UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	8889-0002

CONFIRMATION NO. 5150

64194
Niro McAndrews, LLP
12 Beach Lane
Ogden Dunes, IN 46368

POA ACCEPTANCE LETTER

OC000000121140902

Date Mailed: 11/05/2020

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/30/2020.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Questions about the contents of this notice and the requirements it sets forth should be directed to the Office of Data Management, Application Assistance Unit, at **(571) 272-4000** or **(571) 272-4200** or **1-888-786-0101**.

/mbeyene/

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	8889-0002

CONFIRMATION NO. 5150

POWER OF ATTORNEY NOTICE

20575
Miller Nash Graham & Dunn
3400 U.S. Bancorp Tower
111 SW Fifth Avenue
Portland, OR 97204

OC000000121140866

Date Mailed: 11/05/2020

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/30/2020.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Questions about the contents of this notice and the requirements it sets forth should be directed to the Office of Data Management, Application Assistance Unit, at **(571) 272-4000** or **(571) 272-4200** or **1-888-786-0101**.

/mbeyene/

Doc Code: PA..
Document Description: Power of Attorney

PTO/AIA/82B (07-13)
Approved for use through 03/31/2021. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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

POWER OF ATTORNEY BY APPLICANT

I hereby revoke all previous powers of attorney given in the application identified in either the attached transmittal letter or the boxes below.

Application Number	Filing Date
12/449,556	8/12/2009

(Note: The boxes above may be left blank if information is provided on form PTO/AIA/82A.)

☑ I hereby appoint the Patent Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s), and to transact all business in the United States Patent and Trademark Office connected therewith for the application referenced in the attached transmittal letter (form PTO/AIA/82A) or identified above: 64194

OR

☐ I hereby appoint Practitioner(s) named in the attached list (form PTO/AIA/82C) as my/our attorney(s) or agent(s), and to transact all business in the United States Patent and Trademark Office connected therewith for the patent application referenced in the attached transmittal letter (form PTO/AIA/82A) or identified above. (Note: Complete form PTO/AIA/82C.)

Please recognize or change the correspondence address for the application identified in the attached transmittal letter or the boxes above to:

☑ The address associated with the above-mentioned Customer Number

OR

☐ The address associated with Customer Number:

OR

☐ Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

I am the Applicant (if the Applicant is a juristic entity, list the Applicant name in the box):

☑ Inventor or Joint Inventor (title not required below)

☐ Legal Representative of a Deceased or Legally Incapacitated Inventor (title not required below)

☐ Assignee or Person to Whom the Inventor is Under an Obligation to Assign (provide signer's title if applicant is a juristic entity)

☐ Person Who Otherwise Shows Sufficient Proprietary Interest (e.g., a petition under 37 CFR 1.46(b)(2) was granted in the application or is concurrently being filed with this document) (provide signer's title if applicant is a juristic entity)

SIGNATURE of Applicant for Patent

The undersigned (whose title is supplied below) is authorized to act on behalf of the applicant (e.g., where the applicant is a juristic entity).

Signature		Date (Optional)	5/16/2020
Name	Muarice Tabone		
Title	N/A		

NOTE: Signature - This form must be signed by the applicant in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. If more than one applicant, use multiple forms.

☐ Total of forms are submitted.

This collection of information is required by 37 CFR 1.131, 1.32, and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Electronic Acknowledgement Receipt

EFS ID:	41003074
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	20575
Filer:	Brian Patrick Lynch
Filer Authorized By:	
Attorney Docket Number:	8889-0002
Receipt Date:	30-OCT-2020
Filing Date:	12-AUG-2009
Time Stamp:	21:14:45
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	POA_for_12449556.pdf	1250221 a04b55848fe542b7897f3df9232d9322e299d895	no	1
Warnings:					

Information:	
Total Files Size (in bytes):	1250221

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

New Applications Under 35 U.S.C. 111

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

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

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

New International Application Filed with the USPTO as a Receiving Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	8889-0002	5150

20575 7590 12/28/2017

MARGER JOHNSON
888 SW 5th Avenue, Suite 1050
PORTLAND, OR 97204

EXAMINER	
KIRSCH, ANDREW THOMAS	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
12/28/2017	ELECTRONIC

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

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

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

docketing@margerjohnson.com

Notice of Abandonment	Application No.	Applicant(s)
	12/449,556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T. KIRSCH	3781

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

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *21 June 2017*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) if this is utility or plant application, a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Note that RCEs are not permitted in design applications.)
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

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

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

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record or other party authorized under 37 CFR 1.33(b). See 37 CFR 1.138(b).

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

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

7. ☒ The reason(s) below:

Phone call with Julie Reed on 12/22/2017 confirmed abandonment.

/ANDREW T KIRSCH/
Primary Examiner, Art Unit 3781

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

U.S. Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	8889-0002

CONFIRMATION NO. 5150

20575
MARGER JOHNSON
888 SW 5th Avenue, Suite 1050
PORTLAND, OR 97204

POA ACCEPTANCE LETTER

OC000000092467973

Date Mailed: 06/30/2017

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2017.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Questions about the contents of this notice and the requirements it sets forth should be directed to the Office of Data Management, Application Assistance Unit, at **(571) 272-4000** or **(571) 272-4200** or **1-888-786-0101**.

/mnguyen/

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	063424/397974

CONFIRMATION NO. 5150

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

POWER OF ATTORNEY NOTICE

OC000000092467956

Date Mailed: 06/30/2017

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2017.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Questions about the contents of this notice and the requirements it sets forth should be directed to the Office of Data Management, Application Assistance Unit, at **(571) 272-4000** or **(571) 272-4200** or **1-888-786-0101**.

/mnguyen/

Doc Code: PA..
Document Description: Power of Attorney

PTO/AIA/82A (07-13)
Approved for use through 11/30/2014. OMB 0651-0051
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FOR POWER OF ATTORNEY TO ONE OR MORE REGISTERED PRACTITIONERS

NOTE: This form is to be submitted with the Power of Attorney by Applicant form (PTO/AIA/82B) to identify the application to which the Power of Attorney is directed, in accordance with 37 CFR 1.5, unless the application number and filing date are identified in the Power of Attorney by Applicant form. If neither form PTO/AIA/82A nor form PTO/AIA82B identifies the application to which the Power of Attorney is directed, the Power of Attorney will not be recognized in the application.

Application Number	12/449,556
Filing Date	August 12, 2009
First Named Inventor	Maurice Joseph Paul Tabone
Title	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
Art Unit	3781
Examiner Name	ANDREW THOMAS KIRSCH
Attorney Docket Number	8889-0002

SIGNATURE of Applicant or Patent Practitioner

Signature	/Julie L. Reed/	Date (Optional)	June 28, 2017
Name	Julie L. Reed	Registration Number	35349
Title (if Applicant is a juristic entity)			
Applicant Name (if Applicant is a juristic entity)			

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4(d) for signature requirements and certifications. If more than one applicant, use multiple forms.

☑ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.131, 1.32, and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Doc Code: PA.
Document Description: Power of Attorney

PTO/AIA/82B (07-13)
Approved for use through 11/30/2014. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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

POWER OF ATTORNEY BY APPLICANT

I hereby revoke all previous powers of attorney given in the application identified in either the attached transmittal letter or the boxes below.

Application Number	Filing Date
12/449,556	2009-08-12

(Note: The boxes above may be left blank if information is provided on form PTO/AIA/82A.)

☑ I hereby appoint the Patent Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s), and to transact all business in the United States Patent and Trademark Office connected therewith for the application referenced in the attached transmittal letter (form PTO/AIA/82A) or identified above: 20575

OR

☐ I hereby appoint Practitioner(s) named in the attached list (form PTO/AIA/82C) as my/our attorney(s) or agent(s), and to transact all business in the United States Patent and Trademark Office connected therewith for the patent application referenced in the attached transmittal letter (form PTO/AIA/82A) or identified above. (Note: Complete form PTO/AIA/82C.)

Please recognize or change the correspondence address for the application identified in the attached transmittal letter or the boxes above to:

☑ The address associated with the above-mentioned Customer Number

OR

☐ The address associated with Customer Number:

OR

Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

I am the Applicant (if the Applicant is a juristic entity, list the Applicant name in the box).

☑ Inventor or Joint Inventor (title not required below)

☐ Legal Representative of a Deceased or Legally Incapacitated Inventor (title not required below)

☐ Assignee or Person to Whom the Inventor is Under an Obligation to Assign (provide signer's title if applicant is a juristic entity)

☐ Person Who Otherwise Shows Sufficient Proprietary Interest (e.g., a petition under 37 CFR 1.46(b)(2) was granted in the application or is concurrently being filed with this document) (provide signer's title if applicant is a juristic entity)

SIGNATURE of Applicant for Patent

The undersigned (whose title is supplied below) is authorized to act on behalf of the applicant (e.g., where the applicant is a juristic entity).

Signature		Date (Optional)	22 JUNE 2017
Name	Maurice Joseph Paul Tabone		
Title	Atty		

NOTE: Signature - This form must be signed by the applicant in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. If more than one applicant, use multiple forms.

☑ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.131, 1.32, and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Electronic Acknowledgement Receipt

EFS ID:	29632821
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Julie L. Reed/Dawn Kowalewski
Filer Authorized By:	Julie L. Reed
Attorney Docket Number:	063424/397974
Receipt Date:	28-JUN-2017
Filing Date:	12-AUG-2009
Time Stamp:	12:48:36
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	00360637.pdf	3547353 3345901aac0ba689188fe574b9464cb491cab3a8	no	2

Warnings:

Information:	
Total Files Size (in bytes):	3547353

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

New Applications Under 35 U.S.C. 111

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

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

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

New International Application Filed with the USPTO as a Receiving Office

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	063424/397974	5150

826 7590 06/21/2017

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER	
KIRSCH, ANDREW THOMAS	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
06/21/2017	ELECTRONIC

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

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

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

usptomail@alston.com

Office Action Summary	Application No. 12/449,556	Applicant(s) TABONE, MAURICE JOSEPH PAUL	
	Examiner ANDREW T. KIRSCH	Art Unit 3781	AIA (First Inventor to File) Status No

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☐ Responsive to communication(s) filed on _____.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ 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.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *23-43* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *23-43* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, 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.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

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)).

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

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

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

2. The amendments filed 6/6/2017 has been entered.

Claim Rejections - 35 USC § 112

3. The rejection of claim 23 under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, has been removed.

Claim Rejections - 35 USC § 102

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

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

5. Claims 23-26, 30, 31, 33-38 and 40-43 are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Bostrom.

6. In re claim 23, with reference to Figs. 1 and 2, Bostrom discloses: A container (10) having a base (12) having a floor (18) and at least one sidewall (20, below “rim”, see Fig. 2 detail below) extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container; a lid (14) moveable with respect to the base between an open position (fig. 1) and a closed position (fig. 2), the lid having a primary covering element (36, 38, and 40) to at least substantially span the opening when the container is in the closed position (see Fig. 2, the inner edge of element 36 where it meets surface 40 is above the opening, and therefore is considered

to span the opening, along with the entirety of element 38), and at least one flange extending from the base (see Fig. 2 detail below, flange includes rim which extends from sidewall of base) and substantially outside a footprint of the interior cavity, wherein the at least one flange comprises at least a rim portion extending away from the base by a first distance and an enlarged portion extending away from the base by a second distance (enlarged portion extends in a direction away from the base, and extends a further distance than rim, see Fig. 2 detail below, “extending away from” not interpreted to denote a direction but not a specific origination point), wherein the second distance is greater than the first distance (enlarged portion extends in a direction away from the base, and extends a further distance than rim, see Fig. 2 detail below), the enlarged portion of the at least one flange having a primary surface (top-most surface of 52) facing generally away from the floor and an opposing secondary surface (bottom surface of 52), wherein in the closed position a portion of the primary covering element (portion of 36 in detail of Fig. 3 below) of the lid and the enlarged portion of the at least one flange overlap (at inner segment of enlarged portion, see Fig. 2 detail below) to form a substantially planar platform disposed on a portion of an upper surface of the container, wherein the substantially planar platform is oriented transverse to at least a portion of the rim portion (upper/oblique segment of rim, see Fig. 2 detail below) and is suitable for attaching a single adhesive membrane (16) to both the portion of the primary covering element and the primary surface of the enlarged portion of the at least one flange, the substantially planar platform having a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid (see

Fig. 3 detail below, the perimeter of the platform made by the primary surface and portion of the primary covering element is smaller than the internal boundary of the opening measured internal of 32 and outer perimeter of the lid around 14 as shown). Note that Applicant's Specification as originally filed does not refer to any "perimeter" or "platform" by name, and the support for the limitations which can found in Applicant's original Fig.'s 2, 15, and 23 for example show that the platform can occupy any arbitrary amount of shared surface area made up of each of the primary surface of the flange and "portion" of the primary covering element as long as the perimeter of the platform is "substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid"; such shared platform perimeter formed by adjacent surface areas as anticipated by Bostrom is shown in Fig. 3 Detail below.

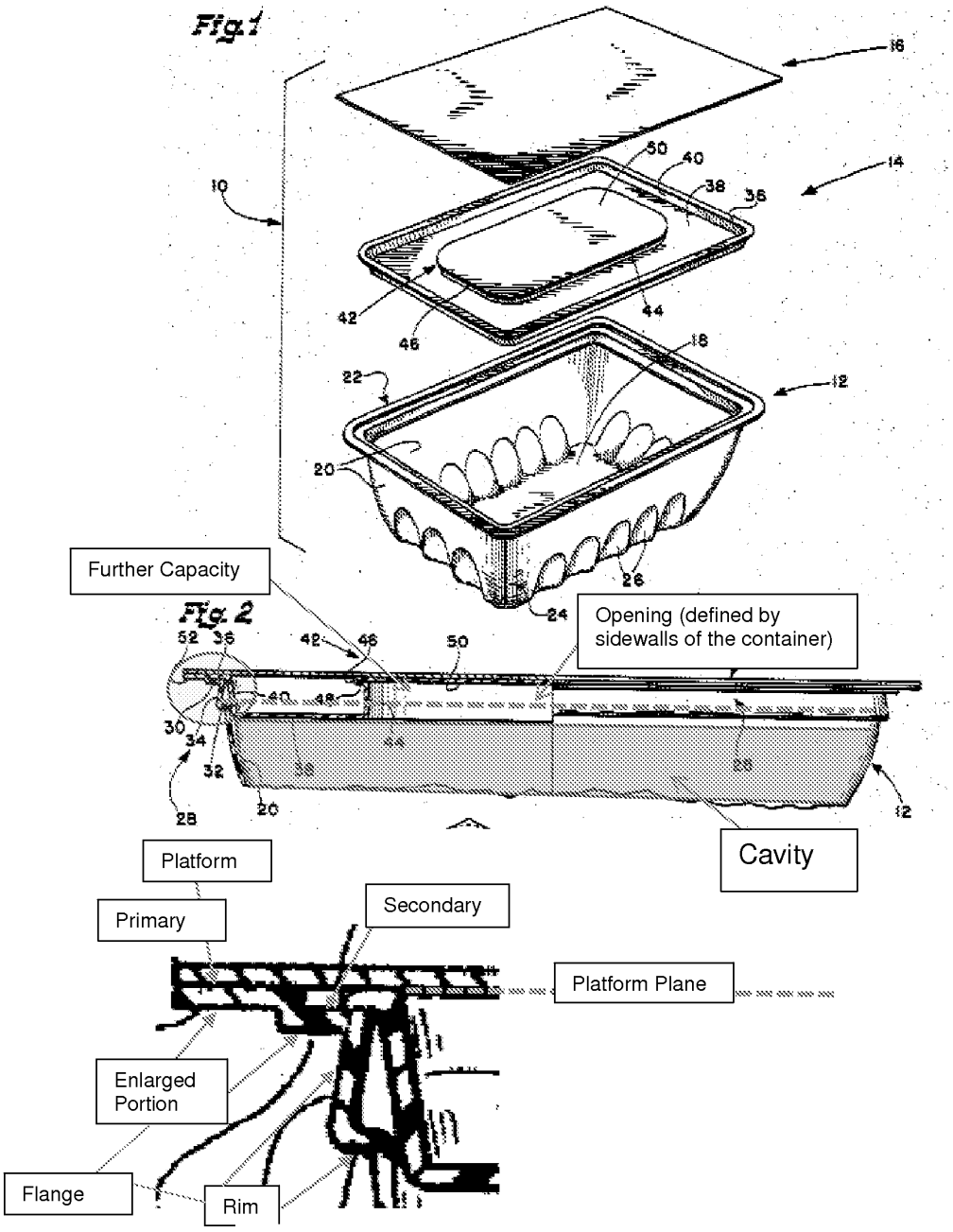

Fig. 1
16
14
10
50
40
38
36
42
46
44
18
22
12
20
26
24
Further Capacity
Opening (defined by sidewalls of the container)
Fig. 2
52
36
42
46
50
40
48
30
34
32
28
20
12
Cavity
Platform
Primary
Secondary
Platform Plane
Enlarged Portion
Flange
Rim

Fig. 2 Detail

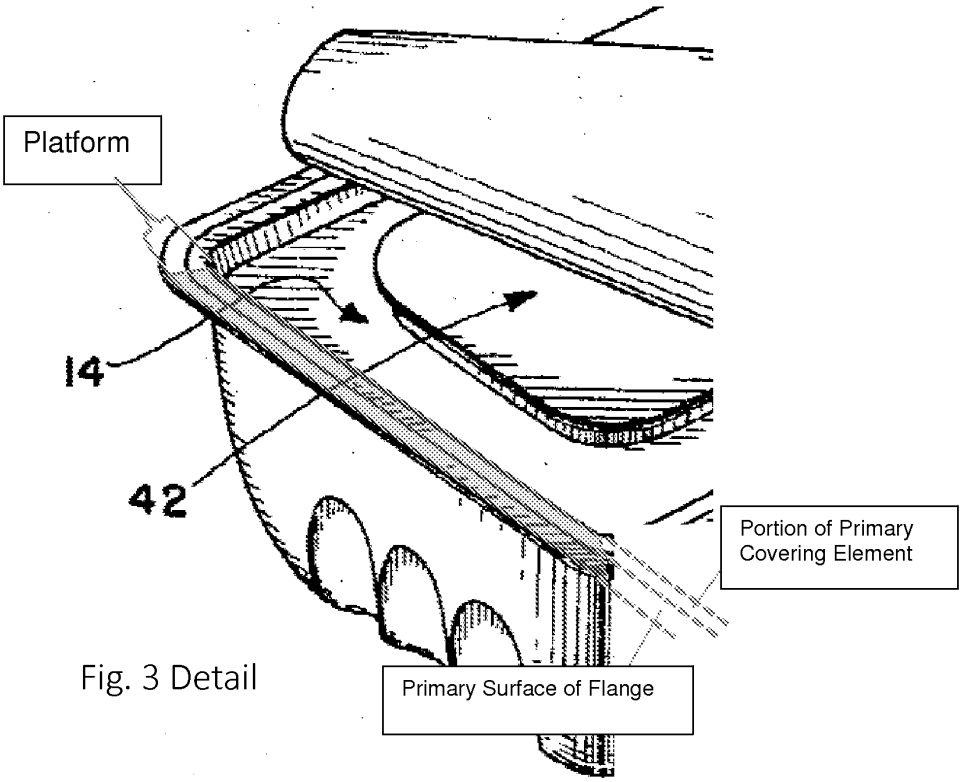


Fig. 3 Detail

7. In re claim 24, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the primary surface of the at least one flange is a continuation of an internal surface (at 34) of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container (see Fig. 2 above).

8. In re claim 25, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position the substantially planar platform is disposed at an oblique angle to the lid (the platform is oblique to the surface 40 of the lid).

9. In re claim 26, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the container is suitable to receive fresh food (column 2, lines 43-48).

10. In re claim 30, with reference to the Figs. above, Bostrom discloses the claimed invention including means for mechanically locking the lid to the base.

11. With regards to the "means for mechanical locking", this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 4, lines 7-10, the "means for mechanical locking" is not shown in the Applicant's drawings, Bostrom discloses one projection (36) receivable in a recess (formed above 30) which locks the lid against lateral movement from freeing the lid from the container. The projection of Bostrom and the locking means are considered to be an equivalent to applicant's means for mechanical locking because it performs the same function in substantially the same way and produces substantially the same result (preventing removal in a direction of movement of the lid) as the corresponding element in applicant's specification. See MPEP 2183.

12. In re claim 31, with reference to the Figs. above, Bostrom discloses the claimed invention including at least one recess (above 30).

13. In re claim 33, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position the adhesive membrane (16) attaches to the substantially planar platform thereby creating a seal upon the closed container between the primary covering element (36) of the lid and the primary surface of the flange of the base (column 5, lines 24-34).

14. In re claim 34, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on the lid (note that this opening is inherently possible by peeling the membrane from all but one primary surface edge of the container and lifting the lid to the open position).

15. In re claim 35, with reference to the Figs. above, Bostrom discloses the claimed invention including the single adhesive membrane (16 is considered a single adhesive membrane in that it is heat-sealed to the platform, which causes the membrane to adhere to the platform).

16. In re claim 36, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the size of the adhesive membrane is larger than the substantially planar platform (the surface area of the membrane is larger than the surface area of the platform, see Fig. 1 above).

17. In re claim 37, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the adhesive membrane is a self-adhesive label (the molten membrane material created during heat sealing is considered to be a heat-activated adhesive, a label is not required by the claims to have any specific indicia, color, or shape) (see column 5, lines 68-73).

18. In re claim 38, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the container comprises a plastic material (column 3, lines 11-12).

19. In re claim 40, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the substantially planar platform is external to the interior cavity (See Fig. 2 above) and includes the continuation of the internal surface (34) of the sidewall and at least a portion of an external surface side (40) of the lid.

20. In re claim 41, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the lid includes at least one convexly shaped portion (knob 42) extending upwardly in a direction generally away from the opening of the base (see Fig. 2).

21. In re claim 42, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the convexly shaped portion (42) of the lid provides further capacity to the container in the closed position, beyond the internal cavity of the base (see Fig. 2).

22. In re claim 43, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the primary covering element of the lid includes at least one opening located to engage with the primary surface of the at least one flange of the base (an opening located below element 36 and to the left of element 40 in Fig. 2 above is occupied and engaged with the primary surface of the flange comprised of the upper surface of elements 52 and 30). Note that the opening of the primary covering element of the present invention is not an opening into the cavity of the container, and being “located to engage” with the primary surface of the flange is interpreted as edges of the surfaces that comprise the platform being adjacent one

another, as no positive locking or attachment is achieved by Applicant's portion of the primary covering element and the primary surface of the flange. Therefore, the adjacent edges of element 36 and flange upper surface 52 shown in Fig. 3 above are considered to be located to "engage" one another in as much as is demonstrated by Applicant's original disclosure.

Claim Rejections - 35 USC § 103

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

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

24. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under pre-AIA 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

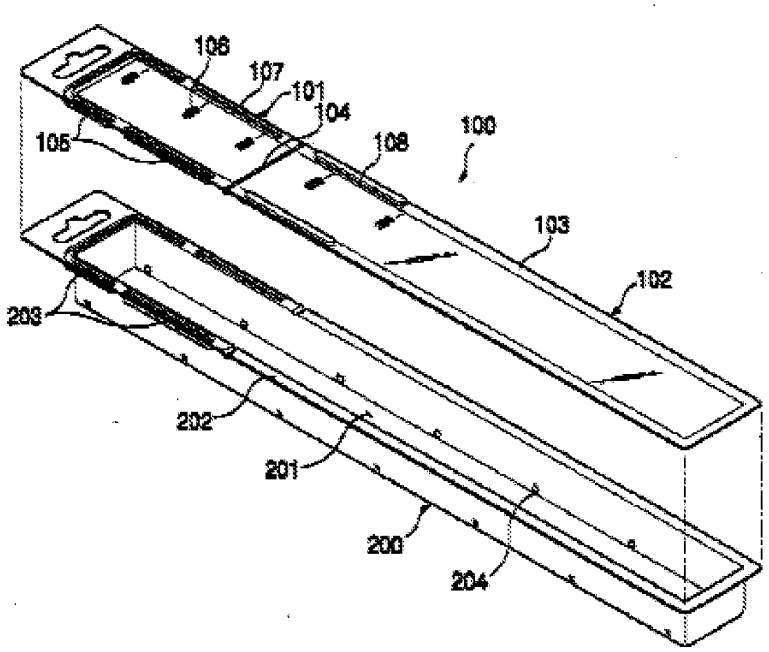
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

25. Claims 27, 28, and 29 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of Lee.

26. In re claims 27, 28, and 29, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein the lid is hinged to the base at one or more hinges, includes two or more parts and each part is hinged to the base, and wherein each hinge is located on one edge of its respective and the platform does not include that edge.

27. However, with reference to Fig. 2 below, Lee discloses a container wherein the lid (100) is hinged in two parts (101, 102), each of which is hinged to the base (hinge connects parts to the base at 104) and wherein the hinge is located on one edge of the lid (at 104) and the platform does not include that edge (passes through the middle of the lid of Lee).

[FIG. 2]



28. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lid of Bostrom to have been in two parts, both

hinged to the base as taught by Lee for the purposes of allowing portions of the lid to be opened without removing the lid entirely from the container thereby preventing misplacement of the lid portions and providing controlled egress of the contained product through one of the portions.

29. Claim 32 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of U.S. Patent No. 4,312,451 (Forbes, Jr. hereinafter).

30. In re claim 32, with reference to the Figs. above, Bostrom discloses the claimed invention except a hang sell aperture.

31. However, with reference to Fig. 4, Forbes, Jr. discloses a self standing tray with a hang sell aperture (40) which extends through a container flange (18) and a lid (38).

32. Therefore, it would have been obvious to one of ordinary skill in the art to have modified the container and lid of Bostrom to include a hang sell aperture as taught by Forbes, Jr. for the purposes of suspending the containers for display and allowing any graphics or contents of the container to be fully visible to a potential purchaser (column 4, lines 24-30).

33. Claim 39 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of U.S. PG Pub No. 2004/0226955 (Frantz hereinafter).

34. In re claim 39, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein in the closed position, the substantially planar platform comprises die-cut holes.

35. However, with reference to Fig. 1, Frantz discloses a closure for a container made of plastic which includes die-cut features including a hole (18) (paragraph 0016).

36. Therefore, it would have been obvious to one of ordinary skill in the art to have used die-cutting to form holes in the flange of Bostrom as taught by Frantz as a known process for the purposes of forming a hang tab (paragraph 0016-0017).

Response to Arguments

37. Applicant's arguments filed 6/6/2017 with respect to the claims have been considered are not persuasive.

38. Applicant argues on pages 8-9 of the Remarks that portion 36 of Bostrom is adjacent to the flange portion 52, but does not overlap. However, as currently interpreted in view of the present amendments, the enlarged portion made up of elements 52 and shoulder at 30, and therefore meets the claim since portion 36 clearly overlaps element 30. The rim portion of the flange is as denoted in Fig. 2 detail above. Note that the platform is transverse to the portion of the upper segment of the rim portion as currently interpreted in light of the amendments.

39. No further arguments are presented.

Conclusion

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

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, Fenn Mathew can be reached on 571-272-4978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/ANDREW T KIRSCH/
Primary Examiner, Art Unit 3781

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	443	"220".clas. and adhesive with label	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:11
S2	5	(tabone near2 maurice near2 joseph near2 paul).in.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
S3	10	("5405009" | "5636737" | "5893587" | "6352170" | "6540074").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
S4	18	"5636737"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:16
S5	2	"5893587".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:18
S6	15	("0563490" | "3505954" | "3650210" | "4573711").PN. OR ("5893587").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:20
S7	1	"6540074".pn.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:22
S8	37	("1743980" | "2984382" | "3556338" | "3592349" | "3682365" | "3718274" | "4202464" | "4256240" | "4290248" | "4334631" | "4373636" | "4408698" | "4444332" | "4570818" | "4574974" | "4706839" | "4719087" | "4834237" | "4886184" | "4933216" | "5273174" | "5368178" | "5405009" | "5507429" | "5540342" | "5762221" | "5772070" | "5829595" | "5866181" | "5866183" | "5897015").PN. OR ("6352170").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:25
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S10	78	("3344974").URPN.	USPAT	OR	ON	2011/10/04 10:39
S11	298	220/833	USPAT	OR	ON	2011/10/04 10:53
S12	294	220/826	USPAT	OR	ON	2011/10/04 11:11
S13	9	220/826 and label	USPAT	OR	ON	2011/10/04 11:11
S14	14	("3417897" | "4499353" | "5147035" | "5570856" | "5899334" | "6070723" | "6247590" | "6279746" | "6412637" | "D368027" | "D368028" | "D368029").PN. OR ("7258233").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 11:17
S15	18	("2780385" | "4193496" | "4202464" | "4724964" | "4986438" | "5699913" | "5964350" | "6007854" | "6053321" | "D305000" | "D411448" | "D473137" | "D531798" | "D598740").PN. OR ("D615858").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 14:00
S16	3	"20050082185"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 15:05
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S18	1379	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S20	240	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
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S22	358	"220".clas. and sealed with tape	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:27
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S24	5	("3495759" | "4969570" | "5115934" |	US-	OR	ON	2012/06/06

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		"5772623").PN. OR ("7762421").URPN.	PGPUB; USPAT; USOCR			11:29
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S28	505	"220".clas. and tape same (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S29	198	"220".clas. and tape with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S30	0	("1582489").URPN.	USPAT	OR	ON	2012/06/06 14:25
S31	3	("3096905").URPN.	USPAT	OR	ON	2012/06/06 14:31
S32	26	("0983883" | "1128076" | "1239183" | "3133669" | "3149743" | "3158282" | "3438533" | "3696963" | "3834579" | "4520942" | "4607759" | "4728003").PN. OR ("5174464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:06
S33	1579	"220".clas. and strip with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:23
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S35	312	220/833	USPAT	OR	ON	2012/06/07 12:31
S36	313	220/826	USPAT	OR	ON	2012/06/07 12:31
S37	2952	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:31
S39	1448	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:31
S41	263	220/745	US-	OR	ON	2012/06/07

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S46	7	("2210183").URPN.	USPAT	OR	ON	2014/02/18 11:57
S47	24	("1616625" | "2097073" | "2210183" | "3680733" | "3782331" | "5273354" | "5934472").PN. OR ("6010005").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 11:58
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S49	90	("1695286" | "2138241" | "2202279" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 12:03
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S51	22	("3495758").URPN.	USPAT	OR	ON	2014/02/18 12:21
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S54	74	220/315 and adhesive same (label tape film)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/18 12:38
S55	94	("1695286" | "2138241" | "2202279" | "2544975" | "2885135" | "3043354" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952" | "3902540" | "3942707" | "3955710" | "4096986" | "4202464" | "4312451" | "D165219" | "D258268").PN. OR ("4570818").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 12:44
S56	48	("3257062" | "3305086" | "4494650" | "4650076" | "4732273" | "4753366" | "4757899" | "4795080" | "4798133" | "4872608" | "4886204" | "5046659" | "5165947" | "5169014" | "5232094" | "5269430").PN. OR ("5405009").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 13:03
S57	2120	b65d55/0818.cpc. b65d55/06.cpc. b65d43/162.cpc. b65d43/163.cpc. b65d2203/02.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/20 14:06
S58	250	b65d2251/1016.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/20 14:14
S59	1	"220".clas. and produce and hang with sell	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
S60	390	"220".clas. and produce and hang	US-	OR	ON	2014/09/12

			PGPUB; USPAT; USOCR; EPO; JPO; DERWENT			17:20
S61	30	"220".clas. and produce and hang with (hole aperture)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
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S66	427	220/359.1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:12
S67	33	220/359.1 and (die with cut$4)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:13
S68	2	"8616373".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:24
S69	47	("20020195363" | "20080118609" | "20110290675" | "3111220" | "3279596" | "3327843" | "3464544" | "4083451" | "4266666" | "4319684" | "4456124" | "4666037" | "4739883" | "4842141" | "5092479" | "5129517" | "5209354" |	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 18:24

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S72	46	"220".clas. and (flange rim) with (die with cut$4) same (holes apertures slots)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:57
S73	24	"220".clas. and (flange rim) with (die with cut$4) with (holes apertures slots)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:57
S74	56	(US-20100001014-$ or US-20050082185-$ or US-20130062342-$ or US-20040226955-$).did. or (US-5893587-$ or US-6352170-$ or US-4202464-$ or US-3552634-$ or US-3561668-$ or US-4346833-$ or US-D615858-$ or US-D631337-$ or US-6129233-$ or US-6131760-$ or US-6170723-$ or US-6364100-$ or US-7258233-$ or US-4499353-$ or US-6412637-$ or US-7556173-$ or US-4193496-$ or US-7762421-$ or US-4969570-$ or US-7073309-$ or US-5174464-$ or US-5261551-$ or US-5433412-$ or US-4884718-$ or US-5704649-$ or US-6070723-$).did. or (US-5866183-$ or US-4570818-$ or US-5405009-$ or US-4005776-$ or US-4312451-$ or US-4209095-$ or US-5353935-$ or US-6016914-$ or US-4266666-$ or US-4739883-$ or US-4842141-$ or US-5129517-$).did. or (US-3082903-$ or US-3344974-$ or US-3417897-$ or US-2780385-$ or US-1582489-$ or US-3096905-$ or US-3129014-$ or US-1343955-$ or US-3182851-$ or US-1743980-$ or US-3397774-$ or US-3495758-$ or US-3327843-$).did. or (US-5405009-$).did.	US-PGPUB; USPAT; USOCR; DERWENT	OR	ON	2014/09/15 16:19

S75	19	S74 and transparent	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:19
S76	4	S74 and transparent and food	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:19
S77	2403	220/315	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S78	471	220/833	USPAT	OR	ON	2014/09/15 16:54
S79	390	220/826	USPAT	OR	ON	2014/09/15 16:54
S80	3568	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S81	1676	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
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S89	320	b65d2251/1016.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2017/06/15 11:39

EAST Search History (Interference)

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6/15/2017 1:39:25 PM
H:\Workspaces\12449556.wsp

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	**Art Unit**
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
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	5	✓	✓	✓	-	-	-	-		
	6	✓	✓	✓	-	-	-	-		
	7	✓	✓	✓	-	-	-	-		
	8	✓	✓	✓	-	-	-	-		
	9	✓	✓	✓	-	-	-	-		
	10	✓	✓	✓	-	-	-	-		
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	35				✓	✓	✓	✓		

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	**Art Unit**
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
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	40				✓	✓	✓	✓		
	41					✓	✓	✓		
	42					✓	✓	✓		
	43					✓	✓	✓		

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

CPC- SEARCHED		
Symbol	Date	Examiner
B65D 55/0818, 55/06, 43/162, 43/163, 2203/02, 2251/1016	6/15/2017	ATK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	833, 826, 359.1, 745, 315	9/12/2014	ATK
206	459.5, 1.5	9/12/2014	ATK

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Check	10/4/2011	ATK
EAST Search	10/4/2011	ATK
Updated EAST Search	6/7/2012	ATK
Updated EAST Search	2/18/2014	ATK
Updated EAST Search	9/12/2014	ATK
Updated EAST Search	10/20/2015	ATK
Updated EAST Search	8/2/2016	ATK
Updated EAST Search	6/15/2017	ATK

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 12/449,556 Confirmation No.: 5150
Applicant(s): Maurice Joseph Paul Tabone
Filed: August 12, 2009
Art Unit: 3781
Examiner: Andrew Thomas Kirsch
Title: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Docket No.: 063424/397974
Customer No.: 00826

Filed Via EFS-Web
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT UNDER 37 C.F.R. § 1.114

Sir:

In response to the Final Office Action dated August 11, 2016 and as a supplement to the response filed February 10, 2017, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims beginning on page 2 of this paper.

Remarks/Arguments begin on page 6 of this paper.

Amendments to the Claims:

1-22. (Cancelled)

23. (Currently amended) A container having**:**

a base **having a floor and at least one sidewall extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container; [[and]]**

a lid moveable with respect to the base between an open position and a closed position, ~~**the base having a floor and at least one sidewall extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container,**~~ the lid having a primary covering element to at least substantially span the opening when the container is in the closed position~~**, the container having; and**~~

at least one flange extending from the base and substantially outside a footprint of the interior cavity, wherein the at least one flange comprises at least a rim portion extending away from the base by a first distance and an enlarged portion extending away from the base by a second distance, wherein the second distance is greater than the first distance, the **enlarged portion of the** at least one flange having**:**

a primary surface facing generally away from the floor**;** and

an opposing secondary surface, wherein in the closed position a portion of the primary covering element of the lid and ~~**the primary surface of**~~ the enlarged portion of the at least one flange **overlap to** form a substantially planar platform disposed on a portion of an upper surface of the container, **wherein** the substantially planar platform **is oriented transverse to at least a portion of the rim portion and is [[being]]** suitable for attaching a single adhesive membrane to both the portion of the primary covering element and the primary surface of the enlarged portion of the at least one flange, the substantially planar platform having a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid~~**, and wherein the substantially planar platform is not planar with the rim portion**~~.

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24. (Previously Presented) The container of claim 23, wherein the primary surface of the at least one flange is a continuation of an internal surface of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container.

25. (Currently amended) The container of claim 23, wherein in the closed position the **substantially planar** platform is disposed at an oblique angle to the lid.

26. (Previously Presented) The container of claim 23, wherein the container is suitable to receive at least one of fresh food or produce.

27. (Currently amended) The container of claim 23, wherein the lid is hinged to the base **at one or more hinges**.

28. (Previously Presented) The container of claim 27, wherein the lid includes two or more parts and each part is hinged to the base.

29. (Previously Presented) The container of claim 28, wherein each hinge is located on one edge of its respective lid and the platform does not include that edge of the lid.

30. (Previously Presented) The container of claim 23, further comprising means for mechanically locking the lid to the base.

31. (Previously Presented) The container of claim 23, further comprising at least one of one or more ventilation holes, ribs, depressions, or recesses.

32. (Previously Presented) The container of claim 23, further comprising a hang sell aperture.

33. (Previously Presented) The container of claim 23, wherein in the closed position the adhesive membrane attaches to the substantially planar platform thereby creating a seal upon the

closed container between the primary covering element of the lid and the primary surface of the flange of the base.

34. (Previously Presented) The container of claim 33, wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on the lid.

35. (Previously Presented) The container of claim 23, further comprising the single adhesive membrane.

36. (Previously Presented) The container of claim 35, wherein the size of the adhesive membrane is larger than the substantially planar platform.

37. (Previously Presented) The container of claim 35, wherein the adhesive membrane is a self-adhesive label.

38. (Previously Presented) The container of claim 23, wherein the container comprises a plastic material.

39. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform comprises die-cut holes.

40. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform is external to the interior cavity and includes the continuation of the internal surface of the sidewall and at least a portion of an external surface side of the lid.

41. (Previously Presented) The container of claim 23, wherein in the closed position, the lid includes at least one convexly shaped portion extending upwardly in a direction generally away from the opening of the base.

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42. (Previously Presented) The container of claim 41, wherein the convexly shaped portion of the lid provides further capacity to the container in the closed position, beyond the internal cavity of the base.

43. (Previously Presented) The container of Claim 23, wherein in the closed position, the primary covering element of the lid includes at least one opening located to engage with the primary surface of the at least one flange of the base.

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REMARKS/ARGUMENTS

The present response is in response to the Office Action mailed August 11, 2016 and supplements the Amendments and Arguments filed February 10, 2017. Applicant respectfully requests reconsideration of the present application, withdrawal of the previously presented rejections, and formal notification of allowance of all pending claims in view of the preceding amendments and the following remarks.

I. Status of Claims

This Amendment is in response to the Office Action mailed August 11, 2016. The Office Action first rejected Claim 23 under 35 U.S.C. § 112, second paragraph, for being indefinite. The Office Action then rejected Claims 23-26, 30-31, 33-38, and 40-43 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,344,974 to Bostrom ("*Bostrom*"). The Office Action then rejected Claims 27-29 under 35 U.S.C. § 103(a) as being unpatentable over *Bostrom*, and further in view of U.S. Patent Pub. No. 2005/0082185 to Lee ("*Lee*"). Claim 32 was then rejected over *Bostrom*, and further in view of U.S. Patent No. 4,312,451 to Forbes, Jr. ("*Forbes*"). The Office Action concluded by rejecting Claim 39 over *Bostrom*, and further in view of U.S. Patent Pub. No. 2004/0226955 to Frantz ("*Frantz*").

For the Examiner's reference, further to the Amendments filed February 10, 2017, Claim 23, 25, and 27 are amended herein. No new matter is introduced by way of these amendments and entry is respectfully requested.

II. Rejections under § 112

At page 2 of the Office Action, the Office Action asserts that Claim 23 is indefinite. In particular, the Office Action asserts that the limitation "the primary surface of the enlarged portion" lacks antecedent basis. As outlined in the Amendments and Remarks filed on February 10, 2017, Claim 23 to recites that the "enlarged portion of the at least one flange" has "a primary surface." Applicant submits that the term "the primary surface of the enlarged portion of the at least one flange" has proper antecedent basis. Accordingly, Applicant respectfully submits that

this rejection has been overcome and requests withdrawal of the same.

III. Rejection of Independent Claim 23

In the Office Action dated August 11, 2016, independent 23 was rejected as being anticipated by *Bostrom*. Although Applicant does not necessarily agree with this rejection, as outlined in the Amendments and Remarks filed February 10, 2017, Claim 23 recites at least that "in the closed position a portion of the primary covering element of the lid and the enlarged portion of the at least one flange **overlap to** form a substantially planar platform disposed on a portion of an upper surface of the container, wherein the substantially planar platform **is oriented transverse to at least a portion of the rim portion**."

As shown in FIGS. 18 and 19 of the present application, which are reproduced below, the lid 104 includes an extension 106 which is inclined upwardly from the lid 104:

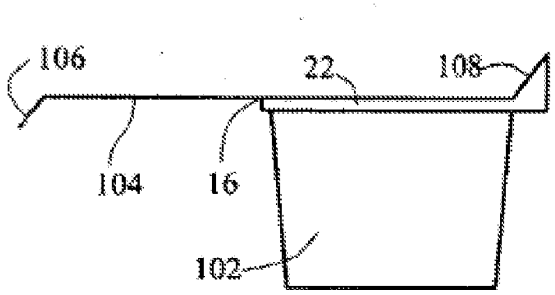


FIGURE 18

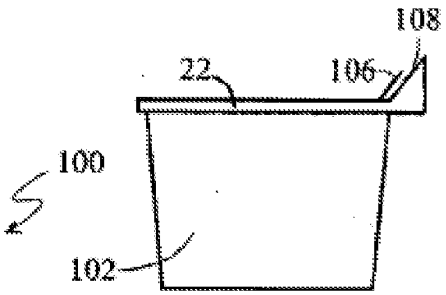


FIGURE 19

FIGS. 18 and 19 of the present application

The base 102 of the container includes a rim 22 that has an extension 108 that extends outward and upward from the rim 22 (para. [0082]). As can be seen in FIG. 19 above, the extension 106 of the lid 104 and the extension 108 of the rim 22 form a substantially planar platform that is oriented transverse to the rim 22, extending upward in the vertical direction. Furthermore, as seen in FIG. 19 and as described in para. [0022] of the present application as originally filed, a first planar area of the lid and a second planar area of the rim (shown as extensions 106 and 108, respectively, in the embodiment depicted in FIG. 19) may overlap to form the substantially

planar platform. By overlapping the planar area of the lid and the planar area of the rim, the rim and the lid may act to seal the container.

In the present Office Action, the Examiner asserts that a flange portion 52 shown in FIG. 2 of *Bostrom* (reproduced below with an annotated version of FIG. 2), is analogous to the enlarged portion recited in Claim 23.

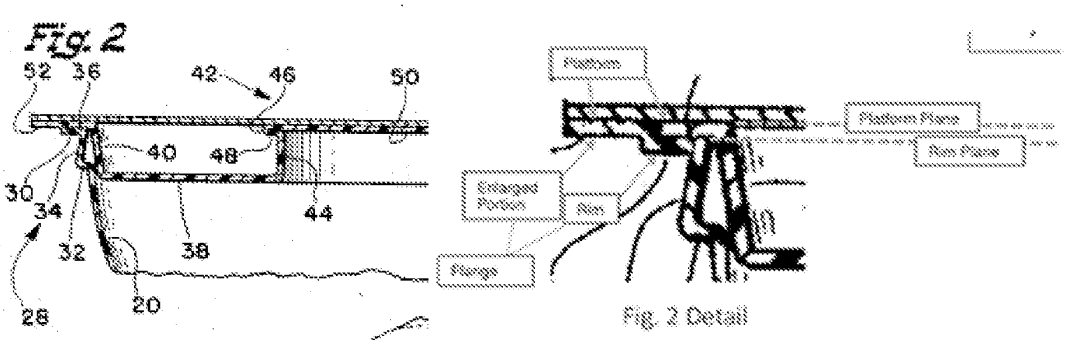


FIG. 2 of *Bostrom* Annotated FIG. 2 of *Bostrom*

Specifically, the Examiner asserts that *Bostrom*, as shown in the annotated version of FIG. 2, discloses a rim extending away from a base portion by a first distance, and an enlarged portion extending away from the base portion by a second distance that is greater than the first distance. Further, as shown above in the annotated version of FIG. 2, the Examiner asserts that *Bostrom* discloses a substantially planar platform that is not planar with the rim portion.

However, the rim portion 36 of the sealing cover 16 of *Bostrom*, which the Examiner asserts is analogous to the primary covering element recited in claim 23, appears to be **adjacent** to the flange portion, 52, which the Examiner asserts is analogous to the enlarged portion recited in claim 23, and the components do not **overlap**. Accordingly, Applicant submits that the rim portion 36 and the flange portion 52 of *Bostrom* are not analogous to the primary covering element of the lid and the enlarged portion of the at least one flange that "**overlap to** form a substantially planar platform," as recited in Claim 23.

Furthermore, while FIG. 2. of *Bostrom* appears to show a plane formed by the substantially planar platform that is parallel to a plane formed by the rim portion (when viewing the components the Examiner asserts are analogous to the substantially planar platform and the rim portion), no component of *Bostrom* that could be considered analogous to the substantially

planar platform is **oriented transverse** to any portion of *Bostrom* that could be considered analogous to the rim portion recited in Claim 23. As such, Applicant submits that while *Bostrom* appears to show a rim portion and a sealing cover, *Bostrom* does not expressly or inherently disclose a lid that when closed, "a portion of the primary covering element of the lid and the enlarged portion of the at least one flange **overlap to** form a substantially planar platform disposed on a portion of an upper surface of the container, **wherein** the substantially planar platform **is oriented transverse to at least a portion of the rim portion**," as recited in Claim 23.

Accordingly, for at least these reasons, Applicant respectfully submits that this rejection of Claim 23 has been overcome and requests withdrawal of the same and issuance of a Notice of Allowance.

IV. Rejections of Dependent Claims 24-43

With respect to the various rejections of dependent Claims 24-43, the patentability of independent Claim 23, from which these claims depend, has been argued as set forth above, and thus Applicant will not take this opportunity to argue the merits of the rejections with regard to the dependent claims. However, Applicant does not concede that these dependent claims are not independently patentable and reserves the right to argue the patentability of these claims at a later date, if necessary.

V. Conclusion

In view of at least the foregoing amendments and remarks, Applicant submits that the pending claims are now in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Brian M. Bonner/

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Registration No. 67,210

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON June 6, 2017.

Electronic Acknowledgement Receipt

EFS ID:	29404459
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Brian Matthew Bonner/Grace Caffey
Filer Authorized By:	Brian Matthew Bonner
Attorney Docket Number:	063424/397974
Receipt Date:	06-JUN-2017
Filing Date:	12-AUG-2009
Time Stamp:	10:19:27
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		2017-06-06_397974_SupplementalResponse.pdf	187899 4cc47bd48ed8e4e78042846ace36eece8a6e7a77	yes	10

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Supplemental Response or Supplemental Amendment	1	1
	Claims	2	5
	Applicant Arguments/Remarks Made in an Amendment	6	10
Warnings:			
Information:			
	Total Files Size (in bytes):	187899	

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New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.
National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.
New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	12449556	Filing Date	2009-08-12	Docket Number (if applicable)	063424/397974	Art Unit	3781
First Named Inventor	Maurice Joseph Paul Tabone			Examiner Name	ANDREW THOMAS KIRSCH		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

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

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

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

☐ Other _____

☒ Enclosed

☒ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☒ Other Extension of Time

MISCELLANEOUS

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

☐ Other _____

FEES

☒ **The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 160605

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

X Patent Practitioner Signature

Applicant Signature

PTO/SB/30EFS (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Signature of Registered U.S. Patent Practitioner			
Signature	/Brian M. Bonner/	Date (YYYY-MM-DD)	2017-02-10
Name	Brian M. Bonner	Registration Number	67210

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

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 inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Patent Application Fee Transmittal

Application Number:	12449556
Filing Date:	12-Aug-2009
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Filer:	Brian Matthew Bonner/Melissa Mitchell
Attorney Docket Number:	063424/397974

Filed as Small Entity

Filing Fees for U.S. National Stage under 35 USC 371

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
RCE- 2ND AND SUBSEQUENT REQUEST	2820	1	850	850
		Total in USD ($)		**1550**

Electronic Acknowledgement Receipt	
EFS ID:	28326670
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Brian Matthew Bonner/Melissa Mitchell
Filer Authorized By:	Brian Matthew Bonner
Attorney Docket Number:	063424/397974
Receipt Date:	10-FEB-2017
Filing Date:	12-AUG-2009
Time Stamp:	16:34:36
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$1550
RAM confirmation Number	021317INTEFSW00003301160605
Deposit Account	
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Extension of Time	2017-02-10_397974_EOT.pdf	200862 56f2baba9582cacd467bc1edeff986166a435991	no	2
Warnings:					
Information:					
2		2017-02-10_397974_Amendment.pdf	187508 248f1be29526266e1f9cebef00641a88f05732a9	yes	10

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Applicant Arguments/Remarks Made in an Amendment	6	10
	Claims	2	5
	Amendment Submitted/Entered with Filing of CPA/RCE	1	1

Warnings:					
Information:					
3	Request for Continued Examination (RCE)	2017-02-10_397974_RCE.pdf	829741 3a96a7bb3f769ed1af218404c08e26f77e6e6845	no	3
Warnings:					
Information:					
4	Fee Worksheet (SB06)	fee-info.pdf	32773 30262ae08fe74aeff5381a0d8b31dbb15f35c665	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	1250884		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

PTO/SB/22 (03-13)
Approved for use through 3/31/2013. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional): 063424/397974

Application Number: 12/449,556

Filed: August 12, 2009

For: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Art Unit: 3781

Examiner: ANDREW THOMAS KIRSCH

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	Micro Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$200	$100	$50	$
☐	Two months (37 CFR 1.17(a)(2))	$600	$300	$150	$
☑	Three months (37 CFR 1.17(a)(3))	$1,400	$700	$350	$ 700
☐	Four months (37 CFR 1.17(a)(4))	$2,200	$1,100	$550	$
☐	Five months (37 CFR 1.17(a)(5))	$3,000	$1,500	$750	$

☑ Applicant asserts small entity status. See 37 CFR 1.27.

☐ Applicant certifies micro entity status. See 37 CFR 1.29.
Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☑ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 160605.

☑ Payment made via EFS-Web.

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

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. 37 CFR 3.73(b) statement is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration number 67,210.

☐ attorney or agent acting under 37 CFR 1.34. Registration number _____.

/Brian M. Bonner/ — Signature

2017-02-10 — Date

Brian M. Bonner — Typed or printed name

(404) 881-4693 — Telephone Number

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.

☑ * Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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.

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of the present application, withdrawal of the previously presented rejections, and formal notification of allowance of all pending claims in view of the preceding amendments and the following remarks.

I. Status of Claims

This Amendment is in response to the Office Action mailed August 11, 2016. The Office Action first rejected Claim 23 under 35 U.S.C. § 112, second paragraph, for being indefinite. The Office Action then rejected Claims 23-26, 30-31, 33-38, and 40-43 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,344,974 to Bostrom ("*Bostrom*"). The Office Action then rejected Claims 27-29 under 35 U.S.C. § 103(a) as being unpatentable over *Bostrom*, and further in view of U.S. Patent Pub. No. 2005/0082185 to Lee ("*Lee*"). Claim 32 was then rejected over *Bostrom*, and further in view of U.S. Patent No. 4,312,451 to Forbes, Jr. ("*Forbes*"). The Office Action concluded by rejecting Claim 39 over *Bostrom*, and further in view of U.S. Patent Pub. No. 2004/0226955 to Frantz ("*Frantz*").

For the Examiner's reference, Claims 23, 25, and 27 are amended herein. Thus, following this Amendment, Claims 23-43 are pending in the present application.

II. Rejections under § 112

At page 2 of the Office Action, the Office Action asserts that Claim 23 is indefinite. In particular, the Office Action asserts that the limitation "the primary surface of the enlarged portion" lacks antecedent basis. In response, Applicant has herein has amended Claim 23 to recite that the "enlarged portion of the at least one flange" has "a primary surface." Applicant submits that the term "the primary surface of the enlarged portion of the at least one flange" has proper antecedent basis. Accordingly, Applicant respectfully submits that this rejection has been overcome and requests withdrawal of the same.

III. Rejection of Independent Claim 23

In the Office Action dated August 11, 2016, independent 23 was rejected as being anticipated by *Bostrom*. Although Applicant does not necessarily agree with this rejection, Applicant has, in the interest of facilitating examination of the present application, amended Claim 23 to further recite at least that "in the closed position a portion of the primary covering element of the lid and the primary surface of enlarged portion of the at least one flange **overlap to** form a substantially planar platform disposed on a portion of an upper surface of the container, **wherein** the substantially planar platform **is oriented transverse to the rim portion**."

As shown in FIGS. 18 and 19 of the present application, which are reproduced below, the lid 104 includes an extension 106 which is inclined upwardly from the lid 104:

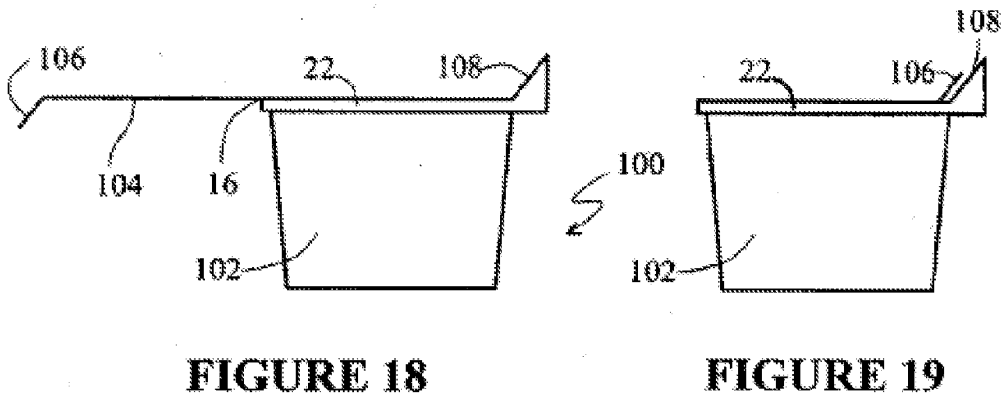


FIGURE 18 **FIGURE 19**

FIGS. 18 and 19 of the present application

The base 102 of the container includes a rim 22 that has an extension 108 that extends outward and upward from the rim 22 (para. [0082]). As can be seen in FIG. 19 above, the extension 106 of the lid 104 and the extension 108 of the rim 22 form a substantially planar platform that is oriented transverse to the rim 22, extending upward in the vertical direction. Furthermore, as seen in FIG. 19 and as described in para. [0022] of the present application as originally filed, a first planar area of the lid and a second planar area of the rim (shown as extensions 106 and 108, respectively, in the embodiment depicted in FIG. 19) may overlap to form the substantially planar platform. By overlapping the planar area of the lid and the planar area of the rim, the rim and the lid may act to seal the container.

In the present Office Action, the Examiner asserts that a flange portion 52 shown in FIG. 2 of *Bostrom* (reproduced below with an annotated version of FIG. 2), is analogous to the enlarged portion recited in Claim 23.

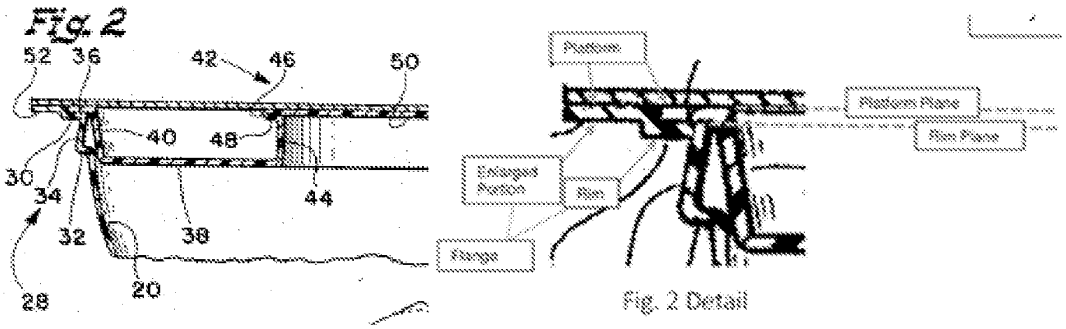


FIG. 2 of *Bostrom* Annotated FIG. 2 of *Bostrom*

Specifically, the Examiner asserts that *Bostrom*, as shown in the annotated version of FIG. 2, discloses a rim extending away from a base portion by a first distance, and an enlarged portion extending away from the base portion by a second distance that is greater than the first distance. Further, as shown above in the annotated version of FIG. 2, the Examiner asserts that *Bostrom* discloses a substantially planar platform that is not planar with the rim portion.

However, the rim portion 36 of the sealing cover 16 of *Bostrom*, which the Examiner asserts is analogous to the primary covering element recited in claim 23, appears to be **adjacent** to the flange portion, 52, which the Examiner asserts is analogous to the enlarged portion recited in claim 23, and the components do not **overlap**. Accordingly, Applicant submits that the rim portion 36 and the flange portion 52 of *Bostrom* are not analogous to the primary covering element of the lid and the primary surface of the enlarged portion of the at least one flange that "**overlap to** form a substantially planar platform," as recited in Claim 23.

Furthermore, while FIG. 2. of *Bostrom* appears to show a plane formed by the substantially planar platform that is parallel to a plane formed by the rim portion (when viewing the components the Examiner asserts are analogous to the substantially planar platform and the rim portion), no component of *Bostrom* that could be considered analogous to the substantially planar platform is **oriented transverse** to any portion of *Bostrom* that could be considered analogous to the rim portion recited in Claim 23. As such, Applicant submits that while *Bostrom*

appears to show a rim portion and a sealing cover, *Bostrom* does not expressly or inherently disclose a lid that when closed, "a portion of the primary covering element of the lid and the primary surface of enlarged portion of the at least one flange **overlap to** form a substantially planar platform disposed on a portion of an upper surface of the container, **wherein** the substantially planar platform **is oriented transverse to the rim portion**," as recited in Claim 23.

Accordingly, for at least these reasons, Applicant respectfully submits that this rejection of Claim 23 has been overcome and requests withdrawal of the same and issuance of a Notice of Allowance.

IV. Rejections of Dependent Claims 24-43

With respect to the various rejections of dependent Claims 24-43, the patentability of independent Claim 23, from which these claims depend, has been argued as set forth above, and thus Applicant will not take this opportunity to argue the merits of the rejections with regard to the dependent claims. However, Applicant does not concede that these dependent claims are not independently patentable and reserves the right to argue the patentability of these claims at a later date, if necessary.

V. Conclusion

In view of at least the foregoing amendments and remarks, Applicant submits that the pending claims are now in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

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Hartmann US Inc. et al v. Maurice J.P. Tabone

Respectfully submitted,

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Amendments to the Claims:

1-22. (Cancelled)

23. (Currently amended) A container having**:**

a base **having a floor and at least one sidewall extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container; [[and]]**

a lid moveable with respect to the base between an open position and a closed position, ~~**the base having a floor and at least one sidewall extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container,**~~ the lid having a primary covering element to at least substantially span the opening when the container is in the closed position~~**, the container having; and**~~

at least one flange extending from the base and substantially outside a footprint of the interior cavity, wherein the at least one flange comprises at least a rim portion extending away from the base by a first distance and an enlarged portion extending away from the base by a second distance, wherein the second distance is greater than the first distance, the **enlarged portion of the** at least one flange having**:**

a primary surface facing generally away from the floor**;** and

an opposing secondary surface, wherein in the closed position a portion of the primary covering element of the lid and the primary surface of the enlarged portion of the at least one flange **overlap to** form a substantially planar platform disposed on a portion of an upper surface of the container, **wherein** the substantially planar platform **is oriented transverse to the rim portion and is [[being]]** suitable for attaching a single adhesive membrane to both the portion of the primary covering element and the primary surface of the enlarged portion of the at least one flange, the substantially planar platform having a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid~~**, and wherein the substantially planar platform is not planar with the rim portion**~~.

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24. (Previously Presented) The container of claim 23, wherein the primary surface of the at least one flange is a continuation of an internal surface of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container.

25. (Currently amended) The container of claim 23, wherein in the closed position the **substantially planar** platform is disposed at an oblique angle to the lid.

26. (Previously Presented) The container of claim 23, wherein the container is suitable to receive at least one of fresh food or produce.

27. (Currently amended) The container of claim 23, wherein the lid is hinged to the base **at one or more hinges**.

28. (Previously Presented) The container of claim 27, wherein the lid includes two or more parts and each part is hinged to the base.

29. (Previously Presented) The container of claim 28, wherein each hinge is located on one edge of its respective lid and the platform does not include that edge of the lid.

30. (Previously Presented) The container of claim 23, further comprising means for mechanically locking the lid to the base.

31. (Previously Presented) The container of claim 23, further comprising at least one of one or more ventilation holes, ribs, depressions, or recesses.

32. (Previously Presented) The container of claim 23, further comprising a hang sell aperture.

33. (Previously Presented) The container of claim 23, wherein in the closed position the adhesive membrane attaches to the substantially planar platform thereby creating a seal upon the

closed container between the primary covering element of the lid and the primary surface of the flange of the base.

34. (Previously Presented) The container of claim 33, wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on the lid.

35. (Previously Presented) The container of claim 23, further comprising the single adhesive membrane.

36. (Previously Presented) The container of claim 35, wherein the size of the adhesive membrane is larger than the substantially planar platform.

37. (Previously Presented) The container of claim 35, wherein the adhesive membrane is a self-adhesive label.

38. (Previously Presented) The container of claim 23, wherein the container comprises a plastic material.

39. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform comprises die-cut holes.

40. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform is external to the interior cavity and includes the continuation of the internal surface of the sidewall and at least a portion of an external surface side of the lid.

41. (Previously Presented) The container of claim 23, wherein in the closed position, the lid includes at least one convexly shaped portion extending upwardly in a direction generally away from the opening of the base.

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42. (Previously Presented) The container of claim 41, wherein the convexly shaped portion of the lid provides further capacity to the container in the closed position, beyond the internal cavity of the base.

43. (Previously Presented) The container of Claim 23, wherein in the closed position, the primary covering element of the lid includes at least one opening located to engage with the primary surface of the at least one flange of the base.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	12/449,556	Confirmation No.: 5150
Applicant(s):	Maurice Joseph Paul Tabone	
Filed:	August 12, 2009	
Art Unit:	3781	
Examiner:	Andrew Thomas Kirsch	
Title:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE	

Docket No.: 063424/397974
Customer No.: 00826

Filed Via EFS-Web
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT UNDER 37 C.F.R. § 1.114

Sir:

In response to the Final Office Action dated August 11, 2016, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims beginning on page 2 of this paper.

Remarks/Arguments begin on page 6 of this paper.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/449,556	Filing Date 08/12/2009	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT	02/10/2017	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 21	Minus	** 21	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X $210 =	0
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	0

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
CHERYL CLARK

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	063424/397974	5150

826 7590 08/11/2016

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CHARLOTTE, NC 28280-4000

EXAMINER	
KIRSCH, ANDREW THOMAS	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
08/11/2016	ELECTRONIC

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

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

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

usptomail@alston.com

Office Action Summary	Application No. 12/449,556	Applicant(s) TABONE, MAURICE JOSEPH PAUL	
	Examiner ANDREW T. KIRSCH	Art Unit 3781	AIA (First Inventor to File) Status No

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☐ Responsive to communication(s) filed on _____.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ 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.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *23-43* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *23-43* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, 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.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

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)).

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

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

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

2. The amendments filed 4/27/2016 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of 35 U.S.C. 112(b):

> (b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

> The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:
> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 23 is rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor, or for pre-AIA the applicant regards as the invention.

5. Claim 23 recites the limitation "the primary surface of the enlarged portion". There is insufficient antecedent basis for this limitation in the claim since the primary surface has previously been identified as being part of the flange, but not specifically part of the enlarged portion of the flange.

Claim Rejections - 35 USC § 102

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

> A person shall be entitled to a patent unless –

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

7. Claims 23-26, 30, 31, 33-38 and 40-43 are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Bostrom.

8. In re claim 23, with reference to Figs. 1 and 2, Bostrom discloses: A container (10) having a base (12) and a lid (14) moveable with respect to the base between an open position (fig. 1) and a closed position (fig. 2), the base having a floor (18) and at least one sidewall (20) extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container, the lid having a primary covering element (36, 38, and 40) to at least substantially span the opening when the container is in the closed position (see Fig. 2, the inner edge of element 36 where it meets surface 40 is above the opening, and therefore is considered to span the opening, along with the entirety of element 38), the container having at least one flange (22) extending from the base and substantially outside a footprint of the interior cavity, wherein the at least one flange comprises at least a rim portion extending away from the base by a first distance and an enlarged portion extending away from the base by a second distance, wherein the second distance is greater than the first distance (enlarged portion extends further away from the base further than the rim, see Fig. 2 detail below), the at least one flange having a primary surface (top-most surface of 52) facing generally away from the floor and an opposing secondary surface (bottom surface of 52), wherein in the closed position a portion of the primary covering element (portion of 36 in detail of Fig. 3 below) of the lid and the primary surface of the enlarged

portion of the at least one flange form a substantially planar platform disposed on a portion of an upper surface of the container, the substantially planar platform being suitable for attaching a single adhesive membrane (16) to both the portion of the primary covering element and the primary surface of the enlarged portion of the at least one flange, the substantially planar platform having a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid (see Fig. 3 detail below, the perimeter of the platform made by the primary surface and portion of the primary covering element is smaller than the internal boundary of the opening measured internal of 32 and outer perimeter of the lid around 14 as shown), and wherein the substantially planar platform is not planar with the rim portion (the platform and rim exist in different planes, see fig 2 detail below). Note that Applicant's Specification as originally filed does not refer to any "perimeter" or "platform" by name, and the support for the limitations which can found in Applicant's original Fig.'s 2, 15, and 23 for example show that the platform can occupy any arbitrary amount of shared surface area made up of each of the primary surface of the flange and "portion" of the primary covering element as long as the perimeter of the platform is "substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid"; such shared platform perimeter formed by adjacent surface areas as anticipated by Bostrom is shown in Fig. 3 Detail below.

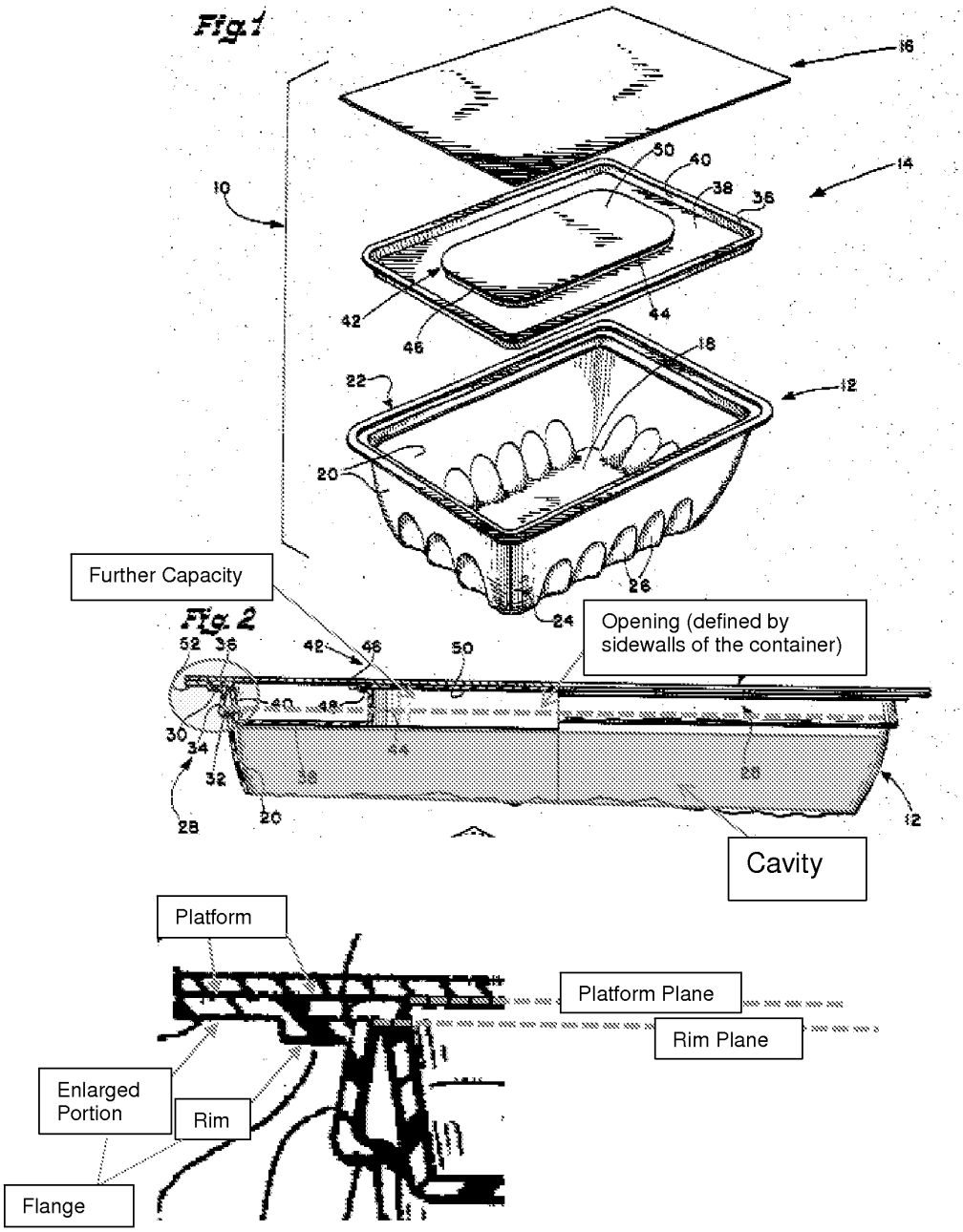

Fig. 1
16
14
10
50
40
38
36
42
46
44
18
22
12
20
26
24
Further Capacity
Opening (defined by sidewalls of the container)
Fig. 2
52
36
42
46
50
40
48
30
34
32
28
20
12
Cavity
Platform
Platform Plane
Rim Plane
Enlarged Portion
Rim
Flange

Fig. 2 Detail

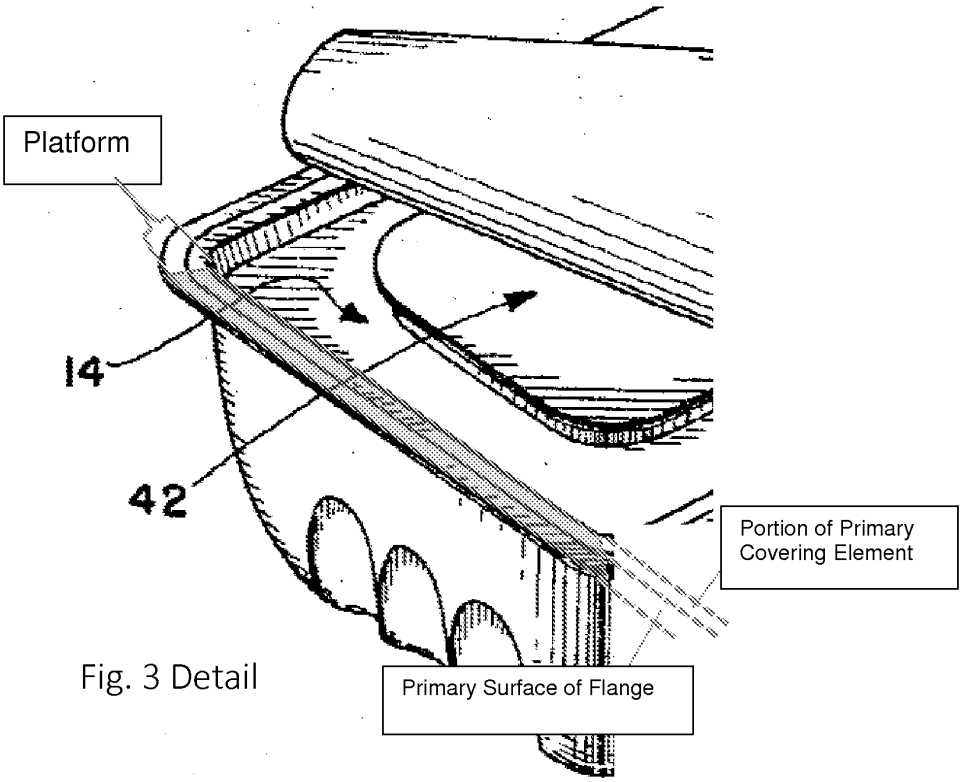


Fig. 3 Detail

9. In re claim 24, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the primary surface of the at least one flange is a continuation of an internal surface (at 34) of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container (see Fig. 2 above).

10. In re claim 25, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position the platform is disposed at an oblique angle to the lid (the platform is oblique to the surface 40 of the lid).

11. In re claim 26, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the container is suitable to receive fresh food (column 2, lines 43-48).

12. In re claim 30, with reference to the Figs. above, Bostrom discloses the claimed invention including means for mechanically locking the lid to the base.

13. With regards to the "means for mechanical locking", this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 4, lines 7-10, the "means for mechanical locking" is not shown in the Applicant's drawings, Bostrom discloses one projection (36) receivable in a recess (formed above 30) which locks the lid against lateral movement from freeing the lid from the container. The projection of Bostrom and the locking means are considered to be an equivalent to applicant's means for mechanical locking because it performs the same function in substantially the same way and produces substantially the same result (preventing removal in a direction of movement of the lid) as the corresponding element in applicant's specification. See MPEP 2183.

14. In re claim 31, with reference to the Figs. above, Bostrom discloses the claimed invention including at least one recess (above 30).

15. In re claim 33, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position the adhesive membrane (16) attaches to the substantially planar platform thereby creating a seal upon the closed container between the primary covering element (36) of the lid and the primary surface of the flange of the base (column 5, lines 24-34).

16. In re claim 34, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on

the lid (note that this opening is inherently possible by peeling the membrane from all but one primary surface edge of the container and lifting the lid to the open position).

17. In re claim 35, with reference to the Figs. above, Bostrom discloses the claimed invention including the single adhesive membrane (16 is considered a single adhesive membrane in that it is heat-sealed to the platform, which causes the membrane to adhere to the platform).

18. In re claim 36, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the size of the adhesive membrane is larger than the substantially planar platform (the surface area of the membrane is larger than the surface area of the platform, see Fig. 1 above).

19. In re claim 37, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the adhesive membrane is a self-adhesive label (the molten membrane material created during heat sealing is considered to be a heat-activated adhesive, a label is not required by the claims to have any specific indicia, color, or shape) (see column 5, lines 68-73).

20. In re claim 38, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the container comprises a plastic material (column 3, lines 11-12).

21. In re claim 40, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the substantially planar platform is external to the interior cavity (See Fig. 2 above) and includes the continuation of the

internal surface (34) of the sidewall and at least a portion of an external surface side (40) of the lid.

22. In re claim 41, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the lid includes at least one convexly shaped portion (knob 42) extending upwardly in a direction generally away from the opening of the base (see Fig. 2).

23. In re claim 42, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the convexly shaped portion (42) of the lid provides further capacity to the container in the closed position, beyond the internal cavity of the base (see Fig. 2).

24. In re claim 43, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the primary covering element of the lid includes at least one opening located to engage with the primary surface of the at least one flange of the base (an opening located below element 36 and to the left of element 40 in Fig. 2 above is occupied and engaged with the primary surface of the flange comprised of the upper surface of elements 52 and 30). Note that the opening of the primary covering element of the present invention is not an opening into the cavity of the container, and being “located to engage” with the primary surface of the flange is interpreted as edges of the surfaces that comprise the platform being adjacent one another, as no positive locking or attachment is achieved by Applicant's portion of the primary covering element and the primary surface of the flange. Therefore, the adjacent edges of element 36 and flange upper surface 52 shown in Fig. 3 above are considered

to be located to "engage" one another in as much as is demonstrated by Applicant's original disclosure.

Claim Rejections - 35 USC § 103

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

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

26. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under pre-AIA 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

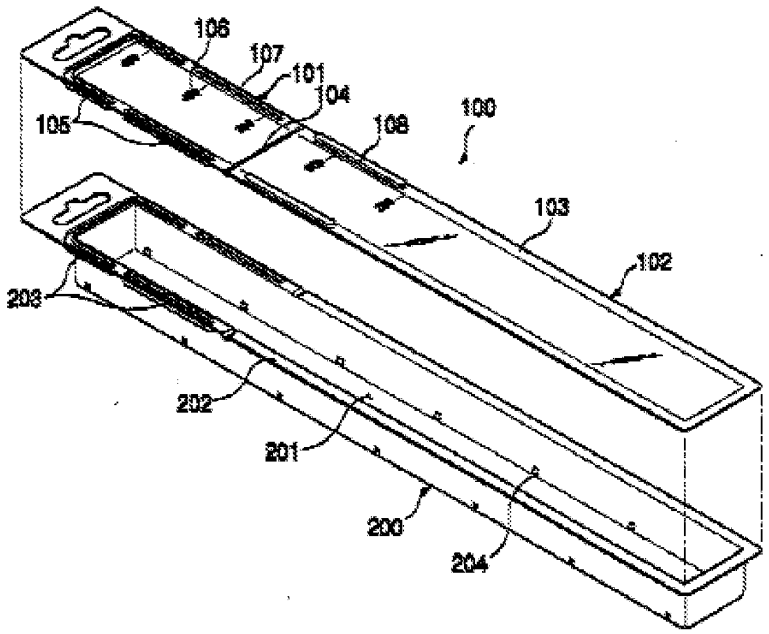
27. Claims 27, 28, and 29 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of Lee.

28. In re claims 27, 28, and 29, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein the lid is hinged to the base, includes two or more

parts and each part is hinged to the base, and wherein each hinge is located on one edge of its respective and the platform does not include that edge.

29. However, with reference to Fig. 2 below, Lee discloses a container wherein the lid (100) is hinged in two parts (101, 102), each of which is hinged to the base (at 104) and wherein the hinge is located on one edge of the lid (at 104) and the platform does not include that edge (passes through the middle of the lid of Lee).

[FIG. 2]



30. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lid of Bostrom to have been in two parts, both hinged to the base as taught by Lee for the purposes of allowing portions of the lid to be opened without removing the lid entirely from the container thereby preventing misplacement of the lid portions and providing controlled egress of the contained product through one of the portions.

31. Claim 32 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of U.S. Patent No. 4,312,451 (Forbes, Jr. hereinafter).

32. In re claim 32, with reference to the Figs. above, Bostrom discloses the claimed invention except a hang sell aperture.

33. However, with reference to Fig. 4, Forbes, Jr. discloses a self standing tray with a hang sell aperture (40) which extends through a container flange (18) and a lid (38).

34. Therefore, it would have been obvious to one of ordinary skill in the art to have modified the container and lid of Bostrom to include a hang sell aperture as taught by Forbes, Jr. for the purposes of suspending the containers for display and allowing any graphics or contents of the container to be fully visible to a potential purchaser (column 4, lines 24-30).

35. Claim 39 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of U.S. PG Pub No. 2004/0226955 (Frantz hereinafter).

36. In re claim 39, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein in the closed position, the substantially planar platform comprises die-cut holes.

37. However, with reference to Fig. 1, Frantz discloses a closure for a container made of plastic which includes die-cut features including a hole (18) (paragraph 0016).

38. Therefore, it would have been obvious to one of ordinary skill in the art to have used die-cutting to form holes in the flange of Bostrom as taught by Frantz as a known process for the purposes of forming a hang tab (paragraph 0016-0017).

Response to Arguments

39. Applicant's arguments filed 4/27/2016 with respect to the claims have been considered are not persuasive.

40. Applicant argues on pages 6-7 of the Remarks that the area denoted as the platform by the Examiner in Fig. 3 Detail is an arbitrary portion of the container. However, as in re claim 23 above and in the previous rejection, the term "platform" is not found anywhere in the original specification, such that the only definition thereof is provided by the claims, which describe the platform as being formed by "a portion of the primary covering element of the lid and the primary surface of the enlarged portion of the at least one flange". Examiner has kindly pointed out where that "portion" exists on the invention of Bostrom. Applicant has not claimed any specific boundaries for the claimed portion, and therefore, Examiner has highlighted the "portion" of Bostrom which meet the limitations which are claimed.

41. Applicant argues on page 8 of the Remarks that the planar platform of Bostrom is planar with the rim portion. However, see in re claim 23 above, where it is shown that the platform and rim portion of Bostrom do not occupy the same plane, and therefore meet the claimed limitations.

Conclusion

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

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

43. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fenn Mathew can be reached on 571-272-4978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/ANDREW T KIRSCH/
Examiner, Art Unit 3781

/FENN MATHEW/
Supervisory Patent Examiner, Art Unit 3781

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	10/05/2011	06/07/2012	02/18/2014	09/15/2014	10/20/2015	08/02/2016			
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	2	✓	✓	✓	-	-	-			
	3	-	-	-	-	-	-			
	4	✓	✓	✓	-	-	-			
	5	✓	✓	✓	-	-	-			
	6	✓	✓	✓	-	-	-			
	7	✓	✓	✓	-	-	-			
	8	✓	✓	✓	-	-	-			
	9	✓	✓	✓	-	-	-			
	10	✓	✓	✓	-	-	-			
	11	-	-	-	-	-	-			
	12	✓	✓	✓	-	-	-			
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	34				✓	✓	✓			
	35				✓	✓	✓			

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	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	**Art Unit**
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=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
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	37				✓	✓	✓			
	38				✓	✓	✓			
	39				✓	✓	✓			
	40				✓	✓	✓			
	41					✓	✓			
	42					✓	✓			
	43					✓	✓			

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

CPC- SEARCHED		
Symbol	Date	Examiner
B65D 55/0818, 55/06, 43/162, 43/163, 2203/02, 2251/1016	8/2/2016	ATK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	833, 826, 359.1, 745, 315	9/12/2014	ATK
206	459.5, 1.5	9/12/2014	ATK

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Check	10/4/2011	ATK
EAST Search	10/4/2011	ATK
Updated EAST Search	6/7/2012	ATK
Updated EAST Search	2/18/2014	ATK
Updated EAST Search	9/12/2014	ATK
Updated EAST Search	10/20/2015	ATK
Updated EAST Search	8/2/2016	ATK

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

EAST Search History

EAST Search History (Prior Art)

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L2	3042	b65d55/0818.cpc. b65d55/06.cpc. b65d43/162.cpc. b65d43/163.cpc. b65d2203/02.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/08/02 15:24
L3	285	b65d2251/1016.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2016/08/02 15:24
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S2	5	(tabone near2 maurice near2 joseph near2 paul).in.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
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S5	2	"5893587".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:18
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S11	298	220/833	USPAT	OR	ON	2011/10/04 10:53
S12	294	220/826	USPAT	OR	ON	2011/10/04 11:11
S13	9	220/826 and label	USPAT	OR	ON	2011/10/04 11:11
S14	14	("3417897" | "4499353" | "5147035" | "5570856" | "5899334" | "6070723" | "6247590" | "6279746" | "6412637" | "D368027" | "D368028" | "D368029").PN. OR ("7258233").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 11:17
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S18	1379	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S20	240	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
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S28	505	"220".clas. and tape same (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S29	198	"220".clas. and tape with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
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S31	3	("3096905").URPN.	USPAT	OR	ON	2012/06/06 14:31
S32	26	("0983883" | "1128076" | "1239183" | "3133669" | "3149743" | "3158282" | "3438533" | "3696963" | "3834579" | "4520942" | "4607759" | "4728003").PN. OR ("5174464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:06
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S35	312	220/833	USPAT	OR	ON	2012/06/07 12:31
S36	313	220/826	USPAT	OR	ON	2012/06/07 12:31
S37	2952	206/459.5	US-PGPUB;	OR	ON	2012/06/07 12:31

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S39	1448	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:31
S41	263	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:32
S42	68	("3111220" | "3463309" | "4016972" | "4319684").PN. OR ("4499353").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/17 17:07
S43	407	220/359.1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/17 17:16
S44	39	("1743980" | "2984382" | "3556338" | "3592349" | "3682365" | "3718274" | "4202464" | "4256240" | "4290248" | "4334631" | "4373636" | "4408698" | "4444332" | "4570818" | "4574974" | "4706839" | "4719087" | "4834237" | "4886184" | "4933216" | "5273174" | "5368178" | "5405009" | "5507429" | "5540342" | "5762221" | "5772070" | "5829595" | "5866181" | "5866183" | "5897015").PN. OR ("6352170").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 11:50
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S46	7	("2210183").URPN.	USPAT	OR	ON	2014/02/18 11:57
S47	24	("1616625" | "2097073" | "2210183" | "3680733" | "3782331" | "5273354" | "5934472").PN. OR ("6010005").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 11:58
S48	9	("1743980").URPN.	USPAT	OR	ON	2014/02/18 12:02
S49	90	("1695286" | "2138241" | "2202279" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 12:03
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S57	2120	b65d55/0818.cpc. b65d55/06.cpc. b65d43/162.cpc. b65d43/163.cpc. b65d2203/02.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/20 14:06
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S60	390	"220".clas. and produce and hang	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
S61	30	"220".clas. and produce and hang with (hole aperture)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
S62	84	("2133252" | "2231222" | "2892538" | "3379774" | "4005776" | "4058212" | "4106621" | "4202464" | "4236636" | "4344533" | "4475881" | "4570818" | "4602719" | "4739883" | "4739900" | "4917261" | "4930627" | "4948267" | "4986438" | "5012927" | "5025939" | "5027947" | "5038936" | "5040680" | "5077064" | "5147035" | "5161687" | "5209354" | "5279443" | "5405629" | "5579288" | "5582853" | "5595300" | "5624057" | "5664303" | "5775516" | "5819939" | "5899334").PN. OR ("6070723" | "6170694").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 17:25
S63	95	("1695286" | "2138241" | "2202279" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 17:31
S64	41	("3113680" | "3410697" | "3863832" | "3865302" | "3917155" | "4019675" | "4183458" | "4202464" | "4209095").PN. OR ("4312451").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 17:38
S65	13	("3101884" | "3255880" | "3279596" | "3599787" | "3854652").PN. OR ("4209095").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 17:40
S66	427	220/359.1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:12
S67	33	220/359.1 and (die with cut$4)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:13
S68	2	"8616373".pn.	US-	OR	ON	2014/09/12

			PGPUB; USPAT; USOCR; EPO; JPO; DERWENT			18:24
S69	47	("20020195363" | "20080118609" | "20110290675" | "3111220" | "3279596" | "3327843" | "3464544" | "4083451" | "4266666" | "4319684" | "4456124" | "4666037" | "4739883" | "4842141" | "5092479" | "5129517" | "5209354" | "5775516" | "6053321" | "6230964" | "6244444" | "6308832" | "6364115" | "7931148" | "D263684" | "D305000" | "D376314" | "D407015" | "D411448" | "D420905" | "D448288" | "D479127" | "D531028" | "D534421" | "D553489" | "D600113" | "D601014" | "D606392" | "D615858" | "D624399" | "D624402" | "D624403" | "D624815").PN. OR ("8616373").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 18:24
S70	136	"220".clas. and (flange rim) with (die with cut$4)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:49
S71	40	"220".clas. and (flange rim) with (die with cut$4) same (holes apertures)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:56
S72	46	"220".clas. and (flange rim) with (die with cut$4) same (holes apertures slots)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:57
S73	24	"220".clas. and (flange rim) with (die with cut$4) with (holes apertures slots)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:57
S74	56	(US-20100001014-$ or US-20050082185-$ or US-20130062342-$ or US-20040226955-$).did. or (US-5893587-$ or US-6352170-$ or US-4202464-$ or US-3552634-$ or US-3561668-$ or US-4346833-$ or US-D615858-$ or US-D631337-$ or US-6129233-$ or US-6131760-$ or US-6170723-$ or US-6364100-$ or US-7258233-$ or US-4499353-$ or US-6412637-$ or US-7556173-$ or US-4193496-$ or US-7762421-$ or US-4969570-$ or US-7073309-$ or US-5174464-$ or US-5261551-$ or US-5433412-$ or US-4884718-$ or US-5704649-$ or US-6070723-$).did. or (US-5866183-$ or US-4570818-$ or US-5405009-$ or US-	US-PGPUB; USPAT; USOCR; DERWENT	OR	ON	2014/09/15 16:19

		4312451-$ or US-4209095-$ or US-5353935-$ or US-6016914-$ or US-4266666-$ or US-4739883-$ or US-4842141-$ or US-5129517-$).did. or (US-3082903-$ or US-3344974-$ or US-3417897-$ or US-2780385-$ or US-1582489-$ or US-3096905-$ or US-3129014-$ or US-1343955-$ or US-3182851-$ or US-1743980-$ or US-3397774-$ or US-3495758-$ or US-3327843-$).did. or (US-5405009-$).did.				
S75	19	S74 and transparent	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:19
S76	4	S74 and transparent and food	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:19
S77	2403	220/315	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S78	471	220/833	USPAT	OR	ON	2014/09/15 16:54
S79	390	220/826	USPAT	OR	ON	2014/09/15 16:54
S80	3568	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S81	1676	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S82	347	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S83	2845	b65d55/0818.cpc. b65d55/06.cpc. b65d43/162.cpc. b65d43/163.cpc. b65d2203/02.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2015/10/20 13:35
S84	272	b65d2251/1016.cpc.	US-PGPUB; USPAT;	OR	ON	2015/10/20 13:35

			USOCR; EPO; JPO; DERWENT			
S85	3	"5125921".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2015/10/21 13:25

EAST Search History (Interference)

< This search history is empty>

8/2/2016 3:27:16 PM
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 12/449,556 Confirmation No.: 5150
Applicant(s): Maurice Joseph Paul Tabone
Filed: August 12, 2009
Art Unit: 3781
Examiner: Andrew Thomas Kirsch
Title: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Docket No.: 063424/397974
Customer No.: 00826

Filed Via EFS-Web
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT UNDER 37 C.F.R. § 1.111

Sir:

In response to the Office Action dated October 29, 2015, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims beginning on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

1-22. (Cancelled)

23. (Currently Amended) A container having a base and a lid moveable with respect to the base between an open position and a closed position, the base having a floor and at least one sidewall extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container, the lid having a primary covering element to at least substantially span the opening when the container is in the closed position, the container having at least one flange extending from the base and substantially outside a footprint of the interior cavity**, wherein the at least one flange comprises at least a rim portion extending away from the base by a first distance and an enlarged portion extending away from the base by a second distance, wherein the second distance is greater than the first distance**, the at least one flange having a primary surface facing generally away from the floor and an opposing secondary surface, wherein in the closed position a portion of the primary covering element of the lid and the primary surface of the **enlarged portion of the** at least one flange form a substantially planar platform disposed on a portion of an upper surface of the container, the substantially planar platform being suitable for attaching a single adhesive membrane to both **[[a]] the** portion of the primary covering element and ~~**a portion of**~~ the primary surface **of the enlarged portion of the at least one flange**, the substantially planar platform having a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid**, and wherein the substantially planar platform is not planar with the rim portion**.

24. (Previously Presented) The container of claim 23, wherein the primary surface of the at least one flange is a continuation of an internal surface of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container.

25. (Previously Presented) The container of claim 23, wherein in the closed position the platform is disposed at an oblique angle to the lid.

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26. (Previously Presented) The container of claim 23, wherein the container is suitable to receive at least one of fresh food or produce.

27. (Previously Presented) The container of claim 23, wherein the lid is hinged to the base.

28. (Previously Presented) The container of claim 27, wherein the lid includes two or more parts and each part is hinged to the base.

29. (Previously Presented) The container of claim 28, wherein each hinge is located on one edge of its respective lid and the platform does not include that edge of the lid.

30. (Previously Presented) The container of claim 23, further comprising means for mechanically locking the lid to the base.

31. (Previously Presented) The container of claim 23, further comprising at least one of one or more ventilation holes, ribs, depressions, or recesses.

32. (Previously Presented) The container of claim 23, further comprising a hang sell aperture.

33. (Previously Presented) The container of claim 23, wherein in the closed position the adhesive membrane attaches to the substantially planar platform thereby creating a seal upon the closed container between the primary covering element of the lid and the primary surface of the flange of the base.

34. (Previously Presented) The container of claim 33, wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on the lid.

35. (Previously Presented) The container of claim 23, further comprising the single adhesive

membrane.

36. (Previously Presented) The container of claim 35, wherein the size of the adhesive membrane is larger than the substantially planar platform.

37. (Previously Presented) The container of claim 35, wherein the adhesive membrane is a self-adhesive label.

38. (Previously Presented) The container of claim 23, wherein the container comprises a plastic material.

39. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform comprises die-cut holes.

40. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform is external to the interior cavity and includes the continuation of the internal surface of the sidewall and at least a portion of an external surface side of the lid.

41. (Previously Presented) The container of claim 23, wherein in the closed position, the lid includes at least one convexly shaped portion extending upwardly in a direction generally away from the opening of the base.

42. (Previously Presented) The container of claim 41, wherein the convexly shaped portion of the lid provides further capacity to the container in the closed position, beyond the internal cavity of the base.

43. (Previously Presented) The container of Claim 23, wherein in the closed position, the primary covering element of the lid includes at least one opening located to engage with the primary surface of the at least one flange of the base.

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REMARKS/ARGUMENTS

Applicants respectfully request reconsideration of the present application, withdrawal of the previously presented rejections, and formal notification of allowance of all pending claims in view of the preceding amendments and the following remarks.

I. Status of Claims

This Amendment is in response to the Office Action mailed October 29, 2015. The Office Action first rejected Claims 23-26, 30-31, 33-38, and 40-43 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,344,974 to Bostrom ("*Bostrom*"). The Office Action then rejected Claims 27-29 under 35 U.S.C. § 103(a) as being unpatentable over *Bostrom*, and further in view of U.S. Patent Pub. No. 2005/0082185 to Lee ("*Lee*"). Claim 32 was then rejected over *Bostrom*, and further in view of U.S. Patent No. 4,312,451 to Forbes, Jr. ("*Forbes*"). The Office Action concluded by rejecting Claim 39 over Bostrom, and further in view of U.S. Patent Pub. No. 2004/0226955 to Frantz ("*Frantz*").

For the Examiner's reference, Applicant has amended independent Claim 23. Thus, following this Amendment, Claims 23-43 remain pending in the present application.

II. Rejection of Independent Claim 23

In the Office Action dated October 29, 2015, independent Claim 23 was rejected as being anticipated by *Bostrom*. Although Applicant does not necessarily agree with this rejection, Applicant has, in the interest of facilitating examination of the present application, amended Claim 23 to further clarify the scope of the claims. In particular, independent Claim 23 has been amended to recite:

> A container having a base and a lid movable with respect to the base between an open position and a closed position, the base having a floor and at least one sidewall extending upwardly from the floor *to define an opening for receipt of contents into an interior cavity of the container*, the lid having a primary covering element to at least substantially span the opening when the container is in the closed position, *the container having at least one flange*

extending from the base and substantially outside a footprint of the interior cavity, wherein the at least one flange comprises at least a rim portion extending away from the base by a first distance and an enlarged portion extending away from the base by a second distance, wherein the second distance is greater than the first distance, the at least one flange having a primary surface facing generally away from the floor and an opposing secondary surface, *wherein in the closed position a portion of the primary covering element of the lid and the primary surface of the enlarged portion of the at least one flange form a substantially planar platform* disposed on a portion of an upper surface of the container, the substantially planar platform being suitable for attaching a single adhesive membrane to both the portion of the primary covering element and the primary surface of the enlarged portion of the at least one flange, the substantially planar platform having a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid, and *wherein the substantially planar platform is not planar with the rim portion*.

Support for these amendments may be found at least p. 9, ll. 5-19 and Figures 1-22.

With reference to the currently outstanding Office Action, the Examiner indicates, *inter alia*, that *Bostrom* teaches "in the closed position a portion of the primary covering element (portion of 36 in detail of Fig. 3 below) of the lid and the primary surface of the at least one flange form a substantially planar platform disposed on a portion of an upper surface of the container." The Examiner in this context references an annotated Figure 3 of *Bostrom*, included again below for purposes of discussion, in support. Office Action, at p. 5. As annotated, the Examiner appears to define some arbitrary portion of the container perimeter to encompass a platform in support of the proposal that *Bostrom* discloses features for forming a substantially planar platform between a portion of the primary covering element of the lid and the primary surface of the at least one flange.

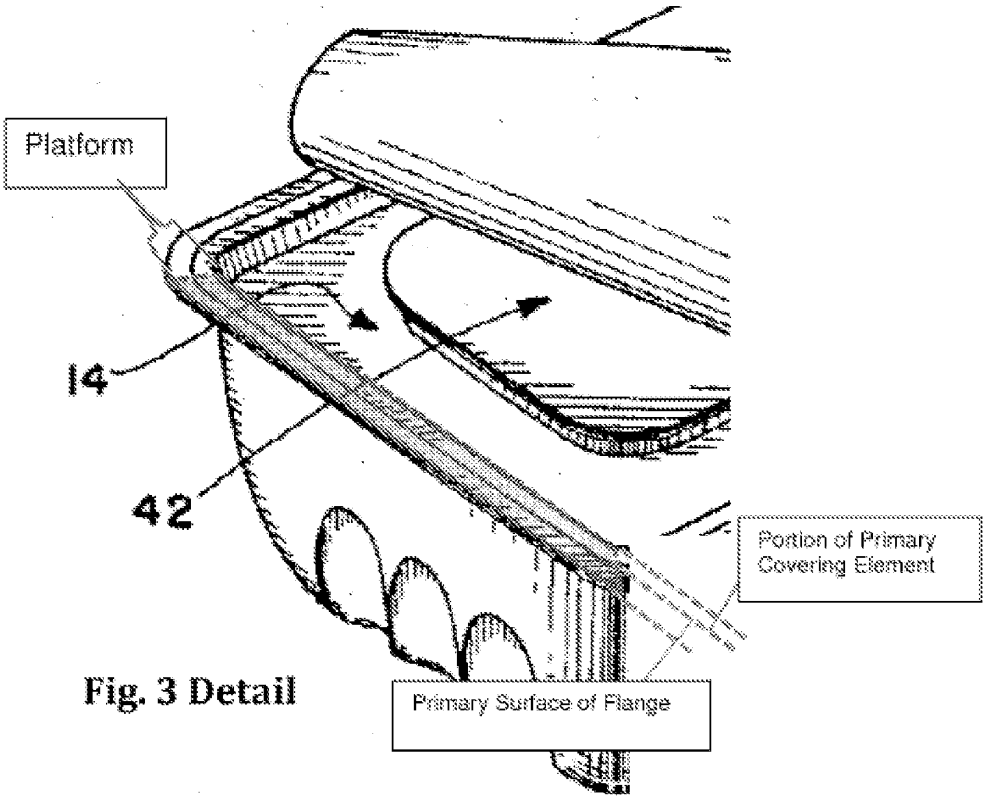


Fig. 3 Detail

Be that as it may, Applicant additionally submits that the portion of *Bostrom* cited and illustrated above in support of this argument—and indeed all of *Bostrom*—is entirely silent regarding the relative width of the various portions of the flange. Accordingly, Applicant respectfully submits that *Bostrom* simply does not disclose "a portion of the primary covering element of the lid and *the primary surface of the enlarged portion of the at least one flange* form a substantially planar platform"—wherein specifically "the container . . . flange extend[s] from the base and substantially outside a footprint of the interior cavity" and the "flange comprises at least *a rim portion extending away from the base by a first distance and an enlarged portion extending away from the base by a second distance, wherein the second distance is greater than the first distance*, all as recited in independent Claim 23, as amended herein. As noted above, the Examiner appears to arbitrarily define a portion of the flange as the "primary surface" of the at least one flange, without reference to any defining characteristics of the "primary surface"

relative to the remainder of the flange. Indeed no such defining characteristics of the arbitrarily defined portion are detailed within *Bostrom* itself, and at best, the illustrated detail in Figure 3 conveys a flange having a uniform width. That is, however, simply not the claimed configuration recited in amended Claim 23.

Moreover, Applicant highlights that each of the embodiments disclosed and illustrated in *Bostrom* define a container opening in which a label is secured to portions of the container perimeter that are planar with the opening itself. *See e.g., Bostrom* at Figs. 1-2. In contrast, as amended herein, independent Claim 23 recites that "the substantially planar platform is not planar with the rim portion." In this regard, Applicant directs the Examiner's attention to Figures 18-21 of the originally filed application, reproduced below for the Examiner's convenience. As shown in each of these figures, the substantially planar portion is formed between extension (106, 106a) of the lid and extension (108, 108a) of the rim, which forms an obtuse angle relative to the rim.

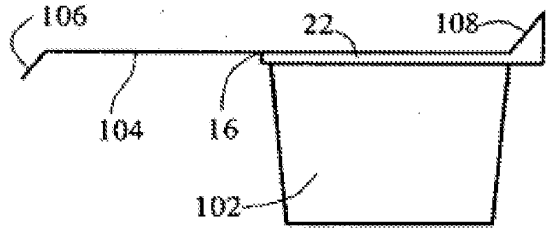


FIGURE 18

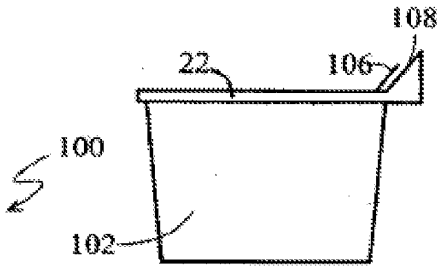


FIGURE 19

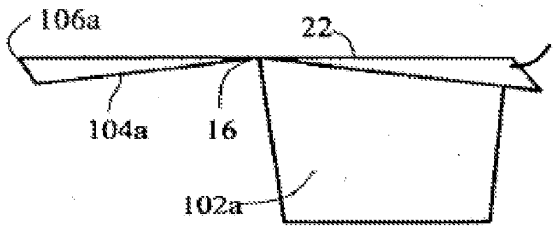


FIGURE 20

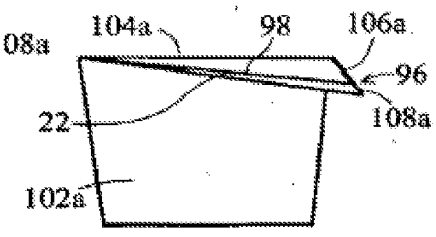


FIGURE 21

Again, Applicant respectfully asserts that *Bostrom* does not disclose embodiments in which a substantially planar platform as recited in amended independent Claim 23 is not planar with the rim portion. Instead, the features of *Bostrom* relied upon in this respect in the Office Action are planar with its rim portion (*see* annotated Figure 3 provided previously herein).

Accordingly, for at least these reasons, Applicant respectfully submits that this rejection of Claim 23 has been overcome and requests withdrawal of the same and issuance of a Notice of Allowance.

III. Rejections of Dependent Claims 24-43

With respect to the various rejections of dependent Claims 24-43, the patentability of independent Claim 23, from which these claims depend, has been argued as set forth above, and thus Applicant will not take this opportunity to argue the merits of the rejections with regard to the dependent claims. However, Applicant does not concede that these dependent claims are not independently patentable and reserves the right to argue the patentability of these claims at a later date, if necessary.

IV. Conclusion

In view of at least the foregoing amendments and remarks, Applicant submits that the pending claims are now in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Christopher P. Lightner/

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Hartmann US Inc. et al v. Maurice J.P. Tabone

Electronic Patent Application Fee Transmittal

Application Number:	12449556
Filing Date:	12-Aug-2009
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Filer:	Christopher Patrick Lightner/Melissa Mitchell
Attorney Docket Number:	063424/397974

Filed as Small Entity

Filing Fees for U.S. National Stage under 35 USC 371

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
		Total in USD ($)		**700**

Electronic Acknowledgement Receipt	
EFS ID:	25610355
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Christopher Patrick Lightner/Melissa Mitchell
Filer Authorized By:	Christopher Patrick Lightner
Attorney Docket Number:	063424/397974
Receipt Date:	27-APR-2016
Filing Date:	12-AUG-2009
Time Stamp:	14:11:57
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$700
RAM confirmation Number	449
Deposit Account	160605
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 CFR 1.492 (National application filing, search, and examination fees) Charge any Additional Fees required under 37 CFR 1.17 (Patent application and reexamination processing fees)	

Charge any Additional Fees required under 37 CFR 1.19 (Document supply fees)

Charge any Additional Fees required under 37 CFR 1.20 (Post Issuance fees)

Charge any Additional Fees required under 37 CFR 1.21 (Miscellaneous fees and charges)

Charge any Additional Fees required under 37 CFR 1.492(a) (basic national fee only)

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Extension of Time	2016-04-27_397974_EOT.pdf	167578 cb35aa953cb0a04025090865692 7d4e30fce03d8	no	2
Warnings:					
Information:					
2		2016-04-27_397974_Amendment.pdf	218472 3c106533eda06725901bf112f63c4dfa59c835ba	yes	10

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	10

Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	30978 48a5f1cf989ef2a31442c992ab1b05d7f15dc242	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	417028		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

PTO/SB/22 (03-13)
Approved for use through 3/31/2013. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional): 063424/397974

Application Number: 12/449,556

Filed: August 12, 2009

For: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Art Unit: 3781

Examiner: Andrew Thomas Kirsch

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	Micro Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$200	$100	$50	$
☐	Two months (37 CFR 1.17(a)(2))	$600	$300	$150	$
☑	Three months (37 CFR 1.17(a)(3))	$1,400	$700	$350	$ 700
☐	Four months (37 CFR 1.17(a)(4))	$2,200	$1,100	$550	$
☐	Five months (37 CFR 1.17(a)(5))	$3,000	$1,500	$750	$

☑ Applicant asserts small entity status. See 37 CFR 1.27.

☐ Applicant certifies micro entity status. See 37 CFR 1.29.
Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☑ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 160605.

☑ Payment made via EFS-Web.

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

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. 37 CFR 3.73(b) statement is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration number 62,156.

☐ attorney or agent acting under 37 CFR 1.34. Registration number _____.

/Christopher P. Lightner/ — Signature

2016-04-27 — Date

Christopher P. Lightner — Typed or printed name

(404) 881-7882 — Telephone Number

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.

☑ * Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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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.

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/449,556	Filing Date 08/12/2009	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT 04/27/2016	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	* 21	Minus	** 21	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X $210 =	0
☐ Application Size Fee (37 CFR 1.16(s))						
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
					TOTAL ADD'L FEE	0

AMENDMENT	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =	
Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =	
☐ Application Size Fee (37 CFR 1.16(s))						
☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
					TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
/KIMBERLY WHITE/

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	057790-397974	5150

826 7590 10/29/2015

ALSTON & BIRD LLP
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CHARLOTTE, NC 28280-4000

EXAMINER	
KIRSCH, ANDREW THOMAS	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
10/29/2015	ELECTRONIC

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

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

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

usptomail@alston.com

Office Action Summary	Application No. 12/449,556	Applicant(s) TABONE, MAURICE JOSEPH PAUL	
	Examiner ANDREW T. KIRSCH	Art Unit 3781	AIA (First Inventor to File) Status No

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☒ Responsive to communication(s) filed on *10/19/2015*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ 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.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *23-43* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *23-43* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, 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.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

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)).

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

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

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

2. The amendments filed 3/25/2015 and 10/19/2015 has been entered.

Claim Rejections - 35 USC § 112

3. The rejection to claim 38 under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, has been removed.

Claim Rejections - 35 USC § 102

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

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

5. Claims 23-26, 30, 31, 33-38 and 40-43 are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Bostrom.

6. In re claim 23, with reference to Figs. 1 and 2, Bostrom discloses: A container (10) having a base (12) and a lid (14) moveable with respect to the base between an open position (fig. 1) and a closed position (fig. 2), the base having a floor (18) and at least one sidewall (20) extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container, the lid having a primary covering element (36, 38, and 40) to at least substantially span the opening when the container is in the closed position (see Fig. 2, the inner edge of element 36 where it meets surface 40 is above the opening, and therefore is considered to span the

opening, along with the entirety of element 38), the container having at least one flange (22) extending from the base and substantially outside a footprint of the interior cavity, the at least one flange having a primary surface (top-most surface of 52) facing generally away from the floor and an opposing secondary surface (bottom surface of 52), wherein in the closed position a portion of the primary covering element (portion of 36 in detail of Fig. 3 below) of the lid and the primary surface of the at least one flange form a substantially planar platform disposed on a portion of an upper surface of the container, the substantially planar platform being suitable for attaching a single adhesive membrane (16) to both a portion of the primary covering element and a portion of the primary surface, the substantially planar platform having a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid (see Fig. 3 detail below, the perimeter of the platform made by the primary surface and portion of the primary covering element is smaller than the internal boundary of the opening measured internal of 32 and outer perimeter of the lid around 14 as shown). Note that Applicant's Specification as originally filed does not refer to any "perimeter" or "platform" by name, and the support for the limitations which can found in Applicant's original Fig.'s 2, 15, and 23 for example show that the platform can occupy any arbitrary amount of shared surface area made up of each of the primary surface of the flange and "portion" of the primary covering element as long as the perimeter of the platform is "substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid"; such shared platform perimeter formed by adjacent surface areas as anticipated by Bostrom is shown in Fig. 3 Detail below.

Fig. 1

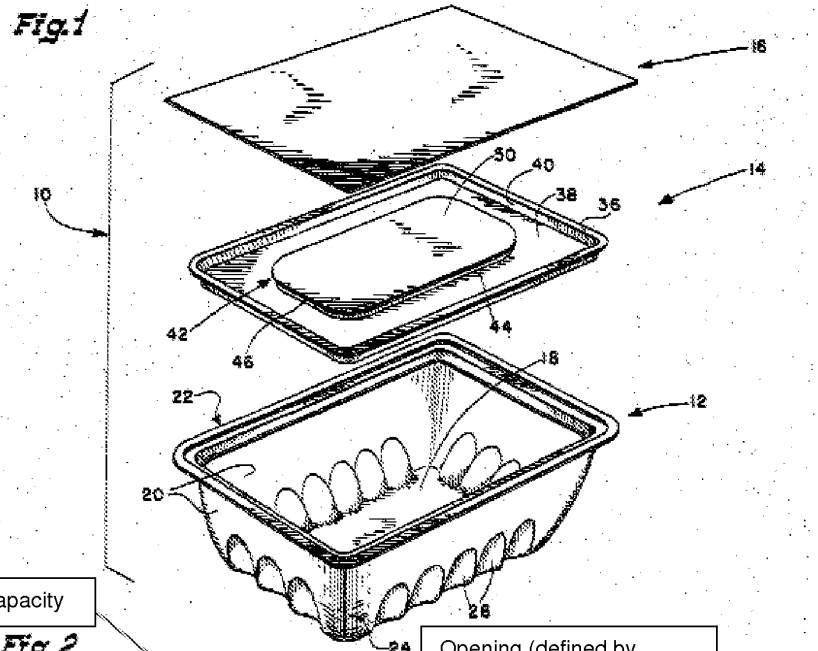
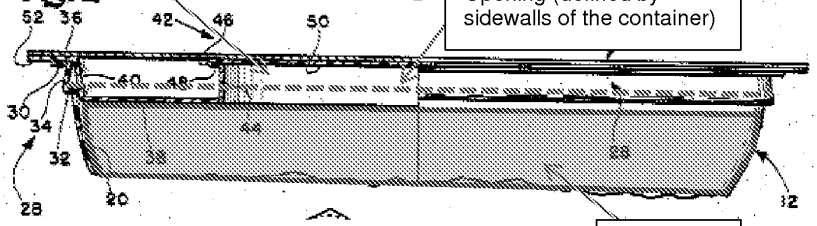


Fig. 2



Further Capacity

Opening (defined by sidewalls of the container)

Cavity

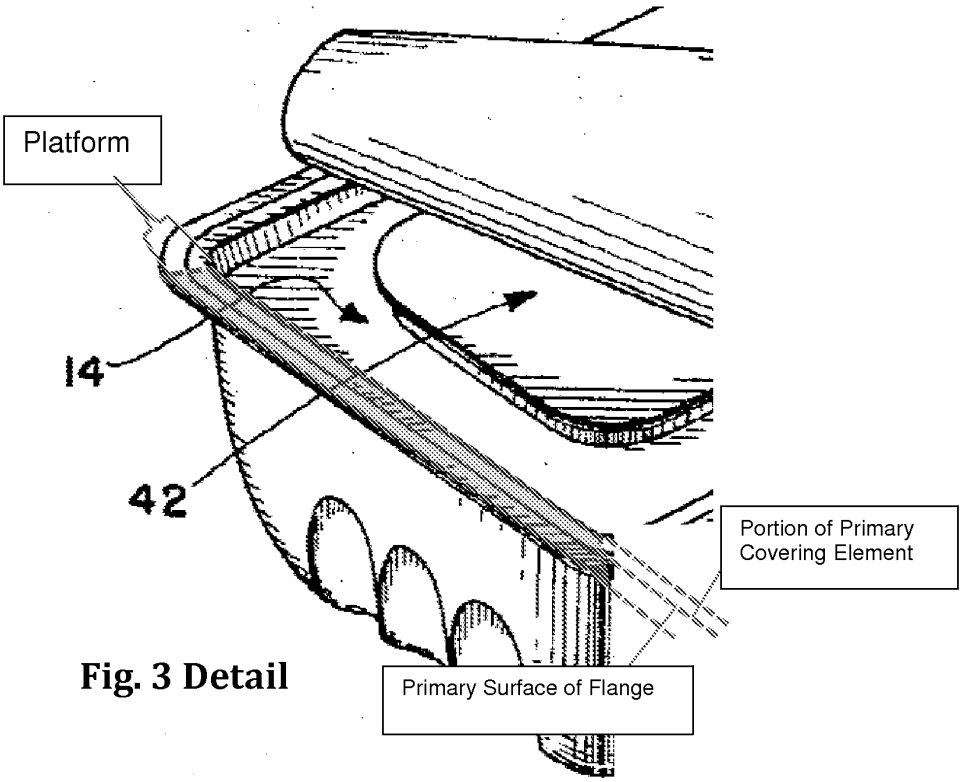


Fig. 3 Detail

7. In re claim 24, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the primary surface of the at least one flange is a continuation of an internal surface (at 34) of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container (see Fig. 2 above).

8. In re claim 25, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position the platform is disposed at an oblique angle to the lid (the platform is oblique to the surface 40 of the lid).

9. In re claim 26, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the container is suitable to receive fresh food (column 2, lines 43-48).

10. In re claim 30, with reference to the Figs. above, Bostrom discloses the claimed invention including means for mechanically locking the lid to the base.

11. With regards to the "means for mechanical locking", this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 4, lines 7-10, the "means for mechanical locking" is not shown in the Applicant's drawings, Bostrom discloses one projection (36) receivable in a recess (formed above 30) which locks the lid against lateral movement from freeing the lid from the container. The projection of Bostrom and the locking means are considered to be an equivalent to applicant's means for mechanical locking because it performs the same function in substantially the same way and produces substantially the same result (preventing removal in a direction of movement of the lid) as the corresponding element in applicant's specification. See MPEP 2183.

12. In re claim 31, with reference to the Figs. above, Bostrom discloses the claimed invention including at least one recess (above 30).

13. In re claim 33, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position the adhesive membrane (16) attaches to the substantially planar platform thereby creating a seal upon the closed container between the primary covering element (36) of the lid and the primary surface of the flange of the base (column 5, lines 24-34).

14. In re claim 34, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on

the lid (note that this opening is inherently possible by peeling the membrane from all but one primary surface edge of the container and lifting the lid to the open position).

15. In re claim 35, with reference to the Figs. above, Bostrom discloses the claimed invention including the single adhesive membrane (16 is considered a single adhesive membrane in that it is heat-sealed to the platform, which causes the membrane to adhere to the platform).

16. In re claim 36, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the size of the adhesive membrane is larger than the substantially planar platform (the surface area of the membrane is larger than the surface area of the platform, see Fig. 1 above).

17. In re claim 37, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the adhesive membrane is a self-adhesive label (the molten membrane material created during heat sealing is considered to be a heat-activated adhesive, a label is not required by the claims to have any specific indicia, color, or shape) (see column 5, lines 68-73).

18. In re claim 38, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the container comprises a plastic material (column 3, lines 11-12).

19. In re claim 40, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the substantially planar platform is external to the interior cavity (See Fig. 2 above) and includes the continuation of the

internal surface (34) of the sidewall and at least a portion of an external surface side (40) of the lid.

20. In re claim 41, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the lid includes at least one convexly shaped portion (knob 42) extending upwardly in a direction generally away from the opening of the base (see Fig. 2).

21. In re claim 42, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the convexly shaped portion (42) of the lid provides further capacity to the container in the closed position, beyond the internal cavity of the base (see Fig. 2).

22. In re claim 43, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the primary covering element of the lid includes at least one opening located to engage with the primary surface of the at least one flange of the base (an opening located below element 36 and to the left of element 40 in Fig. 2 above is occupied and engaged with the primary surface of the flange comprised of the upper surface of elements 52 and 30). Note that the opening of the primary covering element of the present invention is not an opening into the cavity of the container, and being “located to engage” with the primary surface of the flange is interpreted as edges of the surfaces that comprise the platform being adjacent one another, as no positive locking or attachment is achieved by Applicant's portion of the primary covering element and the primary surface of the flange. Therefore, the adjacent edges of element 36 and flange upper surface 52 shown in Fig. 3 above are considered

to be located to "engage" one another in as much as is demonstrated by Applicant's original disclosure.

Claim Rejections - 35 USC § 103

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

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

24. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under pre-AIA 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

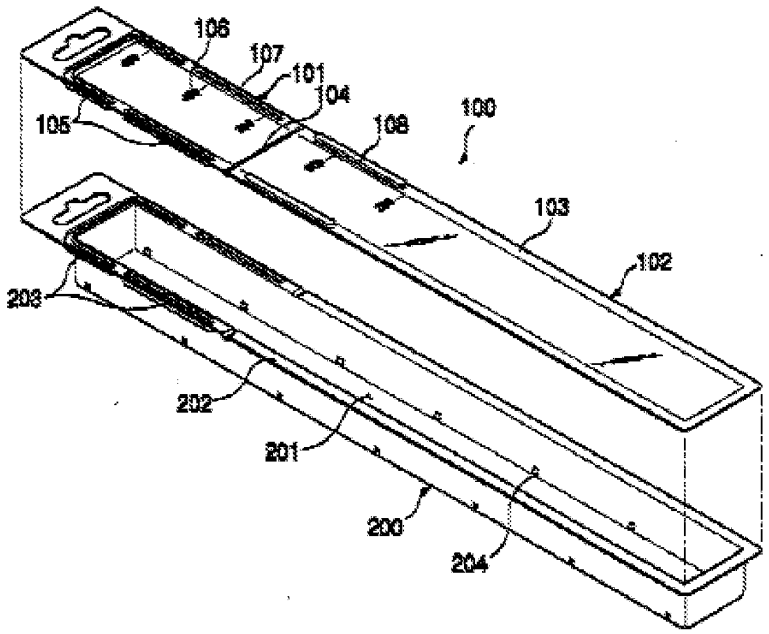
25. Claims 27, 28, and 29 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of Lee.

26. In re claims 27, 28, and 29, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein the lid is hinged to the base, includes two or more

parts and each part is hinged to the base, and wherein each hinge is located on one edge of its respective and the platform does not include that edge.

27. However, with reference to Fig. 2 below, Lee discloses a container wherein the lid (100) is hinged in two parts (101, 102), each of which is hinged to the base (at 104) and wherein the hinge is located on one edge of the lid (at 104) and the platform does not include that edge (passes through the middle of the lid of Lee).

[FIG. 2]



28. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lid of Bostrom to have been in two parts, both hinged to the base as taught by Lee for the purposes of allowing portions of the lid to be opened without removing the lid entirely from the container thereby preventing misplacement of the lid portions and providing controlled egress of the contained product through one of the portions.

29. Claim 32 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of U.S. Patent No. 4,312,451 (Forbes, Jr. hereinafter).

30. In re claim 32, with reference to the Figs. above, Bostrom discloses the claimed invention except a hang sell aperture.

31. However, with reference to Fig. 4, Forbes, Jr. discloses a self standing tray with a hang sell aperture (40) which extends through a container flange (18) and a lid (38).

32. Therefore, it would have been obvious to one of ordinary skill in the art to have modified the container and lid of Bostrom to include a hang sell aperture as taught by Forbes, Jr. for the purposes of suspending the containers for display and allowing any graphics or contents of the container to be fully visible to a potential purchaser (column 4, lines 24-30).

33. Claim 39 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of U.S. PG Pub No. 2004/0226955 (Frantz hereinafter).

34. In re claim 39, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein in the closed position, the substantially planar platform comprises die-cut holes.

35. However, with reference to Fig. 1, Frantz discloses a closure for a container made of plastic which includes die-cut features including a hole (18) (paragraph 0016).

36. Therefore, it would have been obvious to one of ordinary skill in the art to have used die-cutting to form holes in the flange of Bostrom as taught by Frantz as a known process for the purposes of forming a hang tab (paragraph 0016-0017).

Response to Arguments

37. Applicant's arguments filed 3/25/2015 with respect to the claims have been considered are not persuasive.

38. Applicant argues on page 6 of the Remarks that the rim (36) of Bostrom does not partially span the opening of the closure. However, as in re claim 23 above, and with reference to Fig. 2, the inner edge of element 36 where it meets surface 40 is above the opening, and therefore is considered to at least partially span the opening as claimed. Further note that as currently claimed, platform is formed by "a portion of the primary covering element", and the primary covering element "substantially" spans the opening, and does not specify that the same "portion" of the primary covering element is what performs both of the claimed functions. Further note that at least elements 36, 38, and 40 together can be considered as the primary covering element, with element 38 spanning the opening as in Fig. 2 above.

39. Applicant does not present any specific arguments in the Remarks filed 10/19/2015 with respect to the claims.

Conclusion

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fenn Mathew can be reached on 571-272-4978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/ANDREW T KIRSCH/
Examiner, Art Unit 3781

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

CPC- SEARCHED		
Symbol	Date	Examiner
B65D 55/0818, 55/06, 43/162, 43/163, 2203/02, 2251/1016	10/20/2015	ATK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	833, 826, 359.1, 745, 315	9/12/2014	ATK
206	459.5, 1.5	9/12/2014	ATK

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Check	10/4/2011	ATK
EAST Search	10/4/2011	ATK
Updated EAST Search	6/7/2012	ATK
Updated EAST Search	2/18/2014	ATK
Updated EAST Search	9/12/2014	ATK
Updated EAST Search	10/20/2015	ATK

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number	12/449,556 12449556 - GAU: 3781
	Filing Date	08-12-2009
	First Named Inventor	MAURICE JOSEPH PAUL TABONE
	Art Unit	3781
	Examiner Name	ANDREW THOMAS KIRSCH
	Attorney Docket Number	05-7790-397974

OPAP AKIMA-18 MAY 0 8 2015 PATENT & TRADEMARK OFFICE

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☑ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

☑ See attached certification statement.

☐ The fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☐ A certification statement is not submitted herewith.

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature		Date (YYYY-MM-DD)	2015-05-01
Name/Print	MAURICE JOSEPH PAUL TABONE	Registration Number	

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /AK/

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PTO/SB/08a (07-09)
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Substitute for form 1449/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1 of 1

Complete if Known	
Application Number	12/449,556
Filing Date	08-12-2009
First Named Inventor	MAURICE JOSEPH PAUL TABONE
Art Unit	3781
Examiner Name	ANDREW THOMAS KIRSCH
Attorney Docket Number	05-7790-397994

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-			
		US-			
		US-			
		US-			
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FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3]-Number[4]-Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T[6]
	1	EP 1558504	08-03-2005	BRODRENE HARTMANN	FULL DOCUMENT	

Examiner Signature	/ANDREW KIRSCH/	Date Considered	10/19/2015

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. [1] Applicant's unique citation designation number (optional). [2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). [4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [6] Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /AK/

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	443	"220".clas. and adhesive with label	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:11
S2	5	(tabone near2 maurice near2 joseph near2 paul).in.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
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S4	18	"5636737"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:16
S5	2	"5893587".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:18
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S12	294	220/826	USPAT	OR	ON	2011/10/04 11:11
S13	9	220/826 and label	USPAT	OR	ON	2011/10/04 11:11
S14	14	("3417897" | "4499353" | "5147035" | "5570856" | "5899334" | "6070723" | "6247590" | "6279746" | "6412637" | "D368027" | "D368028" | "D368029").PN. OR ("7258233").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 11:17
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S17	2733	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S18	1379	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S20	240	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
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S28	505	"220".clas. and tape same (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S29	198	"220".clas. and tape with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S30	0	("1582489").URPN.	USPAT	OR	ON	2012/06/06 14:25
S31	3	("3096905").URPN.	USPAT	OR	ON	2012/06/06 14:31
S32	26	("0983883" | "1128076" | "1239183" | "3133669" | "3149743" | "3158282" | "3438533" | "3696963" | "3834579" | "4520942" | "4607759" | "4728003").PN. OR ("5174464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:06
S33	1579	"220".clas. and strip with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:23
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S35	312	220/833	USPAT	OR	ON	2012/06/07 12:31
S36	313	220/826	USPAT	OR	ON	2012/06/07 12:31
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S39	1448	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:31
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S48	9	("1743980").URPN.	USPAT	OR	ON	2014/02/18 12:02
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S54	74	220/315 and adhesive same (label tape film)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/18 12:38
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S59	1	"220".clas. and produce and hang with sell	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
S60	390	"220".clas. and produce and hang	US-	OR	ON	2014/09/12

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S61	30	"220".clas. and produce and hang with (hole aperture)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
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S65	13	("3101884" | "3255880" | "3279596" | "3599787" | "3854652").PN. OR ("4209095").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 17:40
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S68	2	"8616373".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:24
S69	47	("20020195363" | "20080118609" | "20110290675" | "3111220" | "3279596" | "3327843" | "3464544" | "4083451" | "4266666" | "4319684" | "4456124" | "4666037" | "4739883" | "4842141" | "5092479" | "5129517" | "5209354" |	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 18:24

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S70	136	"220".clas. and (flange rim) with (die with cut$4)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:49
S71	40	"220".clas. and (flange rim) with (die with cut$4) same (holes apertures)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:56
S72	46	"220".clas. and (flange rim) with (die with cut$4) same (holes apertures slots)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:57
S73	24	"220".clas. and (flange rim) with (die with cut$4) with (holes apertures slots)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:57
S74	56	(US-20100001014-$ or US-20050082185-$ or US-20130062342-$ or US-20040226955-$).did. or (US-5893587-$ or US-6352170-$ or US-4202464-$ or US-3552634-$ or US-3561668-$ or US-4346833-$ or US-D615858-$ or US-D631337-$ or US-6129233-$ or US-6131760-$ or US-6170723-$ or US-6364100-$ or US-7258233-$ or US-4499353-$ or US-6412637-$ or US-7556173-$ or US-4193496-$ or US-7762421-$ or US-4969570-$ or US-7073309-$ or US-5174464-$ or US-5261551-$ or US-5433412-$ or US-4884718-$ or US-5704649-$ or US-6070723-$).did. or (US-5866183-$ or US-4570818-$ or US-5405009-$ or US-4005776-$ or US-4312451-$ or US-4209095-$ or US-5353935-$ or US-6016914-$ or US-4266666-$ or US-4739883-$ or US-4842141-$ or US-5129517-$).did. or (US-3082903-$ or US-3344974-$ or US-3417897-$ or US-2780385-$ or US-1582489-$ or US-3096905-$ or US-3129014-$ or US-1343955-$ or US-3182851-$ or US-1743980-$ or US-3397774-$ or US-3495758-$ or US-3327843-$).did. or (US-	US-PGPUB; USPAT; USOCR; DERWENT	OR	ON	2014/09/15 16:19

		5405009-$).did.				
S75	19	S74 and transparent	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:19
S76	4	S74 and transparent and food	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:19
S77	2403	220/315	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S78	471	220/833	USPAT	OR	ON	2014/09/15 16:54
S79	390	220/826	USPAT	OR	ON	2014/09/15 16:54
S80	3568	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S81	1676	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S82	347	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S83	2845	b65d55/0818.cpc. b65d55/06.cpc. b65d43/162.cpc. b65d43/163.cpc. b65d2203/02.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2015/10/20 13:35
S84	272	b65d2251/1016.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2015/10/20 13:35

EAST Search History (Interference)

<This search history is empty>

10/20/2015 2:58:41 PM
H:\Workspaces\12449556.wsp

Ex.1005 / IPR2024-01037 / Page 147 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	10/05/2011	06/07/2012	02/18/2014	09/15/2014	10/20/2015				
	1	✓	✓	✓	-	-				
	2	✓	✓	✓	-	-				
	3	-	-	-	-	-				
	4	✓	✓	✓	-	-				
	5	✓	✓	✓	-	-				
	6	✓	✓	✓	-	-				
	7	✓	✓	✓	-	-				
	8	✓	✓	✓	-	-				
	9	✓	✓	✓	-	-				
	10	✓	✓	✓	-	-				
	11	-	-	-	-	-				
	12	✓	✓	✓	-	-				
	13	✓	✓	✓	-	-				
	14	-	-	-	-	-				
	15	✓	✓	✓	-	-				
	16	✓	✓	✓	-	-				
	17	✓	✓	✓	-	-				
	18	✓	✓	✓	-	-				
	19	✓	✓	✓	-	-				
	20	✓	✓	✓	-	-				
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	22			✓	-	-				
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	27				✓	✓				
	28				✓	✓				
	29				✓	✓				
	30				✓	✓				
	31				✓	✓				
	32				✓	✓				
	33				✓	✓				
	34				✓	✓				
	35				✓	✓				

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	**Art Unit**
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	10/05/2011	06/07/2012	02/18/2014	09/15/2014	10/20/2015				
	36				✓	✓				
	37				✓	✓				
	38				✓	✓				
	39				✓	✓				
	40				✓	✓				
	41					✓				
	42					✓				
	43					✓				

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 12/449,556 Confirmation No.: 5150
Applicant(s): Maurice Joseph Paul Tabone
Filed: August 12, 2009
Art Unit: 3781
Examiner: Andrew Thomas Kirsch
Title: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Docket No.: 057790/397974
Customer No.: 00826

Filed Via EFS-Web
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SUPPLEMENTAL AMENDMENT

Sir:

Further to Applicant's Amendment filed on March 25, 2015, which was in response to the Final Office Action dated September 26, 2014, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims beginning on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

1-22. (Cancelled)

23. (**Currently Amended**) A container having a base and a lid moveable with respect to the base between an open position and a closed position, the base having a floor and at least one sidewall extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container, the lid having a primary covering element to at least substantially span the opening when the container is in the closed position, the container having at least one flange extending from the base and substantially outside a footprint of the interior cavity, the at least one flange having a primary surface facing generally away from the floor and an opposing secondary surface, wherein in the closed position a portion of the primary covering element of the lid and the primary surface of the at least one flange form a substantially planar platform disposed on a portion of an upper surface of the container**, the substantially planar platform being suitable** for attaching a single adhesive membrane to both a portion of the primary covering element and a portion of the primary surface, the **substantially planar** platform having a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid.

24. (Previously Presented) The container of claim 23, wherein the primary surface of the at least one flange is a continuation of an internal surface of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container.

25. (Previously Presented) The container of claim 23, wherein in the closed position the platform is disposed at an oblique angle to the lid.

26. (Previously Presented) The container of claim 23, wherein the container is suitable to receive at least one of fresh food or produce.

27. (Previously Presented) The container of claim 23, wherein the lid is hinged to the base.

28. (Previously Presented) The container of claim 27, wherein the lid includes two or more parts and each part is hinged to the base.

29. (Previously Presented) The container of claim 28, wherein each hinge is located on one edge of its respective lid and the platform does not include that edge of the lid.

30. (Previously Presented) The container of claim 23, further comprising means for mechanically locking the lid to the base.

31. (Previously Presented) The container of claim 23, further comprising at least one of one or more ventilation holes, ribs, depressions, or recesses.

32. (Previously Presented) The container of claim 23, further comprising a hang sell aperture.

33. (Previously Presented) The container of claim 23, wherein in the closed position the adhesive membrane attaches to the substantially planar platform thereby creating a seal upon the closed container between the primary covering element of the lid and the primary surface of the flange of the base.

34. (Previously Presented) The container of claim 33, wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on the lid.

35. (Previously Presented) The container of claim 23, further comprising the single adhesive membrane.

36. (Previously Presented) The container of claim 35, wherein the size of the adhesive membrane is larger than the substantially planar platform.

37. (Previously Presented) The container of claim 35, wherein the adhesive membrane is a self-adhesive label.

38. (Previously Presented) The container of claim 23, wherein the container comprises a plastic material.

39. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform comprises die-cut holes.

40. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform is external to the interior cavity and includes the continuation of the internal surface of the sidewall and at least a portion of an external surface side of the lid.

41. (Previously Presented) The container of claim 23, wherein in the closed position, the lid includes at least one convexly shaped portion extending upwardly in a direction generally away from the opening of the base.

42. (Previously Presented) The container of claim 41, wherein the convexly shaped portion of the lid provides further capacity to the container in the closed position, beyond the internal cavity of the base.

43. (Previously Presented) The container of Claim 23, wherein in the closed position, the primary covering element of the lid includes at least one opening located to engage with the primary surface of the at least one flange of the base.

REMARKS/ARGUMENTS

Applicants respectfully request reconsideration of the present application, withdrawal of the previously presented rejections, and formal notification of allowance of all pending claims in view of the preceding amendments and the following remarks.

This Supplemental Amendment is further to Applicant's Amendment filed on March 25, 2015, which itself was a timely and complete response to the Office Action mailed September 26, 2014. Herein, further to the Amendment filed on March 25, 2015, Applicant presents a minor clarifying amendment to Claim 23, so as to highlight the manner in which it is "the substantially planar platform" that is "suitable for attaching a single adhesive membrane to both a portion of the primary covering element and a poertion of the primary surface." Applicant respectfully requests consideration of this language, along with that presented via the Amendment filed on March 25, 2015 prior to mailing of a new Office Action.

Applicant also respectfully submits that Claim 23 (and the claims depending therefrom) remain, following this Supplemental Amendment, patentable in view of the previously cited prior art references for at least all of the reasons set forth by Applicant in the Amendment filed on March 25, 2015. Thus, in view of at least the foregoing amendments and remarks (along with those presented in the Amendment filed on March 25, 2015), Applicant submits that the pending claims are in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone at 404-881-7882 prior to mailing of a further Office Action, should such be required.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Christopher P. Lightner/

Christopher P. Lightner
Registration No. 62,156

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON October 19, 2015.

Electronic Acknowledgement Receipt

EFS ID:	23817178
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Christopher Patrick Lightner/Melissa Mitchell
Filer Authorized By:	Christopher Patrick Lightner
Attorney Docket Number:	057790-397974
Receipt Date:	19-OCT-2015
Filing Date:	12-AUG-2009
Time Stamp:	15:23:23
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		2015-10-19_397974_Supplemental_Amendment.pdf	139793 2125e005a815c6f194ca9548ba103b5931a33e72	yes	6

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Supplemental Response or Supplemental Amendment	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	6
Warnings:			
Information:			
	Total Files Size (in bytes):	139793	

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New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

PTO/SB/06 (09-11)
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/449,556	Filing Date 08/12/2009	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)		
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED – PART II

AMENDMENT	10/19/2015	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 21	Minus	** 21	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X $210 =	0
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	0

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
/ALLYSON PURNELL/

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

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number	12/449,556
	Filing Date	08-12-2009
	First Named Inventor	MAURICE JOSEPH PAUL TABONE
	Art Unit	3781
	Examiner Name	ANDREW THOMAS KIRSCH
	Attorney Docket Number	05-7790-397974

OPAP AKIMA-18 MAY 08 2015 PATENT & TRADEMARK OFFICE

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☑ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

☑ See attached certification statement.

☐ The fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☐ A certification statement is not submitted herewith.

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature		Date (YYYY-MM-DD)	2015-05-01
Name/Print	MAURICE JOSEPH PAUL TABONE	Registration Number	

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Substitute for form 1449/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1 of 1

Complete if Known	
Application Number	12/449,556
Filing Date	08-12-2009
First Named Inventor	MAURICE JOSEPH PAUL TABONE
Art Unit	3781
Examiner Name	ANDREW THOMAS KIRSCH
Attorney Docket Number	05-7790-399994

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-			
		US-			
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FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3]-Number[4]-Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T[6]
	1	EP 1558504	08-03-2005	BRODRENE HARTMANN	FULL DOCUMENT	

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. [1] Applicant's unique citation designation number (optional). [2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). [4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [6] Applicant is to place a check mark here if English language Translation is attached.

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Document Description: Transmittal Letter

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 3

Application Number	12/449,556
Filing Date	08-12-2009
First Named Inventor	MAURICE JOSEPH PAUL TABONE
Art Unit	3781
Examiner Name	ANDREW THOMAS KIRSCH
Attorney Docket Number	05-7790-397974

ENCLOSURES *(Check all that apply)*

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

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name	MAURICE JOSEPH PAUL TABONE		
Date	05-01-2015	Reg. No.	

CERTIFICATE OF TRANSMISSION/MAILING

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

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	12/449,556	Filing Date	2009-08-12	Docket Number (if applicable)	057790/397974	Art Unit	3781
First Named Inventor	Maurice Joseph Paul Tabone			Examiner Name	Andrew Thomas Kirsch		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

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

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

- ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ☐ Other _____

☒ Enclosed

- ☒ Amendment/Reply
- ☐ Information Disclosure Statement (IDS)
- ☐ Affidavit(s)/ Declaration(s)
- ☒ Other 3-month EOT

MISCELLANEOUS

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

☐ Other _____

FEES

☒ **The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 160605

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

PTO/SB/30EFS (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Signature of Registered U.S. Patent Practitioner			
Signature	/Daniel J. O'Connor/	Date (YYYY-MM-DD)	2015-03-25
Name	Daniel J. O'Connor	Registration Number	69023

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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 the Freedom of Information Act requires disclosure of these records.

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 inspections 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.

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Hartmann US Inc. et al v. Maurice J.P. Tabone

PTO/AIA/22 (03-13)
Approved for use through 7/31/2016. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional): 057790/397974

Application Number: 12/449,556

Filed: August 12, 2009

For: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Art Unit: 3781

Examiner: ANDREW THOMAS KIRSCH

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	Micro Entity Fee	
☐ One month (37 CFR 1.17(a)(1))	$200	$100	$50	$
☐ Two months (37 CFR 1.17(a)(2))	$600	$300	$150	$
☑ Three months (37 CFR 1.17(a)(3))	$1,400	$700	$350	$ 700.00
☐ Four months (37 CFR 1.17(a)(4))	$2,200	$1,100	$550	$
☐ Five months (37 CFR 1.17(a)(5))	$3,000	$1,500	$750	$

☑ Applicant asserts small entity status. See 37 CFR 1.27.

☐ Applicant certifies micro entity status. See 37 CFR 1.29.
Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☑ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 160605.

☑ Payment made via EFS-Web.

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

I am the

☐ applicant.

☑ attorney or agent of record. Registration number 69,023.

☐ attorney or agent acting under 37 CFR 1.34. Registration number _____.

/DANIEL J. O'CONNOR/ — Signature

MARCH 25, 2015 — Date

DANIEL J. O'CONNOR — Typed or printed name

404-881-7854 — Telephone Number

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.

☑ * Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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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).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Patent Application Fee Transmittal

Application Number:	12449556
Filing Date:	12-Aug-2009
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Filer:	Daniel Joseph O'Connor/Arlene Skeete
Attorney Docket Number:	057790-397974

Filed as Small Entity

Filing Fees for U.S. National Stage under 35 USC 371

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension - 3 months with $0 paid	2253	1	700	700
Miscellaneous:				
RCE- 2nd and Subsequent Request	2820	1	850	850
		Total in USD ($)		**1550**

Electronic Acknowledgement Receipt	
EFS ID:	21874271
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Daniel Joseph O'Connor/Arlene Skeete
Filer Authorized By:	Daniel Joseph O'Connor
Attorney Docket Number:	057790-397974
Receipt Date:	25-MAR-2015
Filing Date:	12-AUG-2009
Time Stamp:	15:06:45
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$1550
RAM confirmation Number	1337
Deposit Account	160605
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. 1.492 (National application filing, search, and examination fees) Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)	

Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees)

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

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		397974_Amendment.pdf	32420 423957f62014c63e56cc0f739189b3e7134e5e2d	yes	8

Multipart Description/PDF files in .zip description

Document Description	Start	End
Amendment Submitted/Entered with Filing of CPA/RCE	1	1
Claims	2	4
Applicant Arguments/Remarks Made in an Amendment	5	8

Warnings:					
Information:					
2	Request for Continued Examination (RCE)	397974_RCE.pdf	697918 266e7c2c060ed5bbb55bb6f9feb15853163 10ad3	no	3
Warnings:					
Information:					
3	Extension of Time	397974_EOT.pdf	164213 6fa25b0d80e965bd6d71ee177f74ed93a3e 55d37	no	2
Warnings:					
Information:					
4	Fee Worksheet (SB06)	fee-info.pdf	32805 1738003be71b7cb0b404f4a2845eb0e301e 76e0e	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	927356		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 12/449,556 Confirmation No.: 5150
Applicant(s): Maurice Joseph Paul Tabone
Filed: August 12, 2009
Art Unit: 3781
Examiner: Andrew Thomas Kirsch
Title: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Docket No.: 057790/397974
Customer No.: 00826

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

AMENDMENT UNDER 37 C.F.R. § 1.114

Sir:

In response to the Final Office Action dated September 26, 2014, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims beginning on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

1-22. (Canceled)

23. (**Currently Amended**) A container having a base and a lid moveable with respect to the base between an open position and a closed position, the base having a floor and at least one sidewall extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container, the lid having a primary covering element to at least **substantially** ~~**partially**~~ span the opening when the container is in the closed position, the container having at least one flange extending from the base and substantially outside a footprint of the interior cavity, the at least one flange having a primary surface facing generally away from the floor and an opposing secondary surface, wherein in the closed position a portion of the primary covering element of the lid and the primary surface of the at least one flange form a substantially planar platform disposed on a portion of an upper surface of the container for attaching a single adhesive membrane to both a portion of the primary covering element and a portion of the primary surface, the platform having **a perimeter** ~~**an overall area**~~ substantially smaller than **each of** the **internal boundary of the** opening **and the outer perimeter of the lid**.

24. (Previously Presented) The container of claim 23, wherein the primary surface of the at least one flange is a continuation of an internal surface of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container.

25. (Previously Presented) The container of claim 23, wherein in the closed position the platform is disposed at an oblique angle to the lid.

26. (Previously Presented) The container of claim 23, wherein the container is suitable to receive at least one of fresh food or produce.

27. (Previously Presented) The container of claim 23, wherein the lid is hinged to the base.

28. (Previously Presented) The container of claim 27, wherein the lid includes two or more parts and each part is hinged to the base.

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Hartmann US Inc. et al v. Maurice J.P. Tabone

29. (Previously Presented) The container of claim 28, wherein each hinge is located on one edge of its respective lid and the platform does not include that edge of the lid.

30. (Previously Presented) The container of claim 23, further comprising means for mechanically locking the lid to the base.

31. (Previously Presented) The container of claim 23, further comprising at least one of one or more ventilation holes, ribs, depressions, or recesses.

32. (Previously Presented) The container of claim 23, further comprising a hang sell aperture.

33. (Previously Presented) The container of claim 23, wherein in the closed position the adhesive membrane attaches to the substantially planar platform thereby creating a seal upon the closed container between the primary covering element of the lid and the primary surface of the flange of the base.

34. (Previously Presented) The container of claim 33, wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on the lid.

35. (Previously Presented) The container of claim 23, further comprising the single adhesive membrane.

36. (**Currently Amended**) The container of claim 35, wherein the size of the adhesive membrane is larger than the substantially planar platform**.**

37. (Previously Presented) The container of claim 35, wherein the adhesive membrane is a self-adhesive label.

38. (**Currently Amended**) The container of claim 23, wherein the container comprises a ~~**transparent, semi-rigid**~~ plastic material.

39. (Previously Presented) The container of claim 23, wherein in the closed position, the

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Hartmann US Inc. et al v. Maurice J.P. Tabone

substantially planar platform comprises die-cut holes.

40. (Previously Presented) The container of claim 23, wherein in the closed position, the substantially planar platform is external to the interior cavity and includes the continuation of the internal surface of the sidewall and at least a portion of an external surface side of the lid.

41. (**New**) The container of claim 23, wherein in the closed position, the lid includes at least one convexly shaped portion extending upwardly in a direction generally away from the opening of the base.

42. (**New**) The container of claim 41, wherein the convexly shaped portion of the lid provides further capacity to the container in the closed position, beyond the internal cavity of the base.

43. (**New**) The container of Claim 23, wherein in the closed position, the primary covering element of the lid includes at least one opening located to engage with the primary surface of the at least one flange of the base.

REMARKS/ARGUMENTS

Applicants respectfully request reconsideration of the present application, withdrawal of the previously presented rejections, and formal notification of allowance of all pending claims in view of the preceding amendments and the following remarks.

I. Status of Claims

This Amendment is in response to the Office Action mailed September 26, 2014. The Office Action first rejected Claim 38 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Office Action then rejected Claims 23-26, 30, 31, 33-38, and 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,344,974 to Bostrom ("*Bostrom*"). The Office Action then rejected Claims 27-29 under 35 U.S.C. § 103(a) as being unpatentable over *Bostrom* in view of U.S. Patent Pub. No. 2005/0082185 to Lee ("*Lee*"). Claim 32 was rejected over *Bostrom*, and further in view of U.S. Patent No. 4,312,451 to Forbes, Jr. ("*Forbes*"). The Office Action concluded by rejecting Claim 39 over *Bostrom*, and further in view of U.S. Patent Pub. No. 2004/0226955 to Frantz ("*Frantz*").

For the Examiner's reference, Applicant has amended claims 23 and 38 and added new claims 41-43. Thus, following this Amendment, Claims 23-43 are pending in the present application.

II. Rejections under § 112

In response to the Office Action's assertion that Claim 38 fails to comply with the written description requirement, Applicant has herein amended Claim 38 to remove certain previously recited claim limitations. Accordingly, in light of this amendment, Applicant respectfully submits that this rejection has been overcome and requests withdrawal of the same.

III. Rejection of Independent Claim 23

In the Office Action dated September 26, 2014, independent Claim 23 was rejected as being anticipated by *Bostrom*. Although Applicant does not necessarily agree with this rejection, Applicant has, in the interest of facilitating examination of the present application, amended Claim 23 to further recite at least that a planar platform formed by a portion of a primary

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Hartmann US Inc. et al v. Maurice J.P. Tabone

covering element of a lid and a primary surface of at least one flange extending from a base of a container has "a perimeter substantially smaller than each of the internal boundary of the opening and the outer perimeter of the lid." Support for this claim amendment can be found at least in Figures 4-9 and the supporting text of the originally filed application. As recited in reference to Figure 5 at page 9, lines 10-12 of the originally filed application, "Lid 44 has a first planar area 54 *defined by ribs 38 and edges 55*. A single label (not shown) can extend over the whole first planar area 54 and both second planar areas 56" (*emphasis added*). Accordingly, in various embodiments, the perimeter surrounding the first planar area and second planar areas may be substantially smaller than the perimeter of the opening for receipt of contents into the container and the perimeter of the lid.

Applicant notes that *Bostrom* provides a tray or container having a resealable lid. Referring to Figure 1 thereof, it is evident that an equivalent substantially planar area is formed by at least the rim (36) and the rim (22) of *Bostrom*. Yet rim (36) does not substantially span the opening of the container, as is recited and required in Claim 23. And although top wall (50) and covering wall (38) of *Bostrom* span the opening of its container, such do not form a substantially planar platform, as also recited and required in Claim 23. Moreover, as is evident by Figure 1, the container and lid described in *Bostrom* collectively form a planar area (defined as the top and outermost edge of the lid 14c and the top rim of the bottom container body 12c) having a perimeter that is equivalent to the upper perimeter of the container body. Thus, Applicant respectfully submits that *Bostrom* fails to disclose each and every feature of amended Claim 23.

Accordingly, for at least these reasons, Applicant respectfully submits that this rejection of Claim 23 has been overcome and requests withdrawal of the same and issuance of a Notice of Allowance.

IV. Rejections of Dependent Claims 24-40

With respect to the various rejections of dependent Claims 24-40, the patentability of independent Claim 23, from which these claims depend, has been argued as set forth above, and thus Applicant will not take this opportunity to argue the merits of the rejections with regard to the dependent claims. However, Applicant does not concede that these dependent claims are not

independently patentable and reserves the right to argue the patentability of these claims at a later date, if necessary.

V. New Claims 41-43

Applicant has herein added new Claims 41-43, which depend at least indirectly from Claim 23, include all the limitations found therein, along with additional limitations. Accordingly, for at least this reason Applicant will not take this opportunity to argue the merits of the rejections with regard to the dependent claims. However, Applicant does not concede that these newly added dependent claims are not independently patentable and reserves the right to argue the patentability of these claims at a later date, if necessary.

Applicant further respectfully asserts that new Claims 41-43 add no new matter. Indeed, the various limitations found therein are supported by at least Figures 4-11 and page 3, lines 21-25 of Applicant's originally filed specification. Accordingly, Applicant requests examination thereof together with the remaining pending claims.

VI. Conclusion

In view of at least the foregoing amendments and remarks, Applicant submits that the pending claims are now in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Daniel J. O'Connor/

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Ex.1005 / IPR2024-01037 / Page 179 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

PTO/SB/06 (09-11)
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/449,556	Filing Date 08/12/2009	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)		
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED – PART II

		(Column 1)		(Column 2)	(Column 3)		
	03/25/2015	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
AMENDMENT	Total (37 CFR 1.16(i))	* 21	Minus	** 20	= 1	X $40 =	40
	Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X $210 =	0
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	**40**

		(Column 1)		(Column 2)	(Column 3)		
		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
AMENDMENT	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
/TONI HAKIM/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	057790-397974	5150

826 7590 09/26/2014

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EXAMINER	
KIRSCH, ANDREW THOMAS	
ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
09/26/2014	ELECTRONIC

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

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

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

usptomail@alston.com

Office Action Summary	Application No. 12/449,556	Applicant(s) TABONE, MAURICE JOSEPH PAUL	
	Examiner ANDREW T. KIRSCH	Art Unit 3781	AIA (First Inventor to File) Status No

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☐ Responsive to communication(s) filed on _____.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ 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.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *1-40* is/are pending in the application.

5a) Of the above claim(s) *1-22* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *23-40* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, 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.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☒ The drawing(s) filed on *8/12/2009* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

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)).

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

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date *7/2/2014*.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

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

2. The amendment filed 6/4/2014 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112(a):

> (a) IN GENERAL.—The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor or joint inventor of carrying out the invention.

The following is a quotation of the first paragraph of pre-AIA 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 38 is rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventor(s), at the time the application was filed, had possession of the claimed invention.

5. Claim 38 recites "wherein the container comprises a transparent, semi-rigid plastic material". However, the disclosure does not support a container comprises a

transparent semi-rigid material. For the purposes of examination the unsupported limitations of the claim will not be treated on the merits.

Claim Rejections - 35 USC § 102

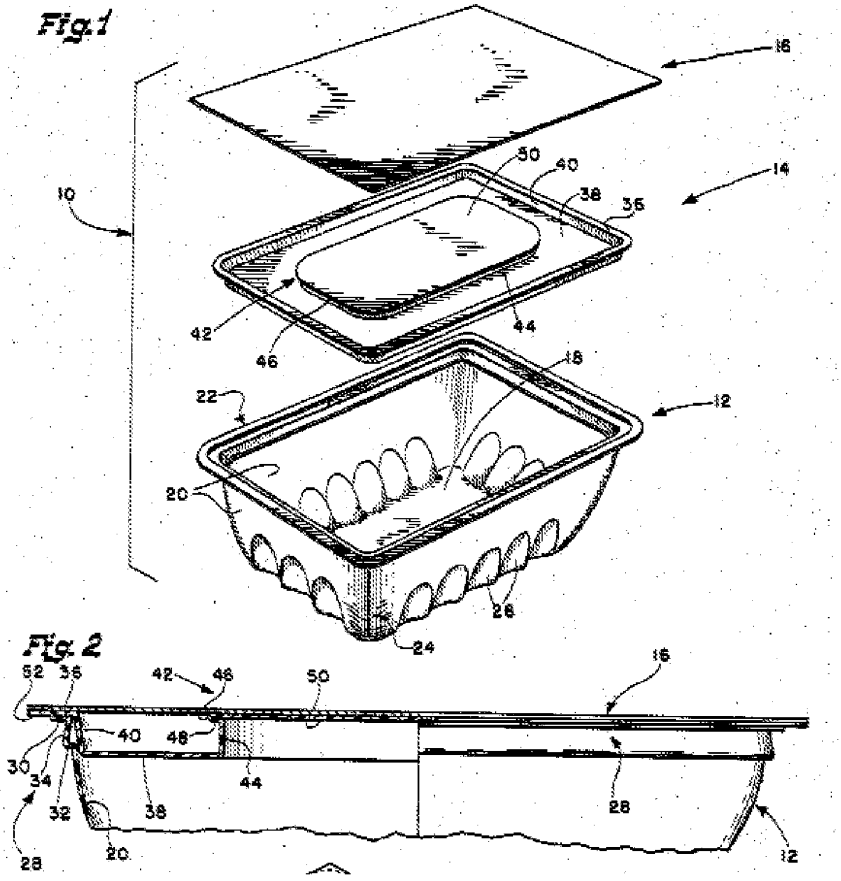
6. The following is a quotation of the appropriate paragraphs of pre-AIA 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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

7. Claims 23-26, 30, 31, 33-38 and 40 are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Bostrom.

8. In re claim 23, with reference to Figs. 1 and 2, Bostrom discloses: A container (10) having a base (12) and a lid (14) moveable with respect to the base between an open position (fig. 1) and a closed position (fig. 2), the base having a floor (18) and at least one sidewall (20) extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container, the lid having a primary covering element (36) to at least partially span the opening when the container is in the closed position (see Fig. 2, the inner edge of element 36 where it meets surface 40 is above the opening, and therefore is considered to span the opening), the container having at least one flange (22) extending from the base and substantially outside a footprint of the interior cavity, the at least one flange having a primary surface (top surface of 52) facing generally away from the floor and an opposing secondary surface (bottom surface of 52), wherein in the closed position a portion of the primary covering element (36) of the lid and the primary surface of the at least one flange form a

substantially planar platform disposed on a portion of an upper surface of the container for attaching a single adhesive membrane (16) to both a portion of the primary covering element and a portion of the primary surface, the platform having an overall area substantially smaller than the opening (see Fig. 1, the surface area of the platform made by the primary surface and primary covering element is smaller than the remaining surface area of the opening of the cavity).



9. In re claim 24, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the primary surface of the at least one flange is a

continuation of an internal surface (at 34) of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container (see Fig. 2 above).

10. In re claim 25, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position the platform is disposed at an oblique angle to the lid (the platform is oblique to the surface 40 of the lid).

11. In re claim 26, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the container is suitable to receive fresh food (column 2, lines 43-48).

12. In re claim 30, with reference to the Figs. above, Bostrom discloses the claimed invention including means for mechanically locking the lid to the base.

13. With regards to the "means for mechanical locking", this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 4, lines 7-10, the "means for mechanical locking" is not shown in the Applicant's drawings, Bostrom discloses one projection (36) receivable in a recess (formed above 30) which locks the lid against lateral movement from freeing the lid from the container. The projection of Bostrom and the locking means are considered to be an equivalent to applicant's means for mechanical locking because it performs the same function in substantially the same way and produces substantially the same result (preventing removal in a direction of movement of the lid) as the corresponding element in applicant's specification. See MPEP 2183.

14. In re claim 31, with reference to the Figs. above, Bostrom discloses the claimed invention including at least one recess (above 30).

15. In re claim 33, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position the adhesive membrane (16) attaches to the substantially planar platform thereby creating a seal upon the closed container between the primary covering element (36) of the lid and the primary surface of the flange of the base (column 5, lines 24-34).

16. In re claim 34, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on the lid (note that this opening is inherently possible by peeling the membrane from all but one primary surface edge of the container and lifting the lid to the open position).

17. In re claim 35, with reference to the Figs. above, Bostrom discloses the claimed invention including the single adhesive membrane (16 is considered a single adhesive membrane in that it is heat-sealed to the platform, which causes the membrane to adhere to the platform).

18. In re claim 36, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the size of the adhesive membrane is larger than the substantially planar platform (the surface area of the membrane is larger than the surface area of the platform, see Fig. 1 above).

19. In re claim 37, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the adhesive membrane is a self-adhesive label (the molten membrane material created during heat sealing is considered to be a heat-activated

adhesive, a label is not required by the claims to have any specific indicia, color, or shape) (see column 5, lines 68-73).

20. In re claim 38, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the container comprises a plastic material (column 3, lines 11-12).

21. In re claim 40, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein in the closed position, the substantially planar platform is external to the interior cavity (See Fig. 2 above) and includes the continuation of the internal surface (34) of the sidewall and at least a portion of an external surface side (40) of the lid.

Claim Rejections - 35 USC § 103

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

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

23. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under pre-AIA 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.

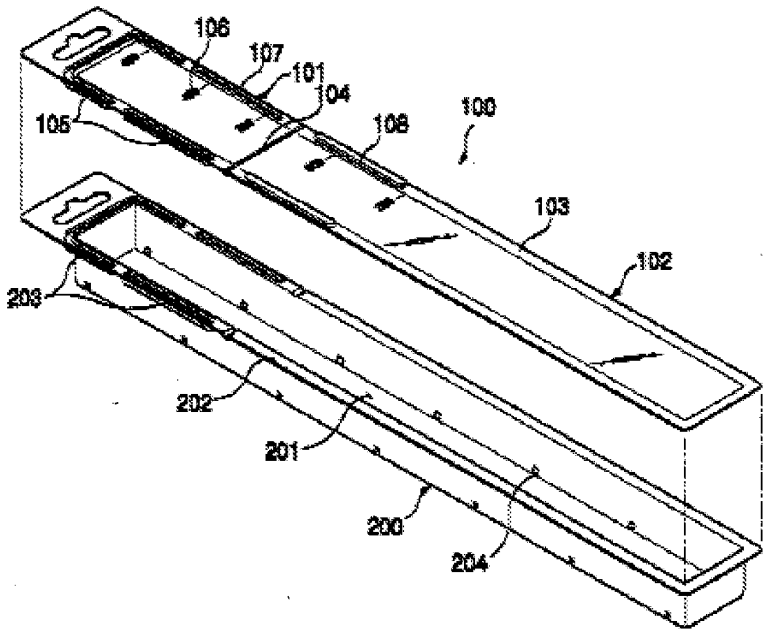
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

24. Claims 27, 28, and 29 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of Lee.

25. In re claims 27, 28, and 29, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein the lid is hinged to the base, includes two or more parts and each part is hinged to the base, and wherein each hinge is located on one edge of its respective and the platform does not include that edge.

26. However, with reference to Fig. 2 below, Lee discloses a container wherein the lid (100) is hinged in two parts (101, 102), each of which is hinged to the base (at 104) and wherein the hinge is located on one edge of the lid (at 104) and the platform does not include that edge (passes through the middle of the lid of Lee).

[FIG. 2]



27. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lid of Bostrom to have been in two parts, both hinged to the base as taught by Lee for the purposes of allowing portions of the lid to be opened without removing the lid entirely from the container thereby preventing misplacement of the lid portions and providing controlled egress of the contained product through one of the portions.

28. Claim 32 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of U.S. Patent No. 4,312,451 (Forbes, Jr. hereinafter).

29. In re claim 32, with reference to the Figs. above, Bostrom discloses the claimed invention except a hang sell aperture.

30. However, with reference to Fig. 4, Forbes, Jr. discloses a self standing tray with a hang sell aperture (40) which extends through a container flange (18) and a lid (38).

31. Therefore, it would have been obvious to one of ordinary skill in the art to have modified the container and lid of Bostrom to include a hang sell aperture as taught by Forbes, Jr. for the purposes of suspending the containers for display and allowing any graphics or contents of the container to be fully visible to a potential purchaser (column 4, lines 24-30).

32. Claim 39 is rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 23 above, and further in view of U.S. PG Pub No. 2004/0226955 (Frantz hereinafter).

33. In re claim 39, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein in the closed position, the substantially planar platform comprises die-cut holes.

34. However, with reference to Fig. 1, Frantz discloses a closure for a container made of plastic which includes die-cut features including a hole (18) (paragraph 0016).

35. Therefore, it would have been obvious to one of ordinary skill in the art to have used die-cutting to form holes in the flange of Bostrom as taught by Frantz for the purposes of forming a hang tab (paragraph 0016-0017). In accordance to MPEP 2113, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please note that even though product-by-process claims are limited by and defined by the

process, determination of patentability is based on the product itself. The patentability of a product, i.e the holes, does not depend on its method of production, i.e. die-cutting. In re Thorpe, 227 USPQ 964, 966 (Federal Circuit 1985).

Response to Arguments

36. Applicant's arguments with respect to the claims have been considered are not persuasive.

37. Applicant argues on pages 6-7 of the Remarks that the rim (36) of Bostrom does not partially span the opening of the closure. However, as in re claim 23 above, and with reference to Fig. 2, the inner edge of element 36 where it meets surface 40 is above the opening, and therefore is considered to at least partially span the opening as claimed.

Conclusion

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

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fenn Mathew can be reached on 571-272-4978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/ANDREW T KIRSCH/
Examiner, Art Unit 3781

/FENN MATHEW/
Supervisory Patent Examiner, Art Unit 3781

Notice of References Cited	Application/Control No. 12/449,556	Applicant(s)/Patent Under Reexamination TABONE, MAURICE JOSEPH P	
	Examiner ANDREW T. KIRSCH	Art Unit 3781	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2004/0226955	11-2004	Frantz, Dale A.	220/578
*	B	US-4,312,451	01-1982	Forbes, Jr., Hampton E.	229/208
	C	US-			
	D	US-			
	E	US-			
	F	US-			
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	W	
	X	

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

Substitute for form 1449/PTO (Revised 07/2007)				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT *(Use as many sheets as necessary)*				Application Number	12/449,556
				Filing Date	08-12-2009
				First Named Inventor	Maurice Joseph Paul Tabone
				Art Unit	3781
				Examiner Name	Andrew Thomas Kirsch
Sheet	1	of	1	Attorney Docket Number	057790-397974

OTHER DOCUMENTS			
Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s) , volume-issue number(s), publisher, city and/or country where published.	English Language Translation Attached
/A.K./	1.	AUSTRALIAN GOVERNMENT, IP AUSTRALIA, "Notice of Acceptance of Application No. 2008215159 (PCT Publication WO2008/09288)", May 30, 2014, 3 pages, Australia.	N/A

Examiner Signature	/Andrew Kirsch/	Date Considered	09/15/2014

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /A.K./

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

CPC- SEARCHED		
Symbol	Date	Examiner
B65D 55/0818, 55/06, 43/162, 43/163, 2203/02, 2251/1016	2/20/2014	ATK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	833, 826, 359.1, 745, 315	9/12/2014	ATK
206	459.5, 1.5	9/12/2014	ATK

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Check	10/4/2011	ATK
EAST Search	10/4/2011	ATK
Updated EAST Search	6/7/2012	ATK
Updated EAST Search	2/18/2014	ATK
Updated EAST Search	9/12/2014	ATK

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L8	136	"220".clas. and (flange rim) with (die with cut$4)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:49
L9	40	"220".clas. and (flange rim) with (die with cut$4) same (holes apertures)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:56
L10	46	"220".clas. and (flange rim) with (die with cut$4) same (holes apertures slots)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:57
L11	24	"220".clas. and (flange rim) with (die with cut$4) with (holes apertures slots)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 15:57
L12	56	(US-20100001014-$ or US-20050082185-$ or US-20130062342-$ or US-20040226955-$).did. or (US-5893587-$ or US-6352170-$ or US-4202464-$ or US-3552634-$ or US-3561668-$ or US-4346833-$ or US-D615858-$ or US-D631337-$ or US-6129233-$ or US-6131760-$ or US-6170723-$ or US-6364100-$ or US-7258233-$ or US-4499353-$ or US-6412637-$ or US-7556173-$ or US-4193496-$ or US-7762421-$ or US-4969570-$ or US-7073309-$ or US-5174464-$ or US-5261551-$ or US-5433412-$ or US-4884718-$ or US-5704649-$ or US-6070723-$).did. or (US-5866183-$ or US-4570818-$ or US-5405009-$ or US-4005776-$ or US-4312451-$ or US-4209095-$ or US-5353935-$ or US-6016914-$ or US-4266666-$ or US-4739883-$ or US-4842141-$ or US-5129517-$).did. or (US-3082903-$ or US-3344974-$ or US-3417897-$ or US-2780385-$ or US-1582489-$ or US-3096905-$ or US-3129014-$ or US-1343955-$ or US-3182851-$ or US-1743980-$ or US-3397774-$ or US-3495758-$ or US-3327843-$).did. or (US-	US-PGPUB; USPAT; USOCR; DERWENT	OR	ON	2014/09/15 16:19

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		5405009-$).did.				
L13	19	L12 and transparent	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:19
L14	4	L12 and transparent and food	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:19
L15	2403	220/315	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
L16	471	220/833	USPAT	OR	ON	2014/09/15 16:54
L17	390	220/826	USPAT	OR	ON	2014/09/15 16:54
L18	3568	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
L19	1676	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
L20	347	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/15 16:54
S1	443	"220".clas. and adhesive with label	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:11
S2	5	(tabone near2 maurice near2 joseph near2 paul).in.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
S3	10	("5405009" | "5636737" | "5893587" | "6352170" | "6540074").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
S4	18	"5636737"	US-	OR	ON	2011/10/04

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			PGPUB; USPAT; USOCR; EPO; JPO; DERWENT			10:16
S5	2	"5893587".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:18
S6	15	("0563490" | "3505954" | "3650210" | "4573711").PN. OR ("5893587").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:20
S7	1	"6540074".pn.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:22
S8	37	("1743980" | "2984382" | "3556338" | "3592349" | "3682365" | "3718274" | "4202464" | "4256240" | "4290248" | "4334631" | "4373636" | "4408698" | "4444332" | "4570818" | "4574974" | "4706839" | "4719087" | "4834237" | "4886184" | "4933216" | "5273174" | "5368178" | "5405009" | "5507429" | "5540342" | "5762221" | "5772070" | "5829595" | "5866181" | "5866183" | "5897015").PN. OR ("6352170").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:25
S9	86	("1695286" | "2138241" | "2202279" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:26
S10	78	("3344974").URPN.	USPAT	OR	ON	2011/10/04 10:39
S11	298	220/833	USPAT	OR	ON	2011/10/04 10:53
S12	294	220/826	USPAT	OR	ON	2011/10/04 11:11
S13	9	220/826 and label	USPAT	OR	ON	2011/10/04 11:11
S14	14	("3417897" | "4499353" | "5147035" | "5570856" | "5899334" | "6070723" | "6247590" | "6279746" | "6412637" | "D368027" | "D368028" | "D368029").PN. OR ("7258233").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 11:17
S15	18	("2780385" | "4193496" | "4202464" | "4724964" | "4986438" | "5699913" | "5964350" | "6007854" | "6053321" | "D305000" | "D411448" | "D473137" | "D531798" | "D598740").PN. OR ("D615858").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 14:00
S16	3	"20050082185"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 15:05

S17	2733	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S18	1379	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S20	240	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S21	86	("1695286" | "2138241" | "2202279" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:11
S22	358	"220".clas. and sealed with tape	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:27
S23	9	220/359.1 and sealed with tape	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:28
S24	5	("3495759" | "4969570" | "5115934" | "5772623").PN. OR ("7762421").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:29
S25	35	("2873881" | "2903154" | "2960257" | "3016169" | "3469735" | "3693829" | "3894650" | "4203537" | "4225064" | "4240568" | "4312459").PN. OR ("4969570").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:31
S26	44	220/359.1 and tape	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:32
S27	2	220/359.1 and tape same (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:40
S28	505	"220".clas. and tape same (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S29	198	"220".clas. and tape with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S30	0	("1582489").URPN.	USPAT	OR	ON	2012/06/06 14:25
S31	3	("3096905").URPN.	USPAT	OR	ON	2012/06/06 14:31

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S32	26	("0983883" | "1128076" | "1239183" | "3133669" | "3149743" | "3158282" | "3438533" | "3696963" | "3834579" | "4520942" | "4607759" | "4728003").PN. OR ("5174464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:06
S33	1579	"220".clas. and strip with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:23
S34	304	"220".clas. and strip with (annular ring) and adhesive	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:23
S35	312	220/833	USPAT	OR	ON	2012/06/07 12:31
S36	313	220/826	USPAT	OR	ON	2012/06/07 12:31
S37	2952	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:31
S39	1448	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:31
S41	263	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:32
S42	68	("3111220" | "3463309" | "4016972" | "4319684").PN. OR ("4499353").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/17 17:07
S43	407	220/359.1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/17 17:16
S44	39	("1743980" | "2984382" | "3556338" | "3592349" | "3682365" | "3718274" | "4202464" | "4256240" | "4290248" | "4334631" | "4373636" | "4408698" | "4444332" | "4570818" | "4574974" | "4706839" | "4719087" | "4834237" | "4886184" | "4933216" | "5273174" | "5368178" | "5405009" | "5507429" | "5540342" | "5762221" | "5772070" | "5829595" | "5866181" | "5866183" | "5897015").PN. OR ("6352170").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 11:50
S45	2	"2210183".pn.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 11:53

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S46	7	("2210183").URPN.	USPAT	OR	ON	2014/02/18 11:57
S47	24	("1616625" | "2097073" | "2210183" | "3680733" | "3782331" | "5273354" | "5934472").PN. OR ("6010005").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 11:58
S48	9	("1743980").URPN.	USPAT	OR	ON	2014/02/18 12:02
S49	90	("1695286" | "2138241" | "2202279" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 12:03
S50	37	("0401210" | "1532900" | "1896834" | "2141011" | "3211470" | "3495758" | "3999819" | "4110502" | "4202464" | "4557971" | "4679823" | "4708368" | "4716052" | "4771891" | "4889234" | "5031939" | "5217307" | "5348780" | "5417457").PN. OR ("5704649").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 12:13
S51	22	("3495758").URPN.	USPAT	OR	ON	2014/02/18 12:21
S52	70	("20020036230" | "20030080021" | "20030118822" | "20040178112" | "20050043423" | "20050079352" | "20050178692" | "20050183981" | "20050188649" | "20060047010" | "20060289328" | "20070034543" | "20070044431" | "20070048413" | "20070056873" | "20070084747" | "20070102318" | "20070151893" | "3151800" | "3495758" | "3617198" | "3673133" | "3768969" | "3913298" | "4099650" | "4125190" | "4205103" | "4244901" | "4306548" | "4340141" | "4384649" | "4644014" | "4779734" | "4830185" | "4911304" | "4925035" | "4939332" | "4962849" | "4974729" | "4998623" | "5014855" | "5217665" | "5251757" | "5277920" | "5323907" | "5332096" | "5585412" | "5624033" | "5741823" | "5839574" | "5878887" | "5915559" | "6071580" | "6082544" | "6296795" | "6382412" | "6414044" | "6681935" | "6797736" | "6966446" | "7005457" | "7032754" | "7053131" | "7093716" | "7113101" | "7150335" | "7159717").PN. OR ("7958998").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/02/18 12:23
S53	2285	220/315	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/18 12:37
S54	74	220/315 and adhesive same (label tape film)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/18 12:38
S55	94	("1695286" | "2138241" | "2202279" | "2544975" | "2885135" | "3043354" |	US-PGPUB;	OR	ON	2014/02/18 12:44

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S57	2120	b65d55/0818.cpc. b65d55/06.cpc. b65d43/162.cpc. b65d43/163.cpc. b65d2203/02.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/20 14:06
S58	250	b65d2251/1016.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/20 14:14
S59	1	"220".clas. and produce and hang with sell	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
S60	390	"220".clas. and produce and hang	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
S61	30	"220".clas. and produce and hang with (hole aperture)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 17:20
S62	84	("2133252" | "2231222" | "2892538" | "3379774" | "4005776" | "4058212" | "4106621" | "4202464" | "4236636" | "4344533" | "4475881" | "4570818" | "4602719" | "4739883" | "4739900" | "4917261" | "4930627" | "4948267" | "4986438" | "5012927" | "5025939" | "5027947" | "5038936" | "5040680" | "5077064" | "5147035" | "5161687" | "5209354" | "5279443" | "5405629" | "5579288" | "5582853" | "5595300" | "5624057" | "5664303" | "5775516" | "5819939" | "5899334").PN. OR ("6070723" | "6170694").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 17:25
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S64	41	("3113680" | "3410697" | "3863832" | "3865302" | "3917155" | "4019675" |	US-PGPUB;	OR	ON	2014/09/12 17:38

		"4183458" | "4202464" | "4209095").PN. OR ("4312451").URPN.	USPAT; USOCR			
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S66	427	220/359.1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:12
S67	33	220/359.1 and (die with cut$4)	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:13
S68	2	"8616373".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/09/12 18:24
S69	47	("20020195363" | "20080118609" | "20110290675" | "3111220" | "3279596" | "3327843" | "3464544" | "4083451" | "4266666" | "4319684" | "4456124" | "4666037" | "4739883" | "4842141" | "5092479" | "5129517" | "5209354" | "5775516" | "6053321" | "6230964" | "6244444" | "6308832" | "6364115" | "7931148" | "D263684" | "D305000" | "D376314" | "D407015" | "D411448" | "D420905" | "D448288" | "D479127" | "D531028" | "D534421" | "D553489" | "D600113" | "D601014" | "D606392" | "D615858" | "D624399" | "D624402" | "D624403" | "D624815").PN. OR ("8616373").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2014/09/12 18:24

EAST Search History (Interference)

<This search history is empty>

9/15/2014 5:01:10 PM
H:\Workspaces\12449556.wsp

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	10/05/2011	06/07/2012	02/18/2014	09/15/2014					
	1	✓	✓	✓	-					
	2	✓	✓	✓	-					
	3	-	-	-	-					
	4	✓	✓	✓	-					
	5	✓	✓	✓	-					
	6	✓	✓	✓	-					
	7	✓	✓	✓	-					
	8	✓	✓	✓	-					
	9	✓	✓	✓	-					
	10	✓	✓	✓	-					
	11	-	-	-	-					
	12	✓	✓	✓	-					
	13	✓	✓	✓	-					
	14	-	-	-	-					
	15	✓	✓	✓	-					
	16	✓	✓	✓	-					
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	23				✓					
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	29				✓					
	30				✓					
	31				✓					
	32				✓					
	33				✓					
	34				✓					
	35				✓					

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=	Allowed	÷	Restricted	I	Interference	O	Objected

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	10/05/2011	06/07/2012	02/18/2014	09/15/2014					
	36				✓					
	37				✓					
	38				✓					
	39				✓					
	40				✓					

Substitute for form 1449/PTO (Revised 07/2007)				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT *(Use as many sheets as necessary)*				Application Number	12/449,556
				Filing Date	08-12-2009
				First Named Inventor	Maurice Joseph Paul Tabone
				Art Unit	3781
				Examiner Name	Andrew Thomas Kirsch
Sheet	1	of	1	Attorney Docket Number	057790-397974

OTHER DOCUMENTS			
Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s) , volume-issue number(s), publisher, city and/or country where published.	English Language Translation Attached
	1.	AUSTRALIAN GOVERNMENT, IP AUSTRALIA, "Notice of Acceptance of Application No. 2008215159 (PCT Publication WO2008/09288)", May 30, 2014, 3 pages, Australia.	N/A

Examiner Signature		Date Considered	

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Electronic Acknowledgement Receipt

EFS ID:	19483236
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Christopher Patrick Lightner/linda liebl
Filer Authorized By:	Christopher Patrick Lightner
Attorney Docket Number:	057790-397974
Receipt Date:	02-JUL-2014
Filing Date:	12-AUG-2009
Time Stamp:	17:17:55
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Transmittal Letter	397974_TransLtr.pdf	87393 8091732ee305c3ae8aaf6a638f01b872548b5808	no	1

Warnings:	
Information:	

2	Information Disclosure Statement (IDS) Form (SB08)	397974_1449.pdf	114136 ba2df3dbe130fdad9857d48ca6af056fea1d183f	no	1
Warnings:					
Information:					
This is not an USPTO supplied IDS fillable form					
3	Non Patent Literature	Notice_of_Acceptance_and_Bibliographic_Attachment_30-05-2014.pdf	146852 82c9dd94a73b95ff4d340297f43aa20b3821d6b1	no	3
Warnings:					
Information:					
		Total Files Size (in bytes):	348381		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

Attorney's Docket No. 057790-397974

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Maurice Joseph Paul Tabone	Confirmation No.:	5150
Appl. No.:	12/449,556	Group Art Unit:	3781
Filed:	08-12-2009	Examiner:	Andrew Thomas Kirsch
For:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE		

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

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)

Attached is a list of documents on form PTO-1449 along with a copy of any cited foreign patent documents and non-patent literature document in accordance with 37 CFR 1.98(a)(2). It is requested that the Examiner consider these documents and officially make them of record in accordance with the provisions of 37 C.F.R. § 1.97 and Section 609 of the MPEP. By identifying the listed documents, Applicant in no way makes any admission as to the prior art status of the listed documents, but is instead identifying the listed documents for the sake of full disclosure.

This Information Disclosure Statement is submitted in accordance with 37 C.F.R. § 1.97(c), before final Office Action or Allowance, whichever is earlier. In accordance with the requirements of 37 C.F.R. § 1.97(c), the following statement as specified in 37 C.F.R. § 1.97(e) is made: Each item of information contained in this statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of this statement.

Respectfully submitted,

/Christopher P. Lightner/

Christopher P. Lightner
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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON July 2, 2014.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	12/449,556	Confirmation No.: 5150
Applicant(s):	Maurice Joseph Paul Tabone	
Filed:	August 12, 2009	
Art Unit:	3781	
Examiner:	Andrew Thomas Kirsch	
Title:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE	

Docket No.: 057790/397974
Customer No.: 00826

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

AMENDMENT UNDER 37 C.F.R. § 1.111

Sir:

In response to the Office Action dated March 6, 2014, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims beginning on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

1-22. (Canceled)

23. (New) A container having a base and a lid moveable with respect to the base between an open position and a closed position, the base having a floor and at least one sidewall extending upwardly from the floor to define an opening for receipt of contents into an interior cavity of the container, the lid having a primary covering element to at least partially span the opening when the container is in the closed position, the container having at least one flange extending from the base and substantially outside a footprint of the interior cavity, the at least one flange having a primary surface facing generally away from the floor and an opposing secondary surface, wherein in the closed position a portion of the primary covering element of the lid and the primary surface of the at least one flange form a substantially planar platform disposed on a portion of an upper surface of the container for attaching a single adhesive membrane to both a portion of the primary covering element and a portion of the primary surface, the platform having an overall area substantially smaller than the opening.

24. (New) The container of claim 23, wherein the primary surface of the at least one flange is a continuation of an internal surface of the sidewall, and in the closed position, the primary surface is external to the interior cavity of the container.

25. (New) The container of claim 23, wherein in the closed position the platform is disposed at an oblique angle to the lid.

26. (New) The container of claim 23, wherein the container is suitable to receive at least one of fresh food or produce.

27. (New) The container of claim 23, wherein the lid is hinged to the base.

28. (New) The container of claim 27, wherein the lid includes two or more parts and each part is hinged to the base.

29. (New) The container of claim 28, wherein each hinge is located on one edge of its respective lid and the platform does not include that edge of the lid.

30. (New) The container of claim 23, further comprising means for mechanically locking the lid to the base.

31. (New) The container of claim 23, further comprising at least one of one or more ventilation holes, ribs, depressions, or recesses.

32. (New) The container of claim 23, further comprising a hang sell aperture.

33. (New) The container of claim 23, wherein in the closed position the adhesive membrane attaches to the substantially planar platform thereby creating a seal upon the closed container between the primary covering element of the lid and the primary surface of the flange of the base.

34. (New) The container of claim 33, wherein when the lid is moved from the closed and sealed position to the open position, at least a portion of the adhesive membrane remains attached on the lid.

35. (New) The container of claim 23, further comprising the single adhesive membrane.

36. (New) The container of claim 35, wherein the size of the adhesive membrane is larger than the substantially planar platform

37. (New) The container of claim 35, wherein the adhesive membrane is a self-adhesive label.

38. (New) The container of claim 23, wherein the container comprises a transparent, semi-rigid plastic material.

39. (New) The container of claim 23, wherein in the closed position, the substantially planar platform comprises die-cut holes.

40. (New) The container of claim 23, wherein in the closed position, the substantially planar platform is external to the interior cavity and includes the continuation of the internal surface of the sidewall and at least a portion of an external surface side of the lid.

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Hartmann US Inc. et al v. Maurice J.P. Tabone

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of the present application, withdrawal of the previously presented rejections, and formal notification of allowance of all pending claims in view of the preceding amendments and the following remarks.

I. Status of Claims

This Amendment is in response to the Office Action mailed March 6, 2014. The Office Action first rejected Claims 1, 2, 4, 6, 9, 10, 12, 13, 15, and 17-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,182,851 to Taylor ("*Taylor*"). The Office Action then rejected Claims 1, 15, 21, and 22 as being anticipated by U.S. Patent No. 3,344,974 to Bostrom ("*Bostrom*"). The Office Action then rejected dependent Claims 5 and 16 under 35 U.S.C. § 103(a) as being unpatentable over *Taylor*, and further in view of U.S. Patent No. 3,082,903 to Stevens et al. ("Stevens"). The Office Action concluded by rejecting dependent Claims 7 and 8 under 35 U.S.C. § 103(a) as being unpatentable over *Taylor*, and further in view of U.S. Patent Pub. No. 2005/0082185 to Lee ("*Lee*").

For the Examiner's reference, Applicant has herein canceled all of the previously pending claims, namely Claims 1-2, 4-10, 12-13, and 15-22. In substitution thereof, Applicant has herein added new Claims 23-40, of which only Claim 23 is in independent form. Thus, following this Amendment, Claims 23-40 are pending in the present application.

II. New Claims 23-40

Applicant has herein added new Claims 23-40, of which Claim 23 is in independent form, with Claims 24-40 depending therefrom. Applicant respectfully submits that support for the features found within new Claims 23-40 may be found in at least portion of the previously pending claims, in at least Figures 1-2, 4, 5, 7, 10-11, 15, 17-19, 20-21, 23, and 27 of Applicant's originally filed disclosure, and in the accompany disclosure pertinent to at least the above-noted figures. Accordingly, Applicant respectfully submits that new Claims 23-40 introduce no new matter.

Applicant further respectfully notes that new Claim 23, in particular, in its independent

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Hartmann US Inc. et al v. Maurice J.P. Tabone

form, recites a configuration in which a container has a "lid having a primary covering element to at least partially span the opening of the container in the closed position," and "at least one flange extending from the base and substantially outside a footprint of the interior cavity," wherein "a portion of the primary covering element of the lid and the primary surface of the at least one flange form a substantially planar platform disposed on a portion of an upper surface of the container." Applicant notes for the Examiner's convenience that the recited "primary covering element" may be seen in at least Figures 2, 4, 7, 11, 15, 17, 23, and 27, which show various embodiments of the claimed configuration in a "closed position." Similarly, the recited "flange" is also illustrated in the figures, in particular, within Figures 1 and 2 (*see* element 26); Figures 4, 5, and 7 (*see* element 56); Figures 10 and 11 (*see* element 78); Figures 18 and 19 (*see* element 108); and Figures 20 and 21 (*see* element 108a).

Generally speaking, with reference to Figure 2 thereof, *Taylor* discloses a can having a body (12) that includes outer walls (shown but not numbered) and a friction ring (13) projecting inwardly relative to the outer walls (*see also*, Col. 2, lines 6-11). The friction ring (13) of *Taylor* further includes a step wall (17) (*see* Figure 2). With the outer walls of *Taylor's* body (12) defining its internal volume inside of which contents may be hermetically sealed, its friction ring (13) and the step wall (17) thereof are thus substantially inside a footprint defined by the same.

Remaining with Figure 2 of *Taylor*, a panel (25) is also illustrated, which Applicant respectfully submits could be reasonably construed as a comparable (but not the same as) feature as the recited "primary covering element" of Claim 23. Similarly, the upper surface (17) may be reasonably construed as a comparable (but not the same as) feature as the recited "flange" of Claim 23. Yet, as is evident from Figure 2, the step wall (17) lies within the footprint of the internal volume of the base of the *Taylor* can. In stark contrast therewith, the presently recited flange lies substantially outside the footprint of the internal volume of its base. Thus, Applicant respectfully submits that *Taylor* fails to disclose each and every feature of new Claim 23.

Applicant notes further that *Bostrom* provides a tray or container having a resealable lid. Referring to Figure 1 thereof, it is evident that an equivalent substantially planar area is formed by at least the rim (36) and the rim (22) of *Bostrom*. Yet rim (36) does not partially span the opening of the container, as is recited and required in new Claim 23. And although top wall (50)

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Hartmann US Inc. et al v. Maurice J.P. Tabone

and covering wall (38) of *Bostrom* span the opening of its container, such do not form a substantially planar platform, as also recited and required in new Claim 23. Thus, Applicant respectfully submits that *Bostrom* fails to disclose each and every feature of new Claim 23.

Although Applicant will not take this opportunity to argue the patentability of the new dependent Claims 24-40, Applicant does not concede that these newly added dependent claims are not independently patentable and reserves the right to argue the patentability of these claims at a later date, if necessary. In this regard, however, Applicant respectfully submits that Claims 24-40 contain all of the limitations of new Claim 23 and still further limitations; thus, patentability thereof flows from at least the patentability of Claim 23 in view of at least the presently encountered references.

In view of the above remarks, Applicant thus respectfully submits that new Claims 23-40 are in condition for allowance and requests examination thereof and subsequent issuance of a Notice of Allowance in due course.

III. Conclusion

In view of at least the foregoing amendments and remarks, Applicant submits that the pending claims are now in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Christopher P. Lightner/

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON June 4, 2014

Electronic Acknowledgement Receipt

EFS ID:	19208804
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Christopher Patrick Lightner/Melissa Mitchell
Filer Authorized By:	Christopher Patrick Lightner
Attorney Docket Number:	057790-397974
Receipt Date:	04-JUN-2014
Filing Date:	12-AUG-2009
Time Stamp:	15:02:49
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		2014-06-04_Amendment.pdf	159434 3f8f308b58203d5257acbed0a91caf15a45970e2	yes	8

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Amendment/Req. Reconsideration-After Non-Final Reject	1	1
	Claims	2	4
	Applicant Arguments/Remarks Made in an Amendment	5	8
Warnings:			
Information:			
	Total Files Size (in bytes):	159434	

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/449,556	Filing Date 08/12/2009	☐ To be Mailed

ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)		
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED – PART II

		(Column 1)		(Column 2)	(Column 3)		
	06/03/2014	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
AMENDMENT	Total (37 CFR 1.16(i))	* 18	Minus	** 20	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X $210 =	0
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	0

		(Column 1)		(Column 2)	(Column 3)		
		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
AMENDMENT	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))						
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

LIE
/DORIS BURNS/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	057790-397974	5150

826 7590 03/06/2014

ALSTON & BIRD LLP
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101 SOUTH TRYON STREET, SUITE 4000
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EXAMINER	
KIRSCH, ANDREW THOMAS	
ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
03/06/2014	ELECTRONIC

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

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

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

usptomail@alston.com

Office Action Summary	Application No. 12/449,556	Applicant(s) TABONE, MAURICE JOSEPH PAUL	
	Examiner ANDREW T. KIRSCH	Art Unit 3781	AIA (First Inventor to File) Status No

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

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

Status

1)☒ Responsive to communication(s) filed on *12/18/2012*.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ 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.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5)☒ Claim(s) *1,2,4-10,12,13 and 15-22* is/are pending in the application.

5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1,2,4-10,12,13 and 15-22* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, 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.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☒ The drawing(s) filed on *8/12/2009* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

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)).

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

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b) Paper No(s)/Mail Date _____.

3) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

4) ☐ Other: _____.

DETAILED ACTION

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

2. The amendment filed 12/18/2012 has been entered.

Claim Rejections - 35 USC § 102

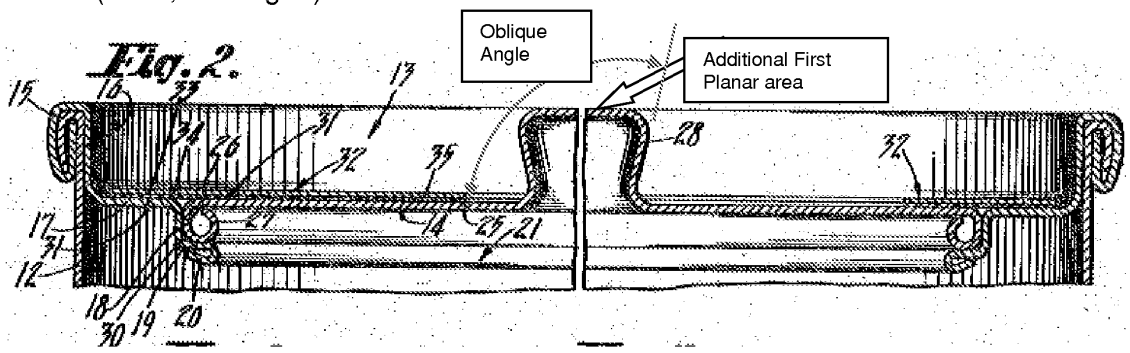
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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

4. Claims 1, 2, 4, 6, 9, 10, 12, 13, 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,182,851 (Taylor hereinafter).

5. In re claims 1 and 15, with reference to the Figs. below, Taylor discloses: A container suitable to receive fresh food or produce (column 1, lines 41-45), said container comprising a base (12, column 2, lines 2-5) and a lid (14) moveable with respect to the base between an open position and a closed position (See Fig. 2), the base having an internal volume and a rim (13), the lid having a first planar area (25) and the base having a second planar area (17) located on an extension of the rim, wherein: in the closed position, the first and second planar areas include a substantially flat area (17, 25) suitable for receipt of an adhesive membrane (32), the substantially flat area includes an edge of the first planar area (top edge of friction wall 26) and at least part of the second planar area (at 17, see Fig. 2) (column 2, lines 47-54), at least part of the first planar area of the lid is within a footprint of the internal volume of the base (see Fig.

2), and the rim of the base is substantially outside the footprint of the internal volume of the base (most of out-turned rim 15 is substantially outside the footprint, see fig. 2 below) and wherein the first planar area (25) is disposed at an oblique angle to some of the lid (at 28, see Fig. 2 below), and wherein the base includes a floor (column 2, lines 2-5) and at least one upwardly extending side wall (12), which has a rim (at 15) generally parallel to the floor, and the second planar area (17) is inclined at an angle to the rim (at 17, see Fig. 4).



6. In re claim 2, with reference to the Figs. above, Taylor discloses the claimed invention including wherein the base includes a floor and upwardly extending side walls (12), at least one of which has the rim (column 2, lines 2-5).

7. In re claim 4, with reference to the Figs. above, Taylor discloses the claimed invention which is rectangular in cross section (a cylinder cross section taken vertically is rectangular, see Fig. 1).

8. In re claims 6 and 17, with reference to the Figs. above, Taylor discloses the claimed invention including wherein the lid (14) is separate from the base (12).

9. In re claim 9 and 18, with reference to the Figs. above, Taylor discloses the claimed invention including wherein the lid and/or the base includes means for mechanical locking (18, 26).

10. With regards to the “means for mechanical locking”, this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 4, lines 7-10, the “means for mechanical locking” is not shown in the Applicant's drawings, Taylor discloses one projection (26) receivable in a recess (at 30). The projection of Taylor and the locking means are considered to be an equivalent to applicant’s means for mechanical locking because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant’s specification. See MPEP 2183.

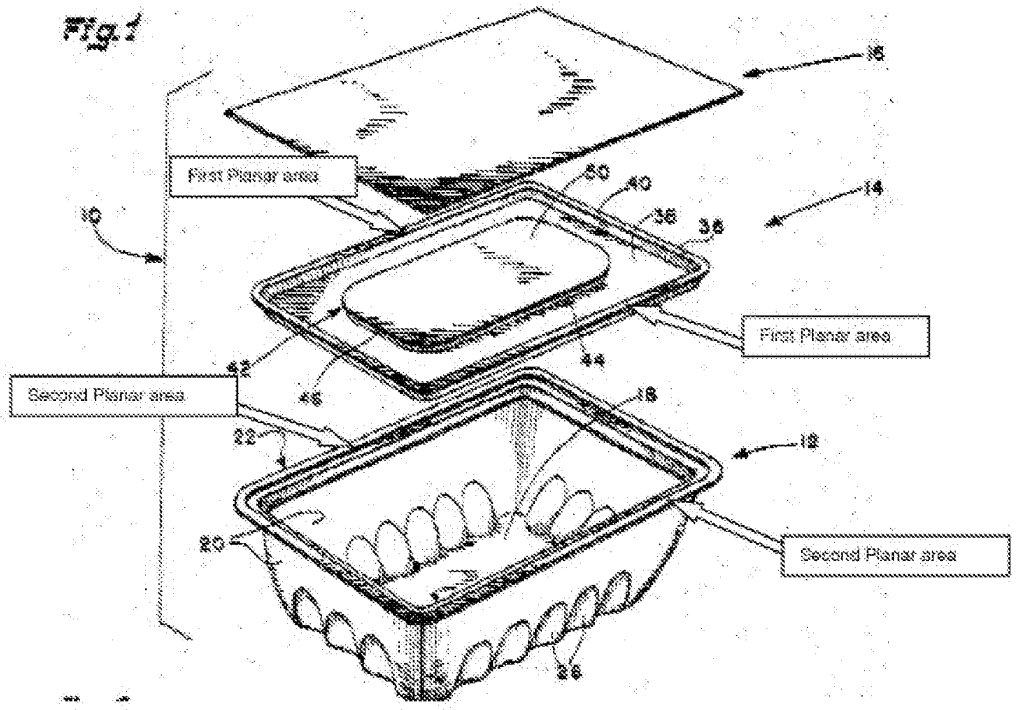
11. In re claims 10 and 19, with reference to the Figs. above, Taylor discloses the claimed invention including wherein includes one recess (30).

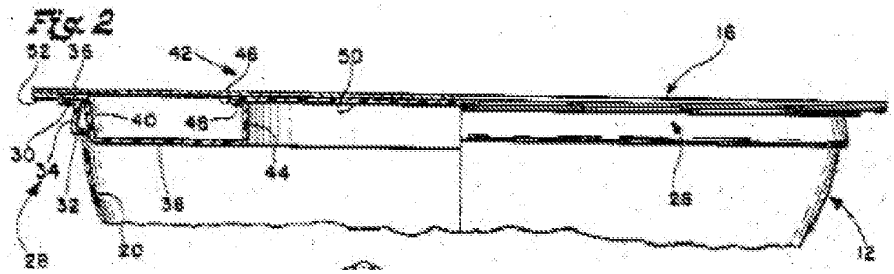
12. In re claim 12, with reference to the Figs. above, Taylor discloses the claimed invention including wherein the adhesive membrane is a self-adhesive label (column 2, lines 47-54).

13. In re claims 13 and 20, with reference to the Figs. above, Taylor discloses the claimed invention including wherein has a plurality of first planar areas (25 and upper surface of 28) and a plurality of second planar areas(17, 19) (see Fig. 2 above).

14. Claims 1, 15, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Bostrom.

15. In re claims 7 and 8, with reference to the Figs. 1 and 2 below, Bostrom discloses: A container (10) suitable to receive fresh food or produce, said container comprising a base (12) and a lid (14) moveable with respect to the base between an open position (see Fig. 1) and a closed position (See Fig. 2), the base having an internal volume and a rim (22), the lid having a first planar area (at 36) and the base having a second planar area (22) located on an extension of the rim, wherein: in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane (16), the substantially flat area includes an edge of the first planar area and at least part of the second planar area (see Fig. 2), at least part of the first planar area of the lid is within a footprint of the internal volume of the base (inner most edge of the first planar area 36 is within a footprint of the internal volume, see Fig. 2), and the rim (22) of the base is substantially outside the footprint of the internal volume of the base and wherein the first planar area (36) is disposed at an oblique angle to some of the lid (at 40), and wherein the base includes a floor (18) and at least one upwardly extending side wall (20), which has a rim (34) generally parallel to the floor, and the second planar area (top surface of 22) is inclined at an angle to the rim (approximately 85 degrees).





16. In re claims 21 and 22, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the rim (22) of the base is at leaste partially contacted by the lid (14, at 36) in the closed position.

Claim Rejections - 35 USC § 103

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

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

18. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

19. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor as applied to claims 1 and 15 above, and further in view of U.S. Patent No. 3,082,903 (Stevens et al. hereinafter).

20. In re claims 5 and 16, with reference to the Figs. above, Taylor discloses the claimed invention except wherein the lid is hinged to the base.

21. However, Stevens et al. discloses a reclosable package in which a lid (13) is hinged at (12) to a base (15).

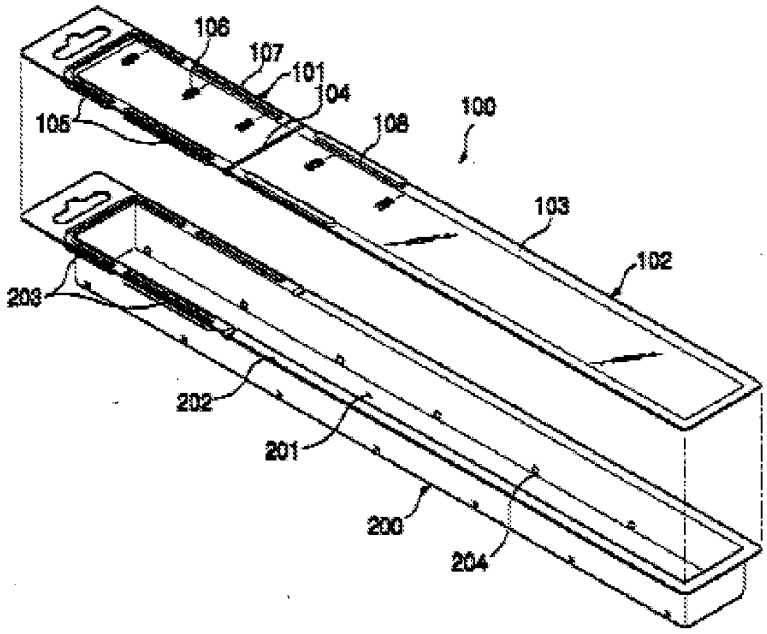
22. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have attached the lid to the base of Taylor with a hinge as taught by Stevens et al. for the purposes of retaining the closure lid to the container to prevent misplacement and promote proper alignment during reclosure as is common in the art.

23. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor as applied to claim 1 above, and further in view of U.S. PG Pub No. 2005/0082185 (Lee hereinafter).

24. In re claims 7 and 8, with reference to the Figs. above, Taylor discloses the claimed invention except wherein the lid is in two or more parts, each of which is hinged to the base, and wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

25. However, with reference to Fig. 2 below, Lee discloses a container wherein the lid (100) is in two parts (101, 102), each of which is hinged to the base (at 104) and wherein the hinge is located on one edge of the lid (at 104) and the substantially flat area does not include that edge (passes through the middle of the lid of Lee).

[FIG. 2]



26. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lid of Taylor to have been in two parts, both hinged to the base as taught by Lee for the purposes of allowing portions of the lid to be opened without removing the lid entirely from the container thereby preventing

misplacement of the lid portions and providing controlled egress of the contained product through one of the portions.

Response to Arguments

27. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds rejection necessitated by the amendment.

Conclusion

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fenn Mathew can be reached on 571-272-4978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/ANDREW T KIRSCH/
Examiner, Art Unit 3781

/FENN MATHEW/
Supervisory Patent Examiner, Art Unit 3781

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	**Art Unit**
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	10/05/2011	06/07/2012	02/18/2014						
	1	✓	✓	✓						
	2	✓	✓	✓						
	3	-	-	-						
	4	✓	✓	✓						
	5	✓	✓	✓						
	6	✓	✓	✓						
	7	✓	✓	✓						
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	10	✓	✓	✓						
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	15	✓	✓	✓						
	16	✓	✓	✓						
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EAST Search History

EAST Search History (Prior Art)

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L3	2120	b65d55/0818.cpc. b65d55/06.cpc. b65d43/162.cpc. b65d43/163.cpc. b65d2203/02.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/20 14:06
L4	250	b65d2251/1016.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2014/02/20 14:14
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S13	9	220/826 and label	USPAT	OR	ON	2011/10/04 11:11
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S18	1379	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S19	301	220/359.1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S20	240	220/745	US-PGPUB;	OR	ON	2011/10/05 09:49

			USPAT; USOCR; EPO; JPO; DERWENT			
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S32	26	("0983883" | "1128076" | "1239183" | "3133669" | "3149743" | "3158282" | "3438533" | "3696963" | "3834579" | "4520942" | "4607759" | "4728003").PN. OR ("5174464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:06
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EAST Search History (Interference)

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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

CPC- SEARCHED		
Symbol	Date	Examiner
B65D 55/0818, 55/06, 43/162, 43/163, 2203/02, 2251/1016	2/20/2014	ATK

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	833, 826, 359.1, 745, 315	2/18/2014	ATK
206	459.5, 1.5	2/18/2014	ATK

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Check	10/4/2011	ATK
EAST Search	10/4/2011	ATK
Updated EAST Search	6/7/2012	ATK
Updated EAST Search	2/18/2014	ATK

INTERFERENCE SEARCH			
US Class/ CPC Symbol	US Subclass / CPC Group	Date	Examiner

REQUEST For CONTINUED EXAMINATION (RCE) TRANSMITTAL Address to: MAIL STOP RCE COMMISSIONER FOR PATENTS P.O. BOX 1450 ALEXANDRIA, VA 22313-1450 (Revised 04/2005)	Application Number 12/449,556
	Filing Date August 12, 2009
	First Named Inventor: Maurice Joseph Paul Tabone
	Art Unit: 3781
	Examiner Name: Andrew Thomas Kirsch
	Confirmation No.: 5150
	Attorney Docket No. 057790/397974

This is a request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

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

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

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

      ii. ☐ Other

   b. ☒ Enclosed

      i. ☒ Amendment/Reply

      ii. ☐ Affidavits(s)/Declarations(s)

      iii. ☐ Information Disclosure Statement (IDS); of cites listed on PTO Form 1449

      iv. ☒ Other Petition and fee for Extension of Time

2. **Miscellaneous**

   a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. §1.103(c) for a period of ___ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(g) required)

   b. ☐ Other

3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is **required** by 37 C.F.R. § 1.114 when the RCE is filed.
   a. The Director is hereby authorized to charge any fee deficiencies, or credit any overpayments to Deposit Account No. 16-0605.
      i. ☒ RCE fee required under 37 C.F.R. § 1.17(e) ($930.00 large entity; $465.00 small entity)
      ii. ☒ Extension of Time Fee (37 C.F. R. §§ 1.136 and 1.17)
      iii. ☐ Other
   b. ☐ Check in the amount of $___enclosed

Respectfully submitted,

/Christopher P. Lightner/

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Fax Atlanta Office (404) 881-7777

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON December 18, 2012.

PATENT

RESPONSE UNDER 37 C.F.R. 1.116 - EXPEDITED PROCEDURE - EXAMINING GROUP 3687

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 12/449,556 Confirmation No.: 5150
Applicant(s): Maurice Joseph Paul Tabone
Filed: August 12, 2009
Art Unit: 3781
Examiner: Andrew Thomas Kirsch
Title: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Docket No.: 057790/397974
Customer No.: 00826

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

AMENDMENT AFTER FINAL UNDER 37 CFR § 1.116

Sir:

In response to the Office Action dated June 18, 2012, please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims beginning on page 2 of this paper.

Remarks/Arguments begin on page 5 of this paper.

Amendments to the Claims:

1. (Currently Amended) A container ~~having an internal volume~~ suitable to receive fresh food or produce, **said container comprising** a base and a lid moveable with respect to the base between an open position and a closed position, the base having **an internal volume and** a rim, the lid having a first planar area and the base having a second planar area located on an extension of the rim, wherein**:[[,]]**

in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, ~~the adhesive membrane having an area smaller in size than the first planar area of the lid~~,

the substantially flat area ~~including~~ **includes at least one of: (i)** an edge of the first planar area and at least part of the second planar area **and (ii) an edge of the second planar area and at least part of the first planar area**,

~~wherein~~ at least part of the first planar area of the lid is within a footprint of the internal volume **of the base, and**

the rim of the base is substantially outside the footprint.

2. (Original) The container of claim 1 wherein the base includes a floor and upwardly extending side walls, at least one of which has the rim.

3. (Cancelled)

4. (Previously Presented) The container of claim 1 which is square or rectangular in cross section.

5. (Previously Presented)The container of claim 1 wherein the lid is hinged to the base.

6. (Previously Presented) The container of claim 1 wherein the lid is separate from the base.

7. (Previously Presented) The container of claim 1 wherein the lid is in two or more parts, each of which is hinged to the base.

8. (Previously Presented) The container of claim 7 wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

9. (Previously Presented) The container of claim 1 wherein the lid and/or the base includes means for mechanical locking.

10. (Previously Presented) The container of claim 1 which includes one or more ventilation holes, ribs, depressions or recesses.

11. (Cancelled)

12. (Previously Presented) The container of claim 1 wherein the adhesive membrane is a self-adhesive label.

13. (Previously Presented) The container of claim 1 which has a plurality of first planar areas and a plurality of second planar areas.

14. (Cancelled)

15. (Currently Amended) A container having a base and a lid moveable with respect to the base between an open position and a closed position, **the base having an internal volume,** the lid having a first planar area and the base having a second planar area, wherein**:**[[,]]

in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, ~~**the adhesive membrane having an area smaller in size than the first planar area of the lid,**~~

the substantially flat area ~~**including**~~ **includes at least one of: (i)** an edge of the first planar area and at least part of the second planar area **and (ii) an edge of the second planar area and at least part of the first planar area**, ~~**and wherein**~~

the first planar area is disposed at an oblique angle to some or all of the lid**,** ~~**and wherein**~~

the base includes a floor and **at least one** upwardly extending side wall[[s]], ~~at least one of~~ which has a rim generally parallel to the floor, and the second planar area is inclined at an angle to the rim**, and**

the rim of the base is substantially outside a footprint of the internal volume of the base .

16. (Previously Presented) The container of claim 15 wherein the lid is hinged to the base.

17. (Previously Presented) The container of claim 15 wherein the lid is separate from the base.

18. (Previously Presented) The container of claim 15 wherein the lid and/or the base includes means for mechanical locking.

19. (Previously Presented) The container of claim 15 which includes one or more ventilation holes, ribs, depressions or recesses.

20. (Previously Presented) The container of claim 15 which has a plurality of first planar areas and a plurality of second planar areas.

21. (New) The container of claim 1 wherein the rim of the base is at least partially contacted by the lid in the closed position.

22. (New) The container of claim 15 wherein the rim of the base is at least partially contacted by the lid in the closed position.

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of the present application, withdrawal of the previously presented rejections, and formal notification of allowance of all pending claims in view of the preceding amendments and the following remarks.

I. Status of Claims

This Amendment is in response to the Office Action mailed June 18, 2012. The Office Action first rejected Claims 1, 2, 4, 6, 9, 10, 12, 13, 15, and 17-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,182,851 to Taylor ("*Taylor*"). The Office Action then rejected (1) Claims 5 and 16 under 35 U.S.C. § 103(a) as being rendered obvious by *Taylor* in view of U.S. Patent No. 3,082,903 to Stevens et al. ("*Stevens*"); and (2) Claims 7 and 8 under 35 U.S.C. § 103(a) as being rendered obvious by *Taylor* in view of U.S. Published Application No. 2005/0082185 to Lee ("*Lee*").

For the Examiner's reference, Applicant has amended Claims 1 and 15, and added new Claims 21 and 22. As such, Claims 1-2, 4-10, 12-13, and 15-22 are pending in the application following this Amendment.

II. Rejection of Independent Claims 1 & 15

With regard to the rejection of independent Claims 1 and 15 as being anticipated by *Taylor*, Applicant respectfully disagrees.

In particular, Applicant respectfully asserts that independent Claims 1 and 15, as amended, are patentable over this reference because the reference fails to disclose at least that "the rim of the base is substantially outside a footprint of the internal volume of the base." Indeed, with reference to its Figure 2, *Taylor* discloses a can having a body (12) that includes outer walls (shown but not numbered) and a friction ring (13) projecting inwardly relative to the outer walls (*see also*, Col. 2, lines 6-11). The friction ring (13) of *Taylor* further includes an upper surface (17) (*see* Figure 2). With the outer walls of *Taylor's* body (12) defining its internal volume inside of which contents may be hermetically sealed, its friction ring (13) and the upper

surface (17) thereof is thus substantially inside a footprint defined by the same. Such is in stark contrast with the configuration of Claims 1 and 15, as amended, wherein the "rim of the base is substantially outside a footprint of the internal volume of the base." In other words, whereas the friction ring (13) or rim portion of *Taylor* is substantially inside a footprint defined by its container's internal volume, the presently claimed configuration incorporates a rim that is substantially outside its container's internal volume.

Thus, for at least this reason, Applicant respectfully asserts that independent Claims 1 and 15 provide a patentable distinction over *Taylor*. Accordingly, Applicant respectfully requests that the Examiner withdraw the current rejection of independent Claim 1 and issue a Notice of Allowance.

III. Rejections of Dependent Claims 2, 4-10, 12-13, and 16-20

The Examiner has rejected dependent Claims 2, 4-10, 12-13, and 16-20 as likewise being unpatentable over various combinations of *Taylor*, *Stevens*, and/or *Lee*. Because the patentability of the independent Claims 1 and 15, from which these claims depend, respectively, has been argued as set forth above, the Applicant will not take this opportunity to argue the merits of the rejections with regard to the dependent claims. However, the Applicant does not concede that remaining dependent Claims 2, 4-10, 12-13, and 16-20 are not independently patentable and reserves the right to argue the patentability of these claims at a later date if necessary.

IV. New Claims 21 and 22

Applicant has added herein new dependent Claims 21 and 22, which Applicant hereby asserts add no new matter. Indeed, support for the newly recited limitation may be found in at least all embodiments of the figures of the disclosure, as originally filed. As such, Applicant further respectfully submits that, for at least all of the reasons set forth above with respect to independent Claims 1 and 15, from which these new claims dependent, respectively, new Claims 21 and 22 are likewise patentable in view of the cited references and thus in condition for allowance. Accordingly, Applicant respectfully requests that the Examiner issue a Notice of

Allowance for Claims 21 and 22 along with any issued for the remaining and previously pending claims.

V. Conclusion

Based on the foregoing amendments and arguments, Applicant submits that the cited prior art fails to teach or disclose the limitations of the present pending claims. Applicant therefore submits that the present application is in condition for allowance and respectfully requests that the Examiner issue a Notice of Allowance. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Christopher P. Lightner/

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON DECEMBER 18, 2012.

Attorney's Docket No. 057790/397974 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Maurice Joseph Paul Tabone	Confirmation No.:	5150
Application No.:	12/449,556	Group No.:	3781
Filed:	August 12, 2009	Examiner:	Andrew Thomas Kirsch

For: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

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

PETITION AND FEE FOR EXTENSION OF TIME 37 C.F.R. § 1.136(a)

1. This is a petition for an extension of time for a total period of 3 months to respond to the Office Action dated June 18, 2012.
2. Applicant is ☐ other than a small entity. ☒ a small entity;
3. Calculation of extension fee (37 C.F.R. § 1.17(a)(1)-(a)(5)):

	Total Months Requested	Fee For Other Than Small Entity	Fee for Small Entity
☐	one month	$150.00	$75.00
☐	two months	$570.00	$285.00
☒	three months	$1,290.00	$645.00
☐	four months	$2,010.00	$1,005.00
☐	five months*	$2,730.00	$1,365.00

**Cannot be used to exceed six-month statutory limit for response to an Official Action.*

☐ A check in the amount of $ is enclosed.
☒ Charge Deposit Account No. 16-0605 for the extension fee.
☒ All fees are being charged to Deposit Account No. 16-0605 during e- filing.
☒ Charge Deposit Account No. 16-0605 for any fee deficiency.

Respectfully submitted,

/Christopher P. Lightner/

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON December 18, 2012.

Electronic Patent Application Fee Transmittal

Application Number:	12449556
Filing Date:	12-Aug-2009
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Filer:	Christopher Patrick Lightner/Jennifer McClure
Attorney Docket Number:	057790-397974

Filed as Small Entity

U.S. National Stage under 35 USC 371 Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 3 months with $0 paid	2253	1	645	645

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Request for continued examination	2801	1	465	465
		Total in USD ($)		**1110**

Electronic Acknowledgement Receipt	
EFS ID:	14496459
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Christopher Patrick Lightner/Jennifer McClure
Filer Authorized By:	Christopher Patrick Lightner
Attorney Docket Number:	057790-397974
Receipt Date:	18-DEC-2012
Filing Date:	12-AUG-2009
Time Stamp:	11:43:26
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$1110
RAM confirmation Number	11719
Deposit Account	160605
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. 1.492 (National application filing, search, and examination fees) Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)	

Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees) Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees) Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)					
File Listing:					
Document Number	**Document Description**	**File Name**	**File Size(Bytes)/ Message Digest**	**Multi Part /.zip**	**Pages (if appl.)**
1	Request for Continued Examination (RCE)	397974_RCETransmittal.PDF	11515 0791f762c13599d756f69e69a68dab4be3dbf8c2	no	2
Warnings:					
This is not a USPTO supplied RCE SB30 form.					
Information:					
2		397974_Amendment.pdf	32159 be314f2f8c0079854a155744f0269ca9223d81cc	yes	7
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Amendment Submitted/Entered with Filing of CPA/RCE		1	1	
	Claims		2	4	
	Applicant Arguments/Remarks Made in an Amendment		5	7	
Warnings:					
Information:					
3	Extension of Time	397974EOT.PDF	8369 28d8b502709d9a7cc6e82413134382cf99ec9ecf	no	1
Warnings:					
Information:					
4	Fee Worksheet (SB06)	fee-info.pdf	32579 843562405b0486b005559fb129f9854500db61c5	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	84622		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/449,556	Filing Date 08/12/2009	☐ To be Mailed

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☒		OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)		RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).						
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))							
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	

APPLICATION AS AMENDED – PART II

		(Column 1)		(Column 2)	(Column 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
AMENDMENT	**12/18/2012**	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 19	Minus	** 20	= 0	X $31 =	0	OR	X $ =	
	Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	X $125 =	0	OR	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

		(Column 1)		(Column 2)	(Column 3)					
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/HALLEY MASSEY/

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	057790-397974	5150

826 7590 06/18/2012

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER	
KIRSCH, ANDREW THOMAS	
ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
06/18/2012	ELECTRONIC

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

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

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

usptomail@alston.com

Office Action Summary	Application No.	Applicant(s)	
	12/449,556	TABONE, MAURICE JOSEPH PAUL	
	Examiner	Art Unit	
	ANDREW T. KIRSCH	3781	

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

Period for Reply

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

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

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ 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.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-20* is/are pending in the application.

5a) Of the above claim(s) *3,11 and 14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1,2,4-10,12,13 and 15-20* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☒ The drawing(s) filed on *12 August 2009* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

12)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

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

Attachment(s)

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

DETAILED ACTION

1. The amendment filed 3/9/2012 has been entered.

Specification

2. The objection to the abstract of the disclosure has been removed.

Claim Rejections - 35 USC § 102

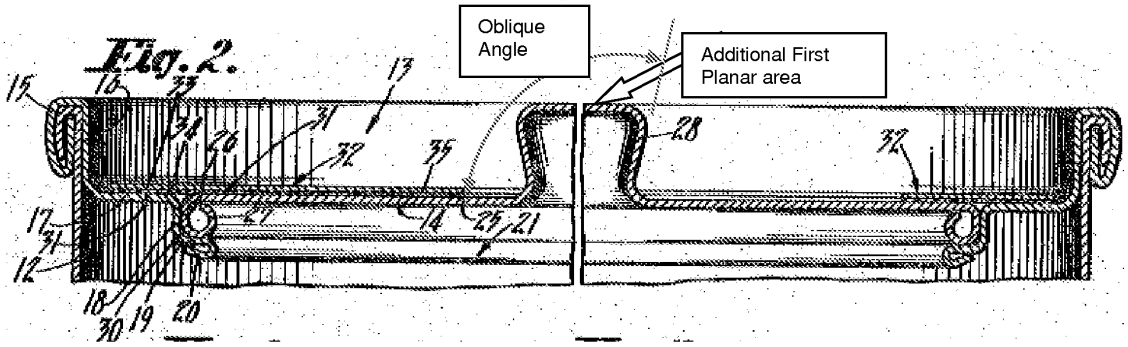
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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

4. Claims 1, 2, 4, 6, 9, 10, 12, 13, 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,182,851 (Taylor hereinafter).

5. In re claims 1 and 15, with reference to the Figs. below, Taylor discloses: A container having an internal volume suitable to receive fresh food or produce (column 1, lines 41-45), a base (12, column 2, lines 2-5) and a lid (14) moveable with respect to the base between an open position and a closed position (See Fig. 2), the base having a rim (13), the lid having a first planar area (25) and the base having a second planar area (17) located on an extension of the rim, wherein, in the closed position, the first and second planar areas include a substantially flat area (17, 25) suitable for receipt of an adhesive membrane (32), the adhesive membrane having an area smaller in size than the first planar area (25) of the lid (14) (see Fig. 1), the substantially flat area including an edge of the first planar area and at least part of the second planar area (column 2, lines 47-54), wherein at least part of the first planar area of the lid is within a footprint of

the internal volume (see Fig. 2), and wherein the first planar area (25) is disposed at an oblique angle to some of the lid (at 28, see Fig. 2 below) and wherein the base includes a floor (column 2, lines 2-5) and upwardly extending side walls (12) at least one of which has a rim (at 15) generally parallel to the floor, and the second planar area (17) is inclined at an angle to the rim (at 17, see Fig. 4).



6. In re claim 2, with reference to the Figs. above, Taylor discloses the claimed invention including wherein the base includes a floor and upwardly extending side walls (12), at least one of which has the rim (column 2, lines 2-5).

7. In re claim 4, with reference to the Figs. above, Taylor discloses the claimed invention which is rectangular in cross section (a cylinder cross section taken vertically is rectangular, see Fig. 1).

8. In re claims 6 and 17, with reference to the Figs. above, Taylor discloses the claimed invention including wherein the lid (14) is separate from the base (12).

9. In re claim 9 and 18, with reference to the Figs. above, Taylor discloses the claimed invention including wherein the lid and/or the base includes means for mechanical locking (18, 26).

10. With regards to the “means for mechanical locking”, this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 4, lines 7-10, the “means for mechanical locking” is not shown in the Applicant's drawings, Taylor discloses one projection (26) receivable in a recess (at 30). The projection of Taylor and the locking means are considered to be an equivalent to applicant’s means for mechanical locking because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant’s specification. See MPEP 2183.

11. In re claims 10 and 19, with reference to the Figs. above, Taylor discloses the claimed invention including wherein includes one recess (30).

12. In re claim 12, with reference to the Figs. above, Taylor discloses the claimed invention including wherein the adhesive membrane is a self-adhesive label (column 2, lines 47-54).

13. In re claims 13 and 20, with reference to the Figs. above, Taylor discloses the claimed invention including wherein has a plurality of first planar areas (25 and upper surface of 28) and a plurality of second planar areas(17, 19) (see Fig. 2 above).

Claim Rejections - 35 USC § 103

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

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

15. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor as applied to claims 1 and 15 above, and further in view of U.S. Patent No. 3,082,903 (Stevens et al. hereinafter).

17. In re claims 5 and 16, with reference to the Figs. above, Taylor discloses the claimed invention except wherein the lid is hinged to the base.

18. However, Stevens et al. discloses a reclosable package in which a lid (13) is hinged at (12) to a base (15).

19. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have attached the lid to the base of Taylor with a hinge as taught by Stevens et al. for the purposes of retaining the closure lid to the container to prevent misplacement and promote proper alignment during reclosure as is common in the art.

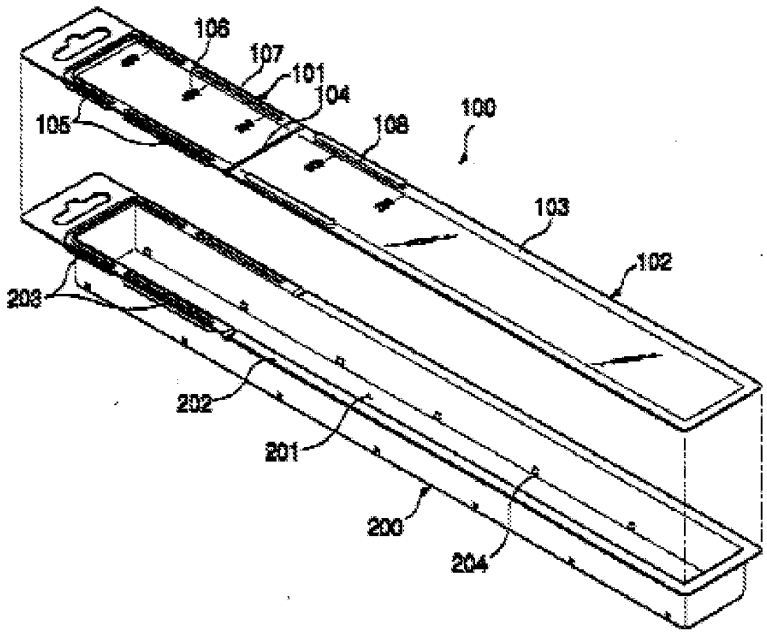
20. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor as applied to claim 1 above, and further in view of U.S. PG Pub No. 2005/0082185 (Lee hereinafter).

21. In re claims 7 and 8, with reference to the Figs. above, Taylor discloses the claimed invention except wherein the lid is in two or more parts, each of which is hinged

to the base, and wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

22. However, with reference to Fig. 2 below, Lee discloses a container wherein the lid (100) is in two parts (101, 102), each of which is hinged to the base (at 104) and wherein the hinge is located on one edge of the lid (at 104) and the substantially flat area does not include that edge (passes through the middle of the lid of Lee).

[FIG. 2]



23. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lid of Taylor to have been in two parts, both hinged to the base as taught by Lee for the purposes of allowing portions of the lid to be opened without removing the lid entirely from the container thereby preventing misplacement of the lid portions and providing controlled egress of the contained product through one of the portions.

Response to Arguments

24. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds rejection necessitated by the amendment.

Conclusion

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

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

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/ANDREW T KIRSCH/
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art Unit 3781

Notice of References Cited	Application/Control No. 12/449,556	Applicant(s)/Patent Under Reexamination TABONE, MAURICE JOSEPH P	
	Examiner ANDREW T. KIRSCH	Art Unit 3781	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-3,182,851	05-1965	EDWARD TAYLOR WILLIAM	220/270
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

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

NON-PATENT DOCUMENTS

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

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

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	443	"220".clas. and adhesive with label	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:11
S2	5	(tabone near2 maurice near2 joseph near2 paul).in.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
S3	10	("5405009" | "5636737" | "5893587" | "6352170" | "6540074").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
S4	18	"5636737"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:16
S5	2	"5893587".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:18
S6	15	("0563490" | "3505954" | "3650210" | "4573711").PN. OR ("5893587").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:20
S7	1	"6540074".pn.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:22
S8	37	("1743980" | "2984382" | "3556338" | "3592349" | "3682365" | "3718274" | "4202464" | "4256240" | "4290248" | "4334631" | "4373636" | "4408698" | "4444332" | "4570818" | "4574974" | "4706839" | "4719087" | "4834237" | "4886184" | "4933216" | "5273174" | "5368178" | "5405009" | "5507429" | "5540342" | "5762221" | "5772070" | "5829595" | "5866181" | "5866183" | "5897015").PN. OR ("6352170").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:25
S9	86	("1695286" | "2138241" | "2202279" |	US-	OR	ON	2011/10/04

		"3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	PGPUB; USPAT; USOCR			10:26
S10	78	("3344974").URPN.	USPAT	OR	ON	2011/10/04 10:39
S11	298	220/833	USPAT	OR	ON	2011/10/04 10:53
S12	294	220/826	USPAT	OR	ON	2011/10/04 11:11
S13	9	220/826 and label	USPAT	OR	ON	2011/10/04 11:11
S14	14	("3417897" | "4499353" | "5147035" | "5570856" | "5899334" | "6070723" | "6247590" | "6279746" | "6412637" | "D368027" | "D368028" | "D368029").PN. OR ("7258233").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 11:17
S15	18	("2780385" | "4193496" | "4202464" | "4724964" | "4986438" | "5699913" | "5964350" | "6007854" | "6053321" | "D305000" | "D411448" | "D473137" | "D531798" | "D598740").PN. OR ("D615858").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 14:00
S16	3	"20050082185"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 15:05
S17	2733	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S18	1379	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S19	301	220/359.1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S20	240	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S21	86	("1695286" | "2138241" | "2202279" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:11
S22	358	"220".clas. and sealed with tape	US-PGPUB; USPAT;	OR	ON	2012/06/06 11:27

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			USOCR			
S23	9	220/359.1 and sealed with tape	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:28
S24	5	("3495759" | "4969570" | "5115934" | "5772623").PN. OR ("7762421").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:29
S25	35	("2873881" | "2903154" | "2960257" | "3016169" | "3469735" | "3693829" | "3894650" | "4203537" | "4225064" | "4240568" | "4312459").PN. OR ("4969570").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:31
S26	44	220/359.1 and tape	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:32
S27	2	220/359.1 and tape same (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:40
S28	505	"220".clas. and tape same (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S29	198	"220".clas. and tape with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 11:41
S30	0	("1582489").URPN.	USPAT	OR	ON	2012/06/06 14:25
S31	3	("3096905").URPN.	USPAT	OR	ON	2012/06/06 14:31
S32	26	("0983883" | "1128076" | "1239183" | "3133669" | "3149743" | "3158282" | "3438533" | "3696963" | "3834579" | "4520942" | "4607759" | "4728003").PN. OR ("5174464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:06
S33	1579	"220".clas. and strip with (annular ring)	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:23
S34	304	"220".clas. and strip with (annular ring) and adhesive	US-PGPUB; USPAT; USOCR	OR	ON	2012/06/06 15:23
S35	312	220/833	USPAT	OR	ON	2012/06/07 12:31
S36	313	220/826	USPAT	OR	ON	2012/06/07 12:31
S37	2952	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:31
S39	1448	206/1.5	US-	OR	ON	2012/06/07

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			PGPUB; USPAT; USOCR; EPO; JPO; DERWENT			12:31
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S41	263	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2012/06/07 12:32

6/7/2012 3:14:49 PM
H:\Workspaces\12449556.wsp

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

SEARCHED			
Class	Subclass	Date	Examiner
220	833, 826, 359.1, 745	6/7/2012	ATK
206	459.5, 1.5	6/7/2012	ATK

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Check	10/4/2011	ATK
EAST Search	10/4/2011	ATK
Updated EAST Search	6/7/2012	ATK

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	**Art Unit**
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	10/05/2011	06/07/2012							
	1	✓	✓							
	2	✓	✓							
	3	-	-							
	4	✓	✓							
	5	✓	✓							
	6	✓	✓							
	7	✓	✓							
	8	✓	✓							
	9	✓	✓							
	10	✓	✓							
	11	-	-							
	12	✓	✓							
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	14	-	-							
	15	✓	✓							
	16	✓	✓							
	17	✓	✓							
	18	✓	✓							
	19	✓	✓							
	20	✓	✓							

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 12/449,556 Confirmation No.: 5150
Applicant(s): Maurice Joseph Paul Tabone
Filed: August 12, 2009
Art Unit: 3781
Examiner: Andrew Thomas Kirsch
Title: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Docket No.: 057790/397974
Customer No.: 00826

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

AMENDMENT UNDER 37 C.F.R. § 1.111

Sir:

In response to the Office Action dated October 12, 2011, please amend the above-identified application as follows:

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Claims are reflected in the listing of claims beginning on page 3 of this paper.

Remarks/Arguments begin on page 6 of this paper.

In the Office Action dated October 12, 2011, the Abstract of the disclosure was objected to for containing the self-evident clause "The invention provides . . . ." In response, Applicant respectfully asserts that the following amendments to the Abstract successfully overcome this objection and request that the Examiner withdraw the same.

In particular, Applicant submits amendments to the Abstract, as follows:

ABSTRACT

A container (40) is provided that is intended ~~**The invention provides a container (40) of the type**~~ to hold fresh food or produce. Container (40) has a base (42) and a lid (44) moveable with respect to the base (42) between an open position and a closed position. The lid (44) has a first planar area (54). The base has a second planar area (56). In the closed position, the first planar area (54) and the second planar area (56) include a substantially flat area suitable for receipt of an adhesive membrane, such as a self-adhesive label. The substantially flat area includes an edge (55) of the first planar area (54) and at least part of the second planar area (56).

Amendments to the Claims:

1. (Currently Amended) A container having an internal volume **suitable to receive fresh food or produce**, a base and a lid moveable with respect to the base between an open position and a closed position, the base having a rim, the lid having a first planar area and the base having a second planar area located on an extension of the rim, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, **the adhesive membrane having an area smaller in size than the first planar area of the lid,** the substantially flat area including an edge of the first planar area and at least part of the second planar area, **[[and]]** wherein at least part of the first planar area of the lid is within a footprint of the internal volume.

2. (Original) The container of claim 1 wherein the base includes a floor and upwardly extending side walls, at least one of which has the rim.

3. (Cancelled)

4. (Previously Presented) The container of claim 1 which is square or rectangular in cross section.

5. (Previously Presented)The container of claim 1 wherein the lid is hinged to the base.

6. (Previously Presented) The container of claim 1 wherein the lid is separate from the base.

7. (Previously Presented) The container of claim 1 wherein the lid is in two or more parts, each of which is hinged to the base.

8. (Previously Presented) The container of claim 7 wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

9. (Previously Presented) The container of claim 1 wherein the lid and/or the base includes means for mechanical locking.

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10. (Previously Presented) The container of claim 1 which includes one or more ventilation holes, ribs, depressions or recesses.

11. (Cancelled)

12. (Previously Presented) The container of claim 1 wherein the adhesive membrane is a self-adhesive label.

13. (Previously Presented) The container of claim 1 which has a plurality of first planar areas and a plurality of second planar areas.

14. (Cancelled)

15. (Currently Amended) A container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane**, the adhesive membrane having an area smaller in size than the first planar area of the lid**, the substantially flat area including an edge of the first planar area and at least part of the second planar area, and wherein the first planar area is disposed at an oblique angle to some or all of the lid and wherein the base includes a floor and upwardly extending side walls, at least one of which has a rim **generally parallel to the floor**, and the second planar area is inclined at an angle to the rim.

16. (Previously Presented) The container of claim 15 wherein the lid is hinged to the base.

17. (Previously Presented) The container of claim 15 wherein the lid is separate from the base.

18. (Previously Presented) The container of claim 15 wherein the lid and/or the base includes means for mechanical locking.

19. (Previously Presented) The container of claim 15 which includes one or more ventilation holes, ribs, depressions or recesses.

20. (Previously Presented) The container of claim 15 which has a plurality of first planar areas and a plurality of second planar areas.

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of the present application, withdrawal of the previously presented rejections, and formal notification of allowance of all pending claims in view of the preceding amendments and the following remarks.

I. Status of Claims

This Amendment is in response to the Office Action mailed October 12, 2012. As an initial matter, the Office Action objected to the Abstract of th specification, as has been previously noted and addressed herein. The Office Action then rejected Claims 1, 2, 4, 6, 9, 10, 12, 13, 15, and 17-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,344,974 to Bostrom ("*Bostrom*"). Lastly, the Office Action rejected (1) Claims 5 and 16 under 35 U.S.C. § 103(a) as being rendered obvious by *Bostrom* in view of U.S. Patent No. 3,082,903 to Stevens et al. ("*Stevens*"); and (2) Claims 7 and 8 under 35 U.S.C. § 103(a) as being rendered obvious by *Bostrom* in view of U.S. Published Application No. 2005/0082185 to Lee ("*Lee*").

For the Examiner's reference, Applicant has amended Claims 1 and 15, and, as such, Claims 1-2, 4-10, 12-13, and 15-20 remain pending in the application following this Amendment.

II. Rejection of Independent Claim 1

With regard to the rejection of independent Claim 1 as being anticipated by *Bostrom*, Applicant respectfully disagrees.

In particular, Applicant respectfully asserts that independent Claim 1, as amended, is patentable over this reference because the reference fails to disclose at least that "at least part of the first planar area of the lid is within a footprint of the internal volume . . . suitable to receive fresh food or produce." Indeed, *Bostrom* discloses a container package having a replaceable closure member (14) that includes a covering wall (38) and an outwardly projecting rim portion (36). *See Bostrom* Col. 4, lines 5-32 and Figure 1. A rim area (22) of the *Bostrom* container package also includes a circumferentially extending shelf or flange portion (52) that extends

beyond the edge of side walls (20). *See id.*, at Col. 5, lines 19-35. As such, and as may be understood from at least Figures 1 and 2 of *Bostrom*, the rim portion (36) of the closure member and the flange portion (52) of the container package are positioned adjacent to, but beyond, the internal volume that is configured to receive contents for storage in the container package. In stark contrast with this configuration, the Applicant's presently claimed configuration locates the first planar area "within a footprint of the internal volume of the container" (see at least Figures 1-17), so that when the label is applied by a machine after the container has been filled with fresh food or produce, the filled container will remain stable during the printing process. As such, the rim portion (36) of *Bostrom* simply does not disclose such a configuration, as it is positioned beyond – not within – the internal volume of its container.

Still further, Applicant respectfully asserts that independent Claim 1, as amended, is patentable over *Bostrom* because the reference fails to disclose at least "the adhesive membrane having an area smaller in size than the first planar area of the lid." Indeed, the sealing cover (16) of *Bostrom*, which the Office Action equates to the adhesive membrane of Claim 1, must necessarily cover the whole lid of the *Bostrom* container package to serve its intended purpose. Namely, the sealing cover (16) of *Bostrom* is configured to overlie the curved corner portions of its container body (12), such that it may be heat sealed or otherwise secured to the closure member (14). *See Bostrom* Col. 5, lines 51-73 and at least Figures 1 and 3. In stark contrast with this configuration, the Applicant's presently claimed configuration covers only a portion of the surface area of its lid, as generally envisioned for labeling purposes. As such, the sealing cover (16) of *Bostrom* simply does not disclose such a configuration, as it not only covers the entire surface area of its closure member (14) but extends further beyond so as to permit an overlaid seal of the container.

Thus, for at least these reasons, Applicant respectfully asserts that independent Claim 1 provides a patentable distinction over *Bostrom*. Accordingly, Applicant respectfully requests that the Examiner withdraw the current rejection of independent Claim 1 and issue a Notice of Allowance.

III. Rejection of Independent Claim 15

With regard to the rejection of independent Claim 15 as being anticipated by *Bostrom*, Applicant respectfully disagrees.

In particular, Applicant respectfully asserts that independent Claim 15, as amended, is patentable over *Bostrom* because the reference fails to disclose at least that "at least one of [the upwardly extending side walls] has a rim generally parallel to the floor . . . of the base." Indeed, the rim section (34) of *Bostrom*, which the Office Action equates to the rim of the side walls of Claim 15, is not generally parallel to the floor (18) of its container's base (12). As *Bostrom* itself describes, its rim section (34) is angled and reversely tapered with respect to the axis of the container body so as to provide a resilient stacking means. *See Bostrom*, Col. 3, lines 53-60 and Figure 2. In stark contrast with this configuration, the Applicant's presently claimed configuration orients a rim of at least one its side walls "generally parallel to the floor" of its container's base. As such, the rim section (34) of *Bostrom* simply does not disclose the configuration of Claim 15, as amended.

Still further, Applicant respectfully asserts that independent Claim 15, as amended, is patentable over *Bostrom* because the reference fails to disclose at least "the adhesive membrane having an area smaller in size than the first planar area of the lid." Indeed, the sealing cover (16) of *Bostrom*, which the Office Action equates to the adhesive membrane of Claim 1, must necessarily cover the whole lid of the *Bostrom* container package to serve its intended purpose. Namely, the sealing cover (16) of *Bostrom* is configured to overlie the curved corner portions of its container body (12), such that it may be heat sealed or otherwise secured to the closure member (14). *See Bostrom* Col. 5, lines 51-73 and at least Figures 1 and 3. In stark contrast with this configuration, the Applicant's presently claimed configuration covers only a portion of the surface area of its lid, as generally envisioned for labeling purposes. As such, the sealing cover (16) of *Bostrom* simply does not disclose such a configuration, as it not only covers the entire surface area of its closure member (14) but extends further beyond so as to permit an overlaid seal of the container.

Thus, for at least these reasons, together with the reasons set forth above with respect to independent Claim 1, Applicant respectfully asserts that independent Claim 15 provides a patentable distinction over *Bostrom*. Accordingly, Applicant respectfully requests that the Examiner withdraw the current rejection of independent Claim 15 and issue a Notice of Allowance.

IV. Rejections of Dependent Claims 2, 4-10, 12-13, and 16-20

The Examiner has rejected dependent Claims 2, 4-10, 12-13, and 16-20 as likewise being unpatentable over various combinations of *Bostrom*, *Stevens*, and/or *Lee*. Because the patentability of the independent Claims 1 and 15, from which these claims depend, respectively, has been argued as set forth above, the Applicant will not take this opportunity to argue the merits of the rejections with regard to the dependent claims. However, the Applicant does not concede that remaining dependent Claims 2, 4-10, 12-13, and 16-20 are not independently patentable and reserves the right to argue the patentability of these claims at a later date if necessary.

V. Conclusion

Based on the foregoing amendments and arguments, Applicant submits that the cited prior art fails to teach or disclose the limitations of the present pending claims. Applicant therefore submits that the present application is in condition for allowance and respectfully requests that the Examiner issue a Notice of Allowance. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON MARCH 9, 2012.

Ex.1005 / IPR2024-01037 / Page 284 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

Attorney's Docket No. 057790/397974 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Tabone
Application No.: 12/449,556
Filed: August 12, 2009
For: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

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

PETITION AND FEE FOR EXTENSION OF TIME 37 C.F.R. § 1.136(a)

1. This is a petition for an extension of time for a total period of one month in response to the Office Action dated October 12, 2011.
2. Applicant is ☐ other than a small entity. ☒ a small entity;
3. Calculation of extension fee (37 C.F.R. § 1.17(a)(1)-(a)(5)):

	Total Months Requested	Fee For Other Than Small Entity	Fee for Small Entity
☐	one month	$150.00	$75.00
☒	two months	$560.00	$280.00
☐	three months	$1,270.00	$635.00
☐	four months	$1,980.00	$990.00
☐	five months*	$2,690.00	$1,345.00

**Cannot be used to exceed six-month statutory limit for response to an Official Action.*

☐ A check in the amount of $ is enclosed.
☒ Charge Deposit Account No. 16-0605 for the extension fee.
☒ All fees are being charged to Deposit Account No. 16-0605 during e- filing.
☒ Charge Deposit Account No. 16-0605 for any fee deficiency.

Respectfully submitted,

/Christopher P. Lightner/

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON March 9, 2012.

Electronic Patent Application Fee Transmittal

Application Number:	12449556
Filing Date:	12-Aug-2009
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Filer:	Christopher Patrick Lightner/Kiersten Mishalany
Attorney Docket Number:	057790-397974

Filed as Small Entity

U.S. National Stage under 35 USC 371 Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 2 months with $0 paid	2252	1	280	280

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
		Total in USD ($)		**280**

Electronic Acknowledgement Receipt	
EFS ID:	12265080
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	826
Filer:	Christopher Patrick Lightner/Kiersten Mishalany
Filer Authorized By:	Christopher Patrick Lightner
Attorney Docket Number:	057790-397974
Receipt Date:	09-MAR-2012
Filing Date:	12-AUG-2009
Time Stamp:	11:32:30
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	$280
RAM confirmation Number	9116
Deposit Account	160605
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)	

File Listing:					
Document Number	**Document Description**	**File Name**	**File Size(Bytes)/ Message Digest**	**Multi Part /.zip**	**Pages (if appl.)**
1		397974-amendment.pdf	392296 bf076c20d6ed2a1b5897ef6d713411574dd3bb47	yes	10
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Miscellaneous Incoming Letter		1	1	
	Specification		2	2	
	Claims		3	5	
	Applicant Arguments/Remarks Made in an Amendment		6	10	
Warnings:					
Information:					
2	Extension of Time	397974-EOT2.pdf	45225 248c6aa1bd2c3f87eca1ba3f4b32f19b0e4d12d6	no	1
Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	31066 8b50c734dd183f12a48b6cb7001364a6db7f305c	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	468587		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/449,556	Filing Date 08/12/2009	☐ To be Mailed

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☒		OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)		RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).						
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))							
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	

APPLICATION AS AMENDED – PART II

		(Column 1)		(Column 2)	(Column 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
AMENDMENT	03/09/2012	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 17	Minus	** 20	= 0	X $30 =	0	OR	X $ =	
	Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	X $125 =	0	OR	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

		(Column 1)		(Column 2)	(Column 3)					
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/NICOLE LOVE-HENSLEY/

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	057790-397974	5150

826 7590 10/12/2011

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER	
KIRSCH, ANDREW THOMAS	
ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
10/12/2011	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	12/449,556	TABONE, MAURICE JOSEPH PAUL	
	Examiner	Art Unit	
	ANDREW T. KIRSCH	3781	

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

Period for Reply

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

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

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ 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.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) *1-20* is/are pending in the application.

5a) Of the above claim(s) *3,11 and 14* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1,2,4-10,12,13 and 15-20* is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10)☒ The specification is objected to by the Examiner.

11)☒ The drawing(s) filed on *12 August 2009* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

12)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

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

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/4/2011*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it contains the self evident clause “The invention provides...". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

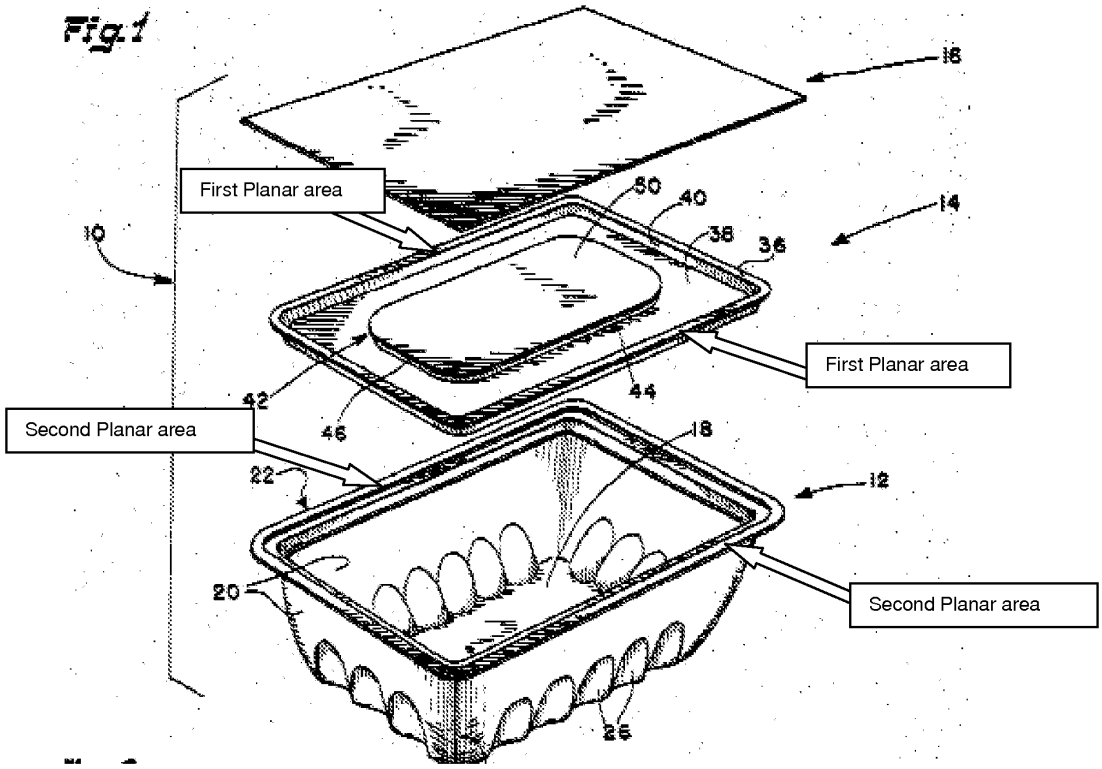
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

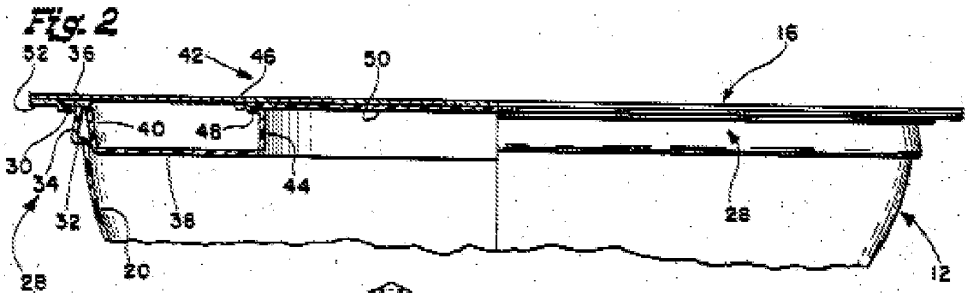
> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 6, 9, 10, 12, 13, 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,344,974 (Bostrom hereinafter).

4. In re claims 1 and 15, with reference to the Figs. below, Bostrom discloses: A container (10) having an internal volume, a base (12) and a lid (14) moveable with respect to the base between an open position (see Fig. 1) and a closed position (See Fig. 2), the base having a rim (22), the lid having a first planar area (at 36) and the base having a second planar area (22) located on an extension of the rim, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane (16), the substantially flat area including an edge of the first planar area and at least part of the second planar area and wherein at least part of the first planar area of the lid is within a footprint of the internal volume (see Fig. 2), and wherein the first planar area (at 36) is disposed at an oblique angle to some of the lid (at 40) and wherein the base includes a floor (18) and upwardly

extending side walls (20) at least one of which has a rim (34), and the second planar area (at 22) is inclined at an angle (~85°) to the rim.





5. In re claim 2, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the base includes a floor (18) and upwardly extending side walls (20), at least one of which has the rim.

6. In re claim 4, with reference to the Figs. above, Bostrom discloses the claimed invention which is rectangular in cross section (see Fig. 1).

7. In re claims 6 and 17, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the lid (14) is separate from the base (12).

8. In re claim 9 and 18, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the lid and/or the base includes means for mechanical locking (40, 34).

9. With regards to the “means for mechanical locking”, this limitation meets the three-prong test per MPEP 2181 and thereby invokes 35 USC 112 6th paragraph. In the instant specification, page 4, lines 7-10, the “means for mechanical locking” is not shown in the Applicant's drawings, Bostrom discloses one projection (40) receivable in a recess (at 34). [Ref A equivalent] in [Ref A] are considered to be an equivalent to applicant’s means for mechanical locking because it performs the same function in substantially the same way and produces substantially the same result as the corresponding element in applicant’s specification. See MPEP 2183.

10. In re claims 10 and 19, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein includes one or more, ribs, depressions or recesses (25).

11. In re claim 12, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein the adhesive membrane is a self-adhesive label (column 5, lines 26-31).

12. In re claims 13 and 20, with reference to the Figs. above, Bostrom discloses the claimed invention including wherein has a plurality of first planar areas and a plurality of second planar areas (see Fig. 1 above).

Claim Rejections - 35 USC § 103

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

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

14. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claims 1 and 15 above, and further in view of U.S. Patent No. 3,082,903 (Stevens et al. hereinafter).

16. In re claims 5 and 16, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein the lid is hinged to the base.

17. However, Stevens et al. discloses a reclosable package in which a lid (13) is hinged at (12) to a base (15).

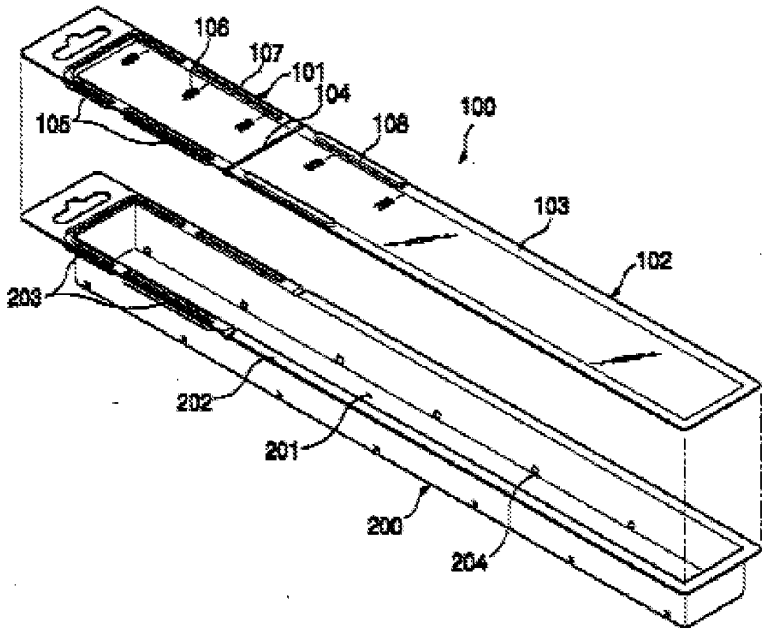
18. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have attached the lid to the base of Bostrom with a hinge as taught by Stevens et al. for the purposes of retaining the closure lid to the container to prevent misplacement and promote proper alignment during reclosure as is common in the art.

19. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostrom as applied to claim 1 above, and further in view of U.S. PG Pub No. 2005/0082185 (Lee hereinafter).

20. In re claims 7 and 8, with reference to the Figs. above, Bostrom discloses the claimed invention except wherein the lid is in two or more parts, each of which is hinged to the base, and wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

21. However, with reference to Fig. 2 below, Lee discloses a container wherein the lid (100) is in two parts (101, 102), each of which is hinged to the base (at 104) and wherein the hinge is located on one edge of the lid (at 104) and the substantially flat area does not include that edge (passes through the middle of the lid of Lee).

[FIG. 2]



22. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lid of Bostrom to have been in two parts, both hinged to the base as taught by Lee for the purposes of allowing portions of the lid to be opened without removing the lid entirely from the container thereby preventing misplacement of the lid portions and providing controlled egress of the contained product through one of the portions.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,364,100 to Leibeck discloses a case for rod-shaped objects with a lid that is in two parts, both parts being hinged to a container base. U.S. Patent No. 4,346,833 to Bernhardt discloses a container with a lid and a

base, with a first planar area and a second planar area respectively, for receipt of an adhesive membrane.

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: “The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims “define a patentable invention” without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, “The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims.” Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

/ANDREW T KIRSCH/
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art Unit 3781

Notice of References Cited	Application/Control No. 12/449,556	Applicant(s)/Patent Under Reexamination TABONE, MAURICE JOSEPH P	
	Examiner ANDREW T. KIRSCH	Art Unit 3781	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-3,344,974	10-1967	DONALD BOSTROM JOHN	229/123.1
*	B	US-3,082,903	03-1963	STEVENS EDWARD P et al.	220/833
*	C	US-2005/0082185	04-2005	Lee, Byoung-Young	206/335
*	D	US-6,364,100	04-2002	Leibeck, Christian	206/45.23
*	E	US-4,346,833	08-1982	Bernhardt, Daniel	220/257.1
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

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

NON-PATENT DOCUMENTS

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

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

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BIB DATA SHEET

CONFIRMATION NO. 5150

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
12/449,556	08/12/2009 RULE	220	3781	057790-397974

APPLICANTS
Maurice Joseph Paul Tabone, Tahmoor, AUSTRALIA;

**** CONTINUING DATA ***************************
This application is a 371 of PCT/AU2008/000173 02/12/2008

**** FOREIGN APPLICATIONS ***************************
AUSTRALIA 2007902246 04/30/2007
AUSTRALIA 2007900654 02/12/2007

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **** ** SMALL ENTITY **
09/24/2009

Foreign Priority claimed	35 USC 119(a-d) conditions met	Verified and Acknowledged	Met after Allowance	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
☑ Yes ☐ No	☑ Yes ☐ No	/ANDREW THOMAS KIRSCH/ Examiner's Signature	☐ Initials	AUSTRALIA	7	~~18~~ 17	2

ADDRESS
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000
UNITED STATES

TITLE
CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

FILING FEE RECEIVED		
490	FEES: Authority has been given in Paper No._____ to charge/credit DEPOSIT ACCOUNT No._____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	**Art Unit**
	ANDREW T KIRSCH	3781

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

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

CLAIM		DATE								
Final	Original	10/05/2011								
	1	✓								
	2	✓								
	3	-								
	4	✓								
	5	✓								
	6	✓								
	7	✓								
	8	✓								
	9	✓								
	10	✓								
	11	-								
	12	✓								
	13	✓								
	14	-								
	15	✓								
	16	✓								
	17	✓								
	18	✓								
	19	✓								
	20	✓								

Substitute for form 1449/PTO (Revised 07/2007)				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT *(Use as many sheets as necessary)*				Application Number	12/449,556
				Filing Date	08/12/2009
				First Named Inventor	Tabone
				Art Unit	3781
				Examiner Name	Andrew Thomas Kirsch
Sheet	1	of	1	Attorney Docket Number	057790/397974

U. S. PATENT DOCUMENTS					
Examiner Initials*	Cite No.	Document Number Number - Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages of Relevant Figures Appear
/A.K./	1	US-5,636,737	06/10/1997	Marsilio	
	2	US-6,540,074	04/01/2003	Sankey, et al.	
	3	US-5,405,009	04/11/1995	Hackenbracht	
	4	US-5,893,587	04/13/1999	Wong	
	5	US-6,352,170	03/05/2002	Brown, et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No.	Foreign Patent Document Country Code - Number Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	English Language Translation Attached
/A.K./	6	FR 2349182	11/18/1977	Moll		
/A.K./	7	AU 2003234951	06/10/2004	Tacca-Plastics Australia, Pty Ltd.		

OTHER DOCUMENTS			
Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s) , volume-issue number(s), publisher, city and/or country where published.	English Language Translation Attached
/A.K./	8	International Preliminary Report on Patentability dated April 30, 2009, for corresponding application no. PCT/AU2008/000173	
/A.K./	9	Written Opinion of International Searching Authority dated April 2, 2008, for corresponding application no. PCT/AU2008/000173	
/A.K./	10	International Search Report dated April 2, 2008, for corresponding application no. PCT/AU2008/000173	

Examiner Signature	/Andrew Kirsch/	Date Considered	10/05/2011

*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /A.K./

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L6	2733	206/459.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
L7	1379	206/1.5	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
L8	301	220/359.1	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
L9	240	220/745	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/05 09:49
S1	443	"220".clas. and adhesive with label	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:11
S2	5	(tabone near2 maurice near2 joseph near2 paul).in.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
S3	10	("5405009" | "5636737" | "5893587" | "6352170" | "6540074").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:14
S4	18	"5636737"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:16
S5	2	"5893587".pn.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 10:18
S6	15	("0563490" | "3505954" | "3650210" | "4573711").PN. OR ("5893587").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:20

Ex.1005 / IPR2024-01037 / Page 306 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

S7	1	"6540074".pn.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:22
S8	37	("1743980" | "2984382" | "3556338" | "3592349" | "3682365" | "3718274" | "4202464" | "4256240" | "4290248" | "4334631" | "4373636" | "4408698" | "4444332" | "4570818" | "4574974" | "4706839" | "4719087" | "4834237" | "4886184" | "4933216" | "5273174" | "5368178" | "5405009" | "5507429" | "5540342" | "5762221" | "5772070" | "5829595" | "5866181" | "5866183" | "5897015").PN. OR ("6352170").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:25
S9	86	("1695286" | "2138241" | "2202279" | "3082903" | "3344974" | "3397774" | "3580485" | "3670952").PN. OR ("4202464").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 10:26
S10	78	("3344974").URPN.	USPAT	OR	ON	2011/10/04 10:39
S11	298	220/833	USPAT	OR	ON	2011/10/04 10:53
S12	294	220/826	USPAT	OR	ON	2011/10/04 11:11
S13	9	220/826 and label	USPAT	OR	ON	2011/10/04 11:11

S14	14	("3417897" | "4499353" | "5147035" | "5570856" | "5899334" | "6070723" | "6247590" | "6279746" | "6412637" | "D368027" | "D368028" | "D368029").PN. OR ("7258233").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 11:17
S15	18	("2780385" | "4193496" | "4202464" | "4724964" | "4986438" | "5699913" | "5964350" | "6007854" | "6053321" | "D305000" | "D411448" | "D473137" | "D531798" | "D598740").PN. OR ("D615858").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2011/10/04 14:00
S16	3	"20050082185"	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	ON	2011/10/04 15:05

EAST Search History (Interference)

<This search history is empty>

10/5/2011 10:00:41 AM
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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12449556	TABONE, MAURICE JOSEPH PAUL
	Examiner	Art Unit
	ANDREW T KIRSCH	3781

SEARCHED			
Class	Subclass	Date	Examiner
220	833, 826, 359.1, 745	10/4/2011	ATK
206	459.5, 1.5	10/5/2011	ATK

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Check	10/4/2011	ATK
EAST Search	10/4/2011	ATK

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	057790-397974

CONFIRMATION NO. 5150

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

POA ACCEPTANCE LETTER

OC000000050203975

Date Mailed: 10/11/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2011.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/syemane/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	028106-000100US

CONFIRMATION NO. 5150

20350
KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

POWER OF ATTORNEY NOTICE

OC000000050203965

Date Mailed: 10/11/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2011.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/syemane/

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

PTO/SB/81 (01-09)
Approved for use through 11/30/2011. OMB 0651-0035
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POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	12/449,556
Filing Date	08/12/2009
First Named Inventor	Maurice Joseph Paul Tabone
Title	CONTAINER BASE AND LID WITH PLANAR AREA.
Art Unit	3781
Examiner Name	KIRSCH, ANDREW THOMAS
Attorney Docket Number	057790-397974

I hereby revoke all previous powers of attorney given in the above-identified application.

[x] A Power of Attorney is submitted herewith.

OR

[ ] I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

00826

OR

[ ] I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

[x] The address associated with the above-mentioned Customer Number.

OR

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OR

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Address					
City		State		Zip	
Country					
Telephone		Email			

I am the:

[x] Applicant/Inventor.

OR

[ ] Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____.

SIGNATURE of Applicant or Assignee of Record

Signature		Date	30/7/2014
Name	Maurice Joseph Paul Tabone	Telephone	
Title and Company			

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

[x] *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Electronic Acknowledgement Receipt

EFS ID:	11068281
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	20350
Filer:	Christopher Patrick Lightner/Diana Ogles
Filer Authorized By:	Christopher Patrick Lightner
Attorney Docket Number:	028106-000100US
Receipt Date:	28-SEP-2011
Filing Date:	12-AUG-2009
Time Stamp:	14:53:50
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	397974_POA.pdf	188054 4f9f9fceca6e308bdd00f4c6815085a14622b558	no	1

Warnings:	
Information:	

Total Files Size (in bytes):	188054

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

Substitute for form 1449/PTO (Revised 07/2007)				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT *(Use as many sheets as necessary)*				Application Number	12/449,556
				Filing Date	08/12/2009
				First Named Inventor	Tabone
				Art Unit	3781
				Examiner Name	Andrew Thomas Kirsch
Sheet	1	of	1	Attorney Docket Number	057790/397974

U. S. PATENT DOCUMENTS					
Examiner Initials*	Cite No.	Document Number Number - Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages of Relevant Figures Appear
	1	US-5,636,737	06/10/1997	Marsilio	
	2	US-6,540,074	04/01/2003	Sankey, et al.	
	3	US-5,405,009	04/11/1995	Hackenbracht	
	4	US-5,893,587	04/13/1999	Wong	
	5	US-6,352,170	03/05/2002	Brown, et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No.	Foreign Patent Document Country Code - Number Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	English Language Translation Attached
	6	FR 2349182	11/18/1977	Moll		
	7	AU 2003234951	06/10/2004	Tacca-Plastics Australia, Pty Ltd.		

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INTELLECTUAL PROPERTY OFFICE

Espacenet

Bibliographic data: FR 2349182 (A1)

ETIQUETTE

Publication date:	1977-11-18	
Inventor(s):		
Applicant(s):	MOLL GERARD [FR] +	
Classification:	**- international:**	***G09F3/02;*** (IPC1-7): G09F3/02
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Application number:	FR19760011676 19760421	
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Abstract not available for FR 2349182 (A1)

Last updated: 26.04.2011 Worldwide Database 5.7.23; 92p

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Description FR2349182

The present invention relates to labels that are intended to be displayed on packaging to identify the contents.

Many packages such as those used for the distribution of homeopathic medicines are made up of a case of elongated a hat of similar shape that fits over the open end of the case. Each condi is coated at least partially a label specific to inform the user about the contents of the c-ondition necously. This label covers a ' both the cap and the sleeve to form a means of security to ensure the user that itéfui nta not been opened inappropriately.

Such an arrangement has the disadvantage having to merge transversely to allow t2ouver- ture conditioning. Such an operation usually requires a cutting tool and is sometimes difficult, particularly in the case of cases of small sizes such as those used in homeopathic medicines. I1 can also occur as the opening of the case a tear in the label to a place where it is just an indication of interest.

The invention is a label without these drawbacks.

Specifically, the invention relates to a label characterized in that it consists of two parts held together to one another by a detachable tab and intended to be fixed on one case and the other on the hat.With such an arrangement, it is understandable that the tab, which can guarantee strip form, by its detachment from both sides of the label, easy opening packaging.

is also a medicine package case of the type comprising a rectangular parallelepiped shape closed at its open end by a cap of similar shape and wherein qutil has on one side a label as defined above, suitably glued on the case and on the cap so that the laguette rides the dividing line between them.

The invention will be better understood on reading the description which follows and which refers to the drawings Attached hereto given only by way of example and in which
1 is a perspective view on a large scale a packaging of the invention, and
2 is a plan view of the label used in the packaging of Figure 1.

In Figure 1, reference 10 designates a ment especially for the distribution of homeopathic medicines.

This package consists of a plastic hard case 12 of elongated shape and a hat of similar shape 14 which fits over the open end (not visible) of the case 12. Packaging 10 may be cylindrical or prismatic. In the embodiment shown, it is shaped like a cuboid with rounded edges.

A label 16 is affixed by adhesive such as on one side of the package 10, straddling the dividing line 18 between the case 12 and cap 14.

The label 16 is advantageously of the type called "sticker." It consists of an upper 20 attached to the cap 14, a lower portion 22 attached to the casing 12 and a transverse tongue 24 forming guarantee strip that connects one to the other parties 20 and 22.

The tongue 24 is connected to each side 20 and 22 by a zone of least resistance 26 formed for example by a series of small bridges of material separated by slots aligned forming a sort of dotted line designed to allow easy removal of the tongue.

This removal is further facilitated by the fact that the tongue 24 extends slightly beyond one at least the longitudinal sides of the label 16.If the width of it is similar to that of the face of tobacco on which it is affixed, it is clear that this extension protrudes and can be easily grasped by the user.

It is understood that the invention is not limited to the embodiments described above and that numerous changes to such forms of etiquette, the achievement of low resistance areas 26 can be made without departing from part of this application.

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Claims FR2349182

CLAIMS

1 Labels to be affixed, including a medicine package consists of an elongated pouch closed with a similarly shaped hat pulled down over the open end of the case, characterized in that it consists of two parts held together one another by a detachable tab and intended to be fixed on one case and one on the hat.

2.Label according to claim 1, characterized in that it has a generally rectangular shape and wherein the tab extends transversely to the label and extends slightly less one the longitudinal sides of it.

3. Label according to all the claims 1 and 2, characterized in that it is self-adhesive.

4.Medicine package case of the type comprising a rectangular parallelepiped shape closed at its open end by a cap of similar shape, characterized in that it comprises of 1) IPA-sesfaces of a label according to one of claims 1 to 3 properly bonded the case and on the cap so that the tab rides the line between them.

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DEMANDE DE BREVET D'INVENTION

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(71) Déposant : **MOLL Gérard, résidant en France.**

(72) Invention de :

(73) Titulaire : *Idem* (71)

(74) Mandataire : **Cabinet Regimbeau, Corre, Paillet, Martin et Schrimpf.**

Vente des fascicules à l'IMPRIMERIE NATIONALE, 27, rue de la Convention — 75732 PARIS *CEDEX 15*

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La présente invention concerne les étiquettes qui sont destinées à être apposées sur un conditionnement pour en repérer le contenu.

De nombreux conditionnements tels que ceux utilisés pour la distribution de médicaments homéopathiques se composent d'un étui de forme allongée et d'un chapeau de forme similaire qui vient coiffer l'extrémité ouverte de l'étui. Chaque conditionnement est revêtu, au moins partiellement d'une étiquette propre à renseigner l'utilisateur sur le contenu du conditionnement. Cette étiquette recouvre à la fois le chapeau et l'étui pour former un moyen de garantie assurant à l'utilisateur que l'étui n'a pas été ouvert inopportunément.

Une telle disposition présente l'inconvénient d'avoir à fendre l'étiquette transversalement pour permettre l'ouverture du conditionnement. Une telle opération nécessite le plus souvent un outil coupant et se révèle parfois délicate, dans le cas notamment d'étuis de petites tailles comme ceux qui sont utilisés pour les médicaments homéopathiques. Il peut également se produire que l'ouverture de l'étui s'accompagne d'une déchirure de l'étiquette à un endroit où elle porte justement l'indication intéressante.

L'invention vise une étiquette ne présentant pas ces inconvénients.

Plus précisément, l'invention vise une étiquette caractérisée en ce qu'elle est constituée de deux parties maintenues assemblées l'une à l'autre par une languette détachable et destinées à être fixées l'une sur l'étui et l'autre sur le chapeau. Avec une telle disposition, on conçoit que la languette, qui forme bande de garantie permet, par son détachement des deux parties de l'étiquette, une ouverture aisée du conditionnement.

L'invention vise également un conditionnement de médicament du type comportant un étui de forme parallélépipédique rectangle fermé à son extrémité ouverte par un chapeau de forme similaire et caractérisée en ce qu'il comporte sur l'une de ses faces une étiquette telle que définie ci-dessus, convenablement collée sur l'étui et sur le chapeau de manière que la laguette chevauche la ligne de séparation entre ces derniers.

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L'invention sera mieux comprise à la lecture de la description qui va suivre et qui se réfère aux dessins ci-annexés donnés uniquement à titre d'exemple et dans lesquels :

La figure 1 est une vue en perspective cavalière à grande échelle d'un conditionnement selon l'invention, et

la figure 2 est une vue en plan de l'étiquette utilisée dans le conditionnement de la figure 1.

Sur la figure 1, la référence 10 désigne un conditionnement plus particulièrement destiné à la distribution de médicaments homéopathiques.

Ce conditionnement se compose d'un étui rigide en matière plastique 12 de forme allongée et d'un chapeau de forme similaire 14 qui vient coiffer l'extrémité ouverte (non visible) de l'étui 12. Le conditionnement 10 peut être cylindrique ou prismatique. Dans la réalisation représentée, il est en forme de parallélépipède rectangle à arêtes arrondies.

Une étiquette 16 est apposée par collage par exemple sur l'une des faces du conditionnement 10, à cheval sur la ligne de séparation 18 entre l'étui 12 et le chapeau 14.

L'étiquette 16 est avantageusement du type dit "auto-collant". Elle se compose d'une partie supérieure 20 fixée sur le chapeau 14, d'une partie inférieure 22 fixée sur l'étui 12 et d'une languette transversale 24 formant bande de garantie qui relie l'une à l'autre les parties 20 et 22.

La languette 24 est reliée à chacune des parties 20 et 22 par une zone de plus faible résistance 26 constituée par exemple par une série de petits ponts de matière alignés séparés par des fentes formant une sorte de ligne en pointillés destinée à permettre un enlèvement aisé de la languette.

Cet enlèvement est encore facilité par le fait que la languette 24 se prolonge légèrement au delà de l'un au moins des côtés longitudinaux de l'étiquette 16. Si la largeur de celle-ci est voisine de celle de la face du conditionnement sur laquelle elle est apposée, il est clair que ce prolongement fait saillie et peut être aisément appréhendé par l'utilisateur.

Il est bien entendu que l'invention n'est pas limitée aux seuls modes de réalisation décrits ci-dessus et que de

nombreuses modifications concernant notamment la forme de l'étiquette, la réalisation des zones de faible résistance 26 peuvent être apportées sans sortir du cadre de la présente demande.

REVENDICATIONS

1. Etiquette destinée à être apposée notamment sur un conditionnement de médicament constitué d'un étui de forme allongée fermé par un chapeau de forme similaire enfoncé sur l'extrémité ouverte de l'étui, caractérisée en ce qu'elle est constituée de deux parties maintenues assemblées l'une à l'autre par une languette détachable et destinées à être fixées l'une sur l'étui et l'autre sur le chapeau.

2. Etiquette selon la revendication 1, caractérisée en ce qu'elle présente une forme générale rectangulaire et en ce que la languette s'étend transversalement à l'étiquette et déborde légèrement au moins l'un des côtés longitudinaux de celle-ci.

3. Etiquette selon l'ensemble des revendications 1 et 2, caractérisée en ce qu'elle est auto-collante.

4. Conditionnement de médicament du type comportant un étui de forme parallélépipédique rectangle fermé à son extrémité ouverte par un chapeau de forme similaire, caractérisée en ce qu'il comporte sur l'une de ses faces une étiquette selon l'une des revendications 1 à 3 convenablement collée sur l'étui et sur le chapeau de manière que la languette chevauche la ligne de séparation entre ces derniers.

Fig:1

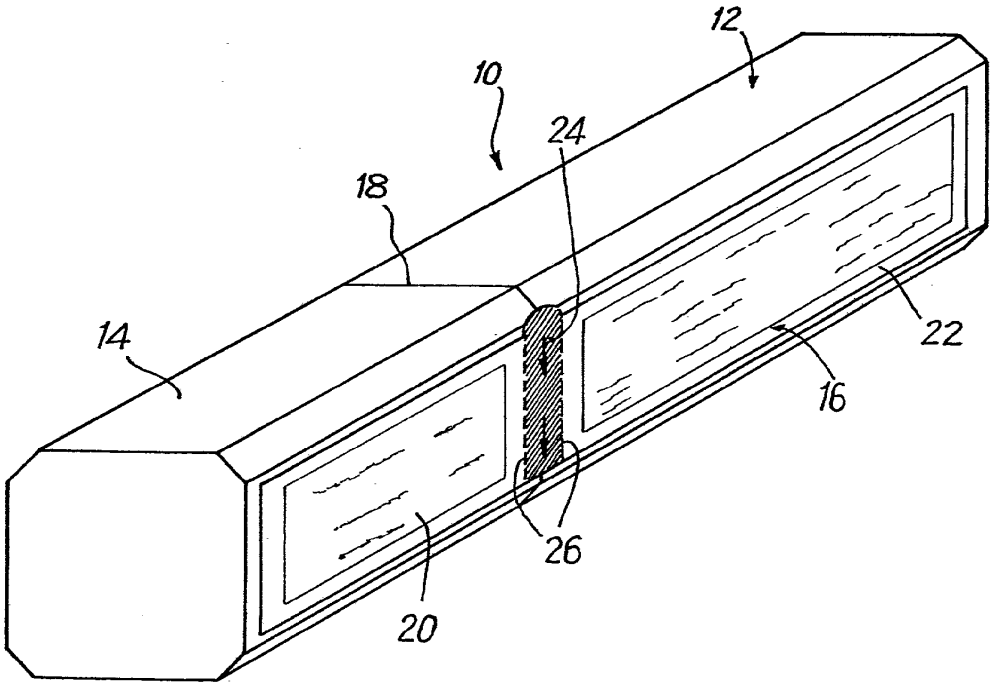
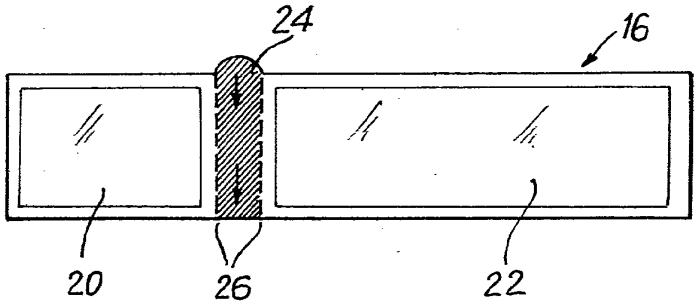


Fig:2



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A Container Top

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A CONTAINER TOP

Abstract

A container top for a container base (5) having a bottom and upwardly extending side walls (10), the top being moulded of plastics material and including: a lid rim (15) to be mounted on or formed integral the said side walls (10) and surrounding an opening (20) via which product would pass with respect to the container. A plurality of lid flaps (25), each flap (25) being pivotally attached to the rim (15) so as to be movable between a closed position at least substantially closing the opening (20), and an open position at least partly exposing the opening (20) to allow the product to pass therethrough. The flaps (25) in the open position being angularly displaced from the closed position in a direction away from the base (5). Each flap (25) has a flat portion (30). The flat portions (30) being adjacent each other when the flaps (25) are in the closed position so that the flat portions (30) are generally coplanar.

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FOR A STANDARD PATENT

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Invention Title:	A Container Top

ASSOCIATED PROVISIONAL APPLICATION DETAILS

[33] Country	[31] Applic. No(s)	[32] Application Date
AU	2002952801	21 Nov 2002

The following statement is a full description of this invention, including the best method of performing it known to me/us:-

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A CONTAINER TOP

Field of the Invention

The present invention relates to container tops and, in particular, to a thermoformed container having a tamper evident container top or lid.

Background of the Invention

Packaged perishable items such as, strawberries, alfalfa and cherry tomatoes, for example, are primarily offered for sale to the consumers in two general styles of packaging. Each of these two broad classifications (open and/or lidded punnets) have at least two main sub-styles of closure.

Open thermoformed punnets have an open topped (bowl shaped) receptacle. These punnets are filled with fresh product and over-wrapped with a transparent, stretchable film. Alternatively, though less often, the punnet is over-wrapped with a sheath of non-stretchable film which is fixed in place around the rim of the punnet with a rubber band. An adhesive label, identifying the brand, net weight and packed date is then manually applied to the over-wrap. As the over-wrap in both of these cases can be easily removed and then re-applied "in-store", pilferage and other forms of tampering may not be readily evident with this method of packaging.

Alternatively, lidded thermoformed punnets consist of either a two piece (base and separate lid) or a one piece (base with hinged lid) format. These punnets are filled with fresh product and then enclosed by either snapping on the separate lid which is held in place by small locking lugs, or in the case of the one piece (hinged) punnet, the lid is crimped over and held in place by small locking lugs. In either case, an adhesive label, identifying the brand, net weight and packed date is then applied to the top centre of the lid. These labels are usually applied by an automated applicator, though rarely manually in smaller volume operations. As the lids in both of these cases can be easily removed and then re-closed "in-store", pilferage and other forms of tampering may also not be readily evident with this method of packaging.

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Similarly, other fresh produce products as well as many bakery products are sold in thermoformed packages which may leave them open to pilferage and/or undetectable in-store tampering.

Accordingly, there is a need for a simple, effective, tamper evident, one-piece thermoformed lidded container.

Object of the Invention

It is an object of the present invention to overcome or ameliorate some of the disadvantages of the prior art, or at least to provide a useful alternative.

Summary of the Invention

There is disclosed herein a container top for a container base having a bottom and upwardly extending side walls, the top being moulded of plastics material and including:

a lid rim to be mounted on or formed integral with said side walls and surrounding an opening via which product would pass with respect to the container; and

a plurality of lid flaps, each flap being pivotally attached to the rim so as to be movable between a closed position at least substantially closing said opening, and an open position at least partly exposing said opening to allow said product to pass therethrough, the flaps in said open position being angularly displaced from the closed position in a direction away from said base, and wherein each flap has a flat portion, the flat portions being adjacent each other when the flaps are in the closed position so that the flat portions are generally coplanar.

Preferably, the flaps each have a peripheral edge, the edges being adjacent each other when the flaps are in the closed position.

Preferably, the opening is generally square or rectangular, so that, the rim has opposite end rim portions and opposite side rim portions, the flaps each being pivotally attached to a respective one of the end rim portions.

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Preferably, each side rim portion has a length extending towards the base from a respective end rim portion at an acute angle from the respective end rim portion to a plane extending through the end rim portions.

Preferably, each side rim portion has a portion of the length extending away from the base from a respective end rim portion at an acute angle from the respective end rim portion to a plane extending through the end rim portions.

Preferably, the rim portion is substantially horizontal.

Preferably, each said flap has opposite side edge portions extending from a respective end rim portion, the flap side edge portions tapering in height from adjacent the respective edge to the respective end rim portion in a complementary configuration to the side rim portion so that the surface portions co-operate to provide the area.

Preferably, each flap has opposite side edge portions extending from a respective end rim portion, the flap side edge portions tapering in height from adjacent the respective end rim portion to the respective edge in a complementary configuration to the side rim portion so that surface portions co-operate to provide the area.

Preferably, the rim includes a shoulder surrounding the opening.

Preferably, the shoulder includes an inwardly projecting barb to engage each flap to secure the flap in a closed position covering the opening.

Preferably, each flap includes a protuberance for locating within a complementary recess in the shoulder.

Preferably, the flap edge portion covers a portion of the rim.

Preferably, the container top is integrally thermoformed.

Brief Description of the Drawings

A preferred form of the present invention will now be described by way of example only with reference to the accompanying drawings wherein:

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Figure 1 is a top view of a container and container top of an embodiment of the invention showing one lid flap open and one lid flap closed;

Figure 2 is a side view of the container and container top of Figure 1;

Figure 3 is a cross-sectional view along line 2-2 of Figure 2;

Figure 4 is an exploded view of section A of Figure 3;

Figure 5 is a perspective view of the container and container top of Figure 1;

Figure 6 is an end view of Figure 1;

Figure 7 is a top view of a container and container top of a further embodiment of the invention showing one lid flap open and one lid flap closed;

Figure 8 is a side view of Fig. 7;

Figure 9 is a cross-sectional view along line 8-8 of Fig. 8;

Figure 10 is an exploded view of section B of Figure 9;

Figure 11 is a perspective view of Fig. 7;

Figure 12 is a top view of a container and container top of a further embodiment of the invention showing one lid flap open and one lid flap closed;

Figure 13 is a side view of Fig. 12;

Figure 14 is a cross-sectional view along line 13-13 of Figure 13;

Figure 15 is an exploded view of section B of Figure 14;

Figure 16 is a perspective view of Figure 13;

Figure 17 is a perspective view of a container and container top of a further embodiment of the invention showing one lid flap open and one lid flap closed; and

Figure 18 is a perspective view of a container and container top showing the flaps closed and a label across the flaps.

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Detailed Description of the Preferred Embodiments

Referring to Figures 1 to 6, there is shown an integrally formed container and container top 1 of a first embodiment having a base 5 and a plurality of side walls 10 extending upwardly from the base 5 and defining an opening 20. The opening 20 is generally square or rectangular. The container and container top 1 could be manufactured in any known way and be of any shape and/or size (for example, in Figures 7 to 16 discussed later). The container top could be attached to the container in any known way or integrally formed as a single unit.

In Figures 1 to 6, the container top includes two complimentary lid flaps 25 which when closed extend from a rim 15 of the container top over the opening 20. The container top could include more than two lid flaps 25 extending from either the ends or sides. Each lid flap 25 includes a flat portion 30 extending from the rim 15 to an edge 35. The flaps 25 when closed, have the edges 35 adjacent to each other, so that, the flat portions 30 co-operate to provide a generally flat area to receive a label or other adhesive sheet material 36 to extend across the adjacent edges 35 (best seen in Figure 18). The rim 15 has opposite end rim portions 16 and opposite side rim portions 17. The flaps 25 each being pivotally attached to a respective one of the end rim portions 16. However, the flaps 25 could also be attached to a respective one of the side rim portions 17. The flaps 25 could also overlap, if required.

As best seen in Figure 2, each side rim portion 17 has a length extending towards the base 5 from a respective end rim portion 16 at an acute angle from the respective end rim portion 16 to a plane extending through the end rim portions 16. Each flap 25 has opposite side edge portions 18 extending from a respective end rim portion 16. The flap side edge portions 18 taper in height from adjacent the respective edge 35 to the respective end rim portion 16 in a complementary configuration to the side rim portion 17 so that the flat surface portions 30 co-operate to provide the area. That is, the rim 15 is mutually downwardly inclined towards the middle of the container top to accommodate the wedge shaped flap 25.

As best seen in Figures 4 and 5, the rim 15 also includes a shoulder 40 surrounding the opening 20. The shoulder 40 includes a plurality of inwardly projecting

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barbs 45 to engage the flap 25 to secure the flap 25 in a closed position covering a portion of the opening 20.

Referring to Figures 7 to 11, there is shown a further embodiment of the container and container top 1 having a base 5 and a plurality of side walls 10 extending upwardly from the base 5 and defining an opening 20. The container could have side walls 10 including features such as indentations 11 as shown in Figure 11. The container top includes two complimentary lid flaps 25 which when closed extend from a rim 15 over the opening 20. Each lid flap 25 includes a flat portion 30 extending from the rim 15 to an edge 35. The flaps 25 when closed, have the edges 35 adjacent to each other, so that, the flat portions 30 co-operate to provide a generally flat area to receive a label 36 to extend across the adjacent edges 35. The rim 15 has opposite end rim portions 16 and opposite side rim portions 17. The flaps 25 each being pivotally attached to a respective one of the end rim portions 16.

As best seen in Figure 8, each side rim portion 17 has a small portion 19a extending away from the base 5 from a respective end rim portion 16 at an angle from the respective end rim portion 16 to a plane extending through the end rim portions 16 and then having a substantially horizontal portion 19b. Each flap 25 has opposite side edge portions 18 extending from a respective end rim portion 16. The flap side edge portions 18 taper in height from adjacent the respective end rim portion 16 to the respective edge 35 so that the flat surface portions 30 co-operate to provide the area.

As best seen in Figures 10 and 11, the rim 15 also includes a shoulder 40 surrounding the opening 20. The shoulder 40 includes a plurality of recesses 41 which engage protuberances 42 attached to the flap 25 to secure the flap 25 in a closed position covering a portion of the opening 20 and side rim portions 17.

Referring to Figures 12 to 16, there is shown a further embodiment of the container and container top 1 having a base 5 and a plurality of side walls 10 extending upwardly from the base 5 and defining an opening 20. The container top includes two complimentary lid flaps 25 which when closed extend from a rim 15 over the opening 20. Each lid flap 25 includes a flat portion 30 extending from the rim 15 to an edge 35. The flaps 25 when closed, have the edges 35 adjacent to each other, so that, the flat portions 30 co-operate to provide a generally flat area to receive a label 36 to extend across the

adjacent edges 35. The rim 15 has opposite end rim portions 16 and opposite side rim portions 17. The flaps 25 each being pivotally attached to a respective one of the end rim portions 16.

As best seen in Figure 13, each side rim portion 17 has a portion 21a extending away from the base 5 from a respective end rim portion 16 at an acute angle from the respective end rim portion 16 to a plane extending through the end rim portions 16 and then a substantially horizontal portion 21b. Each flap 25 has opposite side edge portions 18 extending from a respective end rim portion 16. The flap side edge portions 18 taper in height from adjacent the respective end rim portion 16 to the respective edge 35 in a complementary configuration to the side rim portion 17 so that the flat surface portions 30 co-operate to provide the area.

As best seen in Figures 15 and 16, the rim 15 also includes a shoulder 40 surrounding the opening 20. The shoulder 40 comprises a wall extending upwardly from the rim 15 to a slot 47 before folding over itself and returning back down to the rim 15 and defining a space 48 therebetween. The slot 47 extends on an angle downwardly from the highest point of the shoulder 40 to the rim 15. This downwardly inclined slot 47 engages each flap side edge portion 18 when the flaps 25 are in the closed position. The shoulder 40 also includes a plurality of recesses 43 connected to slots 47 to engage protuberances 44 extending from the flap 25 to secure the flap 25 in a closed position covering a portion of the opening 20.

Figures 17 and 18 show further embodiments of the container and container top 1 having substantially the same features as the above embodiments. In Figure 17, the generally flat portion 30 can clearly be seen and the shoulder 40 includes recesses 43 to connect to protrusions 44 which extend from the flaps 25 to secure the flaps 25 in a closed position over the opening 20. In Figure 18, the flaps 25 are in a closed position covering the opening 20 and an adhesive sheet material or label 36 provides a tamper evident seal.

In use, and referring to Figures 1 to 6 and 18 as an example, the container and container top 1 are integrally thermoformed as a single unit. The lid flaps 25 are placed in the open position and perishable items such as, strawberries, alfalfa and cherry tomatoes, for example, are placed into the opening 20. The lid flaps 25 are then closed, whereby the edges 35 of the flaps 25 are brought towards each other, such that, the side

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portions 18 of the flaps 25 rest upon the rim 15 and are locked in place by the projecting barbs 45. This creates a generally flat centre area across the two edges 35 of the flaps 25 for receipt of a label 36 or the like to provide a tamper evidence seal, for example. In this way, the perishable items within the opening 20 of the container and container top 1 cannot be tampered with without breaking the seal or label 36 across the generally flat surface. The embodiments shown in Figures 7 to 17 are utilised in a similar way.

The tamper seal or label 36 will likely be made by way of a self adhesive label or sheet material of the standard type. The container and container top 1 allow current labels to act as an effective seal against otherwise unnoticed pilferage and/or possible "in store" opening and reclosing of food containers.

Advantageously, in the preferred form, the self adhesive label/seal can be applied in a flat fashion, not around a corner or edge as is commonly used with current styles of packaging. The benefits of applying a flat label using existing machinery are that for example, the aesthetics of the label are not compromised as any art work and information presented on the label will be clearly noticeable and the shape of the label is not important to the effectiveness of the tamper evidence seal. This equates to a lower label expenditure due to less material per label; and existing operations such as a strawberry, blueberry and cherry tomato farms where automated flat label applications are already carried out, no changes will be required to existing label applicators. The container and container top 1 could also be used for storing donuts, biscuits and other types of perishable food products.

Although the invention has been described with reference to specific examples, it will be appreciated by those skilled in the art that the invention may be embodied in many other forms.

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The claims defining the invention are as follows:-

1. A container top for a container base having a bottom and upwardly extending side walls, the top being moulded of plastics material and including:

a lid rim to be mounted on or formed integral with said side walls and surrounding an opening via which product would pass with respect to the container; and

a plurality of lid flaps, each flap being pivotally attached to the rim so as to be movable between a closed position at least substantially closing said opening, and an open position at least partly exposing said opening to allow said product to pass therethrough, the flaps in said open position being angularly displaced from the closed position in a direction away from said base, and

wherein each flap has a flat portion, the flat portions being adjacent each other when the flaps are in the closed position so that the flat portions are generally coplanar.

2. The container top of claim 1, wherein said flaps each have a peripheral edge, said edges being adjacent each other when said flaps are in the closed position.

3. The container top of claim 1 or 2, wherein said opening is generally square or rectangular, so that, the rim has opposite end rim portions and opposite side rim portions, said flaps each being pivotally attached to a respective one of said end rim portions.

4. The container top of claim 3, wherein each side rim portion has a length extending towards the base from a respective end rim portion at an acute angle from the respective end rim portion to a plane extending through the end rim portions.

5. The container top of claim 3, wherein each side rim portion has a portion of said length extending away from the base from a respective end rim portion at an acute angle from the respective end rim portion to a plane extending through the end rim portions.

6. The container top of claim 3, wherein said rim portion is substantially horizontal.

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7. The container top of claim 4, wherein each said flap has opposite side edge portions extending from a respective end rim portion, the flap side edge portions tapering in height from adjacent the respective edge to the respective end rim portion in a complementary configuration to the side rim portion so that said surface portions co-operate to provide said area.

8. The container top of claim 5, wherein each said flap has opposite side edge portions extending from a respective end rim portion, the flap side edge portions tapering in height from adjacent the respective end rim portion to the respective edge in a complementary configuration to the side rim portion so that said surface portions co-operate to provide said area.

9. The container top of any one of the preceding claims, wherein said rim includes a shoulder surrounding said opening.

10. The container top of claim 9, wherein said shoulder includes an inwardly projecting barb to engage each said flap to secure said flap in a closed position covering said opening.

11. The container top of claim 9 or 10, wherein each said flap includes a protuberance for locating within a complementary recess in said shoulder.

12. The container top of claim 7 or 8, wherein said flap edge portion covers a portion of said rim.

13. The container top of any one of the preceding claims having sheet material across a part of said flat portions of said flaps when in a closed position, said sheet material fractured when said flaps are in an open position.

14. In combination, the container top of any one of the preceding claims attached to said container.

15. The combination of claim 14, wherein said container top and container are integrally thermoformed.

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16. A container top, substantially as herein described with reference to any one of the embodiments of the invention shown in the accompanying drawings.

17. In combination, a container and container top, substantially as herein described with reference to any one of the embodiments of the invention shown in the accompanying drawings.

Dated 12 August, 2003
Tacca Plastics Australia Pty Ltd
Patent Attorneys for the Applicant/Nominated Person
SPRUSON & FERGUSON

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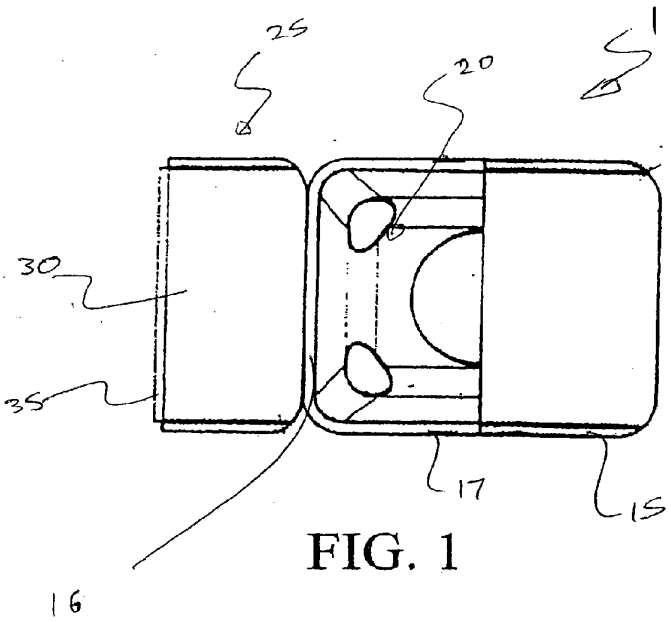


FIG. 1

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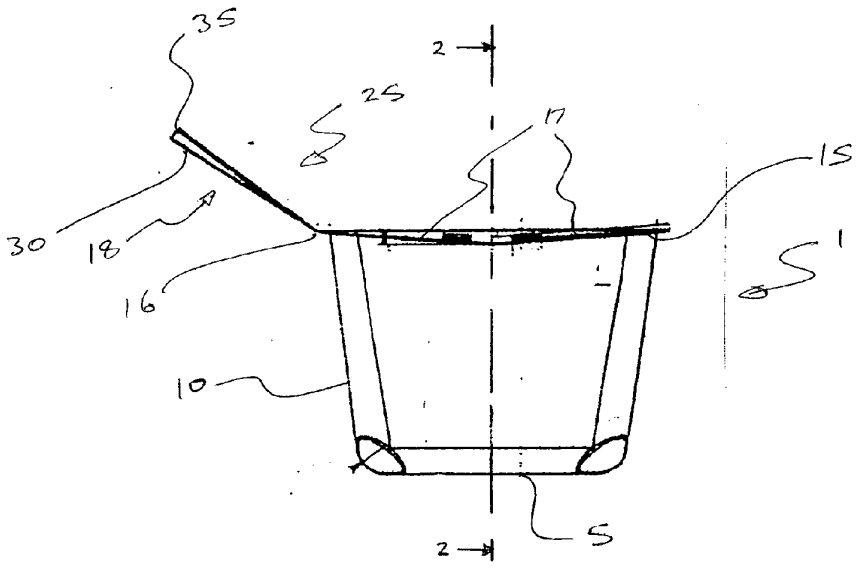


FIG. 2

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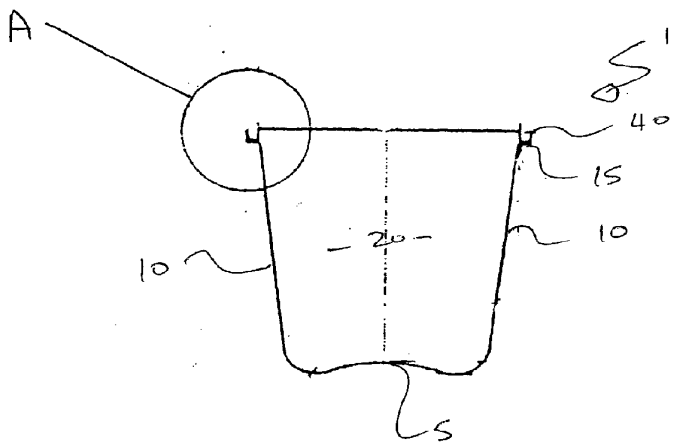


FIG. 3

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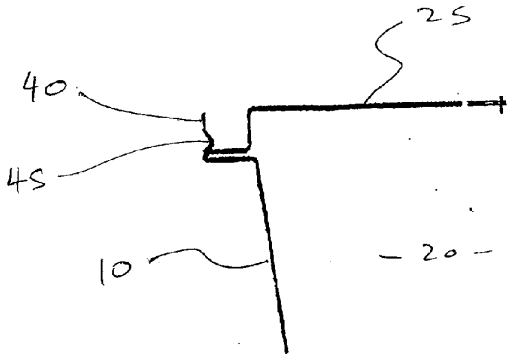


FIG. 4

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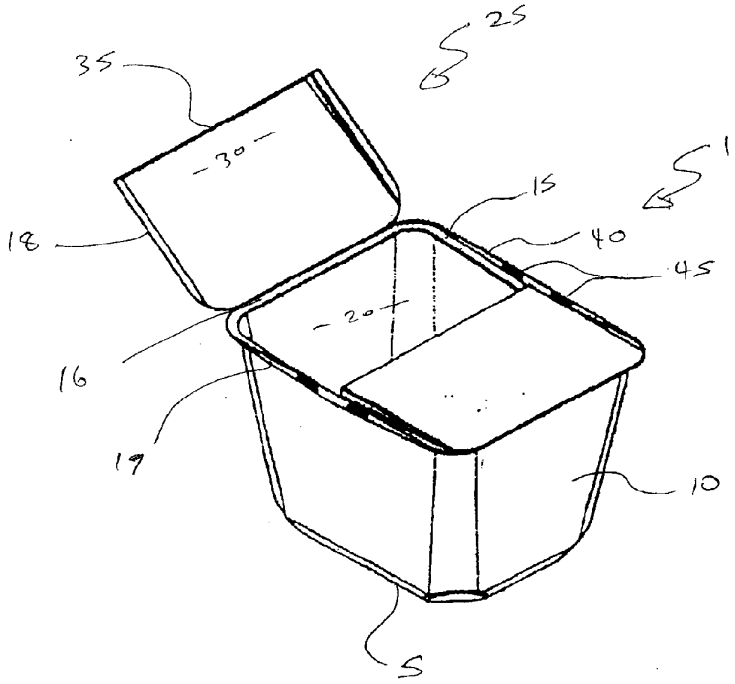


FIG. 5

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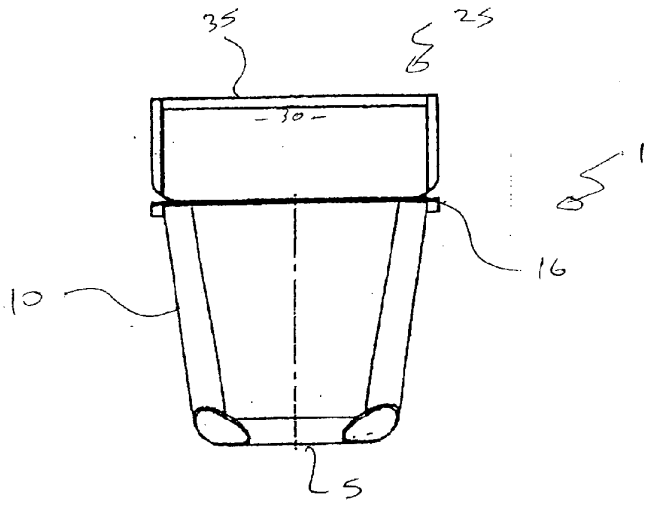


FIG. 6

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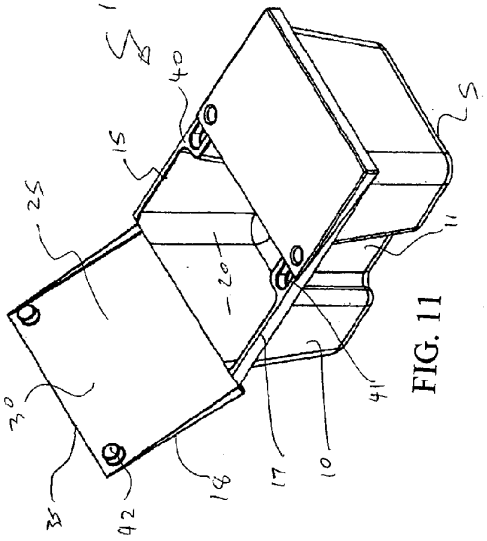


FIG. 11

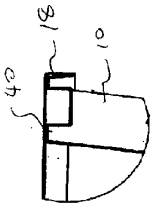


FIG. 10

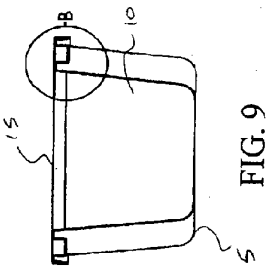


FIG. 9

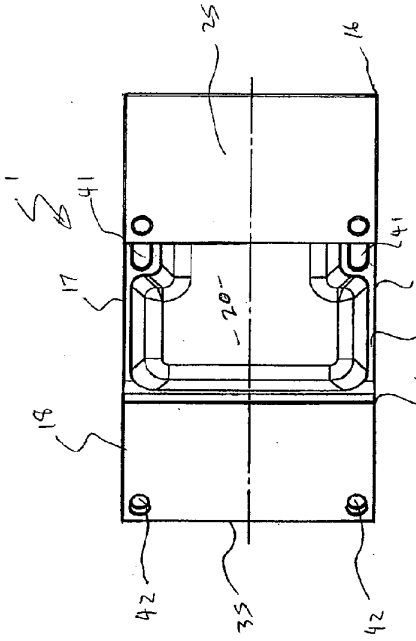


FIG. 7

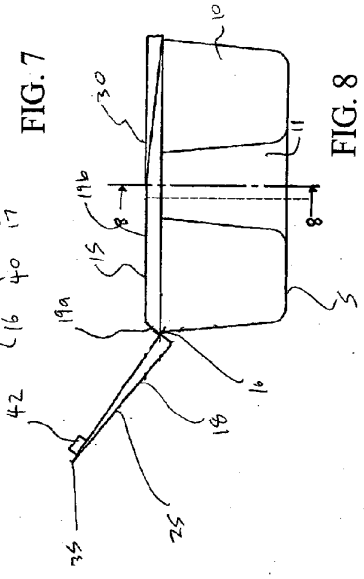


FIG. 8

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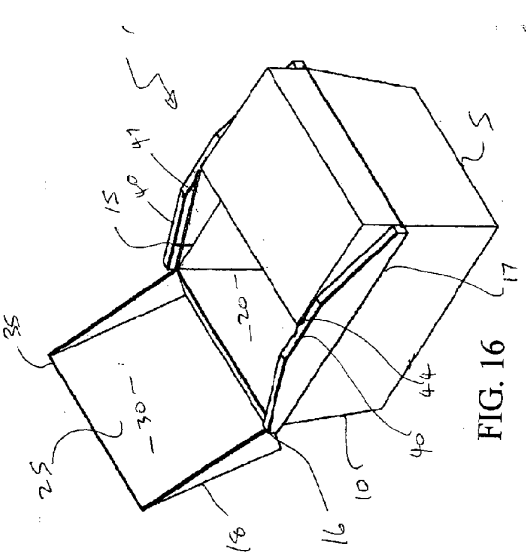


FIG. 16

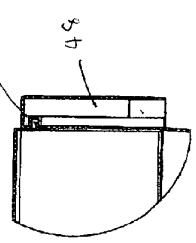


FIG. 15

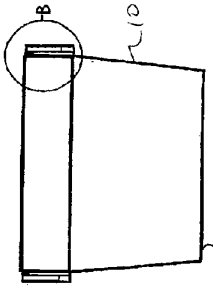


FIG. 14

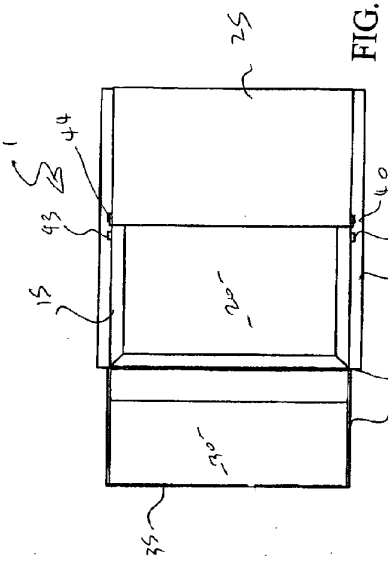


FIG. 12

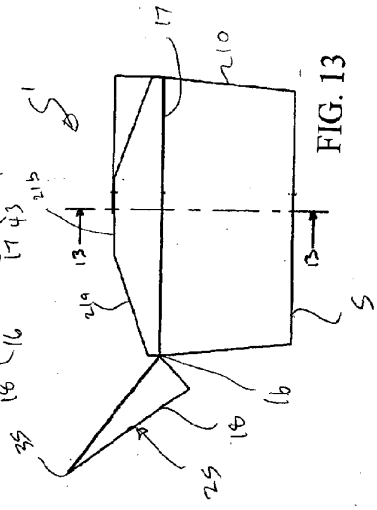


FIG. 13

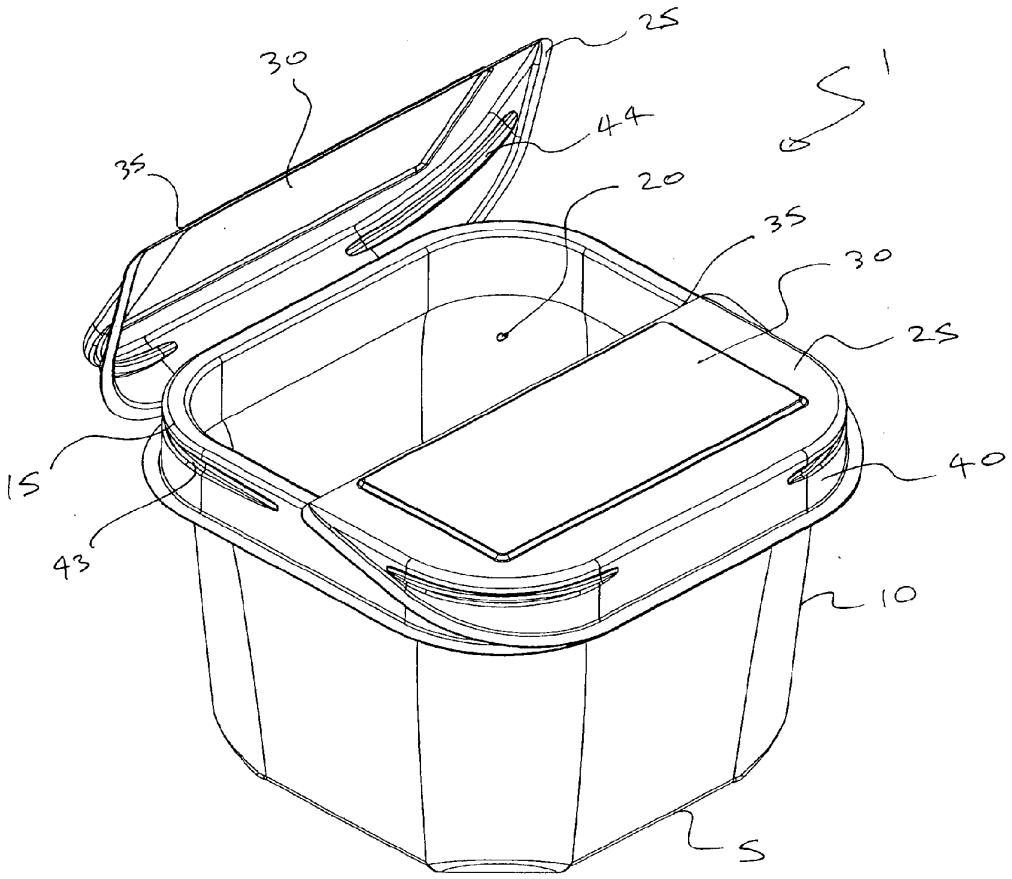


FIG. 17

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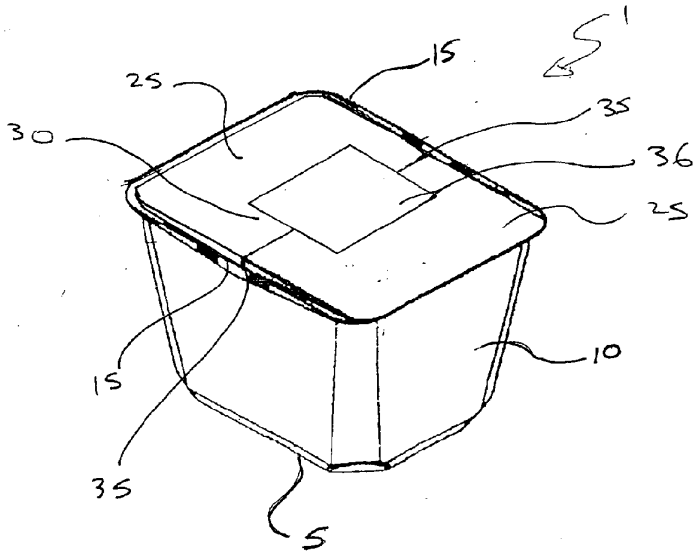


FIG. 18

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 17179/KC/lpm	**FOR FURTHER ACTION**	See Form PCT/IPEA/416
International application No. **PCT/AU2008/000173**	International filing date *(day/month/year)* 12 February 2008	Priority date *(day/month/year)* 12 February 2007

International Patent Classification (IPC) or national classification and IPC

Int. Cl.

B65D 43/00 (2006.01) ***B65D 1/26*** (2006.01) ***B65D 55/06*** (2006.01)
B65D 1/22 (2006.01) ***B65D 53/08*** (2006.01)

Applicant

MAURICE JOSEPH PAUL TABONE

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
   a. [X] *(sent to the applicant and to the International Bureau)* a total of 16 sheets, as follows:
      - [ ] sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
      - [ ] sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

   b. [ ] *(sent to the International Bureau only)* a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:
   - [X] Box No. I Basis of the report
   - [ ] Box No. II Priority
   - [ ] Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
   - [X] Box No. IV Lack of unity of invention
   - [X] Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
   - [ ] Box No. VI Certain documents cited
   - [ ] Box No. VII Certain defects in the international application
   - [ ] Box No. VIII Certain observations on the international application

Date of submission of the demand 5 December 2008	Date of completion of this report 30 April 2009
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. +61 2 6283 7999	Authorized Officer **JAGDISH WABLE** AUSTRALIAN PATENT OFFICE (ISO 9001 Quality Certified Service) Telephone No. +61 2 6283 2638

Form PCT/IPEA/409 (Cover sheet) (April 2007)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/AU2008/000173

Box No. I Basis of the report

1. With regard to the **language,** this report is based on: -

[X] The international application in the language in which it was filed

[ ] A translation of the international application into , which is the language of a translation furnished for the purposes of:

[ ] international search (under Rules 12.3(a) and 23.1 (b))

[ ] publication of the international application (under Rule 12.4(a))

[ ] international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

[ ] the international application as originally filed/furnished

[X] the description:

pages as originally filed/furnished
pages* **2-4, 6-15** received by this Authority on **5 December 2008** with the letter of **5 December 2008**
pages* **5** received by this Authority on **20 April 2009** with the letter of **20 April 2009**

[X] the claims:

pages as originally filed/furnished
pages* as amended (together with any statement) under Article 19
pages* **16 and 17** received by this Authority on **20 April 2009** with the letter of **20 April 2009**
pages* received by this Authority on with the letter of

[X] the drawings:

pages **1/7-7/7** as originally filed/furnished
pages* received by this Authority on with the letter of
pages* received by this Authority on with the letter of

[ ] a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. [ ] The amendments have resulted in the cancellation of:

[ ] the description, pages
[ ] the claims, Nos.
[ ] the drawings, sheets/figs
[ ] the sequence listing *(specify)*:
[ ] any table(s) related to the sequence listing *(specify)*:

4. [ ] This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

[ ] the description, pages
[ ] the claims, Nos.
[ ] the drawings, sheets/figs
[ ] the sequence listing *(specify)*:
[ ] any table(s) related to the sequence listing *(specify)*:

5. [ ] This report has been established taking into account **the rectification of an obvious mistake** authorized by or notified to the Authority under Rule 91 (Rule 70.2(e)).

* *If item 4 applies, some or all of those sheets may be marked "superseded."*

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Box No. IV Lack of unity of invention

1. ☐ In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional international preliminary examination fees the applicant has, within the applicable time limit:

   ☐ restricted the claims

   ☐ paid additional fees

   ☐ paid additional fees under protest and, where applicable, the protest fee

   ☐ paid additional fees under protest but the applicable protest fee was not paid

   ☐ neither restricted the claims nor paid additional fees

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional international preliminary examination fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:

   ☐ complied with.

   ☒ not complied with for the following reasons:

   This International Application does not comply with the requirements of unity of invention because it does not relate to one invention or to a group of inventions so linked as to form a single general inventive concept.

   In assessing whether there is more than one invention claimed, I have given consideration to those features which can be considered to potentially distinguish the claimed combination of features from the prior art. Where different claims have different distinguishing features they define different inventions.

   This International Searching Authority has found that there are different inventions as follows:

   - Claim 1 and its appended claims are directed to a container. It is considered that the location of at least part of the first planar area of the lid is within a footprint of the internal volume of the containercomprises a first distinguishing feature.

   - Claims 3 and its appended claims are directed to a container. It is considered that the oblique angle between the first planar area of the lid and some or the entire lid and an angle between the second planar area and the rim comprises a second distinguishing feature.

   [See Supplemental Box I]

4. Consequently, this report has been established in respect of the following parts of the international application:

   ☒ all parts.

   ☐ the parts relating to claims Nos.

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Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	**1-14**	**YES**
	Claims	**NONE**	**NO**
Inventive step (IS)	Claims	**1-14**	**YES**
	Claims	**NONE**	**NO**
Industrial applicability (IA)	Claims	**1-14**	**YES**
	Claims	**NONE**	**NO**

2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1-US 5636737
D2-US 6540074
D3-FR 2349182

NOVELTY (N) Claims 1-14 (YES)
The prior art published before the priority date does not disclose a container of claim 1 wherein at least part of the first planar of the lid is within a footprint of the internal volume of the container. It also does not disclose a container of another independent claim 3 wherein the second planar area is inclined at an angle to the rim. Therefore the subject matter of these claims is new and meets the requirements of Article 33(2) of the PCT with regard to novelty.

INVENTIVE STEP (IS) Claims 1-14 (YES)
Claims 1-14 meet the criteria set out in PCT Article 33(3) with regard to the requirement of Inventive Step because the prior art does not obviously suggest to a person skilled in the art a container of claim 1 wherein at least part of the first planar of the lid is within a footprint of the internal volume of the container. It also does not disclose a container of another independent claim 3 wherein the second planar area is inclined at an angle to the rim.

INDUSTRIAL APPLICABILITY (IA) Claims 1-14 (YES)
The invention defined in the claims is considered to meet the requirements of Industrial Applicability under Article 33(4) of the PCT because it can be made by, or used in, industry.

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Supplemental Box I

In case **the space in any of the preceding boxes is not sufficient.**

Continuation of: **Box V**

PCT Rule 13.2, first sentence, states that unity of invention is only fulfilled when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. PCT Rule 13.2, second sentence, defines a special technical feature as a feature which makes a contribution over the prior art.

The only feature common to all of the claims is a container having a base and a lid moveable with respect to the base, the lid having a first planar area and the base having a second planar area, wherein in closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area.. However this concept is not novel in the light of:

D1-US 5636737
D2-US 6540074
D3-FR 2349182
D4-US 5893587

D1 discloses a rectangular container having a base 4, a hinged lid 6 movable with respect to the base between an open position and a closed position, the lid 6 having a first planar area 32 and the base having a second planar area 30, wherein in the closed position, the first and second planar areas include a substantially flat area 33 which is capable of being receiving an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 7).

D2 discloses a rectangular container 1 with a base3 and a hinged lid 2 having a flat area 33 defined by planar areas 30 and 32 that is capable of being receiving an adhesive label, the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 3).

D3 discloses a rectangular container 10 having a base 12 and a lid 14, the adhesive label 24 being stuck on the planar area formed by the base and the lid, (see figure 1), the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 1).

D4 discloses a rectangular container having a base and a hinged lid, an adhesive label 20 stuck on the planar area formed by the base and the lid, the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 4)

This means that the common feature can not constitute a special technical feature within the meaning of PCT Rule 13.2, second sentence, since it makes no contribution over the prior art.

Because the common feature does not satisfy the requirement for being a special technical feature it follows that it cannot provide the necessary technical relationship between the identified inventions. Therefore the claims do not satisfy the requirement of unity of invention *a posteriori*.

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container having a lid provided in two parts, each part being hinged to the base. When both lids are closed, there is available a generally flat area across the lid edges in the centre of the container top to permit a flat label to be applied. The flat label so applied can act as a tamper evident seal.

While this prior art dual hinged lidded container can work admirably in many applications, there are instances where it is undesirable to apply a label across a join in the centre of a container lid in this manner. For example, the label may obstruct a consumer's view of contents of the container, especially where there is a relatively high label-to-lid area ratio. As another example, on larger containers, a regular sized label may prove inadequate to give a tamper evident seal. If the size of the label were to be increased, this would add to label cost and may prove uneconomical. In other instances, it may be desirable to provide a container with increased security.

It is an object of the present invention, at least in some embodiments, to alleviate some or all of these concerns or, at the least, to provide a useful alternative which is appropriate for containers of different shapes and sizes.

Disclosure of the Invention

Accordingly, in a first aspect, the present invention provides a container having an internal volume, a base having a rim and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area located on an extension of the rim, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area, and wherein at least part of the first planar area of the lid is within a footprint of the internal volume.

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The container of the invention may be made of any suitable material but preferably is a thermoformed, relatively thin plastic material, as is presently known in the art. Examples of suitable thermoformable plastic material are polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene, polyactide (PLA) and biaxially oriented polystyrene (BOPS). The container may be of any desirable shape. Currently, most popular containers of this type are square or rectangular in cross section and these are encompassed by the present invention, along with other shapes.

The base preferably includes a floor and upwardly extending side walls. Preferably, at least one of the side walls ends at the rim on which the second planar area is located. If desired, the rim may include means for supporting the container during the selling process. For example, the rim may include a hang sell hole for "off-shelf" display.

The lid or the base may include ventilation holes, ribs or arches or any other modifications suited to intended contents and/or conditions of sale.

The base and upstanding side walls may define an opening which, in use, is horizontal. However, other variations are possible. For example, the base may define an opening which, in use, is vertical and intended to be closed by a lid in a vertical orientation in use.

The lid is moveable with respect to the base between an open position and a closed position. The lid may be hinged or otherwise attached to the base in any suitable manner. Alternately, the lid may be separate from the base, in which case it may be desirable to have two or more first planar areas on the lid and correspondingly two or more second planar areas on the base if tamper evidence is required.

The lid may be generally flat or it may include shaped portions (such as one or more domes, ribs or arches) in addition to the first planar area. Optionally, the lid may include one or more recessed portions which may be useful for storing items

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which a consumer may require once the container has been opened. Such items may include cutlery, dressings and condiments.

The lid may be of known type, for example an "inside fitting" or an "outside fitting" lid in relation to the base when closed.

The lid may be a single lid or may be a multi-part lid. For example, the invention is applicable to the type of dual-lidded container in Australian patent No. 2003234951. An embodiment is shown in the drawings, below. The lid may have more than two parts.

The lid and/or the base may include any suitable mechanical locking mechanisms, such as one or more projections, each receivable in a recess with an interference-type fit. These may be located on surfaces which, in use, are horizontal or vertical, for example. Another example of a locking mechanism is a channel style lock.

The first planar area is on the lid and preferably is greater than $5cm^2$. The first planar area is preferably located adjacent an edge of the lid since, when a label or other adhesive membrane is applied, at least part of the purpose is to secure the lid to the base. In a preferred embodiment, the first planar area is located opposite a hinged edge of the lid, when the lid is hinged to be base. However, it is to be understood that the invention is not limited to this. The first planar area may be located adjacent any edge of the lid or in any other desired location. For example, the first planar area may be located on a side of the lid (approximately vertical in use.)

The first planar area may be generally parallel to a floor in the base. However, other configurations are possible.

In the first aspect of the invention, at least part of the first planar area is within a footprint of the internal volume of the container. This is illustrated in Figures 1 to 17 and 22 to 27 of the drawings. However, in a second aspect, the first planar area

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The substantially flat area is preferably located at an opposite side of the container to the hinge, or opposite each hinge when there is more than one. However, the invention is not limited to this configuration.

It will be appreciated that when the lid is in the closed position, the substantially flat area is preferably suitable for application of an adhesive membrane, such as a self adhesive label applied by an automated applicator in a generally flat fashion.

While the adhesive membrane is preferably a self adhesive label, it may also take other forms. For example, it may be a heat sealable lidding film of plastic, foil or other sheet material.

If desired, the adhesive membrane may have a perforation or other area of weakness locatable at or adjacent the edge of the first planar area within the substantially flat area. The purpose of this is to simplify opening of the container by the consumer.

If there are two or more first planar areas and second planar areas, the adhesive membrane may be applied to all of these, or some of these, or to one first planar area and one second planar area only.

If desired, the container of the invention may be designed so as to be nestable or stackable with identical or similar containers.

Brief Description of the Drawings

The invention will now be described in relation to certain non-limiting examples thereof in the accompanying drawings, in which:

Figure 1 is a plan view of a first embodiment of container according to the first aspect of the invention, showing a lid, hinged to the base in the open position;

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Figure 2 corresponds to the embodiment in Figure 1, but showing the lid in the closed position;

Figure 3 is a side elevation of the embodiment of Figures 1 and 2, with the lid in the closed position;

Figure 4 is a perspective view of a second embodiment of container according to the first aspect of the invention, having a lid separate from the base;

Figure 5 is an exploded view of the embodiment in Figure 4;

Figure 6 is a detail of the circled portion of Figure 4;

Figure 7 is a top plan view of the embodiment of Figure 4;

Figure 8 is a front elevation of the embodiment of Figure 4;

Figure 9 is a side elevation of the embodiment of Figure 4;

Figure 10 is a top plan view of a further embodiment of the first aspect of the invention in the open position;

Figure 11 is a top plan view of the embodiment of Figure 10, showing the lid in the closed position;

Figure 12 is a top plan view of a further embodiment of the first aspect of the invention in the open position;

Figure 13 is a top plan view of the embodiment of Figure 12 in the closed position;

Figure 14 is a top plan view of a further embodiment of the first spect of the invention in the open position;

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Figure 15 is a top plan view of the embodiment of Figure 14 in the closed position;

Figure 16 is a top plan view of a further embodiment of the first aspect of the invention in the open position;

Figure 17 is a top plan view of the embodiment of Figure 16 in the closed position;

Figure 18 is a side elevation of an embodiment of the second aspect of the invention, where the first and second planar areas are at an angle to the base and lid, the lid being in the open position in this Figure;

Figure 19 shows the embodiment of Figure 18, with the lid in the closed position;

Figure 20 is a side elevation of a further embodiment of the second aspect of the invention where the first and second planar areas are at an angle to the lid and base, showing the open position;

Figure 21 shows the embodiment in Figure 20 in the closed position;

Figure 22 is a top plan view of a further embodiment of the first aspect of the invention wherein the lid is in more than one part, showing the lid parts in the open position;

Figure 23 shows the Figure 22 embodiment with the lid parts in the closed position;

Figure 24 is a top plan view of a further embodiment of the first aspect of the invention , showing the open position;

Figure 25 shows the Figure 24 embodiment in the closed position;

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Figure 26 shows yet a further embodiment of the first aspect of the invention, being a top plan view in the open position; and

Figure 27 shows the Figure 26 embodiment in the closed position.

Detailed Description of the Drawings

Referring first to Figures 1, 2 and 3, the first embodiment of the container of the invention, designated generally as 10, has a base 12 and a lid 14, hinged to base 12 at hinge 16. Rims 15 have ramp portions 17.

Base 12 has upwardly extending sidewalls 18 defining an opening 20 through which products are inserted into container 10 before lid 14 is closed. At the top end of walls 18 of base 12 are rims 22 (refer Figure 1), each of which has a ramp portion 23.

Lid 14 in this embodiment has a first planar area 24 which, in this embodiment, comprises virtually the whole of lid 14. The second planar area is formed by rim portion 26 which, as can be seen in Figure 1, is wider than rims 22. Ramp portion 23 is inclined upwardly from rim 22 to rim 26.

Container 10 has an internal volume having a footprint defined by the inner boundaries of rim 22, ramp portions 23 and extended rim portion 26.

In the closed position, illustrated in Figure 2, first planar area 24, which is within the footprint of the internal volume of container 10, has mated with second planar area - rim 26 - to form a substantially flat area in which edge 28 of lid 14 has mated with rim 26 of base 12, chamfer 30 being formed between them, using ramp portion 23. Adhesive label 32 is shown in place in Figure 2.

As can be seen in Figure 1, sidewalls 18 of base 12 are tapered towards floor 34, corners 36 being rounded as illustrated.

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Margin 15 on lid 14 can include locking means to lock lid 14 to base 12 via rims 22.

Turning now to the second embodiment illustrated in Figures 4 to 9, the container of the invention, designated generally as 40, has a base 42 and a separate lid 44, with upwardly extending side walls 48 defining an opening 50 through which product may be inserted before lid 44 is closed. Base 42 has a rim 52 with a pair of enlarged portions 56, comprising in this embodiment second planar areas.

Lid 44 has a first planar area 54 defined by ribs 38 and edges 55, being within the footprint of the internal volume of container 40.

A single label (not shown) can extend over the whole of first planar area 54 and both second planar areas 56. Alternately, two separate labels may be used, the first covering part of first planar area 54 and one of the adjacent second planar areas 56, while the other covers part of first planar area 54 and the adjacent second planar area 56, leaving free central portion 46 of lid 44.

As shown in Figure 6, each of second planar areas 56 may include an aperture or recess 58. A sharp object may be inserted through a label (not shown) covering first planar area 54, second planar area 56 and aperture 58, to tear the label through aperture 58, to assist in removing lid 44 from base 42.

In this embodiment, lid 44 also includes removal tabs 62, to assist in removing lid 44 from base 42.

Container 40 may include vents (not shown) and depression 64 in floor 66 of base 42, as desired (refer Figure 8). Container 40 may also include one or more recessed portions in lid 44. These may be included in central portion 46 or in another desired location. It is preferred that any such recessed portion is sealed by a label.

A third embodiment is shown in Figures 10 and 11, where container 70 has base 72 hinged to lid 74 at 16. Lid 74 is cut away at 76 and base 72 has flat portions 78.

As can be seen in Figure 11, when lid 74 is closed on base 72, cut aways 76 leave flat portions 78 exposed. When a label 60, shown in dotted outline in Figure 11, is placed over first planar area 68 of lid 74 and over flat portion 78 (second planar areas) of base 72, lid 74 is effectively sealed to base 72. Flat portions 78 stand proud of rim 22, so that when exposed by cut-outs 76 of lid 74, first planar area 68 is substantially co-planar with flat portions 78. First planar area 68 lies within the footprint of the internal volume of container 70, the internal volume being defined by the inner boundary of rim 22.

The next embodiment in Figures 12 and 13 is similar to that in Figures 10 and 11 and the same numbers have been used to indicate the same or similar parts, with the addition of the letter "a". Whereas in the Figure 10 and 11 embodiment the cut-away portions 76 on lid 74 were centred in an edge of lid 74, in the Figure 12 and 13 embodiment cut-away portions 76a are located in two opposite corners of lid 74a.

Similarly, flat portions 78a are located at corners of base 72a.

As was the case with the previous embodiment, when lid 74a is closed on base 72a, flat portions 78a are substantially co-planar with first planar area 68a, most of which is within the internal volume footprint.

The next embodiment shown in Figures 14 and 15 shows container 80 having base 82 and lid 84. Base 82 has narrow rims 22 and expanded rim 86. Expanded rim 86 includes further portion 88 with hang sell hole 90, to enable container 80 to be displayed on a hanger.

Expanded rim 86 is designed so that, when lid 84 is closed on container 82, expanded rim 86 is substantially co-planar with lid 84, which in this embodiment comprises the first planar area. Most of lid 84 is within the footprint of the internal volume.

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As can be seen in Figure 15, label 60 can be affixed to cover the right hand side of lid 84 and expanded rim 86.

The embodiment in Figures 16 and 17 is similar to that shown in Figures 10 and 11 and 12 and 13. The same labels will be used to designate the same or similar parts, with the addition of the letter "b".

Container 70b has base 72b and lid 74b, hinged at 16. Cut-away 76b on lid 74b is designed to expose flat portion 78b on base 72b in the closed position (Figure 17). Flat portion 78b stands proud of rim 22 so that first planar area 68b is substantially co-planar with flat portion 78b.

This embodiment includes lock lugs 92 designed for a friction fit into lock recesses 94 on base 72b. As can be seen from Figure 17, when label 60 is affixed, it covers not only first planar area 68b and flat portion 78b but also lock lugs 92.

The embodiments in Figures 18 to 21 illustrate the second aspect of the invention, in which the first and second planar areas are disposed at an oblique angle to the lid and to a rim on the base.

Referring first to Figures 18 and 19, container 100 has lid 104 hinged to base 102 at 16. Lid 104 includes extension 106 which, in use, is inclined upwardly at an obtuse angle from lid 104.

Base 102 has rim 22 which has extension 108, in use inclined at an obtuse angle from rim 22.

In the closed position, extension 106 is designed to mate with extension 108. Extension 106 has one or more cut-outs, similar to those already illustrated in Figures 10 to 13 or 16 and 17, so that a flat label 60 applied to extension 106 will bind extension 106 to extension 108, exposed by the cut-out or cut-outs.

The embodiment in Figures 20 and 21 is a variation of that in Figures 18 and 19 and the same labels will be used, with the addition of the letter "a". In this embodiment, lid 104a ends in flat portion 106a. Rim 22 on base 102a has a downwardly extending extension 108a.

In the closed position, extension 106a mates with extension 108a along margin 98 to provide a substantially co-planar surface 96 on which a label 60 (not shown) may be placed to seal lid 104a to base 102a.

It will be apparent to one skilled in the art that the embodiments in Figures 18 to 21 may be adapted to containers with separate lids. In that case, it is preferred that there are two extensions 106 (or 106a) and two extensions 108 (or 108a).

Reference is now made to the embodiment in Figures 22 and 23. In this embodiment, container 110 has base 112 as shown in Figure 22. However, the lid is in two parts, 114a and 114b. Lid part 114a is hinged to base 112 at 16a while lid part 114b is hinged to base 112 at hinge 16b.

Each of lid parts 114a and 114b has a pair of cut-aways, 116a and 116b. When lid parts 114a and 114b are in the closed position as shown in Figure 23, cut-aways 116a and 116b expose flat portions 118 on base 112. Lid parts 114a and 114b may meet or overlap in known manner, for example as described in Australian patent specification No 2003234951, the contents of which are encorporated herein by reference. Nevertheless, each of lid parts 114a and 114b provide a first planar area which is substantially co-planar with flat portion 118 on base 112. In this way, when lid parts 114a and 114b are in the closed position, label 60 can be applied on the substantially flat area so provided. Label 60 is in the first planar areas within the volume footprint.

Referring now the embodiment in Figures 24 and 25, container 130 has base 122 hinged to lid 124 at hinge 16. Lid 124 has diecut holes 126. Lid 124 is generally flat to provide the first planar area. Most of lid 124 is within the volume footprint.

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Base 122 has formed sections 128, the top, flat part of which comprise the second planar areas. As can be seen by Figure 25, in the closed position formed sections 128 mate with diecut holes 126 to form a substantially flat surface. A label (not shown) may be applied to cover both formed sections 128 and the intervening part of lid 124. Alternately, separate labels may be applied.

The embodiment in Figures 26 to 27 is similar to that in Figures 24 to 25; however, in container 140 in Figures 26 to 27, base 132 is separate from lid 134. In addition, there are four diecut holes 136 and correspondingly four formed sections 138. Like the embodiment in Figures 24 and 25, when lid 134 which is of the "outside fitting" type, is placed on base 132, sections 138 protrude into diecut holes 136 to provide a substantially flat area for label application.

It will be appreciated from the various embodiments described above that the container of the invention can be produced in a wide number of forms and that, in addition, a single form may be suitable for application of different types of labels. Lids may be hinged or separate.

Lids may be substantially flat or they may be shaped, with ridges, ribs, domes as non-limiting examples of shaping. Especially in the case of substantially flat lids, these may be designed to mate with the base so that the second planar area or areas can appear on, for example, opposing sides of the lid, opposing corners of the lid or on one side of the lid, opposite the hinge. In the case of a lid which is a dual lid, with two hinges, the second planar areas may be on two opposing sides (viewing the closed lid in plan view), or on four corners, for example.

In the case of a separate lid, once again viewing the container in plan view in the closed position, the second planar areas may be in each of four corners, on two opposing sides, on two diagonal corners, around all four sides or separately on each of four sides. These are a selection only of possible combinations. Others will be apparent to one skilled in the art.

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Industrial Applicability

The container of the invention can be adapted to any currently known container design, whether having a single lid or a multi-part lid. The invention allows for manual or high speed automatic closure and flat, self adhesive label application providing tamper evidence, while at the same time employing a minimum number of moving parts.

The container of the invention can offer important tamper evidence capabilities while maintaining minimal obstruction of vision through the container lid. For certain applications, the container of the invention will also allow alternate graphic methods to be successfully used, such as pre-printing, branding and nutritional information onto the lid area, thus reducing label requirements to a smaller, basic tamper evident label only.

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may be disposed at an angle to some or all of the remainder of the lid. Examples are illustrated in Figures 18 to 21 of the drawings, below.

Accordingly, in a second aspect, the invention provides a container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area, and wherein the first planar area is disposed at an oblique angle to some or all of the lid and wherein the base includes a floor and upwardly extending side walls, at least one of which has a rim, and the second planar area is inclined at an angle to the rim.

For both the first and second aspects of the invention, the second planar area is on the base. This may take any suitable form and many variations are possible. The lid may be contoured for a snug fit with the second planar area.

The substantially flat area suitable for receipt of an adhesive membrane includes an edge of the first planar area and at least part of the second planar area. It is intended, or course, that the adhesive membrane (preferably an adhesive label) may be applied to the substantially flat area, connecting the lid and the base in the area of the edge of the first planar area included in the substantially flat area. The first and second planar areas may be adjacent or they may partially overlap. In one view, they may be regarded as generally coplanar, although, strictly speaking, where there is a simple overlap there will be a small step from the first planar area to the second planar area.

The edge of the first planar area may simply abut at least part of the second planar area. In another embodiment, the edge of the first planar area may form a chamfered abutment with at least part of the second planar area. In yet another embodiment, an edge of the first planar area surrounds the second planar area.

COMS ID No: ARCS-231661 Received by IP Australia: Time (H:m) 17:29 Date (Y-M-d) 2009-04-20

The Claims

1. A container having an internal volume, a base and a lid moveable with respect to the base between an open position and a closed position, the base having a rim, the lid having a first planar area and the base having a second planar area located on an extension of the rim, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area and wherein at least part of the first planar area of the lid is within a footprint of the internal volume.

2. The container of claim 1 wherein the base includes a floor and upwardly extending side walls, at least one of which has the rim.

3. A container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area, and wherein the first planar area is disposed at an oblique angle to some or all of the lid and wherein the base includes a floor and upwardly extending side walls, at least one of which has a rim, and the second planar area is inclined at an angle to the rim.

4. The container of any one of claims 1 to 3 which is square or rectangular in cross section.

5. The container of any one of claims 1 to 4 wherein the lid is hinged to the base.

6. The container of any one of claims 1 to 4 wherein the lid is separate from the base.

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7. The container of claim 1 or 2 wherein the lid is in two or more parts, each of which is hinged to the base.

8. The container of claim 5 or 7 wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

9. The container of any one of claims 1 to 8 wherein the lid and/or the base includes means for mechanical locking.

10. The container of any one of claims 1 to 9 which includes one or more ventilation holes, ribs, depressions or recesses.

11. The container of any one of claims to 1 to 10 which includes a hang sell aperture.

12. The container of any one of claims to 1 to 11 wherein the adhesive membrane is a self-adhesive label.

13. The container of any one of claims 1 to 12 which has a plurality of first planar areas and a plurality of second planar areas.

14. A container substantially as herein described with reference to any one of the accompanying drawings.

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PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

Chrysiliou Law
15-19 Parraween Street
CREMORNE NSW 2090

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

	Date of mailing *(day/month/year)* - 2 APR 2008
Applicant's or agent's file reference 17179	**FOR FURTHER ACTION** See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/AU2008/000173	12 February 2008	12 February 2007

International Patent Classification (IPC) or both national classification and IPC
Int. Cl.

B65D 43/00 (2006.01) ***B65D 1/26*** (2006.01) ***B65D 55/06*** (2006.01)
B65D 1/22 (2006.01) ***B65D 53/08*** (2006.01)

Applicant
TABONE, Maurice Joseph Paul

1. This opinion contains indications relating to the following items:

[X]	Box No. I	Basis of the opinion
[ ]	Box No. II	Priority
[ ]	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
[ ]	Box No. IV	Lack of unity of invention
[X]	Box No. V	Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
[ ]	Box No. VI	Certain documents cited
[ ]	Box No. VII	Certain defects in the international application
[ ]	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA	Date of completion of this opinion	Authorized Officer
AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. +61 2 6283 7999	26 March 2008	**JAGDISH WABLE** AUSTRALIAN PATENT OFFICE (ISO 9001 Quality Certified Service) Telephone No. (02) 6283 2638

Form PCT/ISA/237 (Cover sheet) (April 2007)

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/AU2008/000173

Box No. I Basis of this opinion

1. With regard to the **language,** this opinion has been established on the basis of:

   [X] The international application in the language in which it was filed

   [ ] A translation of the international application into, , which is the language of a translation furnished for the purposes of international search (under Rules 12.3(a) and 23.1(b)).

2. [ ] This opinion has been established taking into account **the rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43*bis*.1(a))

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:

   a. type of material

      [ ] a sequence listing
      [ ] table(s) related to the sequence listing

   b. format of material

      [ ] on paper
      [ ] in electronic form

   c. time of filing/furnishing

      [ ] contained in the international application as filed.
      [ ] filed together with the international application in electronic form.
      [ ] furnished subsequently to this Authority for the purposes of search.

4. [ ] In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

5. Additional comments:

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WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AU2008/000173

Box No. V **Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	**3, 4, 6-9, 12, 13, 15**	**YES**
	Claims	**1, 2, 5, 10, 11, 14, 16**	**NO**
Inventive step (IS)	Claims		**YES**
	Claims	**1-16**	**NO**
Industrial applicability (IA)	Claims	**1-16**	**YES**
	Claims		**NO**

2. Citations and explanations:

D1-US 5636737-claims 1, 2, 5, 10, 11, 16

D2-US 6540074-claims 1, 2, 5, 10, 11, 16

D3-FR 2349182-claims 1, 2, 14, 16

D4-US 5893587-claims 1, 2, 5, 10, 11, 14, 16

Novelty (N) Claims 1, 2, 5, 10, 11, 14 and 16 (Negative Statement)

D1 discloses a rectangular container having a base 4, a hinged lid 6 movable with respect to the base between an open position and a closed position, the lid 6 having a first planar area 32 and the base having a second planar area 30, wherein in the closed position, the first and second planar areas include a substantially flat area 33 which is capable of being receiving an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 7). It further shows the flat area being located on the other side of the hinge 22, hence it does not include an edge of the hinge. It further discloses a mechanical lock 34 for locking the base and the lid (see figures 1-6).

D2 discloses a rectangular container 1 with a base3 and a hinged lid 2 having a flat area 33 defined by planar areas 30 and 32 that is capable of being receiving an adhesive label. It further discloses a mechanical lock 38, 39 for locking the base and the lid (see figure 8).

Therefore D1 and D2 disclose all of the features of claims 1, 2, 5, 10, 11 and 16.

D3 discloses a rectangular container 10 having a base 12 and a lid 14, the adhesive label 24 being stuck on the planar area formed by the base and the lid (see figure 1).

Therefore D3 discloses all of the features of claims 1, 2, 14 and 16.

D4 discloses a rectangular container having a base and a hinged lid, an adhesive label 20 stuck on the planar area formed by the base and the lid, the container having mechanical locking means (see figure 4).

Therefore D4 discloses all of the features of claims 1, 2, 5, 10, 11, 14 and 16.

Therefore the subject matter of these claims is not new and does not meet the requirements of Article 33(2) of the PCT with regard to novelty.

See supplemental box.

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

Inventive Step (IS) claims 1-16 (Negative Statement)

Claims 1, 2, 5, 10, 11, 14 and 16-as above.

Claim 6, 7, 12, 13

Furthermore, it is considered that the features added by these claims such as the lid being in two or more parts, being separate from the base, having ventilation holes and having hang sell aperture relate to arrangements that are merely matters of design choice when the general technical knowledge about the state of the art is used and therefore cannot contribute to providing a patentable inventive step.

Claims 3 and 4

Furthermore these claims add only features of a rim on the container base side wall that are common general knowledge in the art and which therefore cannot contribute to providing a patentable inventive step.

Claims 8, 9 and 15

Furthermore, it is considered that the features of sloping first and second planar areas and a plurality of such areas added by these claims relate only to matters that could be found by routine trial and error and therefore cannot contribute to providing a patentable inventive step.

Therefore the subject matter of these claims is obvious and does not meet the requirements of Article 33(3) of the PCT with regard to inventive step.

Industrial Applicability (IA)

The invention defined in the claims is considered to meet the requirements of Industrial Applicability under Article 33(4) of the PCT because it can be made by, or used in, industry.

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Hartmann US Inc. et al v. Maurice J.P. Tabone

INTERNATIONAL SEARCH REPORT

International application No.
PCT/AU2008/000173

A. CLASSIFICATION OF SUBJECT MATTER

Int. Cl.

B65D 43/00 (2006.01) ***B65D 1/26*** (2006.01) ***B65D 55/06*** (2006.01)
B65D 1/22 (2006.01) ***B65D 53/08*** (2006.01)

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)
DWPI IPC: B65D 43/-, B65D 1/-, B65D 55/-, B65D 53/-, B65C 1/-, G09F 3/- with keywords lid, label, flat, container & similar terms

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 5636737 A (MARSILIO) 10 June 1997 Figures 1, 6 & 7	1-16
X	US 6540074 B1 (SANKEY ET AL) 1 April 2003 Figures 1 & 6	1-16
X	FR 2349182 A (MOLL) 18 November 1977 Figures 1 & 2	1, 2, 14, 16

[X] Further documents are listed in the continuation of Box C [X] See patent family annex

* Special categories of cited documents:
"A" document defining the general state of the art which is not considered to be of particular relevance
"E" earlier application or patent but published on or after the international filing date
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
"O" document referring to an oral disclosure, use, exhibition or other means
"P" document published prior to the international filing date but later than the priority date claimed
"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
26 March 200827 March 2008	- 2 APR 2008
Name and mailing address of the ISA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. +61 2 6283 7999	Authorized officer **Jagdish Wable** AUSTRALIAN PATENT OFFICE (ISO 9001 Quality Certified Service) Telephone No : (02) 6283 2638

Form PCT/ISA/210 (second sheet) (April 2007)

INTERNATIONAL SEARCH REPORT

International application No.
PCT/AU2008/000173

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 5405009 A (HACKENBRACHT) 11 April 1995 Figures 1 & 8	1
X	US 5893587 A (WONG) 13 April 1999 Figure 4	1-16
A	US 6352170 B1 (BROWN ET AL) 5 March 2002 Figure 1	1

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Hartmann US Inc. et al v. Maurice J.P. Tabone

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.
PCT/AU2008/000173

This Annex lists the known "A" publication level patent family members relating to the patent documents cited in the above-mentioned international search report. The Australian Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

Patent Document Cited in Search Report		Patent Family Member			
US	5636737		NONE		
US	6540074	US	5975298	US	6170660
FR	2349182		NONE		
US	5405009		NONE		
US	5893587		NONE		
US	6352170		NONE		

Due to data integration issues this family listing may not include 10 digit Australian applications filed since May 2001.

END OF ANNEX

Electronic Acknowledgement Receipt

EFS ID:	10670399
Application Number:	12449556
International Application Number:	
Confirmation Number:	5150
Title of Invention:	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE
First Named Inventor/Applicant Name:	Maurice Joseph Paul Tabone
Customer Number:	20350
Filer:	Christopher Patrick Lightner/Diana Ogles
Filer Authorized By:	Christopher Patrick Lightner
Attorney Docket Number:	028106-000100US
Receipt Date:	04-AUG-2011
Filing Date:	12-AUG-2009
Time Stamp:	16:57:56
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		IDS.pdf	104912 ad75535f6f699126ae01689d98e995d2cdc8e03d	yes	2

	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Transmittal Letter		1	1	
	Information Disclosure Statement (IDS) Form (SB08)		2	2	
Warnings:					
Information:					
2	Foreign Reference	Ref6.pdf	534232 d4f7fcd3269786995cc2c263249980d152159533	no	9
Warnings:					
Information:					
3	Foreign Reference	Ref7.pdf	553576 0aa5f94f40bcf4dfa8c8be60d94504157f6cce3d	no	24
Warnings:					
Information:					
4	Non Patent Literature	Ref8.pdf	1030864 e1716064d446ee7bd6e1130a7ddd1373581b7063	no	21
Warnings:					
Information:					
5	Non Patent Literature	Ref9.pdf	203252 e532d9f233a43cf2b0db34fd25dfbcc5a3eff081	no	4
Warnings:					
Information:					
6	Non Patent Literature	Ref10.pdf	107097 fe42d24dfd86c12b2e5e5b5272cd25910d07f1e4	no	3
Warnings:					
Information:					
		Total Files Size (in bytes):	2533933		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

Attorney's Docket No. 057790/397974 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Tabone	Confirmation No.:	5150
Appl. No.:	12/449,556	Art Unit:	3781
Filed:	August 12, 2009	Examiner:	Andrew Thomas Kirsch

For: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

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

INFORMATION DISCLOSURE STATEMENT
CITATION UNDER 37 C.F.R. § 1.97

Sir:

Attached is a list of documents on form PTO-1449 along with a copy of any cited foreign patent documents and non-patent literature documents in accordance with 37 CFR 1.98(a)(2).

It is requested that the Examiner consider these documents and officially make them of record in accordance with the provisions of 37 C.F.R. § 1.97 and Section 609 of the MPEP. By identifying the listed documents, Applicant in no way makes any admission as to the prior art status of the listed documents, but is instead identifying the listed documents for the sake of full disclosure.

Respectfully submitted,



Christopher P. Lightner
Registration No. 62,156

Customer No. 00826
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Bank of America Plaza
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Fax Atlanta Office (404) 881-7777

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON August 4, 2011.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/449,556	08/12/2009	Maurice Joseph Paul Tabone	028106-000100US

CONFIRMATION NO. 5150

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

PUBLICATION NOTICE



Title:CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Publication No.US-2010-0001014-A1
Publication Date:01/07/2010

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

The publication may be accessed through the USPTO's publically available Searchable Databases via the Internet at www.uspto.gov. The direct link to access the publication is currently http://www.uspto.gov/patft/.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Alexandria, VA 22313-1450 or via the Internet.

In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently http://pair.uspto.gov/. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at 1-866-217-9197.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
12/449,556	Maurice Joseph Paul Tabone	028106-000100US

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

INTERNATIONAL APPLICATION NO.	
PCT/AU2008/000173	
I.A. FILING DATE	PRIORITY DATE
02/12/2008	02/12/2007

CONFIRMATION NO. 5150
371 ACCEPTANCE LETTER

OC000000003796759

Date Mailed: 09/28/2009

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

08/12/2009	08/12/2009
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Indication of Small Entity Status
- Copy of the International Application filed on 08/12/2009
- Copy of the International Search Report filed on 08/12/2009
- Preliminary Amendments filed on 08/12/2009
- Oath or Declaration filed on 08/12/2009
- Request for Immediate Examination filed on 08/12/2009
- U.S. Basic National Fees filed on 08/12/2009
- Priority Documents filed on 08/12/2009

FORM PCT/DO/EO/903 (371 Acceptance Notice)

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Hartmann US Inc. et al v. Maurice J.P. Tabone

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

DEBORAH A THOMAS

Telephone: (703) 756-1816

FORM PCT/DO/EO/903 (371 Acceptance Notice)

Ex.1005 / IPR2024-01037 / Page 383 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/449,556	08/12/2009	3781	490	028106-000100US	18	2

CONFIRMATION NO. 5150

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

FILING RECEIPT

OC00000037967597

Date Mailed: 09/28/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Maurice Joseph Paul Tabone, Tahmoor, AUSTRALIA;

Power of Attorney: The patent practitioners associated with Customer Number 20350

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/AU2008/000173 02/12/2008

Foreign Applications

AUSTRALIA 2007902246 04/30/2007
AUSTRALIA 2007900654 02/12/2007

If Required, Foreign Filing License Granted: 09/24/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/449,556**

Projected Publication Date: 01/07/2010

Non-Publication Request: No

Early Publication Request: No
** **SMALL ENTITY** **

Ex.1005 / IPR2024-01037 / Page 384 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

Title

CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Preliminary Class

220

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

Ex.1005 / IPR2024-01037 / Page 385 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Debbie Thomas

Patent Application Specialist/ National Stage Division

U.S. Appl. No. 12/449556 International Appl. No. PCT/AU2008/000173

Application filed by : ☐ 20 months ☑ 30 months

WIPO PUBLICATION INFORMATION :

Publication No.: WO2008/98288 Publication Language : ☐ English ☐ German ☐ Japanese ☐ Chinese ☐ Korean ☐ French ☐ Spanish ☐ Russian ☐ Other _____

Publication Date : ___ ___ 200 Not Published : ☐ U.S. only designated ☐ EP Req. Published : ☐ EP Req.

INTERNATIONAL APPLICATION PAPERS IN THE APPLICATION FILE :

- ☒ International Application *(RECORD COPY)*
- ☐ Article 19 Amendments
- ☐ PCT/IPEA/409 IPER : ☐ EP ☐ JP ☐ SE ☐ AU ☐ US ☐ FR ☐ CN ☐ ES ☐ RU ☐ AT ☐ KR ☐ ___
- ☐ Annexes to 409
- ☐ PCT/ISA/237 : ☐ EP ☐ JP ☐ SE ☐ AU ☐ US ☐ FR ☐ CN ☐ ES ☐ RU ☐ AT ☐ KR ☐ ___
- ☐ PCT/IPEA/409 or PCT/ISA/237 was not available at the time of paralegal review
- ☐ PCT/IB/306
- ☐ Request form PCT/RO/101
- ☒ PCT/ISA/210 - Search Report : ☐ EP ☐ JP ☐ SE ☐ AU ☐ US ☐ FR ☐ CN ☐ ES ☐ RU ☐ AT ☐ KR ☐ ___ ☐ NONE
- ☒ Priority Document (s) No. _____ ☐ N/A ☐ Priority Document was NOT AVAILABLE at the time of paralegal review
- ☐ Other : _____

RECEIPTS FROM THE APPLICANT (filed with the application unless noted otherwise) :

- ☒ Basic National Fee *(or authorization to charge)*
- ☒ Description ☒ Claims ☒ Abstract ☐ no IA translation submitted
- ☒ Drawing Figure(s) - (# of drwgs. 7)
- ☐ Translation of Article 19 Amendments ☐ entered ☐ not entered : ☐ not a page for page substitution ☐ replaced by Article 34 Amendment
- ☐ Translation of Article 34 Annexes ☐ entered ☐ not entered : ☐ not a page for page substitution ☐ no translation ☐ other : _____
- ☒ Application Data Sheet : _____
- ☐ Power of Attorney : _____
- ☐ Change of Address : _____
- ☒ Preliminary Amendment(s) : 2. _____ 3. _____
- ☐ Information Disclosure Statement(s) : 2. _____ 3. _____
- ☒ Express Request to Begin Nat'l Examination
- ☐ Assignee Statement Under 37 CFR 3.73(b)
- Assignee PG Publication Notice
- ☐ Substitute Specification : 2. _____ 3. _____
- ☐ Verified Small Status Statement
- ☒ Executed Oath/ Declaration
- ☐ Defective Oath/ Declaration : ☐ unsigned ☐ no citizenship ☐ other
- ☐ DNA Diskette ☐ Sequence Listing
- ☐ Other : _____

NOTES : ☐ I.A. used as Specification ☐ Other :

35 U.S.C. 371 - Receipt of Request (PTO-1390)	
Date Acceptable Oath/ Declaration Received	8-12-09
Date of Completion of requirements under 35 U.S.C. 371	8-12-09
Date of Completion of DO/ EO 903 - Notification of Acceptance	9-24-09
Date of Completion of DO/ EO 905 - Notification of Missing Requirements	
Date of Completion of DO/ EO 909 - Notification of Abandonment	
Date of Completion of DO/ EO 916 - Notification of Defective Response	
Date of Completion of DO/ EO 922 - Notification to Comply w/ Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures	
Date of Completion of DO/ EO 923	

PATENT APPLICATION FEE DETERMINATION RECORD
Effective September 30, 2007

Application or Docket Number: 12/449 556

CLAIMS AS FILED - PART I

	(Column 1)	(Column 2)
; NATIONAL STAGE FEES		
SIC FEE	SMALL ENT = $ 150	LARGE ENT = $ 300
MINATION FEE	Satisfies PCT Article 33(1)-(4) = $ 50 / $ 100	All other situations = $ 100 / $ 200
RCH FEE	U.S. is ISA = $ 50 / $ 100 ALL other countries = $ 200 / $ 400	ALL other situations = $ 250 / $ 500
FOR EXTRA SPEC. PGS	minus 100 =	/ 50 =
AL CHARGEABLE CLAIMS	18 minus 20 =	.
EPENDENT CLAIMS	2 minus 3 =	.
TIPLE DEPENDENT CLAIM PRESENT		

If the difference in column 1 is less than zero, enter "0" in column 2

SMALL ENTITY TYPE ☐ OR OTHER THAN SMALL ENTITY

RATE	FEE	OR	RATE	FEE
BASIC FEE	$165	OR	BASIC FEE	$310
EXAM. FEE	$105		EXAM. FEE	$210
SEARCH FEE	$205		SEARCH FEE	$410
X $ 130 =			X $ 260 =	
X $ 25 =		OR	X $ 50 =	
X $ 105 =		OR	X $ 210 =	
+ $ 185 =		OR	+ $ 370 =	
TOTAL		OR	TOTAL	

CLAIMS AS AMENDED - PART II

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

SMALL ENTITY OR OTHER THAN SMALL ENTITY

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
X $ 25 =		OR	X $ 50 =	
X $ 100 =		OR	X $ 200 =	
+ $ 180 =		OR	+ $ 360 =	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
X $ 25 =		OR	X $ 50 =	
X $ 100 =		OR	X $ 200 =	
+ $ 180 =		OR	+ $ 360 =	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
If the "Highest Number Previously Paid For" IN THIS SPACE is less than "20", enter "20".
If the "Highest Number Previously Paid For" IN THIS SPACE is less than "3", enter "3".
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

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Hartmann US Inc. et al v. Maurice J.P. Tabone

MULTIPLE DEPENDENT CLAIM FEE CALCULATION SHEET

(FOR USE WITH FORM PTO-875)

SERIAL NO: 12/449,536

FILING DATE:

APPLICANT(S):

CLAIMS

	AS FILED		AFTER 1st AMENDMENT		AFTER 2nd AMENDMENT	
	IND.	DEP.	IND.	DEP.	IND.	DEP.
1	1		1			
2		1		1		
3		2		1		
4		0		1		
5		0		1		
6		0		1		
7		0		1		
8		0		1		
9		0		1		
10		0		1		
11		0		—		
12		0		1		
13		0		1		
14		0		—		
15		0	1			
16	1			1		
17				1		
18				1		
19				1		
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TOTAL IND.		⬇	2	⬇		⬇
TOTAL DEP.		⬅	16	⬅		⬅
TOTAL CLAIMS			18			

	AS FILED		AFTER 1st AMENDMENT		AFTER 2nd AMENDMENT	
	IND.	DEP.	IND.	DEP.	IND.	DEP.
51						
52						
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100						
TOTAL IND.		⬇		⬇		⬇
TOTAL DEP.		⬅		⬅		⬅
TOTAL CLAIMS						

PTO - 1360 (REV. 04/2009)

U.S. DEPARTMENT of COMMERCE

EXPRESS MAIL LABEL NO.: EM 144159677 US

IAP03Rec'd PCT 12 AUG 2009

Mailing Date: August 12, 2009

PTO-1390 (Rev. 09-08)

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER 028106-000100US U.S. APPLICATION NO. (If known, see 37 CFR 1.5) TBA 12/449556
INTERNATIONAL APPLICATION NO. PCT/AU2008/000173	INTERNATIONAL FILING DATE 02/12/2008	PRIORITY DATE CLAIMED 02/12/2007
TITLE OF INVENTION	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE	
APPLICANT(S) FOR DO/EO/US	Maurice Joseph Paul Tabone	

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. ☒ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
   a. ☐ is attached hereto (required only if not communicated by the International Bureau).
   b. ☒ has been communicated by the International Bureau.
   c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
   a. ☐ is attached hereto.
   b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
   a. ☐ are attached hereto (required only if not communicated by the International Bureau).
   b. ☐ have been communicated by the International Bureau.
   c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
   d. ☒ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A preliminary amendment.
14. ☒ An Application Data Sheet under 37 CFR 1.76.
15. ☐ A substitute specification.
16. ☐ A power of attorney and/or change of address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13*ter*.2 and 37 CFR 1.821 – 1.825.
18. ☒ A second copy of the published International Application under 35 U.S.C 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).

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Hartmann US Inc. et al v. Maurice J.P. Tabone

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO.	ATTORNEY'S DOCKET NUMBER
12/449556	PCT/AU2008/000173	028106-000100US

20. Other items or information:

The following fees have been submitted	CALCULATIONS	PTO USE ONLY
21. ☒ Basic national fee (37 CFR 1.492(a)) **$330**	$ 165	
22. ☒ Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) ..... **$0** All other situations **$220**	$ 110	
23. ☒ Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) ..... **$0** Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority ..... **$100** International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB ..... **$430** All other situations **$540**	$ 215	
TOTAL OF 21, 22 and 23 =	$ 490	
☐ Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is **$270** for each additional 50 sheets of paper or fraction thereof.		
Total Sheets: - 100 = / Extra Sheets: /50 = / Number of each additional 50 or fraction thereof (round up to a whole number): / RATE: x **$270**	$	
Surcharge of **$130.00** for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).	$	

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	- 20 =		x **$ 52**	$	
Independent claims	- 3 =		x **$220**	$	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ **$390**	$	
			TOTAL OF ABOVE CALCULATIONS =	$	
☒ Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by ½.				$	
			SUBTOTAL =	$	
Processing fee of **$130.00** for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).			+	$	
			TOTAL NATIONAL FEE =	$	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). **$40.00** per property			+	$	
			TOTAL FEES ENCLOSED =	$ 490.00	
			Amount to be refunded:	$	
			Amount to be charged:	$	

Ex.1005 / IPR2024-01037 / Page 391 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

PTO-1390 (Rev. 09-08)

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO.	ATTORNEY'S DOCKET NUMBER
12/449556	PCT/AU2008/000173	028106-000100US

a. ☐ A check in the amount of $ _____ to cover the above fees is enclosed.

b. ☒ Please charge my Deposit Account No. **20-1430** in the amount of $ **490** cover the above fees.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 20-1430 .

d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038. The PTO-2038 should only be mailed or faxed to the USPTO. However, when paying the basic national fee, the PTO-2038 may NOT be faxed to the USPTO.

ADVISORY: If filing by EFS-Web, do **NOT** attach the PTO-2038 form as a PDF along with your EFS-Web submission. Please be advised that this is **not** recommended and by doing so your **credit card information may be displayed via PAIR**. To protect your information, it is recommended paying fees online by using the electronic payment method.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Joe Liebeschuetz
TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

SIGNATURE

Joe Liebeschuetz
NAME

37,505
REGISTRATION NUMBER

62166269 v1

FORM PTO-1390 (REV. 09-2007)

EXPRESS MAIL LABEL NO.: EM 144159677 US

Mailing Date: August 12, 2009

AP19 Rec'd PCT/PTO 12 AUG 2009

PTO-1390 (Rev. 09-08)

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER 028106-000100US U.S. APPLICATION NO. (If known, see 37 CFR 1.5) TBA 12/449556
INTERNATIONAL APPLICATION NO. PCT/AU2008/000173	INTERNATIONAL FILING DATE 02/12/2008	PRIORITY DATE CLAIMED 02/12/2007
TITLE OF INVENTION	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE	
APPLICANT(S) FOR DO/EO/US	Maurice Joseph Paul Tabone	

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
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   a. ☐ is attached hereto (required only if not communicated by the International Bureau).
   b. ☒ has been communicated by the International Bureau.
   c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
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   a. ☐ are attached hereto (required only if not communicated by the International Bureau).
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COPY

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Hartmann US Inc. et al v. Maurice J.P. Tabone

PTO-1390 (Rev. 09-08)

U.S. APPLICATION NO. (if known, see 37 CFR 1.5) 12/449556	INTERNATIONAL APPLICATION NO. PCT/AU2008/000173	ATTORNEY'S DOCKET NUMBER 028106-000100US

20. Other items or information:

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22. ☒ Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4) ..... **$0** All other situations **$220**	$ 110	
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TOTAL OF 21, 22 and 23 =	$ 490	

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Surcharge of **$130.00** for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)). $

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	- 20 =		x $ 52	$	
Independent claims	- 3 =		x **$220**	$	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ **$390**	$	
			TOTAL OF ABOVE CALCULATIONS =	$	
☒ Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by ½.				$	
			SUBTOTAL =	$	
Processing fee of **$130.00** for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).			+	$	
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			TOTAL FEES ENCLOSED =	$ 490.00	
			Amount to be refunded:	$	
			Amount to be charged:	$	

COPY

FORM PTO-1390 (REV. 09-2007)

Ex.1005 / IPR2024-01037 / Page 394 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)	INTERNATIONAL APPLICATION NO.	ATTORNEY'S DOCKET NUMBER
12/449556	PCT/AU2008/000173	028106-000100US

a. ☐ A check in the amount of $ _____ to cover the above fees is enclosed.

b. ☒ Please charge my Deposit Account No. 20-1430 in the amount of $ 490 cover the above fees.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 20-1430 .

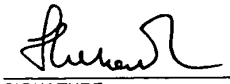
d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card information should not be included on this form.** Provide credit card information and authorization on PTO-2038. The PTO-2038 should only be mailed or faxed to the USPTO. However, when paying the basic national fee, the PTO-2038 may NOT be faxed to the USPTO.

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Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834


SIGNATURE

Joe Liebeschuetz
NAME

37,505
REGISTRATION NUMBER

62166269 v1

COPY

FORM PTO-1390 (REV. 09-2007)

IAP19 Rec'd PCT/PTO 12 AUG 2009
12/449556

EXPRESS MAIL LABEL NO.: EM 144159677 US
Mailing Date: August 12, 2009

PATENT
Attorney Docket No.: 028106-000100US
Client Ref. No.: 18538/KC/aw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.
Maurice Joseph Paul Tabone	Examiner:
Application No.:	Technology Center/Art Unit:
Filed:	PRELIMINARY AMENDMENT
For: CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE	
Customer No.: 20350	

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

Commissioner:

Prior to examination of the above-referenced application, please enter the following amendments and remarks:

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks/Arguments begin on page 6 of this paper.

Ex.1005 / IPR2024-01037 / Page 396 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

Amendments to the Specification:

Please add the following new paragraph before line 1 on page 1:

CROSS-REFERENCE TO RELATED APPLICATION

The present application in the U.S. National Phase entry under 35 U.S.C. § 371 of International Application No. PCT/AU2008/000173, filed February 12, 2008, which claims the benefit under 35 U.S.C. § 119(a) of Australian Application No. 2007902246, filed April 30, 2007 and Australian Application No. 2007900654, filed February 12, 2007.

Ex.1005 / IPR2024-01037 / Page 397 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings of claims in the application:

Listing of Claims:

The Claims

1. (Original) A container having an internal volume, a base and a lid moveable with respect to the base between an open position and a closed position, the base having a rim, the lid having a first planar area and the base having a second planar area located on an extension of the rim, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area and wherein at least part of the first planar area of the lid is within a footprint of the internal volume.

2. (Original) The container of claim 1 wherein the base includes a floor and upwardly extending side walls, at least one of which has the rim.

3. (Cancelled)

4. (Currently Amended) The container of ~~any one of~~ claim[[s]] 1 ~~to 3~~ which is square or rectangular in cross section.

5. (Currently Amended) The container of ~~any one of~~ claim[[s]] 1 ~~to 4~~ wherein the lid is hinged to the base.

6. (Currently Amended) The container of ~~any one of~~ claim[[s]] 1 ~~to 4~~ wherein the lid is separate from the base.

7. (Currently Amended) The container of claim 1 ~~or 2~~ wherein the lid is in two or more parts, each of which is hinged to the base.

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Hartmann US Inc. et al v. Maurice J.P. Tabone

8. (Currently Amended) The container of claim ~~5 or~~ 7 wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

9. (Currently Amended) The container of ~~any one of~~ claim[[s]] 1 ~~to 8~~ wherein the lid and/or the base includes means for mechanical locking.

10. (Currently Amended) The container of ~~any one of~~ claim[[s]] 1 ~~to 9~~ which includes one or more ventilation holes, ribs, depressions or recesses.

11. (Cancelled)

12. (Currently Amended) The container of ~~any one of~~ claim[[s]] 1 ~~to 11~~ wherein the adhesive membrane is a self-adhesive label.

13. (Currently Amended) The container of ~~any one of~~ claim[[s]] 1 ~~to 12~~ which has a plurality of first planar areas and a plurality of second planar areas.

14. (Cancelled)

15. (Currently Amended) A container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area, and wherein the first planar area is disposed at an oblique angle to some or all of the lid and wherein the base includes a floor and upwardly extending side walls, at least one of which has a rim, and the second planar area is inclined at an angle to the rim. ~~The container of any one of claims 1 to 14 which has a plurality of first planar areas and a plurality of second planar areas.~~

Ex.1005 / IPR2024-01037 / Page 399 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

16. (Currently Amended) ~~A container substantially as herein described with reference to any one of the accompanying drawings.~~The container of claim 15 wherein the lid is hinged to the base.

17. (New) The container of claim 15 wherein the lid is separate from the base.

18. (New) The container of claim 15 wherein the lid and/or the base includes means for mechanical locking.

19. (New) The container of claim 15 which includes one or more ventilation holes, ribs, depressions or recesses.

20. (New) The container of claim 15 which has a plurality of first planar areas and a plurality of second planar areas.

Ex.1005 / IPR2024-01037 / Page 400 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

REMARKS/ARGUMENTS

The claims have been amended to remove multiple dependency and describe additional embodiments.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Joe Liebeschuetz
Reg. No. 37,505

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
Attachments
JOL:rcw
62166818 v1

Ex.1005 / IPR2024-01037 / Page 401 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

iAP19 Rec'd PCT/PTO 12 AUG 2009
12/449556

Application Data Sheet

Application Information

Application number::	
Filing Date::	
Application Type::	Regular
Subject Matter::	Utility
Suggested classification::	
Suggested Group Art Unit::	
CD-ROM or CD-R??::	
Number of CD disks::	
Number of copies of CDs::	
Sequence Submission::	
Computer Readable Form (CRF)?::	
Number of copies of CRF::	
Title::	Container Base and LID With Planar Area for Flat Application of Adhesive Membrane
Attorney Docket Number::	028106-000100US
Request for Early Publication::	No
Request for Non-Publication::	No
Suggested Drawing Figure::	
Total Drawing Sheets::	
Small Entity?::	Yes
Latin name::	
Variety denomination name::	
Petition included?::	No
Petition Type::	
Licensed US Govt. Agency::	
Contract or Grant Numbers One::	
Secrecy Order in Parent Appl.::	No

Ex.1005 / IPR2024-01037 / Page 402 of 506
Hartmann US Inc. et al v. Maurice J.P. Tabone

Applicant Information

Applicant Authority Type::	Inventor
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(54) **Title:** CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

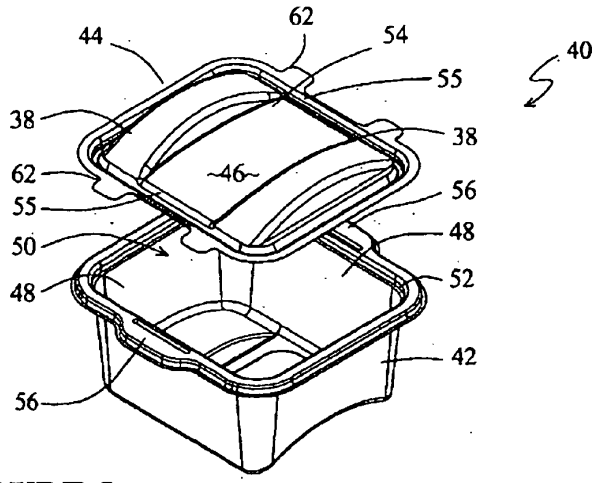


FIGURE 5

(57) **Abstract:** The invention provides a container (40) of the type to hold fresh food or produce. Container (40) has a base (42) and a lid (44) moveable with respect to the base (42) between an open position and a closed position. The lid (44) has a first planar area (54). The base has a second planar area (56). In the closed position, the first planar area (54) and the second planar area (56) include a substantially flat area suitable for receipt of an adhesive membrane, such as a self-adhesive label. The substantially flat area includes an edge (55) of the first planar area (54) and at least part of the second planar area (56).

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CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

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Field of the Invention

This invention relates to containers. In particular, this invention relates to containers intended to hold fresh food or produce, although the scope of the invention is not limited to this area. The invention is especially concerned with containers in a form which can facilitate application of labels, such as tamper evident labels.

Priority is claimed of Australian Patent Application Nos 2007900654 and 2007902246, the contents of the specifications of which are incorporated herein by reference.

Background of the Invention

Thermoformed containers suitable for holding fresh food or produce are in common use. Traditionally, these have consisted of a base with a lid, the lid being hinged to the base or separate therefrom. In order to secure the lid to the base, these known containers require one or more labels to be adhered to both the lid and the base in a "wrap around" fashion. In high output operations, there is a problem in applying a "wrap around" (non-flat) label because automated equipment is generally designed for flat label application.

In addition, labels applied to containers of this type often carry a barcode, usually along with other information. There can be problems in scanning barcodes on non-flat labels. Consequently, from this point of view, a flat label would be preferred.

It is an object of the present invention, at least in some embodiments, to provide a container configuration which permits flat application of labels.

More recently, a dual hinged lid container has been devised. Reference is made to Australian patent No 2003234951. The specification of this patent discloses a

container having a lid provided in two parts, each part being hinged to the base. When both lids are closed, there is available a generally flat area across the lid edges in the centre of the container top to permit a flat label to be applied. The flat label so applied can act as a tamper evident seal.

While this prior art dual hinged lidded container can work admirably in many applications, there are instances where it is undesirable to apply a label across a join in the centre of a container lid in this manner. For example, the label may obstruct a consumer's view of contents of the container, especially where there is a relatively high label-to-lid area ratio. As another example, on larger containers, a regular sized label may prove inadequate to give a tamper evident seal. If the size of the label were to be increased, this would add to label cost and may prove uneconomical. In other instances, it may be desirable to provide a container with increased security.

It is an object of the present invention, at least in some embodiments, to alleviate some or all of these concerns or, at the least, to provide a useful alternative which is appropriate for containers of different shapes and sizes.

Disclosure of the Invention

Accordingly, the present invention provides a container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area.

The container of the invention may be made of any suitable material but preferably is a thermoformed, relatively thin plastic material, as is presently known in the art. Examples of suitable thermoformable plastic material are polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene, polyactide (PLA) and

biaxially oriented polystyrene (BOPS). The container may be of any desirable shape. Currently, most popular containers of this type are square or rectangular in cross section and these are encompassed by the present invention, along with other shapes.

The base preferably includes a floor and upwardly extending side walls. Preferably, all or at least one of the side walls end at a rim which, in some embodiments, may include the second planar area. If desired, the rim may include means for supporting the container during the selling process. For example, the rim may include a hang sell hole for "off-shelf" display.

The lid or the base may include ventilation holes, ribs or arches or any other modifications suited to intended contents and/or conditions of sale.

The base and upstanding side walls may define an opening which, in use, is horizontal. However, other variations are possible. For example, the base may define an opening which, in use, is vertical and intended to be closed by a lid in a vertical orientation in use.

The lid is moveable with respect to the base between an open position and a closed position. The lid may be hinged or otherwise attached to the base in any suitable manner. Alternately, the lid may be separate from the base, in which case it may be desirable to have two or more first planar areas on the lid and correspondingly two or more second planar areas on the base if tamper evidence is required.

The lid may be generally flat or it may include shaped portions (such as one or more domes, ribs or arches) in addition to the first planar area. Optionally, the lid may include one or more recessed portions which may be useful for storing items which a consumer may require once the container has been opened. Such items may include cutlery, dressings and condiments.

The lid may be of known type, for example an "inside fitting" or an "outside fitting" lid in relation to the base when closed.

The lid may be a single lid or may be a multi-part lid. For example, the invention is applicable to the type of dual-lidded container in Australian patent No. 2003234951. An embodiment is shown in the drawings, below. The lid may have more than two parts.

The lid and/or the base may include any suitable mechanical locking mechanisms, such as one or more projections, each receivable in a recess with an interference-type fit. These may be located on surfaces which, in use, are horizontal or vertical, for example. Another example of a locking mechanism is a channel style lock.

The first planar area is on the lid and preferably is greater than $5cm^2$. The first planar area is preferably located adjacent an edge of the lid since, when a label or other adhesive membrane is applied, at least part of the purpose is to secure the lid to the base. In a preferred embodiment, the first planar area is located opposite a hinged edge of the lid, when the lid is hinged to be base. However, it is to be understood that the invention is not limited to this. The first planar area may be located adjacent any edge of the lid or in any other desired location. For example, the first planar area may be located on a side of the lid (approximately vertical in use.)

The first planar area may be generally parallel to a floor in the base. However, other configurations are possible. For example, the first planar area may be disposed at an angle to some or all of the remainder of the lid. An example is illustrated in the drawings, below.

The second planar area is on the base. This may take any suitable form and many variations are possible. By way of example, the second planar area may be located on a rim for the base or on an extension thereof, optionally inclined at an angle to the rim. The lid may be contoured for a snug fit with the second planar area.

The substantially flat area suitable for receipt of an adhesive membrane includes an edge of the first planar area and at least part of the second planar area. It is intended, or course, that the adhesive membrane (preferably an adhesive label) may be applied to the substantially flat area, connecting the lid and the base in the area of the edge of the first planar area included in the substantially flat area. The first and second planar areas may be adjacent or they may partially overlap. In one view, they may be regarded as generally coplanar, although, strictly speaking, where there is a simple overlap there will be a small step from the first planar area to the second planar area.

The edge of the first planar area may simply abut at least part of the second planar area. In another embodiment, the edge of the first planar area may form a chamfered abutment with at least part of the second planar area. In yet another embodiment, an edge of the first planar area surrounds the second planar area.

The substantially flat area is preferably located at an opposite side of the container to the hinge, or opposite each hinge when there is more than one. However, the invention is not limited to this configuration.

It will be appreciated that when the lid is in the closed position, the substantially flat area is preferably suitable for application of an adhesive membrane, such as a self adhesive label applied by an automated applicator in a generally flat fashion.

While the adhesive membrane is preferably a self adhesive label, it may also take other forms. For example, it may be a heat sealable lidding film of plastic, foil or other sheet material.

If desired, the adhesive membrane may have a perforation or other area of weakness locatable at or adjacent the edge of the first planar area within the substantially flat area. The purpose of this is to simplify opening of the container by the consumer.

If there are two or more first planar areas and second planar areas, the adhesive membrane may be applied to all of these, or some of these, or to one first planar area and one second planar area only.

If desired, the container of the invention may be designed so as to be nestable or stackable with identical or similar containers.

Brief Description of the Drawings

The invention will now be described in relation to certain non-limiting examples thereof in the accompanying drawings, in which:

Figure 1 is a plan view of a first embodiment of container according to the invention, showing a lid, hinged to the base in the open position;

Figure 2 corresponds to the embodiment in Figure 1, but showing the lid in the closed position;

Figure 3 is a side elevation of the embodiment of Figures 1 and 2, with the lid in the closed position;

Figure 4 is a perspective view of a second embodiment of container according to the invention, having a lid separate from the base;

Figure 5 is an exploded view of the embodiment in Figure 4;

Figure 6 is a detail of the circled portion of Figure 4;

Figure 7 is a top plan view of the embodiment of Figure 4;

Figure 8 is a front elevation of the embodiment of Figure 4;

Figure 9 is a side elevation of the embodiment of Figure 4;

Figure 10 is a top plan view of a further embodiment in the open position;

Figure 11 is a top plan view of the embodiment of Figure 10, showing the lid in the closed position;

Figure 12 is a top plan view of a further embodiment in the open position;

Figure 13 is a top plan view of the embodiment of Figure 12 in the closed position;

Figure 14 is a top plan view of a further embodiment in the open position;

Figure 15 is a top plan view of the embodiment of Figure 14 in the closed position;

Figure 16 is a top plan view of a further embodiment in the open position;

Figure 17 is a top plan view of the embodiment of Figure 16 in the closed position;

Figure 18 is a side elevation of a further embodiment, where the first and second planar areas are at an angle to the base and lid, the lid being in the open position in this Figure;

Figure 19 shows the embodiment of Figure 18, with the lid in the closed position;

Figure 20 is a side elevation of a further embodiment where the first and second planar areas are at an angle to the lid and base, showing the open position;

Figure 21 shows the embodiment in Figure 20 in the closed position;

Figure 22 is a top plan view of a further embodiment wherein the lid is in more than one part, showing the lid parts in the open position;

Figure 23 shows the Figure 22 embodiment with the lid parts in the closed position;

Figure 24 is a top plan view of a further embodiment, showing the open position;

Figure 25 shows the Figure 24 embodiment in the closed position;

Figure 26 shows yet a further embodiment, being a top plan view in the open position; and

Figure 27 shows the Figure 26 embodiment in the closed position.

Detailed Description of the Drawings

Referring first to Figures 1, 2 and 3, the first embodiment of the container of the invention, designated generally as 10, has a base 12 and a lid 14, hinged to base 12 at hinge 16. Rims 15 have ramp portions 17.

Base 12 has upwardly extending sidewalls 18 defining an opening 20 through which products are inserted into container 10 before lid 14 is closed. At the top end of walls 18 of base 12 are rims 22 (refer Figure 1), each of which has a ramp portion 23.

Lid 14 in this embodiment has a first planar area 24 which, in this embodiment, comprises virtually the whole of lid 14. The second planar area is formed by rim portion 26 which, as can be seen in Figure 1, is wider than rims 22. Ramp portion 23 is inclined upwardly from rim 22 to rim 26.

In the closed position, illustrated in Figure 2, first planar area 24 has mated with second planar area - rim 26 - to form a substantially flat area in which edge 28 of lid 14 has mated with rim 26 of base 12, chamfer 30 being formed between them, using ramp portion 23. Adhesive label 32 is shown in place in Figure 2.

As can be seen in Figure 1, sidewalls 18 of base 12 are tapered towards floor 34, corners 36 being rounded as illustrated.

Margin 15 on lid 14 can include locking means to lock lid 14 to base 12 via rims 22.

Turning now to the second embodiment illustrated in Figures 4 to 9, the container of the invention, designated generally as 40, has a base 42 and a separate lid 44, with upwardly extending side walls 48 defining an opening 50 through which product may be inserted before lid 44 is closed. Base 42 has a rim 52 with a pair of enlarged portions 56, comprising in this embodiment second planar areas.

Lid 44 has a first planar area 54 defined by ribs 38 and edges 55.

A single label (not shown) can extend over the whole of first planar area 54 and both second planar areas 56. Alternately, two separate labels may be used, the first covering part of first planar area 54 and one of the adjacent second planar areas 56, while the over covers part of first planar area 54 and the adjacent second planar area 56, leaving free central portion 46 of lid 44.

As shown in Figure 6, each of second planar areas 56 may include an aperture or recess 58. A sharp object may be inserted through a label (not shown) covering first planar area 54, second planar area 56 and aperture 58, to tear the label through aperture 58, to assist in removing lid 44 from base 42.

In this embodiment, lid 44 also includes removal tabs 62, to assist in removing lid 44 from base 42.

Container 40 may include vents (not shown) and depression 64 in floor 66 of base 42, as desired (refer Figure 8). Container 40 may also include one or more recessed portions in lid 44. These may be included in central portion 46 or in another desired location. It is preferred that any such recessed portion is sealed by a label.

A third embodiment is shown in Figures 10 and 11, where container 70 has base 72 hinged to lid 74 at 16. Lid 74 is cut away at 76 and base 72 has flat portions 78. As can be seen in Figure 11, when lid 74 is closed on base 72, cut aways 76 leave flat portions 78 exposed. When a label 60, shown in dotted outline in Figure 11, is placed over first planar area 68 of lid 74 and over flat portion 78 (second planar areas) of base 72, lid 74 is effectively sealed to base 72. Flat portions 78 stand proud of rim 22, so that when exposed by cut-outs 76 of lid 74, first planar area 68 is substantially co-planar with flat portions 78.

The next embodiment in Figures 12 and 13 is similar to that in Figures 10 and 11 and the same numbers have been used to indicate the same or similar parts, with the addition of the letter "a". Whereas in the Figure 10 and 11 embodiment the cut-away portions 76 on lid 74 were centred in an edge of lid 74, in the Figure 12 and 13 embodiment cut-away portions 76a are located in two opposite corners of lid 74a.

Similarly, flat portions 78a are located at corners of base 72a.

As was the case with the previous embodiment, when lid 74a is closed on base 72a, flat portions 78a are substantially co-planar with first planar area 68a.

The next embodiment shown in Figures 14 and 15 shows container 80 having base 82 and lid 84. Base 82 has narrow rims 22 and expanded rim 86. Expanded rim 86 includes further portion 88 with hang sell hole 90, to enable container 80 to be displayed on a hanger.

Expanded rim 86 is designed so that, when lid 84 is closed on container 82, expanded rim 86 is substantially co-planar with lid 84, which in this embodiment comprises the first planar area.

As can be seen in Figure 15, label 60 can be affixed to cover the right hand side of lid 84 and expanded rim 86.

The embodiment in Figures 16 and 17 is similar to that shown in Figures 10 and 11 and 12 and 13. The same labels will be used to designate the same or similar parts, with the addition of the letter "b".

Container 70b has base 72b and lid 74b, hinged at 16. Cut-away 76b on lid 74b is designed to expose flat portion 78b on base 72b in the closed position (Figure 17). Flat portion 78b stands proud of rim 22 so that first planar area 68b is substantially co-planar with flat portion 78b.

This embodiment includes lock lugs 92 designed for a friction fit into lock recesses 94 on base 72b. As can be seen from Figure 17, when label 60 is affixed, it covers not only first planar area 68b and flat portion 78b but also lock lugs 92.

The embodiments in Figures 18 to 21 illustrate how the first and second planar areas may be disposed at an angle to the lid and to a rim on the base.

Referring first to Figures 18 and 19, container 100 has lid 104 hinged to base 102 at 16. Lid 104 includes extension 106 which, in use, is inclined upwardly at an obtuse angle from lid 104.

Base 102 has rim 22 which has extension 108, in use inclined at an obtuse angle from rim 22.

In the closed position, extension 106 is designed to mate with extension 108. Extension 106 has one or more cut-outs, similar to those already illustrated in Figures 10 to 13 or 16 and 17, so that a flat label 60 applied to extension 106 will bind extension 106 to extension 108, exposed by the cut-out or cut-outs.

The embodiment in Figures 20 and 21 is a variation of that in Figures 18 and 19 and the same labels will be used, with the addition of the letter "a". In this embodiment, lid 104a ends in flat portion 106a. Rim 22 on base 102a has a downwardly extending extension 108a.

In the closed position, extension 106a mates with extension 108a along margin 98 to provide a substantially co-planar surface 96 on which a label 60 (not shown) may be placed to seal lid 104a to base 102a.

It will be apparent to one skilled in the art that the embodiments in Figures 18 to 21 may be adapted to containers with separate lids. In that case, it is preferred that there are two extensions 106 (or 106a) and two extensions 108 (or 108a).

Reference is now made to the embodiment in Figures 22 and 23. In this embodiment, container 110 has base 112 as shown in Figure 22. However, the lid is in two parts, 114a and 114b. Lid part 114a is hinged to base 112 at 16a while lid part 114b is hinged to base 112 at hinge 16b.

Each of lid parts 114a and 114b has a pair of cut-aways, 116a and 116b. When lid parts 114a and 114b are in the closed position as shown in Figure 23, cut-aways 116a and 116b expose flat portions 118 on base 112. Lid parts 114a and 114b may meet or overlap in known manner, for example as described in Australian patent specification No 2003234951, the contents of which are encorporated herein by reference. Nevertheless, each of lid parts 114a and 114b provide a first planar area which is substantially co-planar with flat portion 118 on base 112. In this way, when lid parts 114a and 114b are in the closed position, label 60 can be applied on the substantially flat area so provided.

Referring now the embodiment in Figures 24 and 25, container 130 has base 122 hinged to lid 124 at hinge 16. Lid 124 has diecut holes 126. Lid 124 is generally flat to provide the first planar area.

Base 122 has formed sections 128, the top, flat part of which comprise the second planar areas. As can be seen by Figure 25, in the closed position formed sections 128 mate with diecut holes 126 to form a substantially flat surface. A label (not shown) may be applied to cover both formed sections 128 and the intervening part of lid 124. Alternately, separate labels may be applied.

The embodiment in Figures 26 to 27 is similar to that in Figures 24 to 25; however, in container 140 in Figures 26 to 27, base 132 is separate from lid 134. In addition, there are four diecut holes 136 and correspondingly four formed sections 138. Like the embodiment in Figures 24 and 25, when lid 134 which is of the "outside fitting" type, is placed on base 132, sections 138 protrude into diecut holes 136 to provide a substantially flat area for label application.

It will be appreciated from the various embodiments described above that the container of the invention can be produced in a wide number of forms and that, in addition, a single form may be suitable for application of different types of labels. Lids may be hinged or separate.

Lids may be substantially flat or they may be shaped, with ridges, ribs, domes as non-limiting examples of shaping. Especially in the case of substantially flat lids, these may be designed to mate with the base so that the second planar area or areas can appear on, for example, opposing sides of the lid, opposing corners of the lid or on one side of the lid, opposite the hinge. In the case of a lid which is a dual lid, with two hinges, the second planar areas may be on two opposing sides (viewing the closed lid in plan view), or on four corners, for example.

In the case of a separate lid, once again viewing the container in plan view in the closed position, the second planar areas may be in each of four corners, on two opposing sides, on two diagonal corners, around all four sides or separately on each of four sides. These are a selection only of possible combinations. Others will be apparent to one skilled in the art.

Industrial Applicability

The container of the invention can be adapted to any currently known container design, whether having a single lid or a multi-part lid. The invention allows for manual or high speed automatic closure and flat, self adhesive label application

providing tamper evidence, while at the same time employing a minimum number of moving parts.

The container of the invention can offer important tamper evidence capabilities while maintaining minimal obstruction of vision through the container lid. For certain applications, the container of the invention will also allow alternate graphic methods to be successfully used, such as pre-printing, branding and nutritional information onto the lid area, thus reducing label requirements to a smaller, basic tamper evident label only.

The Claims

1. A container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area.

2. The container of claim 1 which is square or rectangular in cross section.

3. The container of claim 1 or 2 wherein the base includes a floor and upwardly extending side walls, at least one of which has a rim.

4. The container of claim 3 wherein the or one of the rims includes the second planar area.

5. The container of any one of claims 1 to 4 wherein the lid is hinged to the base.

6. The container of any one of claims 1 to 5 wherein the lid is in two or more parts, each of which is hinged to the base.

7. The container of any one of claims 1 to 4 wherein the lid is separate from the base.

8. The container of any one of claims 1 to 7 wherein the first planar area is disposed at an angle to some or all of the remainder of the lid.

9. The container of claim 8 when dependent on claim 3, wherein the second planar area is inclined at an angle to the rim.

10. The container of claim 5 or 6 wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

11. The container of any one of claims 1 to 10 wherein the lid and/or the base includes means for mechanical locking.

12. The container of any one of claims 1 to 11 which includes one or more ventilation holes, ribs, depressions or recesses.

13. The container of any one of claims to 1 to 12 which includes a hang sell aperture.

14. The container of any one of claims to 1 to 13 wherein the adhesive membrane is a self-adhesive label.

15. The container of any one of claims 1 to 14 which has a plurality of first planar areas and a plurality of second planar areas.

16. A container substantially as herein described with reference to any one of the accompanying drawings.

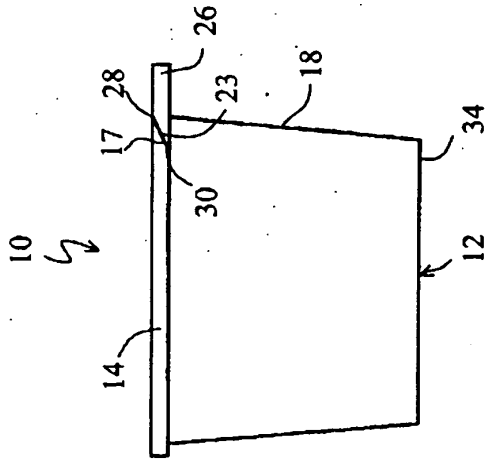


FIGURE 3

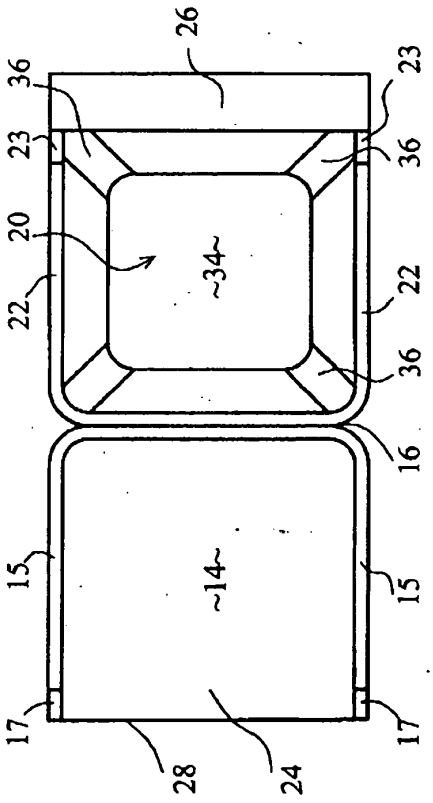


FIGURE 1

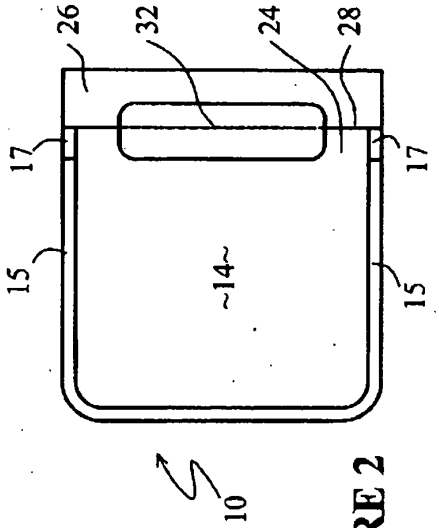


FIGURE 2

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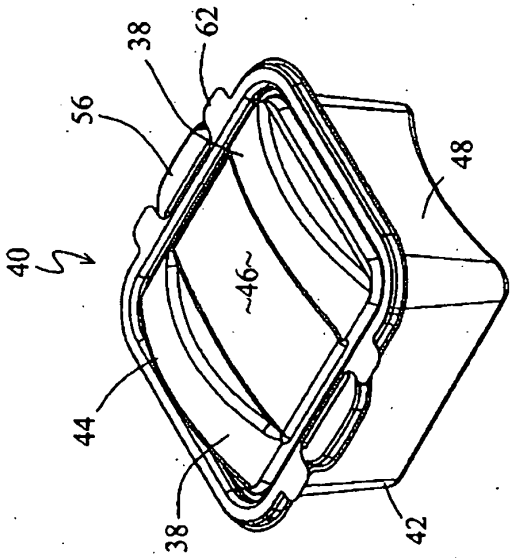


FIGURE 4

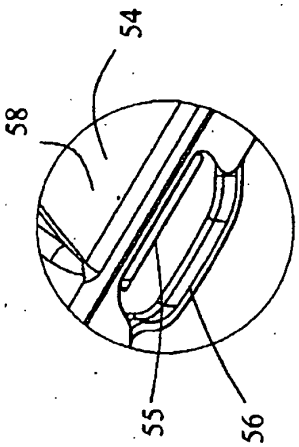


FIGURE 6

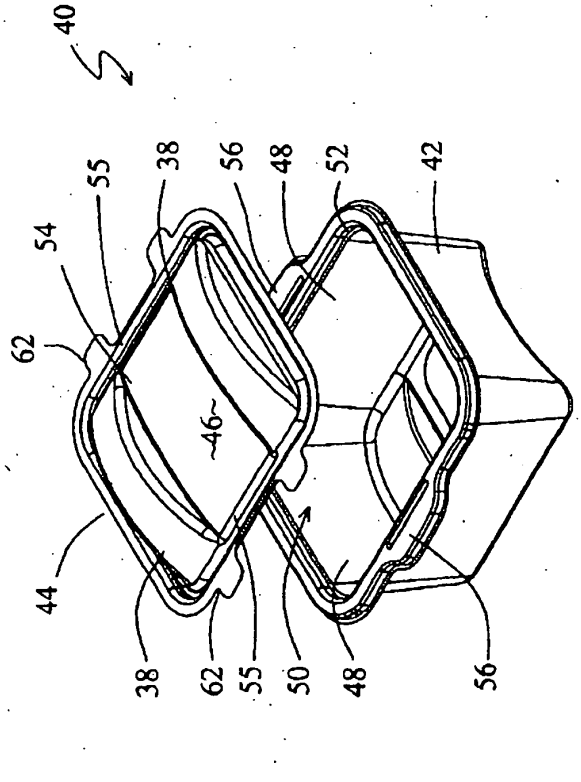


FIGURE 5

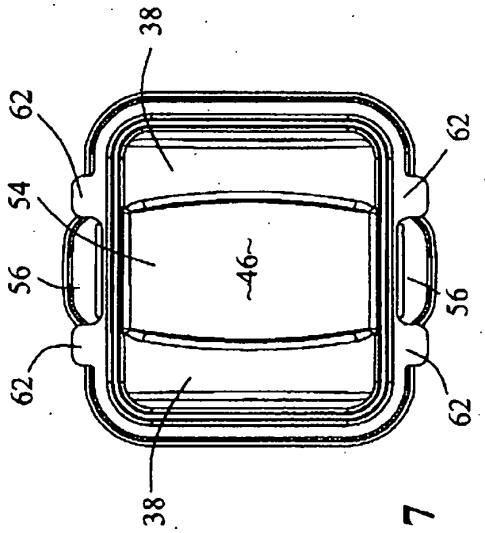


FIGURE 7

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Hartmann US Inc. et al v. Maurice J.P. Tabone

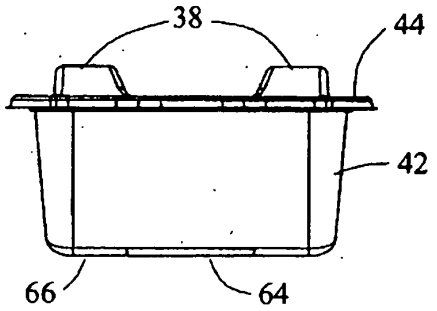


FIGURE 8

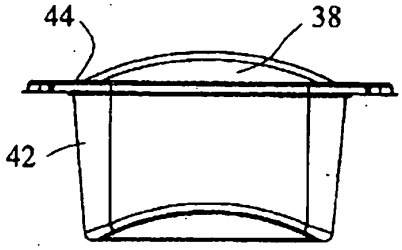


FIGURE 9

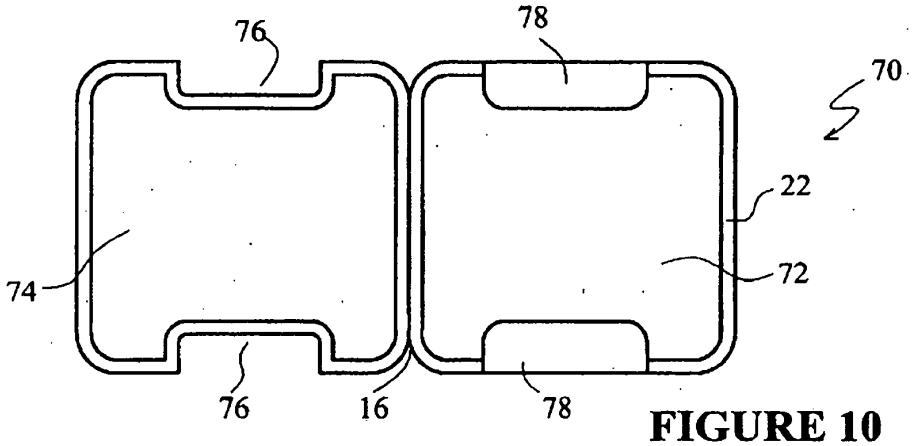


FIGURE 10

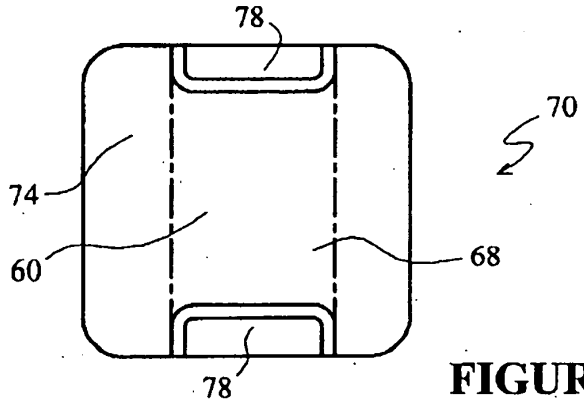


FIGURE 11

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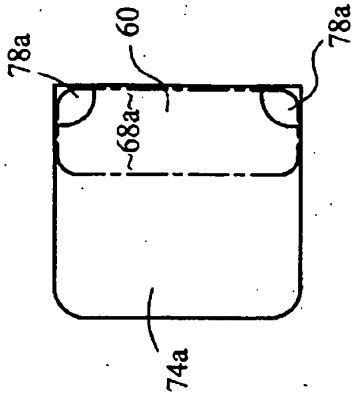


FIGURE 13

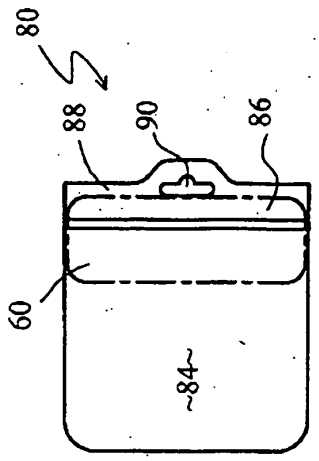


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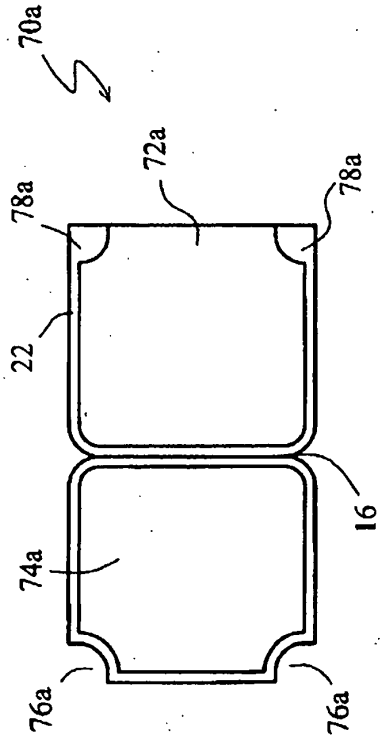


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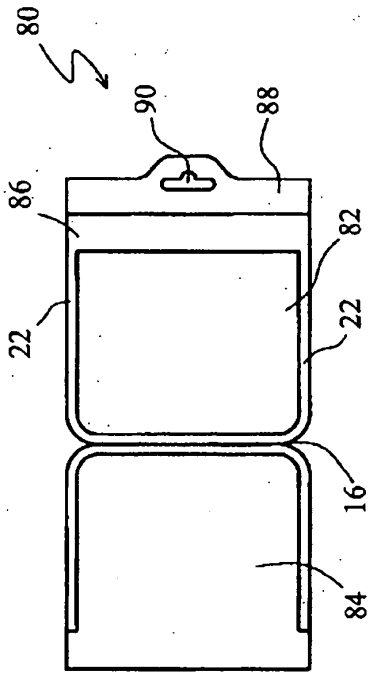


FIGURE 14

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Hartmann US Inc. et al v. Maurice J.P. Tabone

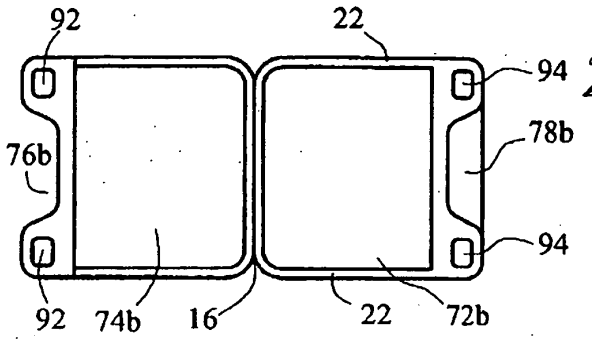


FIGURE 16

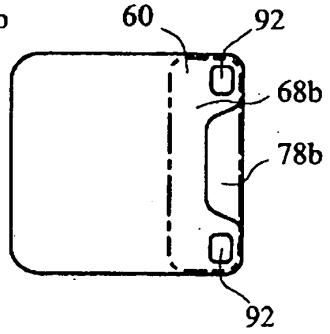


FIGURE 17

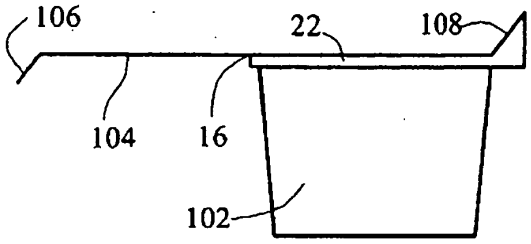


FIGURE 18

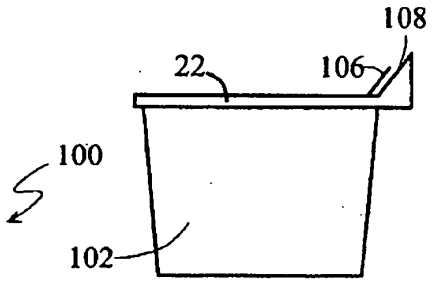


FIGURE 19

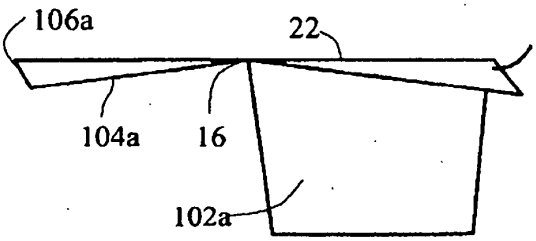


FIGURE 20

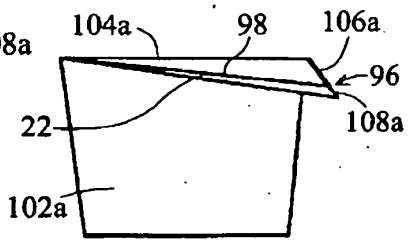


FIGURE 21

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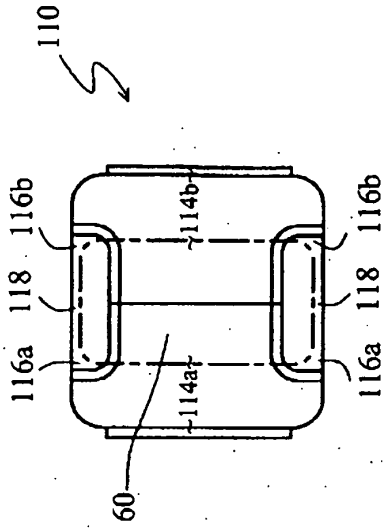


FIGURE 23

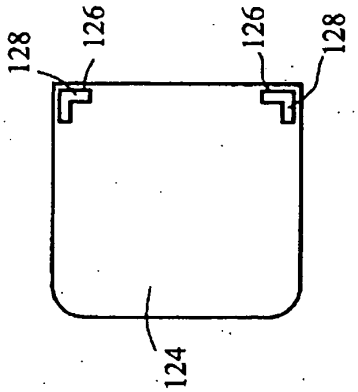


FIGURE 25

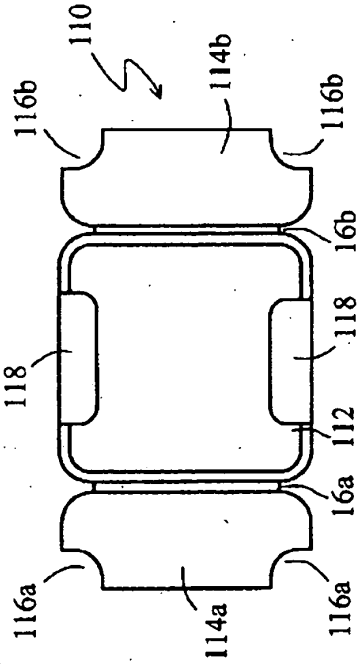


FIGURE 22

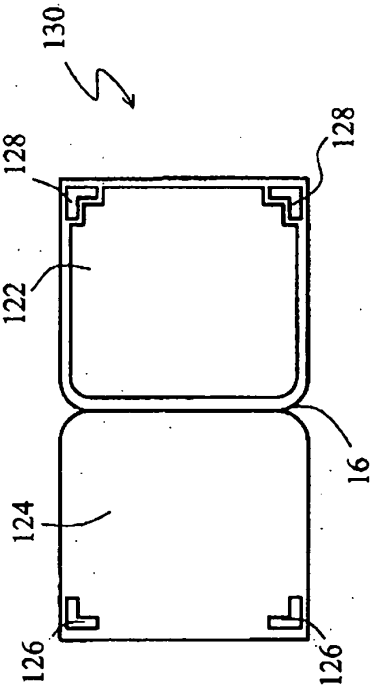


FIGURE 24

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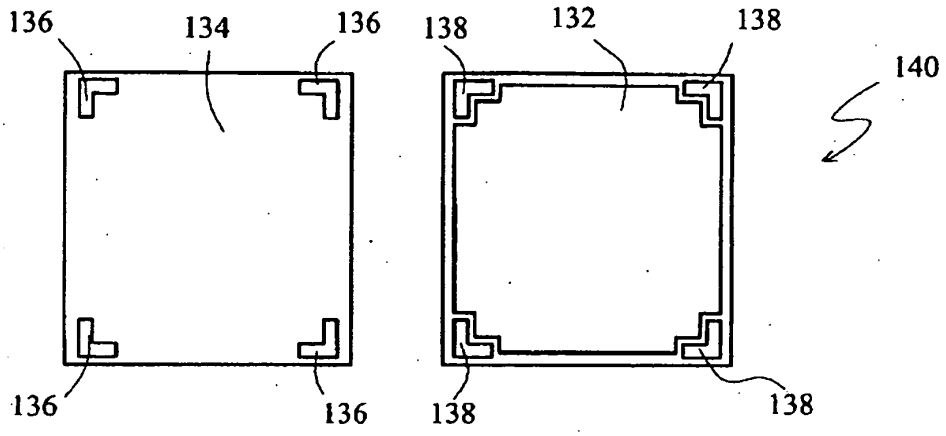


FIGURE 26

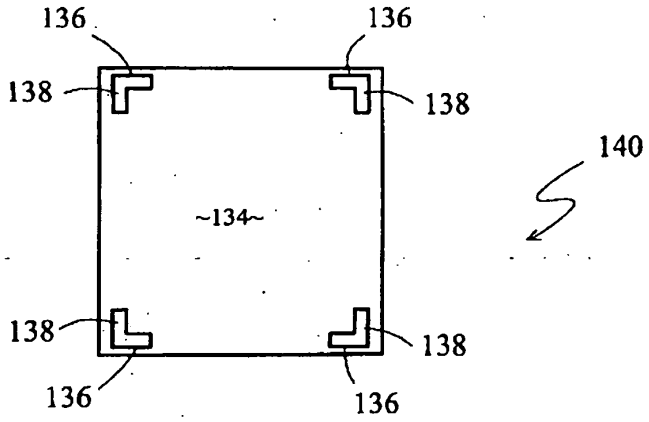


FIGURE 27

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INTERNATIONAL SEARCH REPORT

International application No.
PCT/AU2008/000173

A. CLASSIFICATION OF SUBJECT MATTER

Int. Cl.

B65D 43/00 (2006.01) ***B65D 1/26*** (2006.01) ***B65D 55/06*** (2006.01)
B65D 1/22 (2006.01) ***B65D 53/08*** (2006.01)

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)
DWPI IPC: B65D 43/-, B65D 1/-, B65D 55/-, B65D 53/-, B65C 1/-, G09F 3/- with keywords lid, label, flat, container & similar terms

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 5636737 A (MARSILIO) 10 June 1997 Figures 1, 6 & 7	1-16
X	US 6540074 B1 (SANKEY ET AL) 1 April 2003 Figures 1 & 6	1-16
X	FR 2349182 A (MOLL) 18 November 1977 Figures 1 & 2	1, 2, 14, 16

[X] Further documents are listed in the continuation of Box C [X] See patent family annex

* Special categories of cited documents:
"A" document defining the general state of the art which is not considered to be of particular relevance
"E" earlier application or patent but published on or after the international filing date
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
"O" document referring to an oral disclosure, use, exhibition or other means
"P" document published prior to the international filing date but later than the priority date claimed
"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
26 March 200827 March 2008	- 2 APR 2008
Name and mailing address of the ISA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. +61 2 6283 7999	Authorized officer **Jagdish Wable** AUSTRALIAN PATENT OFFICE (ISO 9001 Quality Certified Service) Telephone No : (02) 6283 2638

Form PCT/ISA/210 (second sheet) (April 2007)

INTERNATIONAL SEARCH REPORT

International application No.
PCT/AU2008/000173

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 5405009 A (HACKENBRACHT) 11 April 1995 Figures 1 & 8	1
X	US 5893587 A (WONG) 13 April 1999 Figure 4	1-16
A	US 6352170 B1 (BROWN ET AL) 5 March 2002 Figure 1	1

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INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.
PCT/AU2008/000173

This Annex lists the known "A" publication level patent family members relating to the patent documents cited in the above-mentioned international search report. The Australian Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

Patent Document Cited in Search Report	Patent Family Member				
US	5636737		NONE		
US	6540074	US	5975298	US	6170660
FR	2349182		NONE		
US	5405009		NONE		
US	5893587		NONE		
US	6352170		NONE		

Due to data integration issues this family listing may not include 10 digit Australian applications filed since May 2001.

END OF ANNEX

IAP19 Rec'd PCT/PTO 12 AUG 2009
12/449556

Attorney Docket No.: 028106-000100US
Client Ref. No.: 18538/KC/aw

PTO/SB/01A (07-07)

DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

Title of Invention	CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

As the below named inventor(s), I/we declare that:

This declaration is directed to:

☐ The attached application, or

☒ Application No. PCT/AU2008/000173; filed February 12, 2008.

☐ as amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

WARNING:

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

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor one: Maurice Joseph Paul Tabone Date: 12TH AUGUST 2009.

Signature: _____ Citizen of: AUSTRALIA.

☐ Additional inventors or a legal representative are being named on _____ additional form(s) attached hereto.

v1

PATENT APPLICATION SERIAL NO._____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

08/14/2009 LLANDGRA 00000030 201430 12449556

01 FC:2631 165.00 DA
02 FC:2633 110.00 DA
03 FC:2642 215.00 DA

PTO-1556
(5/87)

*U.S. Government Printing Office: 2002-489-267/69033

(12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(19) World Intellectual Property Organization
International Bureau

(43) International Publication Date
21 August 2008 (21.08.2008)

PCT

(10) International Publication Number
WO 2008/098288 A1

(51) International Patent Classification:
B65D 43/00 (2006.01) ***B65D 53/08*** (2006.01)
B65D 1/22 (2006.01) ***B65D 55/06*** (2006.01)
B65D 1/26 (2006.01)

(21) International Application Number:
PCT/AU2008/000173

(22) International Filing Date:
12 February 2008 (12.02.2008)

(25) Filing Language: English

(26) Publication Language: English

(30) Priority Data:
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2007902246 30 April 2007 (30.04.2007) AU

(71) Applicant and
(72) Inventor: **TABONE, Maurice, Joseph, Paul** [AU/AU]; 56 Castlereagh Street, Tahmoor, NSW 2573 (AU).

(74) Agents: **CHRYSILIOU, Kerry** et al.; Chrysiliou Law, Level 2, 15-19 Parraween Street, Cremorne, Sydney, NSW 2090 (AU).

(81) Designated States *(unless otherwise indicated, for every kind of national protection available)*: AE, AG, AL, AM, AO, AT, AU, AZ, BA, BB, BG, BH, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DO, DZ, EC, EE, EG, ES, FI, GB, GD, GE, GH, GM, GT, HN, HR, HU, ID, IL, IN, IS, JP, KE, KG, KM, KN, KP, KR, KZ, LA, LC, LK, LR, LS, LT, LU, LY, MA, MD, ME, MG, MK, MN, MW, MX, MY, MZ, NA, NG, NI, NO, NZ, OM, PG, PH, PL, PT, RO, RS, RU, SC, SD, SE, SG, SK, SL, SM, SV, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, ZA, ZM, ZW.

(84) Designated States *(unless otherwise indicated, for every kind of regional protection available)*: ARIPO (BW, GH, GM, KE, LS, MW, MZ, NA, SD, SL, SZ, TZ, UG, ZM, ZW), Eurasian (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, HR, HU, IE, IS, IT, LT, LU, LV, MC, MT, NL, NO, PL, PT, RO, SE, SI, SK, TR), OAPI (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG).

Published:
— *with international search report*

(54) **Title:** CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

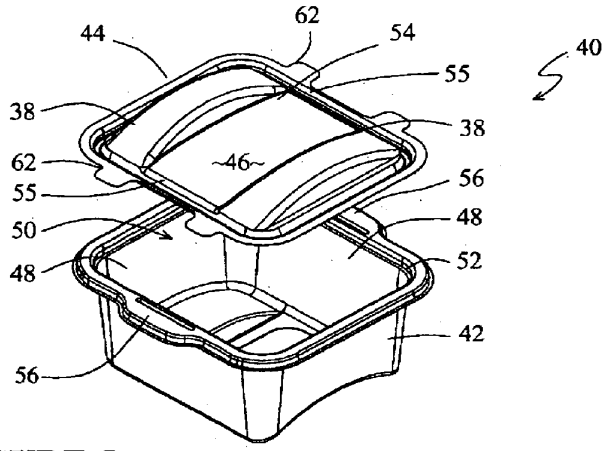


FIGURE 5

(57) **Abstract:** The invention provides a container (40) of the type to hold fresh food or produce. Container (40) has a base (42) and a lid (44) moveable with respect to the base (42) between an open position and a closed position. The lid (44) has a first planar area (54). The base has a second planar area (56). In the closed position, the first planar area (54) and the second planar area (56) include a substantially flat area suitable for receipt of an adhesive membrane, such as a self-adhesive label. The substantially flat area includes an edge (55) of the first planar area (54) and at least part of the second planar area (56).

WO 2008/098288 A1

CONTAINER BASE AND LID WITH PLANAR AREA FOR FLAT APPLICATION OF ADHESIVE MEMBRANE

Field of the Invention

This invention relates to containers. In particular, this invention relates to containers intended to hold fresh food or produce, although the scope of the invention is not limited to this area. The invention is especially concerned with containers in a form which can facilitate application of labels, such as tamper evident labels.

Priority is claimed of Australian Patent Application Nos 2007900654 and 2007902246, the contents of the specifications of which are incorporated herein by reference.

Background of the Invention

Thermoformed containers suitable for holding fresh food or produce are in common use. Traditionally, these have consisted of a base with a lid, the lid being hinged to the base or separate therefrom. In order to secure the lid to the base, these known containers require one or more labels to be adhered to both the lid and the base in a "wrap around" fashion. In high output operations, there is a problem in applying a "wrap around" (non-flat) label because automated equipment is generally designed for flat label application.

In addition, labels applied to containers of this type often carry a barcode, usually along with other information. There can be problems in scanning barcodes on non-flat labels. Consequently, from this point of view, a flat label would be preferred.

It is an object of the present invention, at least in some embodiments, to provide a container configuration which permits flat application of labels.

More recently, a dual hinged lid container has been devised. Reference is made to Australian patent No 2003234951. The specification of this patent discloses a

container having a lid provided in two parts, each part being hinged to the base. When both lids are closed, there is available a generally flat area across the lid edges in the centre of the container top to permit a flat label to be applied. The flat label so applied can act as a tamper evident seal.

While this prior art dual hinged lidded container can work admirably in many applications, there are instances where it is undesirable to apply a label across a join in the centre of a container lid in this manner. For example, the label may obstruct a consumer's view of contents of the container, especially where there is a relatively high label-to-lid area ratio. As another example, on larger containers, a regular sized label may prove inadequate to give a tamper evident seal. If the size of the label were to be increased, this would add to label cost and may prove uneconomical. In other instances, it may be desirable to provide a container with increased security.

It is an object of the present invention, at least in some embodiments, to alleviate some or all of these concerns or, at the least, to provide a useful alternative which is appropriate for containers of different shapes and sizes.

Disclosure of the Invention

Accordingly, the present invention provides a container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area.

The container of the invention may be made of any suitable material but preferably is a thermoformed, relatively thin plastic material, as is presently known in the art. Examples of suitable thermoformable plastic material are polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene, polyactide (PLA) and

biaxially oriented polystyrene (BOPS). The container may be of any desirable shape. Currently, most popular containers of this type are square or rectangular in cross section and these are encompassed by the present invention, along with other shapes.

The base preferably includes a floor and upwardly extending side walls. Preferably, all or at least one of the side walls end at a rim which, in some embodiments, may include the second planar area. If desired, the rim may include means for supporting the container during the selling process. For example, the rim may include a hang sell hole for "off-shelf" display.

The lid or the base may include ventilation holes, ribs or arches or any other modifications suited to intended contents and/or conditions of sale.

The base and upstanding side walls may define an opening which, in use, is horizontal. However, other variations are possible. For example, the base may define an opening which, in use, is vertical and intended to be closed by a lid in a vertical orientation in use.

The lid is moveable with respect to the base between an open position and a closed position. The lid may be hinged or otherwise attached to the base in any suitable manner. Alternately, the lid may be separate from the base, in which case it may be desirable to have two or more first planar areas on the lid and correspondingly two or more second planar areas on the base if tamper evidence is required.

The lid may be generally flat or it may include shaped portions (such as one or more domes, ribs or arches) in addition to the first planar area. Optionally, the lid may include one or more recessed portions which may be useful for storing items which a consumer may require once the container has been opened. Such items may include cutlery, dressings and condiments.

The lid may be of known type, for example an "inside fitting" or an "outside fitting" lid in relation to the base when closed.

The lid may be a single lid or may be a multi-part lid. For example, the invention is applicable to the type of dual-lidded container in Australian patent No. 2003234951. An embodiment is shown in the drawings, below. The lid may have more than two parts.

The lid and/or the base may include any suitable mechanical locking mechanisms, such as one or more projections, each receivable in a recess with an interference-type fit. These may be located on surfaces which, in use, are horizontal or vertical, for example. Another example of a locking mechanism is a channel style lock.

The first planar area is on the lid and preferably is greater than $5cm^2$. The first planar area is preferably located adjacent an edge of the lid since, when a label or other adhesive membrane is applied, at least part of the purpose is to secure the lid to the base. In a preferred embodiment, the first planar area is located opposite a hinged edge of the lid, when the lid is hinged to be base. However, it is to be understood that the invention is not limited to this. The first planar area may be located adjacent any edge of the lid or in any other desired location. For example, the first planar area may be located on a side of the lid (approximately vertical in use.)

The first planar area may be generally parallel to a floor in the base. However, other configurations are possible. For example, the first planar area may be disposed at an angle to some or all of the remainder of the lid. An example is illustrated in the drawings, below.

The second planar area is on the base. This may take any suitable form and many variations are possible. By way of example, the second planar area may be located on a rim for the base or on an extension thereof, optionally inclined at an angle to the rim. The lid may be contoured for a snug fit with the second planar area.

The substantially flat area suitable for receipt of an adhesive membrane includes an edge of the first planar area and at least part of the second planar area. It is intended, or course, that the adhesive membrane (preferably an adhesive label) may be applied to the substantially flat area, connecting the lid and the base in the area of the edge of the first planar area included in the substantially flat area. The first and second planar areas may be adjacent or they may partially overlap. In one view, they may be regarded as generally coplanar, although, strictly speaking, where there is a simple overlap there will be a small step from the first planar area to the second planar area.

The edge of the first planar area may simply abut at least part of the second planar area. In another embodiment, the edge of the first planar area may form a chamfered abutment with at least part of the second planar area. In yet another embodiment, an edge of the first planar area surrounds the second planar area.

The substantially flat area is preferably located at an opposite side of the container to the hinge, or opposite each hinge when there is more than one. However, the invention is not limited to this configuration.

It will be appreciated that when the lid is in the closed position, the substantially flat area is preferably suitable for application of an adhesive membrane, such as a self adhesive label applied by an automated applicator in a generally flat fashion.

While the adhesive membrane is preferably a self adhesive label, it may also take other forms. For example, it may be a heat sealable lidding film of plastic, foil or other sheet material.

If desired, the adhesive membrane may have a perforation or other area of weakness locatable at or adjacent the edge of the first planar area within the substantially flat area. The purpose of this is to simplify opening of the container by the consumer.

If there are two or more first planar areas and second planar areas, the adhesive membrane may be applied to all of these, or some of these, or to one first planar area and one second planar area only.

If desired, the container of the invention may be designed so as to be nestable or stackable with identical or similar containers.

Brief Description of the Drawings

The invention will now be described in relation to certain non-limiting examples thereof in the accompanying drawings, in which:

Figure 1 is a plan view of a first embodiment of container according to the invention, showing a lid, hinged to the base in the open position;

Figure 2 corresponds to the embodiment in Figure 1, but showing the lid in the closed position;

Figure 3 is a side elevation of the embodiment of Figures 1 and 2, with the lid in the closed position;

Figure 4 is a perspective view of a second embodiment of container according to the invention, having a lid separate from the base;

Figure 5 is an exploded view of the embodiment in Figure 4;

Figure 6 is a detail of the circled portion of Figure 4;

Figure 7 is a top plan view of the embodiment of Figure 4;

Figure 8 is a front elevation of the embodiment of Figure 4;

Figure 9 is a side elevation of the embodiment of Figure 4;

Figure 10 is a top plan view of a further embodiment in the open position;

Figure 11 is a top plan view of the embodiment of Figure 10, showing the lid in the closed position;

Figure 12 is a top plan view of a further embodiment in the open position;

Figure 13 is a top plan view of the embodiment of Figure 12 in the closed position;

Figure 14 is a top plan view of a further embodiment in the open position;

Figure 15 is a top plan view of the embodiment of Figure 14 in the closed position;

Figure 16 is a top plan view of a further embodiment in the open position;

Figure 17 is a top plan view of the embodiment of Figure 16 in the closed position;

Figure 18 is a side elevation of a further embodiment, where the first and second planar areas are at an angle to the base and lid, the lid being in the open position in this Figure;

Figure 19 shows the embodiment of Figure 18, with the lid in the closed position;

Figure 20 is a side elevation of a further embodiment where the first and second planar areas are at an angle to the lid and base, showing the open position;

Figure 21 shows the embodiment in Figure 20 in the closed position;

Figure 22 is a top plan view of a further embodiment wherein the lid is in more than one part, showing the lid parts in the open position;

Figure 23 shows the Figure 22 embodiment with the lid parts in the closed position;

Figure 24 is a top plan view of a further embodiment, showing the open position;

Figure 25 shows the Figure 24 embodiment in the closed position;

Figure 26 shows yet a further embodiment, being a top plan view in the open position; and

Figure 27 shows the Figure 26 embodiment in the closed position.

Detailed Description of the Drawings

Referring first to Figures 1, 2 and 3, the first embodiment of the container of the invention, designated generally as 10, has a base 12 and a lid 14, hinged to base 12 at hinge 16. Rims 15 have ramp portions 17.

Base 12 has upwardly extending sidewalls 18 defining an opening 20 through which products are inserted into container 10 before lid 14 is closed. At the top end of walls 18 of base 12 are rims 22 (refer Figure 1), each of which has a ramp portion 23.

Lid 14 in this embodiment has a first planar area 24 which, in this embodiment, comprises virtually the whole of lid 14. The second planar area is formed by rim portion 26 which, as can be seen in Figure 1, is wider than rims 22. Ramp portion 23 is inclined upwardly from rim 22 to rim 26.

In the closed position, illustrated in Figure 2, first planar area 24 has mated with second planar area - rim 26 - to form a substantially flat area in which edge 28 of lid 14 has mated with rim 26 of base 12, chamfer 30 being formed between them, using ramp portion 23. Adhesive label 32 is shown in place in Figure 2.

As can be seen in Figure 1, sidewalls 18 of base 12 are tapered towards floor 34, corners 36 being rounded as illustrated.

Margin 15 on lid 14 can include locking means to lock lid 14 to base 12 via rims 22.

Turning now to the second embodiment illustrated in Figures 4 to 9, the container of the invention, designated generally as 40, has a base 42 and a separate lid 44, with upwardly extending side walls 48 defining an opening 50 through which product may be inserted before lid 44 is closed. Base 42 has a rim 52 with a pair of enlarged portions 56, comprising in this embodiment second planar areas.

Lid 44 has a first planar area 54 defined by ribs 38 and edges 55.

A single label (not shown) can extend over the whole of first planar area 54 and both second planar areas 56. Alternately, two separate labels may be used, the first covering part of first planar area 54 and one of the adjacent second planar areas 56, while the over covers part of first planar area 54 and the adjacent second planar area 56, leaving free central portion 46 of lid 44.

As shown in Figure 6, each of second planar areas 56 may include an aperture or recess 58. A sharp object may be inserted through a label (not shown) covering first planar area 54, second planar area 56 and aperture 58, to tear the label through aperture 58, to assist in removing lid 44 from base 42.

In this embodiment, lid 44 also includes removal tabs 62, to assist in removing lid 44 from base 42.

Container 40 may include vents (not shown) and depression 64 in floor 66 of base 42, as desired (refer Figure 8). Container 40 may also include one or more recessed portions in lid 44. These may be included in central portion 46 or in another desired location. It is preferred that any such recessed portion is sealed by a label.

A third embodiment is shown in Figures 10 and 11, where container 70 has base 72 hinged to lid 74 at 16. Lid 74 is cut away at 76 and base 72 has flat portions 78. As can be seen in Figure 11, when lid 74 is closed on base 72, cut aways 76 leave flat portions 78 exposed. When a label 60, shown in dotted outline in Figure 11, is placed over first planar area 68 of lid 74 and over flat portion 78 (second planar areas) of base 72, lid 74 is effectively sealed to base 72. Flat portions 78 stand proud of rim 22, so that when exposed by cut-outs 76 of lid 74, first planar area 68 is substantially co-planar with flat portions 78.

The next embodiment in Figures 12 and 13 is similar to that in Figures 10 and 11 and the same numbers have been used to indicate the same or similar parts, with the addition of the letter "a". Whereas in the Figure 10 and 11 embodiment the cut-away portions 76 on lid 74 were centred in an edge of lid 74, in the Figure 12 and 13 embodiment cut-away portions 76a are located in two opposite corners of lid 74a.

Similarly, flat portions 78a are located at corners of base 72a.

As was the case with the previous embodiment, when lid 74a is closed on base 72a, flat portions 78a are substantially co-planar with first planar area 68a.

The next embodiment shown in Figures 14 and 15 shows container 80 having base 82 and lid 84. Base 82 has narrow rims 22 and expanded rim 86. Expanded rim 86 includes further portion 88 with hang sell hole 90, to enable container 80 to be displayed on a hanger.

Expanded rim 86 is designed so that, when lid 84 is closed on container 82, expanded rim 86 is substantially co-planar with lid 84, which in this embodiment comprises the first planar area.

As can be seen in Figure 15, label 60 can be affixed to cover the right hand side of lid 84 and expanded rim 86.

The embodiment in Figures 16 and 17 is similar to that shown in Figures 10 and 11 and 12 and 13. The same labels will be used to designate the same or similar parts, with the addition of the letter "b".

Container 70b has base 72b and lid 74b, hinged at 16. Cut-away 76b on lid 74b is designed to expose flat portion 78b on base 72b in the closed position (Figure 17). Flat portion 78b stands proud of rim 22 so that first planar area 68b is substantially co-planar with flat portion 78b.

This embodiment includes lock lugs 92 designed for a friction fit into lock recesses 94 on base 72b. As can be seen from Figure 17, when label 60 is affixed, it covers not only first planar area 68b and flat portion 78b but also lock lugs 92.

The embodiments in Figures 18 to 21 illustrate how the first and second planar areas may be disposed at an angle to the lid and to a rim on the base.

Referring first to Figures 18 and 19, container 100 has lid 104 hinged to base 102 at 16. Lid 104 includes extension 106 which, in use, is inclined upwardly at an obtuse angle from lid 104.

Base 102 has rim 22 which has extension 108, in use inclined at an obtuse angle from rim 22.

In the closed position, extension 106 is designed to mate with extension 108. Extension 106 has one or more cut-outs, similar to those already illustrated in Figures 10 to 13 or 16 and 17, so that a flat label 60 applied to extension 106 will bind extension 106 to extension 108, exposed by the cut-out or cut-outs.

The embodiment in Figures 20 and 21 is a variation of that in Figures 18 and 19 and the same labels will be used, with the addition of the letter "a". In this embodiment, lid 104a ends in flat portion 106a. Rim 22 on base 102a has a downwardly extending extension 108a.

In the closed position, extension 106a mates with extension 108a along margin 98 to provide a substantially co-planar surface 96 on which a label 60 (not shown) may be placed to seal lid 104a to base 102a.

It will be apparent to one skilled in the art that the embodiments in Figures 18 to 21 may be adapted to containers with separate lids. In that case, it is preferred that there are two extensions 106 (or 106a) and two extensions 108 (or 108a).

Reference is now made to the embodiment in Figures 22 and 23. In this embodiment, container 110 has base 112 as shown in Figure 22. However, the lid is in two parts, 114a and 114b. Lid part 114a is hinged to base 112 at 16a while lid part 114b is hinged to base 112 at hinge 16b.

Each of lid parts 114a and 114b has a pair of cut-aways, 116a and 116b. When lid parts 114a and 114b are in the closed position as shown in Figure 23, cut-aways 116a and 116b expose flat portions 118 on base 112. Lid parts 114a and 114b may meet or overlap in known manner, for example as described in Australian patent specification No 2003234951, the contents of which are encorporated herein by reference. Nevertheless, each of lid parts 114a and 114b provide a first planar area which is substantially co-planar with flat portion 118 on base 112. In this way, when lid parts 114a and 114b are in the closed position, label 60 can be applied on the substantially flat area so provided.

Referring now the embodiment in Figures 24 and 25, container 130 has base 122 hinged to lid 124 at hinge 16. Lid 124 has diecut holes 126. Lid 124 is generally flat to provide the first planar area.

Base 122 has formed sections 128, the top, flat part of which comprise the second planar areas. As can be seen by Figure 25, in the closed position formed sections 128 mate with diecut holes 126 to form a substantially flat surface. A label (not shown) may be applied to cover both formed sections 128 and the intervening part of lid 124. Alternately, separate labels may be applied.

The embodiment in Figures 26 to 27 is similar to that in Figures 24 to 25; however, in container 140 in Figures 26 to 27, base 132 is separate from lid 134. In addition, there are four diecut holes 136 and correspondingly four formed sections 138. Like the embodiment in Figures 24 and 25, when lid 134 which is of the "outside fitting" type, is placed on base 132, sections 138 protrude into diecut holes 136 to provide a substantially flat area for label application.

It will be appreciated from the various embodiments described above that the container of the invention can be produced in a wide number of forms and that, in addition, a single form may be suitable for application of different types of labels. Lids may be hinged or separate.

Lids may be substantially flat or they may be shaped, with ridges, ribs, domes as non-limiting examples of shaping. Especially in the case of substantially flat lids, these may be designed to mate with the base so that the second planar area or areas can appear on, for example, opposing sides of the lid, opposing corners of the lid or on one side of the lid, opposite the hinge. In the case of a lid which is a dual lid, with two hinges, the second planar areas may be on two opposing sides (viewing the closed lid in plan view), or on four corners, for example.

In the case of a separate lid, once again viewing the container in plan view in the closed position, the second planar areas may be in each of four corners, on two opposing sides, on two diagonal corners, around all four sides or separately on each of four sides. These are a selection only of possible combinations. Others will be apparent to one skilled in the art.

Industrial Applicability

The container of the invention can be adapted to any currently known container design, whether having a single lid or a multi-part lid. The invention allows for manual or high speed automatic closure and flat, self adhesive label application

providing tamper evidence, while at the same time employing a minimum number of moving parts.

The container of the invention can offer important tamper evidence capabilities while maintaining minimal obstruction of vision through the container lid. For certain applications, the container of the invention will also allow alternate graphic methods to be successfully used, such as pre-printing, branding and nutritional information onto the lid area, thus reducing label requirements to a smaller, basic tamper evident label only.

The Claims

1. A container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area.

2. The container of claim 1 which is square or rectangular in cross section.

3. The container of claim 1 or 2 wherein the base includes a floor and upwardly extending side walls, at least one of which has a rim.

4. The container of claim 3 wherein the or one of the rims includes the second planar area.

5. The container of any one of claims 1 to 4 wherein the lid is hinged to the base.

6. The container of any one of claims 1 to 5 wherein the lid is in two or more parts, each of which is hinged to the base.

7. The container of any one of claims 1 to 4 wherein the lid is separate from the base.

8. The container of any one of claims 1 to 7 wherein the first planar area is disposed at an angle to some or all of the remainder of the lid.

9. The container of claim 8 when dependent on claim 3, wherein the second planar area is inclined at an angle to the rim.

10. The container of claim 5 or 6 wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

11. The container of any one of claims 1 to 10 wherein the lid and/or the base includes means for mechanical locking.

12. The container of any one of claims 1 to 11 which includes one or more ventilation holes, ribs, depressions or recesses.

13. The container of any one of claims to 1 to 12 which includes a hang sell aperture.

14. The container of any one of claims to 1 to 13 wherein the adhesive membrane is a self-adhesive label.

15. The container of any one of claims 1 to 14 which has a plurality of first planar areas and a plurality of second planar areas.

16. A container substantially as herein described with reference to any one of the accompanying drawings.

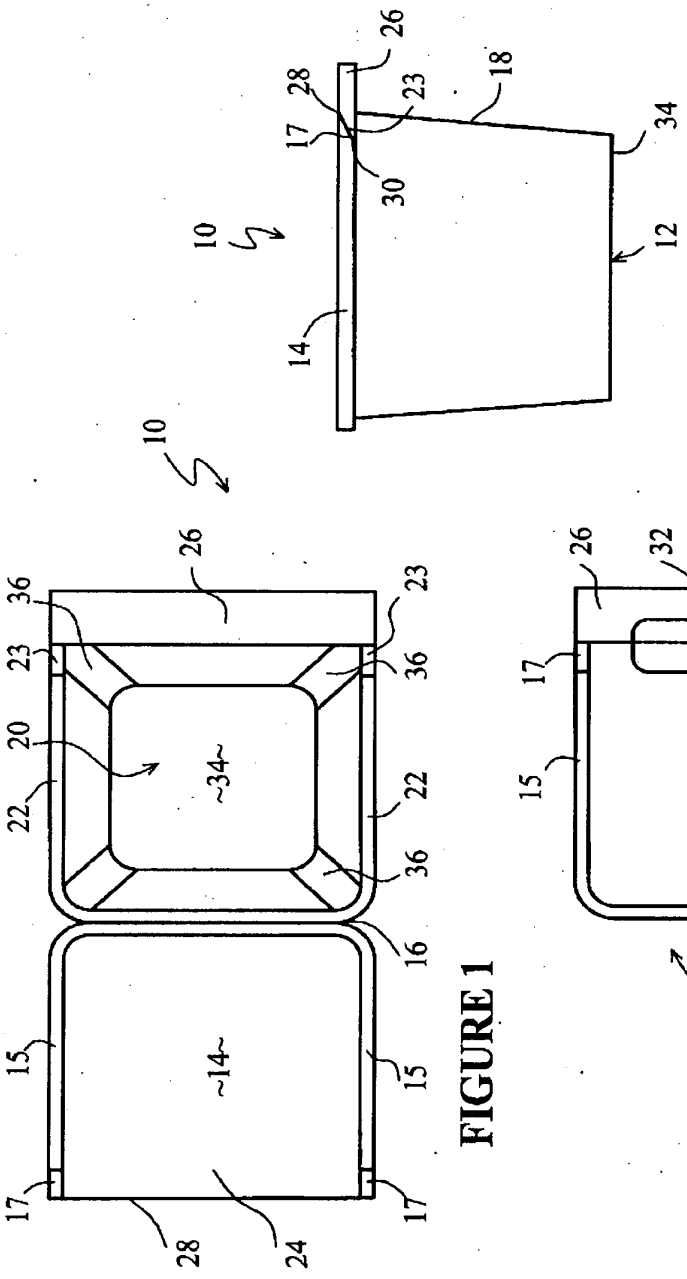


FIGURE 1

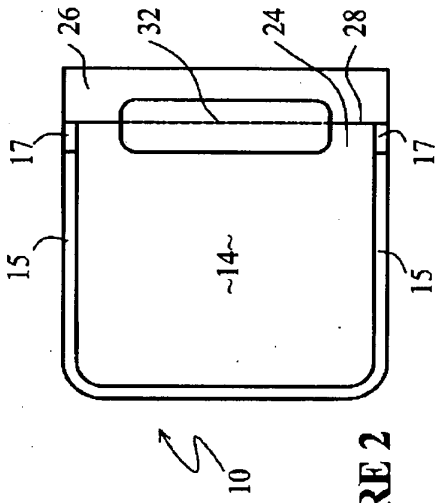


FIGURE 2

FIGURE 3

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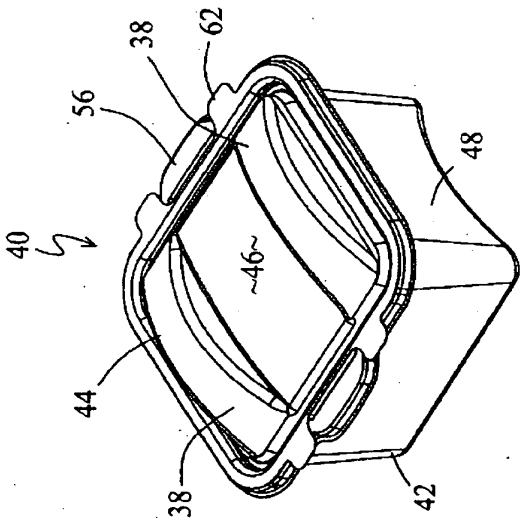


FIGURE 4

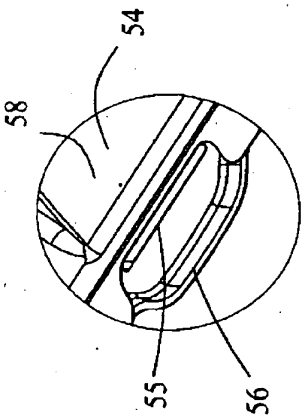


FIGURE 6

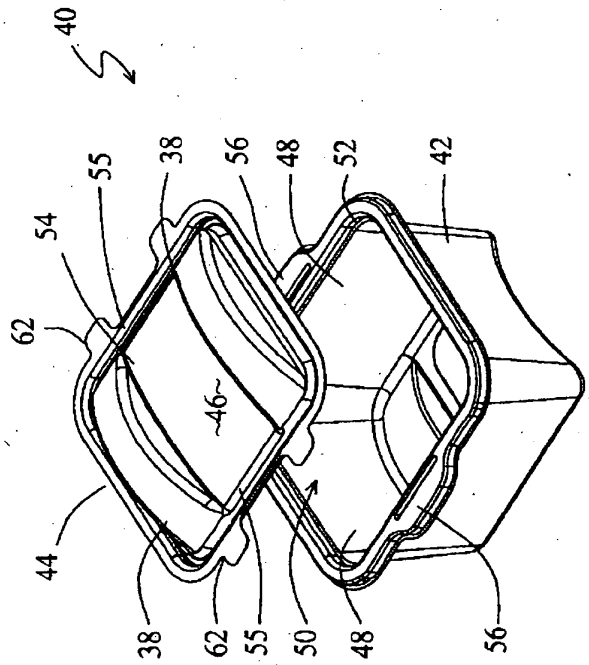


FIGURE 5

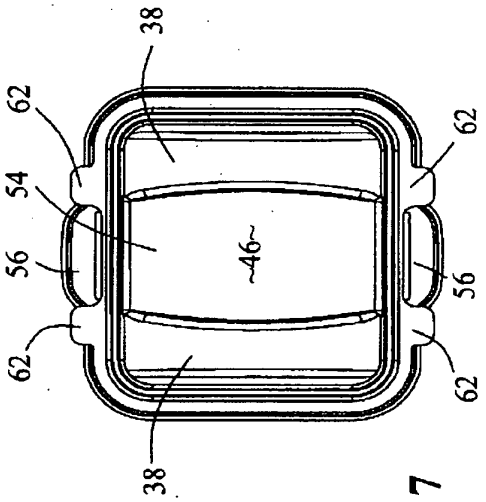


FIGURE 7

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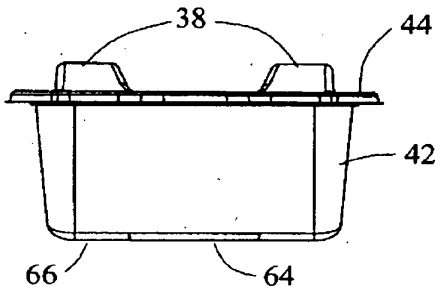


FIGURE 8

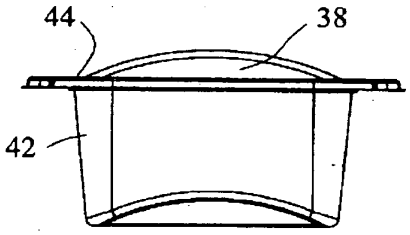


FIGURE 9

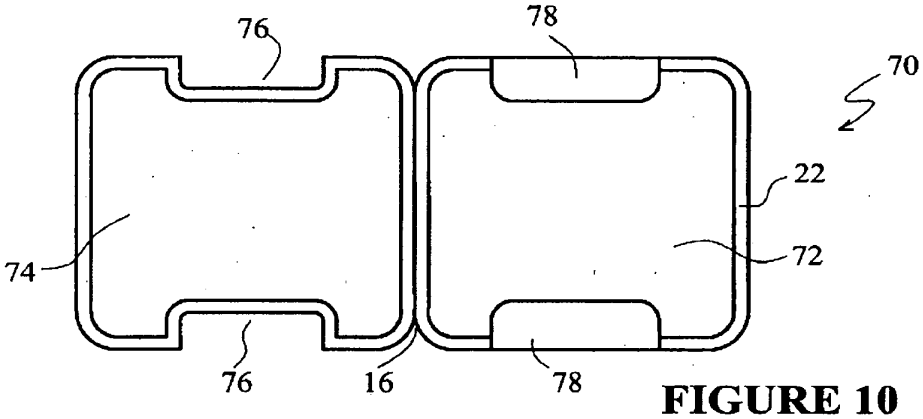


FIGURE 10

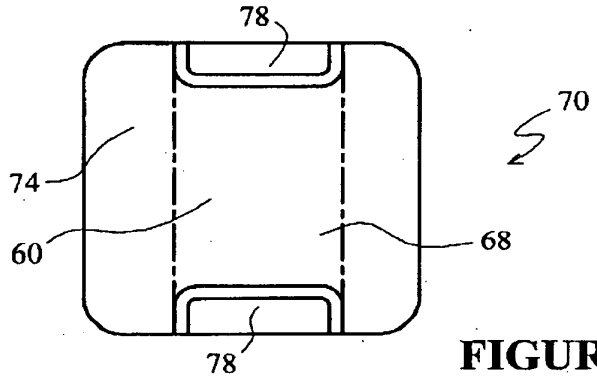


FIGURE 11

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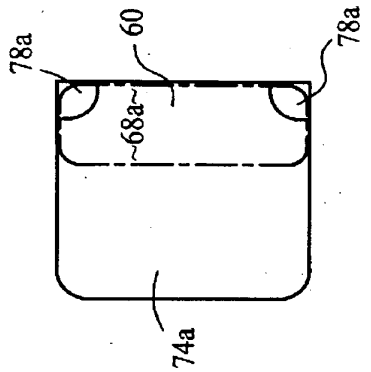


FIGURE 13

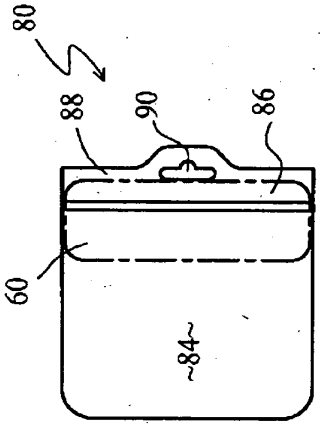


FIGURE 15

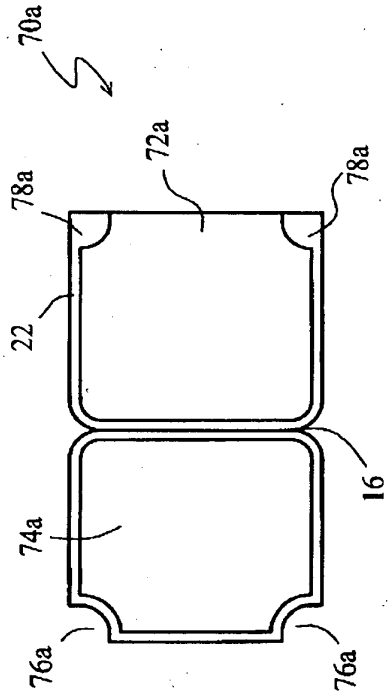


FIGURE 12

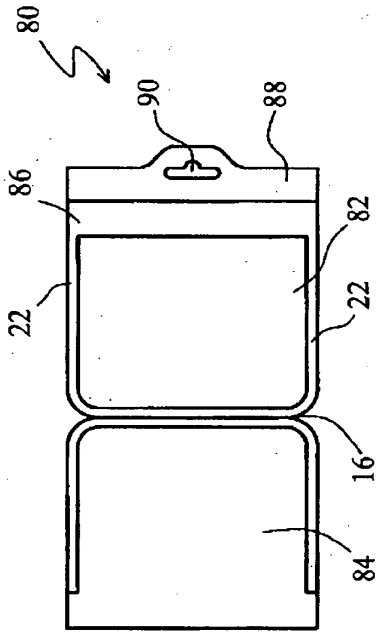


FIGURE 14

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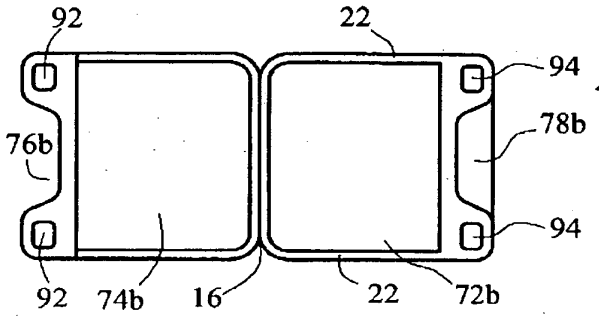


FIGURE 16

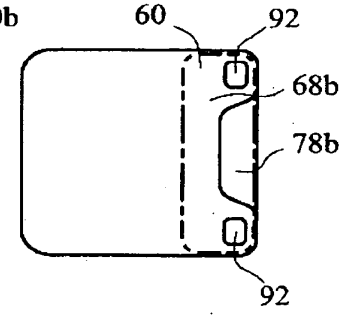


FIGURE 17

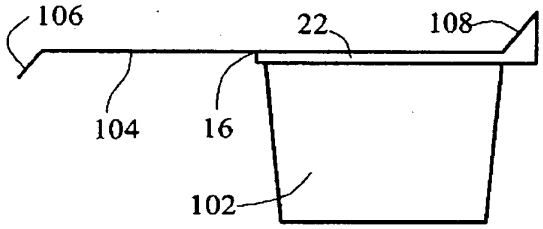


FIGURE 18

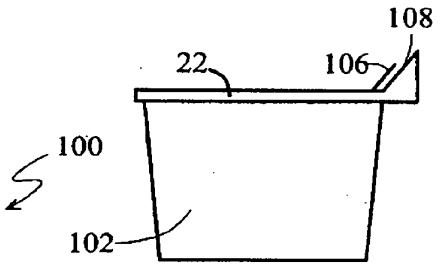


FIGURE 19

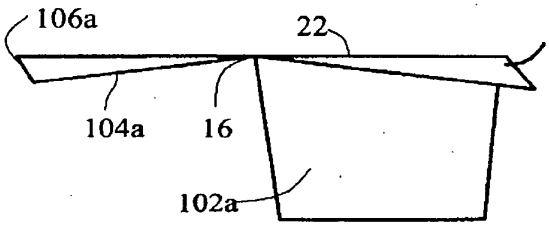


FIGURE 20

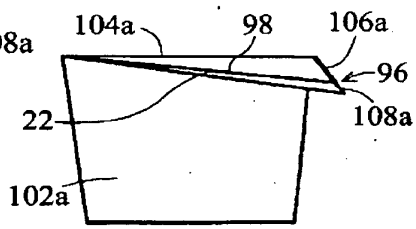


FIGURE 21

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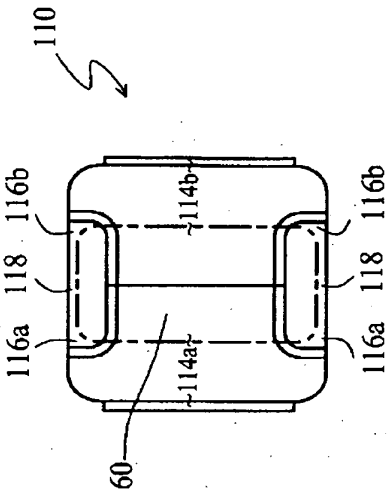


FIGURE 23

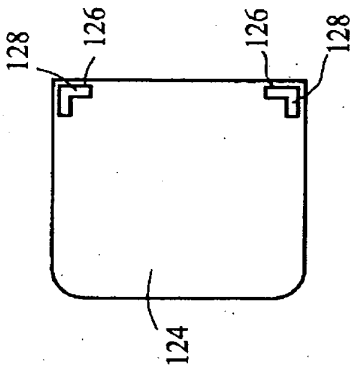


FIGURE 25

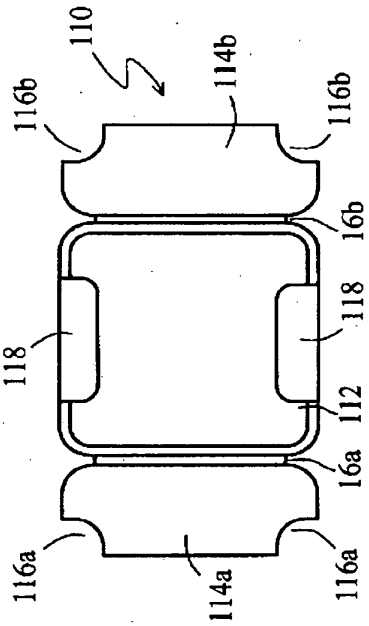


FIGURE 22

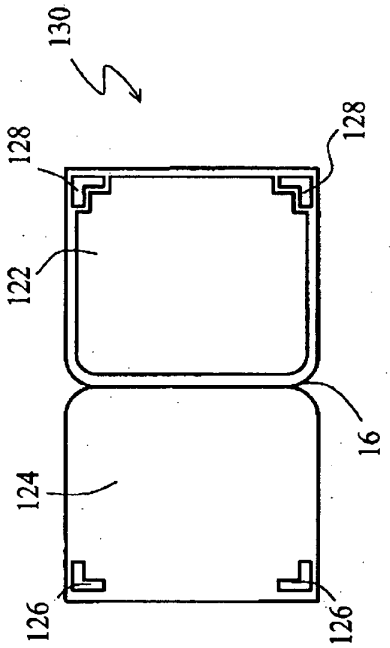


FIGURE 24

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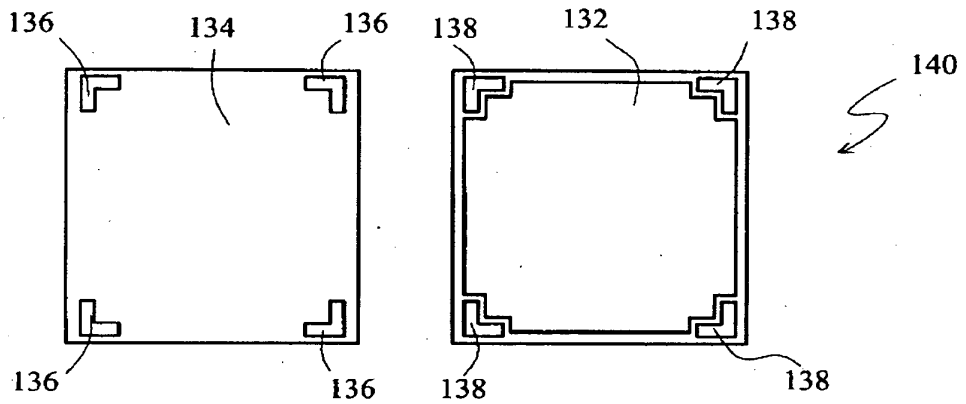


FIGURE 26

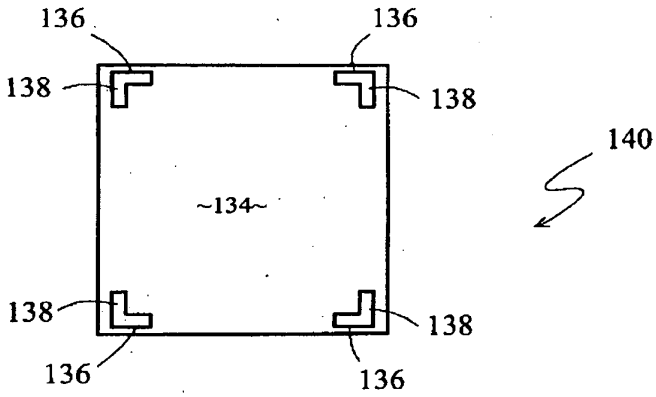


FIGURE 27

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PCT/AU2008/000173

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I, PETER SCHLAEFER, TEAM LEADER EXAMINATION SUPPORT AND SALES hereby certify that annexed is a true copy of the Provisional specification in connection with Application No. 2007902246 for a patent by MAURICE JOSEPH PAUL TABONE as filed on 30 April 2007.

WITNESS my hand this
Twenty-seventh day of February 2008

PETER SCHLAEFER
TEAM LEADER EXAMINATION
SUPPORT AND SALES

2007902246 30 Apr 2007

AUSTRALIA
Patents Act 1990

PROVISIONAL SPECIFICATION

Applicant:
Maurice Joseph Paul Tabone

Invention Title:
A CONTAINER

The invention is described in the following statement:

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A CONTAINER

AREA OF INVENTION:

This invention generally relates to containers having a tamper evident container top or lid option.

BACKGROUND:

Although traditional two piece (separate base with snap on lid) containers and traditional single hinged lidded thermoformed containers are still widely in use, they require a "wrap around" self adhesive label in order to secure the container lid to the container sidewall area, which is uneconomical and often problematic.

The most common problem encountered by users/packers of traditional single hinged lidded thermoformed containers whilst attempting to use a self adhesive label to achieve tamper evidence, is that these containers (in a variety of designs and sizes) do not have any flat areas upon which to adhere a self-adhesive label in a flat fashion, either manually or by automation. It is accepted that applying a label in this way (i.e. "flat") would be the most appropriate and economical method. On occasions, the lack of an available flat area upon which to apply a self-adhesive label or similar to attain tamper evidence, has led to issues such as superfluous label designs/shapes which are cumbersome when applying in a non-flat "wraparound" fashion (either manually or rarely automatically) which proves costly due to the machinery/applicator and label needing to be customized to suit the specific "wraparound" application. The unnecessarily oversized/fancy shaped labels are comparatively expensive and are often not aesthetically pleasing once wrapped around to the container's lid edge in a quest for tamper evidence. Also, as barcodes are

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generally required to be printed on these product labels which need to be applied flat for best scanning/readability, this compounds the problems associated with wraparound label use on single lid flapped containers.

In more recent times, alternatives have included "dual hinged lids" which when closed (often automatically in filling/packing/labeling machines), create a generally flat area across the two adjacent closed lid edges in the centre of the container top, thus allowing a "flat" self-adhesive label to be applied over the "lid join", thus acting as a tamper evident seal. Although the current multiple lidded design effectively achieves tamper evidence on relatively small containers, there are instances where applying a self-adhesive label to the centre of the container top (over the "lid join") would not be viable for reasons such as obstructing the consumer's vision of the container's contents (because of the relatively high "label to lid area ratio") or, on larger containers, the need to apply a label which is large enough in proportion to the "lid join" length, merely to achieve a substantial enough tamper evident seal would prove uneconomical.

SUMMARY OF THE INVENTION:

The present invention provides a container comprising a base and a lid, the lid being moveable with respect to the base between an open position and a closed position. When the lid is in the closed position, a planar portion of the lid is substantially co-planar with a planar portion of the base, whereby the substantially co-planar portions define a substantially planar surface to which an adhesive membrane can be affixed.

As will be appreciated by a person skilled in the art, the

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containers of the present invention provide a substantially planar surface to which an adhesive membrane can be affixed in a "flat" fashion to achieve tamper evidence without necessarily encountering the problems described above.

This invention intends to simplify the task of applying a tamper evident seal in a "flat" fashion to these lidded containers. Applying the tamper evident seal in a "flat" format is proven to be more conducive to high speed, self-adhesive label applicators and the high volume packing lines upon which these machines are in use.

The invention described here has very accessible tamper evident capabilities and can be adapted to any currently known container design. This simplicity can allow for manual or high speed automatic closure, and flat adhesive membrane application creating tamper evidence, whilst employing the minimum amount of moving parts in its operation.

Typically, the lid is hingedly attached to the base and pivots between the open and closed positions. In such cases, the substantially planar surface may be located at an opposite side of the container to the hinge.

In some embodiments, the planar portion of the lid overlaps part of the planar portion of the base. Thus, it will be understood that the terms "substantially co-planar portions" and "substantially planar surface" as used herein, are intended to include situations where there is a small step between the planar portion of the lid and the planar portion of the base, provided that an adhesive membrane can be affixed to the substantially planar surface.

In some embodiments, the base has a floor and upwardly

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extending side walls, the side walls ending at a rim onto which the lid is receivable in the closed position.

In some embodiments, the lid is a generally flat sheet having edges that are adapted to abut the base in the closed position. The lid may, however, comprise a recessed portion for storing items which a consumer will require once the container had been opened (e.g. cutlery or dressings).

In some embodiments, the base and lid are adapted to be mechanically locked in the closed position. For example, the base and lid may be mechanically locked by a projection on the lid that can be received via an interference-type fit into a corresponding recess in the base, or vice versa.

In order to achieve appropriate sealing and tamper evidence properties, the substantially planar surface is typically greater than $5cm^2$.

Typically, the adhesive membrane is a self adhesive label. However, in alternate embodiments, the adhesive membrane may be a heat sealable lidding film of plastic, foil or other sheet material.

In some embodiments, the adhesive membrane may have a perforation locatable at or adjacent to an edge of the planar portion of the lid when the lid is in the closed position. This perforation makes opening the container more simple for the consumer without affecting the tamper evident properties of the container.

Typically, the container is moulded from a thermoformable plastic material, for example, polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene, polylactide (PLA), biaxially oriented polystyrene (BOPS),

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etc.

The present invention would preferably be used on thermoformed containers to package a variety of perishable food products such as cherry tomatoes, strawberries, alfalfa/bean sprouts, as well as bakery products etc. These food products are generally sold to consumers through supermarket chain stores and the like.

The invention can be used for either vented or non-vented containers and also allows for a hang sell hole option for "off shelf" retail display if required. Using this invention, it is possible to maintain minimal obstruction of vision through the container lid, whilst offering important tamper evident capabilities. Unlike currently available multiple lid flap designs, the container size and shape will not unnecessarily dictate the self adhesive label size/cost required to achieve tamper evidence. For certain applications, this invention will also allow alternative graphic methods to be used (e.g. pre-printing the branding and nutritional panels onto the lid area), thus reducing labeling requirements to a smaller, basic tamper evident label only.

BRIEF DESCRIPTION:

As best viewed in FIGURES 1, 2 and 3 (attached) this invention relates to a container top for a container base (1) having a bottom and upwardly extending side walls (2), the top being molded of plastic material and including: a top lip edge rim (3) to be mounted on or formed integrally with the said side walls (2) and surrounding an opening (4) via which product would pass with respect to the container. A singular lid flap (5) being pivotally attached to the top lip edge rim (3) so as to be movable between a closed position at least substantially closing the opening, and an open position at least partly exposing

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the opening (4) to allow product to pass into the container. The lid flap (5) in the open position being angularly displaced from the closed position in a direction away from the container base (1). The lid flap (5) has a flat portion (the "flat lid flap portion) (6). The said flat lid flap portion (6) being generally adjacent to a flat portion on the container top lip edge rim (the "flat rim portion") (7) when the lid flap (5) is in the closed position so that the flat portions (6 &7) are generally coplanar. If required, the flat lid flap portion (6) may also overlap the "flat rim portion" (7) when the lid flap (5) is in the closed position. When the lid flap (5) is in the closed position, a label or other self adhesive material (8) can be adhered to the flat lid flap portion and the flat rim portion (6 & 7) to achieve a tamper evident seal across these two flat portions.

This invention simply produces a generally coplanar area by incorporating into the container's design a "flat lid flap portion" and a "flat rim portion" that co-operate when the lid flap is closed to produce said "generally coplanar" area. Preferably, this "generally coplanar area" will be directly opposite the lid flap's hinged edge (see example "C") when the lid flap is closed, however the "top lip edge rim" at the container's corners (see example "B") or anywhere else on the "top lip edge rim" of the container (see example "A") may be designed to act as the said "flat rim portion" if required. Based on the position of the "flat rim portion", the corresponding "flat lid flap portion" is positioned, formed and shaped to arrive generally coplanar to the "flat rim portion" when the lid flap is closed ("A","B" &"C"). A self-adhesive label or similar sheet material can then be applied to this generally coplanar area, creating a tamper evident seal between the "flat lid flap portion" and the "flat rim portion" ("A", "B" &"C"). In any case, the surface area of both the flat lid portion and the flat rim portion co-

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operating together to be generally coplanar (as described herewith), would be ample and suitable to apply a self-adhesive label or similar sheet material to in a generally flat fashion and attain tamper evidence. Preferably, the generally coplanar label application area produced by this invention and accompanied container design, would not interfere with any instrument (human or otherwise), used to apply a self-adhesive label in a flat fashion in any known way (e.g. auto-applicator head clearance), therefore being conducive to effective and trouble free label application.

In some embodiments, the actual area of the "flat lid flap portion" alone, which is contactable by the "Adhesive membrane/label" may be minimized. Based on this, and as best seen in Diagrams "F", the current invention will allow at least a portion of the container lid top to be recessed toward the base of the container when closed. In these applications, the adhesive membrane will generally be of a suitable size so as to bridge across the recessed lid area when it is applied, at times adhering mostly to the container's flat rim portion at the perimeter of the closed container (but whilst still adhering to at least a small portion of the flat lid flap portion). This bridging of the adhesive membrane will create a void area between the adhesive membrane and the recessed lid area when the container is closed and sealed. The tamper evident attributes are not at risk when employing a recessed lid shape within the scope of the current invention. The void area created between a recessed lid area and the adhesive membrane, may be used to house any number of items depending on the product contained (e.g. plastic cutlery, salad dressing portion, printed media/recipe booklet etc).

As will be appreciated, embodiments of the present invention can have a number of advantages, including:

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1. Though preferably rectangular or square, prior to incorporating this invention within its design, a container may be of any existing and known shape, size or design/style.

2. If hang sell is a requirement, the invention's "flat rim portion" may be extended in a direction away from the container's side wall to accommodate a hang sell hole (see example "C").

3. This invention can be applied to any suitable, hinged lidded container design.

4. The container lid may have mechanical locking mechanisms. These locking mechanisms or lugs may be of any suitable, known type and will generally be integrally formed into the lid flap side edges and top lip edge rim, so as to cooperate to lock the lid flap in the closed position. Locking lugs of any known kind may also be positioned on the "flat lid flap portion" and the corresponding "flat rim portion" if required (see example "D")

5. The container's lid style may also be of any suitable, known type, being generally either "inside fitting" or "outside fitting" in relation to the top lip edge rim circumference when closed.

6. When the lid flap is closed, the "flat lid flap portion" and the corresponding "flat rim portion" may present at any angle in relation to the container base, lid or sidewalls whilst remaining generally coplanar in relation to each other (see example "E").

7. When the lid flap is closed, the angle at which the generally coplanar "flat lid flap portion" and corresponding "flat rim portion" present, would

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preferably result in a suitable area for a self-adhesive label or similar, to be applied by an automated applicator machine (see example "E") in a generally flat fashion.

8. When the lid flap is closed, the "flat lid flap portion" and the corresponding "flat rim portion" are generally adjacent though they may partially overlap if required, whilst remaining generally coplanar in relation to each other.

9. Although preferably applied to a container top or lid, the invention described herewith may also be applied to a design of a singular, hinged "lid flap portion" and "rim portion", which is orientated by way of design or end use, so as to not be the uppermost part of the container (i.e. the singular, hinged lid flap may actually be on the side or base of the container when in normal use or otherwise).

In the claims which follow and in the preceding description of the invention, except where the context requires otherwise due to express language or necessary implication, the word "comprise" or variations such as "comprises" or "comprising" is used in an inclusive sense, i.e. to specify the presence of the stated features but not to preclude the presence or addition of further features in various embodiments of the invention.

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CLAIMS:

1. A container comprising a base and a lid, the lid being moveable with respect to the base between an open position and a closed position, wherein, when the lid is in the closed position, a planar portion of the lid is substantially co-planar with a planar portion of the base, whereby the substantially co-planar portions define a substantially planar surface to which an adhesive membrane can be affixed.

2. The container as claimed in claim 1, wherein the lid is hingedly attached to the base and pivots between the open and closed positions.

3. The container as claimed in claim 2, wherein the substantially planar surface is located at an opposite side of the container to the hinge.

4. The container as claimed in any one of claims 1 to 3, wherein the planar portion of the lid overlaps part of the planar portion of the base.

5. The container as claimed in any one of claims 1 to 4, wherein the base has a floor and upwardly extending side walls, the side walls ending at a rim onto which the lid is receivable in the closed position.

6. The container as claimed in any one of claims 1 to 5, wherein the lid is a generally flat sheet having edges that are adapted to abut the base in the closed position.

7. The container as claimed in any one of claims 1 to 6, wherein the lid comprises a recessed portion.

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8. The container as claimed in any one of claims 1 to 7, wherein the base and lid are adapted to be mechanically locked in the closed position.

9. The container as claimed in claim 8, wherein the base and lid are mechanically locked by a projection on the lid that can be received via an interference-type fit into a corresponding recess in the base, or vice versa.

10. The container as claimed in any one of claims 1 to 9, wherein the substantially planar surface is greater than $5cm^2$.

11. The container as claimed in any one of claims 1 to 10, wherein the adhesive membrane is a self adhesive label.

12. The container as claimed in any one of claims 1 to 11, wherein the adhesive membrane has a perforation locatable at or adjacent to an edge of the planar portion of the lid when the lid is in the closed position.

13. The container as claimed in any one of claims 1 to 12, wherein the container is moulded from a thermoformable plastic material.

14. The container as claimed in claim 13, wherein the thermoformable plastic material is polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene, polylactide (PLA), or biaxially oriented polystyrene (BOPS).

15. A container substantially as herein described with reference to the drawings.

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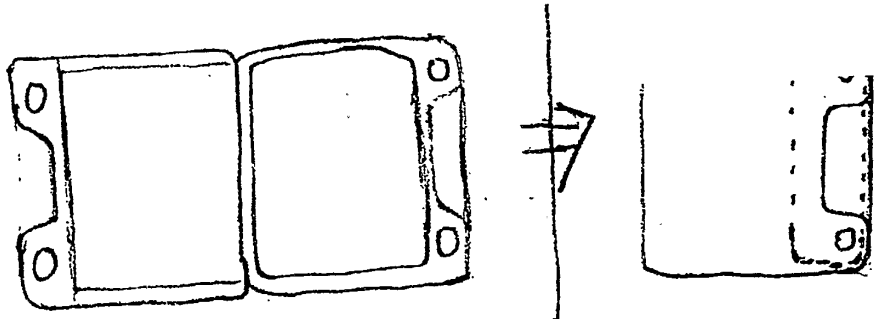
FIG-3 (CLOSED-SIDE VIEW)

FIG-2 (CLOSED-TOP VIEW)

FIG-1 (OPEN-TOP VIEW)

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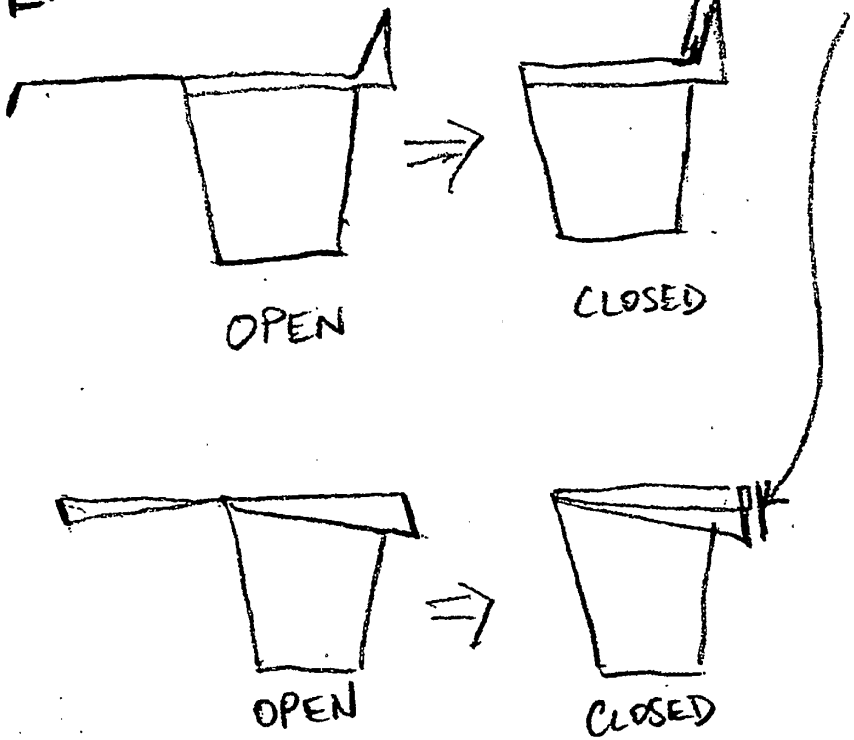
D.



TOP VIEW SHOWING OPEN OPTION WITH LOCK LUGS POSITIONED WITHIN THE FLAT LID FLAP AND FLAT RIM AREAS

CLOSED WITH APPLIED LABEL (DOTTED LINE) INDICATED.

E.

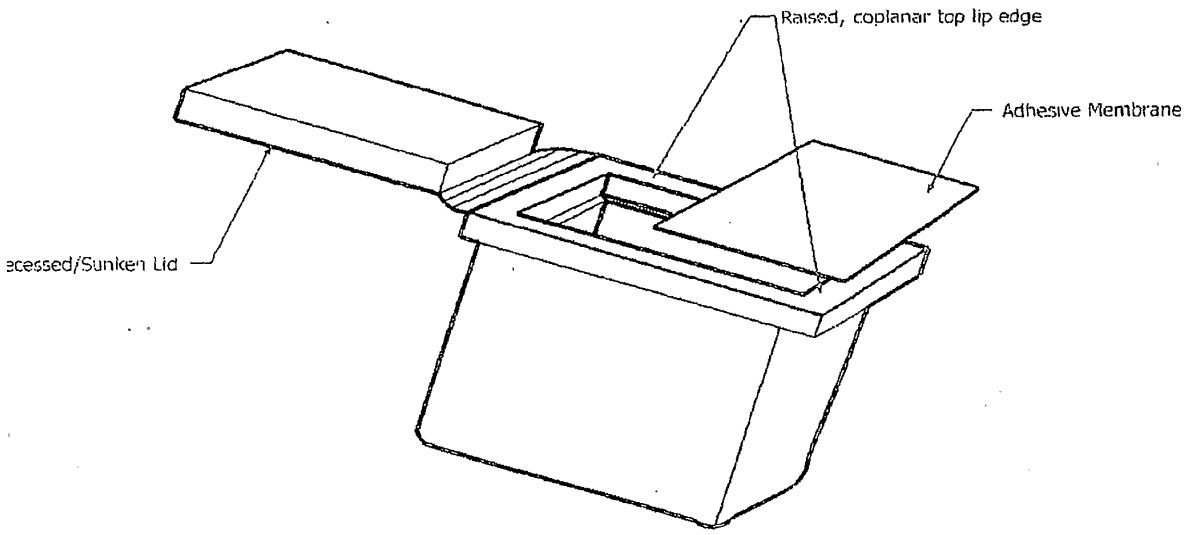


N.B. EXAMPLE 'E' SHOWS TWO POSSIBLE ANGLES AT WHICH THE FLAT LID PORTION AND THE FLAT RIM PORTION COULD CO-OPERATE TO BE COPLANAR AND RECEIVE A FLAT SELF-ADHESIVE LABEL

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Remark: Priority document submitted or transmitted to the International Bureau in compliance with Rule 17.1(a) or (b)



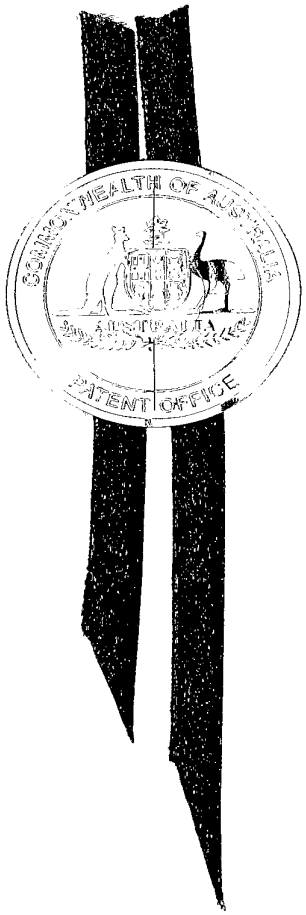
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I, PETER SCHLAEFER, TEAM LEADER EXAMINATION SUPPORT AND SALES hereby certify that annexed is a true copy of the Provisional specification in connection with Application No. 2007900654 for a patent by MAURICE JOSEPH PAUL TABONE as filed on 12 February 2007.



WITNESS my hand this
Twenty-seventh day of February 2008

P. Schlaefer

PETER SCHLAEFER
TEAM LEADER EXAMINATION
SUPPORT AND SALES

2007900654 12 Feb 2007

PROVISIONAL PATENT SPECIFICATION

INVENTION TITLE :-
A CONTAINER TOP AND RIM BEING GENERALLY COPLANAR FOR FLAT LABEL APLICATION ACHIEVING TAMPER EVIDENCE.

INVENTOR:-
MAURICE JOSEPH PAUL TABONE

DATE OF INVENTION:-
FEBRUARY 6th 2007

AREA OF INVENTION:

This Invention generally relates to container tops and, in particular, to a thermoformed plastic container having a tamper evident container top or lid option. The present invention would preferably be used on thermoformed containers to package a variety of perishable food products such as cherry tomatoes, strawberries, alfalfa/bean sprouts, as well as bakery products etc. These food products are generally sold to consumers through supermarket chain stores and the like.

BACKGROUND:

Although traditional two piece (separate base with snap on lid) containers and traditional, single hinged lidded thermoformed containers are still widely in use, these "traditional designs" are not ideal for flat, self-adhesive label tamper evident applications. This is a disadvantage in high output operations where applying a "wrap around" (non flat) self adhesive label in order to secure the container lid to the container sidewall area is uneconomically and often problematic.

This invention intends to simplify the task of applying a tamper evident seal in a "flat" fashion to these lidded thermoformed containers. Applying the tamper evident seal in a "flat" format is proven to be more conducive to high speed, self-adhesive label applicators and the high volume packing lines upon which these machines are in use.

In more recent times, alternatives have included "dual hinged lids" which when closed (often automatically in filling/packing/labeling machines), create a generally flat area across the two adjacent closed lid edges in the centre of the container top, thus allowing a "flat" self-adhesive label to be applied over the "lid join", thus acting as a tamper evident seal. Although the current multiple lidded design effectively achieves tamper evidence on relatively small containers, there are instances where applying a self-adhesive label to the centre of the container top (over the "lid join") would not be viable for reasons such as - obstructing the consumer's vision of the container's contents (because of the relatively high "label to lid area ratio") or, on larger containers, the need to apply a label which is large enough in proportion to the "lid join" length, merely to achieve a substantial enough tamper evident seal would prove uneconomical. Accordingly there is a need for a simple, tamper evident thermoformed container solution that does not so govern any associated self-adhesive label size (cost) in order to achieve tamper evidence and is therefore appropriate for container applications in all shapes and sizes.

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CURRENT DESIGN DISADVANTAGES:

The most common problem encountered by users/packers of traditional single hinged lidded thermoformed containers whilst attempting to use a self adhesive label to achieve tamper evidence, is that these containers (in a variety of designs and sizes) do not have any available, appropriate flat ("coplanar") area from the lid top to the sidewall of the container upon which to adhere a self-adhesive label in a flat fashion, either manually or by automation. It is accepted that applying a label in this way (i.e. "flat") would be the most appropriate and economical method for any number of reasons, of which some are described in this provisional patent specification. On occasions, the lack of an available, appropriate, generally "coplanar" area upon which to apply a self-adhesive label or similar to attain tamper evidence, has led to issues such as superfluous label designs/shapes which are cumbersome when applying in a non-flat "wraparound" fashion either manually or rarely automatically which proves costly due to the machinery/applicator and label needing to be customized to suit the specific "wraparound" application. The unnecessarily oversized/fancy shaped labels are comparatively expensive and are often not aesthetically pleasing once wrapped around to the container's lid edge in a quest for tamper evidence. Also, as barcodes are generally required to be printed on these product labels which need to be applied flat for best scanning/readability, this compounds the problems associated with wraparound label use on single lid flapped containers.

THE INVENTION:

The invention described here has very accessible tamper evident capabilities and can be adapted to any currently known container design, whilst only incorporating a single hinged lid flap. This simplicity allows for manual or high speed, automatic closure and flat, self-adhesive label application creating tamper evidence, whilst employing the minimum amount of moving parts in its operation. The invention can be used for either, vented and non-vented containers and also allows for a hang sell hole option for "off shelf" retail display if required. This invention maintains minimal obstruction of vision through the container lid, whilst offering important tamper evident capabilities. Unlike currently available multiple lid flap designs, the container size and shape will not unnecessarily dictate the self adhesive label size/cost required to achieve tamper evidence. For certain applications, this invention will also allow alternative graphic methods to be successfully used (eg. Pre-printing the branding and nutritional panels onto the lid area), thus reducing labeling requirements to a smaller, basic tamper evident label only.

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BRIEF DESCRIPTION:

As best viewed in **FIGURES. 1, 2 + 3 (attached)** this invention relates to a container top for a container base (1) having a bottom and upwardly extending side walls (2), the top being molded of plastic material and including: a top lip edge rim (3) to be mounted on or formed integrally with the said side walls (2) and surrounding an opening (4) via which product would pass with respect to the container. A singular lid flap (5) being pivotally attached to the top lip edge rim (3) so as to be movable between a closed position at least substantially closing the opening, and an open position at least partly exposing the opening (4) to allow product to pass into the container. The lid flap (5) in the open position being angularly displaced from the closed position in a direction away from the container base (1). The lid flap (5) has a flat portion (the "flat lid flap portion) (6). The said flat lid flap portion (6) being generally adjacent to a flat portion on the container top lip edge rim (the "flat rim portion") (7) when the lid flap (5) is in the closed position so that the flat portions (6 &7) are generally coplanar. If required, the flat lid flap portion (6) may also overlap the "flat rim portion" (7) when the lid flap (5) is in the closed position. When the lid flap (5) is in the closed position, a label or other self adhesive material (8) can be adhered to the flat lid flap portion and the flat rim portion (6 & 7) to achieve a tamper evident seal across these two flat portions.

HOW IT WORKS:

This invention simply produces a generally coplanar area by incorporated into the container's design a "flat lid flap portion" and a "flat rim portion" that co-operate when the lid flap is closed to produce said "generally coplanar" area. Preferably, this "generally coplanar area" will be directly opposite the lid flap's hinged edge (see example "C") when the lid flap is closed, however the "top lip edge rim" at the container's corners (see example "B") or anywhere else on the "top lip edge rim" of the container (see example "A") may be designed to act as the said "flat rim portion" if required. Based on the position of the "flat rim portion", the corresponding "flat lid flap portion" is positioned, formed and shaped to arrive generally coplanar to the "flat rim portion" when the lid flap is closed ("A","B" &"C"). A self-adhesive label or similar sheet material can then be applied to this generally coplanar area, creating a tamper evident seal between the "flat lid flap portion" and the "flat rim portion" ("A", "B" &"C"). In any case, the surface area of both the flat lid portion and the flat rim portion co-operating together to be generally coplanar (as described herewith), would be ample and suitable to apply a self-adhesive label or similar sheet material to in a generally flat fashion and attain tamper evidence. Preferably, the generally coplanar label application area produced by this invention and accompanied container design, would not interfere with any instrument (human or otherwise), used to apply a self-adhesive label in a flat fashion in any known way (e.g. auto-applicator head clearance), therefore being conducive to effective and trouble free label application.

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SCOPE OF THE INVENTION:

Though preferably rectangular or square, prior to incorporating this invention within its design, a container may be of any existing and known shape, size or design/style.

If hang sell is a requirement, the invention's "flat rim portion" may be extended in a direction away from the container's side wall to accommodate a hang sell hole (see example "C").

This invention can be applied to any suitable, hinged lidded container design.

As the container lid may have mechanical locking mechanisms. These locking mechanisms or lugs may be of any suitable, known type and will generally be integrally formed into the lid flap side edges and top lip edge rim, so as to cooperate to lock the lid flap in the closed position. Locking lugs of any known kind may also be positioned on the "flat lid flap portion" and the corresponding "flat rim portion" if required (see example "D")

The container's lid style may also be of any suitable, known type, being generally either "inside fitting" or "outside fitting" in relation to the top lip edge rim circumference when closed.

When the lid flap is closed, the "flat lid flap portion" and the corresponding "flat rim portion" may present at any angle in relation to the container base, lid or sidewalls whilst remaining generally coplanar in relation to each other (see example "E").

When the lid flap is closed, the angle at which the generally coplanar "flat lid flap portion" and corresponding "flat rim portion" present, would preferably result in a suitable area for a self-adhesive label or similar, to be applied by an automated applicator machine (see example "E") in a generally flat fashion.

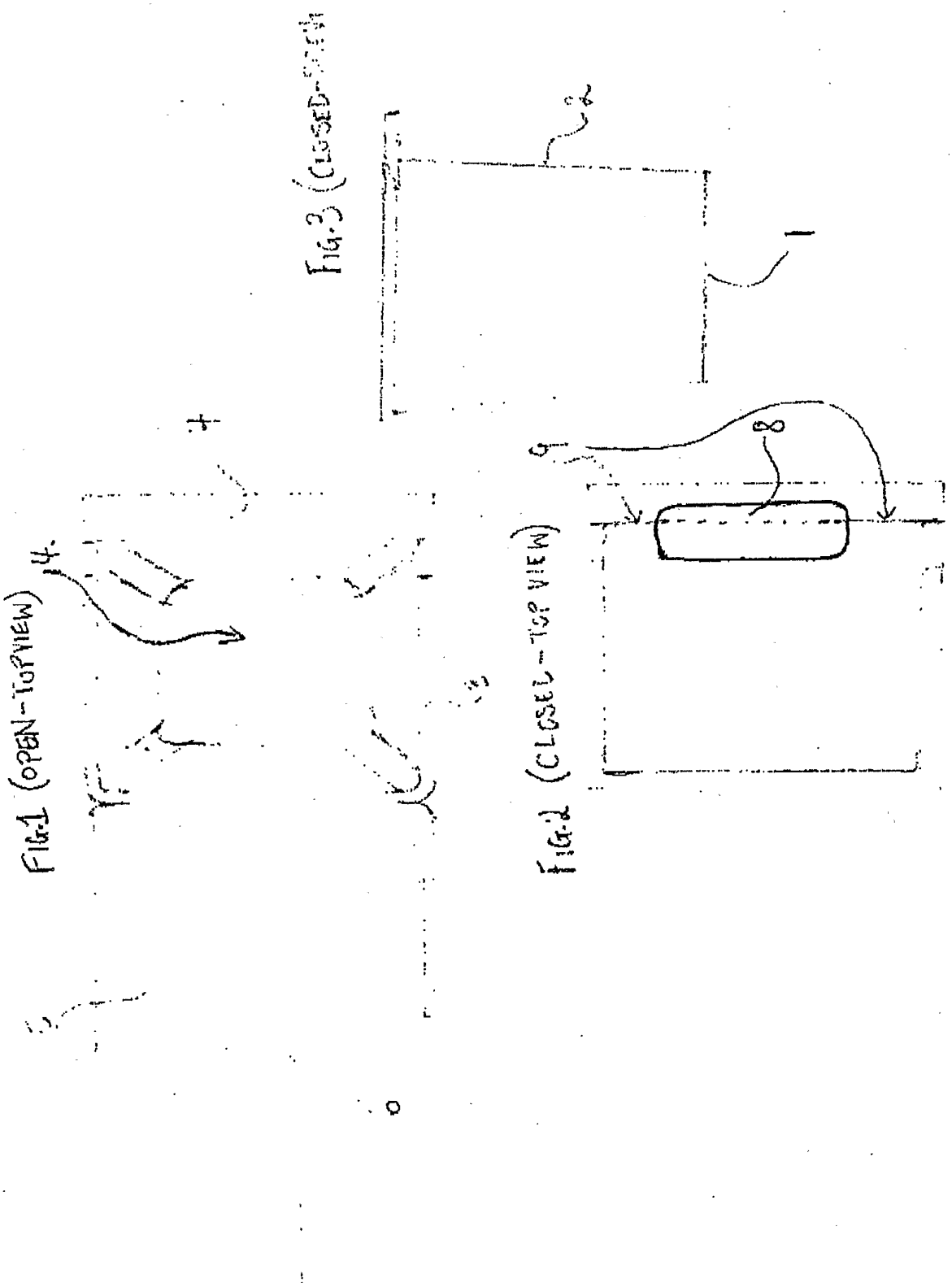
When the lid flap is closed, the "flat lid flap portion" and the corresponding "flat rim portion" are generally adjacent though they may partially overlap if required, whilst remaining generally coplanar in relation to each other.

Although preferably applied to a container top or lid, the invention described herewith may also be applied to a design of a singular, hinged "lid flap portion" and "rim portion", which is orientated by way of design or end use, so as to not be the uppermost part of the container (i.e. the singular, hinged lid flap may actually be on the side or base of the container when in normal use or otherwise).

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FIG EXAMPLE 'E' SHOWS TWO POSSIBLE ANGLES AT WHICH THE FLAT LID PORTION AND THE FLAT RIM PORTION CAN BE COPLANAR AND EFFECTIVE AT FLAT SELF-ADHESIVE LABEL APPLICATION

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 17179/KC/lpm	**FOR FURTHER ACTION**	See Form PCT/IPEA/416
International application No. **PCT/AU2008/000173**	International filing date *(day/month/year)* 12 February 2008	Priority date *(day/month/year)* 12 February 2007

International Patent Classification (IPC) or national classification and IPC

Int. Cl.

B65D 43/00 (2006.01) ***B65D 1/26*** (2006.01) ***B65D 55/06*** (2006.01)
B65D 1/22 (2006.01) ***B65D 53/08*** (2006.01)

Applicant

MAURICE JOSEPH PAUL TABONE

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
   a. [X] *(sent to the applicant and to the International Bureau)* a total of 16 sheets, as follows:
      - [ ] sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
      - [ ] sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

   b. [ ] *(sent to the International Bureau only)* a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:

[X]	Box No. I	Basis of the report
[ ]	Box No. II	Priority
[ ]	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
[X]	Box No. IV	Lack of unity of invention
[X]	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
[ ]	Box No. VI	Certain documents cited
[ ]	Box No. VII	Certain defects in the international application
[ ]	Box No. VIII	Certain observations on the international application

Date of submission of the demand 5 December 2008	Date of completion of this report 30 April 2009
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustralia.gov.au Facsimile No. +61 2 6283 7999	Authorized Officer **JAGDISH WABLE** AUSTRALIAN PATENT OFFICE (ISO 9001 Quality Certified Service) Telephone No. +61 2 6283 2638

Form PCT/IPEA/409 (Cover sheet) (April 2007)

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/AU2008/000173

Box No. I Basis of the report

1. With regard to the **language,** this report is based on: -

[X] The international application in the language in which it was filed

[ ] A translation of the international application into , which is the language of a translation furnished for the purposes of:

- [ ] international search (under Rules 12.3(a) and 23.1 (b))
- [ ] publication of the international application (under Rule 12.4(a))
- [ ] international preliminary examination (Rules 55.2(a) and/or 55.3(a))

2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

[ ] the international application as originally filed/furnished

[X] the description:

pages as originally filed/furnished
pages* **2-4, 6-15** received by this Authority on **5 December 2008** with the letter of **5 December 2008**
pages* **5** received by this Authority on **20 April 2009** with the letter of **20 April 2009**

[X] the claims:

pages as originally filed/furnished
pages* as amended (together with any statement) under Article 19
pages* **16 and 17** received by this Authority on **20 April 2009** with the letter of **20 April 2009**
pages* received by this Authority on with the letter of

[X] the drawings:

pages **1/7-7/7** as originally filed/furnished
pages* received by this Authority on with the letter of
pages* received by this Authority on with the letter of

[ ] a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. [ ] The amendments have resulted in the cancellation of:

- [ ] the description, pages
- [ ] the claims, Nos.
- [ ] the drawings, sheets/figs
- [ ] the sequence listing *(specify)*:
- [ ] any table(s) related to the sequence listing *(specify)*:

4. [ ] This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- [ ] the description, pages
- [ ] the claims, Nos.
- [ ] the drawings, sheets/figs
- [ ] the sequence listing *(specify)*:
- [ ] any table(s) related to the sequence listing *(specify)*:

5. [ ] This report has been established taking into account **the rectification of an obvious mistake** authorized by or notified to the Authority under Rule 91 (Rule 70.2(e)).

* *If item 4 applies, some or all of those sheets may be marked "superseded."*

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Box No. IV Lack of unity of invention

1. ☐ In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional international preliminary examination fees the applicant has, within the applicable time limit:

   ☐ restricted the claims

   ☐ paid additional fees

   ☐ paid additional fees under protest and, where applicable, the protest fee

   ☐ paid additional fees under protest but the applicable protest fee was not paid

   ☐ neither restricted the claims nor paid additional fees

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional international preliminary examination fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:

   ☐ complied with.

   ☒ not complied with for the following reasons:

   This International Application does not comply with the requirements of unity of invention because it does not relate to one invention or to a group of inventions so linked as to form a single general inventive concept.

   In assessing whether there is more than one invention claimed, I have given consideration to those features which can be considered to potentially distinguish the claimed combination of features from the prior art. Where different claims have different distinguishing features they define different inventions.

   This International Searching Authority has found that there are different inventions as follows:

   - Claim 1 and its appended claims are directed to a container. It is considered that the location of at least part of the first planar area of the lid is within a footprint of the internal volume of the containercomprises a first distinguishing feature.

   - Claims 3 and its appended claims are directed to a container. It is considered that the oblique angle between the first planar area of the lid and some or the entire lid and an angle between the second planar area and the rim comprises a second distinguishing feature.

   [See Supplemental Box I]

4. Consequently, this report has been established in respect of the following parts of the international application:

   ☒ all parts.

   ☐ the parts relating to claims Nos.

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Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	**1-14**	**YES**
	Claims	**NONE**	**NO**
Inventive step (IS)	Claims	**1-14**	**YES**
	Claims	**NONE**	**NO**
Industrial applicability (IA)	Claims	**1-14**	**YES**
	Claims	**NONE**	**NO**

2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1-US 5636737
D2-US 6540074
D3-FR 2349182

NOVELTY (N) Claims 1-14 (YES)
The prior art published before the priority date does not disclose a container of claim 1 wherein at least part of the first planar of the lid is within a footprint of the internal volume of the container. It also does not disclose a container of another independent claim 3 wherein the second planar area is inclined at an angle to the rim. Therefore the subject matter of these claims is new and meets the requirements of Article 33(2) of the PCT with regard to novelty.

INVENTIVE STEP (IS) Claims 1-14 (YES)
Claims 1-14 meet the criteria set out in PCT Article 33(3) with regard to the requirement of Inventive Step because the prior art does not obviously suggest to a person skilled in the art a container of claim 1 wherein at least part of the first planar of the lid is within a footprint of the internal volume of the container. It also does not disclose a container of another independent claim 3 wherein the second planar area is inclined at an angle to the rim.

INDUSTRIAL APPLICABILITY (IA) Claims 1-14 (YES)
The invention defined in the claims is considered to meet the requirements of Industrial Applicability under Article 33(4) of the PCT because it can be made by, or used in, industry.

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Supplemental Box I

In case **the space in any of the preceding boxes is not sufficient.**

Continuation of: **Box V**

PCT Rule 13.2, first sentence, states that unity of invention is only fulfilled when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. PCT Rule 13.2, second sentence, defines a special technical feature as a feature which makes a contribution over the prior art.

The only feature common to all of the claims is a container having a base and a lid moveable with respect to the base, the lid having a first planar area and the base having a second planar area, wherein in closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area.. However this concept is not novel in the light of:

D1-US 5636737
D2-US 6540074
D3-FR 2349182
D4-US 5893587

D1 discloses a rectangular container having a base 4, a hinged lid 6 movable with respect to the base between an open position and a closed position, the lid 6 having a first planar area 32 and the base having a second planar area 30, wherein in the closed position, the first and second planar areas include a substantially flat area 33 which is capable of being receiving an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 7).

D2 discloses a rectangular container 1 with a base3 and a hinged lid 2 having a flat area 33 defined by planar areas 30 and 32 that is capable of being receiving an adhesive label, the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 3).

D3 discloses a rectangular container 10 having a base 12 and a lid 14, the adhesive label 24 being stuck on the planar area formed by the base and the lid, (see figure 1), the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 1).

D4 discloses a rectangular container having a base and a hinged lid, an adhesive label 20 stuck on the planar area formed by the base and the lid, the substantially flat area including an edge of the first planar area and at least part of the second planar area (see figure 4)

This means that the common feature can not constitute a special technical feature within the meaning of PCT Rule 13.2, second sentence, since it makes no contribution over the prior art.

Because the common feature does not satisfy the requirement for being a special technical feature it follows that it cannot provide the necessary technical relationship between the identified inventions. Therefore the claims do not satisfy the requirement of unity of invention *a posteriori*.

container having a lid provided in two parts, each part being hinged to the base. When both lids are closed, there is available a generally flat area across the lid edges in the centre of the container top to permit a flat label to be applied. The flat label so applied can act as a tamper evident seal.

While this prior art dual hinged lidded container can work admirably in many applications, there are instances where it is undesirable to apply a label across a join in the centre of a container lid in this manner. For example, the label may obstruct a consumer's view of contents of the container, especially where there is a relatively high label-to-lid area ratio. As another example, on larger containers, a regular sized label may prove inadequate to give a tamper evident seal. If the size of the label were to be increased, this would add to label cost and may prove uneconomical. In other instances, it may be desirable to provide a container with increased security.

It is an object of the present invention, at least in some embodiments, to alleviate some or all of these concerns or, at the least, to provide a useful alternative which is appropriate for containers of different shapes and sizes.

Disclosure of the Invention

Accordingly, in a first aspect, the present invention provides a container having an internal volume, a base having a rim and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area located on an extension of the rim, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area, and wherein at least part of the first planar area of the lid is within a footprint of the internal volume.

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The container of the invention may be made of any suitable material but preferably is a thermoformed, relatively thin plastic material, as is presently known in the art. Examples of suitable thermoformable plastic material are polyvinyl chloride (PVC), polyethylene terephthalate (PET), polypropylene, polyactide (PLA) and biaxially oriented polystyrene (BOPS). The container may be of any desirable shape. Currently, most popular containers of this type are square or rectangular in cross section and these are encompassed by the present invention, along with other shapes.

The base preferably includes a floor and upwardly extending side walls. Preferably, at least one of the side walls ends at the rim on which the second planar area is located. If desired, the rim may include means for supporting the container during the selling process. For example, the rim may include a hang sell hole for "off-shelf" display.

The lid or the base may include ventilation holes, ribs or arches or any other modifications suited to intended contents and/or conditions of sale.

The base and upstanding side walls may define an opening which, in use, is horizontal. However, other variations are possible. For example, the base may define an opening which, in use, is vertical and intended to be closed by a lid in a vertical orientation in use.

The lid is moveable with respect to the base between an open position and a closed position. The lid may be hinged or otherwise attached to the base in any suitable manner. Alternately, the lid may be separate from the base, in which case it may be desirable to have two or more first planar areas on the lid and correspondingly two or more second planar areas on the base if tamper evidence is required.

The lid may be generally flat or it may include shaped portions (such as one or more domes, ribs or arches) in addition to the first planar area. Optionally, the lid may include one or more recessed portions which may be useful for storing items

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which a consumer may require once the container has been opened. Such items may include cutlery, dressings and condiments.

The lid may be of known type, for example an "inside fitting" or an "outside fitting" lid in relation to the base when closed.

The lid may be a single lid or may be a multi-part lid. For example, the invention is applicable to the type of dual-lidded container in Australian patent No. 2003234951. An embodiment is shown in the drawings, below. The lid may have more than two parts.

The lid and/or the base may include any suitable mechanical locking mechanisms, such as one or more projections, each receivable in a recess with an interference-type fit. These may be located on surfaces which, in use, are horizontal or vertical, for example. Another example of a locking mechanism is a channel style lock.

The first planar area is on the lid and preferably is greater than $5cm^2$. The first planar area is preferably located adjacent an edge of the lid since, when a label or other adhesive membrane is applied, at least part of the purpose is to secure the lid to the base. In a preferred embodiment, the first planar area is located opposite a hinged edge of the lid, when the lid is hinged to be base. However, it is to be understood that the invention is not limited to this. The first planar area may be located adjacent any edge of the lid or in any other desired location. For example, the first planar area may be located on a side of the lid (approximately vertical in use.)

The first planar area may be generally parallel to a floor in the base. However, other configurations are possible.

In the first aspect of the invention, at least part of the first planar area is within a footprint of the internal volume of the container. This is illustrated in Figures 1 to 17 and 22 to 27 of the drawings. However, in a second aspect, the first planar area

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The substantially flat area is preferably located at an opposite side of the container to the hinge, or opposite each hinge when there is more than one. However, the invention is not limited to this configuration.

It will be appreciated that when the lid is in the closed position, the substantially flat area is preferably suitable for application of an adhesive membrane, such as a self adhesive label applied by an automated applicator in a generally flat fashion.

While the adhesive membrane is preferably a self adhesive label, it may also take other forms. For example, it may be a heat sealable lidding film of plastic, foil or other sheet material.

If desired, the adhesive membrane may have a perforation or other area of weakness locatable at or adjacent the edge of the first planar area within the substantially flat area. The purpose of this is to simplify opening of the container by the consumer.

If there are two or more first planar areas and second planar areas, the adhesive membrane may be applied to all of these, or some of these, or to one first planar area and one second planar area only.

If desired, the container of the invention may be designed so as to be nestable or stackable with identical or similar containers.

Brief Description of the Drawings

The invention will now be described in relation to certain non-limiting examples thereof in the accompanying drawings, in which:

Figure 1 is a plan view of a first embodiment of container according to the first aspect of the invention, showing a lid, hinged to the base in the open position;

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Figure 2 corresponds to the embodiment in Figure 1, but showing the lid in the closed position;

Figure 3 is a side elevation of the embodiment of Figures 1 and 2, with the lid in the closed position;

Figure 4 is a perspective view of a second embodiment of container according to the first aspect of the invention, having a lid separate from the base;

Figure 5 is an exploded view of the embodiment in Figure 4;

Figure 6 is a detail of the circled portion of Figure 4;

Figure 7 is a top plan view of the embodiment of Figure 4;

Figure 8 is a front elevation of the embodiment of Figure 4;

Figure 9 is a side elevation of the embodiment of Figure 4;

Figure 10 is a top plan view of a further embodiment of the first aspect of the invention in the open position;

Figure 11 is a top plan view of the embodiment of Figure 10, showing the lid in the closed position;

Figure 12 is a top plan view of a further embodiment of the first aspect of the invention in the open position;

Figure 13 is a top plan view of the embodiment of Figure 12 in the closed position;

Figure 14 is a top plan view of a further embodiment of the first spect of the invention in the open position;

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Figure 15 is a top plan view of the embodiment of Figure 14 in the closed position;

Figure 16 is a top plan view of a further embodiment of the first aspect of the invention in the open position;

Figure 17 is a top plan view of the embodiment of Figure 16 in the closed position;

Figure 18 is a side elevation of an embodiment of the second aspect of the invention, where the first and second planar areas are at an angle to the base and lid, the lid being in the open position in this Figure;

Figure 19 shows the embodiment of Figure 18, with the lid in the closed position;

Figure 20 is a side elevation of a further embodiment of the second aspect of the invention where the first and second planar areas are at an angle to the lid and base, showing the open position;

Figure 21 shows the embodiment in Figure 20 in the closed position;

Figure 22 is a top plan view of a further embodiment of the first aspect of the invention wherein the lid is in more than one part, showing the lid parts in the open position;

Figure 23 shows the Figure 22 embodiment with the lid parts in the closed position;

Figure 24 is a top plan view of a further embodiment of the first aspect of the invention , showing the open position;

Figure 25 shows the Figure 24 embodiment in the closed position;

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Figure 26 shows yet a further embodiment of the first aspect of the invention, being a top plan view in the open position; and

Figure 27 shows the Figure 26 embodiment in the closed position.

Detailed Description of the Drawings

Referring first to Figures 1, 2 and 3, the first embodiment of the container of the invention, designated generally as 10, has a base 12 and a lid 14, hinged to base 12 at hinge 16. Rims 15 have ramp portions 17.

Base 12 has upwardly extending sidewalls 18 defining an opening 20 through which products are inserted into container 10 before lid 14 is closed. At the top end of walls 18 of base 12 are rims 22 (refer Figure 1), each of which has a ramp portion 23.

Lid 14 in this embodiment has a first planar area 24 which, in this embodiment, comprises virtually the whole of lid 14. The second planar area is formed by rim portion 26 which, as can be seen in Figure 1, is wider than rims 22. Ramp portion 23 is inclined upwardly from rim 22 to rim 26.

Container 10 has an internal volume having a footprint defined by the inner boundaries of rim 22, ramp portions 23 and extended rim portion 26.

In the closed position, illustrated in Figure 2, first planar area 24, which is within the footprint of the internal volume of container 10, has mated with second planar area - rim 26 - to form a substantially flat area in which edge 28 of lid 14 has mated with rim 26 of base 12, chamfer 30 being formed between them, using ramp portion 23. Adhesive label 32 is shown in place in Figure 2.

As can be seen in Figure 1, sidewalls 18 of base 12 are tapered towards floor 34, corners 36 being rounded as illustrated.

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Margin 15 on lid 14 can include locking means to lock lid 14 to base 12 via rims 22.

Turning now to the second embodiment illustrated in Figures 4 to 9, the container of the invention, designated generally as 40, has a base 42 and a separate lid 44, with upwardly extending side walls 48 defining an opening 50 through which product may be inserted before lid 44 is closed. Base 42 has a rim 52 with a pair of enlarged portions 56, comprising in this embodiment second planar areas.

Lid 44 has a first planar area 54 defined by ribs 38 and edges 55, being within the footprint of the internal volume of container 40.

A single label (not shown) can extend over the whole of first planar area 54 and both second planar areas 56. Alternately, two separate labels may be used, the first covering part of first planar area 54 and one of the adjacent second planar areas 56, while the other covers part of first planar area 54 and the adjacent second planar area 56, leaving free central portion 46 of lid 44.

As shown in Figure 6, each of second planar areas 56 may include an aperture or recess 58. A sharp object may be inserted through a label (not shown) covering first planar area 54, second planar area 56 and aperture 58, to tear the label through aperture 58, to assist in removing lid 44 from base 42.

In this embodiment, lid 44 also includes removal tabs 62, to assist in removing lid 44 from base 42.

Container 40 may include vents (not shown) and depression 64 in floor 66 of base 42, as desired (refer Figure 8). Container 40 may also include one or more recessed portions in lid 44. These may be included in central portion 46 or in another desired location. It is preferred that any such recessed portion is sealed by a label.

A third embodiment is shown in Figures 10 and 11, where container 70 has base 72 hinged to lid 74 at 16. Lid 74 is cut away at 76 and base 72 has flat portions 78.

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As can be seen in Figure 11, when lid 74 is closed on base 72, cut aways 76 leave flat portions 78 exposed. When a label 60, shown in dotted outline in Figure 11, is placed over first planar area 68 of lid 74 and over flat portion 78 (second planar areas) of base 72, lid 74 is effectively sealed to base 72. Flat portions 78 stand proud of rim 22, so that when exposed by cut-outs 76 of lid 74, first planar area 68 is substantially co-planar with flat portions 78. First planar area 68 lies within the footprint of the internal volume of container 70, the internal volume being defined by the inner boundary of rim 22.

The next embodiment in Figures 12 and 13 is similar to that in Figures 10 and 11 and the same numbers have been used to indicate the same or similar parts, with the addition of the letter "a". Whereas in the Figure 10 and 11 embodiment the cut-away portions 76 on lid 74 were centred in an edge of lid 74, in the Figure 12 and 13 embodiment cut-away portions 76a are located in two opposite corners of lid 74a.

Similarly, flat portions 78a are located at corners of base 72a.

As was the case with the previous embodiment, when lid 74a is closed on base 72a, flat portions 78a are substantially co-planar with first planar area 68a, most of which is within the internal volume footprint.

The next embodiment shown in Figures 14 and 15 shows container 80 having base 82 and lid 84. Base 82 has narrow rims 22 and expanded rim 86. Expanded rim 86 includes further portion 88 with hang sell hole 90, to enable container 80 to be displayed on a hanger.

Expanded rim 86 is designed so that, when lid 84 is closed on container 82, expanded rim 86 is substantially co-planar with lid 84, which in this embodiment comprises the first planar area. Most of lid 84 is within the footprint of the internal volume.

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As can be seen in Figure 15, label 60 can be affixed to cover the right hand side of lid 84 and expanded rim 86.

The embodiment in Figures 16 and 17 is similar to that shown in Figures 10 and 11 and 12 and 13. The same labels will be used to designate the same or similar parts, with the addition of the letter "b".

Container 70b has base 72b and lid 74b, hinged at 16. Cut-away 76b on lid 74b is designed to expose flat portion 78b on base 72b in the closed position (Figure 17). Flat portion 78b stands proud of rim 22 so that first planar area 68b is substantially co-planar with flat portion 78b.

This embodiment includes lock lugs 92 designed for a friction fit into lock recesses 94 on base 72b. As can be seen from Figure 17, when label 60 is affixed, it covers not only first planar area 68b and flat portion 78b but also lock lugs 92.

The embodiments in Figures 18 to 21 illustrate the second aspect of the invention, in which the first and second planar areas are disposed at an oblique angle to the lid and to a rim on the base.

Referring first to Figures 18 and 19, container 100 has lid 104 hinged to base 102 at 16. Lid 104 includes extension 106 which, in use, is inclined upwardly at an obtuse angle from lid 104.

Base 102 has rim 22 which has extension 108, in use inclined at an obtuse angle from rim 22.

In the closed position, extension 106 is designed to mate with extension 108. Extension 106 has one or more cut-outs, similar to those already illustrated in Figures 10 to 13 or 16 and 17, so that a flat label 60 applied to extension 106 will bind extension 106 to extension 108, exposed by the cut-out or cut-outs.

The embodiment in Figures 20 and 21 is a variation of that in Figures 18 and 19 and the same labels will be used, with the addition of the letter "a". In this embodiment, lid 104a ends in flat portion 106a. Rim 22 on base 102a has a downwardly extending extension 108a.

In the closed position, extension 106a mates with extension 108a along margin 98 to provide a substantially co-planar surface 96 on which a label 60 (not shown) may be placed to seal lid 104a to base 102a.

It will be apparent to one skilled in the art that the embodiments in Figures 18 to 21 may be adapted to containers with separate lids. In that case, it is preferred that there are two extensions 106 (or 106a) and two extensions 108 (or 108a).

Reference is now made to the embodiment in Figures 22 and 23. In this embodiment, container 110 has base 112 as shown in Figure 22. However, the lid is in two parts, 114a and 114b. Lid part 114a is hinged to base 112 at 16a while lid part 114b is hinged to base 112 at hinge 16b.

Each of lid parts 114a and 114b has a pair of cut-aways, 116a and 116b. When lid parts 114a and 114b are in the closed position as shown in Figure 23, cut-aways 116a and 116b expose flat portions 118 on base 112. Lid parts 114a and 114b may meet or overlap in known manner, for example as described in Australian patent specification No 2003234951, the contents of which are encorporated herein by reference. Nevertheless, each of lid parts 114a and 114b provide a first planar area which is substantially co-planar with flat portion 118 on base 112. In this way, when lid parts 114a and 114b are in the closed position, label 60 can be applied on the substantially flat area so provided. Label 60 is in the first planar areas within the volume footprint.

Referring now the embodiment in Figures 24 and 25, container 130 has base 122 hinged to lid 124 at hinge 16. Lid 124 has diecut holes 126. Lid 124 is generally flat to provide the first planar area. Most of lid 124 is within the volume footprint.

Base 122 has formed sections 128, the top, flat part of which comprise the second planar areas. As can be seen by Figure 25, in the closed position formed sections 128 mate with diecut holes 126 to form a substantially flat surface. A label (not shown) may be applied to cover both formed sections 128 and the intervening part of lid 124. Alternately, separate labels may be applied.

The embodiment in Figures 26 to 27 is similar to that in Figures 24 to 25; however, in container 140 in Figures 26 to 27, base 132 is separate from lid 134. In addition, there are four diecut holes 136 and correspondingly four formed sections 138. Like the embodiment in Figures 24 and 25, when lid 134 which is of the "outside fitting" type, is placed on base 132, sections 138 protrude into diecut holes 136 to provide a substantially flat area for label application.

It will be appreciated from the various embodiments described above that the container of the invention can be produced in a wide number of forms and that, in addition, a single form may be suitable for application of different types of labels. Lids may be hinged or separate.

Lids may be substantially flat or they may be shaped, with ridges, ribs, domes as non-limiting examples of shaping. Especially in the case of substantially flat lids, these may be designed to mate with the base so that the second planar area or areas can appear on, for example, opposing sides of the lid, opposing corners of the lid or on one side of the lid, opposite the hinge. In the case of a lid which is a dual lid, with two hinges, the second planar areas may be on two opposing sides (viewing the closed lid in plan view), or on four corners, for example.

In the case of a separate lid, once again viewing the container in plan view in the closed position, the second planar areas may be in each of four corners, on two opposing sides, on two diagonal corners, around all four sides or separately on each of four sides. These are a selection only of possible combinations. Others will be apparent to one skilled in the art.

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Industrial Applicability

The container of the invention can be adapted to any currently known container design, whether having a single lid or a multi-part lid. The invention allows for manual or high speed automatic closure and flat, self adhesive label application providing tamper evidence, while at the same time employing a minimum number of moving parts.

The container of the invention can offer important tamper evidence capabilities while maintaining minimal obstruction of vision through the container lid. For certain applications, the container of the invention will also allow alternate graphic methods to be successfully used, such as pre-printing, branding and nutritional information onto the lid area, thus reducing label requirements to a smaller, basic tamper evident label only.

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may be disposed at an angle to some or all of the remainder of the lid. Examples are illustrated in Figures 18 to 21 of the drawings, below.

Accordingly, in a second aspect, the invention provides a container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area, and wherein the first planar area is disposed at an oblique angle to some or all of the lid and wherein the base includes a floor and upwardly extending side walls, at least one of which has a rim, and the second planar area is inclined at an angle to the rim.

For both the first and second aspects of the invention, the second planar area is on the base. This may take any suitable form and many variations are possible. The lid may be contoured for a snug fit with the second planar area.

The substantially flat area suitable for receipt of an adhesive membrane includes an edge of the first planar area and at least part of the second planar area. It is intended, or course, that the adhesive membrane (preferably an adhesive label) may be applied to the substantially flat area, connecting the lid and the base in the area of the edge of the first planar area included in the substantially flat area. The first and second planar areas may be adjacent or they may partially overlap. In one view, they may be regarded as generally coplanar, although, strictly speaking, where there is a simple overlap there will be a small step from the first planar area to the second planar area.

The edge of the first planar area may simply abut at least part of the second planar area. In another embodiment, the edge of the first planar area may form a chamfered abutment with at least part of the second planar area. In yet another embodiment, an edge of the first planar area surrounds the second planar area.

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The Claims

1. A container having an internal volume, a base and a lid moveable with respect to the base between an open position and a closed position, the base having a rim, the lid having a first planar area and the base having a second planar area located on an extension of the rim, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area and wherein at least part of the first planar area of the lid is within a footprint of the internal volume.

2. The container of claim 1 wherein the base includes a floor and upwardly extending side walls, at least one of which has the rim.

3. A container having a base and a lid moveable with respect to the base between an open position and a closed position, the lid having a first planar area and the base having a second planar area, wherein, in the closed position, the first and second planar areas include a substantially flat area suitable for receipt of an adhesive membrane, the substantially flat area including an edge of the first planar area and at least part of the second planar area, and wherein the first planar area is disposed at an oblique angle to some or all of the lid and wherein the base includes a floor and upwardly extending side walls, at least one of which has a rim, and the second planar area is inclined at an angle to the rim.

4. The container of any one of claims 1 to 3 which is square or rectangular in cross section.

5. The container of any one of claims 1 to 4 wherein the lid is hinged to the base.

6. The container of any one of claims 1 to 4 wherein the lid is separate from the base.

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7. The container of claim 1 or 2 wherein the lid is in two or more parts, each of which is hinged to the base.

8. The container of claim 5 or 7 wherein the or each hinge is located on one edge of the lid or of each lid and the substantially flat area does not include that edge.

9. The container of any one of claims 1 to 8 wherein the lid and/or the base includes means for mechanical locking.

10. The container of any one of claims 1 to 9 which includes one or more ventilation holes, ribs, depressions or recesses.

11. The container of any one of claims to 1 to 10 which includes a hang sell aperture.

12. The container of any one of claims to 1 to 11 wherein the adhesive membrane is a self-adhesive label.

13. The container of any one of claims 1 to 12 which has a plurality of first planar areas and a plurality of second planar areas.

14. A container substantially as herein described with reference to any one of the accompanying drawings.

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PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
12/449,556	08/12/2009	

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY ☒		OR	OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE ($)	FEE ($)		RATE ($)	FEE ($)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A			N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A			N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A			N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	*	X $ =		OR	X $ =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*	X $ =			X $ =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).						
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))							
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL			TOTAL	

APPLICATION AS AMENDED – PART II

		(Column 1)		(Column 2)	(Column 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
AMENDMENT	08/12/2009	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 17	Minus	** 20	= 0	X $26 =	0	OR	X $ =	
	Independent (37 CFR 1.16(h))	* 2	Minus	***3	= 0	X $110 =	0	OR	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE	0	OR	TOTAL ADD'L FEE	

		(Column 1)		(Column 2)	(Column 3)					
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/CAROL BARNES/

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

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