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NOTICE OF ALLOWANCE AND FEE(S) DUE

165846 7590 01/29/2020
Reed Smith LLP
P.O. Box 488
Pittsburgh, PA 15230

EXAMINER

BRADEN, SHAWN M

ART UNIT

PAPER NUMBER

3736

DATE MAILED: 01/29/2020

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/035,418	07/13/2018	Robert Choi	KRN 330E	4623

TITLE OF INVENTION: DRINK BOTTLES

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	UNDISCOUNTED	\$1000	\$0.00	\$0.00	\$1000	04/29/2020

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.

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)

165846 7590 01/29/2020
Reed Smith LLP
P.O. Box 488
Pittsburgh, PA 15230

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)

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nonprovisional	UNDISCOUNTED	\$1000	\$0.00	\$0.00	\$1000	04/29/2020

EXAMINER	ART UNIT	CLASS-SUBCLASS
BRADEN, SHAWN M	3736	215-381000

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, 1 _____

(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. 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. _____



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Reed Smith LLP P.O. Box 488 Pittsburgh, PA 15230			BRADEN, SHAWN M	
			ART UNIT	PAPER NUMBER
			3736	
DATE MAILED: 01/29/2020				

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. 16/035,418	Applicant(s) Choi et al.	
	Examiner SHAWN M BRADEN	Art Unit 3736	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 12/2/19.

☐ 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 3-20. 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 _____.
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16/035,418	07/13/2018	Robert Choi	KRN 330E	4623
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Reed Smith LLP P.O. Box 488 Pittsburgh, PA 15230			EXAMINER BRADEN, SHAWN M	
			ART UNIT	PAPER NUMBER
			3736	
			NOTIFICATION DATE	DELIVERY MODE
			12/09/2019	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):

gdonovan@reedsmith.com
ptoipinbox@reedsmith.com

<i>Applicant-Initiated Interview Summary</i>	Application No. 16/035,418	Applicant(s) Choi et al.	
	Examiner SHAWN M BRADEN	Art Unit 3736	AIA (FITF) Status No

All participants (applicant, applicants representative, PTO personnel):

(1) SHAWN M. BRADEN. (3) ____.

(2) Sonny Grewal. (4) ____.

Date of Interview: 27 November 2019.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☐ No.
If Yes, brief description: ____.

Issues Discussed ☐101 ☐112 ☐102 ☐103 ☒Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: pending.

Identification of prior art discussed: ____.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

Applicant presented some possible amendments for discussion purposes only. One key point applicant raised is that the pivotal mount of the Dark reference does not include a pair of lateral projections. The projections of Dark are more on the straw than the pivotal mount. Applicant stated that the will submit a response..

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview.

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/SHAWN M BRADEN/ Primary Examiner, Art Unit 3736	
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Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiners responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicants correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,-
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicants record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiners version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, Interview Record OK on the paper recording the substance of the interview along with the date and the examiners initials.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	) Confirmation No. 4623
	)
Serial No. 16/035,418	) Group Art Unit: 3736
Filed: July 13, 2018	) Examiner: Shawn M. Braden
	)
For: DRINK BOTTLES	) Date: December 2, 2019

RESPONSE TO OFFICE ACTION

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

In response to the Office Action dated August 2, 2019, Applicant respectfully requests entry of the following amendment and remarks.

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 7 of this paper.

Amendments to the Claims:

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

1. (Currently Amended) A drink container, comprising:

a fluid container having a neck with an opening and having an internal compartment sized to hold a volume of potable drink fluid;

a cap assembly removably coupled to the fluid container to cover the opening, wherein the cap assembly defines a fluid conduit for drink fluid to flow from the fluid container and through the cap assembly to a user, wherein the fluid conduit includes an inlet through which drink fluid from the fluid container may enter the fluid conduit, and a dispensing outlet through which drink fluid in the fluid conduit may be dispensed from the cap assembly to a user, and further wherein the cap assembly comprises:

a cap assembly base removably coupled to the neck of the fluid container, wherein the cap assembly base is configured to be selectively and repeatedly decoupled from and re-coupled to the neck of the fluid container;

a pivotal mount coupled to the cap assembly base for pivotal movement relative to the cap assembly base, wherein the pivotal mount includes a pair of lateral projections, wherein the cap assembly base defines a pair of sockets into which the pair of lateral projections extend;

a resilient mouthpiece coupled to the pivotal mount for pivotal movement with the pivotal mount relative to the cap assembly base, wherein the resilient mouthpiece is pivotal about an axis defined by the pair of lateral projections as the pair of lateral projections rotate within the pair of sockets;

wherein the resilient mouthpiece defines a portion of the fluid conduit, including the dispensing outlet;

wherein the resilient mouthpiece and the pivotal mount are configured to be selectively pivoted between a stowed position and a dispensing position, and further in the dispensing position, the dispensing outlet is positioned further away from the cap assembly base than when the resilient mouthpiece and the pivotal mount are in the stowed position;

wherein the resilient mouthpiece is adapted to resiliently compress responsive to compressive forces applied to the resilient mouthpiece by a user's teeth; and

a manual on/off valve having a closed configuration, in which the manual on/off valve obstructs the fluid conduit to restrict drink fluid from flowing between the inlet and the dispensing outlet, and an open configuration, in which the manual on/off valve permits drink fluid to flow through the fluid conduit from the inlet to the dispensing outlet; wherein the manual on/off valve includes a flexible tube that defines a portion of the fluid conduit;

wherein when the manual on/off valve is in the closed configuration, the tube is crimped to obstruct the flow of drink fluid through the fluid conduit; and

wherein when the manual on/off valve is in the open configuration, the tube is not crimped and does not obstruct the flow of drink fluid through the fluid conduit.

2. (Canceled)

3. (Currently Amended) The drink container of claim 1, [[2,]] wherein the cap assembly base further comprises a handle that extends from the cap assembly base, and further wherein the handle is secured to the cap assembly base in a position that obstructs removal of the pair of lateral projections from the pair of sockets.

4. (Original) The drink container of claim 1, wherein the cap assembly includes a pair of lateral guards that extend on opposed sides of the resilient mouthpiece when the resilient mouthpiece and the pivotal mount are in the stowed position, and further wherein the cap assembly includes a dust cover extending between the pair of lateral guards and positioned to protect the dispensing outlet of the resilient mouthpiece by extending across at least a portion of the dispensing outlet of the resilient mouthpiece when the resilient mouthpiece and the pivotal mount are in the stowed position.

5. (Original) The drink container of claim 4, wherein when the resilient mouthpiece is pivoted from the stowed position to the dispensing position, the resilient mouthpiece pivots away from the dust cover.

6. (Original) The drink container of claim 4, wherein the dust cover projects above an upper surface of the cap assembly base.

7. (Original) The drink container of claim 4, wherein the cap assembly further includes a handle that extends from the cap assembly base and includes the pair of lateral guards and the dust cover.

8. (Original) The drink container of claim 1, wherein the cap assembly further comprises a handle that extends in a fixed orientation from the cap assembly base and which defines at least a portion of a closed loop with an aperture through which a user's finger may be inserted to carry the drink container.

9. (Original) The drink container of claim 1, wherein the resilient mouthpiece is permanently secured to the pivotal mount.

10. (Original) The drink container of claim 1, wherein the resilient mouthpiece includes projections that extend generally transverse to the portion of the fluid conduit that extends through the resilient mouthpiece, and further wherein the projections engage an end region of the pivotal mount.

11. (Original) The drink container of claim 10, wherein the projections are internal projections.

12. (Original) The drink container of claim 1, wherein the resilient mouthpiece is configured to be selectively removed from and recoupled to the pivotal mount.

13. (Original) The drink container of claim 12, wherein the resilient mouthpiece includes a mouthpiece base with an end distal the dispensing outlet that has a contoured configuration that does not extend at a constant distance from the dispensing outlet, wherein the end of the resilient

mouthpiece base includes a projecting region and a concave region, wherein the projecting region of the end of the mouthpiece base extends a greater distance away from the dispensing outlet than the concave region of the end of the mouthpiece base, and further wherein the pivotal mount is configured to engage the projecting region and the concave region of the mouthpiece base to restrict rotation of the resilient mouthpiece relative to the pivotal mount.

14. (Original) The drink container of claim 1, wherein the resilient mouthpiece includes a dispensing face, and further wherein the dispensing outlet extends through the dispensing face of the resilient mouthpiece.

15. (Original) The drink container of claim 14, wherein the dispensing outlet is defined by a slit that extends through the dispensing face of the resilient mouthpiece.

16. (Original) The drink container of claim 1, wherein the resilient mouthpiece includes a dispensing face that defines the dispensing outlet, wherein the resilient mouthpiece includes opposed bite regions, wherein the dispensing face includes opposed lips between which the dispensing outlet is defined, and further wherein when a user applies compressive forces to the opposed bite regions, the lips are urged away from each other to enlarge the dispensing outlet.

17. (Original) The drink container of claim 16, wherein the opposed lips seal against each other when the opposed bite regions are not urged toward each other.

18. (Original) The drink container of claim 1, wherein the pivotal mount further includes a projecting flange that extends away from a portion of the fluid conduit that extends through the pivotal mount, wherein the projecting flange provides a lever arm that is configured to be engaged by a user's finger to pivot the pivotal mount from the stowed position to the dispensing position.

19. (Original) The drink container of claim 1, wherein the pivotal mount is adapted to selectively engage the flexible tube to apply crimping forces thereto and thereby configure the

manual on/off valve to the closed configuration as the pivotal mount is pivoted from the dispensing position to the stowed position.

20. (Original) The drink container of claim 1, wherein the flexible tube is secured to the pivotal mount.

REMARKS

Claims 1-20 were pending in this application prior to the Office Action dated August 2, 2019 (“Office Action”). Claim 1 is amended to incorporate the elements previously recited in dependent claim 2 and claim 3 is amended to depend from claim 1. Claim 2 is canceled. In view of the above amendments and the following remarks, Applicant respectfully requests reconsideration and allowance of this application.

I. Summary of Interviews with the Examiner

Applicant’s representative, Sonny Grewal, thanks Examiner Braden for discussing this application with him on November 12, 2019 and again on November 27, 2019.

During the first interview, Applicant’s representative and the Examiner discussed the non-statutory double patenting rejection and differences between the present application and the applied Dark reference. The Examiner agreed that the claims of U.S. Patent No. 10,023,065 (the ’365 Patent) do not disclose or teach all of limitations recited in at least the independent claims and agreed to withdraw the double patenting rejection.

During the second interview, Applicant’s representative and the Examiner discussed proposed claim amendments to the independent claims. The Examiner agreed that Dark did not disclose at least the feature “wherein the pivotal mount includes a pair of lateral projections” previously recited in dependent claim 2 and currently incorporated into independent claim 1.

Applicant’s representative again thanks Examiner Braden for discussing this application with him multiple times and helping to meaningfully advance prosecution.

II. Double Patenting Rejection

Claims 1-20 stand rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-23 of the ’365 Patent. As discussed with the Examiner during the first interview, the claims of the ’365 Patent do not disclose, suggest, or teach at least the following limitations recited in the independent claims:

- *wherein the manual on/off valve includes a flexible tube that defines a portion of the fluid conduit;*
- *wherein when the manual on/off valve is in the closed configuration, the tube is crimped to obstruct the flow of drink fluid through the fluid conduit; and*
- *wherein when the manual on/off valve is in the open configuration, the tube is not crimped and does not obstruct the flow of drink fluid through the fluid conduit.*

Accordingly, Applicant respectfully requests withdrawal of the nonstatutory double patenting rejection.

III. Rejections under 35 U.S.C. § 102(b)

Claims 1-3 and 19-20 stand rejected as being anticipated by U.S. Patent No. 6,116,458 to Dark (“Dark”). As agreed with the Examiner during the second interview, Dark does not disclose or suggest at least the recited limitation “*wherein the pivotal mount includes a pair of lateral projections*” previously recited in dependent claim 2 and currently recited in independent claim 1. Applicant additionally submits that Dark does not disclose or suggest at least the additional limitation “wherein the resilient mouthpiece is pivotal about an axis defined by the pair of lateral projections as the pair of lateral projections rotate within the pair of sockets.”

For at least the above-stated reasons, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 102(b).

III. Rejections under 35 U.S.C. § 103

Claims 4-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dark in view of U.S. Design Patent US D547,607 to Forsman (“Forsman”).

As a preliminary matter, Applicant respectfully submits that Forsman is not prior art to the pending application. As stated in the priority claim, the “present application is a continuation of, and claims priority under 35 U.S.C. § 120 to, U.S. Patent Application No. 15/287,915, which was filed on October 7, 2016, issued on July 17, 2018 as U.S. Patent No.

10,023,365, and which claims priority to U.S. Patent Application Serial No. 14/329,096, which was filed on July 11, 2014, issued on October 11, 2016 as U.S. Patent No. 9,463,911, and which claims priority to U.S. Patent Application Serial No. 12/133,954, which was filed on June 5, 2008, issued on July 15, 2014 as U.S. Patent No. 8,777,048, and which claims priority to U.S. Patent Application Serial No. 11/588,476, which was filed on 10 October 26, 2006, issued on January 7, 2014 as U.S. Patent No. 8,622,237, and which claims priority to U.S. Patent Application Serial No. 11/313,488, which was filed on December 20, 2005, and issued on May 19, 2009 as U.S. Patent No. 7,533,783. U.S. Patent Application Serial No. 11/313,488 claims priority to U.S. Provisional Patent Application Serial Nos. 60/670,828 and 60/706,700, which were filed on April 11, 2005 and August 8, 2005, respectively.” *See* Application, ¶ 1. Forsman was filed August 9, 2005 and published on July 31, 2007.

Additionally, as discussed in the previous section, Dark does not disclose, suggest, or teach each and every limitation of at least independent claim 1, as presented herein.

Accordingly, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 103(a).

In view of the above remarks, this application is believed to be in condition for allowance. If any issues remain, the Examiner is kindly invited to contact the undersigned attorney.

Except for issue fees payable under 37 C.F.R. § 1.18, Applicant hereby authorizes the Commissioner to charge any additional fees during the entire pendency of this application, including fees due under 37 C.F.R. §§ 1.16 and 1.17, which may be required, including any required extension of time fees, or credit any overpayment, to Deposit Account No. 50-1529. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a) (3).

Respectfully submitted,

/Amardeep S. Grewal, Reg. No. 62,798/
Amardeep S. Grewal

Docket No. P23808US05
Application No. 16/035,418

Reg. No. 62,798

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/035,418	07/13/2018	Robert Choi	KRN 330E	4623
139868	7590	11/15/2019		
DASCENZO Intellectual Property Law, P.C. 1000 SW Broadway, Suite 1555 Portland, OR 97205			EXAMINER BRADEN, SHAWN M	
			ART UNIT 3736	PAPER NUMBER
			MAIL DATE 11/15/2019	DELIVERY MODE 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.

<i>Applicant-Initiated Interview Summary</i>	Application No. 16/035,418		Applicant(s) Choi et al.	
	Examiner SHAWN M BRADEN		Art Unit 3736	AIA (FITF) Status No

All participants (applicant, applicants representative, PTO personnel):

(1) SHAWN M. BRADEN. (3) ____.

(2) Amardeep (Sonny) Grewal. (4) ____.

Date of Interview: 12 November 2019.

Type: ☒ Telephonic ☐ Video Conference
☐ Personal [copy given to: ☐ applicant ☐ applicant's representative]

Exhibit shown or demonstration conducted: ☐ Yes ☐ No.
If Yes, brief description: ____.

Issues Discussed ☐101 ☐112 ☒102 ☒103 ☒Others
(For each of the checked box(es) above, please describe below the issue and detailed description of the discussion)

Claim(s) discussed: all pending.

Identification of prior art discussed: The Dark reference as applied.

Substance of Interview
(For each issue discussed, provide a detailed description and indicate if agreement was reached. Some topics may include: identification or clarification of a reference or a portion thereof, claim interpretation, proposed amendments, arguments of any applied references etc...)

We discussed the double patenting rejection. Applicant pointed out the the parent patent 10,023,365 does NOT define a "crimp". Examiner agreed this claimed feature is not in the parent and this DP rejection should be removed. Applicant and Examiner noted that 4 other similar cases should be re reviewed for this feature and double checked for double patenting. We also discussed the differences between the Dark reference and the current application. No allowable claim language was agreed upon..

Applicant recordation instructions: The formal written reply to the last Office action must include the substance of the interview. (See MPEP section 713.04). If a reply to the last Office action has already been filed, applicant is given a non-extendable period of the longer of one month or thirty days from this interview date, or the mailing date of this interview summary form, whichever is later, to file a statement of the substance of the interview.

Examiner recordation instructions: Examiners must summarize the substance of any interview of record. A complete and proper recordation of the substance of an interview should include the items listed in MPEP 713.04 for complete and proper recordation including the identification of the general thrust of each argument or issue discussed, a general indication of any other pertinent matters discussed regarding patentability and the general results or outcome of the interview, to include an indication as to whether or not agreement was reached on the issues raised.

☐ Attachment

/SHAWN M BRADEN/ Primary Examiner, Art Unit 3736	
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Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiners responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicants correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,-
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicants record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiners version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, Interview Record OK on the paper recording the substance of the interview along with the date and the examiners initials.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/035,418	07/13/2018	Robert Choi	KRN 330E	4623
139868	7590	08/02/2019		
DASCENZO Intellectual Property Law, P.C. 1000 SW Broadway, Suite 1555 Portland, OR 97205			EXAMINER BRADEN, SHAWN M	
			ART UNIT 3736	PAPER NUMBER
			MAIL DATE 08/02/2019	DELIVERY MODE 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.

<i>Office Action Summary</i>	Application No. 16/035,418	Applicant(s) Choi et al.	
	Examiner SHAWN M BRADEN	Art Unit 3736	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 7/13/18.
☐ 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) 1-20 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) 1-20 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: _____

Notice of Pre-AIA or AIA Status

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

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on nonstatutory double patenting provided the reference application or patent either is shown to be commonly owned with the examined application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. See MPEP § 717.02 for applications subject to examination under the first inventor to file

provisions of the AIA as explained in MPEP § 2159. See MPEP §§ 706.02(I)(1) - 706.02(I)(3) for applications not subject to examination under the first inventor to file provisions of the AIA. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO Internet website contains terminal disclaimer forms which may be used. Please visit www.uspto.gov/patent/patents-forms. The filing date of the application in which the form is filed determines what form (e.g., PTO/SB/25, PTO/SB/26, PTO/AIA/25, or PTO/AIA/26) should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp.

3. Claims 1-20, are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 10,023,365. Although the claims at issue are not identical, they are not patentably distinct from each other because a quick review shows that all of the current claim structure has been included in the parent claims.

Claim Rejections - 35 USC § 102

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

A person shall be entitled to a patent unless –

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

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

5. Claim(s) 1-3,19,20, is/are rejected under pre-AIA 35 U.S.C. 102b as being anticipated by Dark (USPN 6,116,458).

6. With respect to claim 1, Dark shows a fluid container (2) having a neck with an opening (shown under cap) and having an internal compartment sized to hold a volume of potable drink fluid; a cap assembly (fig. 1) removably coupled to the fluid container to cover the opening, wherein the cap assembly defines a fluid conduit for drink fluid to flow from the fluid container and through the cap assembly to a user, wherein the fluid conduit includes an inlet(bottom of 8) through which drink fluid from the fluid container may enter the fluid conduit, and a dispensing outlet (at 3a) through which drink fluid in the fluid conduit may be dispensed from the cap assembly to a user, and further wherein the cap assembly comprises: a cap assembly base (7c) removably coupled to the neck of the fluid container, wherein the cap assembly base is configured to be selectively and repeatedly decoupled from and re-coupled (threaded connection meets this limitation) to the neck of the fluid container; a pivotal mount (4b) coupled to the cap assembly base for pivotal movement relative to the cap assembly base; a resilient mouthpiece (3a) coupled to the pivotal mount for pivotal movement with the pivotal mount relative to the cap assembly base; wherein the resilient mouthpiece defines a portion of the fluid conduit, including the dispensing outlet; wherein the resilient mouthpiece and the pivotal mount are configured to be selectively pivoted between a stowed position (fig. 1) and a dispensing position (fig. 2), and further in the dispensing position, the dispensing outlet is positioned further away from the cap assembly base

than when the resilient mouthpiece and the pivotal mount are in the stowed position; wherein the resilient mouthpiece (3a) is adapted to resiliently compress responsive to compressive forces applied to the resilient mouthpiece by a user's teeth (a user can bite the plastic mouth piece and the natural tendencies of plastic make it resilient); and a manual on/off valve (closing the spout to crimp 12 make the valve closed) having a closed configuration (see fig. 6), in which the manual on/off valve obstructs the fluid conduit to restrict drink fluid from flowing between the inlet and the dispensing outlet, and an open configuration (see fig. 5), in which the manual on/off valve permits drink fluid to flow through the fluid conduit from the inlet to the dispensing outlet; wherein the manual on/off valve includes a flexible tube (8,3 make up the tube) that defines a portion of the fluid conduit; wherein when the manual on/off valve is in the closed configuration (fig. 6), the tube is crimped (12) to obstruct the flow of drink fluid through the fluid conduit; and wherein when the manual on/off valve is in the open configuration (fig. 5), the tube is not crimped and does not obstruct the flow of drink fluid through the fluid conduit.

With respect to claim 2, Dark shows wherein the pivotal mount includes a pair of lateral projections (15), wherein the cap assembly base defines a pair of sockets (16) into which the pair of lateral projections extend, and wherein the resilient mouthpiece is pivotal about an axis defined by the pair of lateral projections as the pair of lateral projections rotate within the pair of

sockets (this rotation is accomplished when the cap un-screws to remove the cap)

With respect to claim 3, Dark shows wherein the cap assembly base further comprises a handle (7b) that extends from the cap assembly base, and further wherein the handle (7b) is secured to the cap assembly base in a position that obstructs removal of the pair of lateral projections from the pair of sockets (7b surrounds the pair of lateral projections 15).

With respect to claim 19, Dark shows wherein the pivotal mount (4b) is adapted to selectively engage the flexible tube to apply crimping (12) forces thereto and thereby configure the manual on/off valve to the closed configuration as the pivotal mount is pivoted from the dispensing position to the stowed position (fig. 6).

With respect to claim 20, Dark the flexible tube is secured (they are directly connected) to the pivotal mount (4b).

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, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-18, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dark in view of Forsman (US D547,607).

Dark discloses the invention substantially as claimed.

However Dark does not disclose claim 4, the cap assembly includes a pair of lateral guards that extend on opposed sides of the resilient mouthpiece when the resilient mouthpiece and the pivotal mount are in the stowed position, and further wherein the cap assembly includes a dust cover extending between the pair of lateral guards and positioned to protect the dispensing outlet of the resilient mouthpiece by extending across at least a portion of the dispensing outlet of the resilient mouthpiece when the resilient mouthpiece and the pivotal mount are in the stowed position, claim 5, wherein when the resilient mouthpiece is pivoted from the stowed position to the dispensing position, the resilient mouthpiece pivots away from the dust cover, claim 4, wherein the dust cover projects above an upper surface of the cap assembly base, claim 7, wherein the cap assembly further includes a handle that extends from the cap assembly base and includes the pair of lateral guards and the dust cover, claim 8, wherein the cap assembly further comprises a handle that extends in a fixed orientation from the cap assembly base and which defines at least a portion of a closed loop with an aperture through which a user's finger may be inserted to carry the drink container, claim 12, shows the resilient mouthpiece is configured to be selectively removed from and recoupled to the pivotal mount, claim 13, wherein the resilient mouthpiece includes a mouthpiece base with an end distal the dispensing outlet that has a contoured configuration that does not extend at a constant distance from the dispensing outlet, wherein the end of the resilient mouthpiece base includes a projecting region and a concave region, wherein the projecting region of the end of the mouthpiece base

extends a greater distance away from the dispensing outlet than the concave region of the end of the mouthpiece base, and further wherein the pivotal mount is configured to engage the projecting region and the concave region of the mouthpiece base to restrict rotation of the resilient mouthpiece relative to the pivotal mount, claim 14, wherein the resilient mouthpiece includes a dispensing face, and further wherein the dispensing outlet extends through the dispensing face of the resilient mouthpiece, claim 15, wherein the dispensing outlet is defined by a slit that extends through the dispensing face of the resilient mouthpiece, claim 16, wherein the resilient mouthpiece includes a dispensing face that defines the dispensing outlet, wherein the resilient mouthpiece includes opposed bite regions, wherein the dispensing face includes opposed lips between which the dispensing outlet is defined, and further wherein when a user applies compressive forces to the opposed bite regions, the lips are urged away from each other to enlarge the dispensing outlet, claim 17, wherein the opposed lips seal against each other when the opposed bite regions are not urged toward each other, claim 18, wherein the pivotal mount further includes a projecting flange that extends away from a portion of the fluid conduit that extends through the pivotal mount, wherein the projecting flange provides a lever arm that is configured to be engaged by a user's finger to pivot the pivotal mount from the stowed position to the dispensing position.

Forsman in (figs. 1-10) shows the same dust guard, handle, resilient mouth piece including the slit, and the projecting flange as current application, in the same field of endeavor for the purpose of keeping dust out of the mouth piece and the handle is to carry the container, the components are separable in order to take apart and clean, the flange is to help grasping and extending the spout, the resilient mouth piece is an additional valve that can be operated by the users mouth that allows for hands free operation.

It would have been obvious to one having ordinary skill in the art before the effective filing date of the claimed invention to add a dust guard and handle, the more complex resilient mouth piece with the flang as taught by Forsman to the container of Dark in order to have a convenient loop to grasp as a handle and the dust guard keep the outlet free of dust and dirt, making the components separable for easier cleaning and easier for a user to open the valve and hands free operation of the claimed resilient mouth piece.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWN M BRADEN whose telephone number is (571)272-8026. The examiner can normally be reached on M-F 8am-5pm.

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, Greg Pickett can be reached on 571 272-4560. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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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.

/SHAWN M BRADEN/
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