United States Patent Application

For

An improved container

Prepared by

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Field of the Invention

The present invention relates to containers and more particularly to a container having a body which may be formed from plastic and a lid which may be formed from metal.

Background

Containers having an easy-open-end have been used with a metal lid and container in order to provide a source of merchandising beer and soda for a number of years. These metal containers are formed from cutting metal and folding the metal to an appropriate shape. Metal however does not lend itself well to being molded, and making a new shape by designing a mold out of the sheet of metal is time-consuming and expensive. Thus, it is difficult to achieve any type of design in order to increase the desirability of the package/container with a metal container. However, the pop top lid is very popular with consumers and fairly inexpensive to purchase.

Plastic containers have been molded into various shapes and may include various designs in order to increase the attractiveness of the container.

Summary

A container for storing a liquid or a solid may include a container body having a container side wall and a container bottom, and may include a container lid having an easy-open “pop-top arm” which cooperates with a weakened (scored metal) area which provides access to the interior of the container body. The container may also operate with no lid.

The container body may be formed from plastic and the container lid is formed from metal, and the container body may include a vertical or slightly angled neck.

The container body may include a lip, and the bottom wall may include a center protrusion or concave shape.

The bottom wall may include a depression, and the bottom wall may include a radial extending depression.

Brief Description of the Drawings

The invention may be understood by reference to the following description taken in conjunction with the accompanying drawings, in which, like reference numerals identify like elements, and in which:

Figure 1 illustrates a side view of the container body of the present invention;

Figure 2 illustrates a side view of another container body of the present invention;

Figure 3 illustrates a bottom view of the container body of the present invention;

Figure 4 illustrates a top view of the lids and container body of the present invention;

Figure 5 illustrates a section of the lid and lip of the container body of the present invention;

Figure 6 illustrates another lid for the container body of the present invention.

Detailed Description

The present invention combines the flexibility and desirability of a container body 105 which may be formed from molding plastic or other appropriate material and a metal lid to cooperate with the container body which may include a pop top (or easy-open) lid 131 to provide access to the user of the contents of the container body.

Figure 1 illustrates a side view of the container body 105 which may include a side wall 107 which may extend radially around a periphery of the container body 105 and may include a convex side wall 107 or a concave side wall (not shown). The container body 105 may be shaped as a truncated spherical body. The container body 105 may be hollow in order to provide for a solid or liquid which may be dispensed to the user.

The distal end of the container side wall 107 may be connected to a base/bottom wall 109 in order to seal the first end of the container 105 and the proximate end of the container side wall 107 may be connected to a substantially vertical neck 101 around the periphery of the container side wall 107. An aperture 111 may extend through the vertical neck 101 in order to provide access to the liquid/solid within the container body 105. A lip 103

may extend around the periphery of the substantially vertical neck 101 in order to cooperate with the lid 113 in order to provide a seal so that the liquid or solid within the container body 105 does not leak out.

Figure 2 illustrates a side view of another container body 105a which may include a cylinder side wall 107a which may extend radially around a periphery of the container body 105a and may include a substantially vertical side wall 107a. The container body 105a may be hollow in order to provide for a solid or liquid which may be dispensed to the user.

The distal end of the container side wall 107a may be connected to a base/bottom wall 109 in order to seal the first end of the container 105a and the proximate end of the container side wall 107a may be connected to a substantially vertical neck 101 around the periphery of the container side wall 107. An aperture 111 may extend through the vertical neck 101 in order to provide access to the liquid/solid within the container body 105. A lip 103 may extend around the periphery of the substantially vertical neck 101 in order to cooperate with the lid 113 (not shown in figure 2) in order to provide a seal so that the liquid or solid within the container body 105a does not leak out.

The container body 105, 105a may be formed from molded plastic and may be integral without seams or portions of the container body may be formed from molded plastic in sections which may be glued, welded or otherwise attached together.

Figure 3 illustrates a bottom view of the container body 105 and illustrates the container side wall 107 extending radially outwards and illustrates the bottom wall 109 which may be connected to the container side wall 107. The bottom wall 109 may include a multitude of radially extending depressions 115 which may increase in width as the radial distance from the center increases. The depression 115 may be defined by a depression side wall 117 which extends around the periphery of the depression 115. The bottom wall 109 may include a downward extending protrusion 119 which may be centered with respect to the depressions 115 and the bottom wall 109.

Figure 4 illustrates a top view of the container 100 which may include the container body 105 and the container lid 113 which may be deformable in order to provide access to the contents of the container body 105. The

container lid 113 may extend over the vertical neck 107 and may extend around the lip 103 as illustrated in Figure 5 in order to provide a substantially watertight seal/airtight seal for the contents of the container body 105.

The container lid 113 may be formed from metal such as steel, aluminum or other types of metals and may include a weakened (or scored) area 135 which deforms and provides an opening when the 'pull top' arm 133 which may include an aperture for a finger of the user and may be pivoted by the user. The weakened area 135 may extend substantially across the entire lid 131 to provide a full aperture lid to allow the user to add other contents to the container.

The container body 105 according to the present invention may be made of an appropriate plastic/synthetic resin, typically polyethylene terephthalate (PET) resin. Alternatively, however, the container 105 may be made from polyamid resin, polycarbonate resin, polyacetal resin, polybuthylene terephthalate resin or other synthetic resin having a sufficient resistance to chemicals. The container 1 may be formed by known molding processes,

such as biaxial orientation blow molding process or direct blow molding process or injection blow molding.

Figure 6 illustrates another container lid of the present invention. The container lid 613 may be formed from metal such as steel, aluminum or other types of metals and may include a weakened (or scored) area 635 which deforms and provides an opening when the 'pull top' arm 633 which may include an aperture for a finger of the user and may be pivoted by the user. The weakened area 635 may extend substantially across the entire lid 613 to provide a full aperture lid to allow the user to add other contents to the container.

While the invention is susceptible to various modifications and alternative forms, specific embodiments thereof have been shown by way of example in the drawings and are herein described in detail. It should be understood, however, that the description herein of specific embodiments is not intended to limit the invention to the particular forms disclosed.

Claims

1) A container for storing a liquid or a solid, comprising:

a container body having a container convex side wall and a container bottom;

a container lid having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body;

wherein the container body is formed from plastic and any container lid is formed from metal.

2) A container for storing a liquid or a solid as in claim 1, wherein the container body includes a vertical or angled neck.

3) A container for storing a liquid or a solid as in claim 1, wherein the container body includes a lip.

4) A container for storing a liquid or a solid as in claim 1, wherein the bottom wall includes a center protrusion.

5) A container for storing a liquid or a solid as in claim 1, wherein the bottom wall includes a depression.

6) A container for storing a liquid or a solid as in claim 1, wherein the bottom wall includes a radial extending depression.

7) A container for storing a liquid or a solid as in claim 1, wherein the container body is a truncated spherical shape.

Abstract

A container for storing a liquid or a solid may include a container body having a container side wall and a container bottom and a container lid having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body. The container body may be formed from plastic and the container lid is formed from metal, and the container body may include a vertical neck. The container body may include a lip, and the bottom wall may include a center protrusion. The bottom wall may include a depression, and the bottom wall may include a radial extending depression.

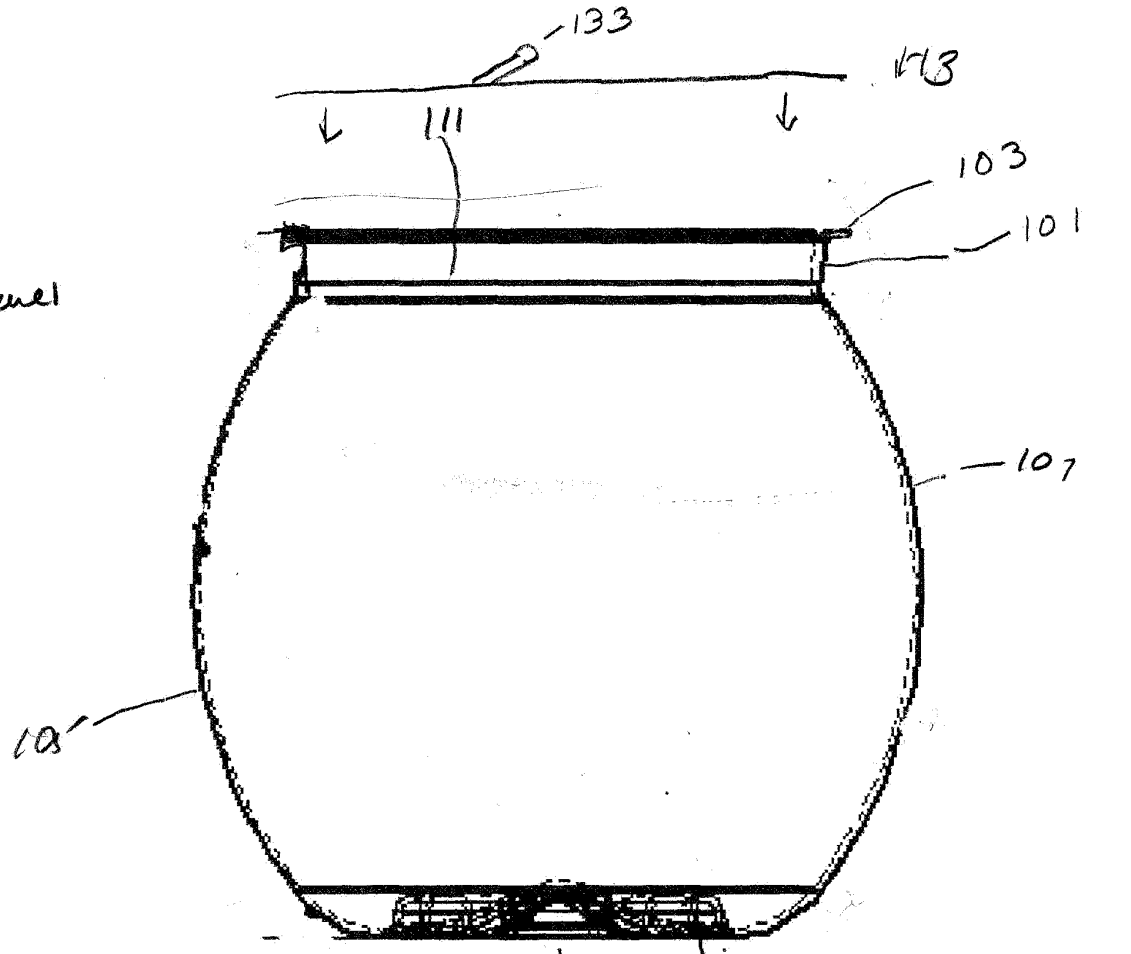


Figure 1

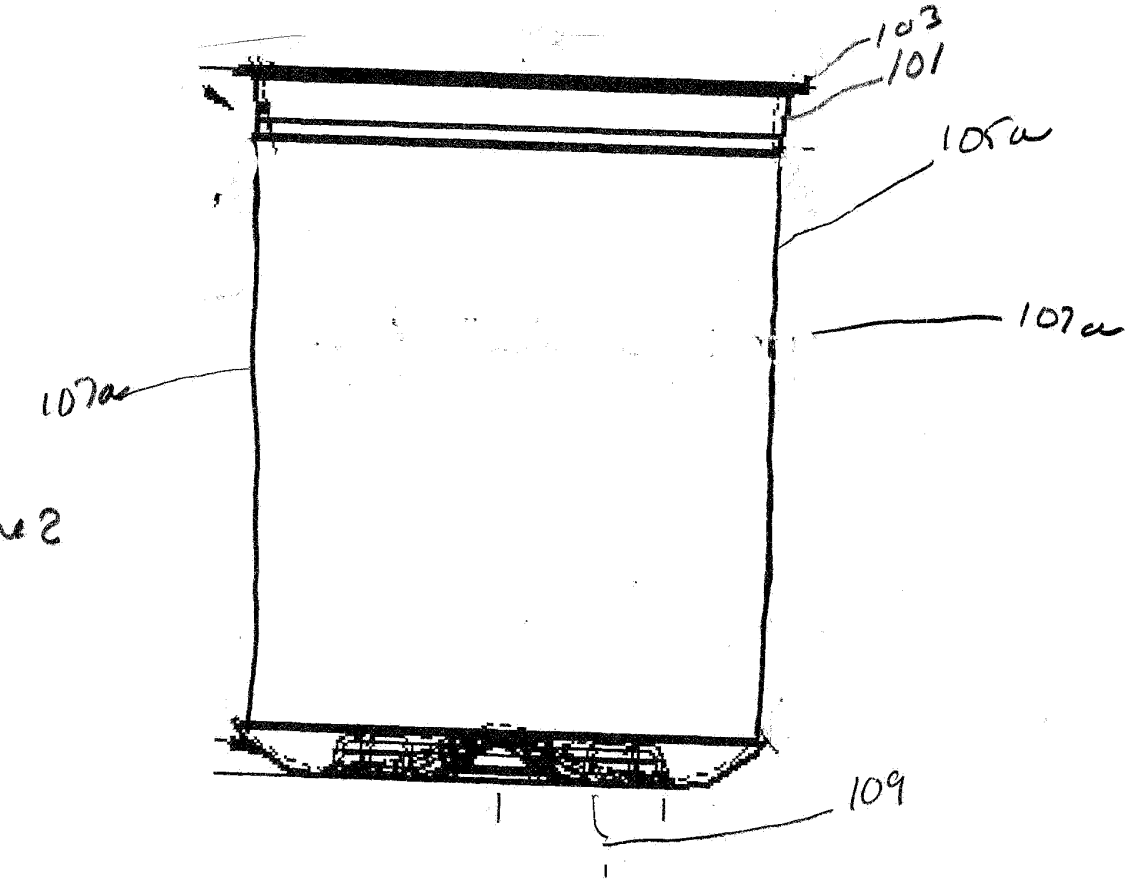


Figure 2

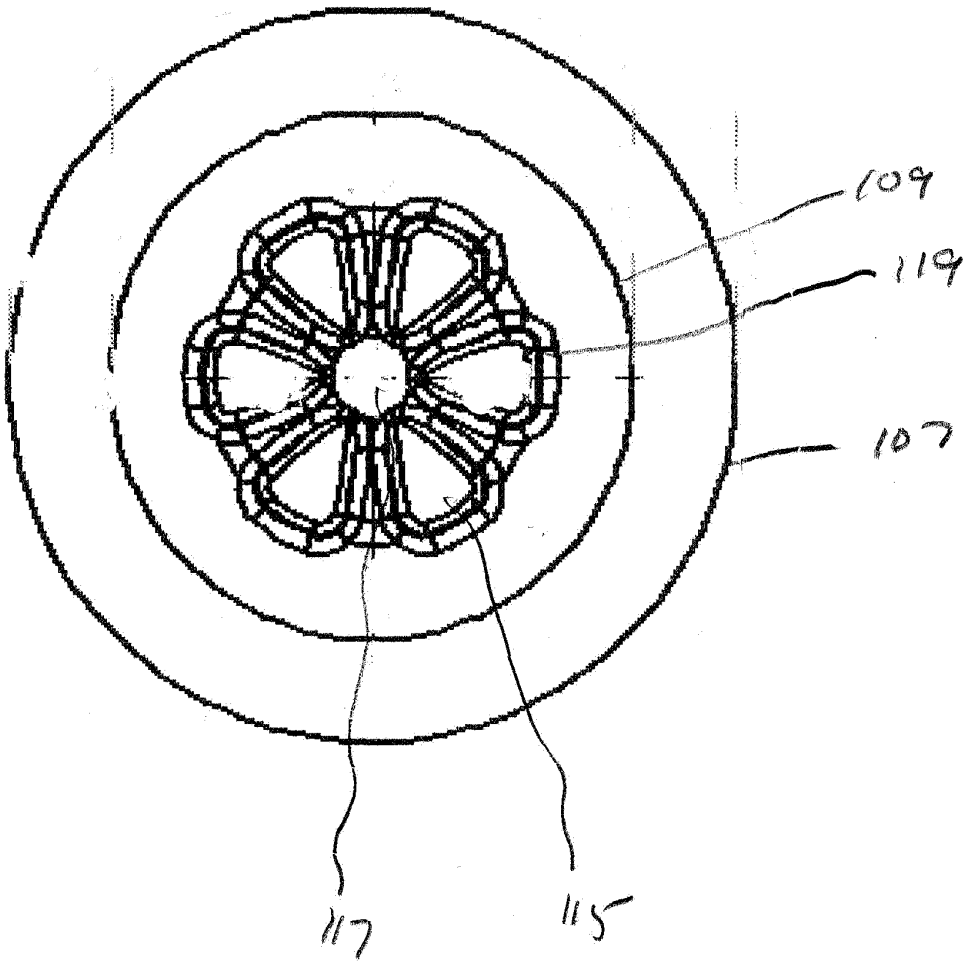


Figure 3

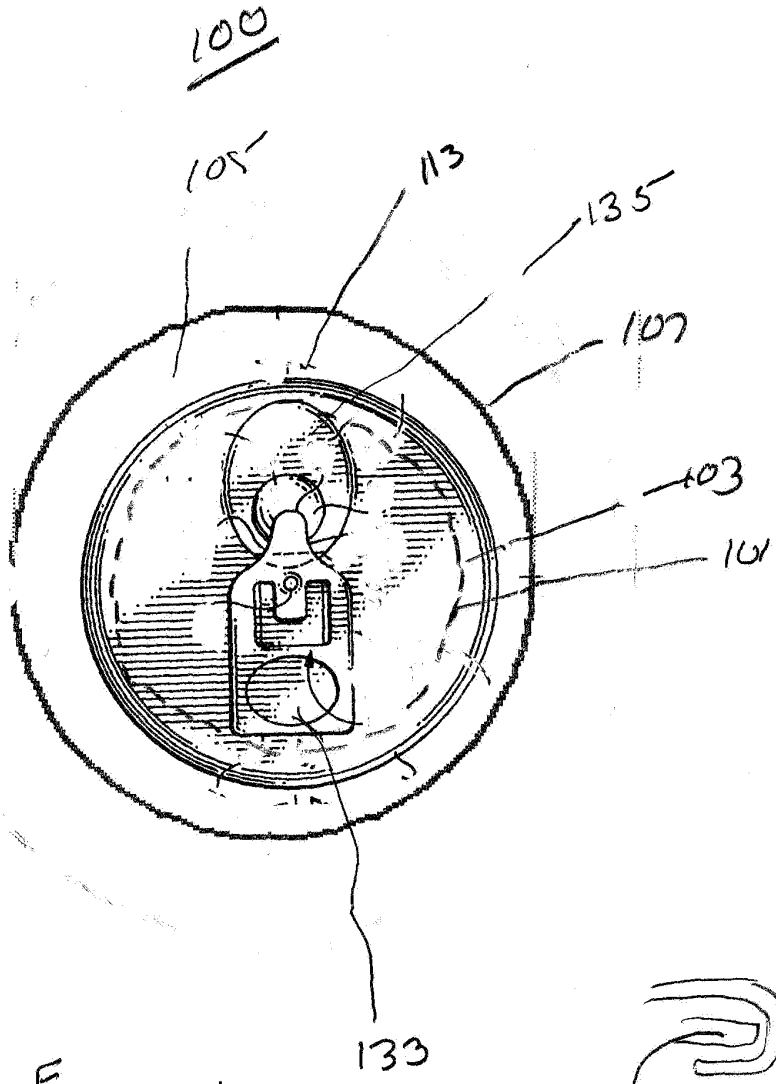


Figure 4

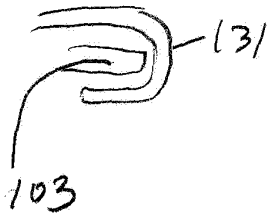


Figure 5

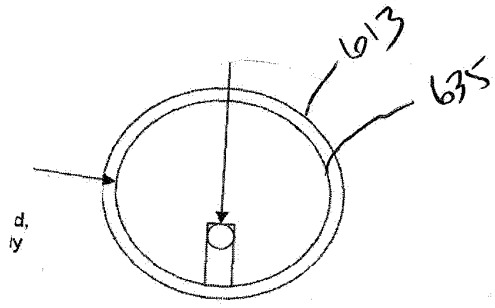


Figure 6

Doc Code: Oath
Document Description: Oath or declaration filed

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DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)

☒ Declaration Submitted With Initial Filing OR ☐ Declaration Submitted After Initial Filing (surcharge (37 CFR 1.16(f)) required)

Attorney Docket Number	WDS-6090
First Named Inventor	Merrilee Kick
COMPLETE IF KNOWN	
Application Number	
Filing Date	
Art Unit	
Examiner Name	

I hereby declare that: (1) Each inventor's residence, mailing address, and citizenship are as stated below next to their name; and (2) I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention titled:

An improved container

(Title of the Invention)

the application of which

☒ is attached hereto

OR

☐ was filed on (MM/DD/YYYY) _____ as United States Application Number or PCT International Application Number _____ and was amended on (MM/DD/YYYY) _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is 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.

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In accordance with 37 CFR 1.14(h)(3), access will be provided to a copy of the above-identified patent application with respect to: 1) the above-identified patent application-as-filed; 2) any foreign application to which the above-identified patent application claims priority under 35 U.S.C. 119(a)-(d) if a copy of the foreign application that satisfies the certified copy requirement of 37 CFR 1.55 has been filed in the above-identified patent application; and 3) any U.S. application-as-filed from which benefit is sought in the above-identified patent application.

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Claim of Foreign Priority Benefits

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached? YES	NO
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐

☐ Additional foreign application number(s) are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

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

NAME OF SOLE OR FIRST INVENTOR:	☐ A petition has been filed for this unsigned inventor
Given Name (first and middle [if any])	Family Name or Surname
Merrilee	Kick
Inventor's Signature: Merrilee Kick	Date: 4-11-10

Residence: City	State	Country	Citizenship
Plano	TX	USA	USA

Mailing Address			
3401 Gary Drive			
City	State	Zip	Country
Plano	TX	75023	USA

☐ Additional inventors or a legal representative are being named on the _____ supplemental sheet(s) PTO/SB/02A or 02LR attached hereto

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	WDS-6090
First Inventor	Merrilee Kick
Title	An improved container
Express Mail Label No.	

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. [✓] **Fee Transmittal Form** (e.g., PTO/SB/17)
2. [✓] **Applicant claims small entity status.** See 37 CFR 1.27.
3. [✓] **Specification** [*Total Pages* 14]
   Both the claims and abstract must start on a new page
   (For information on the preferred arrangement, see MPEP 608.01(a))
4. [✓] **Drawing(s)** (*35 U.S.C. 113*) [*Total Sheets* 3]
5. **Oath or Declaration** [*Total Sheets* 3]
   a. [✓] Newly executed (original or copy)
   b. [ ] A copy from a prior application (37 CFR 1.63(d))
   (for continuation/divisional with Box 18 completed)
   i. [ ] DELETION OF INVENTOR(S)
   Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. [ ] **Application Data Sheet.** See 37 CFR 1.76
7. [ ] **CD-ROM or CD-R** in duplicate, large table or Computer Program *(Appendix)*
   [ ] Landscape Table on CD
8. **Nucleotide and/or Amino Acid Sequence Submission**
   (if applicable, items a. – c. are required)
   a. [ ] Computer Readable Form (CRF)
   b. Specification Sequence Listing on:
      i. [ ] CD-ROM or CD-R (2 copies); or
      ii. [ ] Paper
   c. [ ] Statements verifying identity of above copies

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ACCOMPANYING APPLICATION PARTS

9. [ ] **Assignment Papers** (cover sheet & document(s))
   Name of Assignee_____
10. [ ] **37 CFR 3.73(b) Statement** *(when there is an assignee)* [ ] **Power of Attorney**
11. [ ] **English Translation Document** *(if applicable)*
12. [ ] **Information Disclosure Statement** (PTO/SB/08 or PTO-1449)
    [ ] Copies of citations attached
13. [ ] **Preliminary Amendment**
14. [ ] **Return Receipt Postcard** (MPEP 503)
    (Should be specifically itemized)
15. [ ] **Certified Copy of Priority Document(s)**
    (if foreign priority is claimed)
16. [ ] **Nonpublication Request** under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or equivalent.
17. [ ] Other:_____

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[ ] Continuation [ ] Divisional [ ] Continuation-in-part (CIP) of prior application No.: .....

Prior application information: *Examiner* _____ *Art Unit:* _____

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[✓] The address associated with Customer Number: 63936 ***OR*** [ ] Correspondence address below

Name					
Address					
City		State		Zip Code	
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Signature		Date	4-14-2008
Name (Print/Type)	Wilson Daniel Swayze, Junior	Registration No. (Attorney/Agent)	34, 478

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Electronic Patent Application Fee Transmittal	
Application Number:	
Filing Date:	
Title of Invention:	An improved container
First Named Inventor/Applicant Name:	Merrilee Kick
Filer:	W. Daniel Swayze Jr.
Attorney Docket Number:	WDS-6090
Filed as Small Entity	

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Utility filing Fee (Electronic filing)	4011	1	82	82
Utility Search Fee	2111	1	270	270
Utility Examination Fee	2311	1	110	110
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
		Total in USD ($)		**462**

Electronic Acknowledgement Receipt	
EFS ID:	7443334
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	An improved container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	63936
Filer:	W. Daniel Swayze Jr.
Filer Authorized By:	
Attorney Docket Number:	WDS-6090
Receipt Date:	19-APR-2010
Filing Date:	
Time Stamp:	17:40:50
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$462
RAM confirmation Number	4442
Deposit Account	
Authorized User	

File Listing:

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

1		KickSpecification.pdf	36590 e9e2fddb47f63c5a9b1bdbb7740916a79120d852	yes	14

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Specification	1	11
Claims	12	13
Abstract	14	14

Warnings:					
Information:					
2	Drawings-only black and white line drawings	KickDrawing.pdf	1383525 0c5e0392e41f935650cffbbea44482843a1a264f	no	3
Warnings:					
Information:					
3	Oath or Declaration filed	KickDeclaration.pdf	2829743 9382c8062d56c0dbabfcd8567fac1bfd8cdb4842	no	3
Warnings:					
Information:					
4	Application Data Sheet	KickDataSheet.pdf	1094078 5832a1e5eaeb59551d6defb06d1ee2cd420ee45e	no	1
Warnings:					
Information:					
This is not an USPTO supplied ADS fillable form					
5	Fee Worksheet (PTO-875)	fee-info.pdf	32859 34dfef187d6f827121bc612c565c011bc6c9737e	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	5376795		

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New International Application Filed with the USPTO as a Receiving Office
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PTO/SB/06 (12-04)

Date: 04/19/2010

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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/762,934

APPLICATION AS FILED – PART I

	(Column 1)	(Column 2)	SMALL ENTITY		OR	LARGE 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	82		N/A	
SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	270		N/A	
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	110		N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	7 minus 20 =	0	X $26	0	OR	X $52	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	1 minus 3 =	0	X $110	0		X $220	
APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is $270 ($135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR						
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))			195			390	
			TOTAL	462		TOTAL	

* If the difference in column 1 is less than zero, enter "0" in column 2.

APPLICATION AS AMENDED – PART II

		(Column 1)		(Column 2)	(Column 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
AMENDMENT A	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))					N/A		OR	N/A	
						TOTAL ADD'T FEE		OR	TOTAL ADD'T FEE	

		(Column 1)		(Column 2)	(Column 3)			OR		
		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)		RATE ($)	ADDITIONAL FEE ($)
AMENDMENT B	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))					N/A		OR	N/A	
						TOTAL ADD'T FEE		OR	TOTAL ADD'T FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

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

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/762,934	04/19/2010	3781	462	WDS-6090	7	1

CONFIRMATION NO. 4521

63936
WILSON DANIEL SWAYZE, JR.
3804 CLEARWATER CT.
PLANO, TX 75025

FILING RECEIPT

OC000000041385535

Date Mailed: 05/03/2010

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)

Merrilee Kick, Plano, TX;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/762,934**

Projected Publication Date: To Be Determined - pending completion of Corrected Papers

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Container

Preliminary Class

220

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/762,934	04/19/2010	Merrilee Kick	WDS-6090

CONFIRMATION NO. 4521

63936
WILSON DANIEL SWAYZE, JR.
3804 CLEARWATER CT.
PLANO, TX 75025

FORMALITIES LETTER

OC000000041385536

Date Mailed: 05/03/2010

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 1-4.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

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Application Number	12/767,934
Filing Date	4/19/10
First Named Inventor	Merrilee Kick
Title	Container
Art Unit	
Examiner Name	
Attorney Docket Number	WDS-6090

I hereby revoke all previous powers of attorney given in the above-identified application.

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☒ Firm or individual Name	MerrileeKick
Address	3401 Gary Drive
City	PLANO
State	TX
Zip	75023
Country	USA
Telephone	469-831-2440
Email	Rick@buzzballz.com

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____

SIGNATURE of Applicant or Assignee of Record

Signature	Merrilee Kick	Date	5-15-10
Name	Merrilee Kick	Telephone	469-831-2440
Title and Company	President, BUZZBALLZ LLC		

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*.

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PATENT & TRADEMARK OFFICE

May 27, 2010

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Dear Patent Office,

I have removed my Attorney on this patent application, and have created and/or modified drawings to match the improved container (a plastic container with aluminum can lid).

This is my first patent filing, so I may need some help getting it through the process correctly.

I am enclosing the Patent Application for Utility Patent 12/762,934 along with the drawings. I had to add drawings which meant I had to revise the verbiage in the application to keep things in sync.

Please feel free to call me at 469-831-2440 to help me get this approved as soon as possible. I am going into production in July with this product in the US market, so I need to get protection on the container's design and function.

Thanks for your help.

Sincerely,

Merrilee Kick
3401 Gary Drive
Plano, TX 75023
kick@buzzballz.com
+1-469-831-2440

Best Available Copy

TO:Auto-reply fax to 469 752 9795 COMPANY:

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04/22/2010 05:34 469-752-9795 PLANO WEST PAGE 01

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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	12/762,934
Filing Date	4/19/10
First Named Inventor	Merrilee Kick
Title	Container
Art Unit	
Examiner Name	
Attorney Docket Number	WDS-6090

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State	TX
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Country	USA
Telephone	469-831-2440
Email	kick@buzzballz.com

I am the:
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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	/Merrilee Kick/	Date	5-15-10
Name	Merrilee Kick	Telephone	469-831-2440
Title and Company	President, BUZZBALLZ LLC		

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*.

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PAGE 1/1 * RCVD AT 5/17/2010 4:06:10 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/37 * DNIS:2738300 * CSID:469 752 9795 * DURATION (mm-ss):01-00



United States Patent Application

For

An improved container

Application Number: 12/762,934

Inventor

Merrilee Kick

3401 Gary Drive

Plano 75023

Field of the Invention

The present invention relates to containers and more particularly to a container having a body which may be formed from plastic and a lid which may be formed from metal.

Background

Containers having an easy-open-end have been used with a metal lid and container in order to provide a source of merchandising beer and soda for a number of years. These metal containers are formed from cutting metal and folding the metal to an appropriate shape. Metal however does not lend itself well to being molded, and making a new shape by designing a mold out of the sheet of metal is time-consuming and expensive. Thus, it is difficult to achieve any type of design in order to increase the desirability of the package/container with a metal container. However, the pop top lid is very popular with consumers and fairly inexpensive to purchase. Plastic containers have been molded into various shapes and may include various designs in order to increase the attractiveness of the container.

Summary

A container for storing a liquid or a solid may include a container body having a container side wall and a container bottom, and may include a container lid having an easy-open "pop-top arm" which cooperates with a weakened (scored metal) area which provides access to the interior of the container body. The container may also operate with no lid.

The container body may be formed from plastic and the container lid is formed from metal, and the container body may include a vertical or slightly angled neck. The container body may include a lip, and the bottom wall may include a center protrusion or concave shape. The bottom wall may include a depression, and the bottom wall may include a radial extending depression.

Brief Description of the Drawings

The invention may be understood by reference to the following description taken in conjunction with the accompanying drawings, in which, like reference numerals identify like elements, and in which:

Figure 1 illustrates a side view of the container body of the present invention;

Figure 2 illustrates a side view of another container body of the present invention;

Figure 3 illustrates a bottom view of the container body of the present invention;

Figure 4 illustrates a top view of the lids and container body of the present invention;

Figure 5 illustrates a section of the lid and lip of the container body of the present invention;

Figure 6 illustrates another lid for the container body of the present invention.

Detailed Description

The present invention combines the flexibility and desirability of a container body 105 which may be formed from molding plastic or other appropriate material and a metal lid to cooperate with the container body which may include a pop top (or easy-open) lid 131 to provide access to the user of the contents of the container body.

Figure 1 illustrates a side view of the container body 105 which may include a side wall 107 which may extend radially around a periphery of the container body 105 and may include a convex side wall 107 or a concave side wall (not shown). The container body 105 may be shaped as a truncated spherical body. The container body 105 may be hollow in order to provide for a solid or liquid which may be dispensed to the user.

The distal end of the container side wall 107 may be connected to abase/bottom wall 109 in order to seal the first end of the container 105 and the proximate end of the container side wall 107 may be connected to a substantially vertical neck 101 around the periphery of the container side wall 107. An aperture 111 may

extend through the vertical neck 101 in order to provide access to the liquid/solid within the container body 105. A lip 103 may extend around the periphery of the substantially vertical neck 101 in order to cooperate with the lid 113 (Not shown on Figure 1, but it is seen on Figure 4, 5, and 6) in order to provide a seal so that the liquid or solid within the container body 105 does not leak out.

The container body 105 according to the present invention may be made of an appropriate plastic/synthetic resin, typically polyethylene terephthalate (PET) resin. Alternatively, however, the container 105 may be made from polyamide resin, polycarbonate resin, polyacetal resin, polybuthylene terephthalate resin or other synthetic resin having a sufficient resistance to chemicals. The container may be formed by known molding processes, such as biaxial orientation blow molding process or direct blow molding process or injection blow molding.

Figure 2 illustrates a side view of another container body 105a which may include a cylinder side wall 107a which may extend radially around a periphery of the container body 105a and may include a

substantially vertical side wall 107a. The container body 105a may be hollow in order to provide for a solid or liquid which may be dispensed to the user. The distal end of the container side wall 107a may be connected to a base/bottom wall 109 in order to seal the first end of the container 105a and the proximate end of the container side wall 107a may be connected to a substantially vertical neck 101 around the periphery of the container side wall 107. An aperture 111 may extend through the vertical neck 101 in order to provide access to the liquid/solid within the container body 105. A lip 103 may extend around the periphery of the substantially vertical neck 101 in order to cooperate with the lid 113 (not shown in Figure 2) in order to provide a seal so that the liquid or solid within the container body 105a does not leak out.

The container body of 105a may be formed from molded plastic and may be integral without seams or portions of the container body may be formed from molded plastic in sections which may be glued, welded or otherwise attached together.

The container body 105a according to the present invention may be made of an appropriate plastic/synthetic resin, typically

polyethylene terephthalate (PET) resin. Alternatively, however, the container 105a may be made from polyamide resin, polycarbonate resin, polyacetal resin, polybuthylene terephthalate resin or other synthetic resin having a sufficient resistance to chemicals. The container may be formed by known molding processes, such as biaxial orientation blow molding process or direct blow molding process or injection blow molding.

Figure 3 illustrates a bottom view of the container body and illustrates the container side wall 107 extending radially outwards and illustrates the bottom wall 109 which may be connected to the container side wall 107. The bottom wall 109 may include a multitude of radially extending depressions 115 which may increase in width as the radial distance from the center increases. The depression 115 may be defined by a depression side wall 117 which extends around the periphery of the depression 115. The bottom wall 109 may include a downward extending protrusion 119 which may be centered with respect to the depressions 115 and the bottom wall 109.

Figure 4 illustrates a top view of the container which may include the container body 105 and the container lid 113 which may be deformable in order to provide access to the contents of the container body 105. The container lid 113 may be formed from metal such as steel, aluminum or other types of metals and may include a weakened (or scored) area 135 which deforms and provides an opening when the 'pull top' arm 133 which may include an aperture for a finger of the user and may be pivoted by the user. The weakened/scored area 135 may partially open to provide access to the contents of the container.

Figure 5 illustrates a side view of the container lid 103 which may extend over the vertical neck 107 and may extend around the lip 131 in order to provide a substantially watertight seal/airtight seal for the contents of the container body 105.

Figure 6 illustrates another container lid of the present invention. The container lid 613 may be formed from metal such as steel, aluminum or other types of metals and may include a weakened (or scored) area 635 which deforms and provides an opening

when the 'pull tab' arm 633 which may include an aperture for a finger of the user and may be pivoted by the user. The weakened area 635 may extend substantially across the entire lid 613 to provide a full aperture lid to allow the user to add other contents to the container.

Figure 7 illustrates the thicknesses of the plastic sidewalls, neck and flange. This also illustrates the maximum volume of fluid, and the location for the "fill line" during the container filling process.

Figure 8 illustrates the general dimensions of the rounded container in millimeters (cylindrical container measurements not shown from Figure 2).

Figure 9 illustrates the bottom view of the container.

While the invention is susceptible to various modifications and alternative forms, specific embodiments thereof have been shown by way of example in the drawings and are herein described in detail. It should be

understood, however, that the description herein of specific embodiments is not intended to limit the invention to the particular forms disclosed.

Claims

1. A container for storing a liquid or a solid, comprising of a container body having a container convex side wall and a container bottom;
2. A container lid having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.
3. A container for storing a liquid or a solid as in Claim 1, wherein the container body includes a vertical or angled neck.
4. A container for storing a liquid or a solid as in Claim 1, wherein the container body includes a lip.
5. A container for storing a liquid or a solid as in Claim 1, wherein the bottom wall includes a center protrusion.
6. A container for storing a liquid or a solid as in Claim 1, wherein the bottom wall includes a depression.
7. A container for storing a liquid or a solid as in Claim 1, wherein the bottom wall includes a radial extending depression.

8. A container for storing a liquid or a solid as in Claim 1, wherein the container body is a truncated spherical shape.

Abstract

A container for storing a liquid or a solid may include a container body having a container side wall and a container bottom and a container lid having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body. The container body may be formed from plastic and the container lid is formed from metal, and the container body may include a vertical neck. The container body may include a lip, and the bottom wall may include a center protrusion. The bottom wall may include a depression, and the bottom wall may include a radial extending depression.

Container Shape

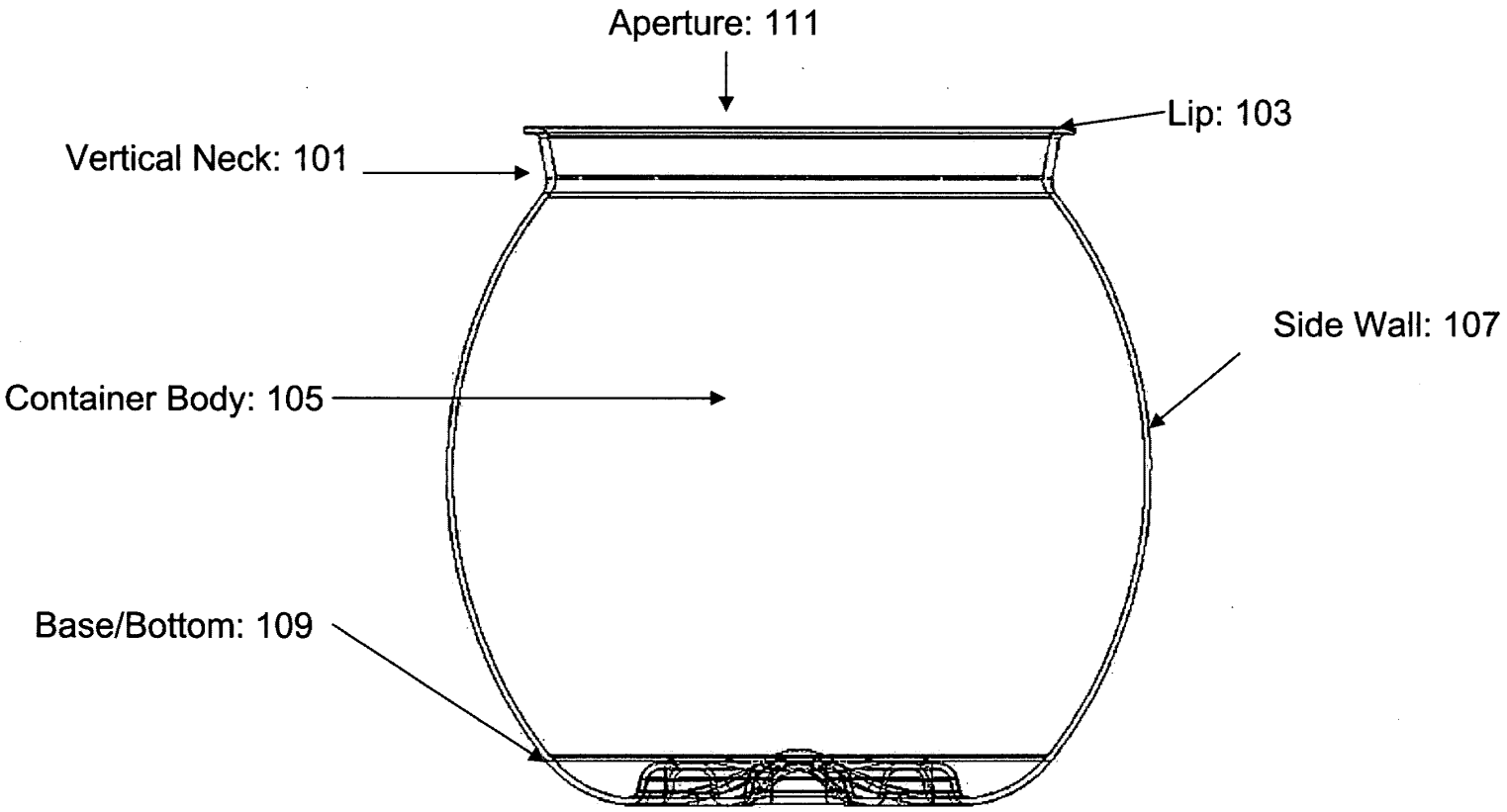


Figure 1

Date: May 22, 2010

Buzzballz, LLC
1711 Briercroft Court, Suite 100
Carrollton, TX 75006
Application Number: 12/762,934

Container Shape

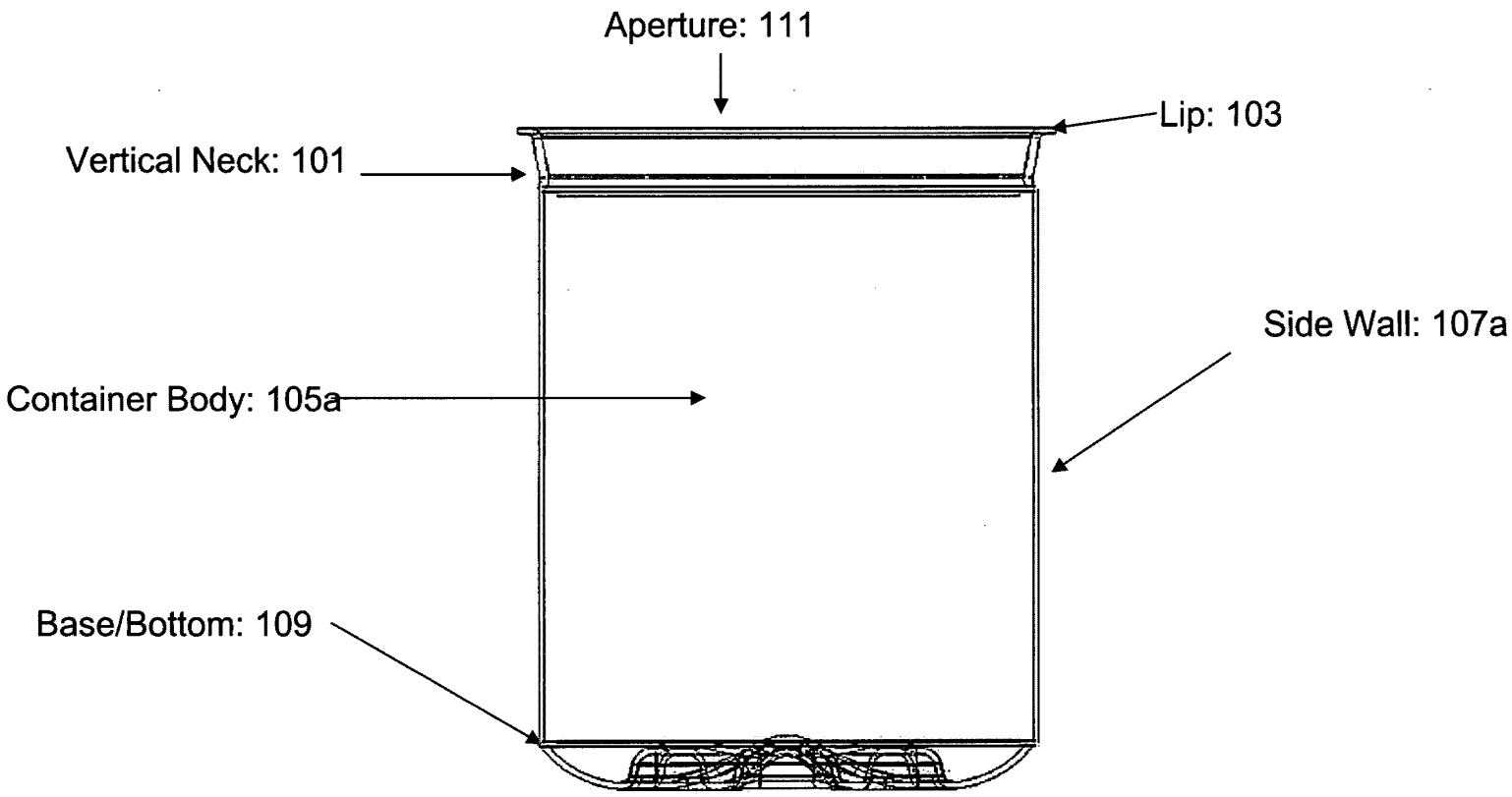


Figure 2

Date: May 22, 2010

Buzzballz, LLC
1711 Briercroft Court, Suite 100
Carrollton, TX 75006
Application Number: 12/762,934

Bottom of Container

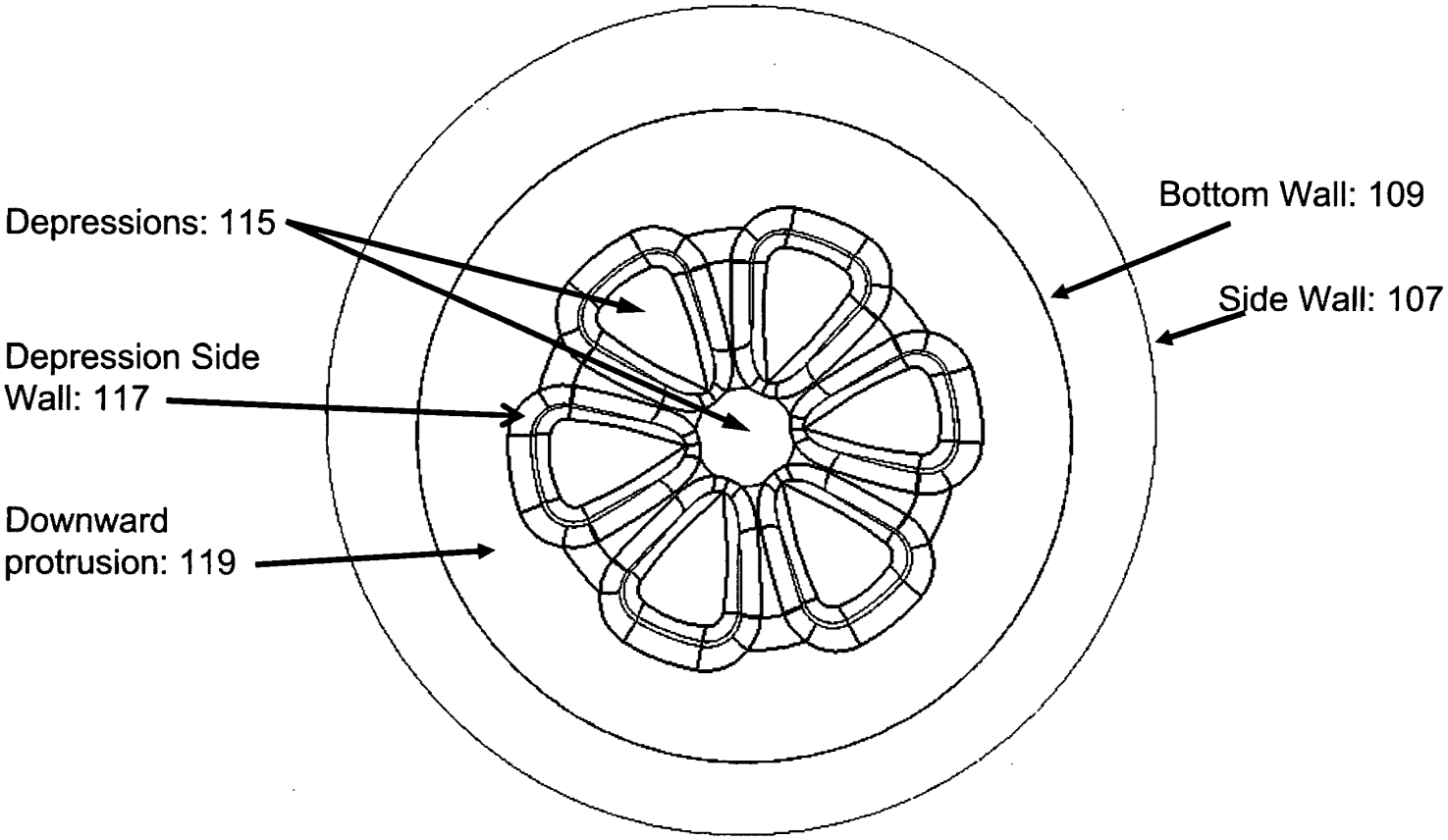


Figure 3

Date: May 22, 2010

Buzzballz, LLC
1711 Briercroft Court, Suite 100
Carrollton, TX 75006
Application Number: 12/762,934

Top View with Easy Open Lid
Partial Aperture (Aluminum)

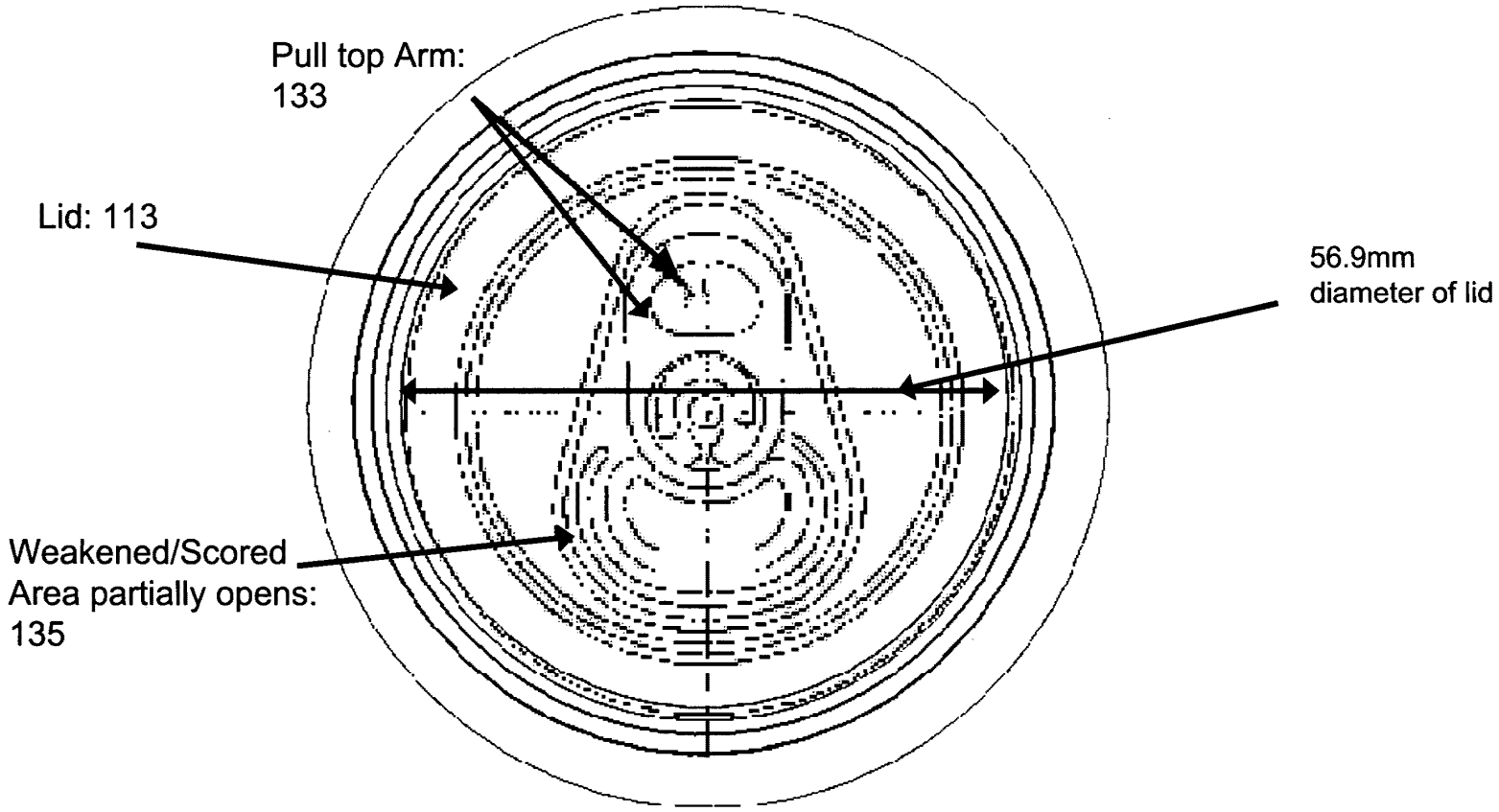


Figure 4

Date: May 22, 2010

Buzzballz, LLC
1711 Briercroft Court, Suite 100
Carrollton, TX 75006
Application Number: 12/762,934

Side View - Lid & Lip of Container

(Note: The lip and lid are enlarged to show hook)

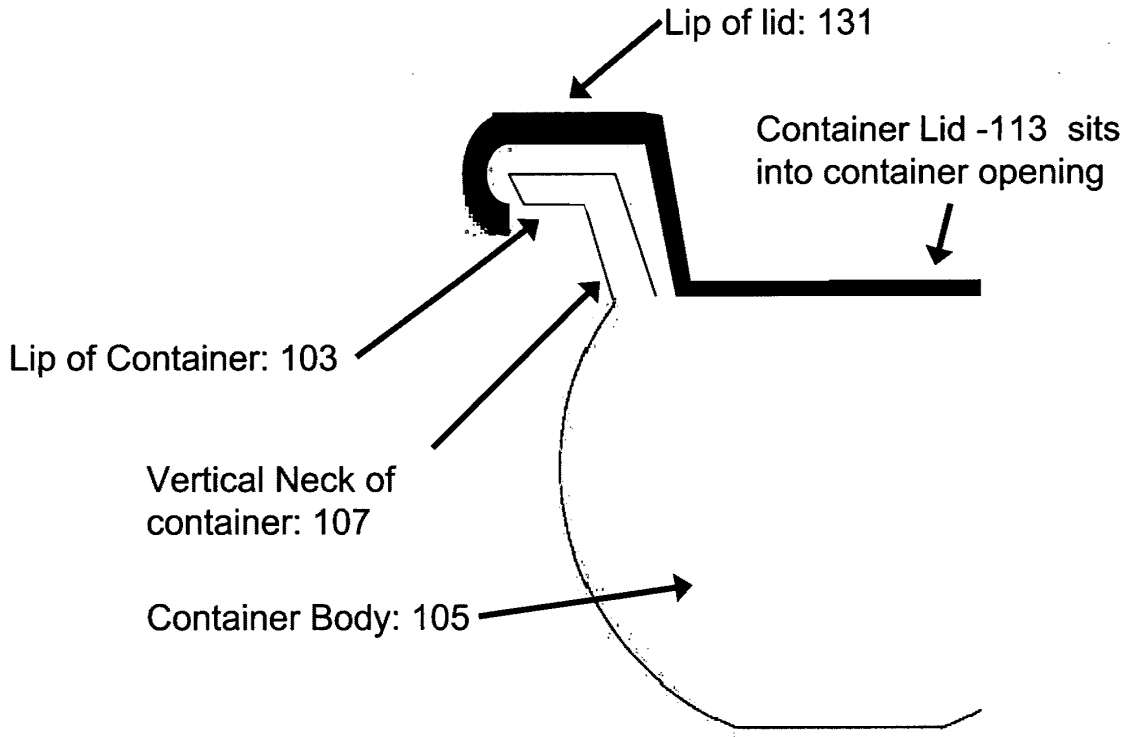


Figure 5

Top View of Container With Easy Open Lid
Fully Open Lid (Aluminum)

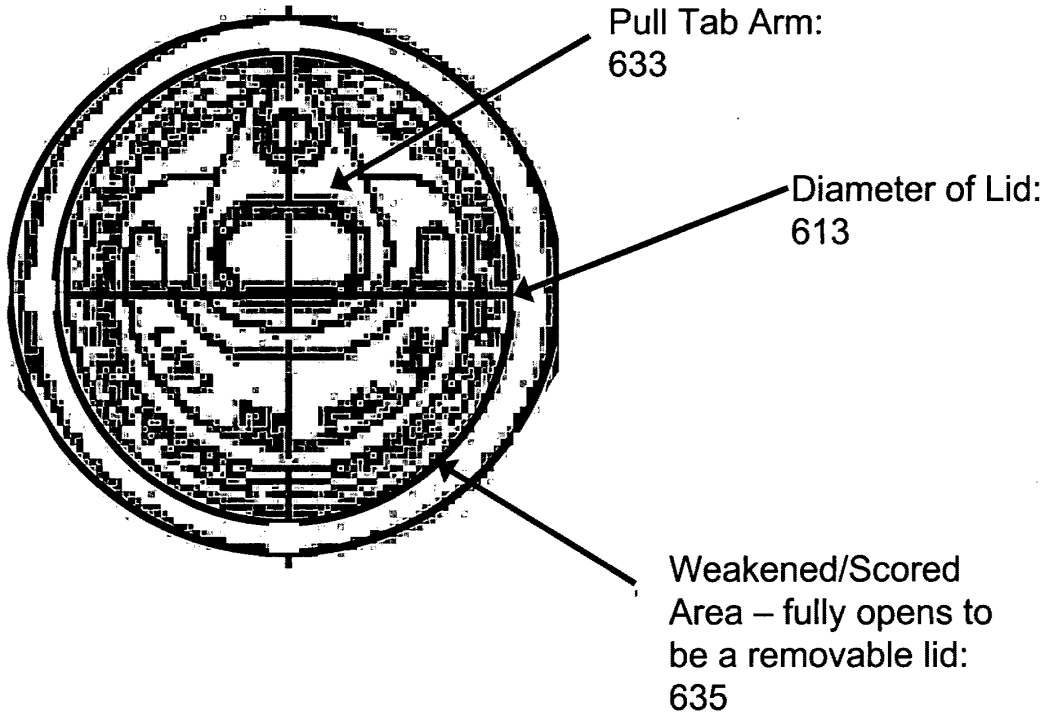


Figure 6

Thickness of Sidewalls & Volume

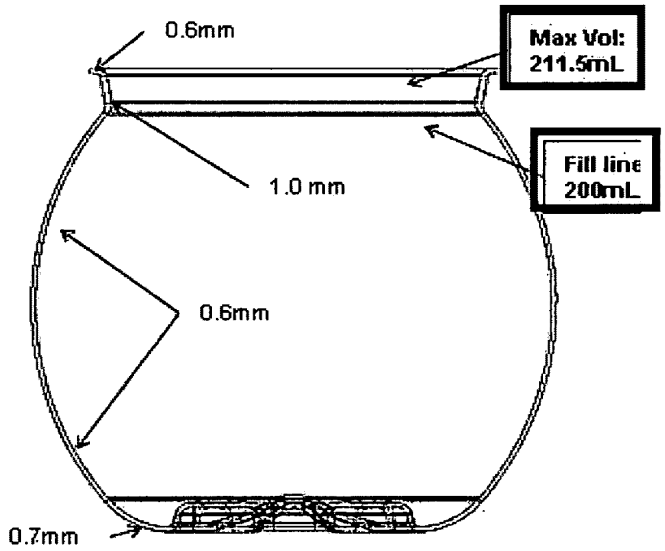


Figure 7

Measurements in Millimeters

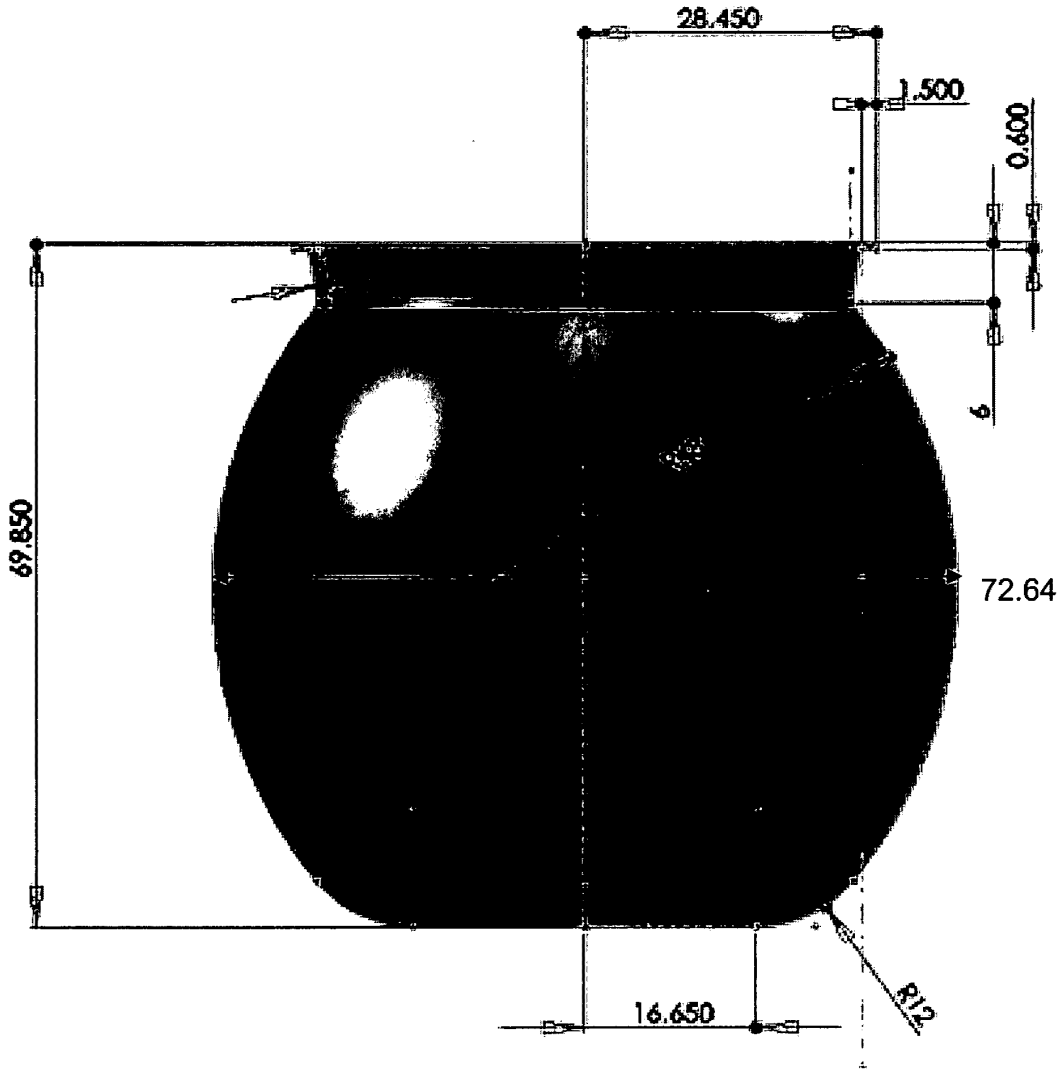


Figure 8

Date: May 22, 2010

Buzzballz, LLC
1711 Briercroft Court, Suite 100
Carrollton, TX 75006
Application Number: 12/762,934

View:
Bottom of Container

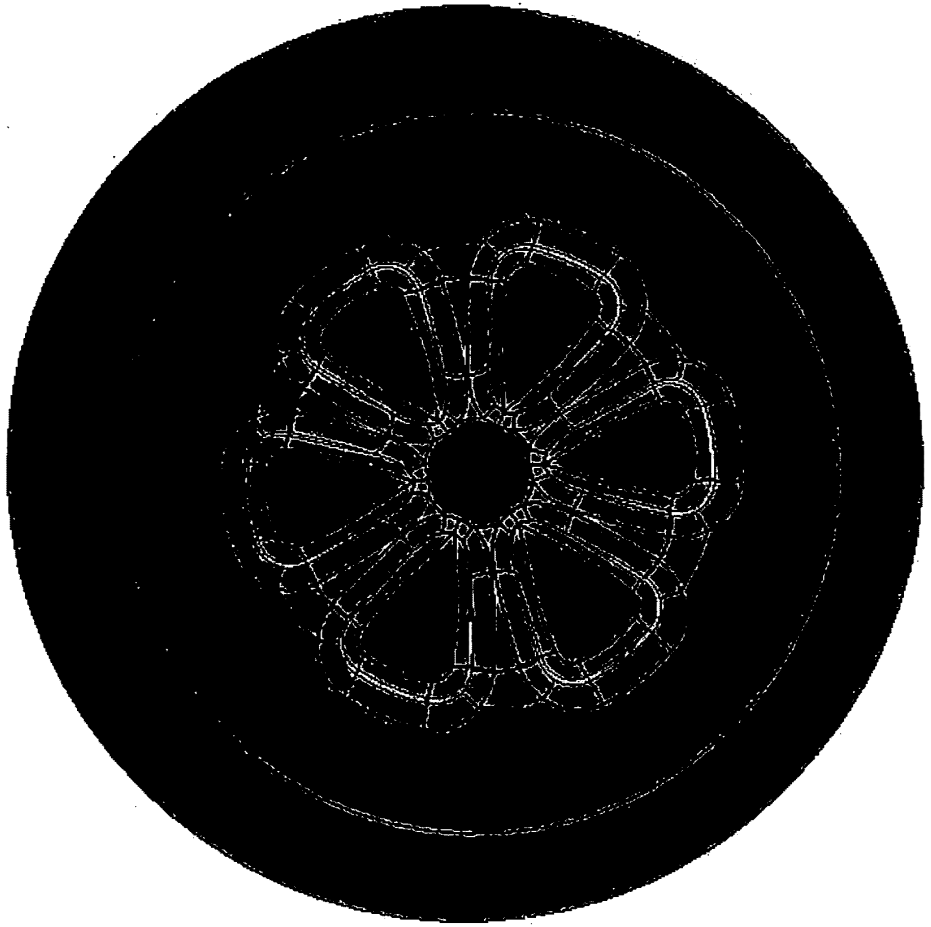


Figure 9

Date: May 22, 2010

Buzzballz, LLC
1711 Briercroft Court, Suite 100
Carrollton, TX 75006
Application Number: 12/762,934

SCORE Placeholder Sheet for IFW Content

Application Number: **12762934** Document Date: **06/01/2010**

The presence of this form in the IFW record indicates that the following document type was received in paper and is scanned and stored in the SCORE database.

- Drawings

Images of the original documents are scanned in gray scale or color and stored in SCORE. Bi-tonal images are also stored in IFW. Defects visible in both IFW and SCORE are indicative of defects in the original paper documents.

To access the documents in the SCORE database, refer to instructions developed by SIRA.

At the time of document entry (noted above):

- Examiners may access SCORE content via the eDAN interface.
- Other USPTO employees can bookmark the current SCORE URL (http://es/ScoreAccessWeb/).
- External customers may access SCORE content via the Public and Private PAIR interfaces.

Form Revision Date: December 8, 2006

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
12/762,934	04/19/2010	3781	462	WDS-6090	7	1

CONFIRMATION NO. 4521

Merrilee Kick
3401 Gary Drive
Plano, TX 75023

UPDATED FILING RECEIPT

OC000000042068009

Date Mailed: 06/22/2010

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)

Merrilee Kick, Plano, TX;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 12/762,934**

Projected Publication Date: 10/20/2011

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Container

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

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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 the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	WDS-6090	4521

7590 09/28/2011

Merrilee Kick
3401 Gary Drive
Plano, TX 75023

EXAMINER	
CASTILLO, KEVIN CHARLES	
ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
09/28/2011	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)	
	12/762,934	KICK, MERRILEE	
	Examiner	Art Unit	
	KEVIN CASTILLO	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 *01 June 2010*.

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 *9/22/2011*; 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) *1-7* is/are pending in the application.

5a) Of the above claim(s) *2* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1 and 3-7* 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 *01 June 2010* 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

Provisional Election

1. During a telephone conversation with Merilee Kick on 9/22/2011 a provisional election was made without traverse to prosecute the invention of the embodiment of Species 1, claims 1, 3, 4, 5, 6, 7. Affirmation of this election must be made by applicant in replying to this Office action. Claim 2 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Election/Restrictions

This application contains claims directed to the following patentably distinct species:

Species I – The embodiment of Fig 1, Fig 2, Fig 3; A container with convex sidewalls and a container bottom.

Species II – The embodiment of Fig 4, Fig 5, Fig 6; A Lid with pop top arm.

The species are independent or distinct because the listed species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, or a single grouping of patentably indistinct species, for prosecution on the merits to which

the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

There is a search and/or examination burden for the patentably distinct species as set forth above because at least the following reason(s) apply:

There is search and/or examination burden for the patentably distinct species due to their mutually exclusive characteristics. The species or groupings of patentably indistinct species require a different field of search (e.g., searching different classes /subclasses or electronic resources, or employing different search strategies or search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or species are likely to raise different non-prior art issues under 35 U.S.C 101 and/or 35 U.S.C. 112, first paragraph. .

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or a grouping of patentably indistinct species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species or grouping of patentably indistinct species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time

of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species or grouping of patentably indistinct species.

Should applicant traverse on the ground that the species, or groupings of patentably indistinct species from which election is required, are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing them to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

2. During a telephone conversation with Merilee Kick on 9/22/2011 a provisional election was made without traverse to prosecute the invention of the embodiment of Species 1, claims 1, 3, 4, 5, 6, 7. Affirmation of this election must be made by applicant in replying to this Office action. Claim 2 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

1. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites the limitation “the container body includes a lip”, however according to Fig 1 the lip is on the neck. Examiner interprets the limitation as "the container body includes a neck, wherein the neck includes a lip."

Claim Rejections - 35 USC § 102

> (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.

1. Claims 1, 3, 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Gallagher et al, US Patent 4936482.

2. Re Claims 1, 3, 4, Gallagher discloses a container for storing a liquid or a solid, comprising of a container body having a container convex side wall [the cylindrical body is made of a convex sidewall; Col 6, Lines 36-45] and a container bottom [50], wherein

the container body includes an angled neck with a lip.

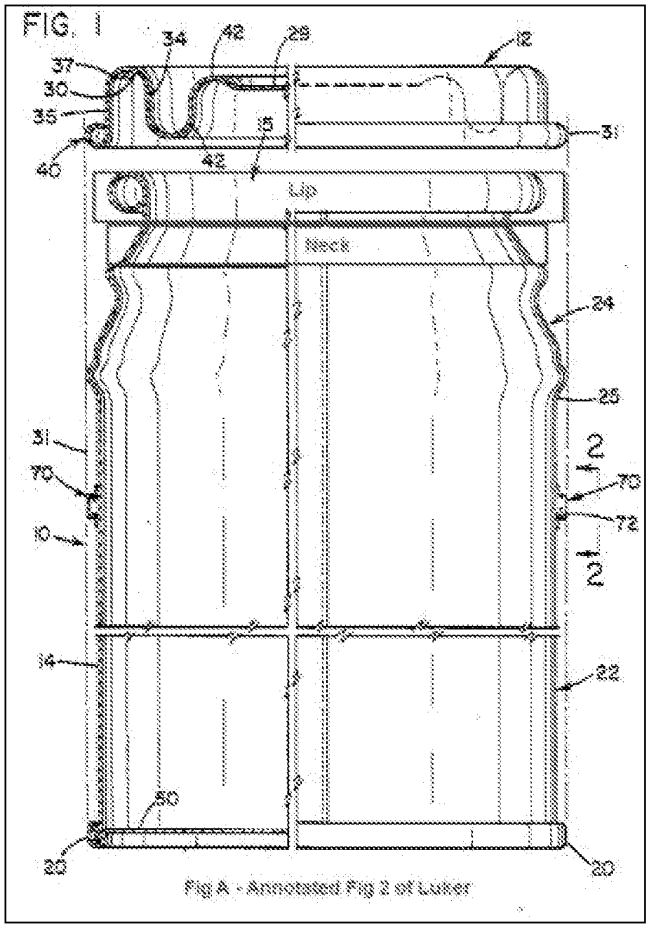
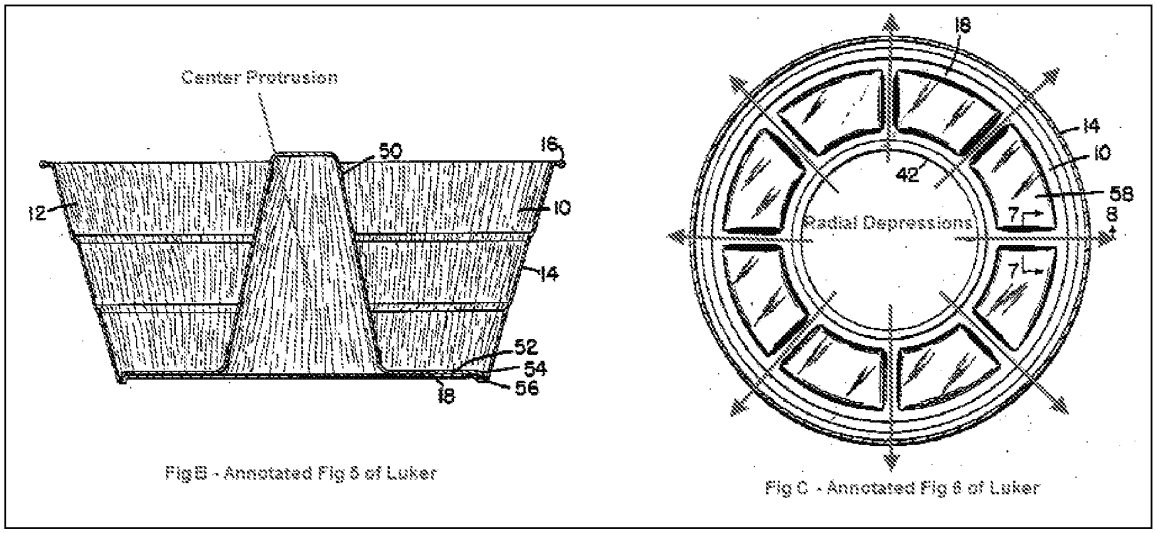


Fig A - Annotated Fig 2 of Luker

3. Claims 1, 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by J.M. Luker, US Patent 3179036.

4. Re Claims 1, 5-7, Luker discloses a container for storing a liquid or a solid, comprising of a container body having a container convex side wall and a container bottom, wherein the container bottom wall includes a center protrusion and the bottom wall includes a depression [Col 3, Lines 43-45], extending radially [Shown in Figs B and C, below].



Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/Anthony Stashick/
Supervisory Patent Examiner, Art Unit 3781

/K. C./
Examiner, Art Unit 3781

Notice of References Cited	Application/Control No. 12/762,934	Applicant(s)/Patent Under Reexamination KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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-4,936,482	06-1990	Gallagher et al.	220/802
*	B	US-3,179,036	04-1965	LUKER JACKSON M	249/134
	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	0	((MERRILEE) near2 (KICK)). INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/21 18:46
S2	0	((MERRILEE) near2 (KICK)). INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/21 18:47
S3	0	((MERRILEE) near2 (KICK)). INV.	EPO; JPO; DERWENT	OR	OFF	2011/09/21 18:47
S4	422	(220/608).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/21 18:47
S5	24	("3744666" | "3900128" | "4078695" | "4397403" | "4417668" | "5062542" | "6050440" | "6443323").PN.	US-PGPUB; USPAT; FPRS; EPO; JPO; DERWENT	OR	OFF	2011/09/22 17:28
S6	780	(220/269).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/22 17:31
S7	860	(220/669).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/22 18:44

S8	684	("0685832" | "0784950" | "1128076" | "1345594" | "1419314" | "1434831" | "1446158" | "1527897" | "1746869" | "1954568" | "1997291" | "2060504" | "2254168" | "2406380" | "2423708" | "2541065" | "2832496" | "2943386" | "3038627" | "3043461" | "3056525" | "3137748" | "3142433" | "3158283" | "3170590" | "3173574" | "3198861" | "3286902" | "3297194" | "3333723" | "3344646" | "3383006" | "3403804" | "3419176" | "3425382" | "3441172" | "3448775" | "3461699" | "3468443" | "3511401" | "3534883" | "3537498" | "3553419" | "3556338" | "3563408" | "3598270" | "3613938" | "3643829" | "3655153" | "3659741" | "3718229" |	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/23 11:17

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BIB DATA SHEET

CONFIRMATION NO. 4521

SERIAL NUMBER	FILING or 371(c) DATE RULE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
12/762,934	04/19/2010	220	3781	WDS-6090

APPLICANTS
Merrilee Kick, Plano, TX;

** **CONTINUING DATA** **********

** **FOREIGN APPLICATIONS** **********

** **IF REQUIRED, FOREIGN FILING LICENSE GRANTED** ** SMALL ENTITY **
04/29/2010

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	/KEVIN CHARLES CASTILLO/ Examiner's Signature	☐ Initials	TX	9	7	1

ADDRESS
Merrilee Kick
3401 Gary Drive
Plano, TX 75023
UNITED STATES

TITLE
Container

FILING FEE RECEIVED		
462	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

BIB (Rev. 05/07).

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	09/23/2011								
	1	✓								
	2	N								
	3	✓								
	4	✓								
	5	✓								
	6	✓								
	7	✓								

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	9/22/2011	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name Search	9/21/2011	KC
Backward/Forward Search	9/23/2011	KC

INTERFERENCE SEARCH			
Class	Subclass	Date	Examiner

/K.C./ Examiner.Art Unit 3781	

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/762,934	04/19/2010	Merrilee Kick	WDS-6090

CONFIRMATION NO. 4521

Merrilee Kick
3401 Gary Drive
Plano, TX 75023

PUBLICATION NOTICE

OC000000050491564

Title: Container

Publication No.US-2011-0253720-A1
Publication Date:10/20/2011

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	WDS-6090	4521

7590 04/25/2012

Merrilee Kick
3401 Gary Drive
Plano, TX 75023

EXAMINER	
CASTILLO, KEVIN CHARLES	
ART UNIT	PAPER NUMBER
3781	

MAIL DATE	DELIVERY MODE
04/25/2012	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.

PTOL-90A (Rev. 04/07)

Notice of Abandonment	Application No.	Applicant(s)
	12/762,934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	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 *28 September 2011*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

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

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

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

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

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

7. ☐ The reason(s) below:

/Anthony Stashick/ Supervisory Patent Examiner, Art Unit 3781	/K. C./ Examiner, Art Unit 3781

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

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (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 displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 11-002009-02

First named inventor: Kick, Merrilee

Application No.: 12/762,934 Art Unit: 3781

Filed: 04/19/2010 Examiner: Castillo, Kevin Charles

Title: CONTAINER

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition Fee

☑ Small entity-fee $ 930.00 (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment And Response To Office Actio (identify type of reply):

☐ has been filed previously on _____.

☑ is enclosed herewith.

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

☐ has been paid previously on _____.

☐ is enclosed herewith.

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

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

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

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

/Kandace D. Walter/	09/12/2012
Signature	Date
Kandace D. Walter	64103
Type or Printed name	Registration Number, If applicable
16610 Dallas Parkway Suite 2000	972-248-8080
Address	Telephone Number
Dallas, Texas 75248	
Address	

Enclosures:

☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

09/12/2012
Date

Signature

Kandace D. Walter
Typed or printed name of person signing certificate

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	12/762,934
Filing Date	04/19/2010
First Named Inventor	Kick, Merrilee
Title	Container
Art Unit	3781
Examiner Name	Castillo, Kevin Charles
Attorney Docket Number	11-002009-02

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith: 80680

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

☒ The address associated with the above-mentioned Customer Number.

OR

☐ The address associated with Customer Number:

OR

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

I am the:

☒ Applicant/inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____

SIGNATURE of Applicant or Assignee of Record

Signature		Date	9/10/12
Name	Kick, Merrilee	Telephone	(469)831-2440
Title and Company	President, Buzzballz, L.L.C.		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 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.

p.1 9722423777 Buzzballz

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Kick, Merrilee	Art Unit	: 3781
Serial No.	: 12/762,934	Examiner	: Castillo, Kevin Charles
Filed	: April 19, 2010		
Title	: Container		

AMENDMENT AND RESPONSE TO OFFICE ACTION

In response to the Office Action mailed September 28, 2011, Applicant has prepared these remarks. Applicant has also amended the claims to emphasize the novelty of the invention. Applicant has amended Claims 1, 3, 4, 5, 6, 7, and 8, withdrawn Claim 2, and added new Claims 9 and 10 to define the invention more particularly and distinctly so as to overcome the technical rejections of Examiner and to define the invention patentably over the prior art. The amendments to this application contain no new matter.

This application was abandoned on April 25, 2012 for failure to respond to the September 28, 2011 Office Action. Applicant's Petition to Revive is also filed along with this Amendment and Response to Office Action.

AMENDMENT TO THE CLAIMS

Please file amendments for Claims 1, 3, 4, 5, 6, 7, and 8. Please withdraw Claim 2. Please add Claims 9 and 10. The following is a listing of all claims associated with this application:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising ~~of~~ a plastic container body having a container convex side wall, ~~and~~ a container bottom wall, and a lid;

2. (WITHDRAWN) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said plastic container body includes a vertical or angled neck.

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~, 3 wherein ~~the~~ said plastic container body includes ~~a lip~~ a neck, wherein said neck includes a lip.

5. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~ 4, wherein ~~the~~ said container bottom wall includes a container bottom and a center protrusion.

6. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~5, where in ~~the~~ said container bottom wall includes a depression on the exterior of said container bottom wall.

7. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~6, wherein ~~the bottom wall includes~~ said depression is a radial extending depression.

8. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~7, where in ~~the~~ said container body is of a truncated spherical shape.

9. (NEW) A container for storing a liquid or solid as in Claim 8, wherein said lid is constructed of a material selected from the group consisting of: plastic, aluminum, tin, and metal.

10. (NEW) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

RESTRICTION REQUIREMENT

On September 22, 2011, Applicant made a provisional election without traverse. Applicant hereby requests that the election be with traverse in order to preserve the right to petition. Species I is the container of the invention while Species II is the lid of the container of Species I. The lid is a part of the container just as the side walls and bottom are components of the container of Species I. Species II is not a separate invention from Species I. The claims have been amended to reflect that the lid is merely a component of the container of Species I.

In addition, Applicant hereby affirms the election of Species I, claims 1, 3, 4, 5, 6, and 7. In addition, claim 2 is withdrawn from further consideration. Claims 1, 3, 4, 5, 6, 7, and 8 have been amended. Applicant has also added new Claims 9 and 10 to more accurately describe the invention based on the language of the specification.

DRAWINGS

Applicant hereby submits Figures 1, 2, 3, 4, and 5 for consideration as part of the existing application. Figure 6 is withdrawn. Figures 1-5 accurately depict the container as described in the specification.

REMARKS

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Examiner rejected claim 4 as indefinite under 35 U.S.C. 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As suggested by the Examiner, Applicant has amended claim 4 to read: "A container for storing a liquid or a solid as in Claim 1, wherein the container body includes a neck, wherein said neck includes a lip."

REJECTION OF CLAIMS 1, 3, 4

Examiner rejected claims 1, 3, and 4 as being anticipated by Gallagher (US Patent 4936482). *Gallagher* does not teach the feature of a convex side wall from the side wall of cylindrical body.

In rejecting the claims, the Examiner states:

> Regarding Claims 1, 3, 4 *Gallagher* discloses a container for storing a liquid or a solid, comprising a container body having a container convex side wall [the cylindrical body is made of a convex sidewall; Col 6, Lines 36-45] and a container bottom [50] wherein the container body includes an angled neck with a lip.[1]

With respect to convex sidewall that makes the cylindrical body, *Gallagher* states:

> Container 10 includes a side wall 14 having an open end 15 and a closed end 16 defined by a bottom wall 18 secured by means of a conventional double seam 20 to closed end 16 of side wall 14. For purpose of explanation, side wall 14 may be further defined as comprising cylindrical body portion 22 and frusto conical rim portion 24. Cylindrical body portion begins at closed end of side wall and terminates at the beginning of frusto conical rim portion 24 which in turn terminates at open end 15 of side wall 14.[2]

Claim 2 of Gallagher states:

> Said container having a generally cylindrical longitudinally extending side wall defined by a configured rim portion adjacent to the end of said container and a generally cylindrical body portion contiguous with and extending from said rim portion towards the bottom of said container.[3]

---

[1] Office Action dated September 28, 2011, page 6.
[2] *Gallagher*, column 6, lines 36-45.
[3] *Gallagher*, column 12, lines 3-8.

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A convex wall is one that is "curved or rounded outward like the exterior of a sphere or circle."[6] Applicant's container wall is convex while Luker's container wall has a straight edge and is not curved like a sphere at all. Luker contains a hollow tube in its center which is quite different from a protrusion, which means to "jut out from the surrounding surface or context."[7] In addition, Applicant's Figure 3 shows that the protrusion is downward, bent toward the exterior. The Luker tube is open towards the interior of the container. In addition, the bottom wall

[4] Kick Application 12/762934, claim 1.
[5] Luker, column 3, lines 71-72, column 4, lines 1-8.
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depression and the radial extending depression are located at different points on Applicant's bottom wall. Luker has a single type of depression consistently spaced around the bottom wall.

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Respectfully submitted,

Date: September 12, 2012

/John T. Wilson/
John T. Wilson
Reg. No. 61,411

Wilson Legal Group P.C.
16610 Dallas Parkway, Suite 2000
Dallas, Texas 75248
Telephone: (972) 248-8080
Facsimile: (972) 248-8088

Electronic Patent Application Fee Transmittal	
Application Number:	12762934
Filing Date:	19-Apr-2010
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Filer:	Kandace DeKeshia Walter
Attorney Docket Number:	WDS-6090
Filed as Small Entity	

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Petition-revive unintent. abandoned appl	2453	1	930	930
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

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

Electronic Acknowledgement Receipt	
EFS ID:	13722515
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Correspondence Address:	Merrilee Kick - 3401 Gary Drive - Plano TX 75023 US 4698312440 kick@buzz.ballz.com
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	WDS-6090
Receipt Date:	12-SEP-2012
Filing Date:	19-APR-2010
Time Stamp:	14:33:33
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$930

RAM confirmation Number	1089
Deposit Account	
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		Kick_Response_Petition.pdf	3176987 d56c3439c2a9922c08fef0c87da40f7f71935340	yes	9

Multipart Description/PDF files in .zip description		
Document Description	**Start**	**End**
Petition for review by the Office of Petitions.	1	2
Power of Attorney	3	3
Amendment After Final	4	9

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	29703 1611aa70779ce0f9cae06f5e92dbb22f20bdaafe	no	2

Warnings:

Information:

Total Files Size (in bytes):	3206690

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.

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (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 displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 11-002009-02

First named inventor: Kick, Merrilee

Application No.: 12/762,934 Art Unit: 3781

Filed: 04/19/2010 Examiner: Castillo, Kevin Charles

Title: CONTAINER

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition Fee

☑ Small entity-fee $ 930.00 (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment And Response To Office Action (identify type of reply):

☐ has been filed previously on _____.

☑ is enclosed herewith.

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

☐ has been paid previously on _____.

☐ is enclosed herewith.

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

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

PTO/SB/84 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

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

/Kandace D. Walter/	09/12/2012
Signature	Date
Kandace D. Walter	64103
Type or Printed name	Registration Number, If applicable
16610 Dallas Parkway Suite 2000	972-248-8080
Address	Telephone Number
Dallas, Texas 75248	
Address	

Enclosures:

☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition; Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

09/12/2012
Date

Signature

Kandace D. Walter
Typed or printed name of person signing certificate

PTO/SB/81 (01-09)
Approved for use through 11/30/2011. 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 OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	12/762,934
Filing Date	04/19/2010
First Named Inventor	Kick, Merrilee
Title	Container
Art Unit	3781
Examiner Name	Castillo, Kevin Charles
Attorney Docket Number	11-002800-02

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

80680

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

☒ The address associated with the above-mentioned Customer Number.

OR

☐ The address associated with Customer Number:

OR

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

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on: _____

SIGNATURE of Applicant or Assignee of Record

Signature		Date	9/10/12
Name	Kick, Merrilee	Telephone	(469)831-2440
Title and Company	President, Buzzballz, L.L.C.		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 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.

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[FILE NO. 11-002009-02] PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Kick, Merrilee
Serial No. : 12/762,934
Filed : April 19, 2010
Title : Container

Art Unit : 3781
Examiner : Castillo, Kevin Charles

AMENDMENT AND RESPONSE TO OFFICE ACTION

In response to the Office Action mailed September 28, 2011, Applicant has prepared these remarks. Applicant has also amended the claims to emphasize the novelty of the invention. Applicant has amended Claims 1, 3, 4, 5, 6, 7, and 8, withdrawn Claim 2, and added new Claims 9 and 10 to define the invention more particularly and distinctly so as to overcome the technical rejections of Examiner and to define the invention patentably over the prior art. The amendments to this application contain no new matter.

This application was abandoned on April 25, 2012 for failure to respond to the September 28, 2011 Office Action. Applicant's Petition to Revive is also filed along with this Amendment and Response to Office Action.

AMENDMENT TO THE CLAIMS

Please file amendments for Claims 1, 3, 4, 5, 6, 7, and 8. Please withdraw Claim 2. Please add Claims 9 and 10. The following is a listing of all claims associated with this application:

PAGE 4/9 * RCVD AT 9/12/2012 3:23:00 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/46 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-18

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising ~~of~~ a plastic container body having a container convex side wall, ~~and~~ a container bottom wall, and a lid;

2. (WITHDRAWN) ~~A container having a pop-top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said plastic container body includes a vertical or angled neck.

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~, 3 wherein ~~the~~ said plastic container body includes ~~a lip~~ a neck, wherein said neck includes a lip.

5. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~ 4, wherein ~~the~~ said container bottom wall includes a container bottom and a center protrusion.

6. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~5, where in ~~the~~ said container bottom wall includes a depression on the exterior of said container bottom wall.

7. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~6, wherein ~~the bottom wall includes~~ said depression is a radial extending depression.

8. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~7, where in ~~the~~ said container body is of a truncated spherical shape.

PAGE 5/9 * RCVD AT 9/12/2012 3:23:00 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/46 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-18

9. (NEW) A container for storing a liquid or solid as in Claim 8, wherein said lid is constructed of a material selected from the group consisting of: plastic, aluminum, tin, and metal.

10. (NEW) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

RESTRICTION REQUIREMENT

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PAGE 7/9 * RCVD AT 9/12/2012 3:23:00 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/46 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-18

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[5] Luker, column 3, lines 71-72, column 4, lines 1-8.
[6] Merriam Webster, Dictionary and thesaurus, available at http://www.merriam-webster.com/dictionary/convex, last visited September 10, 2012, Exhibit A.
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PAGE 8/9 * RCVD AT 9/12/2012 3:23:00 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/46 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-18

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Respectfully submitted,

Date: September 12, 2012

/John T. Wilson/
John T. Wilson
Reg. No. 61,411

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16610 Dallas Parkway, Suite 2000
Dallas, Texas 75248
Telephone: (972) 248-8080
Facsimile: (972) 248-8088

PAGE 9/9 * RCVD AT 9/12/2012 3:23:00 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/46 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-18

PTO/SB/81 (01-09)
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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	12/782,934
Filing Date	04/19/2010
First Named Inventor	Kick, Merrilee
Title	Container
Art Unit	3781
Examiner Name	Castillo, Kevin Charles
Attorney Docket Number	11-002009-02

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith: 80680

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

☒ The address associated with the above-mentioned Customer Number.

OR

☐ The address associated with Customer Number:

OR

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

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____

SIGNATURE of Applicant or Assignee of Record

Signature	/Merrilee Kick/	Date	9/10/12
Name	Kick, Merrilee	Telephone	(469)831-2440
Title and Company	President, Buzzballz, L.L.C.		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 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.

[FILE NO. 11-002009-02] PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Kick, Merrilee
Serial No. : 12/762,934
Filed : April 19, 2010
Title : Container

Art Unit : 3781
Examiner : Castillo, Kevin Charles

AMENDMENT AND RESPONSE TO OFFICE ACTION

In response to the Office Action mailed September 28, 2011, Applicant has prepared these remarks. Applicant has also amended the claims to emphasize the novelty of the invention. Applicant has amended Claims 1, 3, 4, 5, 6, 7, and 8, withdrawn Claim 2, and added new Claims 9 and 10 to define the invention more particularly and distinctly so as to overcome the technical rejections of Examiner and to define the invention patentably over the prior art. The amendments to this application contain no new matter.

This application was abandoned on April 25, 2012 for failure to respond to the September 28, 2011 Office Action. Applicant's Petition to Revive is also filed along with this Amendment and Response to Office Action.

AMENDMENT TO THE CLAIMS

Please file amendments for Claims 1, 3, 4, 5, 6, 7, and 8. Please withdraw Claim 2. Please add Claims 9 and 10. The following is a listing of all claims associated with this application:

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[FILE NO. 11-002009-02] PATENT

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising ~~of~~ a plastic container body having a container convex side wall, ~~and~~ a container bottom wall, and a lid;

2. (WITHDRAWN) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said plastic container body includes a vertical or angled neck.

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~, 3 wherein ~~the~~ said plastic container body includes ~~a lip~~ a neck, wherein said neck includes a lip.

5. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~ 4, wherein ~~the~~ said container bottom wall includes a container bottom and a center protrusion.

6. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~5, where in ~~the~~ said container bottom wall includes a depression on the exterior of said container bottom wall.

7. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~6, wherein ~~the bottom wall includes~~ said depression is a radial extending depression.

8. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~7, where in ~~the~~ said container body is of a truncated spherical shape.

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9. (NEW) A container for storing a liquid or solid as in Claim 8, wherein said lid is constructed of a material selected from the group consisting of: plastic, aluminum, tin, and metal.

10. (NEW) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

RESTRICTION REQUIREMENT

On September 22, 2011, Applicant made a provisional election without traverse. Applicant hereby requests that the election be with traverse in order to preserve the right to petition. Species I is the container of the invention while Species II is the lid of the container of Species I. The lid is a part of the container just as the side walls and bottom are components of the container of Species I. Species II is not a separate invention from Species I. The claims have been amended to reflect that the lid is merely a component of the container of Species I.

In addition, Applicant hereby affirms the election of Species I, claims 1, 3, 4, 5, 6, and 7. In addition, claim 2 is withdrawn from further consideration. Claims 1, 3, 4, 5, 6, 7, and 8 have been amended. Applicant has also added new Claims 9 and 10 to more accurately describe the invention based on the language of the specification.

DRAWINGS

Applicant hereby submits Figures 1, 2, 3, 4, and 5 for consideration as part of the existing application. Figure 6 is withdrawn. Figures 1-5 accurately depict the container as described in the specification.

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[FILE NO. 11-002009-02] PATENT

REMARKS

REJECTION OF CLAIM 4

Examiner rejected claim 4 as indefinite under 35 U.S.C. 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As suggested by the Examiner, Applicant has amended claim 4 to read: "A container for storing a liquid or a solid as in Claim 1, wherein the container body includes a neck, wherein said neck includes a lip."

REJECTION OF CLAIMS 1, 3, 4

Examiner rejected claims 1, 3, and 4 as being anticipated by Gallagher (US Patent 4936482). *Gallagher* does not teach the feature of a convex side wall from the side wall of cylindrical body.

In rejecting the claims, the Examiner states:

> Regarding Claims 1, 3, 4 *Gallagher* discloses a container for storing a liquid or a solid, comprising a container body having a container convex side wall [the cylindrical body is made of a convex sidewall; Col 6, Lines 36-45] and a container bottom [50] wherein the container body includes an angled neck with a lip.[1]

With respect to convex sidewall that makes the cylindrical body, *Gallagher* states:

> Container 10 includes a side wall 14 having an open end 15 and a closed end 16 defined by a bottom wall 18 secured by means of a conventional double seam 20 to closed end 16 of side wall 14. For purpose of explanation, side wall 14 may be further defined as comprising cylindrical body portion 22 and frusto conical rim portion 24. Cylindrical body portion begins at closed end of side wall and terminates at the beginning of frusto conical rim portion 24 which in turn terminates at open end 15 of side wall 14.[2]

Claim 2 of Gallagher states:

> Said container having a generally cylindrical longitudinally extending side wall defined by a configured rim portion adjacent to the end of said container and a generally cylindrical body portion contiguous with and extending from said rim portion towards the bottom of said container.[3]

---

[1] Office Action dated September 28, 2011, page 6.
[2] *Gallagher*, column 6, lines 36-45.
[3] *Gallagher*, column 12, lines 3-8.

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The side wall taught by Gallagher actually creates a straight line, not a convex curve. Applicant's Claim 1 represents a container with convex side wall with overall shape resembling a sphere, not a cylinder.[4]

REJECTION OF CLAIMS 1, 5, 6, 7

Examiner rejected claims 1, 5, 6, and 7 as being anticipated by Luker (US Patent 3179036). Luker is a disposable cake pan with straight edges and a bottom wall with an opening. This is quite different from the construction of Applicant's container. Luker claims "a metal foil bake pan body and a paper heat tube, wherein the pan body has an upstanding side wall and a bottom wall, said bottom wall having a circular central opening therein...said paper heat tube being in the form of a drinking cup having a side wall."[5] Applicant's container has convex side walls, a bottom without mention of a hole or tube, and no paper tube in the center of the container.

A convex wall is one that is "curved or rounded outward like the exterior of a sphere or circle."[6] Applicant's container wall is convex while Luker's container wall has a straight edge and is not curved like a sphere at all. Luker contains a hollow tube in its center which is quite different from a protrusion, which means to "jut out from the surrounding surface or context."[7] In addition, Applicant's Figure 3 shows that the protrusion is downward, bent toward the exterior. The Luker tube is open towards the interior of the container. In addition, the bottom wall

[4] Kick Application 12/762934, claim 1.
[5] Luker, column 3, lines 71-72, column 4, lines 1-8.
[6] Merriam Webster, Dictionary and thesaurus, available at http://www.merriam-webster.com/dictionary/convex, last visited September 10, 2012, Exhibit A.
[7] Merriam Webster, Dictionary and thesaurus, available at http://www.merriam-webster.com/dictionary/protrude , last visited September 10, 2012, Exhibit B.

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depression and the radial extending depression are located at different points on Applicant's bottom wall. Luker has a single type of depression consistently spaced around the bottom wall.

CONCLUSION

For all of the above stated reasons, Applicant submits that the specification and remaining claims are now in proper form, and that the claims all define patentably over the prior art. Therefore Applicant submits that this application is now in condition for allowance which action she respectfully solicits from this Examiner.

Respectfully submitted,

Date: September 12, 2012

/John T. Wilson/
John T. Wilson
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PAGE 9/9 * RCVD AT 9/12/2012 3:02:57 PM [Eastern Daylight Time] * SVR:W-PTOFAX-002/5 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-18

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (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 displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 11-002009-02

First named inventor: Kick, Merrilee

Application No.: 12/762,934 Art Unit: 3781

Filed: 04/19/2010 Examiner: Castillo, Kevin Charles

Title: CONTAINER

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition Fee

☑ Small entity-fee $ 930.00 (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment And Response To Office Action (identify type of reply):

☐ has been filed previously on _____.

☑ is enclosed herewith.

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

☐ has been paid previously on _____.

☐ is enclosed herewith.

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

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

PTO/SB/64 (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 displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____ for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

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

/Kandace D. Walter/	09/12/2012
Signature	Date
Kandace D. Walter	64103
Type or Printed name	Registration Number, if applicable
16610 Dallas Parkway Suite 2000	972-248-8080
Address	Telephone Number
Dallas, Texas 75248	
Address	

Enclosures:

☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

09/12/2012
Date

Signature

Kandace D. Walter
Typed or printed name of person signing certificate

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PTO/SB/06 (07-06)
Approved for use through 1/31/2007. OMB 0651-0032
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PATENT APPLICATION FEE DETERMINATION RECORD

Substitute for Form PTO-875

Application or Docket Number	Filing Date	☐ To be Mailed
12/762,934	04/19/2010	

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY ☒ FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ 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

AMENDMENT	09/12/2012	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 10	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	

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
	☐ 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:
/LISA FULTON/

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/762,934	04/19/2010	Merrilee Kick	11-002009-02

CONFIRMATION NO. 4521

80680
Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 2000
Dallas, TX 75248

POA ACCEPTANCE LETTER

OC000000056621711

Date Mailed: 09/21/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/12/2012.

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.

/mnguyen/

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

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Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas TX 75248

MAILED
NOV 26 2012
OFFICE OF PETITIONS

In re Application of :
MERRILEE KICK :
Application No. 12/762,934 : DECISION ON PETITION
Filed: 04/19/2010 :
Attorney Docket No. 11-002009-02 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 12, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 28, 2011, which set a shortened statutory period for reply of three (3) months. Petitioner did not obtain any extensions of time under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 29, 2011. The Office mailed a Notice of Abandonment on April 25, 2012.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center Art Unit 3781 for appropriate action by the Examiner on the reply received on September 12, 2012.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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80680 e 2013-01-07

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Paper No.

Application No.:	**12/762,934**	**Date Mailed:**	**2013-01-07**
First Named Inventor:	Kick, Merrilee,	Examiner:	CASTILLO, KEVIN CHARLES
Attorney Docket No.:	11-002009-02	Art Unit:	3781
Confirmation No.:	4521	Filing Date:	2010-04-19

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

Commissioner for Patents

PTO-90c (Rev.08-06)

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 12/762,934	Applicant(s) KICK, MERRILEE
		Art Unit 3700

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

The amendment document filed on *12 September, 2012* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period if the non-compliant amendment is an** after-final amendment or an amendment filed after allowance, or a drawing submission (only) If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.
   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable /LISA FULTON/ Telephone No: (571)272-4348

Continuation of 4. Other: 4(C) Claim 2 and 4(E) New Claims should not be underlined claims 9 and 10.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Kick, Merrilee	Art Unit	: 3781
Serial No.	: 12/762,934	Examiner	: Castillo, Kevin Charles
Filed	: April 19, 2010		
Title	: Container		

AMENDMENT AND RESPONSE TO OFFICE ACTION

In response to the Office Action mailed September 28, 2011, Applicant has prepared these remarks. Applicant has also amended the claims to emphasize the novelty of the invention. Applicant has amended Claims 1, 3, 4, 5, 6, 7, and 8, withdrawn Claim 2, and added new Claims 9 and 10 to define the invention more particularly and distinctly so as to overcome the technical rejections of Examiner and to define the invention patentably over the prior art. The amendments to this application contain no new matter.

This application was abandoned on April 25, 2012 for failure to respond to the September 28, 2011 Office Action. Applicant's Petition to Revive is also filed along with this Amendment and Response to Office Action.

AMENDMENT TO THE CLAIMS

Please file amendments for Claims 1, 3, 4, 5, 6, 7, and 8. Please withdraw Claim 2. Please add Claims 9 and 10. The following is a listing of all claims associated with this application:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising ~~of~~ a plastic container body having a container convex side wall, ~~and~~ a container bottom wall, and a lid;

2. (CANCELLED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said plastic container body includes a vertical or angled neck.

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~, 3 wherein ~~the~~ said plastic container body includes ~~a lip~~ a neck, wherein said neck includes a lip.

5. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~ 4, wherein ~~the~~ said container bottom wall includes a container bottom and a center protrusion.

6. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~5, where in ~~the~~ said container bottom wall includes a depression on the exterior of said container bottom wall.

7. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~6, wherein ~~the bottom wall includes~~ said depression is a radial extending depression.

8. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~7, where in ~~the~~ said container body is of a truncated spherical shape.

9. (NEW) A container for storing a liquid or solid as in Claim 8, wherein said lid is constructed of a material selected from the group consisting of: plastic, aluminum, tin, and metal.

10. (NEW) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

RESTRICTION REQUIREMENT

On September 22, 2011, Applicant made a provisional election without traverse. Applicant hereby requests that the election be with traverse in order to preserve the right to petition. Species I is the container of the invention while Species II is the lid of the container of Species I. The lid is a part of the container just as the side walls and bottom are components of the container of Species I. Species II is not a separate invention from Species I. The claims have been amended to reflect that the lid is merely a component of the container of Species I.

In addition, Applicant hereby affirms the election of Species I, claims 1, 3, 4, 5, 6, and 7. In addition, claim 2 is withdrawn from further consideration. Claims 1, 3, 4, 5, 6, 7, and 8 have been amended. Applicant has also added new Claims 9 and 10 to more accurately describe the invention based on the language of the specification.

DRAWINGS

Applicant hereby submits Figures 1, 2, 3, 4, and 5 for consideration as part of the existing application. Figure 6 is withdrawn. Figures 1-5 accurately depict the container as described in the specification.

REMARKS

REJECTION OF CLAIM 4

Examiner rejected claim 4 as indefinite under 35 U.S.C. 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As suggested by the Examiner, Applicant has amended claim 4 to read: "A container for storing a liquid or a solid as in Claim 1, wherein the container body includes a neck, wherein said neck includes a lip."

REJECTION OF CLAIMS 1, 3, 4

Examiner rejected claims 1, 3, and 4 as being anticipated by Gallagher (US Patent 4936482). *Gallagher* does not teach the feature of a convex side wall from the side wall of cylindrical body.

In rejecting the claims, the Examiner states:

> Regarding Claims 1, 3, 4 *Gallagher* discloses a container for storing a liquid or a solid, comprising a container body having a container convex side wall [the cylindrical body is made of a convex sidewall; Col 6, Lines 36-45] and a container bottom [50] wherein the container body includes an angled neck with a lip.[1]

With respect to convex sidewall that makes the cylindrical body, *Gallagher* states:

> Container 10 includes a side wall 14 having an open end 15 and a closed end 16 defined by a bottom wall 18 secured by means of a conventional double seam 20 to closed end 16 of side wall 14. For purpose of explanation, side wall 14 may be further defined as comprising cylindrical body portion 22 and frusto conical rim portion 24. Cylindrical body portion begins at closed end of side wall and terminates at the beginning of frusto conical rim portion 24 which in turn terminates at open end 15 of side wall 14.[2]

Claim 2 of Gallagher states:

> Said container having a generally cylindrical longitudinally extending side wall defined by a configured rim portion adjacent to the end of said container and a generally cylindrical body portion contiguous with and extending from said rim portion towards the bottom of said container.[3]

---

[1] Office Action dated September 28, 2011, page 6.
[2] *Gallagher*, column 6, lines 36-45.
[3] *Gallagher*, column 12, lines 3-8.

The side wall taught by Gallagher actually creates a straight line, not a convex curve. Applicant's Claim 1 represents a container with convex side wall with overall shape resembling a sphere, not a cylinder.[4]

REJECTION OF CLAIMS 1, 5, 6, 7

Examiner rejected claims 1, 5, 6, and 7 as being anticipated by Luker (US Patent 3179036). Luker is a disposable cake pan with straight edges and a bottom wall with an opening. This is quite different from the construction of Applicant's container. Luker claims "a metal foil bake pan body and a paper heat tube, wherein the pan body has an upstanding side wall and a bottom wall, said bottom wall having a circular central opening therein…said paper heat tube being in the form of a drinking cup having a side wall."[5] Applicant's container has convex side walls, a bottom without mention of a hole or tube, and no paper tube in the center of the container.

A convex wall is one that is "curved or rounded outward like the exterior of a sphere or circle."[6] Applicant's container wall is convex while Luker's container wall has a straight edge and is not curved like a sphere at all. Luker contains a hollow tube in its center which is quite different from a protrusion, which means to "jut out from the surrounding surface or context."[7] In addition, Applicant's Figure 3 shows that the protrusion is downward, bent toward the exterior. The Luker tube is open towards the interior of the container. In addition, the bottom wall

[4] Kick Application 12/762934, claim 1.
[5] Luker, column 3, lines 71-72, column 4, lines 1-8.
[6] Merriam Webster, Dictionary and thesaurus, available at http://www.merriam-webster.com/dictionary/convex, last visited September 10, 2012, Exhibit A.
[7] Merriam Webster, Dictionary and thesaurus, available at http://www.merriam-webster.com/dictionary/protrude , last visited September 10, 2012, Exhibit B.

depression and the radial extending depression are located at different points on Applicant's bottom wall. Luker has a single type of depression consistently spaced around the bottom wall.

CONCLUSION

For all of the above stated reasons, Applicant submits that the specification and remaining claims are now in proper form, and that the claims all define patentably over the prior art. Therefore Applicant submits that this application is now in condition for allowance which action she respectfully solicits from this Examiner.

Respectfully submitted,

Date: September 12, 2012

/John T. Wilson/
John T. Wilson
Reg. No. 61,411

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Electronic Acknowledgement Receipt	
EFS ID:	14628317
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Sul Lee
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	07-JAN-2013
Filing Date:	19-APR-2010
Time Stamp:	13:02:44
Application Type:	Utility under 35 USC 111(a)

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	Applicant Response to Pre-Exam Formalities Notice	Response_to_Office_Action_Buzzballz.pdf	1681858 3f92f09fa5c686d70df6d3b337b40ed0853524d5	no	6

Warnings:
Information:

Total Files Size (in bytes):	1681858

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	Filing Date	☐ To be Mailed
12/762,934	04/19/2010	

APPLICATION AS FILED – PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	SMALL ENTITY ☒ RATE ($)	SMALL ENTITY ☒ FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY FEE ($)
☐ 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

AMENDMENT	01/07/2013	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	SMALL ENTITY RATE ($)	SMALL ENTITY ADDITIONAL FEE ($)	OR	OTHER THAN SMALL ENTITY RATE ($)	OTHER THAN SMALL ENTITY ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 9	Minus	** 20	= 0	X $31 =	0	OR	X $ =	
	Independent (37 CFR 1.16(h))	* 1	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	

AMENDMENT		(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)	OR	RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=	X $ =		OR	X $ =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=	X $ =		OR	X $ =	
	☐ 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:
/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.**
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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 02/07/2013

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

EXAMINER	
CASTILLO, KEVIN CHARLES	
ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
02/07/2013	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):

john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No.	Applicant(s)	
	12/762,934	KICK, MERRILEE	
	Examiner	Art Unit	
	KEVIN CASTILLO	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 *07 January 2013*.

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 and 3-10* 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, 3-10* 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).

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) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

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

4) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Regarding Applicant's request to the traversal, MPEP 818.01 states "Election becomes fixed when the claims in an application have received an action on their merits by the Office." In the instant Application, Applicant elected on September 22, 2011 without traverse, because an action has been received on the merits, the election without traverse is fixed.

Claim Rejections - 35 USC § 102

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

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

2. Claims 1, 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida, Japanese Patent Publication JP105032248A.

3. Re Claim 1, Yoshida discloses a container for storing a liquid or a solid, comprising a plastic container body [Abstract] having a container convex side wall [sidewall is convex], a container bottom wall [18], and a lid [76].

4. Re Claim 3, Yoshida discloses the plastic container body [abstract] includes a vertical or angled neck [12].

5. Re Claim 4, Yoshida discloses the plastic container body including a neck [12], wherein said neck includes a lip [11].

6. Re Claim 5, Yoshida discloses the container bottom wall [18] including a container bottom [18] and a center protrusion [21].

7. Re Claim 6, Yoshida discloses the container bottom wall [18] including a depression [l, j e, g, c, and like recesses; Fig 2] on the exterior of said container bottom wall.

8. Re Claim 7, Yoshida discloses said depression [l, j e, g, c, and like recesses; Fig 2] is a radial extending depression [as shown in Fig 2].

Claim Rejections - 35 USC § 103

9. 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.

10. 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.

11. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida Japanese Patent Publication JP105032248A, as applied to Claim 7, in view of O'Day, Jr., US Patent 7051892.

12. Re Claim 8, Yoshida discloses all the limitations substantially as claimed. Yoshida does not disclose the container body formed of a truncated spherical shape.

13. However, O'Day teaches a plastic, blow-molded, disposable bottle that can be formed of many different shapes and sizes depending on the prescribed use or aesthetic appearance desired [at least Abstract; Figs 1-21].

14. Re Claim 9, Yoshida in view of O'Day disclose all the limitations substantially as claimed. Yoshida further discloses the lid constructed of a material selected from the group consisting from the group consisting of: plastic, aluminum, tin, and metal [76, Metal Lid].

15. Re Claim 10, Yoshida in view of O'Day disclose all the limitations substantially as claimed. Yoshida further discloses the lid positioned within the interior edges of said lip [as shown in Fig 7, Para 0038].

Response to Arguments

16. Applicant's arguments with respect to claims 1-10 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

17. **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.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art Unit 3781

Notice of References Cited	Application/Control No. 12/762,934	Applicant(s)/Patent Under Reexamination KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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-7,051,892	05-2006	O'Day, Jr., William R.	215/383
	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	JP 02032248 A	02-1990	Japan	OGAWA et al.	
	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.

(19)日本国特許庁（ＪＰ）　(12) **公開特許公報**（Ａ）　(11)特許出願公開番号

特開平5－32248

(43)公開日　平成５年(1993)２月９日

(51)Int.Cl.[5]	識別記号	庁内整理番号	ＦＩ	技術表示箇所
Ｂ６５Ｄ　1/02		Ｃ　7445－3E		
1/16		7445－3E		
81/20		Ｚ　7191－3E		

審査請求　未請求　請求項の数６(全　８　頁)

(21)出願番号　特願平3－204895

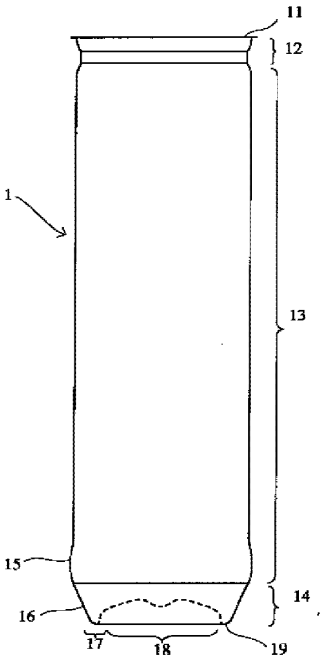
(22)出願日　平成３年(1991)７月19日

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最終頁に続く

(54)【発明の名称】　プラスチックブロー成形容器

(57)【要約】
【目的】　容器の内圧を大きくしても、また常温を超えた高温下でも、底部が変形せず、良好な自立性を維持することができるプラスチックブロー成形容器を提供する。
【構成】　実質的に円筒状の胴部13と、底部14と、開口部を構成するフランジ部11とを有し、底部14は中央凹部18と中央凹部18を取り囲む環状のヒール部17とからなり、中央凹部18における容器壁面には、頂点を内方に向けた複数の多角錐状の凹部が、その稜辺の一部を共有して中央凹部の中心部を囲むように連続して環状に配列して形成されており、ヒール部の外壁面16は下方に縮径する円錐状曲面となっている。



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【特許請求の範囲】

【請求項１】　実質的に円筒状の胴部と、底部と、開口部を構成するフランジ部とを有するプラスチックブロー成形容器において、前記底部は中央凹部と前記中央凹部を取り囲む環状のヒール部とからなり、前記中央凹部における容器壁面には、頂点を内方に向けた複数の多角錐状の凹部が、その稜辺の一部を共有して前記中央凹部の中心部を囲むように連続して環状に配列して形成されており、前記ヒール部の外壁面は下方に縮径する円錐状曲面となっていることを特徴とするプラスチックブロー成形容器。

【請求項２】　請求項１に記載のプラスチックブロー成形容器において、前記多角錐状の凹部が二種類の四角錐状の凹部からなり、前記二種類の四角錐状の凹部が交互に環状に配列していることを特徴とするプラスチックブロー成形容器。

【請求項３】　請求項１又は２に記載のプラスチックブロー成形容器において、接地部となる前記ヒール部の下端部から前記中央凹部に連続する前記ヒール部の内壁面が、凹曲面となっていることを特徴とするプラスチックブロー成形容器。

【請求項４】　請求項１乃至３のいずれかに記載のプラスチックブロー成形容器において、前記フランジ部の下部に縮径部が形成されていることを特徴とするプラスチックブロー成形容器。

【請求項５】　請求項１乃至４のいずれかに記載のプラスチックブロー成形容器において、前記容器がポリエチレンテレフタレートからなることを特徴とするプラスチックブロー成形容器。

【請求項６】　請求項１乃至５のいずれかに記載のプラスチックブロー成形容器において、前記容器は、パリソンを二軸延伸ブロー成形してなる一次ブロー成形体の口部側を切り取ってなるものであることを特徴とするプラスチックブロー成形容器。

【発明の詳細な説明】

【０００１】

【産業上の利用分野】本発明は、胴部とほぼ同じ径のフランジ状開口部を有するプラスチックブロー成形容器に関し、特に、アルミニウム等からなる蓋を開口部に設けたフランジに巻き締めることにより耐圧容器として好適に使用でき、容器内圧力を大きくしてもその底部形状が変化せず、良好な自立性を維持するプラスチックブロー成形容器に関する。

【０００２】

【従来の技術及び発明が解決しようとする課題】近年、金属缶の代替品としてプラスチック製の缶（容器）が注目されている。プラスチック製の缶は、一般的には図７に示すように、円筒状の胴部71と、底部72と、開口部を構成するフランジ部73と、フランジの下部領域74とを有するプラスチック製ブロー成形容器７と、金属製の蓋76

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とからなり、蓋76はダブルシーム75により前記フランジ部73に巻き締められ、缶は密封される。

【０００３】ところで、炭酸飲料やテニスボール等の容器として用いる場合、容器には高い内部圧力がかかるので、容器に強度を付与する必要がある。特に、容器の底部は二軸延伸ブロー成形による延伸効果がそれほど期待できないので、高い内部圧力により変形が生じず、自立性を確保できる形状とする必要がある。

【０００４】このようなプラスチック製ブロー成形容器の底部としては、先に図７にも示したように、底部の中央部を上方に凹状として、この中央凹部の周囲を環状のヒール部とするいわゆるシャンペン容器型形状の底部とすることが多い。ところが、本発明者らの研究によれば、単純にこのような形状としただけでは、容器内圧が大きい場合、常温以上、例えば60～70℃の高温下に長時間さらされた場合、底部の凹部が反転することがあったり、また反転せずとも底部が変形して自立性が損なわれたりすることがあることがわかった。

【０００５】したがって、本発明の目的は、容器の内圧を大きくしても、また常温を超えた高温下でも、底部が変形せず、良好な自立性を維持することができるプラスチックブロー成形容器を提供することである。

【０００６】

【課題を解決するための手段】上記課題に鑑み鋭意研究の結果、本発明者らは、基本的には容器の底部の形状を中央凹部とその中央凹部を取り囲む環状のヒール部とからなる構造とし、そのヒール部の外壁面部を円錐状の曲面とするとともに、中央凹部を形成する容器壁面に特定の構造の複数の凹部を形成すれば、容器内圧を大きくしても容器底部に変形が生じることなく、自立性に優れた容器とすることができることを見出し、本発明に想到した。

【０００７】すなわち、実質的に円筒状の胴部と、底部と、開口部を構成するフランジ部とを有する本発明のプラスチックブロー成形容器は、前記底部が中央凹部と前記中央凹部を取り囲む環状のヒール部とからなり、前記中央凹部における容器壁面には、頂点を内方に向けた複数の多角錐状の凹部が、その稜辺の一部を共有して前記中央凹部の中心部を囲むように連続して環状に配列して形成されており、前記ヒール部の外壁面は下方に縮径する円錐状曲面となっていることを特徴とする。

【０００８】

【実施例】以下本発明を添付図面を参照して詳細に説明する。

【０００９】図１は本発明の一実施例によるブロー成形容器を示す側面図である。ブロー成形容器１は、開口端部に形成されたフランジ部１１と、フランジ部１１の下部領域に形成された縮径部１２と、実質的に円筒状の胴部１３と、底部１４とからなる。

【００１０】開口端部に形成されたフランジ部１１は、

後述するように蓋材を取りつける部位となり、容器の軸線方向に対して実質的に垂直に延びている。容器内圧を大きくする場合には、蓋材の取付けを二重巻き締めにより行うのが好ましいので、このフランジ部１１は二重巻き締めに適切な厚さ、強度、剛性を有するように形成される。具体的には、フランジ部１１における延伸倍率を４～６倍とするのがよい。延伸倍率が４倍未満ではフランジ部１１の強度が低下し、良好な二重巻き締めを行うことができない。一方、フランジ部１１を６倍を超す延伸倍率とすると、肉薄でかつ剛性が大きくなりすぎるので、やはり良好な巻き締めを行うことが難しい。

【００１１】フランジ部１１の下部領域は、フランジ部を巻き締めた際に、亀裂や変形等を生じないために、リジット性を向上させる必要がある。このため本実施例では、フランジ部１１の下部に縮径部１２を形成し、開口部付近のリジット性を向上させている。縮径部１２における延伸倍率は３倍以上６倍未満とするのがよい。延伸倍率が３倍未満では、肉厚が大きくなり過ぎ、弾性が低下して亀裂が生じやすく、また延伸倍率を６倍以上とすると、肉厚が薄くなり過ぎてフランジ部を巻き締めた際の変形等を防止し得るだけの十分なリジット性が得られない。なお、この縮径部１２を胴部１３より肉厚に成形するのがよい。これによってこの部分のリジット性がより向上し、缶として密封する際の開口部の折れや変形が防止できる。また巻き締め前の開口状態で、開口部、特にフランジ部は、外部より変形を受けにくく、輸送、ないし、ライン送行中の取扱いが容易になる。

【００１２】胴部１３は実質的に円筒状となっており、底部１４のすぐ上の部分に拡径部１５を有する。胴部１３の延伸倍率は６倍以上とするのがよい。延伸倍率が６倍未満であると、十分な耐圧性を有する容器とならない。また、延伸効果による機械的強度の向上もそれほど得られず好ましくない。更に軽量化もできない。なお、底部１４のすぐ上の部分に設けた拡径部１５は補強のために形成されているが、この拡径部１５の径は開口部に設けたフランジ部１１の外径とほぼ同じとするのがよい。このようにすると、拡径部１５が邪魔にならずに複数の容器をそろえて陳列することが可能となる。

【００１３】底部１４は、中央凹部１８と、この中央凹部１８を取り囲む環状のヒール部１７とからなる。ヒール部１７の外壁面１６は、下方に縮径する円錐状曲面となっており、ヒール部１７の下端部が環状の接地部１９となる。一方、中央凹部１８は、詳しくは後述するが、環状の接地部１９の内側に形成されており、基本的に内方に凹状となっている。このように、ヒール部１７の外壁面１６を径方向外側に膨張した形状とせず、スリムに下方に縮径する円錐状曲面とすると、複数の容器を陳列する際に効率よく並べることができる。

【００１４】図２は図１に示す容器の底部１４を軸線方向に沿って下方から眺めた平面図であり、図３は図２に

おけるＡ－Ｏ－Ｂ断面図である。

【００１５】上述の通り、ヒール部１７の下端部は環状の接地部１９となるが、このヒール部１７の内壁面２０は凹状となっており、スムーズに中央凹部１８に連続している。このようにヒール部１７の内壁面２０を凹状にしておくと、容器内圧を大きくしても中央凹部が反転するようなことはない。

【００１６】中央凹部１８における容器壁には、複数の多角錐状の凹部が連続して形成されている。本実施例においては、図２に示すように、二種類の四角錐状の凹部が連続して形成されている。すなわち、第一の凹部は凹部ａｂｃｄ－ｅ（及びこれと合同の凹部）であり、これは四角形ａｂｃｄを底面とし、頂点をｅとする四角錐（頂点ｅが容器内方に位置する）の側面からなる凹部である。この第一の凹部において、面ａｂｅ、面ａｄｅ、面ｂｃｅ、及び面ｄｃｅはそれぞれ実質的に平面（すなわち三角形）となっており、稜線ｂｃ、及び稜線ｄｃが容器の下方に出ている部分である。なお稜線ｂａｄの部分はほぼ円形を描くように中央凹部１８の外側部に位置する。

【００１７】また、第二の凹部は凹部ｆｇｈｉ－ｊ（及びこれと合同の凹部）であり、これは四角形ｆｇｈｉを底面とし、頂点をｊとする四角錐（頂点ｊが容器内方に位置する）の側面からなる凹部である。この第二の凹部において、面ｆｇｊ、面ｆｉｊ、面ｇｈｊ、及び面ｉｈｊはそれぞれ実質的に平面（すなわち三角形）となっており、稜線ｆｇ及び稜線ｆｉは、先の第一の凹部の稜線ｂｃ及び稜線ｄｃと重なり合う部分である。

【００１８】図２からわかるように、本実施例の容器においては、上記した第一の凹部と第二の凹部とが交互に連続して配列し、底部の中央部分２１を囲んでいる。また図２及び図３からわかるように、この底部形状においては、第一の凹部において最も内方に凸となる部分（線ａｅｃに当たる部分）と、第二の凸部において最も内方に凸となる部分（線ｆｊｈに当たる部分）とが容器の周方向に交互に配列されており、かつ、その線は放射状に延びているので、容器底部を等方的に補強することになる。また、上述したように、中央凹部１８の壁面に設けられる凹部はすべて頂点を内方に向けた四角錐状の凹部となっているので、内圧が大きくても外側に反転するようなことはない。

【００１９】したがって、上述したような底部構造とすると、容器の内部圧力を大きくしても、また常温以上の高温下でも、中央凹部１８が反転したりすることや接地部１９が歪んで自立性が損なわれるようなことはない。

【００２０】なお、図３からわかるように、第二の凸部において最も内方に位置する部分（四角錐の頂点ｊに当たる部分）は中央凹部１８の中心部分２１よりも容器の軸線方向に沿って上方に位置している。したがってこの容器をたとえばテニスボール用の容器とした場合、図３

に示すように、第二の四角錐状の凹部の複数の稜線部（線ｈ－ｊ及びそれと同一の部分）でテニスボール２２を収まりよく承受することになる。

【００２１】なお、本実施例では上述した第一の四角錐状凹部と第二の四角錐状凹部とをそれぞれ８個ずつ交互に配列した構造となっているが、本発明はこれに限らず四角錐状凹部の大きさ及び数を適宜変更してよい。さらに底部の中央凹部の容器壁に設ける凹部を上述したように四角錐状とする必要はなく、五角錐、六角錐等の側面からなるような凹部としてもよい。さらに、四角錐、五角錐、六角錐等を適宜組み合わせた構成としてもよい。

【００２２】次に、上述したプラスチックブロー成形容器１の製造方法について説明する。

【００２３】図４は本発明のプラスチックブロー成形容器を製造することができるパリソンの一例を示す断面図である。パリソン４はサポートリング部（図中のａ）を有する口部41と、胴部42と、底部43とを有する。

【００２４】図４からわかるように、パリソンの胴部42において、口部41に続く胴部上部分44は口部41と同様の径を有するように拡径しており、下部は縮径状胴部45となっている。また、パリソンの肉厚は口部41と拡径状胴部44では幾分薄め（縮径状胴部45に比して）となっている。この拡径状胴部44は、後述する一次ブロー成形体（中間成形体）において口部の下に形成される拡径部となる部位である。

【００２５】またパリソン４は、その底部43の肉厚が胴部42の肉厚より、わずかに薄くなるように形成されている。このようにすることで底部43を胴部42より低い温度まで冷却することができる。したがって、延伸時のロッドによる縦延伸で、底部43を突き破ることなく胴部を延伸することができる。

【００２６】容器の製造にあたっては、まず、射出成形により図４に示す形状のパリソン４を形成する。射出成形はパリソン４に対応する形状のキャビティを有する射出成形型を用いて常法により行なうことができる。このとき、樹脂をキャビティ内に射出した後に、射出成形型を急冷することによりパリソンを構成する樹脂をそのガラス転位温度以上固化温度以下の温度まで冷却するのがよい。なお射出成形型の急冷は、型内に設けられた通路に冷媒を流し込む等の手段により行なうことができる。

【００２７】パリソン４の各部の温度が、用いた樹脂のガラス転位温度以上固化温度以下となったところで、パリソン４を射出成形型から取り出し、パリソン４の各部の温度がガラス転位温度より低くなる前に、二軸延伸ブロー成形を行なう。

【００２８】図５は、図４のパリソンを二軸延伸ブロー成形することにより得られる一次ブロー成形体の一例を示す側面図である。

【００２９】一次ブロー成形体５は、上から順に口部51と、拡径部52と、縮径部53と、胴部54と、底部55とからなる。

【００３０】このような一次ブロー成形体において、各部の延伸倍率は、口部（把持部）51が未延伸、拡径部52が４倍以上６倍未満の中延伸、縮径部53が３倍以上６倍未満の中延伸、円筒状の胴部54が６倍以上の高延伸、底部55が６倍以下の低延伸である。

【００３１】このような延伸倍率とするためには、図４に示したような形状のパリソンを用い、一次ブロー成形体の形状をしたキャビティを有する延伸ブロー成形型内に、このパリソンの口部を口部型に把持した状態で設置し、常法により延伸ブロー成形を行えばよい。

【００３２】この延伸ブロー成形により、図４に示すパリソンの拡径状胴部44が延伸されて一次ブロー成形体の拡径部52を形成する。

【００３３】また一次ブロー成形体の縮径部53は、図４のパリソンの縮径状胴部45における上部分45a が延伸されてなる。この部分45a はパリソンの拡径状胴部44より肉厚となっており、またブロー成形金型の縮径部52に対応する部分の径が小さくなっているので、一次ブロー成形体の縮径部53は肉厚となる。

【００３４】胴部54は大きく延伸されて薄肉で、しかも延伸効果により大きな強度を有するものとなる。なお、パリソンの底部は胴部よりも低い温度に調節されているので、胴部の方が延伸されやすく、これにより胴部は十分に延伸され、一方、底部は高度に延伸されない。なお、底部55には金型の形状によってヒール部56及び容器底部の中央凹部57が形成されている。また、中央凹部57における容器壁面には、図２に示す形状の複数の四角錐状の凹部が環状に連続して形成されている。この四角錐状の凹部の形成は、ブロー成形金型の底部型の表面を図２に示す形状に相補する凹凸状に形成しておくことで達成できる。

【００３５】なお、ブロー成形金型の底部型において、図２に示す底部形状の稜線ｂ－ａ－ｄ・・・に対応する部位にエアーベントを設けておくと、底部の中央凹部に設ける凹凸形状がはっきりと得られる。

【００３６】以上に説明したように、図４に示すような形状のパリソンを用い、図５に示すような一次ブロー成形体の形状のキャビティを有する金型を用いて延伸ブロー成形を行えば、縮径部が胴部（容器の本体部となる部分）より肉厚で、胴部が十分に延伸され、また底部が肉厚の一次ブロー成形体を製造することができる。

【００３７】図５に示すような一次ブロー成形体（中間成形体）を得たならば、この一次ブロー成形体の拡径部の底壁部（例えば図５中のＣの位置）を切断し、図１に示すような本発明のブロー成形容器を得る。

【００３８】このようにして得られるブロー成形容器１は、さきに図７において示したと同様にして、フランジ部11を取り込むかたちで金属製の蓋によりダブルシームを施すことにより、密閉性の優れたプラスチック製の缶

とすることができる。

【００３９】以上の説明では、図４に示すような形状のパリソンを用いた製造方法を述べたが、本発明のプラスチックブロー成形容器はこれに限らず、たとえば図６に示すような、実質的に単一の径からなる胴部６２を有する有底円筒状のパリソン６を用いて製造することも可能である。このとき、パリソン６の口部６１から胴部６２の上端部にかけた部分（図６におけるｂ部分）を内側に肉薄となるようにしておけば、図５に示すような上部に拡径部を有する中間成形体を容易に形成することができる。

【００４０】本発明において、容器の原料となるプラスチックとしては、延伸ブロー成形が可能な熱可塑性樹脂であれば特に制限はないが、ポリエステル系のものが好ましい。

【００４１】ポリエステル樹脂としては、飽和ジカルボン酸と飽和二価アルコールとからなる熱可塑性樹脂が使用できる。特に好ましいポリエステルは、テレフタル酸とエチレングリコールとからなるポリエチレンテレフタレートである。

【００４２】また上記ポリエステル樹脂に、耐熱性樹脂、バリヤー性樹脂等を混合したもの、又は多層化したものも用いることができる。

【００４３】なお本発明で使用するポリエステル樹脂には、その他、安定剤、顔料、酸化防止剤、熱劣化防止剤、紫外線劣化防止剤、帯電防止剤、抗菌剤等の添加剤やその他の樹脂を適量加えることができる。

【００４４】本発明を以下の具体的実施例によりさらに詳細に説明する。

実施例１

ポリエチレンテレフタレート樹脂（三井石油化学工業株式会社製、三井ペットＪ１２５）を用い、図４に示すパリソンを射出成形により作成した。パリソンの形状及び重さは、以下の通りであった。

【００４５】全高：127㎜

口部：外径36.5㎜、内径32.5㎜

サポートリング部：外径39㎜

拡径状胴部：外径36.3㎜、内径31.9 ㎜

縮径状胴部：外径25.8～26.8㎜

内径18.2～19.6㎜

底部：肉厚2.0㎜

重量：46.9ｇ

【００４６】上記形状のパリソンを成形後、図５に示すような形状の一次ブロー成形体（全高240.2 ㎜、最大胴径88㎜）を作成した。なお、このとき使用した延伸ブロー成形金型の底部型としては、その表面に図２に示す凹凸形状に相補する凹凸を有するものを用いた。

【００４７】このようにして得られた一次ブロー成形体を縦方向に切断して、その各部の延伸倍率を測定したところ、口部が未延伸、拡径部が約 5.5倍、縮径部が約５倍、胴部が約14.5倍、底部が１～６倍であった。また、胴部の厚みは0.25㎜で、フランジの下部領域の厚みは0.5㎜であった。さらに、底部の中央凹部における成形体の壁面は図２及び図３に示す形状となっていた。

【００４８】次に、この一次ブロー成形体の図５に示すＣの位置を打抜き刃で円形に打ち抜き、分離して、図１に示すようなブロー成形容器を得た。

【００４９】このようにして得られた容器に、テニスボールを入れた後、加圧下において、フランジ部を巻き込むようにして金属製の蓋でダブルシームにより密閉した。

【００５０】このようにして得られた缶は、内圧を1.2 Kg／㎠ （ゲージ圧）と大きくしても底部が変形することがなく、良好な自立性を有していた。また、0.９Kg／㎠ 、室温で内圧をかけ４球のテニスボールを充填シールしたものを60～70℃、１～２時間保存しても自立性を有していた。また、十分な密封性を有するとともに、ダブルシームを施しても、亀裂、変形等を生じることがなく、実用に耐えうる耐衝撃性、及び耐内圧性を有するものであった。

【００５１】

【発明の効果】以上に詳述したように、本発明のブロー成形容器は、その底部形状を大きな内圧に耐えうる形状としており、容器内圧を大きくしたプラスチック製の缶としても自立性が損なわれない。また、開口部におけるフランジ部でダブルシームを施しても亀裂や破損が生じることはなく、良好なプラスチック製の缶とすることができる。

【００５２】このような本発明の容器は、金属製の蓋材を備えることにより炭酸飲料、テニスボール等用の耐圧容器として好適に使用することができる。

【図面の簡単な説明】

【図１】本発明の一実施例によるプラスチックブロー成形容器を示す側面図である。

【図２】図１のプラスチックブロー成形容器の底部形状を示す平面図である。

【図３】図１のＡ－Ｏ－Ｂ断面図である。

【図４】本発明のプラスチックブロー成形容器を製造することができるパリソンの一例を示す断面図である。

【図５】本発明のプラスチックブロー成形容器を製造する工程で得られる中間成形体（一次ブロー成形体）の一例を示す側面図である。

【図６】本発明のプラスチックブロー成形容器を製造することができるパリソンの別な例を示す断面図である。

【図７】従来のプラスチックブロー成形容器を用いたプラスチック缶の一例を示す断面図である。

【符号の説明】

１	プラスチックブロー成形容器
４、６	パリソン
５	一次ブロー成形体

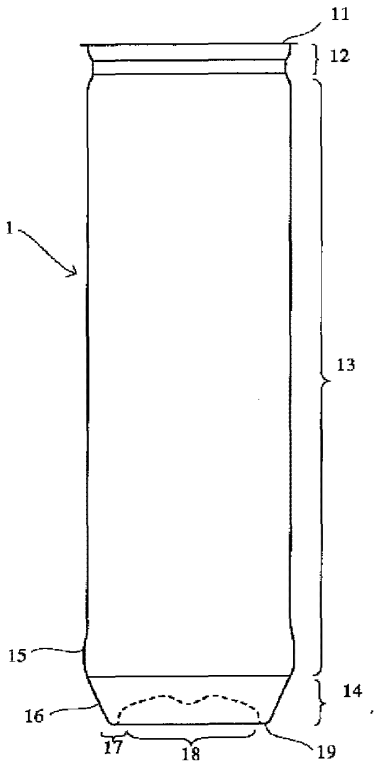
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7	プラスチック製缶
11	フランジ部
12	縮径部
13	胴部
14	底部
15	拡径部
16	ヒール部外壁面

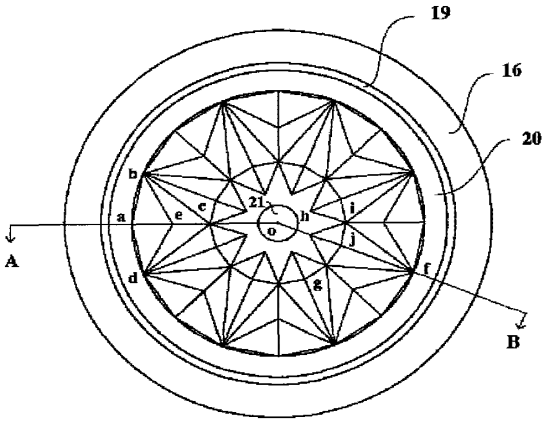
１０

17	ヒール部
18	中央凹部
19	接地部
20	ヒール部内壁面
21	底部中央部分
75	ダブルシーム
76	金属製の蓋

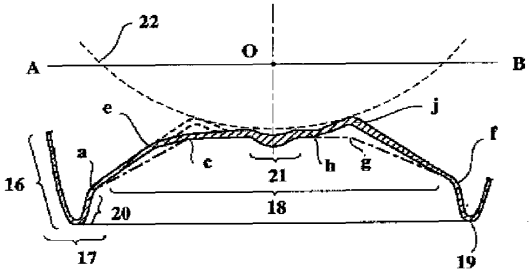
【図１】



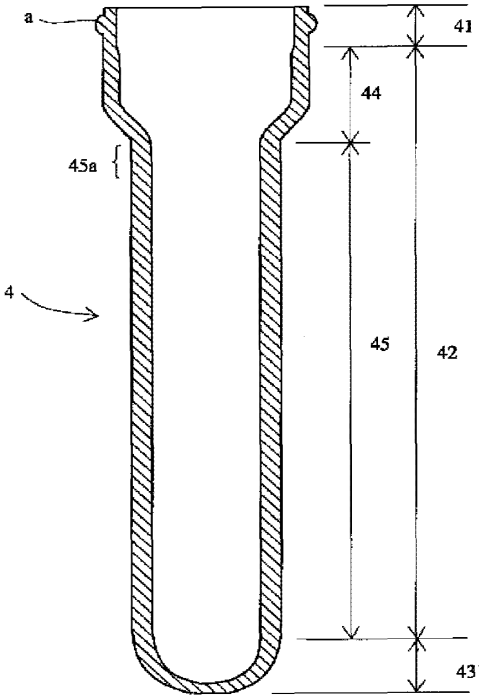
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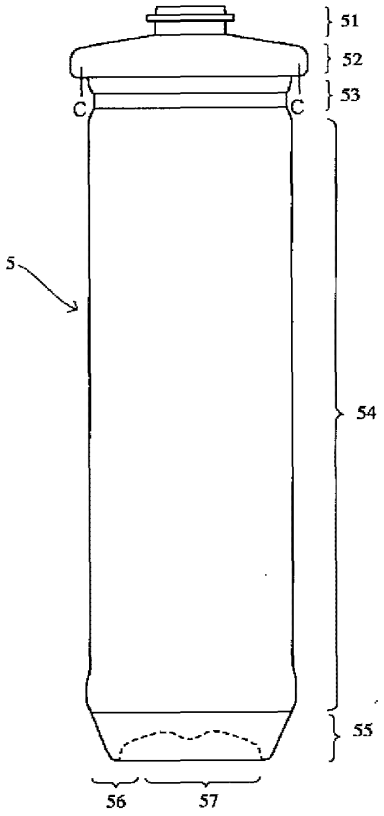
【図３】



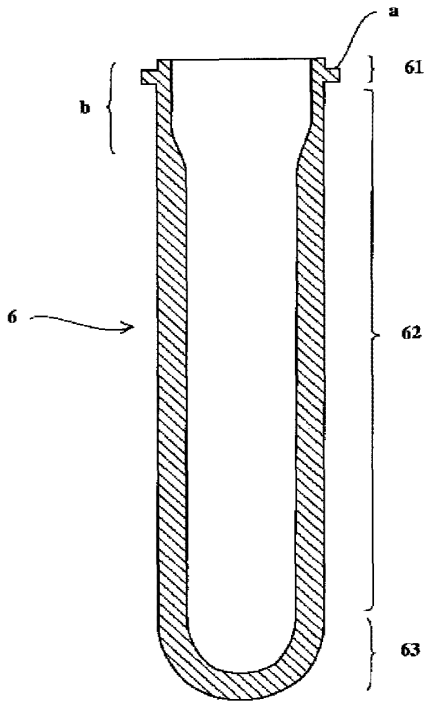
【図４】



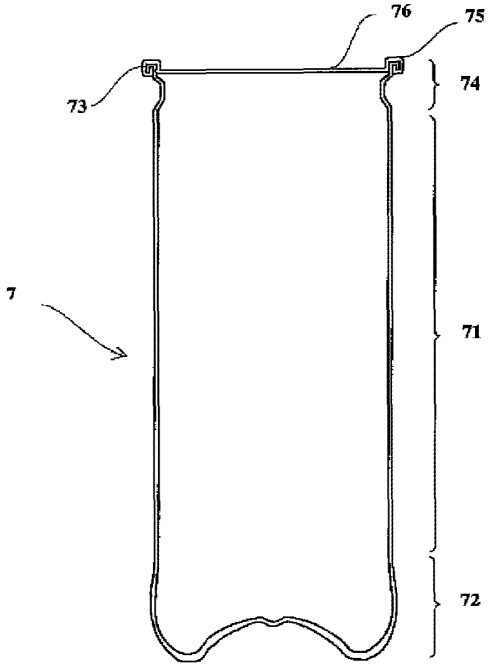
【図５】



【図６】



【図７】



フロントページの続き

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PATENT ABSTRACTS OF JAPAN

(11)Publication number : 05-032248

(43)Date of publication of application : 09.02.1993

(51)Int.Cl. B65D 1/02
B65D 1/16
B65D 81/20

(21)Application number : 03-204895

(22)Date of filing : 19.07.1991

(71)Applicant : DAINIPPON PRINTING CO LTD

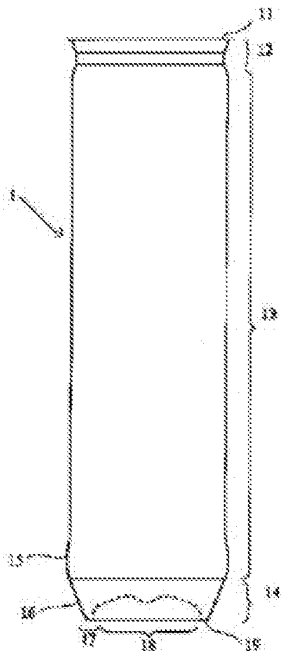
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(54) PLASTIC BLOW-MOLDED CONTAINER

(57)Abstract:

PURPOSE: To provide a plastic blow-molded container the bottom part of which is not deformed, and which can maintain a favorable self-standing property even when the internal pressure of the container rises or even under a high temperature exceeding a normal temperature.

CONSTITUTION: The subject container substantially has a cylindrical body 13, bottom part 14, and flange 11 which constitutes an



opening, and the bottom part 14 consists of a central recessed part 18 and an annular heel part 17 which surrounds the central recessed part 18. On a container wall surface at the central recessed part 18, a plurality of polygonal pyramid shaped recessed parts, of which the vertexes face inward, are formed in such a manner that they are continuously arranged annularly such as surrounding the central part of the central recessed part while sharing a part of the ridges, and an outer wall surface 16 of the heel part is a conical curved surface of which the diameter becomes smaller as it becomes lower.

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Notes:
1. Untranslatable words are replaced with asterisks (****).
2. Texts in the figures are not translated and shown as it is.

Translated: 05:50:52 JST 02/01/2013
Dictionary: Last updated 01/18/2013 / Priority:

FULL CONTENTS

[Claim(s)]
[Claim 1]A substantially cylindrical drum section.
A bottom part.
A flange which constitutes an opening.
In a plastic blow molding container provided with the above,
The aforementioned bottom part consists of a center recessed part and an annular heel section which encloses the aforementioned center recessed part, and, [a container wall surface in the aforementioned center recessed part] A plastic blow molding container which arranges annularly continuously, is formed so that a concave part of two or more shape of a polygonal pyramid which turned a vertex to an inner direction may share a part of the ridge line and may surround the central part of the aforementioned center recessed part, and is characterized by an external wall surface of the aforementioned heel section being a conical shape curved surface whose diameter is reduced caudad.

[Claim 2]A plastic blow molding container, wherein a polygonal-pyramid concave part of the above consisted of a concave part of two kinds of pyramid form and a concave part of the two aforementioned kinds of pyramid form has arranged annularly alternately in the plastic blow molding container according to claim 1.
[Claim 3]A plastic blow molding container, wherein an internal surface of the aforementioned heel section which follows the aforementioned center recessed part is a concave curve from a lower end part of the aforementioned heel section used as a grounding part in the plastic blow molding container according to claim 1 or 2.
[Claim 4]A plastic blow molding container, wherein a diameter reduction part is formed in the lower part of the aforementioned flange in the plastic blow molding container according to any one of claims 1 to 3.
[Claim 5]A plastic blow molding container, wherein the aforementioned container consists of polyethylene terephthalate in the plastic blow molding container according to any one of claims 1 to 4.
[Claim 6]A plastic blow molding container characterized by the aforementioned container being what cuts off the regio-oralis side of a primary blow molding object which carries out biaxial stretching blow molding of the parison in the plastic blow molding container according to any one of claims 1 to 5.

[Detailed Description of the Invention]
[0001]
[Industrial Application]In the present invention, a lid which consists of aluminum etc. especially is

rolled and fastened to a flange provided to an opening about a plastic blow molding container which has a flange shape opening of the substantially same path as a drum section.
Therefore, it can be preferably used as a resisting pressure container, even if it carries out container-internal-pressure power largely, the bottom configurations do not change, but it is related with a plastic blow molding container which maintains good independence nature.

[0002]
[Description of the Prior Art]In recent years, the can made from a plastic (container) attracts attention as a substitute of a metal can. As shown in Fig.7, the can made from a plastic generally The cylindrical drum section 71, It consists of the blow molding container 7 made from a plastic which has the bottom part 72, the flange 73 which constitutes an opening, and the lower region 74 of a flange, and the metal lids 76, and the lid 76 is wound around the aforementioned flange 73 by the double seam 75, and is fastened, and a can is sealed.
[0003]By the way, since high internal pressure is applied to a container when using as containers, such as a carbonated drink and a tennis ball, it is necessary to give strength to a container. Since the orientation effect by biaxial stretching blow molding cannot expect the bottom part in particular of a container so much, deformation does not arise with high internal pressure, but it needs to be taken as the shape which can secure independence nature.
[0004]As a bottom part of such a blow molding container made from a plastic, as previously shown also in Fig.7, let the central part of the bottom part be the so-called bottom part of the champagne container mold shape which makes the circumference of this center recessed part an annular heel section as a concave in the upper part in many cases. [however only by considering it as such shape simply according to research of the inventors] When exposed for a long time under the elevated temperature which is 60-70 degrees C, for example beyond as for ordinary temperature when container internal pressure is large, it turned out that the concave part of a bottom part may be reversed, and it is not reversed, a bottom part also deforms **, and independence nature may be impaired.
[0005]Therefore, even if the object of this invention carries out internal pressure of a container largely, it is providing the plastic blow molding container which a bottom part's cannot deform but can maintain good independence nature also under the elevated temperature beyond ordinary temperature.
[0006]
[Means for solving problem]In view of an aforementioned problem, as a result of research, intensively, [the inventors] While making shape of the bottom part of a container into the structure which consists of a center recessed part and an annular heel section which encloses the center recessed part fundamentally and making the external wall surface part of the heel section into the curved surface of conical shape, It found out that it could be considered as the container excellent in independence nature, without deformation arising in a container bottom even if it carries out container internal pressure largely if two or more concave parts of a specific structure are formed in the container wall surface which forms a center recessed part, and thought out to the present invention.
[0007][namely the plastic blow molding container of the present invention which has substantially a cylindrical drum section, a bottom part, and a flange that constitutes an opening] The aforementioned bottom part consists of a center recessed part and an annular heel section which encloses the aforementioned center recessed part, and, [the container wall surface in the aforementioned center recessed part] It arranges annularly continuously and is formed so that the concave part of two or more shape of a polygonal pyramid which turned the vertex to the inner direction may share a part of the ridge line and may surround the central part of the aforementioned center recessed part, and the external wall surface of the aforementioned heel section is a conical shape curved surface whose diameter is reduced caudad.

[0008]
[Working example]The present invention is described in detail with reference to an accompanying drawing below.
[0009]Fig.1 is a side view showing the blow molding container by one working example of the present invention. The blow molding container 1 serves as substantially the flange 11 formed in the open end, and the diameter reduction part 12 formed in the lower region of the flange 11 from the cylindrical drum section 13 and the bottom part 14.
[0010]The flange 11 formed in the open end serves as a part to which a cover material is attached so that it may mention later, and it is substantially extended vertically to the axial direction of a container. Since it is preferable to attach a cover material by double winding up when carrying out container internal pressure largely, this flange 11 is formed so that it may have the suitable thickness for double winding up, strength, and rigidity. Specifically, it is good to make the draw ratio in the flange 11 into four to 6 times. In less than 4 times, strength of the flange 11 cannot be deteriorated and a draw ratio cannot perform good double winding up. Since it will be closing in and rigidity will become too much largely on the other hand if the flange 11 is made into the draw ratio which exceeds 6 times, it is difficult to perform too good winding up.
[0011]Since the lower region of the flange 11 produces neither a crack nor deformation when a flange is rolled and fastened, it needs to improve rigid nature. For this reason, in this example, the diameter reduction part 12 is formed in the lower part of the flange 11, and the rigid nature near an opening is improved. The draw ratio in the diameter reduction part 12 is good to take 3 or more times for less than 6 times. Rigid nature with a sufficient draw ratio which can prevent the deformation at the time of thickness becoming thin too much, and rolling and fastening a flange when thickness became too much largely, elasticity was deteriorated in less than 3 times, and it was easy to produce a crack and the draw ratio was made into 6 or more times, etc. is not obtained. It is good to mold this diameter reduction part 12 into thickness from the drum section 13. The rigid nature of this portion improves more by this, and a crease and deformation of the opening at the time of sealing as a can can be prevented. By the opening state before winding up, an opening, especially the flange cannot receive deformation from outside easily, and transportation thru/or the handling in line feed become easy.
[0012]The drum section 13 has become cylindrical substantially and has the expanding part 15 into the portion immediately on the bottom part 14. The draw ratio of the drum section 13 is good to consider it as 6 or more times. It does not become a container which has sufficient resistance to pressure as a draw ratio is less than 6 times. Improvement in the mechanical strength by an orientation effect is not obtained so much, either, and is not preferable. A weight saving is not made, either. Although the expanding part 15 provided into the portion immediately on the bottom part 14 is formed for reinforcement, the path of this expanding part 15 is good to suppose that it is substantially the same as the outer diameter of the flange 11 provided to the opening. If it does in this way, it will enable the expanding part 15 to arrange and display two or more containers, without becoming obstructive.
[0013]The bottom part 14 consists of the center recessed part 18 and the annular heel section 17 which encloses this center recessed part 18. The external wall surface 16 of the heel section 17 is a conical shape curved surface whose diameter is reduced caudad.
A lower end part of the heel section 17 turns into the annular grounding part 19.
On the other hand, although the center recessed part 18 is mentioned later in detail, it is formed inside the annular grounding part 19.
It is a concave fundamentally in an inner direction.
Thus, the external wall surface 16 of the heel section 17 is not made into the shape where it expanded on the radial-direction outside, but if it is a conical shape curved surface whose diameter is reduced caudad slimly, when displaying two or more containers, it can arrange efficiently.
[0014]Fig.2 is the plan view which looked at the bottom part 14 of the container shown in Fig.1 from

the lower part along the axial direction, and Fig.3 is an A-O-B cross sectional view in Fig.2.
[0015]Although the lower end part of the heel section 17 turns into the annular grounding part 19 as above-mentioned, the internal surface 20 of this heel section 17 serves as a concave, and is in the center recessed part 18 continuously smoothly. Thus, if the internal surface 20 of the heel section 17 is made into the concave, even if it carries out container internal pressure largely, a center recessed part will not be reversed.
[0016]The concave part of the shape of two or more polygonal pyramid is continuously formed in the container wall in the center recessed part 18. In this example, as shown in Fig.2, the concave part of two kinds of pyramid form is formed continuously. That is, a first concave part is concave part abcd-e (and joint concave part with this), and this is a concave part which consists of a side surface of the pyramid (the vertex e is placed at the method of the inside of a container) which uses the quadrangle abcd as a bottom surface and sets a vertex to e. In this first concave part, the surface abe, the surface ade, the surface bce, and the surface dce are a plane (namely, triangle) substantially, respectively, and the ridgeline bc and the ridgeline dc are the portions which have come out of the container caudad. The portion of the ridgeline bad is placed at the lateral part of the center recessed part 18 so that a round shape may be drawn substantially.
[0017]A second concave part is concave part fghi-j (and joint concave part with this), and this is a concave part which consists of a side surface of the pyramid (the vertex j is placed at the method of the inside of a container) which uses the quadrangle fghi as a bottom surface and sets a vertex to j. In this second concave part, the surface fgj, the surface fij, the surface ghj, and the surface ihj are a plane (namely, triangle) substantially, respectively, and the ridgeline fg and the ridgeline fi are portions which overlap the ridgeline bc of a previous first concave part, and the ridgeline dc.
[0018]In the container of this example, the above-mentioned first concave part and the second concave part arranged continuously alternately, and have surrounded the center portion 21 of the bottom part so that Fig.2 may show. In [so that Fig.2 and Fig.3 may show] these bottom configurations,Since the container is arranged alternately circumferentially and the portion (portion which hits the line aec) which serves as a convex most in a first concave part in an inner direction, and the portion (portion which hits the line fjh) which serves as a convex most in a second protruding part in an inner direction are extending the line radiately, a container bottom will be reinforced isotropic. Since all the concave parts provided by the wall surface of the center recessed part 18 are the concave parts of the pyramid form which turned the peak to the inner direction as mentioned above, it is not outside reversed even if internal pressure is large.
[0019]Therefore, if it is the bottom structure which was mentioned above, even if it carries out internal pressure of a container largely, under the elevated temperature beyond ordinary temperature, the center recessed part 18 being reversed and the grounding part 19 will be distorted, and independence nature will not be impaired.
[0020]The portion (portion which is equivalent to the vertex j of a pyramid) which is placed at an inner direction most in a second protruding part is placed up along the axial direction of a container rather than the center section 21 of the center recessed part 18 so that Fig.3 may show. Therefore, when this container is used as the container for tennis balls, as shown in Fig.3, it will be easy to be settled and the tennis ball 22 will be ****(ed) in two or more ridgeline parts (line h-j and the same portion as it) of the concave part of second pyramid form.
[0021]Although it has structure which arranged alternately every eight of the first pyramid form concave part mentioned above and a second pyramid form concave part, respectively in this example, the present invention may change suitably the size and number not only of this but pyramid form concave parts. It is good also as a concave part which does not have to consider it as pyramid form as the concave part furthermore provided to the container wall of the center recessed part of a bottom part was mentioned above, and consists of side surfaces, such as six-sided a pentagonal pyramid, a pyramid, etc. It is good also as composition which combined six-sided a pyramid, a pentagonal pyramid, a pyramid, etc. suitably.

[0022]Next, it describes about the manufacturing method of the plastic blow molding container 1 mentioned above.
[0023]Fig.4 is a cross sectional view showing an example of the parison which can manufacture the plastic blow molding container of the present invention. The parison 4 has the regio oralis 41 which has a support-ring part (a in a figure), the drum section 42, and the bottom part 43.
[0024]In the drum section 42 of a parison, the diameter is expanded so that the subsequent drum section top portion 44 may have the same path as the regio oralis 41 in the regio oralis 41, and the lower part is the letter drum section 45 of diameter reduction so that Fig.4 may show. The thickness of a parison is thinned a little with the regio oralis 41 and the letter drum section 44 of diameter expansion (comparing with the letter drum section 45 of diameter reduction). It has become. This letter drum section 44 of diameter expansion is a part used as the expanding part formed under the regio oralis in the primary blow molding object (middle molded body) mentioned later.
[0025]The parison 4 is formed so that the thickness of the bottom part 43 may become thin slightly from the thickness of the drum section 42. The bottom part 43 can be cooled to a temperature lower than the drum section 42 by doing in this way. Therefore, a drum section can be extended by the vertical extension with the rod at the time of extension, without breaking through the bottom part 43.
[0026]In manufacture of a container, the parison 4 of the shape shown in Fig.4 with injection molding is formed first. Injection molding can be performed with a conventional method using the injection molding mold which has a cavity of the shape corresponding to the parison 4. After ejecting resin in a cavity at this time, it is good by quickly cooling an injection molding mold for more than that glass-transition temperature to cool the resin which constitutes a parison to the temperature below solidification temperature. Slushing a refrigerant into the passage provided in the mold or other means can perform quick cooling of an injection molding mold.
[0027]The parison 4 is taken out from an injection molding mold, and before the temperature of each part of the parison 4 becomes lower than glass-transition temperature, biaxial stretching blow molding is performed in the place where the temperature of each part of the parison 4 became [more than glass-transition temperature of the used resin] below in solidification temperature.
[0028]Fig.5 is a side view showing an example of the primary blow molding object acquired by carrying out biaxial stretching blow molding of the parison of Fig.4.
[0029]The primary blow molding object 5 becomes order from the regio oralis 51, the expanding part 52, the diameter reduction part 53, the drum section 54, and the bottom part 55 from a top.
[0030]In 4 or more-time extension in less than 6 times, and the diameter reduction part 53, in such a primary blow molding object, 3 or more-time extension in less than 6 times and the cylindrical drum section 54 are [the regio oralis 51 (grasping part) / un-extending and the expanding part 52 / the Takanobu growth of 6 times or more and the bottom part 55 of the draw ratio of each part] low extensions of 6 or less times.
[0031]What is necessary is to install using the parison of shape as shown in Fig.4, in the stretch-blow-molding type which has the cavity which carried out shape of the primary blow molding object, where the regio oralis of this parison is grasped to a regio-oralis type, and just to perform stretch blow molding with a conventional method, in order to consider it as such a draw ratio.
[0032]The letter drum section 44 of diameter expansion of the parison shown in Fig.4 is extended by this stretch blow molding, and the expanding part 52 of a primary blow molding object is formed by it.
[0033]It comes to extend the upper part [in / in the diameter reduction part 53 of a primary blow molding object / the letter drum section 45 of diameter reduction of the parison of Fig.4] 45a. Since this portion 45a has become thicker than the letter drum section 44 of diameter expansion of a parison and the path of the portion corresponding to the diameter reduction part 52 of a blow molding die is small, the diameter reduction part 53 of a primary blow molding object becomes thick.
[0034]The drum section 54 is extended largely, is thin walled and, moreover, has big strength

according to an orientation effect. Since the bottom part of the parison is adjusted by temperature lower than a drum section, the direction of a drum section is easy to be extended, a drum section is extended sufficiently by this, and, on the other hand, a bottom part is not extended highly. The heel section 56 and the center recessed part 57 of the container bottom are formed in the bottom part 55 of the shape of the mold. The concave part of two or more pyramid form of the shape shown in Fig.2 is annularly formed in the container wall surface in the center recessed part 57 continuously. Formation of the concave part of this pyramid form can be attained by forming in the rugged form which carries out complementary [of the bottom part type surface of a blow molding die] to the shape shown in Fig.2.

[0035]ridgeline b-a-d of the bottom configurations shown in Fig.2 in the bottom part type of a blow molding die -- if the vent is provided to the part corresponding to ..., the uneven shape provided to the center recessed part of a bottom part will be acquired clearly.

[0036]If stretch blow molding is performed using the mold which has a cavity of the shape of a primary blow molding object as shown in Fig.5 using the parison of shape as shown in Fig.4 as described above,A diameter reduction part is thicker than a drum section (portion used as the body part of a container), and a drum section is extended sufficiently, and a bottom part can manufacture a thick primary blow molding object.

[0037]If a primary blow molding object (middle molded body) as shown in Fig.5 is acquired, the bottom wall part (for example, position of C in Fig.5) of the expanding part of this primary blow molding object will be cut, and the blow molding container of the present invention as shown in Fig.1 will be obtained.

[0038]Thus, the blow molding container 1 obtained can be carried out to Fig.7 having been shown previously with the can made from a plastic which was excellent in sealing nature by giving a double seam with metal lids in the form where the flange 11 is incorporated, similarly.

[0039]Although the above description described the manufacturing method using the parison of shape as shown in Fig.4, not only this but the thing to manufacture using the bottomed cylindrical parison 6 which has the drum section 62 which consists of a single path substantially as shown, for example in Fig.6 is possible for the plastic blow molding container of the present invention.If the portion (b portion in Fig.6) applied to the upper end part of the drum section 62 from the regio oralis 61 of the parison 6 is made to be pressing inside hard at this time, the middle molded body which has an expanding part can be easily formed in the upper part as shown in Fig.5.

[0040]In the present invention, if it is thermoplastics in which stretch blow molding is possible as a plastic used as the raw material of a container, there will be no restriction in particular, but the thing of a polyester system is preferable.

[0041]As polyester resin, the thermoplastics consisting of saturation dicarboxylic acid and saturated dihydric alcohol can be used. Especially preferable polyester is polyethylene terephthalate which consists of terephthalic acid and ethylene glycol.

[0042]The thing which mixed heat resistant resin, barrier nature resin, etc., or the multilayered thing can also be used for the above-mentioned polyester resin.

[0043]In addition to this, a proper quantity of additive agents, such as stabilizer, paints, an antioxidant, a heat deterioration inhibitor, an ultraviolet-ray-degradation inhibitor, a spray for preventing static electricity, and an antimicrobial agent, and other resin can be added to the polyester resin used by the present invention.

[0044]The present invention is described still in detail according to the following specific working examples.

The parison shown in Fig.4 was created with injection molding using working-example 1 polyethylene terephthalate resin (the Mitsui Petrochemical Industries, Ltd. make, Mitsui pet J125). The shape and weight of the parison were as follows.

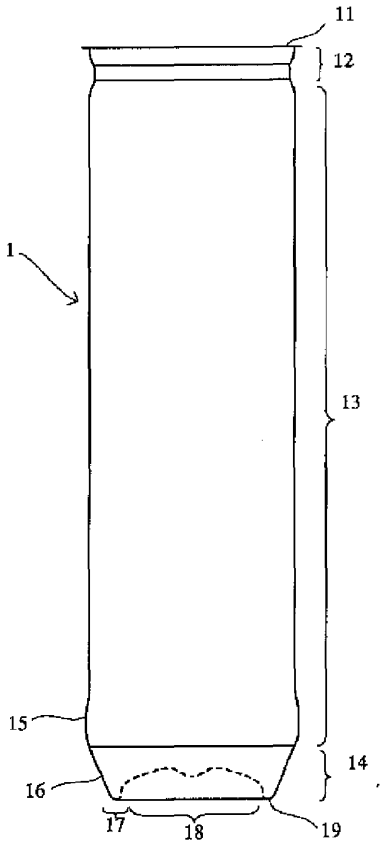
[0045]overall-height: -- 127-mm regio-oralis: -- the outer diameter of 36.5 mm, the letter drum section:outer diameter of inner diameter 32.5mm support-ring part:outer diameter 39mm diameter

expansion of 36.3 mm, and letter drum section:outer diameter of inner diameter 31.9 mm diameter reduction 25.8-26.8mm inner diameter 18.2-19.6mm bottom part:thickness 2.0mm weight:46.9g
[0046]Primary blow molding object (overall-height 240.2 mm, 88 mm of the maximum shell diameters) of shape as shown in Fig.5 after molding the parison of the above-mentioned shape It created. As a bottom part type of the stretch-blow-molding mold used at this time, what has the unevenness which carries out complementary to the uneven shape shown in Fig.2 was used for that surface.
[0047]Thus, about 5 times and a drum section were about 14.5 times, and when the acquired primary blow molding object was cut to the longitudinal direction and the draw ratio of each part was measured, a 5.5 times as much abbreviation and a diameter reduction part was [the regio oralis / the bottom part of un-extending and an expanding part] one to 6 times. The thickness of the drum section was 0.25 mm and the thickness of the lower region of a flange was 0.5 mm. The wall surface of the molded body in the center recessed part of a bottom part had become the shape shown in Fig.2 and Fig.3.
[0048]Next, the position of C shown in the Fig.5 of this primary blow molding object was circularly pierced with the punching blade, it separated and the blow molding container as shown in Fig.1 was obtained.
[0049]Thus, after putting a tennis ball into the obtained container, as the flange was involved in under application of pressure, it sealed by the double seam with metal lids.
[0050]Thus, the obtained can is internal pressure 1.2 Kg/cm^2 (gage pressure) Even if carried out largely, a bottom part did not deform, and it had good independence nature. It had independence nature, even if it saved 60-70 degrees C of things to which internal pressure was applied at 0.9 kg / cm^2, and a room temperature and which carried out the filling seal of the tennis ball of four balls for 1 to 2 hours. While having sufficient sealing performance, even if it gives a double seam, a crack, deformation, etc. are not produced and it has the shock resistance which can be equal to practical use, and internal pressure-proof nature.
[0051]
[Effect of the Invention]As explained in full detail above, a blow molding container of the present invention makes the bottom configurations shape which can bear big internal pressure. Independence nature is not impaired as a can made from a plastic which carried out container internal pressure largely.
Even if it gives a double seam by the flange in an opening, neither a crack nor damage arises, and it can be considered as the good can made from a plastic.
[0052]The container of such the present invention can be preferably used as resisting pressure containers of business, such as a carbonated drink and a tennis ball, by having metal cover materials.

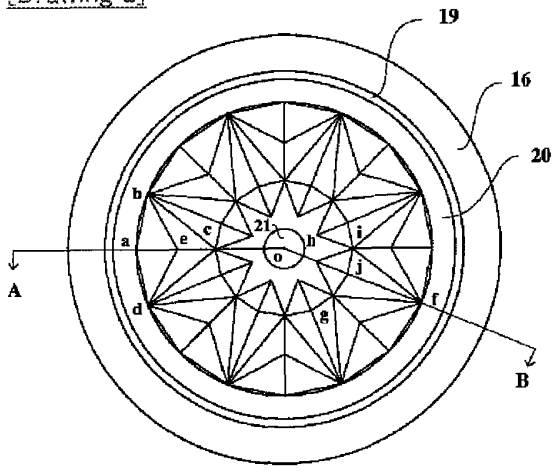
[Brief Description of the Drawings]
[Drawing 1]It is a side view showing the plastic blow molding container by one working example of the present invention.
[Drawing 2]It is a plan view showing the bottom configurations of the plastic blow molding container of Fig.1.
[Drawing 3]It is an A-O-B cross sectional view of Fig.1.
[Drawing 4]It is a cross sectional view showing an example of the parison which can manufacture the plastic blow molding container of the present invention.
[Drawing 5]It is a side view showing an example of the middle molded body (primary blow molding object) acquired at the process of manufacturing the plastic blow molding container of the present invention.

[Drawing 6]It is a cross sectional view showing another example of the parison which can manufacture the plastic blow molding container of the present invention.
[Drawing 7]It is a cross sectional view showing an example of the plastic can using the conventional plastic blow molding container.
[Explanations of letters or numerals]
1 Plastic blow molding container
4 and 6 Parison
5 Primary blow molding object
7 Plastic canning
11 Flange
12 Diameter reduction part
13 Drum section
14 Bottom part
15 Expanding part
16 Heel section external wall surface
17 Heel section
18 Center recessed part
19 Grounding part
20 Heel section internal surface
21 Bottom part center portion
75 Double seam
76 Metal lid

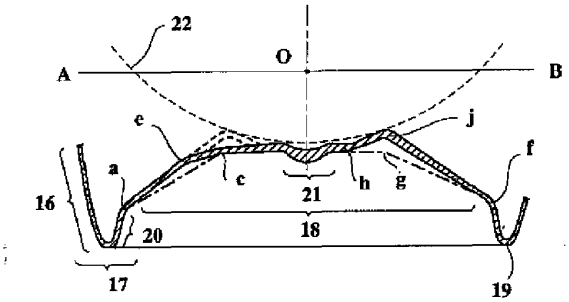
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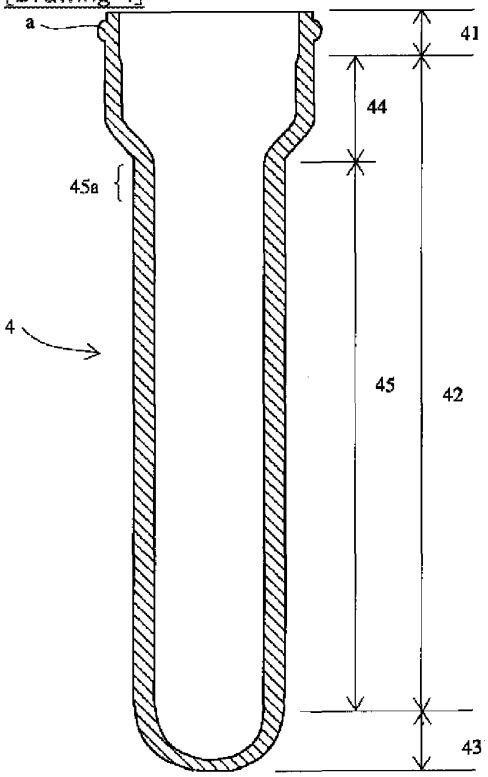
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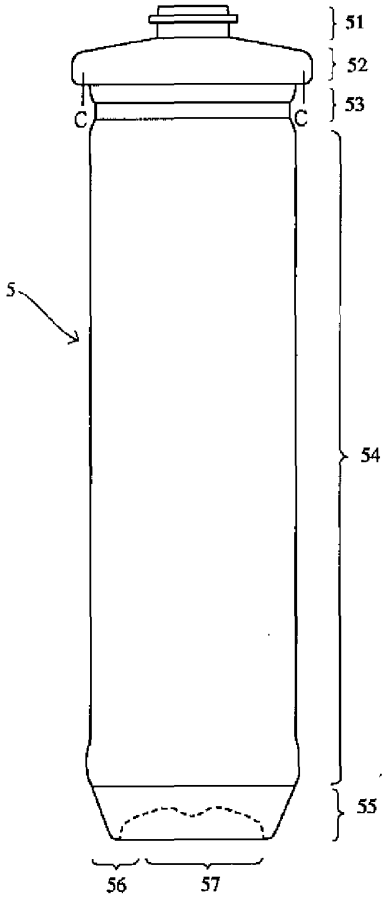
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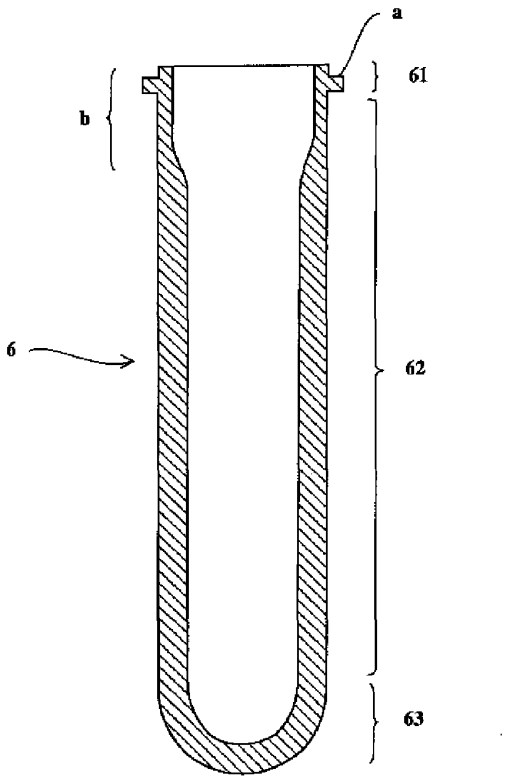
[Drawing 4]



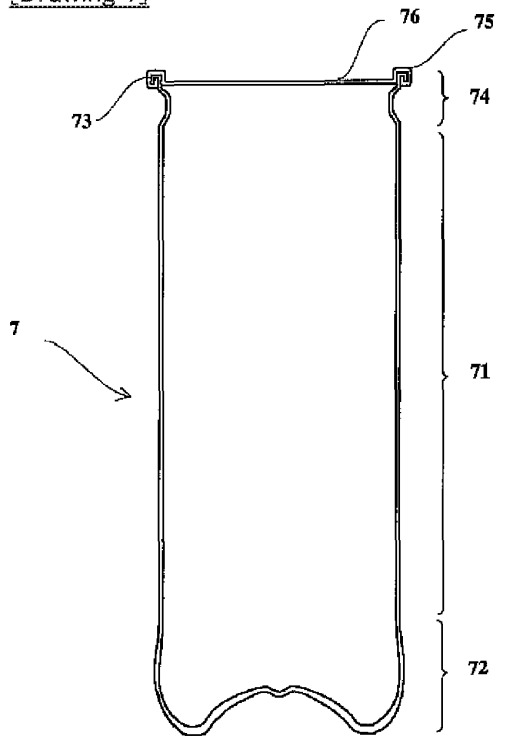
[Drawing 5]



[Drawing 6]



[Drawing 7]



[Translation done.]

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	9/22/2011	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name Search	9/21/2011	KC
Backward/Forward Search	9/23/2011	KC
Text Search	1/31/2013	KC

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

/K.C./ Examiner.Art Unit 3781	

EAST Search History

EAST Search History (Prior Art)

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EAST Search History (Interference)

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2/1/2013 4:13:02 PM
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Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	09/23/2011	02/01/2013							
	1	✓	✓							
	2	N	N							
	3	✓	✓							
	4	✓	✓							
	5	✓	✓							
	6	✓	✓							
	7	✓	✓							
	8		✓							
	9		✓							
	10		✓							

[FILE NO. 11-002009-02] PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Kick, Merrilee	Art Unit	: 3781
Serial No.	: 12/762,934	Examiner	: Castillo, Kevin Charles
Filed	: April 19, 2010		
Title	: Container		

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

AMENDMENT/REPLY SUMMARY

In response to the Final Office Action mailed February 7, 2013, Applicant has prepared these remarks. Please amend the above application as follows:

CLAIMS: Amendments to the claims begin on page 2 of this Amendment.

REMARKS/ARGUMENTS: Remarks and Arguments begin on page 4 of this Amendment.

AMENDMENT TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application.

Listing of Claims:

1. (PREVIOUSLY AMENDED) A container for storing a liquid or a solid, comprising ~~of~~ a plastic container body having a container convex side wall, ~~and~~ a container bottom wall, and a lid.

2. (CANCELLED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (PREVIOUSLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said plastic container body includes a vertical or angled neck.

4. (PREVIOUSLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~, 3 wherein ~~the~~ said plastic container body includes ~~a lip and~~ a neck, wherein said neck includes a lip.

5. (PREVIOUSLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~ 4, wherein ~~the~~ said container bottom wall includes a container bottom and a center protrusion.

6. (CANCELLED) ~~A container for storing a liquid or solid as in Claim 15, where in the said container bottom wall includes a depression on the exterior of said container bottom wall.~~

7. (PREVIOUSLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~6, wherein the bottom wall includes ~~a depression is~~ a radial extending depression.

8. (PREVIOUSLY AMENDED) A container for storing a liquid or solid as in Claim ~~1~~7, where in ~~the~~ said container body is of a truncated spherical shape.

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 8, wherein said lid is constructed of a material selected from the group consisting of: plastic, aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

RESTRICTION REQUIREMENT

On September 22, 2011, Applicant made a provisional election without traverse. On September 12, 2012 in the Response to Office Action, Applicant requested that the provisional election be made with traverse, to which the Examiner objected, based on MPEP 818.01. Applicant hereby withdraws the request to make election with traverse to facilitate expeditious prosecution of this Application.

REMARKS/ARGUMENTS

Applicant has cancelled claim 6 to define the invention more particularly and distinctly so as to overcome the technical rejections and define the invention patentably over the prior art. Applicant argues that the subject matter encompassed by the earlier presented claims is patentable over the prior art cited by the Examiner. Applicant amends claims in this Response solely to facilitate expeditious prosecution of this application. Applicant traverses all rejections and respectfully reserves the right to pursue the earlier-presented claims, and additional claims, in one or more continuing applications. No new matter is added to this Application.

CLAIM REJECTION UNDER 35 U.S.C. § 102

The Examiner rejected claims 1 and 3-7 under 35 U.S.C. § 102 as being anticipated by *Yoshida*, Plastic Blow-molded Container, Japanese Patent Application JP 105032248A, July 19, 1991 (hereinafter "*Yoshida*"). This rejection is respectfully traversed.

In rejecting the claims, the Examiner states "[w]ith respect to claim 1, *Yoshida* discloses a container for storing a liquid or a solid, comprising a plastic container body [Abstract] having a container convex side wall [sidewall is convex], a container bottom wall [18], and a lid [79]."[1]

[1] *February 7, 2013, Final Office Action*, Paragraph 2.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches.[2] In this case, each and every feature of the presently claimed invention is not disclosed in the cited reference, arranged as they are in the claims.

REJECTION OF CLAIMS 1, 3 & 4

Applicant's independent claim 1 is not anticipated because *Yoshida* fails to teach a container having a convex side wall as recited in amended claim 1. *Yoshida*, a plastic molded container that has a substantially cylindrical shaped side wall, does not teach the feature of a convex side wall. The Examiner asserts otherwise, citing the following portion of *Yoshida* for support. "18 [Bottom part consists of a] center recessed part; 76 metal lid."[3] Applicant respectfully disagrees. *Yoshida* constantly refers to the container as "a drum section" with a side wall, that is substantially cylindrical. *Yoshida* [0012]. *Yoshida* claims "a substantially cylindrical drum section." *Yoshida* [Claim 1]. A cylinder is defined as "the surface traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar closed curve."[4] *Yoshida*'s Drawings 2 and 5-7 depict the cylindrical side wall with a straight line. In contrast, Applicant discloses a container with a convex wall. A convex wall is one that is "curved or

[2] *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983).
[3] *Yoshida*, Page 8, Drawings 7, Brief Description of the Drawings 18 and 76.
[4] Merriam Webster, Dictionary and thesaurus, available at http://www.merriam-webster.com/dictionary/cylinder, last visited February 25, 2013, Exhibit A.

rounded outward like the exterior of a sphere or circle."[5] Figure 1 of Applicant's invention clearly depicts a container with a convex side wall with curved outward lines. Also in Applicant's specification, Applicant describes the side wall as "a side wall which may extend radially around a periphery of the container body and may include a convex side wall." *Kick*, [0013]. Thus, *Yoshida* fails to teach every element of the invention claimed in the Application.

Since Applicant's dependent claims 3-4 depend on Applicant's independent claim 1, the same distinction between *Yoshida* and the claimed invention in claims 3-4 is applicable for these claims. Again, *Yoshida* fails to teach every element of the claimed invention identically as shown or arranged in the Application.

REJECTION OF CLAIM 5

Additionally, Applicant's claims 5-7 claim additional combinations of features that are not disclosed by the reference. For example, in rejecting claim 5, the Examiner states: "[r]e Claim 5, *Yoshida* discloses the container bottom wall[18] including a container bottom[18] and a center protrusion [21]."[6] *Yoshida* discloses as follows: "18. Center Recessed Part 21. Bottom part center portion."[7] *Yoshida*'s bottom part center portion description fails to disclose Applicant's feature of the container bottom with a center protrusion. *Yoshida* discloses "a second protruding part [the bottom wall] is placed up along the axial direction of a container rather than the center section [the center portion] of the center recessed part." *Yoshida*, [0020]. Drawing 2 of *Yoshida*, additionally indicates that the container bottom wall includes a center depression rather than a protrusion. Applicant's Figure 3 shows that the protrusion is directed downward, toward the interior.

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[5] Merriam Webster, Dictionary and Thesaurus, available at http://www.merriam-webster.com/dictionary/convex, last visited February 25, 2013, Exhibit B.
[6] *February 7, 2013, Final Office Action*, Paragraph 3.
[7] *Yoshida*, Brief Description of the Drawings 18 & 21.

CANCELLATION OF CLAIM 6

Applicant's claim 6 is cancelled. Applicant does not concede that the subject matter encompassed by the earlier presented claims is not patentable over the art cited by the Examiner. Applicant canceled claims in this Response solely to facilitate expeditious prosecution of this application. Applicant traverses all rejections and respectfully reserves the right to pursue the earlier-presented claims, and additional claims, in one or more continuing applications.

REJECTION OF CLAIM 7

In rejecting Applicant's claim 7, the Examiner states "[r]e Claim 7, *Yoshida* discloses said depression [l,j,e,g,c, and like recesses; Fig 2] is a radial extending depression."[8] Applicant's claim 7 is not anticipated by *Yoshida* because *Yoshida* does not teach the feature of a radial extending depression on the exterior of said container bottom wall. Paragraph 18 of *Yoshida* describes the bottom portion to include a structure of a pyramid. Consequently, *Yoshida* discloses a bottom structure, the pyramid, with straight ridgelines [0020] and a "peak to the inner direction." *Yoshida*, [0018]. In contrast, Applicant's container includes a feature of radially extending depressions.

Therefore, the rejections of claims 1, 3-5, and 7 under 35 U.S.C. § 102 have been overcome.

CLAIM REJECTION UNDER 35 U.S.C. § 103

The Examiner has rejected claims 8-10 under 35 U.S.C. § 103 as being unpatentable over *Yoshida* in view of O'Day Jr., Water Bottle For a Dispenser, U.S. Patent No. 7,501,892 (hereinafter "*O'Day.*"). This rejection is respectfully traversed.

[8] *February 7, 2013, Final Office Action*, Paragraph 7.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). The prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In determining obviousness, "often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue." *KSR Int'l. Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007). "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)).

REJECTION OF CLAIM 8

In rejecting claim 8, the Examiner states: "[r]e Claim 8, *Yoshida* discloses all the limitations substantially as claimed. *Yoshida* does not disclose the container body formed of a truncated spherical shape. However, *O'Day* teaches a plastic, blow-molded, disposable bottle that can be formed of many different shapes and sizes depending on the prescribed use or aesthetic appearance desired [at least Abstract; Figs 1-21]."[9] *Yoshida* and *O'Day*, either alone or in combination, fail to teach or suggest each and every feature of dependent claim 8. As discussed earlier, *Yoshida* does not teach all of the features of Applicant's independent claim 1. Additionally, *Yoshida* does not suggest all features of dependent claim 8 because *Yoshida* explicitly describes the container as a substantially cylindrical drum section that includes straight outward lines. Also, *Yoshida* fails to teach the feature of a radial extending depression in the

[9] *February 7, 2013, Final Office Action*, Paragraph 12.

bottom wall of the container. Likewise, *O'Day* does not teach or suggest, alone or in combination with *Yoshida*, all the features of claim 8. *O'Day* is "a plastic, blow molded, disposable water bottle consisting of a basically spherical or elliptical shape, a footed base portion, and a unique neck geometry."[10] *O'Day* further describes the base of the bottle as a "Champagne" (slight cup) type or a footed base type, or an extended base type that is round below the spherical surface.[11] Therefore, *O'Day* does not teach or suggest "a radial extending depression" in the bottom wall of the container as recited in claim 8.

REJECTION OF CLAIM 9

In rejecting claim 9, the Examiner states "[r]e Claim 9, *Yoshida* in view of *O'Day* disclose all the limitations substantially as claimed. *Yoshida* further discloses the lid constructed of a material selected from the group consisting of: plastic, aluminum, tin and metal [76, Metal Lid]."[12] As dependent claim 9 depends on claim 8, the same arguments advanced with respect to claim 8 also apply to claim 9 and 10. Furthermore, claims 9-10 claim additional combinations of features that are not disclosed by the references. For example, neither *Yoshida* nor *O'Day* teaches the feature of using plastic, aluminum and tin to construct the lid. *Yoshida* discloses only the lid made of metal.[13] Additionally, *O'Day* fails to teach the feature of using plastic, aluminum or tin to construct the lid.

REJECTION OF CLAIM 10

In rejecting claim 10, the Examiner states "[r]e Claim 10, *Yoshida* in view of *O'Day* disclose all the limitations substantially as claimed. *Yoshida* further discloses the lid positioned

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[10] *O'Day*, Abstract, Lines 1-4.
[11] *O'Day*, Detailed Description of Invention, Paragraph 4.
[12] *February 7, 2013, Final Office Action*, Paragraph 14.
[13] *Yoshida*, Brief Description of the Drawings 76.

within the interior edges of said lip [as shown in Fig. 7, Paragraph 0038]."[14] Dependent claim 10 is not anticipated by the references because *Yoshida* and *O'Day*, either alone or in combination, do not teach or suggest "the lid positioned within the interior edges of the lip" as recited in Applicant's dependent claim 10. *O'Day* involves a neck extension that requires the bottle to have a thread which a cap will seal.[15] Consequently, the lid must include a complementary thread, which cannot be positioned within the interior edges of a lip. Furthermore, *Yoshida* does not teach the lid positioned within the interior edges of the lip. *Yoshida* discloses a double seam with the metal lid to seal the lid. *Yoshida*, [0038]. *Yoshida* does not disclose the feature of the lid positioned within the interior edges of the lip. Thus, *Yoshida* and *O'Day* do not render dependent claim 10 obvious because the cited references, either alone or in combination, fail to teach or suggest each and every feature of claim 10. Therefore, Applicant submits that the rejections of claims 8-10 under 35 U.S.C. § 103 have been overcome.

RESPONSE TO ARGUMENTS

Regarding the arguments presented on the Response to Office Action filed on September 12, 2012, the Examiner responded that the arguments have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection. Applicant requests that all the arguments previously presented in the Response to Office Action be reconsidered with the arguments presented in this Amendment. Additionally, Applicant traverses all rejections and respectfully reserves the right to pursue the earlier presented claims, additional claims and arguments in one or more continuing applications and amendments.

[14] *February 7, 2013, Final Office Action*, Paragraph 15.
[15] *O'Day*, Detailed Description, Paragraph 9.

CONCLUSION

For all of the above stated reasons, Applicant asserts that this application is now in condition for allowance which action she respectfully solicits from this Examiner.

Respectfully submitted,

Date: April 26, 2013

/John T. Wilson/
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Electronic Acknowledgement Receipt	
EFS ID:	15622022
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Sul Lee
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	26-APR-2013
Filing Date:	19-APR-2010
Time Stamp:	12:53:44
Application Type:	Utility under 35 USC 111(a)

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	Amendment After Final	BuzzBallz_Response_FA.pdf	3095134 ae1c0d4a050f4476564b4eeb0a95f7b95260d76a	no	11

Warnings:
Information:

Total Files Size (in bytes):	3095134

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 12/762,934	Filing Date 04/19/2010	☐ 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)		
AMENDMENT	04/26/2013	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
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	Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X $210 =	0
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	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))						
						TOTAL ADD'L FEE	0

		(Column 1)		(Column 2)	(Column 3)		
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	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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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 05/03/2013

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

EXAMINER	
CASTILLO, KEVIN CHARLES	
ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
05/03/2013	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):

john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Advisory Action **Before the Filing of an Appeal Brief**	**Application No.** *12/762,934*	**Applicant(s)** KICK, MERRILEE
	Examiner KEVIN CASTILLO	**Art Unit** 3781

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

THE REPLY FILED 26 April 2013 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

NO NOTICE OF APPEAL FILED

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance;

(2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

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

c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires months from the mailing date of *the prior Advisory Action* or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANT'S FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. ☒ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because

a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

b) ☐ They raise the issue of new matter (see NOTE below);

c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

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

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): (a) ☐ will not be entered, or (b) ☐ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

STATUS OF CLAIMS

14. The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: .

Claim(s) objected to: .

Claim(s) rejected: 1, 3-10.

Claim(s) withdrawn from consideration: .

/Anthony Stashick/ Supervisory Patent Examiner, Art Unit 3781	/K. C./ Examiner, Art Unit 3781

Continuation of 11. does NOT place the application in condition for allowance because: The claims as presented do not overcome the prior art cited in the final rejection. Furthermore, Applicant has cancelled Claim 6 to which Claims 7-10 depend. Due to this cancellation, it is not known to which claim Claims 7-10 depend from.

[FILE NO. 11-002009-02]

DO NOT ENTER: /K.C./
04/30/2013

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Kick, Merrilee
Serial No. : 12/762,934
Filed : April 19, 2010
Title : Container

Art Unit : 3781
Examiner : Castillo, Kevin Charles

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

AMENDMENT/REPLY SUMMARY

In response to the Final Office Action mailed February 7, 2013, Applicant has prepared these remarks. Please amend the above application as follows:

CLAIMS: Amendments to the claims begin on page 2 of this Amendment.

REMARKS/ARGUMENTS: Remarks and Arguments begin on page 4 of this Amendment.

[FILE NO. 11-002009-02] PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Kick, Merrilee
Serial No. : 12/762,934
Filed : April 19, 2010
Title : Container

Art Unit : 3781
Examiner : Castillo, Kevin Charles

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

RESPONSE TO FINAL OFFICE ACTION AND ADVISORY ACTION AND REQUEST FOR CONTINUED EXAMINATION

This Request for Continued Examination is in response to the Examiner's Final Office Action and Advisory Action. Applicant received a Final Office Action, mailed on February 7, 2013, for which a shortened statutory period for response was set to expire on May 7, 2013. Applicant responded to this Final Rejection on April 26, 2013. Applicant received an Advisory Action, mailed on May 3, 2013, advising that Applicant's mailing of April 26, 2012 failed to place the application in condition for allowance and that no notice of appeal had been filed. Accordingly, Applicant requests a 3 month extension to respond such that the response deadline will now be August 7, 2013.

The petition to extend the time to respond for 3 months, until August 7, 2013, and the fees for a 3 month extension are herein enclosed.

The Applicant herein requests the continued examination of the present application and encloses the required fee. The Applicant herein requests the Office withdraw the finality of the office action and requests that the amendments filed herewith will be entered and considered.

AMENDMENT TO THE CLAIMS

Please file amendments for claims 4, 5, 6 and 9.

Listing of Claims:

1. (PREVIOUSLY AMENDED) A container for storing a liquid or a solid, comprising ~~of~~ a plastic container body having a container convex side wall, ~~and~~ a container bottom wall, and a lid.

2. (CANCELLED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (PREVIOUSLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said plastic container body includes a vertical or angled neck.

4. (AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~3, ~~wherein the said plastic container body includes a lip and a neck,~~ wherein said neck includes a lip.

5. (AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said container bottom wall includes a downward extending center protrusion.

6. (AMENDED) ~~A~~ container for storing a liquid or solid as in Claim 1, where in the said container bottom wall ~~includes a depression on the exterior of said container bottom wall~~ is of a smaller diameter than said container convex side wall.

7. (PREVIOUSLY AMENDED) A container for storing a liquid or a solid as in Claim 1, wherein ~~the~~ said container bottom wall includes ~~a depression is a~~ at least one radial extending depression within said center protrusion.

8. (PREVIOUSLY AMENDED) A container for storing a liquid or solid as in Claim 1, where in ~~the~~ said container body is a truncated spherical shape.

9. (AMENDED) A container for storing a liquid or solid as in Claim ~~8~~1, wherein said lid is constructed of a material selected from the group consisting of: plastic, aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (NEW) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

The Amendments to this application contain no new matter.

RESTRICTION REQUIREMENT

On September 22, 2011, Applicant made a provisional election without traverse. On September 12, 2012 in the Response to Office Action, Applicant requested that the provisional election be made with traverse, to which the Examiner objected, based on MPEP 818.01. Applicant hereby withdraws the request to make election with traverse to facilitate expeditious prosecution of this Application.

CLAIM REJECTION UNDER 35 U.S.C. § 102

The Examiner rejected claims 1 and 3-7 under 35 U.S.C. § 102 as being anticipated by Yoshida, Plastic Blow-molded Container, Japanese Patent Application JP 105032248A, July 19, 1991 (hereinafter "Yoshida"). This rejection is respectfully traversed. In rejecting the claims, the Examiner states "Yoshida discloses a container for storing a liquid or a solid, comprising a plastic container body [Abstract] having a container convex side wall [sidewall is convex], a container bottom wall [18], and a lid [79]."[1] Applicant submits that each and every feature of the claimed invention is not presented by the references cited by this Examiner.

Applicant submits that her independent claim 1 is not anticipated by Yoshida since Yoshida fails to teach a container having a convex side wall. Yoshida instead teaches a plastic molded container that has a substantially cylindrical shaped side wall. Yoshida does not teach the feature of a convex side wall. The Examiner asserts otherwise, citing the following portion of Yoshida for support. "18 [Bottom part consists of a] center recessed part; 76 metal lid."[2] Applicant respectfully disagrees. Yoshida constantly refers to the container as "a drum section"

[1] *2/7/2013, Final Office Action*, Paragraph 2.
[2] *Yoshida*, Page 8, Drawings 7, Brief Description of the Drawings 18 and 76.

with a side wall that is substantially cylindrical.[3] Yoshida claims "a substantially cylindrical drum section." Yoshida [Claim 1]. Yoshida's Drawings 2 and 5-7 depict the cylindrical side wall with a straight line. In contrast, Applicant discloses a container with a convex wall or a concave wall.[4] Figure 1 of Applicant's invention clearly depicts a container with a convex side wall with curved outward lines. Thus, Yoshida fails to teach every element of the invention claimed in the Application.

This Examiner also asserts that dependent claims 3 and 4 are anticipated by Yoshida as Applicant similarly claims a neck and lip portion of the container. Presumably, even if Yoshida's flange and double winding portion corresponds to Applicant's neck and lip, then the container bodies of Yoshida and Applicant still differ considerably. Yoshida's side wall is cylindrical and vertical while Applicant's side wall is not only vertical but may also be convex or concave. It is for these reasons, Applicant submits that Yoshida does not anticipate each and every feature of Applicants invention.

Additionally, Applicant's claims 5-7 claim additional combinations of features that are not disclosed by the reference Yoshida. In the rejection of claim 5, the Examiner states: "Yoshida discloses the container bottom wall[18] including a container bottom[18] and a center protrusion [21]."[5] However Yoshida only discloses a "18. Center Recessed Part 21. Bottom part center portion,"[6] but fails to disclose Applicant's feature of the container bottom with a center protrusion. Applicant's downward center protrusion is a portion of the container wall positioned between the side wall and the center depressions not a "center recessed part" as in Yoshida. The portion of Yoshida which Examiner cites as anticipating Applicant's invention,

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[3] Yoshida [0012].
[4] Kick, [0013] specification describes "the container body which may include a side wall which may extend radially around a periphery of the container body and may include a convex side wall or a concave side wall (not shown)."
[5] *2/7/13, Final Office Action*, Paragraph 3.
[6] *Yoshida*, Brief Description of the Drawings 18 & 21.

is not the same component of the container body. Yoshida discloses "a second protruding part [the bottom wall] is placed up along the axial direction of a container rather than the center section [the center portion] of the center recessed part."[7]

In the rejection of claim 6, Examiner also cites Yoshida's disclosure of "the container bottom wall including a depression on the exterior of said container bottom wall."[8] Applicant amended claim 6 to more distinctly and patentably claim the invention. In rejecting Applicant's claim 7, Examiner states "Yoshida discloses said depression is a radial extending depression."[9] Applicant's claim 7 is not anticipated by Yoshida because Yoshida does not teach the feature of a radial extending depression on the exterior of said container bottom wall. Yoshida describes the bottom portion to include a structure of a pyramid. Consequently, Yoshida discloses a bottom structure, the pyramid, with straight ridgelines [0020] and a "peak to the inner direction."[10] In contrast, Applicant's container includes a feature of radially extending depressions from the center protrusion, not just the bottom container wall. Applicant's amended claim 6 makes clear that Applicant's container bottom wall is a smaller diameter than the container side wall and amended claim 7 states that at least one radial depression extends from the center protrusion of the container bottom wall.

Therefore, the rejections of claims 1, 3-7 under 35 U.S.C. § 102 have been overcome.

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[7] Yoshida, [0020].
[8] *2/7/13, Final Office Action*, Paragraph 7.
[9] *2/7/13, Final Office Action*, Paragraph 7.
[10] Yoshida, [0018].

CLAIM REJECTION UNDER 35 U.S.C. § 103

The Examiner has rejected claims 8-10 under 35 U.S.C. § 103 as being unpatentable over Yoshida in view of O'Day Jr., Water Bottle For a Dispenser, U.S. Patent No. 7,501,892 (hereinafter "O'Day."). This rejection is respectfully traversed. The Examiner bears the burden of establishing a prima facie case of obviousness based on the prior art.

In rejecting claim 8, the Examiner states: "O'Day teaches a plastic, blow-molded, disposable bottle that can be formed of many different shapes and sizes depending on the prescribed use or aesthetic appearance desired."[11] Yoshida and O'Day, either alone or in combination, fail to teach or suggest each and every feature of claim 8. Yoshida does not suggest all features of claim 8 because Yoshida explicitly describes the container as a substantially cylindrical drum section that includes straight outward lines and also fails to teach the feature of a radial extending depression in the bottom wall of the container. Likewise, O'Day does not teach or suggest, alone or in combination with Yoshida, all the features of claim 8 since O'Day does not teach or suggest "a radial extending depression" in the bottom wall of the container. O'Day is "a plastic, blow molded, disposable water bottle consisting of a basically spherical or elliptical shape, a footed base portion, and a unique neck geometry."[12] O'Day further describes the base of the bottle as a "Champagne" (slight cup) type or a footed base type, or an extended base type that is round below the spherical surface.[13]

In rejecting claim 9, the Examiner states "Yoshida in view of O'Day disclose all the limitations substantially as claimed. Yoshida further discloses the lid constructed of a material selected from the group consisting of: plastic, aluminum, tin and metal [76, Metal Lid]."[14] As

[11] *2/7/13, Final Office Action*, Paragraph 13.
[12] *O'Day*, Abstract, Lines 1-4.
[13] *O'Day*, Detailed Description of Invention, Paragraph 4.
[14] *2/7/13, Final Office Action*, Paragraph 14.

stated above, Yoshida explicitly describes its container as a substantially cylindrical drum section that includes straight outward lines and also fails to teach the feature of a radial extending depression in the bottom wall of the container and O'Day also does not teach or suggest "a radial extending depression" in the bottom wall of the container. Furthermore, claims 9-10 claim additional combinations of features that are not disclosed by the references. For example, neither Yoshida nor O'Day teaches the feature of using plastic, aluminum and tin to construct the lid. Yoshida discloses only the lid made of metal.[15] Additionally, O'Day fails to teach the feature of using plastic, aluminum or tin to construct the lid.

In rejecting claim 10, the Examiner states "Yoshida in view of O'Day discloses all the limitations substantially as claimed. Yoshida further discloses the lid positioned within the interior edges of said lip [as shown in Fig. 7, Paragraph 0038]."[16] Dependent claim 10 is not anticipated by the references because Yoshida and O'Day, either alone or in combination, do not teach or suggest "the lid positioned within the interior edges of the lip" as recited in Applicant's dependent claim 10. O'Day involves a neck extension that requires the bottle to have a thread which a cap will seal.[17] Consequently, the lid must include a complementary thread, which cannot be positioned within the interior edges of a lip. Furthermore, Yoshida does not teach the lid positioned within the interior edges of the lip. Yoshida discloses a double seam with the metal lid to seal the lid.[18] Yoshida does not disclose the feature of the lid positioned within the interior edges of the lip. Thus, Yoshida and O'Day do not render claim 10 obvious because the cited references, either alone or in combination, fail to teach or suggest each and every feature of

[15] *Yoshida*, Brief Description of the Drawings 76.
[16] *2/7/13, Final Office Action*, Paragraph 15.
[17] O'Day, Detailed Description, Paragraph 9.
[18] Yoshida, [0038].

claim 10. Therefore, Applicant submits that the rejections of claims 8-10 under 35 U.S.C. § 103 have been overcome.

RESPONSE TO ARGUMENTS

Regarding the arguments presented on the Response to Office Action filed on September 12, 2012, the Examiner responded that the arguments have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection. Applicant requests that all the arguments previously presented in the Response to Office Action be reconsidered with the arguments presented in this Amendment. Additionally, Applicant traverses all rejections and respectfully reserves the right to pursue the earlier presented claims, additional claims and arguments in one or more continuing applications and amendments.

CONCLUSION

For all of the above stated reasons, Applicant asserts that this application is now in condition for allowance which action she respectfully solicits from this Examiner.

Respectfully submitted,

Date: August 5, 2013

/John T. Wilson/
John T. Wilson
Reg. No. 61,411

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Electronic Patent Application Fee Transmittal	
Application Number:	12762934
Filing Date:	19-Apr-2010
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Filer:	Kandace DeKeshia Walter
Attorney Docket Number:	11-002009-02
Filed as Small Entity	

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 2 months with $0 paid	2252	1	300	300

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Request for Continued Examination	2801	1	600	600
		Total in USD ($)		**900**

Electronic Acknowledgement Receipt	
EFS ID:	16502607
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	05-AUG-2013
Filing Date:	19-APR-2010
Time Stamp:	16:16:50
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$900
RAM confirmation Number	3131
Deposit Account	
Authorized User	

File Listing:

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

1	Transmittal Letter	Kick_transmittal_RCE.pdf	324020 3f6add0d8e6acad0d86e11a28f006b3bd3b522fc	no	3
Warnings:					
Information:					
2	Request for Continued Examination (RCE)	Kick_RCE.pdf	2661407 0ee177208397a2ffbb3904446dac14cd13ac0dad	no	9
Warnings:					
This is not a USPTO supplied RCE SB30 form.					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	31731 23a5b13eb2a887443a6643c8196e41a764e2a669	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	3017158	

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/30 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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Request for Continued Examination (RCE) Transmittal

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

Application Number	12/762934
Filing Date	04/19/2010
First Named Inventor	Kick, Merrilee
Art Unit	3781
Examiner Name	Castillo, Kevin Charles
Attorney Docket Number	11-002009-02

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

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

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

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

      Ii. ☐ Other _____

   b. ☑ Enclosed

      I. ☑ Amendment/Reply

      ii. ☐ Affidavit(s)/ Declaration(s)

      iii. ☐ Information Disclosure Statement (IDS)

      iv. ☐ Other _____

2. Miscellaneous

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

   b. ☐ Other _____

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

   a. ☐ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. _____.

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

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

      iii. ☐ Other _____

   b. ☐ Check in the amount of $ _____enclosed

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

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

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	/John T. Wilson/	Date	08/05/2013
Name (Print/Type)	John T. Wilson	Registration No.	61411

CERTIFICATE OF MAILING OR TRANSMISSION

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

Signature	/John T. Wilson/		
Name (Print/Type)	John T. Wilson	Date	08/05/2013

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

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PTO/SB/30 (07-09)
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Instruction Sheet for RCEs

(not to be submitted to the USPTO)

NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

Filing Qualifications:

The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

Filing Requirements:

Prosecution in the application must be closed. Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under *Ex parte Quayle*). See 37 CFR 1.114(b).

A submission and a fee are required at the time the RCE is filed. If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

WARNINGS:

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All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

Improper RCE will NOT toll Any Time Period:

Before Appeal - If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

Under Appeal - If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

See MPEP 706.07(h) for further information on the RCE practice.

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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.
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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)
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/762,934	Filing Date 04/19/2010	☐ 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 **08/05/2013**

	(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))	* 8	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

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
/LINDA A. WASHINGTON/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 08/16/2013

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

EXAMINER	
CASTILLO, KEVIN CHARLES	
ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
08/16/2013	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):

john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 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 *5 August 2013*.

☐ 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 and 3-11* is/are pending in the application.

5a) Of the above claim(s) *11* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1, 3-10* 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/08) Paper No(s)/Mail Date _____.

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

4) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "container bottom wall including a downward extending center protrusion" of Claim 5 and the "container bottom wall including at least one radial extending depression within the center protrusion" must be shown or the feature(s) canceled from the claim(s). Applicant does not indicate the location of the center protrusion nor does applicant show a center protrusion extending downwards, as Applicant's points upwards, as shown in Fig 1, the protrusion points to the interior of the container. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Election/Restrictions

1. Newly submitted claim 11 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 11 recites “A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.” However, the elected species is "A container for storing a liquid or a solid, comprising a plastic container body having a container convex side wall, a container bottom wall, and a lid.” The difference being the concave and convex side wall of the container.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 11 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

2. The following is a quotation 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 35 U.S.C. 112 (pre-AIA), first paragraph:

> 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.

3. Claim 7 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 enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 7 recites the limitation of “said container bottom wall including at least one radial extending depression within said center protrusion. However, Applicant's center protrusion, as shown in Fig 3 as a depression 115, does not container any radial extending depressions. This protrusion is the only protrusion seen to be at the center of the container bottom wall.

4. Claim 9 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 enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant does not enable the use of plastic to construct the lid. As shown in Para 20 of Applicant's disclosure, steels, aluminum, or other types of metals are used.

5. 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.

6. Claim 7 recites the limitation "said center protrusion" in Line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

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

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

2. Claims 1, 3-7, 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida, Japanese Patent Publication JP105032248A.

3. Re Claim 1, Yoshida discloses a container for storing a liquid or a solid, comprising a plastic container body [Abstract] having a container convex side wall [sidewall is convex], a container bottom wall [18], and a lid [76].

4. Re Claim 3, Yoshida discloses the plastic container body [abstract] includes a vertical or angled neck [12].

5. Re Claim 4, Yoshida discloses said neck includes a lip [11].

6. Re Claim 5, Yoshida discloses the said container bottom wall [18] includes a downward extending center protrusion [21].

7. Re Claim 6, Yoshida discloses the container bottom wall [18] is of a smaller diameter than said container convex side wall [as shown in Figs 1 and 3, the bottom

wall in enclosed by the side walls, therefore having a smaller diameter than the side walls].

8. Re Claim 7, Yoshida discloses said container bottom wall [18] includes at least one radial extending depression [l, j e, g, c, and like recesses; Fig 2] within said center protrusion [the protrusion the wall 18 creates into the container, as shown in Fig 2].

9. Re Claim 9, Yoshida discloses the lid constructed of a material selected from the group consisting from the group consisting of: plastic, aluminum, tin, and metal [76, Metal Lid].

10. Re Claim 10, Yoshida discloses the lid positioned within the interior edges of said lip [as shown in Fig 7, Para 0038].

Claim Rejections - 35 USC § 103

11. 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.

12. 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.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida Japanese Patent Publication JP105032248A, as applied to Claim 7, in view of O'Day, Jr., US Patent 7051892.

14. Re Claim 8, Yoshida discloses all the limitations substantially as claimed. Yoshida does not disclose the container body formed of a truncated spherical shape.

15. However, O'Day teaches a plastic, blow-molded, disposable bottle that can be formed of many different shapes and sizes depending on the prescribed use or aesthetic appearance desired [at least Abstract; Figs 1-21].

Response to Arguments

7. Applicant's arguments filed 8/05/2013 have been fully considered but they are not persuasive. Re Claims 1, 3-7, Applicant argues that Yoshida does not teach "a container having a convex side wall". However, Yoshida does in-fact disclose this limitation, because Yoshida's container is a cylindrical shape, the sidewall consisting of a convex shape, pointing outwards of the interior creating the cylindrical shape. Therefore, Applicant's argument is not persuasive.

8. With respect to Applicant's arguments to 3 and 4, Applicant begins by stating the neck and lip portion of the container, but states that Yoshida differs with respect to the sidewall, addressed above. Since, the argument is to the sidewall, and not the neck and lip portion of the container, Applicant's arguments are not persuasive.

9. With respect to Applicant's arguments to Claims 5-7, Applicant argues that Yoshida "fails to disclose Applicant's feature of the container bottom with a center

protrusion." Applicant further argues the description used by Yoshida do describe the container bottom and center protrusion. However, as shown in the rejection above, Yoshida does in-fact disclose the container bottom wall including a downward extending center protrusion, Claim 5 above. The container bottom wall of a smaller diameter than said container convex sidewall, Claim 6 above. The bottom wall including at least one radial extending depression within said center protrusion, Claim 7 above. Therefore, Applicant's arguments are not persuasive.

10. Applicant states that Claim 6 was amended to more distinctly and patentably claim the invention. However, as shown in the rejection above, Yoshida discloses the limitations of Claim 6.

11. Re Claim 7, Applicant states that "Yoshida does not teach the feature of a radial extending depression on the exterior of said container bottom wall." Furthermore stating, "Applicant's container includes a feature of radially extending depression from the center protrusion, not just the bottom container wall." However, Claim 7 recites "said container bottom wall includes at least one radial extending depression within said center protrusion." Applicant has not amended Claim 7 to recite that "at least one radial depression extends from the center protrusion of the container bottom wall," as stated in Applicant's arguments, Page 6, Lines 15 and 16. However, as shown in the rejection above, Yoshida discloses the limitations of Claim 7.

12. Re Claim 8, Applicant argues that neither Yoshida nor O'Day disclose the limitations of the convex sidewall or the radial extending depressions of the bottom wall. However, Yoshida does in fact disclose the convex sidewall, as shown in the rejections

above. Furthermore, the radial extending depressions are not a limitation of Claim 8, as Claim 8 does not depend from Claim 7. Therefore, the limitations of Claim 8 are taught by Yoshida and O'Day as shown in the rejection above.

13. Re Claim 9, Applicant argues that neither Yoshida nor O'Day disclose the limitations of the convex sidewall or the radial extending depressions of the bottom wall. However, Yoshida does in fact disclose the convex sidewall, as shown in the rejections above. Furthermore, the radial extending depressions are not a limitation of Claim 9, as Claim 9 does not depend from Claim 7. Applicant further argues that Yoshida does not disclose the material of the lid consisting of plastic, aluminum, tin, and metal. However, Yoshida does disclose the lid being made of metal, which encompasses both aluminum and tin. Furthermore, due to the Markush claim language, *In re Slayter*, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); *In re Gosteli*, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989) (Gosteli claimed a genus of 21 specific chemical species of bicyclic thia-aza compounds in Markush claims. The prior art reference applied against the claims disclosed two of the chemical species. Therefore, Yoshida applies metal, therefore anticipating the group.

14. Re Claim 10, Applicant argues that Yoshida does not disclose the "lid positioned within the interior edges of the lip." However, as shown in Fig 7, the lid 76 is positioned within the interior edges of the lip. Applicant further argues O'Day's lid. However, the lid of Yoshida is cited to the limitations of Claim 10. As shown in the rejection above, Yoshida does in fact disclose the limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art Unit 3781

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	9/22/2011	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name SearchBackward/Forward SearchText Search	9/21/20119/23/20111/31/2013	KCKCKC

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

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	09/23/2011	02/01/2013	08/07/2013						
	1	✓	✓	✓						
	2	N	N	-						
	3	✓	✓	✓						
	4	✓	✓	✓						
	5	✓	✓	✓						
	6	✓	✓	✓						
	7	✓	✓	✓						
	8		✓	✓						
	9		✓	✓						
	10		✓	✓						
	11			N						

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Kick, Merrilee
Serial No. : 12/762,934
Filed : April 19, 2010
Title : Container

Art Unit : 3781
Examiner : Castillo, Kevin Charles

AMENDMENT AND RESPONSE TO OFFICE ACTION

In response to the Office Action mailed August 16, 2013, Applicant has prepared these remarks. Applicant has also amended the claims to emphasize the novelty of the invention. Applicant has amended Claims 1, 2, 3, 4, 5, 6, 7, 8, and 9, and has withdrawn Claim 11 to define the invention more particularly and distinctly so as to overcome the technical rejections of Examiner and to define the invention patentably over the prior art. The amendments to this application contain no new matter.

AMENDMENT TO THE CLAIMS

Please file amendments for Claims 1, 2, 3, 4, 5, 6, 7, 8, and 9. Please withdraw Claim 11. The following is a listing of all claims associated with this application:

Listing of Claims:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising ~~of~~ a ~~plastic~~ container body having a container ~~convex~~ side wall convex in both the horizontal and vertical direction, ~~and~~ a container bottom wall, and a lid.

2. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim 1 ~~having a pop top arm to pivot and cooperate with a weakened area to provide access to~~

~~the interior of the container body~~; wherein ~~the~~ said container body is formed from plastic and ~~any container~~ said lid is formed from metal.

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said ~~plastic~~ container body ~~includes~~ is adjacent to a ~~vertical or angled~~ neck; wherein said neck is adjacent to a lip.

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~3, wherein ~~the~~ said ~~plastic~~ container body includes an opening to the interior of said container body positioned within the interior boundaries of said ~~lip and a neck, wherein said neck includes a~~ lip.

5. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said container bottom wall ~~includes a downward extending comprised of~~ includes at least one downward extending protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said downward protrusion.

6. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, where in the said container bottom wall ~~includes a depression on the exterior of said container bottom wall~~ is of a smaller diameter than said container ~~convex~~ side wall.

7. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim 1, wherein ~~the~~ said bottom wall includes ~~a depression is a~~ at least one radial extending depression and a center depression within said ~~center~~ downward extending protrusion.

8. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, where in the container body is a truncated spherical shape.

9. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim ~~8~~1, wherein said lid is constructed of a material selected from the group consisting of: ~~plastic,~~ aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

The Amendments to this application contain no new matter.

DRAWINGS

Examiner objected to Applicant's drawings as failing to show every feature of the invention specified in the claims, specifically, the "container bottom wall including a downward extending center protrusion" and "container bottom wall including at least one radial extending depression within the center protrusion." Accordingly, Applicant submits an amended Figure 3 to comply with Applicant's objections. For instance, the "container bottom wall including a downward extending center protrusion" is on Figure 3 as a "container bottom wall" (109) and "downward extending protrusion" (119). The side wall (107) is of a larger diameter than the container bottom wall (109). The area surrounding the depressions (115) is the "downward extending protrusion" (119). This downward extending protrusion (119) is an extension of the bottom wall (109) and extends downward and inward toward the depressions (115). The depressions (115), including a "center depression" (115a) as well as the "radial extending depressions" (115b), are located within the downward extending protrusion (119) of the bottom wall (109). The center depression (115a) is centered within the radial extending depressions

(115b) and within the confines of the bottom wall (109) and downward extending protrusion (119).[1] In addition, Figure 1 and Figure 2 shows a base/bottom (109) which is angled downward.

Accordingly, the labels on Figure 3 have been amended to be consistent with the Specification and eliminate confusion regarding the components of the present invention.

CLAIM REJECTIONS UNDER 112

Examiner rejected Claim 7 as failing to comply with the enablement requirement since "said container bottom wall including at least one radial extending depression within said center protrusion" is not seen within Applicant's figures. Applicant submits that "said center protrusion" is actually the "downward protrusion" labeled as [119] in Figure 3. The downward protrusion is part of the bottom wall. In addition, the depressions [115] are twofold, the center depression and the radial extending depressions spanning from the center depression to the depression side wall [117], which is adjacent to the downward protrusion [119]. Applicant submits that, with the currently presented amendment, Claim 7 is now enabling and in condition for allowance.

Examiner rejected Claim 9 as also failing to comply with the enablement requirement with regard to the plastic lid. Applicant has amended Claim 9 to remove any reference to a plastic lid. Applicant submits that the currently amended Claim 9 is now enabling. Examiner also cited insufficient antecedent basis for "said center protrusion" in Claim 7. As Applicant has indicated hereinabove, the component previously marked "center protrusion" is actually the "downward protrusion" featured and labeled in Figure 3 [119].

[1] Kick, Application 12/762,934, page 2, ¶ [0019]. "The bottom wall may include a downward extending protrusion which may be centered with respect to the depressions and the bottom wall."

REJECTION OF CLAIMS 1, 3-7, 9, 10

Examiner rejected Claims 1, 3-7, 9, and 10 as being anticipated by Yoshida, Japanese Patent Publication (JP105032248A). While Applicant concedes that Yoshida anticipates Claim 3 (neck), Claim 4 (lip), Claim 7 (bottom smaller than side wall), Claim 9 (metal lid) and Claim 10 (lid within lip). Applicant maintains that there are significant differences between Kick and Yoshida such that Kick is not fully anticipated by Yoshida or obvious in light of the combination of Yoshida and O'Day.

Yoshida's bottom wall consists of two concave parts, a first concave part and a second concave part. The "first concave part is concave part abcd-e…which consists of a side surface of a pyramid…which uses the quadrangle abcd as a bottom surface and sets a vertex to e…the surface abe, the surface ade, the surface bce, and the surface dce are a plant (namely, triangle)."[2] While a "second concave part is concave part fghi-j…which consists of a side surface of the pyramid …which uses the quadrangle fghi as a bottom surface and sets a vertex to j…the surface fgi, the surface fij, the surface ghj, and the surface ihj are a plane (namely, triangle)."[3] In Yoshida, "the first concave part and the second concave part arrange continuously alternately, and have surrounded the center portion of the bottom part…In…these bottom configurations, Since the container is arranged alternately circumferentially and the portion (portion which hits the line aec) which serves as a convex most in a first concave part in an inner direction, and the portion (portion which hits the line fjh) which serves as a convex most in a second protruding

[2] Yoshida, [0016].
[3] Yoshida, [0017].

part in an inner direction are extending the line radiately, a container bottom will be reinforced isotropic."[4]

In contrast, Kick's "bottom wall may include a multitude of radially extending depressions which may increase in width as the radial distance from the center increases. The depression may be defined by a depression side wall which extends around the periphery of the depression. The bottom wall may include a downward extending protrusion which may be centered with respect to the depressions and the bottom wall."[5] Kick does not include dual concave parts, triangles, planes, quadrangles, or vertexes to form the bottom wall with depressions. No parts of the Kick container are arranged alternately circumferentially. The container bottom walls of Yoshida and Kick are formed in differing manners with differing functions. Applicant submits that Yoshida does not fully anticipate Kick.

Additionally, Examiner alleges that "Yoshida discloses said container bottom wall includes at least on radial extending depression…within said center protrusion [the protrusion the wall creates into the container, as shown in Fig 2]."[6] However, Kick's "center protrusion" is actually the downward protrusion [Figure 3, 119] and does not extend into the container as in Yoshida.

Furthermore, in response to Examiner's argument that "Yoshida discloses a…container convex side wall,"[7] Applicant has amended Claim 1 to more particularly describe the invention by claiming a container side wall that is convex in both the horizontal and vertical direction. Applicant's original Claim 1 only described a "container convex side wall,"[8] which could reasonably be interpreted to include either a side wall convex in the horizontal direction or,

[4] Yoshida, [0018].
[5] Kick, Application 12/762,934, page 2, ¶ [0019].
[6] 08/16/2013 Office Action, page 6, ¶ 8.
[7] 08/16/2013 Office Action, page 5, ¶
[8] Kick, Application 12/762,934, Claim 1.

alternatively, a side wall convex in the vertical direction.[9] Based on this interpretation, Yoshida teaches a "convex side wall" since the side wall of the cylindrical container taught by Yoshida is convex in the horizontal direction. However, Yoshida does not teach a container side wall which is convex in both the horizontal direction and the vertical direction, as taught by Kick's amended Claim 1. Accordingly, Yoshida does not anticipate Kick since Yoshida does not expressly or inherently describe each and every element as set forth in Applicant's amended Claim 1.

REJECTION OF CLAIM 8

Examiner rejected Claim 8 as unpatentable over Yoshida, as applied to Claim 7, in view of O'Day, U.S. Patent (7051892). Specifically, Examiner stated that "O'Day teaches a plastic, blow-molded, disposable bottle that can be formed of many different shapes and sizes depending on the prescribed use or aesthetic appearance desired."[10]

However, a "patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art."[11] Rather, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does."[12] Thus, some rational connection should be established between the references as most inventions "rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known."[13]

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[9] Because Applicant previously described a "convex side wall" in the original application, the amended Claim 1 does not present any new matter as the amendment merely narrows the scope of the "convex" feature to more particularly describe the invention.
[10] 08/16/2013 Office Action, Page 7, ¶ 15.
[11] *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007).
[12] *Id.*
[13] *Id.*

Yoshida teaches a cylindrical container capable of standing upright "when the internal pressure of the container rises,"[14] in contrast to the spherical container taught by Kick. Examiner references O'Day to overcome this distinction in container shape, suggesting that O'Day teaches a plastic bottle that can be formed of many different shapes.[15] However, Applicant respectfully suggests that referencing the shape of one invention to claim that another invention is obvious due to a similar shape is a conclusory statement which, without more, cannot sustain a rejection on obviousness grounds.[16] "Instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."[17]

Considering Kick and O'Day, Applicant respectfully suggests that no such "rational underpinning" exists, as the shape of Kick and O'Day attempt to solve entirely different problems. The container of O'Day is a "disposable water bottle adapted to sit upside down on the top of a water dispenser" which may be configured in a nearly-spherical shape to prevent collapse of the water bottle since "a sphere is the natural design choice to resist external pressures."[18] In contrast to preventing collapse due to low pressure created by a vacuum inside of the container, as taught by O'Day, the spherical container of Kick prevents deformation or explosion of the container due to the high pressure inside the container inherent in sealed containers containing carbonated beverages. Thus, O'Day teaches preventing collapse of the container rather than expansion of the container, as taught by Kick.

Additionally, the container taught by O'Day applies only to water containers, in contrast to Kick, suggesting that design changes would be "desirable" if any liquid other than water was

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[14] Yoshida Abstract.
[15] 08/16/2013 Office Action, Page 7, ¶ 15.
[16] *See KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007) (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)).
[17] *Id.*
[18] O'Day, Col. 2, Ln 56-57.

held inside of the container: "[o]ther applications such as for powders like detergents and industrial granular materials, chemical liquids, other drinks or concentrates such as soft drink syrup, make changes in neck design desirable."[19] Although Applicant concedes that Kick and O'Day both teach a spherically-shaped container, Applicant suggests that the container shape contains no patentable significance for a utility patent outside of the function served by the particular shape. Considering the different functions served by the containers of Kick and O'Day, Applicant suggests that the shape is of no patentable significance for Applicant's utility patent. Accordingly, Applicant suggests that the container taught by O'Day claims no such feature which establishes the requisite "rational underpinning" for rendering Kick obvious and unpatentable over Yoshida in view of O'Day.

Moreover, O'Day actually teaches away from a standard spherical shape since "they have larger diameters than cylindrical containers."[20] O'Day "provides an elliptical variation of the spherical shape"[21] which will "provide a multi-directional curve shape."[22] O'Day's Claim 1 further claims "a prolate spheroid wall extending from the bottom to the top....a plurality of flat areas about said wall equator, said flat areas being equispaced about said equator...a plurality of circumferential ribs formed in said wall through said flat area."[23]

In addition, the "elliptical or prolate spheroid shape is a preferred evolution and preferred alternative to a perfect sphere because it achieves the volume requirement and still has spherical curvatures in two directions, vertical and horizontal, although the curvatures have different radii."[24] O'Day also teaches "forming flat spots on the equator of the sphere, thereby reducing

[19] O'Day, Col. 9, Ln 16-18.
[20] O'Day, Col 3, Ln 44-45.
[21] O'Day, Col 3, Ln 54-55.
[22] O'Day, Col 3, Ln 56.
[23] O'Day, Claim 1, Column 10, Ln 9-17.
[24] O'Day, Col 3, Ln 63-67

spacing between bottles without substantially penalizing the spherical-oriented design in terms of volume contained."[25] O'Day's Claim 2 further claims "a wall extending from the bottom to the top, said wall having an equator,...a cylindrical section about said wall equator, said cylindrical section having a plurality of flat areas about said wall equator...a plurality of circumferential rigs formed in said wall."[26]

Japanese patent Yoshida in combination with the abovementioned features and claims of O'Day do not make Kick obvious. In fact, O'Day teaches away from the standard spherical shape featured in Kick. Kick teaches "a container body having a convex side wall"[27] and "container body is a truncated spherical shape."[28] Kick does not teach or mention either an elliptical or prolate spheroid shape or a spherical shape with flat spots around the equator.

Considering the foregoing, Applicant suggests that the combination of Yoshida and O'Day would not have been obvious to a person of ordinary skill in the art at the time of the claimed invention.

CONCLUSION

For all of the above stated reasons, Applicant submits that the specification and remaining claims are now in proper form, and that the claims all define patentably over the prior art. Therefore Applicant submits that this application is now in condition for allowance which action she respectfully solicits from this Examiner.

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[25] O'Day, Col 4, Ln 2-5.
[26] O'Day Claim 2, Col 10, Ln 25-25.
[27] Kick Application No. 12/762,934, Claim 1.
[28] Kick Application No. 12/762,934, Claim 8.

Bottom of Container

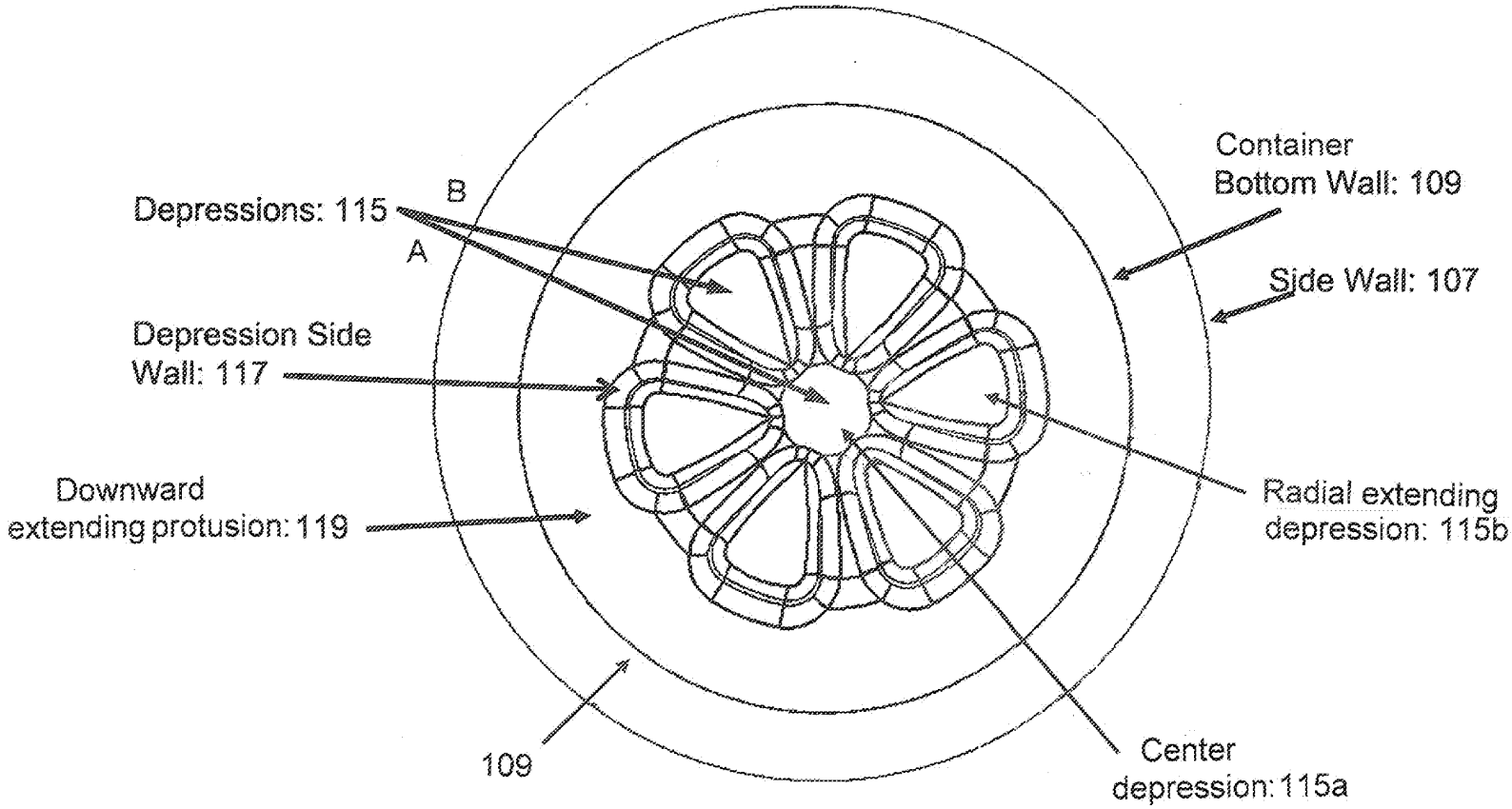


Figure 3

Date: May 22, 2010

Buzzballz, LLC
1711 Briercroft Court, Suite 100
Carrollton, TX 75006
Application Number: 12/762,934

Electronic Acknowledgement Receipt	
EFS ID:	17420130
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	15-NOV-2013
Filing Date:	19-APR-2010
Time Stamp:	17:45:35
Application Type:	Utility under 35 USC 111(a)

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		Kick_ROA.pdf	3467462 768075c389b4200f08cab173f470d49c1fa0 8a65	yes	11

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Claims	1	3
	Applicant Arguments/Remarks Made in an Amendment	4	10
	Drawings-only black and white line drawings	11	11
Warnings:			
Information:			
	Total Files Size (in bytes):	3467462	

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.

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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
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/762,934	Filing Date 04/19/2010	☐ 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)		
	11/15/2013	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE ($)	ADDITIONAL FEE ($)
AMENDMENT	Total (37 CFR 1.16(i))	* 11	Minus	** 20	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 2	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
/JAMES ELLIOTT/

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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 12/13/2013

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EXAMINER	
CASTILLO, KEVIN CHARLES	
ART UNIT	**PAPER NUMBER**
3781	

NOTIFICATION DATE	DELIVERY MODE
12/13/2013	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):

john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 *11/15/2013*.

☐ 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 and 3-10* is/are pending in the application.

5a) Of the above claim(s) *11* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1, 3-10* 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: _____.

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

DETAILED ACTION

Claims

Applicant has previously cancelled Claim 2 in the response filed 8/05/2013. However, Applicant has mistakenly re-introduced Claim 2 in the rely filed 11/15/2013. Due to Claim 2 being cancelled previously, Claim 2 remains cancelled.

Claim Rejections - 35 USC § 112

2. 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.

3. Claims 5 and 7 are 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. Claims 5 and 7 recite a downward extending protrusion, however the protrusion 119 is an upward protrusion. Reviewing Figs 2 and 3 show this upward protrusion, but not downward protrusion.

Claim Rejections - 35 USC § 102

> (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.

Claim Rejections - 35 USC § 102

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

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

2. Claims 1, 3-7, 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida, Japanese Patent Publication JP105032248A.

3. Re Claim 1, Yoshida discloses a container for storing a liquid or a solid, comprising a container body [Abstract] having a container side wall convex in both the horizontal and vertical direction [15, sidewall is convex], a container bottom wall [14], and a lid [76].

4. Re Claim 3, Yoshida discloses the container body [abstract] is adjacent to a neck [12]; wherein said neck is adjacent to a lip [11].

5. Re Claim 4, Yoshida discloses said container body including an opening [opening enclosed by lip 11] to the interior of said container body positioned within the interior boundaries of said lip [11].

6. Re Claim 5, Yoshida discloses the said container bottom wall [14] includes at least one downward extending protrusion [16] and a series of depressions [j, e], wherein a depression side wall [sidewalls between the depressions shown in Fig 4 as g,c] lies between said depressions and within said downward protrusion [as shown in Fig 4].

7. Re Claim 6, Yoshida discloses the container bottom wall [14] is of a smaller diameter than said container convex side wall [as shown in Figs 1 and 3, the bottom

wall is smaller than the expanded part 15, therefore having a smaller diameter than the side walls].

8. Re Claim 7, Yoshida discloses said container bottom wall [14] includes at least one radial extending depression [j e; Fig 4] and a center depression [18] within said downward extending protrusion [16].

9. Re Claim 9, Yoshida discloses the lid constructed of a material selected from the group consisting from the group consisting of: plastic, aluminum, tin, and metal [76, Metal Lid].

10. Re Claim 10, Yoshida discloses the lid positioned within the interior edges of said lip [as shown in Fig 7, Para 0038].

Claim Rejections - 35 USC § 103

11. 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 negative by the manner in which the invention was made.

12. 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.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida Japanese Patent Publication JP105032248A, as applied to Claim 7, in view of O'Day, Jr., US Patent 7051892.

14. Re Claim 8, Yoshida discloses all the limitations substantially as claimed. Yoshida does not disclose the container body formed of a truncated spherical shape. However, O'Day teaches a plastic, blow-molded, disposable bottle that can be formed of many different shapes and sizes depending on the prescribed use or aesthetic appearance desired [at least Abstract; Fig 1].

Response to Arguments

4. Applicant's arguments filed 11/15/2013 have been fully considered but they are not persuasive. Regarding the bottom wall in Pages 5 and 6 of Applicant's arguments, Applicant does not provide an argument with respect to the claims, but rather a comparison between the bottom wall of Kick and Yoshida.

5. With respect to Applicant's arguments to the "sidewall which is convex in both the horizontal direction and the vertical direction". However, as shown in the rejection above, the sidewall 15 is convex in both the vertical and horizontal directions.

6. Re Claim 8, Applicant argues that the reason for having a spherical shape are different for the inventions of O'Day and Kick. However, Claim 8 only requires that it has "a truncated spherical shape", which is taught by O'Day. Applicant also states different embodiments of O'Day. However, as shown in the rejection above, Fig 1 does show the

7. Furthermore, Applicant admits that "the container shape container no patentable significance for a utility patent outside of the function served by the particular shape". However, upon review of Applicant's disclosure, Applicant does not provide a reason or function served by the particular shape. Therefore, the spherical shape is seen as a design choice. MPEP 2144.04 I stating:

8. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947) (Claim was directed to an advertising display device comprising a bottle and a hollow member in the shape of a human figure from the waist up which was adapted to fit over and cover the neck of the bottle, wherein the hollow member and the bottle together give the impression of a human body. Appellant argued that certain limitations in the upper part of the body, including the arrangement of the arms, were not taught by the prior art. The court found that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art.)

9. Therefore, all arguments with relation to the spherical shape are not found persuasive.

10. No further arguments are presented.

Conclusion

11. **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.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art Unit 3781

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	12/05/0213	KC

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/31/13	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name Search	9/21/2011	KC
Backward/Forward Search	9/23/2011	KC
Text Search	1/31/2013	KC

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

/K.C./ Examiner.Art Unit 3781	

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	09/23/2011	02/01/2013	08/07/2013	12/05/2013					
	1	✓	✓	✓	✓					
	2	N	N	-	-					
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	4	✓	✓	✓	✓					
	5	✓	✓	✓	✓					
	6	✓	✓	✓	✓					
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	8		✓	✓	✓					
	9		✓	✓	✓					
	10		✓	✓	✓					
	11			N	N					

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
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S12	9	("3419173").URPN.	USPAT	OR	OFF	2013/01/31 13:27
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S14	76	S10 and S13	USPAT	OR	OFF	2013/01/31 13:43
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S20	38	S18 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:49
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S22	47	S19 and S21	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:50
S23	2116	spher$5 and S21	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:50
S24	4444	spher$5 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S25	479	spher$5 and S19 and blow	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S26	14	spher$5 and S19 and (blow$mold or blowmold)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51

S27	1960	spher$5 and S19 and plastic	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S28	1351	spher$5 and S19 and plastic and container	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:52
S29	317	spher$5 and S19 and plastic and container and mold	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S30	788	spher$5 and S19 and plastic and container and mold$4	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S31	2	("7780025").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 15:40
S32	4	b65d1/165	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:05
S33	656	b65d1/10	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:06
S34	1142	b65d1/12	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:07
S35	385	b65d1/14	US-PGPUB; USPAT; USOCR; FPRS;	OR	OFF	2013/12/05 14:08

			EPO; JPO; DERWENT			

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AMENDMENT TO THE CLAIMS

Please file amendments for Claims 3, 5 and 7. The following is a listing of all claims associated with this application:

Listing of Claims:

1. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid, comprising ~~of~~ a ~~plastic~~ container body having a container ~~convex~~ side wall convex in both the horizontal and vertical direction, ~~and~~ a container bottom wall, and a lid.

2. (CANCELED) A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said ~~plastic~~ container body ~~includes~~ is adjacent to a ~~vertical or angled~~ neck; wherein said neck is adjacent to a lip, wherein the diameter of said neck is sufficiently wide that said neck does not obstruct the exit of said liquid or said solid nor the entrance of an instrument used to removed said liquid or said solid.

4. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim ~~1~~3, wherein ~~the~~ said ~~plastic~~ container body includes an opening to the interior of said container body positioned within the interior boundaries of said ~~lip and a neck, wherein said neck includes a~~ lip such that .

5. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said container bottom wall ~~includes a downward extending comprised of~~ includes at least one ~~downward extending~~ protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said ~~downward~~ protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, where in the said container bottom wall ~~includes a depression on the exterior of said container bottom wall~~ is of a smaller diameter than said container ~~convex~~ side wall.

7. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim 1, wherein ~~the~~ said bottom wall includes ~~a depression is a~~ at least one radial extending depression and a center depression within said ~~center~~ ~~downward extending~~ protrusion.

8. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, where in the container body is a truncated spherical shape.

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim ~~8~~1, wherein said lid is constructed of a material selected from the group consisting of: ~~plastic,~~ aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

CLAIM REJECTIONS UNDER 112

Examiner rejected claims 5 and 7 "as being indefinite for failing to particularly point and distinctly claim the subject matter which the inventor…regards as the invention." Specifically, that claims 5 and 7 "recite a downward extending protrusion, however the protrusion 119 is an upward protrusion." In response, Applicant has amended claims 5 and 7 to replace the references to "downward extending protrusion" with "protrusion." Applicant submits that a "protrusion" is merely "a part that sticks out"[1] and that protrusions may stick out, or extend, upward or downward. In addition, any figures accompanying the present application are merely illustrations of a single embodiment of the present invention and are not intended to limit the claim language of the present invention.

REJECTION OF CLAIMS 1, 3-7, 9, 10

Examiner rejected Claims 1, 3-7, 9, and 10 as being anticipated by Yoshida, Japanese Patent Publication (JP105032248A). While Applicant previously acknowledged that Yoshida anticipated some of the Kick claims, Applicant respectfully maintains that there are significant differences between Kick and Yoshida with respect to claims 1, 3 and 8 such that Kick is not fully anticipated by Yoshida or obvious in light of the combination of Yoshida and O'Day(U.S. Patent 7051892).

With respect to claim 1, this Examiner argues that Yoshida discloses "…a container wall convex in both the horizontal and vertical direction [15, sidewall is convex]…"[2] Applicant submits that the Reference 15 of Yoshida is not a "sidewall", as in Kick, but rather Yoshida's Reference 15 is the "expanding part", Reference 14 is the "bottom part" and Reference 13 is the

[1] See Exhibit 1, Merriam Webster Dictionary, http://www.merriam-webster.com/dictionary/protrusion, March 5, 2014.
[2] Final OA, page 3, paragraph 3.

"drum section" or sidewall of Yoshida.[3] Throughout Yoshida, the container body or "sidewall" is described as *substantially cylindrical* in the following instances:

> "CONSTITUTION: the subject container substantially has a cylindrical body 13, bottom part 14, and flange 11…"[4];
>
> "[Claim 1] A substantially cylindrical drum section…[5];
>
> "As shown in Fig. 7, the can made from a plastic generally [t]he cylindrical drum section 71…[6]; and
>
> "…the present invention which has a substantially a cylindrical drum section…[7]

The portion of the Yoshida container identified by Reference 15 as the expanding part is a portion of the container body located adjacent to the container bottom part and substantially the same as diameter as the flange 11.[8] Regardless of the diameter of the Yoshida "expanding part" and "flange", the body of the container remains substantially cylindrical and not convex.

Applicant has amended claim 3 to claim the wide container opening of the present container. Unlike previously known rounded containers, the opening of the present container is

[3] Yoshida, page 8, "Explanation of letters or numerals".
[4] Yoshida, Abstract, "Constitution".
[5] Yoshida, page 1, claim 1.
[6] Yoshida, page 2, "Description of the Prior Art", [0002].
[7] Yoshida, page 2, "Description of the Prior Art", [0007].
[8] Yoshida, page 3, "Description of the Prior Art", [0012]. "Although the expanding part 15 provided into the portion immediately on the bottom part 14 is formed for reinforcement, the path of this expanding part 15 is good to suppose that it is substantially the same as the outer diameter of the flange 11 provided to the opening."

not small but large so that a hand or an instrument may be inserted into the container to remove or pour out any liquids or solids stored in the present container. For instance, somewhat large solid chunks stored in a container with a small opening, such as O'Day, could not be poured out of the container or extracted with an instrument without damaging or destroying the product. The narrow neck and container opening would be a hindrance to the exit of any container contents larger than the neck area of the container. However, if the container had a wide opening, similar to the width or diameter of the container bottom wall, a user's fingers, hand, or an instrument may be inserted through the wide container opening to extract the contents of the container. In the present embodiment, Kick's novelty lies in the combination of a round, spherical plastic container with a wide container opening, neck and lid area that permits the uncomplicated removal of container contents without likely blockage caused by a narrow neck/container opening area.

With respect to claim 8, the combination of the spherical shape and molded bottom for increased strength define the functionality of Applicant's container. In addition, the container is also described as having a "truncated spherical shape. Truncated means "to shorten by or as if by cutting off".[9] By contrast, prior art reference O'Day states that an "elliptical or prolate spheroid shape is a preferred evolution and preferred alternative to a perfect sphere because it achieves the volume requirement and still has spherical curvatures in two directions, vertical and horizontal..."[10] O'Day also addresses "the spherical shape packaging problem...by forming flat spots on the equator of the sphere, thereby reducing spacing between bottles without substantially penalizing the spherical-oriented design...."[11] As discussed herein, the O'Day

[9] See Exhibit 2, Merriam Webster dictionary, http://www.merriam-webster.com/dictionary/truncate, March 5, 2014.
[10] O, Day, column 3, lines 63-66.
[11] O'Day, column, 4, lines1-4.

sphere is altered or distorted, unlike the Kick container, in order to facilitate packing of the containers.

O'Day also mentions specific embodiments of the container in its claim language, neither of which is a sphere or a truncated sphere.[12] Firstly, O'Day claims "a prolate spheroid wall extending from the bottom to the top..."[13] Prolate typically means "elongated in the direction of a line joining the poles,"[14] which is opposite of truncated, as claimed by Kick. Secondly, O'Day claims "a wall extending from the bottom to the top, said wall having an equator,...said wall having a spherical shape,...;a cylindrical section about said wall equator, said cylindrical section having a plurality of flat area about said wall equator, said flat areas being equispaced about said equator,..."[15] Kick claims a "truncated spherical container" without mention of flat areas or an equator, such that the Kick wall is understood as uninterrupted by flat areas or other accoutrements.

The purpose and function of the Kick container is to provide a plastic container, molded into shapes not easily constructed from metal such as the sphere, with a wide and accessible lid in order to facilitate access to the full contents of the container body. Previously available round containers have not utilized the wide lid and container opening area which would allow a user to insert a hand or other instrument into the container to retrieve the contents. The Kick container "combines the flexibility and desirability of a container body which may be formed from molding plastic...and a metal lid...which may include a pop top (or easy-open) lid to provide access to the user of the contents of the container body."[16]

---

[12] O'Day, claim 2.
[13] O'Day, column 10, claim 1.
[14] See Exhibit 3, Merriam Webster dictionary, http://www.merriam-webster.com/dictionary/prolate, March 5, 2014.
[15] O'Day, column 10, claim 2.
[16] Kick, Application 12/762,934 [0012].

Japanese patent Yoshida in combination with the abovementioned features and claims of O'Day do not make Kick obvious. In fact, O'Day teaches away from the standard spherical shape featured in Kick. Kick teaches "a container body having a convex side wall"[17] and "container body is a truncated spherical shape."[18] Kick does not teach or mention either an elliptical or prolate spheroid shape or a spherical shape with flat spots around the equator. Considering the foregoing, Applicant suggests that the combination of Yoshida and O'Day would not have been obvious to a person of ordinary skill in the art at the time of the claimed invention.

CONCLUSION

For all of the above stated reasons, Applicant submits that the specification and remaining claims are now in proper form, and that the claims all define patentably over the prior art. Therefore Applicant submits that this application is now in condition for allowance which action she respectfully solicits from this Examiner.

Respectfully submitted,

Date: March 12, 2014

/John T. Wilson/
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Reg. No. 61,411

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Dallas, Texas 75248
Telephone: (972) 248-8080
Facsimile: (972) 248-8088

[17] Kick Application No. 12/762,934, Claim 1.
[18] Kick Application No. 12/762,934, Claim 8.

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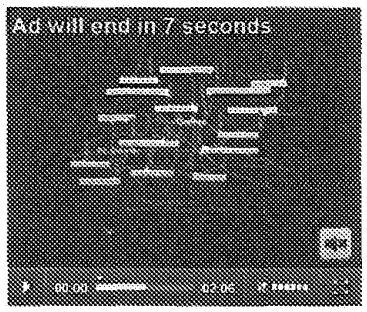
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protrusion

pro·tru·sion *noun* \prō-'trü-zhən\

: a part that sticks out

: the act of sticking out or the condition of something that sticks out

Full Definition of PROTRUSION

1 : the act of protruding : the state of being protruded

2 : something (as an anatomical part or excrescence) that protrudes

See protrusion defined for English-language learners »
See protrusion defined for kids »

Examples of PROTRUSION

bony *protrusions* on the outside of the elbow

a roof with many *protrusions*

The pain was caused by a *protrusion* of a disc in his lower back.

Origin of PROTRUSION

Latin *protrudere*

First Known Use: 1646

Related to PROTRUSION

Synonyms
bunch, convexity, jut, overhang, projection, bulge, protuberance, swell

Antonyms
cavity, concave, concavity, dent, depression, dint, hollow, indent, indentation, indenture, pit, recess

Related Words
dome, blob, bump, dilatation, gibbosity, hump, knob, knot, knurl, lump, nub, obtrusion, puff, snag, swelling; block, piece, portion, section; enlargement, escalation, expansion, increase; hill, mound

Near Antonyms
crater, hole, well; basin, bowl, dip, valley; furrow, groove, trench, trough; dimple, gouge, impression, notch, pocket

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See Synonym Discussion at projection

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pro·tru·sion *noun* \prō-'trü-zhən\ *(Medical Dictionary)*

Medical Definition of PROTRUSION

1 : the quality or state of protruding <the *protrusion* of a jaw>

2 : something (as an anatomical part) that protrudes

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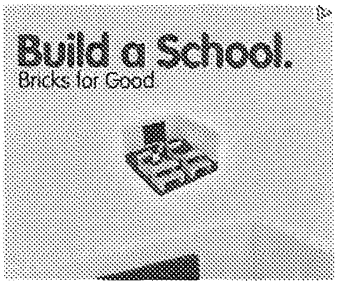
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¹trun·cate *adjective* \ˈtrəŋ-ˌkāt, trən-\

Definition of TRUNCATE

: having the end square or even <*truncate* leaves>

See truncate defined for kids »

Origin of TRUNCATE

Latin *truncatus*, past participle of *truncare* to shorten, from *truncus* trunk

First Known Use: 1716

Other Botany Terms

annual, burgeon, chloroplast, nomenclature, succulent, sylvan, xylem

Rhymes with TRUNCATE

abate, ablate, adnate, aerate, age-mate, agnate, airdate, airfreight, alate, arête, await, backdate, baldpate, bandmate, baseplate, bedmat...
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²truncate *transitive verb*

: to make (something) shorter

trun·cat·ed **trun·cat·ing**

Full Definition of TRUNCATE

1 : to shorten by or as if by cutting off

2 : to replace (an edge or corner of a crystal) by a plane

— trun·ca·tion *noun*

Examples of TRUNCATE

<a *truncated* version of the 11 o'clock newscast followed the awards show, which ran over its time slot—as it always does>

First Known Use of TRUNCATE

circa 1727

Related to TRUNCATE

Synonyms
abbreviate, abridge, curtail, cut back, dock, elide, syncopate, shorten

Antonyms





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elongate, extend, lengthen, prolong, protract

Related Words
abstract, digest, encapsulate, epitomize, recapitulate, summarize, sum up; abate, compress, constrict, contract, cut, cut down, pare, prune, trim; decrease, de-escalate, deflate, diminish, downsize, dwindle, lessen, lower, moderate, modify, reduce, retrench, shrink, slash, subtract (from), taper

Near Antonyms
enlarge, expand, supplement; add, aggrandize, amplify, augment, balloon, boost, dilate, escalate, heighten, increase, maximize, pump up, raise; blow up, distend, inflate, swell

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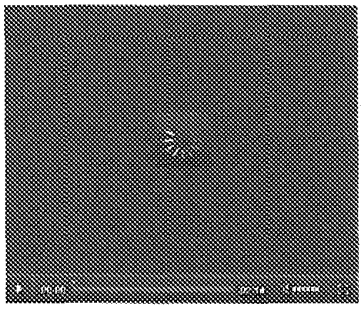
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pro·late *adjective* \prō-lāt\

Definition of PROLATE

: EXTENDED; *especially*: elongated in the direction of a line joining the poles <a *prolate* spheroid>

Origin of PROLATE

Latin *prolatus* (past participle of *proferre* to bring forward, extend) from *pro-* forward + *latus*, past participle of *ferre* to carry — more at BEAR, TOLERATE

First Known Use: 1694

Other Mathematics and Statistics Terms

abscissa, denominator, divisor, equilateral, exponent, hypotenuse, logarithm, oblique, radii, rhomb

Rhymes with PROLATE

abate, ablate, adnate, aerate, age-mate, agnate, airdate, airfreight, alate, arête, await, backdate, baldpate, bandmate, baseplate, bedmate, bedplate, berate, birthrate, bistate, bite plate, blank slate, blind date, blue plate, bookplate, breastplate, casemate, castrate, caudate, cell plate, cerate, cheapskate, checkmate, chelate, chordate, citrate, classmate, clavate, cognate, collate, comate, conflate, connate, Cook Strait, cordate, create, cremate, crenate, curate, cut-rate, deadweight, death rate, debate, deflate, delate, dentate, derate, dictate, dilate, disrate, donate, doorplate, downstate, drawplate, elate, end plate, equate, estate, faceplate, falcate, fellate, filtrate, first-rate, fishplate, fixate, flatmate, floodgate, fluxgate, flyweight, folate, formate, frustrate, gelate, gestate, ground state, gyrate, hamate, hastate, headgate, Hell Gate, helpmate, home plate, hot plate, housemate, hydrate, ice-skate, inflate, ingrate, inmate, innate, instate, irate, jailbait, Kuwait, lactate, lapse rate, legate, liftgate, ligate, lightweight, liquate, lobate, locate, lunate, lustrate, lych-gate, lyrate, magnate, makebate, makeweight, mandate, messmate, migrate, misstate, mutate, nameplate, narrate, negate, Newgate, nitrate, notate, nutate, oblate, of late, orate, ornate, ovate, palmate, palpate, peltate, phonate, pinnate, placate, playdate, playmate, plicate, portrait, postdate, predate, prime rate, probate, pronate, prorate, prostate, prostrate, punctate, pupate, quadrate, rain date, ramate, rebate, red-bait, relate, restate, roommate, rostrate, rotate, saccate, schoolmate, seatmate, sedate, sensate, septate, serrate,

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Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Filer:	Kandace DeKeshia Walter
Attorney Docket Number:	11-002009-02
Filed as Small Entity	

Utility under 35 USC 111(a) Filing Fees

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

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
RCE - 2nd and Subsequent Request	2820	1	850	850
		Total in USD ($)		**850**

Electronic Acknowledgement Receipt	
EFS ID:	18448281
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	12-MAR-2014
Filing Date:	19-APR-2010
Time Stamp:	15:53:18
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$850
RAM confirmation Number	2671
Deposit Account	
Authorized User	

File Listing:

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

1		Kick_Rsp_FOA_RCE.pdf	4421445 ebb8ab7567e1adcbd08eee52188d5f9e206a55ad	yes	18

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Transmittal Letter	1	1
	Amendment Submitted/Entered with Filing of CPA/RCE	2	3
	Applicant Arguments/Remarks Made in an Amendment	4	18

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	29863 a54e6fcedac1ec19b8e3af6bb1a5ec109a494830	no	2

Warnings:

Information:

Total Files Size (in bytes):	4451308

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.

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

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

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

[FILE NO. 11-002009-02] PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Kick, Merrilee	Art Unit	: 3781
Serial No.	: 12/762,934	Examiner	: Castillo, Kevin Charles
Filed	: April 19, 2010		
Title	: Container		

AMENDMENT AND RESPONSE TO FINAL OFFICE ACTION

In response to the Final Office Action mailed December 13, 2013, Applicant has prepared these remarks. This Examiner rejected claims 1 and 3-10 in the Final Office Action. Claims 2 and 11 are withdrawn and no longer pending in the present application. Applicant has amended Claims 3, 5, and 7 to define the invention more particularly and distinctly so as to overcome the technical rejections of Examiner and to define the invention patentably over the prior art. The amendments to this application contain no new matter.

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 12/762,934	Filing Date 04/19/2010	☐ 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 **03/12/2014**

	(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))	* 10	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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
/LASHAWN MORGAN/

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 04/16/2014

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

EXAMINER	
CASTILLO, KEVIN CHARLES	
ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
04/16/2014	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):

john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 *3/12/2014*.

☐ 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 and 3-11* is/are pending in the application.

5a) Of the above claim(s) *11* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1, 3-10* 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: _____.

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

DETAILED ACTION

Claim Objections

1. Claim 4 is objected to because of the following informalities: Claim 4 recites the limitation "such that" at the end of the claim, but does not provide any further description. Appropriate correction is required.

Claim Rejections - 35 USC § 102

> (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.

Claim Rejections - 35 USC § 102

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

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

2. Claims 1, 3-7, 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida, Japanese Patent Publication JP105032248A.

3. Re Claim 1, Yoshida discloses a container for storing a liquid or a solid, comprising a container body [1, Abstract] having a container side wall convex in both the horizontal and vertical direction [15, sidewall is convex], a container bottom wall [14], and a lid [76].

4. Re Claim 3, Yoshida discloses the upper edge [upper edge of 11] of said container body [1] is adjacent to a neck [12]; wherein said neck is adjacent to a lip [lip of 11], wherein the diameter of said neck is sufficiently wide that said neck does not obstruct the exit of said liquid or said solid nor the entrance of an instrument used to removed said liquid or said solid [the neck is wide enough to allow removable of liquids or solids].

5. Re Claim 4, Yoshida discloses said container body [1] including an opening [opening enclosed by lip 11] to the interior of said container body positioned within the interior boundaries of said lip [11; the opening is on the inner boundary of the lip 11].

6. Re Claim 5, Yoshida discloses the said container bottom wall [14] includes at least one protrusion [16] and a series of depressions [j, e], wherein a depression side wall [sidewalls between the depressions shown in Fig 4 as g,c] lies between said depressions and within said protrusion [as shown in Fig 4].

7. Re Claim 6, Yoshida discloses the container bottom wall [14] is of a smaller diameter than said container side wall [as shown in Figs 1 and 3, the bottom wall is smaller than the sidewall 15, therefore the bottom wall having a smaller diameter than the side walls].

8. Re Claim 7, Yoshida discloses said bottom wall [14] includes at least one radial extending depression [j e; Fig 4] and a center depression [18] within said protrusion [16].

9. Re Claim 9, Yoshida discloses the lid constructed of a material selected from the group consisting from the group consisting of: plastic, aluminum, tin, and metal [76, Metal Lid].

10. Re Claim 10, Yoshida discloses the lid positioned within the interior edges of said lip [as shown in Fig 7, Para 0038].

Claim Rejections - 35 USC § 103

11. 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 negative by the manner in which the invention was made.

12. 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.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida Japanese Patent Publication JP105032248A, as applied to Claim 7, in view of O'Day, Jr., US Patent 7051892.

14. Re Claim 8, Yoshida discloses all the limitations substantially as claimed. Yoshida does not disclose the container body formed of a truncated spherical shape.

However, O'Day teaches a plastic, blow-molded, disposable bottle that can be formed of many different shapes and sizes depending on the prescribed use or aesthetic appearance desired [at least Abstract; Fig 1].

Response to Arguments

2. Applicant's arguments filed 3/12/2014 have been fully considered but they are not persuasive. Applicant argues that Yoshida does not teach "… a container wall convex in both the horizontal and vertical direction". Furthermore stating that the sidewall of Yoshida, 15, is not a "sidewall", but rather an expanding part. However, the convex sidewall 15, is in-fact a sidewall, albeit an expanded sidewall of Yoshida. Therefore, Applicant's argument is not persuasive.

3. Regarding Claim 3, Applicant does not argue any limitation of Yoshida, but rather provides reasoning as to why the claim was amended. Applicant does, however, mention how the opening of O'Day would not be sufficient for contents to be poured out of the container, but Claim 3 does not cite O'Day as a reference for rejection. Furthermore, the opening of Yoshida does in-fact allow for the contents in the container to be poured out or removed.

4. Regarding Claim 8, Applicant argues that O'Day does teach a "truncated spherical shape" However, as show in Fig 1 of O'Day, this limitation is taught by the reference. Applicant is asked to review Fig 1 and also Col 5, Lines 27-28, wherein O'Day states "In one embodiment of the invention the wall 13 has a spherical shape". Also, by reviewing Fig 1, the footed base 19, cuts off the sphere to make the shortened

or "cut off" spherical shape, as claimed. Therefore, Applicant's argument is not persuasive.

5. No further arguments are presented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./

Examiner, Art Unit 3781

/FENN MATHEW/
Supervisory Patent Examiner, Art Unit 3781

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	12/05/0213	KC

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/31/13	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name SearchBackward/Forward SearchText Search	9/21/20119/23/20111/31/2013	KCKCKC

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
S1	0	((MERRI LEE) near2 (KI CK)).INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/21 18:46
S2	0	((MERRI LEE) near2 (KI CK)).INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/21 18:47
S3	0	((MERRI LEE) near2 (KI CK)).INV.	EPO; JPO; DERWENT	OR	OFF	2011/09/21 18:47
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S6	780	(220/269).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/22 17:31
S7	860	(220/669).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/22 18:44
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S11	294	S9 and S10	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 13:20
S12	9	("3419173").URPN.	USPAT	OR	OFF	2013/01/31 13:27
S13	1121	sphere and container and lid	USPAT	OR	OFF	2013/01/31 13:43
S14	76	S10 and S13	USPAT	OR	OFF	2013/01/31 13:43
S15	18	("20020033397" | "20040094558" | "2341092" | "2457421" | "3706140" | "4058209" | "4221293" | "5097947" | "5372269" | "6244464" | "6457604" | "6464078" | "6783033" | "6793094" | "7451890").PN. OR ("7731053").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/01/31 13:46
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			FPRS; EPO; JPO; DERWENT			
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S23	2116	spher$5 and S21	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:50
S24	4444	spher$5 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S25	479	spher$5 and S19 and blow	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S26	14	spher$5 and S19 and (blow$mold or blowmold)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S27	1960	spher$5 and S19 and plastic	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S28	1351	spher$5 and S19 and plastic and container	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:52
S29	317	spher$5 and S19 and plastic and container and mold	US-PGPUB;	OR	OFF	2013/01/31 14:53

			USPAT; USOCR; FPRS; EPO; JPO; DERWENT			
S30	788	spher$5 and S19 and plastic and container and mold$4	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S31	2	("7780025").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 15:40
S32	4	b65d1/165	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:05
S33	656	b65d1/10	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:06
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S36	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:05
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			EPO; JPO; DERWENT			

EAST Search History (Interference)

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4/5/2014 8:18:00 PM
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Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	09/23/2011	02/01/2013	08/07/2013	12/05/2013	04/05/2014				
	1	✓	✓	✓	✓	✓				
	2	N	N	-	-	-				
	3	✓	✓	✓	✓	✓				
	4	✓	✓	✓	✓	✓				
	5	✓	✓	✓	✓	✓				
	6	✓	✓	✓	✓	✓				
	7	✓	✓	✓	✓	✓				
	8		✓	✓	✓	✓				
	9		✓	✓	✓	✓				
	10		✓	✓	✓	✓				
	11			N	N	N				

CLAIM OBJECTIONS

This Examiner objected to Claim 4 for reciting the limitation "such that" at the end of the claim without providing any further description. In response, Applicant has amended Claim 4 to remove the limitation "such that" from the end of the claim. Accordingly, Applicant respectfully suggests that this Examiner's objection to Claim 4 is overcome.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

This Examiner rejected Claims 1, 3-7, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Yoshida*, Japanese Patent Publication JP105032248A. Applicant respectfully maintains that there are significant differences between *Kick* and *Yoshida* with respect to Claims 1, 3-7, 9, and 10 such that *Kick* is not fully anticipated by *Yoshida*.

Applicant's Claim 1 is the only independent claim of *Kick* upon which all other *Kick* claims rely. Accordingly, any distinctions between Applicant's Claim 1 and *Yoshida* also apply for all other dependent claims of *Kick*.

With respect to Claim 1, this Examiner argues that "*Yoshida* discloses a container for storing a liquid or a solid, comprising a container body [1, Abstract] having a container side wall convex in both the horizontal and vertical direction [15, sidewall is convex], a container bottom wall [14], and a lid [76]."[1] Applicant has previously indicated that Reference 15 of *Yoshida* is not a "sidewall," as suggested by this Examiner, since *Yoshida* Reference 15 is the "expanding part"[2] of the container, while *Yoshida* Reference 13 is the "drum section,"[3] or sidewall, of the *Yoshida*

[1] *Office Action*, April 16, 2014, Page 2, Paragraph 5.
[2] *Yoshida*, Paragraph 12.
[3] *Yoshida*, Paragraph 12.

container.[4] In response, this Examiner argues that *Yoshida* Reference 15 "is in-fact a sidewall, albeit an expanded sidewall of *Yoshida*."[5]

Considering the cylindrical shape of the *Yoshida* container,[6] Applicant respectfully disagrees with this Examiner's contention that *Yoshida* Reference 15 is a sidewall, standing alone, since *Yoshida* Reference 13 is the "drum section," or sidewall, of the container.[7] Since a cylinder container, as taught by *Yoshida*, can only consist of one continuous side wall forming the shape of the cylinder, the *Yoshida* container cannot be comprised of multiple sidewalls.[8] However, Applicant does concede that *Yoshida* Reference 15 is convex and is a *portion* of *Yoshida* Reference 13, the sidewall of the *Yoshida* container: "[t]he drum section 13 has become cylindrical substantially and has the expanding part 15 into the portion immediately on the bottom part 14."[9] Accordingly, Applicant has amended Claim 1 to more particularly describe Applicant's invention by claiming "a container wall substantially convex in both the horizontal and vertical direction."[10]

The *Kick* sidewall is substantially convex in both the horizontal and vertical direction to create a truncated spherical shape for the interior cavity of the *Kick* container body. In contrast, the *Yoshida* sidewall is convex in only *one* direction in order to create the cylindrical container of *Yoshida*. This Examiner cites *Yoshida* Reference 15 as the sidewall of *Yoshida* which is convex in both the horizontal and vertical direction. However, contrary to this Examiner's suggestion, *Yoshida* Reference 15 is merely a small segment of the entire *Yoshida* sidewall (i.e., *Yoshida* Reference 13). In fact, the substantial portion of the *Yoshida* sidewall is *Yoshida* Reference 13,

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[4] *Yoshida*, Page 8, "Explanation of Letters or Numerals".
[5] *Office Action*, April 16, 2014, Page 5, Paragraph 2.
[6] See *Yoshida*, Claim 1.
[7] *Yoshida*, Page 1, "Constitution"; *see also* "Drawing 2".
[8] Merriam-Webster Dictionary defines a cylinder as "the surface traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar closed curve." Accordingly, a cylinder is only capable of having a sidewall convex in only one direction. See "Exhibit A".
[9] *Yoshida*, Page 3, Paragraph 12.
[10] *Kick*, Claim 1.

the "cylindrical drum section".[11] Since *Yoshida* specifically teaches a "substantially" cylindrical container,[12] *Yoshida* Reference 15 cannot be the predominant portion of the *Yoshida* sidewall because a cylinder sidewall can be convex in only one direction. Therefore, the *Yoshida* sidewall is not *substantially* convex in both the horizontal and vertical direction, in contrast to sidewall of *Kick*, which is substantially convex in both the horizontal and vertical direction.

Accordingly, Applicant respectfully suggests that Applicant's independent Claim 1, and all claims dependent thereon, are now in condition for allowance since the *Yoshida* sidewall is "cylindrical substantially,"[13] rather than substantially convex in both the horizontal and vertical direction.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

This Examiner rejected Claim 8 under 35 U.S.C. §103 as being unpatentable over *Yoshida* in view of *O'Day*. Specifically, this Examiner suggested that *O'Day* teaches a container with a "truncated spherical shape" since *O'Day* states that one embodiment of the invention may have a spherical shape, and *O'Day* Fig. 1 shows a sphere with cut-off spherical shape. In response to this Examiner's rejection, Applicant has amended Claim 8 to more particularly point out and distinctly claim Applicant's invention by indicating that not only is the entire container truncated, but also the "interior of the container body is a truncated spherical shape."[14] Accordingly, Applicant respectfully suggests that Claim 8 is now in condition for allowance.

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[11] See *Yoshida*, "Constitution"; see also *Yoshida*, "Drawing 2".
[12] *Yoshida*, Page 3, Paragraph 12.
[13] *Yoshida*, Page 3, Paragraph 12.
[14] *Kick*, Claim 8.

In contrast to this Examiner's suggestion, the spherical shape of *O'Day* Fig. 1 is neither cut off nor shortened since *O'Day* Fig. 1 clearly shows a container with an interior that is entirely spherical with no portion cut off or shortened.

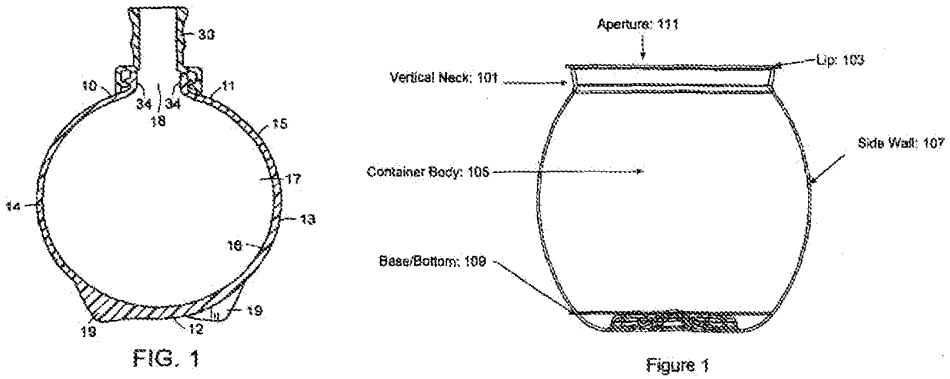


Figure 1. O'Day Fig. 1 (left) and Kick Fig. 1 (right)

If the interior of a container is a spherically-shaped void with no portion cut off or shortened, then the entire container body must *at least* be entirely spherical because any truncation of the container body surrounding the interior would consequently truncate the interior of the container, thereby negating a container body with an intended spherical interior. Furthermore, *O'Day* specifically teaches that the *O'Day* container may be spherically-shaped because a sphere "provides better resistance to forces than a cylindrically-curved surface which has a curve in only one direction, i.e., horizontal, rather than the single, multi-directional curve of a spherical surface."[15] Accordingly, the spherically-shaped *O'Day* container must feature an entirely spherical interior so as to maintain the desired resistant nature of a spherically-shaped surface referenced above. Therefore, the interior of the spherically-shaped *O'Day* container cannot be

[15] *O'Day*, Column 3, Lines 8-10.

truncated, in contrast to *Kick*, which teaches a container with a truncated, spherically-shaped interior.

Accordingly, Applicant respectfully suggests that Applicant's Claim 8 is now in condition for allowance since the enclosed volume of the spherically-shaped *O'Day* container is an entire spherically-shaped void rather than the truncated spherical-shape of the interior of the *Kick* container.

CONCLUSION

For all of the above-stated reasons, Applicant submits that the specification and remaining claims are now in proper form, and that the claims all define patentably over the prior art. Therefore, Applicant submits that this application is now in condition for allowance, which action she respectfully solicits from this Examiner.

DATE: July 11, 2014

Respectfully submitted,

/John T. Wilson/
John T. Wilson
Reg. No. 61,411

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Electronic Acknowledgement Receipt

EFS ID:	19557189
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	11-JUL-2014
Filing Date:	19-APR-2010
Time Stamp:	14:48:46
Application Type:	Utility under 35 USC 111(a)

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		Kick_ROA.pdf	2206436 dd7d98b81edcab50267bdefd57df3640b1be213a	yes	8

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Miscellaneous Incoming Letter	1	1
	Claims	2	3
	Amendment/Req. Reconsideration-After Non-Final Reject	4	8
Warnings:			
Information:			
	Total Files Size (in bytes):	2206436	

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

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

AMENDMENT AND RESPONSE TO NON-FINAL OFFICE ACTION

In response to the Non-Final Office Action mailed on April 16, 2014, Applicant has prepared these remarks. This Examiner rejected Claims 1 and 3-10 in the Non-Final Office Action. Applicant has amended Claims 1, 3, 4, 6, 7 and 8 to more particularly and distinctly define the invention so as to overcome the technical rejections of Examiner and to define the invention patentably over the prior art. The amendments to this application contain no new matter.

AMENDMENT TO THE CLAIMS

Please file amendments for Claims 1, 3, 4, 6, 7 and 8. The following is a listing of all claims associated with this application:

Listing of Claims:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall, and a lid.

2. (CANCELED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein the diameter of said opening of the container is greater than or equal to the diameter of said container bottom wall; wherein the diameter of said opening of said container is less than the diameter of the midsection of said container body. ~~wherein the diameter of said neck is sufficiently wide that said neck does not obstruct the exit of said liquid or said solid nor the entrance of an instrument used to removed said liquid or said solid.~~

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~3~~ 2, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip ~~such that~~.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ said container bottom wall is of a smaller diameter than said container side wall.

7. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein the interior of said container body is a truncated spherical shape.

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

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 12/762,934	Filing Date 04/19/2010	☐ 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 **07/11/2014**

	(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))	* 10	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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
/WANDA MITCHELL/

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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 07/31/2014

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EXAMINER	
CASTILLO, KEVIN CHARLES	
ART UNIT	**PAPER NUMBER**
3781	

NOTIFICATION DATE	DELIVERY MODE
07/31/2014	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):

john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 *7/11/2014*.

☐ 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) *1,3 and 5-10* is/are pending in the application.

5a) Of the above claim(s) *11* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1, 3, 5-10* 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: _____.

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

DETAILED ACTION

Claim Objections

2. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

In the instant Application, Applicant depends Claim 4 to Claim 2, which is cancelled. Therefore, the limitations of Claim 4 will not be examined, as the claim which it is depended upon is no longer considered and is considered cancelled. Examiner requests Applicant's clarification.

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 3 recites the limitations "the diameter of said opening", “the diameter of said container bottom wall”, and “the diameter of the midsection of said container body” in Claim 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

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

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

2. Claims 1, 3-7, 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida, Japanese Patent Publication JP105032248A.

3. Re Claim 1, Yoshida discloses a container for storing a liquid or a solid, comprising a container body [1, Abstract] having a container side wall substantially convex in both the horizontal and vertical direction [15, sidewall is substantially convex with respect to a wall of the container at the midsection, as defined in Fig A], a container bottom wall [14], and a lid [76].

4. Re Claim 3, Yoshida discloses the upper edge [upper edge of 11] of said container body [1] is adjacent to a neck [12]; wherein said neck is adjacent to a lip [lip of 11]; wherein the diameter of said opening [Fig A] of the container is greater than or equal to the diameter of said container bottom wall [Fig A]; wherein the diameter of said opening of said container [Fig A] is less than the diameter of the midsection of said container body [limitations shown in Fig A, below].

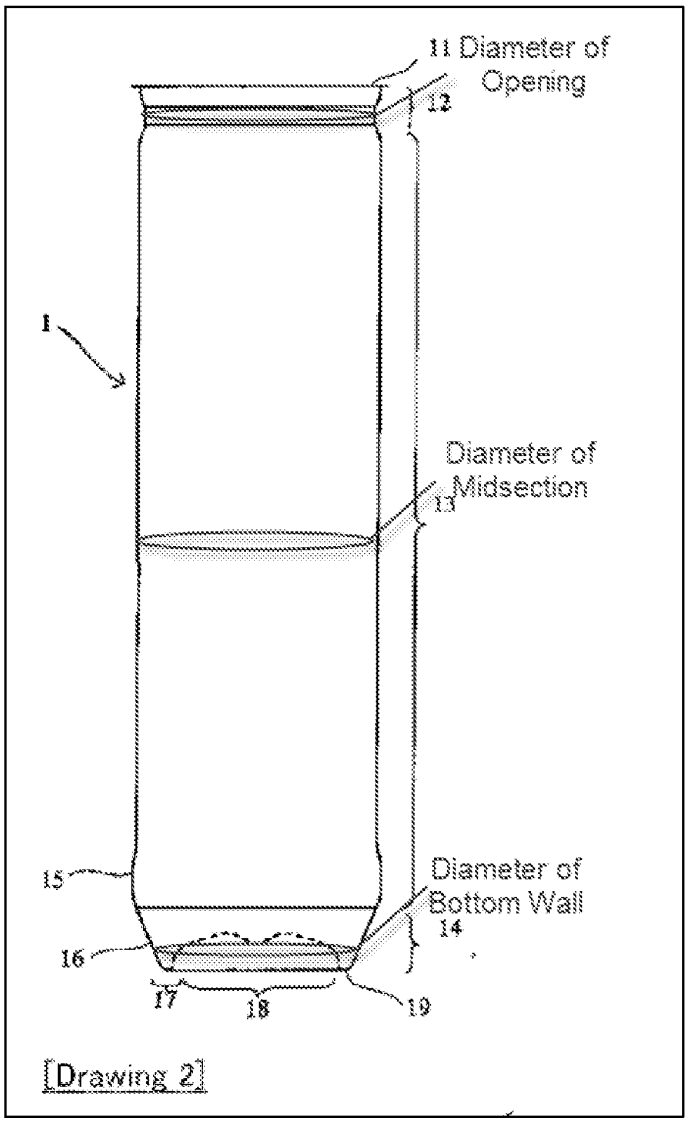


Fig A – Annotated Fig 2 of Yoshida

5. Re Claim 5, Yoshida discloses the said container bottom wall [14] includes at least one protrusion [16] and a series of depressions [j, e], wherein a depression side wall [sidewalls between the depressions shown in Fig 4 as g,c] lies between said depressions and within said protrusion [as shown in Fig 4, below].

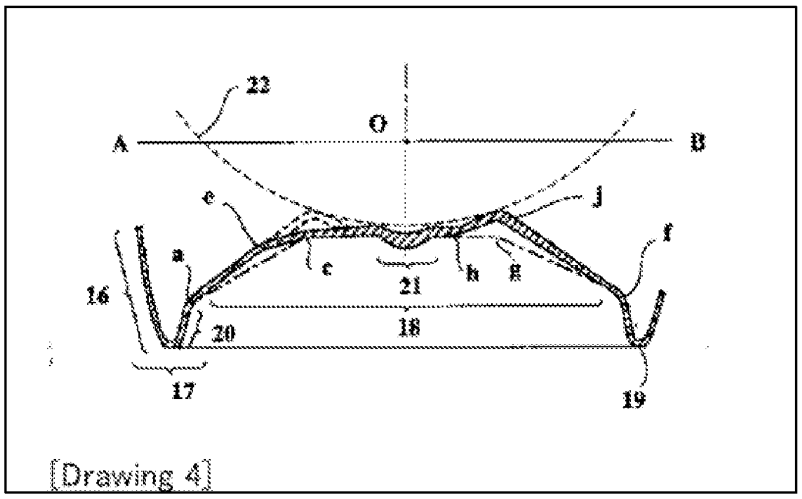


Fig 4 of Yoshida

6. Re Claim 6, Yoshida discloses container bottom wall [14] is of a smaller diameter than said container side wall [as shown in Figs 1 and 3, the bottom wall is smaller than the sidewall 15, therefore the bottom wall having a smaller diameter than the side walls].

7. Re Claim 7, Yoshida discloses said container bottom wall [14] includes at least one radial extending depression [j e; Fig 4] and a center depression [18] within said protrusion [16].

8. Re Claim 9, Yoshida discloses the lid [76] constructed of a material selected from the group consisting from the group consisting of: plastic, aluminum, tin, and metal [76, Metal Lid].

9. Re Claim 10, Yoshida discloses the lid [76] positioned within the interior edges of said lip [as shown in Fig 7, Para 0038].

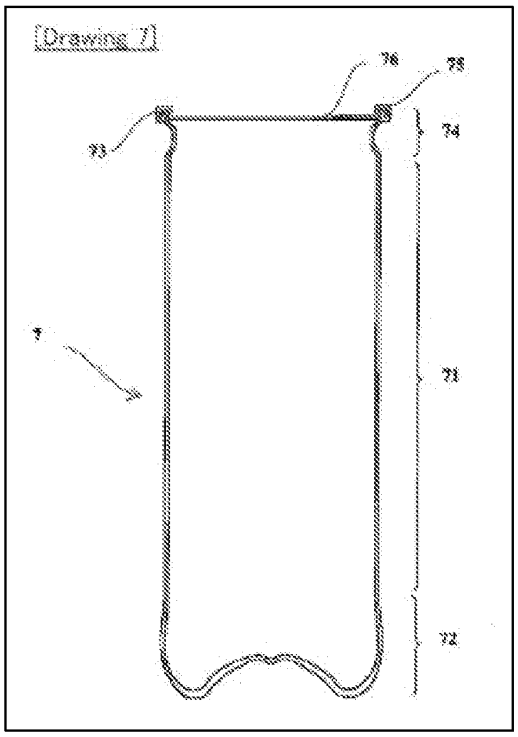


Fig 7 of Yoshida

Claim Rejections - 35 USC § 103

10. 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 negative by the manner in which the invention was made.

11. 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.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida Japanese Patent Publication JP105032248A, as applied to Claim 7, in view of O'Day, Jr., US Patent 7051892.

13. Re Claim 8, Yoshida discloses all the limitations substantially as claimed. Yoshida does not disclose the interior of said container body formed of a truncated spherical shape.

14. However, O'Day teaches a plastic, blow-molded, disposable bottle that can be formed of many different shapes and sizes depending on the prescribed use or aesthetic appearance desired [at least Abstract; Fig 1].

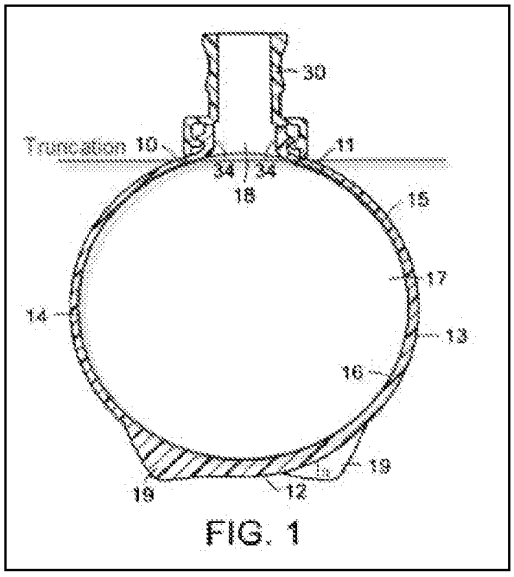


Fig B – Annotated Fig 1 of O'Day

Response to Arguments

5. Applicant's arguments filed 7/11/2014 have been fully considered but they are not persuasive. Applicant argues the limitations of Claim 1 stating that the sidewall of Yoshida, which is indicated as 15, in the rejection is not a sidewall. Applicant argues that because "a cylinder container can only consist of one continuous side wall forming the shape of the cylinder", 15 does not meet the limitations of a side wall. However, 15, as shown in Fig A, above is in fact a side wall. Furthermore, Applicant claims that “the container body has a container side wall”, which indicates that the body [1] has a side wall [15], which meets the limitations of the claimed invention. Therefore, Applicant's argument that element 15 is not a sidewall is not persuasive.

6. Applicant also argues that Yoshida does not teach a substantially convex sidewall in both the horizontal and vertical directions. However, Yoshida does in-fact disclose the claimed limitation. As shown in Fig A, above, the sidewall 15 is convex is both the horizontal and vertical directions. Its concavity is substantial with respect to a wall of the container at the midsection, as defined in Fig A. Therefore, Applicant's argument is not persuasive.

7. Applicant argues the limitations of Claim 8, stating that neither Yoshida nor O'Day disclose the "interior of the container is a truncated spherical shape". However, as shown in the rejection and Fig B, above, O'Day does in-fact disclose the claimed limitation. This is because the interior of O'Day is truncated at the top. Truncate, as defined by The American Heritage Dictionary, is "having the apex cut off and replaced by a plane, especially one parallel to the base". Therefore, the truncation as shown in

Fig B show the claimed limitation. Furthermore, Applicant argues that O'Day discloses that the interior shape of the container must be spherical, Applicant's citation is to the outside surface of the container and not the interior. For this reason alone, Applicant's argument to the claimed interior shape is not persuasive.

8. No further arguments are presented.

Conclusion

9. **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.

/K. C./

Examiner, Art Unit 3781

/FENN MATHEW/

Supervisory Patent Examiner, Art Unit 3781

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	09/23/2011	02/01/2013	08/07/2013	12/05/2013	04/05/2014	07/22/2014			
	1	✓	✓	✓	✓	✓	✓			
	2	N	N	-	-	-	-			
	3	✓	✓	✓	✓	✓	✓			
	4	✓	✓	✓	✓	✓	-			
	5	✓	✓	✓	✓	✓	✓			
	6	✓	✓	✓	✓	✓	✓			
	7	✓	✓	✓	✓	✓	✓			
	8		✓	✓	✓	✓	✓			
	9		✓	✓	✓	✓	✓			
	10		✓	✓	✓	✓	✓			
	11			N	N	N	N			

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	12/05/0213	KC

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/31/13	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name SearchBackward/Forward SearchText Search	9/21/20119/23/20111/31/2013	KCKCKC

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

REMARKS/ARGUMENTS:

Applicant submits that these amended claims do not present any new matter but more accurately and clearly describe the features of the invention described in the originally-filed patent application. In response to this Examiner's rejections in the Final Office Action mailed on July 31, 2014, Applicant has further narrowed the claims to more accurately and definitively describe the invention. These limitations do not add new matter.

The pending claims remaining in the Application are Claims 1, 3, and 5-10. This Examiner rejected all pending claims in the Final Office Action mailed on July 31, 2014. Specifically, this Examiner objected to Claim 4, rejected Claim 3 under 35 U.S.C. §112, rejected Claims 1, 3-7, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Yoshida* (Japanese Patent Publication JP105032248A; hereinafter referred to as "*Yoshida*"), and rejected Claim 8 under 35 U.S.C. §103(a) as being unpatentable over *Yoshida* in view of *O'Day* (U.S. Patent No. 7,051,892; hereinafter referred to as "*O'Day*"). Accordingly, Applicant has amended the claims and respectfully submits that the Application is now in condition for allowance, as fully explained in the remarks below.

CLAIM OBJECTIONS

This Examiner objected to Claim 4 for being dependent on Claim 2, a canceled claim. In response, Applicant has amended Claim 4 to properly depend on a pending claim – independent Claim 1. Accordingly, Applicant respectfully suggests that this Examiner's objection to Claim 4 has been overcome.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

This Examiner rejected Claim 3 under 35 U.S.C. §112 for failing to particularly point out and distinctly claim the subject matter which Applicant regards as her invention. Specifically, this Examiner suggested there is insufficient antecedent basis for the limitations: "the diameter of said opening", "the diameter of said container bottom wall", and "the diameter of the midsection of said container body". In response to this Examiner's rejection, Applicant has amended Claim 3 to more particularly point out and distinctly claim the subject matter which Applicant regards as her invention.

Amended Claim 3 now reads:

> "3. A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein the cross-sectional diameter of ~~said opening~~ the top of ~~the~~ said container is greater than or equal to the cross-sectional diameter of the bottom of said container ~~bottom wall~~; wherein the cross-sectional diameter of ~~said opening~~ said top of said container is less than the cross-sectional diameter of the ~~midsection~~ middle of said container body."[1]

According to §2173.05(e) of the Manual of Patent Examining Procedure, a claim may be considered unclear when a claim limitation lacks sufficient antecedent basis to clearly reference a certain element of the invention.[2] However, the lack of an explicit antecedent basis does not always render a claim indefinite if the scope of the claim would be reasonably ascertainable by those skilled in the art.[3] "Inherent components of elements recited have antecedent basis in the recitation of the components themselves."[4] Considering the above, Applicant respectfully submits

---

[1] *Kick*, Claim 3.
[2] MPEP §2173.05(e).
[3] *Energizer Holdings Inc. v. Int'l Trade Comm'n*, 435 F.3d 1366, 77 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992).
[4] MPEP §2173.05(e). *See Bose Corp. v. JBL, Inc.*, 274 F.3d 1354, 1359, 61 USPQ2d 1216, 1218-19 (Fed. Cir. 2001) (holding that recitation of "an ellipse" provided antecedent basis for "an ellipse having a major diameter" because "[t]here can be no dispute that mathematically an inherent characteristic of an ellipse is a major diameter").

that Claim 3 is sufficiently clear under 35 U.S.C. §112, as all elements of the claim have either sufficient explicit or implicit antecedent basis.

The claim limitations which have been amended in Claim 3 are "the cross-sectional diameter(s)" for the "top", "middle" and "bottom" of the container body taught in Applicant's Claim 1. Applicant respectfully submits that these claim limitations are inherent characteristics of the container body taught in Applicant's Claim 1, and therefore have sufficient antecedent basis.

First, the container – and the container body of which it is comprised – is a tangible object "for storing a liquid or a solid."[5] A tangible object inherently features components or points on the object – such as a top, middle, or bottom – which form the substance and shape of the object. Therefore, the scope of a claim which references a "top", "middle", or "bottom" of a tangible object, like Applicant's Claim 3, is reasonably ascertainable to one skilled in the art as it references specific points on such an object.

Additionally, the claim limitation "cross-sectional diameter", when used in conjunction with references to specific points on a tangible container body, references an inherent characteristic of the container body. According to Merriam-Webster Dictionary, a diameter is defined as "a straight line from one side of something to the other side that passes through the center point."[6] In *Bose Corp.*, the Federal Circuit held that the recitation of "an ellipse" provided antecedent basis for "an ellipse having a major diameter" because "there can be no dispute that mathematically an inherent characteristic of an ellipse is a major diameter".[7] Likewise, there can be no dispute that mathematically an inherent characteristic of a "top", "middle", or "bottom" of a container body is a cross-sectional diameter. Therefore, the claim limitation "cross-sectional diameter", when used

[5] *Kick*, Claim 1.
[6] Merriam-Webster Dictionary definition of "diameter", attached as "Exhibit A".
[7] *Bose Corp. v. JBL, Inc.*, 274 F.3d 1354, 1359, 61 USPQ2d 1216, 1218-19 (Fed. Cir. 2001).

in conjunction with references to specific points on a tangible container body, has sufficient antecedent basis in the recitation of "container body" in Applicant's Claim 1.

Considering the foregoing, Applicant respectfully submits that this Examiner's rejection under 35 U.S.C. §112 has been overcome and respectfully requests this Examiner withdraw the rejection for Applicant's Claim 3.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

This Examiner rejected Claims 1, 3-7, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Yoshida*. Applicant respectfully maintains that there are significant differences between *Kick* and *Yoshida* with respect to Claims 1, 3-7, 9, and 10 such that *Kick* is not fully anticipated by *Yoshida*.

Applicant's Claim 1 is the only independent claim of *Kick* upon which all other *Kick* claims rely. Accordingly, any distinctions between Applicant's Claim 1 and *Yoshida* also apply for all other dependent claims of *Kick*.

With respect to Claim 1, this Examiner argues that "*Yoshida* discloses all the limitations substantially as claimed" in Applicant's previous version of Claim 1. In response, Applicant has amended Claim 1 to claim "the interior of said container body is a truncated spherical shape."[8] Under 35 U.S.C. §102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[9] Since this Examiner has conceded that "*Yoshida* does not disclose the interior of said container body formed

[8] *Kick*, Claim 1.
[9] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

of a truncated spherical shape,"[10] Applicant respectfully suggests that this Examiner's rejections under 35 U.S.C. §102(b) have been overcome.

Regardless, Applicant also maintains that *Yoshida* does not anticipate "a container side wall substantially convex in both the horizontal and vertical direction."[11] This Examiner suggested that *Yoshida* discloses a container side wall substantially convex in both the horizontal and vertical direction, stating "15, sidewall is substantially convex with respect to a wall of the container at the midsection, as defined in Fig. A."[12]

However, Applicant maintains that Component 15 of *Yoshida*, as referenced by this Examiner, does not teach a container side wall substantially convex in both the horizontal and vertical direction, as taught by *Kick*.

Yoshida repeatedly discloses that there are three primary portions of the *Yoshida* container: "[t]he subject container substantially has a cylindrical body 13, bottom part 14, and flange 11 which constitutes an opening"[13]; "[a] substantially cylindrical drum section[,] a bottom part[, and] a flange which constitutes an opening"[14]; "the plastic blow molding container of the present invention which has substantially a cylindrical drum section, a bottom part, and a flange that constitutes an opening"[15]. Although *Yoshida* features other components, all other components are sub-components of the three primary portions of the *Yoshida* container: the cylindrical body/drum section, the bottom part, and the flange which constitutes an opening. One such sub-component of the cylindrical body/drum section – *Yoshida* Component 13 – is *Yoshida* Component 15 (the

[10] *Office Action*, July 31, 2014, Page 7, Paragraph 13.
[11] *Kick*, Claim 1.
[12] *Office Action*, July 31, 2014, Page 3, Paragraph 3.
[13] *Yoshida*, Constitution.
[14] *Yoshida*, Claim 1.
[15] *Yoshida*, Paragraph 7.

"expanding part"): "[t]he drum section 13 has become cylindrical substantially and has the expanding part 15 into the portion immediately on the bottom part 14."[16]

In the most recent Office Action, this Examiner referenced a "wall of the container at the midsection" and presents Fig. A – an annotation of *Yoshida* Drawing 2 – in support.[17] This Examiner suggested *Yoshida* Component 15 is substantially convex with respect to the wall of the container at the midsection, presumably because the wall of the container at the midsection is not substantially convex in the horizontal and vertical direction.[18] However, as mentioned above and shown in this Examiner's Fig. A, *Yoshida* Component 15 (the "expanding part"[19]) is a portion of the "wall of the container at the midsection" – *Yoshida* Component 13 (the "drum section"[20]).[21]

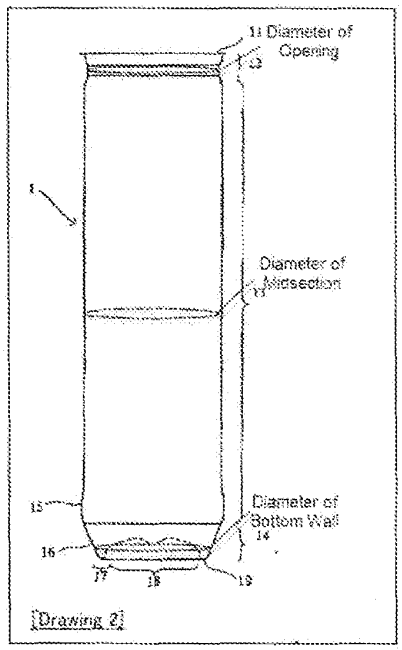


Fig. A – Annotated Drawing 2 of *Yoshida*

[16] *Yoshida*, Paragraph 12.
[17] *Office Action*, July 31, 2014, Page 3, Paragraph 3.
[18] *Office Action*, July 31, 2014, Page 3, Paragraph 3.
[19] *Yoshida*, Paragraph 12.
[20] *Yoshida*, Paragraph 12.
[21] *Yoshida*, Drawing 2; see also *Office Action*, July 31, 2014, Fig. A. The bracket identifying *Yoshida* Component 13 clearly encompasses Component 15.

Considering *Yoshida* Component 15 is a sub-component of Component 13, any reference to Component 15 as a side wall inherently references a portion of the full side wall – *Yoshida* Component 13. *Yoshida* describes Component 13 – the "drum section" (i.e. side wall) – as "substantially cylindrical"[22] to ensure that the "subject container substantially has a cylindrical body."[23] However, since a cylinder is defined as "the surface traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar closed curve,"[24] cylindrical object is only capable of being convex in only one direction – *either* horizontal *or* vertical. Therefore, since the *Yoshida* side wall is "substantially cylindrical,"[25] the *Yoshida* side wall is incapable of being substantially convex in *both* the horizontal *and* vertical direction, as taught by *Kick*.

Accordingly, Applicant respectfully suggests that Applicant's independent Claim 1, and all claims dependent thereon, are now in condition for allowance since the *Yoshida* side wall is "substantially cylindrical"[26] rather than substantially convex in both the horizontal and vertical direction.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

This Examiner rejected Claim 8 under 35 U.S.C. §103 as being unpatentable over *Yoshida* in view of *O'Day*. Specifically, this Examiner suggested that *O'Day* teaches a container body wherein the interior of said container body is a truncated spherical shape.[27]

Applicant has canceled Claim 8. However, Applicant has amended Claim 1 to include the canceled language of Claim 8 – "wherein the interior of said container body is a truncated spherical

[22] *Yoshida*, Claim 1.
[23] *Yoshida*, Constitution.
[24] Merriam-Webster Dictionary definition of "cylinder."
[25] *Yoshida*, Claim 1.
[26] *Yoshida*, Claim 1.
[27] *Office Action*, July 31, 2014, Page 7, Paragraph 14.

shape."[28] Therefore, this Examiner's rejection of Claim 8 is now arguably applicable to Applicant's Claim 1 rather than Applicant's canceled Claim 8. Accordingly, Applicant will respond to this Examiner's rejection of Claim 8 as if it were applied to Claim 1, and respectfully submits that Claim 1 is not obvious in view of *Yoshida* and *O'Day* because *O'Day* does not teach a container body wherein the interior of said container body is a truncated spherical shape.

Obviousness is a question of law based on underlying factual inquiries, as set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966): (1) determining the scope and content of the prior art; (2) ascertaining the differences between the claimed invention and the prior art; and (3) resolving the level of ordinary skill in the pertinent art.[29] "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."[30]

This Examiner claims that the interior of the *O'Day* container teaches a truncated spherical shape. In support of this claim, this Examiner cites the definition for "truncated" from the American Heritage Dictionary: "having the apex cut off and replaced by a plane, especially one parallel to the base." This Examiner then referenced Fig. B from Examiner's Office Action – an annotated version of *O'Day* Fig. 1 – upon which this Examiner drew imaginary lines to suggest such a truncation. However, such a delineation of the boundary for the *O'Day* container interior is arbitrary as *O'Day* does not expressly teach this Examiner's delineation. Moreover, given the curved surface of the *O'Day* container interior, the delineation could be positioned at an infinite number of points along the curved surface instead of this Examiner's point of delineation.

[28] *Kick*, Claim 1.
[29] MPEP §2141.
[30] *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Therefore, such an interpretation of *O'Day* is without any express or implied teaching in *O'Day* and the *O'Day* container interior is not bound by Examiner's arbitrary boundary.

First, in reference to *O'Day* Fig. 1, *O'Day* specifically teaches a "spherically shaped bottle," labeled as Component 10, without teaching or suggesting any truncation.[31] *O'Day* also specifically teaches which components comprise the spherically-shaped bottle: "[t]he water bottle **10** has a top **11**, bottom **12**, a wall **13** extending from the bottom **12** to the top **11**...said wall **13** defining a water bottle interior **17**."[32] Additionally, *O'Day* specifies that the "water bottle top **11** has an orifice or neck **18** through which the bottle is filled or emptied."[33] Accordingly, the neck or orifice (Component 18) is a part of the water bottle top (Component 11). Since the interior of the water bottle (Component 17) is defined by the wall (Component 13) which extends from the bottom to the top of the container, a person of ordinary skill in the art would interpret the "water bottle interior" to include the neck or orifice (Component 18). Furthermore, *O'Day* Fig. 1 shows that the wall (Component 13) which defines the interior as one continuous section which extends through the neck (Component 18) to the top. Therefore, the imaginary boundaries suggested by this Examiner are arbitrary and outside of the scope of the *O'Day* Specification.

Moreover, even operating under this Examiner's interpretation of the *O'Day* interior, this Examiner has provided no reasoning to support the location of the arbitrary truncation line on this Examiner's annotation of *O'Day* Fig. 1. In fact, no support for such a location exists in the *O'Day* disclosure. If truncation of the interior were supported by *O'Day*, the truncation line could also reasonably be positioned higher on the container body under the broadest reasonable interpretation of the claim.

[31] *O'Day*, Column 6, Line 11.
[32] *O'Day*, Column 5, Lines 18-21.
[33] *O'Day*, Column 5, Line 22.

Reasoning is imperative to support a rejection under 35 U.S.C. §103: "[t]he key to supporting any rejection under 35 U.S.C. §103 is the clear articulation of the reason(s) why the claimed invention would have been obvious."[34] Failure to provide reasoning for the location of this Examiner's truncation line suggests that this Examiner arbitrarily selected a truncation point such that the claimed limitation falls within the prior art. Such an imaginary boundary, without reasoning or support, fails to reasonably apply the prior art to the claimed limitation at hand.

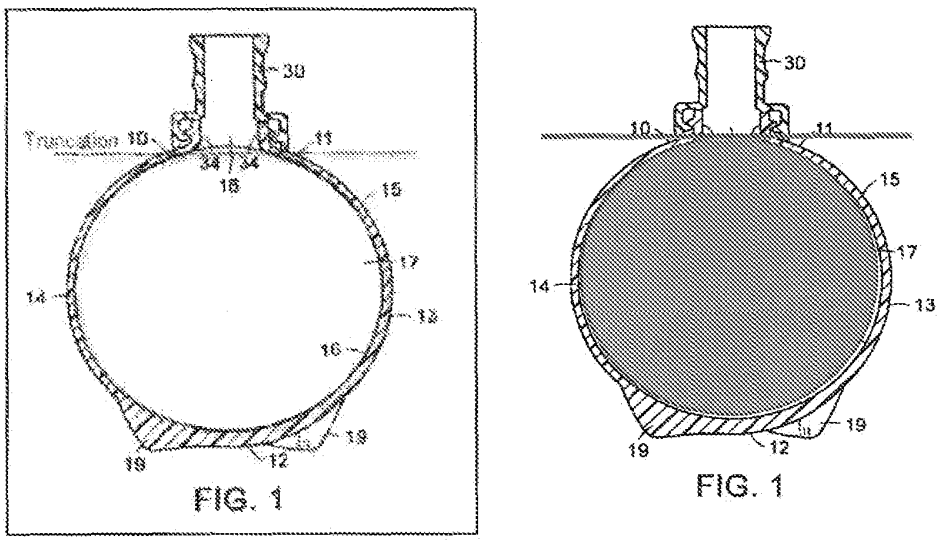


Figure 1. Examiner's Annotated Fig. 1 (left) and Kick Annotated Fig. 1 (right)

Accordingly, Applicant respectfully suggests that Applicant's Claim 1 is in condition for allowance since the enclosed volume of the spherically-shaped *O'Day* container is an entire spherically-shaped void rather than the truncated spherical shape of the interior of the *Kick* container.

[34] MPEP §2143.

CANCELED CLAIMS

Applicant previously canceled Claims 2, 8, and 11 solely to facilitate prosecution of this Application. Applicant does not concede in this Application that the claimed subject matter canceled is not patentable over the art cited by this Examiner. Applicant respectfully reserves the right to pursue these and other claims in one or more continuation and/or divisional patent applications.

CONCLUSION

For all of the above-stated reasons, Applicant submits that the specification and remaining claims are now in proper form, and that the claims all define patentably over the prior art. Therefore, Applicant submits that this application is now in condition for allowance, which action she respectfully solicits from this Examiner.

DATE: November 18, 2014

Respectfully submitted,

/John T. Wilson/
John T. Wilson
Reg. No. 61,411

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Electronic Patent Application Fee Transmittal	
Application Number:	12762934
Filing Date:	19-Apr-2010
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Filer:	Kandace DeKeshia Walter
Attorney Docket Number:	11-002009-02
Filed as Small Entity	

Utility under 35 USC 111(a) Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 1 month with $0 paid	2251	1	100	100

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
RCE - 2nd and Subsequent Request	2820	1	850	850
		Total in USD ($)		**950**

Electronic Acknowledgement Receipt	
EFS ID:	20726524
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	18-NOV-2014
Filing Date:	19-APR-2010
Time Stamp:	12:37:29
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$950
RAM confirmation Number	10902
Deposit Account	
Authorized User	

File Listing:

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

1		Kick_RCE.pdf	5307893 1ce453d1aa82be737c80a8d6399af835b7de9809	yes	17

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Transmittal Letter	1	4
	Claims	5	6
	Amendment Submitted/Entered with Filing of CPA/RCE	7	17

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	31760 f68a96c8acea536242677220db9e33145b24eef6	no	2

Warnings:

Information:

Total Files Size (in bytes):	5339653

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

Application Number	12/762,934	Filing Date	04/19/2010	Docket Number (if applicable)	11-002009-02	Art Unit	3781
First Named Inventor	Merrilee Kick			Examiner Name	Castillo, Kevin Charles		

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 _____

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 _____

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

EFS - Web 2.1.15

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

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Signature of Registered U.S. Patent Practitioner			
Signature	/John T. Wilson	Date (YYYY-MM-DD)	2014-11-18
Name	John T. Wilson	Registration Number	61411

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.

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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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

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

AMENDMENT/REPLY SUMMARY

In response to the Final Office Action mailed on July 31, 2014, Applicant has prepared these remarks. Please amend the above application as follows:

CLAIMS: Amendments to the claims begin on page 2 of this Amendment.

REMARKS/ARGUMENTS: Remarks and Arguments begin on page 4 of this Amendment.

AMENDMENTS TO THE CLAIMS

Please file amendments for claims 1, 3, and 4. The amendments to this application contain no new matter. This listing of claims will replace all prior versions and listings of claims in the application.

Listing of Claims:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall, and a lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein the cross-sectional diameter of ~~said opening~~ the top of ~~the~~ said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body ~~bottom wall~~; wherein the cross-sectional diameter of ~~said opening~~ said top of said container body is less than the cross-sectional diameter of the ~~midsection~~ middle of said container body.

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim 21, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than said container side wall.

7. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CANCELED) ~~A container for storing a liquid or solid as in Claim 1, wherein the interior of said container body is a truncated spherical shape~~.

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) ~~A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.~~

Reconsideration of the claims is respectfully requested. The Applicant makes these amendments and the following arguments to place this application in condition for allowance. Alternatively, the Applicant makes these amendments and offers these arguments to properly frame the issues for appeal.

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 12/762,934	Filing Date 04/19/2010	☐ 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	11/18/2014	(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))	* 9	Minus	** 20	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 2	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
/LINDA A. WASHINGTON/

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80680 e 2014-11-21

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

Paper No.

Application No.:	**12/762,934**	**Date Mailed:**	**2014-11-21**
First Named Inventor:	Kick, Merrilee,	Examiner:	CASTILLO, KEVIN CHARLES
Attorney Docket No.:	11-002009-02	Art Unit:	3781
Confirmation No.:	4521	Filing Date:	2010-04-19

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

Commissioner for Patents

PTO-90c (Rev.08-06)

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 12/762,934	Applicant(s) KICK, MERRILEE
		Art Unit 3700

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

The amendment document filed on *18 November, 2014* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *full text needded see claim 11*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period if the non-compliant amendment is an** after-final amendment or an amendment filed after allowance, or a drawing submission (only) If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **two months** from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable /LINDA A. WASHINGTON/ Telephone No: (571)272-4397

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

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

AMENDMENT/REPLY SUMMARY

In response to the Final Office Action mailed on July 31, 2014, Applicant prepared and submitted the following remarks on November 18, 2014. In response to the November 21, 2014 Notice of Non-Compliant Amendment, Applicant has amended claim 11 to show the full text of claim 11 and resubmits the following remarks. Please amend the above identified application as follows:

CLAIMS: Amendments to the claims begin on page 2 of this Amendment.

REMARKS/ARGUMENTS: Remarks and Arguments begin on page 4 of this Amendment.

AMENDMENTS TO THE CLAIMS

Please file amendments for claims 1, 3, and 4. The amendments to this application contain no new matter. This listing of claims will replace all prior versions and listings of claims in the application.

Listing of Claims:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall, and a lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.~~

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein the cross-sectional diameter of ~~said opening~~ the top of ~~the~~ said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body ~~bottom wall~~; wherein the cross-sectional diameter of ~~said opening~~ said top of said container body is less than the cross-sectional diameter of the ~~midsection~~ middle of said container body.

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~2~~1, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than said container side wall.

7. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CANCELED) ~~A container for storing a liquid or solid as in Claim 1, wherein the interior of said container body is a truncated spherical shape~~.

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

Reconsideration of the claims is respectfully requested. The Applicant makes these amendments and the following arguments to place this application in condition for allowance. Alternatively, the Applicant makes these amendments and offers these arguments to properly frame the issues for appeal.

REMARKS/ARGUMENTS:

Applicant submits that these amended claims do not present any new matter but more accurately and clearly describe the features of the invention described in the originally-filed patent application. In response to this Examiner's rejections in the Final Office Action mailed on July 31, 2014, Applicant has further narrowed the claims to more accurately and definitively describe the invention. These limitations do not add new matter.

The pending claims remaining in the Application are Claims 1, 3, and 5-10. This Examiner rejected all pending claims in the Final Office Action mailed on July 31, 2014. Specifically, this Examiner objected to Claim 4, rejected Claim 3 under 35 U.S.C. §112, rejected Claims 1, 3-7, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Yoshida* (Japanese Patent Publication JP105032248A; hereinafter referred to as "*Yoshida*"), and rejected Claim 8 under 35 U.S.C. §103(a) as being unpatentable over *Yoshida* in view of *O'Day* (U.S. Patent No. 7,051,892; hereinafter referred to as "*O'Day*"). Accordingly, Applicant has amended the claims and respectfully submits that the Application is now in condition for allowance, as fully explained in the remarks below.

CLAIM OBJECTIONS

This Examiner objected to Claim 4 for being dependent on Claim 2, a canceled claim. In response, Applicant has amended Claim 4 to properly depend on a pending claim – independent Claim 1. Accordingly, Applicant respectfully suggests that this Examiner's objection to Claim 4 has been overcome.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

This Examiner rejected Claim 3 under 35 U.S.C. §112 for failing to particularly point out and distinctly claim the subject matter which Applicant regards as her invention. Specifically, this Examiner suggested there is insufficient antecedent basis for the limitations: "the diameter of said opening", "the diameter of said container bottom wall", and "the diameter of the midsection of said container body". In response to this Examiner's rejection, Applicant has amended Claim 3 to more particularly point out and distinctly claim the subject matter which Applicant regards as her invention.

Amended Claim 3 now reads:

> "3. A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein the cross-sectional diameter of ~~said opening~~ the top of ~~the~~ said container is greater than or equal to the cross-sectional diameter of the bottom of said container ~~bottom wall~~; wherein the cross-sectional diameter of ~~said opening~~ said top of said container is less than the cross-sectional diameter of the ~~midsection~~ middle of said container body."[1]

According to §2173.05(e) of the Manual of Patent Examining Procedure, a claim may be considered unclear when a claim limitation lacks sufficient antecedent basis to clearly reference a certain element of the invention.[2] However, the lack of an explicit antecedent basis does not always render a claim indefinite if the scope of the claim would be reasonably ascertainable by those skilled in the art.[3] "Inherent components of elements recited have antecedent basis in the recitation of the components themselves."[4] Considering the above, Applicant respectfully submits

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[1] *Kick*, Claim 3.
[2] MPEP §2173.05(e).
[3] *Energizer Holdings Inc. v. Int'l Trade Comm'n*, 435 F.3d 1366, 77 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992).
[4] MPEP §2173.05(e). *See Bose Corp. v. JBL, Inc.*, 274 F.3d 1354, 1359, 61 USPQ2d 1216, 1218-19 (Fed. Cir. 2001) (holding that recitation of "an ellipse" provided antecedent basis for "an ellipse having a major diameter" because "[t]here can be no dispute that mathematically an inherent characteristic of an ellipse is a major diameter").

that Claim 3 is sufficiently clear under 35 U.S.C. §112, as all elements of the claim have either sufficient explicit or implicit antecedent basis.

The claim limitations which have been amended in Claim 3 are "the cross-sectional diameter(s)" for the "top", "middle" and "bottom" of the container body taught in Applicant's Claim 1. Applicant respectfully submits that these claim limitations are inherent characteristics of the container body taught in Applicant's Claim 1, and therefore have sufficient antecedent basis.

First, the container – and the container body of which it is comprised – is a tangible object "for storing a liquid or a solid."[5] A tangible object inherently features components or points on the object – such as a top, middle, or bottom – which form the substance and shape of the object. Therefore, the scope of a claim which references a "top", "middle", or "bottom" of a tangible object, like Applicant's Claim 3, is reasonably ascertainable to one skilled in the art as it references specific points on such an object.

Additionally, the claim limitation "cross-sectional diameter", when used in conjunction with references to specific points on a tangible container body, references an inherent characteristic of the container body. According to Merriam-Webster Dictionary, a diameter is defined as "a straight line from one side of something to the other side that passes through the center point."[6] In *Bose Corp.*, the Federal Circuit held that the recitation of "an ellipse" provided antecedent basis for "an ellipse having a major diameter" because "there can be no dispute that mathematically an inherent characteristic of an ellipse is a major diameter".[7] Likewise, there can be no dispute that mathematically an inherent characteristic of a "top", "middle", or "bottom" of a container body is a cross-sectional diameter. Therefore, the claim limitation "cross-sectional diameter", when used

[5] *Kick*, Claim 1.
[6] Merriam-Webster Dictionary definition of "diameter", attached as "Exhibit A".
[7] *Bose Corp. v. JBL, Inc.*, 274 F.3d 1354, 1359, 61 USPQ2d 1216, 1218-19 (Fed. Cir. 2001).

in conjunction with references to specific points on a tangible container body, has sufficient antecedent basis in the recitation of "container body" in Applicant's Claim 1.

Considering the foregoing, Applicant respectfully submits that this Examiner's rejection under 35 U.S.C. §112 has been overcome and respectfully requests this Examiner withdraw the rejection for Applicant's Claim 3.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

This Examiner rejected Claims 1, 3-7, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Yoshida*. Applicant respectfully maintains that there are significant differences between *Kick* and *Yoshida* with respect to Claims 1, 3-7, 9, and 10 such that *Kick* is not fully anticipated by *Yoshida*.

Applicant's Claim 1 is the only independent claim of *Kick* upon which all other *Kick* claims rely. Accordingly, any distinctions between Applicant's Claim 1 and *Yoshida* also apply for all other dependent claims of *Kick*.

With respect to Claim 1, this Examiner argues that "*Yoshida* discloses all the limitations substantially as claimed" in Applicant's previous version of Claim 1. In response, Applicant has amended Claim 1 to claim "the interior of said container body is a truncated spherical shape."[8] Under 35 U.S.C. §102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[9] Since this Examiner has conceded that "*Yoshida* does not disclose the interior of said container body formed

[8] *Kick*, Claim 1.
[9] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

of a truncated spherical shape,"[10] Applicant respectfully suggests that this Examiner's rejections under 35 U.S.C. §102(b) have been overcome.

Regardless, Applicant also maintains that *Yoshida* does not anticipate "a container side wall substantially convex in both the horizontal and vertical direction."[11] This Examiner suggested that *Yoshida* discloses a container side wall substantially convex in both the horizontal and vertical direction, stating "15, sidewall is substantially convex with respect to a wall of the container at the midsection, as defined in Fig. A."[12]

However, Applicant maintains that Component 15 of *Yoshida*, as referenced by this Examiner, does not teach a container side wall substantially convex in both the horizontal and vertical direction, as taught by *Kick*.

Yoshida repeatedly discloses that there are three primary portions of the *Yoshida* container: "[t]he subject container substantially has a cylindrical body 13, bottom part 14, and flange 11 which constitutes an opening"[13]; "[a] substantially cylindrical drum section[,] a bottom part[, and] a flange which constitutes an opening"[14]; "the plastic blow molding container of the present invention which has substantially a cylindrical drum section, a bottom part, and a flange that constitutes an opening"[15]. Although *Yoshida* features other components, all other components are sub-components of the three primary portions of the *Yoshida* container: the cylindrical body/drum section, the bottom part, and the flange which constitutes an opening. One such sub-component of the cylindrical body/drum section – *Yoshida* Component 13 – is *Yoshida* Component 15 (the

[10] *Office Action*, July 31, 2014, Page 7, Paragraph 13.
[11] *Kick*, Claim 1.
[12] *Office Action*, July 31, 2014, Page 3, Paragraph 3.
[13] *Yoshida*, Constitution.
[14] *Yoshida*, Claim 1.
[15] *Yoshida*, Paragraph 7.

"expanding part"): "[t]he drum section 13 has become cylindrical substantially and has the expanding part 15 into the portion immediately on the bottom part 14."[16]

In the most recent Office Action, this Examiner referenced a "wall of the container at the midsection" and presents Fig. A – an annotation of *Yoshida* Drawing 2 – in support.[17] This Examiner suggested *Yoshida* Component 15 is substantially convex with respect to the wall of the container at the midsection, presumably because the wall of the container at the midsection is not substantially convex in the horizontal and vertical direction.[18] However, as mentioned above and shown in this Examiner's Fig. A, *Yoshida* Component 15 (the "expanding part"[19]) is a portion of the "wall of the container at the midsection" – *Yoshida* Component 13 (the "drum section"[20]).[21]

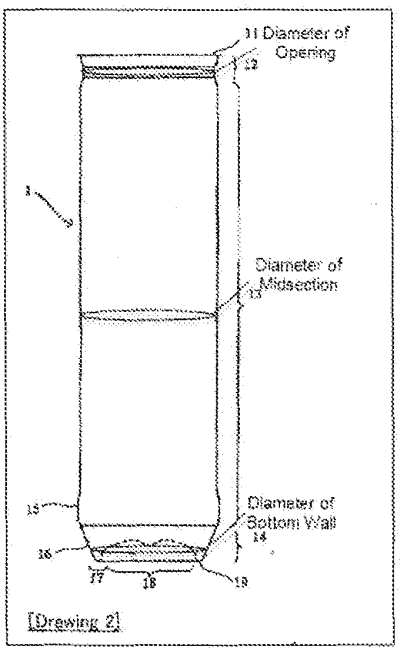


Fig. A – Annotated Drawing 2 of *Yoshida*

[16] *Yoshida*, Paragraph 12.
[17] *Office Action*, July 31, 2014, Page 3, Paragraph 3.
[18] *Office Action*, July 31, 2014, Page 3, Paragraph 3.
[19] *Yoshida*, Paragraph 12.
[20] *Yoshida*, Paragraph 12.
[21] *Yoshida*, Drawing 2; see also *Office Action*, July 31, 2014, Fig. A. The bracket identifying *Yoshida* Component 13 clearly encompasses Component 15.

Considering *Yoshida* Component 15 is a sub-component of Component 13, any reference to Component 15 as a side wall inherently references a portion of the full side wall – *Yoshida* Component 13. *Yoshida* describes Component 13 – the "drum section" (i.e. side wall) – as "substantially cylindrical"[22] to ensure that the "subject container substantially has a cylindrical body."[23] However, since a cylinder is defined as "the surface traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar closed curve,"[24] cylindrical object is only capable of being convex in only one direction – *either* horizontal *or* vertical. Therefore, since the *Yoshida* side wall is "substantially cylindrical,"[25] the *Yoshida* side wall is incapable of being substantially convex in *both* the horizontal *and* vertical direction, as taught by *Kick*.

Accordingly, Applicant respectfully suggests that Applicant's independent Claim 1, and all claims dependent thereon, are now in condition for allowance since the *Yoshida* side wall is "substantially cylindrical"[26] rather than substantially convex in both the horizontal and vertical direction.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

This Examiner rejected Claim 8 under 35 U.S.C. §103 as being unpatentable over *Yoshida* in view of *O'Day*. Specifically, this Examiner suggested that *O'Day* teaches a container body wherein the interior of said container body is a truncated spherical shape.[27]

Applicant has canceled Claim 8. However, Applicant has amended Claim 1 to include the canceled language of Claim 8 – "wherein the interior of said container body is a truncated spherical

[22] *Yoshida*, Claim 1.
[23] *Yoshida*, Constitution.
[24] Merriam-Webster Dictionary definition of "cylinder."
[25] *Yoshida*, Claim 1.
[26] *Yoshida*, Claim 1.
[27] *Office Action*, July 31, 2014, Page 7, Paragraph 14.

shape."[28] Therefore, this Examiner's rejection of Claim 8 is now arguably applicable to Applicant's Claim 1 rather than Applicant's canceled Claim 8. Accordingly, Applicant will respond to this Examiner's rejection of Claim 8 as if it were applied to Claim 1, and respectfully submits that Claim 1 is not obvious in view of *Yoshida* and *O'Day* because *O'Day* does not teach a container body wherein the interior of said container body is a truncated spherical shape.

Obviousness is a question of law based on underlying factual inquiries, as set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966): (1) determining the scope and content of the prior art; (2) ascertaining the differences between the claimed invention and the prior art; and (3) resolving the level of ordinary skill in the pertinent art.[29] "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."[30]

This Examiner claims that the interior of the *O'Day* container teaches a truncated spherical shape. In support of this claim, this Examiner cites the definition for "truncated" from the American Heritage Dictionary: "having the apex cut off and replaced by a plane, especially one parallel to the base." This Examiner then referenced Fig. B from Examiner's Office Action – an annotated version of *O'Day* Fig. 1 – upon which this Examiner drew imaginary lines to suggest such a truncation. However, such a delineation of the boundary for the *O'Day* container interior is arbitrary as *O'Day* does not expressly teach this Examiner's delineation. Moreover, given the curved surface of the *O'Day* container interior, the delineation could be positioned at an infinite number of points along the curved surface instead of this Examiner's point of delineation.

[28] *Kick*, Claim 1.
[29] MPEP §2141.
[30] *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

Therefore, such an interpretation of *O'Day* is without any express or implied teaching in *O'Day* and the *O'Day* container interior is not bound by Examiner's arbitrary boundary.

First, in reference to *O'Day* Fig. 1, *O'Day* specifically teaches a "spherically shaped bottle," labeled as Component 10, without teaching or suggesting any truncation.[31] *O'Day* also specifically teaches which components comprise the spherically-shaped bottle: "[t]he water bottle **10** has a top **11**, bottom **12**, a wall **13** extending from the bottom **12** to the top **11**...said wall **13** defining a water bottle interior **17**."[32] Additionally, *O'Day* specifies that the "water bottle top **11** has an orifice or neck **18** through which the bottle is filled or emptied."[33] Accordingly, the neck or orifice (Component 18) is a part of the water bottle top (Component 11). Since the interior of the water bottle (Component 17) is defined by the wall (Component 13) which extends from the bottom to the top of the container, a person of ordinary skill in the art would interpret the "water bottle interior" to include the neck or orifice (Component 18). Furthermore, *O'Day* Fig. 1 shows that the wall (Component 13) which defines the interior as one continuous section which extends through the neck (Component 18) to the top. Therefore, the imaginary boundaries suggested by this Examiner are arbitrary and outside of the scope of the *O'Day* Specification.

Moreover, even operating under this Examiner's interpretation of the *O'Day* interior, this Examiner has provided no reasoning to support the location of the arbitrary truncation line on this Examiner's annotation of *O'Day* Fig. 1. In fact, no support for such a location exists in the *O'Day* disclosure. If truncation of the interior were supported by *O'Day*, the truncation line could also reasonably be positioned higher on the container body under the broadest reasonable interpretation of the claim.

[31] *O'Day*, Column 6, Line 11.
[32] *O'Day*, Column 5, Lines 18-21.
[33] *O'Day*, Column 5, Line 22.

Reasoning is imperative to support a rejection under 35 U.S.C. §103: "[t]he key to supporting any rejection under 35 U.S.C. §103 is the clear articulation of the reason(s) why the claimed invention would have been obvious."[34] Failure to provide reasoning for the location of this Examiner's truncation line suggests that this Examiner arbitrarily selected a truncation point such that the claimed limitation falls within the prior art. Such an imaginary boundary, without reasoning or support, fails to reasonably apply the prior art to the claimed limitation at hand.

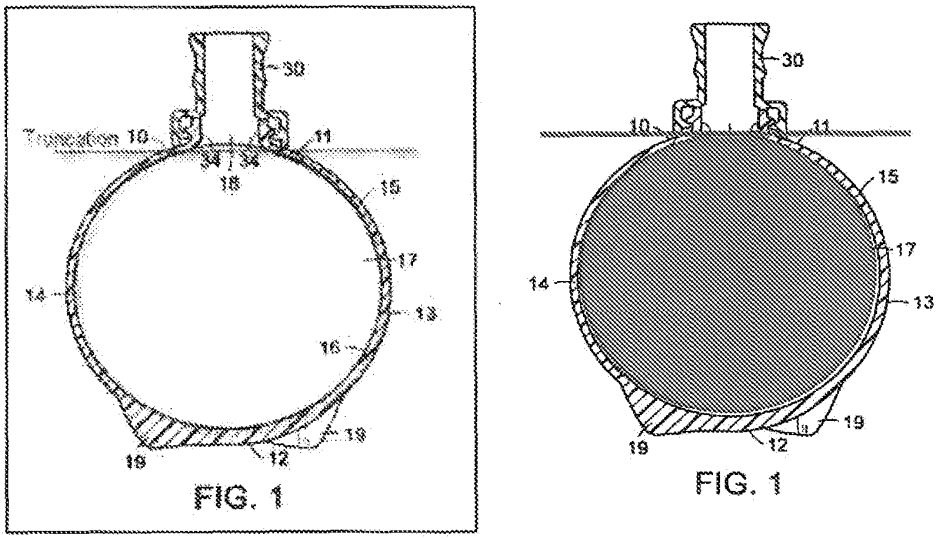


Figure 1. Examiner's Annotated Fig. 1 (left) and Kick Annotated Fig. 1 (right)

Accordingly, Applicant respectfully suggests that Applicant's Claim 1 is in condition for allowance since the enclosed volume of the spherically-shaped *O'Day* container is an entire spherically-shaped void rather than the truncated spherical shape of the interior of the *Kick* container.

[34] MPEP §2143.

CANCELED CLAIMS

Applicant previously canceled Claims 2, 8, and 11 solely to facilitate prosecution of this Application. Applicant does not concede in this Application that the claimed subject matter canceled is not patentable over the art cited by this Examiner. Applicant respectfully reserves the right to pursue these and other claims in one or more continuation and/or divisional patent applications.

CONCLUSION

For all of the above-stated reasons, Applicant submits that the specification and remaining claims are now in proper form, and that the claims all define patentably over the prior art. Therefore, Applicant submits that this application is now in condition for allowance, which action she respectfully solicits from this Examiner.

DATE: November 21, 2014

Respectfully submitted,

/John T. Wilson/
John T. Wilson
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Electronic Acknowledgement Receipt	
EFS ID:	20764453
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	21-NOV-2014
Filing Date:	19-APR-2010
Time Stamp:	12:22:30
Application Type:	Utility under 35 USC 111(a)

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	Amendment Submitted/Entered with Filing of CPA/RCE	Kick_2ndRCE_revd.pdf	4296468 5d6050ddddff2e894e464c0e427e554481b52fbc8	no	14
Warnings:					
Information:					

Total Files Size (in bytes):	4296468

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
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 12/762,934	Filing Date 04/19/2010	☐ 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 **11/21/2014**

	(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))	* 9	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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.

SLIE
/LISA FULTON/

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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 01/15/2015

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

EXAMINER	
CASTILLO, KEVIN CHARLES	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
01/15/2015	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):

john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 *11/21/2014*.

☐ 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 and 3-10* 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, 3-10* 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: _____.

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

DETAILED ACTION

Claim Rejections - 35 USC § 112

2. 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.

3. Claim 3 recites the limitations "the cross sectional diameter" of the top, middle, and bottom in Lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 10 recites the limitations "of said lip" in Line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. 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.

6. Claims 1, 3, 4, 6 are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by O'Day, US Patent 7051892.

1. Re Claim 1, O'Day discloses a container for storing liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [shown in Fig A, the sidewall is convex in both the horizontal and vertical directions], a container bottom wall [12, bottom wall of container in Fig A], and a lid [30], wherein the interior of said container body is a truncated spherical shape [as shown in Fig A, the interior has a truncated spherical interior and the sphere is not complete due to the truncation].

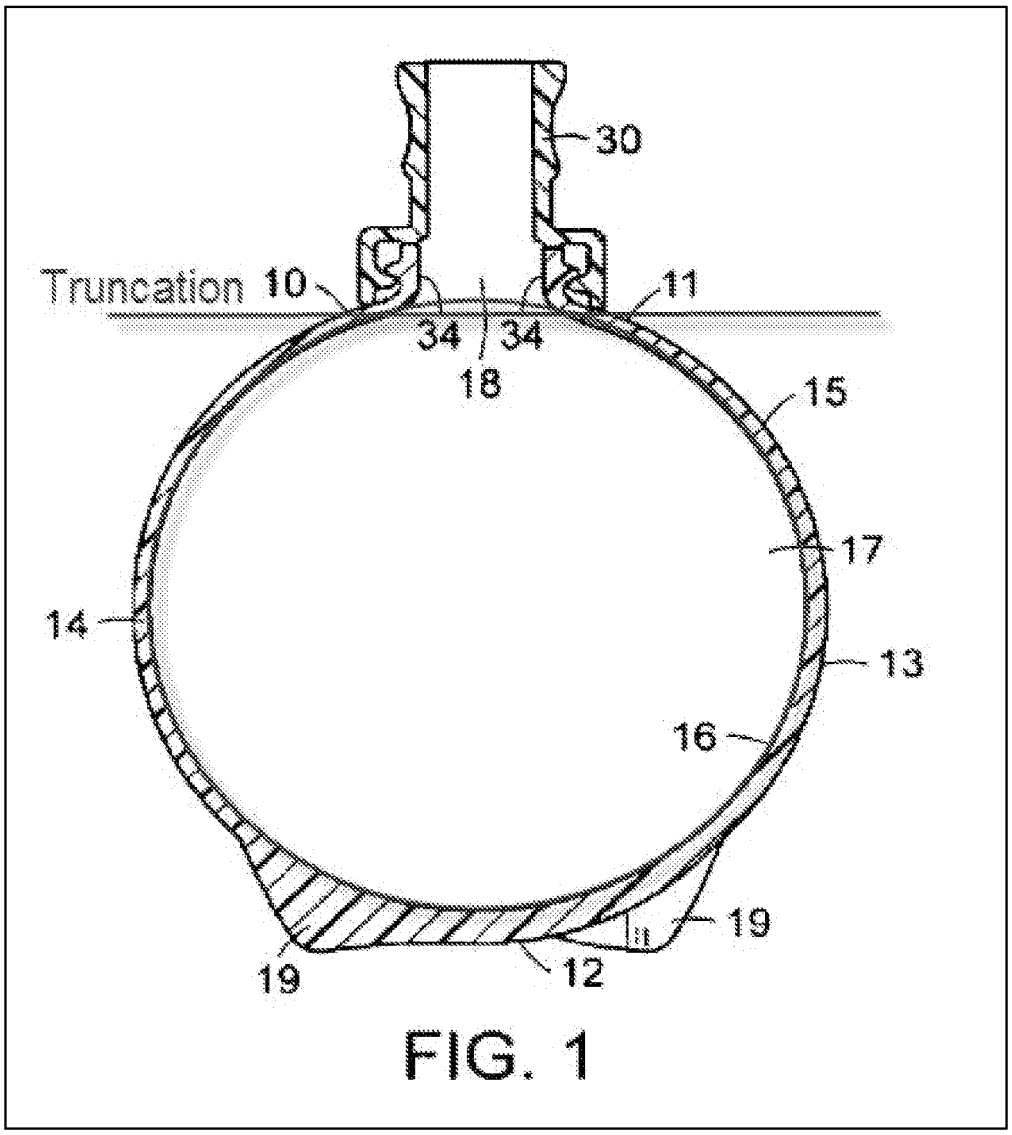


Fig A - Annotated Fig 1 of O'Day

2. Re Claim 3, O'Day discloses the upper edge of said container body is adjacent to a neck [Fig B]; wherein said neck is adjacent to a lip [Fig B]; wherein the cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body [Fig B]; wherein the cross-sectional

diameter of said top of said container body is less than the cross-sectional diameter of the middle of said container body [Fig B].

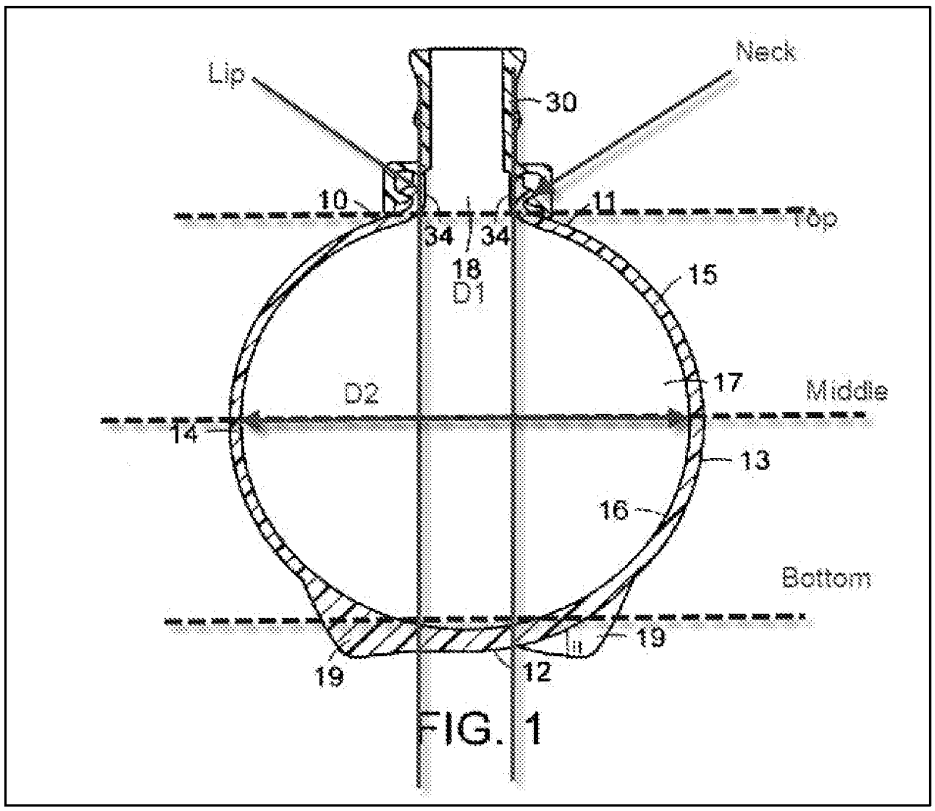


Fig B – Annotated Fig 1 of O'Day

3. Re Claim 4, O'Day discloses said container body including an opening to the interior of said container body positioned within the interior boundaries of said lip [the opening of the lip, as shown in Figs A and B].

4. Re Claim 6, O'Day discloses said container bottom wall is of a smaller diameter than said container side wall [as shown in Fig B].

5. Claims 1, 4, 6, 9, 10 are rejected under pre-AIA 35 U.S.C. 102(B) as being anticipated by Ivey, US Patent 7731053.

6. Re Claim 1, Ivey discloses a container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [Fig C], a container bottom wall [wall of 2c], and a lid [2a], wherein the interior of said container body is a truncated spherical shape [Fig C].

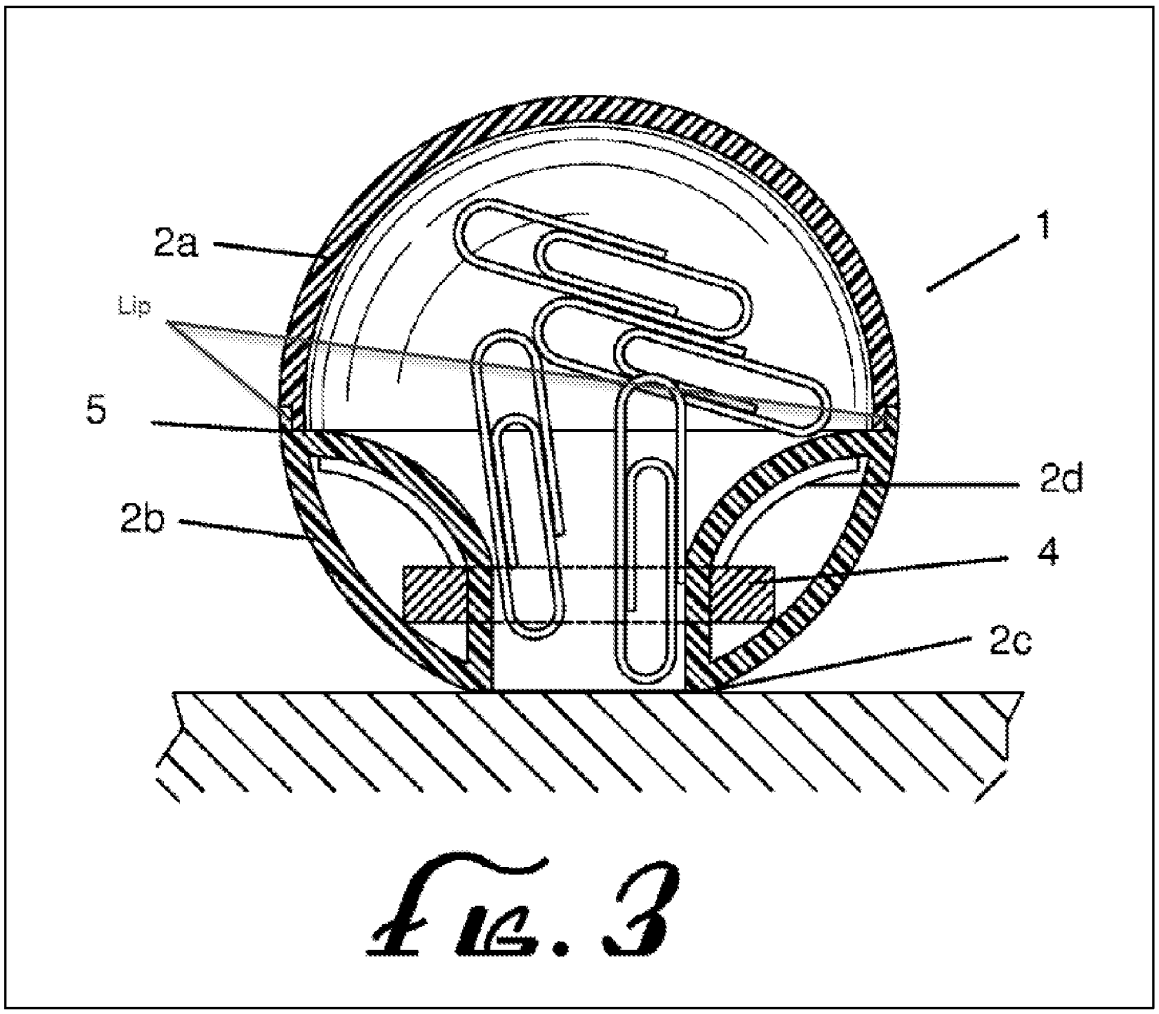


Fig C - Annotated Fig 3 of Ivey

7. Re Claim 4, Ivey discloses said container body including an opening to the interior of said container body positioned within the interior boundaries of said lip [Opening of the lip].

8. Re Claim 6, Ivey discloses said container bottom wall is of a smaller diameter than said container side wall [Fig C, the bottom wall 2c is smaller in diameter than the sidewall].

9. Re Claim 9, Ivey discloses said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal [Col 3, Lines 20-36].

10. Re Claim 10, Ivey discloses said lid positioned within the interior edge of said lip [Fig C, the lid is positioned within the interior edge of the lip].

Claim Rejections - 35 USC § 103

7. 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.

8. 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.

9. Claims 5 and 7 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over O'Day, as applied to Claim 1, in view of Yoshida, JP 105032248A (previously cited).

10. Re Claims 5 and 7, O'Day discloses all the limitations substantially as claimed. O'Day does not disclose said container bottom wall including at least one protrusion and a series of depression, wherein a depression side wall lies between said depressions and within said protrusion, and separately, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

11. However, Yoshida discloses the said container bottom wall [14] includes at least one protrusion [16] and a series of depressions [j, e], wherein a depression side wall [sidewalls between the depressions shown in Fig 4 as g,c] lies between said depressions and within said protrusion [as shown in Fig 4, below], and separately, said container bottom wall [14] includes at least one radial extending depression [j e; Fig 4] and a center depression [18] within said protrusion [16].

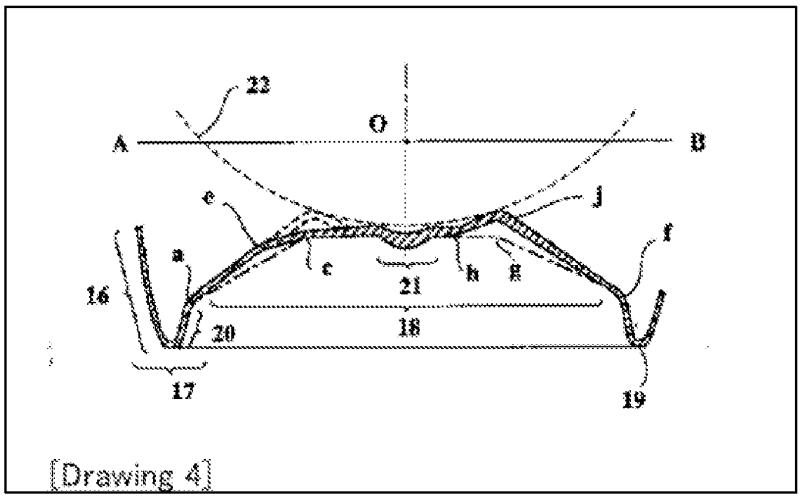


Fig 4 of Yoshida

12. The protrusion and series of depressions help to maintain the self-standing property of the container as internal pressure rises within the container. Therefore, it would have been obvious to one of ordinary skill in the art to modify the bottom wall of O'Day, as claimed and taught by Yoshida, to allow the container to react to internal pressure and still maintain its standing properties.

Response to Arguments

13. Applicant's arguments filed 11/21/2014 have been fully considered but they are not persuasive. Applicant argues that O'Day does not teach a container body with an interior having a truncated spherical shape. However, Applicant is directed to Fig A, above, wherein it is clearly shown that the circle, which would be the cross section of a sphere, is not complete. Therefore, it cannot be said that the interior or O'Day is a complete sphere, which Applicant attests. Therefore, Applicant's argument is not persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./
Examiner, Art Unit 3781

/FENN MATHEW/
Supervisory Patent Examiner, Art Unit 3781

Notice of References Cited	Application/Control No. 12/762,934	Applicant(s)/Patent Under Reexamination KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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-7,731,053	06-2010	Ivey, Jason	220/603
	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
L4	1162	2 and 3	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 15:00
L3	198088	sphere	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 14:59
L2	155270	("220").CLAS.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 14:59
S49	18	("20020033397" | "20040094558" | "2341092" | "2457421" | "3706140" | "4058209" | "4221293" | "5097947" | "5372269" | "6244464" | "6457604" | "6464078" | "6783033" | "6793094" | "7451890").PN. OR ("7731053").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2015/01/07 13:51
S48	1	("8738101").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2014/07/22 11:11
S47	1	("7051892").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2014/07/22 10:38
S46	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S45	385	b65d1/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S44	0	b65d2501/00	US-PGPUB; USPAT; USOCR; FPRS;	OR	OFF	2013/12/05 16:07

			EPO; JPO; DERWENT			
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S41	472937	b65d	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S40	0	b65d2501/9	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
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S37	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:05
S36	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:05
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			USOCR; FPRS; EPO; JPO; DERWENT			
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S33	656	b65d1/10	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:06
S32	4	b65d1/165	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:05
S31	2	("7780025").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 15:40
S30	788	spher$5 and S19 and plastic and container and mold$4	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S29	317	spher$5 and S19 and plastic and container and mold	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S28	1351	spher$5 and S19 and plastic and container	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:52
S27	1960	spher$5 and S19 and plastic	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S26	14	spher$5 and S19 and (blow$mold or	US-	OR	OFF	2013/01/31

		blowmold)	PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT			14:51
S25	479	spher$5 and S19 and blow	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S24	4444	spher$5 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S23	2116	spher$5 and S21	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:50
S22	47	S19 and S21	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:50
S21	2116	sphere and blow and mold	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:49
S20	38	S18 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:49
S19	149406	("220").CLAS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:48
S18	844	sphere and blow and mold and container	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO;	OR	OFF	2013/01/31 14:48

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EAST Search History (Interference)

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Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
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	Examiner	**Art Unit**
	KEVIN CASTILLO	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	09/23/2011	02/01/2013	08/07/2013	12/05/2013	04/05/2014	07/22/2014	01/08/2015		
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	3	✓	✓	✓	✓	✓	✓	✓		
	4	✓	✓	✓	✓	✓	-	✓		
	5	✓	✓	✓	✓	✓	✓	✓		
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	10		✓	✓	✓	✓	✓	✓		
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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	12/05/0213	KC

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/08/2015	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name Search	9/21/2011	KC
Backward/Forward Search	9/23/2011	KC
Text Search	1/08/2015	KC

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

/K.C./ Examiner.Art Unit 3781	

REMARKS/ARGUMENTS

Applicant submits that these amended claims do not present any new matter but more accurately and clearly describe the features of the invention described in the originally-filed patent application. In response to this Examiner's rejections in the Non-Final Office Action mailed on January 15, 2015, Applicant has amended to the claims to more accurately and definitively describe the invention. These limitations do not add new matter.

The pending claims remaining in the Application are Claims 1, 3, 4-7, 9, and 10. This Examiner rejected all pending claims in the Non-Final Office Action mailed on January 15, 2015. Specifically, this Examiner rejected Claims 1, 3, 4, and 6 under 35 U.S.C. §102(b) as being anticipated by *O'Day* (U.S. Patent NO. 7,051,892; hereinafter referred to as "*O'Day*"); Claims 1, 4, 6, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Ivey* (U.S. Patnet No. 7,731,053; hereinafter referred to as "*Ivey*"); and Claims 5 and 7 under 35 U.S.C. §103(a) as being unpatentable over *O'Day* in view of *Yoshida* (Japanese Patent Publication JP105032248A; hereinafter referred to as "*Yoshida*"). Additionally, this Examiner rejected Claims 3 and 10 under 35 U.S.C. §112, suggesting insufficient antecedent basis for certain wording within the claims. Accordingly, Applicant has amended the claims and respectfully submits that the Application is now in condition for allowance, as fully explained in the remarks below.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

This Examiner rejected Claims 3 and 10 under 35 U.S.C. §112 for failing to particularly point out and distinctly claim the subject matter which Applicant regards as her invention. Specifically, this Examiner suggested there is insufficient basis for the following limitations: "the cross sectional diameter of the top, middle, and bottom" of the container in Claim 3; and, "of said

lip" in Claim 10. In response to this Examiner's rejection, Applicant has amended Claims 3 and 10 to more particularly point out and distinctly claim the subject matter which Applicant regards as her invention.

Amended Claim 3 now reads:

> "3. A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein ~~the~~ a cross-sectional diameter of the top of said container body is greater than or equal to ~~the~~ a cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than ~~the~~ a cross-sectional diameter of the middle of said container body."[1]

Applicant has not amended Claim 10 because sufficient antecedent basis for a "lip" is present within Claim 3, as shown above: "wherein said neck is adjacent to a lip."[2] Accordingly, "of said lip" in Claim 10 has sufficient antecedent basis in Claim 3.

Considering the foregoing, Applicant respectfully submits that this Examiner's rejection under 35 U.S.C. §112 has been overcome and respectfully requests this Examiner withdraw the rejection for Applicant's Claims 3 and 10.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

This Examiner rejected Claims 1, 3, 4, and 6 under 35 U.S.C. §102(b) as being anticipated by *O'Day* and Claims 1, 4, 6, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Ivey*. Applicant respectfully maintains that there are significant differences between *Kick* and *O'Day* and submits that *Ivey* does not anticipate *O'Day* as suggested by this Examiner.

[1] *Kick*, Claim 3.
[2] *Kick*, Claim 3.

Applicant's Claim 1 is the only independent claim of *Kick* upon which all other *Kick* claims rely. Accordingly, any distinctions between Applicant's Claim 1, *O'Day* and *Ivey* also apply for all other dependent claims of *Kick*.

CLAIM 1

With respect to Claim 1, this Examiner argues that both *O'Day* and *Ivey* disclose all the limitations as claimed. Under 35 U.S.C. §102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[3] "The identical invention must be shown in as complete detail as is contained in the claim."[4] "Every element of the claimed invention must be literally present, arranged as in the claim."[5] Accordingly, if a reference does not teach each and every element of a claim, either expressly or inherently, that reference does not anticipate the claim under 35 U.S.C. §102.

In the latest Office Action, this Examiner has not established that each and every element of *Kick* Claim 1 is disclosed in either *O'Day* or *Ivey*. Applicant's Claim 1 discloses a "container…comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall, and a lid, wherein the interior of said container body is a truncated spherical shape."[6] In the most recent Office Action, this Examiner added a prior art citation to the end of each paragraph of *Kick*'s claims without providing sufficient reasoning to support such citations and rejections.

[3] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.
[4] *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).
[5] *Id.*
[6] *Kick*, Claim 1.

a. *O'Day* Fails to Teach Each and Every Element of *Kick* Claim 1

In regards to *O'Day*, this Examiner appended citations to Applicant's Claim 1 and again referenced an annotated version of *O'Day* Fig. 1 upon which this Examiner arbitrarily designated a "truncation" line to support his claims:

> "Re Claim 1, *O'Day* discloses a container for storing liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [shown in Fig. A, the sidewall is convex in both the horizontal and vertical directions], a container bottom wall [12, bottom wall of container in Fig. A], and a lid [30], wherein the interior of said container body is a truncated spherical shape [as shown in Fig. A, the interior has a truncated spherical interior and the sphere is not complete due to the truncation]."[7]

It appears the United States Supreme Court values reasoning in a rejection, and it would likely require that such reasoning be applied to rejections under 35 U.S.C. § 102 if presented with the issue, rather than just rejections under 35 U.S.C. § 103. For instance, MPEP § 2143, states that "the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. should be made explicit."[8] Although *KSR* and the cited section of the MPEP are directed to obviousness rejections under 35 U.S.C. § 103, it is apparent that the Supreme Court believes that a clear articulation of reasons is the key to supportable rejections.

Here, this Examiner's rejection is based on an arbitrary "truncation" line, inserted by this Examiner, to suggest that the interior of *O'Day* is a truncated spherical shape as claimed by Applicant. However, this Examiner provided no reasoning or factual support in the *O'Day* disclosure as to why this Examiner drew the truncation line at the location it was drawn. Notwithstanding Applicant's arguments presented herein below, failure to specifically identify the

[7] *Office Action*, Page 3, Paragraph 1 (Examiner's citations in brackets).
[8] MPEP § 2143 (citing *KSR Int'l Co. v. Teleflex, Inc.*, 82 USPQ2d 1385, 1395-97 (2007)).

reason why this Examiner drew the truncation line at the location as drawn likely renders the Office Action "arbitrary and capricious," and therefore invalid, under the Administrative Procedure Act (5 U.S.C. § 706), a standard to which all actions by the United States Patent and Trademark Office must adhere.[9]

Applicant has previously stated that the truncation of the *O'Day* container is not supported in the *O'Day* specification as *O'Day* expressly states that "Fig. 1 is a cross sectional [sic] view of a spherically shaped [sic] water bottle for a dispenser."[10] In response, this Examiner stated "Applicant is directed to Fig A, above, wherein it is clearly shown that the circle, which would be the cross section of a sphere, is not complete."[11] However, Applicant respectfully maintains that the mere fact that the walls of the container in *O'Day* Fig. 1 do not connect to complete a circle does not inherently teach that the interior of the container is a truncated spherical shape.

Although drawings may be used as prior art in an anticipation rejection, "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art."[12] By referencing this Examiner's own random truncation line, this Examiner is suggesting that *O'Day* Fig. 1 "reasonably discloses" a truncated spherical shape merely because the walls of the container in *O'Day* Fig. 1 do not connect to complete a full circle. However, Applicant respectfully suggests that *O'Day* Fig. 1 does not reasonably disclose such a truncation line as such reasoning runs afoul of basic mathematics principles. In fact, *O'Day* Fig. 1 shows that the interior of the *O'Day* container cannot be a truncated spherical shape.

This is shown through the basic mathematical principle of volume. Volume is the unit of measurement relevant to the "interior of [a] container body" because volume is the quantity of

[9] See *Dickinson v. Zurko*, 527 U.S. 150 (1999).
[10] *O'Day*, Column 4, Lines 40-41.
[11] *Office Action*,
[12] MPEP § 2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)) (emphasis added).

three-dimensional space enclosed by a boundary. To calculate the total volume of a spherical container with an integral, cylindrical neck extending vertically above the spherical container, the volume of the sphere and the volume of the cylindrical neck are added together. Since the total volume of the sphere is used in the total volume calculation (i.e., $V_{sphere} = \frac{4}{3}\pi r^3$), such a container must be comprised of a full spherical section. Therefore, the spherical section of such a container cannot be truncated despite the fact that walls of the spherical section never connect at the apex of the sphere. For reference, see the relevant solution to such a problem shown in the mathematics textbook, *Learning Mathematics*, shown in Fig. A below:[13]

Example 8. A spherical glass vessel has a cylindrical neck 8 cm long, 2 cm in diameter, the diameter of the spherical part is 8.5 cm. Find the amount of water it can hold, taking the above as inside measurements. (Take π = 3.14)

Solution. Radius of spherical part = $\frac{8.5}{2}$ cm = 4.25 cm,

radius of cylindrical part = $\frac{2}{2}$ cm = 1 cm,

length of cylindrical part = 8 cm.

Volume (amount) of water in the vessel

= volume of sphere + volume of cylinder

$= \frac{4}{3}\pi r^3 + \pi r^2 h$

$= \pi\left(\frac{4}{3} \times (4.25)^3 + 1^2 \times 8\right)$ cm^3

$= (3.14)\left(\frac{4}{3} \times (4.25)^3 + 8\right)$ cm^3

= 346.51 cm^3 (approx.)

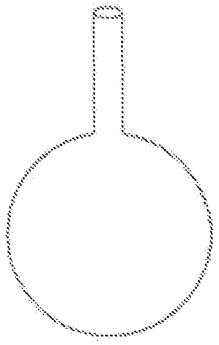


Figure A. Calculating Volume of a Spherical Container with Neck

[13] AVICHAL PUBLISHING COMPANY, LEARNING MATHEMATICS 515 (1st ed. 2015).

The "spherical glass vessel" in the example shown above is similar to the container shown in *O'Day* Fig. 1, which clearly shows a spherical container with an integral, cylindrical neck extending vertically above the spherical container:[14]

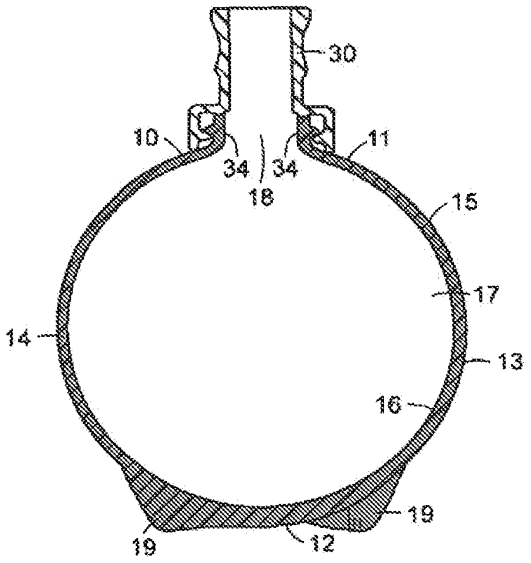


FIG. 1

Figure B. Annotation of O'Day Figure 1

Moreover, *O'Day* clearly teaches a distinction between the "neck finish" or "neck" (**34**) and the "removable neck finish" (**30**), showing that the neck finish is integrally connected to the spherical container:

> "[T]he objects of the invention may be achieved by a plastic blow molded bottle comprising a main body portion including an upper hemispherical section and an associated lower hemispherical section, the upper section and the lower section being integrally interconnected; the upper section including an upwardly extending neck finish, and the lower section including a fitted base; and *a reusable neck finish* of a diameter different from the neck finish of the upper section of the main body, the *reusable neck finish* being selectably connectable to the neck finish of the upper section of the main body to provide a liquid-tight seal therebetween."[15]

[14] Color added to show contiguous section.
[15] *O'Day*, Column 2, Lines 32-43 (emphasis added to show clear distinction between "neck finish" and "reusable neck finish").

> "[T]here is illustrated in Figs. 1 and 2 a *removable dispensing neck finish* for a spherically shaped [sic] bottle...Basically, the bottle is formed with a hemispherically shaped [sic] upper portion with an integrally formed neck finish[16] and a hemispherically shaped [sic] lower portion with a footed base. A *removable neck finish* is formed to have the same exterior configuration as the bottles presently in use and as illustrated in the above noted [sic] patent."[17]
>
> "The neck portion may have internal threads formed integral therewith adapted to receive external threads on the *removable neck finish*. In such an embodiment it may be necessary to provide an extra seal mechanism to create a liquid-tight seal between the neck finish of the bottle and the associated *removable neck finish*."[18]

Accordingly, even without considering the removable neck finish, the container shown in *O'Day* Fig. 1 is clearly a spherical vessel with a cylindrical neck – the same type of container in the example mathematics solution shown in Figure A above. Therefore, the total volume of the container shown in *O'Day* Fig. 1 is equal to the full volume of the spherical main body plus the volume of the cylindrical neck finish. Since the volume of the entire spherical main body is included, the spherical main body of *O'Day* – and, thus, the interior of the *O'Day* container – cannot be a truncated spherical shape.

Therefore, *O'Day* Fig. 1 does not teach an interior of a container body with a truncated spherical shape; and, thus, does not teach each and every element of Applicant's Claim 1. Accordingly, Applicant respectfully suggests that Applicant's Claim 1 is in condition for allowance since the enclosed volume of the spherically-shaped *O'Day* container is an entire spherically-shaped void rather than the truncated spherical shape of the interior of the *Kick* container.

---

[16] Although *O'Day* references component "30" here, Applicant respectfully contends that such a reference is a misnomer as *O'Day* previously referenced component "34" as the integrally-formed neck finish in Column 2, Lines 32-43 and in Column 6, Lines 28-39. Accordingly, Applicant respectfully suggests that *O'Day* clearly intended for the component "34" to be identified as the "integrally formed neck finish."

[17] *O'Day*, Column 6, Lines 10-18 (emphasis added).

[18] *O'Day*, Column 6, Lines 31-36 (emphasis added).

b. *Ivey* Does Not Teach Each and Every Element of *Kick* Claim 1

In regards to *Ivey*, this Examiner again appended citations to Applicant's Claim 1 and referenced an annotated version of *Ivey* Fig. 3 to support his claims:

> "Re Claim 1, *Ivey* discloses a container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [Fig C], a container bottom wall [wall of 2c], and a lid [2a], wherein the interior of said container body is a truncated spherical shape [Fig C]."[19]

Again, Applicant respectfully notes that the United States Supreme Court would likely require that reasoning be applied to rejections under 35 U.S.C. § 102 if presented with the issue, rather than just rejections under 35 U.S.C. § 103. "Drawings and pictures can anticipate claims if they clearly show the structure which is claimed."[20] However, drawings must be evaluated for what they "reasonably disclose" to one of ordinary skill in the art.[21] In any utility patent, the drawings must be examined in accordance with the specification because the specification identifies and describes the features shown in the drawings.[22] Therefore, if a drawing does not reasonably disclose an element as claimed, the drawing does not anticipate that element.

Here, in making the rejections under 35 U.S.C. § 102, this Examiner merely referenced components in *Ivey* Fig. 3 without providing any reasoning for why such components anticipate Applicant's Claim 1. Without providing reasoning or support from the *Ivey* specification, this Examiner's rejections are entirely reliant on what is shown in *Ivey* Fig. 3. However, Applicant respectfully submits that such reliance is improper as *Ivey* Fig. 3, viewed in light of the *Ivey* specification, does not reasonably disclose each and every element of *Kick* Claim 1.

---

[19] *Office Action*, Page 6, Paragraph 6.
[20] MPEP § 2125 (citing *In re Mraz*, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972)).
[21] MPEP § 2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).
[22] See 37 C.F.R. 1.74; MPEP 608.01(f). See also MPEP 608.02(e).

This Examiner suggests that *Ivey* teaches a container bottom wall by citing to *Ivey* Component 2c in *Ivey* Fig. 3. Applicant respectfully disagrees because *Ivey* Fig. 3 does not clearly show any container bottom wall. First, the only reference to *Ivey* Component 2c in the specification defines *Ivey* Component 2c as a "chamfered edge line" – not a wall.[23] Second, *Ivey* Fig. 3 clearly shows an opening in the bottom of the spherical container. If the bottom of a spherical container is open, it is incapable of possessing a container bottom wall.

In regards to a solid object, a "chamfered edge line" cannot be a wall because an edge is a "line at which two surfaces of a solid object meet."[24] A line segment is one-dimensional, in that a line segment has a measurable length but zero width.[25] Stated differently, a line segment has no surface area and is, thus, incapable of enclosing space. In contrast, a "wall" of a container is a "material layer enclosing space,"[26] which must possess at least some modicum of surface area in order to be capable of "enclosing space." Accordingly, *Ivey* Component 2c cannot be a wall because it has zero surface area and is incapable of enclosing a space.

Regardless, the opening in the bottom of the spherical container is an important distinction as Applicant has amended Claim 1 to more particularly point out that the *Kick* container bottom wall extends across the cross-sectional diameter of the bottom of the *Kick* container body.[27] *Ivey* Component 2c clearly does not extend across the cross-sectional diameter of the bottom of the *Ivey* container body because *Ivey* teaches a "container defining only one opening on said bottom portion thereof, said opening being permanently exposed to an exterior of the device and extending into the spherical inner cavity for providing access thereto."[28] Accordingly, if *Ivey* features a bottom

[23] *Ivey*, Column 3, Line 58.
[24] *Edge*, DICTIONARY.COM, www.dictionary.reference.com/browse/edge (May 14, 2015).
[25] *Line Segment*, MATH OPEN REFERENCE (May 14, 2015), www.mathopenref.com/linesegment.html.
[26] *Wall*, MERRIAM-WEBSTER.COM, www.merriam-webster.com/dictionary/wall (May 14, 2015).
[27] *Kick*, Claim 1.
[28] *Ivey*, Claim 1.

which contains an opening that is "permanently exposed" to the exterior of the container then *Ivey* does not teach a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body, as taught by *Kick*.

Therefore, *Ivey* Fig. 3 does not teach a container bottom wall or a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body; and, thus, does not teach each and every element of Applicant's Claim 1. Accordingly, Applicant respectfully suggests that Applicant's Claim 1 is in condition for allowance since *Kick* teaches a container with a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body.

CLAIMS 3, 4, 6, 9, and 10

This Examiner rejected Claims 3, 4, and 6 under 35 U.S.C. § 102(b) as being anticipated by *O'Day* and Claims 4, 6, 9, and 10 under 35 U.S.C. § 102(b) as being anticipated by *Ivey*. A claim is only anticipated "if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[29] All dependent claims "shall be construed as including all the limitations contained in the claim to which it refers."[30] Accordingly, if an independent claim is not anticipated under 35 U.S.C. § 102, then any claim depending therefrom is also not anticipated under 35 U.S.C. § 102.[31]

As previously mentioned, *Kick* Claim 1 is the only independent claim upon which all other claims rely in the present application. Because *Kick* Claim 1 is not anticipated by either *O'Day* or *Ivey* for the reasons identified above, the remaining claims are also not anticipated by either *O'Day*

[29] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.
[30] MPEP § 1824; see also MPEP 608.01(n).
[31] See *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

or *Ivey*. Accordingly, Applicant respectfully requests this Examiner reconsider and withdraw the rejections under 35 U.S.C. § 102(b).

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

This Examiner rejected Claims 5 and 7 under 35 U.S.C. § 103 as being unpatentable over *O'Day* in view of *Yoshida*. Specifically, this Examiner suggested that *O'Day* discloses all the limitations of *Kick* Claims 5 and 7 except for a "container bottom wall including at least one protrusion and a series of depression [sic], wherein a depression side wall lies between said depressions and within said protrusion, and separately, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion."[32]

However, if an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious.[33] Both Claims 5 and 7 are dependent on *Kick* Claim 1 – the only independent claim in the present application. As mentioned above, *Kick* Claim 1 is neither anticipated nor obvious in view of *O'Day*, *Ivey*, *Yoshida*, or any combination thereof because: (1) *O'Day* does not teach a container with a truncated spherical shape; (2) *Ivey* does not teach a container bottom wall; and (3) there is no suggestion or motivation to combine either *O'Day* or *Ivey* with *Yoshida* to create a container with a truncated spherical shape, as taught by *Kick*. Accordingly, because *Kick* Claim 1 is nonobvious for at least the above reasons, Claims 5 and 7 should also be viewed as nonobvious. Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

[32] *Office Action*, Page 8, Paragraph 10.
[33] *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

CONCLUSION

For all of the above-stated reasons, Applicant submits that the specification and remaining claims are now in proper form, and that the claims all define patentably over the prior art. Therefore, Applicant submits that this application is now in condition for allowance, which action she respectfully solicits from this Examiner.

DATE: May 26, 2015

Respectfully submitted,

/John T. Wilson/
John T. Wilson
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Electronic Patent Application Fee Transmittal					
Application Number:	12762934				
Filing Date:	19-Apr-2010				
Title of Invention:	Container				
First Named Inventor/Applicant Name:	Merrilee Kick				
Filer:	Kandace DeKeshia Walter				
Attorney Docket Number:	11-002009-02				
Filed as Small Entity					
Filing Fees for Utility under 35 USC 111(a)					
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 - 2 months with $0 paid	2252	1	300	300
Miscellaneous:				
		Total in USD ($)		**300**

Electronic Acknowledgement Receipt	
EFS ID:	22437004
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	26-MAY-2015
Filing Date:	19-APR-2010
Time Stamp:	10:45:01
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$300
RAM confirmation Number	10723
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		BuzzBallzROA52615.pdf	4983152 6014498f0c6073455b9b52a50dcae4d38f98f7ef	yes	16

	Multipart Description/PDF files in .zip description		
	Document Description	Start	End
	Miscellaneous Incoming Letter	1	1
	Claims	2	3
	Amendment/Req. Reconsideration-After Non-Final Reject	4	16

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	29855 6ac79d60ec12de3eb7db11c2a1919d1174a0e004	no	2

Warnings:

Information:

Total Files Size (in bytes):	5013007

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

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

RESPONSE TO NON-FINAL OFFICE ACTION

In response to the Non-Final Office Action mailed on January 15, 2015, Applicant has prepared these remarks. This Examiner rejected Claims 1 and 3-10 in the Non-Final Office Action. Please amend the above-identified application as follows.

CLAIMS: Amendments to the claims begin on page 2 of this Amendment.

REMARKS/ARGUMENTS: Remarks and Arguments begin on page 4 of this Amendment.

AMENDMENTS TO THE CLAIMS

Please file amendments for Claims 1 and 3. The amendments to this application contain no new matter. This listing of claims will replace all prior versions and listings of claims in the application.

Listing of Claims:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall extending across a cross-sectional diameter of the bottom of said container body, and a lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed form metal.~~

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein ~~the~~ a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than ~~the~~ a cross-sectional diameter of the middle of said container body.

4. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than said container side wall.

7. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CANCELED) ~~A container for storing a liquid or solid as in Claim 1, wherein the interior of said container body is a truncated spherical shape.~~

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

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 12/762,934	Filing Date 04/19/2010	☐ 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 **05/26/2015**

	(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))	* 9	Minus	** 20	= 0	X $40 =	0
Independent (37 CFR 1.16(h))	* 2	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
/eugenia v. hardy/

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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 06/09/2015

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

EXAMINER	
CASTILLO, KEVIN CHARLES	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
06/09/2015	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):

john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 *5/26/2015*.

☐ 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) *1,3-7 and 9-11* is/are pending in the application.

5a) Of the above claim(s) *11* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1, 3-7, 9-10* 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: _____.

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

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. 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.

2. Claim 10 recites the limitations "of said lip" in Line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. 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.

4. Claims 1, 3, 4, 6 are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by O'Day, US Patent 7051892.

1. Re Claim 1, O'Day discloses a container for storing liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [shown in Fig A, the sidewall is convex in both the horizontal and vertical directions], a container bottom wall extending across a cross-sectional diameter

of the bottom of the container body [12, bottom wall of container in Fig A], and a lid [30], wherein the interior of said container body is a truncated spherical shape [as shown in Fig A, the interior has a truncated spherical interior and the sphere is not complete due to the truncation].

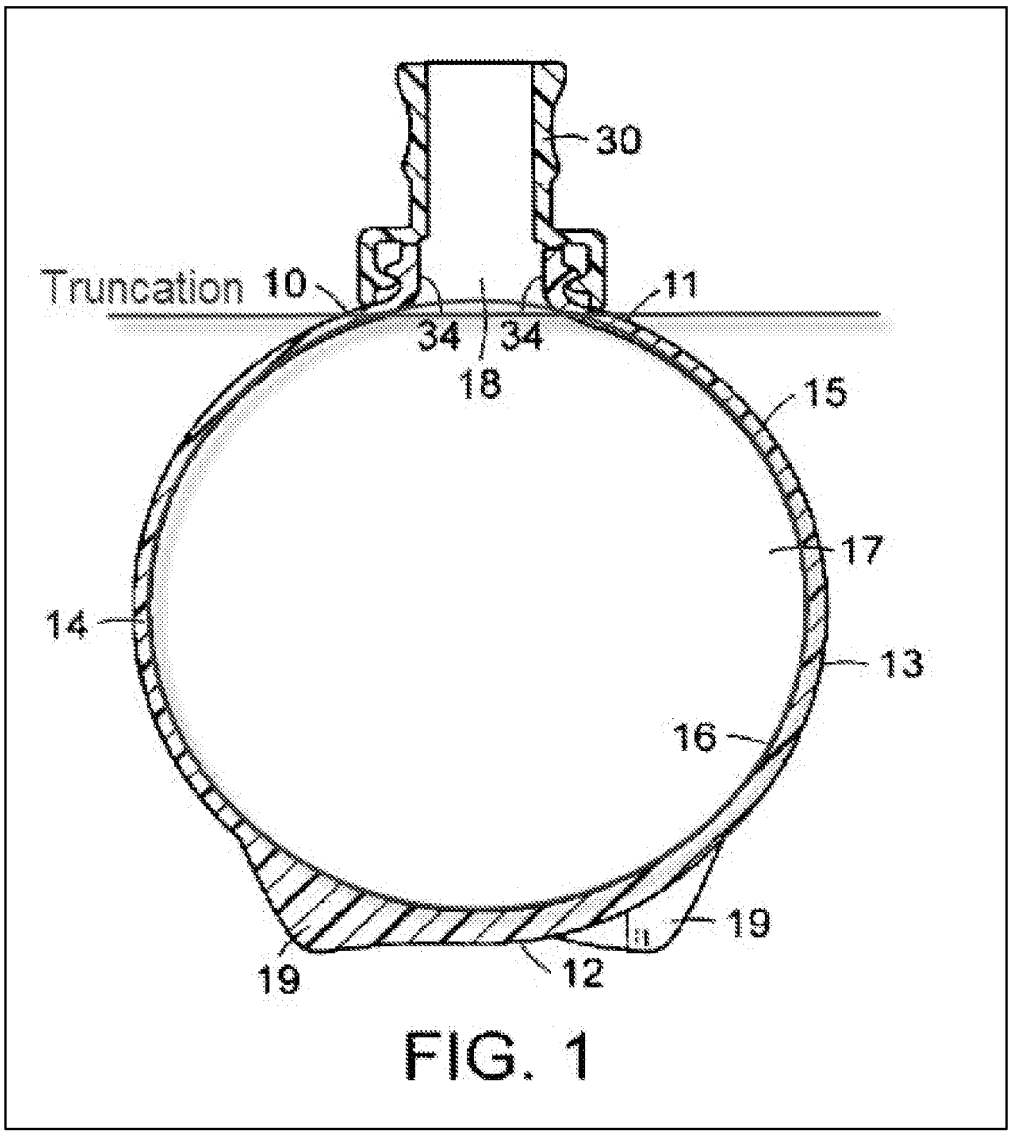


Fig A - Annotated Fig 1 of O'Day

2. Re Claim 3, O'Day discloses the upper edge of said container body is adjacent to a neck [Fig B]; wherein said neck is adjacent to a lip [Fig B]; wherein a cross-sectional diameter [cross-sectional diameters taken at hashed lines] of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body [Fig B]; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body [Fig B].

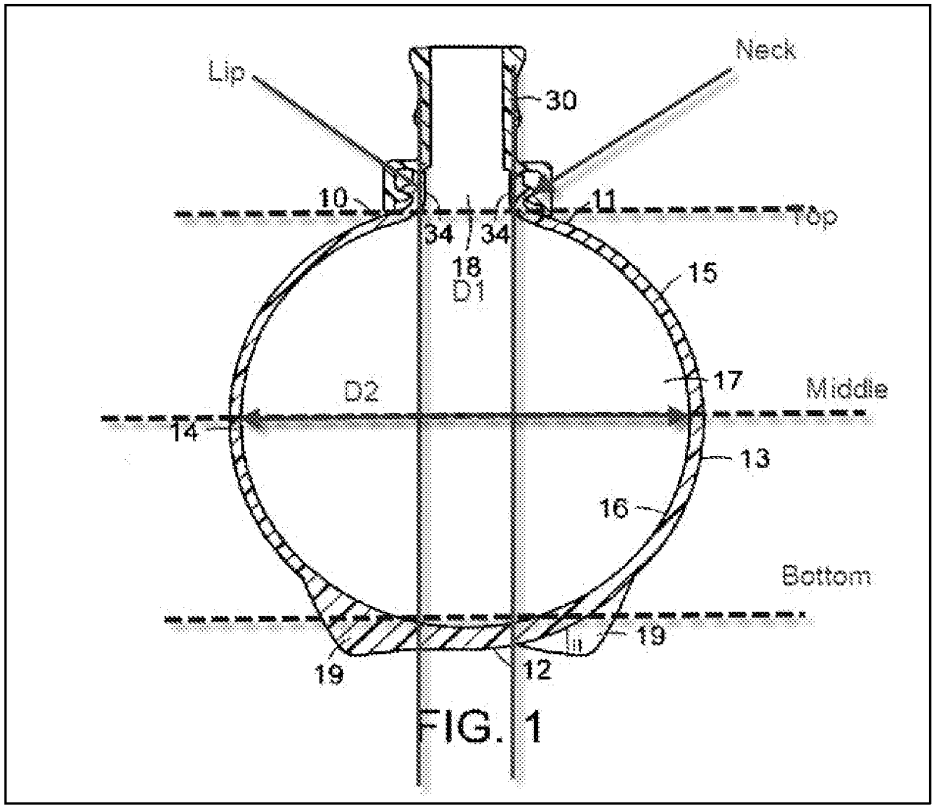


Fig B – Annotated Fig 1 of O'Day

3. Re Claim 4, O'Day discloses said container body including an opening to the interior of said container body positioned within the interior boundaries of said lip [the opening of the lip, as shown in Figs A and B].

4. Re Claim 6, O'Day discloses said container bottom wall is of a smaller diameter than said container side wall [as shown in Fig B].

5. Claims 1, 4, 6, 9, 10 are rejected under pre-AIA 35 U.S.C. 102(B) as being anticipated by Ivey, US Patent 7731053.

6. Re Claim 1, Ivey discloses a container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [Fig C], a container bottom wall extending across a cross-sectional diameter of the bottom of said container body [wall of 2c extends across a cross-sectional diameter, because the wall of 2c forms a cross-sectional diameter], and a lid [2a], wherein the interior of said container body is a truncated spherical shape [Fig C].

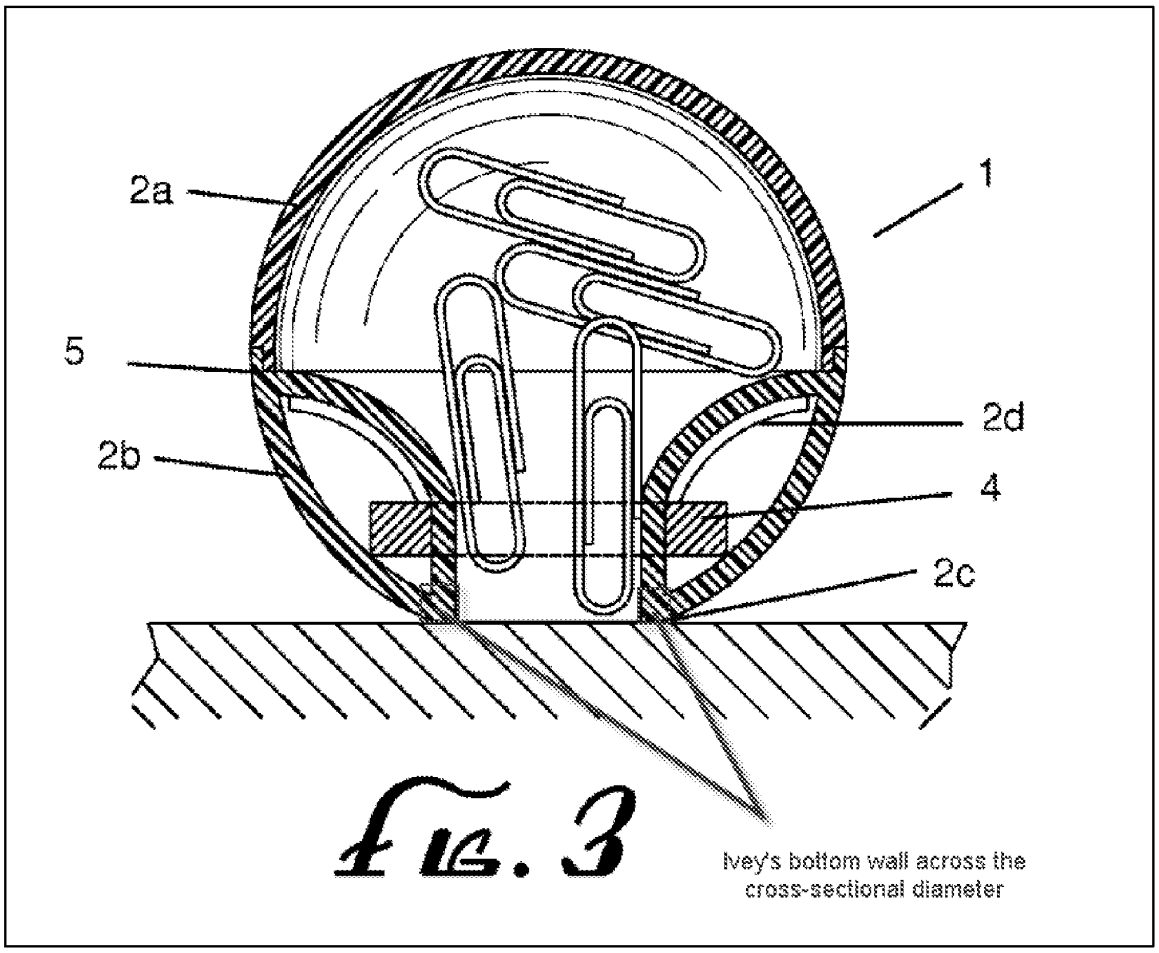


Fig C - Annotated Fig 3 of Ivey

7. Re Claim 4, Ivey discloses said container body including an opening to the interior of said container body positioned within the interior boundaries of said lip [Opening of the lip].

8. Re Claim 6, Ivey discloses said container bottom wall is of a smaller diameter than said container side wall [Fig C, the bottom wall 2c is smaller in diameter than the sidewall].

9. Re Claim 9, Ivey discloses said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal [Col 3, Lines 20-36].

10. Re Claim 10, Ivey discloses said lid positioned within the interior edge of said lip [Fig C, the lid is positioned within the interior edge of the lip].

Claim Rejections - 35 USC § 103

5. 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.

6. 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.

7. Claims 5 and 7 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over O'Day, as applied to Claim 1, in view of Yoshida, JP 105032248A (previously cited).

8. Re Claims 5 and 7, O'Day discloses all the limitations substantially as claimed. O'Day does not disclose said container bottom wall including at least one protrusion and a series of depression, wherein a depression side wall lies between said depressions and within said protrusion, and separately, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

9. However, Yoshida discloses the said container bottom wall [14] includes at least one protrusion [16] and a series of depressions [j, e], wherein a depression side wall [sidewalls between the depressions shown in Fig 4 as g,c] lies between said depressions and within said protrusion [as shown in Fig 4, below], and separately, said container bottom wall [14] includes at least one radial extending depression [j e; Fig 4] and a center depression [18] within said protrusion [16].

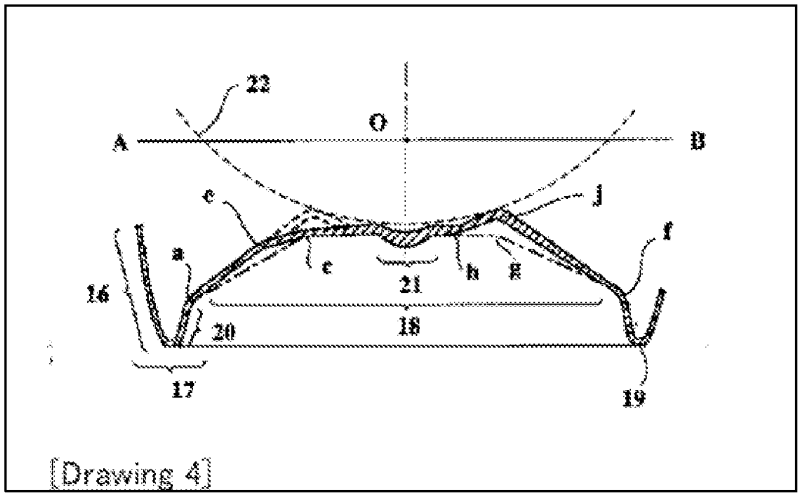


Fig 4 of Yoshida

10. The protrusion and series of depressions help to maintain the self-standing property of the container as internal pressure rises within the container. Therefore, it would have been obvious to one of ordinary skill in the art to modify the bottom wall of

O'Day, as claimed and taught by Yoshida, to allow the container to react to internal pressure and still maintain its standing properties.

Response to Arguments

2. Applicant's arguments filed 5/26/2015 have been fully considered but they are not persuasive. With respect to the 112 rejection to Claim 10, Applicant states that the claim had not been amended because the "lip" is recited in Claim 3. However, Claim 10 does not depend from Claim 3, therefore, Applicant's argument is not persuasive.

3. Applicant argues that the container of O'Day is not truncated. However, it is clear that O'Day's container does not form a perfect spherical shape, because it is cut off, as shown in Fig B, above. Therefore, the spherical shape is cut short, which coincides with numerous English translations of the word "truncate". The truncation line is shown in Fig B is not necessary; however, it is placed as a courtesy to Applicant to show Applicant where the truncation occurs. Applicant's argument is not persuasive.

4. Furthermore, Applicant argues that the drawings cannot be used as prior art in an anticipation rejection. However, just as Applicant cited "the drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art." Therefore, whether the drawings are to scale or not, the neck finish would still be present, thus causing a truncated spherical shape, which is clearly disclosed in the drawings, regardless of size, shape, or dimension. Applicant's argument is not persuasive.

5. Applicant argues that Ivey does not teach the "a bottom wall extending across a cross-sectional diameter of the bottom of said container body". However, Ivey does in-

fact disclose this limitation, as shown in Fig C. The wall extends across a cross-sectional diameter of the bottom of said container body. Applicant's argument is not persuasive.

6. Arguments to Claims 3, 4, 6, 9 and 10 are dependent on Applicant's arguments to Claim 1 of O'Day and Ivey.

7. No further arguments are presented.

Conclusion

8. **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.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./
Examiner, Art Unit 3781

/FENN MATHEW/
Supervisory Patent Examiner, Art Unit 3781

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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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Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner
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CPC COMBINATION SETS - SEARCHED		
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US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/08/2015	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name Search	9/21/2011	KC
Backward/Forward Search	9/23/2011	KC
Text Search	1/08/2015	KC

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

/K.C./ Examiner.Art Unit 3781	

EAST Search History

EAST Search History (Prior Art)

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S34	1142	b65d1/12	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:07
S35	385	b65d1/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:08
S36	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:05
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S39	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S40	0	b65d2501/9	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S41	472937	b65d	US-PGPUB; USPAT; USOCR;	OR	OFF	2013/12/05 16:06

			FPRS; EPO; JPO; DERWENT			
S42	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S43	0	b65d2501/24	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S44	0	b65d2501/00	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S45	385	b65d1/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S46	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S47	1	("7051892").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2014/07/22 10:38
S48	1	("8738101").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2014/07/22 11:11
S49	18	("20020033397" | "20040094558" | "2341092" | "2457421" | "3706140" | "4058209" | "4221293" | "5097947" | "5372269" | "6244464" | "6457604" | "6464078" | "6783033" | "6793094" | "7451890").PN. OR ("7731053").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2015/01/07 13:51
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S52	1162	S50 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 15:00

EAST Search History (Interference)

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REMARKS/ARGUMENTS

The pending claims remaining in the Application are Claims 1, 3-7, 9, and 10. This Examiner rejected all pending claims in the Final Office Action mailed on June 9, 2015. Specifically, this Examiner rejected Claims 1, 3, 4, and 6 under 35 U.S.C. §102(b) as being anticipated by *O'Day* (U.S. Patent NO. 7,051,892; hereinafter referred to as "*O'Day*"); Claims 1, 4, 6, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Ivey* (U.S. Patent No. 7,731,053; hereinafter referred to as "*Ivey*"); and Claims 5 and 7 under 35 U.S.C. §103(a) as being unpatentable over *O'Day* in view of *Yoshida* (Japanese Patent Publication JP105032248A; hereinafter referred to as "*Yoshida*"). Additionally, this Examiner rejected Claim 10 under 35 U.S.C. §112, suggesting insufficient antecedent basis for certain wording within the claims.

Applicant submits that these amended claims do not present any new matter but more accurately and clearly describe the features of the invention described in the originally-filed patent application. In response to this Examiner's rejections in the Final Office Action mailed on June 9, 2015, Applicant has amended the claims to more accurately and definitively describe the invention. Specifically, Applicant has only amended Claim 10 to correct an insufficient antecedent basis. Therefore, these limitations do not add new matter.

Accordingly, Applicant has properly amended the claims and respectfully submits that the Application is now in condition for allowance, as fully explained in the remarks below.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

This Examiner rejected Claim 10 under 35 U.S.C. §112 for failing to particularly point out and distinctly claim the subject matter which Applicant regards as her invention. Specifically, this Examiner suggested there is insufficient basis for "of said lip" in Claim 10. In response to this

Examiner's rejection, Applicant has amended Claim 10 to more particularly point out and distinctly claim the subject matter which Applicant regards as her invention.

Amended Claim 10 now reads:

"10. A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of ~~said~~ a lip."

Considering the foregoing, Applicant respectfully submits that this Examiner's rejection under 35 U.S.C. §112 has been overcome and respectfully requests this Examiner withdraw the rejection for Applicant's Claim 10.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

This Examiner rejected Claims 1, 3, 4, and 6 under 35 U.S.C. §102(b) as being anticipated by *O'Day* and Claims 1, 4, 6, 9, and 10 under 35 U.S.C. §102(b) as being anticipated by *Ivey*. Applicant respectfully maintains that there are significant differences between *Kick* and *O'Day* and submits that *Ivey* does not anticipate *O'Day* as suggested by this Examiner.

Applicant's Claim 1 is the only independent claim of *Kick* upon which all other *Kick* claims rely. Accordingly, any distinctions between Applicant's Claim 1, *O'Day* and *Ivey* also apply for all other dependent claims of *Kick*.

CLAIM 1

With respect to Claim 1, this Examiner argues that both *O'Day* and *Ivey* disclose all the limitations as claimed. Under 35 U.S.C. §102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[1] "The identical invention must be shown in as complete detail as is contained in

[1] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

the claim."[2] "Every element of the claimed invention must be literally present, arranged as in the claim."[3] Accordingly, if a reference does not teach each and every element of a claim, either expressly or inherently, that reference does not anticipate the claim under 35 U.S.C. §102.

In the latest Office Action, this Examiner has not established that each and every element of *Kick* Claim 1 is disclosed in either *O'Day* or *Ivey*. Applicant's Claim 1 discloses a "container…comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall, and a lid, wherein the interior of said container body is a truncated spherical shape."[4] In the most recent Office Action, this Examiner added a prior art citation to the end of each paragraph of *Kick*'s claims without providing sufficient reasoning to support such citations and rejections.

a. *O'Day* Fails to Teach Each and Every Element of *Kick* Claim 1

In regards to *O'Day*, this Examiner appended citations to Applicant's Claim 1 and again referenced an annotated version of *O'Day* Fig. 1 upon which this Examiner arbitrarily designated a "truncation" line to support his claims:

> "Re Claim 1, *O'Day* discloses a container for storing liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [shown in Fig. A, the sidewall is convex in both the horizontal and vertical directions], a container bottom wall [12, bottom wall of container in Fig. A], and a lid [30], wherein the interior of said container body is a truncated spherical shape [as shown in Fig. A, the interior has a truncated spherical interior and the sphere is not complete due to the truncation]."[5]

It appears the United States Supreme Court values reasoning in a rejection, and it would likely require that such reasoning be applied to rejections under 35 U.S.C. § 102 if presented with the issue, rather than just rejections under 35 U.S.C. § 103. For instance, MPEP § 2143, states that

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[2] *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).
[3] *Id.*
[4] *Kick*, Claim 1.
[5] *Office Action*, Page 3, Paragraph 1 (Examiner's citations in brackets).

"the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. should be made explicit."[6] Although *KSR* and the cited section of the MPEP are directed to obviousness rejections under 35 U.S.C. § 103, it is apparent that the Supreme Court believes that a clear articulation of reasons is the key to supportable rejections.

Here, this Examiner's rejection is based on an arbitrary "truncation" line, inserted by this Examiner, to suggest that the interior of *O'Day* is a truncated spherical shape as claimed by Applicant. However, this Examiner provided no reasoning or factual support in the *O'Day* disclosure as to why this Examiner drew the truncation line at the location it was drawn. Notwithstanding Applicant's arguments presented herein below, failure to specifically identify the reason why this Examiner drew the truncation line at the location as drawn likely renders the Office Action "arbitrary and capricious," and therefore invalid, under the Administrative Procedure Act (5 U.S.C. § 706), a standard to which all actions by the United States Patent and Trademark Office must adhere.[7]

Applicant has previously stated that the truncation of the *O'Day* container is not supported in the *O'Day* specification as *O'Day* expressly states that "Fig. 1 is a cross sectional [sic] view of a spherically shaped [sic] water bottle for a dispenser."[8] In response, this Examiner stated "Applicant is directed to Fig A, above, wherein it is clearly shown that the circle, which would be the cross section of a sphere, is not complete."[9] However, Applicant respectfully maintains that

[6] MPEP § 2143 (citing *KSR Int'l Co. v. Teleflex, Inc.*, 82 USPQ2d 1385, 1395-97 (2007)).
[7] See *Dickinson v. Zurko*, 527 U.S. 150 (1999).
[8] *O'Day*, Column 4, Lines 40-41.
[9] *Office Action*,

the mere fact that the walls of the container in *O'Day* Fig. 1 do not connect to complete a circle does not inherently teach that the interior of the container is a truncated spherical shape.

Although drawings may be used as prior art in an anticipation rejection, "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art."[10] By referencing this Examiner's own random truncation line, this Examiner is suggesting that *O'Day* Fig. 1 "reasonably discloses" a truncated spherical shape merely because the walls of the container in *O'Day* Fig. 1 do not connect to complete a full circle. However, Applicant respectfully suggests that *O'Day* Fig. 1 does not reasonably disclose such a truncation line as such reasoning runs afoul of basic mathematics principles. In fact, *O'Day* Fig. 1 shows that the interior of the *O'Day* container cannot be a truncated spherical shape.

This is shown through the basic mathematical principle of volume. Volume is the unit of measurement relevant to the "interior of [a] container body" because volume is the quantity of three-dimensional space enclosed by a boundary. To calculate the total volume of a spherical container with an integral, cylindrical neck extending vertically above the spherical container, the volume of the sphere and the volume of the cylindrical neck are added together. Since the total volume of the sphere is used in the total volume calculation (i.e., $V_{sphere} = \frac{4}{3}\pi r^3$), such a container must be comprised of a full spherical section. Therefore, the spherical section of such a container cannot be truncated despite the fact that walls of the spherical section never connect at the apex of the sphere. For reference, see the relevant solution to such a problem shown in the mathematics textbook, *Learning Mathematics*, shown in Fig. A below:[11]

[10] MPEP § 2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)) (emphasis added).
[11] AVICHAL PUBLISHING COMPANY, LEARNING MATHEMATICS 515 (1st ed. 2015).

Example 8. A spherical glass vessel has a cylindrical neck 8 cm long, 2 cm in diameter, the diameter of the spherical part is 8.5 cm. Find the amount of water it can hold, taking the above as inside measurements. (Take $\pi = 3.14$)

Solution. Radius of spherical part $= \frac{8.5}{2}$ cm $= 4.25$ cm,

radius of cylindrical part $= \frac{2}{2}$ cm $= 1$ cm,

length of cylindrical part $= 8$ cm.

Volume (amount) of water in the vessel

$$= \text{volume of sphere} + \text{volume of cylinder}$$

$$= \frac{4}{3}\pi r^3 + \pi r^2 h$$

$$= \pi\left(\frac{4}{3} \times (4.25)^3 + 1^2 \times 8\right) \text{cm}^3$$

$$= (3.14)\left(\frac{4}{3} \times (4.25)^3 + 8\right) \text{cm}^3$$

$$= 346.31 \text{ cm}^3 \text{ (approx.)}$$

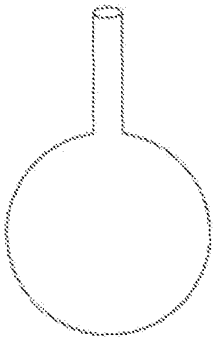


Figure A. Calculating Volume of a Spherical Container with Neck

The "spherical glass vessel" in the example shown above is similar to the container shown in *O'Day* Fig. 1, which clearly shows a spherical container with an integral, cylindrical neck extending vertically above the spherical container:[12]

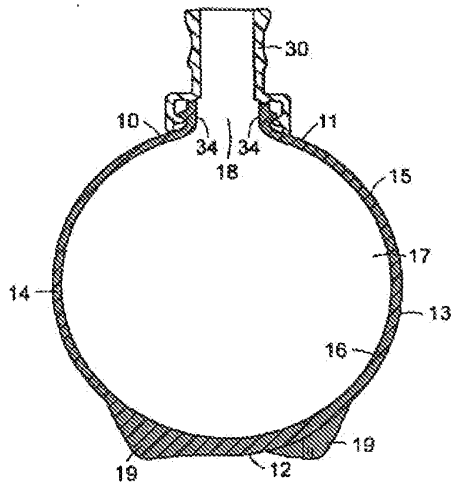


FIG. 1

Figure B. Annotation of O'Day Figure 1

[12] Color added to show contiguous section.

Moreover, *O'Day* clearly teaches a distinction between the "neck finish" or "neck" (**34**) and the "removable neck finish" (**30**), showing that the neck finish is integrally connected to the spherical container:

> "[T]he objects of the invention may be achieved by a plastic blow molded bottle comprising a main body portion including an upper hemispherical section and an associated lower hemispherical section, the upper section and the lower section being integrally interconnected; the upper section including an upwardly extending neck finish, and the lower section including a fitted base; and *a reusable neck finish* of a diameter different from the neck finish of the upper section of the main body, the *reusable neck finish* being selectably connectable to the neck finish of the upper section of the main body to provide a liquid-tight seal therebetween."[13]

> "[T]here is illustrated in Figs. 1 and 2 a *removable dispensing neck finish* for a spherically shaped [sic] bottle...Basically, the bottle is formed with a hemispherically shaped [sic] upper portion with an integrally formed neck finish[14] and a hemispherically shaped [sic] lower portion with a footed base. A *removable neck finish* is formed to have the same exterior configuration as the bottles presently in use and as illustrated in the above noted [sic] patent."[15]

> "The neck portion may have internal threads formed integral therewith adapted to receive external threads on the *removable neck finish*. In such an embodiment it may be necessary to provide an extra seal mechanism to create a liquid-tight seal between the neck finish of the bottle and the associated *removable neck finish*."[16]

Accordingly, even without considering the removable neck finish, the container shown in *O'Day* Fig. 1 is clearly a spherical vessel with a cylindrical neck – the same type of container in the example mathematics solution shown in Figure A above. Therefore, the total volume of the container shown in *O'Day* Fig. 1 is equal to the full volume of the spherical main body plus the volume of the cylindrical neck finish. Since the volume of the entire spherical main body is

[13] *O'Day*, Column 2, Lines 32-43 (emphasis added to show clear distinction between "neck finish" and "reusable neck finish").
[14] Although *O'Day* references component "30" here, Applicant respectfully contends that such a reference is a misnomer as *O'Day* previously referenced component "34" as the integrally-formed neck finish in Column 2, Lines 32-43 and in Column 6, Lines 28-39. Accordingly, Applicant respectfully suggests that *O'Day* clearly intended for the component "34" to be identified as the "integrally formed neck finish."
[15] *O'Day*, Column 6, Lines 10-18 (emphasis added).
[16] *O'Day*, Column 6, Lines 31-36 (emphasis added).

included, the spherical main body of *O'Day* – and, thus, the interior of the *O'Day* container – cannot be a truncated spherical shape.

Therefore, *O'Day* Fig. 1 does not teach an interior of a container body with a truncated spherical shape; and, thus, does not teach each and every element of Applicant's Claim 1. Accordingly, Applicant respectfully suggests that Applicant's Claim 1 is in condition for allowance since the enclosed volume of the spherically-shaped *O'Day* container is an entire spherically-shaped void rather than the truncated spherical shape of the interior of the *Kick* container.

b. *Ivey* Does Not Teach Each and Every Element of *Kick* Claim 1

In regards to *Ivey*, this Examiner again appended citations to Applicant's Claim 1 and referenced an annotated version of *Ivey* Fig. 3 to support his claims:

> "Re Claim 1, *Ivey* discloses a container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [Fig C], a container bottom wall [wall of 2c], and a lid [2a], wherein the interior of said container body is a truncated spherical shape [Fig C]."[17]

Again, Applicant respectfully notes that the United States Supreme Court would likely require that reasoning be applied to rejections under 35 U.S.C. § 102 if presented with the issue, rather than just rejections under 35 U.S.C. § 103. "Drawings and pictures can anticipate claims if they clearly show the structure which is claimed."[18] However, drawings must be evaluated for what they "reasonably disclose" to one of ordinary skill in the art.[19] In any utility patent, the drawings must be examined in accordance with the specification because the specification

[17] *Office Action*, Page 6, Paragraph 6.
[18] MPEP § 2125 (citing *In re Mraz*, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972)).
[19] MPEP § 2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).

identifies and describes the features shown in the drawings.[20] Therefore, if a drawing does not reasonably disclose an element as claimed, the drawing does not anticipate that element.

Here, in making the rejections under 35 U.S.C. § 102, this Examiner merely referenced components in *Ivey* Fig. 3 without providing any reasoning for why such components anticipate Applicant's Claim 1. Without providing reasoning or support from the *Ivey* specification, this Examiner's rejections are entirely reliant on what is shown in *Ivey* Fig. 3. However, Applicant respectfully submits that such reliance is improper as *Ivey* Fig. 3, viewed in light of the *Ivey* specification, does not reasonably disclose each and every element of *Kick* Claim 1.

This Examiner suggests that *Ivey* teaches a container bottom wall by citing to *Ivey* Component 2c in *Ivey* Fig. 3. Applicant respectfully disagrees because *Ivey* Fig. 3 does not clearly show any container bottom wall. First, the only reference to *Ivey* Component 2c in the specification defines *Ivey* Component 2c as a "chamfered edge line" – not a wall.[21] Second, *Ivey* Fig. 3 clearly shows an opening in the bottom of the spherical container. If the bottom of a spherical container is open, it is incapable of possessing a container bottom wall.

In regards to a solid object, a "chamfered edge line" cannot be a wall because an edge is a "line at which two surfaces of a solid object meet."[22] A line segment is one-dimensional, in that a line segment has a measurable length but zero width.[23] Stated differently, a line segment has no surface area and is, thus, incapable of enclosing space. In contrast, a "wall" of a container is a "material layer enclosing space,"[24] which must possess at least some modicum of surface area in

[20] See 37 C.F.R. 1.74; MPEP 608.01(f). See also MPEP 608.02(e).
[21] *Ivey*, Column 3, Line 58.
[22] *Edge*, DICTIONARY.COM, www.dictionary.reference.com/browse/edge (May 14, 2015).
[23] *Line Segment*, MATH OPEN REFERENCE (May 14, 2015), www.mathopenref.com/linesegment.html.
[24] *Wall*, MERRIAM-WEBSTER.COM, www.merriam-webster.com/dictionary/wall (May 14, 2015).

order to be capable of "enclosing space." Accordingly, *Ivey* Component 2c cannot be a wall because it has zero surface area and is incapable of enclosing a space.

Regardless, the opening in the bottom of the spherical container is an important distinction as the *Kick* container bottom wall extends across the cross-sectional diameter of the bottom of the *Kick* container body.[25] *Ivey* Component 2c clearly does not extend across the cross-sectional diameter of the bottom of the *Ivey* container body because *Ivey* teaches a "container defining only one opening on said bottom portion thereof, said opening being permanently exposed to an exterior of the device and extending into the spherical inner cavity for providing access thereto."[26] Accordingly, if *Ivey* features a bottom which contains an opening that is "permanently exposed" to the exterior of the container then *Ivey* does not teach a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body, as taught by *Kick*.

Therefore, *Ivey* Fig. 3 does not teach a container bottom wall or a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body; and, thus, does not teach each and every element of Applicant's Claim 1. Accordingly, Applicant respectfully suggests that Applicant's Claim 1 is in condition for allowance since *Kick* teaches a container with a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body.

CLAIMS 3, 4, 6, 9, and 10

This Examiner rejected Claims 3, 4, and 6 under 35 U.S.C. § 102(b) as being anticipated by *O'Day* and Claims 4, 6, 9, and 10 under 35 U.S.C. § 102(b) as being anticipated by *Ivey*. A claim is only anticipated "if each and every element as set forth in the claim is found, either

[25] *Kick*, Claim 1.
[26] *Ivey*, Claim 1.

expressly or inherently described, in a single prior art reference."[27] All dependent claims "shall be construed as including all the limitations contained in the claim to which it refers."[28] Accordingly, if an independent claim is not anticipated under 35 U.S.C. § 102, then any claim depending therefrom is also not anticipated under 35 U.S.C. § 102.[29]

As previously mentioned, *Kick* Claim 1 is the only independent claim upon which all other claims rely in the present application. Because *Kick* Claim 1 is not anticipated by either *O'Day* or *Ivey* for the reasons identified above, the remaining claims are also not anticipated by either *O'Day* or *Ivey*. Accordingly, Applicant respectfully requests this Examiner reconsider and withdraw the rejections under 35 U.S.C. § 102(b).

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

This Examiner rejected Claims 5 and 7 under 35 U.S.C. § 103 as being unpatentable over *O'Day* in view of *Yoshida*. Specifically, this Examiner suggested that *O'Day* discloses all the limitations of *Kick* Claims 5 and 7 except for a "container bottom wall including at least one protrusion and a series of depression [sic], wherein a depression side wall lies between said depressions and within said protrusion, and separately, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion."[30]

However, if an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious.[31] Both Claims 5 and 7 are dependent on *Kick* Claim 1 –

[27] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.
[28] MPEP § 1824; see also MPEP 608.01(n).
[29] See *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).
[30] *Office Action*, Page 8, Paragraph 10.
[31] *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

the only independent claim in the present application. As mentioned above, *Kick* Claim 1 is neither anticipated nor obvious in view of *O'Day*, *Ivey*, *Yoshida*, or any combination thereof because: (1) *O'Day* does not teach a container with a truncated spherical shape; (2) *Ivey* does not teach a container bottom wall; and (3) there is no suggestion or motivation to combine either *O'Day* or *Ivey* with *Yoshida* to create a container with a truncated spherical shape, as taught by *Kick*. Accordingly, because *Kick* Claim 1 is nonobvious for at least the above reasons, Claims 5 and 7 should also be viewed as nonobvious. Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

CONCLUSION

These claims presented by Applicant in this response to the Final Office Action and Notice of Appeal do not present any new matter. Accordingly, for all of the above-stated reasons, Applicant submits that the specification and remaining claims are in proper form and that the claims all define patentably over the prior art. Therefore Applicant submits that this application is now in condition for allowance.

DATE: September 9, 2015

Respectfully submitted,

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Doc Code: AP.PRE.REQ

PTO/AIA/33 (03-13)
Approved for use through 07/31/2013. OMB 0651-0031
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional): 11-002009-02

I hereby certify that this correspondence is being facsimile transmitted to the USPTO, EFS-Web transmitted to the USPTO, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on September 9, 2015

Signature: /Kandace D. Walter/

Typed or printed name: Kandace D. Walter

Application Number	Filed
12/762,934	04/19/2010

First Named Inventor: Merrilee Kick

Art Unit	Examiner
3781	Castillo, Kevin Charles

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

/Kandace D. Walter/
Signature

Kandace D. Walter
Typed or printed name

☐ applicant.

☑ attorney or agent of record. Registration number 64103

972-248-8080
Telephone number

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

September 9, 2015
Date

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 _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

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

ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Examiner's Final Office Action mailed on June 9, 2015 (the "Final Office Action"), Applicant timely submits this Pre-Appeal Brief Request for Review in conjunction with a Notice of Appeal pursuant to MPEP §1204.02. Applicant respectfully requests this Pre-Appeal Brief Request for Review be granted due to clear errors in Examiner's rejections and Examiner's omissions of essential claim elements needed to establish a *prima facie* rejection of Applicant's claims, as set forth below.

Under 35 U.S.C. §102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[1] Accordingly, if a reference does not teach each and every element of a claim, either expressly or inherently, that reference does not anticipate the claim under 35 U.S.C. §102.

In the Final Office Action, the Examiner rejected Applicant's Claims 1, 3, 4, and 6 under 35 U.S.C. §102(b) as being anticipated by *O'Day* (U.S. Patent No. 7,051,892) or *Ivey* (U.S. Patent No. 7,731,053). In making the rejection, the Examiner only referenced annotated drawings of *O'Day* and *Ivey* which featured the Examiner's personal annotations. The Examiner's rejection of Applicant's Claim 1 is the most decisive rejection because Applicant's Claim 1 is the only independent claim upon which all other claims rely. Accordingly, any distinctions between Applicant's Claim 1 and the referenced art also apply for all other dependent claims of Applicant.

a. Examiner's Rejection in View of *O'Day*

In rejecting Applicant's Claim 1, the Examiner referenced his annotated version of *O'Day* Fig. 1 upon which the Examiner arbitrarily designated a "truncation" line to support his claims:

[1] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

> "Re Claim 1, *O'Day* discloses a container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [shown in Fig. A, the sidewall is convex in both the horizontal and vertical directions], a container bottom wall [12, bottom wall of container in Fig. A], and a lid [30], wherein the interior of said container body is a truncated spherical shape [as shown in Fig. A, the interior has a truncated spherical interior and the sphere is not complete due to the truncation]."[2]

It appears the United States Supreme Court values reasoning, and it would likely require that such reasoning be applied to rejections under 35 U.S.C. § 102 if presented with the issue, rather than just rejections under 35 U.S.C. § 103. For instance, MPEP § 2143 states: "the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. § 103 should be made explicit."[3] Although *KSR* and the cited section of the MPEP are directed to obviousness rejections under 35 U.S.C. § 103, it is apparent that the Supreme Court believes that a clear articulation of reasons is the key to supportable rejections.

Here, the Examiner's rejection is based on an arbitrary "truncation" line, inserted by the Examiner, to suggest that the interior of *O'Day* is a truncated spherical shape as claimed by Applicant. However, this Examiner provided no reasoning or factual support in the *O'Day* disclosure as to why this Examiner drew the "truncation" line at the location it was drawn. Notwithstanding Applicant's arguments presented herein below, failure to specifically identify the reason why this Examiner drew the "truncation" line at the location as drawn likely renders the Office Action "arbitrary and capricious," and therefore invalid, under the Administrative Procedure Act (5 U.S.C. § 706), a standard to which all actions by the United States Patent and Trademark Office must adhere.[4]

Applicant has repeatedly stated that the truncation of the *O'Day* container is not supported in the *O'Day* specification as *O'Day* expressly states that "Fig. 1 is a cross sectional [sic] view of a spherically shaped [sic] water bottle for a dispenser."[5] In response, this Examiner stated "it is clear that *O'Day*'s container does not form a perfect spherical shape, because it is cut off."[6]

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[2] *Office Action*, June 9, 2015, Page 2-3 (Examiner's citations in brackets).
[3] MPEP § 2143 (citing *KSR Int'l Co. v. Teleflex, Inc.*, 82 USPQ2d 1385, 1395-97 (2007)).
[4] See *Dickinson v. Zurko*, 527 U.S. 150 (1999).
[5] *O'Day*, Column 4, Lines 40-41. However,
[6] *Office Action*, June 9, 2015, Page 9.

However, Applicant respectfully maintains that the mere fact that the walls of the container in *O'Day* Fig. 1 do not connect to complete a circle does not inherently teach that the interior of the container is a truncated spherical shape.

Although drawings may be used as prior art in an anticipation rejection, "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art."[7] By referencing this Examiner's own random truncation point, this Examiner is suggesting that *O'Day* Fig. 1 "reasonably discloses" a truncated spherical shape merely because the walls of the container in *O'Day* Fig. 1 do not connect to complete a full circle. However, Applicant respectfully suggests that *O'Day* Fig. 1 does not reasonably disclose such a truncation line as such reasoning runs afoul of basic mathematics principles. In fact, *O'Day* Fig. 1 shows that the interior of the *O'Day* container cannot be a truncated spherical shape.

This is shown through the basic mathematical principle of volume. Volume is the unit of measurement relevant to the "interior of [a] container body" because volume is the quantity of three-dimensional space enclosed by a boundary. To calculate the total volume of a spherical container with an integral, cylindrical neck extending vertically above the spherical container, the total volume of the sphere and the total volume of the cylindrical neck must be added together. Since the total volume of the sphere is used in the total volume calculation (i.e., $V_{sphere} = \frac{4}{3}\pi r^3$),[8] such a container must, at least, be comprised of a full spherical section. Therefore, the spherical section of such a container cannot be truncated despite the fact that walls of the spherical section never connect at the apex of the sphere.

Since *O'Day* Fig. 1 clearly shows a similar spherical container with an integral, cylindrical neck extending vertically above the spherical container, the total volume of the container shown in *O'Day* Fig. 1 is equal to the full volume of the spherical main body plus the volume of the cylindrical neck finish. Since the volume of the entire spherical main body is included, the spherical main body of *O'Day* – and, thus, the interior of the *O'Day* container – cannot be a truncated spherical shape.

Therefore, *O'Day* Fig. 1 does not teach an interior of a container body with a truncated spherical shape; and, thus, does not teach each and every element of Applicant's Claim 1.

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[7] MPEP § 2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).

[8] For reference, see the relevant solution to such a problem shown in the mathematics textbook, *Learning Mathematics* (AVICHAL PUBLISHING COMPANY, LEARNING MATHEMATICS 515 (1st ed. 2015)).

Accordingly, Applicant respectfully submits that the Examiner has not established the claim elements necessary to sustain a *prima facie* rejection of Applicant's Claim 1. Additionally, since Applicant's Claim 1 is the only independent claim upon which all other claims rely, the Examiner has also not established the claim elements necessary to sustain a *prima facie* rejection of all of Applicant's claims.

b. Examiner's Rejection in View of *Ivey*

The Examiner also rejected Applicant's Claim 1 under 35 U.S.C. § 102(b) in view of *Ivey* Fig. 3, stating:

> "Re Claim 1, *Ivey* discloses a container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [Fig. C], a container bottom wall extending across a cross-sectional diameter of the bottom of said container body [wall of 2c extends across a cross-sectional diameter because the wall of 2c forms a cross-sectional diameter], and a lid [2a], wherein the interior of said container body is a truncated spherical shape [Fig. C]."[9]

Again, this Examiner referenced a drawing to support his rejection, which must "reasonably disclose" the claim limitations suggested by the Examiner.[10] However, Applicant maintains that *Ivey* Fig. 3 does not "reasonably disclose" a "container bottom wall extending across a cross-sectional diameter of the bottom of said container body" because: (i) *Ivey* Component 2c is not a "wall;" and (ii) *Ivey* Component 2c, nor any other component of *Ivey*, extends across the cross-sectional diameter of the bottom of the container.

The only reference to *Ivey* Component 2c in the *Ivey* specification defines *Ivey* Component 2c as a "chamfered edge line" – not a wall.[11] In regards to a solid object, a "chamfered edge line" cannot be a wall because an edge is a "line at which two surfaces of a solid object meet."[12] Additionally, a line segment is one-dimensional, in that a line segment has a measurable length but zero width.[13] Stated differently, a line segment has no surface area and is, thus, incapable of enclosing a space. In contrast, a "wall" of a container is a "material layer enclosing space,"[14] which must possess at least some modicum of surface area in order to be capable of "enclosing

[9] *Office Action*, June 9, 2015, Page 5 (Examiner's annotations in brackets).
[10] See MPEP § 2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).
[11] *Ivey*, Column 3, Line 58.
[12] *Edge*, DICTIONARY.COM, www.dictionary.reference.com/browse/edge (May 14, 2015).
[13] *Line Segment*, MATH OPEN REFERENCE (May 14, 2015), www.mathopenref.com/linesegment.html.
[14] *Wall*, MERRIAM-WEBSETER.COM, www.merriam-webster.com/dictionary/wall (May 14, 2015).

space." Accordingly, *Ivey* Component 2c cannot be a wall because it has zero surface area and is incapable of enclosing a space.

Regardless, the opening in the bottom of the spherical container is an important distinction because Applicant's container bottom wall extends across the cross-sectional diameter of the bottom of the Applicant's container body. This Examiner has suggested that *Ivey* discloses a bottom wall extending across a cross-sectional diameter of the bottom of the container. However, *Ivey* Fig. 3 clearly shows an opening in the bottom of the spherical container. If the bottom of a spherical container is open, it is incapable of possessing a container bottom wall. *Ivey* Component 2c clearly does not extend across the cross-sectional diameter of the bottom of the *Ivey* container body because *Ivey* teaches a "container defining only one opening on said bottom portion thereof, said opening being permanently exposed to an exterior of the device and extending into the spherical inner cavity for providing access thereto."[15] Accordingly, if *Ivey* features a bottom which contains an opening that is "permanently exposed" to the exterior of the container, then *Ivey* does not teach a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body, as taught by Applicant.

Therefore, *Ivey* Fig. 3 does not teach each and every element of Applicant's Claim 1, and the Examiner has not established the claim elements necessary to sustain a *prima facie* rejection of Applicant's Claim 1. Additionally, since Applicant's Claim 1 is the only independent claim upon which all other claims rely, the Examiner has also not established the claim elements necessary to sustain a *prima facie* rejection of all of Applicant's claims.

Considering the foregoing, Applicant respectfully submits that the application is now in condition for allowance, which action she respectfully solicits from the examiners reviewing this Pre-Appeal Brief Request for Review.

DATE: September 9, 2015

Respectfully submitted,

Wilson Legal Group P.C.
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Telephone: (972) 248-8080

/John T. Wilson/
John T. Wilson
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[15] *Ivey*, Claim 1.

Electronic Patent Application Fee Transmittal					
Application Number:	12762934				
Filing Date:	19-Apr-2010				
Title of Invention:	Container				
First Named Inventor/Applicant Name:	Merrilee Kick				
Filer:	Kandace DeKeshia Walter				
Attorney Docket Number:	11-002009-02				
Filed as Small Entity					
Filing Fees for Utility under 35 USC 111(a)					
Description	**Fee Code**	**Quantity**	**Amount**	**Sub-Total in USD($)**	
Basic Filing:					
Pages:					
Claims:					
Miscellaneous-Filing:					
Petition:					
Patent-Appeals-and-Interference:					
Notice of Appeal	2401	1	400	400	
Post-Allowance-and-Post-Issuance:					

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension-of-Time:				
Miscellaneous:				
		Total in USD ($)		**400**

Electronic Acknowledgement Receipt	
EFS ID:	23446252
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Kandace DeKeshia Walter
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	09-SEP-2015
Filing Date:	19-APR-2010
Time Stamp:	18:12:56
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	$400
RAM confirmation Number	5196
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		Kick_RFOA_NoA.pdf	7769820 95a852688f521a2015f2d404927ac92cc40cf1f2	yes	22

	Multipart Description/PDF files in .zip description		
	Document Description	**Start**	**End**
	Notice of Appeal Filed	1	1
	Miscellaneous Incoming Letter	2	2
	Claims	3	4
	Response After Final Action	5	16
	Pre-Brief Conference request	17	22

Warnings:

Information:

2	Fee Worksheet (SB06)	fee-info.pdf	29622 8c47bea5e2e4b86640709e9f485fbfd83d26114c	no	2

Warnings:

Information:

Total Files Size (in bytes):	7799442

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New Applications Under 35 U.S.C. 111
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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/AIA/31 (03-14)
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NOTICE OF APPEAL FROM THE EXAMINER TO THE PATENT TRIAL AND APPEAL BOARD

Docket Number (Optional): 11-002009-02

I hereby certify that this correspondence is being facsimile transmitted to the USPTO, EFS-Web transmitted to the USPTO, or deposited with the United States Postal Service with sufficient postage in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, on Alexandria, VA 22313-1450" [37 CFR 1.8(a)]
on September 9, 2015
Signature: /KDW/
Typed or printed name: Kandace D. Walter

In re Application of: Merrilee Kick

Application Number	Filed
12/762,934	04/19/2010

For: Container

Art Unit	Examiner
3781	Castillo, Kevin Charles

Applicant hereby **appeals** to the Patent Trial and Appeal Board from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) $ 800.00

[✓] Applicant asserts small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by 50%, and the resulting fee is: $ 400.00

[ ] Applicant certifies micro entity status. See 37 CFR 1.29. Therefore, the fee shown above is reduced by 75%, and the resulting fee is: $ _____
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 is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. _____.

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[ ] A petition for an extension of time under 37 CFR 1.136(a) (PTO/AIA/22 or equivalent) is enclosed.
For extensions of time in reexamination proceedings, see 37 CFR 1.550.

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 64163

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

Signature: /KDW/
Typed or printed name: Kandace D. Walter
Telephone Number: 972-248-8080
Date: September 9, 2015

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 _____ forms are submitted.

This collection of information is required by 37 CFR 41.20(b)(1) and 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

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

RESPONSE TO FINAL OFFICE ACTION AND NOTICE OF APPEAL

In response to the Final Office Action mailed on June 9, 2015, Applicant has prepared these remarks. This Examiner rejected Claims 1, 3-7, and 9-10 in the Final Office Action. Please amend the above-identified application as follows.

CLAIMS: Amendments to the claims begin on page 2 of this Amendment.

REMARKS/ARGUMENTS: Remarks and Arguments begin on page 4 of this Amendment.

AMENDMENTS TO THE CLAIMS

Please file amendments for Claim 10. The amendments to this application contain no new matter. This listing of claims will replace all prior versions and listings of claims in the application.

Listing of Claims:

1. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall extending across a cross-sectional diameter of the bottom of said container body, and a lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed form metal.~~

3. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body.

4. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than said container side wall.

7. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CANCELED) ~~A container for storing a liquid or solid as in Claim 1, wherein the interior of said container body is a truncated spherical shape.~~

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (CURRENTLY AMENDED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of ~~said~~ a lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

PTO/SB/06 (09-11)
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 12/762,934	Filing Date 04/19/2010	☐ 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	09/09/2015	(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))	* 9	Minus	** 20	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 2	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
/KIM P. DOZIER/

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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80680 e 2015-09-22

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

Paper No.

Application No.:	**12/762,934**	**Date Mailed:**	**2015-09-22** **ELECTRONIC**
First Named Inventor:	Merrilee Kick	Examiner:	CASTILLO, KEVIN CHARLES
Attorney Docket No.:	11-002009-02	Art Unit:	3781
Confirmation No.:	4521	Filing Date:	04/19/2010

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

Commissioner for Patents

PTO-90c (Rev.08-06)

Notice of Non-Compliant Pre-Appeal Brief Request for Review	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner /Kevin Castillo	Art Unit 3781	

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

The Pre-Appeal Brief Request for Review filed on *09 September 2015* is non-compliant for the following reason(s). *See Pre-Appeal Brief Conference Pilot Program*, 1296 *Off. Gaz. Pat. Office* 67 (July 12, 2005). A conference will not be held.

The time period for filing an appeal brief CONTINUES TO RUN from the receipt date of the Notice of Appeal. 37 CFR 41.37(a). If no Notice of Appeal has been received, the time period for filing a reply continues to run from the mail date of the last Office communication.

1. ☐ The Request was not filed concurrently with a proper Notice of Appeal.
2. ☐ The Request does not include accompanying arguments for which the review is being requested.
3. ☐ The arguments accompanying the Request exceed five (5) pages.
4. ☐ The arguments accompanying the Request are directed to petitionable, not appealable, matters.
5. ☒ An after-final or proposed amendment was filed with the Request, or after the filing of the Request but before a panel decision from the pre-appeal brief conference.
6. ☐ The request was filed concurrently with a Request for Continued Examination (RCE).
7. ☐ Other (including any explanation in support of the above items):

The pre appeal request is considered defective since it was submitted with an amendment. The amendment has been forwarded to the examiner for review .

/Timothy Cole/
Patent Appeal Specialist
571 272-0999

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 10/20/2015

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EXAMINER	
CASTILLO, KEVIN CHARLES	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
10/20/2015	ELECTRONIC

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john@wilsonlegalgroup.com
kandace@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 12/762,934	**Applicant(s)** KICK, MERRILEE	
	Examiner KEVIN CASTILLO	**Art Unit** 3781	**AIA (First Inventor to File) Status** No

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AMENDMENTS

3. ☒ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
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   d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): (a) ☐ will not be entered, or (b) ☐ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

AFFIDAVIT OR OTHER EVIDENCE

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9. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
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11. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

12. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Applicant argues the spherical shape of O'Day, however O'Day does in fact disclose this limitation, because the definition of a sphere, "a solid geometric figure generated by the revolution of a semicircleabout its diameter; a round body whose surface is at all pointsequidistant from the center." is not satisfied in O'Day, due to its incomplete structure. Therefore, Applicant's argument is not persuasive. Although Applicant provides a math problem, the math problem is not an adequate definition of a "sphere" but merely a representation used for teaching. Also, the image Applicant showsn on Page 9 is not a sphere due to the elongated structure protruding form the top. Applicant further argues that the bottom wall of Ivey must have a reasoning for anticipation, however Claim 1 with respect to Ivey is a 102 rejection and anticipation is not required, furthermore, the component is shown clearly in Fig C. All further arguments are dependent on the above. .
13. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
14. ☐ Other: _____.

/FENN MATHEW/ Supervisory Patent Examiner, Art Unit 3781	/K. C./ Examiner, Art Unit 3781

AMENDMENTS TO THE CLAIMS

Please file amendments for Claim 10. The amendments to this application contain no new matter. This listing of claims will replace all prior versions and listings of claims in the application.

Listing of Claims:

1. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall extending across a cross-sectional diameter of the bottom of said container body, and a lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED) ~~A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed form metal.~~

3. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body.

4. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than said container side wall.

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9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (CURRENTLY AMENDED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of ~~said~~ a lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

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3. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body.

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11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Merrilee KICK

Application No.: 12/762,934

Filed: April 19, 2010

Examiner: Kevin Charles Castillo

Group Art Unit: 3781

Confirmation No.: 4521

Attorney Docket No.: 11-002009-02

For: **CONTAINER**

BRIEF ON APPEAL

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Date: December 9, 2015

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REAL PARTY IN INTEREST

The real party in interest in this appeal is Merrilee Kick of Carrollton, Texas.

RELATED APPEALS AND INTERFERENCES

Neither Appellant nor Appellant's representative are aware of any prior and pending appeals, interferences, or judicial proceedings which may be related to, directly affect, or be directly affected by or have a bearing on the Board's decision in this pending appeal.

STATUS OF CLAIMS

The status of the claims is as follows:

The application for patent includes claims 1-11. Claims 1, 3-7, 9, and 10 are pending, finally rejected, and on appeal. Claims 2 and 8 are canceled. Claim 11 is withdrawn. No claims are allowed and no claims are objected to only for being dependent from a rejected base claim, but otherwise allowable.

STATUS OF AMENDMENTS

Appellant submits this Appeal Brief in response to the Final Rejection, mailed on June 9, 2015, and the Advisory Action, mailed on November 13, 2015. Any and all amendments of the claims were entered prior to filing the Notice of Appeal.

SUMMARY OF CLAIMED SUBJECT MATTER

The pending claims that are the subject of this appeal are generally directed to a container. Claim 1 – the independent claim upon which all other claims rely – generally teaches a container wherein the interior of the container is a truncated spherical shape.[1] Specifically, Independent Claim 1 teaches a container which features: a "side wall" that is "substantially convex in both the horizontal and vertical direction;" a "bottom wall" which extends across a cross-sectional diameter of the bottom of the container body; a lid; and an "interior" of the container which is a "truncated spherical shape."[2]

Dependent Claim 3 is directed to the container as taught in Claim 1, wherein the "upper edge" of the container body is "adjacent to a neck," which is further "adjacent to a lip."[3] Additionally, Claim 3 teaches that the cross-sectional diameter of the top of the container body is greater than or equal to the cross-sectional diameter of the bottom of the container body; however, the cross-sectional diameter of the top of the container body is less than the cross-sectional diameter of the middle of the container body.[4]

Dependent Claim 4 expands on Claim 1 and teaches that the container body includes an opening to the interior of the container within the interior boundaries of the container lip.[5]

Dependent Claim 5 also expands on Claim 1 and teaches that the container bottom wall includes at least one protrusion and a series of a depressions, wherein a depression side wall lies between the depressions and within the protrusion.[6]

---

[1] *Kick* Claim 1.
[2] *Kick* Claim 1.
[3] *Kick* Claim 3.
[4] *Kick* Claim 3.
[5] *Kick* Claim 4.
[6] *Kick* Claim 5.

Dependent Claim 6 further expands on Claim 1 and teaches that the container bottom wall has a smaller diameter than the container side wall.

Dependent Claim 7 also expands on Claim 1, further teaching that the container bottom wall includes at least one "radial extending depression" and a "center depression within" the protrusion.[7]

Dependent Claim 9 expands on Claim 1, further teaching that the lid is "constructed of a material selected from the group consisting of: aluminum, tin, and metal."[8]

Dependent Claim 10 expands on Claim 9, further teaching that the lid is positioned within the interior edges of the lip.[9]

[7] *Kick* Claim 7.
[8] *Kick* Claim 9.
[9] *Kick* Claim 10.

GROUNDS OF REJECTION

1. The Examiner has rejected independent Claim 1 under 35 U.S.C. § 102(b) as being anticipated by either *O'Day* (U.S. Patent No. 7,051,892; hereinafter referred to as "*O'Day*") or *Ivey* (U.S. Patent No. 7,731,053; hereinafter referred to as "*Ivey*").

The Examiner suggests that *O'Day* discloses a container which features: a side wall that is substantially convex both horizontally and vertically, a bottom wall, a lid, and a container interior that is a truncated spherical shape.[10]

The Examiner also suggests that *Ivey* discloses a container which features all the above features, specifically citing component 2(c) in *Ivey* Fig. 3 as being representative of a container bottom wall.[11]

2. The Examiner has rejected dependent Claims 3, 4, and 6 under 35 U.S.C. § 102(b) as being anticipated by *O'Day*.

The Examiner suggests that *O'Day* further discloses the following additional features of Appellant's container: a container body positioned adjacent to a neck, which is further adjacent to a lip;[12] the cross-sectional diameter of the top of the container body is greater than or equal to the cross-sectional diameter of the bottom of the container and less than the cross-sectional diameter of the middle of the container;[13] a container opening positioned within the boundaries of a container lip;[14] and a container bottom wall of smaller diameter than the container side wall.[15]

3. The Examiner has rejected dependent Claims 4, 6, 9, and 10 under 35 U.S.C. § 102(b) as being anticipated by *Ivey*.

---

[10] 6/9/2015 Office Action, Page 3, ¶1.
[11] 6/9/2015 Office Action, Page 6, ¶6.
[12] 6/9/2015 Office Action, Page 4, ¶1.
[13] 6/9/2015 Office Action, Page 3, ¶1.
[14] 6/9/2015 Office Action, Page 5, ¶1.
[15] 6/9/2015 Office Action, Page 5, ¶2.

The Examiner suggests that *Ivey* discloses the following additional features of Appellant's container: a container opening positioned within the interior boundaries of a container lip;[16] a container bottom wall of smaller diameter than the container side wall;[17] a container lid constructed from a material selected from the group consisting of: aluminum, tin, and metal;[18] and, a container lid positioned within the interior edge of a container lip.[19]

4. The Examiner has rejected dependent Claims 5 and 7 under 35 U.S.C. § 103(a) as being unpatentable over *O'Day* in view of *Yoshida* (Japanese Patent Publication JP105032248A; hereinafter referred to as "*Yoshida*").

The Examiner suggests that *O'Day* discloses all the features of Appellant's Claims 5 and 7 except for a "container bottom wall including at least one protrusion and a series of depression [sic], wherein a depression side wall lies between said depressions and within said protrusion, and separately, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion."[20] The Examiner suggests that *Yoshida* Fig. 4 discloses the aforementioned limitations on a container not featured in *O'Day*. Therefore, the Examiner concluded that it would have been obvious to include the features of the *Yoshida* container into the overall container featured in *O'Day*.

[16] 6/9/2015 Office Action, Page 5, ¶4.
[17] 6/9/2015 Office Action, Page 6, ¶2.
[18] 6/9/2015 Office Action, Page 7, ¶1.
[19] 6/9/2015 Office Action, Page 7, ¶2.
[20] 6/9/2015 Office Action, Page 8, ¶10.

ARGUMENT

The prior art cited by the Examiner does not teach or suggest Appellant's invention as argued by Appellant since the initial filing of the present application on Appeal. Appellant has addressed the concerns of the Examiner by amending the claims to clearly recite the features shown in the specification. In addition, Appellant has presented arguments against anticipation and obviousness based on the cited prior art.

a. Rejection of independent Claim 1 under 35 U.S.C. § 102(b) as being anticipated by *O'Day*.

Appellant's Claim 1 is the only independent claim of the present invention upon which all other claims are based. Accordingly, all dependent claims stand with independent Claim 1. As described above, Claim 1 discloses a "container…comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall, and a lid, wherein the interior of said container body is a truncated spherical shape."[21]

In the Final Office Action, dated June 9, 2015, the Examiner rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by *O'Day*. Under 35 U.S.C. § 102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[22] "The identical invention must be shown in as complete detail as is contained in the claim."[23] "Every element of the claimed invention must be literally present, arranged as in the claim."[24] Accordingly, if a reference does not teach each and every element of a claim, either expressly or inherently, that reference does not anticipate the claim under 35 U.S.C. § 102.

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[21] *Kick* Claim 1.
[22] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MANUAL OF PATENT EXAMINING PROCEDURE § 2131.
[23] *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).
[24] *Id.*

In the Final Office Action, the Examiner has not established that each and every element of Appellant's Claim 1 is disclosed in *O'Day*. In rejecting Claim 1, the Examiner merely added prior art citations throughout the wording of Appellant's claim without providing sufficient reasoning to support such citations. Specifically, the Examiner created his own annotations on an annotated version of *O'Day* Fig. 1 upon which the Examiner arbitrarily designated a "truncation" line to support his rejection:[25]

> "Re Claim 1, *O'Day* discloses a container for storing liquid or solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [shown in Fig. A, the sidewall is convex in both the horizontal and vertical directions], a container bottom wall [12, bottom wall of container in Fig. A], and a lid [30], wherein the interior of said container body is a truncated spherical shape [as shown in Fig. A, the interior has a truncated spherical interior and the sphere is not complete due to the truncation]."[26]

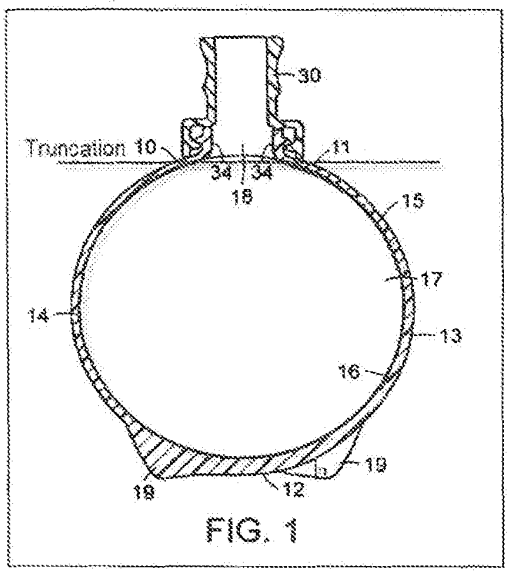


Figure A. Examiner's Annotations to Ivey Fig. 1

It appears the United States Supreme Court values reasoning in a rejection, and it would likely require that such reasoning be applied to rejections under 35 U.S.C. § 102 if presented with

[25] For clarity, the truncation line shown in Figure A, above, was created by Examiner and is not shown on *O'Day* Figure 1 (see Figure B, below).
[26] 6/9/2015 Office Action, Page 3, ¶1 (Examiner's comments in brackets).

the issue, rather than just rejections under 35 U.S.C. § 103. For instance, § 2143 of the Manual of Patent Examining Procedure ("MPEP") states that "the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. should be made explicit."[27] Although *KSR* and the cited section of the MPEP are directed to obviousness rejections under 35 U.S.C. §103, it is apparent that the Supreme Court believes a clear articulation of reasoning is the key to supportable rejections.

Additionally, although drawings may be referenced as prior art in an anticipation rejection, "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art."[28] In any utility patent, the drawings must be examined in accordance with the specification because the specification identifies and describes the features shown in the drawings.[29]

In the present case, the Examiner's rejection is based on an arbitrary "truncation" line inserted by the Examiner without providing any reasoning or factual support from the *O'Day* disclosure as to why the Examiner drew the truncation line at the chosen location. Notwithstanding Appellant's arguments presented herein below, failure to specifically identify the reasoning for the location of the annotated truncation line likely renders the Examiner's rejection as arbitrary and capricious. By referencing the annotated truncation line, the Examiner is suggesting that *O'Day* Fig. 1 "reasonably discloses" a truncated spherical shape merely because the walls of the container in *O'Day* Fig. 1 do not physically connect to complete a full circle. However, *O'Day* Fig. 1 cannot

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[27] MANUAL OF PATENT EXAMINING PROCEDURE § 2143 (9th Ed. 2014) (citing *KSR Int'l Co. v. Teleflex, Inc.*, 82 USPQ2d 1385, 1395-97 (2007)).
[28] MANUAL OF PATENT EXAMINING PROCEDURE § 2125 (9th Ed. 2014) (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).
[29] See 37 C.F.R. 1,74; MANUAL OF PATENT EXAMINING PROCEDURE § 608.01(f). See also MANUAL OF PATENT EXAMINING PROCEDURE § 608.02(e).

reasonably disclose such a truncation line as such reasoning runs afoul of basic mathematics principles, as set forth below. Accordingly, the interior of the *O'Day* container cannot be a truncated spherical shape.

This is revealed through the basic mathematical principle of volume. Volume is the unit of measurement relevant to the "interior of [a] container body" because volume is the quantity of three-dimensional space enclosed by a boundary. *O'Day* Fig. 1, and the *O'Day* specification, show a spherical container with an integral, cylindrical neck extending vertically above the spherical container:

> "Basically, the bottle is formed with a hemispherically shaped [sic] upper portion with an integrally formed neck finish and a hemispherically shaped [sic] lower portion with a footed base."[30]

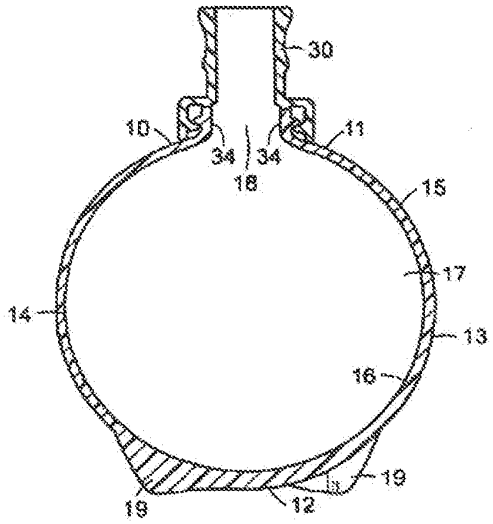


FIG. 1

Figure B. O'Day Fig. 1

Accordingly, in order to determine how much three-dimensional space is enclosed by such a container – and thus, the shape of the three-dimensional space enclosed in such a container – the

[30] *O'Day*, Column 6, Lines 12-15.

volume of the enclosed space must be calculated. To calculate the volume of a spherical container with an integral, cylindrical neck extending vertically above the spherical container, the volume of the sphere and the volume of the cylindrical neck are added together. Since the total volume of the sphere is used in the total volume calculation (i.e., $V_{sphere} = \frac{4}{3}\pi r^3$), such a container must be comprised of a full spherical section. Therefore, the spherical section of such a container cannot be truncated despite the fact that the walls of the spherical section never connect at the apex of the sphere. For reference, see the relevant solution to such a problem shown in the mathematics textbook, *Learning Mathematics*, shown in Fig. C below:

Example 8. A spherical glass vessel has a cylindrical neck 8 cm long, 2 cm in diameter, the diameter of the spherical part is 8.5 cm. Find the amount of water it can hold, taking the above as inside measurements. (Take π = 3.14)

Solution. Radius of spherical part = $\frac{8.5}{2}$ cm = 4.25 cm,
radius of cylindrical part = $\frac{2}{2}$ cm = 1 cm,
length of cylindrical part = 8 cm.
Volume (amount) of water in the vessel
= volume of sphere + volume of cylinder
= $\frac{4}{3}\pi r^3 + \pi r^2 h$
= $\pi\left(\frac{4}{3} \times (4.25)^3 + 1^2 \times 8\right)$ cm^3
= $(3.14)\left(\frac{4}{3} \times (4.25)^3 + 8\right)$ cm^3
= 346.51 cm^3 (approx.)

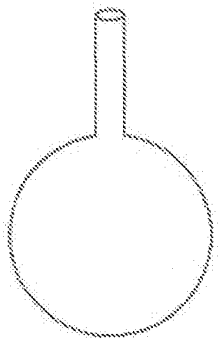


Figure C. Calculating Volume of a Spherical Container with Neck

The "spherical glass vessel" in the example shown above is clearly similar to the container shown in *O'Day* Fig. 1, which also shows a spherical container with an integral, cylindrical neck extending vertically above the spherical container, as shown in Figure B above.

In the Advisory Action dated November 13, 2015, the Examiner responded by suggesting that the math problem is not an adequate definition of a sphere because the image "is not a sphere

due to the elongated structure protruding from the top."[31] However, the outside shape of a container is irrelevant when discussing the "interior" of a container body as these two can be mutually exclusive. The mere fact that an elongated structure protrudes from the top of a sphere does not, in itself, negate the possibility that the interior of such a container body includes a full, spherical shape, as shown in both the math problem and *O'Day* Fig. 1.

The Examiner also defined a sphere as a geometric figure "generated by the revolution of a semicircle about its diameter," further suggesting that the body shown in *O'Day* Fig. 1 does not satisfy the definition for a "sphere" due to its "incomplete structure."[32] However, since a hemisphere is the three-dimensional equivalent of a semicircle, *O'Day* clearly teaches the Examiner's definition of a "sphere" through the integral connection of a hemispherical upper portion and hemispherical lower portion:

> "Basically, the bottle is formed with a hemispherically shaped [sic] upper portion with an integrally formed neck finish and a hemispherically shaped [sic] lower portion with a footed base."[33]

Based on the foregoing, it is clear that *O'Day* does not teach an interior of a container body with a truncated spherical shape; and, thus, does not teach each and every element of Appellant's Claim 1. Accordingly, a container body interior with a truncated spherical shape, as taught by Appellants, is not anticipated by *O'Day*. Appellant respectfully suggests that Appellant's Claim 1 is in condition for allowance.

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[31] 11/13/2015 Advisory Action.
[32] 11/13/2015 Advisory Action.
[33] *O'Day*, Column 6, Lines 12-15.

b. Rejection of independent Claim 1 under 35 U.S.C. § 102(b) as being anticipated by *Ivey*.

In the Final Office Action dated June 9, 2015, the Examiner rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by *Ivey*. As described above, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[34] However, in the Final Office Action, the Examiner has not established that each and every element of Appellant's Claim 1 is disclosed in *Ivey*. In rejecting Claim 1, the Examiner again merely added prior art citations throughout the wording of Appellant's claim without providing sufficient reasoning to support such citations:

> "Re Claim 1, *Ivey* discloses a container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [Fig C], a container bottom wall [wall of 2c], and a lid [2a], wherein the interior of said container body is a truncated spherical shape [Fig C]."[35]

Again, Appellant respectfully notes that the United States Supreme Court would likely require that clearly-articulated reasoning be applied to rejections under 35 U.S.C. § 102. "Drawings and pictures can anticipate claims if they clearly show the structure which is claimed."[36] However, drawings must be evaluated for what they "reasonably disclose" to one of ordinary skill in the art.[37] In any utility patent, the drawings must be examined in accordance with the specification because the specification identifies and describes the features shown in the

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[34] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MANUAL OF PATENT EXAMINING PROCEDURE § 2131.
[35] 6/9/2015 Office Action, Page 6, ¶6 (Examiner's comments in brackets).
[36] MANUAL OF PATENT EXAMINING PROCEDURE § 2125 (citing *In re Mraz*, 455 F.2d 1069, 173 USPQ 25 (CCPA 1972)).
[37] MANUAL OF PATENT EXAMINING PROCEDURE § 2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).

drawings.[38] Therefore, if a drawing does not reasonably disclose an element as claimed, the drawing does not anticipate that element.

Here, in making the rejections under 35 U.S.C. § 102, this Examiner merely referenced components in *Ivey* Fig. 3 without providing any reasoning for why such components anticipate Appellant's Claim 1. Without providing reasoning or support from the *Ivey* specification, this Examiner's rejections are entirely reliant on what is shown in *Ivey* Fig. 3. However, Appellant respectfully submits that such reliance is improper as *Ivey* Fig. 3, viewed in light of the *Ivey* specification, does not reasonably disclose each and every element of Appellant's Claim 1.

The Examiner suggests that *Ivey* teaches a container bottom wall by citing to *Ivey* Component 2c in *Ivey* Fig. 3. Appellant respectfully disagrees because *Ivey* Fig. 3 does not clearly show any container bottom wall. First, the only reference to *Ivey* Component 2c in the specification defines *Ivey* Component 2c as a "chamfered edge line" – not a wall.[39] Second, *Ivey* Fig. 3 clearly shows an opening in the bottom of the spherical container. If the bottom of a spherical container is open, it is incapable of possessing a container bottom wall that extends across the cross-sectional diameter of the bottom of the container body.

In regards to a solid object, a "chamfered edge line" cannot be a wall because an edge is a "line at which two surfaces of a solid object meet."[40] A line segment is one-dimensional, in that a line segment has a measurable length but zero width.[41] Stated differently, a line segment has no surface area and is, thus, incapable of enclosing space. In contrast, a "wall" of a container is a "material layer enclosing space,"[42] which must possess at least some modicum of surface area in

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[38] See 37 C.F.R. 1.74; MANUAL OF PATENT EXAMINING PROCEDURE § 608.01(f). See also MANUAL OF PATENT EXAMINING PROCEDURE § 608.02(e).
[39] *Ivey*, Column 3, Line 58.
[40] *Edge*, DICTIONARY.COM, www.dictionary.reference.com/browse/edge (May 14, 2015).
[41] *Line Segment*, MATH OPEN REFERENCE (May 14, 2015), www.mathopenref.com/linesegment.html.
[42] *Wall*, MERRIAM-WEBSTER.COM, www.merriam-webster.com/dictionary/wall (May 14, 2015).

order to be capable of "enclosing space." Accordingly, *Ivey* Component 2c cannot be a wall because it has zero surface area and is incapable of enclosing a space.

Regardless, the opening in the bottom of the spherical container is an important distinction as Appellant's container bottom wall extends across the cross-sectional diameter of the bottom of the container body.[43] *Ivey* Component 2c clearly does not extend across the cross-sectional diameter of the bottom of the *Ivey* container body because *Ivey* teaches a "container defining only one opening on said bottom portion thereof, said opening being permanently exposed to an exterior of the device and extending into the spherical inner cavity for providing access thereto."[44] Accordingly, if *Ivey* features a bottom which contains an opening that is "permanently exposed" to the exterior of the container then *Ivey* does not teach a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body, as taught by Appellant.

Therefore, *Ivey* Fig. 3 does not teach a container bottom wall or a container bottom wall which extends across the cross-sectional diameter of the bottom of the container body; and, thus, does not teach each and every element of Appellant's Claim 1. Accordingly, Appellant respectfully suggests that Appellant's Claim 1 is in condition for allowance.

c. Rejection of Claims 5 and 7 under 35 U.S.C. §103 as being unpatentable over *O'Day* in view of *Yoshida*.

In the Final Office Action dated June 9, 2015, the Examiner also rejected Claims 5 and 7 under 35 U.S.C. § 103 as being unpatentable over *O'Day* in view of *Yoshida*. Specifically, the Examiner suggested that *O'Day* discloses all the limitations of Appellant's Claims 5 and 7 except for a "container bottom wall including at least one protrusion and a series of depression [sic], wherein a depression side wall lies between said depressions and within said protrusion, and

[43] *Kick*, Claim 1.
[44] *Ivey*, Claim 1.

separately, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion."[45]

However, if an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is also nonobvious.[46] Both Claims 5 and 7 are dependent on Appellant's Claim 1 – the only independent claim in the present application. As mentioned above, Claim 1 is neither anticipated nor obvious in view of *O'Day*, *Ivey*, *Yoshida*, or any combination thereof because: (1) *O'Day* does not teach a container with a truncated spherical shape; (2) *Ivey* does not teach a container bottom wall; and (3) there is no suggestion or motivation to combine either *O'Day* or *Ivey* with *Yoshida* to create a container with a truncated spherical shape, as taught by Appellant. Accordingly, because Claim 1 is nonobvious for at least the above reasons, Claims 5 and 7 should also be viewed as nonobvious. Applicant respectfully suggests that Claims 5 and 7 are in condition for allowance.

[45] 6/9/2015 Office Action, Page 8, ¶10.
[46] *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

CONCLUSION

The prior objections made by the Examiner have been overcome based on the aforementioned arguments and distinctions between the referenced prior art and the present method. Specifically: (1) *O'Day* does not teach a container with a truncated spherical shape; (2) *Ivey* does not teach a container bottom wall; and (3) there is no suggestion or motivation to combine either *O'Day* or *Ivey* with *Yoshida* to create a container with a truncated spherical shape, as taught by Appellant. Therefore, neither *O'Day* nor *Ivey* anticipate Appellant's container under 35 U.S.C. § 102(b) and Appellant's container is not obvious in view of *O'Day* and *Yoshida* and any additional prior art referenced by the Examiner.

For at least the above reasons, reversal of the rejection of Claims 1, 3-7, and 9, and the subsequent allowance of these claims, are respectfully requested.

Date: December 9, 2015

Respectfully submitted,

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CLAIMS APPENDIX

The claims on appeal are as follows:

1. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall extending across a cross-sectional diameter of the bottom of said container body, and a lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED) ~~A container having a pop-top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed form metal.~~

3. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body.

4. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than said container side wall.

7. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CANCELED) ~~A container for storing a liquid or solid as in Claim 1, wherein the interior of said container body is a truncated spherical shape.~~

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

Electronic Patent Application Fee Transmittal				
Application Number:	12762934			
Filing Date:	19-Apr-2010			
Title of Invention:	Container			
First Named Inventor/Applicant Name:	Merrilee Kick			
Filer:	John T. Wilson			
Attorney Docket Number:	11-002009-02			
Filed as Small Entity				
Filing Fees for Utility under 35 USC 111(a)				
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 - 1 month with $0 paid	2251	1	100	100
Miscellaneous:				
		Total in USD ($)		**100**

Electronic Acknowledgement Receipt	
EFS ID:	24312295
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	John T. Wilson
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	09-DEC-2015
Filing Date:	19-APR-2010
Time Stamp:	16:30:57
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
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1	Appeal Brief Filed	Appeal_Brief.pdf	5616729 acdb113842b37fe42db037df591523a8beb974e0	no	22
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	29866 664bda0cf31445aa3d638b17f7a2ba4a7bcfdef0	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	5646595		

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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.

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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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 03/23/2016

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EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED: 03/23/2016

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

PTO-90C (Rev. 10/03)

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)	
	12/762,934	Shao, Weilan et al	
	Examiner	Art Unit	
	Castillo, Kevin	3781	

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

The Appeal Brief filed on *December 9, 2015* is defective for failure to comply with one or more provisions of 37 CFR 41.37(c).

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the rejected independent claims, referring to the specification in the Record by page and line number or by paragraph number and to the drawings, if any, by reference characters; and/or (b) the brief fails to identify, for each rejected independent claim and for each dependent claim argued separately that contains a means plus function or step plus function recitation under 35 U.S.C. 112, sixth paragraph, the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification in the Record by page and line number or paragraph number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(iii)).

3. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(v)).

4. ☒ Other (including any explanation in support of the above items):

The Summary of Claimed Subject Matter is non-compliant, as it does not reference the independent claim (specifically claim 1) to the specification in the Record by page and line number or by paragraph number, and to the drawings, if any, by reference characters. Reference to the patent application publication does not satisfy the requirements of 37 CFR § 41.37c(1)(iii).An entire new Appeal Brief is not necessary only the corrected section.

The Claims Appendix is non-compliant in that the copy of the claims on appeal should be a clean copy and should not include any markings such as brackets, underlining (claims 2 and 8 contain markings). See MPEP §1205.02.

Eric Hawthrone, Supervisory Paralegal
(571) 272-9797

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee
Serial No.	:	12/762,934
Filed	:	April 19, 2010
Title	:	Container

AMENDMENT AND RESPONSE TO
NOTICE OF NON-COMPLIANT APPEAL BRIEF

In response to the March 23, 2016, Notification of Non-Compliant Appeal Brief, Applicant submits this amended portion of Applicant's December 9, 2015, Appeal Brief. Applicant has corrected the "Summary of Claims Subject Matter" section such that all independent claims are identified and mapped. Additionally, Applicant has corrected the "Claims Appendix" section such that the copy of the claims on appeal is a clean copy with no markings. Per the Notification of Non-Compliant Appeal Brief, only the amended portions of said Appeal Brief are submitted herein.

Date: April 20, 2016

Respectfully submitted,

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SUMMARY OF CLAIMED SUBJECT MATTER

The pending claims that are the subject of this appeal are directed to a container. Claim 1 – the independent claim upon which all other claims rely – generally teaches a container wherein the interior of the container is a truncated spherical shape.[1] Specifically, Independent Claim 1 teaches a container which features: a side wall that is substantially convex in both the horizontal and vertical direction;[2] a bottom wall which extends across a cross-sectional diameter on the bottom of the container body;[3] a lid;[4] and an interior of the container which is a truncated spherical shape.[5]

Dependent Claim 3 is directed to the container as taught in Claim 1, wherein the upper edge of the container body is adjacent to a neck that is further adjacent to a lip.[6] Additionally, Claim 3 teaches that the cross-sectional diameter of the top of the container body is greater than or equal to the cross-sectional diameter of the bottom of the container body; however, the cross-sectional diameter of the top of the container body is less than the cross-sectional diameter of the middle of the container body.[7]

Dependent Claim 4 expands on Claim 1 and teaches that the container body includes an opening to the interior of the container within the interior boundaries of the container lip.[8]

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[1] *Kick* Specification, Page 5, Lines 10-12.
[2] *Kick* Specification, Page 5, Line 9.
[3] *Kick* Specification, Page 5, Lines 15-16.
[4] *Kick* Specification, Page 6, Line 4.
[5] *Kick* Specification, Page 5, Lines 10-12.
[6] *Kick* Specification, Page 5, Lines 17-19; Page 6, Lines 1-3.
[7] *Kick* Specification, Page 5, Lines 10-11.
[8] *Kick* Specification, Page 5, Lines 18-10; Page 6, Lines 1-2.

Dependent Claim 5 also expands on Claim 1 and teaches that the container bottom well includes at least one protrusion and a series of depressions, wherein a depression side wall lies between the depressions and within the protrusion.[9]

Dependent Claim 6 further expands on Claim 1 and teaches that the container bottom wall has a smaller diameter than the container side wall.[10]

Dependent Claim 7 also expands on Claim 1, further teaching that the container bottom wall includes at least one radial extending depression and a center depression within the protrusion.[11]

Dependent Claim 9 expands on Claim 1, further teaching that the lid from aluminum, tin, or metal.[12]

Dependent Claim 10 expands on Claim 9, further teaching that the lid is positioned within the interior edges of the container lip.[13]

[9] *Kick* Specification, Page 8, Lines 12-29.
[10] *Kick* Specification, Page 5, Lines 10-11.
[11] *Kick* Specification, Page 8, Lines 9-14.
[12] *Kick* Specification, Page 9, Lines 4-6.
[13] *Kick* Specification, Page 6, Lines 1-6.

CLAIMS APPENDIX

The claims on appeal are as follows:

1. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a container bottom wall extending across a cross-sectional diameter of the bottom of said container body, and a lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED) A container having a pop top arm to pivot and cooperate with a weakened area to provide access to the interior of the container body; wherein the container body is formed from plastic and any container lid is formed from metal.

3. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein the upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body.

4. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than said container side wall.

7. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CANCELED) A container for storing a liquid or solid as in Claim 1, wherein the interior of said container body is a truncated spherical shape.

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a container concave side wall, a container bottom wall, and a lid.

Electronic Acknowledgement Receipt

EFS ID:	25548470
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Ryan Schafer Prugh
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	20-APR-2016
Filing Date:	19-APR-2010
Time Stamp:	16:12:37
Application Type:	Utility under 35 USC 111(a)

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	Supplemental Response or Supplemental Amendment	Kick_NC_Response.pdf	118767 8efb2537455fe39223c99232e7a1016090a84db2	no	5

Warnings:	
Information:	

Total Files Size (in bytes):	118767

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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 04/06/2017

Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

EXAMINER	
CASTILLO, KEVIN CHARLES	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
04/06/2017	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):

john@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 *4/20/2016*.

☐ 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) *1,3-7 and 9-11* is/are pending in the application.

5a) Of the above claim(s) *11* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1, 3-7, 9, 10* 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: _____.

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

DETAILED ACTION

2. In view of the Appeal Brief filed on 4/20/2016, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

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

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

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

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

/FENN MATHEW/

Supervisory Patent Examiner, Art Unit 3781.

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 6 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. Applicant recites the limitation, “a smaller diameter than said container side wall.“ However, it is unclear what part or length of the sidewall the diameter is being compared with. For purposes of examination, the sidewall diameter is being used.

5. Claim 3 recites the limitation "the upper edge" in line 2. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 4 recites the limitation "said lip" and "the top” in line 2 and 3, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. 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.

8. Claim(s) 1, 3, 4, 6 is/are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Turnbough, US Patent 6793094.

9. Re Claim 1, Turnbough discloses a container for storing a liquid or a solid, comprising a container body [40] having a container side wall substantially convex in both the horizontal and vertical direction [Fig 5], a container bottom wall [24] extending

across a cross-sectional diameter of the bottom of said container body [Fig 5], and a lid [14], wherein the interior of said container body is a truncated spherical shape [Fig 5].

10. Re Claim 3, Turnbough discloses the upper edge [50] of said container body is adjacent to a neck [44]; wherein said neck is adjacent to a lip [49]; wherein a cross-sectional diameter of the top of said container body [across 49] is greater than or equal to the cross-sectional diameter [of 24] of the bottom of said container body [Fig 5]; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container [Fig 5].

11. Re Claim 4, Turnbough discloses said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip [opening of the neck 44 is radially within the interior boundaries of the lip 49].

12. Re Claim 6, Turnbough discloses said container bottom wall is of a smaller diameter than said container side wall [the diameter of the bottom wall is smaller than the diameter of the sidewall].

13. Claim(s) 1, 4-7, 9, 10 is/are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Hermann, US Patent 2745642.

14. Re Claim 1, Hermann discloses a container for storing a liquid or a solid, comprising a container body [10] having a container side wall [14] substantially convex in both the horizontal and vertical direction, a container bottom wall [14a] extending across a cross-sectional diameter of the bottom of said container body, and a lid [12], wherein the interior of said container body is a truncated spherical shape [14 is a truncated spherical shape, Fig 2].

15. Re Claim 4, Hermann discloses said container body includes an opening [opening of the lower container] to the interior of said container body positioned within the interior boundaries of said lip [lip 18].

16. Re Claim 5, Hermann discloses said container bottom wall [14a] includes at least one protrusion [22] and a series of depressions [22a, 22b, 22c], wherein a depression side wall [sidewalls creating steps of 22] lies between said depressions within said protrusion.

17. Re Claim 6, Hermann discloses said container bottom wall is of a smaller diameter than said container side wall [the bottom wall diameter is smaller than the diameter of the sidewall].

18. Re Claim 7, Hermann discloses said container bottom wall includes at least one radial extending depression [22b, 22c are depressions that extend radially] and a center depression [22a] within said protrusion.

19. Re Claim 9, Hermann discloses said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal [Col 2, Lines 30-34].

20. Re Claim 10, Hermann discloses said lid [12] is positioned within the interior edges of a lip [lip 18; shown in Fig 2, by the tongue and groove portions 16 and 18].

Response to Arguments

21. Applicant's arguments with respect to claims 1, 3-7, 9, 10 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./
Examiner, Art Unit 3781

/FENN MATHEW/
Supervisory Patent Examiner, Art Unit 3781

Notice of References Cited	Application/Control No. 12/762,934	Applicant(s)/Patent Under Reexamination KICK, MERRILEE	
	Examiner KEVIN CASTILLO	Art Unit 3781	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	CPC Classification	US Classification
*	A	US-6,793,094 B2	09-2004	Turnbough; Mitchell	A47G19/2272	215/11.1
*	B	US-2,745,642 A	05-1956	DICK HERMANN	A47J43/24	206/1.5
	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	CPC 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.

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	09/23/2011	02/01/2013	08/07/2013	12/05/2013	04/05/2014	07/22/2014	01/08/2015	05/31/2015	03/27/2017
	1	✓	✓	✓	✓	✓	✓	✓	✓	✓
	2	N	N	-	-	-	-	-	-	-
	3	✓	✓	✓	✓	✓	✓	✓	✓	✓
	4	✓	✓	✓	✓	✓	-	✓	✓	✓
	5	✓	✓	✓	✓	✓	✓	✓	✓	✓
	6	✓	✓	✓	✓	✓	✓	✓	✓	✓
	7	✓	✓	✓	✓	✓	✓	✓	✓	✓
	8		✓	✓	✓	✓	✓	✓	-	-
	9		✓	✓	✓	✓	✓	✓	✓	✓
	10		✓	✓	✓	✓	✓	✓	✓	✓
	11			N	N	N	N	N	N	N

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	1	b65d2501/0009	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/31 11:47
L2	0	b65d2501/24	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/31 11:47
L3	0	b65d2501/14	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/31 11:48
L4	0	b65d2501/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2017/03/31 11:48
L5	4	b65d2501/00	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2017/03/31 11:48
S1	0	((MERRILEE) near2 (KICK)).INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/21 18:46
S2	0	((MERRILEE) near2 (KICK)).INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/21 18:47
S3	0	((MERRILEE) near2 (KICK)).INV.	EPO; JPO; DERWENT	OR	OFF	2011/09/21 18:47
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S6	780	(220/269).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/22 17:31
S7	860	(220/669).CCLS.	US-PGPUB; USPAT; USOCR;	OR	OFF	2011/09/22 18:44

			EPO; JPO; DERWENT			
S8	684	("0685832" | "0784950" | "1128076" | "1345594" | "1419314" | "1434831" | "1446158" | "1527897" | "1746869" | "1954568" | "1997291" | "2060504" | "2254168" | "2406380" | "2423708" | "2541065" | "2832496" | "2943386" | "3038627" | "3043461" | "3056525" | "3137748" | "3142433" | "3158283" | "3170590" | "3173574" | "3198861" | "3286902" | "3297194" | "3333723" | "3344646" | "3383006" | "3403804" | "3419176" | "3425382" | "3441172" | "3448775" | "3461699" | "3468443" | "3511401" | "3534883" | "3537498" | "3553419" | "3556338" | "3563408" | "3598270" | "3613938" | "3643829" | "3655153" | "3659741" | "3718229" | "3720339" | "3721365" | "3722725" | "3722726" | "3727783" | "3732909" | "3745150" | "3757978" | "3759410" | "3759416" | "3773208" | "3778214" | "3786667" | "3803275" | "3804289" | "3809284" | "3811393" | "3811588" | "3814277" | "3849530" | "3858756" | "3870181" | "3871541" | "3871544" | "3878963" | "3881621" | "3883036" | "3910414" | "3917095" | "3926324" | "3926341" | "3929252" | "3935955" | "3940008" | "3942670" | "3944115" | "3948404" | "3949877" | "3954178" | "3973693" | "3977561" | "3979015" | "4013187" | "4015744" | "4024975" | "4024981" | "4040372" | "4046282" | "4051951" | "4054229" | "4061243" | "4079857" | "4083468" | "4090004" | "4108324" | "4134510" | "4141463" | "4148410" | "4177239" | "4177930" | "4184607" | "4194645" | "4205760" | "4210257" | "4211335" | "4215792" | "4219124" | "4219127" | "4220254" | "4228916" | "4247012" | "4249667" | "4254882" | "4256240").PN. OR ("4261948" | "4262815" | "4267144" | "4276993" | "4294366" | "4296871" | "4301933" | "4311238" | "4318489" | "4318493" | "4330579" | "4334627" | "4334631" | "4335821" | "4344546" | "4352435" | "4355728" | "4359165" | "4361251" | "4363404" | "4363419" | "4366696" | "4368825" | "4376493" | "4380304" | "4386715" | "4387827" | "4387828" | "4403706" | "4416374" | "4421247" | "4428498" | "4429805" | "4436216" | "4446969" | "4465199" | "4465204" | "4467929" | "4496064" | "4497855" | "4502607" | "4512700" | "4520943" | "4525401" | "4550043" | "4579170" | "4597502" | "4598831" | "4610366" | "4615928" | "4632272" | "4648522" | "4676392" | "4709833" | "4723676" | "4723681" | "4725464" | "4733793" | "4733804" | "4742932"	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/23 11:17

		"4755404" | "4780257" | "4785949" | "4785950" | "4796766" | "4805788" | "4818575" | "4850493" | "4850494" | "4863046" | "4865206" | "4867323" | "4872597" | "4880131" | "4892205" | "4909393" | "4928839" | "4930654" | "4930658" | "4951835" | "4976368" | "4978015" | "4997692" | "5005716" | "5011037" | "5018642" | "5024339" | "5024340" | "5054632" | "5064080" | "5129541" | "5131555" | "5143219" | "5190157" | "5193715" | "5224618" | "5248053" | "5292024" | "5301830" | "5346087" | "5375729" | "5405039" | "5456378" | "5680952" | "5813561" | "D036097" | "D040081" | "D073530" | "D093116" | "D097580" | "D122336" | "D152905" | "D183541" | "D220612" | "D228489" | "D237251" | "D294464" | "D337521" | "D338156" | "D365988" | "Re31702").PN. OR ("3098597" | "3179036" | "3759410" | "3871541" | "4157762" | "4936482" | "4978015" | "5040682" | "5123554" | "5261543" | "5320230" | "5607075" | "6050440" | "6102242").URPN.				
S9	14662	sphere and container and body	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 13:20
S10	149406	("220").CLAS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 13:20
S11	294	S9 and S10	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 13:20
S12	9	("3419173").URPN.	USPAT	OR	OFF	2013/01/31 13:27
S13	1121	sphere and container and lid	USPAT	OR	OFF	2013/01/31 13:43
S14	76	S10 and S13	USPAT	OR	OFF	2013/01/31 13:43
S15	18	("20020033397" | "20040094558" | "2341092" | "2457421" | "3706140" | "4058209" | "4221293" | "5097947" | "5372269" | "6244464" | "6457604" | "6464078" | "6783033" | "6793094" | "7451890").PN. OR ("7731053").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/01/31 13:46
S16	301	("0179416" | "0228002" | "0497878" | "0524894" | "0668705" | "0672282" | "0730337" | "0836555" | "0979261" | "1070516" | "1500917" | "1518823" | "20010015340" | "20020033397" |	US-PGPUB; USPAT; USOCR	OR	OFF	2013/01/31 13:48

		"20040089774" | "20040094558" | "20080011914" | "2014236" | "2090749" | "2143436" | "2150835" | "2163330" | "2175735" | "2215988" | "2311397" | "2341092" | "2366214" | "2457421" | "2544114" | "2601767" | "2738225" | "2748952" | "2760665" | "2774627" | "2789750" | "2816548" | "2914216" | "2941309" | "2953170" | "2998896" | "3112837" | "3130862" | "3145840" | "3215311" | "3269528" | "3289874" | "3327688" | "3442692" | "3704777" | "3704991" | "3706140" | "3731415" | "3750868" | "3776413" | "3933300" | "3990596" | "4047637" | "4058209" | "4096966" | "4221293" | "4457483" | "4491232" | "4700883" | "4711367" | "4782670" | "4795117" | "4796780" | "4799636" | "4817311" | "4846394" | "4892223" | "4928412" | "4928823" | "4930645" | "4941590" | "4955496" | "4979325" | "4986417" | "5016845" | "5052578" | "5056679" | "5076463" | "5078300" | "5082115" | "5088948" | "5096080" | "5096091" | "5097947" | "5108686" | "5196988" | "5205407" | "5251783" | "5294018" | "5351858" | "5372269" | "5467877" | "5476881" | "5509549" | "5520307" | "5531338" | "5653732" | "5673806" | "5690679" | "5807156" | "5894948" | "5938058" | "5975983" | "6073788" | "6155411" | "6168034" | "6216856" | "6244464" | "6253918" | "6457604" | "6464078" | "6783033" | "6793094" | "7731053" | "D249076" | "D287766" | "D323352" | "D401149" | "D409486").PN. OR ("D441914").PN. OR ("2002/0033397" | "2004/0094558" | "2341092" | "2457421" | "3706140" | "4058209" | "4221293" | "5097947" | "5372269" | "6244464" | "6457604" | "6464078" | "6783033" | "6793094" | "7451890" | "D628746").URPN.			
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S18	844	sphere and blow and mold and container	US-PGPUB; USPAT; USOCR; FPRS;	OR	OFF	2013/01/31 14:48

			EPO; JPO; DERWENT			
S19	149406	("220").CLAS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:48
S20	38	S18 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:49
S21	2116	sphere and blow and mold	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:49
S22	47	S19 and S21	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:50
S23	2116	spher$5 and S21	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:50
S24	4444	spher$5 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S25	479	spher$5 and S19 and blow	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S26	14	spher$5 and S19 and (blow$mold or blowmold)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S27	1960	spher$5 and S19 and plastic	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S28	1351	spher$5 and S19 and plastic and container	US-PGPUB; USPAT; USOCR; FPRS;	OR	OFF	2013/01/31 14:52

			EPO; JPO; DERWENT			
S29	317	spher$5 and S19 and plastic and container and mold	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S30	788	spher$5 and S19 and plastic and container and mold$4	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S31	2	("7780025").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 15:40
S32	4	b65d1/165	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:05
S33	656	b65d1/10	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:06
S34	1142	b65d1/12	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:07
S35	385	b65d1/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:08
S36	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:05
S37	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:05
S38	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS;	OR	OFF	2013/12/05 16:06

			EPO; JPO; DERWENT			
S39	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S40	0	b65d2501/9	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S41	472937	b65d	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S42	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S43	0	b65d2501/24	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S44	0	b65d2501/00	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S45	385	b65d1/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S46	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S47	1	("7051892").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2014/07/22 10:38
S48	1	("8738101").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2014/07/22 11:11
S49	18	("20020033397" | "20040094558" | "2341092" | "2457421" | "3706140" |	US-PGPUB; USPAT;	OR	OFF	2015/01/07 13:51

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S50	155270	("220").CLAS.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 14:59
S51	198088	sphere	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 14:59
S52	1162	S50 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 15:00
S53	1	("7051892").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 17:28
S54	1	("7731053").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 17:49
S55	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:08
S56	0	b65d2501/9	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:08
S57	0	b65d2501/24	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:08
S58	20	b65d1/14	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:09
S59	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:10
S60	5	("3179036" | "7051892" | "4936482" | "7731053").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2017/02/08 13:32
S61	81	("0179416" | "0524894" | "0730337" | "1070516" | "1518823" | "20010015340" | "20020033397" | "2014236" | "2090749" | "2150835" | "2163330" | "2175735" | "2311397" | "2366214" | "2601767" | "2760665" | "2816548" | "2953170" | "3112837" | "3289874" | "3990596" | "4096966" | "4782670" | "4799636" | "4930645" | "5016845" | "5076463" | "5082115" | "5088948" | "5108686" | "5294018" | "5467877" | "5476881" | "5509549" | "5531338" |	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/27 16:01

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S62	1289	("0179416" | "0262232" | "0472133" | "0519486" | "0524894" | "0685832" | "0730337" | "0784950" | "0911051" | "1070516" | "1128076" | "1141625" | "1341826" | "1345594" | "1419314" | "1434831" | "1446158" | "1518823" | "1527897" | "1746869" | "1954568" | "1997291" | "20010015340" | "20020033397" | "20040065635" | "20040094558" | "2014236" | "2060504" | "2086631" | "2090749" | "2092728" | "2098823" | "2150835" | "2163330" | "2175735" | "2254168" | "2311397" | "2341092" | "2366214" | "2406380" | "2423708" | "2457421" | "2529536" | "2541065" | "2549644" | "2601767" | "2606708" | "2745642" | "2760665" | "2784512" | "2816548" | "2832496" | "2917766" | "2943386" | "2953170" | "3000022" | "3038627" | "3043461" | "3056525" | "3112837" | "3137748" | "3142433" | "3158283" | "3170590" | "3173574" | "3198861" | "3258115" | "3285408" | "3286902" | "3289874" | "3297194" | "3333723" | "3344646" | "3383006" | "3403804" | "3417892" | "3419176" | "3425382" | "3434637" | "3441172" | "3448775" | "3461699" | "3468443" | "3498908" | "3511401" | "3520010" | "3534883" | "3537498" | "3553419" | "3556338" | "3563408" | "3565339" | "3592885" | "3598270" | "3613938" | "3643829" | "3655153" | "3659741" | "3706140" | "3718229" | "3720339" | "3721365" | "3722725" | "3722726" | "3727783" | "3727840" | "3732909" | "3745150" | "3757978" | "3759410" | "3759416" | "3773208" | "3778214" | "3786667" | "3803275" | "3804289" | "3809284" | "3811393" | "3811588" | "3814277" | "3817676" | "3827595" | "3849530").PN. OR ("3858756" | "3865531" | "3870181" | "3871541" | "3871544" | "3878963" | "3881621" | "3883036" | "3900120" | "3910414" | "3917095" | "3926324" | "3926341" | "3929252" | "3935955" | "3940008" | "3942670" | "3944115" | "3945568" | "3948404" | "3949877" | "3954178" | "3956441" | "3961113" | "3973693" | "3977561" | "3979015" | "3990596" | "4005245" | "4013187" | "4015744" | "4024975" | "4024981" | "4026984" | "4040372" | "4046282" | "4051951" | "4054229" | "4058209" | "4061243" | "4079857" | "4083468" | "4090004" | "4096966" | "4103774" | "4106657" | "4108324" | "4124135" | "4134510" | "4141463" | "4148410" | "4151249" | "4170622" | "4174782" |	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/27 16:59

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"D036097" | "D040081" | "D073530" |
"D093116" | "D097580" | "D122336" |
"D136997" | "D152905" | "D183541" |
"D220612" | "D228489" | "D237251" |
"D249076" | "D280707" | "D287766" |
"D294464" | "D318614" | "D337521" |

		"D338156" | "D365988" | "D403243" | "D423360" | "D434663").PN. OR ("D448300" | "D452446" | "D459657" | "D460693" | "D469361" | "D490714" | "D509742" | "Re31702").PN. OR ("122796" | "1997291" | "2002/0033397" | "2009/0321458" | "3098597" | "3112837" | "3179036" | "3297194" | "3419173" | "3759410" | "3871541" | "4157762" | "4174782" | "4502607" | "4525401" | "4936482" | "4978015" | "5040682" | "5123554" | "5261543" | "5320230" | "5607075" | "6029900" | "6050438" | "6050440" | "6102242" | "6793094" | "7051892" | "7731053").URPN.				
S63	45	("2745642").URPN.	USPAT	OR	OFF	2017/03/27 17:07
S64	33	("D069766" | "D253455" | "D254957" | "D256332").PN. OR ("D280707").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/27 17:41

EAST Search History (Interference)

<This search history is empty>

3/31/2017 11:49:05 AM
H:\EAST\Workspaces\12762934.wsp

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	5/31/2015	KC

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/08/2015	KC

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name Search	9/21/2011	KC
Backward/Forward Search	3/27/2017	KC
Text Search	1/08/2015	KC

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

/K.C./ Examiner.Art Unit 3781	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

RESPONSE TO NON-FINAL OFFICE ACTION

In response to the Non-Final Office Action mailed on April 6, 2017, Applicant has prepared these remarks. The Examiner has rejected Claims 1, 3-7, and 9-10. Please amend the above-identified application as follows.

CLAIMS: Amendments to the Claims begin on Page 2 of this Response.

REMARKS/ARGUMENTS: Remarks and Arguments begin on Page 4 of this Response.

AMENDMENTS TO THE CLAIMS

Please file amendments for Claims 1, 3, 4, and 6. The amendments to this application contain no new matter. This listing of claims will replace all prior versions and listings of claims in the application.

Listing of Claims:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a substantially-flat container bottom wall extending across a cross-sectional diameter of the bottom of said container body, and a substantially-flat lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED)

3. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein ~~the~~ an upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein a cross-sectional diameter of ~~the~~ a top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body.

4. (CURRENTLY AMENDED) A container for storing a liquid or a solid as in Claim ~~1~~ 3, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (CURRENTLY AMENDED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than a cross-sectional diameter at any point along said container side wall.

7. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CANCELED)

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN) A container for storing a liquid or a solid, comprising a plastic container body having a concave side wall, a container bottom wall, and a lid.

REMARKS/ARGUMENTS

The pending claims remaining in the Application are Claims 1, 3-7, 9, and 10. The Examiner rejected all pending claims in the Final Office Action mailed on April 6, 2017. Specifically, the Examiner rejected Claims 3, 4, and 6 under 35 U.S.C. §112; Claims 1, 3, 4, and 6 under 35 U.S.C. §102 as being anticipated by *Turnbough* (U.S. Patent No. 6,793,094); and Claims 1, 4-7, 9, and 10 under 35 U.S.C. §102 as being anticipated by *Hermann* (U.S. Patent No. 2,745,642).

Applicant submits that these amended claims do not present any new matter but more accurately and clearly describe the features of the invention described in the originally-filed patent application. Accordingly, Applicant has properly amended the claims and respectfully submits that the Application is now in condition for allowance, as fully explained in the remarks below.

CLAIM REJECTINOS UNDER 35 U.S.C. §112

The Examiner rejected Claims 3, 4, and 6 under 35 U.S.C. §112. Specifically, the Examiner suggested Claim 6 fails to particularly point out and distinctly claim the subject matter of the invention because it is "unclear what part or length of the sidewall the [bottom wall] diameter is being compared with."[1] In response, Applicant has amended Claim 6 to more particularly point out and distinctly claim the subject matter which Applicant regards as her invention.

Amended Claim 6 now reads:

> "A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than a cross-sectional diameter at any point along said container side wall."

[1] *Office Action*, April 6, 2017, ¶4.

The Examiner also rejected Claims 3 and 4, suggesting there is insufficient antecedent basis for "the upper edge" in Claim 3 and "said lip" and "the top" in Claim 4. In response, Applicant has amended the claims to provide sufficient antecedent basis.

Considering the foregoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §112 has been overcome and respectfully requests the Examiner withdraw the rejection for Applicant's Claims 3, 4, and 6.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

The Examiner rejected Claims 1, 3, 4, and 6 under 35 U.S.C. §102 as being anticipated by *Turnbough* and Claims 1, 4-7, 9, and 10 under 35 U.S.C. §102 as being anticipated by *Hermann*. Applicant respectfully submits there are significant differences between Applicant's container and the containers presented in *Turnbough* and *Hermann*.

Applicant's Claim 1 is the only independent claim upon which all other claims rely. Accordingly, any distinctions between Applicant's Claim 1 and the cited references also apply for all other dependent claims in the present application.

CLAIM 1

With respect to Claim 1, the Examiner argues that both *Turnbough* and *Hermann* disclose all the limitations as claimed. Under 35 U.S.C. §102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[2] "The identical invention must be shown in as complete detail as is contained in the claim."[3] "Every element of the claimed invention must be literally present, arranged as in

[2] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.
[3] *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

the claim."[4] Accordingly, if a reference does not teach each and every element of a claim, either expressly or inherently, that reference does not anticipate the claim under 35 U.S.C. §102.

In response to the Office Action, Applicant has amended independent Claim 1 to more particularly point out and distinctly claim the subject matter of the invention. Applicant respectfully submits neither *Turnbough* nor *Hermann* teach each and every element of Applicant's amended Claim 1.

a. *Turnbough* Fails to Teach Each and Every Element of Claim 1

In regards to *Turnbough*, the Examiner appended citations to Applicant's Claim 1 to support his claims:

> "Re Claim 1, *Turnbough* discloses a container for storing a liquid or a solid, comprising a container body [40] having a container side wall substantially convex in both the horizontal and vertical direction [Fig. 5], a container bottom wall [24] extending across a cross-sectional diameter of the bottom of said container body [Fig. 5], and a lid [14], wherein the interior of said container body is a truncated spherical shape [Fig. 5]."[5]

In response, Applicant has amended Claim 1 to more particularly point out and distinctly claim the subject matter of the present invention. Specifically, Applicant has amended Claim 1 to specifically claim a "substantially-flat container bottom wall" and a "substantially-flat lid." Neither limitation is taught in *Turnbough*.

Since *Turnbough* is aimed at protecting a self-righting container with a weighted base, *Turnbough* specifically teaches that the container bottom wall is rounded so it may be righted if tipped:

> "Container preferably includes a body that includes at least a partially rounded or semi-spherical bottom or base portion."[6]

---

[4] *Id.*
[5] *Office Action*, April 6, 2017, ¶9.
[6] *Turnbough*, Column 2, Lines 48-50.

> "As discussed above, the container has a rounded base. The rounded base allows the container to wobble when placed on a flat surface (not shown). The counterweight is positioned and weighted so that, acting in combination with the container's rounded base, it causes container to self-right when the central axis of the dispenser is at an angle with respect to the vertical axis."[7]
>
> "If the weight is attached directly to the container, it is preferably shaped so that, in combination with the base, it defines a semi-spherical or rounded surface."[8]

The Examiner has cited *Turnbough* Fig. 5 and the components therein to support his argument. Although drawings may be used as prior art in an anticipation rejection, "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art."[9] Considering *Turnbough* explicitly teaches a rounded base to enable self-righting in the event of the container tipping, Applicant respectfully suggests that *Turnbough* does not reasonably disclose a substantially-flat container bottom wall as taught by Applicant.

Accordingly, Applicant respectfully suggests that *Turnbough* does not teach each and every element of Applicant's Claim 1; and, therefore, Applicant's Claim 1 is not anticipated by *Turnbough*. Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §102.

b. *Hermann* Fails to Teach Each and Every Element of Claim 1

In regards to *Hermann*, the Examiner appended citations to Applicant's Claim 1 to support his claims:

> "Re Claim 1, *Hermann* discloses a container for storing a liquid or a solid, comprising a container body [10] having a container side wall [14] substantially convex in both the horizontal and vertical direction, a container bottom wall [14a] extending across a cross-sectional diameter of the bottom of said container body, and a lid [12], wherein the interior of said container body is a truncated spherical shape [14 is a truncated spherical shape, Fig. 2]"[10]

---

[7] *Turnbough*, Column 3, Lines 50-56.
[8] *Turnbough*, Column 3, Lines 64-67.
[9] MPEP §2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).
[10] *Office Action*, April 6, 2017, ¶14.

Applicant respectfully notes that the container side wall in Applicant's Claim 1 is one piece extending from the container bottom wall to the lid; however, the "side wall" in *Hermann*, if one exists, must be comprised of two pieces. Regardless, Applicant has amended Claim 1 to more particularly point out and distinctly claim the subject matter of the present invention. Specifically, Applicant has amended Claim 1 to specifically claim a "substantially-flat container bottom wall" and a "substantially-flat lid."

The Examiner claims that *Hermann* Component 12 is the container "lid." Applicant respectfully notes that the *Hermann* specification repeatedly refers to Component 12 as a "receptacle portion."[11] Merriam-Webster dictionary defines a "receptacle" as "one that receives and contains something."[12] Considering a "lid" can neither receive nor contain (in the sense of "holding" an object) anything, Applicant respectfully suggests that *Hermann* does not teach having any "lid." As mentioned previously, drawings may only be used for rejections for what they reasonably disclose.

Regardless, even if the Examiner maintains his suggestion that *Hermann* Component 12 is a lid, *Hermann* Component 12 is not substantially-flat – contrary to the substantially-flat lid taught by Applicant:

> "[T]he mixing device is formed of two substantially hemispherical receptacle portions [12 and 14] which may be made of any suitable material."[13]
>
> "A mixing device comprising two complemental substantially hemispherical receptacle portions…"[14]

[11] See the *Hermann* Specification, thoughout.
[12] https://www.merriam-webster.com/dictionary/receptacle
[13] *Hermann*, Column 1, Lines 23-25.
[14] *Hermann*, Claim 1.

Accordingly, even if the Examiner maintains his contention that *Hermann* Component 12 is a lid, *Hermann* fails to teach a substantially-flat lid in contrast to Applicant. As such, *Hermann* fails to teach each and every element of Applicant's Claim 1 and therefore does not anticipate Applicant's Claim 1. Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §102.

CONCLUSION

These claims presented by Applicant in this response to Non-Final Office Action do not present any new matter. Accordingly, for all of the above-stated reasons, Applicant submits that the application is now in condition for allowance.

DATE: October 6, 2017

Respectfully submitted,

/John T. Wilson/
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Reg. No. 61,411

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Electronic Patent Application Fee Transmittal	
Application Number:	12762934
Filing Date:	19-Apr-2010
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Filer:	Ryan Schafer Prugh
Attorney Docket Number:	11-002009-02
Filed as Small Entity	
Filing Fees for Utility under 35 USC 111(a)	

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 - 5 months with $0 paid	2255	1	1500	1500
Miscellaneous:				
		Total in USD ($)		**1500**

Electronic Acknowledgement Receipt	
EFS ID:	30589582
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Ryan Schafer Prugh
Filer Authorized By:	
Attorney Docket Number:	11-002009-02
Receipt Date:	06-OCT-2017
Filing Date:	19-APR-2010
Time Stamp:	15:10:00
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$1500
RAM confirmation Number	101017INTEFSW15110900
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	Amendment/Req. Reconsideration-After Non-Final Reject	Kick_ROA.pdf	179904 a751ee8c4eeb8721f049d1b6ac14e52485510055	no	9
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30108 1ca8abab696c7c3b85ec873985fa4a5418899863	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	210012		

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
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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 12/762,934	Filing Date 04/19/2010	☐ 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	10/06/2017	(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))	* 9	Minus	** 20	= 0	X $40 =	0
	Independent (37 CFR 1.16(h))	* 2	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
ZETA ADAMS

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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 11/03/2017

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EXAMINER	
CASTILLO, KEVIN CHARLES	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
11/03/2017	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):

john@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 *10/06/2017*.

☐ 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) *1,3-7 and 9-11* 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, 3-7, 9-11* 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.

Claim Rejections - 35 USC § 112

2. 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.

3. Claim 1 and its dependent claims are 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.

4. Applicant claims that the lid and the bottom wall are substantially flat. However, as shown below, both Applicant's lid and bottom wall both have a depth, and the bottom wall has both a depression and curved edges. Therefore, it is unclear if Applicant intends to claim substantially flat portions of the lid and bottom wall or if "substantially flat" includes depressions, curved walls, and include depth.

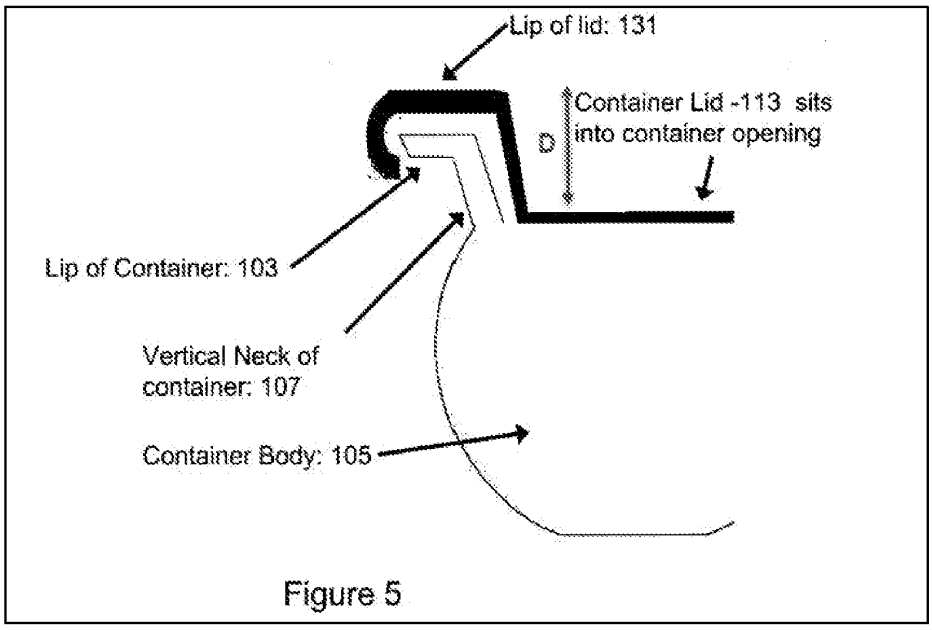


Fig A – Annotated Fig 5 of Applicant's disclosure

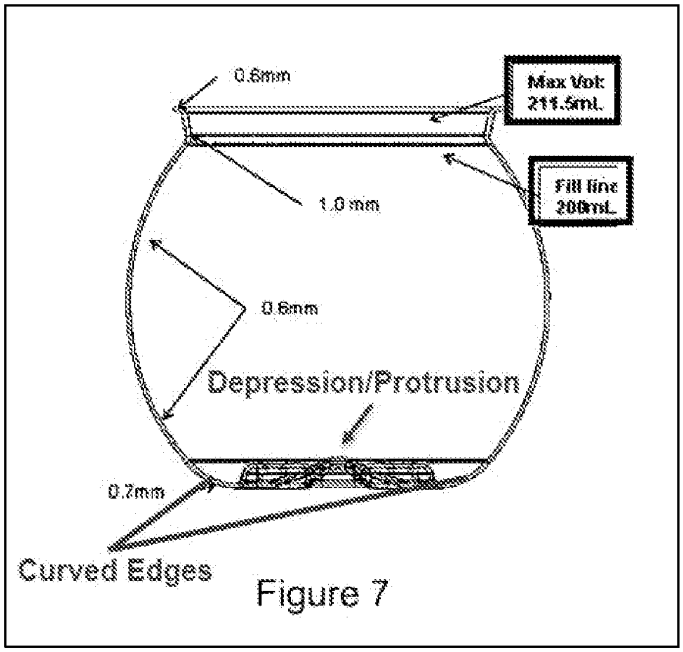


Fig B – Annotated Fig 7 of Applicant's disclosure

Claim Rejections - 35 USC § 102

5. 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.

6. Claim(s) 1, 3, 4, 6 is/are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Turnbough, US Patent 6793094.

7. Re Claim 1, Turnbough discloses a container for storing a liquid or a solid, comprising a container body [40] having a container side wall substantially convex in both the horizontal and vertical direction [Fig 5], a substantially-flat container bottom wall [24] extending across a cross-sectional diameter of the bottom of said container body [Fig 5], and a substantially-flat lid [80], wherein the interior of said container body is a truncated spherical shape [Fig 5].

8. Re Claim 3, Turnbough discloses an upper edge [50] of said container body is adjacent to a neck [44]; wherein said neck is adjacent to a lip [49]; wherein a cross-sectional diameter of a top of said container body [across 49] is greater than or equal to the cross-sectional diameter [of 24] of the bottom of said container body [Fig 5]; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container [Fig 5].

9. Re Claim 4, Turnbough discloses said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip [opening of the neck 44 is radially within the interior boundaries of the lip 49].

10. Re Claim 6, Turnbough discloses said container bottom wall is of a smaller diameter than said container side wall [the diameter of the bottom wall is smaller than the diameter of the sidewall].

11. Claim(s) 1, 4-7, 9, 10 is/are rejected under pre-AIA 35 U.S.C. 102(b) as being anticipated by Hermann, US Patent 2745642.

12. Re Claim 1, Hermann discloses a container for storing a liquid or a solid, comprising a container body [10] having a container side wall [14] substantially convex in both the horizontal and vertical direction, a substantially-flat container bottom wall [14a] extending across a cross-sectional diameter of the bottom of said container body, and a substantially-flat lid [top of lid 12 is flat], wherein the interior of said container body is a truncated spherical shape [14 is a truncated spherical shape, Fig 2]. [As shown below, both Applicant's lid and bottom wall both have a depth, and the bottom wall has both a depression and curved edges. Therefore, Turnbough's lid and bottom walls are as 'substantially-flat' as Applicant's].

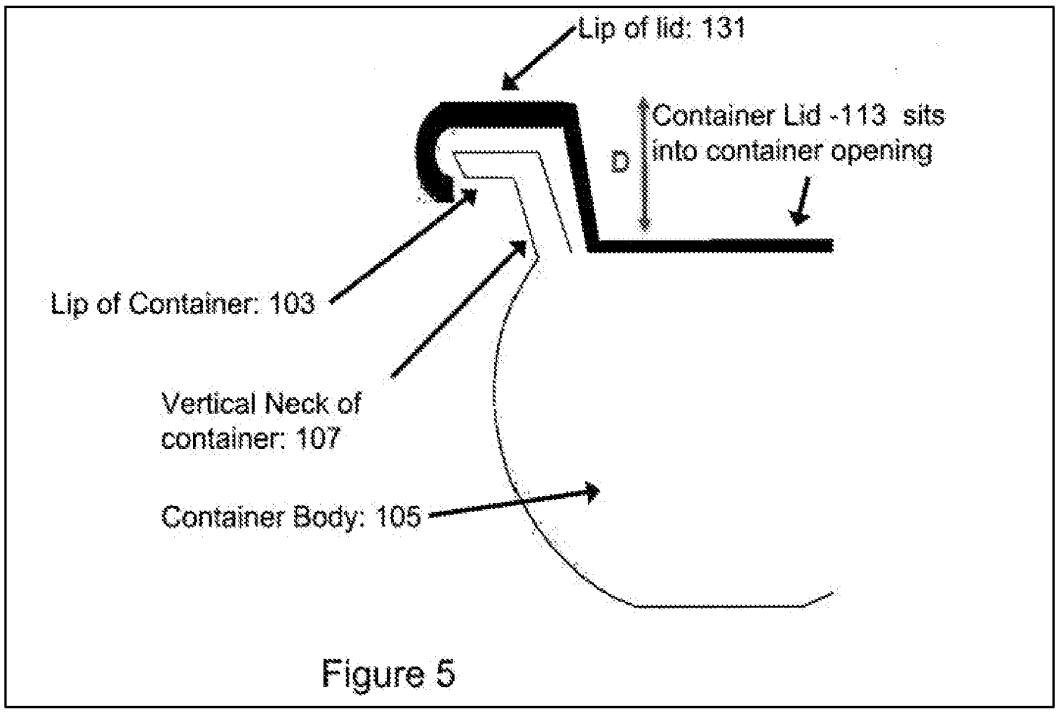


Fig A – Annotated Fig 5 of Applicant's disclosure

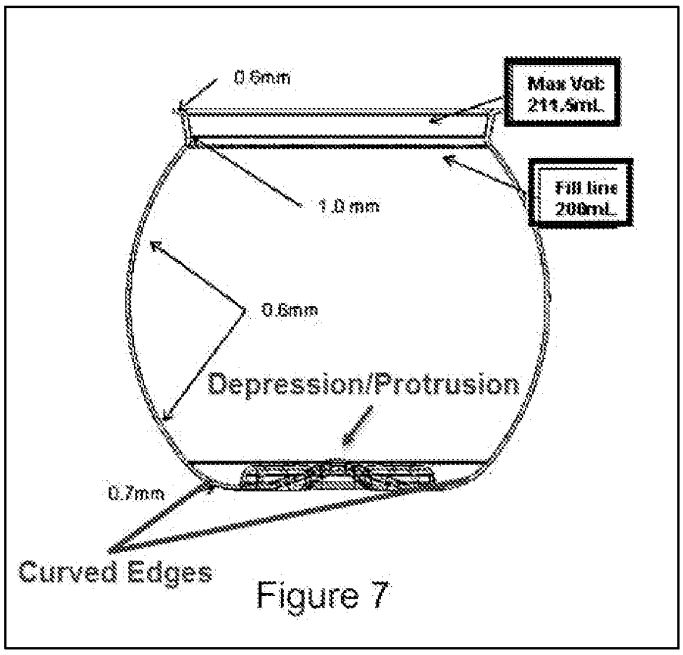


Fig B – Annotated Fig 7 of Applicant's disclosure

13. Re Claim 4, Hermann discloses said container body includes an opening [opening of the lower container] to the interior of said container body positioned within the interior boundaries of said lip [lip 18].

14. Re Claim 5, Hermann discloses said container bottom wall [14a] includes at least one protrusion [22] and a series of depressions [22a, 22b, 22c], wherein a depression side wall [sidewalls creating steps of 22] lies between said depressions within said protrusion.

15. Re Claim 6, Hermann discloses said container bottom wall is of a smaller diameter than said container side wall [the bottom wall diameter is smaller than the diameter of the sidewall].

16. Re Claim 7, Hermann discloses said container bottom wall includes at least one radial extending depression [22b, 22c are depressions that extend radially] and a center depression [22a] within said protrusion.

17. Re Claim 9, Hermann discloses said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal [Col 2, Lines 30-34].

18. Re Claim 10, Hermann discloses said lid [12] is positioned within the interior edges of a lip [lip 18; shown in Fig 2, by the tongue and groove portions 16 and 18].

Response to Arguments

19. Applicant's arguments filed 10/09/2017 have been fully considered but they are not persuasive. Applicant argues that Turnbough and Hermann do not disclose a substantially-flat container bottom wall and substantially flat lid. However, as discussed in the rejection above, the bottom wall and lid of Turnbough and Hermann are similar to Applicant's definition of 'substantially flat' based on Applicant's disclosure of the container bottom wall and lid. Therefore, Applicant's arguments is not persuasive.

20. No further arguments are presented.

Conclusion

21. **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.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./
Examiner, Art Unit 3781

/JEFFREY ALLEN/
Primary Examiner, Art Unit 3781

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	5/31/2015	KC

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/08/2015	KC

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name Search	9/21/2011	KC
Backward/Forward Search	3/27/2017	KC
Text Search	1/08/2015	KC

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

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	10/19/2017	02/01/2013	08/07/2013	12/05/2013	04/05/2014	07/22/2014	01/08/2015	05/31/2015	03/27/2017
	1	✓	✓	✓	✓	✓	✓	✓	✓	✓
	2	N	N	-	-	-	-	-	-	-
	3	✓	✓	✓	✓	✓	✓	✓	✓	✓
	4	✓	✓	✓	✓	✓	-	✓	✓	✓
	5	✓	✓	✓	✓	✓	✓	✓	✓	✓
	6	✓	✓	✓	✓	✓	✓	✓	✓	✓
	7	✓	✓	✓	✓	✓	✓	✓	✓	✓
	8	-	✓	✓	✓	✓	✓	✓	-	-
	9	✓	✓	✓	✓	✓	✓	✓	✓	✓
	10	✓	✓	✓	✓	✓	✓	✓	✓	✓
	11	✓		N	N	N	N	N	N	N

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	11-002009-02
	Application Number	
Title of Invention	Container	

The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76.
This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.

Secrecy Order 37 CFR 5.2

☐ Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

Inventor Information:

Inventor 1 Remove

Legal Name

Prefix	Given Name	Middle Name	Family Name	Suffix
	Merrilee		Kick	

Residence Information (Select One) ◉ US Residency ○ Non US Residency ○ Active US Military Service

City	Carrollton	State/Province	TX	Country of Residence	US

Mailing Address of Inventor:

Address 1	2114 McDaniel Drive		
Address 2			
City	Carrollton	State/Province	TX
Postal Code	75006	Country	US

All Inventors Must Be Listed - Additional Inventor Information blocks may be generated within this form by selecting the **Add** button. Add

Correspondence Information:

Enter either Customer Number or complete the Correspondence Information section below.
For further information see 37 CFR 1.33(a).

☐ **An Address is being provided for the correspondence Information of this application.**

Customer Number	80680		
Email Address	eservice@wilsonlegalgroup.com	Add Email	Remove Email

Application Information:

Title of the Invention	Container		
Attorney Docket Number	11-002009-02	Small Entity Status Claimed	☒
Application Type	Nonprovisional		
Subject Matter	Utility		
Total Number of Drawing Sheets (if any)		Suggested Figure for Publication (if any)	

Filing By Reference :

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	11-002009-02
	Application Number	
Title of Invention	Container	

Only complete this section when filing an application by reference under 35 U.S.C. 111(c) and 37 CFR 1.57(a). Do not complete this section if application papers including a specification and any drawings are being filed. Any domestic benefit or foreign priority information must be provided in the appropriate section(s) below (i.e., "Domestic Benefit/National Stage Information" and "Foreign Priority Information").

For the purposes of a filing date under 37 CFR 1.53(b), the description and any drawings of the present application are replaced by this reference to the previously filed application, subject to conditions and requirements of 37 CFR 1.57(a).

Application number of the previously filed application	Filing date (YYYY-MM-DD)	Intellectual Property Authority or Country

Publication Information:

☐ Request Early Publication (Fee required at time of Request 37 CFR 1.219)

☐ **Request Not to Publish.** I hereby request that the attached application not be published under 35 U.S.C. 122(b) and certify that the invention disclosed in the attached application **has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.

Representative Information:

Representative information should be provided for all practitioners having a power of attorney in the application. Providing this information in the Application Data Sheet does not constitute a power of attorney in the application (see 37 CFR 1.32).
Either enter Customer Number or complete the Representative Name section below. If both sections are completed the customer Number will be used for the Representative Information during processing.

Please Select One:	◉ Customer Number	○ US Patent Practitioner	○ Limited Recognition (37 CFR 11.9)
Customer Number	80680		

Domestic Benefit/National Stage Information:

This section allows for the applicant to either claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) or indicate National Stage entry from a PCT application. Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78.
When referring to the current application, please leave the application number blank.

Prior Application Status			Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)

Additional Domestic Benefit/National Stage Data may be generated within this form by selecting the **Add** button.

Foreign Priority Information:

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	11-002009-02
	Application Number	
Title of Invention	Container	

This section allows for the applicant to claim priority to a foreign application. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(d). When priority is claimed to a foreign application that is eligible for retrieval under the priority document exchange program (PDX)[i] the information will be used by the Office to automatically attempt retrieval pursuant to 37 CFR 1.55(h)(1) and (2). Under the PDX program, applicant bears the ultimate responsibility for ensuring that a copy of the foreign application is received by the Office from the participating foreign intellectual property office, or a certified copy of the foreign priority application is filed, within the time period specified in 37 CFR 1.55(g)(1).

Remove

Application Number	Country[i]	Filing Date (YYYY-MM-DD)	Access Code[i] (if applicable)

Additional Foreign Priority Data may be generated within this form by selecting the **Add** button.

Statement under 37 CFR 1.55 or 1.78 for AIA (First Inventor to File) Transition Applications

☐ This application (1) claims priority to or the benefit of an application filed before March 16, 2013 and (2) also contains, or contained at any time, a claim to a claimed invention that has an effective filing date on or after March 16, 2013.
NOTE: By providing this statement under 37 CFR 1.55 or 1.78, this application, with a filing date on or after March 16, 2013, will be examined under the first inventor to file provisions of the AIA.

Authorization to Permit Access:

☐ Authorization to Permit Access to the Instant Application by the Participating Offices

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	11-002009-02
	Application Number	
Title of Invention	Container	

If checked, the undersigned hereby grants the USPTO authority to provide the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the World Intellectual Property Office (WIPO), and any other intellectual property offices in which a foreign application claiming priority to the instant patent application is filed access to the instant patent application. See 37 CFR 1.14(c) and (h). This box should not be checked if the applicant does not wish the EPO, JPO, KIPO, WIPO, or other intellectual property office in which a foreign application claiming priority to the instant patent application is filed to have access to the instant patent application.

In accordance with 37 CFR 1.14(h)(3), access will be provided to a copy of the instant patent application with respect to: 1) the instant patent application-as-filed; 2) any foreign application to which the instant patent application claims priority under 35 U.S.C. 119(a)-(d) if a copy of the foreign application that satisfies the certified copy requirement of 37 CFR 1.55 has been filed in the instant patent application; and 3) any U.S. application-as-filed from which benefit is sought in the instant patent application.

In accordance with 37 CFR 1.14(c), access may be provided to information concerning the date o f filing this Authorization.

Applicant Information:

Providing assignment information in this section does not substitute for compliance with any requirement of part 3 of Title 37 of CFR to have an assignment recorded by the Office.

Applicant 1

If the applicant is the inventor (or the remaining joint inventor or inventors under 37 CFR 1.45), this section should not be completed. The information to be provided in this section is the name and address of the legal representative who is the applicant under 37 CFR 1.43; or the name and address of the assignee, person to whom the inventor is under an obligation to assign the invention, or person who otherwise shows sufficient proprietary interest in the matter who is the applicant under 37 CFR 1.46. If the applicant is an applicant under 37 CFR 1.46 (assignee, person to whom the inventor is obligated to assign, or person who otherwise shows sufficient proprietary interest) together with one or more joint inventors, then the joint inventor or inventors who are also the applicant should be identified in this section.

Clear

◯ Assignee	◯ Legal Representative under 35 U.S.C. 117	◯ Joint Inventor
◯ Person to whom the inventor is obligated to assign.	◯ Person who shows sufficient proprietary interest	

If applicant is the legal representative, indicate the authority to file the patent application, the inventor is:

Name of the Deceased or Legally Incapacitated Inventor :

If the Applicant is an Organization check here. ☐

Prefix	**Given Name**	Middle Name	**Family Name**	Suffix

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	11-002009-02
	Application Number	
Title of Invention	Container	

Mailing Address Information For Applicant:			
Address 1			
Address 2			
City		**State/Province**	
Country		Postal Code	
Phone Number		Fax Number	
Email Address			

Additional Applicant Data may be generated within this form by selecting the Add button.

Assignee Information including Non-Applicant Assignee Information:

Providing assignment information in this section does not subsitute for compliance with any requirement of part 3 of Title 37 of CFR to have an assignment recorded by the Office.

Assignee 1

Complete this section if assignee information, including non-applicant assignee information, is desired to be included on the patent application publication . An assignee-applicant identified in the "Applicant Information" section will appear on the patent application publication as an applicant. For an assignee-applicant, complete this section only if identification as an assignee is also desired on the patent application publication.

If the Assignee or Non-Applicant Assignee is an Organization check here. ☐

Prefix	**Given Name**	Middle Name	**Family Name**	Suffix

Mailing Address Information For Assignee including Non-Applicant Assignee:			
Address 1			
Address 2			
City		**State/Province**	
Country		Postal Code	
Phone Number		Fax Number	
Email Address			

Additional Assignee or Non-Applicant Assignee Data may be generated within this form by selecting the Add button.

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	11-002009-02
	Application Number	
Title of Invention	Container	

Signature:

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications.					
Signature	/John T. Wilson/			Date (YYYY-MM-DD)	2017-11-09
First Name	John	Last Name	Wilson	Registration Number	61411
Additional Signature may be generated within this form by selecting the Add button.					

This collection of information is required by 37 CFR 1.76. 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 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet 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.**

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 C o o p eration 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 Acknowledgement Receipt	
EFS ID:	30900295
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	John T. Wilson/Jessica Jack
Filer Authorized By:	John T. Wilson
Attorney Docket Number:	11-002009-02
Receipt Date:	09-NOV-2017
Filing Date:	19-APR-2010
Time Stamp:	11:34:20
Application Type:	Utility under 35 USC 111(a)

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	Application Data Sheet	ADS.pdf	55998 4e553f9073f3c58597a1d3c83f74c156071ff6bf	no	7

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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/30EFS (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

Application Number	12/762,934	Filing Date	2010-04-19	Docket Number (if applicable)	11-002009-02	Art Unit	3781
First Named Inventor	Merrilee Kick			Examiner Name	Castillo, Kevin Charles		

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 _____

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 _____

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

PTO/SB/30EFS (07-09)
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Signature of Registered U.S. Patent Practitioner			
Signature	/John T. Wilson/	Date (YYYY-MM-DD)	2018-04-27
Name	John T. Wilson	Registration Number	61411

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.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

RESPONSE TO FINAL OFFICE ACTION AND ADVISORY ACTION AND REQUEST FOR CONTINUED EXAMINATION

This Request for Continues Examination is in response to the Examiner's Final Office Action. Applicant received a Final Office Action, mailed on November 3, 2017, for which a shortened statutory response period was set to expire on February 3, 2018. Accordingly, Applicant requests a three-month extension to respond such that the response deadline will now be May 3, 2018.

The petition to extend the time to respond for 3 months, until May 3, 2018, and the fees for a three-month extension are herein enclosed.

The Applicant herein requests the continued examination of the present application and encloses the required fee. The applicant herein requests the Office withdraw the finality of the office action and requests that the amendments filed herewith will be entered and considered.

In response to the Non-Final Office Action mailed on November 3, 2017, Applicant has prepared these remarks. The Examiner has rejected Claims 1, 3-7, and 9-10. Please amend the above-identified application as follows.

CLAIMS: Amendments to the Claims begin on Page 2 of this Response.

REMARKS/ARGUMENTS: Remarks and Arguments begin on Page 4 of this Response.

AMENDMENTS TO THE CLAIMS

Please file amendments for Claim 1. The amendments to this application contain no new matter. This listing of claims will replace all prior versions and listings of claims in the application.

Listing of Claims:

1. (CURRENTLY AMENDED) A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a substantially-flat container bottom wall containing at least one petaloid depression and extending across a cross-sectional diameter of the bottom of said container body, and a substantially flat lid containing a pull top arm for opening said lid, wherein the interior of said container body is a truncated spherical shape.

2. (CANCELED)

3. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein an upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein a cross-sectional diameter of a top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body.

4. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 3, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.

5. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.

6. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than a cross-sectional diameter at any point along said container side wall.

7. (PREVIOUSLY PRESENTED) A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.

8. (CANCELED)

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (PREVIOUSLY PRESENTED) A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.

11. (WITHDRAWN)

REMARKS/ARGUMENTS

The pending claims remaining in the Application are Claims 1, 3-7, 9, and 10. The Examiner rejected all pending claims in the Final Office Action mailed on November 3, 2017. Specifically, the Examiner rejected Claims 3, 4, and 6 under 35 U.S.C. §112; Claims 1, 3, 4, and 6 under 35 U.S.C. §102 as being anticipated by *Turnbough* (U.S. Patent No. 6,793,094); and Claims 1, 4-7, 9, and 10 under 35 U.S.C. §102 as being anticipated by *Hermann* (U.S. Patent No. 2,745,642).

Applicant submits that this amended claim 1 does not present any new matter but more accurately and clearly describe the features of the invention described in the originally-filed patent application. Accordingly, Applicant has properly amended the claim and respectfully submits that the Application is now in condition for allowance, as fully explained in the remarks below.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

The Examiner rejected Claims 1, 3-7, 9, and 10 under 35 U.S.C. §112. Specifically, the Examiner suggested Claim 1 fails to particularly point out and distinctly claim the subject matter of the invention because it is "unclear if Applicant intends to claim substantially flat portions of the lid and bottom wall or if substantially flat includes depressions, curved walls, and include depth."[1]

Applicant suggests that the Examiner has incorrectly read the specifications and created an arbitrary lip design-cover not intended by the application. Specifically, Annotated Fig. A. of Examiner's current office action states that the Applicant has a "Vertical Neck of Container: 107". This is incorrect as the Fig. 3 Replacement sheet and the body of the specifications state that 107

[1] *Office Action*, November 11, 2017, ¶4.

is a "Sidewall" of the container and not a vertical neck portion.[2] Further, this arbitrary lip design-cover not intended by the application mistakes 131 as being a "Lip of lid:131"[3] The application clearly states that 131 is a "pop top (or easy-open) lid 131 to provide access to the users of the contents of container body."[4] The specification reads: "The container lid 113 may be formed from metal such as steel, aluminum or other types of metal and may include a weakened (or scored area) 135 which deforms to provide an opening when the 'pull top' arm 133.[5]

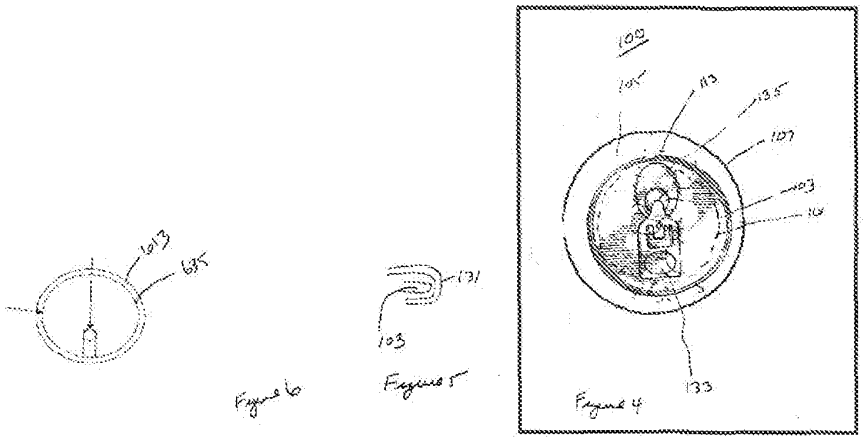
To the extent the Examiner believes the specification teaches are optional additional air-tight lid, such "container lid 113 may extend over the vertical neck 107 and may extend around the lip 103 as illustrated in Figure 5 in order to provide a substantially watertight seal/airtight seal for the contents of the container body."[6] Applicant points out that "vertical neck 107" is a typographical error not support by the rest of the specification and, in fact, should read "vertical neck 101" as clearly supported by the drawings.[7] Claiming an optional method of securing the lid does not make Applicant's claim to a substantially flat pop lid securing the container indefinite.

The specification and Figure 4 clearly illustrate a substantially flat standard pop-top pull lid:[8] "Figure 4. Illustrates a top view of the lids and container body of the present invention." It is evident that Figure 5 and Figure 6 are potential unclaimed alternative configurations of the lid (i.e. different unclaimed embodiments); however, Figure 4 is the basis of the underlying claim 1.

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[2] See Replacement Sheet, Figure 3, Dated May 220, 2010; See *Original Filed Specification*, Page 7, Paragraph 10.
[3] See *Office Action*, November 11, 2017, Annotated Figure 5.
[4] See *Original Filed Specification*, Page 7, Paragraph 1.
[5] See *Original Filed Specification*, Page 10, Paragraph 2.
[6] See *Original Filed Specification*, Page 10, Paragraph 1.
[7] See *Original Filed Drawings*, Fig 1; Fig 2.
[8] See *Original Filed Drawings*, Fig 4; See *Original Filed Specification*, Page 10, Paragraph 2.

For total clarity, Figure 4 is the claimed invention and preferred embodiment - not Figure 5 or Figure 6:



Further, as for the Examiner's arguments as to the bottom wall, the specification clearly states that "The bottom wall may include a multitude of radial extension depressions 115 which may increase in width as the radial distance from the center increases."[9] It is a "bottom wall" that may include protrusions, but necessarily include protrusions, depth, etc. The plain meaning of the word "wall" per Merriam Webster is "a structure that serves to hold back pressure." The protrusions of the bottom wall are part of an alternate, previously unclaimed embodiment.

In response, Applicant has amended Claim 1 to more particularly point out and distinctly claim the subject matter which Applicant would regard as her invention in the event the Examiner continues to have issues with the container wall being substantially flat but shown with a petaloid inwardly protruding base in the drawings.

Amended Claim 1 now reads:

[9] See *Original Filed Specification*, Page 9, Paragraph 2.

"A container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a substantially-flat container bottom wall containing at least one petaloid depression extending across a cross-sectional diameter of the bottom of said container body, and a substantially flat lid containing a pull top arm for opening said lid, wherein the interior of said container body is a truncated spherical shape."

Considering the foregoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §112 have been overcome and respectfully requests the Examiner withdraw the rejection for Applicant's Claim 1 and its dependent claims.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

The Examiner rejected Claims 1, 3, 4, and 6 under 35 U.S.C. §102 as being anticipated by *Turnbough* and Claims 1, 4-7, 9, and 10 under 35 U.S.C. §102 as being anticipated by *Hermann*. Applicant respectfully submits there are significant differences between Applicant's container and the containers presented in *Turnbough* and *Hermann*.

Applicant's amended Claim 1 is the only independent claim upon which all other claims rely. Accordingly, any distinctions between Applicant's amended Claim 1 and the cited references also apply for all other dependent claims in the present application.

CLAIM 1

With respect to Claim 1, the Examiner argues that both *Turnbough* and *Hermann* disclose all the limitations as claimed. Under 35 U.S.C. §102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single

prior art reference."[10] "The identical invention must be shown in as complete detail as is contained in the claim."[11] "Every element of the claimed invention must be literally present, arranged as in the claim."[12] Accordingly, if a reference does not teach each and every element of a claim, either expressly or inherently, that reference does not anticipate the claim under 35 U.S.C. §102.

In response to the Office Action, Applicant has amended independent Claim 1 to more particularly point out and distinctly claim the subject matter of the invention. Applicant respectfully submits neither *Turnbough* nor *Hermann* teach each and every element of Applicant's amended Claim 1.

Further, as stated above, Applicant suggests that the Examiner has incorrectly read the specifications and created an arbitrary lip design-cover not intended by the application. Specifically, Annotated Fig. A. of Examiner's current office action states that the Applicant has a "Vertical Neck of Container: 107". This is incorrect as the Fig. 3 Replacement sheet and the body of the specifications state that 107 is a "Sidewall" of the container and not a vertical neck portion.[13] Further, this arbitrary lip design-cover not intended by the application mistakes 131 as being a "Lip of lid:131"[14] The application clearly states that 131 is a "pop top (or easy-open) lid 131 to provide access to the users of the contents of container body."[15] The specification reads "The container lid 113 may be formed from metal such as steel, aluminum or other types of metal and may include a weakened (or scored area) 135 which deforms to provide an opening when the 'pull top' arm 133."[16]

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[10] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.
[11] *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).
[12] *Id.*
[13] See Replacement Sheet, Figure 3, Dated May 220, 2010; See *Original Filed Specification*, Page 7, Paragraph 10.
[14] See *Office Action*, November 11, 2017, Annotated Figure 5.
[15] See *Original Filed Specification*, Page 7, Paragraph 1.
[16] See *Original Filed Specification*, Page 10, Paragraph 2.

a. *Turnbough* Fails to Teach Each and Every Element of Claim 1

In regards to *Turnbough*, the Examiner appended citations to Applicant's Claim 1 to support his claims:

> "Re Claim 1, *Turnbough* discloses a container for storing a liquid or a solid, comprising a container body [40] having a container side wall substantially convex in both the horizontal and vertical direction [Fig. 5], a container bottom wall [24] extending across a cross-sectional diameter of the bottom of said container body [Fig. 5], and a lid [14], wherein the interior of said container body is a truncated spherical shape [Fig. 5]."[17]

In response, Applicant has amended Claim 1 to more particularly point out and distinctly claim the subject matter of the present invention. Specifically, Applicant has amended Claim 1 to specifically claim a "substantially-flat container bottom wall containing at least one petaloid depression" and a "substantially-flat lid containing a pull top arm for opening said lid." Neither limitation is taught in *Turnbough*.

Further, as stated earlier, since *Turnbough* is aimed at protecting a self-righting container with a weighted base, *Turnbough* specifically teaches that the container bottom wall is rounded so it may be righted if tipped:

> "Container preferably includes a body that includes at least a partially rounded or semi-spherical bottom or base portion."[18]

> "As discussed above, the container has a rounded base. The rounded base allows the container to wobble when placed on a flat surface (not shown). The counterweight is positioned and weighted so that, acting in combination with the container's rounded base, it causes container to self-right when the central axis of the dispenser is at an angle with respect to the vertical axis."[19]

> "If the weight is attached directly to the container, it is preferably shaped so that, in combination with the base, it defines a semi-spherical or rounded surface."[20]

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[17] *Office Action*, April 6, 2017, ¶9.
[18] *Turnbough*, Column 2, Lines 48-50.
[19] *Turnbough*, Column 3, Lines 50-56.
[20] *Turnbough*, Column 3, Lines 64-67.

The Examiner has cited *Turnbough* Fig. 5 and the components therein to support his argument. Although drawings may be used as prior art in an anticipation rejection, "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art."[21] Considering *Turnbough* explicitly teaches a rounded base to enable self-righting in the event of the container tipping, Applicant respectfully continue to suggest that *Turnbough* does not reasonably disclose a substantially-flat container bottom wall with inward petaloid protrusions as taught by Applicant.

Accordingly, Applicant respectfully suggests that *Turnbough* does not teach each and every element of Applicant's Claim 1; and, therefore, Applicant's Claim 1 is not anticipated by *Turnbough*. Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §102. *Turnbough* does not teach a pull top arm for an opening to a lid, *Turnbough* anticipates removable lids.

b. *Hermann* Fails to Teach Each and Every Element of Claim 1

In regards to *Hermann*, the Examiner appended citations to Applicant's Claim 1 to support his claims:

> "Re Claim 1, *Hermann* discloses a container for storing a liquid or a solid, comprising a container body [10] having a container side wall [14] substantially convex in both the horizontal and vertical direction, a container bottom wall [14a] extending across a cross-sectional diameter of the bottom of said container body, and a lid [12], wherein the interior of said container body is a truncated spherical shape [14 is a truncated spherical shape, Fig. 2]"[22]

Applicant respectfully continues to note that the container side wall in Applicant's Claim 1 is one piece extending from the container bottom wall to the lid; however, the "side wall" in *Hermann*, if one exists, *must be comprised of two pieces*. It apparent in Fig 2 [14] that Hermann's

[21] MPEP §2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).
[22] *Office Action*, April 6, 2017, ¶14.

device contains a solid wall and the specification within Hermann's application cannot anticipate a petaloid base. Regardless, Applicant has amended Claim 1 to more particularly point out and distinctly claim the subject matter of the present invention. Specifically, Applicant has amended Claim 1 to specifically claim a "substantially-flat container bottom wall containing at least one petaloid depression" and a "substantially-flat lid containing a pull top arm for opening said lid." Hermann does not teach a pull top arm for an opening to a lid.

Further, as previously suggested, the Examiner claims that *Hermann* Component 12 is the container "lid." Applicant respectfully notes that the *Hermann* specification repeatedly refers to Component 12 as a "receptacle portion."[23] Merriam-Webster dictionary defines a "receptacle" as "one that receives and contains something."[24] Considering a "lid" can neither receive nor contain (in the sense of "holding" an object) anything, Applicant respectfully re-urges and suggests that *Hermann* does not teach having any "lid."

Accordingly, even if the Examiner maintains his contention that *Hermann* Component 12 is a lid, *Hermann* fails to teach a substantially flat lid with a pull top in contrast to Applicant. As such, *Hermann* fails to teach each and every element of Applicant's Claim 1 and therefore does not anticipate Applicant's Claim 1. Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §102.

CONCLUSION

These claims presented by Applicant in this response to Non-Final Office Action do not present any new matter. Accordingly, for all of the above-stated reasons, Applicant submits that the application is now in condition for allowance.

[23] See the *Hermann* Specification, throughout.
[24] https://www.merriam-webster.com/dictionary/receptacle

DATE: April 27, 2018

Respectfully submitted,

/John T. Wilson/
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Electronic Patent Application Fee Transmittal				
Application Number:	12762934			
Filing Date:	19-Apr-2010			
Title of Invention:	Container			
First Named Inventor/Applicant Name:	Merrilee Kick			
Filer:	John T. Wilson/Ana Hillman			
Attorney Docket Number:	11-002009-02			
Filed as Small Entity				
Filing Fees for Utility under 35 USC 111(a)				
Description	**Fee Code**	**Quantity**	**Amount**	**Sub-Total in USD($)**
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
RCE- 2ND AND SUBSEQUENT REQUEST	2820	1	950	950
		Total in USD ($)		**950**

Electronic Acknowledgement Receipt	
EFS ID:	32472360
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	John T. Wilson/Ana Hillman
Filer Authorized By:	John T. Wilson
Attorney Docket Number:	11-002009-02
Receipt Date:	27-APR-2018
Filing Date:	19-APR-2010
Time Stamp:	16:09:09
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$950
RAM confirmation Number	043018INTEFSW16101800
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		RCE_and_amendment.pdf	4191343 c323a952b34bd547b7d62ffb903ddb5971e8215f	yes	14
	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Request for Continued Examination (RCE)		1	2	
	Amendment Submitted/Entered with Filing of CPA/RCE		3	14	
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30390 3868512dd6e61601d77285ea94259127baba7db8	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	4221733		

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New Applications Under 35 U.S.C. 111
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New International Application Filed with the USPTO as a Receiving Office
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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 12/762,934	Filing Date 04/19/2010	☐ 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 **04/27/2018**

	(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))	* 8	Minus	** 20	= 0	X $50 =	0
Independent (37 CFR 1.16(h))	* 1	Minus	***3	= 0	X $230 =	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
ANGELONA JONES

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 06/29/2018

Wilson Legal Group P.C.
16610 Dallas Parkway
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Dallas, TX 75248

EXAMINER	
CASTILLO, KEVIN CHARLES	

ART UNIT	PAPER NUMBER
3781	

NOTIFICATION DATE	DELIVERY MODE
06/29/2018	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):

john@wilsonlegalgroup.com
USPTO@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No. 12/762,934	Applicant(s) KICK, MERRILEE	
	Examiner KEVIN CASTILLO	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 *4/27/2018*.

☐ 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) *1,3-7 and 9-11* is/are pending in the application.

5a) Of the above claim(s) *11* is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) *1,3-7,9 and 10* 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 *11/15/2013* 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: _____.

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

DETAILED ACTION

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the substantially flat bottom wall must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. 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.

3. Claim 1 and its dependent claims are 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.

4. Applicant claims that the bottom wall is substantially flat containing at least one petaloid depression. However, as shown below, Applicant's bottom wall is not substantially flat. It appears that the bottom wall is substantially depressions/protrusions. Therefore, it is unclear if Applicant intends to claim a substantially flat bottom wall or if "substantially flat" includes depressions, curved walls, and include depth, which make up a substantial portion of the bottom wall.

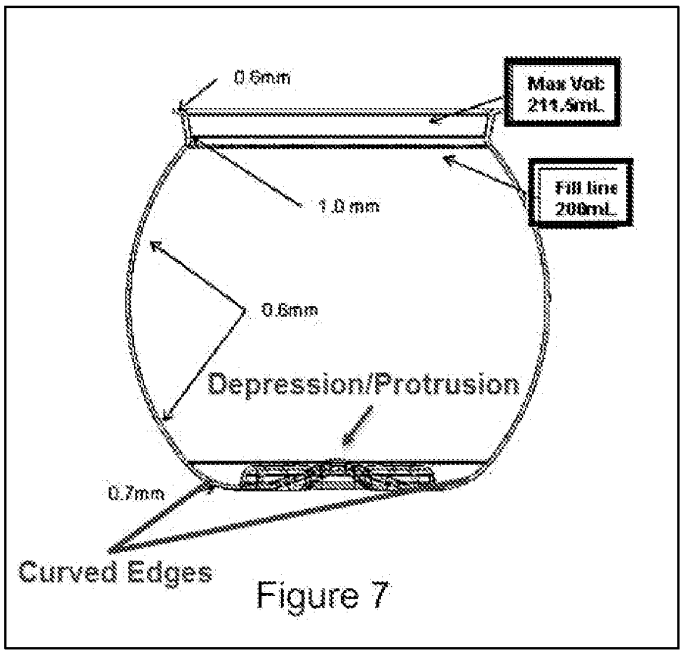


Fig A – Annotated Fig 7 of Applicant's disclosure

3. Claims 5 and 7 are 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. Applicant recites in Claim 1 that the bottom wall contains at least one petaloid depression. However, Claims 5 and 7 recite further depressions. It is unclear if there are additional depression from the at least one petaloid depression or if they are the same depressions.

Claim Rejections - 35 USC § 103

4. 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, 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.

5. Claims 1, 3-7, and 10 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Mascia, Design Patent 254716, in view of Ota, US Patent 5407086.

6. Re Claim 1, Mascia discloses a container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction [as shown in Fig 5, the sidewall is substantially convex in both horizontal and vertical directions], a substantially-flat container bottom wall [flat wall at the bottom of the container, as shown in Fig 5] and extending across a cross-sectional diameter of the bottom of said container body, and a substantially flat lid [as shown in Fig 1 and 2, the lid covers the top of the container] containing a pull top arm [pull top extending from the container, as shown in Fig 1] for opening said lid, wherein the interior of said container body is a truncated spherical shape [as shown in Fig 5].

7. Mascia does not disclose the bottom wall containing at least one petaloid depression. However, Ota discloses a petaloid depression [depressions of 8] at the bottom wall. The depressions are reinforcing ribs to strengthen the bottom wall of the container. Therefore, it would have been obvious to one of ordinary skill in the art to apply depressions to the bottom wall of Mascia to add additional strength to the bottom wall.

8. It is also noted that Applicant's specification is silent to the criticality of applying a petaloid depression to the bottom wall. Additionally, Applicant's specification only states that the bottom "may" include a depression, but is not critical to the invention:

9. The bottom wall 109 may include a multitude of radially extending depressions 115 which may increase in width as the radial distance from the center increases. The depression 115 may be defined by a depression side wall 117 which extends around the periphery of the depression 115. The bottom wall 109 may include a downward extending protrusion 119 which may be centered with respect to the depressions 115 and the bottom wall 109.

10. Therefore, it appears the depressions are intended to be ornamental and, based on Applicant's lack of criticality, lack any structural benefit to the container. MPEP 2144 states that matters relating to ornamentation which have not mechanical function cannot be relied upon to distinguish over the prior art. Thus, in the instant application, the depression of the bottom wall and the petaloid shape are ornamental and cannot be relied upon to distinguish over the prior art.

11. Re Claim 3, Mascia in view of Ota disclose all the limitations substantially as claimed. Mascia further discloses an upper edge of said container body is adjacent to a neck [neck protruding form the body, as shown in Figs 1 and 3]; wherein said neck is adjacent to a lip [edge of the top wall and the neck]; wherein a cross-sectional diameter of a top of said container body is greater than or equal to the cross-sectional diameter of a bottom of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body [as shown in Fig 5; cross sections of the container are equal when moving away in both directions from the center; wherein the top and

bottom cross-sections are equal at equal distances away from the central cross section]; wherein the cross-sectional diameter of said top of said container body is less than a cross sectional diameter of the middle of said container body [as shown in Fig 5, the top cross section is less than the cross sectional diameter of the middle of the container body].

12. Re Claim 4, Mascia in view of Ota disclose all the limitations substantially as claimed. Mascia further discloses said container body includes an opening to the interior of said container body positioned within the interior boundaries of the lip [Fig 2 shows the opening within the boundaries of the lip, as the invention is a beverage container].

13. Re Claim 5, Mascia in view of Ota disclose all the limitations substantially as claimed. Ota further discloses said container bottom wall including at least one protrusion and a series of depressions, wherein a depression side wall lies between said depression within said protrusion [protrusions shown in Figs 1 and 2, wherein side walls lie between the depressions of 8 within the protrusion 7].

14. Re Claim 6, Mascia in view of Ota disclose all the limitations substantially as claimed. Mascia further discloses said container bottom wall is of a smaller diameter than a cross-sectional diameter at any point along said container sidewall [as shown in Fig 5, the diameter of the bottom wall is smaller than any other cross-sectional diameter at any point along said container side wall, as the bottom wall is seated inside the container side walls].

15. Re Claim 7, Mascia in view of Ota disclose all the limitations substantially as claimed. Ota further discloses at least one radial extending depression and a center

depression within said protrusion [depression 8 extends radially and Fig 1 shows 7 having a center depression extending further within the protrusion].

16. Re Claim 10, Mascia in view of Ota disclose all the limitations substantially as claimed. Mascia further discloses the lid is positioned within the interior edges of said lip [as shown in Fig 2 the lid is within the interior edges of the lip].

17. Claim 9 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Mascia and Ota, as applied to Claim 1, in further view of Seiferth, US Patent 3314569

18. Re Claim 9, Mascia in view of Ota disclose all the limitations substantially as claimed. Mascia in view of Ota does not disclose said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal. However, Seiferth discloses the lid 22 made of aluminum [Col 2, Lines 28-30]. Therefore, it would have been obvious to one of ordinary skill in the art to recognize using aluminum to make the lid of Mascia. Furthermore, MPEP 2144 states that materials known to be used in the same field of invention would have been obvious to one of ordinary skill in the art. In the instant application, although Mascia is silent to the material being used, Seiferth discloses that aluminum is used.

Response to Arguments

19. Applicant's arguments filed 4/27/2018 with respect to the indefiniteness of the bottom wall have been fully considered but they are not persuasive. Applicant recites that the bottom wall is substantially flat. However, it appears that the bottom wall is not substantially flat, but rather substantially made of depressions and/or protrusions.

Therefore, although understood that a substantially flat wall may have depressions and protrusions, when the depressions and protrusions encompass move of the wall, the wall is no longer 'substantially' flat.

20. Applicant's arguments with respect to the prior art rejections have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN CASTILLO whose telephone number is (571)270-7623. The examiner can normally be reached on Monday - Thursday 9:00AM - 5:00 PM.

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.

/K. C./
Examiner, Art Unit 3781

/ANDREW T KIRSCH/

Primary Examiner, Art Unit 3781

Notice of References Cited	Application/Control No. 12/762,934	Applicant(s)/Patent Under Reexamination KICK, MERRILEE	
	Examiner KEVIN CASTILLO	Art Unit 3781	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	CPC Classification	US Classification
*	A	US-D254,716 S	04-1980	Mascia; Carmen T.		D9/518
*	B	US-5,407,086 A	04-1995	Ota; Akiho	B65D1/0223	215/370
*	C	US-3,314,569 A	04-1967	SEIFERTH OSCAR E	B65D17/4012	220/270
	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	CPC Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

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

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

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	Art Unit
	KEVIN CASTILLO	3781

CPC- SEARCHED		
Symbol	Date	Examiner
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	5/31/2015	KC

CPC COMBINATION SETS - SEARCHED		
Symbol	Date	Examiner

US CLASSIFICATION SEARCHED			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/08/2015	KC
d9	518	6/22/2018	KC

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

SEARCH NOTES		
Search Notes	Date	Examiner
Inventor Name Search	6/22/2018	KC
Backward/Forward Search	6/22/2018	KC
Text Search	6/22/2018	KC

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

/K.C./ Examiner.Art Unit 3781	

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L40	956	tin and pull adj tab	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 10:07
L39	4890	tin and pull and tab	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 10:05
L38	59	("20030222047" | "20040195199" | "20080245757" | "3496652" | "4108324" | "4598831" | "5407086" | "6585123" | "7004342" | "7178684" | "D212525" | "D487697" | "D509742" | "D534803" | "D548091" | "D554523" | "D561043" | "D570217").PN. OR ("D596489").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 09:01
L37	74	("3292840" | "3494515" | "D039207" | "D049555" | "D110640" | "D112545" | "D163390" | "D207843" | "D235246" | "D243648").PN. OR ("D254716").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 08:42
L36	22	("3391847" | "3401825" | "3715051" | "D027891" | "D095243" | "D103993" | "D203851" | "D224515" | "D249640").PN. OR ("D253635").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 08:38
L35	153	(d9/518).CCLS.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 08:33
L33	59	("20030222047" | "20040195199" | "20080245757" | "3496652" | "4108324" | "4598831" | "5407086" | "6585123" | "7004342" | "7178684" | "D212525" | "D487697" | "D509742" | "D534803" | "D548091" | "D554523" | "D561043" | "D570217").PN. OR ("D596489").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 08:30
L32	59	("2541065" | "3043461" | "3403804" | "3598270").PN. OR ("3759410").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 08:24
L30	78	("D224516").URPN.	USPAT	OR	OFF	2018/06/22 08:22
L29	26	("6574883" | "D049555" | "D106034" | "D224516" | "D352898" | "D383646" | "D448666" | "D562685" | "D565413" | "D596489" | "D606404" | "D606405" | "D612732" | "D614971" | "D634635").PN. OR ("D703068").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 08:20
L27	95	("D212525" | "D224516" | "D234251" | "D235184" | "D401152" | "D412118" | "D485182" | "D491288" | "D512917" | "D525129" | "D532306" | "D533783").PN. OR ("D562685").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 08:06
S96	28	("6574883" | "D049555" | "D106034" | "D224516" | "D352898" | "D383646" |	US-PGPUB; USPAT;	OR	OFF	2018/06/22 05:53

		"D448666" | "D512917" | "D562685" | "D565413" | "D596489" | "D606404" | "D606405" | "D612732" | "D614971" | "D634635" | "D650280" | "D663619" | "D675528" | "D699578" | "D701767" | "D703068" | "D704567" | "D711247").PN. OR ("D739267").URPN.	USOCR			
S95	1	("7051892").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 05:51
S94	7	((("Kick") near3 ("Merrilee"))).INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 05:47
S93	17248	round and plastic near10 container	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 05:46
S92	18487	round and can and tab and pull	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 05:07
S91	59814	round and can and tab	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/22 05:06
S90	36	("3685685" | "4102467" | "4880129" | "4890759" | "4948006" | "5217737" | "5234126" | "6520362" | "6612451" | "7055713" | "D491288" | "D537366" | "D542153" | "D559120" | "D562685" | "D580790" | "D596957" | "D614971" | "D624438").PN. OR ("D632590").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 16:05
S89	78	("3191797" | "3632461" | "3747797" | "3812002" | "4212409" | "4267937" | "4332332" | "4403710" | "4428494" | "4434908" | "4438850" | "4448324" | "4465205" | "4501375" | "4513876" | "4533063" | "4562936" | "4605142" | "4712706" | "4735336").PN. OR ("4890759").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 16:04
S88	1128	S86 and S87	USPAT	OR	OFF	2018/06/13 15:56
S87	131479	("220").CLAS.	USPAT; USOCR	OR	OFF	2018/06/13 15:56
S86	12047	plastic and (soda or beverage) and (pull tab) and (container receptacle)	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 15:56
S85	17044	plastic and (soda or beverage) and (pull tab)	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 15:56
S84	85060	plastic and (soda or beverage) and can	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 15:52
S83	43383	plastic and soda and can	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 15:52
S82	55	("0464121" | "1651023" | "1715757" | "2766796" | "3367484" | "3561668" | "4266698").PN. OR ("5064073").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 15:43
S81	1310	S79 and S80	USPAT	OR	OFF	2018/06/13 15:34

S80	131479	("220").CLAS.	USPAT; USOCR	OR	OFF	2018/06/13 15:34
S79	66115	spher$4 and container	USPAT	OR	OFF	2018/06/13 15:34
S78	6	("20140061328" | "3281024" | "5638982" | "7051892" | "7731053").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 15:32
S77	11	("20110253720" | "D368311" | "D368312" | "D401270" | "D476899" | "D510525" | "D630946" | "D674243" | "D703068" | "D739267" | "D772709").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 15:31
S76	55	("0464121" | "1651023" | "1715757" | "2766796" | "3367484" | "3561668" | "4266698").PN. OR ("5064073").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2018/06/13 15:25
S75	0	(07/557198).APP.	US-PGPUB; USOCR	OR	OFF	2018/06/13 15:25
S74	412	spher$4 and container and pull near2 (tab arm)	USPAT	OR	OFF	2018/06/13 15:21
S73	24	("6574883" | "D106034" | "D224516" | "D352898" | "D383646" | "D448666" | "D049555" | "D512917" | "D562685" | "D565413" | "D596489" | "D606404" | "D606405" | "D612732" | "D614971" | "D634635" | "D650280" | "D663619" | "D675528" | "D699578" | "D701767" | "D703068" | "D704567" | "D711247").PN.	USPAT	OR	OFF	2018/06/13 15:18
S72	1286	glass and jar and pull	USPAT	OR	OFF	2018/06/13 15:04
S71	24	("6574883" | "D106034" | "D224516" | "D352898" | "D383646" | "D448666" | "D049555" | "D512917" | "D562685" | "D565413" | "D596489" | "D606404" | "D606405" | "D612732" | "D614971" | "D634635" | "D650280" | "D663619" | "D675528" | "D699578" | "D701767" | "D703068" | "D704567" | "D711247").PN.	USPAT	OR	OFF	2018/06/13 14:59
S70	15	("6574883" | "D106034" | "D224516" | "D352898" | "D383646" | "D448666" | "D049555" | "D562685" | "D565413" | "D596489" | "D606404" | "D606405" | "D612732" | "D614971" | "D634635").PN.	USPAT	OR	OFF	2018/06/13 14:58
S69	4	b65d2501/00	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2017/03/31 11:48
S68	0	b65d2501/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2017/03/31 11:48

S67	0	b65d2501/14	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/31 11:48
S66	0	b65d2501/24	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/31 11:47
S65	1	b65d2501/0009	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/31 11:47
S64	33	("D069766" | "D253455" | "D254957" | "D256332").PN. OR ("D280707").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/27 17:41
S63	45	("2745642").URPN.	USPAT	OR	OFF	2017/03/27 17:07
S62	1289	("0179416" | "0262232" | "0472133" | "0519486" | "0524894" | "0685832" | "0730337" | "0784950" | "0911051" | "1070516" | "1128076" | "1141625" | "1341826" | "1345594" | "1419314" | "1434831" | "1446158" | "1518823" | "1527897" | "1746869" | "1954568" | "1997291" | "20010015340" | "20020033397" | "20040065635" | "20040094558" | "2014236" | "2060504" | "2086631" | "2090749" | "2092728" | "2098823" | "2150835" | "2163330" | "2175735" | "2254168" | "2311397" | "2341092" | "2366214" | "2406380" | "2423708" | "2457421" | "2529536" | "2541065" | "2549644" | "2601767" | "2606708" | "2745642" | "2760665" | "2784512" | "2816548" | "2832496" | "2917766" | "2943386" | "2953170" | "3000022" | "3038627" | "3043461" | "3056525" | "3112837" | "3137748" | "3142433" | "3158283" | "3170590" | "3173574" | "3198861" | "3258115" | "3285408" | "3286902" | "3289874" | "3297194" | "3333723" | "3344646" | "3383006" | "3403804" | "3417892" | "3419176" | "3425382" | "3434637" | "3441172" | "3448775" | "3461699" | "3468443" | "3498908" | "3511401" | "3520010" | "3534883" | "3537498" | "3553419" | "3556338" | "3563408" | "3565339" | "3592885" | "3598270" | "3613938" | "3643829" | "3655153" | "3659741" | "3706140" | "3718229" | "3720339" | "3721365" | "3722725" | "3722726" | "3727783" | "3727840" | "3732909" | "3745150" | "3757978" | "3759410" | "3759416" | "3773208" | "3778214" | "3786667" | "3803275" | "3804289" | "3809284" | "3811393" | "3811588" | "3814277" | "3817676" | "3827595" | "3849530").PN. OR ("3858756" | "3865531" | "3870181" | "3871541" | "3871544" | "3878963" | "3881621" | "3883036" | "3900120" | "3910414" | "3917095" | "3926324" | "3926341" | "3929252" | "3935955" | "3940008" | "3942670" | "3944115" |	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/27 16:59

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S61	81	("0179416" | "0524894" | "0730337" | "1070516" | "1518823" | "20010015340" | "20020033397" | "2014236" | "2090749" | "2150835" | "2163330" | "2175735" | "2311397" | "2366214" | "2601767" | "2760665" | "2816548" | "2953170" | "3112837" | "3289874" | "3990596" | "4096966" | "4782670" | "4799636" | "4930645" | "5016845" | "5076463" | "5082115" | "5088948" | "5108686" | "5294018" | "5467877" | "5476881" | "5509549" | "5531338" | "5653732" | "5673806" | "5690679" | "5807156" | "5975983" | "6073788" | "6168034" | "D249076" | "D287766").PN. OR ("6793094").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2017/03/27 16:01
S60	5	("3179036" | "7051892" | "4936482" | "7731053").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2017/02/08 13:32
S59	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:10
S58	20	b65d1/14	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:09
S57	0	b65d2501/24	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:08
S56	0	b65d2501/9	US-PGPUB; USPAT;	OR	OFF	2015/05/31 18:08

			USOCR; EPO; JPO			
S55	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 18:08
S54	1	("7731053").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 17:49
S53	1	("7051892").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/05/31 17:28
S52	1162	S50 and S51	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 15:00
S51	198088	sphere	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 14:59
S50	155270	("220").CLAS.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2015/01/08 14:59
S49	18	("20020033397" | "20040094558" | "2341092" | "2457421" | "3706140" | "4058209" | "4221293" | "5097947" | "5372269" | "6244464" | "6457604" | "6464078" | "6783033" | "6793094" | "7451890").PN. OR ("7731053").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2015/01/07 13:51
S48	1	("8738101").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2014/07/22 11:11
S47	1	("7051892").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2014/07/22 10:38
S46	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S45	385	b65d1/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S44	0	b65d2501/00	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S43	0	b65d2501/24	US-PGPUB;	OR	OFF	2013/12/05

			USPAT; USOCR; FPRS; EPO; JPO; DERWENT			16:07
S42	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:07
S41	472937	b65d	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S40	0	b65d2501/9	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S39	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S38	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:06
S37	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:05
S36	0	b65d2501/0009	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 16:05
S35	385	b65d1/14	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:08
S34	1142	b65d1/12	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:07
S33	656	b65d1/10	US-PGPUB;	OR	OFF	2013/12/05

			USPAT; USOCR; FPRS; EPO; JPO; DERWENT			14:06
S32	4	b65d1/165	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/12/05 14:05
S31	2	("7780025").PN.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 15:40
S30	788	spher$5 and S19 and plastic and container and mold$4	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S29	317	spher$5 and S19 and plastic and container and mold	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:53
S28	1351	spher$5 and S19 and plastic and container	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:52
S27	1960	spher$5 and S19 and plastic	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S26	14	spher$5 and S19 and (blow$mold or blowmold)	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S25	479	spher$5 and S19 and blow	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S24	4444	spher$5 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:51
S23	2116	spher$5 and S21	US-PGPUB;	OR	OFF	2013/01/31

			USPAT; USOCR; FPRS; EPO; JPO; DERWENT			14:50
S22	47	S19 and S21	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:50
S21	2116	sphere and blow and mold	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:49
S20	38	S18 and S19	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:49
S19	149406	("220").CLAS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:48
S18	844	sphere and blow and mold and container	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 14:48
S17	69	("0179416" | "0524894" | "0730337" | "1070516" | "1518823" | "20010015340" | "20020033397" | "2014236" | "2090749" | "2150835" | "2163330" | "2175735" | "2311397" | "2366214" | "2601767" | "2760665" | "2816548" | "2953170" | "3112837" | "3289874" | "3990596" | "4096966" | "4782670" | "4799636" | "4930645" | "5016845" | "5076463" | "5082115" | "5088948" | "5108686" | "5294018" | "5467877" | "5476881" | "5509549" | "5531338" | "5653732" | "5673806" | "5690679" | "5807156" | "5975983" | "6073788" | "6168034" | "D249076" | "D287766").PN. OR ("6793094").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/01/31 14:17
S16	301	("0179416" | "0228002" | "0497878" | "0524894" | "0668705" | "0672282" | "0730337" | "0836555" | "0979261" | "1070516" | "1500917" | "1518823" | "20010015340" | "20020033397" | "20040089774" | "20040094558" | "20080011914" | "2014236" | "2090749" | "2143436" | "2150835" | "2163330" | "2175735" | "2215988" | "2311397" | "2341092" | "2366214" | "2457421" | "2544114" | "2601767" | "2738225" |	US-PGPUB; USPAT; USOCR	OR	OFF	2013/01/31 13:48

		"2748952" | "2760665" | "2774627" | "2789750" | "2816548" | "2914216" | "2941309" | "2953170" | "2998896" | "3112837" | "3130862" | "3145840" | "3215311" | "3269528" | "3289874" | "3327688" | "3442692" | "3704777" | "3704991" | "3706140" | "3731415" | "3750868" | "3776413" | "3933300" | "3990596" | "4047637" | "4058209" | "4096966" | "4221293" | "4457483" | "4491232" | "4700883" | "4711367" | "4782670" | "4795117" | "4796780" | "4799636" | "4817311" | "4846394" | "4892223" | "4928412" | "4928823" | "4930645" | "4941590" | "4955496" | "4979325" | "4986417" | "5016845" | "5052578" | "5056679" | "5076463" | "5078300" | "5082115" | "5088948" | "5096080" | "5096091" | "5097947" | "5108686" | "5196988" | "5205407" | "5251783" | "5294018" | "5351858" | "5372269" | "5467877" | "5476881" | "5509549" | "5520307" | "5531338" | "5653732" | "5673806" | "5690679" | "5807156" | "5894948" | "5938058" | "5975983" | "6073788" | "6155411" | "6168034" | "6216856" | "6244464" | "6253918" | "6457604" | "6464078" | "6783033" | "6793094" | "7731053" | "D249076" | "D287766" | "D323352" | "D401149" | "D409486").PN. OR ("D441914").PN. OR ("2002/0033397" | "2004/0094558" | "2341092" | "2457421" | "3706140" | "4058209" | "4221293" | "5097947" | "5372269" | "6244464" | "6457604" | "6464078" | "6783033" | "6793094" | "7451890" | "D628746").URPN.				
S15	18	("20020033397" | "20040094558" | "2341092" | "2457421" | "3706140" | "4058209" | "4221293" | "5097947" | "5372269" | "6244464" | "6457604" | "6464078" | "6783033" | "6793094" | "7451890").PN. OR ("7731053").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/01/31 13:46
S14	76	S10 and S13	USPAT	OR	OFF	2013/01/31 13:43
S13	1121	sphere and container and lid	USPAT	OR	OFF	2013/01/31 13:43
S12	9	("3419173").URPN.	USPAT	OR	OFF	2013/01/31 13:27
S11	294	S9 and S10	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 13:20
S10	149406	("220").CLAS.	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 13:20

S9	14662	sphere and container and body	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT	OR	OFF	2013/01/31 13:20
S8	684	("0685832" | "0784950" | "1128076" | "1345594" | "1419314" | "1434831" | "1446158" | "1527897" | "1746869" | "1954568" | "1997291" | "2060504" | "2254168" | "2406380" | "2423708" | "2541065" | "2832496" | "2943386" | "3038627" | "3043461" | "3056525" | "3137748" | "3142433" | "3158283" | "3170590" | "3173574" | "3198861" | "3286902" | "3297194" | "3333723" | "3344646" | "3383006" | "3403804" | "3419176" | "3425382" | "3441172" | "3448775" | "3461699" | "3468443" | "3511401" | "3534883" | "3537498" | "3553419" | "3556338" | "3563408" | "3598270" | "3613938" | "3643829" | "3655153" | "3659741" | "3718229" | "3720339" | "3721365" | "3722725" | "3722726" | "3727783" | "3732909" | "3745150" | "3757978" | "3759410" | "3759416" | "3773208" | "3778214" | "3786667" | "3803275" | "3804289" | "3809284" | "3811393" | "3811588" | "3814277" | "3849530" | "3858756" | "3870181" | "3871541" | "3871544" | "3878963" | "3881621" | "3883036" | "3910414" | "3917095" | "3926324" | "3926341" | "3929252" | "3935955" | "3940008" | "3942670" | "3944115" | "3948404" | "3949877" | "3954178" | "3973693" | "3977561" | "3979015" | "4013187" | "4015744" | "4024975" | "4024981" | "4040372" | "4046282" | "4051951" | "4054229" | "4061243" | "4079857" | "4083468" | "4090004" | "4108324" | "4134510" | "4141463" | "4148410" | "4177239" | "4177930" | "4184607" | "4194645" | "4205760" | "4210257" | "4211335" | "4215792" | "4219124" | "4219127" | "4220254" | "4228916" | "4247012" | "4249667" | "4254882" | "4256240").PN. OR ("4261948" | "4262815" | "4267144" | "4276993" | "4294366" | "4296871" | "4301933" | "4311238" | "4318489" | "4318493" | "4330579" | "4334627" | "4334631" | "4335821" | "4344546" | "4352435" | "4355728" | "4359165" | "4361251" | "4363404" | "4363419" | "4366696" | "4368825" | "4376493" | "4380304" | "4386715" | "4387827" | "4387828" | "4403706" | "4416374" | "4421247" | "4428498" | "4429805" | "4436216" | "4446969" | "4465199" | "4465204" | "4467929" | "4496064" | "4497855" | "4502607" | "4512700" | "4520943" | "4525401" | "4550043" | "4579170" | "4597502" | "4598831" |	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/23 11:17

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S7	860	(220/669).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/22 18:44
S6	780	(220/269).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/22 17:31
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S4	422	(220/608).CCLS.	US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT	OR	OFF	2011/09/21 18:47
S3	0	((MERRI LEE) near2 (KICK)).INV.	EPO; JPO; DERWENT	OR	OFF	2011/09/21 18:47
S2	0	((MERRI LEE) near2 (KICK)).INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/21 18:47
S1	0	((MERRI LEE) near2 (KICK)).INV.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/09/21 18:46

6/22/2018 10:34:36 AM
H:\EAST\Workspaces\12762934.wsp

Index of Claims	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12762934	KICK, MERRILEE
	Examiner	**Art Unit**
	KEVIN CASTILLO	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	10/19/2017	06/22/2018	08/07/2013	12/05/2013	04/05/2014	07/22/2014	01/08/2015	05/31/2015	03/27/2017
	1	✓	✓	✓	✓	✓	✓	✓	✓	✓
	2	N	-	-	-	-	-	-	-	-
	3	✓	✓	✓	✓	✓	✓	✓	✓	✓
	4	✓	✓	✓	✓	✓	-	✓	✓	✓
	5	✓	✓	✓	✓	✓	✓	✓	✓	✓
	6	✓	✓	✓	✓	✓	✓	✓	✓	✓
	7	✓	✓	✓	✓	✓	✓	✓	✓	✓
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	9	✓	✓	✓	✓	✓	✓	✓	✓	✓
	10	✓	✓	✓	✓	✓	✓	✓	✓	✓
	11	✓	N	N	N	N	N	N	N	N

Electronic Patent Application Fee Transmittal					
Application Number:	12762934				
Filing Date:	19-Apr-2010				
Title of Invention:	Container				
First Named Inventor/Applicant Name:	Merrilee Kick				
Filer:	John T. Wilson/Ana Hillman				
Attorney Docket Number:	11-002009-02				
Filed as Small Entity					
Filing Fees for Utility under 35 USC 111(a)					
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:	34702278
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	John T. Wilson/Ana Hillman
Filer Authorized By:	John T. Wilson
Attorney Docket Number:	11-002009-02
Receipt Date:	27-DEC-2018
Filing Date:	19-APR-2010
Time Stamp:	13:03:16
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$700
RAM confirmation Number	122718INTEFSW13065600
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	Applicant Arguments/Remarks Made in an Amendment	Rsp_to_OA.pdf	2135383 cb4972ad1182f78e42722b58903c5cce9fa534ab	no	7
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	29989 ad6a240c2acef8e1a7bb9dce2170a337b1164833	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	2165372		

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Kick, Merrilee	Art Unit	:	3781
Serial No.	:	12/762,934	Examiner	:	Castillo, Kevin Charles
Filed	:	April 19, 2010			
Title	:	Container			

RESPONSE TO NON-FINAL OFFICE ACTION

In response to the Non-Final Office Action mailed on June 29, 2018, Applicant has prepared these remarks. The Examiner has rejected Claims 1, 3-7, and 9-10. Please amend the above-identified application as follows.

CLAIMS: Amendments to the Claims begin on Page 2 of this Response.

REMARKS/ARGUMENTS: Remarks and Arguments begin on Page 4 of this Response.

AMENDMENTS TO THE CLAIMS

Please file amendments for Claim 1. Claims 3, 4, 5, 6, 7 and 10 are hereby cancelled. The amendments to this application contain no new matter. This listing of claims will replace all prior versions and listings of claims in the application.

Listing of Claims:

1. (CURRENTLY AMENDED) A blow molded resin container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a ~~substantially flat~~ flat container bottom wall containing at least one depression ~~petaloid depression and~~ extending across a cross-sectional diameter of the bottom of said container body, ~~and a substantially flat lid containing a pull top arm for opening said lid~~, wherein the interior of said container body is a truncated spherical shape, wherein a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body, wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body, wherein said container bottom wall is of a smaller diameter than a cross-sectional diameter at any point along said container side wall, wherein an upper edge of said container body is adjacent to a neck, wherein said neck is adjacent to a lip, and wherein said container body includes an opening to the interior of said container body within a substantially flat lid positioned within the interior boundaries of said lip.

2. (CANCELED)

3. (CANCELED) ~~A container for storing a liquid or solid as in Claim 1, wherein an upper edge of said container body is adjacent to a neck; wherein said neck is adjacent to a lip; wherein a~~

~~cross-sectional diameter of a top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body; wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body.~~

4. (CANCELED) ~~A container for storing a liquid or a solid as in Claim 3, wherein said container body includes an opening to the interior of said container body positioned within the interior boundaries of said lip.~~

5. (CANCELED) ~~A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one protrusion and a series of depressions, wherein a depression side wall lies between said depressions and within said protrusion.~~

6. (CANCELED) ~~A container for storing a liquid or solid as in Claim 1, wherein said container bottom wall is of a smaller diameter than a cross-sectional diameter at any point along said container side wall.~~

7. (CANCELED) ~~A container for storing a liquid or a solid as in Claim 1, wherein said container bottom wall includes at least one radial extending depression and a center depression within said protrusion.~~

8. (CANCELED)

9. (PREVIOUSLY PRESENTED) A container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal.

10. (CANCELED) ~~A container for storing a liquid as in Claim 9, wherein said lid is positioned within the interior edges of said lip.~~

11. (WITHDRAWN)

REMARKS/ARGUMENTS

The pending claims remaining in the Application are Claims 1 and 9. The Examiner rejected all pending claims in the Office Action mailed on June 29, 2018. Specifically, the Examiner rejected Claims 1 and all claims dependent therefrom under 35 U.S.C. §112; Claims 1, 3-7, 9 and 10 under 35 U.S.C. §102 as being unpatentable over *Mascia* (U.S. Design Patent No. 254,716) in view of *Ota* (U.S. Patent No. 5,407,086).

Applicant submits that these amended claims do not present any new matter but more accurately and clearly describe the features of the invention described in the originally-filed patent application. Accordingly, Applicant has properly amended the claims and respectfully submits that the Application is now in condition for allowance, as fully explained in the remarks below.

CLAIM REJECTINOS UNDER 35 U.S.C. §112

The Examiner rejected Claim 1 under 35 U.S.C. §112. Specifically, the Examiner suggested Claim 1 creates an ambiguity as to whether the bottom wall is substantially flat and/or contains at least one petaloid depression. In response, Applicant has amended Claim 1 to more particularly point out and distinctly claim the subject matter which Applicant regards as her invention:

> "Claim 1: A blow molded resin container for storing a liquid or a solid, comprising a container body having a container side wall substantially convex in both the horizontal and vertical direction, a flat container bottom wall containing at least one depression extending across a cross-sectional diameter of the bottom of said container body, wherein the interior of said container body is a truncated spherical shape, wherein a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the

bottom of said container body, wherein the cross-sectional diameter of said top of said container body is less than a cross-sectional diameter of the middle of said container body, wherein said container bottom wall is of a smaller diameter than a cross-sectional diameter at any point along said container side wall, wherein an upper edge of said container body is adjacent to a neck, wherein said neck is adjacent to a lip, and wherein said container body includes an opening to the interior of said container body within a substantially flat lid positioned within the interior boundaries of said lip."

Considering the foregoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §112 has been overcome and respectfully requests the Examiner withdraw the rejection for Applicant's Claim 1 and any remaining dependent claims therefrom.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Examiner rejected Claims 1, 3-7, and 10 under 35 U.S.C. §103 as being unpatentable over *Mascia* (U.S. Design Patent No. 254,716) in view of *Ota* (U.S. Patent No. 5,407,086).

Applicant's amended Claim 1 is the only independent claim upon which all other claims rely. Accordingly, any distinctions between Applicant's Claim 1 and the cited references also apply for all other dependent claims in the present application.

CLAIM 1

With respect to Claim 1, the Examiner argues that *Mascia* (U.S. Design Patent No. 254,716) in view of *Ota* (U.S. Patent No. 5,407,086) disclose all the limitations as claimed either directly or indirectly under a under 35 U.S.C. §103 analysis or 35 U.S.C. §102 analysis. "[A] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."[1] "The identical invention must

[1] *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

be shown in as complete detail as is contained in the claim."[2] "Every element of the claimed invention must be literally present, arranged as in the claim."[3] Accordingly, if a reference does not teach each and every element of a claim, either expressly or inherently, that reference does not anticipate the claim under 35 U.S.C. §102. Moreover, a 35 U.S.C. §103 argument cannot be made given *Mascia* (U.S. Design Patent No. 254,716) in view of *Ota* (U.S. Patent No. 5,407,086) fail to even support even a minimal 35 U.S.C. §102 challenge.

In response to the Office Action, Applicant has amended independent Claim 1 to more particularly point out and distinctly claim the subject matter of the invention. Applicant respectfully submits *Mascia* (U.S. Design Patent No. 254,716) in view of *Ota* (U.S. Patent No. 5,407,086 does not and cannot teach, suggest or imply any element of Applicant's amended Claim 1.

The Examiner has cited *Mascia's* ornamental drawings and the components therein to support his argument. Although drawings may be used as prior art in an anticipation rejection, "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art."[4]

Accordingly, Applicant respectfully suggests that *Mascia* in view of *Ota* does not teach, suggest or imply any element of Applicant's Claim 1; and, therefore, Applicant's Claim 1 is not anticipated. Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §103.

Applicant respectfully notes that the container side wall in Applicant's Claim 1 is one piece extending from the container bottom wall to the lid; however, the "side wall" in *Mascia*, if one

[2] *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).
[3] *Id.*
[4] MPEP §2125 (citing *In re Aslanian*, 590 F.2d 911, 200 USPQ 500 (CCPA 1979)).

exists, must be comprised of two pieces. Regardless, Applicant has amended Claim 1 to more particularly point out and distinctly claim the subject matter of the present invention.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Examiner rejected Claim 9 under 35 U.S.C. §103 as being unpatentable over *Mascia* (U.S. Design Patent No. 254,716) in view of *Ota* (U.S. Patent No. 5,407,086), in view of *Seiferth* (U.S. Patent No. 3,314,569)

As stated, Applicant respectfully suggests that *Mascia* in view of *Ota* does not teach, suggest or imply each and every element of Applicant's Claim 1; and, therefore, Applicant's Claim 1 is not anticipated. Further, the addition of *Seiferth* in view of *Ota* and *Mascia* is no longer applicable or relevant. Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §103.

CONCLUSION

These claims presented by Applicant in this response to Non-Final Office Action do not present any new matter. Accordingly, for all of the above-stated reasons, Applicant submits that the application is now in condition for allowance.

DATE: December 27, 2018

Respectfully submitted,

/John T. Wilson/
John T. Wilson
Reg. No. 61,411

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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 12/762,934	Filing Date 04/19/2010	☐ 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 **12/27/2018**

	(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))	* 6	Minus	** 20	= 0	X $50 =	0
Independent (37 CFR 1.16(h))	* 0	Minus	***3	= 0	X $230 =	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
ERNEST A. MARFO

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.
12/762,934	04/19/2010	Merrilee Kick	11-002009-02	4521

80680 7590 05/14/2019

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EXAMINER	
POOS, MADISON LYNN	

ART UNIT	PAPER NUMBER
3733	

NOTIFICATION DATE	DELIVERY MODE
05/14/2019	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):

USPTO@wilsonlegalgroup.com
john@wilsonlegalgroup.com

PTOL-90A (Rev. 04/07)

Office Action Summary	**Application No.** 12/762,934	**Applicant(s)** Kick, Merrilee	
	Examiner MADISON L POOS	**Art Unit** 3733	**AIA (FITF) 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 12/27/2018.

☐ 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 and 9 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 and 9 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: _____.

0DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Claim Rejections - 35 USC § 103

2. 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, 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.

3. Claim 1 is/are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. Des. 254,716 to Mascia et al. ("Mascia") in view of U.S. Patent No. 3,314,569 to Seiferth et al. ("Seiferth").

As to claim 1, Mascia teaches a blow molded resin container for storing a liquid or a solid, comprising a container body (Fig. 5) having a container side wall (sidewall, Fig. 5) substantially convex in both the horizontal and vertical direction (Fig. 5), a flat container bottom wall (bottom wall, Fig. 5) containing at least one depression extending across a cross-sectional diameter of the bottom of said container body (bottom wall extends into container as seen in Fig. 5), wherein the interior of said container body is a truncated spherical shape (Fig. 5), wherein a cross-sectional diameter of the top of said container body is greater than or equal to the cross-sectional diameter of the bottom of said container body (Fig. 5), wherein the cross-sectional diameter of said top of said container body is less

than a cross-sectional diameter of the middle of said container body (Fig. 5), wherein said container bottom wall is of a smaller diameter than a cross-sectional diameter at any point along said container side wall wherein an upper edge of said container body is adjacent to a neck (Fig. 5), wherein said neck is adjacent to a lip (Fig. 5), but does not teach wherein said container body includes an opening to the interior of said container body within a substantially flat lid positioned within the interior boundaries of said lip.

Seiferth teaches wherein said container body (container 11) includes an opening (Fig. 4 where the opening of 11 is covered by end closure 12) to the interior of said container body within a substantially flat lid (end closure 12) positioned within the interior boundaries of said lip (conventional seam 13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the closure of Seiferth with the container as taught by Mascia to provide a closure panel for a container (Seiferth, col. 1, lines 31-32).

As to claim 9, Mascia modified by Seiferth teaches a container for storing a liquid or solid as in Claim 1, wherein said lid is constructed of a material selected from the group consisting of: aluminum, tin, and metal, as taught by Seiferth. Seiferth teaches an end closure 12 that is formed of a light gauge metal, for example aluminum (col. 1, lines 68-69).

Response to Arguments

4. Applicant's arguments filed 12/27/2018 have been fully considered but they are not persuasive. As to the argument that the references do not teach each and every element of claim 1, since all the claimed elements were known in the prior art and one

skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art. (KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 415-421, 82 USPQ2d 1385).

5. In response to applicant's arguments, the recitation a blow molded resin has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the container side wall is one piece extending from the container bottom wall to the lid) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. 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.

8. 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 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MADISON LYNN POOS whose telephone number is (571)270-7427. The examiner can normally be reached on Mon-Thus 10-3 EST.

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.

/M.L.P/
Examiner, Art Unit 3733

/JAMES N SMALLEY/
Examiner, Art Unit 3733

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12/762,934	Kick, Merrilee
	Examiner	**Art Unit**
	MADISON L POOS	3733

CPC - Searched*		
Symbol	**Date**	**Examiner**
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	5/31/2015	KC

CPC Combination Sets - Searched*		
Symbol	**Date**	**Examiner**

US Classification - Searched*			
Class	**Subclass**	**Date**	**Examiner**
220	608, 269, 669	1/08/2015	KC
d9	518	6/22/2018	KC

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	**Date**	**Examiner**
Inventor Name Search	6/22/2018	KC
Backward/Forward Search	6/22/2018	KC
Text Search	6/22/2018	KC
See EAST Search History	05/08/2019	MLP

Interference Search			
US Class/CPC Symbol	**US Subclass/CPC Group**	**Date**	**Examiner**

	/MADISON L POOS/ Examiner, Art Unit 3733

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S1	529	220/608.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 11:59
S2	550	b65d1/165.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 11:59
S3	1285	b65d17/4012.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 11:59
S4	289	b65d1/16.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 11:59
S5	905	220/269.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S6	1085	220/669.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S7	12	b65d2501/0009.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S8	1	b65d2501/24.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S9	0	b65d2501/14.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S10	7	b65d2501/00.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S11	78	b65d1/14.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S12	264	b65d1/12.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00

S13	188	b65d1/10.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:01
S14	153	d9/518.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:01
S15	12	("3179036" | "7051892" | "6793094" | "4936482" | "3314569" | "D254716" | "7731053" | "2745642" | "5407086").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:02
S16	6	kick-merrilee.in.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:02
S17	6	("20140061328" | "3281024" | "5638982" | "7051892" | "7731053").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:45
S18	837642	spherical$6 or spheroid$6	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:17
S19	158369	"220".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:18
S20	4320	S18 and S19	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:18
S21	299	trucat$3	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:19
S22	23	S21 and S18	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:19

5/8/2019 11:21:25 AM
C:\Users\mwright3\Documents\EAST\Workspaces\12762934.wsp

PTO/SB/81 (01-09)
Approved for use through 03/31/2021. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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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	12/762,934
Filing Date	04-19-2010
First Named Inventor	Merrilee Kick
Title	Container
Art Unit	3733
Examiner Name	POOS, MADISON LYNN
Attorney Docket Number	58822.5US01

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint Practitioner(s) associated with the following Customer Number as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith: 27683

OR

☐ I hereby appoint Practitioner(s) named below as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith:

Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

☒ The address associated with the above-mentioned Customer Number.

OR

☐ The address associated with Customer Number:

OR

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

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____

SIGNATURE of Applicant or Assignee of Record

Signature	Merrilee Kick	Date	9/19/2019
Name	Merrilee Kick	Telephone	972-242-3777
Title and Company	CEO, BuzzBallz, LLC		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 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:	37223681
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Alan Herda/Ellen Lovelace
Filer Authorized By:	Alan Herda
Attorney Docket Number:	11-002009-02
Receipt Date:	20-SEP-2019
Filing Date:	19-APR-2010
Time Stamp:	11:09:35
Application Type:	Utility under 35 USC 111(a)

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	58822-5US01-POA.pdf	96651 313e5a27a20b153c934497a20a5d69835ed62db2	no	1

Warnings:

Information:	
Total Files Size (in bytes):	96651

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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/81 (01-09)
Approved for use through 03/31/2021. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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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	12/762,934
Filing Date	04-19-2010
First Named Inventor	Merrilee Kick
Title	Container
Art Unit	3733
Examiner Name	POOS, MADISON LYNN
Attorney Docket Number	58822.5US01

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

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OR

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Practitioner(s) Name	Registration Number

Please recognize or change the correspondence address for the above-identified application to:

☒ The address associated with the above-mentioned Customer Number.

OR

☐ The address associated with Customer Number:

OR

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

I am the:

☒ Applicant/Inventor.

OR

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) (Form PTO/SB/96) submitted herewith or filed on _____

SIGNATURE of Applicant or Assignee of Record

Signature	Merrilee Kick	Date	9/19/2019
Name	Merrilee Kick	Telephone	972-242-3777
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*.

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

Electronic Acknowledgement Receipt	
EFS ID:	37268194
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	80680
Filer:	Alan Herda/Leslie Austin
Filer Authorized By:	Alan Herda
Attorney Docket Number:	11-002009-02
Receipt Date:	25-SEP-2019
Filing Date:	19-APR-2010
Time Stamp:	11:48:57
Application Type:	Utility under 35 USC 111(a)

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	POA58822.pdf	97635 b926dbcbccb4aa5d0d6acdbf0b6d315024e0a4fa	no	1
Warnings:					

Information:	
Total Files Size (in bytes):	97635

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
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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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/762,934	04/19/2010	Merrilee Kick	11-002009-02

CONFIRMATION NO. 4521

IMPROPER CPOA LETTER

80680
Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

OC000000111372448

Date Mailed: 09/25/2019

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the power of attorney filed 09/20/2019. The power of attorney in this application is not accepted for the reason(s) listed below:

- The power of attorney is from an assignee and the statement required by 37 CFR 3.73(c) has not been received.

/ltaba/

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

27683
HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219
UNITED STATES

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
12/762,934	04/19/2010	Merrilee Kick	11-002009-02

CONFIRMATION NO. 4521

POWER OF ATTORNEY NOTICE

80680
Wilson Legal Group P.C.
16610 Dallas Parkway
Suite 1000
Dallas, TX 75248

OC000000111511057

Date Mailed: 09/30/2019

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2019.

- 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**.

/sleutchit/

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
12/762,934	04/19/2010	Merrilee Kick	11-002009-02

CONFIRMATION NO. 4521

27683
HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

POA ACCEPTANCE LETTER

OC000000111511068

Date Mailed: 09/30/2019

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2019.

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**.

/sleutchit/

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 12/762,934	Filing Date 04/19/2010	☐ 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 $26 =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	*		x $110 =	
☐ 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)			
AMENDMENT	10/11/2019	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	* 4	Minus	** 20	= 0		x $50 =	0
	Independent (37 CFR 1.16(h))	* 1	Minus	*** 3	= 0		x $230 =	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)			
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA		RATE ($)	ADDITIONAL FEE ($)
	Total (37 CFR 1.16(i))	*	Minus	**	=		x $0 =	
	Independent (37 CFR 1.16(h))	*	Minus	***	=		x $0 =	
	☐ 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.	LIE
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".	/THUY T TA/
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".	
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.	

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

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

PTO/SB/30EFS (02-18)
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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	12762934	Filing Date	2010-04-19	Docket Number (if applicable)	58822.5US01	Art Unit	3733
First Named Inventor	Merrilee Kick			Examiner Name	Madison Lynn Poos		

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 _____

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 081394

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

X Patent Practitioner Signature

Applicant Signature

PTO/SB/30EFS (02-18)
Approved for use through 11/30/2020. 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	/ALAN N. HERDA/	Date (YYYY-MM-DD)	2019-10-11
Name	ALAN N. HERDA	Registration Number	50426

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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Merrilee Kick	§ § §	Group Art Unit: 3733
Application No.: 12/762,934	§ § §	Examiner: Madison Lynn Poos
Filing Date: April 19, 2010	§ § §	Confirmation No.: 4521
For: CONTAINER	§ § §	Attorney Docket No.: 58822.5US01

RESPONSE AND SUBMISSION UNDER 37 CFR § 1.114

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

I. Introductory Comments

This document is submitted as a Submission to accompany a Request for Continued Examination ("RCE") pursuant to 37 CFR §1.114.

A two-month extension of time is hereby requested. Fees for the RCE and the two-month extension of time have been provided for by credit card separately but concurrently herewith for consideration of this document. If any additional fees, including extension-of-time fees, are necessary, the extension of time is hereby requested, and the Commissioner is hereby authorized to charge any fees, including those for the extension of time, to Haynes and Boone, LLP's Deposit Account No. 08-1394.

Amendments to the Claims begin on page 2 of this document.

Remarks begin on page 5 of this document.

II. Amendments to the Claims

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. (Currently Amended) A ~~blow molded resin~~ container ~~for storing a liquid or a solid~~, the container comprising a container body, ~~having~~ the container body comprising a container side wall substantially convex in both the horizontal and vertical direction, ~~a flat container bottom wall containing at least one depression extending across a cross-sectional diameter of the bottom of said container body,~~ the container body further comprising a horizontally-extending base connected to the container side wall, wherein the container side wall and the horizontally-extending base are shaped so that an [[the]] interior of said container body [[is]] has a truncated spherical shape, wherein a cross-sectional diameter of [[the]] a top portion of said container body ~~is greater than or equal to the cross-sectional diameter of the bottom of said container body, wherein the cross-sectional diameter of said top of said container body~~ is less than a cross-sectional diameter of [[the]] a middle portion of said container body, wherein ~~said container bottom wall is of a smaller~~ the horizontally-extending base defines a diameter ~~than a cross-sectional diameter at any point along said container side wall~~ that is less than the cross-sectional diameter of the middle portion of said container body, wherein the container body further comprises a circular neck extending vertically from the container side wall so that the container side wall extends between the circular neck and the horizontally-extending base, wherein an upper edge of said container ~~body~~ side wall is adjacent to [[a]] the circular neck of the container body, wherein the container body further comprises a lip at the end of the circular neck opposite the upper edge of said container side wall, wherein said circular neck is adjacent to [[a]] the lip, and wherein said container body ~~includes~~ defines an opening to the interior of said container body ~~within a substantially flat lid positioned within the interior boundaries of said lip.~~;

wherein the cross-sectional diameter of the top portion of said container body is defined by the circular neck;

wherein the cross-sectional diameter of the middle portion of said container body is defined by the container side wall;

wherein the container body is made out of a resin;

wherein the container body is formed using a blow molding process;

wherein the container side wall extends uninterruptedly between the circular neck and the horizontally-extending base;

wherein the container further comprises a lid connected to the container body and covering the opening to the interior of said container body;

wherein the lid is made out of a metal;

wherein a first portion of the lid extends on the lip of the container body;

wherein a second portion of the lid extends horizontally and is vertically offset from the first portion of the lid so that the second portion is located vertically between the first portion of the lid and the horizontally-extending base of the container body;

wherein the second portion of the lid comprises a weakened or scored area;

wherein the lid further comprises an arm connected to the second portion of the lid, the arm comprising an aperture to facilitate pivoting of the arm by a user;

and

wherein the arm is pivotable from a first position, in which the arm extends horizontally and the weakened or scored area is not deformed, to a second position, in which the arm does not extend horizontally and the weakened or scored area is deformed to provide an opening to the interior of said container body.

2-11 (Canceled)

12. (New) The container of claim 1, wherein the metal is aluminum.

13. (New) The container of claim 1, wherein the resin is a polyethylene terephthalate (PET) resin.

14. (New) The container of 1, wherein the base comprises a bottom wall and a depression formed therein.

III. Remarks

A. Status of the Application

Claims 1, 9, and 11 were previously pending, with claim 11 being withdrawn from consideration.

Claims 9 and 11 have been canceled without prejudice or disclaimer.

Claim 1 has been amended.

Claims 12-14 have been added.

As a result, claims 1 and 12-14 pending.

Favorable consideration of this application is respectfully requested.

B. Rejection Under Pre-AIA 35 U.S.C. §103(a)

Claims 1 and 9 stand rejected under pre-AIA 35 U.S.C. §103(a) over U.S. Patent No. Des. 254,716 to Mascia et al. ("Mascia") in view of U.S. Patent No. 3,314,569 to Seiferth et al. ("Seiferth"). Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

Claim 1, as amended, recites:

> A container, the container comprising a container body, the container body comprising a container side wall substantially convex in both the horizontal and vertical direction, the container body further comprising a horizontally-extending base connected to the container side wall, wherein the container side wall and the horizontally-extending base are shaped so that an interior of said container body has a truncated spherical shape, wherein a cross-sectional diameter of a top portion of said container body is less than a cross-sectional diameter of a middle portion of said container body, wherein the horizontally-extending base defines a diameter that is less than the cross-sectional diameter of the middle portion of said container body, wherein the container body further comprises a circular neck extending vertically from the container side wall so that the container side wall extends between the circular

neck and the horizontally-extending base, wherein an upper edge of said container side wall is adjacent to the circular neck of the container body, wherein the container body further comprises a lip at the end of the circular neck opposite the upper edge of said container side wall, wherein said circular neck is adjacent to the lip, and wherein said container body defines an opening to the interior of said container body;

wherein the cross-sectional diameter of the top portion of said container body is defined by the circular neck;

wherein the cross-sectional diameter of the middle portion of said container body is defined by the container side wall;

wherein the container body is made out of a resin;

wherein the container body is formed using a blow molding process;

wherein the container side wall extends uninterruptedly between the circular neck and the horizontally-extending base;

wherein the container further comprises a lid connected to the container body and covering the opening to the interior of said container body;

wherein the lid is made out of a metal;

wherein a first portion of the lid extends on the lip of the container body;

wherein a second portion of the lid extends horizontally and is vertically offset from the first portion of the lid so that the second portion is located vertically between the first portion of the lid and the horizontally-extending base of the container body;

wherein the second portion of the lid comprises a weakened or scored area;

wherein the lid further comprises an arm connected to the second portion of the lid, the arm comprising an aperture to facilitate pivoting of the arm by a user;

and

wherein the arm is pivotable from a first position, in which the arm extends horizontally and the weakened or scored area is not deformed, to a second position, in which the arm does not extend horizontally and the weakened or scored area is deformed to provide an opening to the interior of said container body.

Pre-AIA 35 U.S.C. §103(a) provides that:

"*[a] patent may not be obtained ... 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 ...*" (emphasis added).

Therefore, when evaluating a claim for determining obviousness, the subject matter of the claim as a whole must be evaluated. However, the cited combination of references fails to disclose the subject matter of amended claim 1, as recited above.

More particularly, Mascia and Seiferth, alone or in any combination, do not disclose, for example, at least the following limitations/elements of amended claim 1, namely a container wherein the container body is made out of a resin, a container wherein the container side wall and the horizontally-extending base are shaped so that an interior of said container body has a truncated spherical shape **and** the container side wall extends uninterruptedly between the circular neck and the horizontally-extending base, and a container wherein the container body is formed using a blow molding process.

Since Mascia and Seiferth, alone or in any combination, do not disclose the subject matter of amended claim 1 as a whole, it is impossible to render the subject matter of amended claim 1 as a whole obvious based on the applied references. Therefore, amended claim 1 is allowable.

As noted above, claim 9 has been canceled without prejudice or disclaimer and thus any rejection thereof is no longer applicable.

For the foregoing reasons, the rejection of claims 1 and 9 under pre-AIA 35 U.S.C. §103(a) over Mascia in view of Seiferth should be withdrawn.

C. New Claims 12-14

Claims 12-14 depend upon and include the subject matter of amended claim 1 and therefore are allowable for at least the same reasons as noted above with respect to amended claim 1.

D. Conclusion

It is believed that all matters set forth in the Office Action mailed May 14, 2019 have been addressed. Applicant has made a diligent effort to advance the prosecution of this application by amending claim 1, canceling claims 9 and 11, adding claims 12-14, and submitting arguments in support of the patentability of claims 1 and 12-14.

In view of the above, the allowance of claims 1 and 12-14 is respectfully requested.

The Examiner is invited to call the undersigned at the below-listed telephone number if a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

/Alan N. Herda/

Alan N. Herda
Registration No. 50,426

Date: October 11, 2019

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219
Direct Telephone: 214-651-5924
IP Facsimile: 214-200-0853

Electronic Patent Application Fee Transmittal					
Application Number:	12762934				
Filing Date:	19-Apr-2010				
Title of Invention:	Container				
First Named Inventor/Applicant Name:	Merrilee Kick				
Filer:	Alan Herda/Ellen Lovelace				
Attorney Docket Number:	58822.5US01				
Filed as Small Entity					
Filing Fees for Utility under 35 USC 111(a)					
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 - 2 months with $0 paid	2252	1	300	300
Miscellaneous:				
RCE- 2ND AND SUBSEQUENT REQUEST	2820	1	950	950
		Total in USD ($)		**1250**

Electronic Acknowledgement Receipt	
EFS ID:	37434306
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	Container
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	27683
Filer:	Alan Herda/Ellen Lovelace
Filer Authorized By:	Alan Herda
Attorney Docket Number:	58822.5US01
Receipt Date:	11-OCT-2019
Filing Date:	19-APR-2010
Time Stamp:	13:40:08
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$1250
RAM confirmation Number	E20190AD40344559
Deposit Account	081394
Authorized User	Ellen Lovelace
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: 37 CFR 1.17 (Patent application and reexamination processing fees) 37 CFR 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)	58822-5US01-RCE.pdf	1349892 8b98e687b034b7d5ad8fa0932af91d24f47a25a1	no	3
Warnings:					
Information:					
2		58822-5US01-Submission.pdf	133165 fd87253bfa49cae2d23fcabf916ddd9ac9b48795	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:					
3	Fee Worksheet (SB06)	fee-info.pdf	32172 d7ae2d498f9300c5adc62001d7086c55467d9255	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	1515229	

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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NOTICE OF ALLOWANCE AND FEE(S) DUE

27683 7590 11/14/2019

HAYNES AND BOONE, LLP
IP Section
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Suite 700
Dallas, TX 75219

EXAMINER
POOS, MADISON LYNN

ART UNIT	PAPER NUMBER
3733	

DATE MAILED: 11/14/2019

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	58822.5US01	4521

TITLE OF INVENTION: CONTAINER

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	$500	$0.00	$0.00	$500	02/14/2020

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

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

HOW TO REPLY TO THIS NOTICE:

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

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

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

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

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

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

IMPORTANT REMINDER: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PTOL-85 (Rev. 02/11)

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (571)-273-2885

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

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

27683 7590 11/14/2019

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

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

Certificate of Mailing or Transmission

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

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	58822.5US01	4521

TITLE OF INVENTION: CONTAINER

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	$500	$0.00	$0.00	$500	02/14/2020

EXAMINER	ART UNIT	CLASS-SUBCLASS
POOS, MADISON LYNN	3733	220-608000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

❑ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

❑ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-09 or more recent) attached. **Use of a Customer Number is required.**

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

1_____
2_____
3_____

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

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). Completion of this form is NOT a substitute for filing an assignment.

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

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

4a. Fees submitted: ❑Issue Fee ❑Publication Fee (if required) ❑Advance Order - # of Copies _____

4b. Method of Payment: *(Please first reapply any previously paid fee shown above)*

❑ Electronic Payment via EFS-Web ❑ Enclosed check ❑ Non-electronic payment by credit card (Attach form PTO-2038)

❑ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

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

❑ Applicant certifying micro entity status. See 37 CFR 1.29

❑ Applicant asserting small entity status. See 37 CFR 1.27

❑ Applicant changing to regular undiscounted fee status.

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.
NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.
NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	58822.5US01	4521

27683 7590 11/14/2019

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

EXAMINER	
POOS, MADISON LYNN	
ART UNIT	**PAPER NUMBER**
3733	

DATE MAILED: 11/14/2019

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

The Office has discontinued providing a Patent Term Adjustment (PTA) calculation with the Notice of Allowance.

Section 1(h)(2) of the AIA Technical Corrections Act amended 35 U.S.C. 154(b)(3)(B)(i) to eliminate the requirement that the Office provide a patent term adjustment determination with the notice of allowance. See Revisions to Patent Term Adjustment, 78 Fed. Reg. 19416, 19417 (Apr. 1, 2013). Therefore, the Office is no longer providing an initial patent term adjustment determination with the notice of allowance. The Office will continue to provide a patent term adjustment determination with the Issue Notification Letter that is mailed to applicant approximately three weeks prior to the issue date of the patent, and will include the patent term adjustment on the patent. Any request for reconsideration of the patent term adjustment determination (or reinstatement of patent term adjustment) should follow the process outlined in 37 CFR 1.705.

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

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

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

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

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

Notice of Allowability	Application No. 12/762,934	Applicant(s) Kick, Merrilee	
	Examiner MADISON L POOS	Art Unit 3733	AIA (FITF) Status No

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

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

1. ☑ This communication is responsive to RCE filed 10/11/2019.
   ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

3. ☑ The allowed claim(s) is/are 1 and 12-14 . As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information , please see **http://www.uspto.gov/patents/init_events/pph/index.jsp** or send an inquiry to **PPHfeedback@uspto.gov.**

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

   Certified copies:

   a) ☐All b) ☐ Some *c) ☐ None of the:

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

   * Certified copies not received: _____ .

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

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

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

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

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____.
3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____.
4. ☐ Interview Summary (PTO-413), Paper No./Mail Date. _____.
5. ☐ Examiner's Amendment/Comment
6. ☑ Examiner's Statement of Reasons for Allowance
7. ☐ Other _____.

/MADISON L POOS/ Examiner, Art Unit 3733	/JAMES N SMALLEY/ Examiner, Art Unit 3733

DETAILED ACTION

Notice of Pre-AIA or AIA Status

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

Allowable Subject Matter

2. The following is an examiner's statement of reasons for allowance:

None of the prior art of record is seen to disclose or suggest the limitation of claim 1 that the container side wall and the horizontally-extending base are shaped so that an interior of said container body has a truncated spherical shape; wherein the container body is made out of a resin; wherein the container body is formed using a blow molding process; wherein the container side wall extends uninterruptedly between the circular neck and the horizontally-extending base. For example, the closest reference found, Mascia, teaches a beverage container with a rounded sidewall but does not teach the container side wall and the horizontally-extending base are shaped so that an interior of said container body has a truncated spherical shape; wherein the container body is made out of a resin; wherein the container body is formed using a blow molding process; wherein the container side wall extends uninterruptedly between the circular neck and the horizontally-extending base.

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

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MADISON LYNN POOS whose telephone number is (571)270-7427. The examiner can normally be reached on Mon-Thus 10-3 EST.

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.

/M.L.P/
Examiner, Art Unit 3733

/JAMES N SMALLEY/
Examiner, Art Unit 3733

Search Notes	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12/762,934	Kick, Merrilee
	Examiner	Art Unit
	MADISON L POOS	3733

CPC - Searched*		
Symbol	Date	Examiner
b65d 2501/0009, 2501/24, 2501/14, 2501/00, 1/14, 1/12, 1/10, 1/165	5/31/2015	KC

CPC Combination Sets - Searched*		
Symbol	Date	Examiner

US Classification - Searched*			
Class	Subclass	Date	Examiner
220	608, 269, 669	1/08/2015	KC
d9	518	6/22/2018	KC

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
Inventor Name Search	6/22/2018	KC
Backward/Forward Search	6/22/2018	KC
Text Search	6/22/2018	KC
See EAST Search History	05/08/2019	MLP
See Updated EAST Search History	11/05/2019	MLP

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner
	See EAST Search History	11/05/2019	MLP

	/MADISON L POOS/ Examiner, Art Unit 3733

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12/762,934	Kick, Merrilee
	Examiner	**Art Unit**
	MADISON L POOS	3733

CPC							
Symbol						**Type**	**Version**
B65D	/	1	/	165		F	2013-01-01
B65D	/	17	/	4012		I	2018-01-01
B65D	/	1	/	16		I	2013-01-01

CPC Combination Sets								
Symbol						**Type**	**Set**	**Ranking**	**Version**
	/		/						

/MADISON L POOS/ Examiner, Art Unit 3733	05 November 2019	**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	4	
/JAMES N SMALLEY/ Examiner, Art Unit 3733	08 November 2019	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

U.S. Patent and Trademark Office — Part of Paper No.: 20191105

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12/762,934	Kick, Merrilee
	Examiner	**Art Unit**
	MADISON L POOS	3733

INTERNATIONAL CLASSIFICATION				
CLAIMED				
B65D	/	1	/	16

NON-CLAIMED				
	/		/	

US ORIGINAL CLASSIFICATION	
CLASS	**SUBCLASS**

CROSS REFERENCES(S)						
CLASS	**SUBCLASS (ONE SUBCLASS PER BLOCK)**					

/MADISON L POOS/ Examiner, Art Unit 3733	05 November 2019	**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	4	
/JAMES N SMALLEY/ Examiner, Art Unit 3733	08 November 2019	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

U.S. Patent and Trademark Office — Part of Paper No.: 20191105

Issue Classification	Application/Control No.	Applicant(s)/Patent Under Reexamination
	12/762,934	Kick, Merrilee
	Examiner	**Art Unit**
	MADISON L POOS	3733

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

CLAIMS

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1														
2	12														
3	13														
4	14														

/MADISON L POOS/ Examiner, Art Unit 3733	05 November 2019	**Total Claims Allowed:**	
(Assistant Examiner)	(Date)	4	
/JAMES N SMALLEY/ Examiner, Art Unit 3733	08 November 2019	O.G. Print Claim(s)	O.G. Print Figure
(Primary Examiner)	(Date)	1	1

U.S. Patent and Trademark Office Part of Paper No.: 20191105

EAST Search History

EAST Search History (Interference)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L11	0	(container and body and side and wall and convex and base and spherical and top and diameter and less and middle and portion and circular and neck and upper and edge and opening and lid and metal and arm and aperture).clm.	USPAT	NEAR	OFF	2019/11/05 11:28

11/5/2019 12:19:13 PM
C:\Users\mwright3\Documents\EAST\Workspaces\12762934_RCE_10_30_2019.wsp

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L15	1044	215/382.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/11/05 11:38
S1	529	220/608.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 11:59
S2	550	b65d1/165.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 11:59
S3	1285	b65d17/4012.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 11:59
S4	289	b65d1/16.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 11:59
S5	905	220/269.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S6	1085	220/669.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S7	12	b65d2501/0009.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S8	1	b65d2501/24.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S9	0	b65d2501/14.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S10	7	b65d2501/00.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S11	78	b65d1/14.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00

S12	264	b65d1/12.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:00
S13	188	b65d1/10.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:01
S14	153	d9/518.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:01
S15	12	("3179036" | "7051892" | "6793094" | "4936482" | "3314569" | "D254716" | "7731053" | "2745642" | "5407086").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:02
S16	6	kick-merrilee.in.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:02
S17	6	("20140061328" | "3281024" | "5638982" | "7051892" | "7731053").PN.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 12:45
S18	837642	spherical$6 or spheroid$6	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:17
S19	158369	"220".clas.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:18
S20	4320	S18 and S19	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:18
S21	299	trucat$3	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:19
S22	23	S21 and S18	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/05/01 13:19
S23	528	220/608.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:15
S24	564	b65d1/165.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:15
S25	1354	b65d17/4012.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:15
S26	299	b65d1/16.cpc.	US-PGPUB; USPAT; USOCR;	OR	OFF	2019/10/30 11:15

			EPO; JPO			
S27	906	220/269.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:15
S28	1085	220/669.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:15
S29	14	b65d2501/0009.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:16
S30	1	b65d2501/24.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:16
S31	0	b65d2501/14.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:16
S32	7	b65d2501/00.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:16
S33	79	b65d1/14.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:16
S34	282	b65d1/12.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:16
S35	196	b65d1/10.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:16
S36	154	d9/518.ccls.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 11:16
S38	287	b65d1/20.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 13:09
S39	112	b65d17/02.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 13:19
S40	256	b65d17/28.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 13:22
S41	14	b65d17/34.cpc.	US-PGPUB; USPAT; USOCR; EPO; JPO	OR	OFF	2019/10/30 13:23
S42	294	b65d17/401.cpc.	US-PGPUB;	OR	OFF	2019/10/30

			USPAT; USOCR; EPO; JPO			13:23

11/ 5/ 2019 12:19:01 PM
C:\ Users\ mwright3\ Documents\ EAST\ Workspaces\ 12762934_RCE_10_30_2019.wsp

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	04/19/2010	Merrilee Kick	58822.5US01	4521

27683 7590 01/27/2020
HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

EXAMINER	
POOS, MADISON LYNN	

ART UNIT	PAPER NUMBER
3733	

NOTIFICATION DATE	DELIVERY MODE
01/27/2020	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):

ipdocketing@haynesboone.com

PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Application No. : 12762934
Applicant : Kick
Filing Date : 04/19/2010
Date Mailed : 01/27/2020

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given two (2) months from the mail date of this Notice within which to respond. This time period for reply is extendable under 37 CFR 1.136(a) for only TWO additional MONTHS.

The informalities requiring correction are indicated in the attachment(s). If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR 1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to respond within the above-identified time period will result in the application being ABANDONED.

See attachment(s).

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

/Joanna Black/
Publication Branch
Office of Data Management
(571) 272-4200

Application No. 12762934 **Drawings filed: 06/01/2010**

IDENTIFICATION OF DRAWING DEFICIENCIES

- [ ] There is a hole or the image thereof within the illustration. FIG(s)
- [ ] The illustration is penetrated or traversed by a solid or broken line that is not intended to be part of the drawing, such as a dark line caused by a flaw in the copying process. FIG(s)
- [ ] An ink stamp or the image thereof obscures part of the illustration. FIG(s)
- [ ] The drawing is marred by black smudges, obliterations, or fax/copier marks (for example, speckles or dots in a substantial portion of the drawing). FIG(s)
- [ ] Figure numbers are duplicated or missing. FIG(s)
- [ ] Drawing sheet or figure is missing. FIG(s)
- [ ] Numbers, letters, or reference characters in the drawing have been crossed out or are illegibly handwritten. FIG(s)
- [X] The character of the lines, numbers, and letters is poor. FIG(s) 4 and 6
- [ ] The drawing's background shows that the original drawing was made on graph paper or other paper with a pattern or decoration. FIG(s)
- [ ] The FIG. number label is placed in a location that causes the drawing to be read upside down. FIG(s)
- [X] Data, a reference number, or part of the drawing is truncated or missing, or a lead line has no reference number. FIG(s) 8
- [ ] The drawing and/or the FIG. label contain(s) foreign language. FIG(s)
- [ ] This utility application contains a photograph of a view that is capable of being illustrated as a line drawing. FIG(s)
- [ ] A petition under 37 CFR 1.84(a)(2) to accept color drawings has been granted, but the brief description of the drawings in the specification does not contain (or has not been amended to contain) the paragraph required by 37 CFR 1.84(a)(2)(iii).
- [ ] This reissue application contains added and/or amended drawings that are not labeled as “New” or “Amended” or “Canceled” as required by 37 CFR 1.173(b)(3). FIG(s)
- [ ] This Design reissue application contains a drawing that is labeled as “Canceled” but is not surrounded by brackets, or a drawing that is surrounded by brackets but is not labeled as “Canceled.” See 37 CFR 1.173(b)(3). FIG(s)
- [ ] OTHER:
- [ ] COMMENTS:

Application No. 12762934

IDENTIFICATION OF SPECIFICATION/DRAWING INCONSISTENCIES

☐ On Page of the specification there is a brief description of FIG. , but the drawings filed do not include a drawing with that designation. Applicant must respond either by supplying the omitted drawing or by amending the specification to remove all references to that drawing.

☒ The drawings filed 06/01/2010 include FIG. 7, 8, 9, but the specification's brief description of the drawings does not describe a drawing with that designation. Applicant must respond either by amending the specification to add a brief description of that drawing or by correcting the drawings to remove the drawing in question.

☐ In the utility application, drawings are present in the application and are referred to in the detailed description of the invention, but the specification does not contain a brief description of the several views as required by 37 CFR 1.74 and 37 CFR 1.77(b)(9).

☐ The design application does not contain a description of the figure or figures of the drawing as required by 37 CFR 1.153(a) and 37 CFR 1.154(b)(4).

☐ In the plant application, the specification does not contain a brief description of the drawing as required by 37 CFR 1.163(c)(8).

☐ Page of the specification refers to FIG. , but no drawing with that designation is described in the brief description of the drawings and no drawing with that designation is present in the application. Applicant must respond either by amending the specification to remove all references to that drawing, or by supplying that drawing and amending the specification to add a brief description of it.

☐ In the reissue application, FIG. , is labeled as "New" but is not described in the reissue specification's brief description of the drawings. Applicant must respond by amending the reissue specification's brief description of the drawings to add a brief description of the new drawing.

☐ OTHER:

☐ COMMENTS:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Merrilee Kick	§	Confirmation No.: 4521
Application No.: 12/762,934	§	Group Art Unit: 3733
Filed: April 19, 2010	§	Examiner: Madison Lynn Poos
For: CONTAINER	§	Attorney Docket No.: 58822.5US01

AMENDMENT IN RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS MAILED JANUARY 27, 2020

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

I. Introductory Comments

This document is submitted in response to the Notice to File Corrected Application Papers mailed January 27, 2020.

No fees are believed to be due. If any fees are necessary, the Commissioner is hereby authorized to charge any fees, including those for any extension of time, to Haynes and Boone, LLP's Deposit Account No. 08-1394.

Amendments to the Specification begin on page 2 of this document.

Amendments to the Drawings begin on page 3 of this document.

Remarks begin on page 4 of this document.

II. Amendments to the Specification

In the section entitled "Brief Description of the Drawings," please add the following figure-description paragraphs immediately after the description of Figure 6:

Figure 7 illustrates the thicknesses of the plastic sidewalls, neck, and flange of the rounded container, and the volume of the rounded container.

Figure 8 illustrates the general dimensions of the rounded container in millimeters.

Figure 9 illustrates a bottom view of the rounded container.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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27683 7590 01/27/2020
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EXAMINER	
POOS, MADISON LYNN	

ART UNIT	PAPER NUMBER
3733	

NOTIFICATION DATE	DELIVERY MODE
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ipdocketing@haynesboone.com

PTOL-90A (Rev. 04/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Application No. : 12762934
Applicant : Kick
Filing Date : 04/19/2010
Date Mailed : 01/27/2020

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

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The informalities requiring correction are indicated in the attachment(s). If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR 1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to respond within the above-identified time period will result in the application being ABANDONED.

See attachment(s).

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

/Joanna Black/
Publication Branch
Office of Data Management
(571) 272-4200

Application No. 12762934 **Drawings filed: 06/01/2010**

IDENTIFICATION OF DRAWING DEFICIENCIES

- [ ] There is a hole or the image thereof within the illustration. FIG(s)
- [ ] The illustration is penetrated or traversed by a solid or broken line that is not intended to be part of the drawing, such as a dark line caused by a flaw in the copying process. FIG(s)
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- [ ] The drawing is marred by black smudges, obliterations, or fax/copier marks (for example, speckles or dots in a substantial portion of the drawing). FIG(s)
- [ ] Figure numbers are duplicated or missing. FIG(s)
- [ ] Drawing sheet or figure is missing. FIG(s)
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- [X] The character of the lines, numbers, and letters is poor. FIG(s) 4 and 6
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- [ ] This utility application contains a photograph of a view that is capable of being illustrated as a line drawing. FIG(s)
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- [ ] This Design reissue application contains a drawing that is labeled as “Canceled” but is not surrounded by brackets, or a drawing that is surrounded by brackets but is not labeled as “Canceled.” See 37 CFR 1.173(b)(3). FIG(s)
- [ ] OTHER:
- [ ] COMMENTS:

Application No. 12762934

IDENTIFICATION OF SPECIFICATION/DRAWING INCONSISTENCIES

☐ On Page of the specification there is a brief description of FIG. , but the drawings filed do not include a drawing with that designation. Applicant must respond either by supplying the omitted drawing or by amending the specification to remove all references to that drawing.

☒ The drawings filed 06/01/2010 include FIG. 7, 8, 9, but the specification's brief description of the drawings does not describe a drawing with that designation. Applicant must respond either by amending the specification to add a brief description of that drawing or by correcting the drawings to remove the drawing in question.

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☐ The design application does not contain a description of the figure or figures of the drawing as required by 37 CFR 1.153(a) and 37 CFR 1.154(b)(4).

☐ In the plant application, the specification does not contain a brief description of the drawing as required by 37 CFR 1.163(c)(8).

☐ Page of the specification refers to FIG. , but no drawing with that designation is described in the brief description of the drawings and no drawing with that designation is present in the application. Applicant must respond either by amending the specification to remove all references to that drawing, or by supplying that drawing and amending the specification to add a brief description of it.

☐ In the reissue application, FIG. , is labeled as "New" but is not described in the reissue specification's brief description of the drawings. Applicant must respond by amending the reissue specification's brief description of the drawings to add a brief description of the new drawing.

☐ OTHER:

☐ COMMENTS:

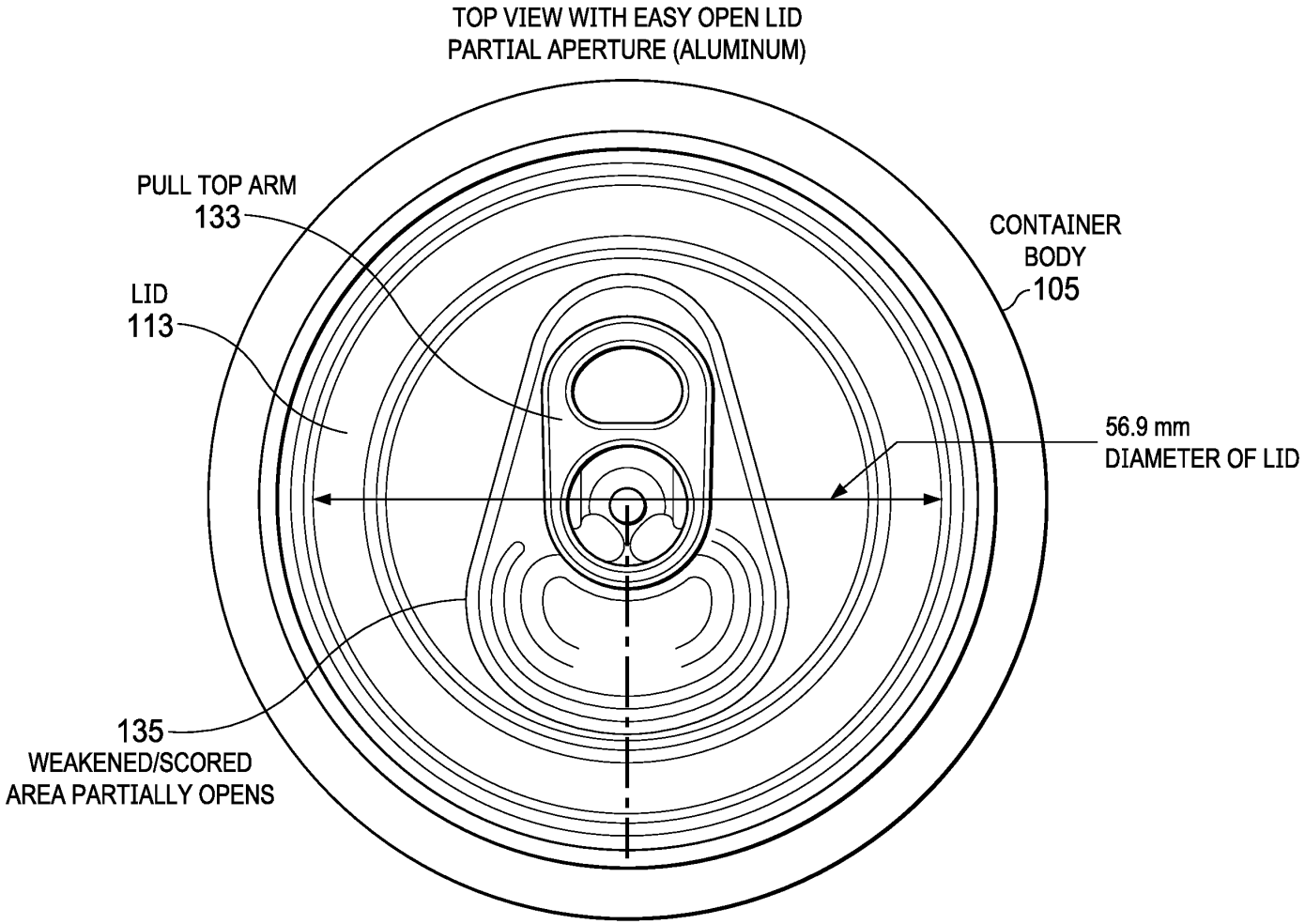

TOP VIEW WITH EASY OPEN LID
PARTIAL APERTURE (ALUMINUM)
PULL TOP ARM
133
LID
113
CONTAINER
BODY
105
56.9 mm
DIAMETER OF LID
135
WEAKENED/SCORED
AREA PARTIALLY OPENS

Figure 4

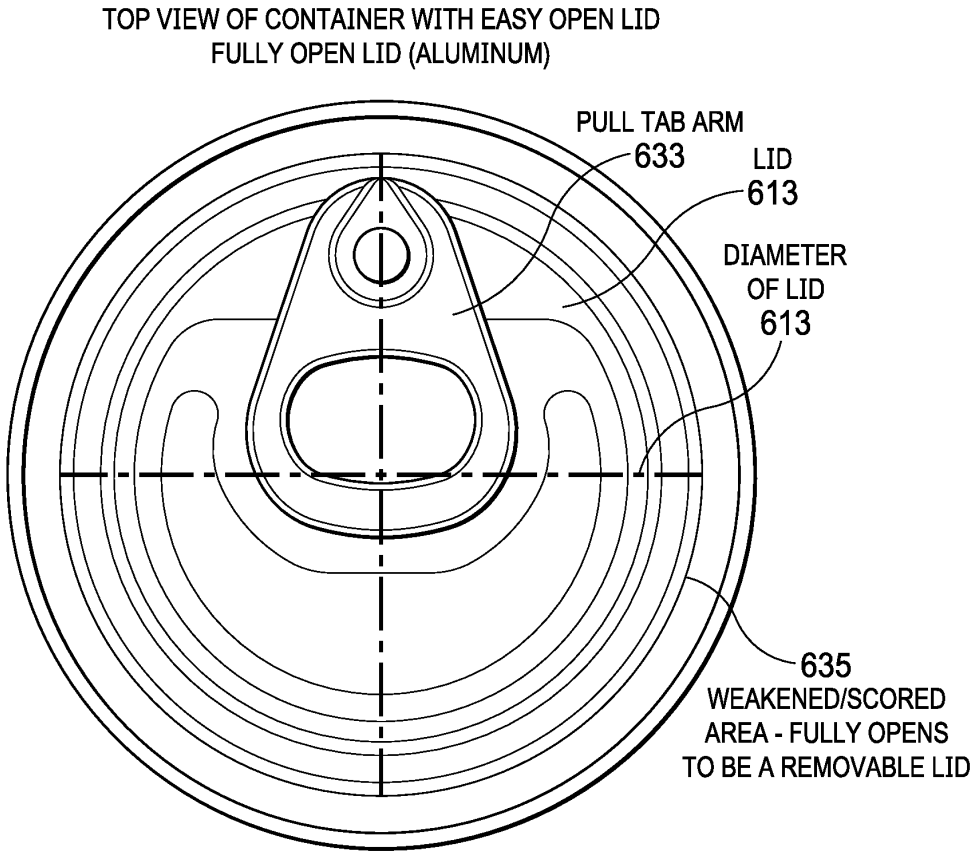

TOP VIEW OF CONTAINER WITH EASY OPEN LID
FULLY OPEN LID (ALUMINUM)
PULL TAB ARM
633
LID
613
DIAMETER
OF LID
613
635
WEAKENED/SCORED
AREA - FULLY OPENS
TO BE A REMOVABLE LID

Figure 6

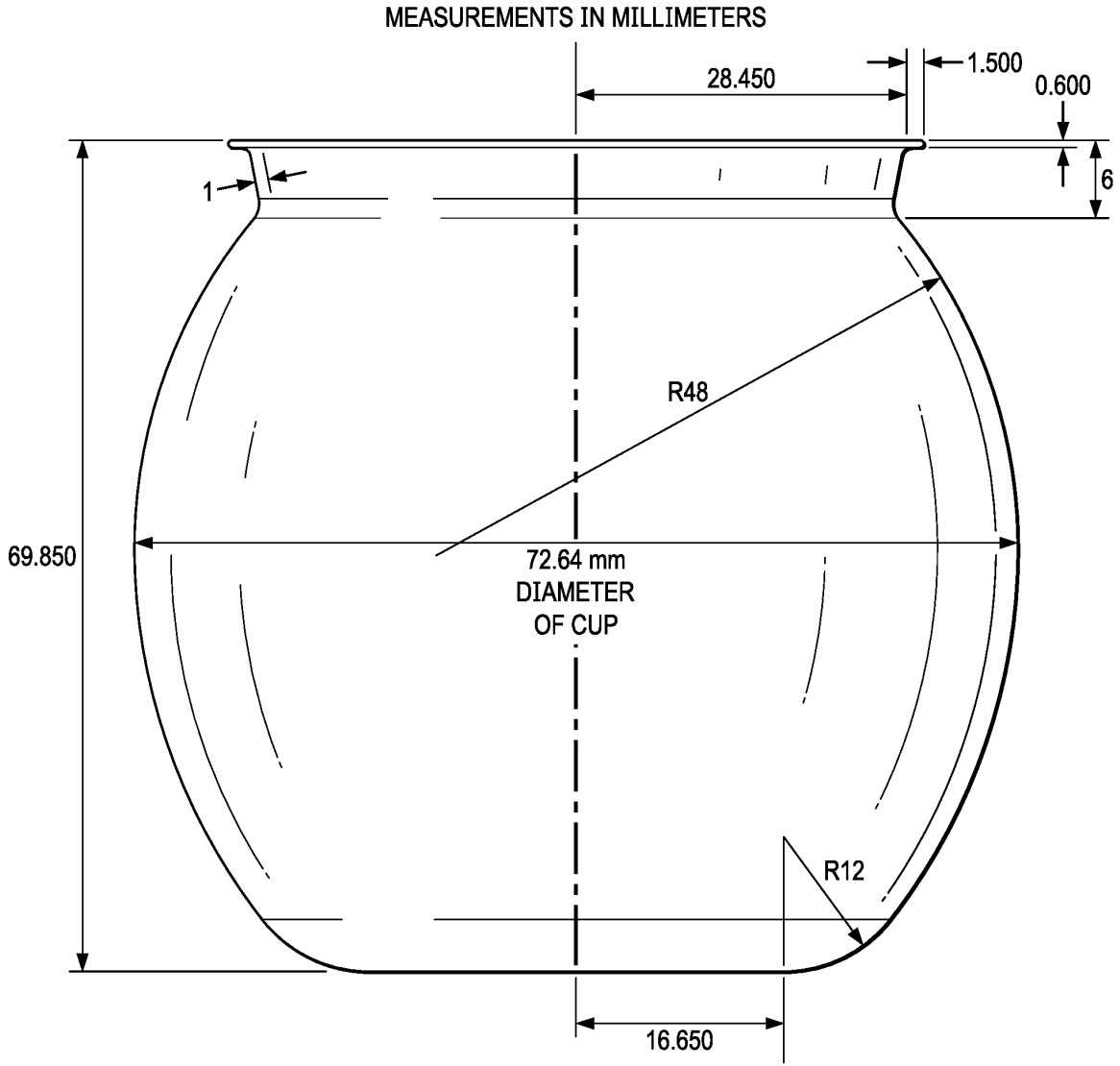

MEASUREMENTS IN MILLIMETERS
28.450
1.500
0.600
6
1
R48
69.850
72.64 mm
DIAMETER
OF CUP
R12
16.650

Figure 8

Electronic Acknowledgement Receipt	
EFS ID:	38556849
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	CONTAINER
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	27683
Filer:	Alan Herda/Paula Sandu
Filer Authorized By:	Alan Herda
Attorney Docket Number:	58822.5US01
Receipt Date:	11-FEB-2020
Filing Date:	19-APR-2010
Time Stamp:	16:31:53
Application Type:	Utility under 35 USC 111(a)

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		588225US01AMDResponseNTCCORRAPPPAPERS.pdf	88952 1f60801b5e0a451c035115d8fbbd61bdbc130b13	yes	4

	Multipart Description/PDF files in .zip description			
	Document Description	**Start**	**End**	
	Amendment after Notice of Allowance (Rule 312)	1	1	
	Specification	2	2	
	Drawings-only black and white line drawings	3	3	
	Applicant Arguments/Remarks Made in an Amendment	4	4	
Warnings:				
Information:				
2	Miscellaneous Incoming Letter	588225US01NTCCORRAPPPAPERS.pdf	158330 2a2e872df898fe39c73365df476619f6c7700725	no	4
Warnings:				
Information:				
3	Drawings-only black and white line drawings	588225US01REPLACEMENTSHEETS.pdf	80988 84a0af0314b34809194faaa1b98f7c9988e6bed5	no	3
Warnings:				
Information:				
		Total Files Size (in bytes):	328270	

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.

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

III. Amendments to the Drawings

The attached Replacement Sheets, which include Figures 4, 6, and 8, replace the sheets including Figures 4, 6, and 8 filed on June 1, 2010.

IV. Remarks

The specification has been amended to add figure-description paragraphs for Figures 7, 8, and 9.

Figures 4, 6, and 8 have been amended to address the issues noted in the Notice to File Corrected Application Papers mailed January 27, 2020.

The amendment introduces no new matter.

This application is in condition for allowance based on the Notice of Allowance mailed November 14, 2019.

Respectfully submitted,



Alan N. Herda
Registration No. 50,426

Dated: FEB. 11, 2020

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, Texas 75219
Telephone: 214/651-5924
IP Facsimile: 214/200-0853

Attachments:

- Replacement Sheets including Figures 4, 6, and 8
- Notice to File Corrected Application Papers mailed January 27, 2020

Document Description: Issue Fee Payment (PTO-85B)

Issue Fee Transmittal Form

Application Number	Filing Date	First Named Inventor	Atty. Docket No.	Confirmation No.
12762934	19-Apr-2010	Merrilee Kick	58822.5US01	4521

TITLE OF INVENTION :

CONTAINER

Entity Status	Application Type	Art Unit	Class - Subclass	EXAMINER
Small	Utility under 35 USC 111(a)	3733	608000	MADISON POOS

Issue Fee Due	Publication Due	Total Fee(s) Due	Date Due	Prev. Paid Fee
$500	$0	$500	14-Feb-2020	$0

1.Change of Correspondence Address and/or Indication Of Fee Address (37 CFR 1.33 & 1.363)

Current Correspondence Address:	Current Indicated Fee Address :
27683 HAYNES AND BOONE, LLP IP Section 2323 Victory Avenue Suite 700 Dallas TX 75219 UNITED STATES 214-651-5000 ipdocketing@haynesboone.com	
☐ Change of correspondence address requested, system generated AIA/122-EFS form attached	☐ Fee Address indication requested, system generated SB/47-EFS form attached

2.Entity Status

Change in Entity Status

○ Applicant certifying micro entity status; system generated Micro Entity certification form attached. See 37 CFR 1.29.
Note: Absent a valid certification of micro entity status, issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment. If this box is checked, you will be prompted to choose a micro entity status on the gross income basis (37 CFR 1.29(a)) or the institution of higher education basis (37 CFR 1.29(d)), and make the applicable certification online.

◉ Applicant asserting small entity status. See 37 CFR 1.27.
Note: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

○ Applicant changing to regular undiscounted fee status.
Note: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

Document Description: Issue Fee Payment (PTO-85B)

3.The Following Fee(s) Are Submitted:

☒ Issue Fee	☐ I authorize USPTO to apply my previously paid issue fee to the current fees due
☐ Publication Fee	☐ The Director is hereby authorized to apply my previously paid issue fee to the current fee due and to charge deficient fees to Deposit Account Number _____
☐ Advance Order - # of copies _____	☒ If **in addition to** the payment of the issue fee amount submitted with this form, there are any discrepancies in any amount(s) due, the Director is authorized to charge any deficiency, or credit any overpayment, to Deposit Account Number 081394 . The **issue fee must be submitted** with this form. **If payment of the issue fee does not accompany this form, checking this box and providing a deposit account number will NOT be effective to satisfy full payment of the fee(s) due.**

4.Firm and/or Attorney Names To Be Printed

NOTE: If no name is listed, no name will be printed
For printing on the patent front page, list to be displayed as entered

1. HAYNES AND BOONE, LLP
2.
3.

5.Assignee Name(s) and Residence Data To Be Printed

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

Name	City	State	Country	Category

6.Signature

I certify, in accordance with 37 CFR 1.4(d)(4) that I am an attorney or agent registered to practice before the Patent and Trademark Office who has filed and has been granted power of attorney in this application. I also certify that this Fee(s) Transmittal form is being transmitted to the USPTO via EFS-WEB on the date indicated below.

Signature	/Alan Herda/	**Date**	02-12-2020
Name	Alan Herda	**Registration Number**	50426

WEB IFEE 1.0

Electronic Patent Application Fee Transmittal

Application Number:	12762934
Filing Date:	19-Apr-2010
Title of Invention:	CONTAINER
First Named Inventor/Applicant Name:	Merrilee Kick
Filer:	Alan Herda/Paula Sandu
Attorney Docket Number:	58822.5US01

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
UTILITY APPL ISSUE FEE	2501	1	500	500
PUBL. FEE- EARLY, VOLUNTARY, OR NORMAL	1504	1	0	0
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
		Total in USD ($)		**500**

Electronic Acknowledgement Receipt	
EFS ID:	38563759
Application Number:	12762934
International Application Number:	
Confirmation Number:	4521
Title of Invention:	CONTAINER
First Named Inventor/Applicant Name:	Merrilee Kick
Customer Number:	27683
Filer:	Alan Herda/Paula Sandu
Filer Authorized By:	Alan Herda
Attorney Docket Number:	58822.5US01
Receipt Date:	12-FEB-2020
Filing Date:	19-APR-2010
Time Stamp:	12:51:19
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	$500
RAM confirmation Number	E20202BC51162982
Deposit Account	081394
Authorized User	Paula Sandu
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: 37 CFR 1.20 (Post Issuance fees) 37 CFR 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	Issue Fee Payment (PTO-85B)	Web85b.pdf	45457 40522c75ab036985303a6d8819d530bf7575cd90	no	2
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	31711 b14cdedabc556f62003516a4da4746f488a65da2	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	77168		

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.
12/762,934	04/19/2010	Merrilee Kick	58822.5US01	4521

27683 7590 02/25/2020
HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

EXAMINER	
POOS, MADISON LYNN	

ART UNIT	PAPER NUMBER
3733	

NOTIFICATION DATE	DELIVERY MODE
02/25/2020	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):

ipdocketing@haynesboone.com

Response to Rule 312 Communication	Application No. 12/762,934	Applicant(s)
	Examiner	Art Unit

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

1. ☒ The amendment filed on *11 February 2020* under 37 CFR 1.312 has been considered, and has been:

   a) ☒ entered.

   b) ☐ entered as directed to matters of form not affecting the scope of the invention.

   c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
   Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

   d) ☐ disapproved. See explanation below.

   e) ☐ entered in part. See explanation below.

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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/762,934	03/31/2020	10604296	58822.5US01	4521

27683 7590 03/11/2020

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Dallas, TX 75219

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

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

The Patent Term Adjustment is 0 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

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

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

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

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

Merrilee Kick, Plano, TX;

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