant 2) did not substantiate any legal interest in the intervention. It limited itself to contesting its status as a branch of Injunction Defendant 1) and the creation of a corresponding estoppel. However, it did not specifically put forward and substantiate that or why, in the event of a conviction of Injunction Defendant 1), there would be an extension of legal force to it. There is also no discernible risk of enforcement to be borne by Injunction Defendant 2) due to the conviction of Injunction Defendant 1). The case groups of Sections 738, 740 et seqq., 48 or Section 729 para. 2 in conjunction with Section 25 of the German Commercial Code (HGB), which are particularly relevant here, are not given. Section 21 ZPO also does not open up a risk of enforcement in this respect. Likewise, prejudiciality and/or accessory liability does not exist.

156 Even if one were to see this differently, this did not alter anything in the costs awarded in the operative provisions pursuant to Section 92 para. 2 no. 1 ZPO. This includes the costs of the settled dispute on the effectiveness of the intervention, because a (cost) decision on the effectiveness of the intervention can also be made with the final judgement.

157 The decision on preliminary enforceability follows from the nature of the preliminary injunction proceedings.

signed

Dr. Schön Kuttenkeuler Dr. Schacht, M.A.

Pronounced on 4 May 2023

signed
Kinzl, Court Clerk
Office Registrar



[Seal: Regional Court of Bavaria]

Certified to be a true copy
Munich, 26 May 2023

Kinzl, Court Clerk
Office Registrar
Certified by machine processing – valid without signature

Beglaubigte Abschrift

Landgericht München I

Az.: 7 O 3236/23

IM NAMEN DES VOLKES

In dem Rechtsstreit

Dyson Technology Limited, vertreten durch d. Direktor, Wiltshire SN16 0RP, Tetbury Hill, Malmesbury, Vereinigtes Königreich
- Verfügungsklägerin -

Prozessbevollmächtigte:
Rechtsanwälte **DLA Piper UK LLP**, Maximilianstraße 2, 80539 München, Gz.: MG/398223/388

gegen

1) **SharkNinja Europe Limited**, vertreten durch d. Direktor, c/o Regus Management GmbH, Excellent Business Center 10. + 11. Stock, Westhafenplatz 1, 60327 Frankfurt
- Verfügungsbeklagte zu 1) -

Prozessbevollmächtigte:
Rechtsanwälte **Finnegan Europe (Germany) LLP**, Thierschplatz 6, 80538 München, Gz.: 16325.8050-234-JCH/DZS

2) **SharkNinja Germany GmbH**, vertreten durch ihre Geschäftsführer Herrn Paul Cosimo Carbone und Herrn Thomas Anthony Brown, c/o Regus Management GmbH, Excellent Business Center 10. + 11. Stock, Westhafenplatz 1, 60327 Frankfurt
- Verfügungsbeklagte zu 2) -

Prozessbevollmächtigte:
Rechtsanwälte **Finnegan Europe (Germany) LLP**, Thierschplatz 6, 80538 München, Gz.: 16325.8050-234-JCH/DZS

Nebenintervenientin zu 1:
SharkNinja Germany GmbH, vertreten durch ihre Geschäftsführer Herrn Paul Cosimo Carbone und Herrn Thomas Anthony Brown, c/o Regus Management GmbH, Excellent Business Center 10. + 11. Stock, Westhafenplatz 1, 60327 Frankfurt

Prozessbevollmächtigte:
Rechtsanwälte **Finnegan Europe (Germany) LLP**, Thierschplatz 6, 80538 München, Gz.: 16325.8050-234-JCH/DZS

wegen Patentverletzung EP 3 119 234

erlässt das Landgericht München I - 7. Zivilkammer - durch den Vorsitzenden Richter am Landgericht Dr. Schön, den Richter am Landgericht Kuttenkeuler und den Richter am Landgericht Dr. Schacht, M.A. aufgrund der mündlichen Verhandlung vom 04.05.2023 folgendes

E n d u r t e i l

I. Die Verfügungsbeklagten werden verurteilt, es bei Meidung eines vom Gericht für jeden Fall der Zuwiderhandlung festzusetzenden Ordnungsgeldes bis zu 250.000,00 EUR, ersatzweise Ordnungshaft, oder Ordnungshaft bis zu 6 Monaten, wobei die Ordnungshaft an dem gesetzlichen Vertreter zu vollstrecken ist und insgesamt zwei Jahre nicht übersteigen darf,

zu unterlassen,

1.

einen Aufsatz für ein Handgerät,

in der Bundesrepublik Deutschland anzubieten, in Verkehr zu bringen oder zu gebrauchen oder zu den genannten Zwecken entweder einzuführen oder zu besitzen,

der einen Einlass an einem ersten Ende; einen Auslass; und einen Fluidströmungspfad zwischen dem Einlass und dem Auslass umfasst, wobei der Aufsatz allgemein zylindrisch ist und wobei der Auslass mindestens einen Schlitz umfasst, der sich von der Nähe des ersten Endes des Aufsatzes zu einem distalen Ende des Aufsatzes erstreckt, wobei sich der mindestens eine Schlitz im Wesentlichen entlang der Länge des Aufsatzes erstreckt und wobei der Auslass zumindest zum Teil durch eine Außenfläche des Aufsatzes definiert wird, dadurch gekennzeichnet, dass der Auslass dazu konfiguriert ist, aus dem Auslass ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten

(EP 3 119 234, Anspruch 1).

2.

ein Handgerät,

in der Bundesrepublik Deutschland anzubieten, in Verkehr zu bringen oder zu gebrauchen oder zu den genannten Zwecken entweder einzuführen oder zu besitzen,

das einen Griff (20) mit einem Fluidströmungspfad von einem Einlass (40) zu einem Auslass und einer Gebläseeinheit (70) zum Saugen von Fluid in den Fluideinlass und einen Aufsatz zum Aufsetzen auf den Griff (20) umfasst, wobei der Aufsatz Anspruch 1 entspricht.

(EP 3 119 234, Anspruch 10).

III. Die Verfügungsbeklagten tragen die Kosten des Rechtsstreits gesamtschuldnerisch.

IV. Das Urteil ist vorläufig vollstreckbar.

Tatbestand

1 Die Verfügungsklägerin nimmt die Verfügungsbeklagten wegen behaupteter Verletzung des deutschen Teils des Europäischen Patents 3 119 234 in Anspruch.

2 Die Verfügungsklägerin gehört zum Dyson-Konzern, einem weltweit agierenden Technologieunternehmen. Sie ist spezialisiert auf die Entwicklung und Herstellung hochwertiger Hausgeräte insbesondere Staubsaugern, Hygiene-, Raumklima- und Haarpflegegeräten.

3 Die Verfügungsklägerin ist Inhaberin des am 06.03.2015 unter Inanspruchnahme der beiden Prioritäten GB 201404985 und GB 201404982 jeweils vom 20.03.2014 angemeldeten Europäischen Patents, 3 119 234 B1. Der Erteilungshinweis wurde am 17.11.2021 veröffentlicht. Das Patent ist für die Bundesrepublik Deutschland validiert und steht in Kraft (im Folgenden: Verfügungspatent; Anlage AST 3, AST 2). Das Verfügungspatent betrifft einen Aufsatz für ein Handgerät, insbesondere ein Haarbehandlungsgerät.

4 Anspruch 1 des Verfügungspatents lautet:

> "An attachment (30, 130, 180, 230) for a hand held appliance comprising an inlet at a first end (32); an outlet (100, 200), and a fluid flow path between the inlet and the outlet, wherein the attachment is generally cylindrical and wherein the outlet (100, 200) comprises at least one slot (102, 182, 202, 282) extending from near the first end (32) of the attachment towards a distal end (36) of the attachment, wherein the at least one slot (102, 182, 202, 282) extends substantially along the length of the attachment and wherein the outlet (100, 200) is at least partially defined by an external surface of the attachment,
>
> characterised in that
>
> the outlet is configured to direct fluid emitted from the outlet (100, 200) tangentially around the external surface of the attachment."

5 Anspruch 10 des Verfügungspatents:

> „A hand held appliance comprising a handle (20) having a fluid flow path from an inlet (40) to an outlet and a fan unit (70) for drawing fluid into the fluid inlet and an attachment for attaching to the handle (20), the attachment according to any preceding claim."

6 Die Verfügungsbeklagte zu 1) ist ein britisches Unternehmen und zusammen mit der Verfügungsbeklagten zu 2) ein Teil des SharkNinja-Konzerns. Die Verfügungsbeklagte zu 2) hat ihren Sitz in Deutschland.

7 Die Verfügungsbeklagte zu 1) verkauft über ihre in Deutschland aufrufbare Internetseite https://beauty.sharkclean.de das Produkt „Shark FlexStyle Haarstyler" nebst Lockenaufsätzen (im Folgenden: angegriffene Ausführungsform). Der Haistyler umfasst unter anderem einen rechten und einen linken Lockenaufsatz. Die beiden Aufsätze sind hinsichtlich ihres Aufbaus und ihrer Wirkweise identisch und unterscheiden sich lediglich in der Richtung des Luftflusses (einmal mit und einmal gegen den Uhrzeigersinn), abhängig davon, auf welcher Kopfseite das Haar gestylt wird (Verletzungsform 1). Der Griff in Kombination mit der Verletzungsform 1 als Aufsatz bilden gemeinsam ein Handgerät und damit die („Verletzungsform 2").

8 Die Verfügungsbeklagte zu 2) ist im Impressum der in Deutschland aufrufbaren Internetseite https://beauty.sharkclean.de für angegriffene Ausführungsform als verantwortlich nach dem TTDSG gezeichnet:


Informationen zum Unternehmen:

Dienstleister (gemäß § 5 TTDSG): **SharkNinja Germany GmbH**

c/o Regus Management GmbH, Excellent Business Center, Westhafenplatz 1, 60327 Frankfurt am Main

Vertreten durch die Geschäftsführer David W. Stevenson und Thomas Gass

Telefon: 0800 000 9063

E-Mail: kundendienst-de@sharkninja.com

AG Frankfurt am Main, HRB 116322

Impressum - Shark DE (sharkclean.de)

9 Die Klägerin mahnte die Verfügungsbeklagten mit Schreiben vom 08.03.2023 wegen behaupteter Verletzung des Verfügungspatents durch die angegriffene Ausführungsform erfolglos ab (Anlage AST 9).

10 Im Zeitpunkt der mündlichen Verhandlung haben die Verfügungsbeklagten Nichtigkeitsklage beim Bundespatentgericht eingereicht, den Kostenvorschuss indes noch nicht bezahlt. In der mündlichen Verhandlung hat der anwaltliche Vertreter der Verfügungsbeklagten versichert, dass der Gerichtskostenvorschuss für die Nichtigkeitsklage bezahlt werden wird.

11 **Die Verfügungsklägerin trägt vor**, die angegriffene Ausführungsform verletzte Anspruch 1 und Anspruch 10 des Verfügungspatents bei richtiger Auslegung der Merkmale unmittelbar und wortsinngemäß. Die Verletzungsform 1 verwirkliche Verfügungspatentanspruch 1, die Verletzungsform 2 den Verfügungspatentanspruch 10. Die Dringlichkeitsfrist sei eingehalten und die von den Verfügungsbeklagten aufgeworfenen Zweifel am Rechtsbestand allesamt unzutreffend. Die Interessenabwägung falle ebenfalls zu ihren Gunsten aus. Eine Zustellung an die Verfügungsbeklagte zu 1) über die Verfügungsbeklagte zu 2) als deren Niederlassung sei wirksam erfolgt. Die Verfügungsbeklagte zu 2) schaffe durch den Auftritt auf der angegriffenen Ausführungsform sowie im Internet jedenfalls den Rechtsschein einer Niederlassung der Verfügungsbeklagten zu 1). Die örtliche Zuständigkeit des Landgerichts München I sei davon gemäß § 32 ZPO unberührt. Mangels berechtigten Interesses sei sie erfolgte Nebenintervention der Verfügungsbeklagten zu 2) auf der Seite der Verfügungsbeklagten zu 1) unwirksam.

12 **Die Verfügungsklägerin beantragt**

wie tenoriert.

13 **Die Verfügungsbeklagten beantragen**,

den Antrag auf Erlass einer einstweiligen Verfügung zurückzuweisen.

14 **Die Verfügungsbeklagten vertreten die Auffassung,** das Verfügungspatent sei weder verletzt noch rechtsbeständig. Die Merkmale 1.7, 1.8 und 1.9 seien bei zutreffender Auslegung nicht verwirklicht. Das Merkmal 1.7 sei nicht verwirklicht, weil die angegriffene Ausführungsform mehrere Schlitze und nicht nur einen, wie von Merkmal 1.7 beansprucht aufweise. Eine Verwirklichung von Merkmal 1.8 scheitere daran, dass der Auslass bei der angegriffenen Ausführungsform nicht durch die Anordnung benachbarter Platten zueinander gebildet werde, sondern zwischen der Innenstruktur des Aufsatzes und der Innenfläche der auf der Innenstruktur montierten Platte. Zudem werde der Auslass nicht durch die Anordnung benachbarter Platten zueinander gebildet, wie bei richtiger Auslegung von Merkmal 1.8 verlangt. Merkmal 1.9 sei nicht verwirklicht, weil der Auslass nicht

dazu konfiguriert sei, aus dem Auslass ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten.

15 Selbst wenn man – unberechtigterweise – eine Verletzung annehme, scheitere der Erlass einer einstweiligen Verfügung am Fehlen eines Verfügungsgrunds. Eine zeitliche Dringlichkeit sei nicht gegeben, da die Verfügungsklägerin bereits weit vor dem von ihr dargelegten Datum Kenntnis von der angegriffenen Ausführungsform erhalten habe. Unabhängig davon, sei das Verfügungspatent nicht rechtsbeständig, was die von ihnen eingeleitete Nichtigkeitsklage beim Bundespatentgericht zeigen werde. Das Verfügungspatent sei in Bezug auf vier Entgegenhaltungen neuheitsschädlich getroffen und werde zudem vom Stand der Technik erfinderisch vorweggenommen. Der Fachmann wäre ohne erfinderisches Zutun zu den Gegenständen der beiden hier geltend gemachten Ansprüche 1 und 10 gekommen. Jedenfalls läge in Bezug auf das Merkmal 1.9 eine unzulässige Erweiterung vor, hilfsweise sei die erfindungsgemäße bei Annahme nur eines einzigen Schlitzes, der die Luft um die gesamte Außenfläche des Aufsatzes herumleitet, nicht ausführbar. Aufgrund der dargelegten Unzulänglichkeiten des Verfügungsantrags in tatsächlicher und in rechtlicher Sicht streite die Interessenabwägung im Übrigen ebenfalls für sie.

16 Zudem sei die örtliche Zuständigkeit des Landgerichts München I in Bezug auf die Verfügungsbeklagte zu 1) nicht gegeben, da sich die Verfügungsklägerin für die Zwecke der Zustellung an sie auf § 21 ZPO berufe und damit das LG Frankfurt am Main als Gericht des Sitzes der Niederlassung örtlich ausgewählt habe.

17 Die von der Verfügungsbeklagten zu 2) erklärte Nebenintervention auf Seiten der Verfügungsbeklagten zu 1) sei zulässig, da die Gefahr einer gemeinsamen Inanspruchnahme bestehe. Das für eine statthafte Nebenintervention erforderliche rechtliches Interesse folge jedenfalls auch daraus, dass bei einer Stattgabe des Unterlassungsantrages die Verfügungsbeklagte zu 2) nicht mehr wie bisher ihre Produkte von der Verfügungsbeklagten zu 1) erwerben könne, um diese im eigenen Namen und auf eigene Rechnung zu veräußern. Gegebenenfalls bereits vereinbarte und bezahlte Produktkontingente könnte die Verfügungsbeklagte zu 1) in Erfüllung ihrer rechtlichen Verpflichtungen gegenüber der Verfügungsbeklagten zu 2) nicht mehr an diese liefern. Der Bezug der angegriffenen Ausführungsformen von der Verfügungsbeklagten zu 1) begründe somit ein rechtliches Interesse der Verfügungsbeklagten zu 2) an einem Obsiegen Verfügungsbeklagten zu 1) im vorliegenden Rechtsstreit.

18 **Das Gericht** hat auf den Verfügungsantrag der Verfügungsklägerin vom 14.03.2023 der Verfügungsbeklagten Gelegenheit zur Stellungnahme bis zum 22.03.2023 mit Verfügung vom 15.03.2023 gegeben. Mit Verfügung vom 22.03.2023 hat das Gericht Termin zur mündlichen Verhandlung geladen. In der mündlichen Verhandlung haben sich die anwaltlichen Vertreter der Verfügungsbeklagten zu 2) nach einem Hinweis des Gerichts auf bestehende Zweifel an den Voraussetzungen für die Nebenintervention bzw. deren Glaubhaftmachung auch für die Verfügungsbeklagte zu 1) bestellt.

19 **Im Übrigen** wird auf die Schriftsätze der Parteien nebst Anlagen sowie das Protokoll der mündlichen Verhandlung vom 04.05.2023 verwiesen.

Entscheidungsgründe

20 Der zulässige Antrag auf Erlass einer einstweiligen Verfügung ist begründet.

21 Eine örtliche Zuständigkeit des Landgerichts München I zur Entscheidung über den Antrag gegen die Verfügungsbeklagte zu 2) ist gegeben (A. I.). Der Antrag hinsichtlich der Wirksamkeit der Nebenintervention der Verfügungsbeklagten zu 2) zugunsten der Verfügungsbeklagten zu 1) hat sich infolge der Bestellung der Prozessbevollmächtigten der Verfügungsbeklagten zu 2) auch für die Verfügungsbeklagte zu 1) im Termin erledigt (A. II.).

22 Die Verfügungsklägerin hat aus dem Verfügungspatent einen Verfügungsanspruch auf Unterlassung aus Art. 64 Abs. 1, 3 EPÜ iVm § 139 Abs. 1 Satz 1, 9 S. 2 Nr. 1 PatG, §§ 940, 936, 920 f. ZPO (B.). Ferner ist ein Verfügungsgrund gegeben, da eine zeitliche Dringlichkeit glaubhaft gemacht ist (C. I.) und die zu treffende Interessenabwägung ebenfalls zugunsten der Verfügungsklägerin streitet (C. II.).

A.

I.

23 Das Landgericht München I ist örtlich zuständig für den Erlass der einstweiligen Verfügung gegen die Verfügungsbeklagte zu 2) gemäß §§ 937, 943, 32 ZPO.

24 Die örtliche und sachliche Zuständigkeit des Verfügungsgerichts richtet sich gemäß § 937 ZPO nach dem Gericht der Hauptsache. Gericht der Hauptsache ist gemäß § 943 ZPO das Gericht des ersten Rechtszuges.

25 Die Verfügungsklägerin macht geltend, die Verfügungsbeklagte zu 1) vertreibe die angegriffene Ausführungsform im Gebiet der Bundesrepublik Deutschland und die Verfügungsbeklagte zu 2) unterstütze sie hierbei. Aufgrund dieses Vortrags ist

gemäß § 32 ZPO die örtliche Zuständigkeit des Landgerichts München I für beide Verfügungsbeklagten erfüllt.

26 Dass sich die Verfügungsklägerin daneben für die Zustellung an die Verfügungsbeklagte zu 1) über die Verfügungsbeklagte zu 2) als deren Niederlassung auf § 21 ZPO stützt, steht der örtlichen Zuständigkeit des Landgerichts München I nicht entgegen. Wäre für eine Klage nach den Gerichtsstandsregelungen die örtliche Zuständigkeit mehrerer Gerichte begründet, ohne dass die ausschließliche örtliche Zuständigkeit eines Gerichts vorliegt, hat der Kläger gemäß § 35 ZPO die Wahl zwischen den mehreren in Betracht kommenden Gerichten. Ausgeübt wird die Wahl regelmäßig durch Klageerhebung vor dem ausgewählten Gericht. Mit Eintritt der Rechtshängigkeit wird die wirksame Ausübung eines bei Ausübung auch bestehenden Wahlrechts bindend und unwiderruflich (BeckOK ZPO/Toussaint, 48. Ed. 1.3.2023, ZPO § 35).

27 Arrestantrag oder Antrag auf Erlass einer einstweiligen Verfügung stellen indes keine Ausübung des Wahlrechtes dar. Dies folgt daraus, dass damit keine Rechtshängigkeit der Hauptsache eintritt (OLG Karlsruhe NJW 1973, 1509, zitiert bei MüKoZPO/Patzina, 6. Aufl. 2020, § 35 Rn. 5). Folglich hat die Verfügungsklägerin noch keine Wahl für den Gerichtsstand Frankfurt am Main betreffend die Verfügungsbeklagte zu 1) getroffen, die eine Verfolgung des Rechtsstreits gegen sie am deliktischen Gerichtsort gemäß § 32 ZPO ausschließt.

II.

28 Die Prozessbevollmächtigten der Verfügungsbeklagten zu 2) haben sich im Termin der mündlichen Verhandlung nach einem Hinweis des Gerichts, wonach es die Voraussetzungen der Nebenintervention sowie deren Glaubhaftmachung vorliegend kritisch sieht, auch für die Prozessbevollmächtigten zu 1) bestellt. Der von der Verfügungsklägerin gestellte Antrag auf Feststellung der Unwirksamkeit der Nebenintervention hat sich jedenfalls damit und unabhängig von etwaigen Fortwirkungen der Beitrittserklärung erledigt. Denn das von der Verfügungsklägerin mit diesem Antrag verfolgte Interesse bestand allein darin, durch Beantragung der gerichtlichen Feststellung der Unwirksamkeit der Nebenintervention und das damit gleichzeitig beantragte Versäumnisurteil gegen die Verfügungsbeklagte zu 1) einen vollstreckbaren Titel auch gegen die Verfügungsbeklagte zu 1) zu erhalten. Da die Verfügungsbeklagte zu 1) infolge der Anwaltsbestellung und damit unabhängig von der Wirksamkeit der Nebenintervention im Termin anwesend war,

haben sich sowohl die Beantragung des Versäumnisurteils als auch die Feststellung der Unwirksamkeit der Nebenintervention erledigt. Dem hat sich keine der Parteien widersetzt, so dass über den Zwischenstreit nur noch im Rahmen der Kosten zu entscheiden war; § 91a ZPO analog (vgl. hierzu unten D.).

B.

I.

29 Das Verfügungspatent betrifft einen Aufsatz für ein Handgerät, insbesondere für ein Haarbehandlungsgerät; Abs. [0001].

1.

30 Die Verfügungspatentschrift führt zum vorbekannten Stand der Technik aus, in herkömmlichen Heiß-Stylingbürsten würde Luft durch einen Einlass eingesaugt und über einen Aufsatz oder ein Kopfteil auf das herzurichtende Haar gelenkt. Der Aufsatz oder das Kopfteil weise häufig Borsten auf, um die das herzurichtende Haar gewickelt werden könne. Die Luft werde dabei ausweislich der Druckschrift US 2004/0129289 A1 aus dem Aufsatz oder dem Kopfteil „normal" zu dessen Oberfläche ausgestoßen; Abs. [0002].

31 Die Druckschrift JP S6241606A beschreibe ein Haarpflegegerät mit einem Aufsatz, bei dem die Luft über ein Gebläse im Griff erhalten werde. Der Aufsatz habe einen zylindrischen Körper mit einer Reihe von Luftauslässen, die über den gesamten Aufsatz verteilt seien. Mehrere Reihen von Borsten seien ebenfalls über die Länge des Körpers des Aufsatzes ausgeführt; Abs. [0003].

2.

32 Vor diesem Hintergrund ist die sich dem Verfügungspatent gestellte Aufgabe – die es selbst nicht definiert – die Verbesserung des Standes der Technik.

3.

33 Als Lösung stellt das Verfügungspatent die hier geltend gemachten Ansprüche 1 und 10 vor, die sich entsprechend dem Vorschlag der Verfügungsklägerin wie folgt gliedern lassen:

„1.

1.1 Aufsatz (30, 130, 180, 230) für ein Handgerät, der

1.2 einen Einlass an einem ersten Ende (32);

1.3 einen Auslass (100, 200); und

1.4 einen Fluidströmungspfad zwischen dem Einlass und dem Auslass umfasst,

1.5 wobei der Aufsatz allgemein zylindrisch ist und

1.6 wobei der Auslass (100, 200) mindestens einen Schlitz (102, 182, 202, 282) umfasst, der sich von der Nähe des ersten Endes (32) des Aufsatzes zu einem distalen Ende (36) des Aufsatzes erstreckt,

1.7 wobei sich der mindestens einen Schlitz (102, 182, 202, 282) im Wesentlichen entlang der Länge des Aufsatzes erstreckt und

1.8 wobei der Auslass (100, 200) zumindest zum Teil durch eine Außenfläche des Aufsatzes definiert wird,

dadurch gekennzeichnet, dass

1.9 der Auslass dazu konfiguriert ist, aus dem Auslass (100, 200) ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten."

„10.

10.1 Handgerät, das

10.2 einen Griff (20) mit einem Fluidströmungspfad von einem Einlass (40) zu einem Aus-lass und

10.3 einer Gebläseeinheit (70) zum Saugen von Fluid in den Fluideinlass und

10.4 einen Aufsatz zum Aufsetzen auf den Griff (20) umfasst,

10.5 wobei der Aufsatz einem vorhergehenden Anspruch entspricht."

4.

34 Im Hinblick auf die zwischen den Parteien geführte Diskussion zur Auslegung des Verfügungspatents sind folgende Ausführungen veranlasst, die anhand des Anspruchs 1 erfolgen.

a)

35 Der streitgegenständliche Vorrichtungsanspruch betrifft einen allgemein zylindrischen Aufsatz, dessen Auslass mindestens einen dazu entlang verlaufenden Schlitz aufweist und zumindest zum Teil durch eine Außenfläche des Aufsatzes definiert ist. Der Aufsatz ist dazu konfiguriert, ausgestoßenes Fluid tangential um die Außenfläche des Aufsatzes herum zu leiten.

b)

36 Das Merkmal 1.5 betrifft die räumlich-körperliche Ausgestaltung des Aufsatzes. Dieser soll dem Wortlaut nach „allgemein zylindrisch" sein. Nach dem allgemeinen, mathematischen Sprachverständnis ist ein Zylinder ein geometrischer Körper, bei dem zwei parallele, ebene, kongruente Grundflächen durch einen Mantel miteinander verbunden sind. Wesentlich ist ferner, dass die die Grundflächen verbindenden Linien bzw. Flächen parallel zur Zentralachse verlaufen. Die Grundflächen können unterschiedlich ausgeführt sind.

37 Nach der ständigen Rechtsprechung des Bundesgerichtshofs ist für die Auslegung eines Patents indes nicht die sprachliche oder logisch-wissenschaftliche Bedeutung der im Patentanspruch verwendeten Begriffe maßgeblich, sondern deren technischer Sinn, der unter Berücksichtigung von Aufgabe und Lösung, wie sie sich objektiv aus dem Patent ergeben, zu bestimmen ist (vgl. nur BGH GRUR 1975, 422 [424] – Streckwalze; GRUR 1999, 909 [912] – Spannschraube). Bei der Ermittlung des Sinngehalts des Patentanspruchs sind gemäß Art. 69 Abs. 1 Satz 2 EPÜ bzw. § 14 S. 2 PatG auch die Beschreibung und die Zeichnungen heranzuziehen, die die technische Lehre des Patentanspruchs erläutern und veran-

schaulichen (vgl. BGH GRUR 2021, 574 Rn. 24, 25 – Kranarm; GRUR 2012, 1124 Rn. 27 – Polymerschaum I; BGH GRUR 2020, 159 Rn. 18 – Lenkergetriebe).

38 Die in den Figuren dargestellten Aufsätze weisen kein vom geschilderten herkömmlichen Verständnis abweichende Zylinderform auf. In Abs. [0098] bringt das Verfügungspatent vielmehr klar zum Ausdruck, dass die mit den Bezugsziffern 30, 130 und 230 in den Figuren gekennzeichneten Körper als „allgemein zylindrisch" anzusehen sind. Das Verfügungspatent betrachtet mithin folgende Ausgestaltungen

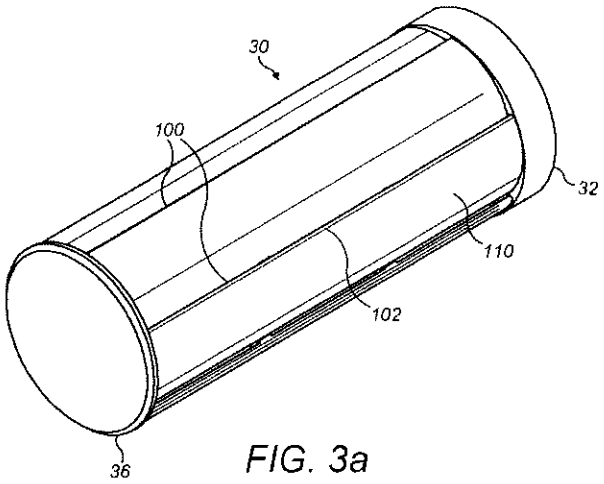


FIG. 3a

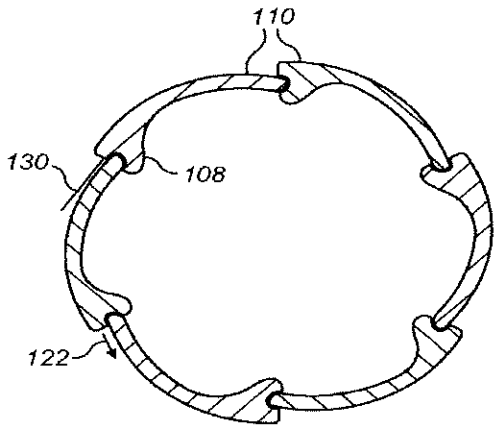


FIG. 5a

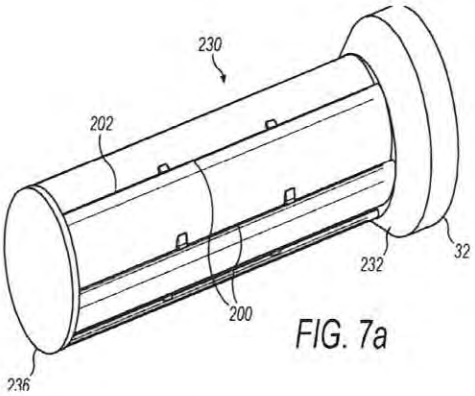


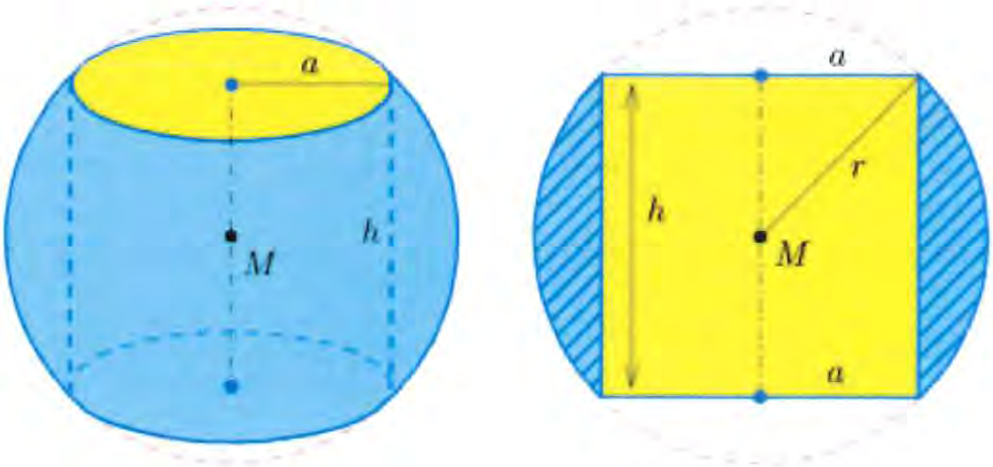
FIG. 7a

als „allgemein zylindrisch" im Sinne von Merkmal 1.5. In Abs. [0063] ist das für den Aufsatz (30) nochmals ausdrücklich klargestellt.

39 Der Fachmann erkennt daraus, dass mit „allgemein zylindrisch" die Außenfläche des Aufsatzes gemeint ist.

40 Ein Verständnis, wonach das Merkmal „allgemein zylindrisch" darüberhinausgehend auch Ausgestaltungen mit konkaven und kovexen Mantelflächen umfasse, geht daher über den Wortsinn des Verfügungspatents hinaus. Der bereits zitierte Abs. [0098] offenbart, dass ovale Ausgestaltungen gerade nicht beansprucht sind.

41 Anders als die Verfügungsbeklagten meinen, sind daher die von ihnen vorgelegten Formen nicht von Merkmal 1.5 umfasst:



42 Auch die Figuren 5a und 7a offenbaren entgegen der Auffassung de Verfügungsbeklagten kein breiteres Verständnis von Merkmal 1.5. Der Fachmann, bei dem es sich vorliegend um einen Ingenieur des Maschinenbaus (FH) mit mehrjähriger Erfahrung in der Konstruktion von elektronischen Haarpflegprodukten wie etwa Föns und/oder Lockenstäben handelt, entnimmt bereits den Figuren selbst, dass die die Grundflächen verbindenden Teile (Mantelflächen) parallel zueinander verlaufen

und nicht konkav oder konvex sind. In diesem Verständnis wird er durch Abs. [0098] bestärkt.

43 Daher steht die im Vergleich zur Ansicht der Verfügungsbeklagten engere Auslegung der von den Verfügungsbeklagten angeführten Rechtsprechung des Bundesgerichtshofs, wonach die Auslegung nicht zu Widersprüchen mit Beschreibung und der Figuren führen darf (BGH GRUR 2016, 361 – Fugenband; 2015, 875 – Rotorelemente; 2008, 887 – Momentanpol II; 2009, 653 – Straßenbaumaschine), nicht entgegen. Das Gegenteil ist der Fall.

44 Für Annahme der Verfügungsbeklagten, allein der innere Hohlraum des Aufsatzes („inner cavity" 38, Abs. [0063]) müsse eine zylindrische Ausgestaltung aufweisen, gibt es keine Hinweise im Verfügungspatent. Wie bereits dargelegt, soll mit „allgemein zylindrisch" eine Formgebung beansprucht werden, die sich auf die Außenfläche des Aufsatzes bezieht.

45 Auch funktional ist keine weitergehende Auslegung angebracht. Im Gegenteil erkennt der Fachmann, dass es mit Hinblick auf Merkmal 1.9 sowie Abs. [0064] und Abs. [0065] mitsamt dem dort genannten Coanda-Effekt besonders vorteilhaft ist, wenn der Aufsatz und damit seine Außenfläche zylindrisch ausgestaltet ist. Denn durch eine allgemein zylindrische Außenfläche wird dieser umso besser erreicht.

c)

46 Das Merkmal 1.6 definiert den in Merkmal 1.3 eingeführten Auslass des Aufsatzes in der Weise räumlich-körperlich, dass er mindestens einen Schlitz umfasst, der sich von der Nähe des in Merkmal 1.2 genannten ersten Ende des Aufsatzes zu einem distalen Ende desselbigen erstreckt. Der Wortlaut „Schlitz" lässt darauf schließen, dass die Öffnung länglich ausgestaltet sein muss.

47 Dies wird bestätigt durch sämtliche Ausführungsbeispiele. Die Figuren 3a und 3b offenbaren einen länglich ausgestalteten Schlitz (102). Nicht anders verhält es sich mit Figur 7a (202). Die Figuren 7b und 7c zeigen ebenfalls einen länglich ausgestalteten Schlitz (282). Ebenso die Figur 8a (182).

48 Der mindestens eine Schlitz muss sich in der Nähe des ersten Endes des Aufsatzes befinden. Das erste Ende befindet sich am Einlass und damit in dem Bereich des Aufsatzes, wo er auf ein Handgerät aufgebracht wird. Der mindestens eine Schlitz ist nicht unmittelbar am distalen Ende ausgeführt, wie die Wendung „von

der Nähe" offenbart. Ein gewisser Abstand zum distalen Ende ist demnach anspruchsgemäß. Der Fachmann legt den Patentanspruch so aus, dass sich aus der Gesamtheit seiner Merkmale ein sinnvolles Ganzes ergibt (vgl. BGHZ 180, 215 = GRUR 2009, 653 Rn. 16 – Straßenbaumaschine; BGH GRUR 2008, 887 Rn. 21 – Momentanpol II). Er wird daher zur näheren Bestimmung von „in der Nähe" auch das Merkmal 1.7 in den Blick nehmen, wonach sich der Schlitz „im Wesentlichen entlang der Länge des Aufsatzes" erstrecken soll. Daraus erkennt der Fachmann, dass sich der Schlitz so nah am ersten Ende befindet, dass er sich im Wesentlichen entlang der Länge des Aufsatzes erstreckt.

d)

49 Das Merkmal 1.7 definiert den in Merkmal 1.6 offenbarten Schlitz weiter, indem es räumlich-körperlich beansprucht, dass er sich im Wesentlichen entlang der Länge des Aufsatzes erstreckt. Durch die Wendung „im Wesentlichen" erkennt der Fachmann, dass sich der Schlitz nicht über die gesamte, aber die weitaus größte Länge des Aufsatzes erstrecken muss.

50 Die konkrete Ausgestaltung des mindestens einen Schlitzes bleibt dabei dem Fachmann überlassen. Ausweislich Abs. [0066] sowie der Figuren 3b und 4b kann der mindestens eine Schlitz über Abstandshalter (108, „spacers") verfügen. Ob der mindestens eine Schlitz ein- oder mehrteilig ausgestaltet ist, wird vom Verfügungspatent in die Hände des Fachmanns gelegt. Dasselbe gilt hinsichtlich der Frage, ob der Schlitz – und damit der Auslass – allein durch die Außenfläche des Aufsatzes oder nur teilweise aus der Außenfläche und zu einem anderen Teil aus einer Binnenstruktur gebildet wird.

e)

51 In Merkmal 1.8 beansprucht das Verfügungspatent den Auslass in der Weise, dass dieser teilweise durch eine Außenfläche des Aufsatzes gebildet („definiert") wird. Dies kann gemäß Abs. [0064] in Verbindung mit Fig. 5b dadurch erfolgen, dass sich zwei Platten überlappen (120):

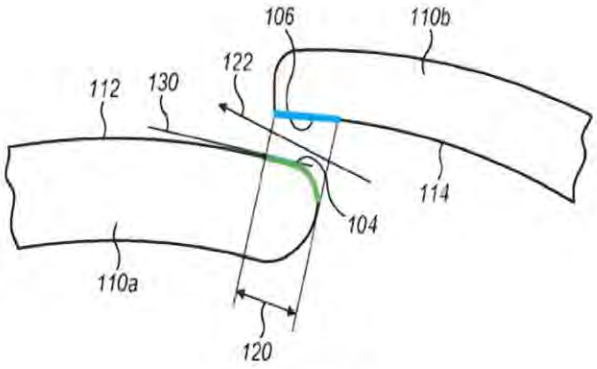
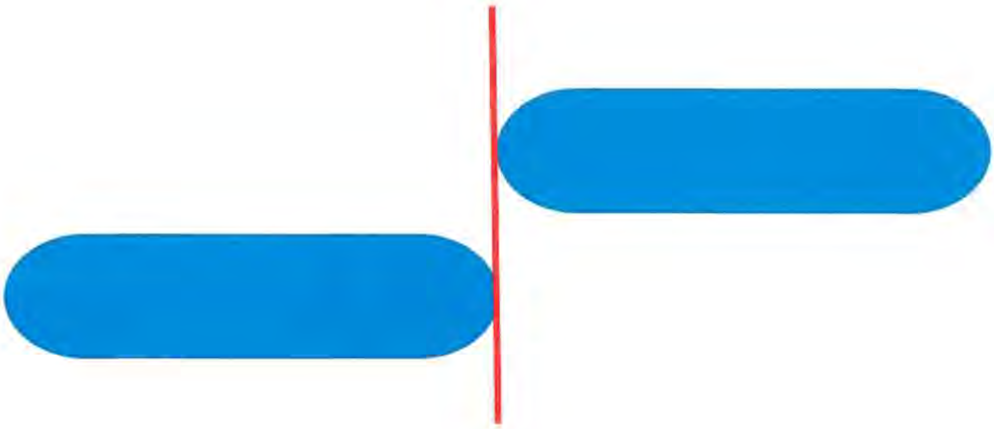


FIG. 5b

(Farbliche Markierungen durch die Verfügungsbeklagten)

52 Auf diese Ausgestaltung ist das Merkmal von seinem Wortlaut her nicht beschränkt. Auch der Wortsinn gebietet keine entsprechende Auslegung, da die räumlich-körperliche Definition insoweit eindeutig ist und keine Anhaltspunkte dafür ersichtlich, diese Angaben mit einer funktionalen Auslegung zu denaturieren. Vom Wortsinn umfasst sind auch Ausgestaltungen, bei denen sich die Platten genau nicht überlappen, sondern nur an ihren jeweiligen Kanten schneiden:



(Zeichnung des Gerichts)

53 Auch in dieser vom Wortlaut des Merkmals 1.8 erfassten Ausgestaltung ist der Auslass zumindest teilweise durch eine Außenfläche des Aufsatzes definiert, nämlich das hintere Ende der unteren und das vordere Ende der oberen Platte.

54 Ebenfalls von Merkmal 1.8 erfasst wäre auch folgende Ausgestaltung:



(Zeichnung des Gerichts)

55 Das Merkmal lässt ferner offen, welcher Teil der Außenfläche des Aufsatzes den Auslass teilweise definiert. Nicht erforderlich ist, dass zwei verschiedene Teil der Außenfläche des Aufsatzes den Auslass mitdefinieren. Schließlich erkennt der Fachmann, dass durch den Begriff „definieren" ein Teil der Außenfläche des Aufsatzes den Auslass räumlich-körperlich mitgestaltet.

56 Sofern die Verfügungsbeklagten vortragen, technisch-funktional sei es der Zweck von Merkmal 1.8 eine möglichst einfache Ausgestaltung zu gewährleisten, spiegelt sich dies weder im Anspruchswortlaut noch in der Beschreibung wider.

f)

57 Das Merkmal 1.9 beansprucht die Konfiguration des Auslasses dahingehend, dass das aus ihm ausgestoßene Fluid tangential um die Außenfläche des Aufsatzes herumgeleitet wird. Hierdurch grenzt sich das Verfügungspatent vom zitierten Stand der Technik ab, in dem die Luft gerade („normal") zur Außenfläche des Aufsatzes ausgestoßen wird; Abs. [0002].

58 Die in Merkmal 1.8 lediglich durch einen Teil des Aufsatzes spezifizierte Ausgestaltung des Auslasses wird durch das Merkmal 1.9 somit weiter konkretisiert. Tangential bedeutet dem Wortlaut nach, dass eine Gerade eine gegebene Kurve in einem Punkt berührt. Der Fachmann legt dieses Verständnis unter Beachtung der Offenbarung in Abs. [0064] der Beschreibung sowie die Fig. 5b auch für das Merkmal 1.9 zugrunde.

59 Im Lichte von Abs. [0064] der Beschreibung sowie die Fig. 5b erkennt der Fachmann, dass das Verfügungspatent die aus dem Auslass ausgestoßene Luft als Tangente betrachtet und die Außenfläche des Aufsatzes als den gegebenen Kreis:

> *„The fluid 122 flowing out of the slot 102 is tangential 130 to the outer surface 112 of the plate 110a (…)"*

60 Der Auslass muss mithin so konfiguriert sein, dass sich das ausgestoßene Fluid nach dem Verlassen des Auslasses tatsächlich tangential zur Außenseite des Aufsatzes bewegt. Weiterhin muss die Konfiguration und damit die räumlich-körperliche Ausgestaltung des Aufsatzes so beschaffen sein, das ausgestoßene Fluid um die Außenfläche des Auslasses herumzuleiten.

61 Ein Leiten um die Außenfläche herum interpretiert der Fachmann dahingehend, dass nicht notwendigerweise ein Herumleiten um 360 Grad, also die gesamte Außenfläche des Aufsatzes gemeint ist. Die Verwendung von „um herum" deutet der Fachmann jedoch so, dass der Luftstrom jedenfalls um einen Teil des gemäß Merkmal 1.5 allgemein zylindrisch ausgestalteten Aufsatzes geführt werden muss. Herumleiten um die Außenfläche des zylindrischen Aufsatzes bedeutet für ihn somit, dass das Fluid nicht nur an der Außenfläche strömen soll, wo sie austritt, sondern auch eine andere Teilfläche der Außenfläche beströmen soll, die in einem anderen Winkel zur Austrittsaußenfläche liegt. Ein vollständiges Umströmen der gesamten Außenfläche beansprucht das Verfügungspatent nicht.

62 Wie der Auslass hierfür konkret auszugestalten ist, beansprucht das Verfügungspatent nicht, sondern überlässt es dem Fachmann. In Abs. [0011] wird dem Fachmann zwar ein konkreter Ausgestaltungshinweis gegeben, nämlich den Schlitz gerundet („curved") zu konstruieren. Die Ausführung hat aber keinen Eingang in Anspruch 1 gefunden, so dass er diesen mitumfasst, aber darauf nicht eingeschränkt ist. Gleiches gilt für das in Abs. [0012] genannte Strömungsleitungselement („flow directing element"), das erst in Unteranspruch 7 beansprucht wird. Erfasst werden mithin sowohl eine lediglich dienende Ausgestaltung des Auslasses, die das Herumleiten um den Aufsatz nur zulässt bzw. ermöglicht als auch eine aktive Ausgestaltung, bei der der Auslass selbst und unmittelbar das Herumleiten erzielt.

II.

63 Die angegriffene Ausführungsform macht von sämtlichen Merkmalen von Anspruch 1 und Anspruch 10 des Verfügungspatents wortsinngemäß Gebrauch, § 9 S. 2 Nr. 1 PatG. Insbesondere sind die zwischen den Parteien streitigen Merkmale 1.7. 1.8 und 1.9 verwirklicht.

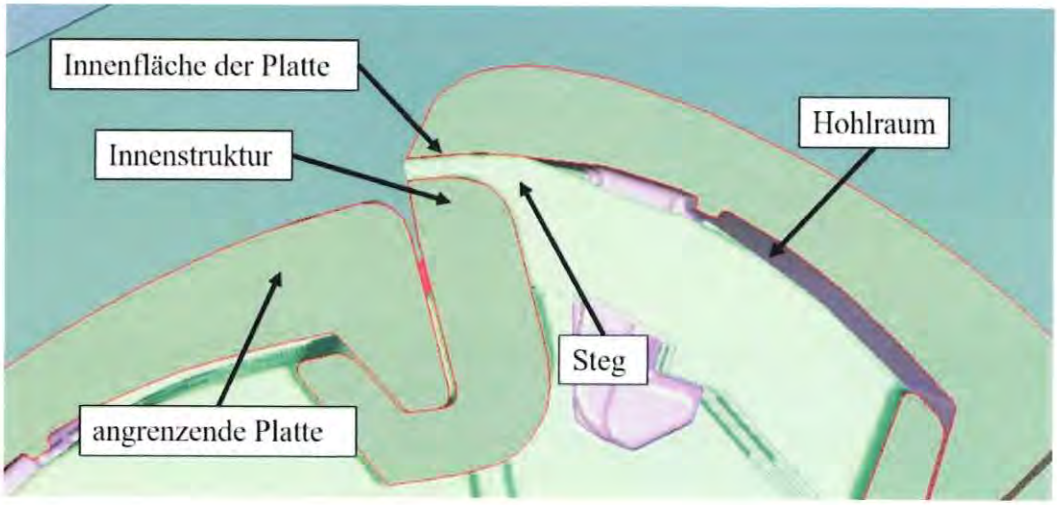
1.

64 Die angegriffene Ausführungsform verwirklicht Merkmal 1.7, weil sie über eine längliche Öffnung (Schlitz) verfügt, der sich über die Länge des Aufsatzes erstreckt.

65 Dass dieser eine Schlitz von zahlreichen, von den Verfügungsbeklagten als „Innenstruktur“ bezeichneten Elementen unterbrochen wird, schließt die Verwirklichung des Merkmals nicht aus.



(Zeichnung mit Bezeichnung der Verfügungsbeklagten, Antragserwiderung, S. 12)



(Zeichnung mit Bezeichnung der Verfügungsbeklagten, Duplik, S. 10)

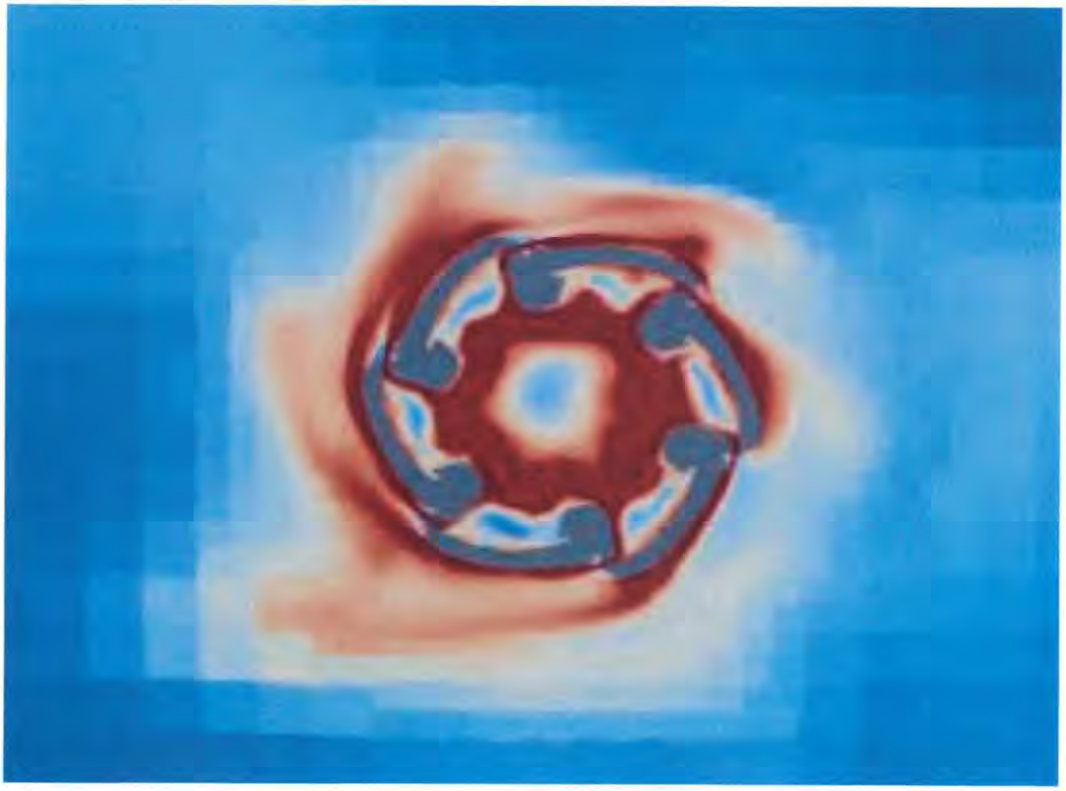
66 Dabei kann offenbleiben, ob es sich bei der „Innenstruktur“ um Abstandshalter („spacers“) im Sinne des Verfügungspatents handelt. Die konkrete Ausgestaltung des Schlitzes wird vom Verfügungspatent in Merkmal 1.7 nicht vorgegeben. Erfasst sind daher auch solche Ausgestaltungen, die sich aus einer Reihe von einzelnen Schlitzen bestimmungs- und funktionsgemäß zu einem Schlitz zusammenfügen, der sich im Wesentlichen entlang der Länge des Aufsatzes erstreckt. Das ist bei der angegriffenen Ausführungsform der Fall.

2.

67 Bei der angegriffenen Ausführungsform wird ein Teil des Auslasses durch eine Außenfläche des Aufsatzes definiert, so dass Merkmal 1.8 erfüllt ist. Denn ein Überlappen von zwei Platten zur Ausgestaltung des Auslasses ist im Gegensatz zur Auffassung der Verfügungsbeklagten nicht allein anspruchsgemäß, vielmehr sind auch andere Auslasskonstruktionen erfasst, bei denen ein – nicht näher definierter – Teil der Außenfläche des Aufsatzes den Auslass zumindest teilweise definiert. Ausgehend von der Darstellung der Verfügungsbeklagten auf Seite 10 ihrer Duplik (vgl. oben bei Merkmal 1.7) ist erkennbar, dass die obere rote Linie der oberen Platte den oberen Teil des Auslasses definiert. Die obere rote Linie entspricht einer Außenfläche des Aufsatzes.

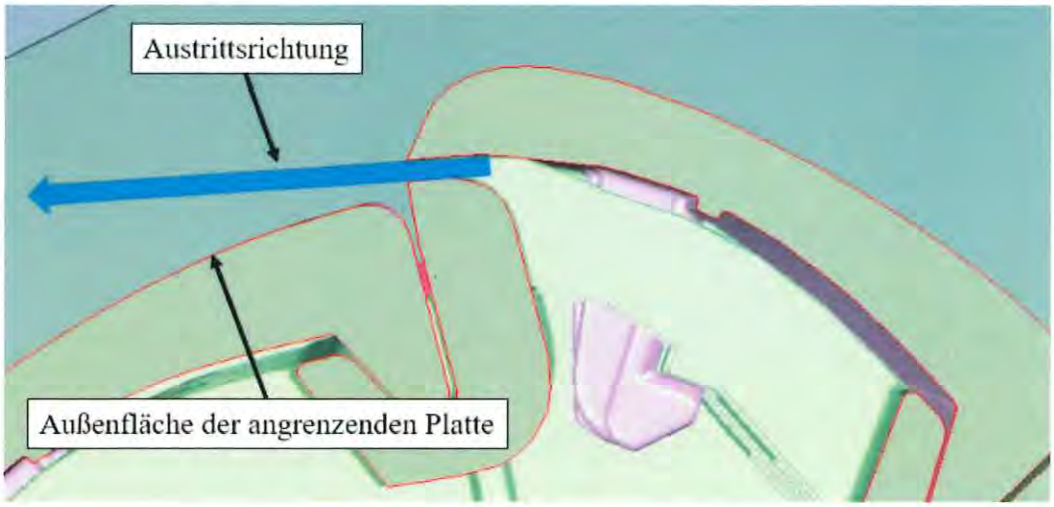
3.

68 Das vorliegend angegriffene Produkt der Verfügungsbeklagten weist einen gerundeten Auslass entsprechend Abs. [0011] auf, bei dem sich wie bei Fig. 5b des Verfügungspatents zwei Platten überlappen (vgl. Zeichnung in der Duplik, S. 10, oben). Ferner leitet die angegriffene Ausführungsform die ausgestoßene Luft unbestrittenermaßen um die Außenfläche des Aufsatzes herum.



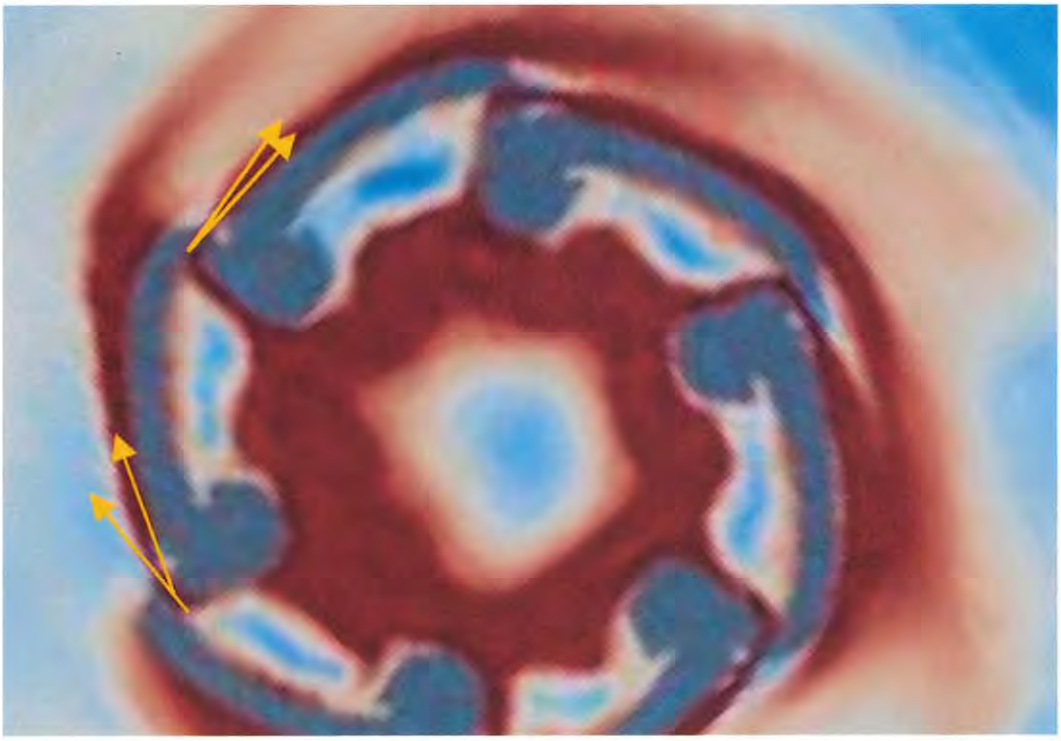
(Abbildung der Verfügungsbeklagten, Antragserwiderung, S. 14)

69 Die Verfügungsbeklagten tragen vor, ein zur Außenfläche des Aufsatzes tangentiales Ausstoßen des Fluids erfolge bei ihrem Produkt nicht. Sie führen aus, der Auslass sei bei der angegriffenen Ausführungsform so konfiguriert, die Luft in eine Richtung über die Außenfläche weg vom Aufsatz auszustoßen. Erst außerhalb des Auslasses werde die ausgestoßene Luft aufgrund des sog. Coanda-Effekts tangetial um die Außenfläche des Aufsatzes herumgeleitet. Sie verweisen hier auf eine weitere Zeichnung, die die Austrittsrichtung des Fluids bei der angegriffenen Ausführungsform „vereinfacht" darstellen soll:



(Zeichnung mit Bezeichnung der Verfügungsbeklagten, Antragserwiderung, S. 18)

70 Tatsächlich bewegt sich beim „Shark FlexStyle Haarstyler" der Verfügungsbeklagten die ausgestoßene Luft ebenfalls tangential zur Außenfläche des Aufsatzes. Das ist teilweise indes nur schwer erkennbar, weil die Außenfläche unmittelbar vor dem Auslass infolge der Ausgestaltung mit der sogenannten „Innenstruktur" unterbrochen ist. Wie die in die Abbildung der Verfügungsbeklagten eingefügten Pfeile verdeutlichen, wird die Luft so ausgestoßen, dass sie, sobald sie den von der Innenstruktur geschaffenen Spalt überwunden hat, entlang der Außenfläche strömt und diese dabei berührt:



71 Dabei zeigen die beiden äußeren Pfeile die Richtung, in die Luft gemäß dem Vortrag der Verfügungsbeklagten strömen müsste. Die beiden inneren Pfeile kennzeichnen hingegen die tatsächliche Strömungsrichtung. Diese ist anspruchsgemäß.

4.

72 Die angegriffene Ausführungsform umfasst ferner ein Handgerät mit einem Aufsatz nach Anspruch 1, weswegen Anspruch 10 des Verfügungspatents gleichfalls verwirklicht ist.

III.

73 Die Verfügungsbeklagten sind passivlegitimiert. Die Verfügungsbeklagte zu 1) verkauft die angegriffene Ausführungsform <nach Deutschland (Anlage AST 1). Die Verfügungsbeklagte zu 2) leistet hierzu mindestens Beihilfe, indem sie hierfür Dienstleistungen wie etwa die Versendung von Werbe-E-Mails übernimmt (AST 8, Seite 4) und für die von den Verfügungsbeklagten zu 1) in Deutschland verkauften Geräte den Kundendienst übernimmt (Anlage AST 1, Seite 3).

74 Die für eine Unterlassungsverfügung erforderliche Wiederholungsgefahr ist mithin gegeben. Ein Verfügungsanspruch gemäß Art. 64 Abs. 1, 3 EPÜ iVm § 139 Abs. 1 Satz 1, 9 S. 2 Nr. 1 PatG, §§ 940, 936, 920 f. ZPO liegt somit vor.

C.

75 Der Erlass einer einstweiligen Verfügung ist ferner nur gerechtfertigt, wenn neben dem Verfügungsanspruch auch ein Verfügungsgrund glaubhaft gemacht wird. Der Erlass einer einstweiligen Verfügung setzt gemäß §§ 940, 936, 920 f. ZPO eine objektiv begründete Gefahr voraus, dass die Rechtsverwirklichung des Verfügungsklägers mittels eines erst im Hauptsacheprozess erlangten Urteils vereitelt oder erschwert werden könnte. Dies verlangt zum einen eine für die Eilmaßnahme sprechende rein zeitliche Dringlichkeit (I.) und daneben eine Abwägung der widerstreitenden Interessen zwischen den dem Schutzrechtsinhaber ohne den Erlass der beantragten Verfügung drohenden Nachteilen, welche gegen die Interessen des als Verletzer in Anspruch genommenen Verfügungsbeklagten abgewogen werden müssen (II.). Das Vorliegen eines Verfügungsgrundes ist seitens der Verfügungskläger darzulegen und glaubhaft zu machen (vgl. st. Rpsr., vgl. LG München I GRUR-RS 2022, 26511 Rn. 62 – Fingolimod mit Verweis auf OLG München GRUR-RS 2021, 12272).

I.

1.

76 Die im Geltungsbereich des Oberlandesgerichts München auch für Patentsachen immer noch geltende und im Hinblick auf Art. 3 Abs. 1 der Durchsetzungsrichtlinie durchaus fragliche Monatsfrist wurde seitens der Verfügungsklägerin eingehalten.

77 Die Verfügungsklägerin hat glaubhaft gemacht, dass sie erst am 14.02.2023 sichere Kenntnis davon erhalten hat, dass die angegriffene Ausführungsform in Deutschland zum Verkauf angeboten wird (vgl. Anlage AST 7).

2.

78 Die hiergegen gerichteten Angriffe der Verfügungsbeklagten bleiben erfolglos. Der Beginn der Monatsfrist setzt eine sichere Kenntnis von Tat und Täter voraus. Der

Rechteinhaber ist nicht verpflichtet, aufgrund einer von ihm nicht zu vertretenen unzureichenden Tatsachengrundlage ein Verfügungsverfahren einzuleiten. Sobald der Patentinhaber das mutmaßlich patentverletzende Erzeugnis in den Händen hat, trifft ihn zwar die Obliegenheit, den betreffenden Gegenstand zügig und umfassend auf das Vorliegen einer Schutzrechtsverletzung zu untersuchen, also die notwendigen Untersuchungen alsbald in die Wege zu leiten, diese zielstrebig zum Abschluss zu bringen und, sofern sich ein positiver Befund ergibt, anschließend ohne übermäßiges Zögern die sich daraus ergebenden Verbietungsansprüche zu verfolgen. Generell darf er dabei gleichwohl einen sicheren Weg gehen und alle Glaubhaftmachungsmittel beschaffen, die bei einem denkbaren Verteidigungsverhalten des Gegners erforderlich werden können (OLG München GRUR-RR 2021, 297, 298 f. – Cinacalcet). Gemessen an diesem Maßstab war das Handeln der Verfügungsklägerin innerhalb der 1-Monats-Dringlichkeitsfrist.

a)

79 Ausweilich der Anlage AST 14 hatte die Verfügungsklägerin auf der IFA Anfang September 2022 zwar schon Kenntnis von der angegriffenen Ausführungsform. Sie hatte aber keine Kenntnis, dass sie auch in Deutschland vertrieben wird bzw. dort vertrieben werden sollte. Auf der IFA wurde lediglich eine Variante für den US-amerikanischen und eine für den UK-Markt gezeigt.

b)

80 Die in der eidesstattlichen Versicherung (Anlage AST 7) geschilderte E-Mail vom 26. Januar 2023 verschaffte ihr womöglich eine Kenntnis davon, dass der „Shark FlexStyle Haarstyler" bald in Deutschland vertrieben wird. Insoweit könnte eine Erstbegehungsgefahr vorgelegen haben. Dies setzt indes voraus, dass die Verfügungsklägerin sichere Kenntnis über den Täter gehabt hätte. Die E-Mail wurde von der Verfügungsbeklagten zu 2) verschickt. Ob sie auch Vertragspartnerin ist bzw. wird, geht daraus nicht hervor. Da die Verfügungsbeklagten Teil eines weltweiten Unternehmens mit zahlreichen Gesellschaften ist, war für die Verfügungsklägerin allein aufgrund der E-Mail nicht erkennbar, welche Gesellschaft welche Verletzungshandlung vornimmt.

81 Tatsächlich wird die angegriffene Ausführungsform auch nicht von der deutschen Verfügungsbeklagten zu 2) in Deutschland verkauft, sondern von den englischen Verfügungsbeklagten zu 1). Dies zeigt, dass eine sichere Kenntnis von Tat und

Täter im Zeitpunkt des Erhalts der E-Mail noch nicht gegeben war. Es war für die Verfügungsklägerin nicht absehbar, wer die Verletzungshandlung begehen wird. Der Verfügungsklägerin war auch nicht zumutbar, ins Blaue hinein die Verwenderin der E-Mail ohne gesicherte Kenntnis ihrer Täterschaft in Anspruch zu nehmen.

c)

82 Selbst wenn man diesbezüglich anderer Meinung wäre, wäre die Monatsfrist eingehalten. Denn aufgrund des tatsächlichen Verkaufs der angegriffenen Ausführungsform ist eine Wiederholungsgefahr eingetreten, die eine eigene Dringlichkeitsfrist in Gang setzt (OLG München, Mitt. 1999, 223 (227 f.); Cepl/Voß/Voß § 940 Rn. 97; Retzer, in: Harte- Bavendamm/Henning-Bodewig, UWG, 5. Auflage 2021, § 12 Rn. 79 – auch mVw auf aA). Seit der Kenntnis von dem tatsächlich erfolgten Verkauf der angegriffenen Ausführungsform in Deutschland durch die Verfügungsbeklagte zu 1) mit Unterstützung der Verfügungsbeklagten zu 2) und dem Eingang des Verfügungsantrags ist genau ein Monat vergangen; die zeitliche Dringlichkeit ist demnach gegeben.

II.

83 Die bei der Prüfung des Verfügungsgrundes vorzunehmende Interessenabwägung fällt zu Gunsten der Verfügungsklägerin aus. Das Erfordernis des Verfügungsgrundes umfasst in Patentstreitigkeiten auch die Frage des Rechtsbestandes des Verfügungspatents. Dieser ist vorliegend hinreichend gesichert (1.). Auch die Interessenabwägung im Übrigen fällt zugunsten der Verfügungsklägerin aus (2.).

1.

a)

84 Nach der ständigen Rechtsprechung der Kammer ist mit dem Unionsgerichtshof (vgl. EuGH GRUR Int 2020, 1071 Rn. 48 = BeckRS 2020, 490 – Paroxetin; GRUR 2022, 811 Rn. 41 – Phoenix Contact/Harting) (jedenfalls) für europäische Patente davon auszugehen, dass für sie ab dem Zeitpunkt der Veröffentlichung ihrer Erteilung eine Vermutung der Gültigkeit streitet und sie ab diesem Zeitpunkt in vollem Umfang den unter anderem durch die RL 2004/48 gewährleisteten Schutz genießen.

85 Wollte man dies anders sehen, müsste spätestens das jeweilige Oberlandesgericht als im einstweiligen Verfügungsverfahren letzte Instanz gemäß Art. 267 Abs. 3 AEUV ein erneutes Vorabentscheidungsverfahren zum Unionsgerichtshof einleiten und mit diesem um Klarheit nachsuchen. Einer Vorabentscheidung des Unionsgerichtshofs mit dem Argument die Gefolgschaft zu verweigern, der der Entscheidung zugrunde liegende Sachverhalt sei unzutreffend, wäre europarechtswidrig und würde einen Staatshaftungsfall begründen (Wegener, in: Calliess/Ruffert, EUV/AEUV, Art. 267 AEUV, 6. Auflage 2022, Rn. 52; Karpenstein, in: Grabitz/Hilf, Das Recht der Europäischen Union, Werkstand: 78. EL Januar 2023, Art. 267 Rn. 105 ff.; Ehricke, in: Streinz, EUV/AEUV, 3. Auflage 2018, Art. 267 Rn. 72.).

86 Für die im Rahmen des Verfügungsgrundes vorzunehmende Prüfung des hinreichenden gesicherten Rechtsbestands des Verfügungspatents bedeutet die dargestellte Rechtsprechung des Landgerichts München I, dass aufgrund der Vermutung der Gültigkeit zunächst von einem gesicherten Rechtsbestand auszugehen ist und es im zweiseitigen einstweiligen Verfügungsverfahren der Verfügungsbeklagten obliegt, diese Vermutung zu erschüttern (vgl. LG München I GRUR 2022, 1808 Rn. 68 – Fingolimod; a.A. LG Düsseldorf GRUR 2022, 1806 Rn. 61 – MS-Therapie III). Insoweit trägt hiernach die Verfügungsbeklagte im Ausgangspunkt die Darlegungs- und Glaubhaftmachungslast (vgl. Heinze, GRUR 2022, 1795, 1798).

87 Hat die Verfügungsbeklagte erhebliche Gründe, die zur Überzeugung der Kammer eine im Einzelfall hinreichende Wahrscheinlichkeit der Vernichtung des Verfügungspatents begründen, vorgetragen und gegebenenfalls glaubhaft gemacht und mithin die Vermutung der Gültigkeit erschüttert, obliegt es wiederum der Verfügungsklägerin, darzulegen und gegebenenfalls glaubhaft zu machen, dass der Rechtsbestand des Verfügungspatents trotz der hiergegen erhobenen Angriffe hinreichend gesichert ist (vgl. LG München I GRUR 2023, 152 Rn. 60 ff. – Bortezomib; GRUR-RS 2022, 44524 Rn. 87 ff. – Haarschneidegerät; GRUR 2022,1808 Rn. 68 – Fingolimod), d. h. mit hoher Wahrscheinlichkeit prognostiziert werden kann (vgl. LG München I GRUR-RS 2021, 37988 Rn. 46 – Sorafenibtosylat).

88 Unabhängig von der Frage, warum ein Bestandsverfahren vorliegend entbehrlich ist, können sich Zweifel am Rechtsbestand des Verfügungspatents in einer Zurückweisung des Verfügungsantrags nur dann niederschlagen, wenn das Verfügungsschutzrecht mit einem Einspruch oder einer Nichtigkeitsklage angegriffen wird, weil nur so das Patent tatsächlich zu Fall gebracht werden kann (OLG

Düsseldorf InstGE 7, 147 – Kleinleistungsschalter; LG München I a.a.O.). Daher ist es regelmäßig nicht ausreichend, im einstweiligen Verfügungsverfahren lediglich Einspruchs- oder Nichtigkeitsgründe aufzuzeigen, die zu einer Vernichtung des Verfügungspatents führen könnten, solange nicht spätestens bis zum Schluss der letzten mündlichen Verhandlung im Verfügungsverfahren tatsächlich beim Deutschen Patent- und Markenamt, beim Europäischen Patentamt (nachfolgend: EPA), beim Bundespatentgericht und zukünftig beim Einheitlichen Patentgericht ein Verfahren eröffnet wurde, in dem aufgrund dieses Vorbringens ein Widerruf bzw. die Nichtigerklärung des Patents verfügt werden kann. Liegt zwischen der Kenntnis der Verfügungsbeklagten vom Verletzungsvorwurf und dem Verhandlungstermin ein nur kurzer Zeitraum, innerhalb dessen der Verfügungsbeklagten nicht zugemutet werden kann, das Verfügungspatent mit einem förmlichen Rechtsbehelf anzugreifen, muss zumindest zweifelsfrei absehbar sein, dass der Rechtsbestand des Verfügungsschutzrechts zu gegebener Zeit angegriffen werden wird (OLG Düsseldorf InstGE 12, 114 = BeckRS 2010, 15862 – Harnkatheterset; LG München I a.a.O.).

89 Nach diesen Maßstäben ist nach Überzeugung der Kammer der Rechtsbestand des Verfügungspatents hinreichend gesichert. Die schriftsätzlich und in der mündlichen Verhandlung vorgetragenen Angriffe gegen den Rechtsbestand des Verfügungspatents rechtfertigen es nicht, den Verfügungsgrund zu verneinen. Die Kammer ist unter Berücksichtigung des beiderseitigen Vorbringens vom Rechtsbestand des Verfügungspatents überzeugt.

b)

90 Selbst wenn man dieser Ansicht nicht folgen und an der Rechtsprechung der Oberlandesgerichte München, Düsseldorf und Karlsruhe festhalten wollte, ist zur Überzeugung der Kammer in der vorliegenden Situation das Einfordern eines erfolgreich durchlaufenen Bestandsverfahren unstatthaft. Denn auch nach der Rechtsprechung des Oberlandesgerichts Düsseldorf besteht eine für den Erlass einer einstweiligen Verfügung hinreichende Überzeugung im Hinblick auf den Rechtsbestand des Verfügungspatents dann, wenn das Verletzungsgericht aufgrund der ihm angesichts der betroffenen technischen Materie möglichen eigenen Einschätzung für sich die Überzeugung (im Sinne hinreichender Glaubhaftmachung) davon gewinnen kann, dass das Verfügungsschutzrecht rechtsbeständig ist, weil sich die mangelnde Patentfähigkeit seines Erfindungsgegenstands nicht feststellen lassen wird (OLG Düsseldorf GRUR-RS 2021, 4420 Rn. 22 – Cinacalcet II – zitiert bei LG

Düsseldorf GRUR 2022, 1806 Rn. 53 – MS-Therapie III). Das soll wiederum der Fall sein, wenn aus Sicht des Verletzungsgerichts entweder mehr für als gegen die Patentfähigkeit spricht oder (mit Rücksicht auf die im Rechtsbestandsverfahren geltende Beweislastverteilung) gleichermaßen viel gegen wie für sie streitet, so dass das Vorliegen eines Widerrufs- oder Nichtigkeitsgrundes letztlich unaufgeklärt bleibt (OLG Düsseldorf GRUR-RS 2021, 4420 Rn. 22 – Cinacalcet II). Folge daraus ist, dass das Verletzungsgericht, wenn es anstelle des Patentamts oder des Bundespatentgerichts in der Sache selbst zu befinden hätte, den Rechtsbestand zu bejahen hätte (OLG Düsseldorf GRUR-RS 2018, 1291 Rn. 57 – Rasierklingen – zitiert bei LG Düsseldorf GRUR 2022, 1806 Rn. 53 – MS-Therapie III).

91 Auch gemessen an diesem Maßstab, ist aus Sicht der mit drei im Patentrecht erfahrenen Berufsrichtern besetzten Kammer kein Bestandsverfahren erforderlich. Die Kammer ist aufgrund eigener Sachkenntnis sowie unter Zuhilfenahme des qualifizierten und von Patentanwälten begleiteten Vortrags der Parteien in der Lage, den Rechtsbestand des Verfügungspatents mit der im Verfügungsverfahren erforderlichen Gewissheit zur beurteilen. Die Technik weist kein Grad an Komplexität auf, der es der Kammer unmöglich machte, sich nach der gebotenen Einarbeitung einen fundierten Überblick über die Bestandssituation zu machen und hierzu eine begründete Einschätzung abzugeben. Wie zu zeigen sein wird, stammen die Entgegenhaltungen der Verfügungsbeklagten allesamt aus dem vergangenen Jahrtausend; ein Patentdickicht, wie etwa im Telekommunikationsbereich mitunter gegeben, liegt nicht vor. Auch ist die streitgegenständliche Technik visuell-haptisch wahrnehmbar und daher auch dem technisch nicht akademisch geschulten Berufsrichter unmittelbar zugänglich. Die Verweigerung einer einstweiligen Verfügung mit dem bloßen Verweis auf das Fehlen eines erfolgreich überstandenen Rechtsbestandsverfahren, wäre daher nicht nur europarechtswidrig, sondern käme auch einer gerichtlichen Rechtsverweigerung gleich.

92 Weitere Gesichtspunkte, die für den Erlass einer einstweiligen Verfügung sprechen könnten, konnte das Gericht mangels Vortrags der Verfügungsklägerin nicht berücksichtigen. Insbesondere kann in Fallkonstruktionen, bei denen das von der Patentinhaberin vertriebene Endprodukt im Wesentlichen Niederschlag in dem Verfügungspatent gefunden hat, eine besondere Schutzwürdigkeit daraus folgen, dass ein Preisverfall droht oder der Schutz durch andere Rechtsmechanismen (Markenschutz, Wettbewerbsrecht u.a.) keine vergleichbare Absicherung bieten.

93 Inwieweit diese Voraussetzungen vorliegend gegeben sind, kann das Gericht nicht beurteilen. Nach dem Vortrag in der Antragsschrift bietet die Verfügungsklägerin

seit 2018 das Produkt „Dyson Airwrap", welches sich insbesondere durch Ausnutzung des Coanda-Effekts auszeichnet, mit großem wirtschaftlichen Erfolg an. Vortrag zum Preis des Originalprodukts und des Verletzungsprodukts hat die Verfügungsklägerin nicht gemacht. Auch wurde zur Gefahr eines Preisverfalls nicht ausgeführt. Zudem fehlt es auch an einem Vortrag, ob der in der Beschreibung des Verfügungspatents beschriebene „Coanda-Effekt" – der keinen Einzug in die Patentansprüche gefunden hat – sich auch mit anderen Mechanismen des Rechts schützen lassen könnte und insofern ein besondere Bedürfnis besteht, dass die Klägerin den Patentanspruch im Verfügungsverfahren geltend machen kann.

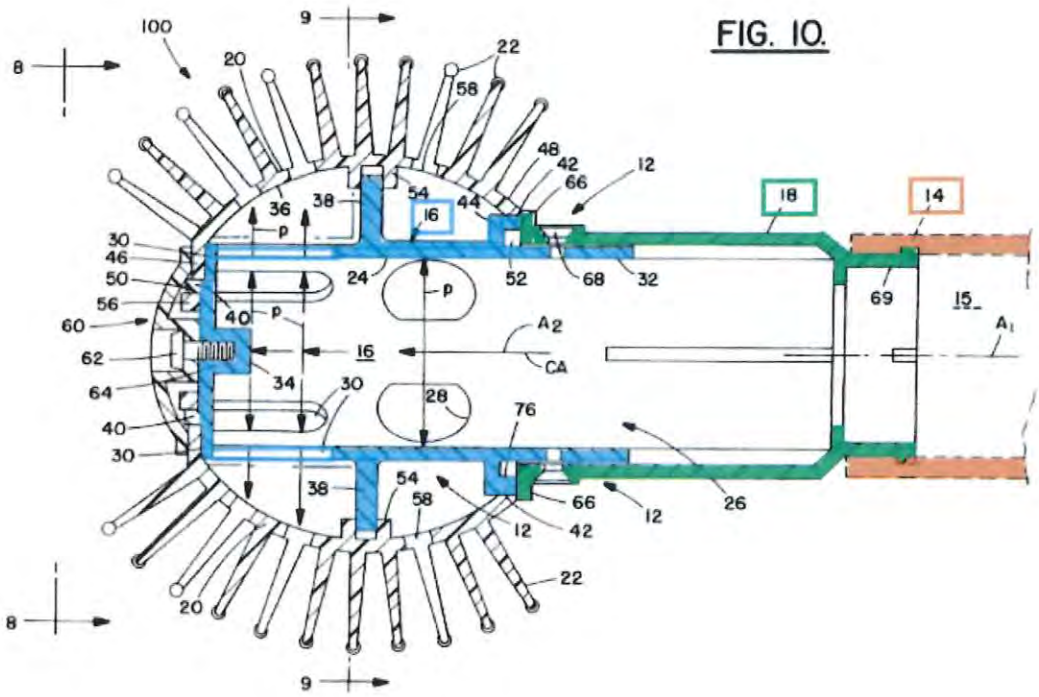
c)

aa)

94 Die Entgegenhaltung D 1 (US 5,868,148) nimmt den Gegenstand des Verfügungspatents nicht neuheitsschädlich vorweg.

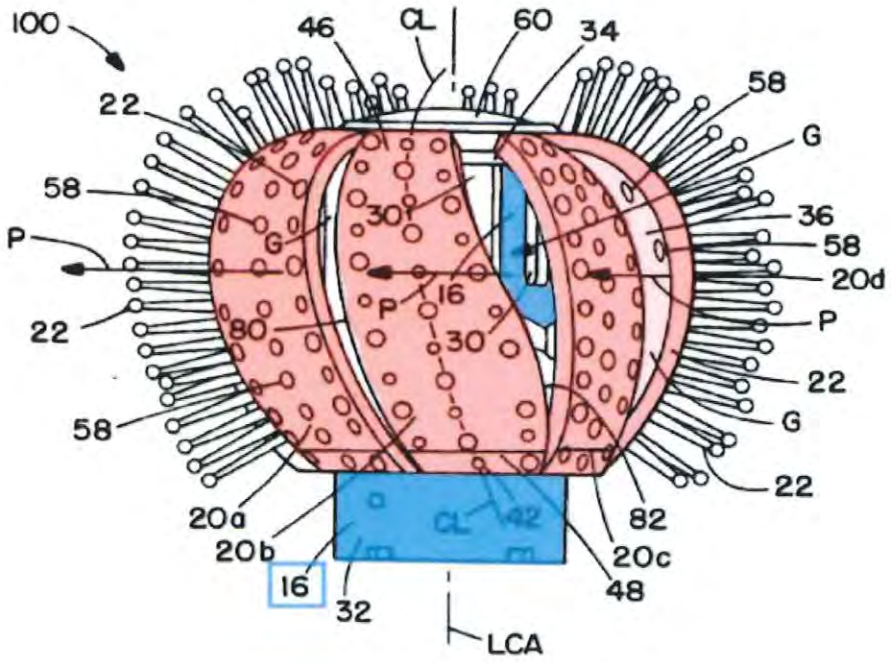
(1.)

95 Die Druckschrift D1 wurde am 09.02.1999 veröffentlicht und damit vor dem Prioritätstag des Verfügungspatents am 20.03.2014 (Anlage FIN 1). Sie bezieht sich auf einen Aufsatz in Form eines „hair styler", um den Luftstrom eines „hair blower" zu kontrollieren. Die nachfolgend wiedergegebene Figur 10 der D1 zeigt einen Haarstyler 100, bestehend aus einem Kern (core) 16 (blau hervorgehoben) und einer Verbindungshülse (connector sleeve) 18 (grün hervorgehoben), um den Kern 16 mit dem angedeuteten Auslass 14 (braun hervorgehoben) eines Haarföhns 15 zu verbinden (D1, Spalte 5, Zeilen 18 bis 20, Spalte 8, Zeilen 7 bis 9):



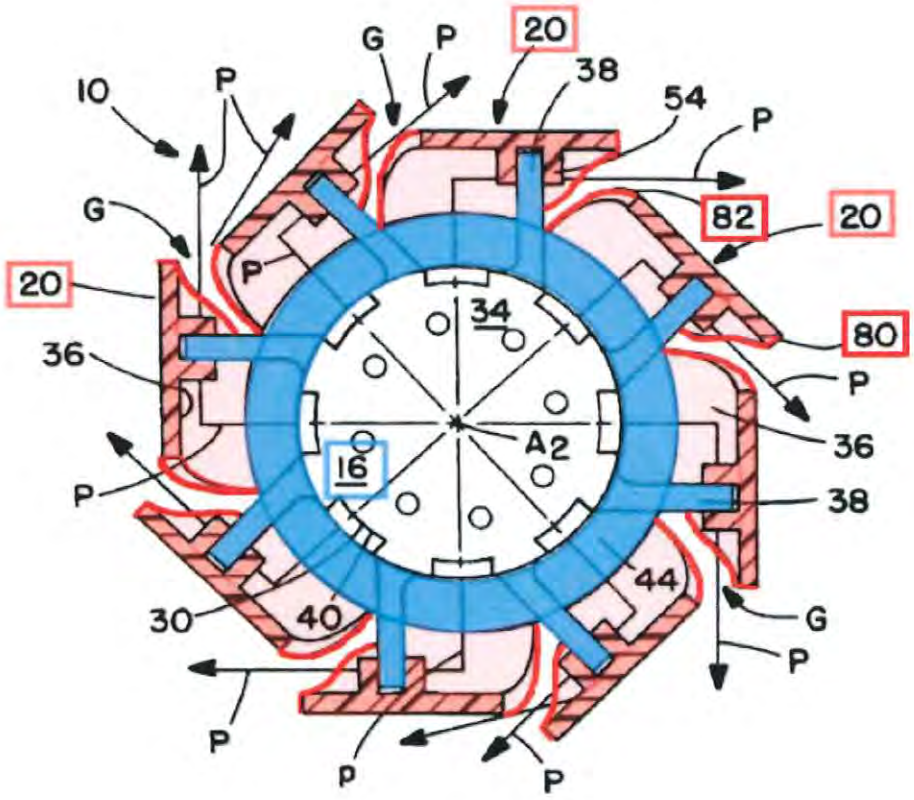
(Kolorierung durch die Verfügungsbeklagten, Antragserwiderung, S. 21)

96 Entlang der Länge des Kerns 16 sind längliche Flügel (vanes) 20 angeordnet (D1, Spalte 5, Zeilen 32 bis 38). Die nachfolgend wiedergegebene Figur 11 der D1 zeigt den Kern 16 (blau hervorgehoben) mit den ihn umgebenden länglichen Flügeln 20 (rot hervorgehoben) in einer Draufsicht, wobei die Verbindungshülse 18 vom Kern 16 entfernt wurde:



(Kolorierung durch die Verfügungsbeklagten, Antragserwiderung, S. 22)

97 Figur 9 der D1 zeigt einen Querschnitt des Kerns 16 (blau hervorgehoben) mit den ihn umgebenden länglichen Flügeln 20 (rot hervorgehoben), die begrenzt werden einerseits durch die jeweiligen Seitenkanten (side edge) 80 und andererseits durch die jeweils abfallenden Seitenkanten (trailing side edge) 82:



(2.)

98 Wie unter Punkt B. I. 4. b (Rn. 36 ff.) ausgeführt ist Merkmal 1.5 dahin auszulegen, dass ein zylindrischer Aufsatz beansprucht wird. Dem Begriff „allgemein“ kommt keine Bedeutung zu, die eine wesentlich von der zylindrischen Form abweichende Ausgestaltung zuließe.

99 Demnach sind gewölbte Aufsätze, bei denen die die Grundflächen verbindenden Teile (Mantelflächen) nicht parallel zueinander verlaufen, nicht anspruchsgemäß. Die D1 offenbart hingegen keine zylindrische Form des Aufsatzes. Sowohl bei der Figur 9 als auch der Figur 11 verlaufen die Verbindungslinien nicht parallel zueinander und sind damit nicht zylindrisch.

100 Auch die Offenbarungsstelle in Spalte 3, Zeilen 59 bis 65 enthält keine zylindrische Ausgestaltung:

„*The vanes preferably are elongated, and when mounted onto the coupler means or core, they are disposed longitudinally along and generally parallel to the central axis of the internal chamber of the coupler means or core, such that the vanes have a front end distal to the entrance end of the internal chamber, and a back end proximate to the entrance end of the internal chamber.*"

101 Die Entgegenhaltung beschreibt an dieser Stelle, dass die Mantelflächen („vanes") sich parallel zur Zentralachse des Kerns erstrecken. Nicht offenbart ist damit, dass die Mantelflächen selbst parallel zueinander verlaufen. Die Offenbarungsstelle beschreibt somit nichts anderes, wie es in den Figuren 9 und 11 gezeigt wird, nämlich konvexe Mantelflächen, die parallel zum Kern, aber nicht parallel zueinander und somit nicht zylindrisch verlaufen.

bb)

102 Die Entgegenhaltung D2 (CH 617 332, Anlage FIN 11) steht der Neuheit des Gegenstands von Anspruch 1 des Verfügungspatents gleichfalls nicht entgegen. Die Entgegenhaltung D2 wurde als Patentanmeldung am 15.06.1977 angemeldet und am 30.05.1980 veröffentlicht.

(1.)

103 Die Druckschrift D2 bezieht sich auf ein Aufsatzgerät 6, 7 für einen Heißluft-Frisierapparat 1 bis 3 (D2, Zusammenfassung). Das Aufsatzgerät besteht aus einem Aufsteckteil 7 sowie mehreren Bürsten 6, die zum Frisieren der Haare in die Zentralöffnung 8 des Aufsteckteils 7 eingeschoben werden können (D2, Zusammenfassung; Anspruch 1). Das Aufsteckteil 7 wird mittels einer Aufsteckmuffe 4 im Mündungsbereich des Heißluft-Frisierapparats 1 bis 3 aufgesteckt (D2, Zusammenfassung; Anspruch 1). Das Aufsteckteil 7 wird hierzu auf den zylindrischen Luftaustrittsstutzen 2 lösbar aufgeschoben (D2, Spalte 2, Zeilen 7 bis 10; Anspruch 7). Die Aufsteckmuffe 4 trägt mehrere kranzartig angeordnete Rohre 5 mit mantelseitigen Ausblasöffnungen 10 (D2, Zusammenfassung; Spalte 2, Zeilen 10 bis 13). Die Rohre 5 verlaufen untereinander parallel und haben je einen radialen Abstand, wobei die Rohre 5 einen Innenraum 8 umschließen (D2, Spalte 2, Zeilen 10 bis 13):

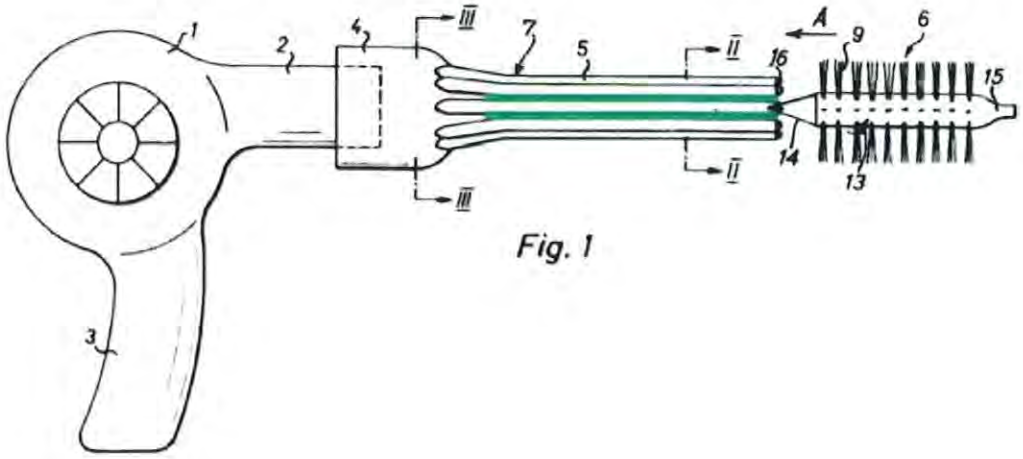


Fig. 1

(Hervorhebung der Verfügungsbeklagten, Duplik, S. 27)

(2.)

104 Das Merkmal 1.6, nämlich die Erstreckung mindestens eines Schlitzes von der Nähe des ersten Endes des Auslasses zu einem distalen Ende wird von der D2 nicht offenbart.

105 Selbst wenn man mit den Verfügungsbeklagten die Offenbarung eines anspruchsgemäßen Schlitzes annähme, wäre das Merkmal 1.6 nicht vorbeschrieben.

106 Der Aufsatz der Entgegenhaltung D2 verfügt über eine Aufsteckmuffe 4. Das Aufsteckteil 7 wird über die Aufsteckmuffe auf den zylindrischen Luftaustrittsstutzen 2 des Föns lösbar aufgeschoben. Die Aufsteckmuffe definiert das erste Ende des Aufsatzes (32) im Sinne von Merkmal 1.2 bzw. 1.6 des Verfügungspatents. Am anderen, distalen Ende der Aufsteckmuffe sind mehrere kranzartig angeordnete Rohre 5 mit mantelseitigen Ausblasöffnungen 10 angeordnet. Der nach Auffassung der Verfügungsbeklagten mindestens eine Schlitz ist in der obigen Abbildung grün gekennzeichnet. Erkennbar ist aus der Abbildung jedoch auch, dass dieser Schlitz sich nicht von der Nähe des ersten Endes des Aufsatzes erstreckt, da er erst im zweiten Viertel des Aufsatzes beginnt. Das Merkmal 1.6 ist daher nicht offenbart. Der übrige Offenbarungsgehalt der Entgegenhaltung D2 geht in Bezug auf das Merkmal 1.6 nicht über den der Abbildung gemäß Fig. 1 hinaus.

107 Ferner offenbart die D2 das Merkmal 1.9 nicht. Die Verfügungsbeklagten verweisen hierzu auf die Figur 2 in Verbindung mit der Beschreibungsstelle in Spalte 2, Zeile 47-49. Der gesamte Abschnitt lautet wie folgt:

„Mit dem auf den Heissluft-Frisierapparat aufgesetzten Aufsteckteil 7 des Gerätes wird in der Weise gearbeitet, dass vorerst eine Bürste 6 in den zentralen Teil 8 eingeschoben wird. Hernach wird eine Haarsträhne über die Bürste 6 gezogen und auf diese aufgedreht. Die aus den Löchern 10 der Rohre 5 und der zentralen Öffnung 12 austretende Heissluft strömt gegen diesen Haarwickel. Da die Löcher 10 tangential gerichtet sind, wird vermieden, dass heisse Luft direkt gegen die Kopfhaut geblasen wird." (Spalte 2, Zeile 41-49)

108 Die Figur 2 offenbart folgendes:

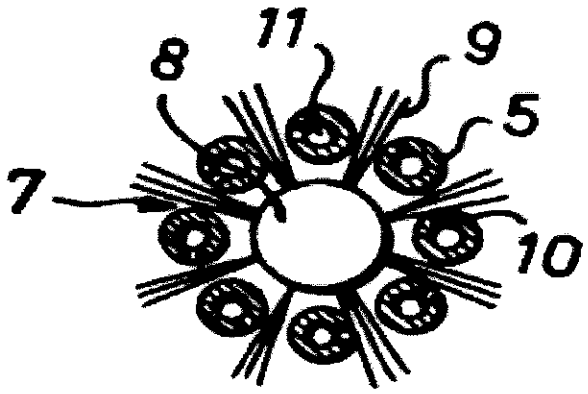


Fig. 2

109 Durch den letzten Satz der zitierten Stelle betreffend die tangentiale Ausrichtung der Löcher wird auch in Verbindung mit der Figur 2 das Merkmal 1.9 nicht offenbart. Der Fachmann liest nämlich nicht nur die beiden von den Verfügungsbeklagten hervorgehobenen Offenbarungsstellen, sondern die Beschreibung als Ganzes. Dabei nimmt er auch die bereits vorerwähnte Beschreibungsstelle Spalte 2, Zeile 16-19 zur Kenntnis. Dieser entnimmt er, dass sich die in der Spalte 2, Zeile 47-49 beschriebene tangentiale Ausrichtung auf einen durch die Rohrmitte des Rohrkranzes gelegten Kreis bezieht, nicht hingegen – wie von Merkmal 1.9 verlangt – auf die Außenfläche des Aufsatzes. Die Konfiguration des Auslasses zum Ausstoß des Fluids tangential zur Außenfläche des Aufsatzes ist mithin nicht offenbart.

c)

110 Die Entgegenhaltung D3 (JP 59-129009, Anlage FIN 12, 12a, 12b) wurde am 25.07.1984 und damit knapp 30 Jahre vor dem Prioritätsdatum des Verfügungspatents veröffentlicht.

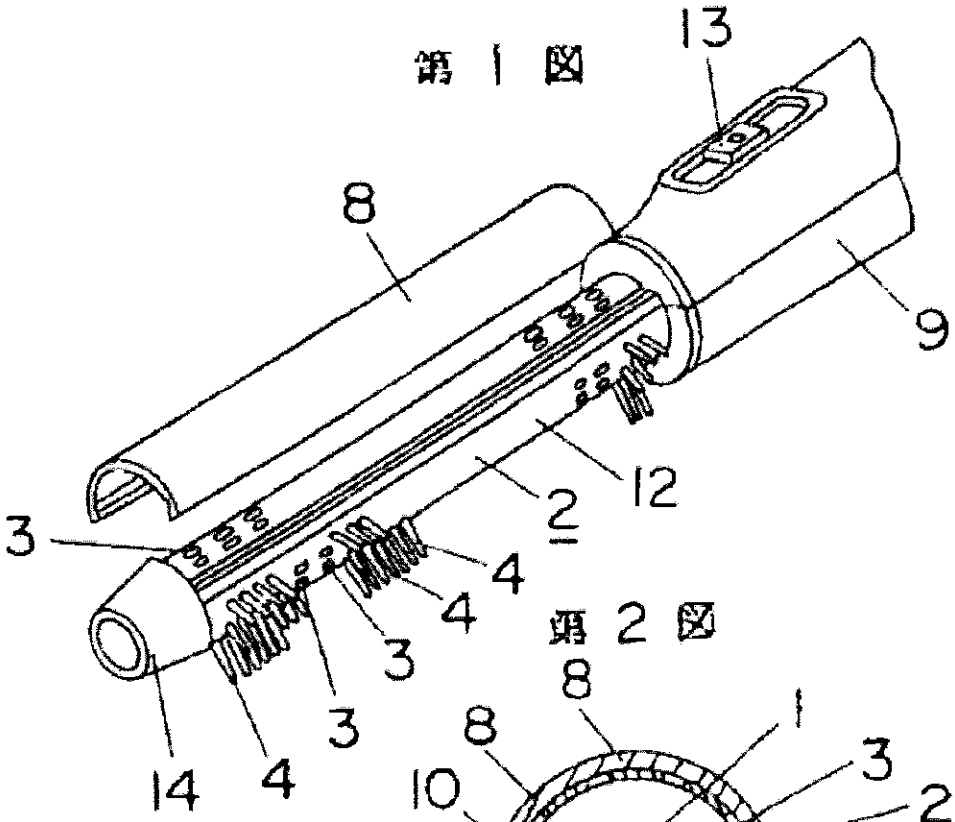
aa)

111 Sie beschreibt als nachteiligen Stand der Technik von Haartrockner-Aufsätzen, die zum Lockenwickeln geeignet sind, dass durch das Anbringen eines bogenförmigen Öffnungs- und Verschlusselements in Teil der Heißluftauslässe verschlossen wird, sodass heiße Luft nur noch in eine Richtung abgegeben wird. Durch das Verschließen eines Teils der Heißluftauslässe entsteht das Problem, dass die Temperatur der ausströmenden Heißluft ungewöhnlich hoch wird, was zu Verbrennungen und Schäden am Haar sowie zu einer Fehlfunktion des Haartrockners selbst führen kann; vgl. Anlage FIN 12b „3. Beschreibung des Stands der Technik".

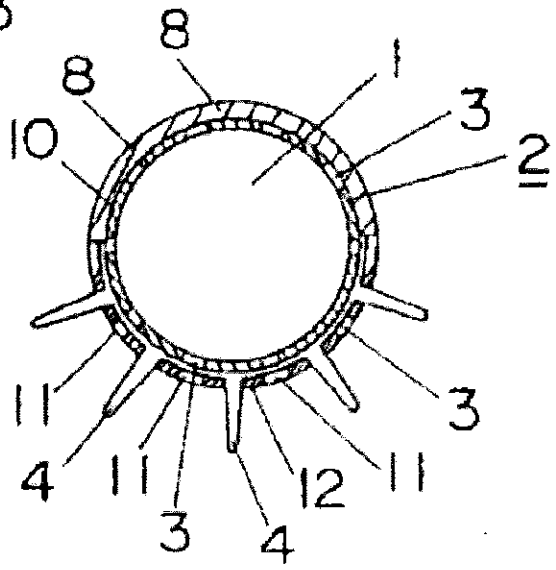
112 Die Entgegenhaltung macht es sich daher zur Aufgabe einen Aufsatz für einen Haartrockner bereit zu stellen, der sowohl Bürsten als auch Lockenwickeln ermöglicht, aber eine Überhitzung während des Bürstens verhindert, um Verbrennungen und Schäden am Haar zu vermeiden und das Ausfallen des Haartrockners wegen Überhitzung zu verringern; vgl. Anlage FIN 12b „3. Aufgabenstellung der Erfindung".

113 Als Lösung beschreibt die D3 einen Aufsatz, bei dem das in den Figuren 1 und 2 gezeigte bogenförmige Element 8 durch ein bogenförmiges Heißluftführungsteil 6 ersetzt wird und dieses Heißluftführungsteil 6 von dem zylindrischen Körper 2 beabstandet angebracht wird. Dadurch kann warme Luft aus dem zylindrischen Körper 2 über Heißluftauslasskanäle 3 in den Spalt 5 zwischen dem bogenförmigen Heißluftführungsteil 6 entweichen.

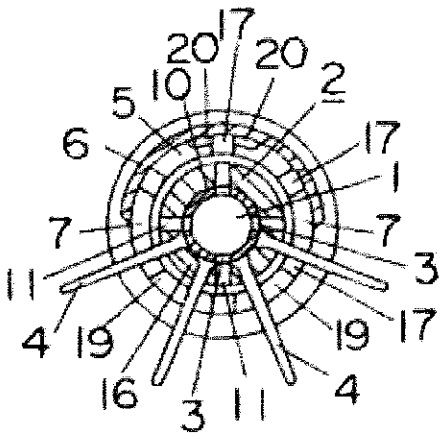
第 1 図



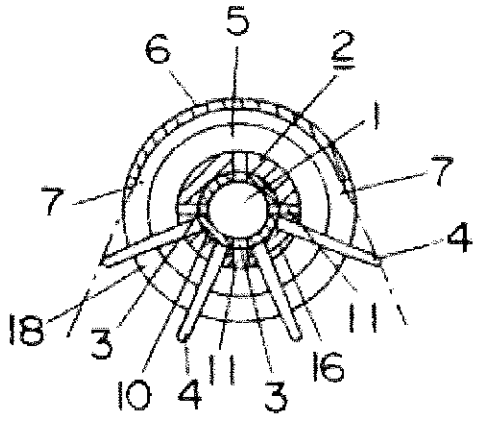
第 2 図



第 14 図



第 15 図

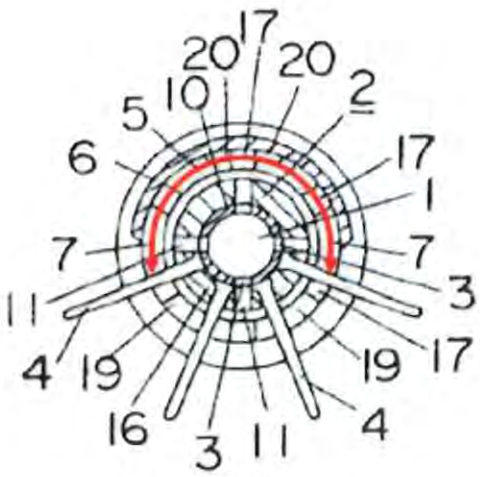


114 Die Figur 15 zeigt gemäß der Beschreibung eine Querschnittsansicht eines anderen Beispiels gemäß dieser Erfindung, bei welchem an den offenen Rändern (7) der Zwischenspalte (5), welche zwischen dem Außenumfang des Aufsatz-Hauptteils (2) und den Rändern des Heißluftführungselementes (6) gebildet ist, die Heißluftaustrittsrichtung an diesen offenen Rändern (7) verläuft, in anderen Worten, bei welchem auf der tangentialen Verlängerungslinie der offenen Ränder (7) die Spitzen der Borsten (4) positioniert sind, womit die Heißluft gleichmäßig über die gesamten Borsten (4) geleitet werden kann.

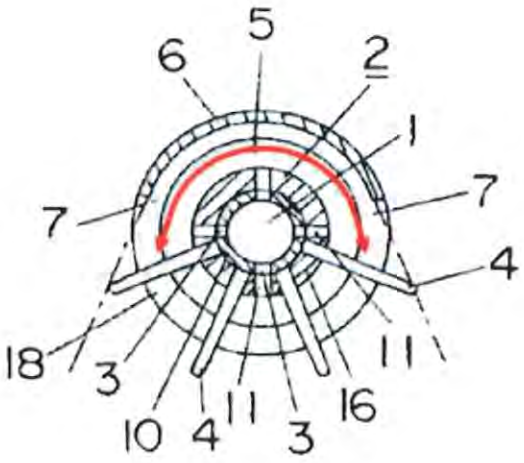
bb)

115 Die Verfügungsbeklagten behaupten, die beidseitigen offenen Ränder 7 des Zwischenspaltes 5 würden wie der Schlitz in den Figuren 5a und 5b des Verfügungspatents durch die Überlappung des bogenförmigen Heißluftführungselements 6 mit dem zylindrischen Aufsatz-Hauptteil 2 gebildet. Der Fachmann entnehme den Figuren 14 und 15 daher, dass heiße Luft, die aus den Heißluftauslässen 3 austritt, durch die beiden Zwischenspalten 5 an ihren jeweiligen offenen Rändern 7 tangential um die Außenfläche des Aufsatzes herumgeleitet werde. Der Fachmann erkenne, dass sich der Schlitz in Form der offenen Ränder 7 des Zwischenspalts 5 in der D3 genauso wie die Auslassöffnungen in den Figuren 5a und 5b des Verfügungspatents verhalte. Die tangentiale Ausgestaltung werde auch von Anspruch 2 der D3 beansprucht. Daher sei auch das Merkmal 1.9 offenbart:

第 14 図



第 15 図



(Abbildung mit Hervorhebung der Verfügungsbeklagten; Duplik, S. 36)

116 Eine tangentiale Austrittsrichtung werde hinsichtlich der Figur 15 zudem ausdrücklich in der Beschreibung der D3 erläutert:

> *„FIG. 15 shows a cross-sectional view of another embodiment of the invention. At the open end (7) of the gap (5) formed between the outer circumference of the attachment body (2) and the side edge of the hot air guide piece (6), the tip of the bristle (4) is positioned on the tangential extension line of the opening end (7), that is, in the hot air discharge direction at the opening end (7), and as a result, hot air is evenly sent to the entire bristles (4).“*

cc)

117 Weder die von den Verfügungsbeklagten aufgezeigten Offenbarungsstellen noch sonstige Stellen in der D3 beschreiben dem Fachmann einen Auslass, der im Sinne von Merkmal 1.9 des Verfügungspatents konfiguriert ist. Die zitierte Beschreibungsstelle in Verbindung mit der Figur 15 offenbart dem Fachmann, dass die Heißluft gerade nicht tatsächlich tangential zur Außenfläche ausstoßen wird, sondern nur tangential zu einer gedachten Verlängerung der Außenfläche. Ferner wird in Wirklichkeit keine tangentiale Beziehung zwischen der ausgestoßenen Luft und der Spitze der äußersten Borste hergestellt. Die ausgestoßene Luft verhält sich tangential zu Spitze der äußerten Borste 4, wodurch erreicht wird, dass auch sie noch vom Luftstrom erfasst wird. Dies zeigt die Linie 18 in der Figur 15.

118 Nicht offenbart ist ebenfalls die Konfiguration des Auslasses zum Herumleiten um die Außenfläche des Aufsatzes. Denn mit der Figur 15 wird in Verbindung mit der betreffenden Beschreibungsstelle gezeigt, dass die Heißluft „über“ die gesamten Borsten geleitet wird und damit gerade von der Außenfläche des Aufsatzes weg und nicht um diese herum.

119 Weiter fehlt es an dem Erfordernis, dass das Fluid um die Außenflächen herumgeleitet wird. Die Entgegenhaltung ist vollständig mit Öffnungen versehen, so dass bereits das herausströmende Fluid einem Umströmen entgegensteht.

d)

120 Eine fehlende Neuheit kann nicht im Hinblick auf die D4 (WO 2007/022600 A1, Anlage FIN 13, 13a) angenommen werden. Diese Entgegenhaltung wurde am 25.08.2006 unter Inanspruchnahme einer Priorität vom 26.08.2005 angemeldet.

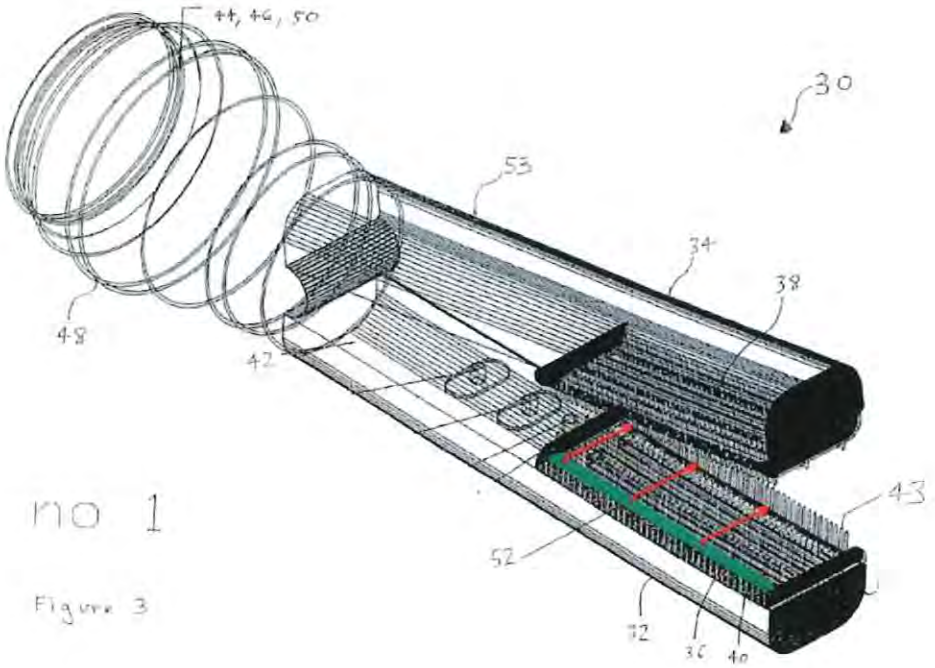
aa)

121 Die D4 befasst sich ebenfalls mit einem Haarstylinggerät in Form eines längli-chen Armes. Die Entgegenhaltung offenbart auf Seite 4, Zeile 12-15 sowie Seite 5, Zeile 8-11 eine Ausführungsform, bei der ein länglicher Luftauslass (52) paral-lel zu dem länglichen Arm (52) mit einer Haaraufnahmefläche (36), die sich über wenigstens einen Teil des Armes erstreckt, verläuft. Der Luftauslass 52 ist so konfiguriert, dass er Luft über die Haaraufnahmefläche 36 und damit im Wesentli-chen über die Länge der Haare bläst, die senkrecht zum Arm 32 auf der Fläche 36 liegen. Wie die Verfügungsbeklagten selbst ausführen, hat das mit der D4 be-anspruchte Haarstylinggerät einen modularen Aufbau und umfasst einen Hand-griff, mit dem der längliche Arm oder die Zange abnehmbar verbunden sind:

> "*The the hairstyling device is of modular design and includes a handle or hand grip 53 to which the arm 22 or tongs are detachably connected.*" (D4, Seite 5, Zeilen 20 bis 21).

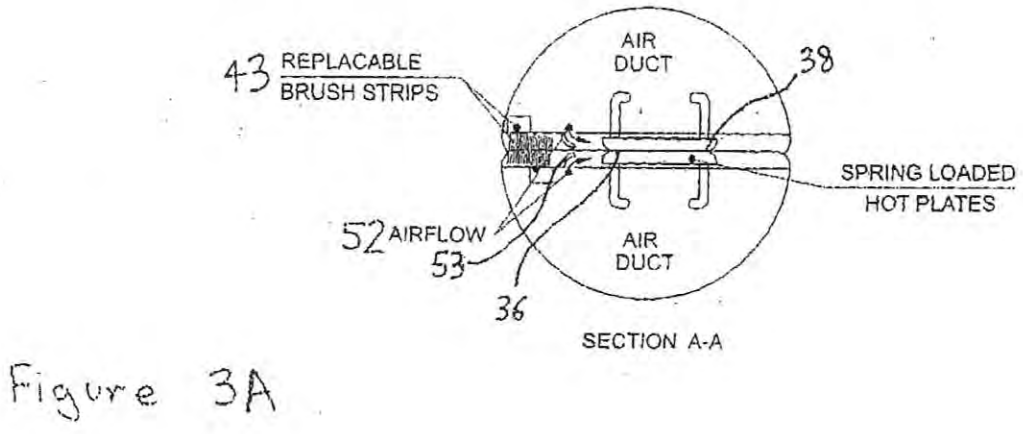
bb)

122 Die D4 offenbart damit nicht wie von Merkmal 1.6 verlangt, dass sich der Schlitz von der Nähe des ersten Endes des Aufsatzes zu einem distalen Ende des Auf-satzes erstreckt. Er beschreibt ferner nicht, dass sich der Schlitz im Wesentlichen entlang der Länge des Aufsatzes gemäß Merkmal 1.7 erstreckt. Der Aufsatz ge-mäß der D4 besteht aus dem länglichen Arm und dem Handgriff. Der Schlitz/Aus-lass erstreckt sich aber nur entlang des einen Teils, nämlich des Armes. Dieser macht nur einen Teil des Aufsatzes aus. Damit befindet sich der Schlitz weder „in der Nähe des ersten Endes des Aufsatzes“, noch erstreckt er sich „im Wesentli-chen entlang der Länge des Aufsatzes“. Dies zeigen die Verfügungsbeklagten mit der Kennzeichnung der Figur 3 selbst, wenn sie den Luftauslass grün markieren:



(Abbildung der Verfügungsbeklagten mit ihren Markierungen, Nichtigkeitsklage, S. 63)

123 Aus den Figuren, insbesondere der von der Verfügungsbeklagten angeführten Figur 3a in Verbindung mit Seite 5, Zeilen 25-27 erkennt der Fachmann ferner nicht eine Konfiguration des Auslasses für ein Herumleiten des ausgestoßenen Fluids um die Außenfläche des Aufsatzes herum:



"The configuration of the elongate air outlet 52 is shown in section A-A of figure 3a. The air exiting the elongate air outlet 52 is deflected by a shroud 53 across the hair receiving surfaces 36 and 38 as indicated by the airflow lines."

124 Eine eindeutige und unmittelbare Offenbarung des Luftstroms um die Außenfläche herum weisen weder diese Beschreibungsstellen noch andere Stellen in der D4 auf. Der Fachmann erkennt lediglich, dass eine „Umlenkung" des Luftstroms durch

die Abdeckung 53 erfolgt. Wie der Luftstrom konkret nach dem Verlassen des Auslasses weiterfließt, zeigt die D4 nicht unmittelbar und der Fachmann kann erkennt auch nicht aufgrund seines Fachwissens, dass dies um die Außenfläche herum im Sinne von Merkmal 1.9 geschieht.

d)

125 Eine fehlende erfinderische Tätigkeit gegenüber der Entgegenhaltung D1 in Verbindung mit dem allgemeinen Fachwissen kann die Kammer nicht erkennen.

aa)

126 Nach der Rechtsprechung des Bundesgerichtshofs handelt es sich bei der Beurteilung der erfinderischen Tätigkeit um eine Rechtsfrage, die mittels wertender Würdigung der tatsächlichen Umstände zu beurteilen ist, die unmittelbar oder mittelbar geeignet sind, etwas über die Voraussetzungen für das Auffinden der erfindungsgemäßen Lösung auszusagen (BGH GRUR 2012, 378 – Installiereinrichtung II). Maßgeblich ist, ob der Stand der Technik am Prioritätstag dem Fachmann den Gegenstand der Erfindung nahegelegt hat. Dies erfordert zum einen, dass der Fachmann mit seinen durch seine Ausbildung und berufliche Erfahrung erworbenen Kenntnissen und Fähigkeiten in der Lage gewesen ist, die erfindungsgemäße Lösung des technischen Problems aus dem Vorhandenen zu entwickeln. Zum anderen musste der Fachmann einen Grund haben, den Weg der Erfindung zu beschreiten. Dazu bedarf es in der Regel über die Erkennbarkeit des technischen Problems hinausreichender Anstöße, Anregungen, Hinweise oder sonstiger Anlässe (BGH BeckRS 2018, 13279 – Tongeber für Einparkhilfesysteme von Fahrzeugen). Nur in diesem Fall kann die notwendigerweise ex-post getroffene richterliche Einschätzung, dass der Fachmann ohne erfinderisches Bemühen zum Gegenstand der Erfindung gelangt wäre, in einer Weise objektiviert werden, die Rechtssicherheit für den Schutzrechtsinhaber wie für seine Wettbewerber gewährleistet (OLG Düsseldorf GRUR-RS 2020, 37066 Rn. 93 – Decodieranordnung).

127 Die Wahl des Ausgangspunktes für die Beurteilung der erfinderischen Tätigkeit bedarf gemäß etablierter Rechtsprechung der Rechtfertigung, die in der Regel in dem Bemühen des Fachmanns liegt, für einen bestimmten Zweck eine bessere Lösung zu finden, als sie der bekannte Stand der Technik zur Verfügung stellt (BGH GRUR 2009, 382 – Olanzapin).

128 In welchem Umfang und mit welcher Konkretisierung der Fachmann Anregungen im Stand der Technik benötigt, um eine bekannte Lösung in bestimmter Weise weiterzuentwickeln, ist nach der Rechtsprechung des Bundesgerichtshofs eine Frage des Einzelfalls, deren Beantwortung eine Gesamtbetrachtung aller maßgeblichen Sachverhaltselemente erfordert. Dabei sind nicht etwa nur ausdrückliche Hinweise an den Fachmann beachtlich. Vielmehr können auch Eigenarten des in Rede stehenden technischen Fachgebiets, insbesondere betreffend die Ausbildung von Fachleuten, die übliche Vorgehensweise bei der Entwicklung von Neuerungen, technische Bedürfnisse, die sich aus der Konstruktion oder der Anwendung des in Rede stehenden Gegenstands ergeben und auch nichttechnische Vorgaben eine Rolle spielen (BGH GRUR 2014, 647 – Farbversorgungsystem Rn. 25).

129 Nach der Rechtsprechung des Oberlandesgerichts Düsseldorf darf sich kein vernünftiges Argument für die Zuerkennung der erfinderischen Tätigkeit mehr finden lassen (vgl. OLG Düsseldorf, a.a.O., Rn. 92 mit Verweis auf BGH GRUR 1987, 284 – Transportfahrzeug II; OLG Karlsruhe GRUR-RR 2019, 41082 – Reifenreparaturset; OLG Düsseldorf GRUR-RR 2007, 259 – Thermocycler; OLG Düsseldorf, Mitt. 1997, 253 – Steinknacker).

bb)

130 Ausgehend von diesen Grundsätzen gibt die D1 dem Fachmann keinen Anlass, den dort geschilderten Aufsatz, der aus einem Kern (16, „core“) mit einer Innenkammer (26, „internal chamber) und darüber liegenden Flügeln (20, „vanes“) besteht, in Richtung auf die verfügungspatentgemäße Lehre weiterzuentwickeln. Dieser ergibt sich auch nicht aus der von den Verfügungsbeklagten in Bezug genommenen Beschreibungsstelle:

> „*The vanes preferably are elongated, and when mounted onto the coupler means or core, they are disposed longitudinally along and generally parallel to the central axis of the internal chamber of the coupler means or core, such that the vanes have a front end distal to the entrance end of the internal chamber, and a back end proximate to the entrance end of the internal chamber.*“ (D1, Spalte 3, Zeilen 59 bis 65)

131 Es ist von den Verfügungsbeklagten nicht dargelegt und auch im Übrigen nicht erkennbar, warum der Fachmann die D1 zum Ausgangspunkt seiner Überlegungen hinsichtlich einer Verbesserung von Aufsätzen für Handgeräte herangezogen

hätte. Es ist ferner nicht ersichtlich, warum der Fachmann ausgehend von der D1, diese in Richtung auf die verfügungspatentgemäße Erfindung mit einer allgemein zylindrischen Form weiterentwickelt hätte. Die D1 gibt tatsächlich keinen Hinweis darauf, dass eine allgemein zylindrische Ausgestaltung Vorteile gegenüber anderen hätte. Der von den Verfügungsbeklagten zitierten Beschreibungsstelle entnimmt der Fachmann lediglich, dass längliche und allgemein parallel zur Zentralachse der Innenkammer verlaufenen Flügel dazu führen, dass sie ein vorderes Ende aufweisen, das distal zum Eingangsende der inneren Kammer liegt und ein hinteres Ende, das in der Nähe des Eingangsendes der inneren Kammer liegt. Mehr entnimmt der Fachmann der Beschreibungsstelle nicht. Er wird hierdurch nicht angeregt, die Erfindung der D1 dahingehend zu verbessern, den Aufsatz allgemein zylindrisch auszuführen.

132 Die D4 erwähnt den Coanda-Effekt – der in der Beschreibung des Verfügungspatents erwähnt wird – nicht, so dass für den Fachmann keine Veranlassung besteht, bestimmte Fluidströmungen durch eine zylindrische Ausgestaltung der Außenfläche des Aufsatzes zu erleichtern bzw. zu beeinflussen.

e)

133 Im Hinblick auf die unter 5 a) geschilderten Rechtsprechungsgrundsätze ist der Anspruch 1 des Verfügungspatents auch nicht durch die Entgegenhaltung D5 (JP 11-178631, Anlage FIN 14, 14a, 14b) in Kombination mit der Druckschrift D1 nahegelegt. Die Ausführungen der Verfügungsbeklagten, die D5 offenbare sämtliche Merkmale des Anspruchs 1 mit Ausnahme des Merkmals 1.9, weswegen die objektive Aufgabe darin bestehe, die D5 derart zu modifizieren, dass sie den technischen Effekt des Merkmals 1.9 erzielt, kann nicht gefolgt werden.

134 Den Verfügungsbeklagten kann bereits nicht in der Annahme gefolgt werden, die D5 offenbare alle Merkmale außer Merkmal 1.9. Der Fachmann entnimmt der D5 auch keine allgemein zylindrische Form des Aufsatzes. Zwar führen die Verfügungsbeklagten zutreffend aus, dass die Erfindung gemäß der D5 über einen Zylinder (34) verfügt. Um diesen herum ist jedoch eine Borstenbasis (2) ausgebildet, die keine Zylinderform hat, sondern eine konvexe Formgebung aufweist. Sie entspricht daher derjenigen in der D1, die bereits als nicht allgemein zylindrisch im Sinne von Merkmal 1.5 charakterisiert wurde (vgl. Rn. 36 ff.). Dieser Aufbau wird in Abs. [0005] der D5 in aller Deutlichkeit geschildert:

> *„Accordingly, the present invention provides a brush having a bristle base in which a large number of bristles protrude from the surface thereof is connected to an air blowing port of a hair dryer main body, and the brush is In a hair dryer with a brush for blowing air or steam from a hair dryer main body through a discharge port formed in a bristle base, the bristle base of the brush is formed so that the outline of its longitudinal cross section forms a convex curve."*
>
> (Hervorhebung durch das Gericht)

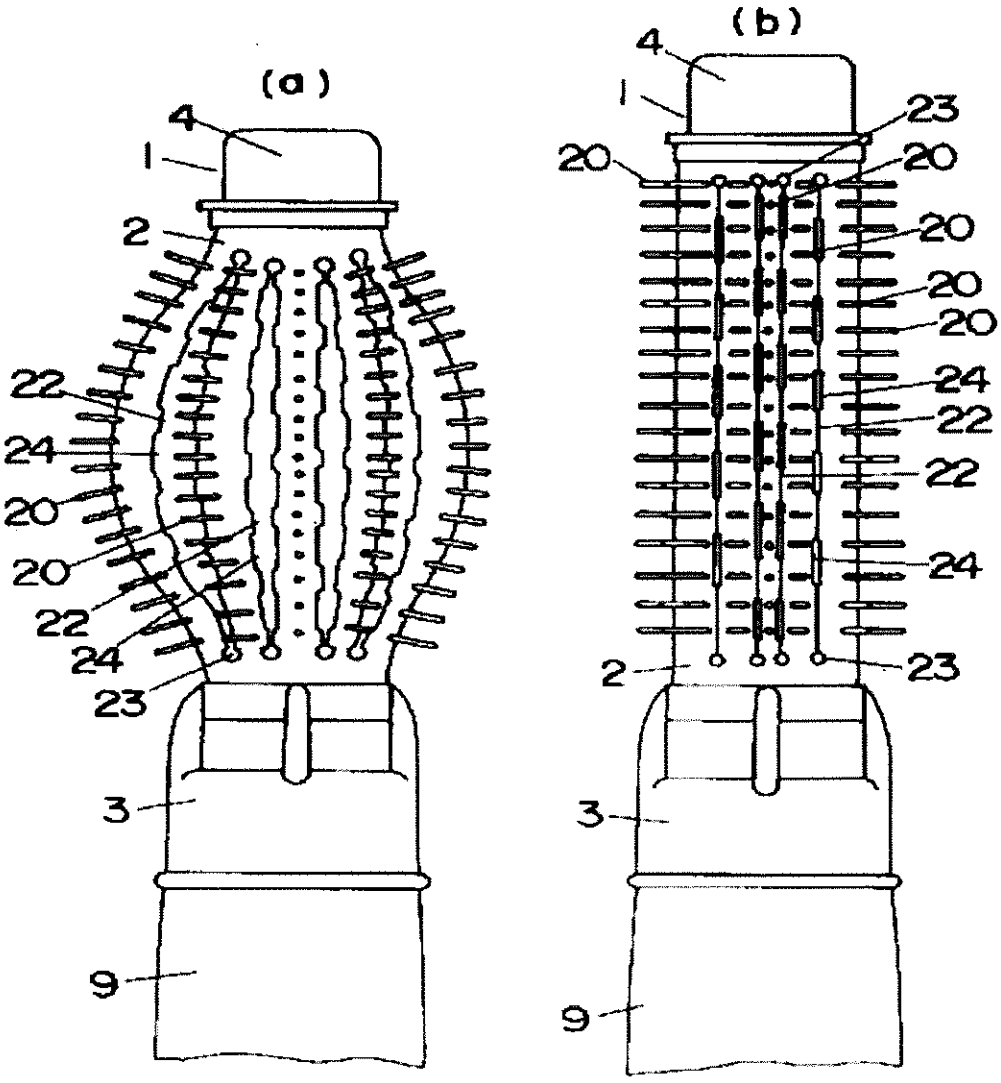
135 Das gleiche gilt für Anspruch 1. Wie die Unteransprüche 7-9 zeigen, kommt es der Entgegenhaltung gerade auch darauf an, die Krümmungsrate zu verändern bzw. zu vergrößern. In Abs. [0028] erläutert die Entgegenhaltung ausgehend von ihrer Ausgestaltung gemäß Anspruch 1 die dadurch erzielten Vorteile folgendermaßen:

> *„Wie bisher erläutert, da ein Haartrockner mit Bürste gemäß dieser Erfindung, an welchem an der Gebläseöffnung des Haartrockner-Hauptteils eine Bürste angeschlossen ist, welche einen Borstenträger aufweist, an welchem eine Vielzahl von Borsten von seiner Oberfläche vorstehen, und welcher die Luft bzw. den Dampf vom Haartrockner-Hauptteil durch die Auslassöffnungen, welche im Borstenträger der oben genannten Bürste gebildet sind, herausbläst, dadurch gekennzeichnet ist, dass der Borstenträger der oben genannten Bürste so ausgebildet ist, dass die Außenkontur seines Längsrichtungsquerschnitts eine konvexe Kurve bildet, ermöglicht diese Erfindung, dass die warme Luftströmung bzw. den Dampf fließend entlang der Innenfläche des Borstenträgers bis zur Mitte der Bürste geleitet und erst dann herausgeblasen wird, und dadurch wiederum, die Fixierfähigkeit zu verbessern, da die Menge an der herausströmenden Luftströmung bzw. dem Dampf im Mittelbereich der Bürste, an welchen das Haar gewickelt wird, zunimmt."*

136 In Abs. [0030] offenbart die Entgegenhaltung, dass die Anbringung eines Stützelements innerhalb des Borstenträgers vorteilhaft sein kann, um ein Zusammenquetschen des Borstenträgers zu verhindern, und die Kurvenform beizubehalten.

137 Zwar offenbaren die Figuren 5 und 6 auch eine zylindrische Form des Borstenträges.

【図５】



138 Aus dem geschildeten Gesamtkontext der Erfindung sowie Abs. [0018], der die Figuren 5 und 6 behandelt, ergibt sich jedoch für den Fachmann, dass eine zylindrische Form für die Verwendung des Geräts nicht gewünscht ist:

> *"In this brush 1, by changing the distance between the brush bases 3 and 4 as described above, and expanding the middle portion of the bristle base 2 outward, the brush 1 does not have a simple cylindrical shape, but has an arcuate cross section in the axial direction. In addition, the smaller the distance, the smaller the radius of curvature of the arc. The hair can be wrapped in an arc of curvature."*
>
> *(Hervorhebung durch das Gericht)*

139 Aufgrund dessen kann nicht angenommen werden, dass der Fachmann nicht die konvexe Ausgestaltung der Außenfläche, sondern die zylindrische als Ausgangspunkt einer Verbesserung der D5 ausgesucht und davon ausgehend zur D1 gelangt wäre. Er hätte gar keinen Anlass gehabt, die beanspruchte konvexe Außenfläche des Aufsatzes aufgrund der eigenen Angaben in der D5 zu verwerfen, stattdessen die in lediglich 3 Figuren gezeigte zylindrische Ausgestaltung aufzugreifen. Hierzu tragen die Verfügungsbeklagten auch nichts vor. Es kann dementsprechend auch nicht angenommen werden, dass der Fachmann anschließend unter Zuhilfenahme der D1 zum Gegenstand von Anspruch 1 des Verfügungspatents gekommen wäre. Denn die D1 zeigt gerade eine konvexe Außenfläche, von der sich der Fachmann in der D5 ja gerade – nach Auffassung der Verfügungsbeklagten – entfernen wollte.

f)

140 Anspruch 1 des Verfügungspatents geht nicht in unzulässiger Weise über den Inhalt der Anmeldung in der ursprünglich eingereichten Fassung hinaus (Art. 138 Abs. 1c EPÜ, Art. II § 6 Abs. 1 Nr. 3 IntPatÜbkG). Eine unzulässige Erweiterung bezüglich Merkmal 1.9 ist nicht gegeben.

141 Die Ursprungsanmeldung (Anlage FIN 10) offenbart diesbezüglich auf Seite 1, Zeilen 26-29:

> „*Preferably, fluid emitted from the outlet flows around the external surface of the attachment. It is preferred that the fluid emitted from the outlet is tangential to the external surface of the attachment.*"

142 Auf Seite 9, Zeilen 6-10, wird spezifisch zum Auslass offenbart:

> „*The head 30 includes a fluid outlet 100 which in this example comprises parallel slots 102 each extending towards a second end 36 of the head and radially around the head 30. This arrangement enables fluid to exit the head all the way around the head and for the majority of the length of the head 30 maximising a hair styling region of the 10 product.*" (Hervorhebungen durch das Gericht)

143 Auf Seite 12, Zeilen 20-29, wird unter anderem die Figur 5b näher erläutert und wie in Abs. [0064] des Verfügungspatents hierzu ausgeführt:

> "*The slots 102 are formed from an overlap 120 (Figure 5b) formed between adjacent plates 110 which results in fluid being directed between a radially inner surface 104 formed from the outer surface 112 of a first plate 110a and a radially outer*

surface 106 formed from the inner surface 114 of a second plate 110b. The fluid 122 flowing out of the slot 102 is 25 tangential 130 to the outer surface 112 of the plate 110a and joins with the fluid flowing out of the other slots of the fluid outlet 100 forming a fluid flow around the circumference of the head 30. Thus, the fluid 122 is blown out along the external surface of the head and this encourages hair to wrap around the head 30 automatically." (Hervorhebungen durch das Gericht)

144 Der Fachmann entnimmt diesen Beschreibungsstellen, dass durch ein entsprechendes Ausgestalten des Auslasses das tangentiale Herumleiten der ausgestoßenen Luft um die Außenfläche des Aufsatzes herum gewährleistet werden kann. Damit ist Merkmal 1.9 für den Fachmann offenbart.

g)

145 Eine fehlende Ausführbarkeit der Erfindung liegt zur Überzeugung der Kammer nicht vor. Gemäß der Auslegung der Kammer ist nicht beansprucht, dass die ausgestoßene Luft um die gesamte Außenfläche des Aufsatzes herumgeleitet wird (vgl. Rn. 62). Da auf dieser unzutreffenden Annahme sowie der Behauptung, dass bei nur einem einzigen Schlitz gemäß Merkmal 1.6 ein vollständiges Herumleiten nicht ausführbar ist, die Argumentation der Verfügungsbeklagten fußt, ist diesem Bestandsangriff der Erfolg versagt.

h)

146 Die vorstehenden Ausführungen zum Bestand des Anspruchs 1 gelten sinngemäß auch für den Anspruch 10 des Verfügungspatents.

II.

147 Die stets durchzuführende Interessenabwägung unter Berücksichtigung der Besonderheiten dieses Einzelfalls fällt zugunsten der Verfügungsklägerin aus.

148 Dabei ist grundsätzlich das Interesse des Verfügungsklägers/Antragstellers an dem Erlass einer einstweiligen Verfügung vorrangig ist, wenn der Verfügungsanspruch und der Rechtsbestand hinreichend glaubhaft gemacht sind. Die Zurückweisung einer einstweiligen Verfügung kommt nur dann in Betracht, wenn die aus ihrer Vollstreckung den Verfügungsbeklagten erwachsenden Nachteile deutlich über die üblicherweise mit einem Unterlassungsgebot einhergehenden Eingriffe

hinausgehen (LG München GRUR 2023, 152 Rn. 104 – Bortezomib). Hierfür bestehen vorliegend keine greifbaren Anhaltspunkte.

149 Es sind keine durchgreifenden Gründe erkennbar, warum es der Verfügungsklägerin zuzumuten sein sollte, die weitere Präsenz des patentverletzenden Produkts hinzunehmen und stattdessen bei einer Verurteilung der Verfügungsbeklagten in einem Hauptsacheprozess auf Schadenersatzansprüche verwiesen zu werden.

150 Die Verfügungsbeklagten hätten spätestens seit der Abmahnung am 08.03.2023 wissen können und müssen, dass die von ihnen vertriebene angegriffene Ausführungsform das Verfügungspatent verletzt.

151 Wie bereits oben geschildert, zeichnet sich die vorliegende Situation auch dadurch aus, dass die Anzahl der Patente in diesem Bereich im Vergleich etwa zum Telekommunikationsbereich überschaubar ist. Das zeigt sich allein daran, dass sämtliche von den Verfügungsbeklagten vorgelegten Entgegenhaltungen vor der Jahrtausendwende veröffentlicht wurden. Den Verfügungsbeklagten war es daher zur Überzeugung des Gerichts sehr wohl möglich, vor Markteintritt die Schutzrechtslage zu ergründen und – etwa mit einer Nichtigkeitsklage – zu reagieren. Sie haben sich indes für eine andere Strategie entschieden, für deren Folgen sie in der hiesigen Interessenabwägung einzustehen haben.

152 Weiterhin ist nicht erkennbar, dass die Verfügungsbeklagten oder Dritte darauf angewiesen wären, das verfügungspatentgeschützte Produkt zu vertreiben. Vor diesem Hintergrund scheidet ein Zurückstehen des Unterlassungsanspruchs im Wege der einstweiligen Verfügung aus.

153 Es bestehen schließlich keine Zweifel daran, dass der infolge einer sich nachträglich als rechtswidrig herausstellenden einstweiligen Verfügung verursachte Schaden von der Verfügungsklägerin ersetzt werden kann, da es sich um ein weltweit operierendes Unternehmen handelt, das zudem ebenso wie die Verfügungsbeklagte zu 1) in Großbritannien seinen Sitz hat.

D.

154 Die Kostenentscheidung folgt aus § 91 ZPO hinsichtlich der Unterlassungsanträge sowie aus § 91a ZPO hinsichtlich des erledigten Zwischenstreits über die Wirksamkeit der Nebenintervention.

155 Die Kosten für letzteres waren den Verfügungsbeklagten aufzuerlegen, da die Verfügungsklägerin im Falle der Nichterledigung obsiegt hätte. Die Verfügungsbeklagte zu 2) hat insbesondere kein rechtliches Interesse für die Nebenintervention glaubhaft gemacht. Sie hat sich darauf beschränkt, ihre Eigenschaft als Niederlassung der Verfügungsbeklagten zu 1) sowie das Setzen eines entsprechenden Rechtsscheins zu bestreiten. Sie hat indes nicht konkret vorgetragen und glaubhaft gemacht, dass bzw. warum im Falle einer Verurteilung der Verfügungsbeklagten zu 1) eine Rechtskrafterstreckung auf sie bestünde. Auch ein von der Verfügungsbeklagten zu 2) wegen Verurteilung der Verfügungsbeklagten zu 1) zu tragendes Vollstreckungsrisiko ist nicht erkennbar. Die hier insbesondere in Betracht kommenden Fallgruppen der §§ 738, 740 ff.48 oder § 729 Abs. 2 iVm § 25 HGB sind nicht gegeben. § 21 ZPO eröffnet insoweit ebenfalls kein Vollstreckungsrisiko. Eine Vorgreiflichkeit und/oder akzessorische Haftung sind gleichfalls nicht gegeben.

156 Selbst wenn man dies anders sehen wollte, änderte dies gemäß § 92 Abs. 2 Nr. 1 ZPO nichts an der tenorierten Kostenfolge. Diese schließt die Kosten über den erledigten Streit der Wirksamkeit der Nebenintervention mit ein, weil eine (Kosten-) Entscheidung über die Wirksamkeit der Nebenintervention auch mit dem Endurteil erfolgen kann.

157 Die Entscheidung über die vorläufige Vollstreckbarkeit ergibt sich aus der Natur des einstweiligen Verfügungsverfahrens.

gez.

Dr. Schön Kuttenkeuler Dr. Schacht, M.A.

Verkündet am 04.05.2023

gez.
Kinzl, JSekr`in
Urkundsbeamtin der Geschäftsstelle

BAYERN LANDGERICHT

Für die Richtigkeit der Abschrift
München, 26.05.2023

Kinzl, JSekr`in
Urkundsbeamtin der Geschäftsstelle
Durch maschinelle Bearbeitung beglaubigt
- ohne Unterschrift gültig