UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Klein Tools, Inc.,
Petitioner,

v.

Milwaukee Electric Tool Corporation,
Keter Home and Garden Products Ltd.,
Patent Owners

IPR2024-01401
U.S. Patent No. 11,794,952 B2

DECLARATION OF JOHN M. COLLINS, Ph.D. IN SUPPORT OF PETITION FOR *INTER PARTES* REVIEW

1. I have been retained on behalf of Klein Tools, Inc. ("Petitioner") in connection with the above-captioned *inter partes* review (IPR). I have been retained to provide my opinions in support of Petitioner's IPR Petition. I am being compensated for my time at my standard rate of $450 per hour. I have no interest in the outcome of this proceeding.

2. In preparing this declaration, I have reviewed and am familiar with U.S. Patent No. 11,794,952 ("the '952 patent"), its file history, all other materials cited and discussed in the Petition, and cited and discussed in this Declaration.

3. The statements made herein are based upon my own knowledge and opinion. This Declaration represents only the opinions I have formed to date. I may consider additional documents as they become available or other documents that are necessary to form my opinions. I reserve the right to revise, supplement, or amend my opinions based on new information and on my continuing analysis.

I. QUALIFICATIONS

4. I have been employed since 2008 at the Consortia for Improving Medicine with Innovation and Technology ("CIMIT") and am currently the Director of Innovation Platforms. CIMIT is a non-profit consortium of Boston's leading teaching hospitals and universities along with a growing network of national and international affiliates. CIMIT is an operating unit within Massachusetts General Hospital where I have a faculty appointment.

5. Much of my responsibility at CIMIT is to facilitate collaboration among scientists, engineers, clinicians, and entrepreneurs to speed the discovery, development, and implementation of medical innovations into practice. I focus on assisting investigators in moving technologies from the lab into products and services that improve patient care. My focus has been on developing and implementing CIMIT's CoLab and GAITS platforms and using them to support teams in advancing healthcare innovations into practice.

6. By way of example of CIMIT's work, it was recently responsible for the National Institute of Biomedical Imaging and Bioengineering (NIBIB) sponsored RADx Tech program. The program has committed more than $1.5 Bn to develop and accelerate the commercialization of innovative point of care SARS-CoV-2 (COVID) tests into practice. That program supported more than 100 organizations and resulted in 55 FDA authorized tests, including the first over-the-counter test for home use, and the production of over 7 billion tests[1].

7. Also since 2008, I have been employed as the Chief Technology and Innovation Officer for Reed Collins, LLC. At Reed Collins, I provide consulting to

[1] *See* NIH Website, accessed 2/28.2024: https://www.nibib.nih.gov/covid-19/radx-tech-program.

non-profits as well as start-ups. Non-profit clients include Oxford University in the UK and Howard University in the U.S.

8. I received a Ph.D. (1988) and M.S. (1982) in mechanical engineering from the Massachusetts Institute of Technology ("MIT"), as well as a B.S. (1980) in mechanical engineering, with a minor in economics, from Rensselaer Polytechnic Institute ("RPI"). At MIT, I worked in the Fluids Lab under the direction of Professors Asher Shapiro and Roger Kamm. My academic work focused on mechanical engineering with a concentration on fluid dynamics and heat/mass transfer, with my Ph.D. and M.S. theses applying these principles to pulmonary dynamics. My M.S. thesis was on high frequency ventilation: at the time a novel way to ventilate babies without over-pressurization of the lung, avoiding damage to the lung during ventilator assist. My Ph.D. thesis was on analytical and numerical modeling of forced exhalation from the lung. The results were a computational model of the lung that allowed for more sophisticated diagnostics based on the results of the simple Forced Expiration Pulmonary Function ("FEPF") test.

9. I now have over 40 years of product design, development, and consulting experience covering a wide range of industries and products. Over that time, I have had a consistent focus on medical devices and related technologies, which includes my particular expertise in design, fluid mechanics and heat/mass transfer. In addition to doing engineering work, my responsibilities have included

assembling and managing teams to develop new consumer, industrial, and medical products.

10. I also have experience as an innovator and inventor. I am a named inventor on more than twenty U.S. patents, with foreign counterparts in addition, on new products and manufacturing processes. My CV is attached as Exhibit 1009 and contains a list of my U.S. Patents and all the publications that I have authored over the last 10 years.

11. Prior to my time at CIMIT and Reed Collins LLC in 2008, I held various leadership positions at technology and product development companies. From 1982-1986, I worked at Booz, Allen & Hamilton ("Booz Allen"), where I developed a number of consumer and industrial products. After taking time to return to MIT and complete my Ph.D., I was then employed by Arthur D. Little ("ADL") until 1988. I then joined ADL as a design engineer and helped form its medical products business. I progressed to being responsible for the Technology and Innovation ("T&I") Directorate, with more than 250 staff as Sr Vice President until 2002.

12. From 2002-2008, I worked in close collaboration with CEO and owner, Dr. Kenan Sahin, to form TIAX LLC from the resources of the ADL T&I Directorate. TIAX is and was a privately held technology transformation organization focused on advancing and developing technologies for

commercialization in several core technology areas, including clean energy and materials, health and wellness, appliances and HVAC systems, and enhanced security. During my tenure at TIAX, part of which I served as president, the World Economic Forum recognized TIAX as a Technology Pioneer in 2002 and as a New Champion in 2007. For a full list of my employment history, see my CV, attached as Exhibit 1009 to this report.

13. My experiences cover a broad technology base across a diverse set of industries, including in the areas of medical devices, energy, consumer products, emission technology for automobiles, and alternative smoking products.

14. By way of example, while at Booz Allen, I helped develop products such as the Regina Rug Scrubber, Rubbermaid Computer Terminal Stand, and GE Undercounter (slide-in) Coffee Maker. These products were made for consumers and used manufacturing techniques consistent with high production volumes. They were assemblies of metal parts (stamped, cast, machined, etc.), injection molded parts and actuators such as motors as well as electronic controls. They had sub-assemblies that a consumer would fit together, for example sliding the coffee maker into frame that had a spring-loaded latch attached under a counter to hold the coffee maker in place. The Regina Rug Scrubber had a combined fresh and wastewater container that would be placed and pivot into the device and was held in place with a spring-loaded latch.

15. By way of further example, while at ADL I led the teams that developed several products for Johnson & Johnson. They include a surgical ligate and divide instrument for open abdominal surgery that utilized the client's proprietary dissolvable clips. I also led the development of a series of minimally invasive surgical instruments, including surgical clip appliers and trocars (including 12, 18, and 33 mm trocars) which provide surgical access. I also led a team that developed a high-performance blood/fluid warmer for Baxter Healthcare. The device is used in surgical applications in which a sterile consumable was snapped into the heating device. I also worked on the development of a microsurgical fluid delivery system for Bausch & Lomb. The system allowed surgeons to control the flow or pressure of irrigation fluid during eye surgery. It used a disposable fluid path that had a proprietary scroll pump unit that snapped into engagement with the control console. All of these products used conventional high production volume manufacturing techniques such as injection molding and forming metal parts by machining, stamping, etc.

16. I have also performed services in numerous patent disputes as an independent technical expert and consultant and as an expert witness. I have consulted as an expert in matters involving the design of a variety of devices. See Exhibit 1009 for a list of matters in which I have offered expert opinions or testified in court in the last 4 years.

II. LEGAL UNDERSTANDING

A. The Person of Ordinary Skill in the Art ("POSITA")

17. I understand that a person of ordinary skill in the relevant art at the time of the invention (also referred to herein as "ordinary artisan") is presumed to be aware of all pertinent art, thinks along conventional wisdom in the art, and is a person of ordinary creativity—not an automaton.

18. I have been asked to consider the level of ordinary skill in the field that someone would have had at the time the claimed invention was made. In deciding the level of ordinary skill, I considered the following:

- the levels of education and experience of persons working in the field;
- the types of problems encountered in the field; and
- the sophistication of the technology.

19. A person of ordinary skill in the art relevant to the '952 patent at the time of the invention would either have a B.S. in mechanical engineering, or an equivalent degree in a related discipline, and at least two years of experience in the mechanical design of consumer products, or five years or more of experience in the mechanical design of consumer products.

20. I am well-qualified to determine the level of ordinary skill in the art and am personally familiar with the technology of the '952 patent. I was a person of at

least ordinary skill in the art at the time of the priority date of the ’952 patent. Regardless if I do not explicitly state that my statements below are based on this timeframe, all of my statements are to be understood as an ordinary artisan would have understood something as of the priority date of the ’952 patent.

B. Legal Principles

21. I am not a lawyer and will not provide any legal opinions. Though I am not a lawyer, I have been advised that certain legal standards are to be applied by technical experts in forming opinions regarding the meaning and validity of patent claims.

1. Anticipation

22. I understand that to obtain a patent, a claimed invention must have, as of the priority date, been novel. I understand that to prove that a prior art reference anticipates a patent, the four corners of the prior art reference must describe each element of the claimed invention, either expressly or inherently. I also understand that the prior art reference must describe the elements arranged as in the claim and that it is improper to combine disparate embodiments to establish anticipation unless a POSITA when reading the reference could at once envisage such a combination.

2. Obviousness

23. I understand that to obtain a patent, a claimed invention must also have, as of the priority date, been nonobvious in view of prior art in the field. I understand

that an invention is obvious when 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.

24. I understand that to prove that prior art, or a combination of prior art, renders a patent obvious, it is necessary to: (1) identify the particular references that singly, or in combination, make the patent obvious; (2) specifically identify which elements of the patent claim appear in each of the asserted references; and (3) explain how the prior art references could have been combined to create the inventions claimed in the asserted claim.

25. I understand that 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, and that obviousness cannot be based on the hindsight combination of components selectively culled from the prior art to fit the parameters of the patented invention.

26. I also understand that a reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. Even if a reference is not found to teach away, I understand its statements regarding preferences are relevant to a

finding regarding whether a skilled artisan would be motivated to combine that reference with another reference.

3. My Understanding of Claim Construction Law

27. I have been informed that patent claims are construed from the viewpoint of a person of an ordinary artisan and that patent claims generally should be understood consistent with their ordinary and customary meaning at the time of the invention. A review of the patent claim language, the patent specification, and its prosecution history are also necessary to determine the proper meaning and scope of the term at issue.

28. I have further been informed that in the specification and prosecution history the patentee may define a claim term in a way that differs from the ordinary and customary meaning. I understand that during prosecution of the patent before the U.S. Patent and Trademark Office, the Applicant may make representations or provide definitions of terms that may affect the scope of the patent claims. In particular, the Applicant may, during the course of prosecution, limit the scope of the claims to overcome prior art and/or disavow claim coverage by making clear and unambiguous statements to that effect.

29. I have been informed that an ordinary artisan may, among other things, consider dictionaries, publications, other patents, and treatises (*i.e.*, "extrinsic evidence"). I understand that extrinsic evidence may generally not be relied on if it

contradicts the meaning of claim language provided by the intrinsic evidence, such as express definitions given for terms in the specification.

4. Secondary Considerations of Non-Obviousness

30. I understand that one of the factual inquiries when determining the obviousness of a patent is to consider objective evidence related to the issue of obviousness, sometimes called "secondary considerations of non-obviousness" or "objective indicia of non-obviousness." I understand that such evidence can often be probative of the issues of obviousness.

31. I understand that examples of objective evidence include (1) commercial success, (2) copying, (3) industry praise, (4) skepticism, (5) long-felt but unsolved need, and (6) failure of others.

32. I understand that there must be a nexus between the patented invention and the evidence of secondary considerations. I further understand that there is a presumption of such a nexus if the claims of the patent are coextensive with a product or products that are the subject of the secondary considerations evidence. I further understand that in order for a claim to be coextensive with a product, one must look at the claims as a whole and not just the new claimed feature. In addition, the claimed invention should not be merely a subcomponent of the products sold but should encompass the entire apparatus.

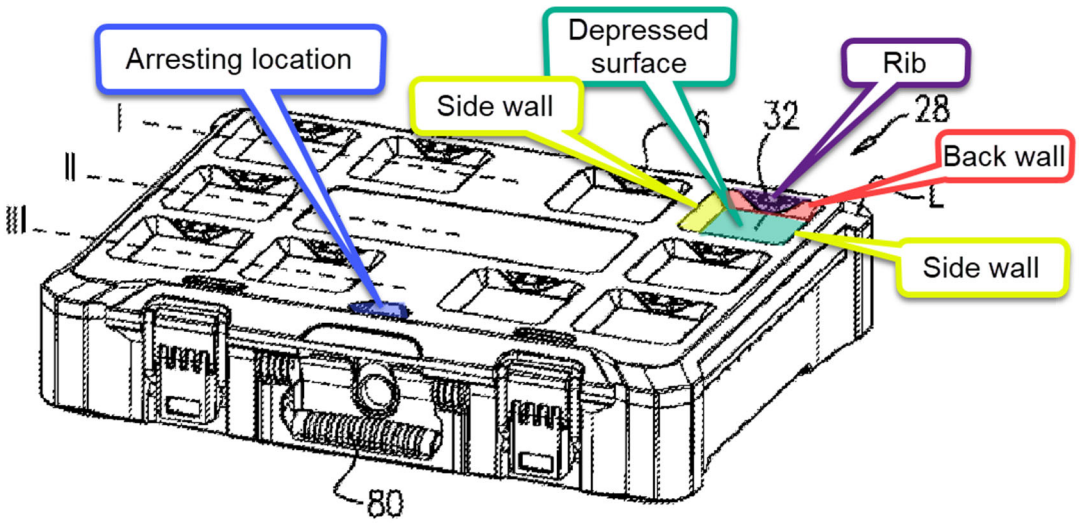
III. OVERVIEW OF THE '952 PATENT

A. Overview

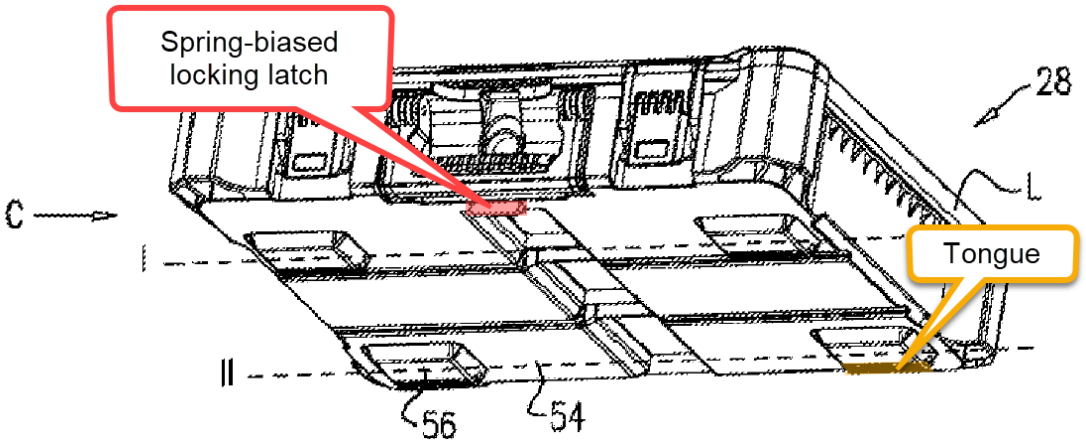
33. The '952 patent describes a "container assembly" having a "coupling mechanism" for detachably connecting two containers to each other. Ex. 1001, Abstract.

34. The coupling mechanism is a tongue protruding from the bottom of one container that slides into a depressed surface on the top of the other container, engages a rib, and is locked in place by a locking latch from its arresting location.

35. Figure 1B below illustrates the top face of a first container. Each top face includes one or more **depressed surfaces** having a **back wall**, **side walls** and a **rib** extending from the **back wall** of the **depressed surface**. Ex. 1001, 16:17-24. The top face also includes locking latch **arresting locations** in the form of recesses in the top face of the container. *Id.*, 16:31-33.



36. As shown in Fig. 1C below, the bottom face of each container includes several projecting portions which have **tongues** laterally projecting rearwards. *Id.*, 16:36-45. The bottom face also includes a **locking latch** disposed at a front portion of each container and in register with a recess serving as an **arresting location** in the other container. *Id.*, 16:53-55.



37. Figure 3A below shows the **tongue** coming into the **depressed surface** having a **back wall** and **rib**, as described in 17:12-22.

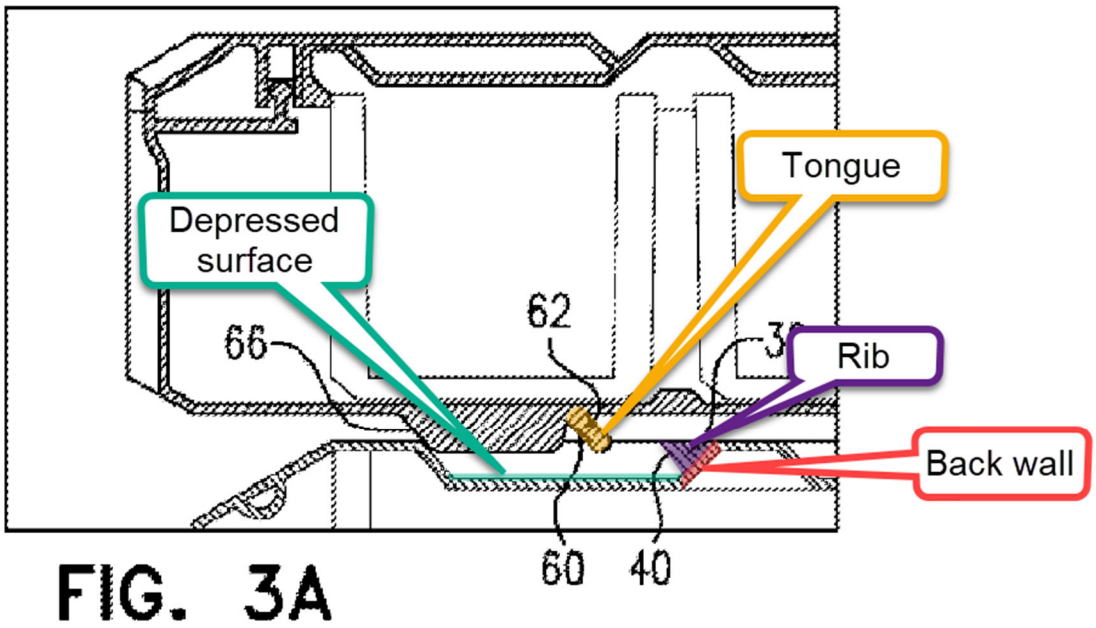


FIG. 3A

B. Prosecution History

38. The '952 patent is part of a string of continuations where the first application was filed on May 2, 2016. The claims were allowed after Applicant filed a Terminal Disclaimer to overcome a double patenting rejection. Ex. 1002 at 251-52.

IV. CLAIM CONSTRUCTION

39. I understand that Patent Owner and Petitioner have submitted proposed claim constructions in the parallel ITC investigation. Ex. 1031. I understand that there are three disputed terms for this patent and that Patent Owner believes they should be given their plain meaning, whereas Petitioner proposes express constructions. However, as I explain below, the prior art renders the claim

unpatentable under either Petitioner's proposed construction or Patent Owner's interpretation of the term as applied in its complaint and infringement contentions.

40. For the remaining terms, it is my opinion that they should be given their ordinary meaning in light of the specification.

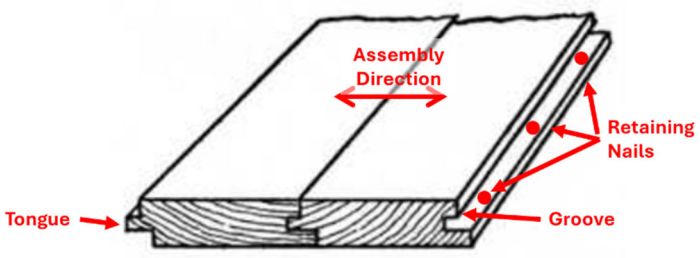
V. THE PRIOR ART

A. Technology Background

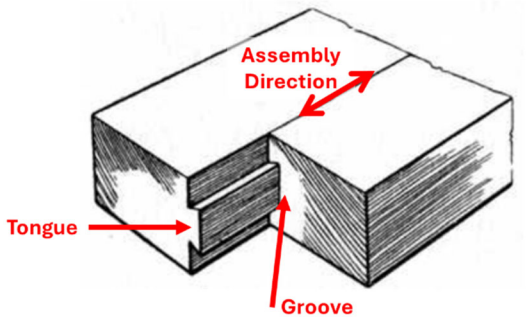
1. Tongue and Groove Releasably Coupled Containers:

41. There are many well-known examples of parts being held together with tongue and groove type connectors, with many being age-old woodworking examples such as for furniture and floors. Below is an example[2] of how floors are made with tongues and grooves engaging adjacent boards and configured such that the joint covers the nails (as annotated in red). Planks are placed and moved together engaging the tongue of one board within the groove of the other. Nails are then driven into the groove holding boards in place until the next board is placed and hides the nail.

[2]Image from https://sawdustmaking.com/woodjoints/tongueandgroove.htm, accessed on 8/6/2024.



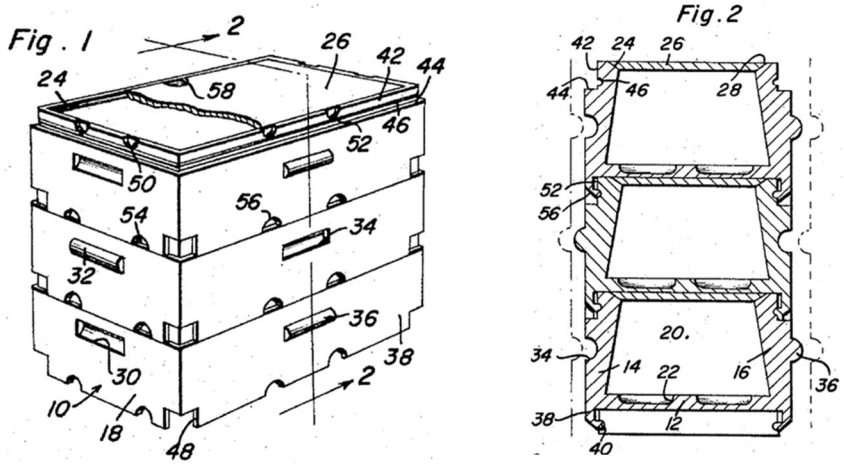
42. Another well-known example is a dovetailed tongue and groove connection as shown in the annotated image below (*id.*). Here, the tongue is wider at its tip than at the base, with a matching profile in the groove. This limits all relative motion of the two parts to just that along the assembly direction.



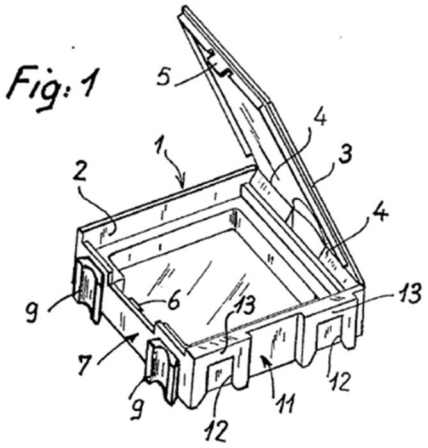
43. Tongue and groove coupling mechanisms have long been known to be used in the art for detachably attaching two modules or containers for many years and well before the effective date of the ’952 patent, as illustrated by numerous prior-art patents.

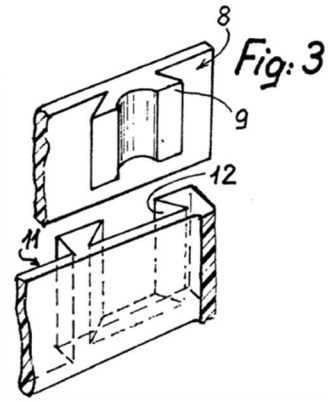
44. For example, U.S. Patent No. 3,424,334, entitled “Stacking Box Construction with Interlock” which issued in October 1964 to Goltz (“Goltz”) Ex. 1010. It describes interlocking engagement between vertically stacked boxes. Tongues and grooves on the side walls lock adjacent boxes together by preventing

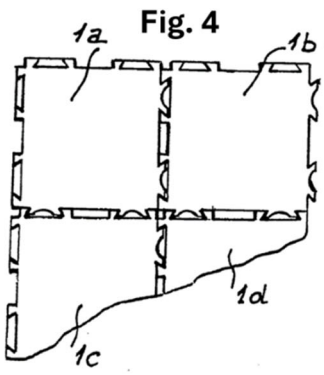
relative vertical and translatory movement. *Id.* at 1:13-19. Fig. 1, reproduced below, shows a stack of detachably connected boxes. Fig. 2, shows a cross section in which the tongue (projecting lip or nipple 40) engages the slot or groove (46) to detachably attach two adjacent containers.



45. Another example is U.K. Patent Application 2,211,486 entitled "Boxes," which was published in July 1989 to Vola ("Vola"). Ex. 1011. It describes interlocking containers with sides that have male and female assembly guides of dovetail cross-section that detachably interlock with vertical movement. *Id*. at 1:24-2:11. As shown in Figures 1, 3 and 4 below, each individual container (1a, 1b, 1c, etc. in Fig. 4) is coupled to an adjacent container with a vertical sliding bevel type tongue (9) and groove (12) coupling as shown in Fig. 3.







46. Another example is U.S. Patent No. 5,890,613, entitled "Modular Cooler Construction," which issued in April 1999 to Williams ("Williams") Ex. 1012. The patent summarizes the invention as a series of interlocking containers. The interlocking features are enabled by a beveled tongue and groove connection as seen in the blow-up section in Fig 1A below, with the tongue (slide rails 37) and groove (receiving slot 34). It also describes providing detents to releasably interlock the containers in a desired configuration. *Id.* at 1:32-39. Also, as shown in Fig 1 below, the patent teaches that the containers can be different sizes.

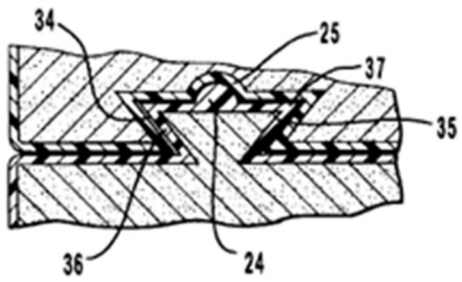
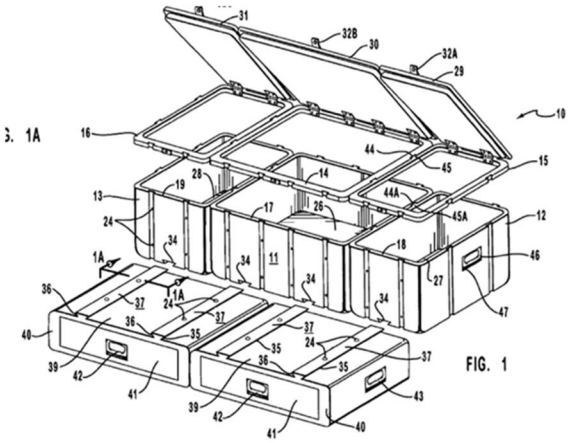
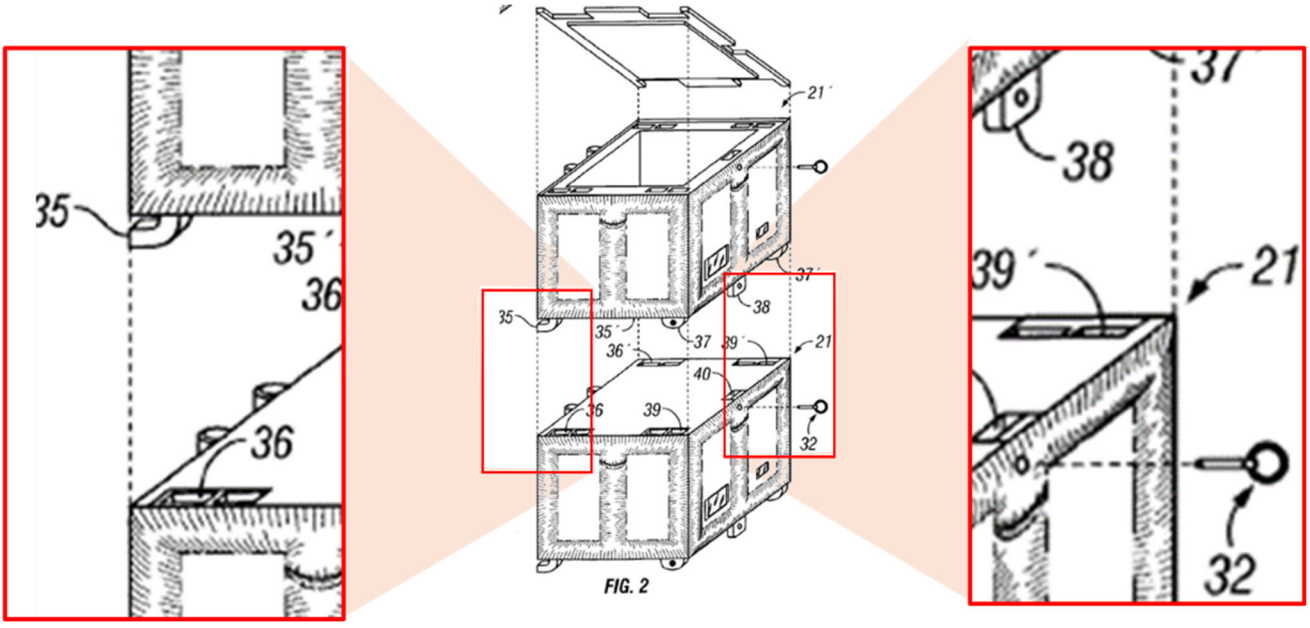


FIG. 1A



47. And still another example is U.S. Patent No. 6,983,946, entitled "Transportable Containers Apparatus and Method," which issued in January 2006 to Sullivan, et. al. ("Sullivan"). Ex. 1013. The invention is described as stackable, interlockable, and fully enclosed storage containers with attachable and interlockable wheeled base as well as other accessories such as an attachable pulling handle. *Id.* at 3:61-68. Containers can be locked together by a locking means (32). *Id*. at 6:29-31. Figure 2 below shows the coupling as tongues (curved members 35 and 35") projecting downward from the bottom of one container to engage with grooves (rectangular slots 36 and 36') in another container. The two containers are locked together by inserting pin 32 through matching holes in the two containers.



48. Figure 11 below shows a fully assembled set of containers on wheels. with a pull handle.

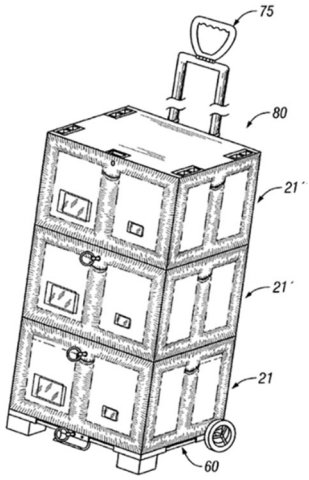


FIG. 11

49. A more recent example is U.S. Patent No. 9,375,835, entitled "Tool Box Assembly", which issued in June 2016 to Lin ("Lin") based on an application filed in July of 2015. Ex. 1007. As shown below in Fig. 9, the tool box assembly includes modules of different sizes with lockable and pivoting lids that are releasably interlocked with other boxes through tongue and groove couplings that can be locked. *Id.* at 1:27-43.

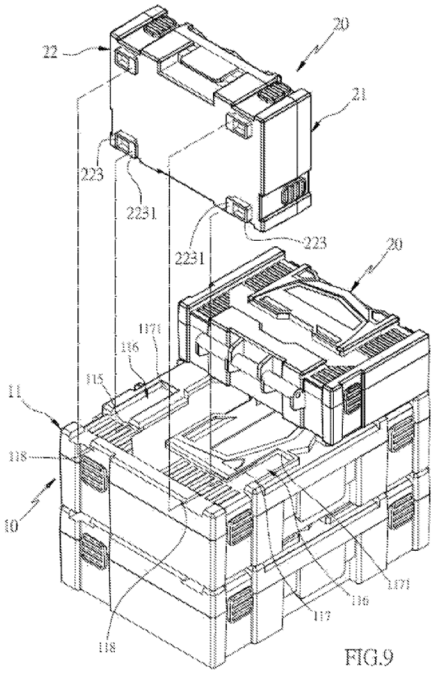


FIG.9

50. As such, interlocking modules of different sizes and configurations involve simple and well-established technology that would have been well known to a POSITA. Many configurations of tongue and groove type connecting elements and variations were well known to a POSITA well before May 2016.

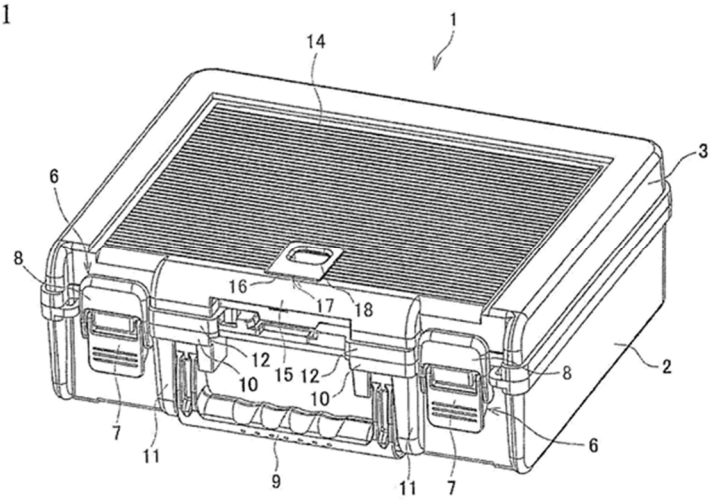
2. Toggle Latches

51. Toggle latches are a subset of closure latches. Toggle latches are those latches wherein a lever or handle is stable in two positions, "toggling" between locked and unlocked positions. Toggle latches on containers and toolboxes were ubiquitous in the prior art. Below are just two of many examples.

52. One example is EP2338650B1, entitled "Power tool storage case" which issued in October of 2016 to Horiyama, et al. ("Horiyama ") Ex. 1014. As shown below in Figure 1, it teaches a pair of right and left latches 6 to hold the lid

of a toolbox closed. It also teaches that the "latch 6 is a so-called toggle latch or flip-over latch, in which an upper end of a lever plate 7 is rotatably connected at an edge of the opening of the main body casing 2, and a hook plate 8 is rotatably connected at its lower end to an intermediate portion of the lever plate 7." *Id.*, ¶[0024]

FIG.1



53. Another example is US Patent 8740010B1, entitled "Cooler with locking capabilities" which issued in June of 2014 to Page ("Page") Ex. 1015. As shown below in the front view of Figure 1 and side view of Figure 3, it teaches that the lid 23 is attached to the shell 21 a hinge connection 30 and held closed by a pair of over-center latch assemblies 41. *Id.*, 4:31-34

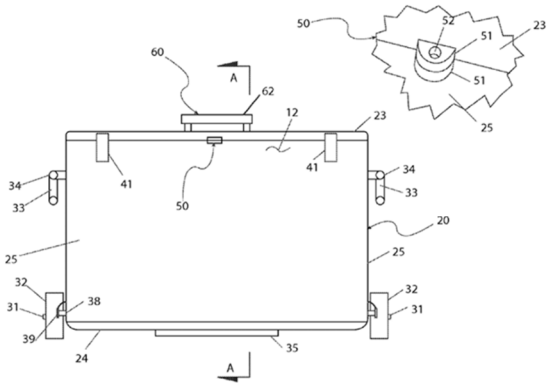


Fig. 1

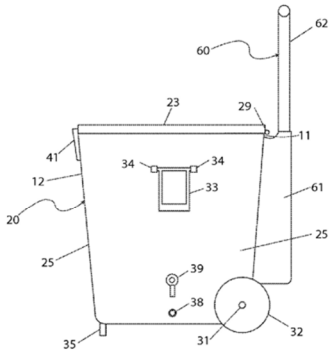


Fig. 3

54. Specifically, it teaches that toggle latches are one of many that would be known to a POSITA. It teaches that the "latch assemblies 41 could be comprised of any other suitable cooler latching mechanism, such as hasp type latches, toggle latches, cam latches, or the like without violating the form of this embodiment." *Id.*, 4:36-39

55. All of the above references and the additional ones below relate to connectable containers. It is therefore my opinion that all of these references would be obvious sources a POSITA would have considered when seeking to improve upon a connectable container assembly.

B. Burchia (Ex. 1004)

56. Burchia[3] discloses stackable containers that are detachably connected via a **tongue** sliding into a **depressed surface** having a **back wall**, **side walls** and a **rib**, with a **spring-biased locking latch** locking the containers in place from its **arresting location**, as shown in below annotated Figure 1.

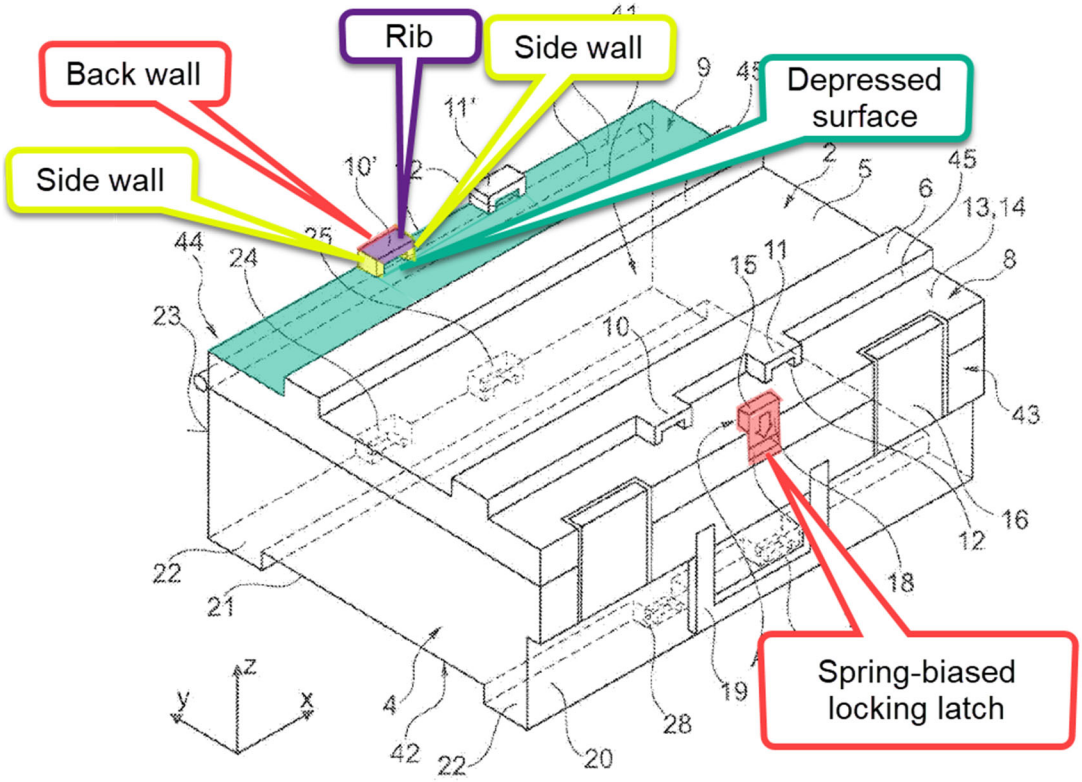


Fig. 1

[3] Ex. 1004 is the U.S. patent to Burchia. Also included is the German priority application, Ex. 1018, and the certified English translation of the German priority application, Ex. 1019, with a certification that the translation is true and correct, Ex. 1019 at 19.

57. Annotated Figures 4 and 5 below show the progression of connecting two containers by first sliding the **tongue** of the top container into the groove of the bottom container and then securing them from sliding apart with the **spring-loaded latch**. This is like the tongue and groove wood floor planks described above, but with a **spring-loaded latch** securing them in place rather than a nail.

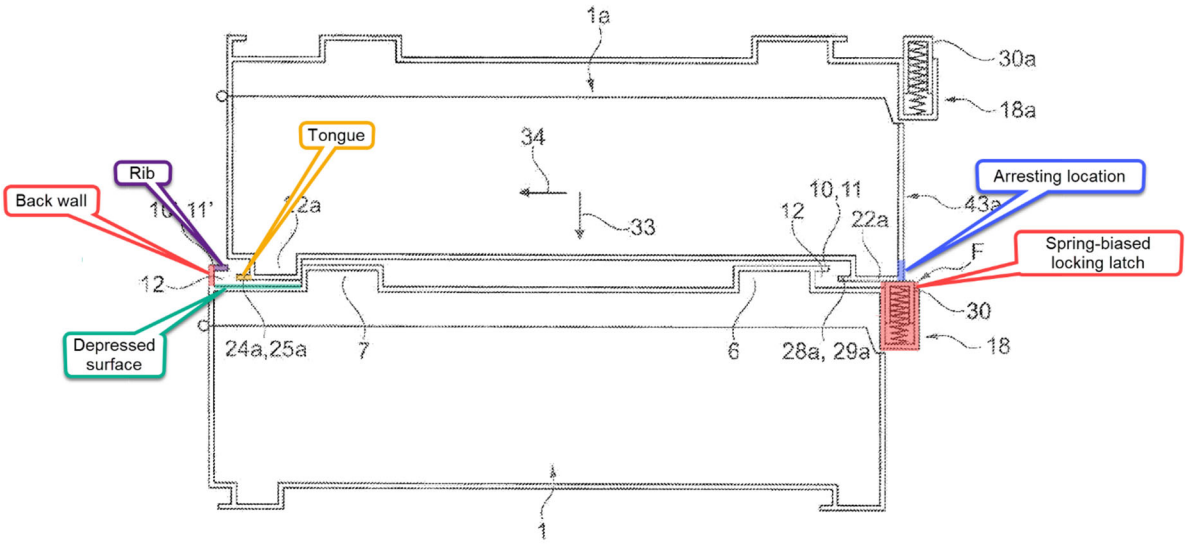


Fig. 4

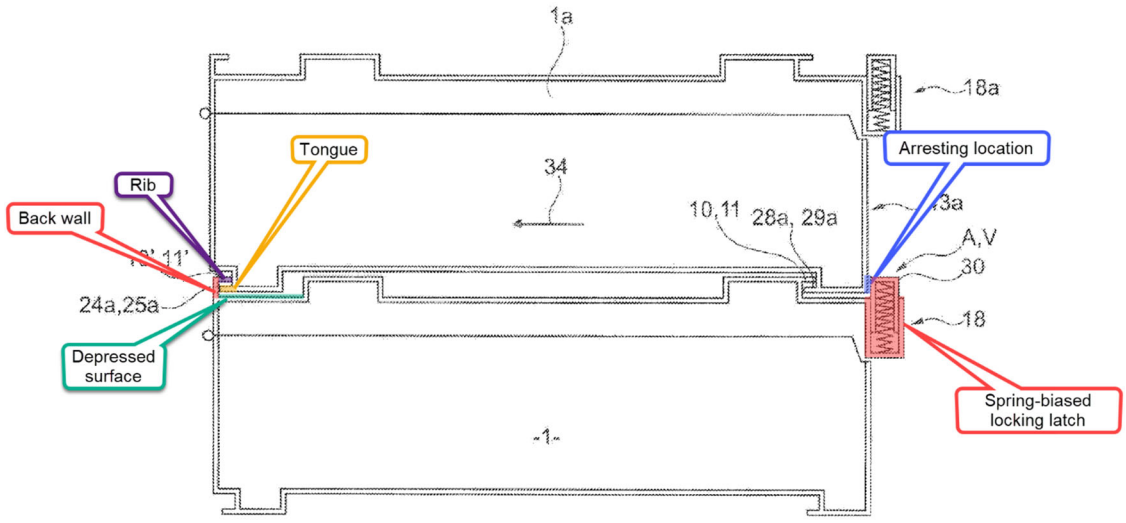


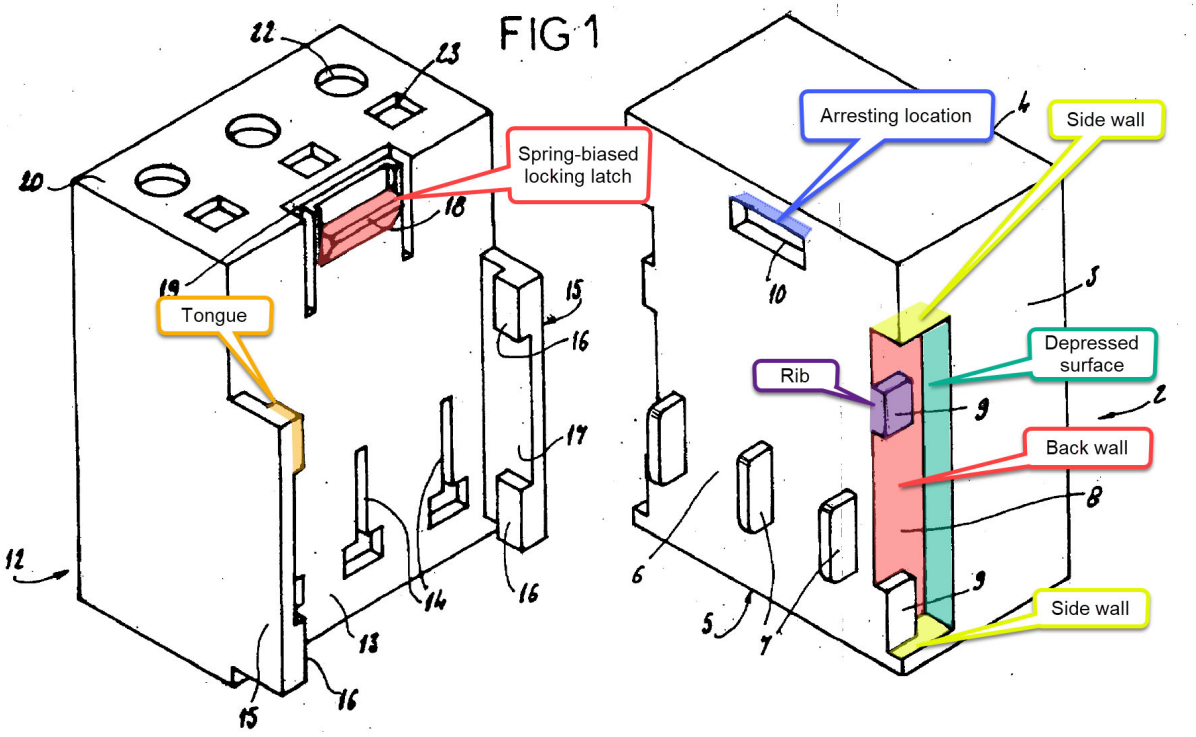
Fig. 5

58. I rely on disclosures in the patent and priority application, as set forth below:

Burchia patent (Ex. 1004)	Burchia priority (Ex. 1018, 1019)
Fig. 1	Fig. 1
Fig. 2	Fig. 5
Fig. 3	Fig. 2
Fig. 4	Fig. 3
Fig. 5	Fig. 4
2:15-19	[0012]
6:42-47	[0012], [0060], [0065], [0068]
6:48-50, 6:50-53	[0018], [0073]
7:37-52	(54) Title, (57) Main claim, [0045], [0046]
7:38-40; 9:4-12	[0047]
9:34-41, 10:35-43	[0009], [0021], [0022], [0051] - [0057], [0065], [0070]
10:13-15	[0058]
10:34-38	Fig. 1, Fig. 4
11:34-36	[0012], [0059], [0067]
12:53-58	[0059]
12:61-67	[0012], [0060], [0065]
13:4-16	[0012] - [0013]

C. Lafragette (Ex. 1005)

59. Lafragette discloses a connection module (a first container) that is mated with an electrical box (a second container) via a **tongue** sliding into a **depressed surface** and engaging a **rib**, with a **spring-biased locking latch** locking the coupler in place from its **arresting location**, as shown in Figure 1:



D. Metabowerke (Ex. 1006, 1020 (translation))

60. Metabowerke[4] discloses stackable containers that are detachably connected via feet on the bottom of the containers having a **tongue** sliding into a **depressed surface** having a **back wall**, **side walls** and a **rib**, with a **locking latch** that holds the two boxes together from its **arresting location**, as shown in Figure 1:

[4] Ex. 1020 is a certified translation of the German language publication of Metabowerke, Ex. 1006, and includes a certification that the translation is true and correct, Ex. 1020 at 18.

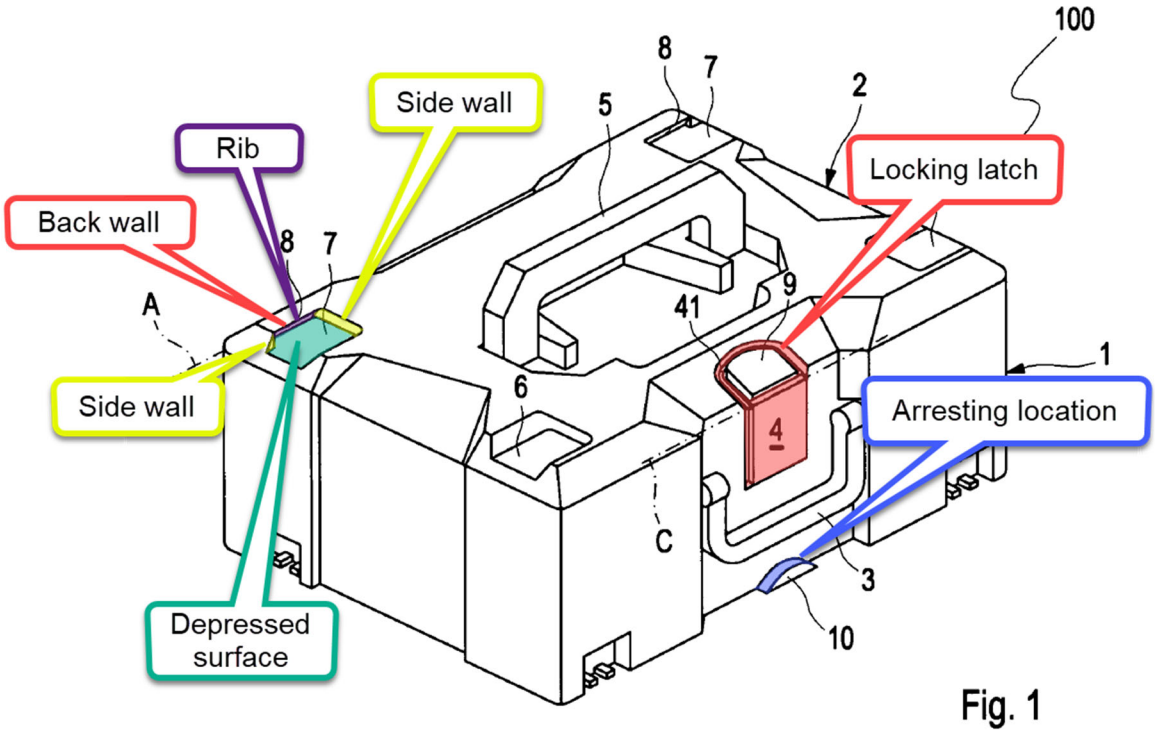


Fig. 1

E. Lin (Ex. 1007)

61. Lin discloses stackable containers that are releasably held together with a tongue and groove configuration and illustrates the use of containers of different sizes, such as a **third container** half the size of the **first container**, as shown in Figure 10:

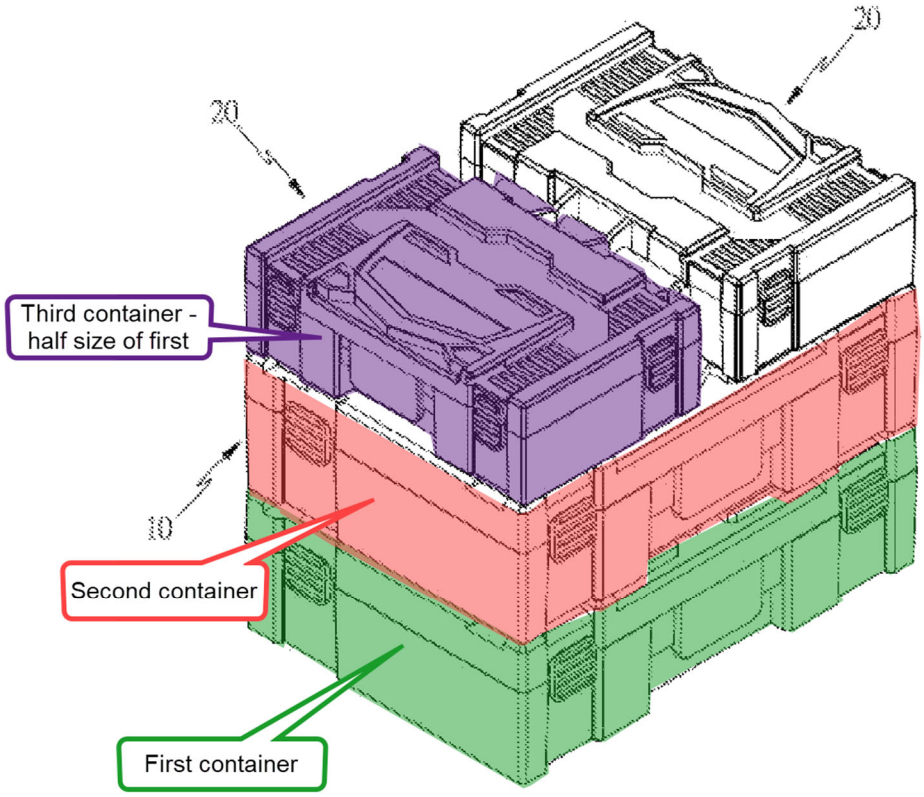


FIG.10

VI. GROUND 1: BURCHIA AND METABOWERKE RENDER OBVIOUS CLAIMS 1-23

62. Ground 1 relies primarily on Burchia as disclosing all claim limitations. To the extent patent owner argues that Burchia fails to disclose a "depressed surface" having a "back wall," "sidewalls," and a "rib," it is my opinion that it would have been obvious to incorporate such a depressed surface from Metabowerke, as set forth below.

A. Motivation to Combine

63. It my opinion, a POSITA would have been motivated to combine Burchia with Metabowerke as they both describe releasably stackable containers,

such as toolboxes, with connectors on the lid of one connecting with the base of another. Specifically, a POSITA would be motivated to include Metabowerke's connector, which has a smaller depressed surface on the face of a container lid instead of Burchia's connector, which protrudes from a depressed surface that extends across the entire length of a container lid. By using a smaller depressed surface instead of the larger depressed surface, Metabowerke reduces the possibility of a protruding coupler being damaged. It also creates more contiguous space within the container to hold items. This is because in Metabowerke, the coupling rib is flush with most of the surface of the lid, whereas in Burchia, the coupling rib protrudes. When coupling another container on top by sliding its surface, Metabowerke's flush connector is less likely to become damaged compared to Burchia's more exposed connector.

64. It my opinion, a POSITA would have had a reasonable expectation of success in substituting Metabowerke's couplers in the Burchia container, because both container assemblies use the same type of coupling mechanism. They both have ribs at the top of the bottom container forming grooves that are engaged by a tongue protruding from the bottom of a top container. Accordingly, a POSITA could take the face of Burchia's container and rather than extend the depressed surface across the entire length of the lid, simply include small, depressed surface like Metabowerke. The corresponding male-couplers with tongues could then

simply be sized to enter the depressed surface and engage the rib. As noted, Burchia and Metabowerke and the '952 patent are analogous art because they are all in the same field of releasably, stackable containers.

B. Claim 1

1. 1[pre]: A container assembly comprising:

65. To the extent that the preamble is found to be limiting, Burchia discloses this limitation in my opinion. It discloses a container assembly comprising two containers. Specifically, Burchia discloses stackable suitcases that are interlocked together. Ex. 1004, 7:37-52 ("[T]he suitcase is a container … By means of the invention, it is possible that two suitcases that are stacked one on top of the other are brought into a coupling connection"); Ex. 1019, Title, Main claim, [0045], [0046]. The containers are coupled into a container assembly. Ex. 1004, Fig. 3, Ex. 1019, Fig. 2. The **first (bottom) container** and **second (top) container** and the **container assembly** are shown, for example, in Fig. 3:

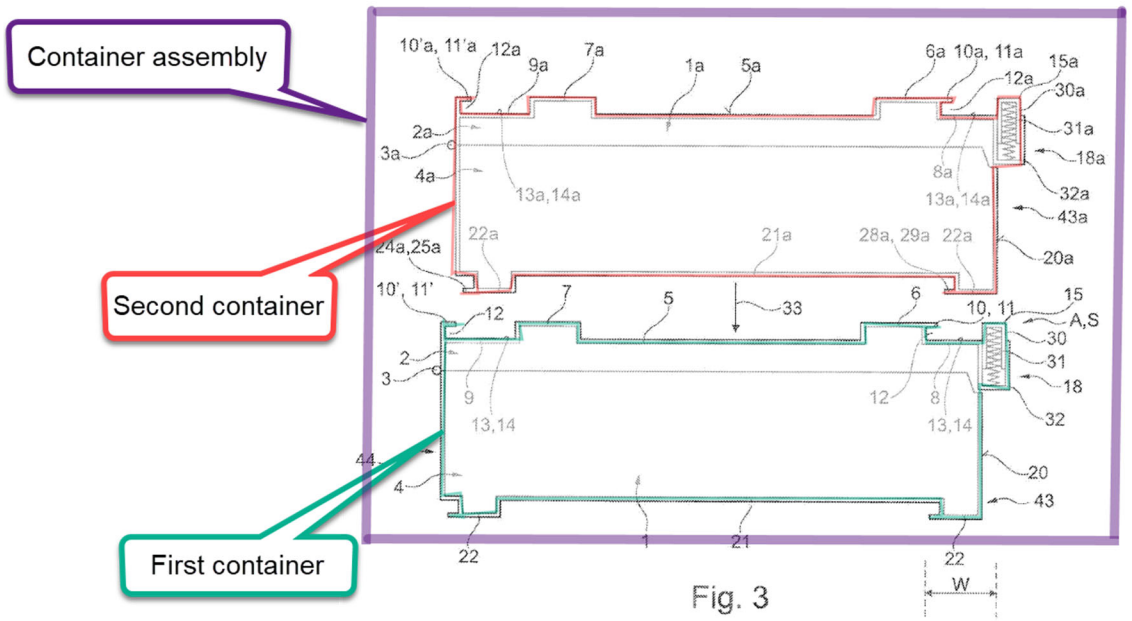


Fig. 3

2. 1[a]: a first container comprising: a first coupler extending from a top face of the first container,

66. Burchia discloses this limitation in my opinion. It discloses a first container that comprises a top outer face (which, for the first container, is the top side or the upper face of the container). From the upper face of the first container in a normal direction extends a coupler that is designed to connect and couple with another container. Figure 1 illustrates both the **top face** of the first container as well as the **first coupler** extending outward from the **top face**. Figure 3 illustrates how the **first coupler** is designed to interlock and couple with another container in order to create a stackable assembly.

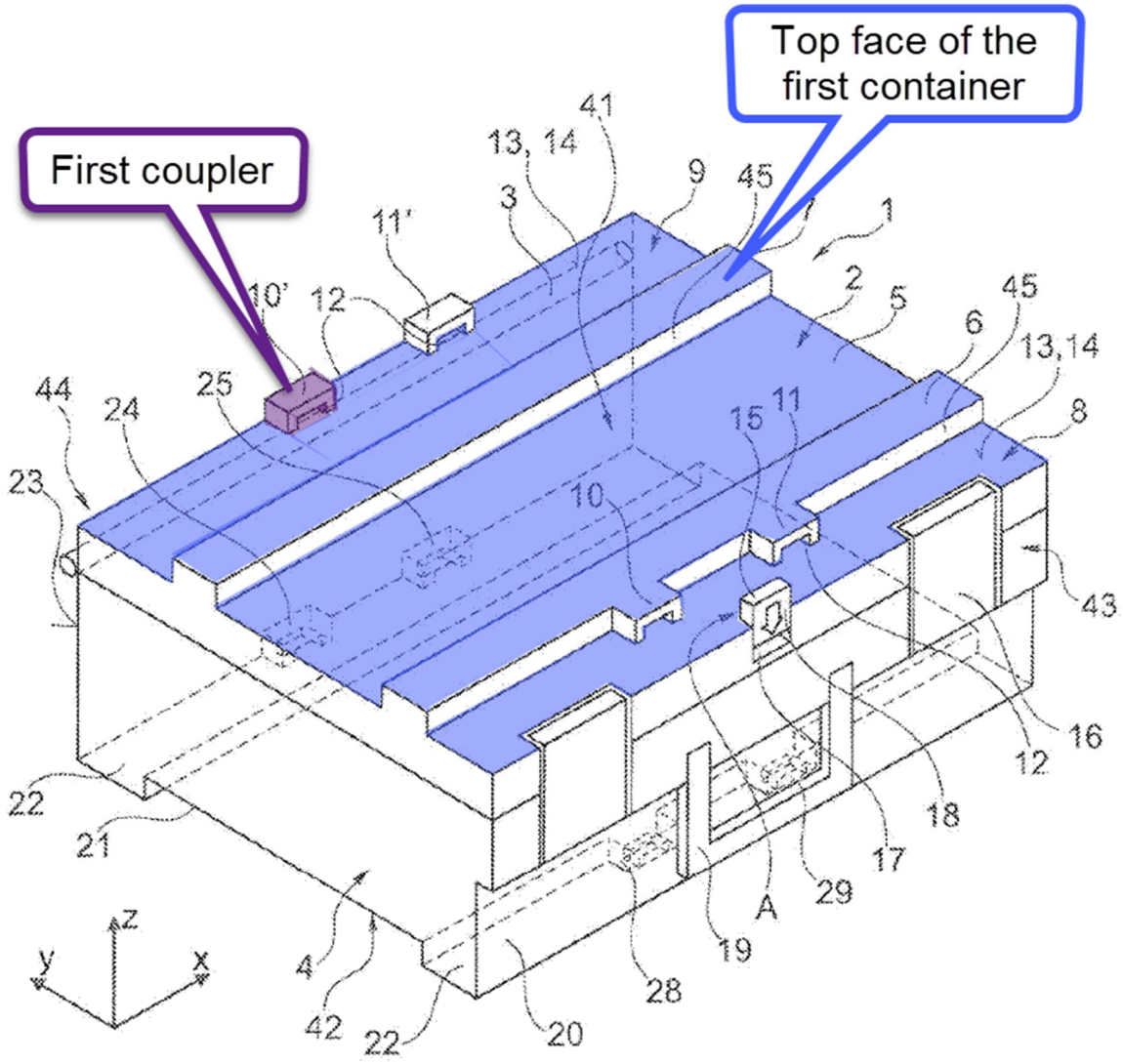

Top face of the first container
First coupler
41
13, 14
9
45
1
3
11'
10'
12
2
5
45
6
13,14
8
44
24
25
15
11
23
10
43
16
12
22
21
18
17
29
A
19
28
4
42
22
20
z
y
x

Fig. 1

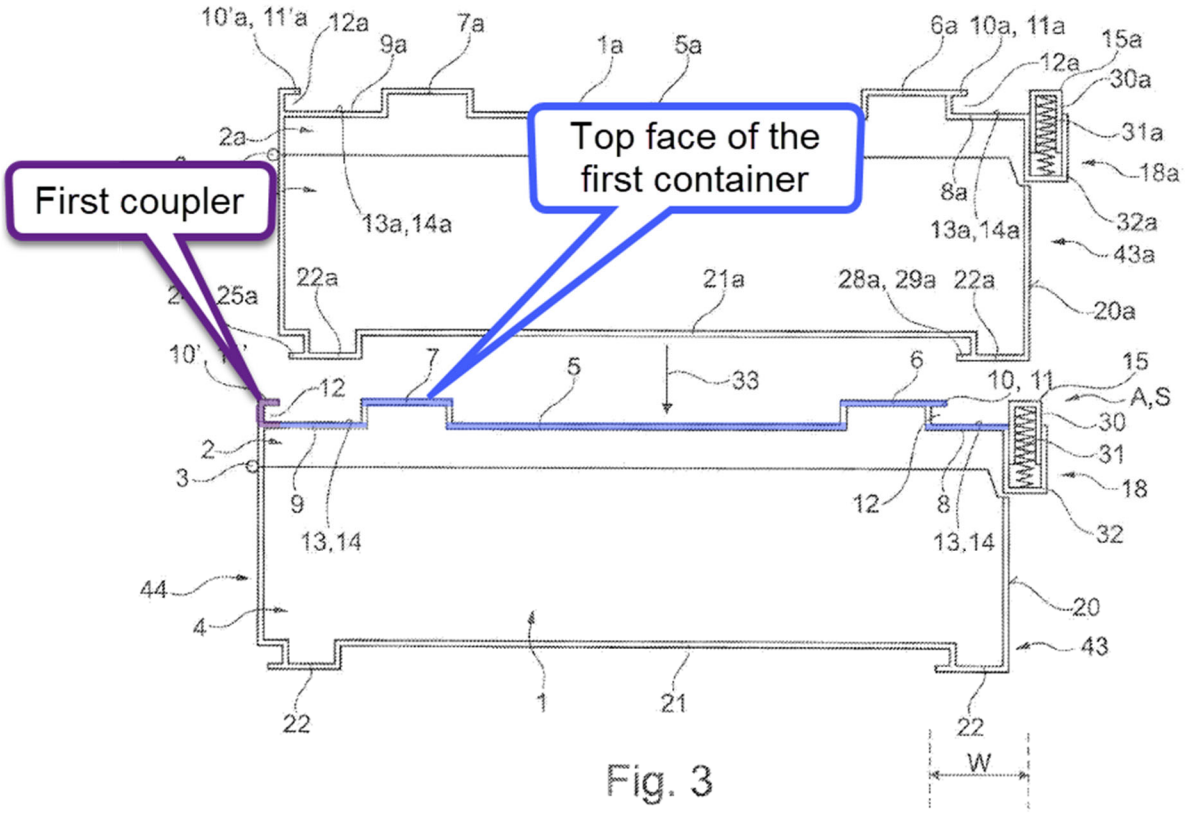


Fig. 3

67. Burchia explains that element 10' shown in Figure 1 is a "coupling part[]… which can be brought together with a related counter-coupling part of the further suitcase." Ex. 1004, 9:34-36; *see also* Ex. 1019, [0009], [0021], [0022], [0051] - [0057], [0065], [0070]. These coupling parts form a "plug-in connection." Ex. 1004, 9:40-41; *see also* Ex. 1019, [0009], [0021], [0022], [0051] - [0057], [0065], [0070]. Burchia describes that "[p]referably, the coupling parts 10, 11 are assigned to the top side 41, in particular configured on the top side 41." Ex. 1004, 10:13-15; Ex. 1019, Fig. 2. The "top side" is a "top face."

3. 1[b]: the first coupler comprising two sidewalls, a back wall, and a rib, the back wall located between the two sidewalls,

68. Burchia discloses this limitation in my opinion. The first coupler disclosed in Burchia comprises two **sidewalls**, a **backwall** spanning the distance between the two **sidewalls**, and a **rib** that similarly spans the distance between the two **sidewalls**, which are each a singular, distinct plane. An annotated version of Figure 1 and Figure 3 identifies these components of the first coupler disclosed by Burchia.

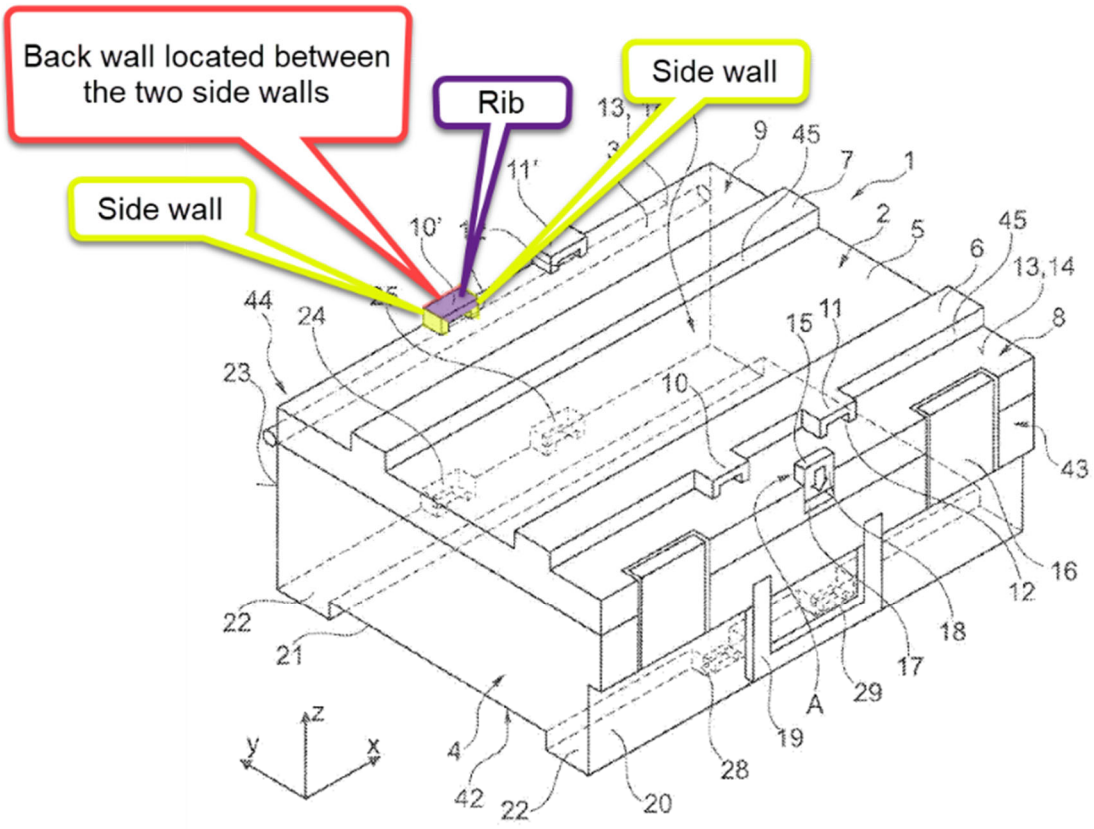


Fig. 1

69. Note, that while only the surfaces of the **sidewalls** are highlighted in yellow above, the inner sides of the sidewalls could also be considered the sidewalls, or part of the sidewalls, with the inner **back wall** located between them.

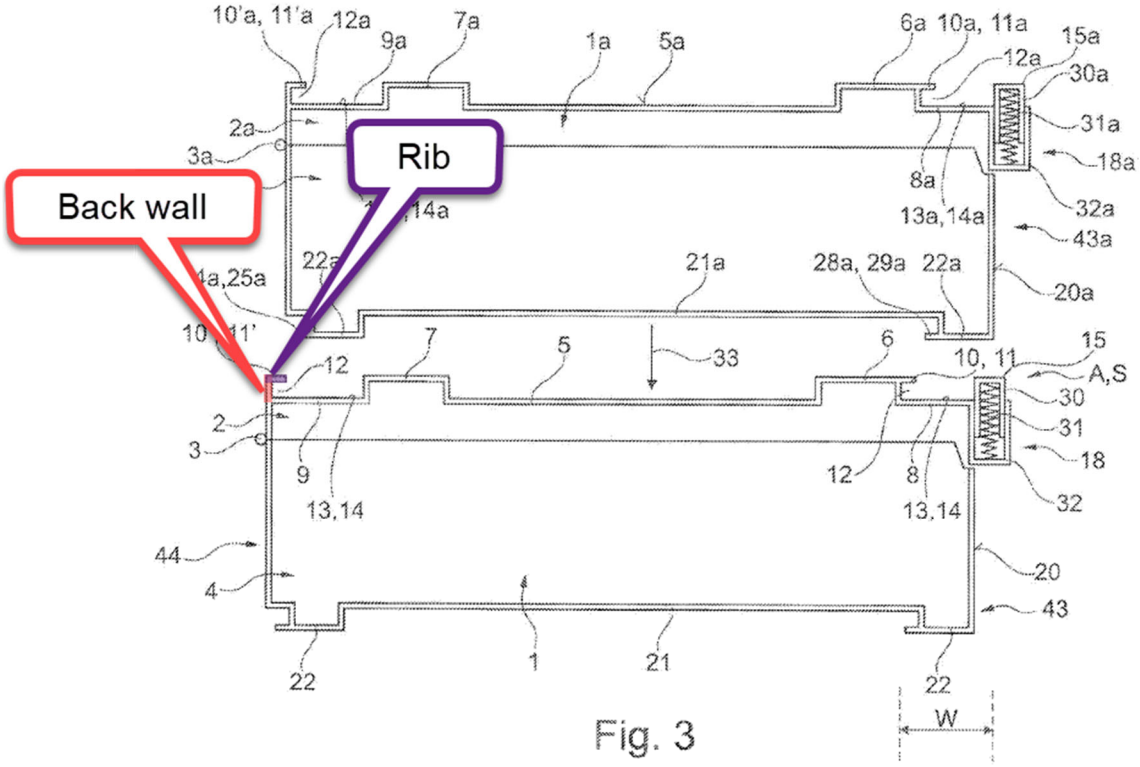


Fig. 3

70. A rib is typically a protrusion (usually thin in nature) that extends outward (typically in an orthogonal direction) from a wall or plane. The structure identified as a **rib** in the annotated versions of Figures 1 and 3 above fits this description: the structure is a thin wall extending perpendicularly outward from the back wall. The rib is capable of sustaining an applied force which enables the interlocking between a first and a second container. Without the rib between the two side walls there would be no structure of the first container capable of

sustaining the force of the first container when the second container is interlocked with the first coupler of the first container.

4. 1[c]: the two sidewalls and the back wall projecting above a depressed surface of the top face,

71. In my opinion Burchia alone or in combination with Metabowerke discloses this limitation. The first face disclosed in Burchia is a surface that has depressed portions. These depressed portions would therefore form a depressed surface. I understand depressed to mean offset by a vertical distance downward in the direction generally perpendicular to a reference surface. The reference surface here would be the top face. And Burchia discloses two sidewalls and a back wall projecting from the depressed portion of the top face. Annotated versions of Figures 1 and 3 identify the **depressed surface** of the **top face** as well as the two **sidewalls** and the **back wall** that project from said **depressed surface**.

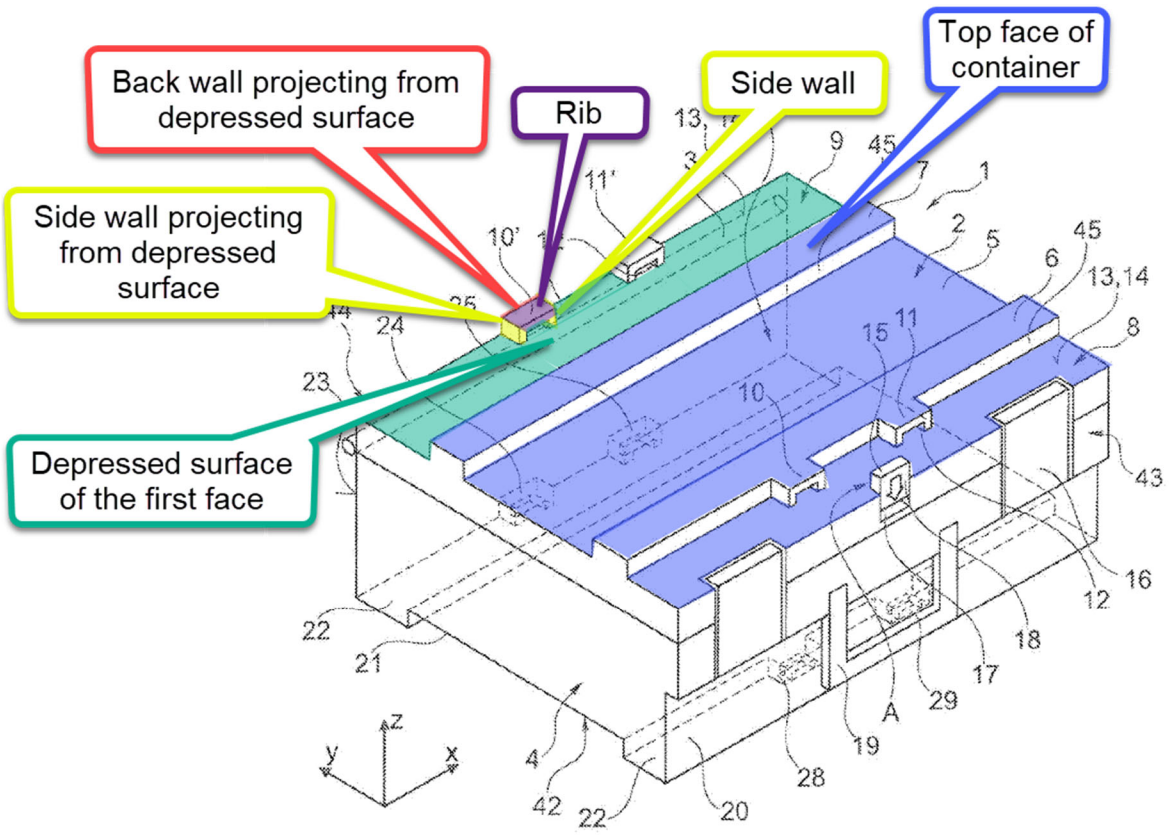

Back wall projecting from depressed surface
Rib
Side wall
Top face of container
Side wall projecting from depressed surface
Depressed surface of the first face

Fig. 1

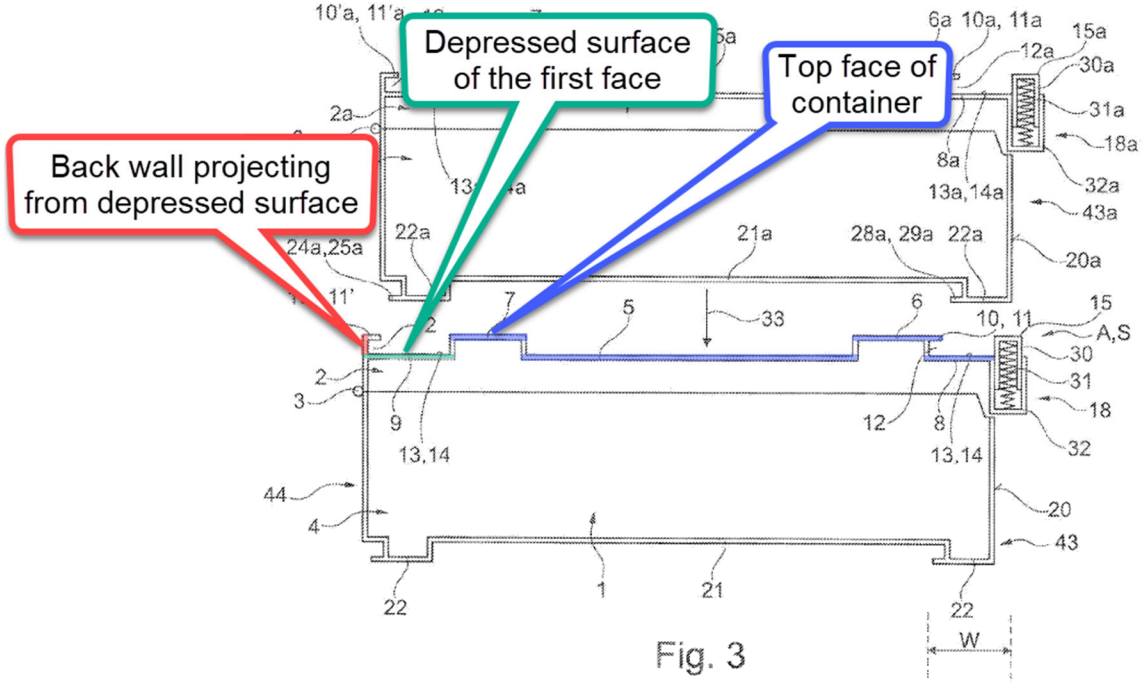

Depressed surface of the first face
Top face of container
Back wall projecting from depressed surface

Fig. 3

72. To the extent that the Patent Owner argues that the back wall of the first coupler from Burchia does not project from a depressed surface, but rather projects from the top face of the first container, it is my opinion that such an argument would be incorrect since what I have identified as a depressed surface in Burchia's Figures 1 and 3 above is vertically offset from the top face and therefore, by definition, "depressed." Even if Patent Owner's argument were to be accepted, it would have been obvious to one skilled in the art on the priority date of the '952 patent to utilize the depressed surface from Metabowerke on the top face of the first container in Burchia.

73. Metabowerke discloses a depressed surface on the **top face** of a container, as identified in Figure 1 below. From the **depressed surface** there projects two **side walls** and a **back wall** (also identified in Figure 1 below).

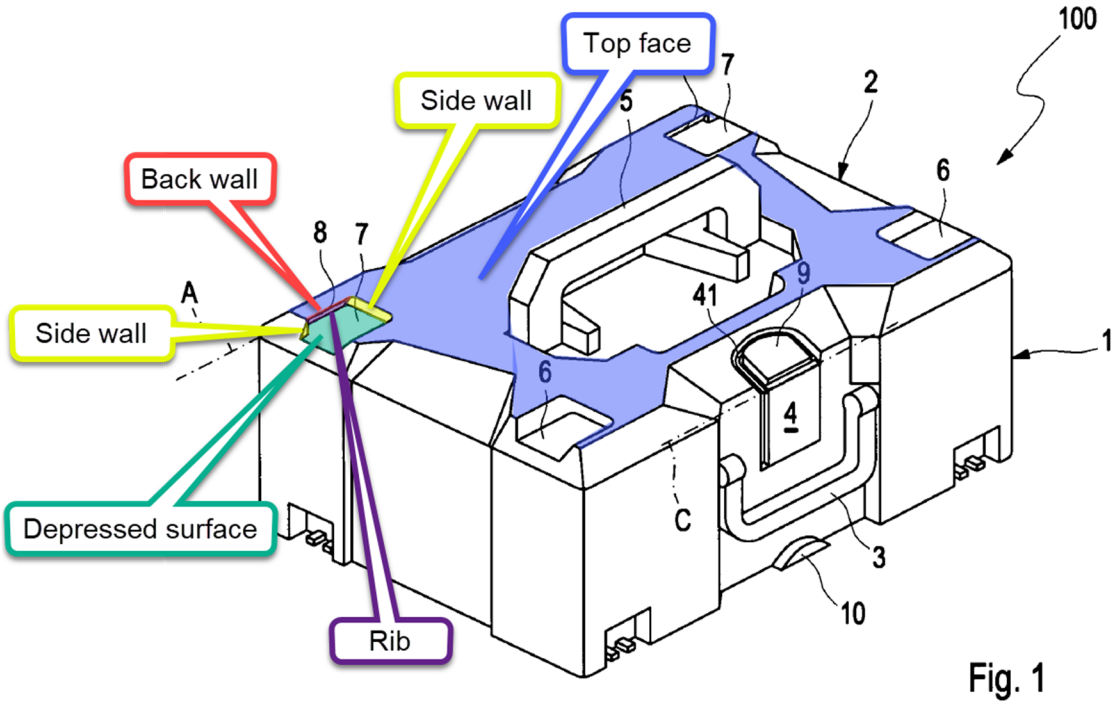


Fig. 1

74. And below is a magnified version showing the **depressed surface**, **back wall**, **side walls** and **rib**:

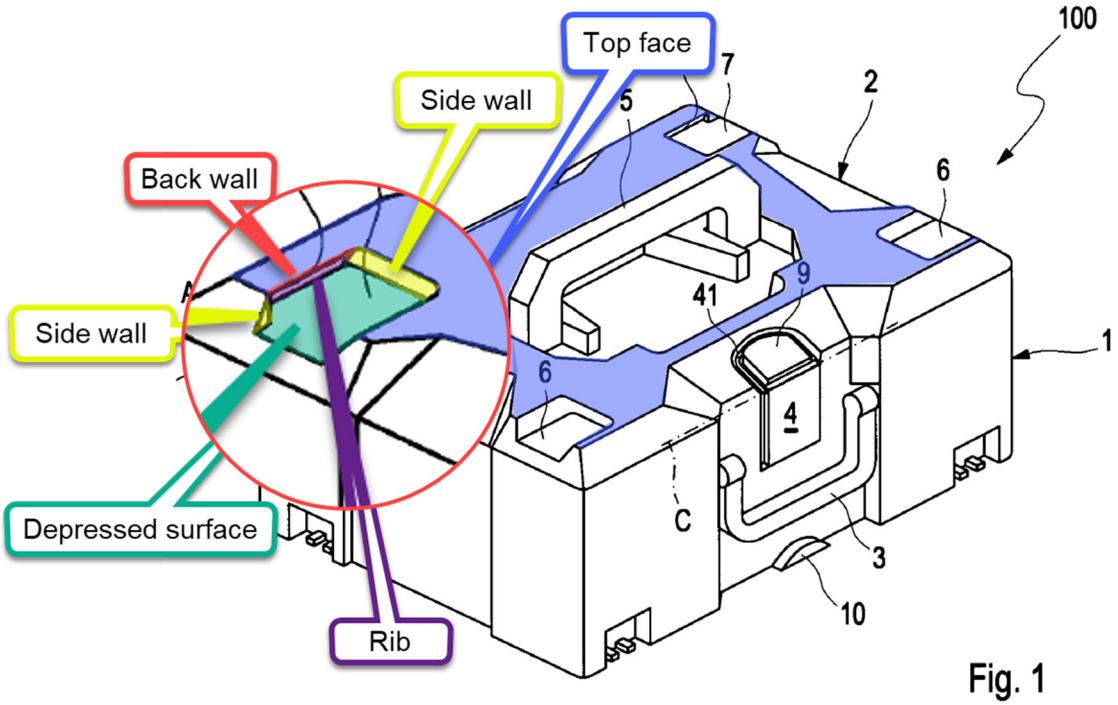


Fig. 1

75. The below annotated Figure 4 provides another sectional view of two containers coupled together, in which the first coupler can be seen having a **back wall** and **rib** projecting from a **depressed surface** of the **top face** of the first container:

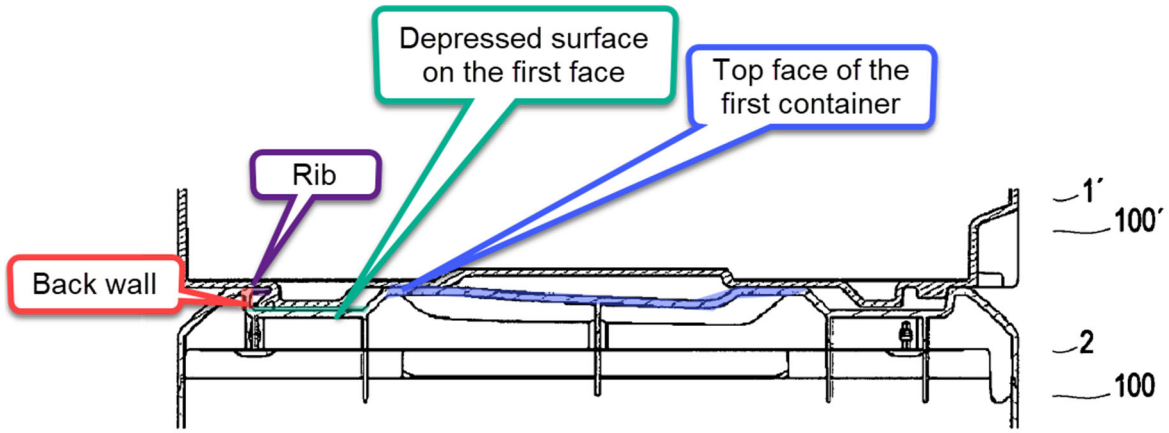


Fig. 4

76. And below is a magnified version of **back wall** and **rib** projecting from the **depressed surface** in annotated Figure 4:

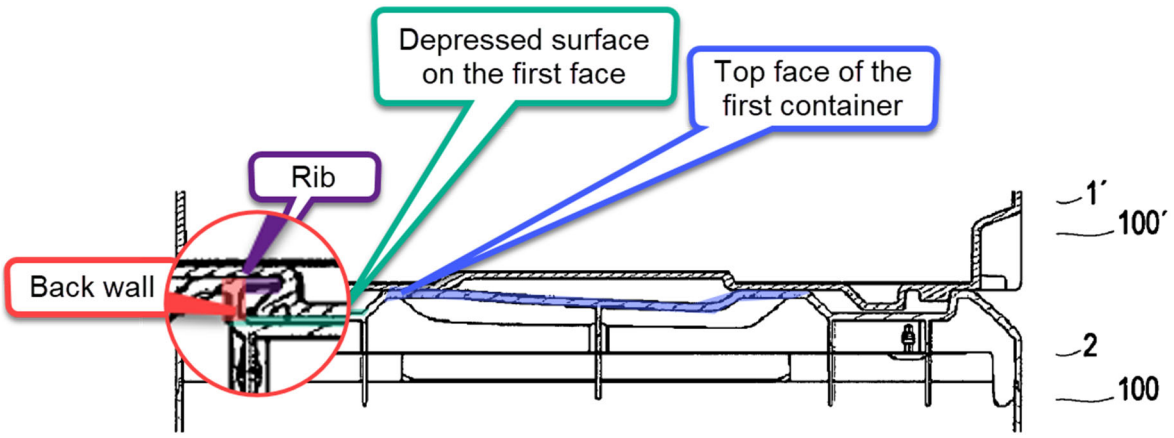


Fig. 4

5. 1[d]: and the rib extending away from the back wall in a first direction;

77. In my opinion Burchia alone or in combination with Metabowerke discloses this limitation. As shown in the below annotated Figures 1 and 3 below, Burchia discloses a **rib** extending away from the **back wall** in a **first direction**. Ex. 1004, Figs 1, 3.

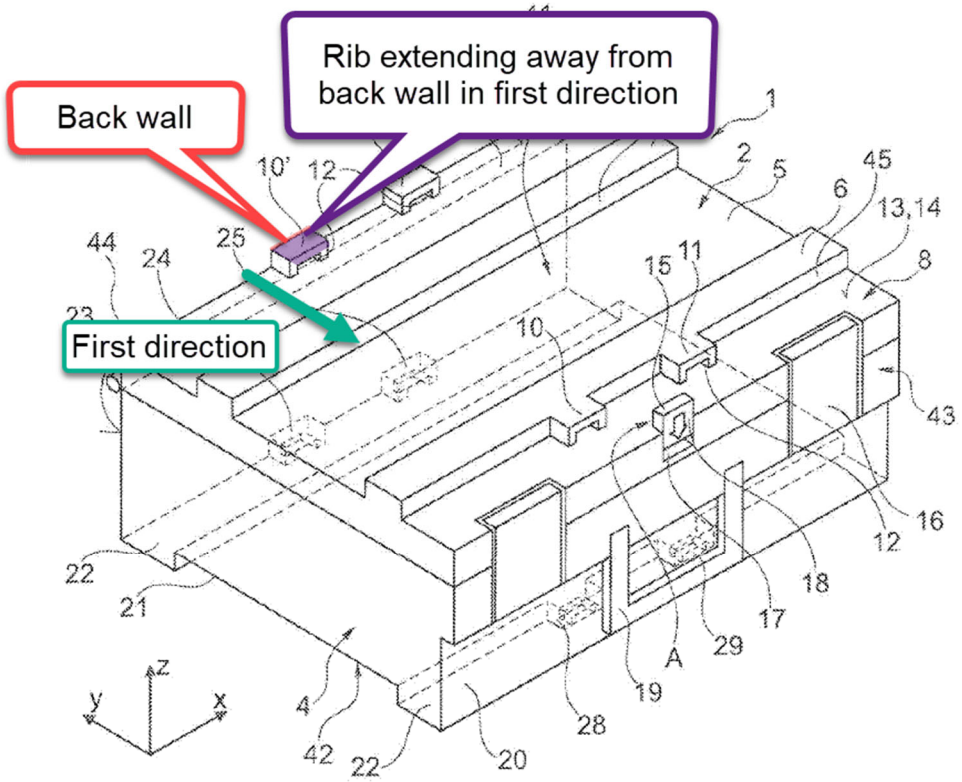

Rib extending away from back wall in first direction
Back wall
First direction
1
2
5
45
6
13,14
8
10'
12
44
24
25
15
11
10
43
16
12
18
17
29
A
19
28
20
22
21
4
42
22
z
y
x

Fig. 1

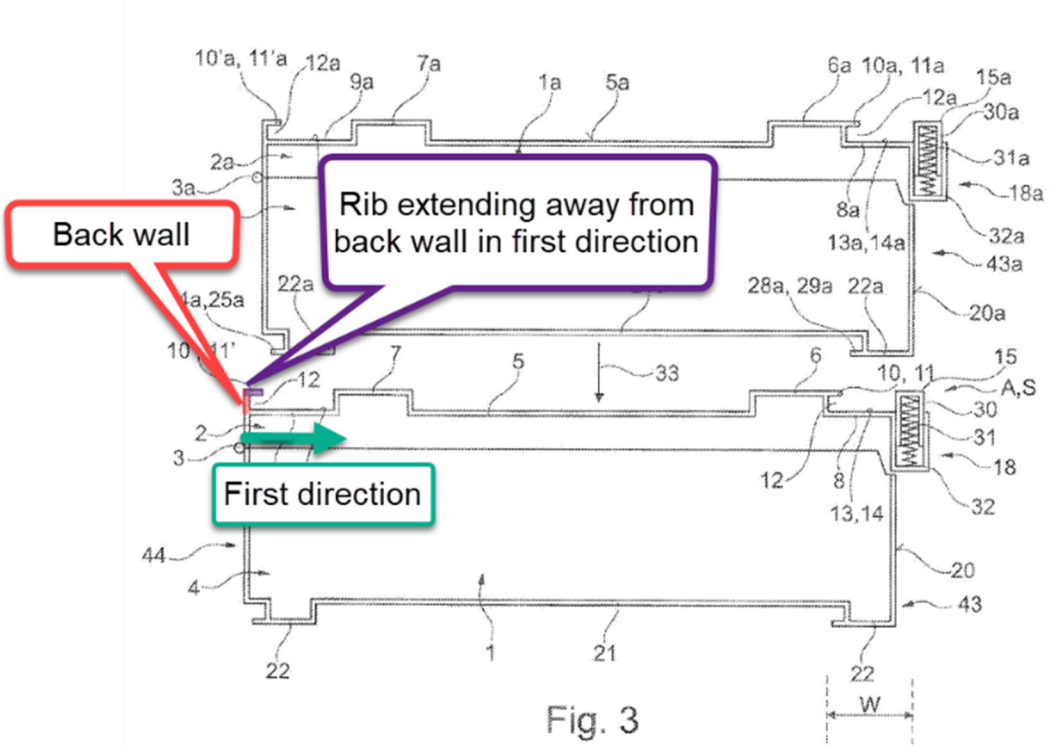


Fig. 3

78. As set forth above, to the extent patent owner argues Burchia fails to disclose a depressed surface having a back wall, side walls and a rib, it would have been obvious to modify Burchia according to the teachings of Metabowerke to include one. Metabowerke discloses a depressed surface having a **back wall**, sidewalls, and a **rib** that extends from the **back wall** in a **first direction** as illustrated in the annotated Fig 4 below:

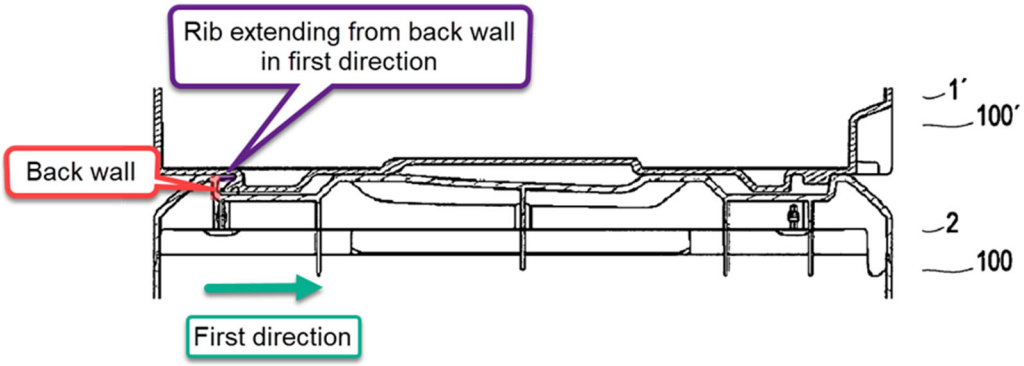


Fig. 4

6. 1[e]: a first lid pivotally attached to the first container; and

79. In my opinion Burchia discloses this limitation. It discloses that its "suitcase" "can be a container, for example, that is closed on all sides and ***provided with a lid***." Ex. 1004, 7:38-39; 9:4-8 ("Preferably, the suitcase 1 has a lid part 2 and a lower part 4 that can be covered by the lid part 2. Preferably, the top side 41 of the suitcase 1 is formed by the top side of the lid part 2, and the underside 42 of the suitcase 1 is formed by the underside of the lower part 4."); *see also* Ex. 1019, [0047].

80. Burchia further discloses that "[t]he lid can be disposed on the container so as to ***pivot***." Ex. 1004, 7:40; 9:8-12 ("The lid part 2 can be connected with the lower part 2 so as to pivot, for example can be mounted on the lower part 4, so as to pivot, by way of a hinge axle 3…."); *see also* Ex. 1019, [0047].

81. Annotated Figure 1 below depicts a **first lid** and hinge axle (3), providing a **first lid** **pivotally attached** to the first container.

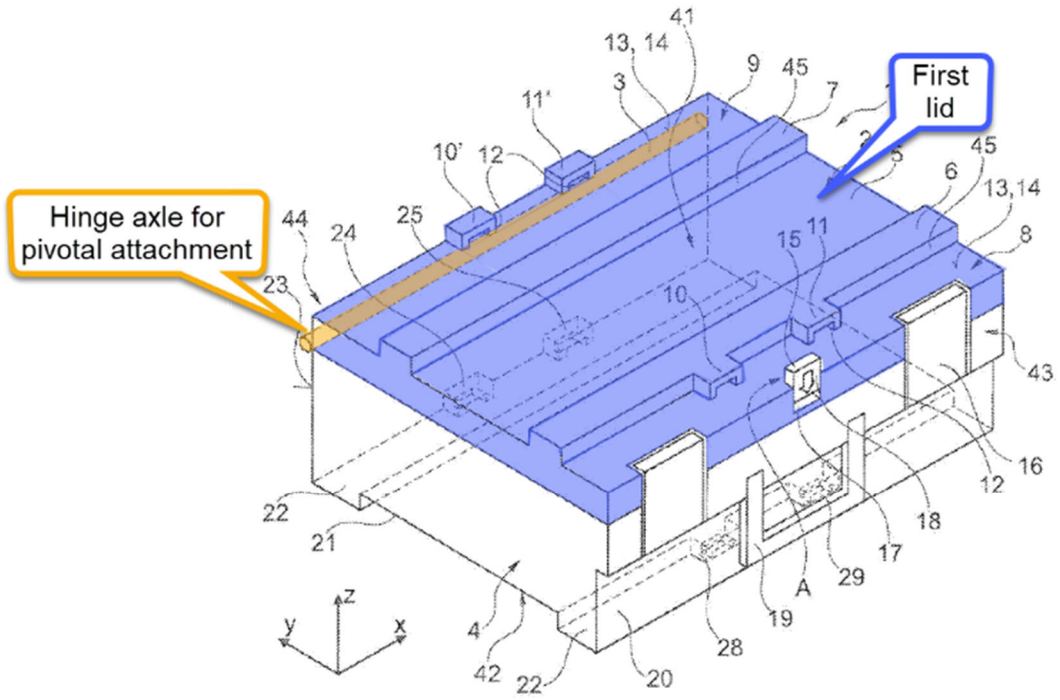


Fig. 1

7. 1[f]: a first toggle locking latch configured to latch the first lid of the first container in a closed position; and

82. In my opinion Burchia discloses this limitation and also that it would be obvious. Burchia discloses that the first lid is secured using "closure elements 16, such as closure latches." Ex. 1004, 10:13-15; *see also* Ex. 1019, [0058]. In my opinion, a POSITA would understand that "**closure latches**" are a broader category which includes "**toggle-locking latches**." Toggle-locking latches are those latches wherein a lever or handle is stable in two positions, "toggling" between locked and unlocked positions. Such latches are called "toggle locking" because they toggle between two positions such as the movement of a toggle light switch.

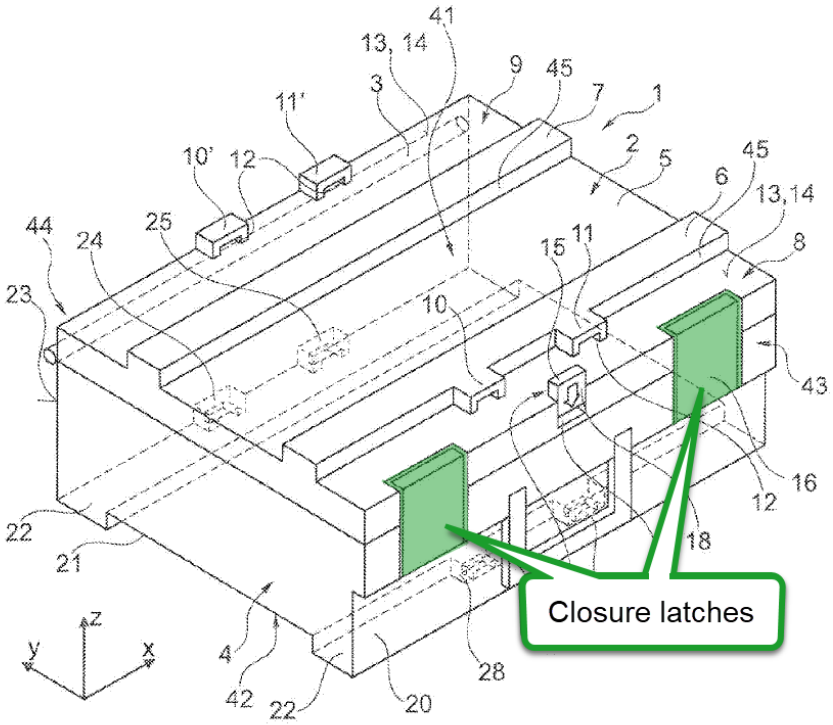


Fig. 1

83. Moreover, toggle locking latches are an obvious way to lock a toolbox lid.[5] To the extent patent owner argues Burchia's closure latches are not the claimed "toggle locking latches," it is my opinion that it would have been obvious to a POSITA to use toggle locking latches. A POSITA would understand that they are the same, and even the examiner stated a toggle latch was an "obvious variation" to the claimed container assembly. Ex. 1022 at 35 ("Reasons for Allowance . . . . The claims incorporate the allowable subject matter of US

[5] Toggle locking latches on toolboxes were ubiquitous in the prior art. Exs. 1014, 1015.

10583962 but ***further incorporate a toggle latch*** to close the pivoting lid. ***This represents an obvious variation*** to the previous patent and is overcome by the terminal disclaimer.") (emphasis added).

84. The examiner pointed to Element 27, described at Paragraph 35 and shown in the below annotated Fig. 1 of U.S. Patent Publication No. 2013/0127129 A1 to Bensman et al. ("Bensman"), finding it would have been "obvious for one having ordinary skill in the art to include toggle locking latches in similar stacking container systems to keep a stacked container lid in a closed position." Ex. 1022 at 122-23.

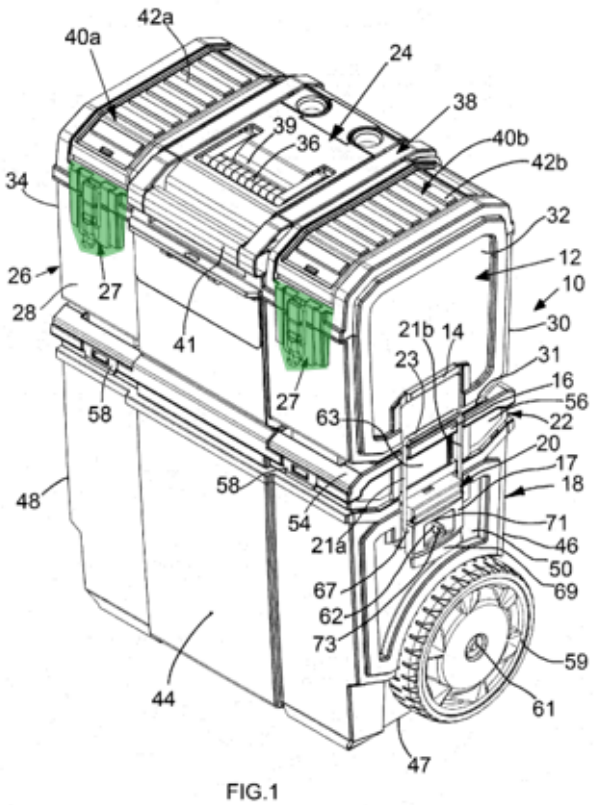


FIG.1

85. Thus, even if Burchia's closure latches are not considered toggle locking latches (they are), it is my opinion that it would have been obvious to use toggle locking latches to close the lid of a toolbox, as even the examiner of the '952 patent recognized, and the patent owner did not dispute. It is my opinion that a POSITA would have been motivated to include Bensman's toggle locking latches to enable the user to secure the lid in a closed position and easily open the lid by toggling the latch. Toggle locking latches were ubiquitous and therefore an obvious design choice that would yield the predictable result of releasably securing the lid with a reasonable expectation of success.

8. 1[g]: a second container comprising: a second coupler extending from the second container,

86. In my opinion Burchia alone or in combination with Metabowerke discloses this limitation. As shown in the below annotated Figures 2 and 3, Burchia discloses a second container comprising a **second coupler** extended from the second container. Ex. 1004, Figs. 2, 3.

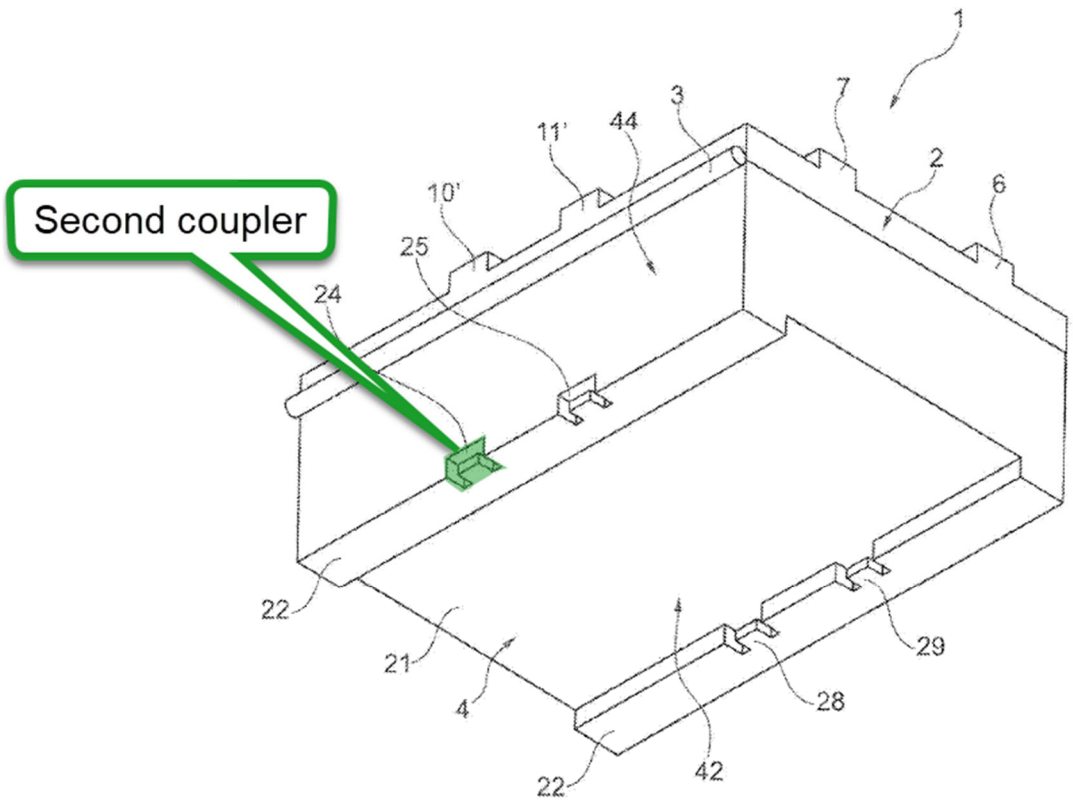


Fig. 2

87. Burchia explains that that the protruding elements 24, 25, 28, and 29 shown in Figure 2 are "counter-coupling parts . . . which can be brought together with the coupling part[s]" of the first container to form "a plug-in connection." Ex. 1004, 9:38-41; *id.*, 10:36-43; *see also* Ex. 1019, [0009], [0021], [0022], [0051] - [0057], [0065], [0070].

88. In the below annotated sectional representation, the **second coupler** can also be seen extending from the (bottom face of the) second container.

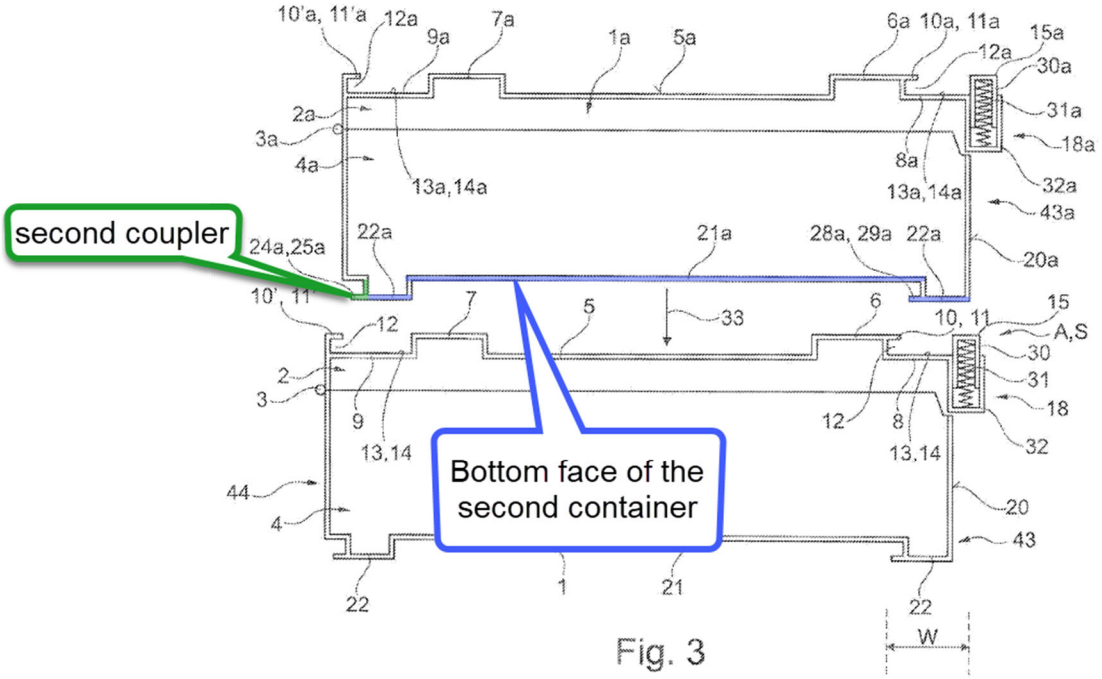


Fig. 3

89. Alternatively, to the extent Burchia's couplers are substituted with Metabowerke's, Metabowerke's **second coupler** also extends from the second face of the **second container** as illustrated below. Metabowerke calls its **second coupler** a "rear standing foot 13."

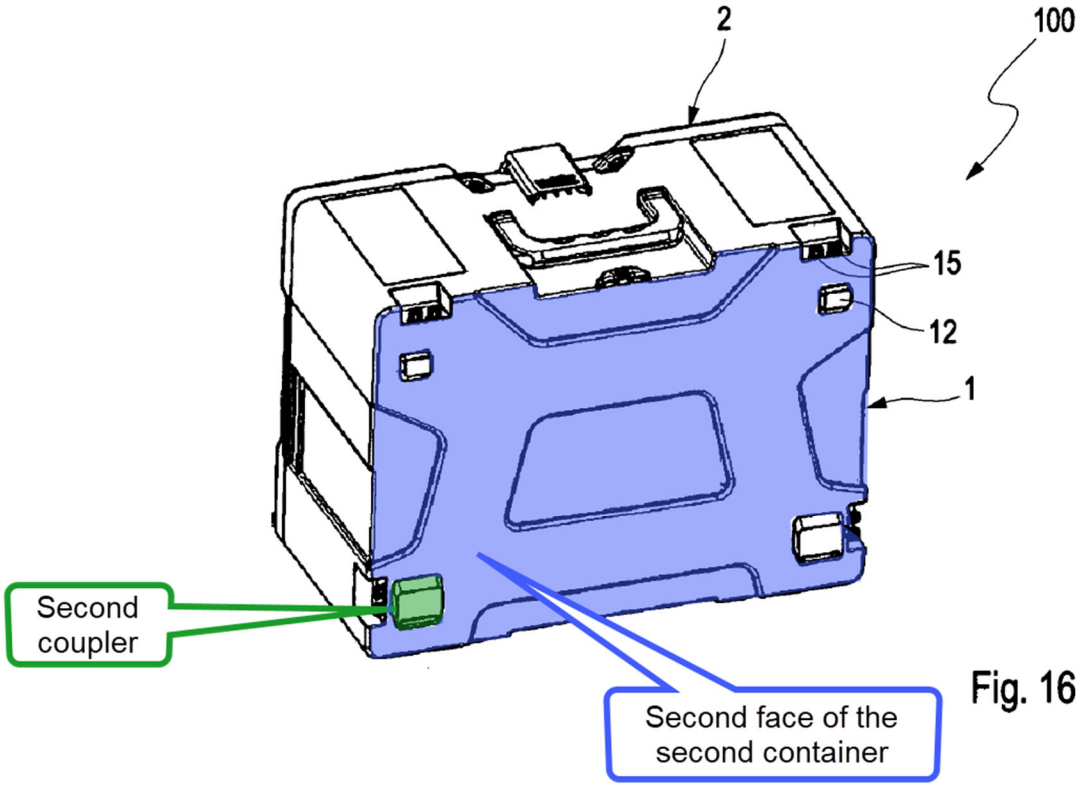


Fig. 16

90. In the below annotated Figure, Metabowerke shows a sectional view showing the **second coupler** on the second (bottom) face of the **second container**:

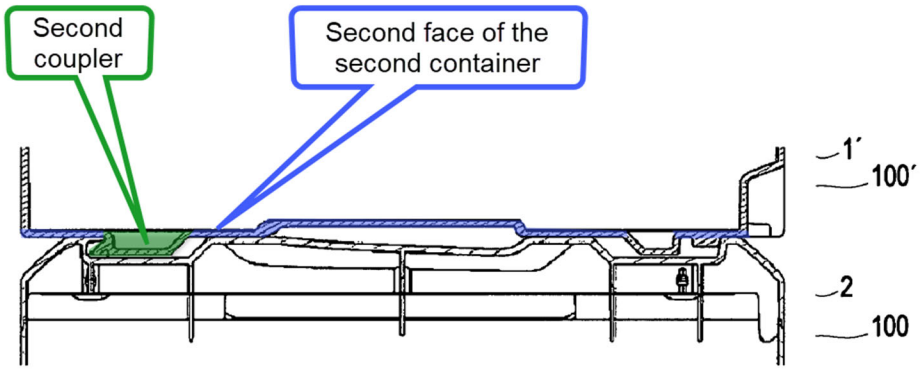


Fig. 4

9. 1[h]: the second coupler comprising a tongue extending in a direction parallel to a bottom face of the second container, the tongue extends in a second direction opposite the first direction, the tongue of the second container is engageable with the rib of the first container such that the tongue engages between the rib and the depressed surface;

91. In my opinion Burchia alone or in combination with Metabowerke discloses this limitation. As shown in the annotated Figure below, the second coupler comprises a tab or **tongue** extending in a direction parallel to the **bottom face** of the second container, the **tongue** extends in a **second direction** opposite the first direction (the rib extends in a first direction, from left to right →, whereas the **tongue** extends in a **second direction**, from the right to left ←):

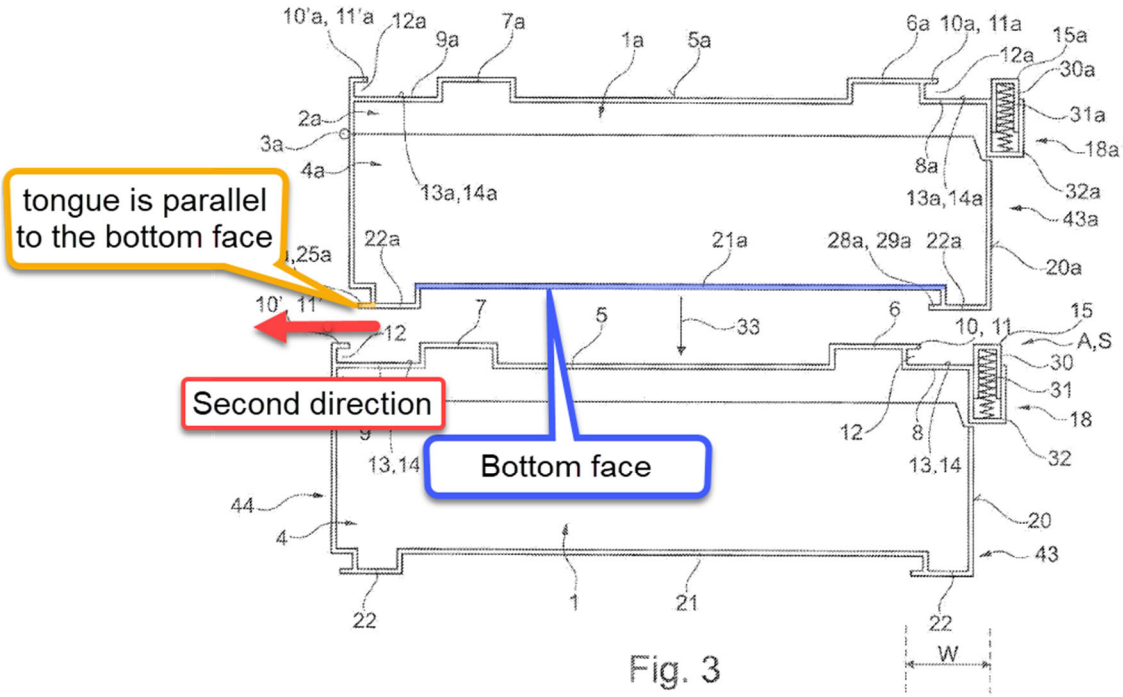


Fig. 3

92. Further, as shown in below annotated Figure 5, when slid into place, the **tongue** of the second container engages with the **rib** of the first container between the rib and the **depressed surface**:

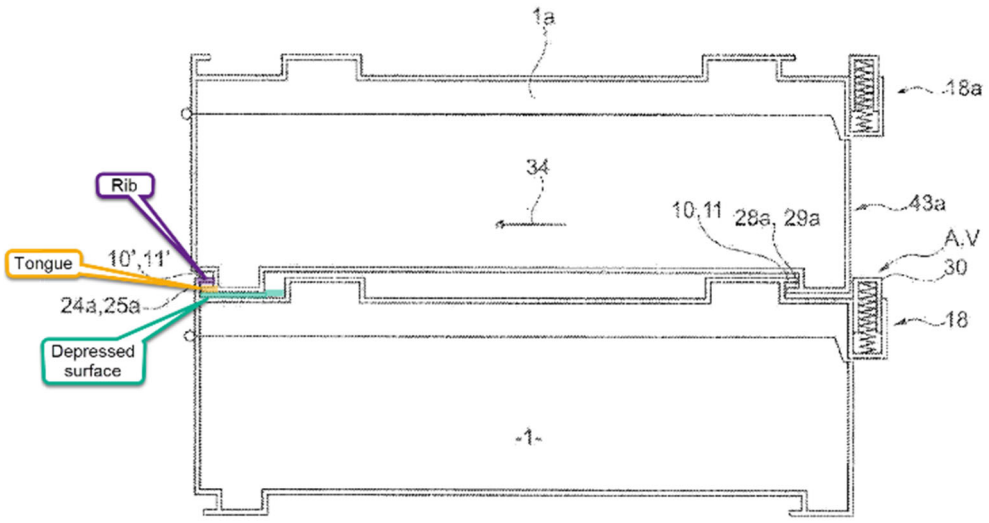


Fig. 5

93. As set forth above, to the extent patent owner argues Burchia fails to disclose a depressed surface having a back wall, side walls and a rib, it would have been obvious to modify Burchia according to the teachings of Metabowerke to include one. Metabowerke discloses a **depressed surface** having a **back wall**, **sidewalls**, and a **rib t**hat is engageable with a **tongue** of the second container between the **rib** and the **depressed surface**, as shown below.

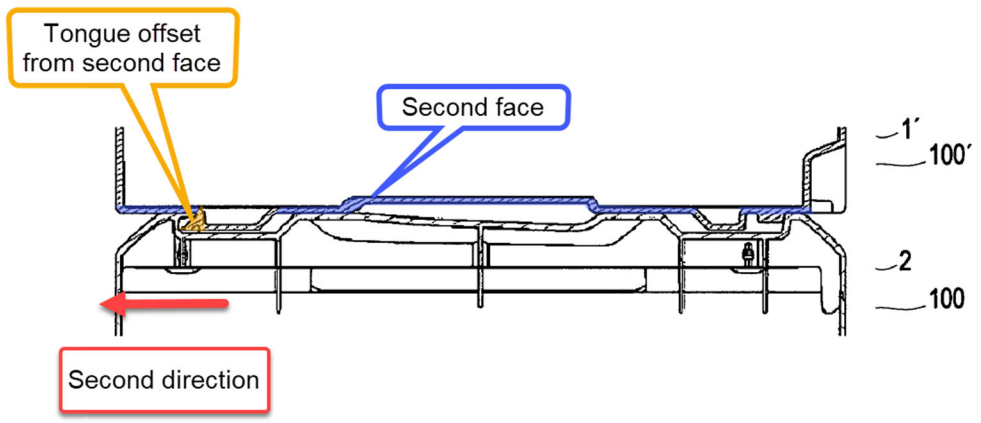


Fig. 4

10. 1[i]: a second lid pivotally attached to the second container;

94. In my opinion Burchia discloses this limitation. As discussed above with respect to limitation 1[e], Burchia discloses a container having a **pivotally attached lid**. Figure 1 depicts the lid and hinge axle.

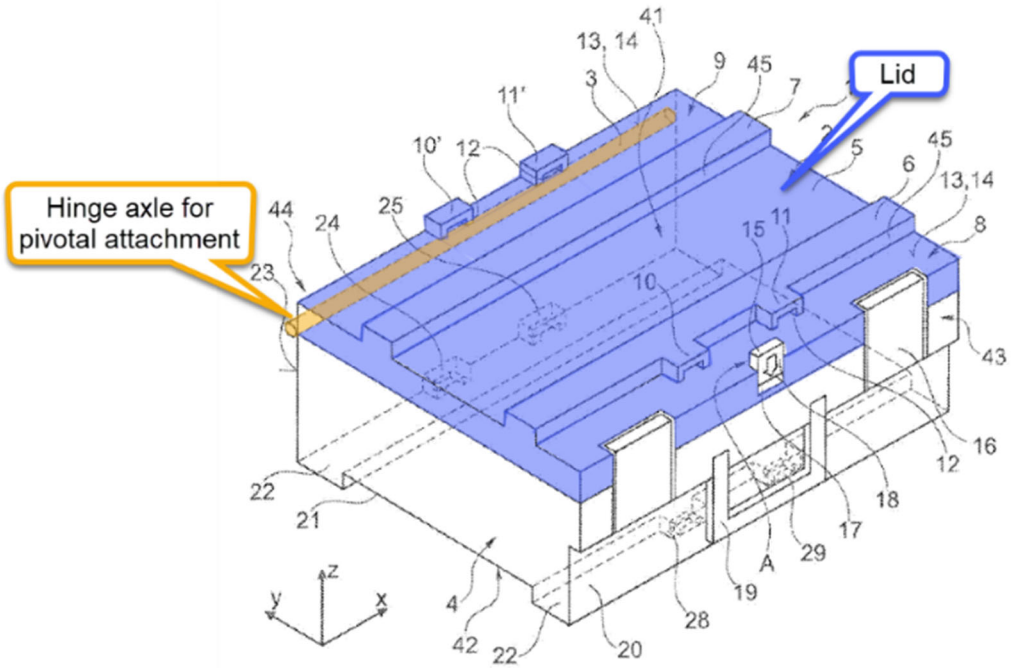


Fig. 1

95. Annotated Figure 3 confirms that the second container also has a **second lid** and hinge axle for pivotal attachment of the second lid to the second container.

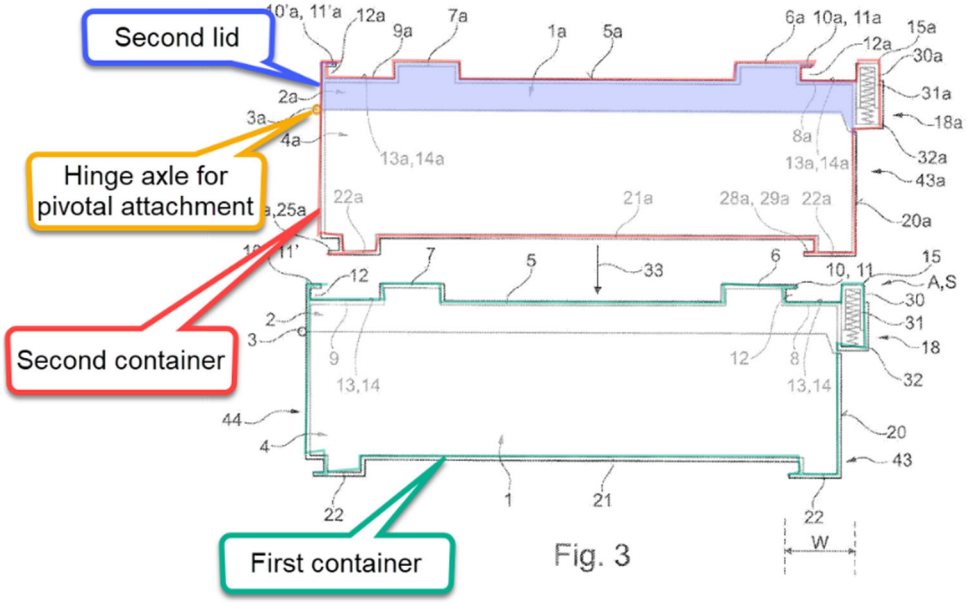


Fig. 3

11. 1[j]: a second toggle locking latch configured to latch the second lid of the second container in a closed position;

96. In my opinion Burchia discloses this limitation or it would be obvious. As discussed above in connection with element 1[f], Burchia discloses that the lid is secured using "closure elements **16**, such as closure latches." Ex. 1004, 10:13-15; *see also* Ex. 1019, [0058]. In my opinion, a POSITA would understand that "**closure latches**" are a broader category which includes "**toggle-locking latches**."

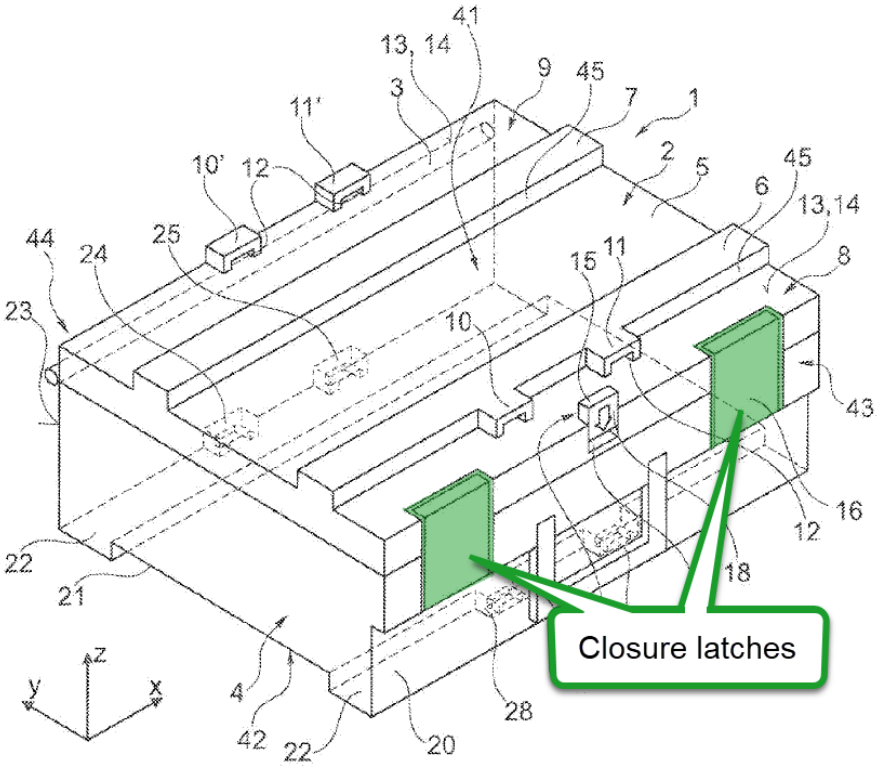


Fig. 1

97. As already discussed above in connection with limitation 1[f], it is my opinion that toggle locking latches were an obvious way to lock a toolbox lid.

12. 1[k]: a front face; a first side face; an opposing side face; a first corner bumper coupled to the second container between the front face and the first side face, the first corner bumper defining a first outer surface that faces away from each of the front face and the first side face; and

98. In my opinion, this limitation would have been obvious to a POSITA. Burchia has a **front face**, a **first side face**, and an **opposing side face** as shown in annotated Fig. 1 below.

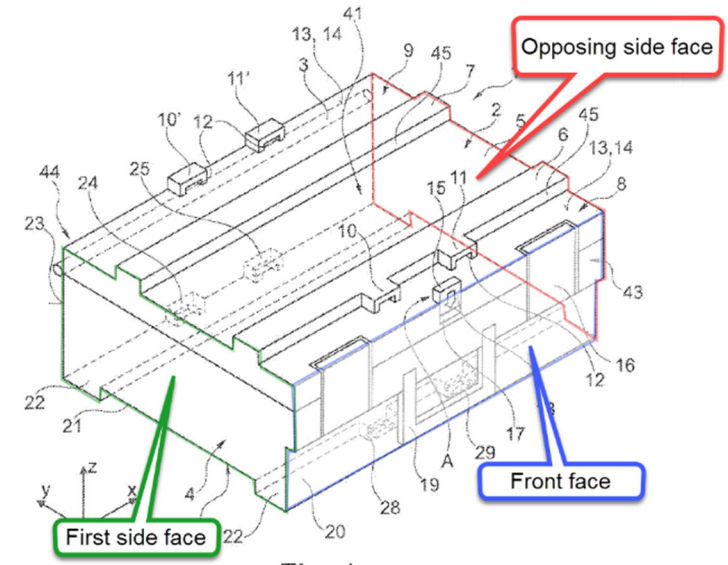
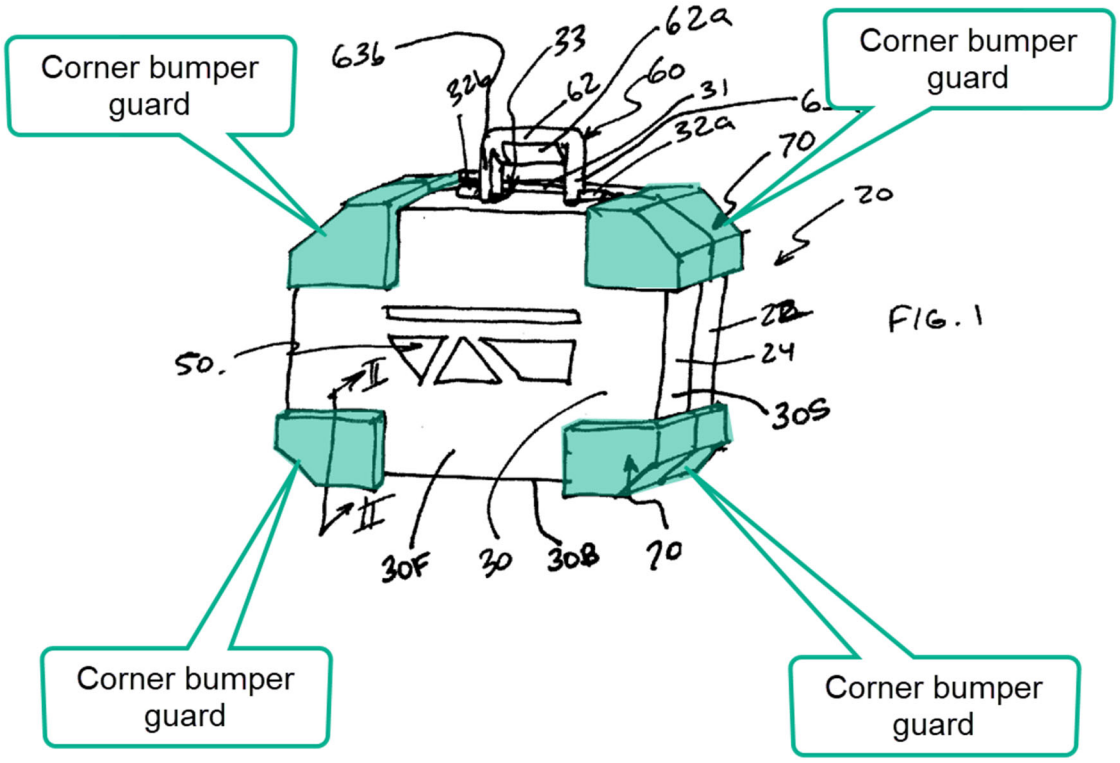


Fig. 1

99. In my opinion, it would have been obvious to a POSITA to include a first corner bumper coupled to the second container between the front face and the first side face, the first corner bumper defining a first outer surface that faces away from each of the front face and the first side face. Such a bumper would provide additional protection to the corner of the container and was an obvious design option.

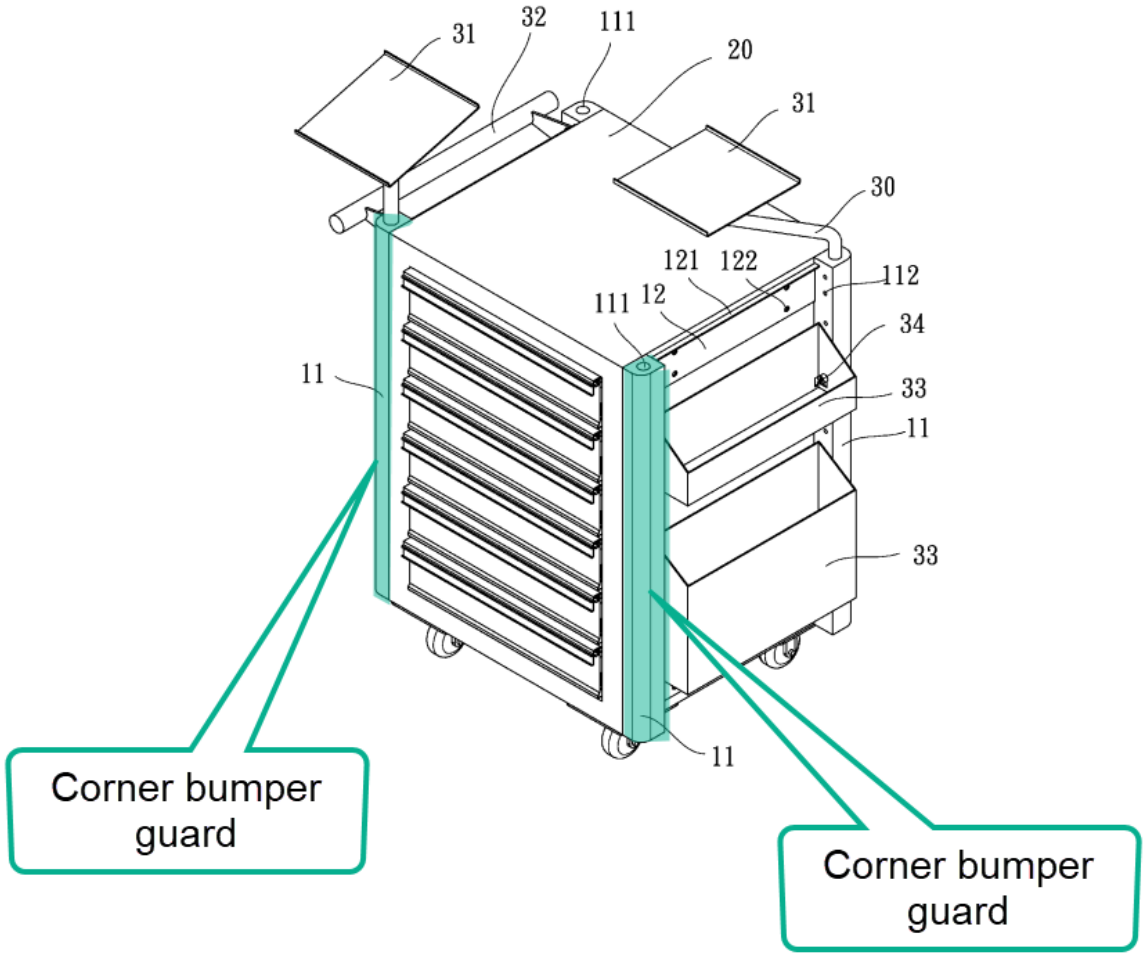
100. Indeed, the examiner stated "it would have been obvious for one having ordinary skill in the art before the effective filing date of the claimed invention to modify the container of U.S. Patent No. 11365026 with the corner bumpers of Welsh in order to cushion an impact load exerted on the case if the case is dropped on a hard surface (Paragraph 0006)." The examiner rejected the

claims, later obviated by the filing of a terminal disclaimer, on double patenting grounds over the ’026 patent in view of Welsh. The below annotated Figure 1 of Welsh shows **first and second corner bumpers**, as claimed.



101. Alternatively, it would have been obvious to a POSITA to look to at least the following references: Chen (Ex. 1024), Lin 588 (Ex. 1027), Brunner (Ex. 1028), and to the extent Milwaukee’s contentions are correct, also Duvigneua (Ex. 1025) and Shitrit (Ex. 1026), for motivation to include and examples of corner bumpers in modular toolbox assemblies to protect said corners.

102. For example, Chen discloses the use of corner bumpers on a modular container assembly as shown in the below annotated figure.



Similarly, Lin 588 discloses the use of corner bumpers on a modular toolbox, as shown in the below annotated Figure 1.

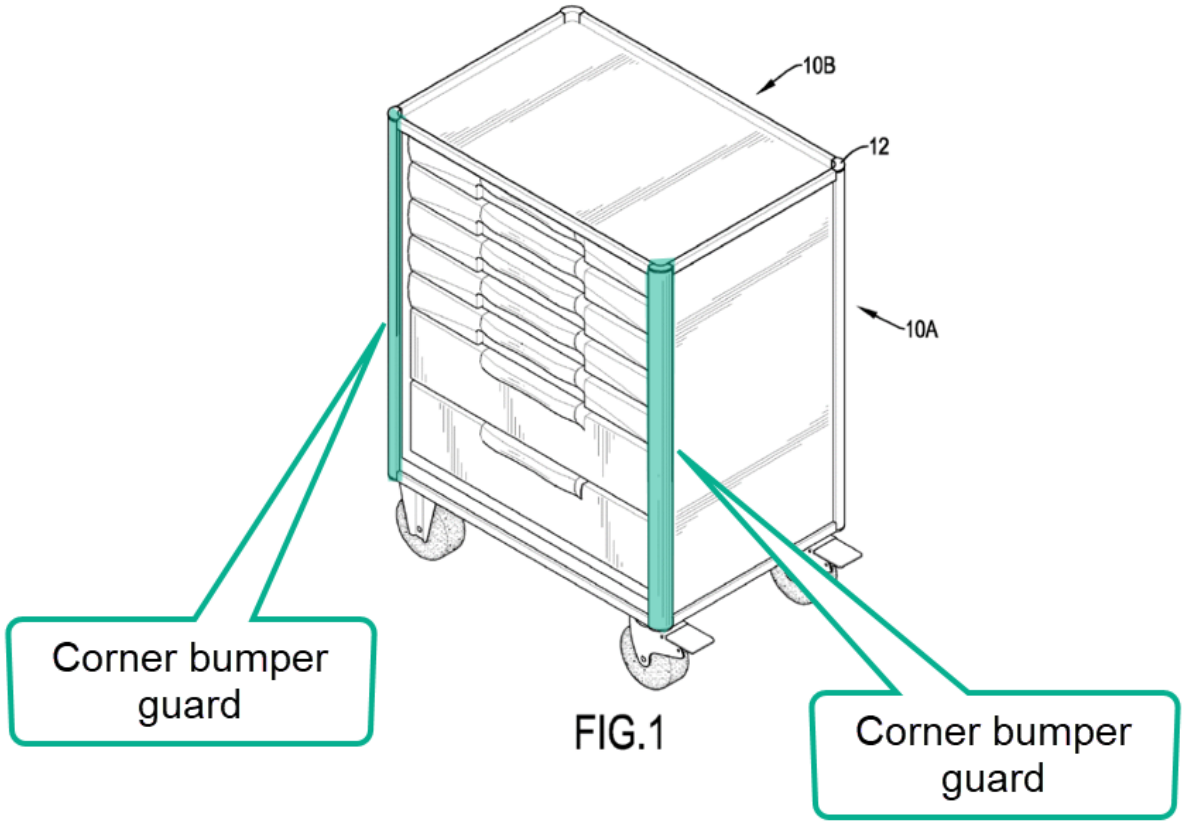


FIG.1

Milwaukee inventor, Brunner, also discloses the use of corner bumpers on a modular toolbox, as shown in the below annotated Figure 1A.

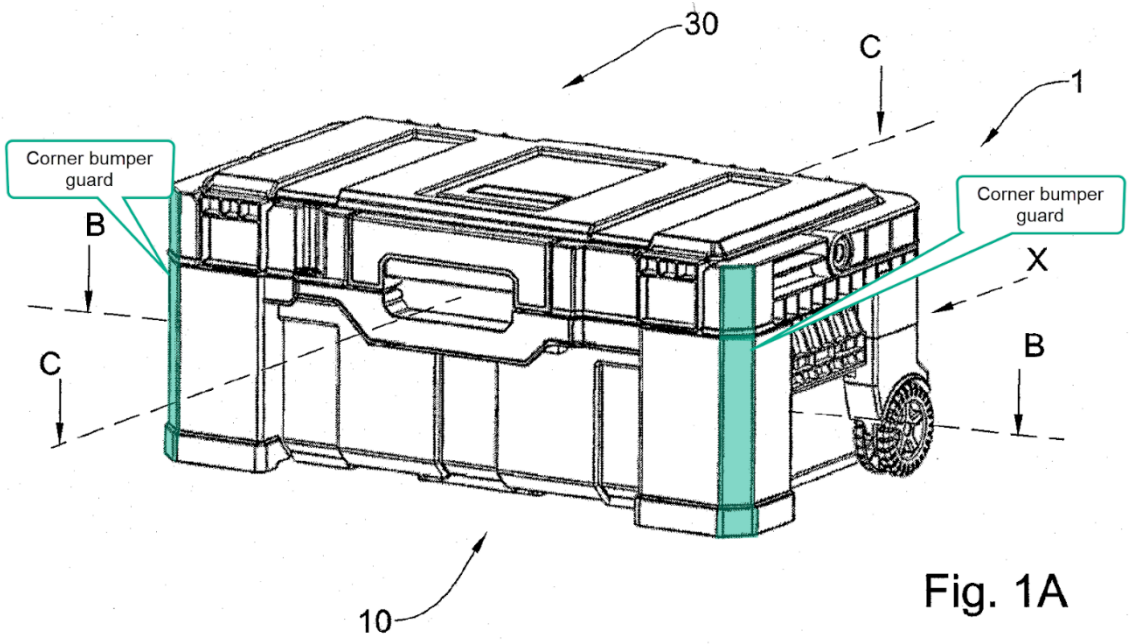


Fig. 1A

And, to the extent Milwaukee's contentions are correct, Shitrit discloses a modular toolbox having corner bumper in the below annotated Figure 1a:

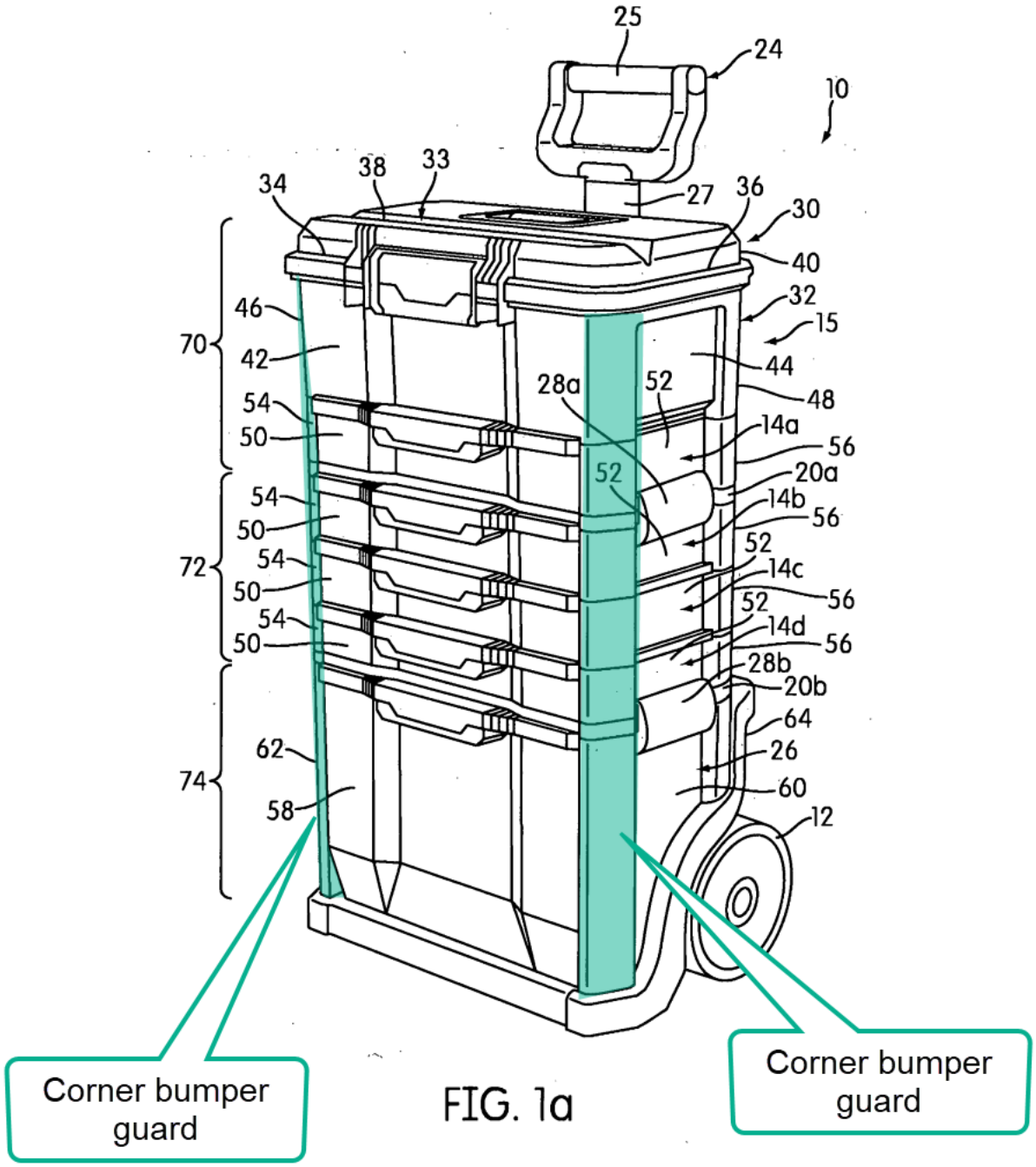


FIG. 1a

Similarly, Keter inventor, Duvigneau, would teach the use of corner bumpers on a modular, stackable toolbox assembly, as shown in the below annotated Figure 4B.

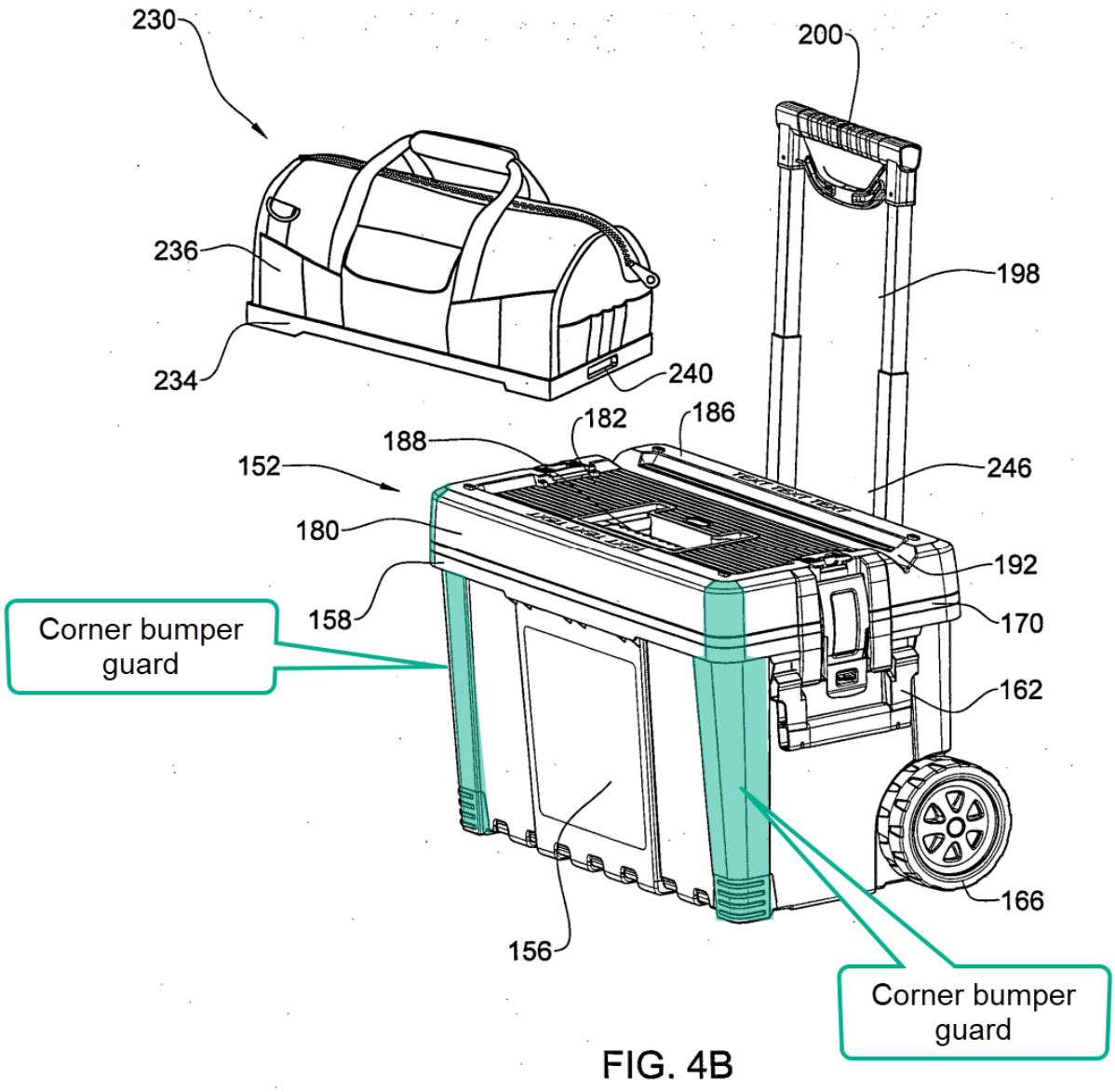


FIG. 4B

13. 1[l]: a second corner bumper coupled to the second container between the front face and the second side face, and the second corner bumper defining a second outer surface that faces away from each of the front face and the second side face;

103. In my opinion, this limitation would have been obvious to a POSITA. For all the reasons set forth above with respect to element 1[k], it is my opinion that it would also have been obvious to a POSITA to include a second corner bumper coupled to the second container between the front face and the second side face, the second corner bumper defining a second outer surface that faces away from each of the front face and the second side face. Such a bumper would provide additional protection to the corner of the container and was an obvious design option. Indeed, Welsh, identified by the examiner, includes both a first and a second corner bumper, and the examiner stated Welsh would render the claims obvious in his double patenting rejection.

14. 1[m]: wherein the first and second couplers of the first and second containers engage each other when the first and second containers are slid with respect to each other along a sliding path defined by the rib and the tongue;

104. In my opinion Burchia alone or in combination with Metabowerke discloses this limitation. Burchia explains that the coupling parts 10' and 11' (the first couplers of the first container) engage with the counter-coupling parts 24a and 25a (the second couplers of the second container) "forming a plug in connection." Ex. 1004, 10:35-39; *see also* Ex. 1019, [0009], [0021], [0022], [0051] - [0057],

[0065], [0070]. The couplers "are oriented in such a manner that the plug-in connection … is formed by means of ***displacement of the further suitcase 1a along and/or on the contact surface*** 13." Ex. 1004, 10:39-43 (emphasis added); *see also* Ex. 1019, [0009], [0021], [0022], [0051] - [0057], [0065], [0070]. This displacement along the contact surface is a "sliding path."

105. As shown in the annotated Figures below, the **sliding path** is defined by the **rib** and **tongue**. Ex. 1004, Figs. 4, 5; *see also* Ex. 1019, Fig. 3, 4. The figures show the second container (above) slides along the contact surface (in the direction indicated by arrow 34) such that the **tongue** engages the **rib** in Figure 5.

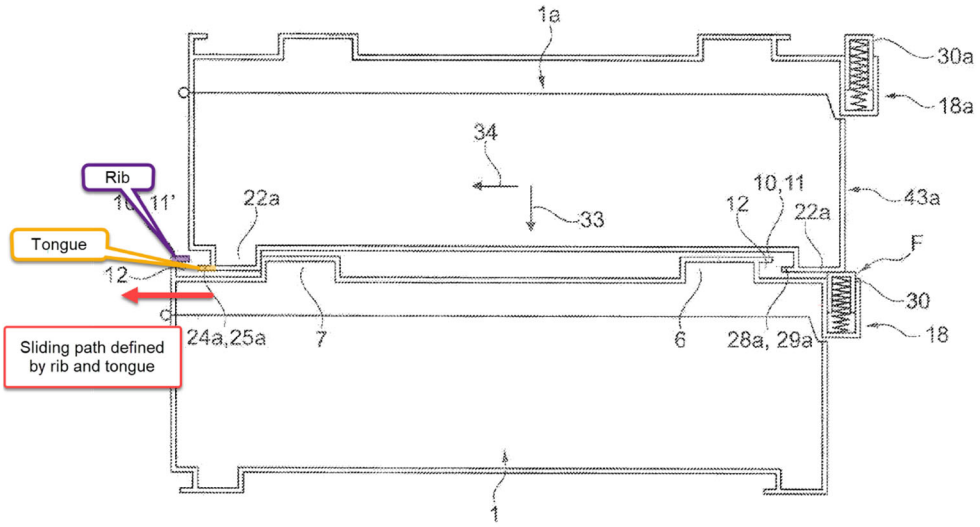


Fig. 4

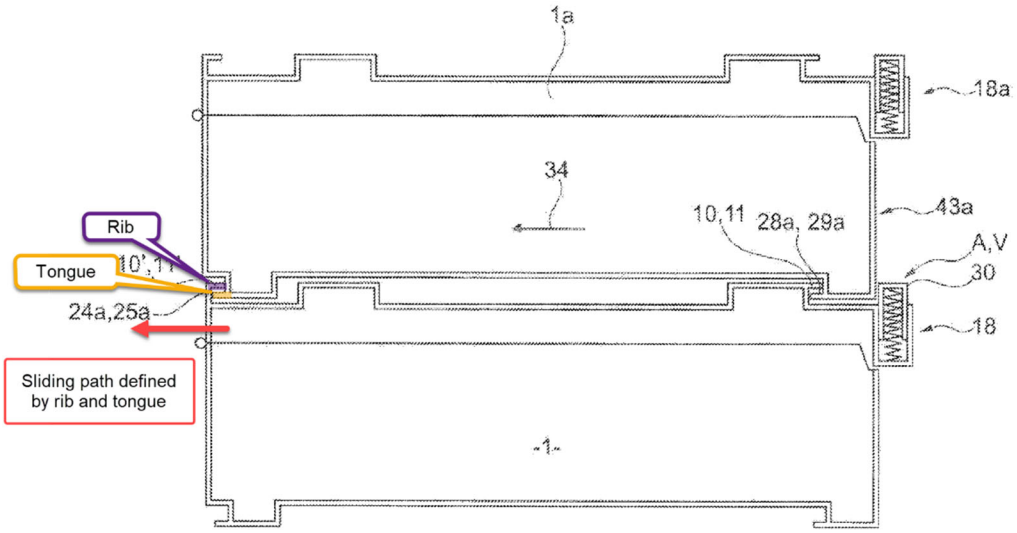


Fig. 5

106. As set forth above, to the extent patent owner argues Burchia fails to disclose a depressed surface having a back wall, side walls and a rib, it is my opinion that it would have been obvious to modify Burchia according to the teachings of Metabowerke to include one. Metabowerke discloses a depressed surface having a back wall, sidewalls, and a rib; whereby a **sliding path** is defined by the **rib** and **tongue**, as shown below.

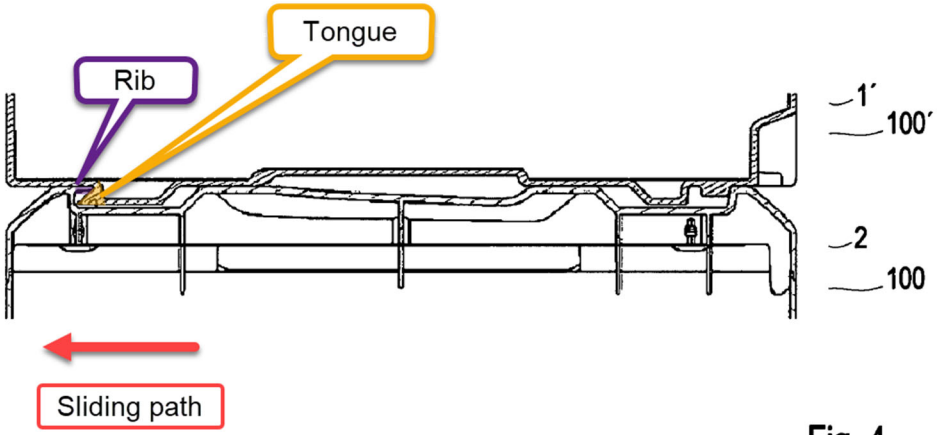


Fig. 4

15. 1[n]: a locking latch arresting location defined by one of the first container or the second container; and

107. In my opinion Burchia discloses this limitation or it would be obvious. It discloses a **locking latch arresting location** defined by the lower front face of the second (top) container. Burchia describes that its containers have a "locking element for securing the plug-in connection to prevent release." Ex. 1004, 11:34-36; *see also* Ex. 1019, [0012], [0059], [0067]. This locking element is a **locking latch** and is shown below in Figure 4 along with its **arresting location** on the lower front face of the second container.

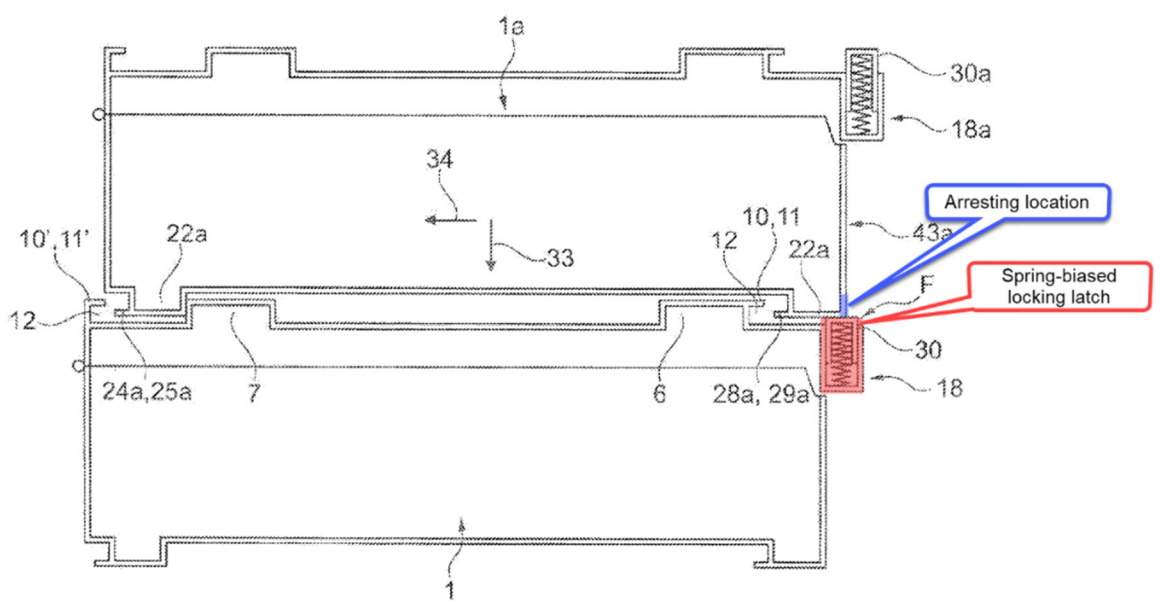


Fig. 4

108. Burchia explains that when the locking element is in the locking position, as shown in Figure 5, it "serves as a stop" for the container and prevents displacement of one container from the other. Ex. 1004, 12:61-67, Fig. 5; *see also*

Ex. 1019, [0012], [0060], [0065], Fig. 4. The stop position for the **locking latch** is on the lower front face of the second container and is a **locking latch arresting location**. Ex. 1004, Fig. 5; *see also* Ex. 1019, Fig. 4.

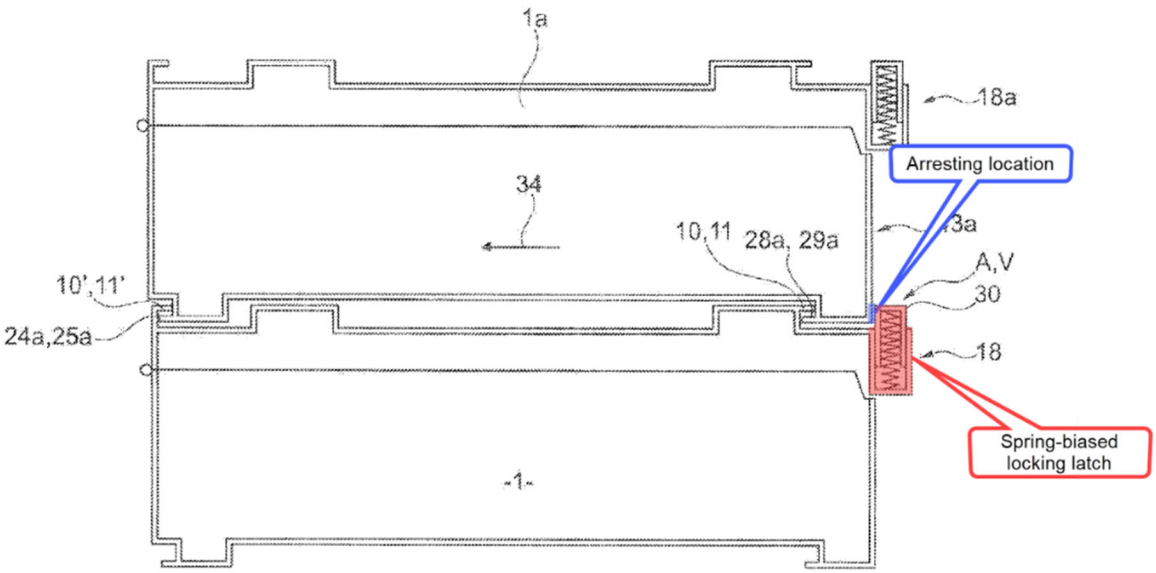


Fig. 5

109. Burchia states that the "stop surface" is brought "into contact against the locking element in the locking position of the locking element" to hold the locking element in place. Ex. 1004, 6:42-47; *see also* Ex. 1019, [0012], [0060], [0065], [0068]. Burchia explains that the "stop surface" can be on a face of the container *i.e.*, "provided on a face side." *Id.*, 6:46; *see also* Ex. 1019, [0012], [0060], [0065], [0068]. An exemplary stop surface on the front face of the container is shown as element 20a in Figure 3.

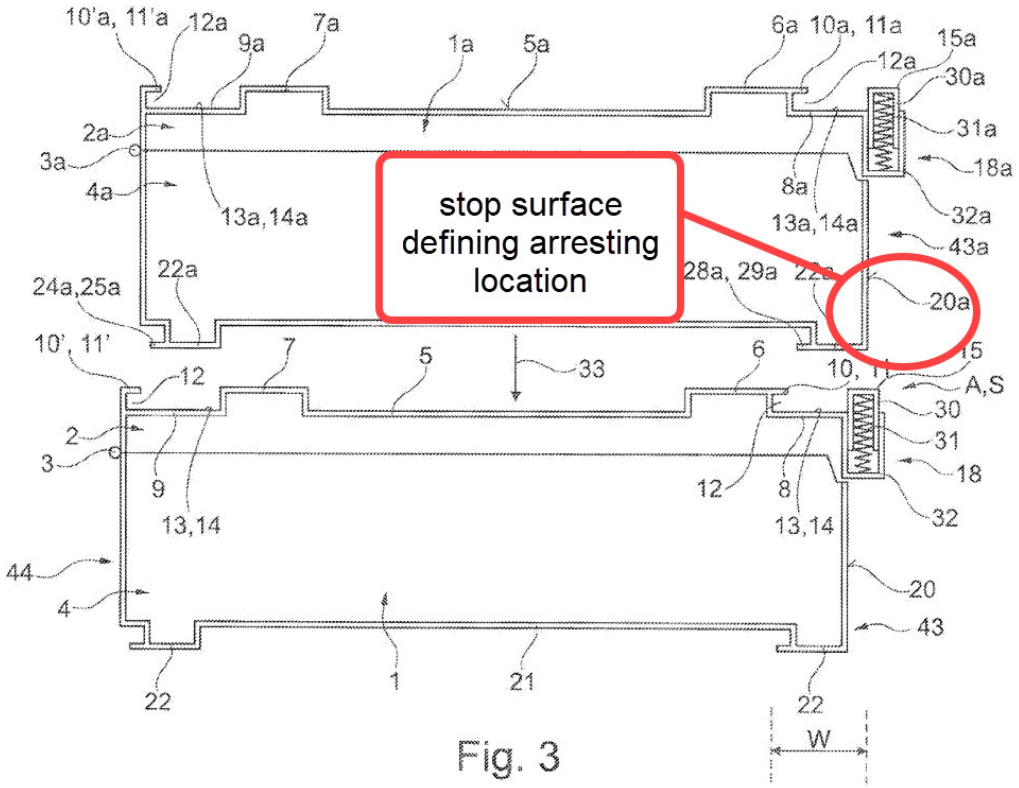


Fig. 3

110. Burchia also explains that the "stop surface" does not have to be at the end of the container, and instead can be formed in a "setback surface" or a "surface provided with an introduction bevel." Ex. 1004, 6:48-50; *see also* Ex. 1019, [0018], [0073]. As Burchia explains, this allows "an additional pre-tension of the locking element towards the plug-in connection or engagement connection between the stacked [containers]." Ex. 1004, 6:50-53; *see also* Ex. 1019, [0018], [0073]. In other words, having the "stop surface" in a recess on the bottom surface of the container rather than on the front face of the container allows the locking

latch to prevent displacement of the box both towards and away from the plug-in connection formed by the couplers.

111. In my opinion, a POSITA would further understand that using a setback surface would protect the locking mechanism, making it more robust in transportation and preventing a user from unintentionally unlatching the lock.

112. An illustration of one manner of using a "setback surface" as a "stop surface" is shown below in annotated Figure 5. In this modification, the toolbox is extended slightly such that the locking latch, instead of sitting outside of the containers when in the locking position, sits in a "setback surface" or recess in the bottom surface of the top container, such that it locks the containers from moving both forward and backwards while in the locking position. A slot can be provided in the front face of the locking latch as a place for a user to depress the spring to release the locking latch to disengage the containers.

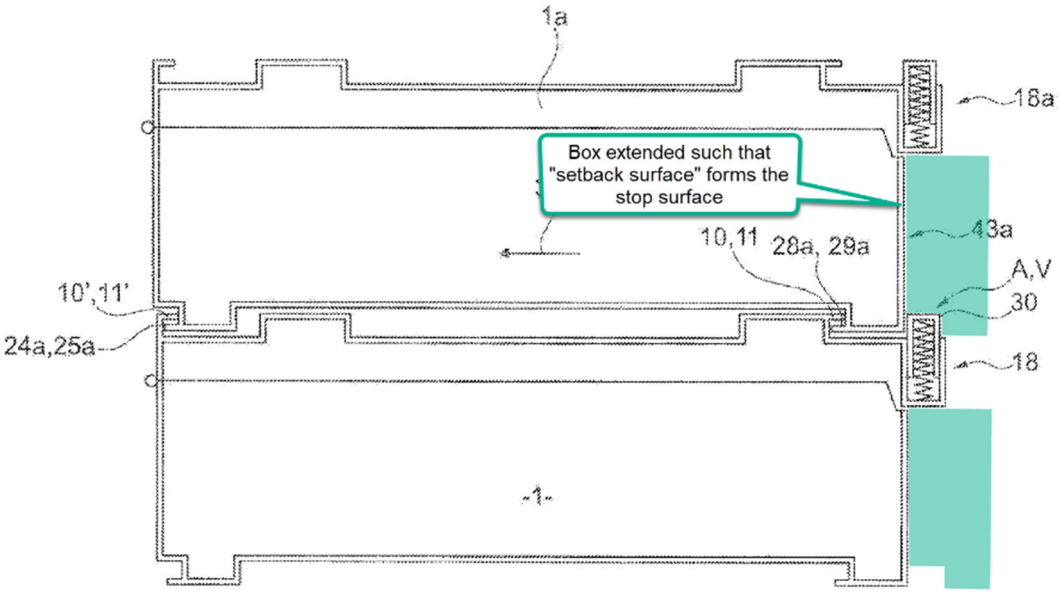


Fig. 5

113. To the extent patent owner argues Burchia does not disclose the claimed locking latch arresting location, it is my opinion that it would have been obvious to modify Burchia according to the teaching of Lafragette to include one, as disclosed below.

16. 1[o]: a locking latch coupled to the other of the first container or the second container, the locking latch positionable in a locked position engaging the locking latch arresting location thereby limiting sliding displacement of the first container with respect to the second container.

114. In my opinion Burchia discloses this limitation. It discloses a **locking latch** as shown in annotated Figure 5 below.

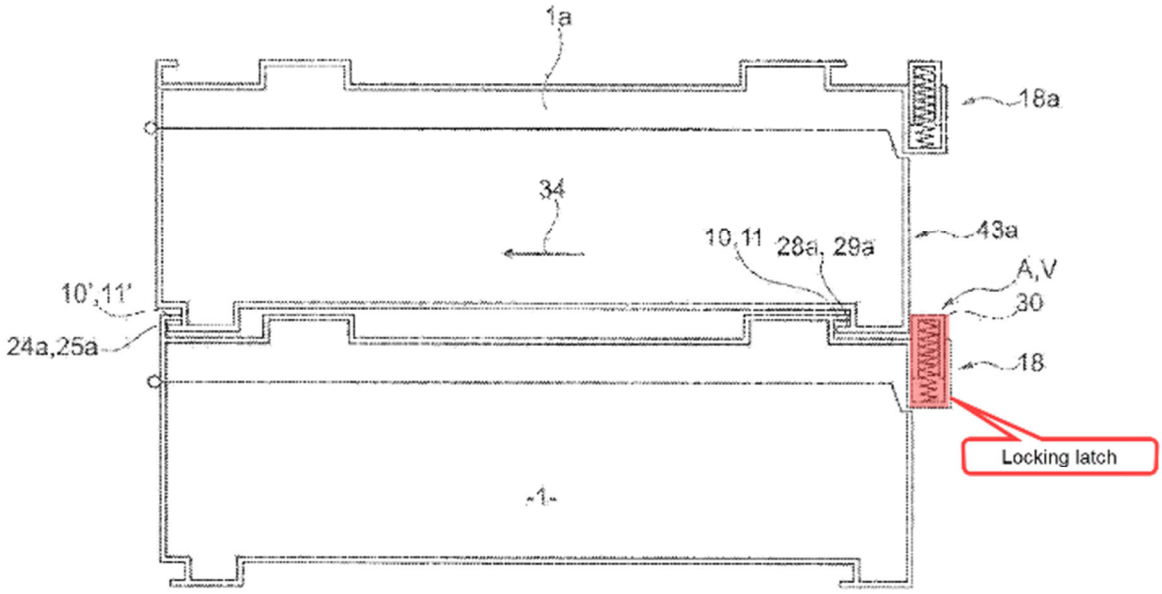


Fig. 5

115. The locking latch is positionable in a locked position by engaging the locking latch arresting location. Figures 4 and 5 show the **locking latch** being positioned in a locked position in the **locking latch arresting location**.

116. In Figure 4, the **locking latch** is depressed downward to allow the container to couple. Burchia describes that while coupling the containers, "the locking element 18 is situated in a release position F, in which the locking element 18 opens up the displacement path W, so that displacement of the further suitcase 1 a relative to the suitcase 1, to form the plug-in connection, is permitted." Ex. 1004, 12:53-58; *see also* Ex. 1019, [0059].

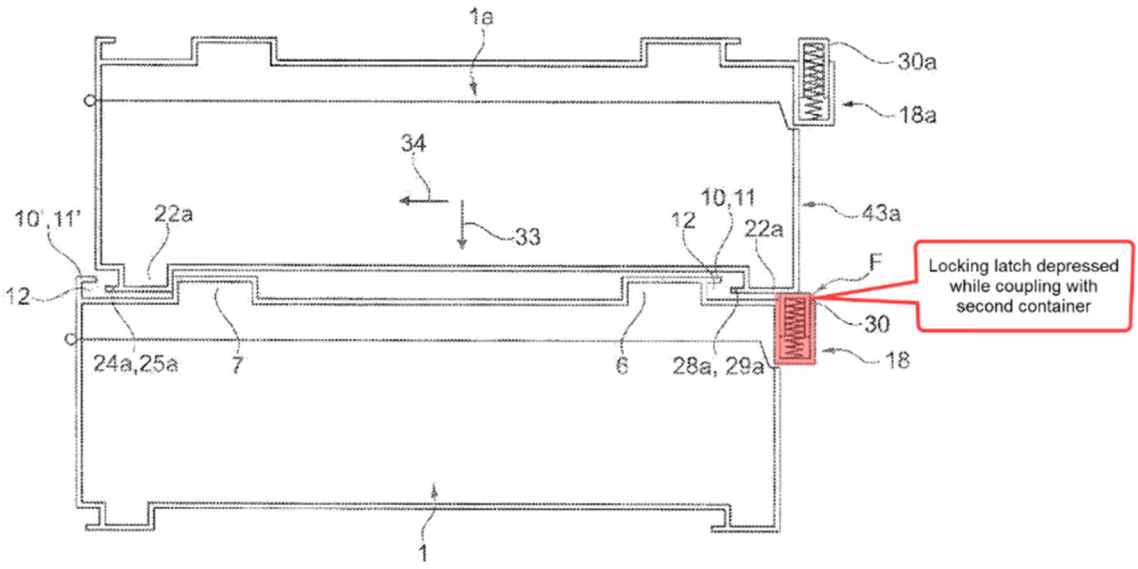


Fig. 4

117. In Figure 5, the **locking latch** enters the **locking latch arresting location**, thereby locking the containers together. Burchia describes that "[i]n the locking position V according to FIG. 5, the sliding part 30 therefore comes to lie against the front side 43 a of the suitcase 1a and secures the coupling connection between the suitcases 1 and 1a to prevent unintentional disengagement." *Id.*

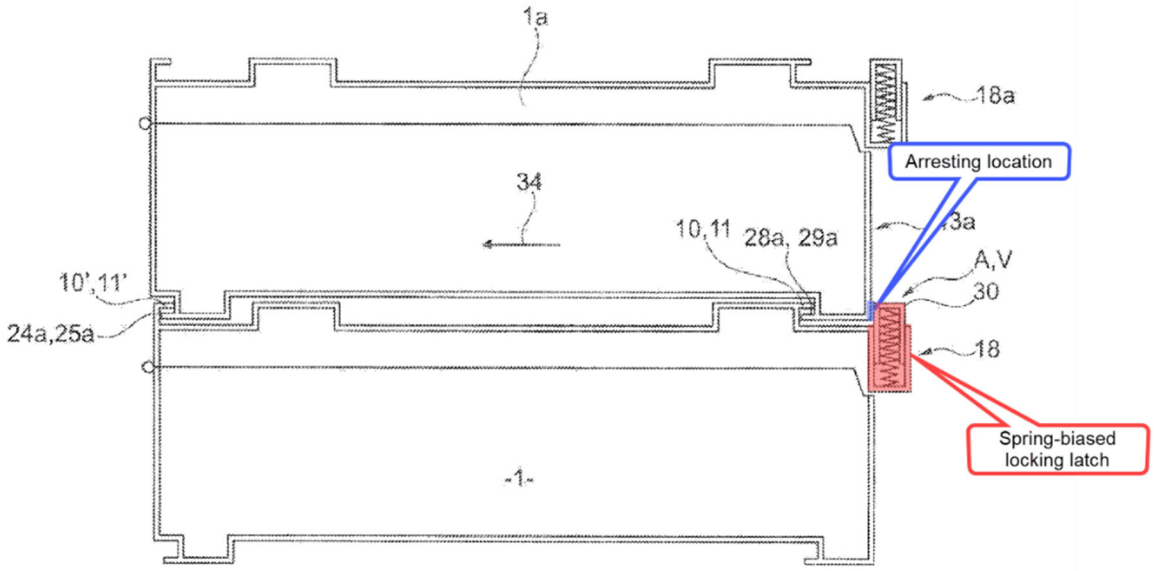


Fig. 5

118. As explained with respect to element 1[l], Burchia also teaches that the locking latch arresting location can be a "setback surface" rather than the lower front face of the container. To the extent patent owner argues that the arresting location must be a recess, Burchia's setback surface would provide a recess in the bottom of the second container, as illustrated below:

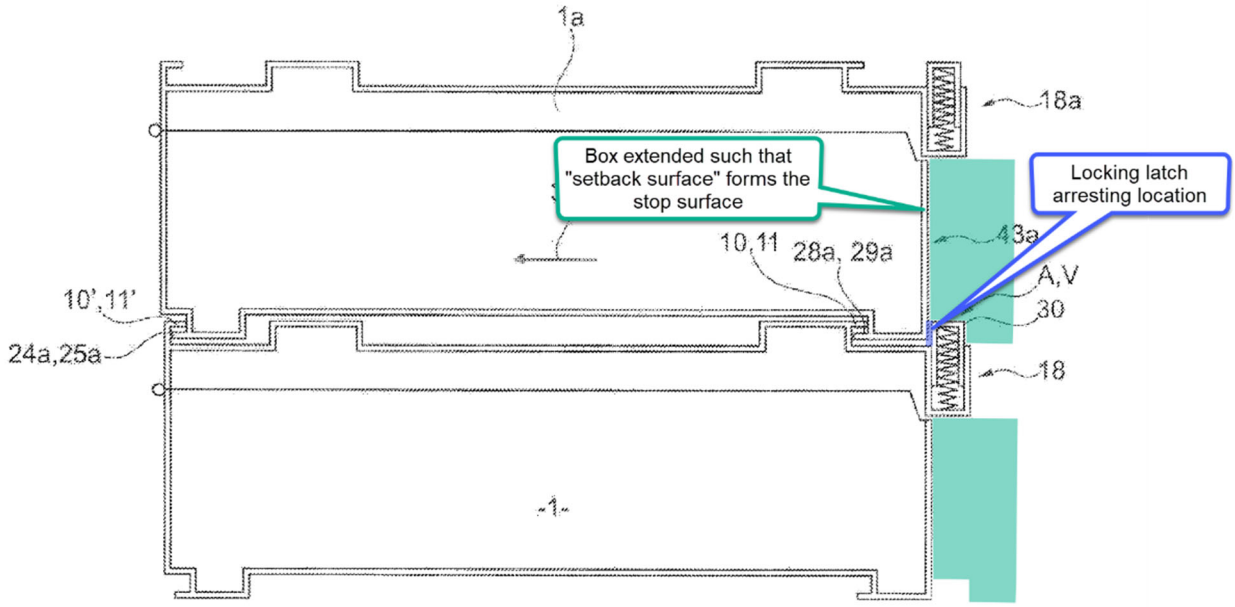


Fig. 5

119. The locking latch limits sliding displacement of the first container with respect to the second container. Burchia explains that "[b]y means of the locking element provided, it is possible to effectively secure the plug-in connection of the coupling part with the counter-coupling part of the further [container] to prevent them from coming apart, ***in particularly [sic] from being pulled apart counter to the interlocking direction***." Ex. 1004, 2:15-19; *see also* Ex. 1019, [0012]. As shown in the annotated Figure below, the second container 1a cannot move rightward due to the engagement between the bottom right of the second container and the locking latch.

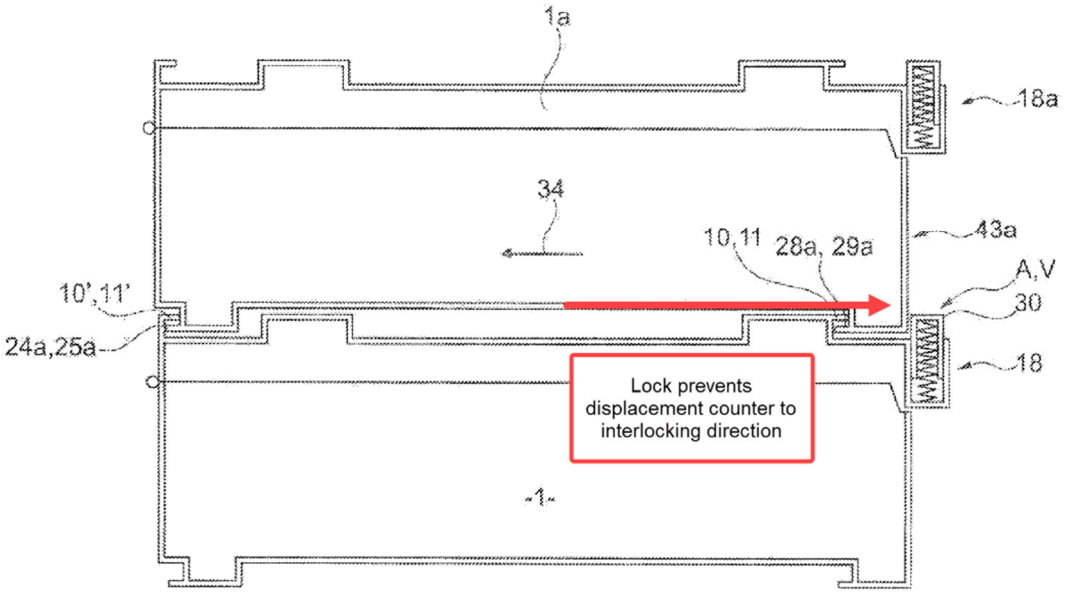


Fig. 5

120. Burchia further describes that displacement is prevented until the user "manually press[es] the sliding part 30 downward, in order to bring the locking element 18 into the release position F according to FIG. 4. Then, the further [container] 1a can be displaced relative to the [first container] 1, counter to the direction of the arrow 34, and thereby the existing engagement connection or plug-in connection can be opened." Ex. 1004, 13:9-16; *see also* Ex. 1019, [0012] – [0013].

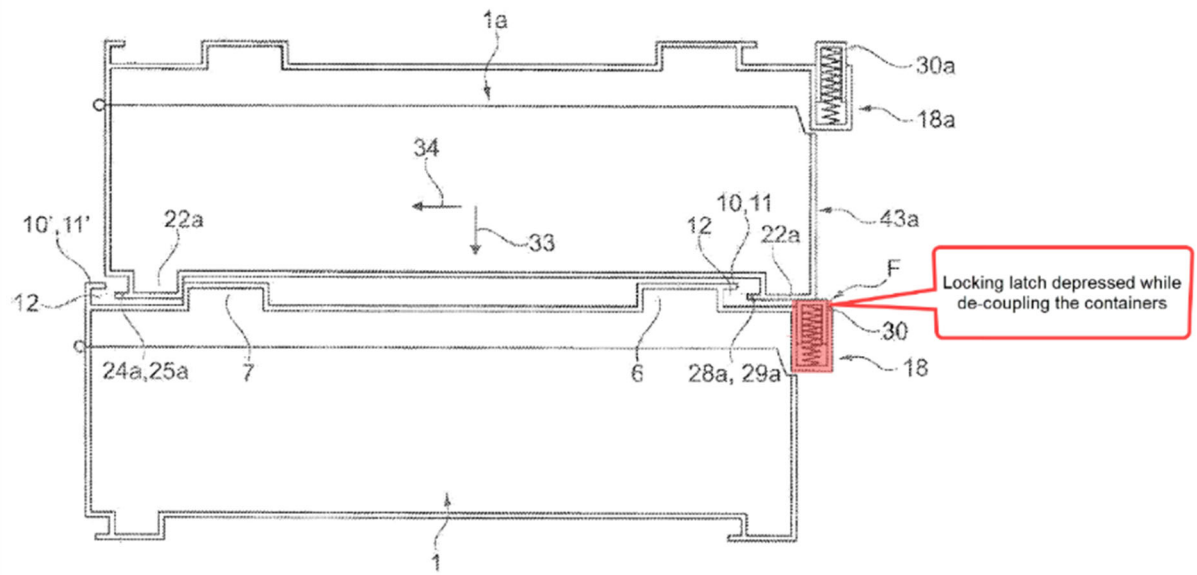


Fig. 4

121. As such, in my opinion Burchia alone or in combination with Metabowerke disclose each and every limitation of claim 1 and therefore render claim 1 obvious.

C. Claim 2: The container assembly of claim 1, wherein the sliding path is perpendicular to the locking latch.

122. As described above, in my opinion Burchia discloses all the limitations of claim 1 and as described below discloses the additional limitations of claim 2 to render it obvious. As shown below in annotated Figure 4, Burchia discloses a container assembly wherein the **sliding path** 34 is perpendicular to the **locking latch** 18. The **sliding path** is shown by the green arrow. The path of operation of the **locking latch** is shown by the red arrow. These paths are perpendicular to each other.

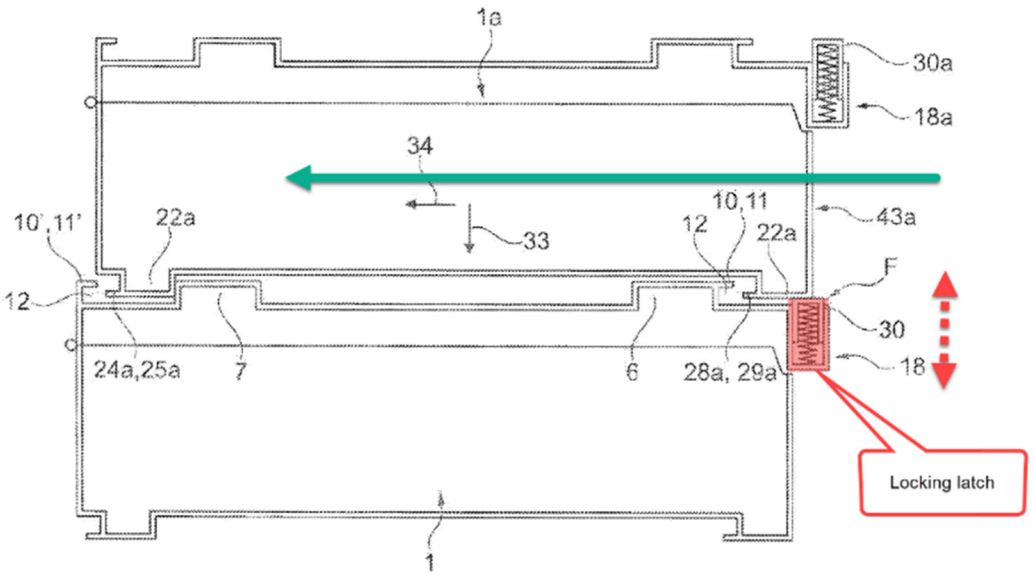


Fig. 4

D. Claim 3: The container assembly of claim 1, wherein the locking latch is spring biased to engage with the locking latch arresting location.

123. As described above, in my opinion Burchia discloses all the limitations of claim 1 and as described below discloses the additional limitations of claim 3 to render it obvious. As shown in the below annotated Figure 3, Burchia discloses a locking latch that is spring biased to extend above the depressed face of top of the container. The green line reflects how far it extends in its default, biased position.

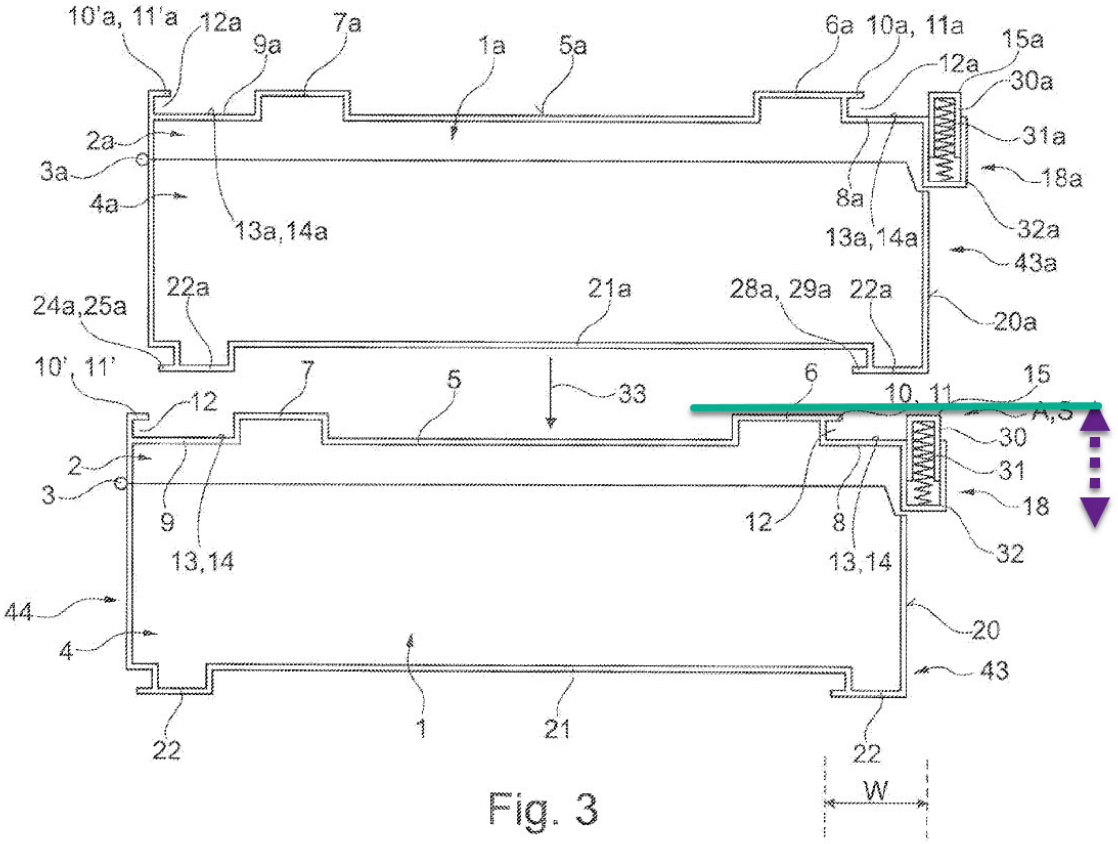


Fig. 3

124. In Figure 4, the locking latch is depressed downward to allow the container to couple. In its depressed or compressed state, the top of the locking latch is close to the level of the depressed surface.

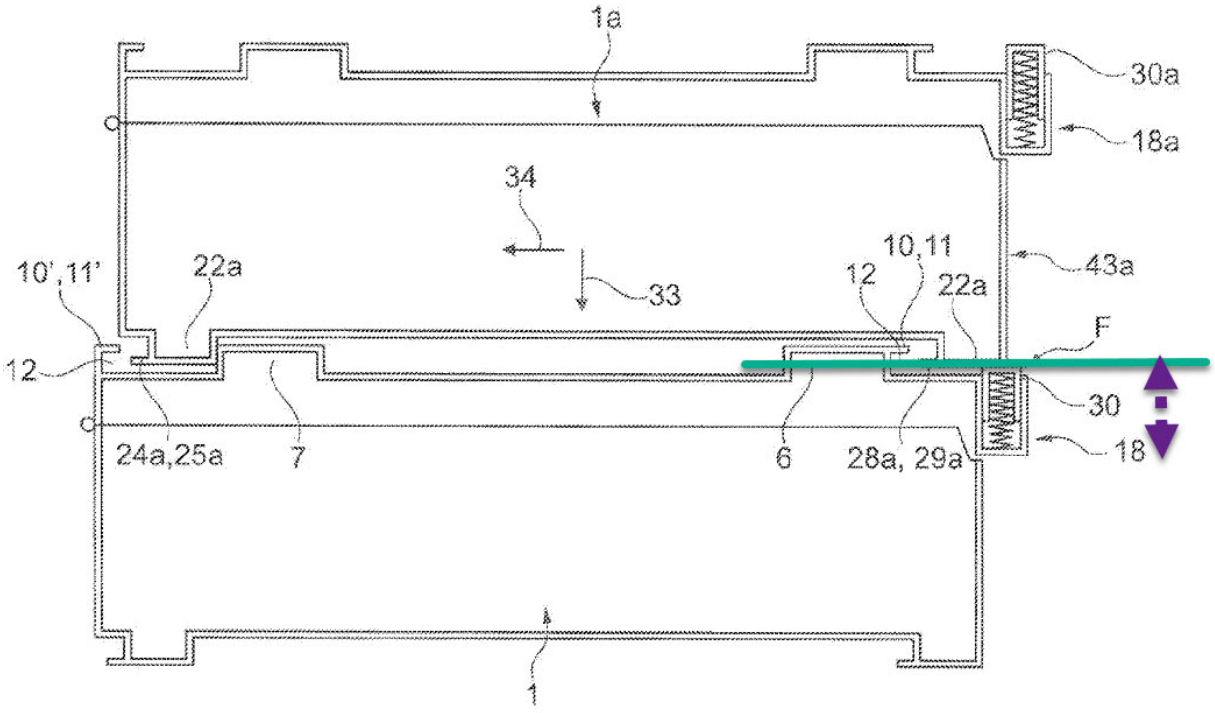


Fig. 4

125. In Figure 5, the locking latch enters the locking latch arresting location, thereby locking the containers together. Burchia describes that "[i]n the locking position V according to FIG. 5, the sliding part 30 therefore comes to lie against the front side 43a of the suitcase 1a and secures the coupling connection between the suitcases 1 and 1a to prevent unintentional disengagement." As indicated by the green line (above the depressed surface), the spring has returned to its (extended) biased position in its locking latch arresting location.

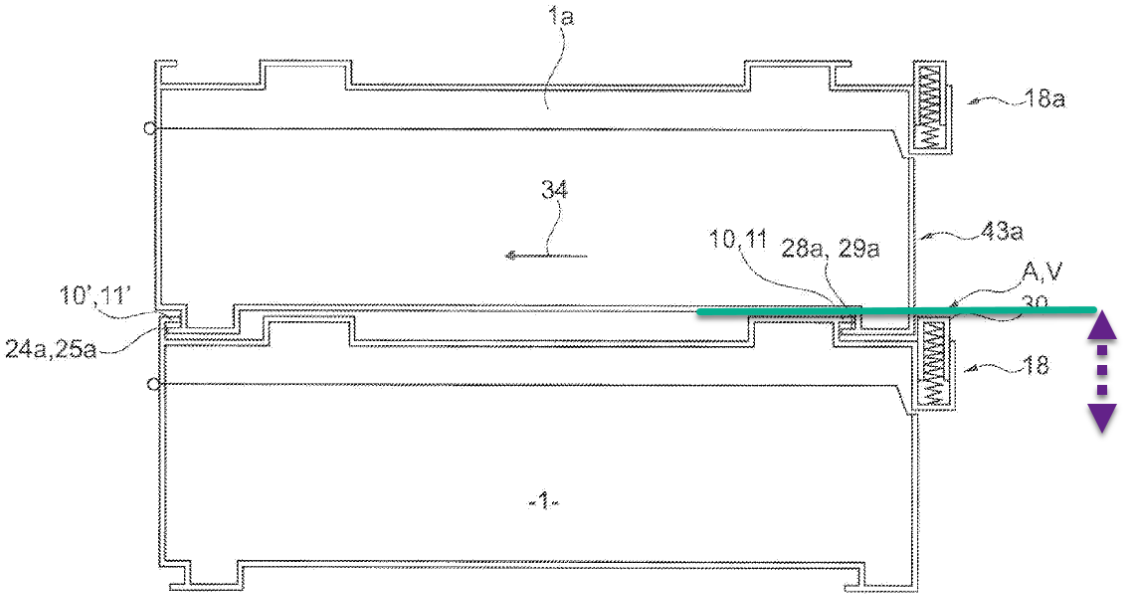


Fig. 5

E. Claim 4: The container assembly of claim 1, wherein a width of the second container is half of a width of the first container, and the second container is located on top of the first container.

126. As described above, in my opinion Burchia discloses all the limitations of claim 1 and as described below makes obvious the additional limitations of claim 4 to render claim 4 obvious. In my opinion, it would have been an obvious design choice for a POSITA to make different size containers, e.g., where the second container is half of a width of the first container. Indeed, the '952 patent itself concedes that a POSITA would have "appreciated that the utility modules can be of any type, shape or size . . . ." Ex. 1001, 15:67–16:2. A second container "half of a width" of the first container is half the size of the first container.

F. Claim 5: The container assembly of claim 1, wherein the first container further comprises a handle coupled to a front face of the first container and a third toggle locking latch configured to latch the first lid of the first container in the closed position, wherein the handle is located between the first and third toggle locking latches of the first container.

127. As described above, in my opinion Burchia discloses all the limitations of claim 1 and as described below discloses the additional limitations claim 5 or they would be obvious to render claim 5 obvious. As shown in the below annotated Figure 1, Burchia discloses a container that has a **handle** on its front face between its closure latches, which as discussed above with respect to elements 1[f] and 1[j], a person of ordinary skill in the art, in my opinion, would understand includes "**toggle locking latches**."

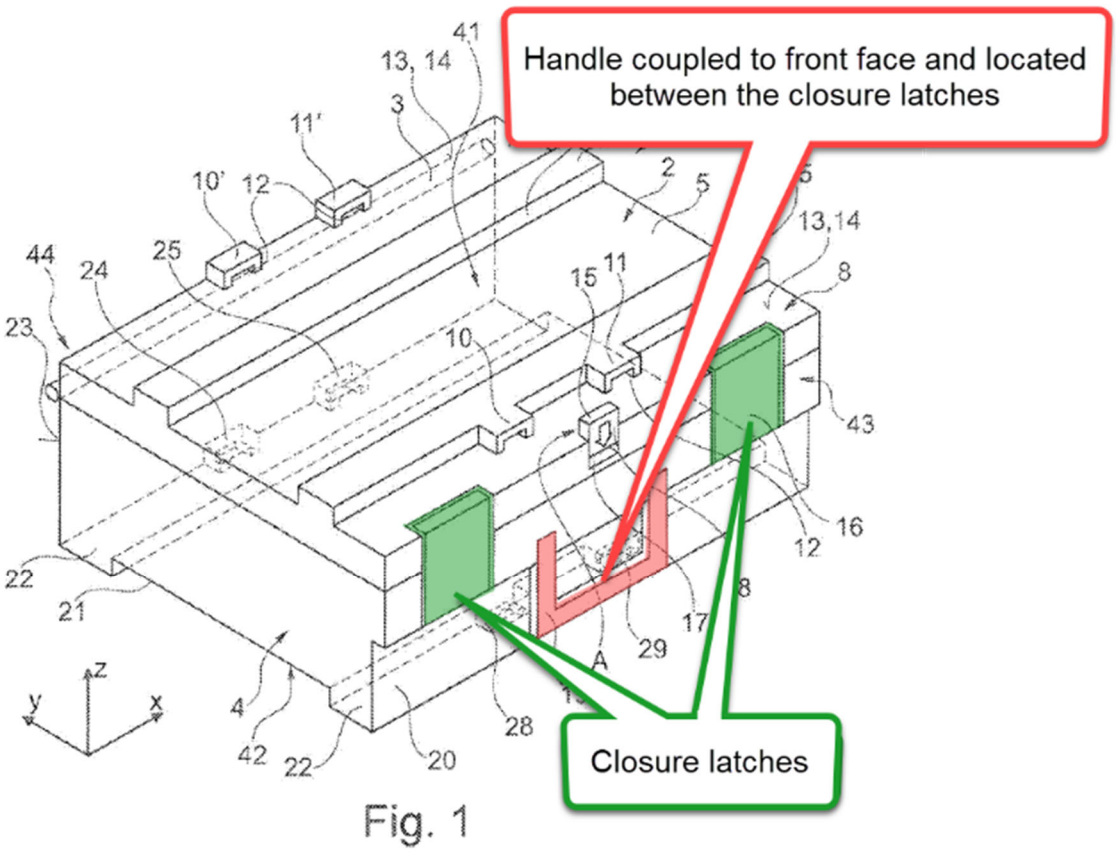


Fig. 1

128. Moreover, as discussed above in connection with limitation 1[f] and 1[j], it is my opinion that **toggle locking latches** were an obvious way to close a toolbox lid.

G. Claim 6: The container assembly of claim 1, wherein the second coupler of the second container extends from the bottom face of the second container such that the tongue is offset from at least a portion of the bottom face of the second container and wherein the rib engages between the tongue and the bottom face of the second container.

129. As described above, in my opinion Burchia discloses all the limitations of claim 1 and as described below alone or in combination with Metabowerke discloses the additional limitations of claim 6 to render it obvious.

As shown in the annotated Figure 3 below, the second coupler extends from the bottom face of the second (top) container such that the **tongue** is offset from the **bottom face** of the second container.

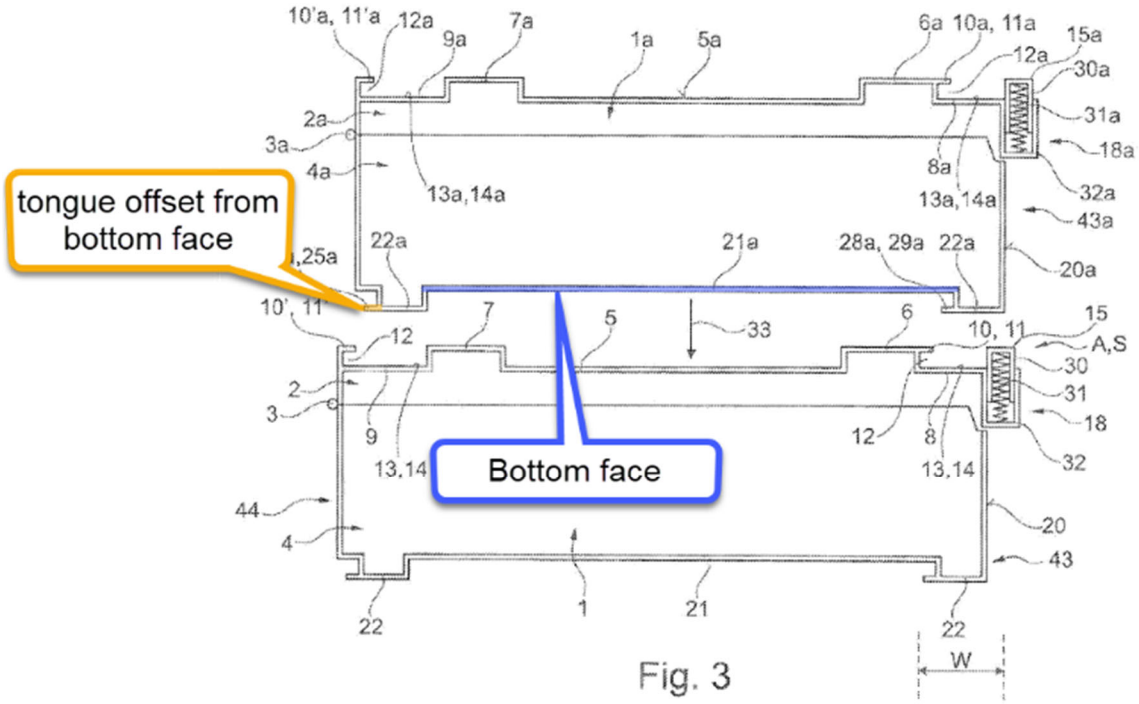


Fig. 3

130. Further, as shown in the annotated Figure below, when coupled, the **rib** engages between the **tongue** and the **bottom face** of the second container:

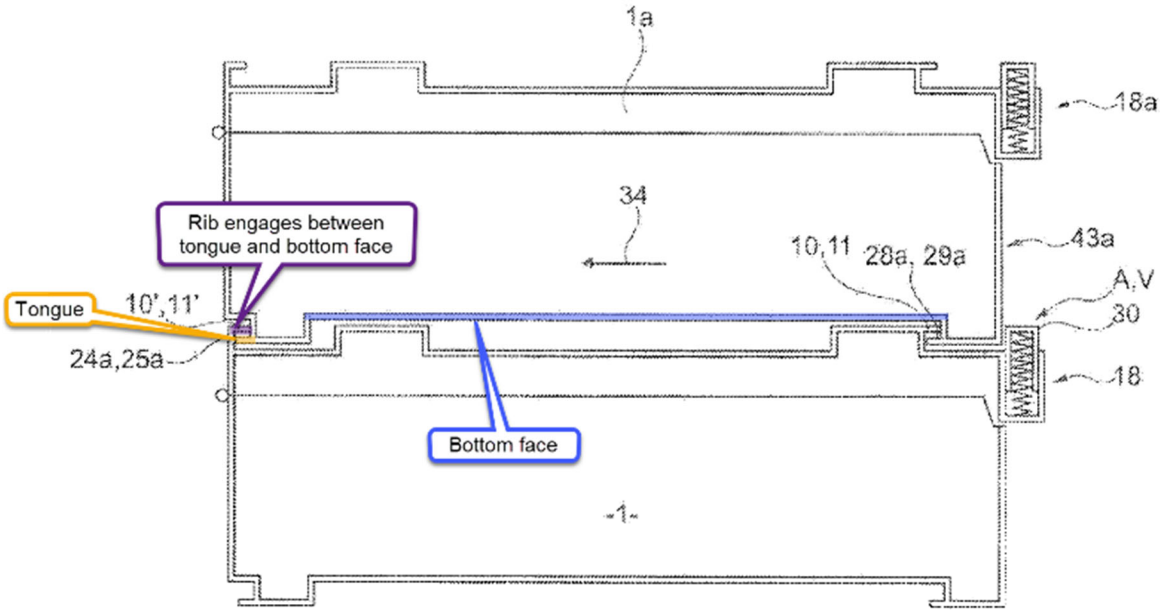


Fig. 5

131. As set forth above, to the extent patent owner argues Burchia fails to disclose a depressed surface having a back wall, side walls and a rib, it would have been obvious to modify Burchia according to the teachings of Metabowerke to include one. Metabowerke discloses a depressed surface having a back wall, sidewalls, and a rib that is engageable with a tongue of the second container between the tongue and the bottom face, as shown below.

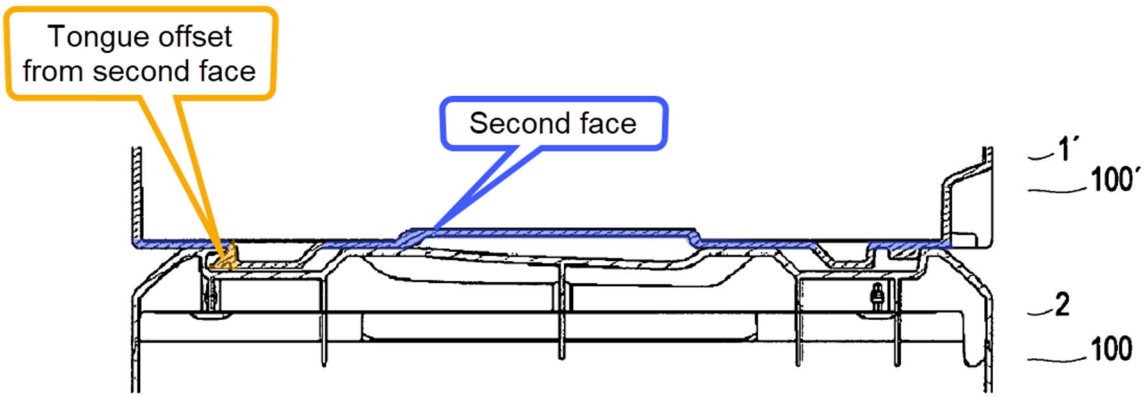


Fig. 4

H. Claim 7: The container assembly of claim 1, wherein the first container defines a width axis parallel to a front face of the first container and the second container defines a length axis perpendicular to the front face of the second container, wherein the width axis of the first container is perpendicular to the length axis of the second container when the second container is coupled on top of the first container.

132. As described above, in my opinion Burchia discloses all the limitations of claim 1 and as described below discloses the additional limitations of claim 7 to render it obvious. Burchia's first container defines a **width axis parallel to a front face of the first container**, as shown in annotated Figure 1 below:

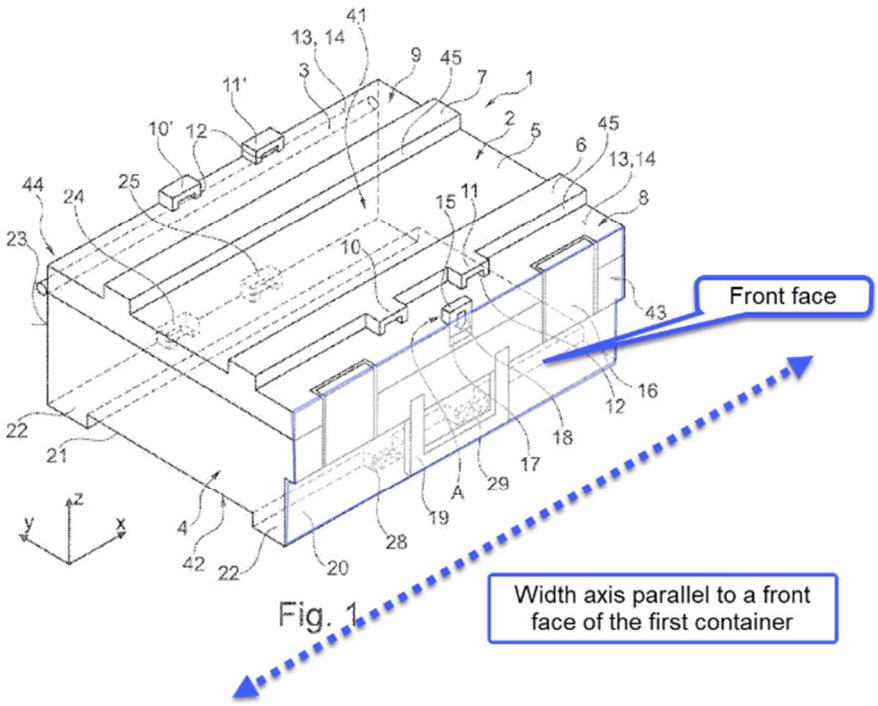


Fig. 1

133. Burchia's second container defines a **length axis perpendicular to the front face of the second container**, as shown in annotated Figure 1 below.

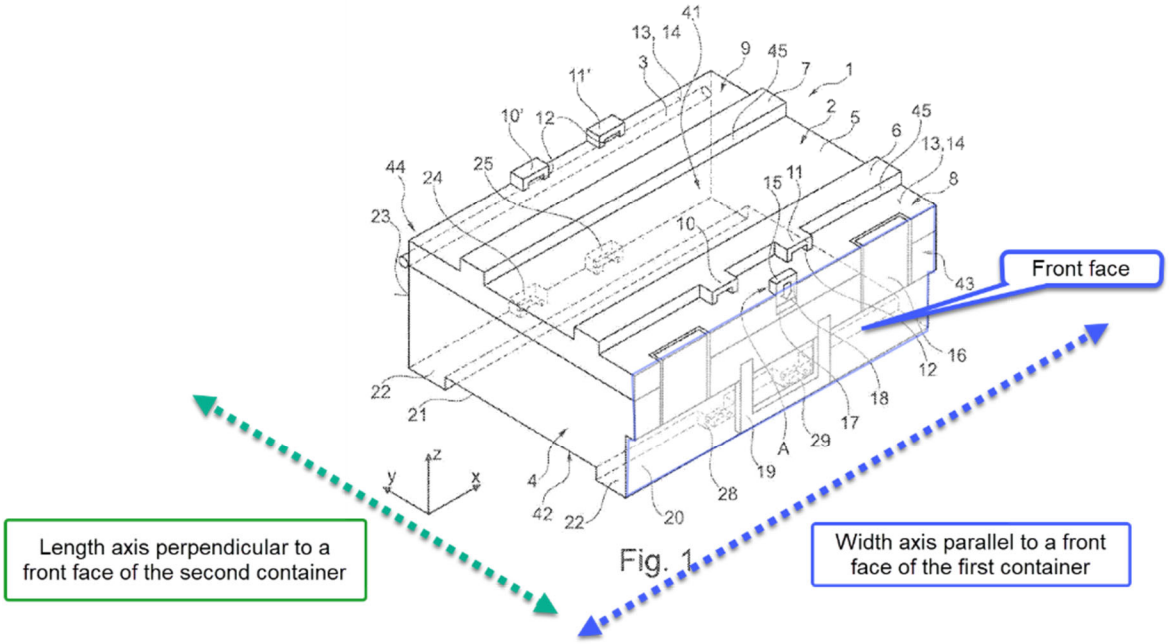


Fig. 1

134. Accordingly, the **width axis of the first container** is perpendicular to the **length axis of the second container** when the second container is coupled on top of the first container.

I. Claim 8: The container assembly of claim 1, wherein the first container further comprises a pair of rear wheels and a telescoping handle extending upwards from a rear wall of the first container.

135. As described above, in my opinion Burchia discloses all the limitations of claim 1 and as described below the additional limitations in claim 8 are obvious rendering claim 8 obvious. Although Burchia does not disclose a first container comprising a pair of rear wheels and a telescoping handle extending upwards from a rear wall of the first container, it is my opinion that it would have been an obvious design choice for a POSITA to include such wheels and

telescoping handle for the sake of mobility of the container assembly. The same is true for Metabowerke, which states that "assemblies of similar containers can be formed which can be easily transported together and stored stacked." Ex 1006, ¶[0001]. With wheels being in my opinion the most obvious way to assist moving an assembly of potentially heavy items.

136. Indeed, Bensman, which the same examiner pointed to (in the prosecution of the related '026 patent) as showing the obviousness of toggle locking latches in a similar stacking container system, illustrates a system having rear wheels on the first (bottom) container and a telescoping handle extending upwards from the rear wall of the container assembly, as shown in Figure 13 below ("FIG. 13 shows yet another embodiment of the apparatus 10 in the second configuration, having a first container 12 with an extendible, telescopic apparatus handle 38.").

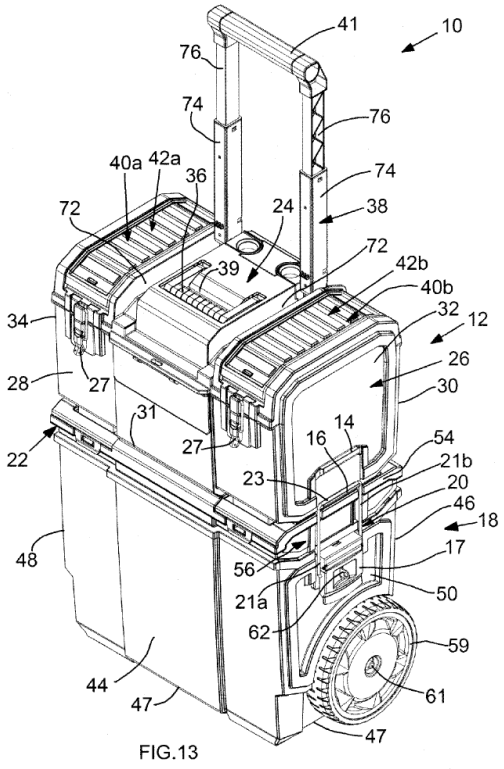


FIG.13

137. The addition of a telescoping handle on the rear wall of the first (bottom) container for mobility was in my opinion an obvious design choice for a POSITA.

J. Claim 9

138. Claim 9 largely mirrors claim 1's limitations. The following chart cross references the limitations of claim 9 to claim 1; the rationale and prior art disclosures applied to the claim 1 limitations likewise apply to the corresponding claim 9 limitations.

Claim 9 limitations	Corresponding claim 1 limitations
9[pre]	1pre
9[a]	1[a]
9[b]	1[b]
9[c]	1[c]
9[d]	1[d]
9[e]	1[e]
9[f]	1[f]
9[g]	1[g]
9[h]	1[h]
9[i]	1[i]
9[j]	1[j]
9[k]	1[m][6]
9[l]	1[n]
9[m]	1[o]

K. Claim 9[h]: the second coupler comprising a tongue extending in a direction parallel to the bottom face of the second container, the tongue extends in a second direction opposite the first direction, the tongue of the second container is engageable with the rib of the first container such that the tongue engages between the rib and the depressed surface, wherein the second coupler of the second container extends from the bottom face of the second container such that the tongue is offset from at least a portion of the bottom face of the second container and wherein the rib engages between the tongue and the bottom face of the second container.

139. In my opinion Burchia alone or in combination with Metabowerke disclose this limitation. Claim 9[h] is similar to claim 1[h] and differs only in that

[6] Claim elements 1[k] and [l] include corner bumper limitations not found in claim 9. This explains why the correspondence jumps to 9[k] and 1[m].

it also requires the second coupler of the second container extends from the bottom face of the second container such that the tongue is offset from at least a portion of the bottom face of the second container and wherein the rib engages between the tongue and the bottom face of the second container. This is shown expressly in Burchia, as shown in the below annotated Figures 3 and 5.

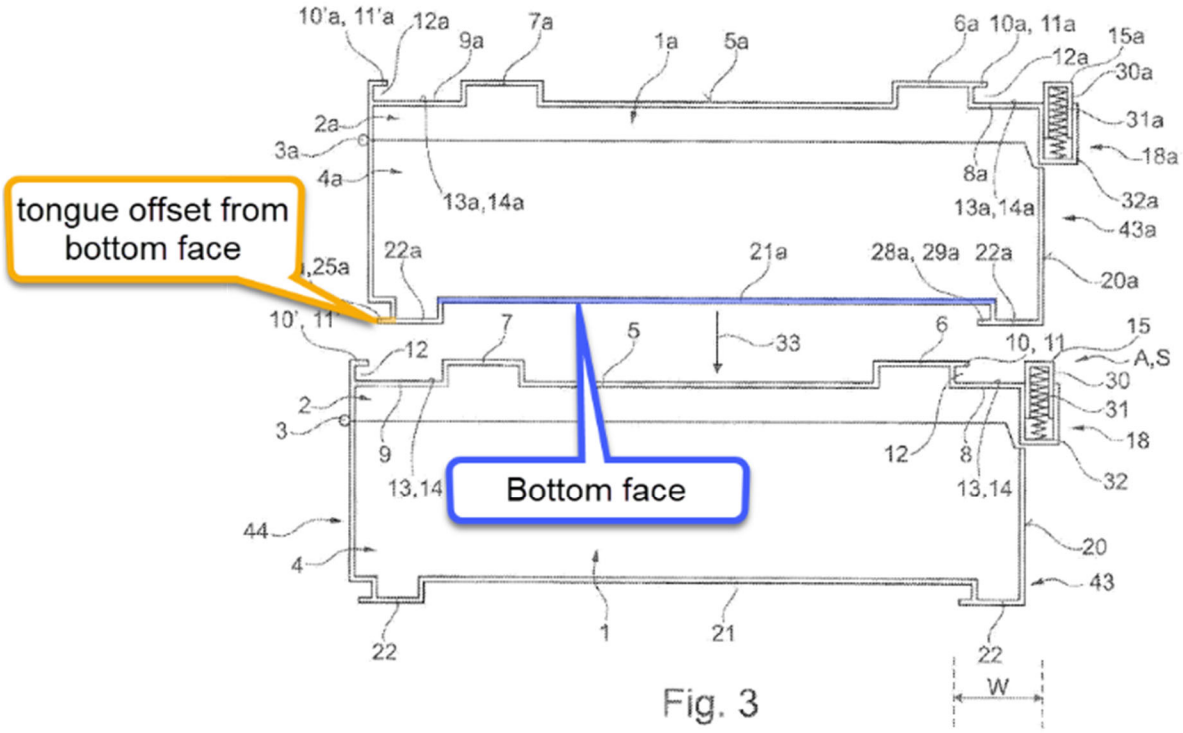


Fig. 3

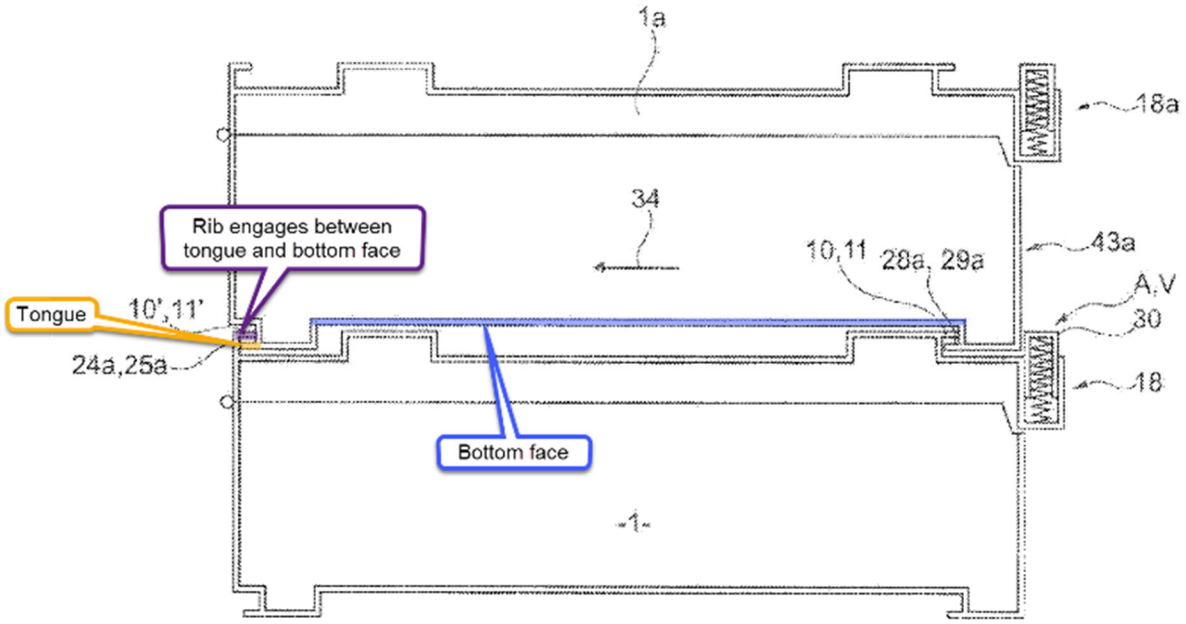


Fig. 5

140. As set forth above, to the extent patent owner argues Burchia fails to disclose a depressed surface having a back wall, side walls and a rib, it is my opinion that it would have been obvious to modify Burchia according to the teachings of Metabowerke to include one. Metabowerke discloses a second coupler of the second (top) container extends from the bottom (second) face of the second container such that the **tongue** is offset from the **bottom (second) face**.

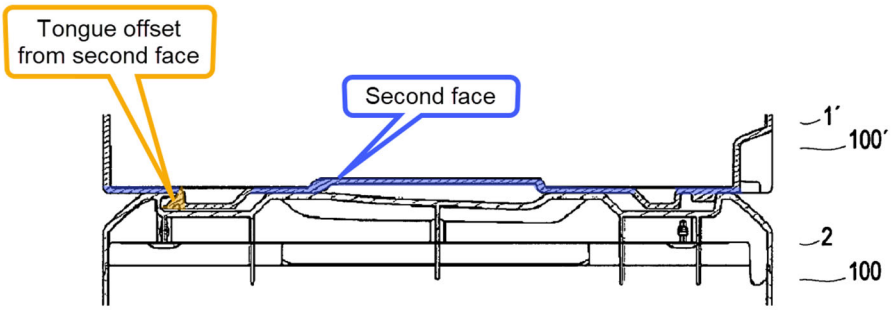


Fig. 4

141. Further, as shown in below annotated Figure 4, when slid into place, the **rib** of the first container engages between the **tongue** of the second container and the bottom (second) face.

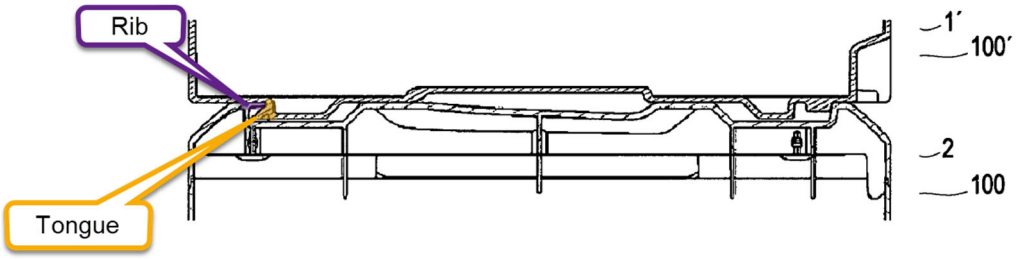


Fig. 4

142. Below is a magnified version of the above annotated Figure 4, showing engagement of the **rib** and the **tongue**.

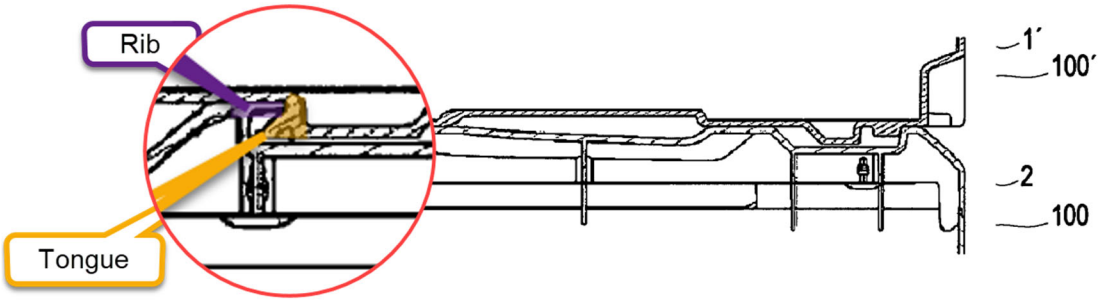


Fig. 4

143. As such, in my opinion Burchia alone or in combination with Metabowerke disclose each and every limitation of claim 9 and therefore renders claim 9 obvious.

L. Claim 10: The container assembly of claim 9, the second container comprising a front face, a first side face, an opposing second side face, a first corner bumper coupled to the second container between the front face and the first side face, and a second corner bumper coupled to the second container between the front face and the second side face, the first corner bumper defining a first outer surface that faces away from each of the front face and the first side face, and the second corner bumper defining a second outer surface that faces away from each of the front surface and the second side face.

144. As described above, in my opinion Burchia discloses all the limitations of claim 9 and the additional limitations of claim 10 rendering it obvious. As discussed above in connection with claim 1[k] and 1[l], Burchia discloses a front face, a first side face, and an opposing second side face, and it is my opinion that it would have been obvious to a POSITA to include corner

bumpers as claimed to provide additional protection to the corners of the container, as discussed above.

M. Claim 11: The container assembly of claim 9, wherein the sliding path is perpendicular to the locking latch.

145. As described above, in my opinion Burchia discloses all the limitations of claim 9 and the additional limitation of claim 11 rendering it obvious. As discussed above in connection with claim 2, Burchia discloses a container assembly wherein the sliding path is perpendicular to the locking latch.

N. Claim 12: The container assembly of claim 9, wherein the locking latch is spring biased to engage with the locking latch arresting location.

146. As described above, in my opinion Burchia discloses all the limitations of claim 9 and the additional limitations of claim 12 rendering it obvious. As discussed above in connection with claim 3, Burchia discloses a locking latch that is spring biased to engage with the locking latch arresting location.

O. Claim 13: The container assembly of claim 9, wherein a width of the second container is half of a width of the first container, and the second container is located on top of the first container.

147. As described above, in my opinion Burchia discloses all the limitations of claim 9 and that the additional limitations of claims 13 are obvious, rendering claim 13 obvious. As discussed above in connection with claim 4, it is my opinion that it would have been an obvious design choice for a POSITA to

make different size containers, e.g., where the second container is half of a width of the first container.

P. Claim 14: The container assembly of claim 9, wherein the first container further comprises a handle coupled to a front face of the first container and a third toggle locking latch configured to latch the first lid of the first container in the closed position, wherein the handle is located between the first and third toggle locking latches of the first container.

148. As described above, in my opinion Burchia discloses all the limitations of claim 9 and as described below discloses the additional limitations of claims 14 or they would be obvious rendering claim 14 obvious. As discussed above in connection with claim 5, Burchia discloses a container that has a **handle** on its front face between its closure latches, which as discussed above with respect to elements 1[f] and 1[j], a person of ordinary skill in the art would understand includes "**toggle locking latches**."

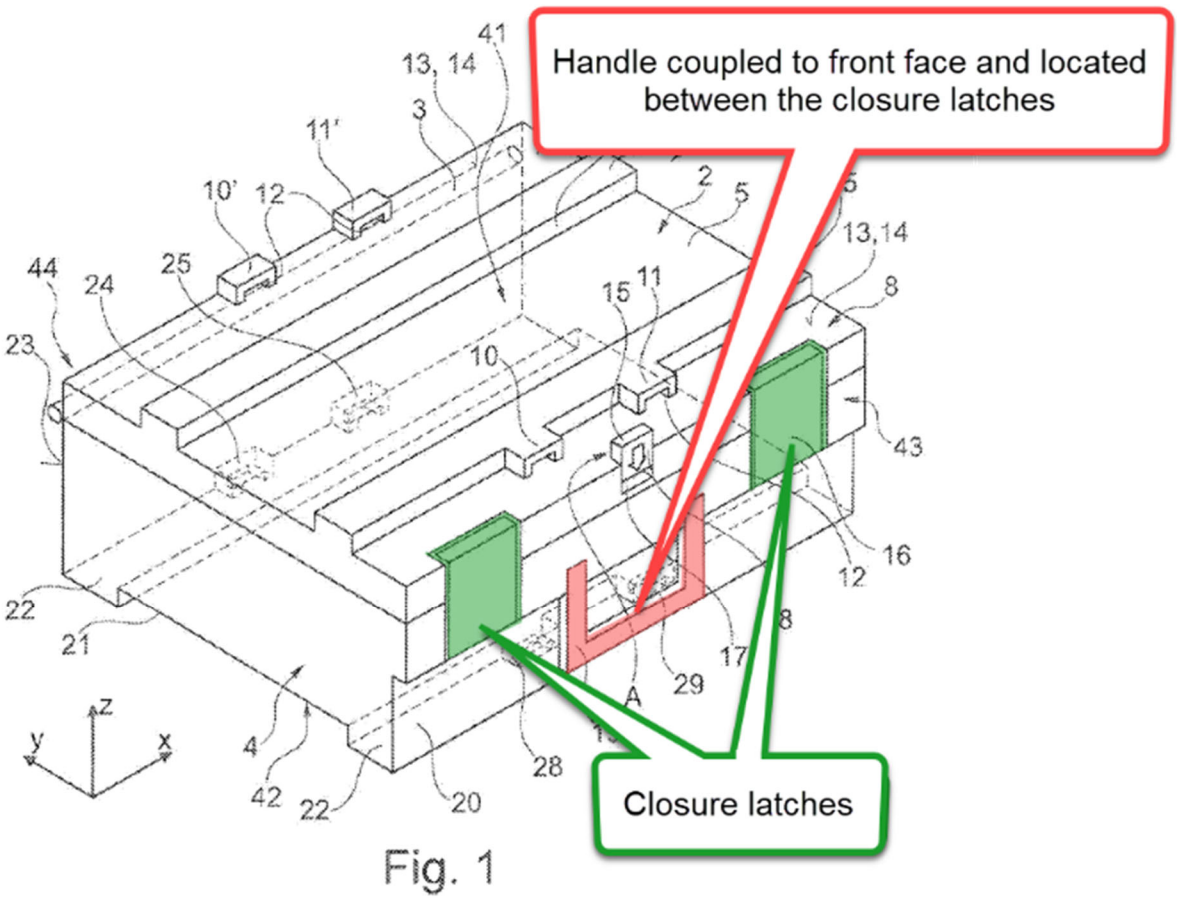


Fig. 1

149. Moreover, as discussed above in connection with limitation 1[f] and 1[j], **toggle locking latches** are an obvious way to close a toolbox lid.

Q. Claim 15: The container assembly of claim 9, wherein the first container defines a width axis parallel to a front face of the first container and the second container defines a length axis perpendicular to a front face of the second container, wherein the width axis of the first container is perpendicular to the length axis of the second container when the second container is coupled on top of the first container.

150. As described above, in my opinion Burchia discloses all the limitations of claim 9 and as described below discloses the additional limitations of claims 15 rendering it obvious. As discussed above in connection with claim 7,

Burchia discloses a first container that defines a width axis parallel to a front face of the first container, a second container defines a length axis perpendicular to the front face of the second container, such that the width axis of the first container is perpendicular to the length axis of the second container when the second container is coupled on top of the first container.

R. Claim 16: The container assembly of claim 9, wherein the first container further comprises a pair of rear wheels and a telescoping handle extending upwards from a rear wall of the first container.

151. As described above, in my opinion Burchia discloses all the limitations of claim 9 and as described below the additional limitations of claims 16 are obvious, rendering claim 16 as obvious. As discussed above in connection with claim 8, although Burchia does not disclose a first container comprising a pair of rear wheels and a telescoping handle extending upwards from a rear wall of the first container, it would have been, in my opinion, an obvious design choice for a POSITA to include such wheels and telescoping handle for the sake of mobility of the container assembly.

152. Indeed, Bensman, which the same examiner (in the prosecution of the related ’026 patent) pointed to as showing the obviousness of toggle locking latches in a similar stacking container system, illustrates a system having rear wheels on the second container and a telescoping handle extending upwards from the rear wall of the container assembly, as shown in Figure 13 below (“FIG. 13

shows yet another embodiment of the apparatus 10 in the second configuration, having a first container 12 with an extendible, telescopic apparatus handle 38.").

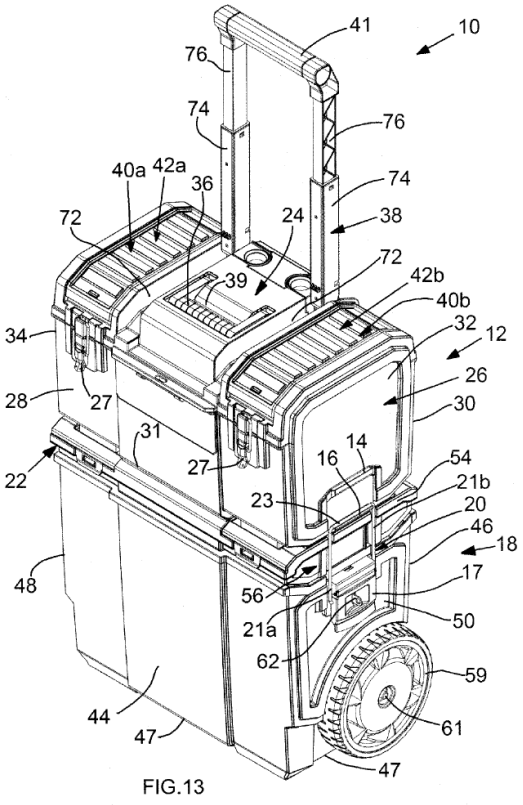


FIG.13

153. The addition of a telescoping handle on the rear wall of the first (bottom) container for mobility was, in my opinion, an obvious design choice for a POSITA.

S. Claim 17

154. Like claim 9, claim 17 largely mirrors claim 1's limitations. The following chart cross references the limitations of claim 17 to claim 1; the rational and prior art disclosures applied to the claim 1 limitations likewise apply to the corresponding claim 17 limitations.

Claim 17 limitations	Corresponding claim limitations
17[pre]	1pre
17[a]	1[a]
17[b]	1[b]
17[c]	1[c]
17[d]	1[d]
17[e]	1[e]
17[f]	1[f]
17[g]	1[g]
17[h]	1[h]
17[i]	1[i]
17[j]	1[j]
17[k]	1[m][7]
17[l]	1[n]
17[m]	1[o]
17[n]	Claims 7, 15

155. As such, in my opinion Burchia alone or in combination with Metabowerke disclose each and every limitation of claim 17 and therefore renders claim 17 obvious.

[7] Claim elements 1[k] and [l] include corner bumper limitations not found in claim 17. This explains why the correspondence jumps to 17[k] and 1[m].

T. Claim 18: The container assembly of claim 17, the second container comprising a first side face, an opposing second side face, a first corner bumper coupled to the second container between the second front face and the first side face, and a second corner bumper coupled to the second container between the second front face and the second side face, the first corner bumper defining a first outer surface that faces away from each of the second front face and the first side face, and the second corner bumper defining a second outer surface that faces away from each of the second front face and the second side face.

156. As described above, in my opinion Burchia discloses all the limitations of claim 17 and as described below the additional limitations of claim 18 are obvious rendering claim 18 obvious. As discussed above in connection with claims 1[k], 1[l] and 10, Burchia discloses a front face, a first side face, and an opposing second side face, and in my opinion it would have been obvious to a POSITA to include corner bumpers as claimed to provide additional protection to the corners of the container, as discussed above.

U. Claim 19: The container assembly of claim 17, wherein the sliding path is perpendicular to the locking latch.

157. As described above, in my opinion Burchia discloses all the limitations of claim 17 and as described below discloses the additional limitations of claim 19 rendering it obvious. As discussed above in connection with claims 2 and 11, Burchia discloses a container assembly wherein the sliding path is perpendicular to the locking latch.

V. Claim 20: The container assembly of claim 17, wherein the locking latch is spring biased to engage with the locking latch arresting location.

158. As described above, in my opinion Burchia discloses all the limitations of claim 17 and as described below discloses the additional limitations of claims 20 rendering it obvious. As discussed above in connection with claims 3 and 12, Burchia discloses a locking latch that is spring biased to engage with the locking latch arresting location.

W. Claim 21: The container assembly of claim 17, wherein the first container further comprises a handle coupled to the first front face of the first container and a third toggle locking latch configured to latch the first lid of the first container in the closed position, wherein the handle is located between the first and third toggle locking latches of the first container.

159. As described above, in my opinion Burchia discloses all the limitations of claim 17 and as described below discloses the additional limitations of claim 21 or they would be obvious rendering claim 21 obvious. As discussed above in connection with claims 5 and 14, Burchia discloses a container that has a **handle** on its front face between its closure latches, which as discussed above with respect to elements 1[f] and 1[j], a person of ordinary skill in the art would understand includes "**toggle locking latches**."

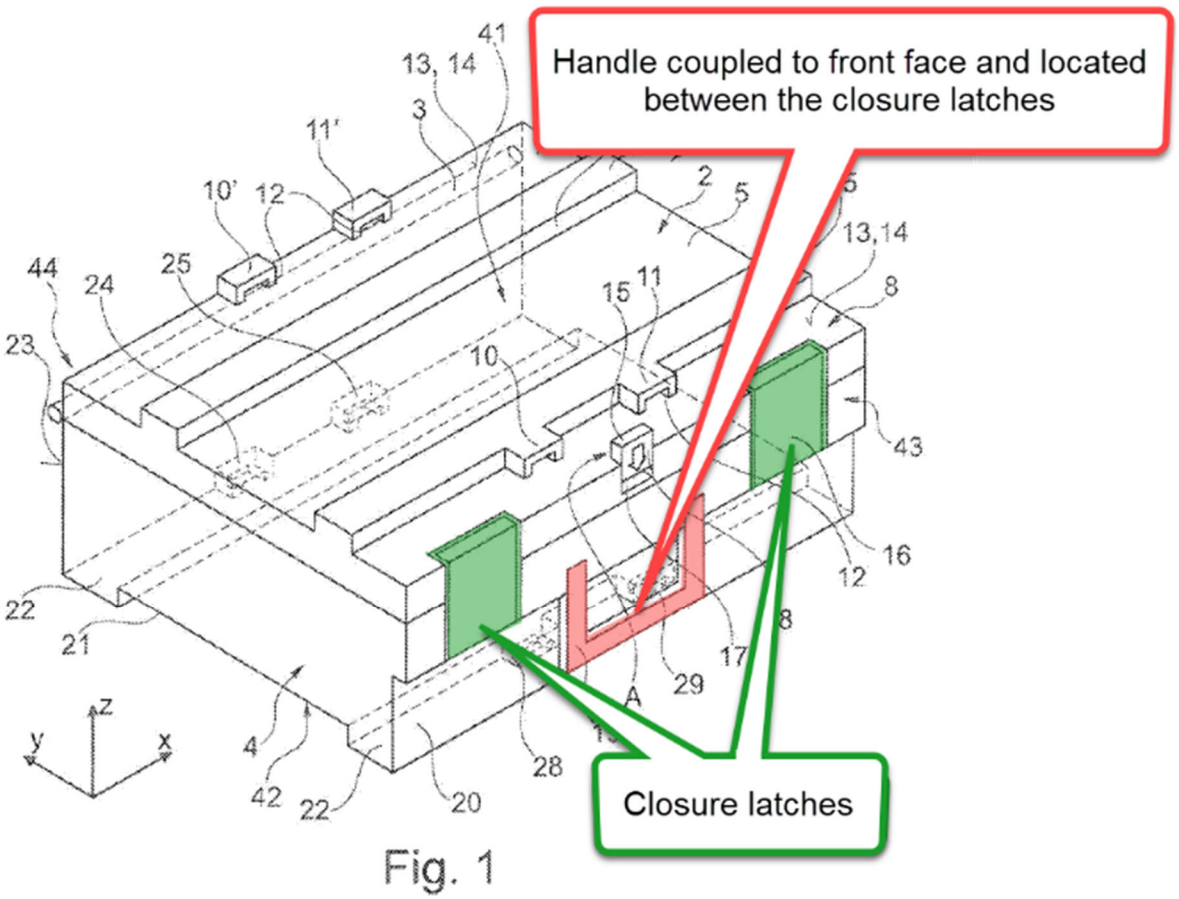


Fig. 1

160. Moreover, as discussed above in connection with limitation 1[f] and 1[j], **toggle locking latches** are an obvious way to close a toolbox lid.

X. Claim 22: The container assembly of claim 17, wherein the second coupler of the second container extends from the bottom face of the second container such that the tongue is offset from at least a portion of the bottom face of the second container and wherein the rib engages between the tongue and the bottom face of the second container.

161. As described above, in my opinion Burchia discloses all the limitations of claim 17 and as described below discloses the additional limitations of claims 22 rendering it obvious. As discussed above in connection with claim 6, Burchia discloses second coupler of the second container extends from the bottom

face of the second container such that the tongue is offset from at least a portion of the bottom face of the second container and wherein the rib engages between the tongue and the bottom face of the second container.

Y. Claim 23: The container assembly of claim 17, wherein the first container further comprises a pair of rear wheels and a telescoping handle extending upwards from a rear wall of the first container.

162. As described above, in my opinion Burchia discloses all the limitations of claim 17 and as described below the additional limitations of claim 23 are obvious rendering claim 23 obvious. As discussed above in connection with claims 8 and 16, although Burchia does not disclose a first container comprising a pair of rear wheels and a telescoping handle extending upwards from a rear wall of the first container. However, in my opinion it would have been an obvious design choice for a POSITA to include such wheels and telescoping handle for the sake of mobility of the container assembly.

163. Indeed, Bensman, which the same examiner (in the prosecution of the related ’026 patent) pointed to as showing the obviousness of toggle locking latches in a similar stacking container system, illustrates a system having rear wheels on the second container and a telescoping handle extending upwards from the rear wall of the container assembly, as shown in Figure 13 below (“FIG. 13 shows yet another embodiment of the apparatus 10 in the second configuration, having a first container 12 with an extendible, telescopic apparatus handle 38.”).

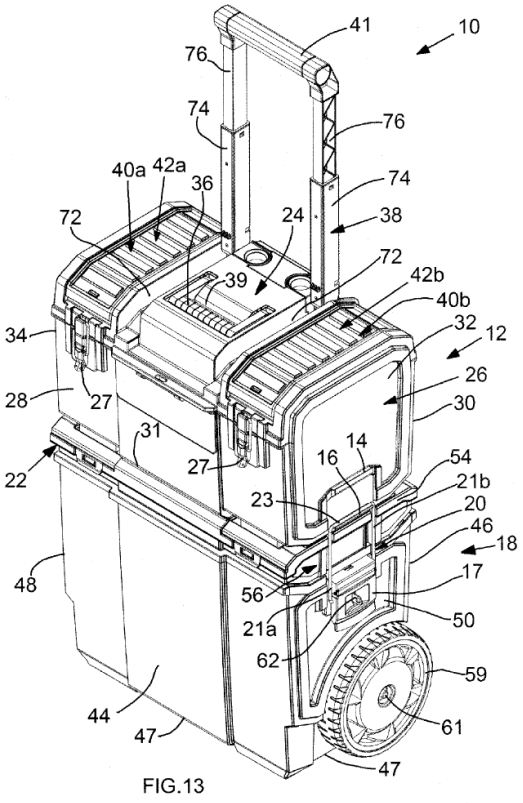


FIG.13

164. The addition of a telescoping handle on the rear wall of the first (bottom) container for mobility was, in my opinion, an obvious design choice for a POSITA.

VII. GROUND 2: BURCHIA, METABOWERKE, AND LAFRAGETTE RENDER OBVIOUS CLAIMS 1-23

165. To the extent patent owner argues that Burchia lacks an "arresting location," it is my opinion that it would have been obvious to modify Burchia according to Lafragette's teaching to include a recess as an arresting location.

A. Motivation to Combine Burchia with Lafragette's Teachings

166. It is my opinion that it would have been obvious for a POSITA to have modified Burchia according to the teaching of Lafragette to include an arresting location. Lafragette discloses a recess in one of its containers that serves as an arresting location for its locking latch. And it would have been obvious to POSITA to include a recess, as taught in Lafragette, in the bottom face of Burchia's top container as an arresting location for Burchia's locking latch, because a recess would provide additional protection for the latch itself (e.g., to prevent inadvertent disassembly) and provide additional lateral force opposing lateral movement of the containers.

167. Burchia and Lafragette are both directed to container assemblies that are detachably connectable using the same or similar mechanism, a tongue sliding into a depressed surface and engaging a rib and being held in place by a spring-biased locking latch. In my opinion, a POSITA could have opted for a spring-biased locking latch arrested on the front face of the other container or set back in a recess in the bottom face of the container, as taught by Burchia, or a resilient tab (also a spring-biased locking latch) and recess, as in Lafragette. Therefore, depending upon the designer's preference, the arresting location of the locking latch could be in different locations (e.g., on the front face of the other container or in a recess in the bottom of the other container). Even assuming Burchia does not

disclose a recess as an arresting location (it does), its locking latch arrested on the front face of the other container serves the same function in that it is designed to hold the containers together until it is released.

168. Moreover, a POSITA would have, in my opinion, been motivated to use the recess of Lafragette in the container assembly of Burchia, for example, to provide additional protection and support to a spring-biased locking latch. These are obvious design choices within the common knowledge and common sense of a POSITA at the time of the claimed invention. The different design choices would provide predictable functionality to a POSITA.

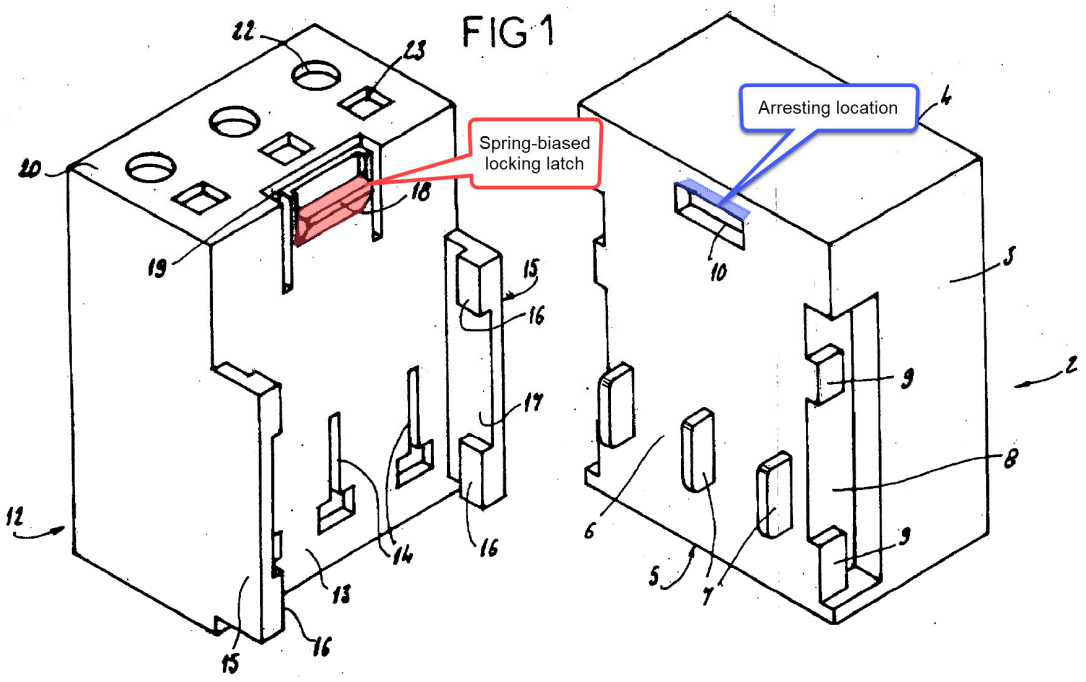
169. In my opinion, a POSITA would have had a reasonable expectation of success in substituting Lafragette's recess, because such a recess is contemplated by Burchia in its setback surface embodiment. Moreover, even if Burchia did not contemplate a recessed arresting location, the simple mechanical technology at issue (a recessed surface) would predictably provide further protection for Burchia's spring biased locking latch when secured in a recess.

170. A slot in the face of the latch could provide a place for a user to depress the latch to release the containers.

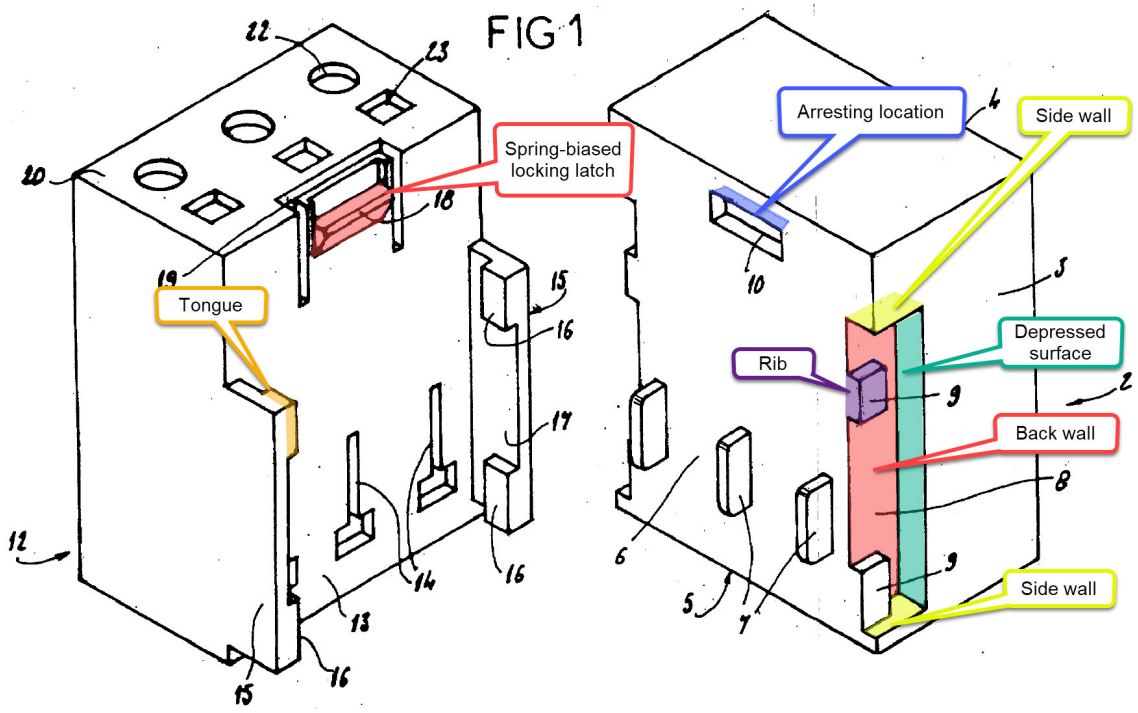
B. Limitations 1[n], 1[o], 9[l], 9[m], 17[l], 17[m] ("Locking Latch Arresting Location")

171. Burchia expressly teaches multiple embodiments including arresting locations for its locking latch. In my opinion, Lafragette discloses a **locking latch arresting location** defined as a recess in its second container.

172. Specifically, Lafragette teaches using a resilient "tab" (a type of spring-biased locking latch) on a first container designed to fit into a "recess" on the second container when the containers are in a "locking position." Ex. 1005, ¶ 32. The tab "penetrates the recess" "at the end of the longitudinal movement" used to couples the containers. Ex. 1005, ¶ 33. The tab and recess, shown below in Figure 1, are a **spring-biased locking latch** and a corresponding **locking latch arresting location** (shown below with dashed blue lines to reflect the inner top surface of the recess cannot be seen from this view):

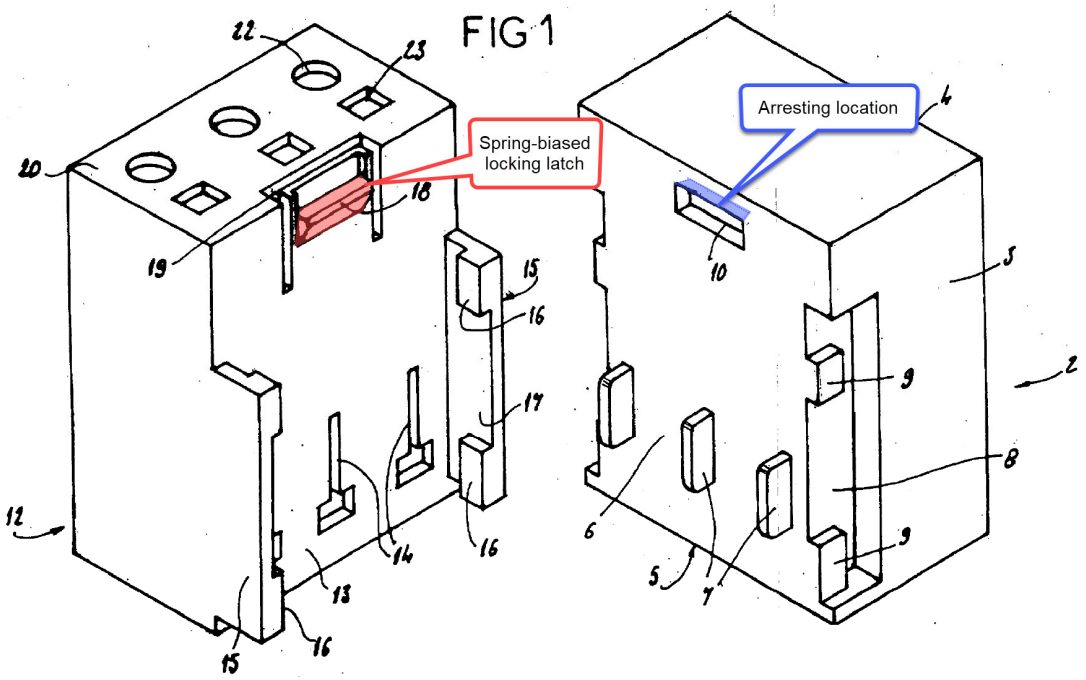


173. In my opinion, both Burchia and Lafragette are directed to interlocking container systems that are coupled by sliding a projecting **tongue** into a **depressed surface** having a **back wall**, **side walls**, and a **rib**, where the containers are locked in place when a **spring-biased locking latch** reaches its **locking latch arresting location**. The claimed features are identified in an annotated version of Lafragette's Figure 1 below:



174. As discussed above, it is my opinion that a POSITA would have been motivated to modify Burchia, to the extent not already expressly disclosed, to include Lafragette's locking latch arresting location at least because a recess would provide additional protection for the latch itself (e.g., to prevent inadvertent disassembly) and provide additional lateral force opposing lateral movement of the containers.

175. As noted above, Lafragette also discloses a **spring-biased locking latch** that is positionable in a locked position engaging the **locking latch arresting location**. As shown in Figure 1, Lafragette has a "resilient tab 18" which serves as a **spring-biased locking latch**, which limits sliding displacement of the first container with respect to the second container.



VIII. GROUND 3: BURCHIA, METABOWERKE, AND CHEN RENDER OBVIOUS CLAIMS 1, 10, AND 18

176. Chen discloses the claimed corner bumpers and as discussed below it would have been obvious to combine Burchia and Metabowerke (and optionally Lafragette) with Chen to provide the clamed corner bumpers.

A. Motivation to Combine

177. Chen, Burchia, Metabowerke, Lafragette, and the '952 patent, are in the analogous field of modular or connectable containers. It is my opinion that a POSITA would have been motivated to add the corner bumpers of Chen to the containers of Burchia to protect the corners from damage. A POSITA would have had a reasonable expectation of success in adding the corner bumpers, because of the straightforward mechanical technology.

B. Claim elements 1[k], 1[l], 10 and 18 (corner bumper limitations)

178. Burchia (and Metabowerke) have a **front face**, a **first side face**, and an **opposing side face**.

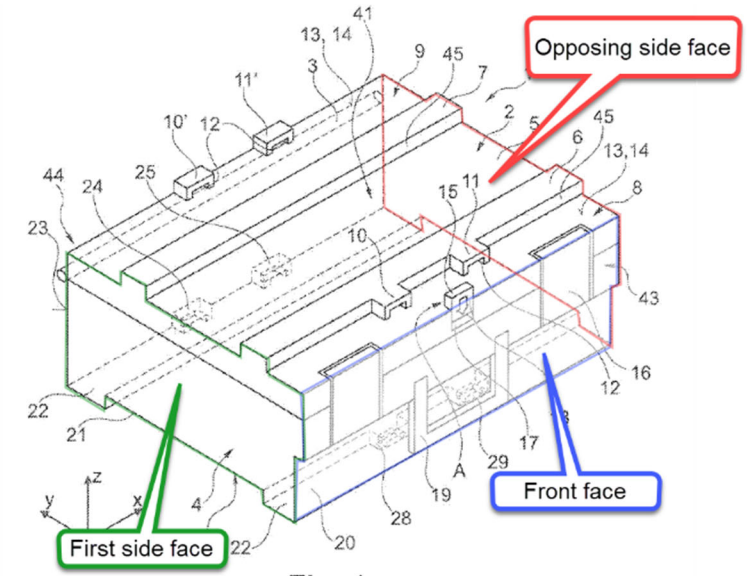
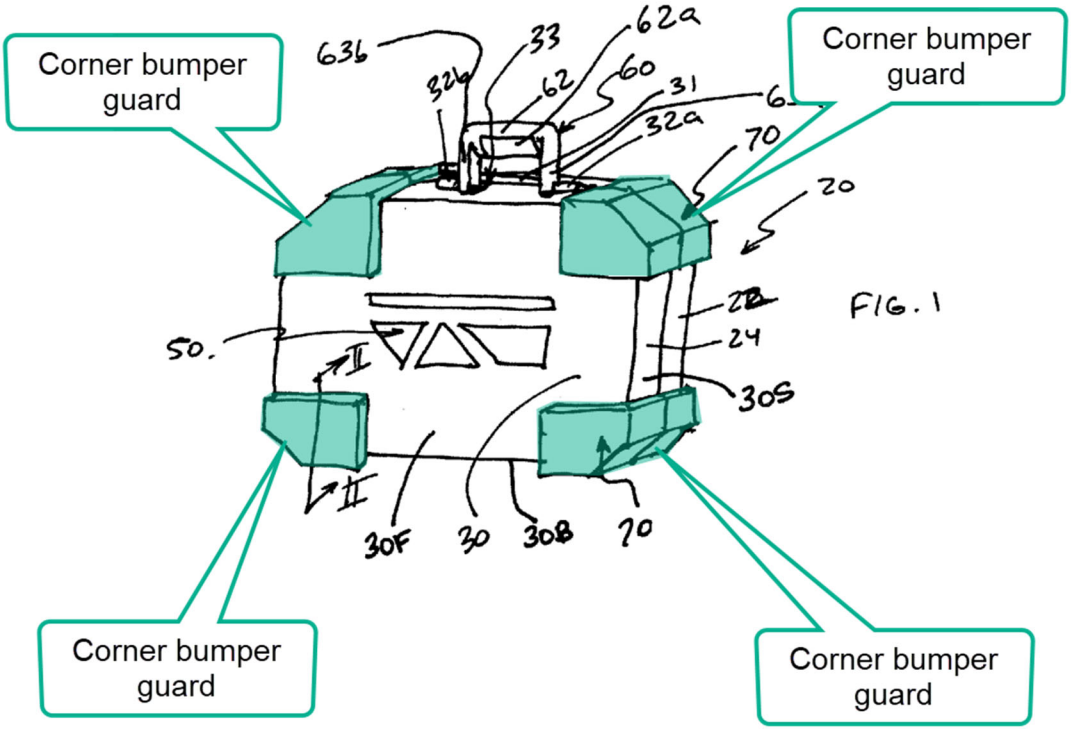


Fig. 1

179. As discussed above in Ground 1, limitations 1[k], 1[l], and claims 10 and 18, in my opinion, it would have been obvious to a POSITA to include a first corner bumper coupled to the second container between the front face and the first side face, the first corner bumper defining a first outer surface that faces away from each of the front face and the first side face; and a second corner bumper coupled to the second container between the front face and an opposing side face, the second corner bumper defining a second outer surface that faces away from each of the front face and the opposing side face. Such bumpers would provide additional

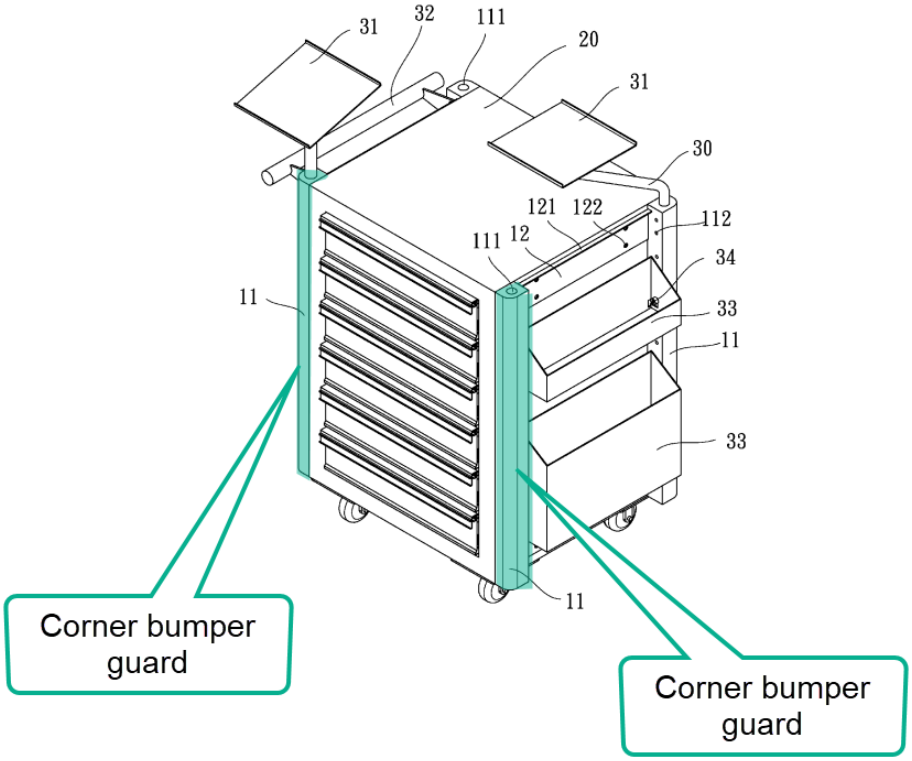
protection to the corners of the container and were an obvious design option (a mere design choice).

180. Indeed, the examiner stated "it would have been obvious for one having ordinary skill in the art before the effective filing date of the claimed invention to modify the container of U.S. Patent No. 11365026 with the corner bumpers of Welsh in order to cushion an impact load exerted on the case if the case is dropped on a hard surface (Paragraph 0006)." The examiner rejected the claims, later obviated by the filing of a terminal disclaimer, on double patenting grounds over the '026 patent in view of Welsh. The below annotated Figure 1 of Welsh shows first and second corner bumpers, as claimed.



181. It would have been obvious to a POSITA to include Welsh's corner bumpers on the containers of Burchia or Metabowerke. Such bumpers would have predictably provided additional protection to the corners of the modular toolboxes.

182. Further, it is my opinion that it would have been obvious to a POSITA to combine Burchia (or Metabowerke) with Chen. Chen discloses the use of corner bumpers in a modular container assembly as shown in the below annotated figure.



183. In my opinion, a POSITA would have had a reasonable expectation of success because of the straightforward mechanical technology, and the corner bumpers would have predictably protected the corners of the modular toolboxes from damage.

184. As discussed above at ¶¶ 101-102, numerous references disclosed modular toolboxes and containers having corner bumpers. Exs. 1025-1028.

IX. GROUND 4: BURCHIA, METABOWERKE, AND LIN RENDER OBVIOUS CLAIMS 4 AND 13

185. Lin discloses a half-width container and as discussed below, in my opinion it would have been obvious to combine Burchia and Metabowerke (and optionally Lafragette) with Lin.

A. Motivation to Combine

186. Lin, Burchia, Metabowerke, Lafragette, and the '952 patent, are in the analogous field of connectable containers. Tools and supplies come in all sizes, and sometimes a smaller container is all a worker may need. Thus, in my opinion, a POSITA would have been motivated to use the half-width containers of Lin with the stackable containers of Burchia or Metabowerke. A POSITA would have had a reasonable expectation of success in making the containers of Burchia or Metabowerke half size, as the simple mechanical couplers could be made in smaller sizes with predictable functionality (coupling the containers). The optional addition of Lafragette's recess would not impact the functionality of smaller sized containers.

Claims 4 and 13: 4 - The container assembly of claim 1, wherein a width of the second container is half of a width of the first container, and the second container is located on top of the first container. 13 - The container assembly of claim 9, wherein a width of the second container is half of a width of the first container, and the second container is located on top of the first container.

187. Lin discloses stackable, interconnected containers and illustrates the use of containers of different sizes, such as a third container half the size of the first container.

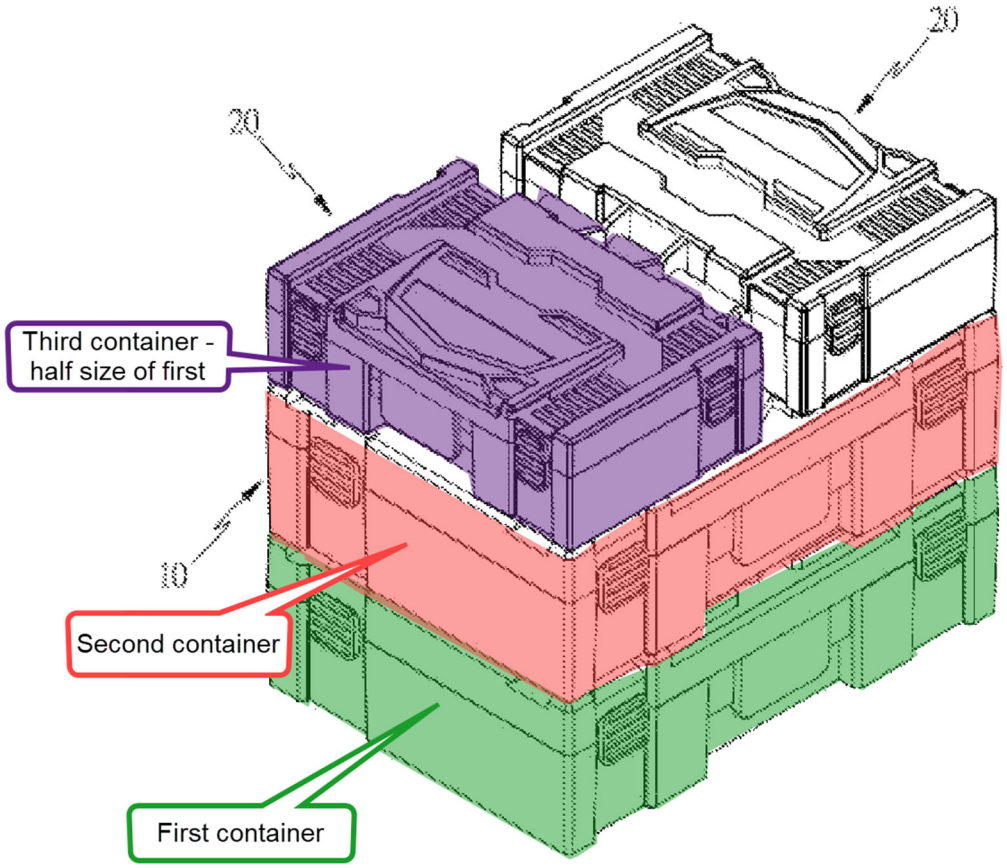


FIG.10

188. In my opinion, it would have been an obvious design choice to make different size containers, e.g., where the second container is half of a width of the first container. Indeed, the '952 patent itself concedes that a person of ordinary skill in the art would have "appreciated that the utility modules can be of any type, shape or size . . . ." Ex. 1001, 15:67–16:2. A second container "half of a width" of the first container is half the size of the first container. Thus, a POSITA would have, in my opinion, been motivated by the option to offer different size containers to hold different size tools and equipment to combine the containers of Burchia and Metabowerke (or optionally Lafragette) with the half size containers of Lin.

X. GROUND 5: BURCHIA, METABOWERKE, AND BENSMAN RENDER OBVIOUS CLAIMS 8, 16, AND 23

189. Bensman discloses containers with a pair of wheels and a telescoping handle. As discussed below, it would have been obvious to combine Bensman with Burchia and Metabowerke (and optionally Lafragette).

A. Motivation to Combine

190. In my opinion, a POSITA would have been motivated to add a pair of rear wheels and a telescoping handle to the container assemblies of Burchia and Metabowerke, to facilitate movement of the assemblies. Tools can be heavy and may need to be transported from one area to another. In addition, when multiple tools are stored together, they will be even heavier. As Metabowerke teaches, "assemblies of similar containers can be formed which can be easily transported

together and stored stacked." Ex. 1020, ¶[0001]. With wheels being the most obvious option to move a heavy object.

191. Modular containers, such as those taught by Bensman, were known in the art to provide ease of transportation for containers, which may be bulky and heavy, especially with multiple containers stacked on top of one another.

192. In my opinion, a POSITA would have had a reasonable expectation of success in adding rear wheels and a telescoping handle given the straightforward mechanical technology at issue (containers or modular toolboxes). It would have been obvious to a POSITA to include the rear wheels on the bottom container, which is in contact with the ground; while the telescoping handle could be attached to either container, depending upon design preference.

193. Bensman, Burchia, Metabowerke, Lafragette and the '952 patent are in the analogous field of connectable containers. In my opinion, it would have been obvious to a POSITA to combine Bensman with Burchia, Metabowerke, and Lafragette for the same reasons, as the addition of Lafragette's recess would not change how Bensman would be combined with Burchia or Metabowerke.

XI. GROUND 6: METABOWERKE, BURCHIA, AND LAFRAGETTE RENDER OBVIOUS CLAIMS 1-23

194. Ground 6 relies primarily on Metabowerke as disclosing all claim limitations. However, Metabowerke does not expressly disclose a spring-biased

locking latch. It would have been obvious to incorporate Lafragette's (or Burchia's) spring-biased locking latch in the container assembly of Metabowerke.

A. Motivation to Combine

195. Metabowerke discloses detachably connectable containers, just as claimed, that interlock as a protruding tongue on the base of one container slides into a depressed surface on the top of the other container that has side walls and a rib protruding from a back wall, with the containers held in place when a locking latch is moved to its arresting location on the tab on the front face of the other container.

196. Metabowerke does not expressly disclose a spring-biased locking latch. However, in my opinion a POSITA would have readily modified Metabowerke according to the teachings of Lafragette (or Burchia) to include a spring-biased locking latch. A spring-biased locking latch would facilitate quicker locking when the top container is placed on the bottom container, rather than requiring a user to manually lock the latch in place. A POSITA could have readily modified Metabowerke to include the spring-biased locking latch of Lafragette, which is a resilient tab protruding from a second container that engages a recess on the top of the first container when the containers are brought together and slid backwards.

197. In my opinion, a POSITA would have had a reasonable expectation of success given the basic mechanical technologies, and because Metabowerke, Burchia and Lafragette are directed to releasably attachable container assemblies using the same or similar coupling mechanisms, a tongue sliding into a depressed surface and engaging a rib and being held in place by a locking latch.

198. For the locking latch, a POSITA could have opted for a manual latch arrested on a tab protruding from the face of the other container, as in Metabowerke, or a spring-biased locking latch, as in Burchia or Lafragette (resilient tab and recess). Therefore, depending upon the designer's preference (mere design choice), the arresting location of the locking latch could be in different locations (e.g., on a tab protruding from the front face of the container; on the face of the other container itself; or in a recess in the other container), and given these are conventional latching mechanisms, a POSITA would have a reasonable expectation of success in making the substitution.

B. Claim 1

1. 1[pre]: A container assembly comprising:

199. To the extent the preamble is limiting, in my opinion Metabowerke discloses this limitation. It discloses a container assembly comprising at least two containers. Ex. 1020, ¶[0001] ("The invention relates to a ***stackable container*****.** . . .

In this way, assemblies of similar containers can be formed which can be easily transported together and stored stacked.").

200. The **first (bottom) container** and **second (top) container** and the **container assembly** are shown, for example, in Fig. 2:

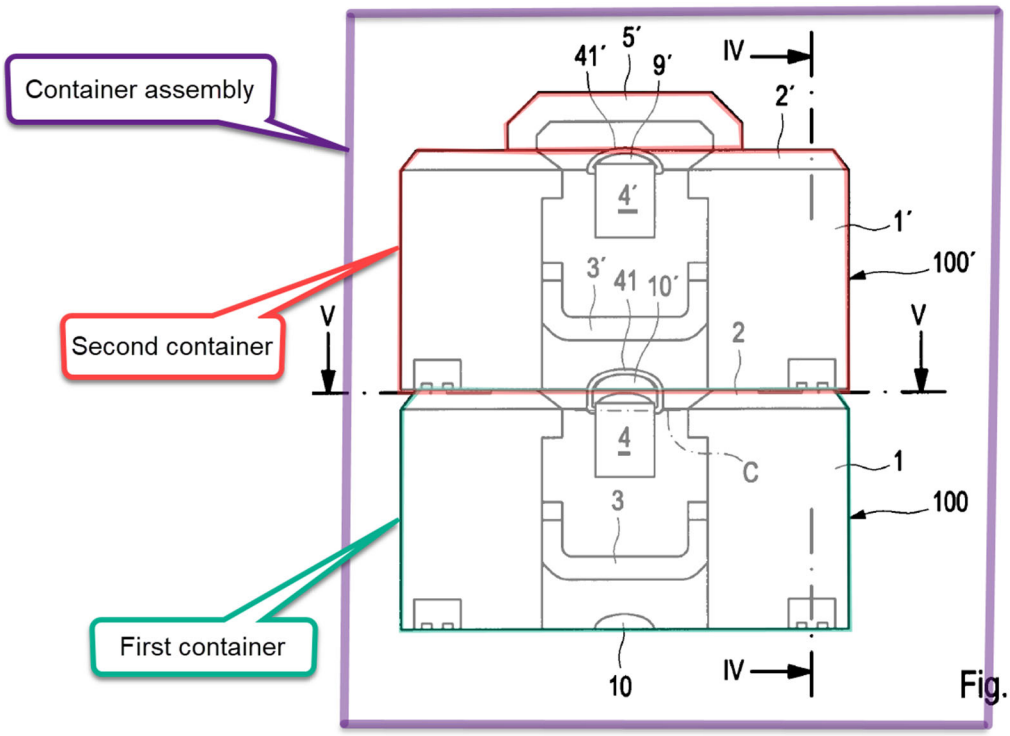


Fig. 2

2. 1[a]: a first container comprising: a first coupler extending from a top face of the first container,

201. In my opinion Metabowerke discloses this limitation. As shown in the below annotated Figures 1 and 4, Metabowerke discloses a first container comprising a **first coupler** extended from a **top (outer) face of the first container**. Ex. 1006, Figs. 1, 4.

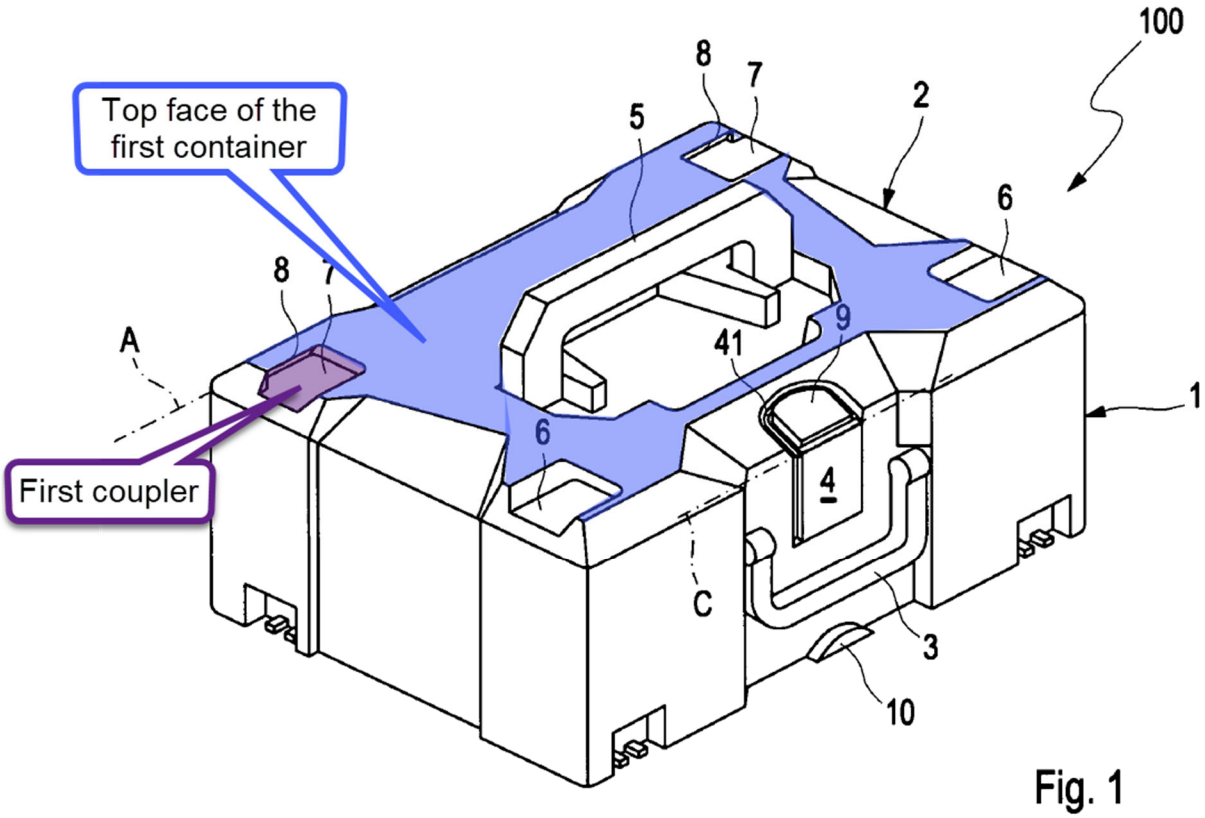


Fig. 1

202. According to Metabowerke, "the cover 2" of its first container has "two rear recesses 7, which serve to accommodate the standing feet or support elements of another similar container 100 standing on the container 100." Ex. 1020, ¶[0041].

203. In the below annotated Figure 4, Metabowerke illustrates in a sectional view the **first coupler** on **top face of the first container**, describing it as showing "[t]he engagement of the projection 14' of the rear standing foot 13 in the undercut in a recess 7 of the cover 2 of the bottom container 100 is clearly visible." Ex. 1020, ¶[0046]. To the extent Patent Owner argues that Metabowerke does not meet Petitioner's ITC construction of "coupler extending," it meets it under Patent

Owner's interpretation of the term's ordinary meaning as applied in its infringement contentions. Ex. 1032, 4 (accusing as a "coupler" an element that is flush with the top surface).

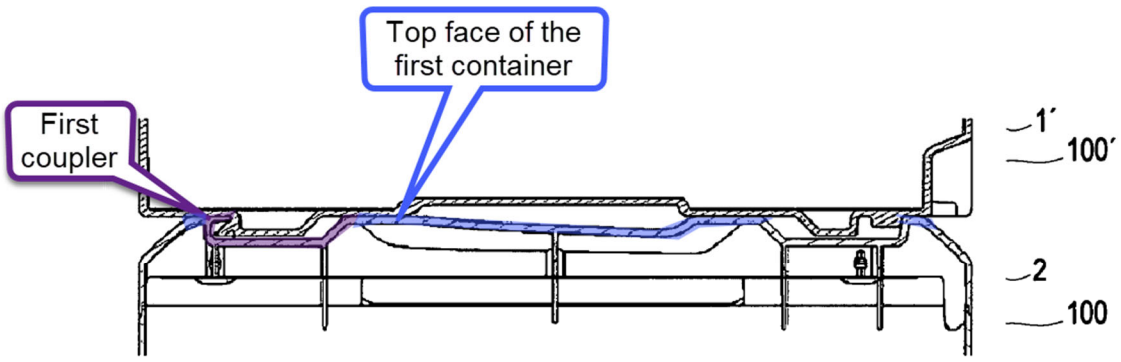


Fig. 4

3. 1[b]: the first coupler comprising two sidewalls, a back wall, and a rib, the back wall located between the two sidewalls,

204. In my opinion Metabowerke discloses this limitation. As shown in the below annotated Figures 1, 4, and 5, Metabowerke discloses a first coupler comprising **two sidewalls**, **a back wall**, and a **rib**, the **back wall** located between the **two sidewalls**, which are each a singular, distinct plane. Ex. 1006, Fig. 1.

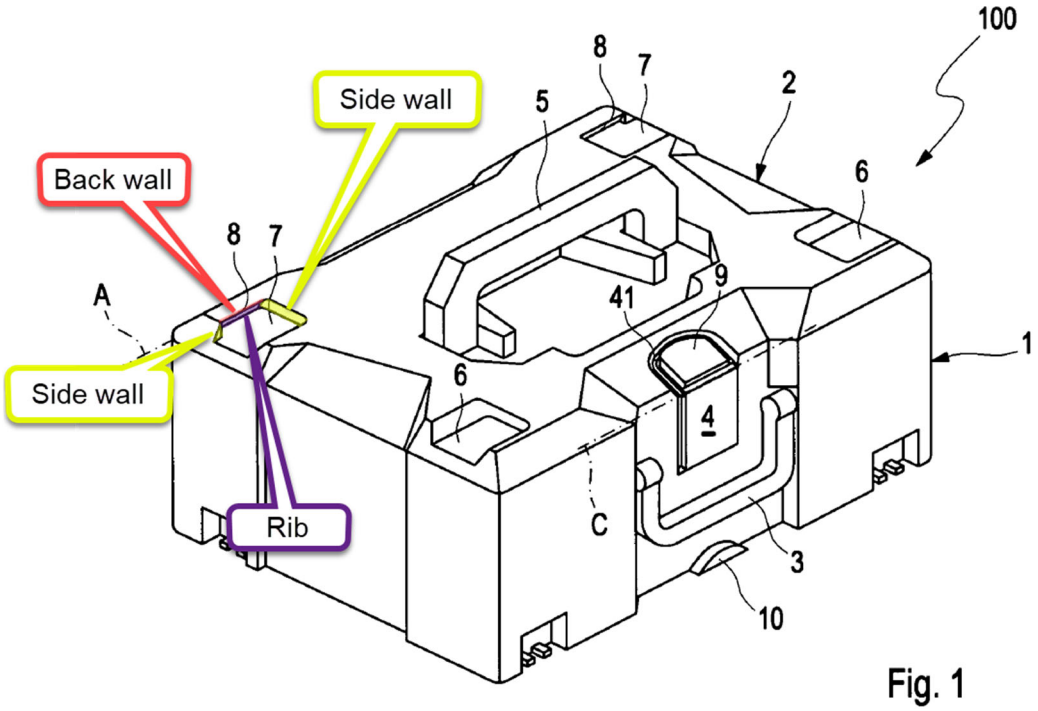


Fig. 1

205. And in below annotated Figure 1, the **first coupler** is shown magnified to clearly show the **rib** and **back wall** located between the **two sidewalls**.

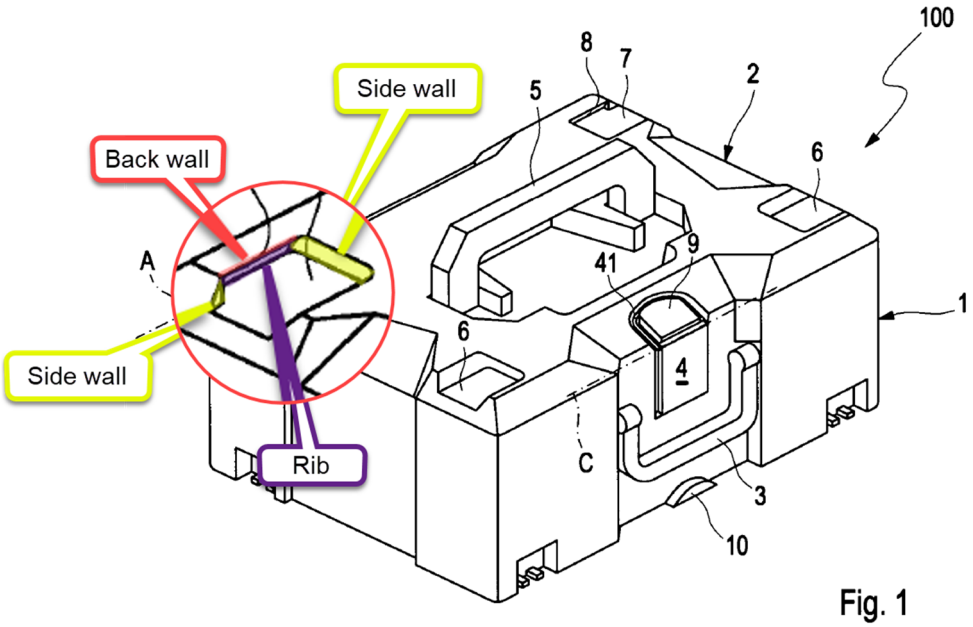


Fig. 1

206. The below annotated Figure 4 is another sectional view showing the **back wall** and protruding **rib**:

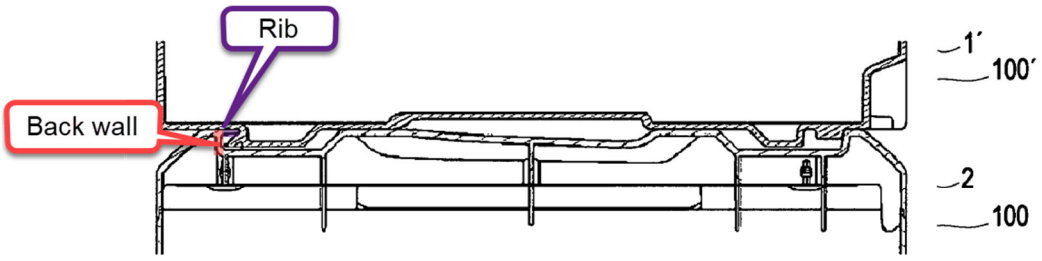


Fig. 4

207. Further, Figure 5 is a plan view (from above) of the couplers in which the **backwall**, **side walls**, and **rib** of the first coupler can also be seen:

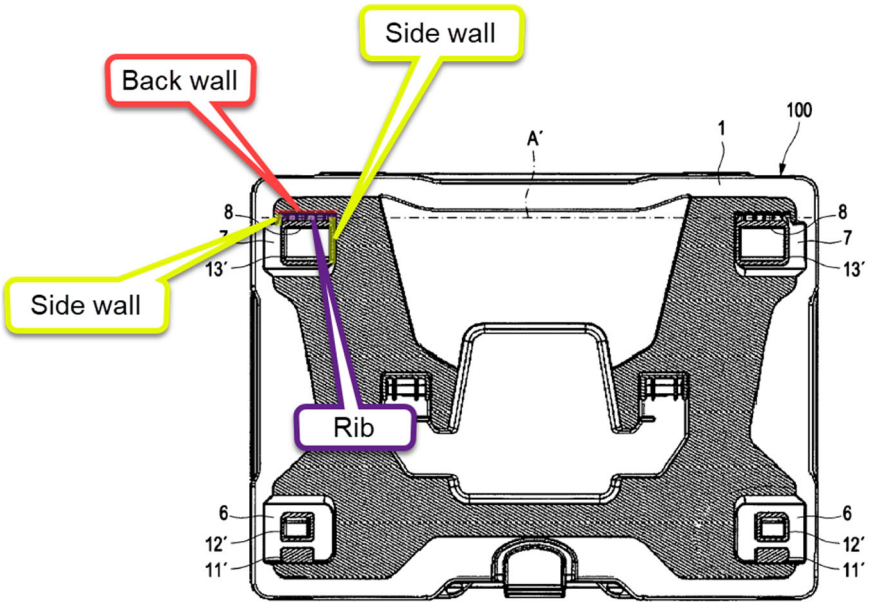


Fig. 5

208. A magnified version of the annotated version of Figure 5 is provided below:

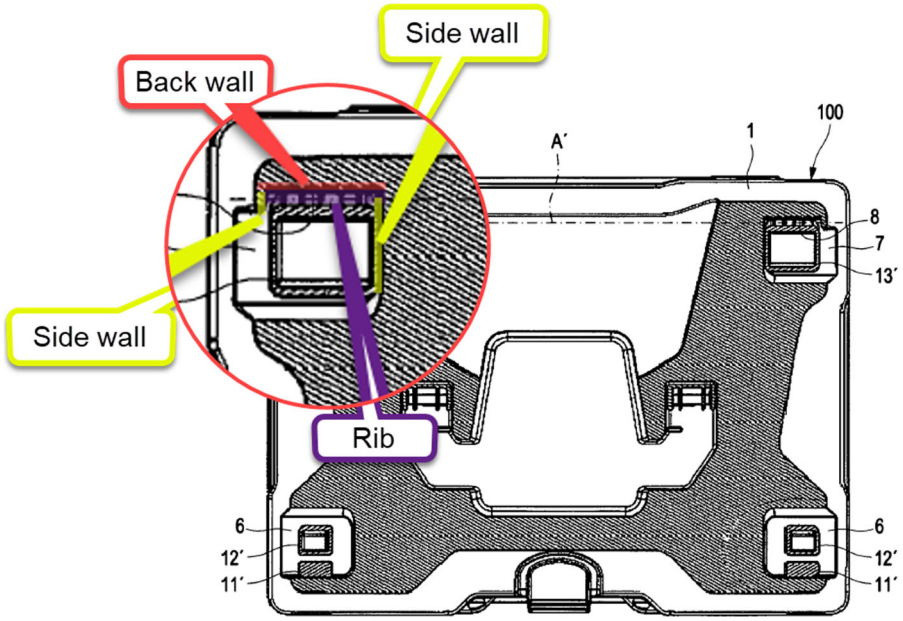


Fig. 5

209. Metabowerke describes the first coupler as recesses [depressions] in the cover of the container that have "a rearward-facing undercut 8 [rib], into which a corresponding projection [tongue] of a rear standing foot of another container can engage." Ex. 1020, ¶[0041].

4. 1[c]: the two sidewalls and the back wall projecting above a depressed surface of the top face,

210. In my opinion Metabowerke discloses this limitation. As shown in the below annotated Figure 1, Metabowerke discloses **two side walls** and the **back wall** projecting from a **depressed surface** of the **first face**. Ex. 1006, Figs 1, 4.

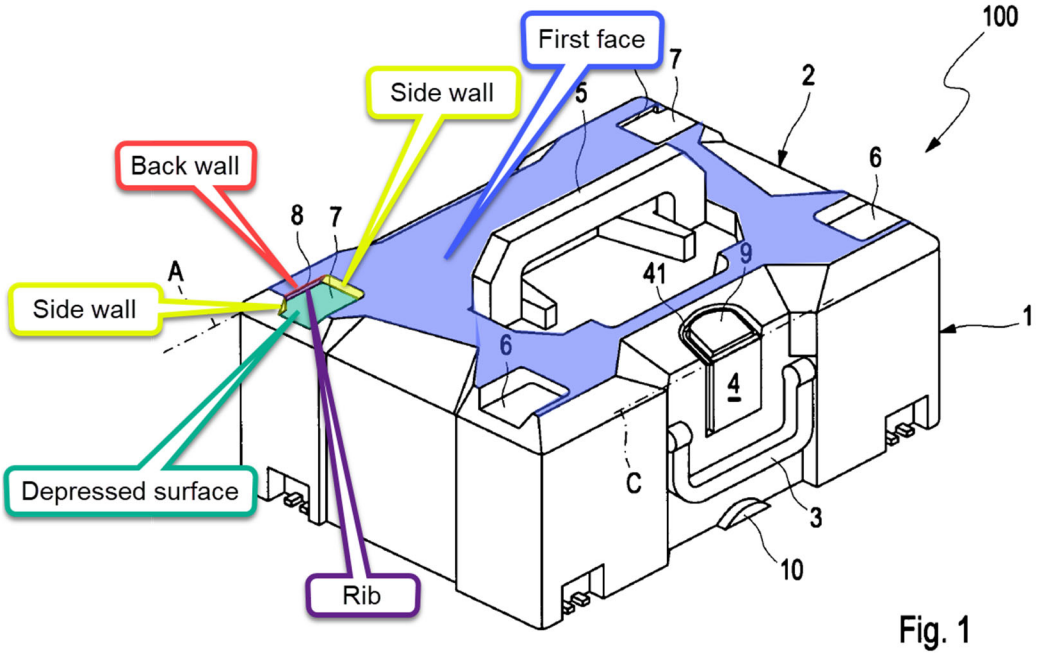


Fig. 1

211. And below is a magnified version showing the **depressed surface**, **back wall,** side walls and **rib**:

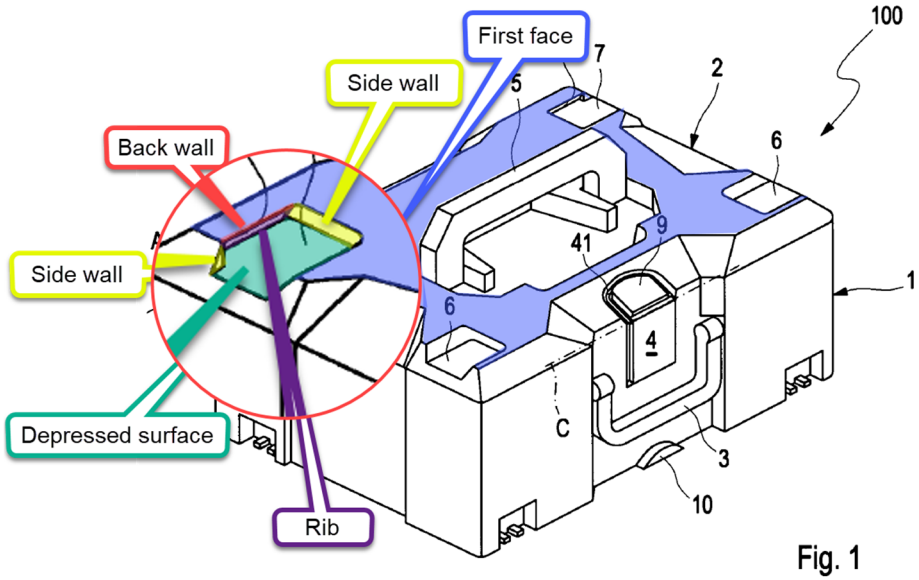


Fig. 1

212. The below annotated Figure 4 provides another sectional view of two containers coupled together, in which the first coupler can be seen having a **back**

wall and **rib** projecting from a **depressed surface** of the **first face** of the first container:

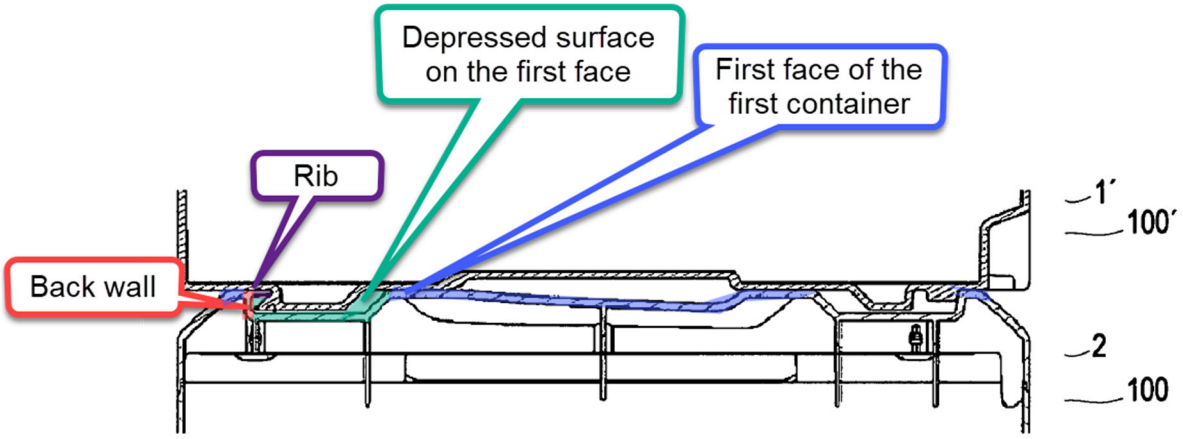


Fig. 4

213. And below is a magnified version of the **back wall** and **rib** projecting from the **depressed surface**:

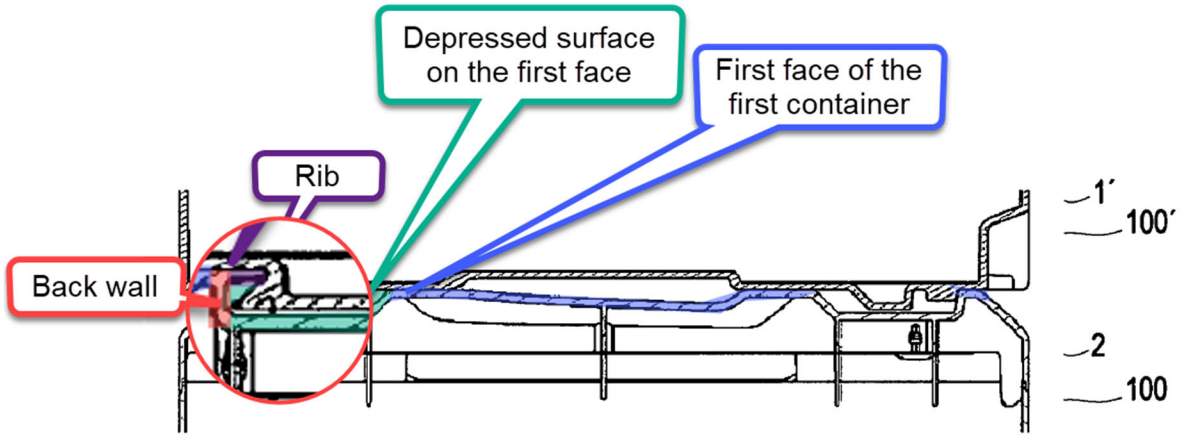


Fig. 4

5. 1[d]: and the rib extending away from the back wall in a first direction;

214. In my opinion Metabowerke discloses this limitation. As shown in the below annotated Figures 1 and 4, Metabowerke discloses the **rib** extending from the **back wall** in a **first direction**. Ex. 1006, Figs 1, 4.

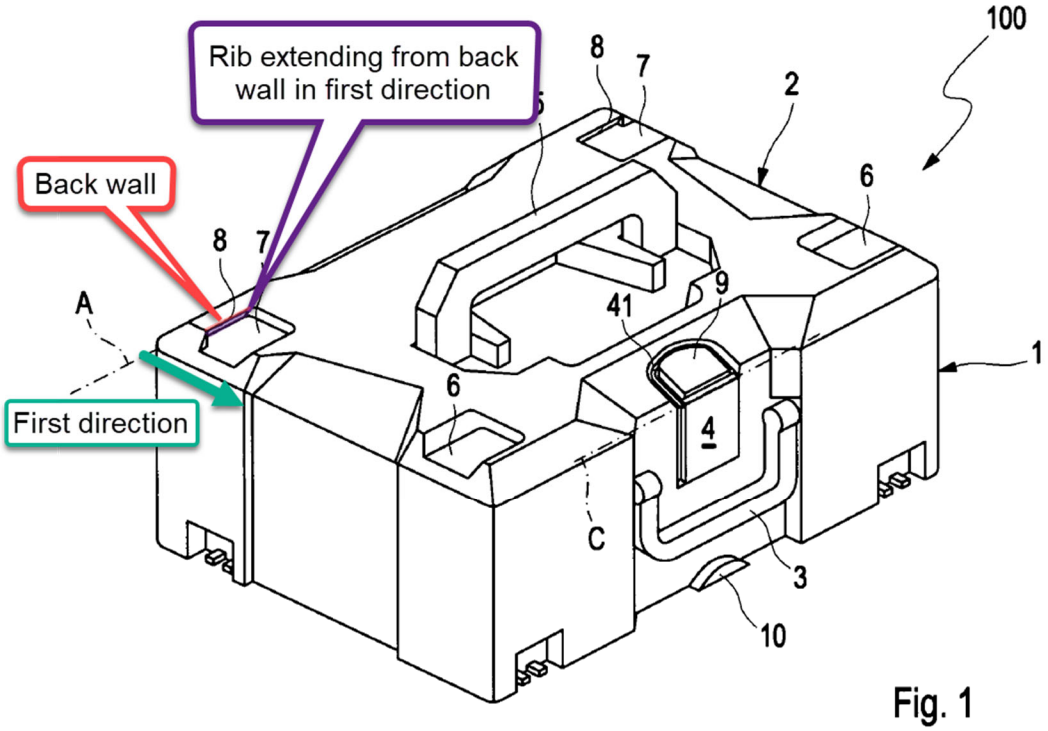


Fig. 1

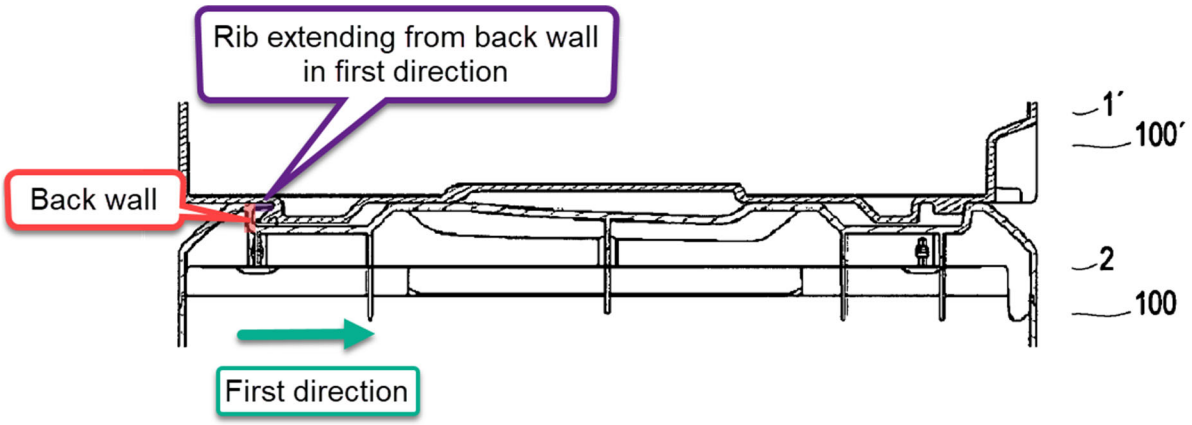


Fig. 4

6. 1[e]: a first lid pivotally attached to the first container; and

215. In my opinion Metabowerke discloses this limitation. It discloses that its container has a pivotally attached lid, which it refers to as "cover 2." Ex. 1020, ¶[0041] ("Fig. 1 shows a perspective view of a container 100 according to the invention. The container shows a trough-shaped base part 1 as well as a cover 2 arranged pivotably about the axis A in the region of the rear side thereof."

216. In the below annotated Fig. 1, the **first lid** is **pivotally attached** to the first container (trough-shaped base part 1) along the pivot axis "A."

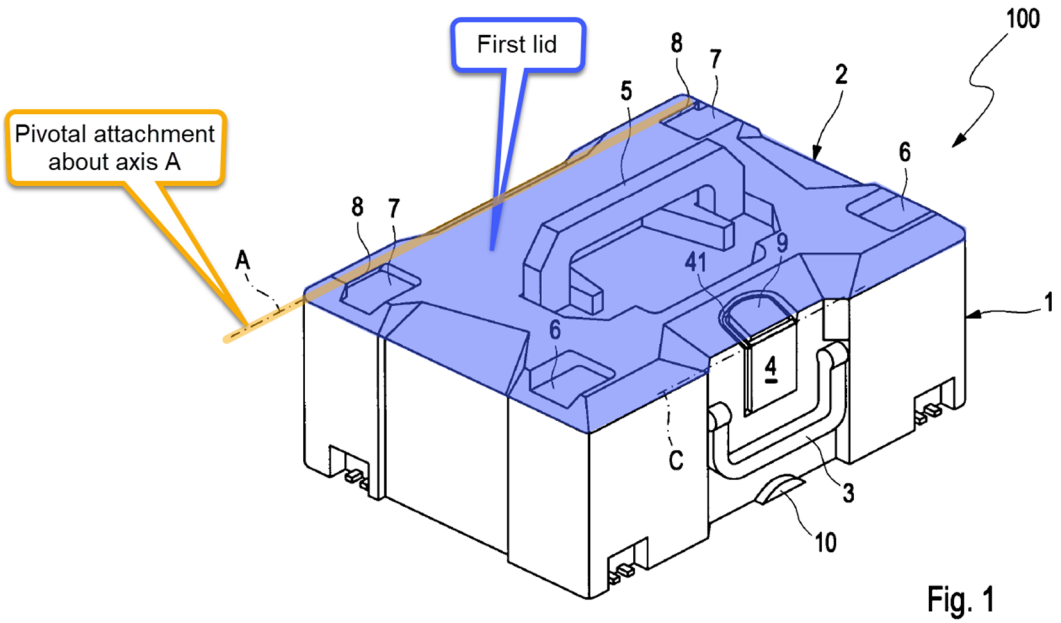


Fig. 1

7. 1[f]: a first toggle locking latch configured to latch the first lid of the first container in a closed position; and

217. In my opinion Metabowerke discloses this limitation. In the below annotated Figure 1, Metabowerke discloses **toggle locking latch** configured to latch the **first lid** of the first container in a closed position:

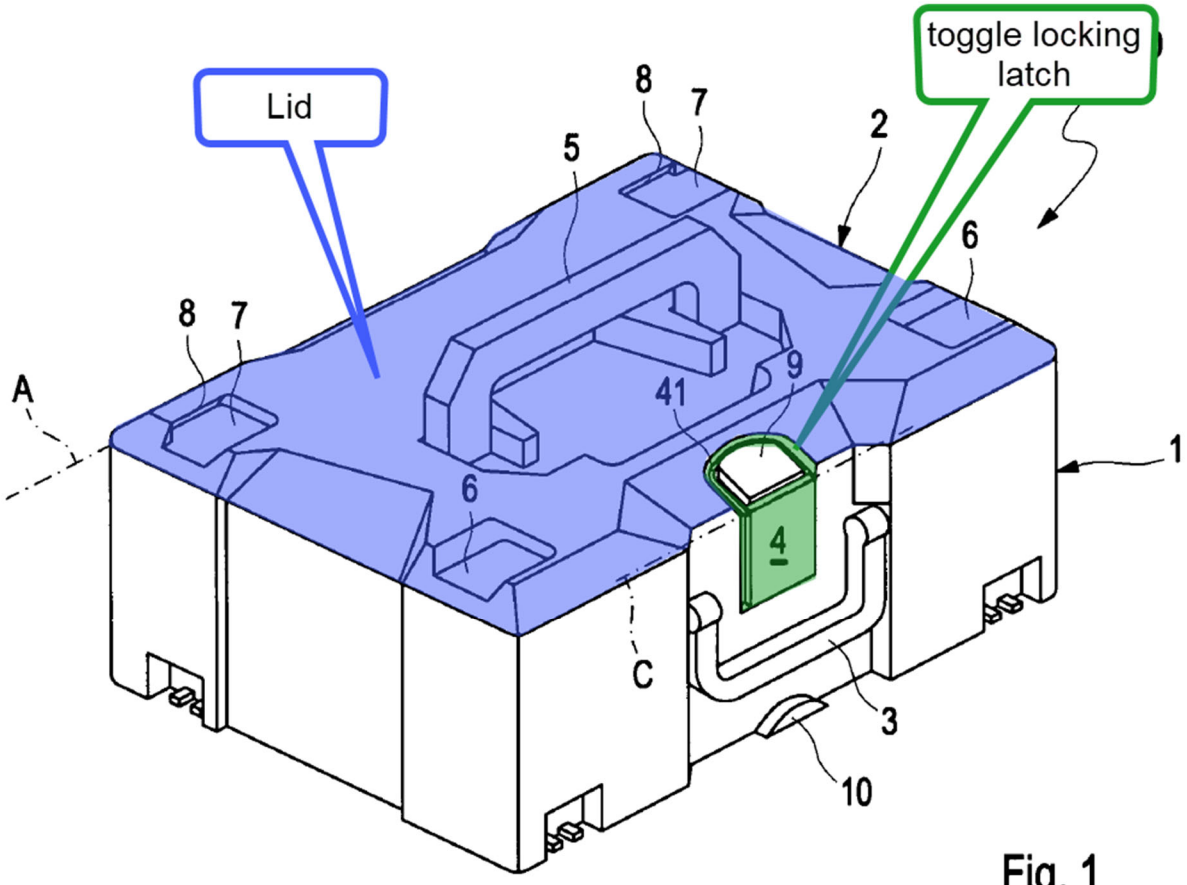


Fig. 1

218. Metabowerke describes the **toggle locking latch** mechanism as follows: "In the front region of the container **100**, it is shown how the buckle **4** with its associated clip **41** engage in a closure tab **9** in the cover **2** of the container **100** and in this way tightens the cover **2** against the base part **1**, whereby the container **100** is reliably closed, in particular due to the pretention thereby achieved." Ex. 1020, ¶[0042].

219. Moreover, toggle locking latches were, in my opinion, an obvious way to lock a toolbox lid, as discussed above in connection with ground 1, limitation 1[f].

8. 1[g]: a second container comprising: a second coupler extending from the second container,

220. In my opinion Metabowerke discloses this limitation. As shown in the below annotated Figure 16, Metabowerke discloses a second container comprising a **second coupler** extended from the second container. Ex. 1006, Fig. 16. Metabowerke calls its **second coupler** a "rear standing foot 13."

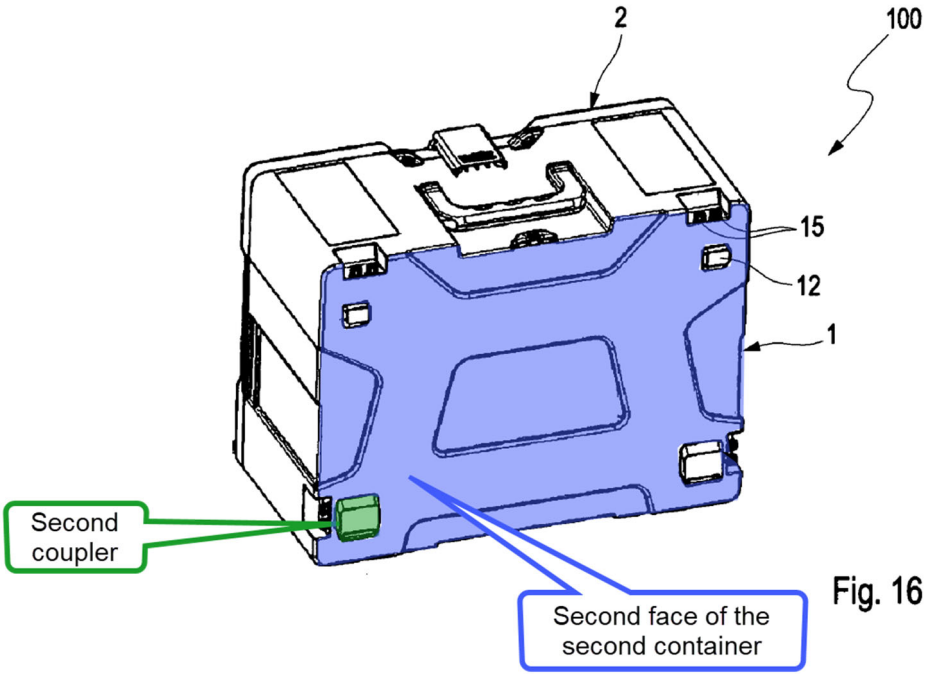


Fig. 16

221. In the below annotated Figure 4, Metabowerke shows a sectional view showing the **second coupler** extended from the second container:

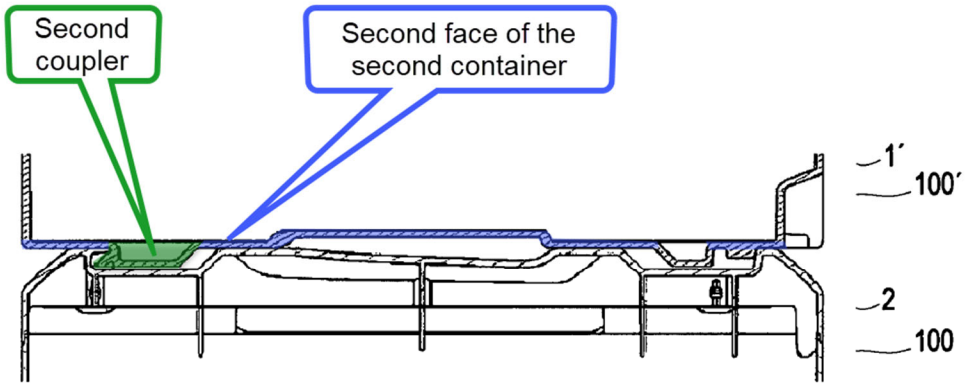


Fig. 4

9. 1[h]: the second coupler comprising a tongue extending in a direction parallel to a bottom face of the second container, the tongue extends in a second direction opposite the first direction, the tongue of the second container is engageable with the rib of the first container such that the tongue engages between the rib and the depressed surface;

222. In my opinion Metabowerke discloses this limitation. As shown in the annotated Figure 4 below, the second coupler comprises a **tongue** extending in a direction parallel to a bottom face of the second container, the tongue extends in a **second direction** opposite the first direction (the **rib** extends in a **first direction**, from left to right →, whereas the **tongue** extends in a **second direction**, from the right to left ←).

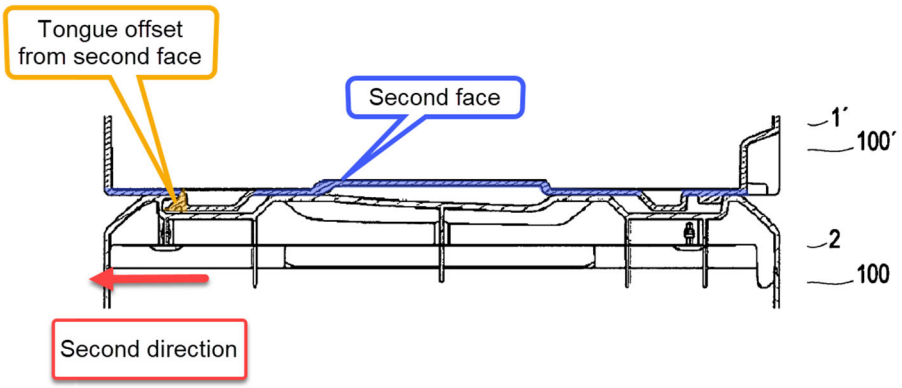


Fig. 4

223. Further, as shown below in annotated Fig. 4, when slid into place, the **tongue** of the second container engages with the **rib** of the first container such that the tongue engages between the rib and the depressed surface.

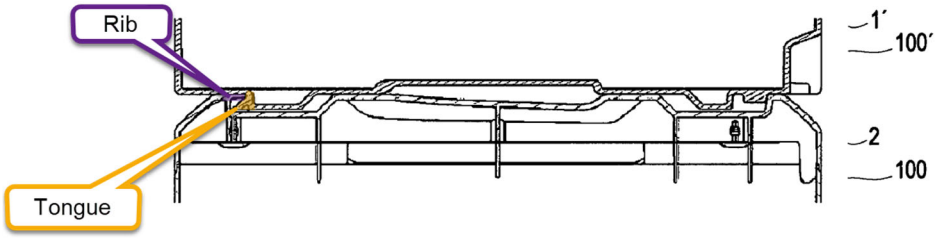


Fig. 4

224. Below is a magnified version of the above annotated Figure 4, showing engagement of the **rib** and the **tongue**.

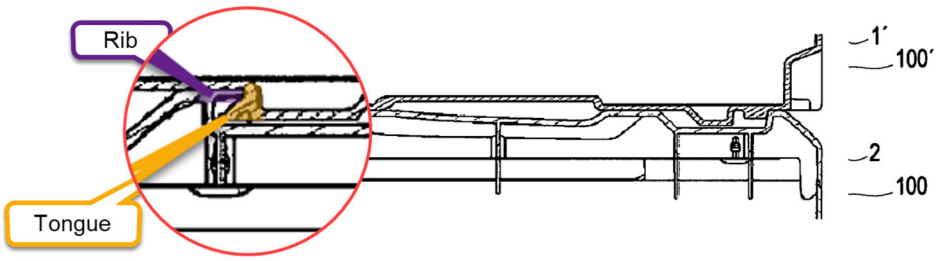


Fig. 4

10. 1[i]: A second lid pivotally attached to the second container

225. In my opinion Metabowerke discloses this limitation. As discussed above with respect to limitation 1[e], Metabowerke discloses a first container having a **pivotally attached lid**. Figure 1 depicts the **lid** and **pivotal attachment** about axis A.

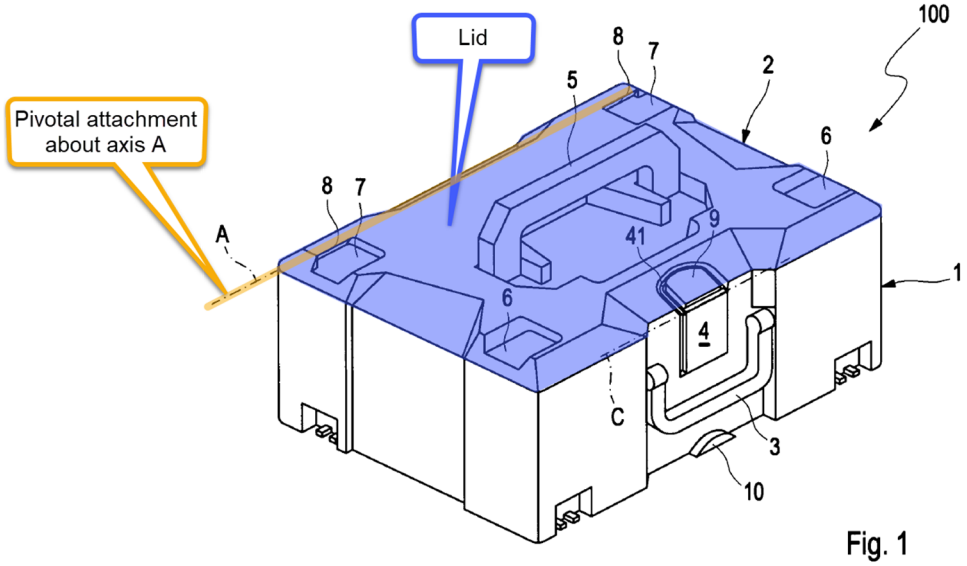


Fig. 1

226. Metabowerke also discloses "assemblies of similar containers" so the second container also has a pivotably attached lid. *Id*. at [0001]. Figure 2 also confirms that the second container has a **second lid**:

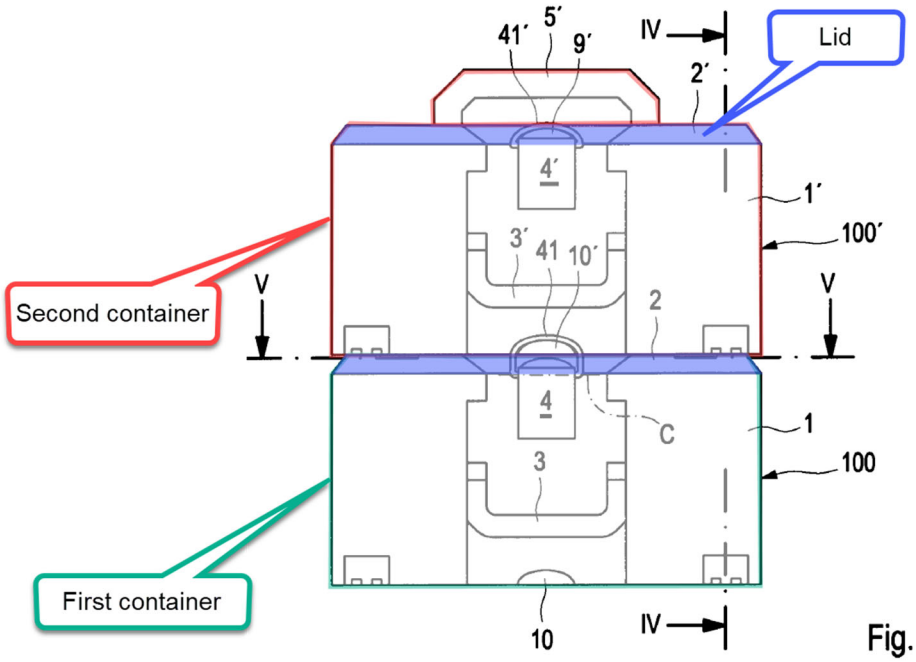


Fig. 2

11. 1[j]: a second toggle locking latch configured to latch the second lid of the second container in a closed position;

227. In my opinion Metabowerke discloses this limitation. As discussed above in connection with element 1[f], in the below annotated Figure 1, Metabowerke discloses a **toggle locking latch** configured to latch the **lid** of its container in a closed position:

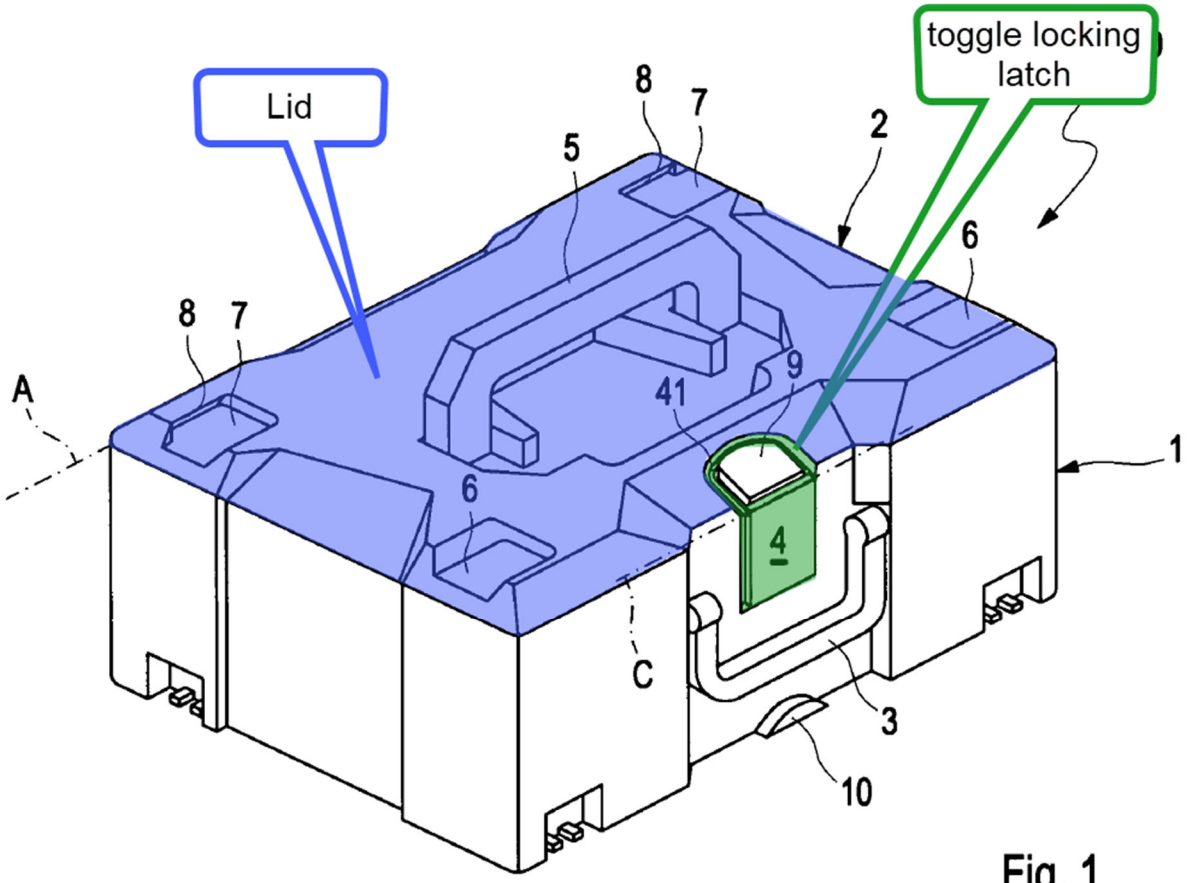


Fig. 1

228. Metabowerke describes the toggle locking latch mechanism as follows: "In the front region of the container **100**, it is shown how the buckle **4** with its associated clip **41** engage in a closure tab **9** in the cover **2** of the container **100** and in this way tightens the cover **2** against the base part **1**, whereby the container **100** is reliably closed, in particular due to the pretention thereby achieved." Ex. 1020, ¶[0042].

229. Moreover, toggle locking latches were an obvious way to lock a toolbox, as discussed above in connection with Ground 1, limitation 1[f].

12. 1[k]: a front face; a first side face; an opposing side face; a first corner bumper coupled to the second container between the front face and the first side face, the first corner bumper defining a first outer surface that faces away from each of the front face and the first side face; and

230. In my opinion, this limitation would have been obvious to a POSITA. As shown in annotated Figure 1 below, Metabowerke has a **front face**, a **first side face**, and an **opposing side face**.

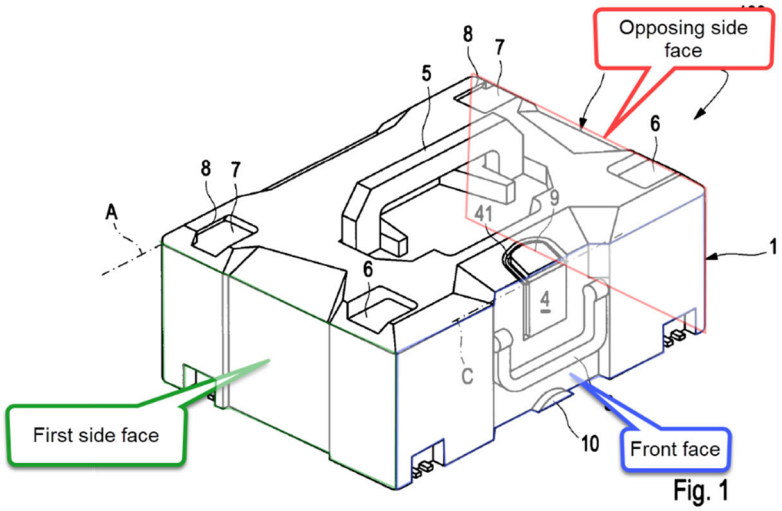
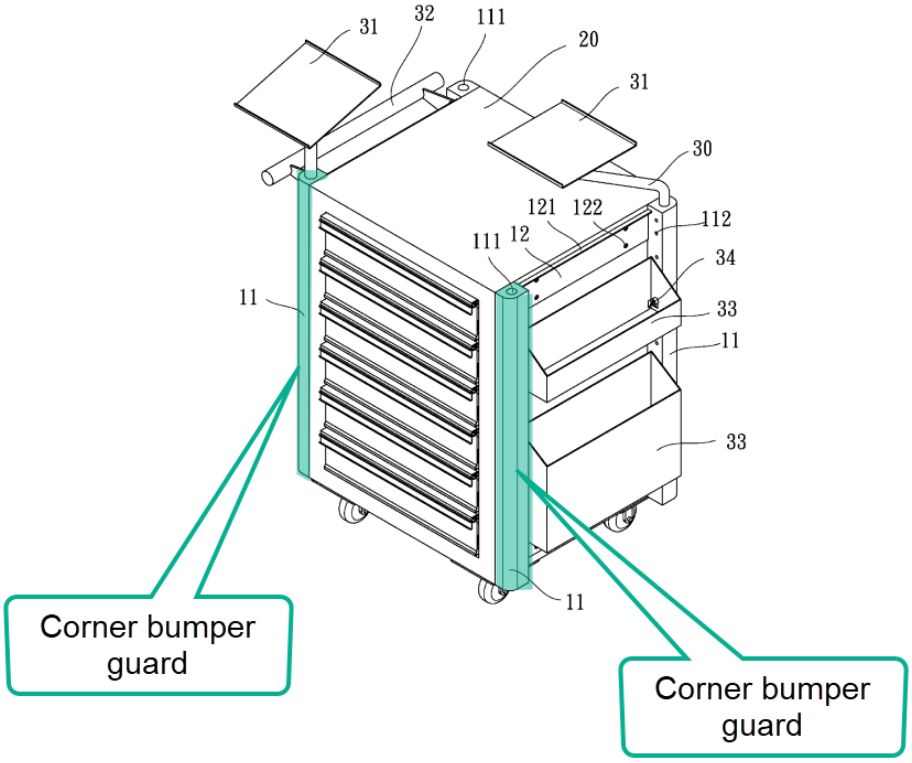


Fig. 1

231. Further, it is my opinion that it would have been obvious to a POSITA to combine Metabowerke with Chen. Chen discloses the use of corner bumpers in a modular container assembly as shown in the below annotated figure.[8]

[8] Numerous references, as discussed above at ¶¶ 101-102, disclose modular toolboxes and containers having corner bumpers. Exs. 1025-1028.



232. In my opinion, a POSITA would have had a reasonable expectation of success because of the straightforward mechanical technology, and the corner bumpers would have predictably protected the corners of the modular toolboxes from damage.

233. As discussed above in connection with ground 1, claim 1[k], it is my opinion that it would have been obvious for a POSITA to include corner bumpers in a modular container assembly with a reasonable expectation of success. That rational applies equally here.

13. 1[l]: a second corner bumper coupled to the second container between the front face and the second side face, and the second corner bumper defining a second outer surface that faces away from each of the front face and the second side face;

234. In my opinion, this limitation would have been obvious to a POSITA. For all the reasons set forth above with respect to element 1[k], it would also have been obvious to a POSITA to include a second corner bumper coupled to the second container between the front face and the second side face, the second corner bumper defining a second outer surface that faces away from each of the front face and the second side face. Such a bumper would provide additional protection to the corner of the container and was, in my opinion, an obvious design option.

14. 1[m]: wherein the first and second couplers of the first and second containers engage each other when the first and second containers are slid with respect to each other along a sliding path defined by the rib and the tongue;

235. In my opinion Metabowerke discloses this limitation. Metabowerke explains that its second (top) container is slid backwards until the second coupler (rear standing foot) engages with the first coupler (rear recess) of the bottom container:

> ***[T]he second container 100' is*** first lifted slightly upwards in its front region, i.e. in the region in which the lateral carrying handle and the buckle with the clip are arranged, and placed on the first container 100 and then ***pushed backwards until the rear standing feet of the top container 100' engage with the rear recesses 7 of the bottom***

container 100, in particular with the undercuts 8." *Id.*, ¶ [0041] (emphasis added).

236. As shown in the annotated Figure 4 below, the **sliding path** is defined by the **rib** and **tongue**. Metabowerke explains that the second container is "pushed backwards" until the **tongue** engages the **rib**.

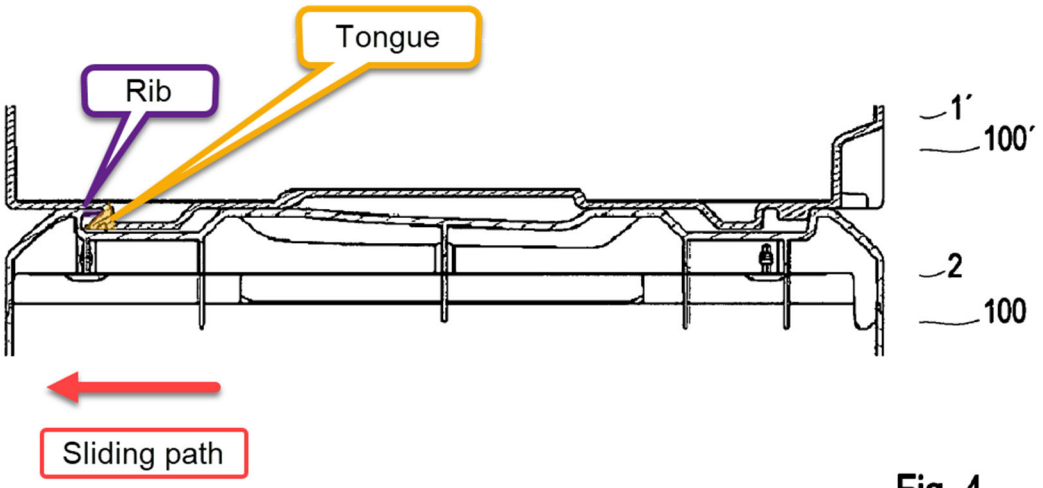


Fig. 4

15. 1[n]: a locking latch arresting location defined by one of the first container or the second container; and

237. In my opinion Metabowerke alone or in combination with Lafragette (or Burchia) discloses this limitation. Metabowerke discloses a **locking latch arresting location** defined by the lower front face of the second container. Metabowerke describes that its containers have a "coupling tab 10 in the lower region of the base part 1" which "serves to lock two stacked containers 100, 100' against each other, as shown in Fig. 2. In Fig. 2, it can be seen how the clip 41 grips around the coupling tab 10 of a second container 100' arranged on a first

container 100 according to the invention and in this way secures the second container 100' against the first container 100 or couples the two containers 100, 100' together." *Id.*, ¶ [0042].

238. The **locking latch** is shown below in annotated Figures 1 and 2 along with its ultimate **arresting location** on the lower front face of the second container, as shown in Figure 2 below.

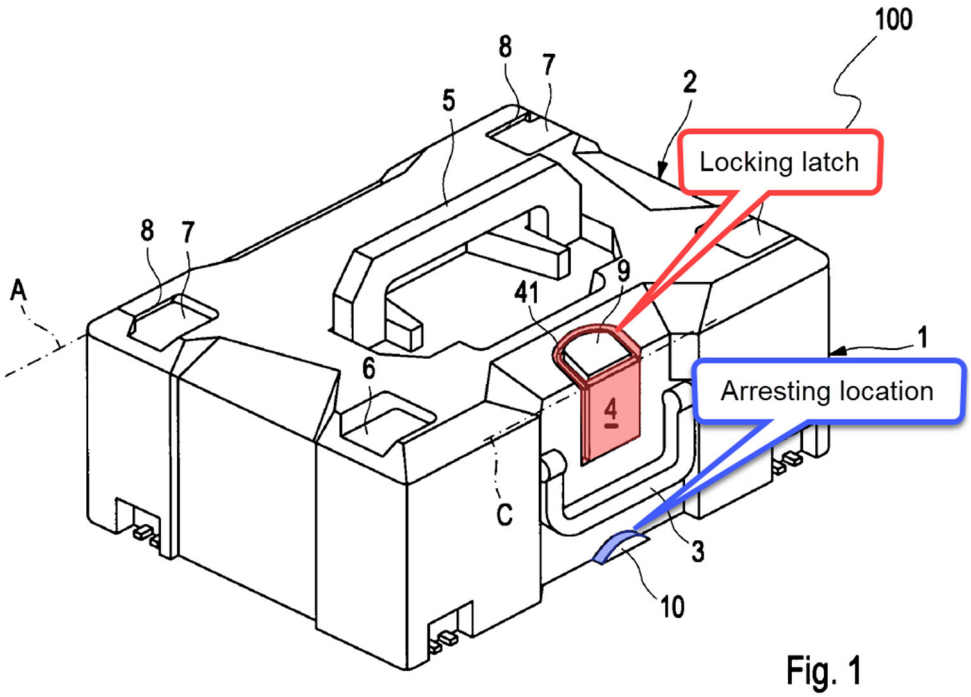


Fig. 1

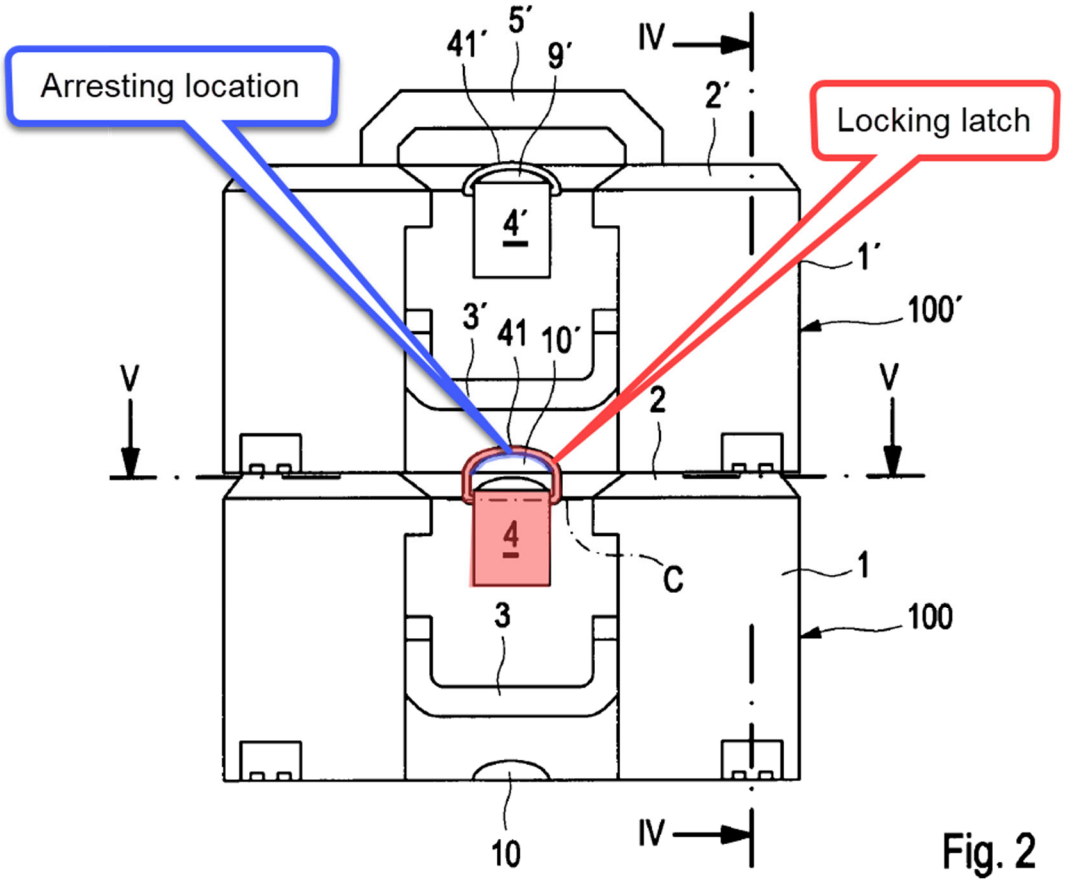


Fig. 2

239. Patent owner may argue that Metabowerke does not disclose the claimed arresting location. This would be incorrect as shown above. Nevertheless, Petitioners also present Metabowerke in combination with Lafragette (or Burchia), both of which disclose alternative locations for locking latch arresting locations, including a recess in the other container.

240. As discussed above in connection with Ground 2, Lafragette expressly discloses a recessed arresting location. In my opinion, a POSITA would have been motivated to modify Metabowerke to include Lafragette's locking latch arresting location (or Burchia's setback recess) at least because a recess would provide

additional protection for the latch itself (e.g., to prevent inadvertent disassembly) and provide additional lateral force opposing lateral movement of the containers. In my opinion, a POSITA would have had a reasonable expectation of success given the straightforward mechanical technologies (all of the art is in the field of connectable containers).

16. 1[o]: a locking latch coupled to the other of the first container or the second container, the locking latch positionable in a locked position engaging the locking latch arresting location thereby limiting sliding displacement of the first container with respect to the second container.

241. In my opinion Metabowerke alone or in combination with Lafragette (or Burchia) disclose this limitation. Metabowerke's **locking latch** is shown in annotated Figures 1 and 2 below.

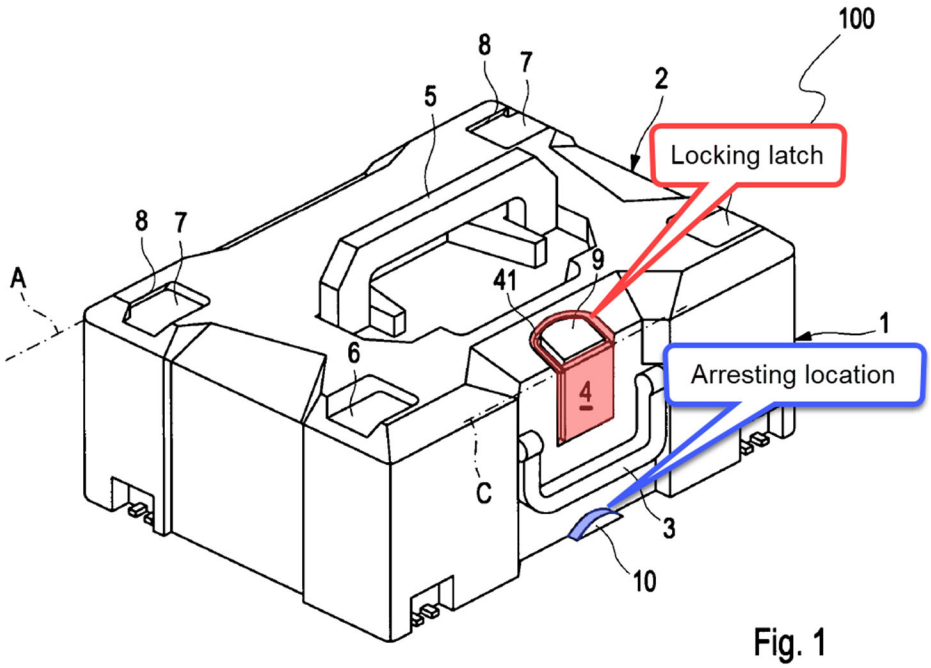


Fig. 1

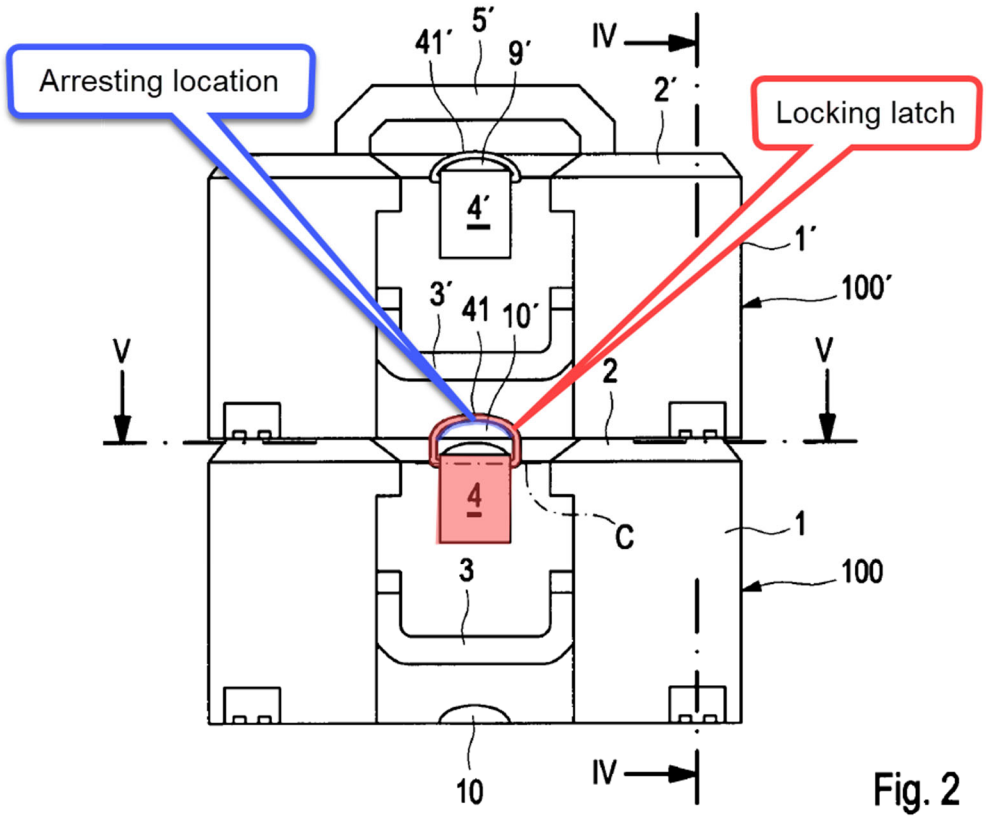


Fig. 2

242. The **locking latch** is positionable in a locked position by engaging the tab in the **locking latch arresting location**.

243. The locking latch limits sliding displacement of the first container with respect to the second container. Metabowerke explains that "the coupling tab 10 in the lower region of the base part 1 . . . serves to lock two stacked containers 100, 100' against each other, as shown in Fig. 2. In Fig. 2, it can be seen how the clip 41 grips around the coupling tab 10 of a second container 100' arranged on a first container 100 according to the invention and in this way secures the second

container 100' against the first container 100 or couples the two containers 100, 100' together." Ex. 1020, ¶[0042]

244. As discussed below in connection with Ground 2, Lafragette and Burchia disclose recesses as arresting locations. In my opinion, a POSITA would have been motivated to modify Metabowerke to include Lafragette's (or Burchia's) locking latch arresting location at least because a recess would provide additional protection for the latch itself (e.g., to prevent inadvertent disassembly) and provide additional lateral force opposing lateral movement of the containers.

245. As such, in my opinion Metabowerke alone or in combination with Burchia (or Lafragette) disclose each and every limitation of claim 1 and therefore renders claim 1 obvious.

C. Claim 2: The container assembly of claim 1, wherein the sliding path is perpendicular to the locking latch.

246. As described above, in my opinion Metabowerke discloses the limitations of claim 1 and as described below Metabowerke alone or in combination with Burchia discloses the additional limitation in claim 2 rendering it obvious. As shown in the below annotated Figure, Metabowerke discloses a container assembly wherein the **sliding path** is perpendicular to the **locking latch**. The **sliding path** (when the top container is slid backwards so the tongue engages the rib) is shown by the green arrow. The path of operation of the **locking latch** is shown by the red arrow (the locking latch of the bottom container reaches up

vertically and engages tab 10 of the top container). These paths are perpendicular to each other.

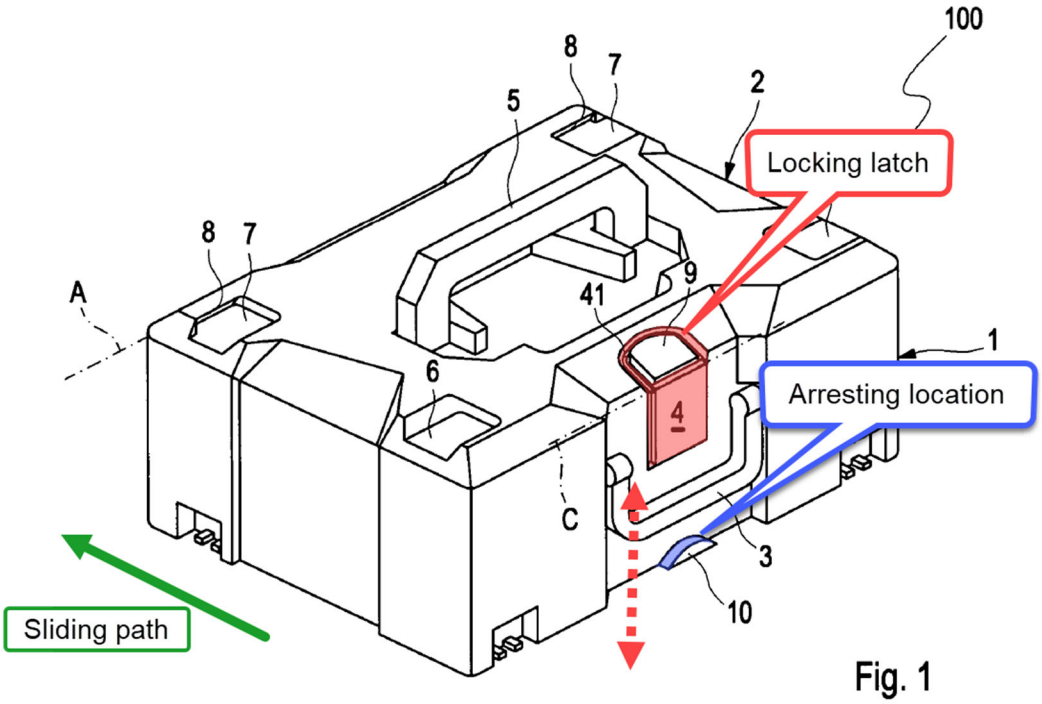
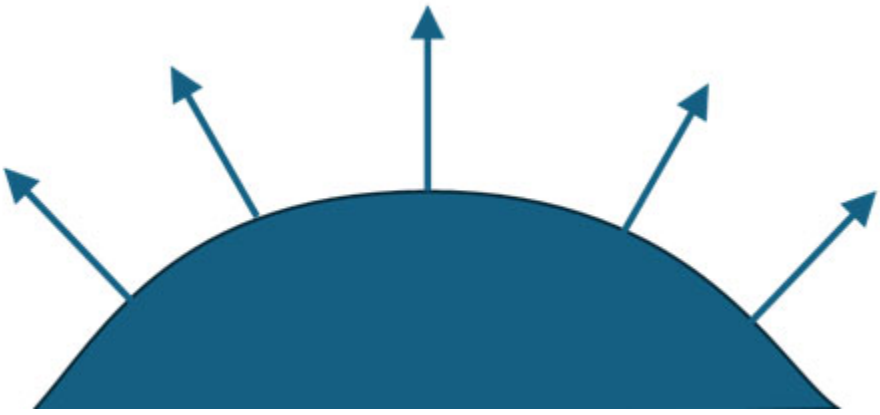


Fig. 1

247. The normal to the surface of the arch (arresting location) is always perpendicular to the sliding direction—which is into and out of the plane in which the normal resides, as illustrated in the sketch of an arch below.



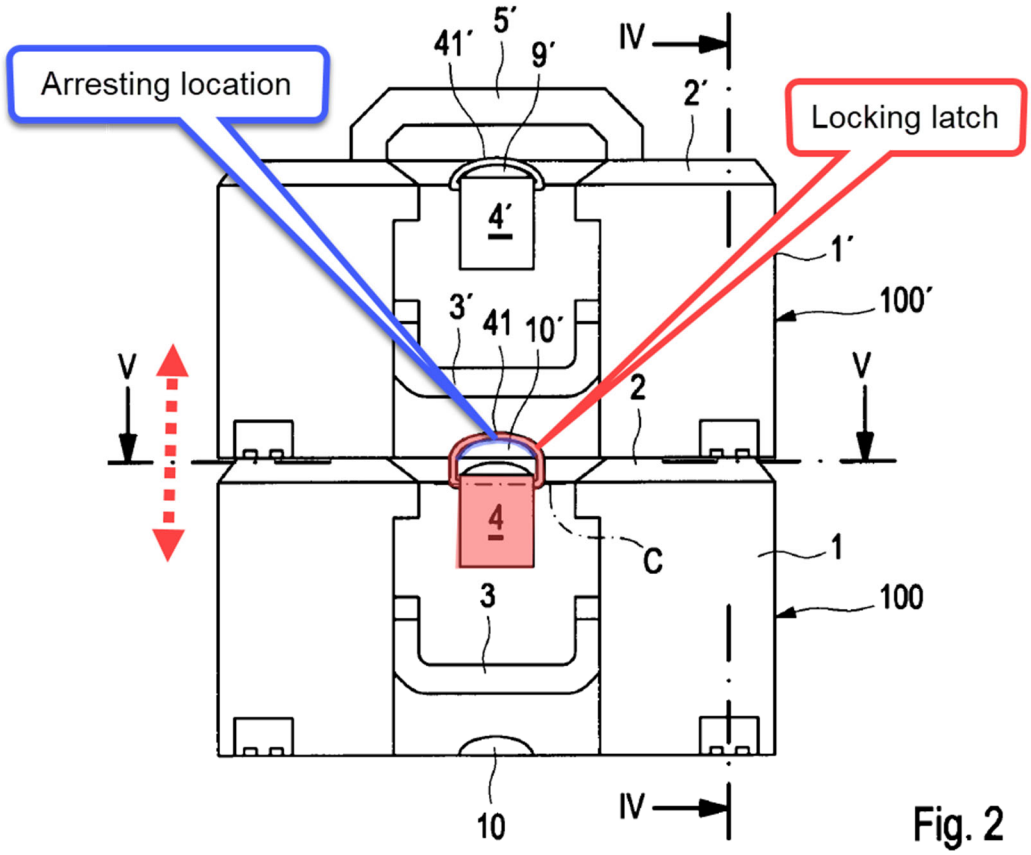


Fig. 2

248. Patent owner may argue that Metabowerke's backward sliding path is not perpendicular to the vertical locking latch, as the front face is first lifted before sliding backwards. This would be incorrect. Even though the couplers have a hinge-like engagement when the front face is first lifted, the top container is next slid backwards to complete the engagement between the tongue and rib. It is this backwards sliding direction that is referenced above. Nevertheless, Petitioners further present the combination of Metabowerke and Burchia, and in the Metabowerke combination with Burchia, the locking latch is vertically aligned and

therefore the sliding path of Metabowerke's containers would be perpendicular to the locking latch, as shown in Burchia's figure below.

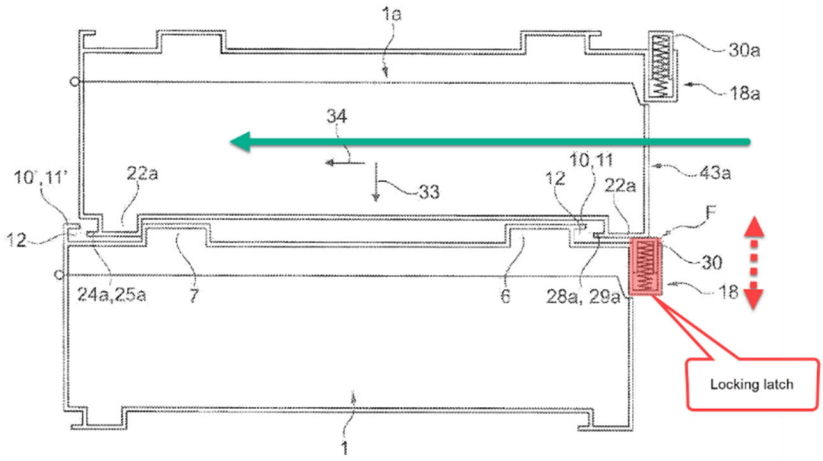


Fig. 4

D. Claim 3: The container assembly of claim 1, wherein the locking latch is spring biased to engage with the locking latch arresting location.

249. As described above, in my opinion Metabowerke discloses the limitations of claim 1 and as described below in combination with Lafragette (or Burchia) discloses the additional limitation in claim 3 rendering it obvious. Metabowerke's locking latch is a toggle locking latch in which a clip from the bottom container engages a tab on the bottom face of the top container. Metabowerke does not expressly disclose a spring-biased locking latch. Petitioners present the obviousness combination of Metabowerke and Lafragette (or Burchia), which disclose spring-biased locking latches. It would have been obvious in my opinion to use Lafragette's (or Burchia's) spring-biased locking latches in the

containers of Metabowerke to provide for a quicker snap-in engagement, without the manual step of a user toggling the clip onto the tab.

E. Claim 4: The container assembly of claim 1, wherein a width of the second container is half of a width of the first container, and the second container is located on top of the first container.

250. As described above, in my opinion Metabowerke discloses the limitations of claim 1 and as described below the addition limitations in claim 4 are obvious rendering claim 4 obvious. In my opinion, it would have been an obvious design choice for a POSITA to make different size containers, e.g., where the second container is half of a width of the first container. Indeed, the '952 patent itself concedes that a person of ordinary skill in the art would have "appreciated that the utility modules can be of any type, shape or size . . . ." Ex. 1001, 15:67–16:2. A second container "half of a width" of the first container is half the size of the first container.

F. Claim 5: The container assembly of claim 1, wherein the first container further comprises a handle coupled to a front face of the first container and a third toggle locking latch configured to latch the first lid of the first container in the closed position, wherein the handle is located between the first and third toggle locking latches of the first container.

251. As described above, in my opinion Metabowerke discloses the limitations of claim 1 and as described below the additional limitations in claim 5 are obvious rendering claim 5 obvious. As shown in the below annotated Figure 1,

Metabowerke discloses a container that has a **handle** on its front face under its **toggle locking latch**.

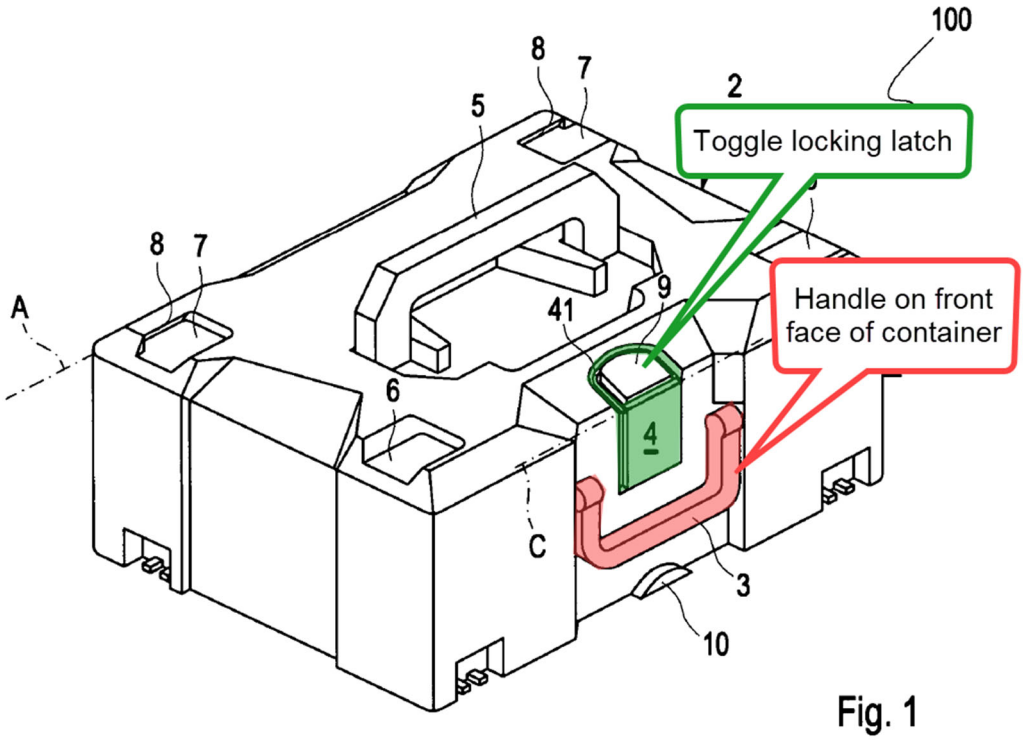


Fig. 1

252. Moreover, as discussed above in connection with limitation 1[f] and 1[j], it would have, in my opinion, been obvious to a POSITA to include two **toggle locking latches**, one on each side of the handle, as such toggle locking latches were an obvious way to close a toolbox lid.

G. Claim 6: The container assembly of claim 1, wherein the second coupler of the second container extends from the bottom face of the second container such that the tongue is offset from at least a portion of the bottom face of the second container and wherein the rib engages between the tongue and the bottom face of the second container.

253. As described above, in my opinion Metabowerke discloses the limitations of claim 1 and as described below discloses the additional limitations in

claim 6 rendering it obvious. As shown in the annotated Figure below, Metabowerke discloses that the second coupler of the second (top) container extends from the bottom (second) face of the second container such that the **tongue** is offset from the **bottom (second) face**.

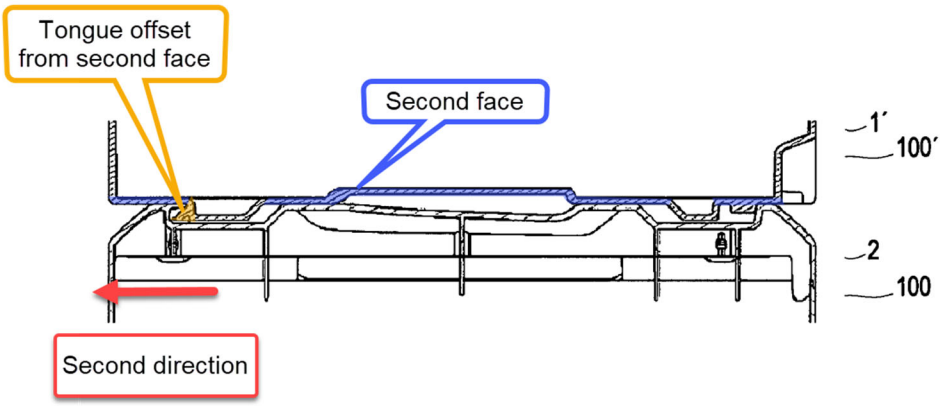


Fig. 4

254. Further, as shown in below annotated Figure 4, when slid into place, the **rib** of the first container engages between the **tongue** of the second container and the bottom (second) face.

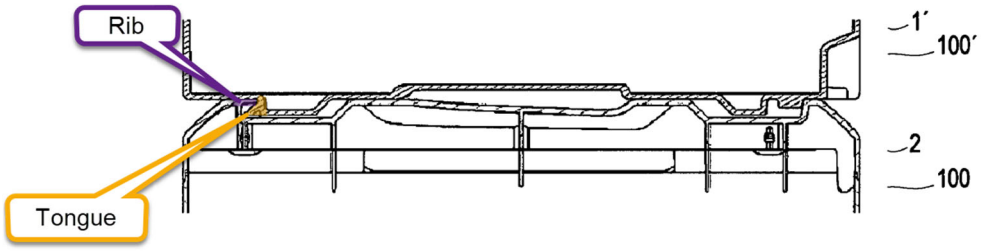


Fig. 4

255. Below is a magnified version of the above annotated Figure 4, showing engagement of the **rib** and the **tongue**.

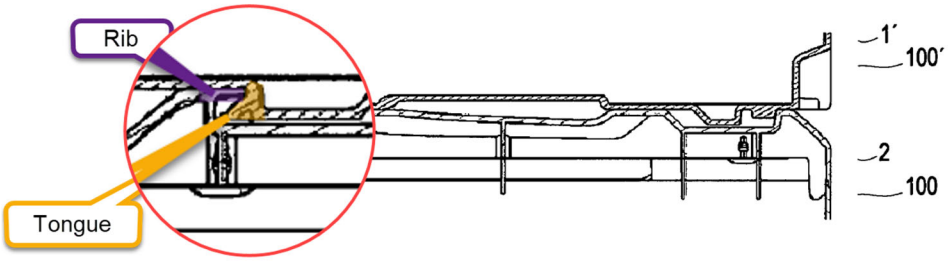


Fig. 4

H. Claim 7: The container assembly of claim 1, wherein the first container defines a width axis parallel to a front face of the first container and the second container defines a length axis perpendicular to the front face of the second container, wherein the width axis of the first container is perpendicular to the length axis of the second container when the second container is coupled on top of the first container.

256. As described above, in my opinion Metabowerke discloses the limitations of claim 1 and as described below discloses the additional limitations in claim 7 rendering it obvious. Metabowerke's first container defines a **width axis parallel to a front face of the first container**, as shown in the annotated Figure below:

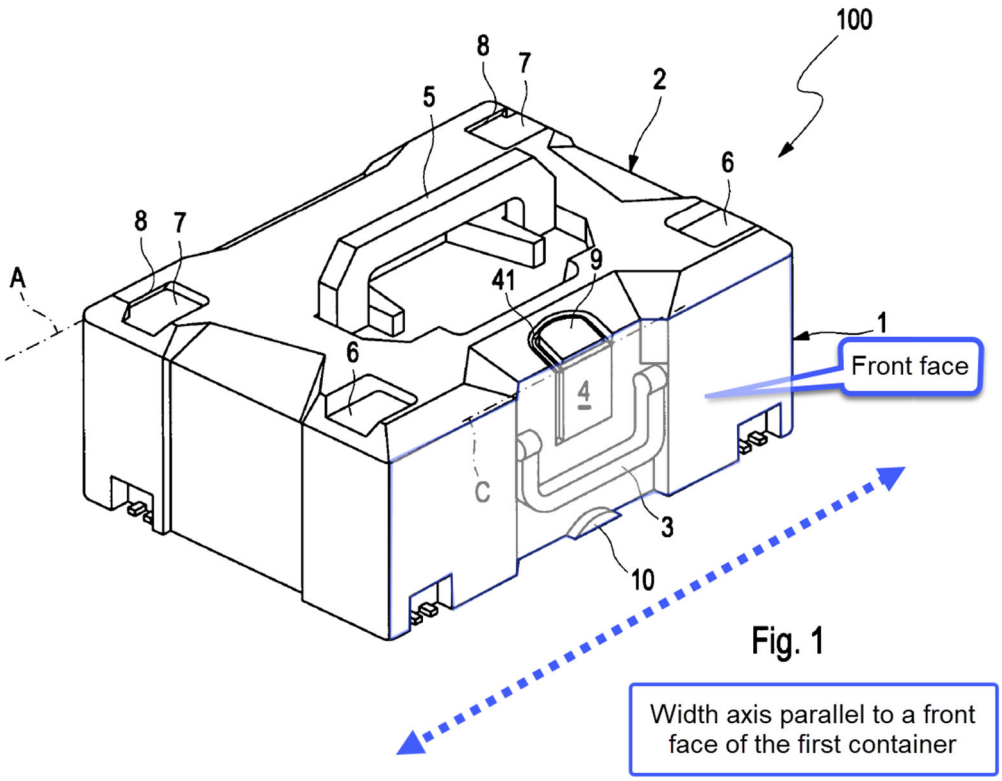


Fig. 1

257. Metabowerke's second container defines a **length axis perpendicular to the front face of the second container**, as shown in the annotated Figure below.

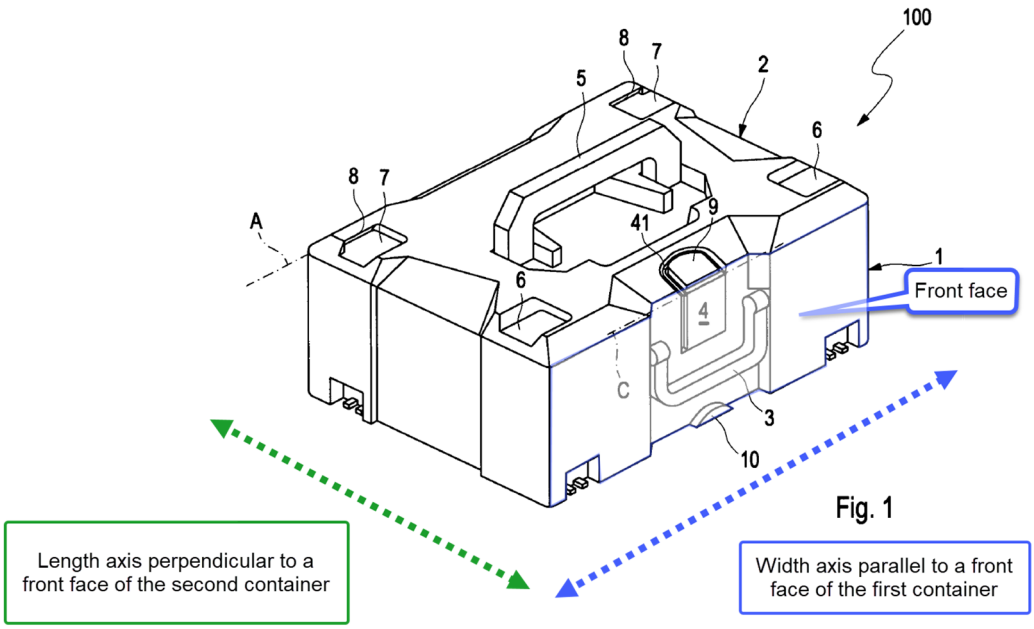


Fig. 1

258. Accordingly, the **width axis of the first container** is perpendicular to the **length axis of the second container** when the second container is coupled on top of the first container.

I. Claim 8: The container assembly of claim 1, wherein the first container further comprises a pair of rear wheels and a telescoping handle extending upwards from a rear wall of the first container.

259. As described above, in my opinion Metabowerke discloses the limitations of claim 1 and as described below the additional limitations in claim 8 are obvious rendering claim 8 obvious. Although Metabowerke does not disclose a first container comprising a pair of rear wheels and a telescoping handle extending upwards from a rear wall of the first container, it would have, in my opinion, been an obvious design choice for a POSITA to include such wheels and telescoping handle for the sake of mobility of the container assembly.

260. Indeed, Bensman, which the same examiner (in the prosecution of the related ’026 patent) pointed to as showing the obviousness of toggle locking latches in a similar stacking container system, illustrates a system having rear wheels on the second container and a telescoping handle extending upwards from the rear wall of the container assembly, as shown in Figure 13 below (“FIG. 13 shows yet another embodiment of the apparatus 10 in the second configuration, having a first container 12 with an extendible, telescopic apparatus handle 38.”).

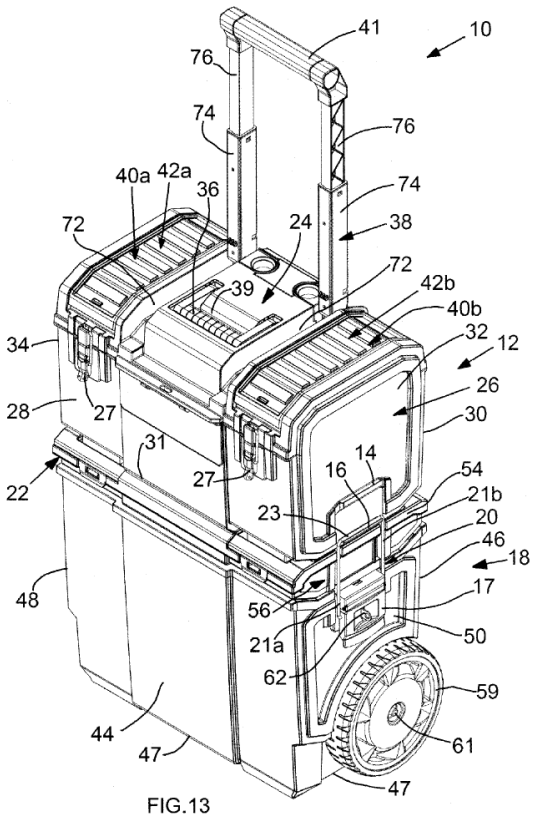


FIG.13

261. The addition of a telescoping handle on the rear wall of the first (bottom) container for mobility was, in my opinion, an obvious design choice for a POSITA.

J. Claim 9

262. Claim 9 largely mirrors claim 1's limitations. The following chart cross references the limitations of claim 9 to claim 1; the rational and prior art disclosures applied to the claim 1 limitations likewise apply to the corresponding claim 9 limitations.

Claim 9 limitations	Corresponding claim 1 limitations
9[pre]	1pre
9[a]	1[a]
9[b]	1[b]
9[c]	1[c]
9[d]	1[d]
9[e]	1[e]
9[f]	1[f]
9[g]	1[g]
9[h]	1[h]
9[i]	1[i]
9[j]	1[j]
9[k]	1[m]
9[l]	1[n]
9[m]	1[o]

K. Claim 9[h]: the second coupler comprising a tongue extending in a direction parallel to the bottom face of the second container, the tongue extends in a second direction opposite the first direction, the tongue of the second container is engageable with the rib of the first container such that the tongue engages between the rib and the depressed surface, wherein the second coupler of the second container extends from the bottom face of the second container such that the tongue is offset from at least a portion of the bottom face of the second container and wherein the rib engages between the tongue and the bottom face of the second container;

263. Claim 9[h] is similar to claim 1[h] and differs only in that it also requires the second coupler of the second container extending from the bottom face of the second container such that the tongue is offset from at least a portion of the bottom face of the second container and wherein the rib engages between the tongue and the bottom face of the second container. This is shown expressly in Metabowerke, as shown in the below annotated Figures.

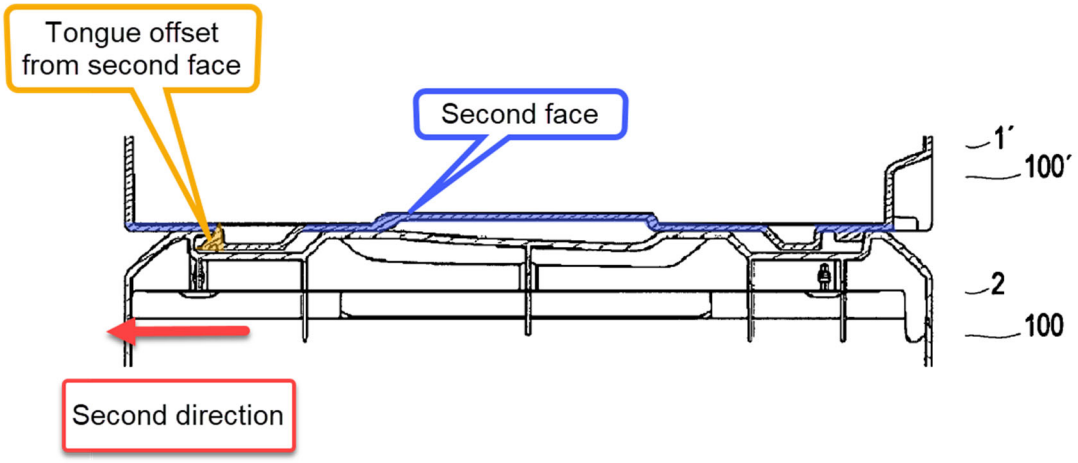


Fig. 4

264. As shown in the annotated Figure below, when coupled, the **rib** engages between the **tongue** and the **bottom face** of the second container.

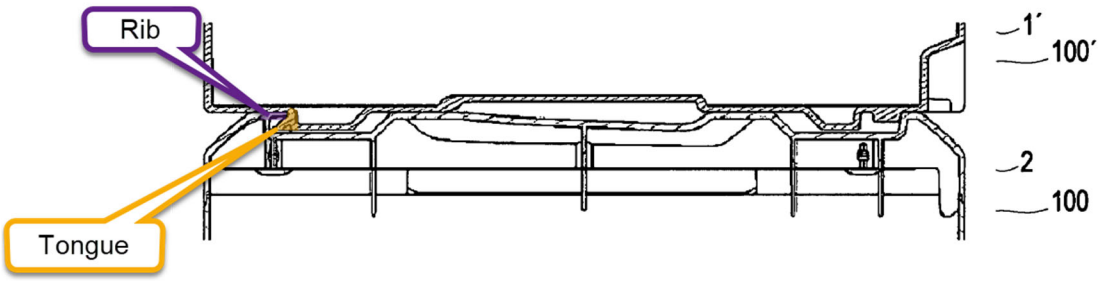


Fig. 4

265. Below is a magnified version of the above annotated Figure 4, showing engagement of the **rib** and the **tongue**.

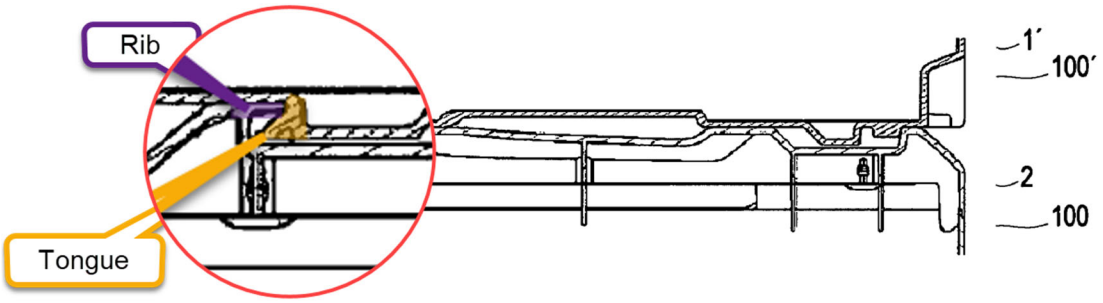


Fig. 4

266. As such, in my opinion Metabowerke alone or in combination with Burchia disclose each and every limitation of claim 9 and therefore renders claim 9 obvious.

L. Claim 10: The container assembly of claim 9, the second container comprising a front face, a first side face, an opposing second side face, a first corner bumper coupled to the second container between the front face and the first side face, and a second corner bumper coupled to the second container between the front face and the second side face, the first corner bumper defining a first outer surface that faces away from each of the front face and the first side face, and the second corner bumper defining a second outer surface that faces away from each of the front surface and the second side face.

267. Claim 10 is unpatentable for the same reasons and prior art disclosures discussed above regarding Metabowerke in connection with claim elements 1[k] and 1[l].

M. Claim 11

268. Claim 11 is unpatentable for the same reasons discussed above regarding Metabowerke in connection with claim 2.

N. Claim 12

269. Claim 12 is unpatentable for the same reasons and prior art disclosure discussed above regarding Metabowerke in connection with claim 3.

O. Claim 13

270. Claim 13 is unpatentable for the same reasons and prior art disclosure discussed above regarding Metabowerke in connection with claim 4.

P. Claim 14

271. Claim 14 is unpatentable for the same reasons and prior art disclosure discussed above regarding Metabowerke in connection with claim 5.

Q. Claim 15

272. Claim 15 is unpatentable for the same reasons discussed above regarding Metabowerke in connection with claim 7.

R. Claim 16

273. Claim 16 is unpatentable for the same reasons and prior art disclosure discussed above regarding Metabowerke in connection with claim 8.

S. Claim 17

274. Like claim 9, claim 17 largely mirrors claim 1's limitations. The following chart cross references the limitations of claim 17 to claim 1; the rationale and prior art disclosures applied to the claim 1 limitations regarding Metabowerke likewise apply to the corresponding claim 17 limitations.

Claim 17 limitations	**Corresponding claim limitations**
17[pre]	1pre
17[a]	1[a]
17[b]	1[b]
17[c]	1[c]
17[d]	1[d]
17[e]	1[e]
17[f]	1[f]
17[g]	1[g]
17[h]	1[h]
17[i]	1[i]
17[j]	1[j]
17[k]	1[m]
17[l]	1[n]
17[m]	1[o]
17[n]	Claims 7, 15

T. Claim 18

275. Claim 18 is unpatentable for the same reasons and based on the same prior art disclosures regarding Metabowerke relied upon in claims 1[k], 1[l].

U. Claim 19

276. Claim 19 is unpatentable for the same reasons and based on the same prior art disclosures regarding Metabowerke relied upon in claims 2 and 11.

V. Claim 20

277. Claim 20 is unpatentable for the same reasons and based on the same prior art disclosures regarding Metabowerke relied upon in claims 3 and 12.

W. Claim 21

278. Claim 21 is unpatentable for the same reasons and based on the same prior art disclosures regarding Metabowerke relied upon in claims 5 and 14.

X. Claim 22

279. Claim 18 is unpatentable for the same reasons discussed above regarding Metabowerke in connection with claim 6.

Y. Claim 23

280. Claim 23 is unpatentable for the same reasons and based on the same prior art disclosures relied upon regarding Metabowerke in claims 8 and 16.

XII. GROUND 7: METABOWERKE, BURCHIA, AND CHEN RENDER OBVIOUS CLAIMS 1, 10, AND 18

281. As discussed above in Ground 3, Metabowerke discloses claim limitations 1[k], 1[l], 10, and 18, or alternatively it would have been obvious to combine Metabowerke and Burchia with Chen.

282. Chen, Metabowerke, Burchia, Lafragette, and the ’952 patent, are in the analogous field of modular toolboxes or containers. A POSITA would have been motivated to add the corner bumpers of Chen to the containers of Burchia and Metabowerke to protect the corners from damage. A POSITA would have a reasonable expectation of success in adding the corner bumpers, because of the straightforward mechanical technology.

XIII. GROUND 8: METABOWERKE, BURCHIA, AND LIN RENDER OBVIOUS CLAIMS 4 AND 13

283. As discussed above in Ground 4, Lin discloses claims 4 and 13. It would have been obvious to combine Metabowerke and Burchia with Lin.

284. Lin, Metabowerke, Burchia, and the ’952 patent are in the analogous field of connectable containers. Tools and supplies come in all sizes, and sometimes a smaller container is all a worker may need. Thus, a POSITA would have, in my opinion, been motivated to use the half-width containers of Lin with the stackable containers of Metabowerke or Burchia. A POSITA would have had a reasonable expectation of success in making the containers of Metabowerke or

Burchia half size, as the simple mechanical couplers could be made in smaller sizes with predictable functionality (coupling the containers).

XIV. GROUND 9: METABOWERKE, BURCHIA, AND BENSMAN RENDER OBVIOUS CLAIMS, 8, 16, AND 23

285. As discussed above in Ground 5, Bensman discloses claims 8, 16, and 23. It would have been obvious to combine Metabowerke and Burchia with Bensman.

286. In my opinion, a POSITA would have been motivated to add a pair of rear wheels and a telescoping handle to the container assemblies of Metabowerke and Burchia, to facilitate movement of the assemblies. Tools can be heavy and may need to be transported from one area to another. Modular containers, such as those taught by Bensman, were known in the art.

287. In my opinion, a POSITA would have had a reasonable expectation of success in adding rear wheels and a telescoping handle given the straightforward mechanical technology at issue (containers or modular toolboxes). It would have been obvious to a POSITA to include the rear wheels on the bottom container, which is in contact with the ground; while the telescoping handle could be attached to either container, depending upon design preference (a mere design choice).

288. Bensman, Metabowerke, Burchia, and the ’952 patent are in the analogous field of connectable containers—and a POSITA would have, in my

opinion, modified the containers of Metabowerke and Burchia for the same reasons, to facilitate moving the containers from one place to another.

XV. CONCLUSION

289. In signing this declaration, I recognize that the declaration will be filed as evidence in a contested case before the Patent Trial and Appeal Board of the United States Patent and Trademark Office. I also recognize that I may be subject to cross-examination in the case and that cross-examination will take place within the United States. If cross-examination is required of me, I will appear for cross-examination within the United States during the time allotted for cross-examination.

290. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on the 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 Section 1001 of Title 18 of the United States Code.

Executed: September 17, 2024

/s/ John Collins
John Collins, Ph.D.