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
Patent 11,794,952 B2

PETITION FOR *INTER PARTES* REVIEW

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1003	Declaration of John M. Collins, Ph.D.
1004	U.S. Patent No. 10,750,833 ("Burchia")
1005	U.S. Patent App. Pub. No. 2003/0139080 A1 ("Lafragette")
1006	German Patent No. 20 2014 103 695 U1 ("Metabowerke")
1007	U.S. Patent No. 9,375,835 ("Lin")
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LIST OF CHALLENGED CLAIMS

Claim	U.S. Patent No. 11,794,952
1[pre]	A container assembly comprising:
1[a]	a first container comprising: a first coupler extending from a top face of the first container,
1[b]	the first coupler comprising two sidewalls, a back wall, and a rib, the back wall located between the two sidewalls,
1[c]	the two sidewalls and the back wall projecting above a depressed surface of the top face,
1[d]	and the rib extending away from the back wall in a first direction;
1[e]	a first lid pivotally attached to the first container; and
1[f]	a first toggle locking latch configured to latch the first lid of the first container in a closed position; and
1[g]	a second container comprising: a second coupler extending from the second container,
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;
1[i]	A second lid pivotally attached to the second container;
1[j]	a second toggle locking latch configured to latch the second lid of the second container in a closed position;
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
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;

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;
1[n]	a locking latch arresting location defined by one of the first container or the second container; and
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.
[2]	The container assembly of claim 1, wherein the sliding path is perpendicular to the locking latch.
[3]	The container assembly of claim 1, wherein the locking latch is spring biased to engage with the locking latch arresting location.
[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.
[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.
[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.
[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.
[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.
9[pre]	A container assembly comprising:
9[a]	a first container comprising: a first coupler extending from a top face of the first container,
9[b]	the first coupler comprising two sidewalls, a back wall, and a rib, the back wall located between the two sidewalls,
9[c]	the two sidewalls and the back wall projecting above a depressed surface of the top face,
9[d]	and the rib extending away from the back wall in a first direction;
9[e]	a first lid pivotally attached to the first container; and
9[f]	a first toggle locking latch configured to latch the first lid of the first container in a closed position; and
9[g]	a second container comprising: a second coupler extending from the second container,
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;
9[i]	a second lid pivotally attached to the second container;
9[j]	a second toggle locking latch configured to latch the second lid of the second container in a closed position;
9[k]	wherein the first and second coupler 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;
9[l]	a locking latch arresting location defined by one of the first container or the second container; and
9[m]	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.
[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.
[11]	The container assembly of claim 9, wherein the sliding path is perpendicular to the locking latch.
[12]	The container assembly of claim 9, wherein the locking latch is spring biased to engage with the locking latch arresting location.
[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.
[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.

[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.
[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.
17[pre]	A container assembly comprising:
17[a]	a first container comprising: a first coupler extending from a top face of the first container,
17[b]	the first coupler comprising two sidewalls, a back wall, and a rib, the back wall located between the two sidewalls,
17[c]	the two sidewalls and the back wall projecting above a depressed surface of the top face,
17[d]	and the rib extending away from the back wall in a first direction;
17[e]	a first lid pivotally attached to the first container; and
17[f]	a first toggle locking latch configured to latch the first lid of the first container in a closed position; and
17[g]	a second container comprising: a second coupler extending from the second container,
17[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;
17[i]	a second lid pivotally attached to the second container; and
17[j]	a second toggle locking latch configured to latch the second lid of the second container in a closed position;
17[k]	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;

17[l]	a locking latch arresting location defined by one of the first container or the second container; and
17[m]	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;
17[n]	wherein the first container defines a width axis parallel to a first front face of the first container and the second container defines a length axis perpendicular to a second 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.
[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.
[19]	The container assembly of claim 17, wherein the sliding path is perpendicular to the locking latch.
[20]	The container assembly of claim 17, wherein the locking latch is spring biased to engage with the locking latch arresting location.
[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.

[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.
[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.

I. INTRODUCTION

Klein Tools, Inc. ("Petitioner") respectfully requests *inter partes review* of claims 1-23 of U.S. Patent No. 11,794,952.

The '952 patent is directed to a simple "container assembly" having a "coupling mechanism" that detachably connects two containers to each other. But such containers were well-known in the art. Indeed, connectable container assemblies were known for decades before the priority date.

Burchia, a patent representing work on stackable containers from Rothenberger AG, discloses a container assembly, just as claimed by the '952 patent, comprising two containers that are detachably connected via a protrusion with 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 Figs. 1 and 5:

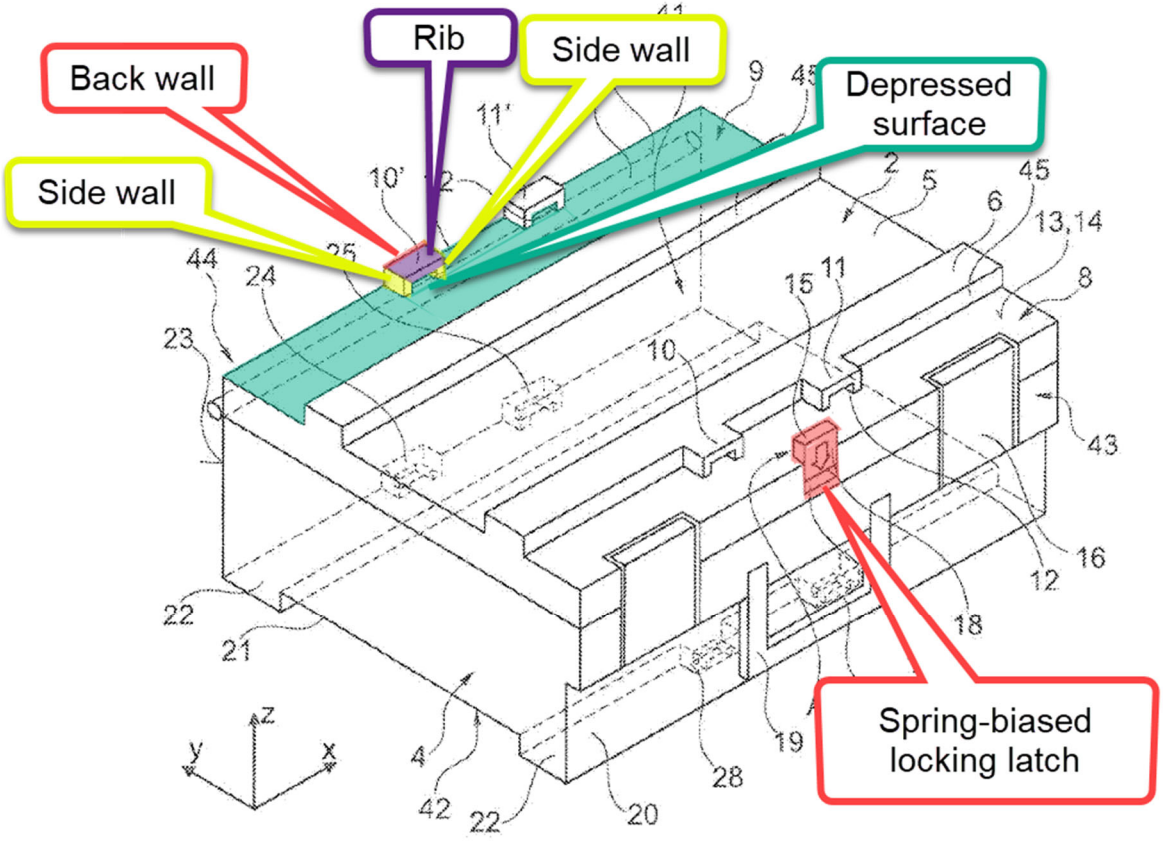

Rib
Side wall
Back wall
Depressed surface
Side wall
Spring-biased locking latch

Fig. 1

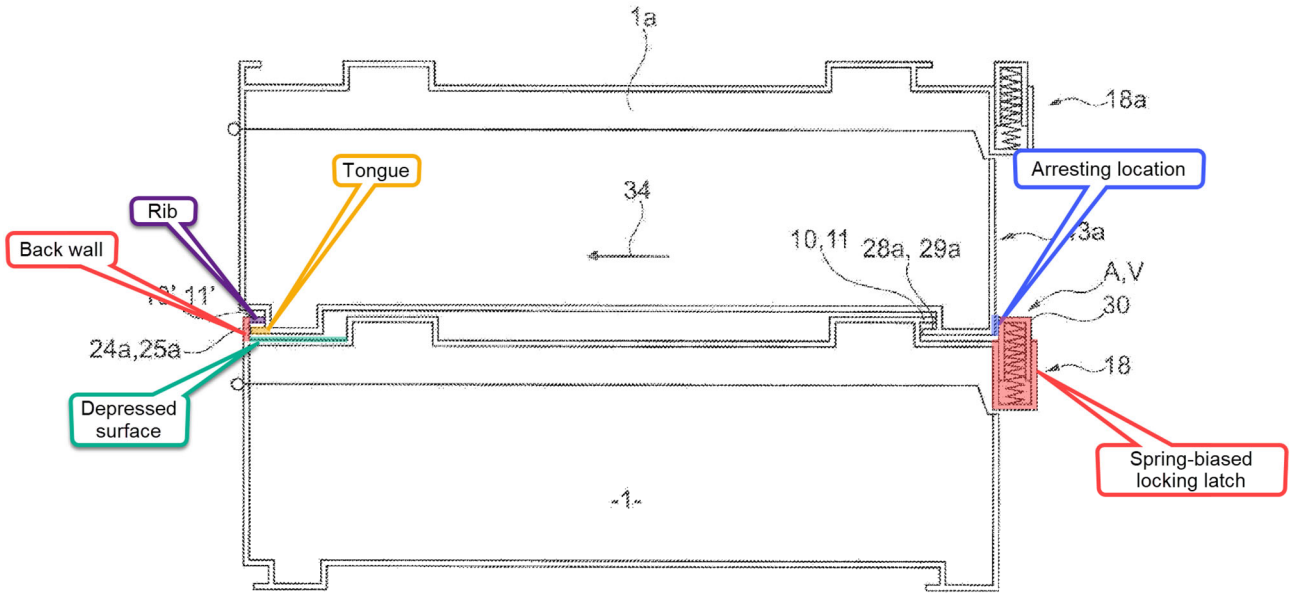
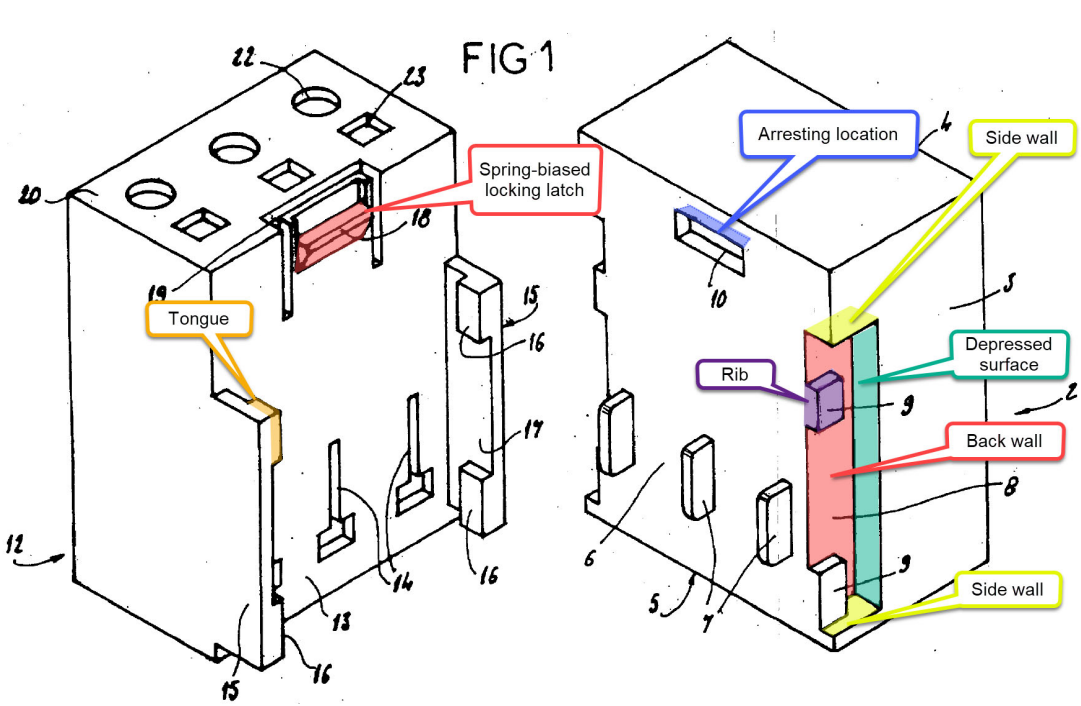

Tongue
Rib
Back wall
Depressed surface
Arresting location
Spring-biased locking latch

Fig. 5

Lafragette, a patent describing work from Oliff & Berridge, published in 2003, similarly discloses a container assembly, in the form of a module that is detachably connected to an electrical box. It likewise discloses 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**, shown in Fig. 1:



Metabowerke, a German patent application publication, developed by Metabowerke GmbH, discloses stackable containers that are detachably connected when slid backwards so that a **tongue** engages a **rib** protruding from a **depressed surface** having a **back wall**, **side walls** and a **rib**:

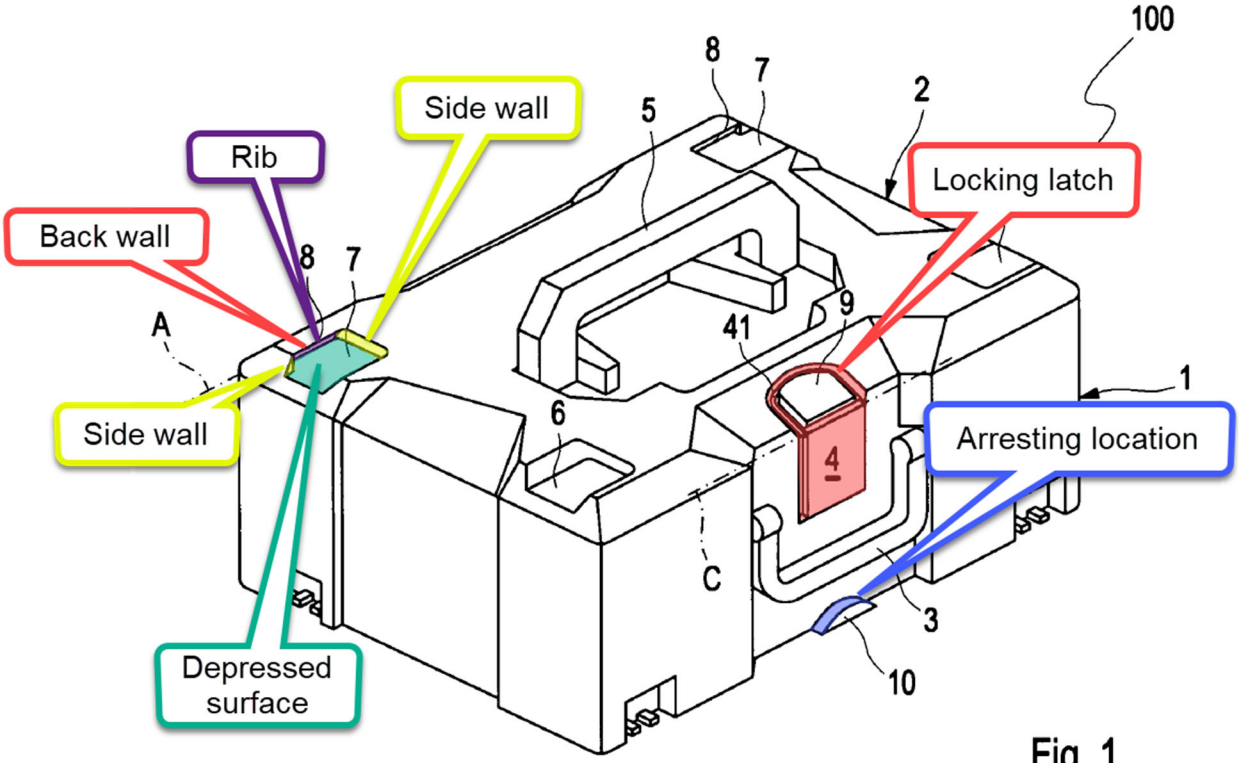


Fig. 1

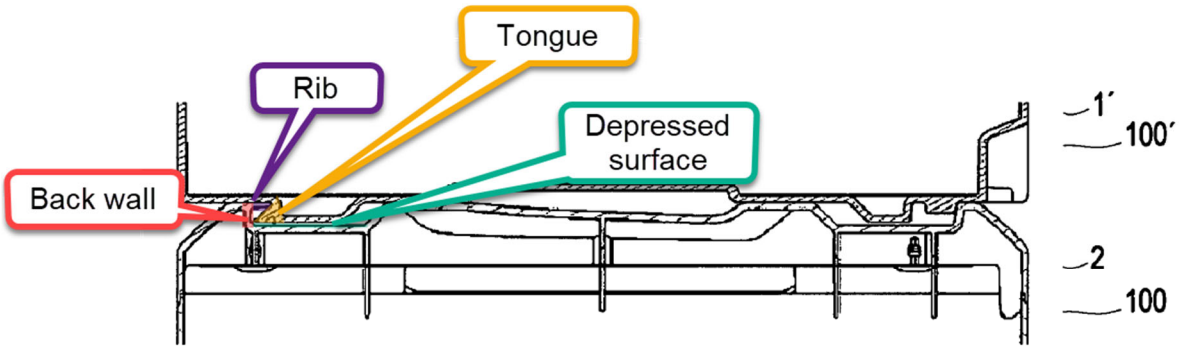


Fig. 4

At bottom, there is simply nothing new about the connectable containers claimed in the ’952 patent.

II. MANDATORY DISCLOSURES

Pursuant 37 C.F.R. § 42.8(a)(1), the following mandatory notices are provided as part of this Petition.

A. Grounds for Standing

Petitioner respectfully requests *inter partes* review ("IPR") of Claims 1-23 ("Challenged Claims").

Petitioner certifies that the '952 Patent is available for *inter partes* review and Petitioner is not barred or estopped from requesting review of the Challenged Claims on the grounds identified in this Petition.

B. Real Party in Interest

The real party-in-interest is Klein Tools, Inc.

C. Related Matters

The '952 patent has been asserted against Petitioner Klein Tools, Inc. in separate complaints filed June 13, 2024, in the United States District Court for the Northern District of Illinois and the International Trade Commission ("ITC"):

- *Milwaukee Electric Tool Corporation et al v. Klein Tools, Inc.*, 1:24-cv-04928 (N.D. Ill.); and
- *Milwaukee Electric Tool Corporation et al v. Klein Tools, Inc.*, 337-TA-1409.

Patent owners previously filed but withdrew the following actions:

- *Milwaukee Electric Tool Corporation et al v. Klein Tools, Inc.*, 1:24-cv-04284 (N.D. Ill.) (dismissed);
- *Milwaukee Electric Tool Corporation et al v. Klein Tools, Inc.*, 337-TA-3749 (dismissed).

D. Lead and Back-Up Counsel (37 C.F.R. § 42.8(b)(3)) and Service Information (37 C.F.R. § 42.8(b)(3)-(4))

Petitioner provides the following counsel and service information. Pursuant to 37 C.F.R. § 42.10(b), a Power of Attorney accompanies this Petition. Petitioner agrees to accept electronic service at the email addresses listed below.

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E. Payment of Fees (37 C.F.R. § 42.15(a))

The undersigned authorizes the Office to charge the fee required for this Petition for *Inter Partes* Review to Deposit Account No. 50-5708. Any additional fees that might be due are also authorized.

III. IDENTIFICATION OF GROUNDS

Petitioners request cancellation of the Challenged Claims on the following grounds:

Ground	Reference(s)	Basis	Claims
1	Burchia, Metabowerke	§103	1-23
2	Burchia, Metabowerke, Lafragette	§103	1-23
3	Burchia, Metabowerke, Chen	§103	1, 10, 18
4	Burchia, Metabowerke, Lin	§103	4, 13
5	Burchia, Metabowerke, Bensman	§103	8, 16, 23

6	Metabowerke, Burchia, Lafragette	§103	1-23
7	Metabowerke, Burchia, Chen	§103	1, 10, 18
8	Metabowerke, Burchia, Lin	§103	4, 13
9	Metabowerke, Burchia, Bensman	§103	8, 16, 23

IV. LEVEL OF SKILL IN THE ART

A person of ordinary skill in the field of the '952 patent would have had (1) a bachelor's degree in mechanical engineering or a related discipline and at least two years of experience in the mechanical design of consumer products, or (2) five years or more of experience in the mechanical design of consumer products. Ex. 1003, ¶19. Petitioner's expert met this definition as of the earliest priority date. *Id.*, ¶20.

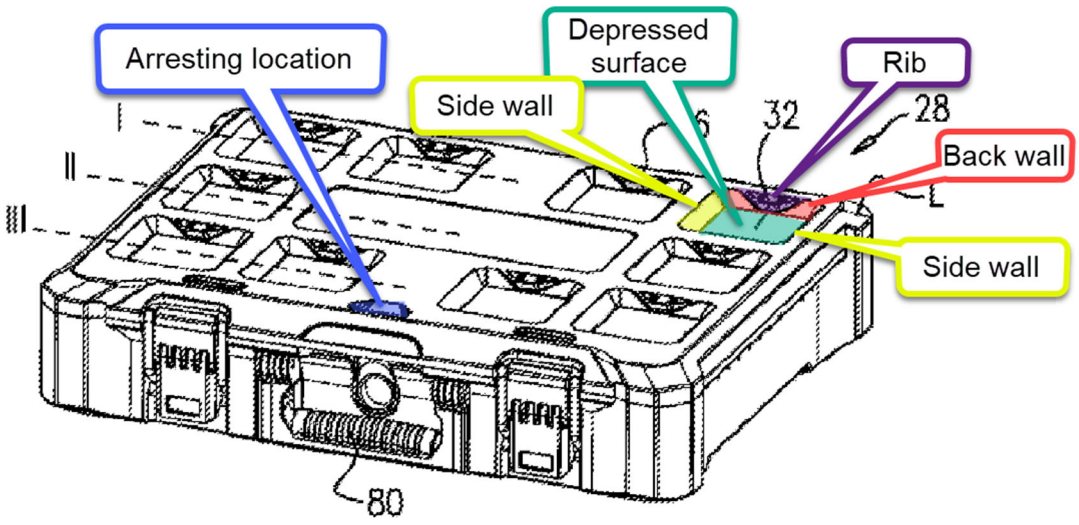
V. OVERVIEW OF THE '952 PATENT

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

The

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 a locking latch **arresting location** in the form of a recess in the top face of the container. *Id.*, 16:31-33; Ex. 1003, ¶34.



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.

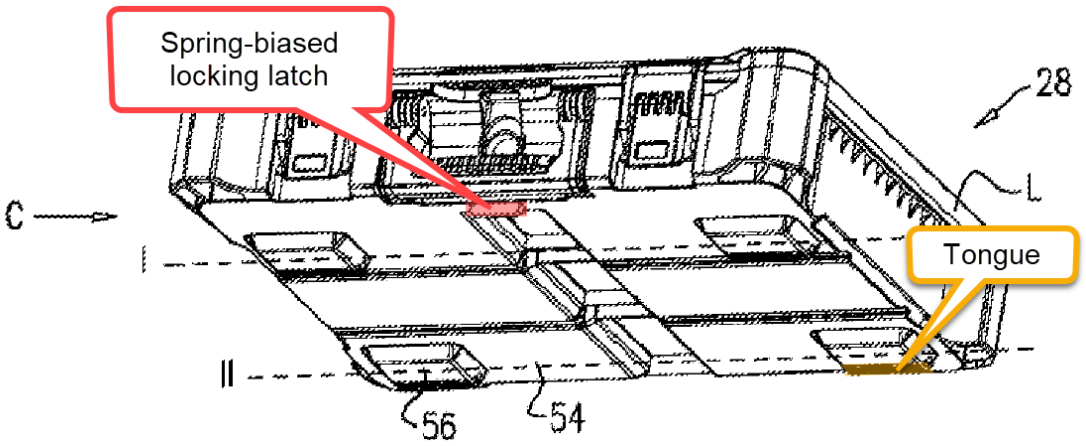


Figure 3A below shows the **tongue** coming into the **depressed surface** having a **back wall** and **rib**, as described in 17:12-22.

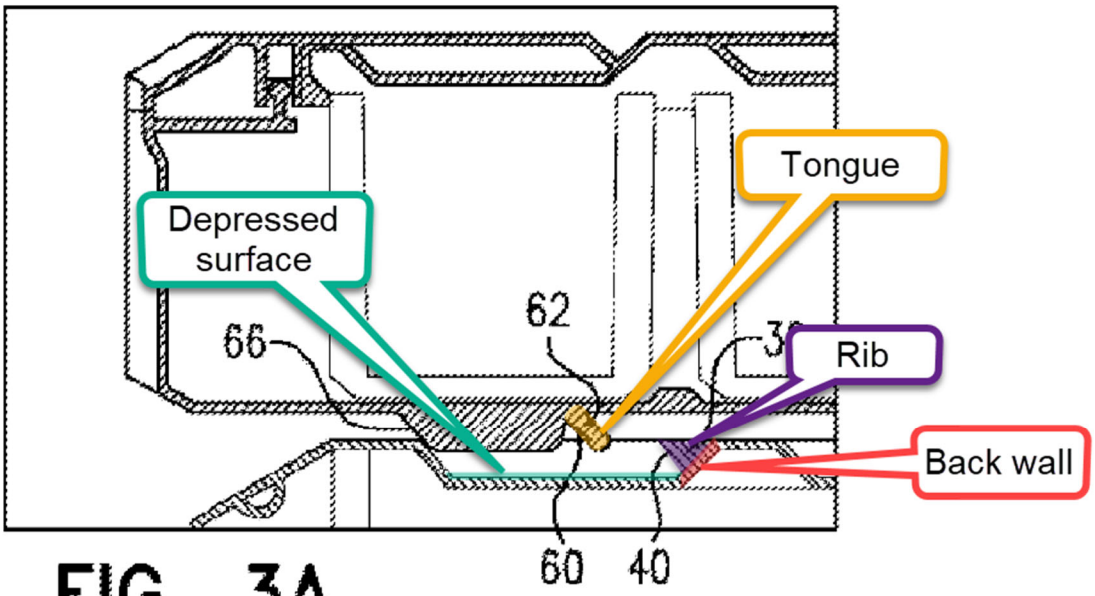


FIG. 3A

A. Prosecution History

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.

VI. CLAIM CONSTRUCTION

The parties have recently submitted their preliminary, proposed constructions in the ITC. Ex. 1031. Patent Owner has argued the claims should be given their "ordinary meaning" and Petitioner has provided specific constructions for three terms. However, to the extent there are differences in the parties' positions, it is unnecessary to resolve here, because the prior art renders the claims unpatentable under both Petitioner's proposed construction, and Patent Owner's interpretation of their plain meaning, as applied in its infringement contentions. For the remaining terms, Petitioner submits that express interpretations of the terms in the challenged claims are not required to resolve this petition and they should be given their plain and ordinary meaning. Ex. 1003, ¶¶39-40.

VII. OVERVIEW OF THE PRIOR ART

All the below references relate to connectable containers. Ex. 1003, ¶55. Thus, all the references would be obvious sources a POSITA would have considered when seeking to improve upon a connectable container assembly.

A. Burchia (Ex. 1004)

Burchia[1] is a U.S. patent that qualifies as prior art under §§102(a)(2) and (d)(2), because it issued from a national stage application of a PCT claiming foreign priority to a German patent application filed August 18, 2015, before the earliest effective priority date of May 2, 2016. *Penumbra, Inc. v. RapidPulse, Inc.* (IPR2021-01466) (March 10, 2023, Final Written Decision designated precedential by USPTO) (p. 29-35).

Petitioner provides the following chart showing support in the Burchia priority application for the citations to Burchia herein (Ex. 1003, ¶58):

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]

[1] 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. Ex. 1030 shows Burchia made a foreign priority claim within 12 months of the foreign priority application (at 5) and the Office acknowledged same (at 1).

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]

Burchia 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 Fig. 1 and the progression of Figs. 4 and 5:

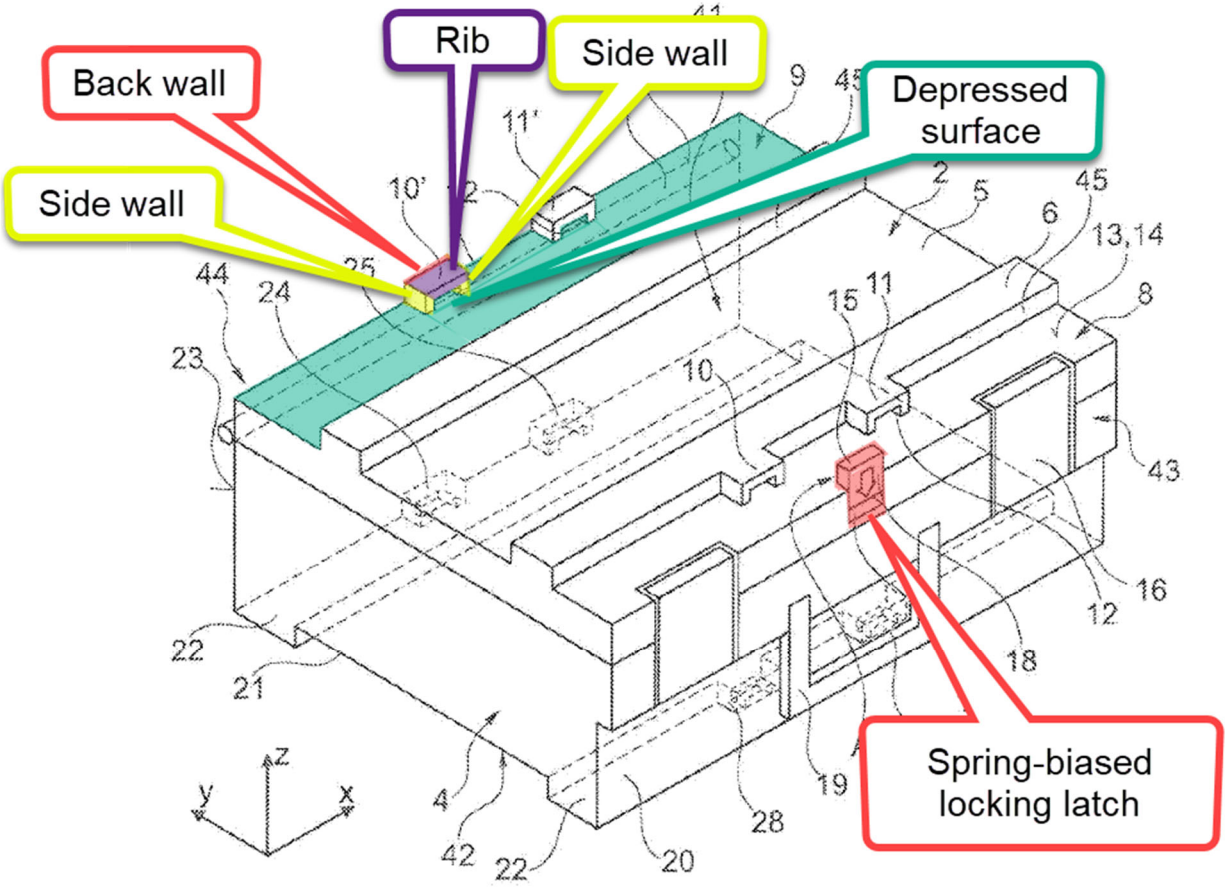

Back wall
Rib
Side wall
Depressed surface
Side wall
Spring-biased locking latch
41
9
45
11'
10'
12
2
5
6
45
13,14
8
44
24
15
11
23
10
43
16
12
18
22
21
z
y
x
4
42
22
20
28
19

Fig. 1

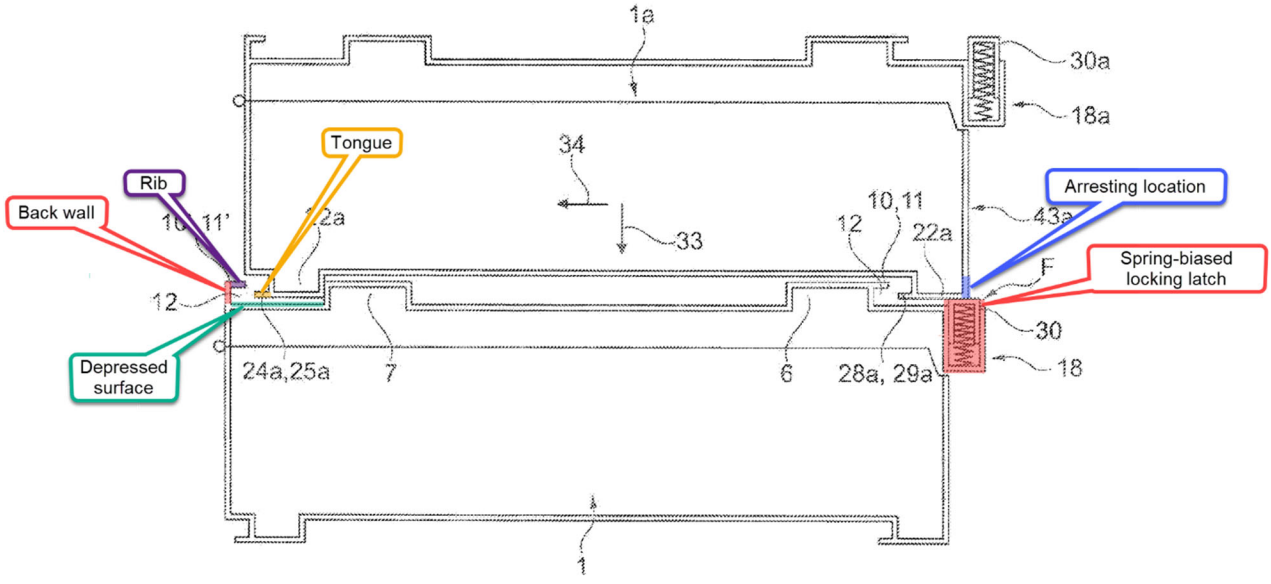


Fig. 4

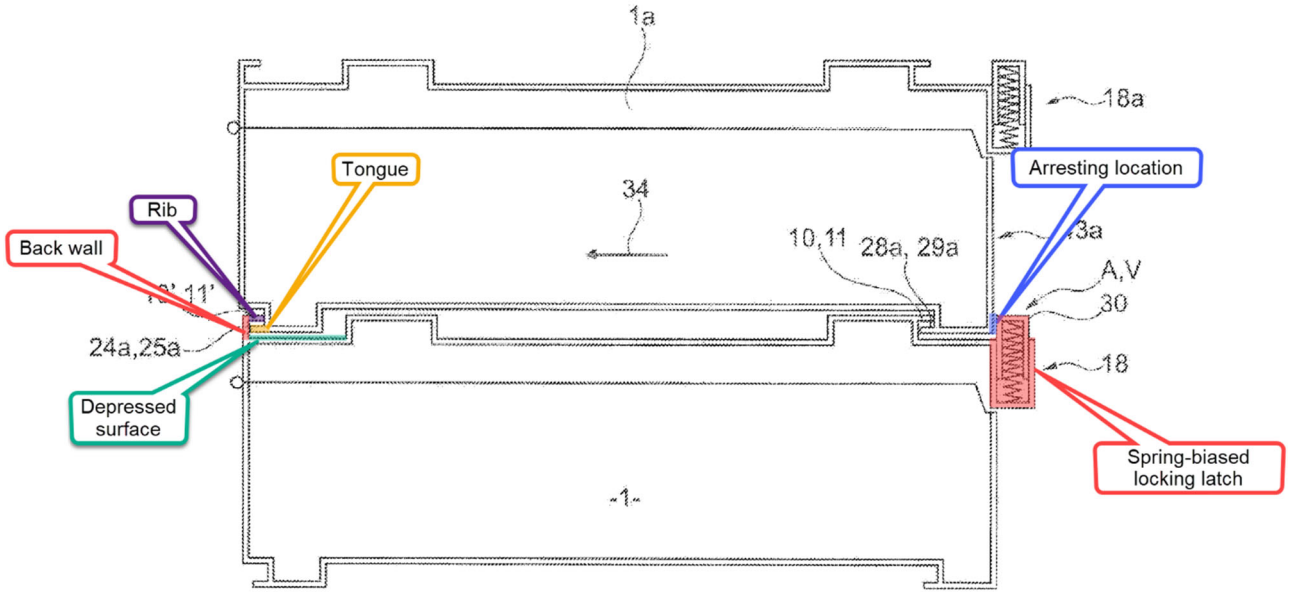
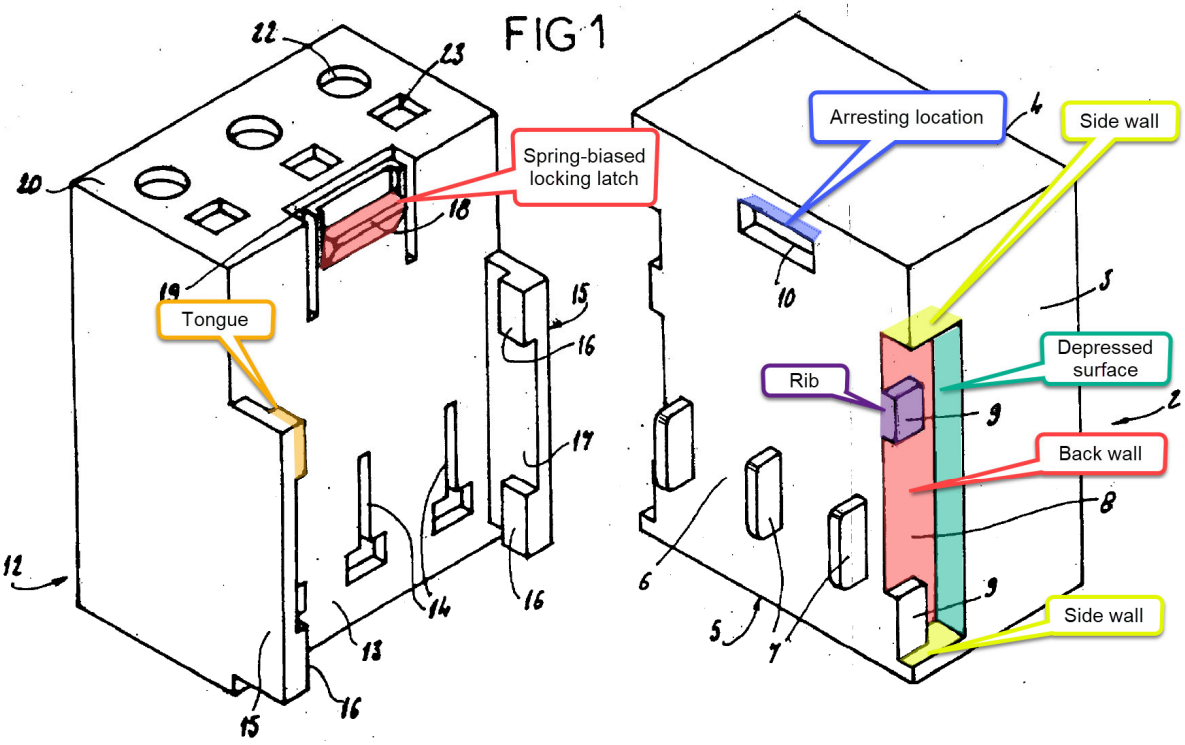


Fig. 5

Ex. 1003, ¶¶56-57.

B. Lafragette (Ex. 1005)

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 Fig. 1:



Ex. 1003, ¶59.

C. Metabowerke GmbH (Exs. 1006, 1020 (translation))

Metabowerke [2] 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**:

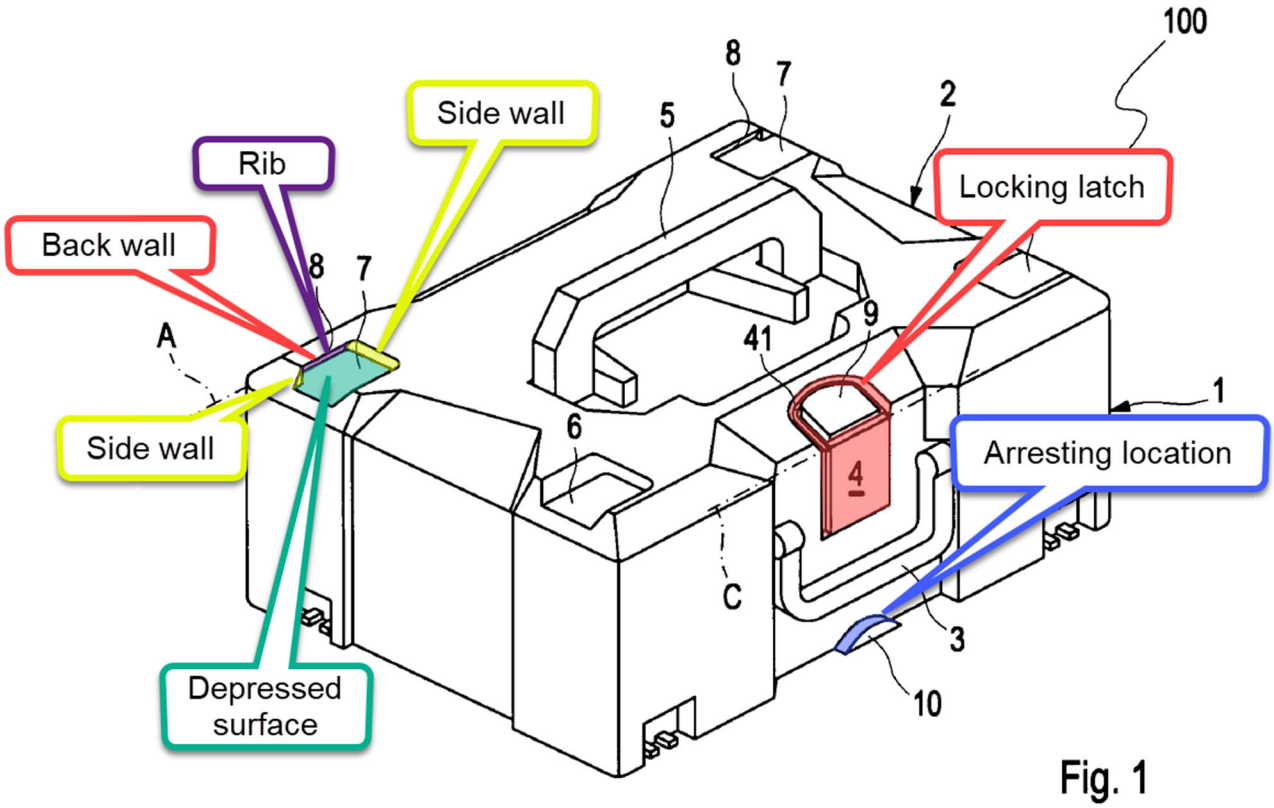


Fig. 1

Ex. 1003, ¶60.

[2] 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.

VIII. DISCRETIONARY FACTORS

The Board should not exercise its discretion to deny institution under 35 U.S.C. §§ 314 and 325(d).[3] This petition presents new prior art and combinations as well as arguments not previously considered by the Office.

A. 35 U.S.C. § 325(d) Does Not Favor Denial

In analyzing denial under § 325(d), the Board uses a two-part framework. *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 7-8 (PTAB Feb. 13, 2020). First, it must be determined whether the petition presents the same or substantially the same art or arguments previously presented to the Office. If the answer to the first inquiry is in the affirmative, then it must be shown that the Office made a material error in evaluating the art or arguments. And if the petitioner fails to show an error was made by the Office, then the Director may exercise discretion not to institute *inter partes* review.

[3] The District Court action is stayed pending a parallel ITC proceeding. The USPTO Director's *Interim Guidance* provides the Board will not deny institution based on a parallel ITC proceeding. Accordingly, discretionary denial under *Fintiv* is not warranted.

To aid with this highly factual inquiry, the Board considers a series of *Becton, Dickinson* factors. *Becton, Dickinson and Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 at 17-18 (PTAB Dec. 15, 2017).

1. Factor (a)

This petition relies on Burchia, Lafragette, Metabowerke, Lin and Chen. Lafragette, Lin and Chen were not cited or discussed by the examiner during prosecution. And while Burchia and Metabowerke were included in an over 20-page IDS (they were, respectively, the 164th and 443rd reference out of over 500 references disclosed), neither of those references were substantively discussed by the examiner. The applicant included with the IDS a cover letter disclaiming materiality and prior art status of the references under § 1.56(b).

The Petition's arguments were never previously presented before the patent office. The examiner rejected the applicant's claims on the ground of double patenting. In response, applicant filed a terminal disclaimer to gain allowance.

That the prior art relied on, much less the combinations presented herein, were not expressly addressed by the examiner weighs strongly in favor of institution. *See Digital Check Corp. d/b/a ST Imaging v. E-Imagedata Corp.*, IPR2017-00178, Paper 6 at 12-13 (PTAB Apr. 25, 2017).

2. Factor (b)

The examiner did not consider Lafragette, Lin, or Chen. While Burchia and Metabowerke were cited in the 20-page IDS, they were among over 500 references, with disclaimers of materiality or prior art status. It was material error not to reject the claims based on the art presented herein.

3. Factor (c)

The Office made a material error by issuing only a double patenting rejection before allowing the '952 patent. Burchia and Metabowerke played no substantive role during prosecution. As set forth below, the Office erred in not applying Burchia or Metabowerke because they disclose all limitations.

4. Factor (d)

During the prosecution of a predecessor application, now U.S. Patent No. 10,583,962, the examiner allowed the claims—which share many of the same elements as the '952 patent—over Madsen. The examiner allowed the claims after applicant argued Madsen did not disclose a coupler with "two sidewalls and a back wall." Ex. 1021 at 10-11.

By contrast, Burchia, Lafragette, and Metabowerke each explicitly disclose couplers having side walls and a back wall (discussed in further detail in Sections IX.B.3, X.B, and XIV.B.3 below). Ex. 1003, ¶¶56-60. For

example, Burchia's Figure 1 (presented below) shows the use of both side walls and a back wall. *Id.*, ¶¶56-58.

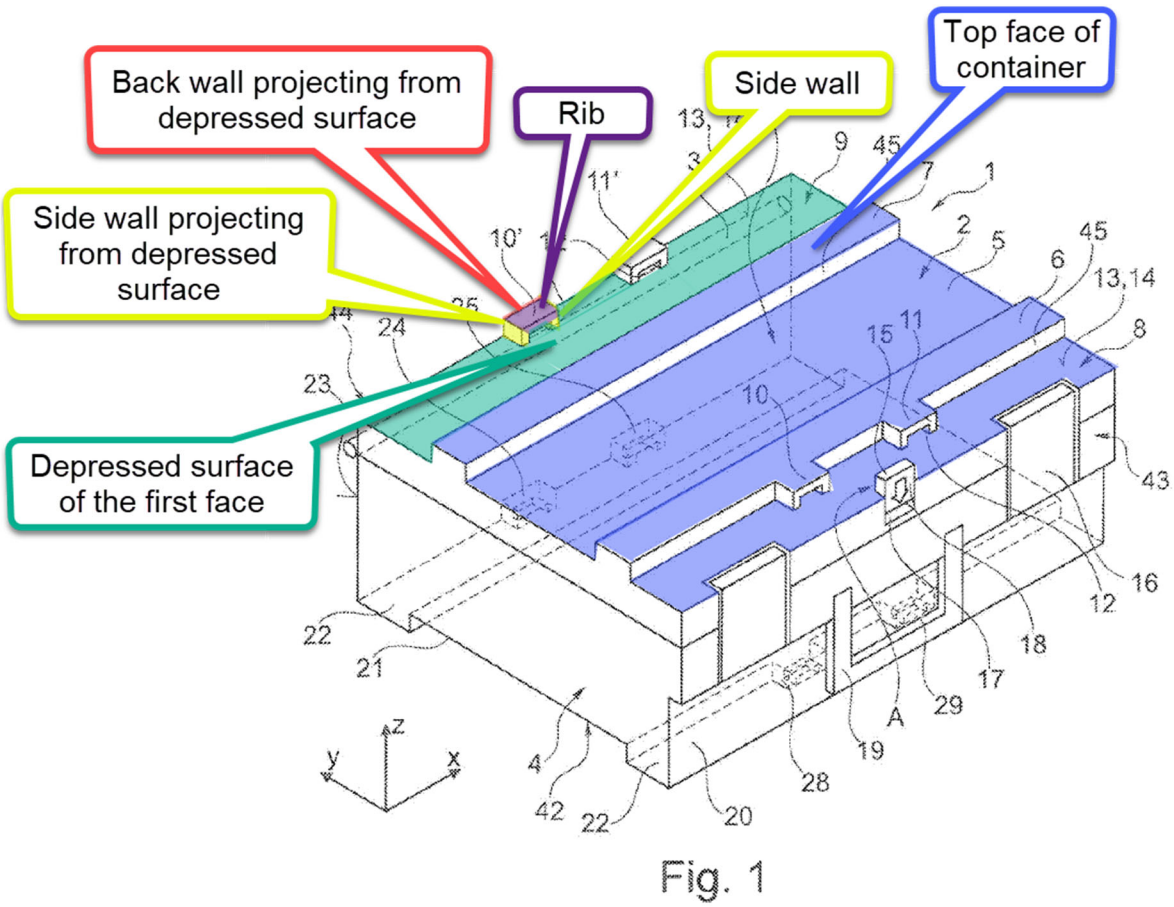
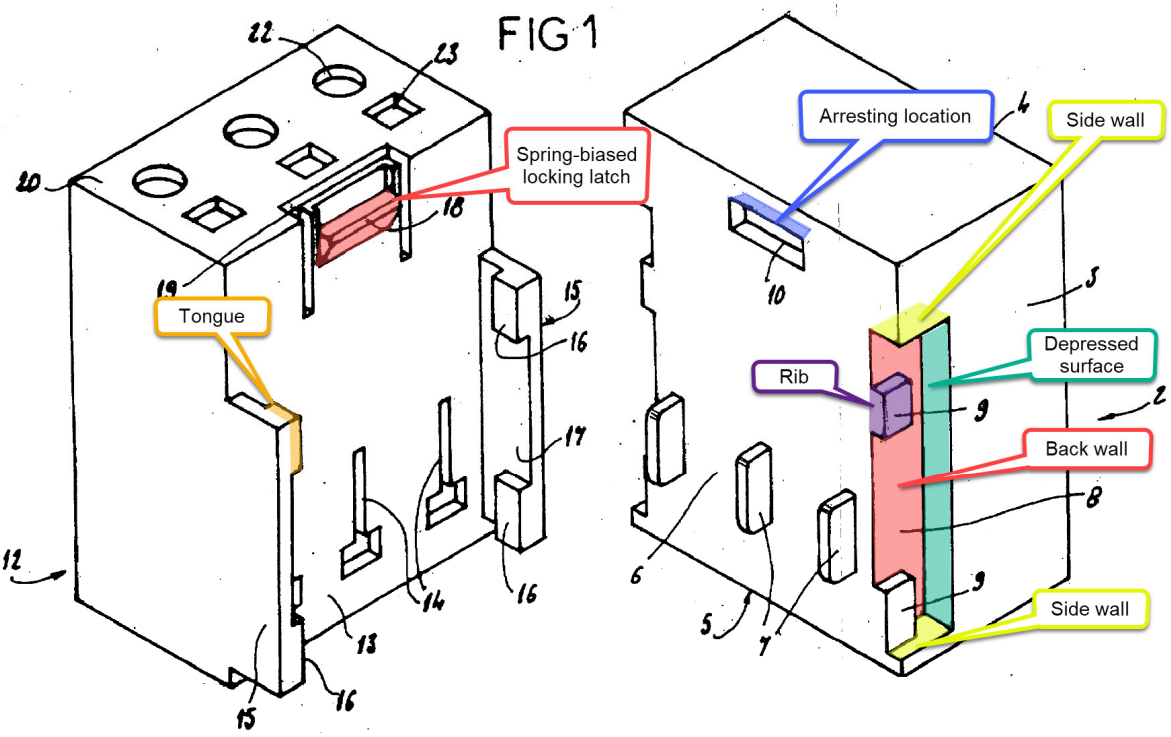


Fig. 1

Lafragette similarly shows these elements in Figure 1 below. *Id.*, ¶59.



Finally, Metabowerke discloses couplers that are depressed surfaces having a back wall, side walls and a rib, as shown below. *Id.*, ¶60.

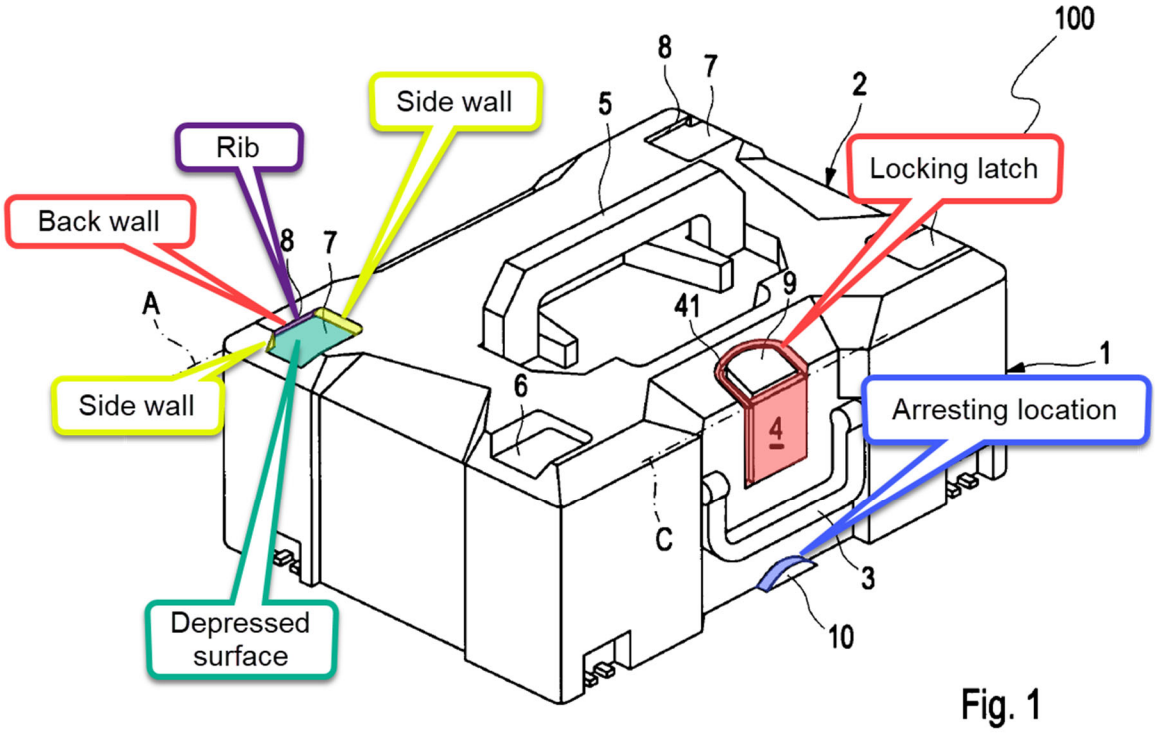


Fig. 1

This petition therefore presents arguments as to the unpatentability of the '952 patent that were not previously presented nor considered by the Office. This factor weighs heavily in favor of the Board declining to exercise its discretion.

5. Factor (e)

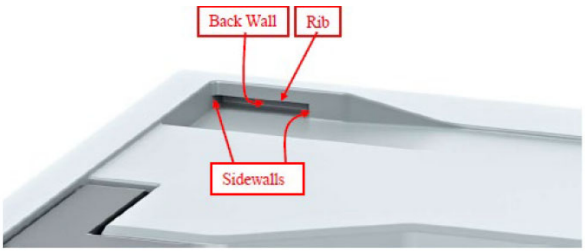
Further, it was material error for the examiner to not identify Lafragette, Lin, and Chen, and not to discuss Burchia and Metabowerke. Burchia, Lafragette, and Metabowerke disclose all elements of the challenged claims. And although Burchia and Metabowerke were cited in an IDS (with 500 references), the examiner did not appear to give them due consideration.

6. Factor (f)

This petition does not have the deficiency that led the Board to deny a petition for *inter partes* review of the related '962 patent. Jiangsu Sainty Sumex Tools Corp. filed its petition in 2020. Ex. 1016. The Board denied institution. Ex. 1017.

The petition argued the '962 claims were unpatentable over images detailing a toolbox in an Auer press release and packaging catalog (the "Auer Materials") and/or Madsen alone or in combination with U.S. Patent Nos. 8,875,888 and D627,967, (the "Festool patents") or the knowledge of a POSITA. Ex. 1016 at 10-13.

The Board denied institution finding the Auer Materials did not "disclose[] with sufficient specificity a back wall, a rib and two sidewalls in the particular relationship required by each challenged claim." Ex. 1017 at 16. The Board concluded the images were not clear enough to show the claim elements, as the "darkened rectangular shape" (shown below) appears "featureless and not amenable to meaningful interpretation." Ex. 1017 at 17.



As to Madsen, the Board concluded—like the examiner of the '962 patent—that it did not disclose "sidewalls," and no other reference cured that deficiency. Ex. 1017 at 20-22. Importantly, the Board further noticed the Petitioner failed to explain its motivations to combine. Ex. 1017 at 24, 27-28.

As explained above, Burchia, Lafragette, and Metabowerke clearly disclose couplers that are depressed surfaces having a back wall, sidewalls, and a rib, and are thus not cumulative of the references previously presented. This Petition offers references and combinations persuasively disclosing all the challenged claim limitations.

7. Balance of *Becton, Dickinson* factors

Each *Becton, Dickinson* factor weighs in favor of the Board not exercising its discretion under § 325(d). Even if the Board found the petition to present the same or substantially the same art or arguments previously presented, there is a clear showing of material error in evaluating the patentability of the '952 patent. The Board should therefore not exercise its discretion.

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

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 would have been obvious to incorporate such a depressed surface from Metabowerke, as set forth below. Ex. 1003, ¶¶62-164.

A. Motivation to Combine

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. Ex. 1003, ¶¶63-64. Specifically, a POSITA would be motivated to include Metabowerke's connector, which is 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. *Id.*, ¶63. By using a smaller depressed surface instead of the larger depressed surface, Metabowerke reduces the possibility of a protruding coupler being damaged. *Id.* It also creates more contiguous space within the container to hold items. *Id.* 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. *Id.* When coupling another container on top by sliding its surface, Metabowerke's flush connector is less likely to become damaged compared to Burchia's connector. *Id.*

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 in that their ribs are engaged by a tongue protruding from the bottom of a top container. *Id.*, ¶64. 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 a small, depressed surface like Metabowerke. *Id.* The corresponding male-couplers with tongues could then simply be sized to enter the depressed surface and engage the rib. *Id.* As noted, Burchia and Metabowerke and the '952 patent are analogous art because they are all in the same field of releasably, stackable containers. *Id.*

B. Claim 1

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

To the extent the preamble is limiting, Burchia discloses a container assembly comprising two containers. Ex. 1003, ¶65; Ex. 1004, 7:37-52.[4] The

[4] In addition to the citations to Burchia, Petitioner relies on parallel citations to the certified translation of Burchia's priority application (Ex. 1019) as set forth in the above chart in Section VII.A, and as specifically set forth in the cited paragraphs of Dr. Collins' declaration (Ex. 1003).

first (bottom) container and **second (top) container** and the **container assembly** are shown, for example, in Fig. 3:

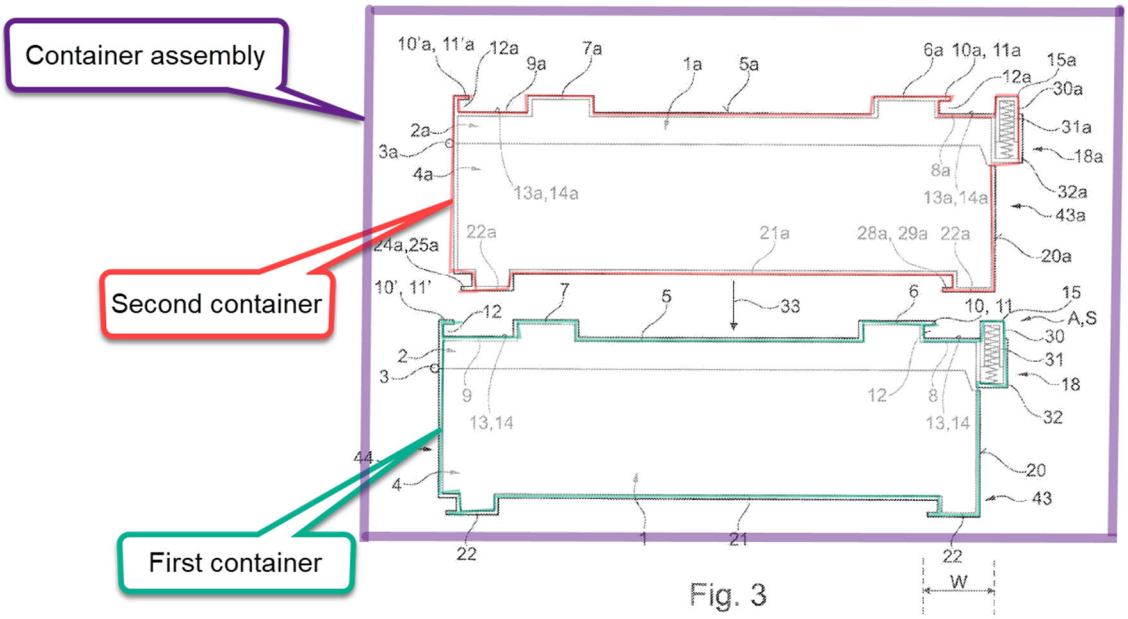


Fig. 3

Ex. 1003, ¶65.

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

As shown in the below annotated Figures, Burchia discloses a first container comprising a **first coupler** extended in a direction normal to a **top (outer) face of the first container**. Ex. 1004, Figs. 1, 3; Ex. 1003, ¶¶66-67.

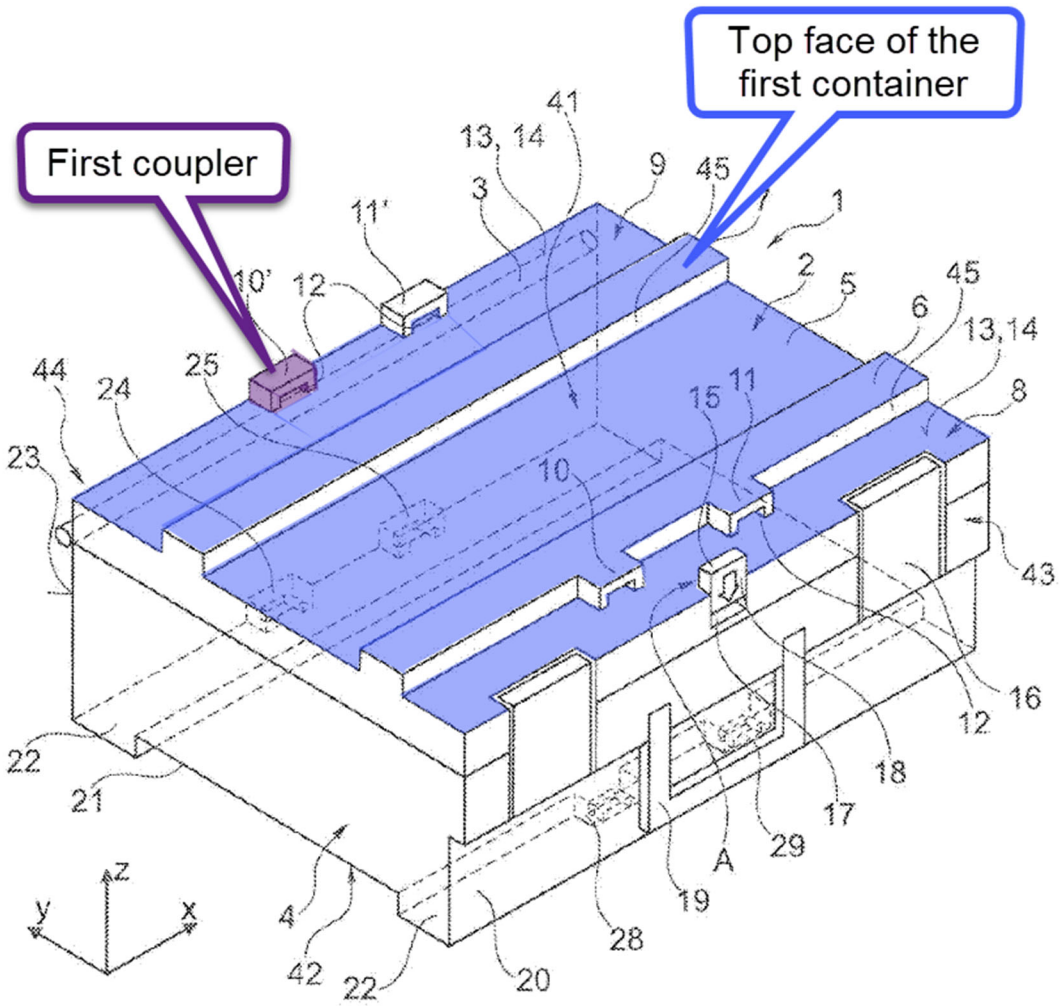

First coupler
Top face of the first container
41
13, 14
9
45
3
11'
1
10'
12
2
5
45
6
13,14
44
24
25
15
11
8
23
10
43
16
12
22
21
18
17
29
A
19
28
4
42
22
20
z
y
x

Fig. 1

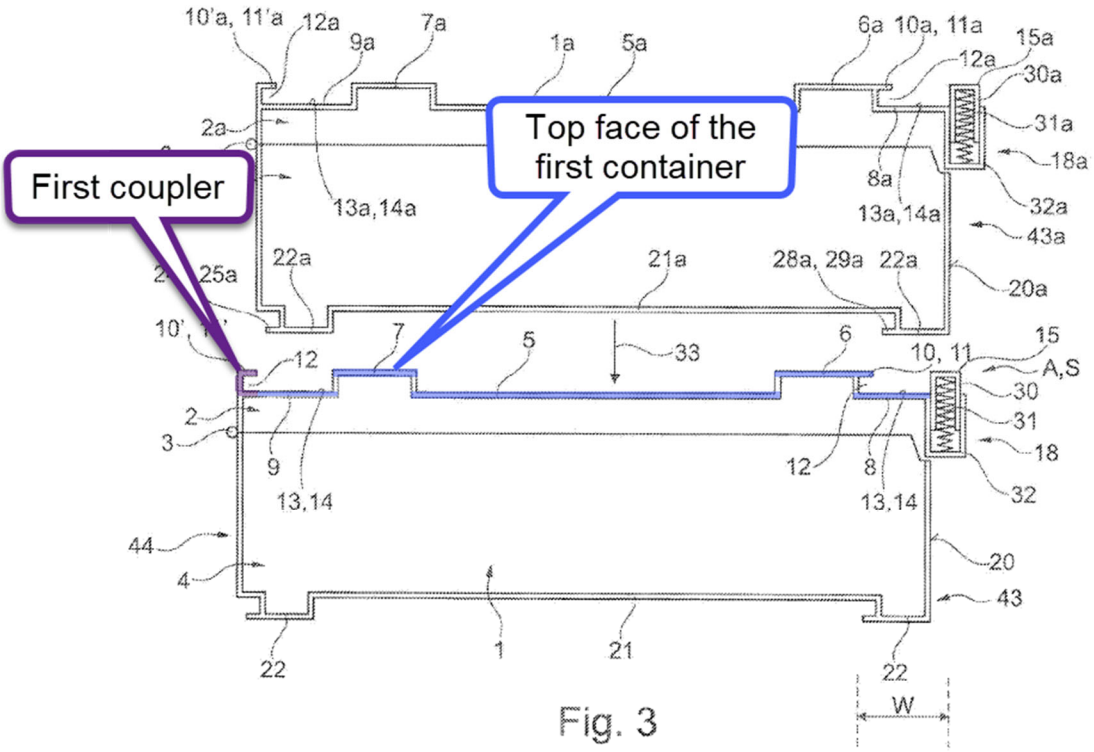


Fig. 3

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. These coupling parts form a "plug-in connection." Ex. 1004, 9:40-41. 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. The "top side" is a "top face." Ex. 1003, ¶67.

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

As shown in the below annotated Figures, Burchia discloses a first coupler comprising **two sidewalls**, **a back wall**, and a **rib**, the **back wall** located between the **two sidewalls**, which are singular planes. Ex. 1004, Figs. 1, 3; Ex. 1003, ¶¶68-70.

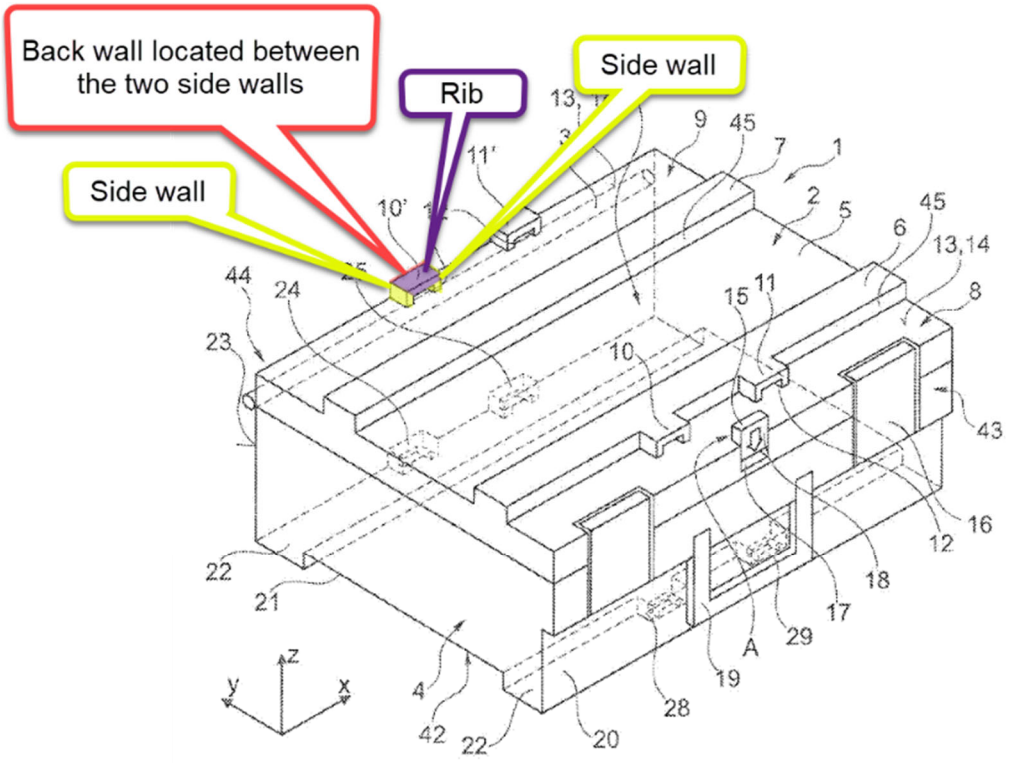


Fig. 1

Although the outer surfaces of the sidewalls are highlighted 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. Ex. 1003, ¶69.

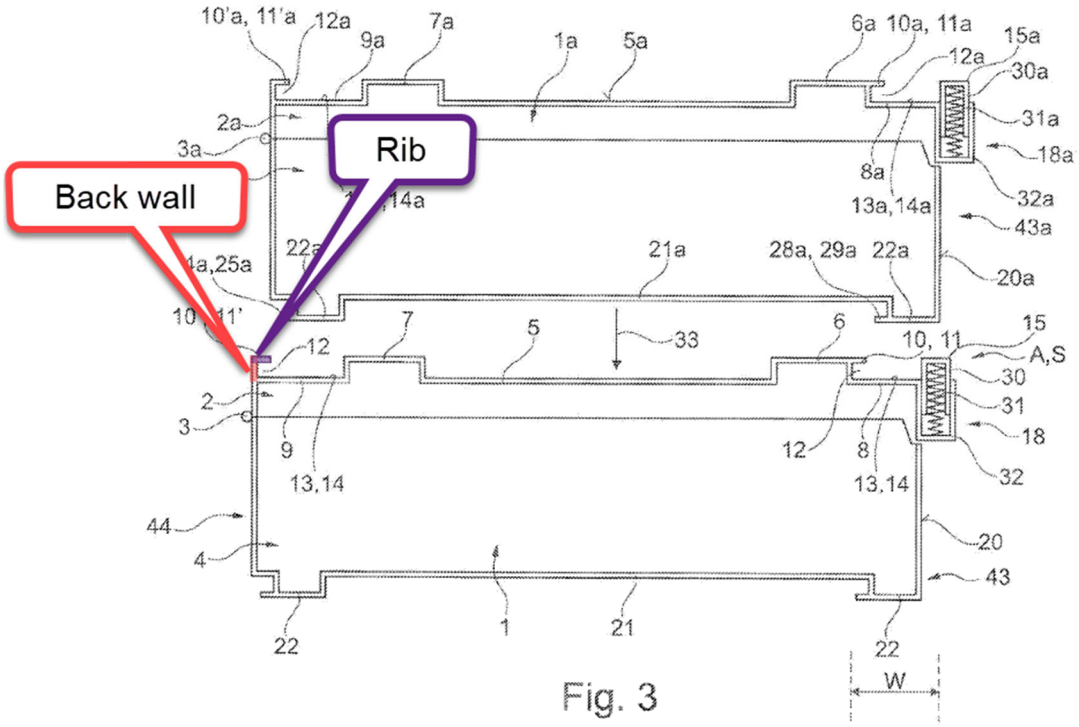


Fig. 3

A POSITA would have understood the portion highlighted above is a claimed **rib**. Ex. 1003, ¶70. As set forth in the accompanying declaration of John Collins, Ph.D., ribs are typically thin wall protrusions that extend perpendicularly from a wall or plane. *Id.*

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

As shown in the below annotated Figures, Burchia discloses **two side walls** and the **back wall** projecting from a **depressed surface** of the **top face**. Ex. 1004, Figs 1, 3; Ex. 1003, ¶¶71-76. The inner side walls and back wall also project from the depressed surface of the top face. *Id.*

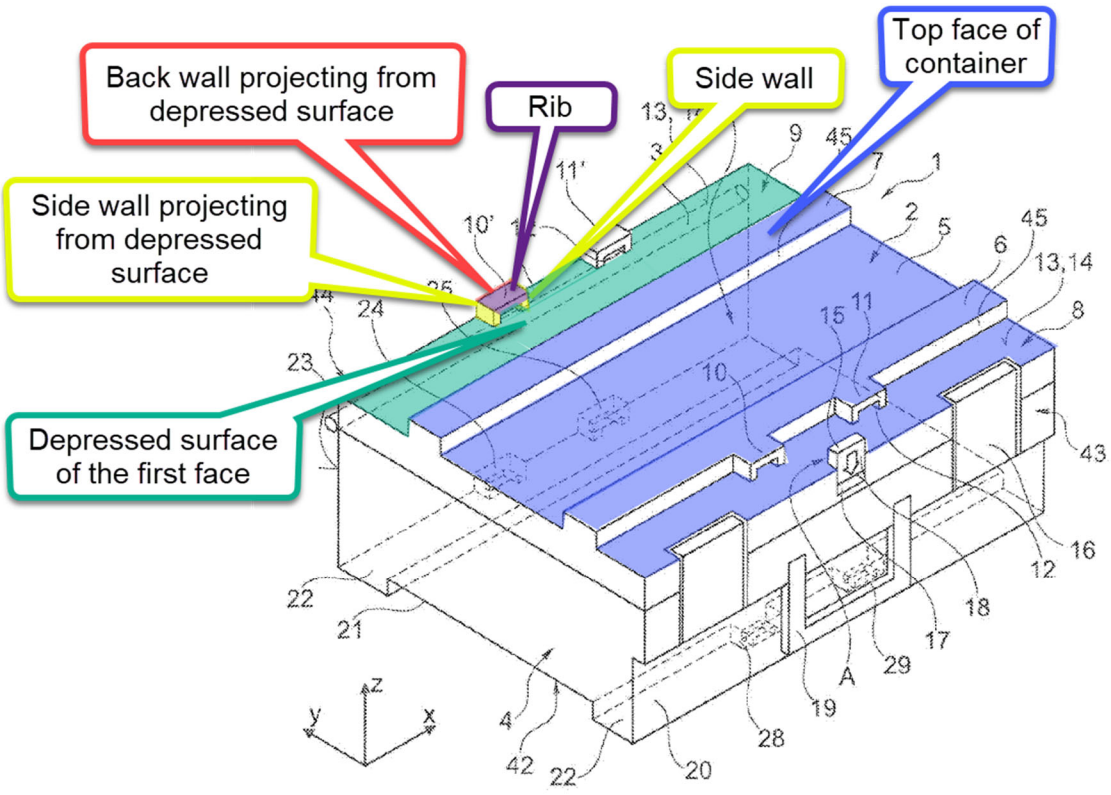

Back wall projecting from depressed surface
Rib
Side wall
Top face of container
Side wall projecting from depressed surface
Depressed surface of the first face

Fig. 1

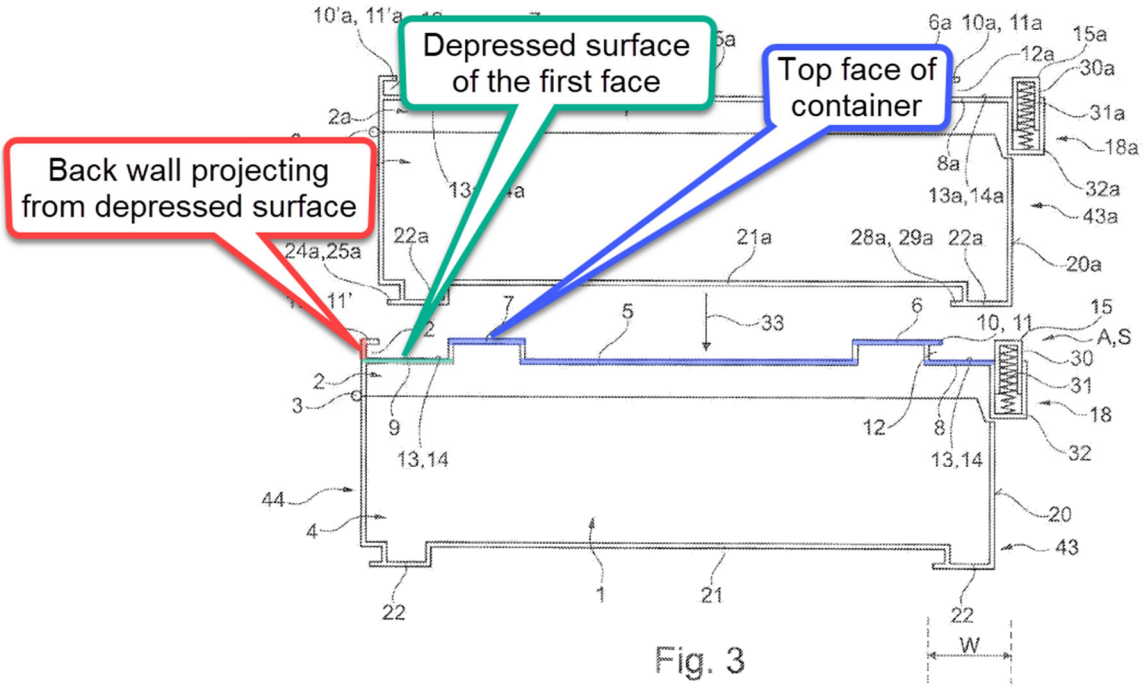

Depressed surface of the first face
Top face of container
Back wall projecting from depressed surface

Fig. 3

Patent owner may argue that Burchia's coupler projects from the top face of the container, rather than from a depressed surface. This would be incorrect, as shown above. Nevertheless, it would have been obvious to use the depressed surface connector of Metabowerke on the top face of Burchia's container for the reasons discussed above in the Motion to Combine section. Ex. 1003, ¶72.

As shown in the below annotated Figures, Metabowerke discloses **two side walls** and the **back wall** projecting from a small self-contained **depressed surface** of the **top face**. Ex. 1006, Figs 1, 4; Ex. 1003, ¶73.

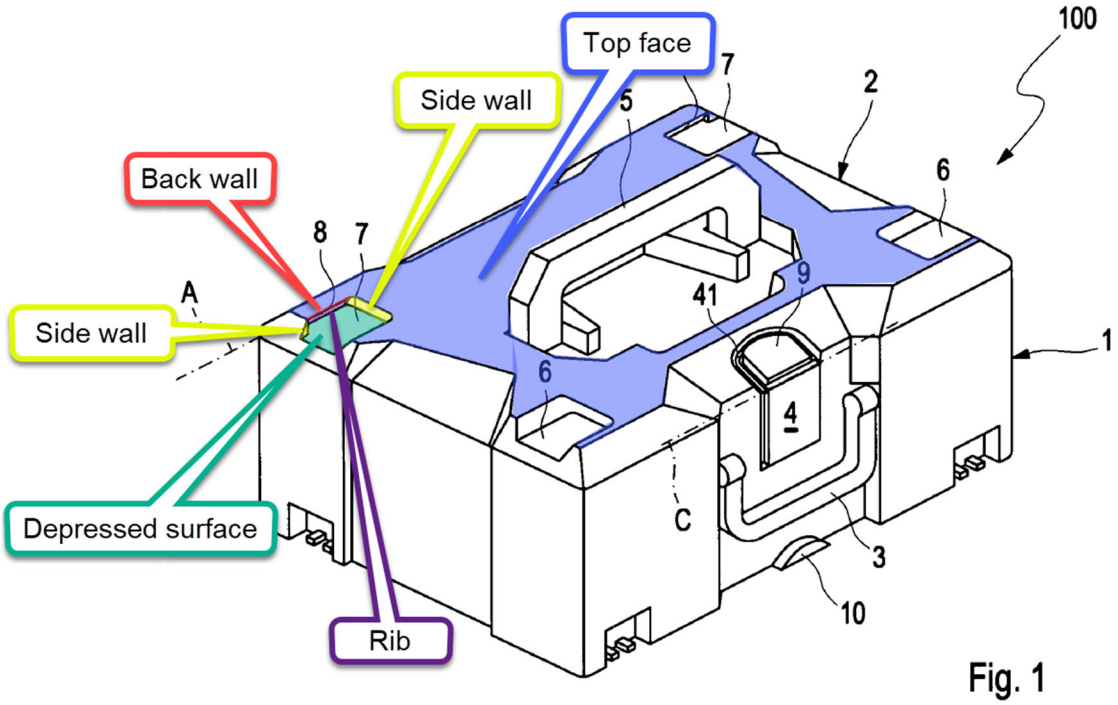


Fig. 1

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

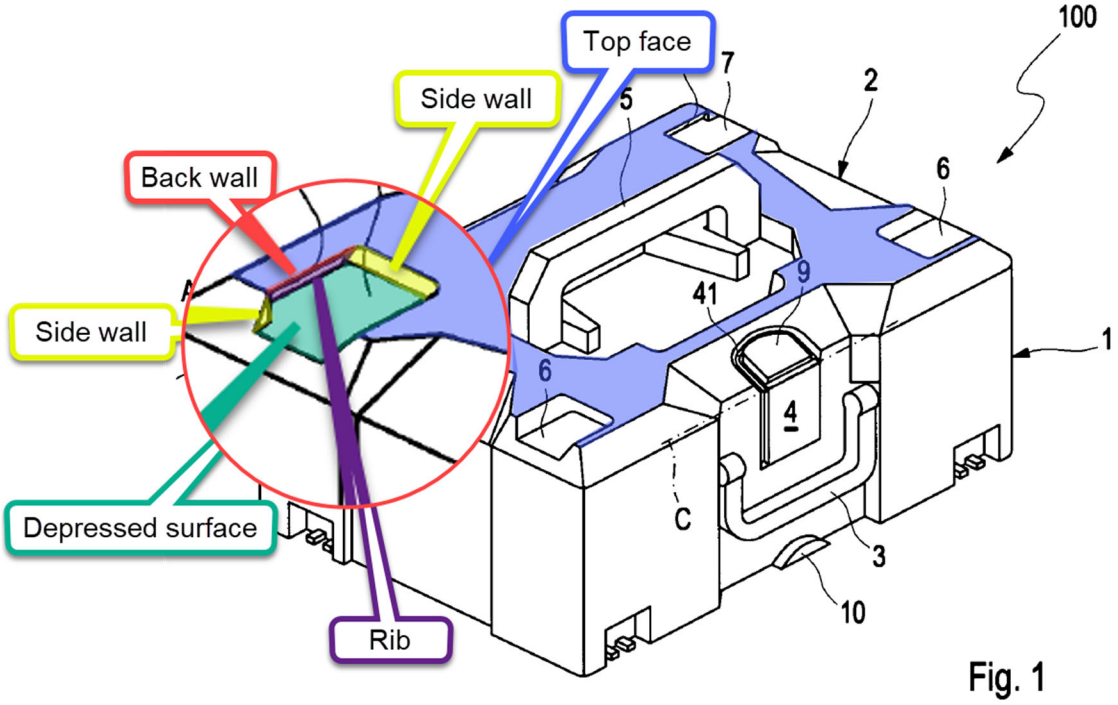


Fig. 1

Ex. 1003, ¶74.

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:

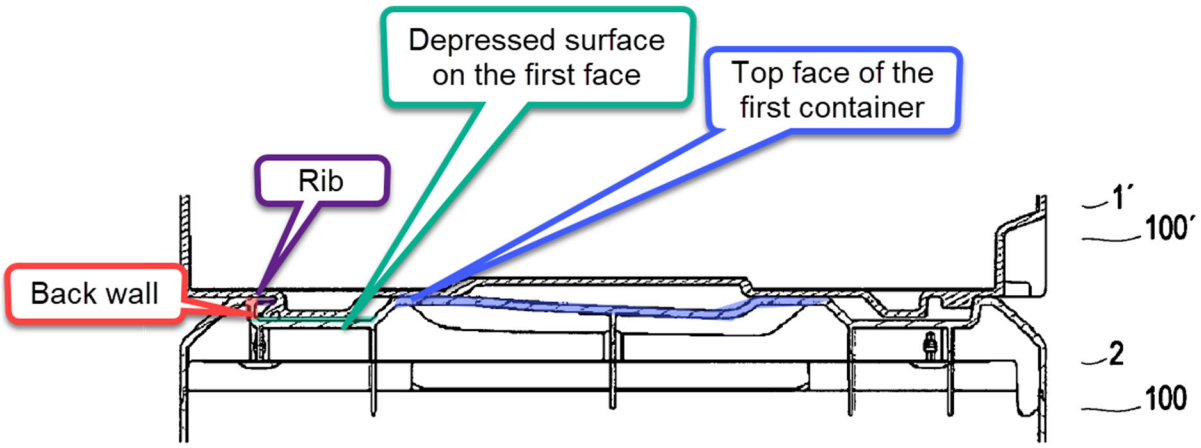


Fig. 4

Id., ¶75.

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

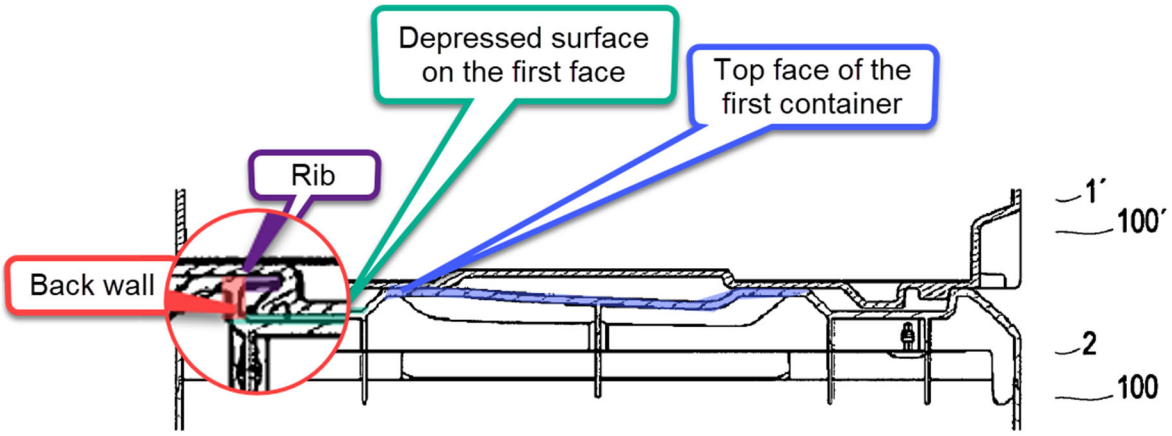


Fig. 4

Id. at ¶76.

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

As shown in the below annotated Figures, Burchia discloses the **rib** extending away from the **back wall** in a **first direction**. Ex. 1004, Figs 1, 3; Ex. 1003, ¶¶77-78. The rib also extends from the inner back wall in a first direction. *Id.*

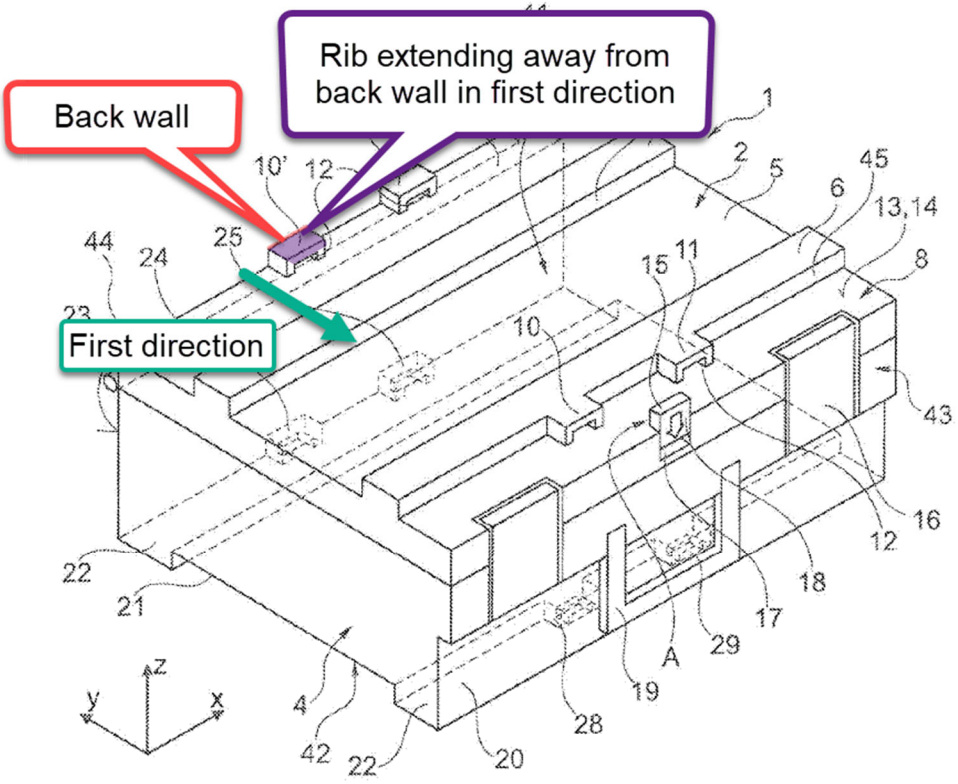
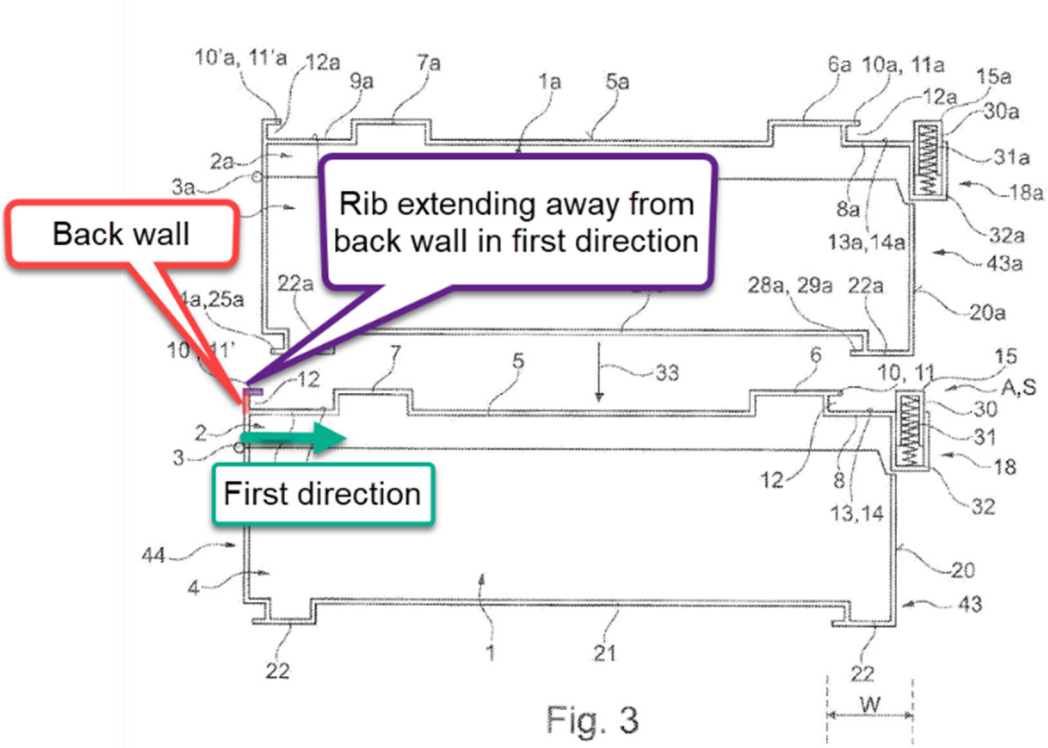

Rib extending away from back wall in first direction
Back wall
First direction
1
2
5
6
45
13,14
8
10'
12
25
44
24
15
11
10
43
16
12
18
17
29
A
19
28
20
22
42
4
21
22
z
y
x

Fig. 1



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. Ex. 1003, ¶78. Metabowerke discloses a depressed surface having a back wall, sidewalls, and a rib that extends from the back wall in a first direction. *Id.*

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

Burchia discloses that its containers are "closed on all sides and ***provided with a lid***." Ex. 1004, 7:38-39; 9:4-8; Ex. 1003, ¶¶79-81. Figure 1

depicts a **first lid** and hinge axle (3), providing a **first lid pivotally attached** to the first container. Ex. 1003, ¶81.

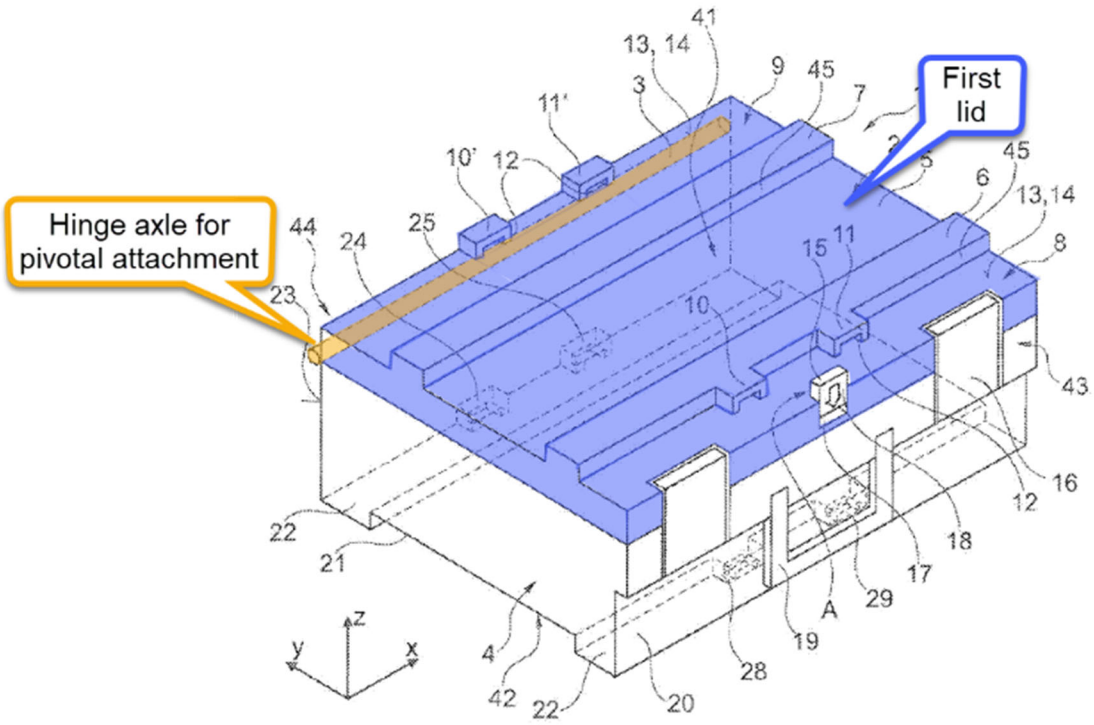


Fig. 1

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

Burchia discloses that the **first lid** is secured using "closure elements **16**, such as closure latches." Ex. 1004, 10:13-15; Ex. 1003, ¶¶82-85. A POSITA would understand that "**closure latches**" are a broader category which includes "**toggle-locking latches**." Ex. 1003, ¶¶51-55, 82-85. Toggle-locking latches are those latches wherein a lever or handle is stable in two

positions, "toggling" between locked and unlocked positions. *Id.*, ¶82. Such latches are called "toggle locking" because they toggle between two positions such as the movement of a toggle light switch. *Id.*

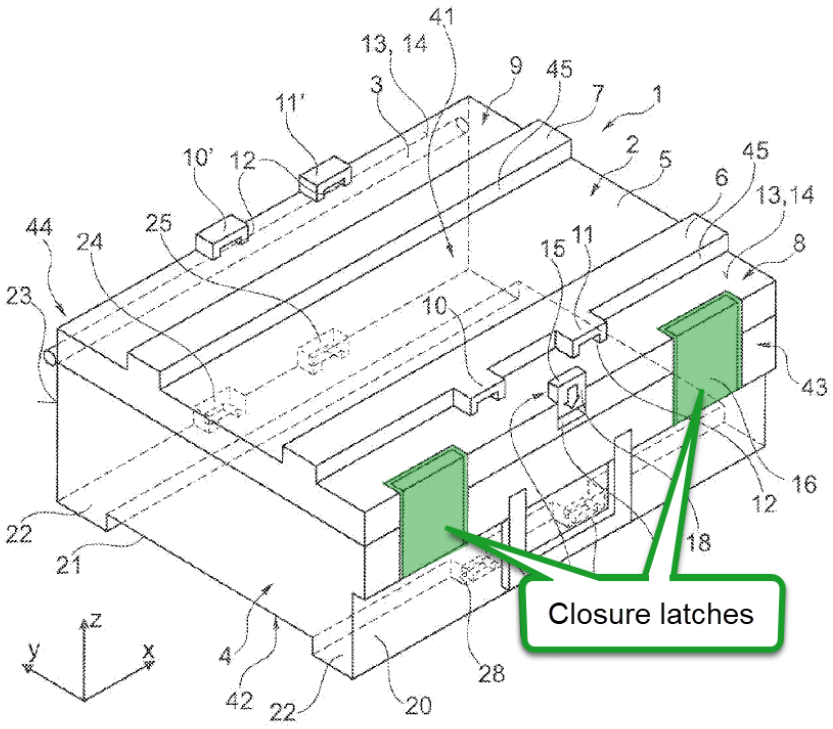


Fig. 1

Moreover, toggle locking latches are an obvious way to lock a toolbox lid.[5] *Id.,* ¶83. To the extent patent owner argues Burchia's closure latches are not the claimed "toggle locking latches," it would have been obvious to a POSITA to use toggle locking latches. *Id.* A POSITA would understand that

[5] Toggle locking latches on toolboxes were ubiquitous in the prior art. Ex. 1003, ¶¶51-55 (Exs. 1014, 1015).

they are the same (*id.*), 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 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).

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.

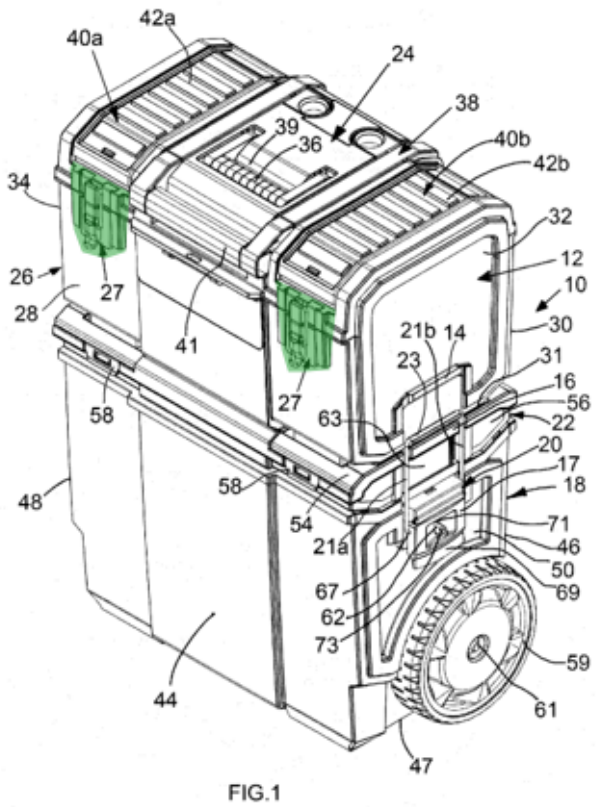


FIG.1

Thus, even if Burchia's closure latches are not considered toggle locking latches, 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. Ex. 1003, ¶85.

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. *Id.* 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. *Id.*

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

As shown in the below annotated Figures, Burchia discloses a second container comprising a **second coupler** extended from the second container. Ex. 1004, Figs. 2, 3; Ex. 1003, ¶¶86-88.

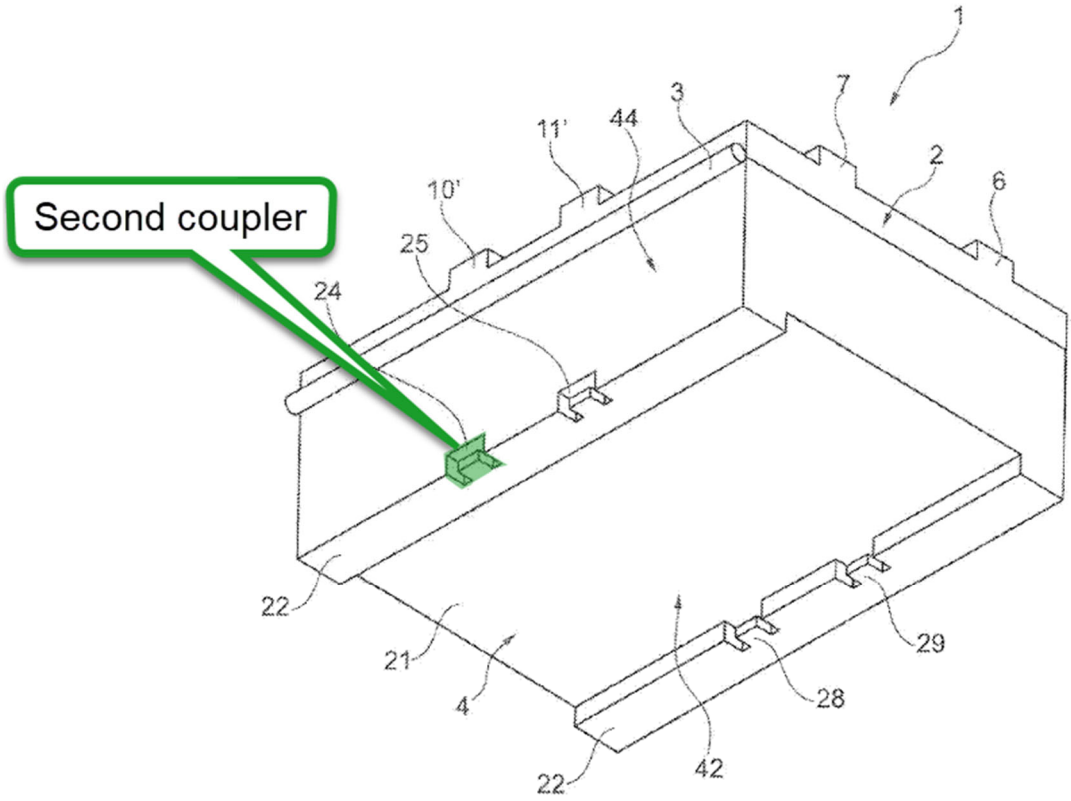


Fig. 2

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, 10:36-43.

In the below annotated sectional representation, the **second coupler** can also be seen extending from the (bottom face of the) second container. Ex. 1003, ¶88.

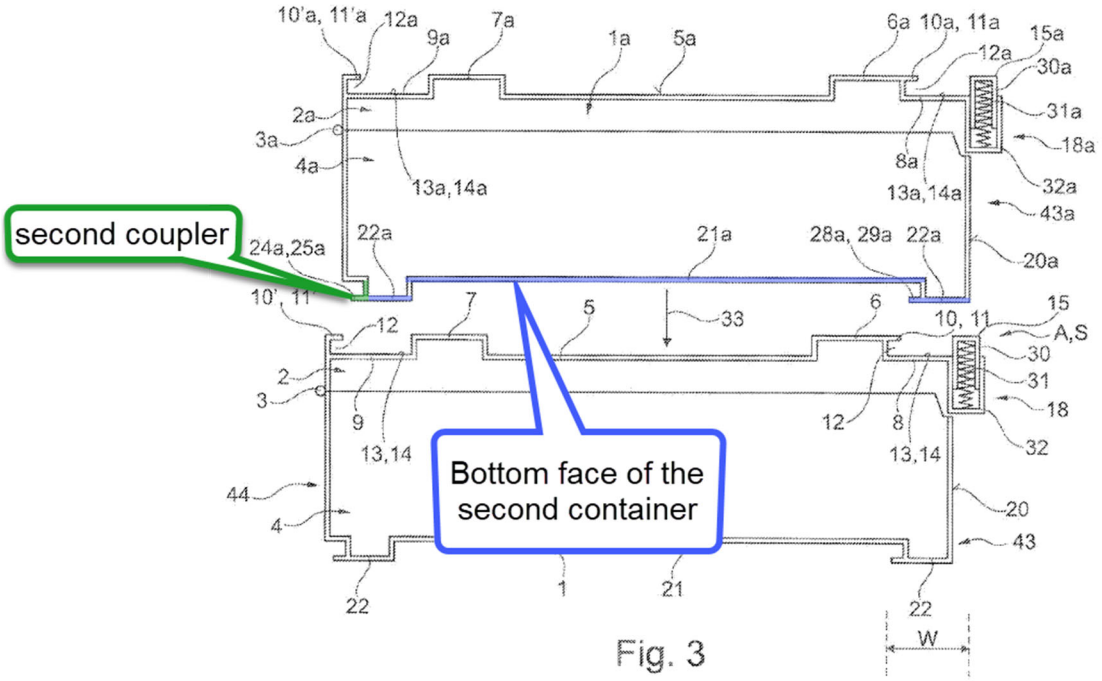


Fig. 3

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. Ex. 1003, ¶89. Metabowerke calls its **second coupler** a "rear standing foot 13."

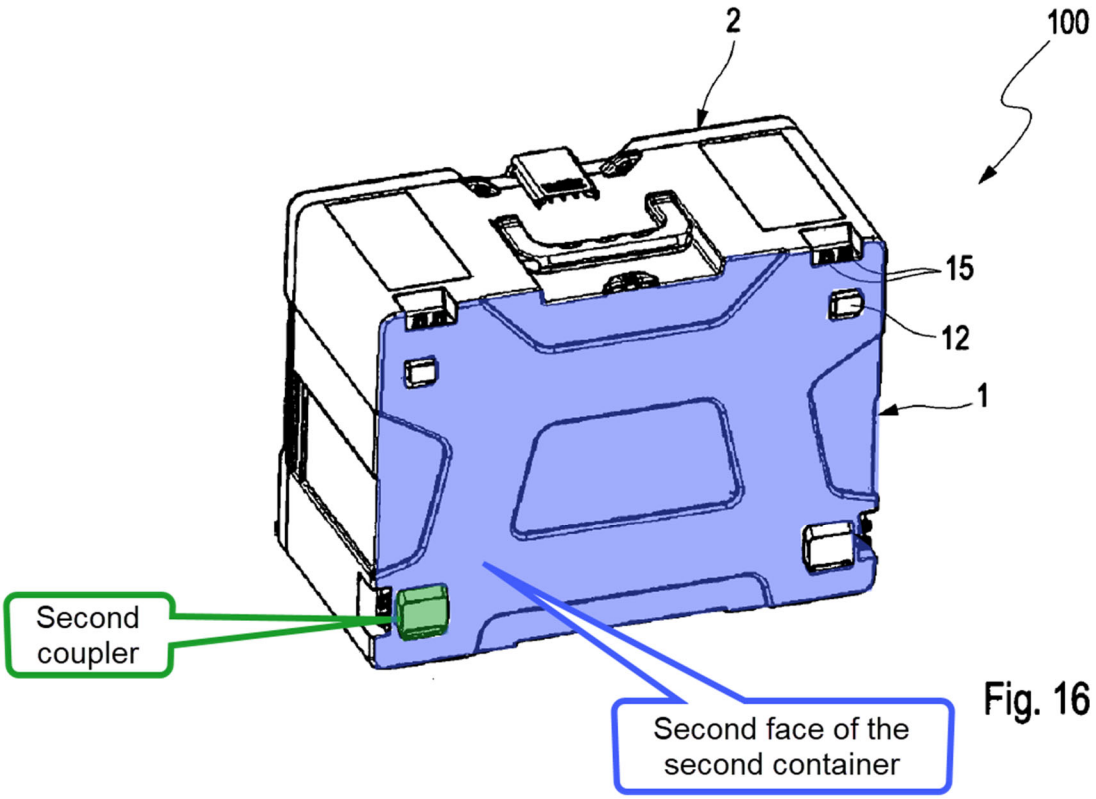


Fig. 16

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

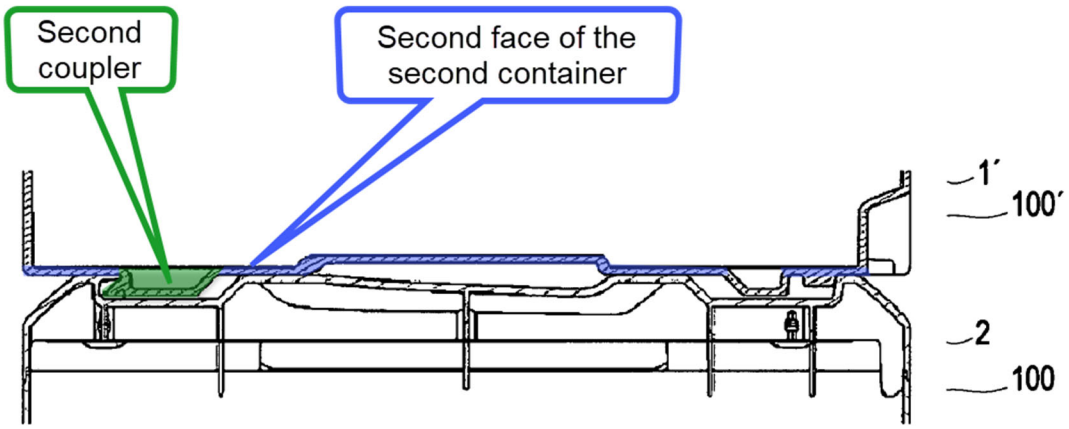


Fig. 4

Id., ¶90.

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;

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:

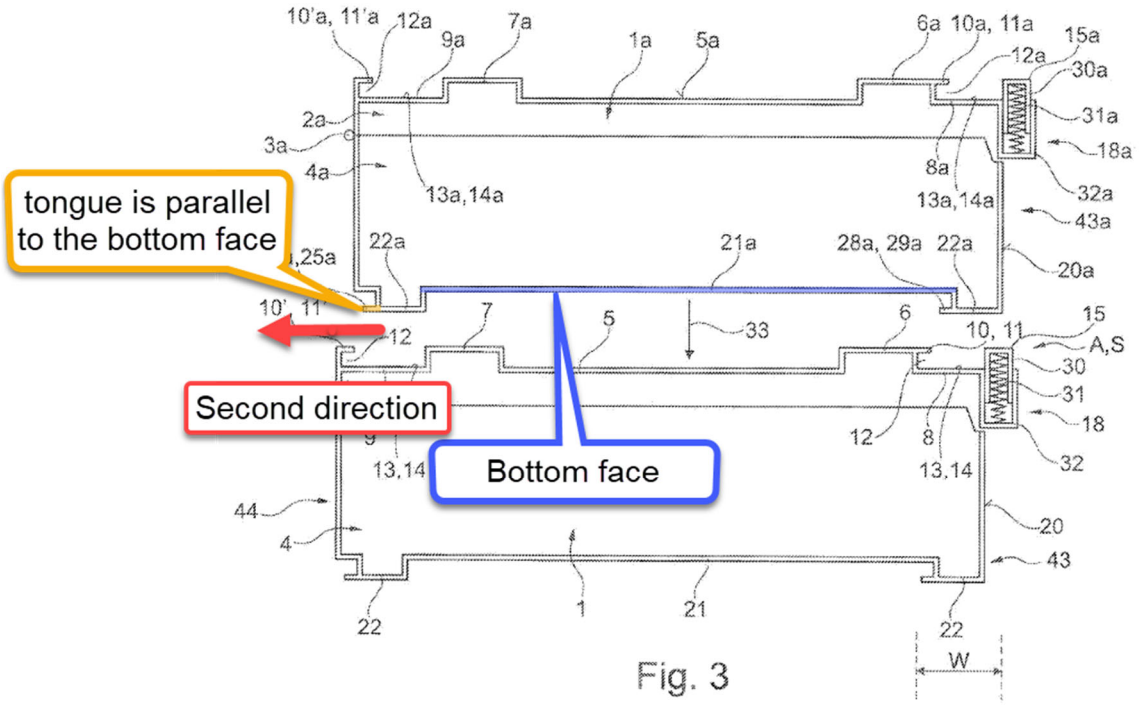


Fig. 3

Ex. 1003, ¶¶91-92.

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**.

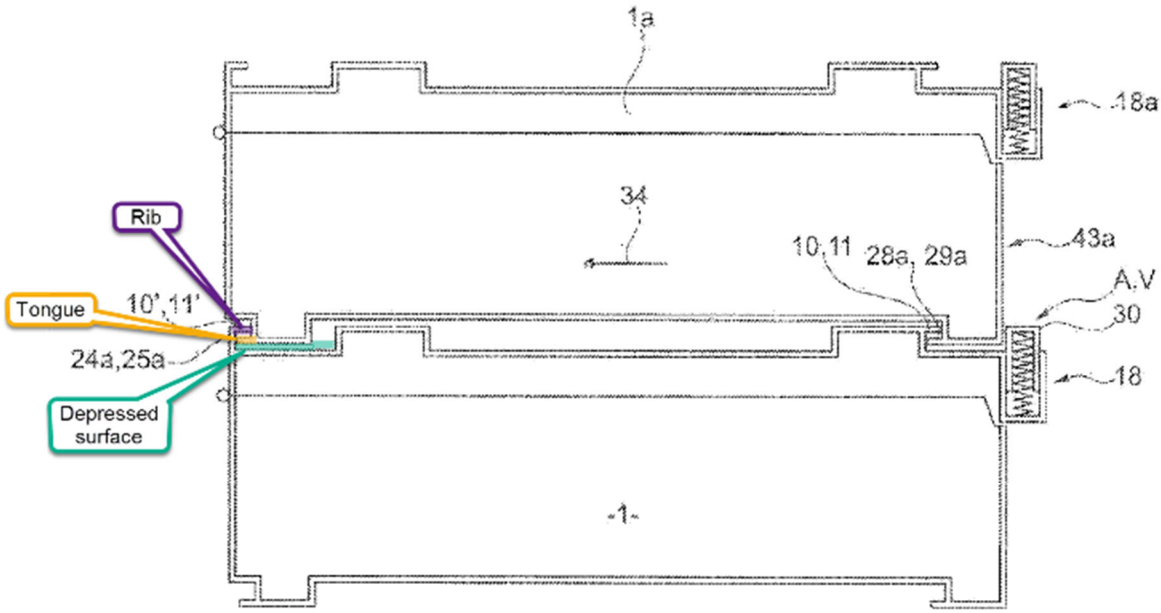


Fig. 5

Id., ¶92.

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. *Id.*, ¶93. 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 rib and the depressed surface, as shown below:

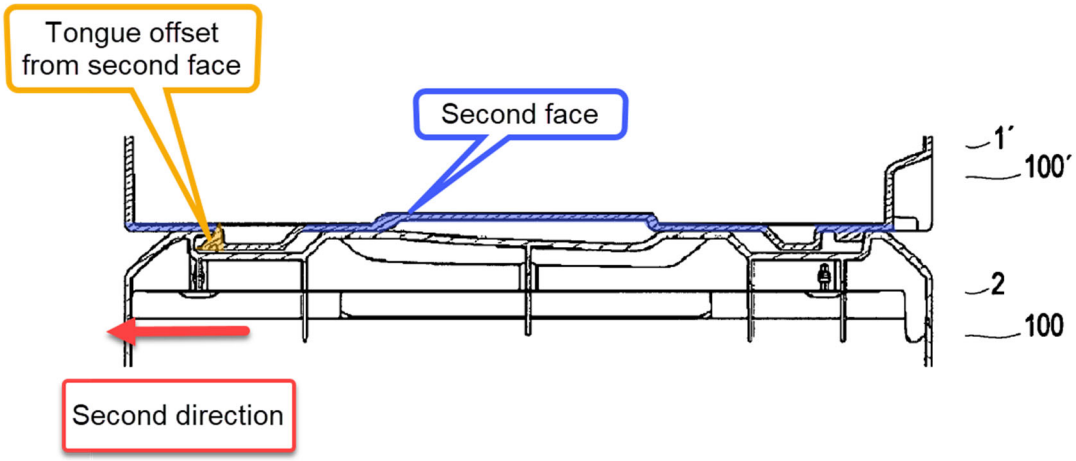


Fig. 4

Id.

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

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. Ex. 1003, ¶¶94-95.

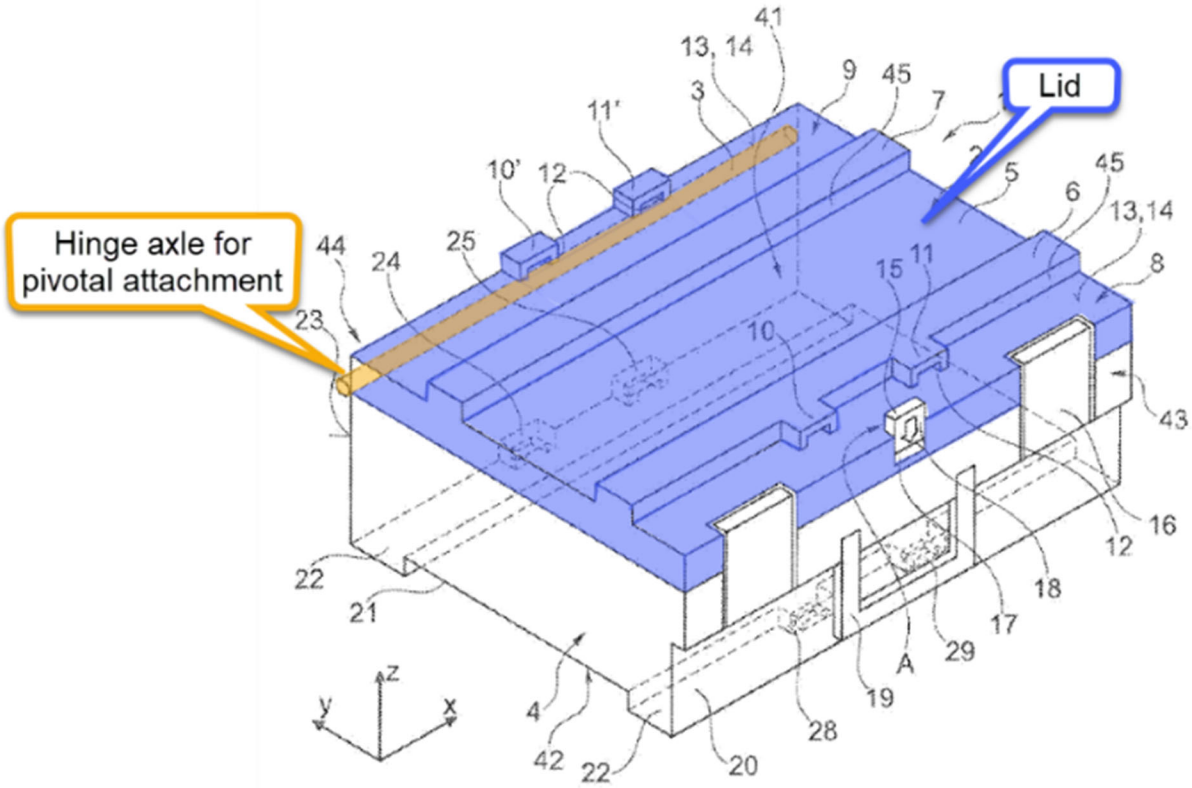


Fig. 1

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**. *Id.*, ¶95.

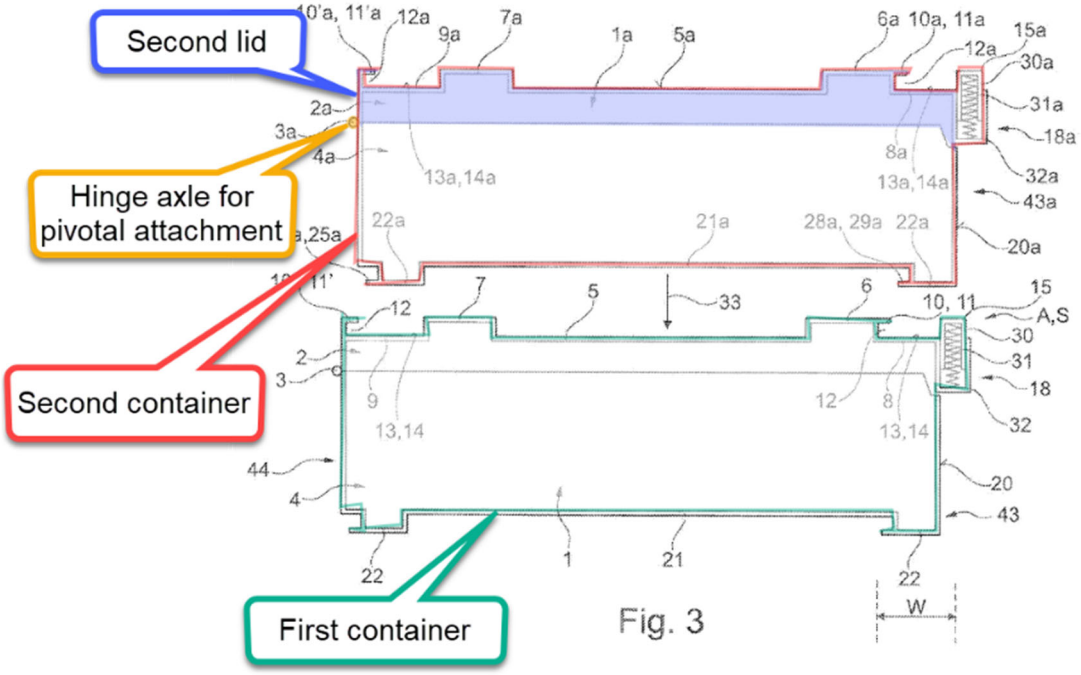


Fig. 3

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

As discussed above in connection with element 1[f], Burchia discloses that the lid is secured using closure latches, which are a type of toggle-locking latch. Ex. 1003, ¶¶96-97.

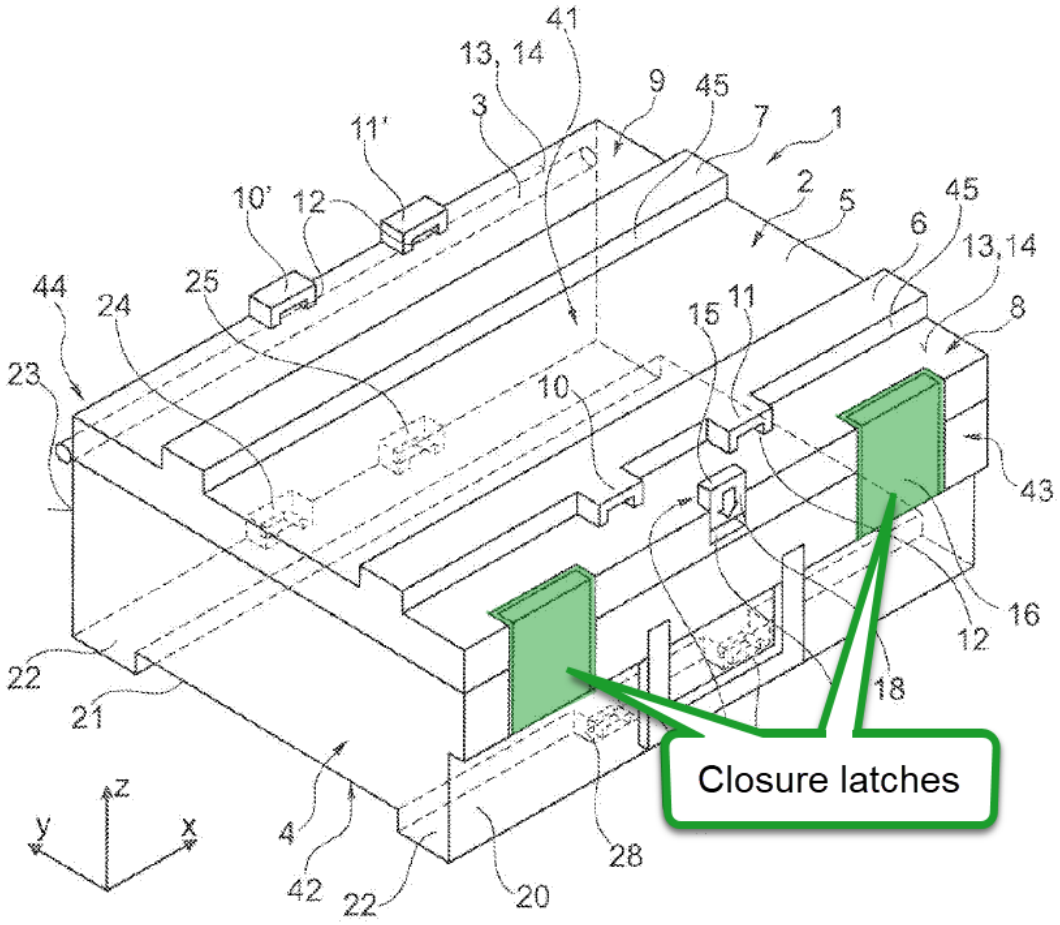


Fig. 1

As already discussed above in connection with limitation 1[f], toggle locking latches were an obvious way to lock a toolbox lid. *Id.*, ¶97.

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

Burchia has a **front face**, a **first side face**, and an **opposing side face**. Ex. 1003, ¶¶98.

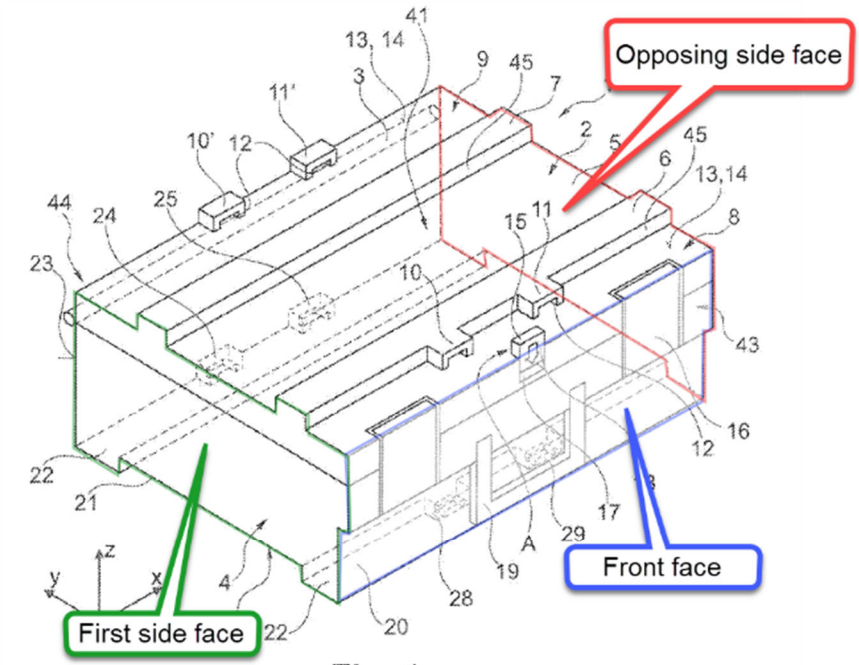
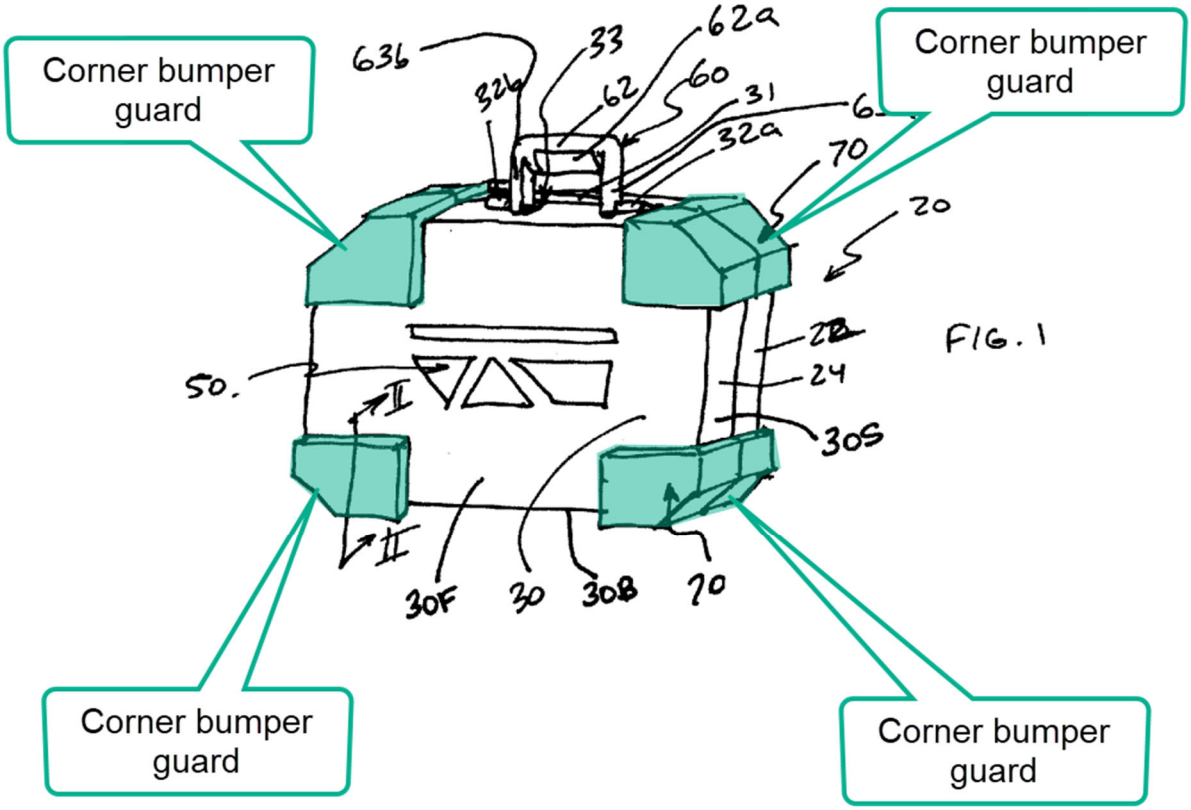


Fig. 1

It would have been obvious to a POSITA to include a first corner bumper, as such a bumper would provide additional protection to the corner of the container and was an obvious design option. Ex. 1003, ¶¶98-102.

Indeed, the examiner, in connection with the related '026 patent, 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)." Ex. 1002 at 281. 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.[6]



[6] Indeed, numerous references identified in Ex. 1003, ¶¶101-102 (Exs. 1025-1028) show the obviousness of adding corner bumpers to modular toolboxes.

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;

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. Ex. 1003, ¶103. 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. *Id.*

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;

As shown in the annotated Figures below, the **sliding path** is defined by the **rib** and **tongue**. Ex. 1004, Figs. 4, 5; Ex. 1003, ¶105. 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. Ex. 1003, ¶105.

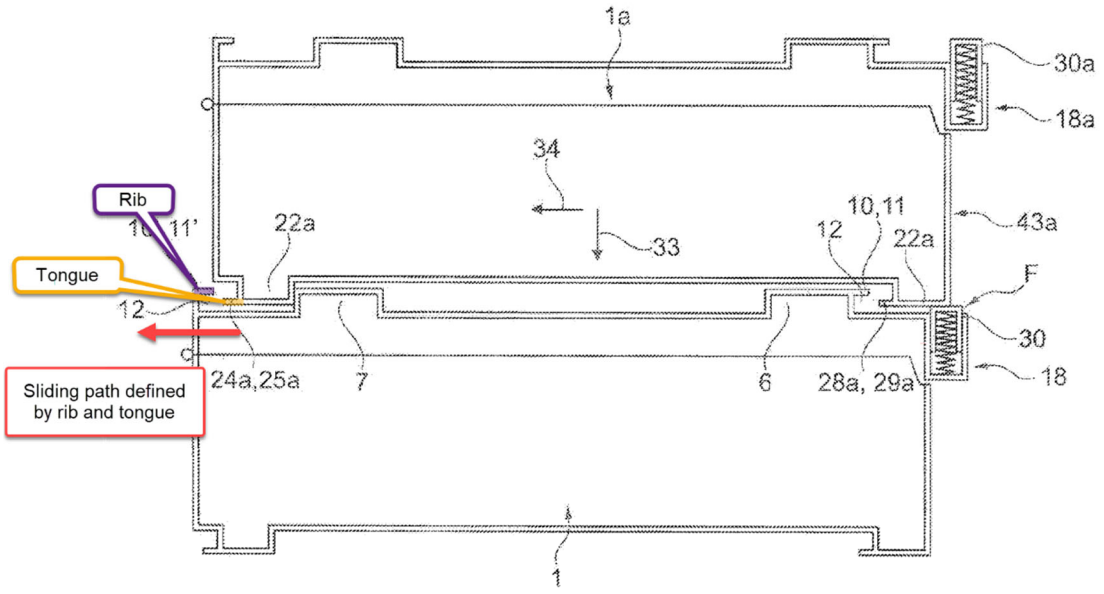


Fig. 4

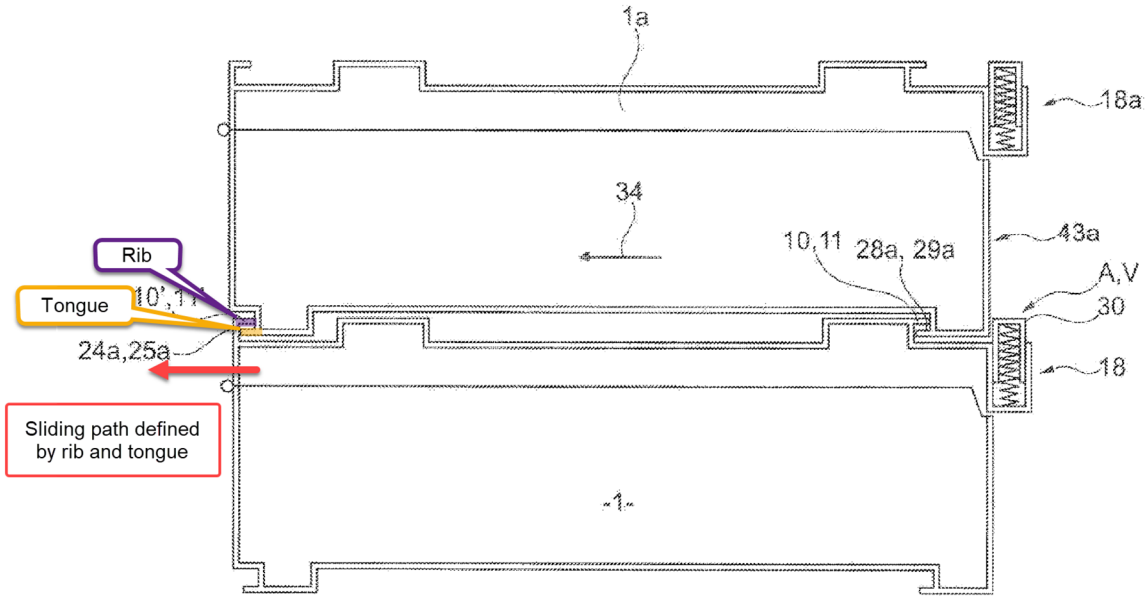


Fig. 5

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. *Id.*, ¶106. 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. *Id.*

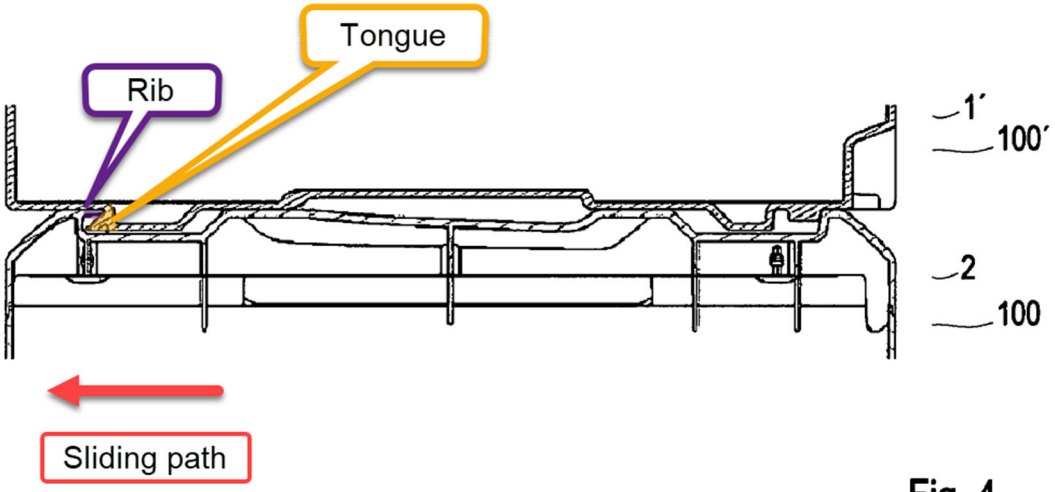


Fig. 4

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

Burchia discloses a **locking latch arresting location** defined by the lower front face of the second (top) container. Ex. 1003, ¶¶107-113. Burchia describes that its containers have a "locking element for securing the plug-in connection to prevent release." Ex. 1004, 11:34-36; Ex. 1003, ¶107. 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. *Id.*, ¶107.

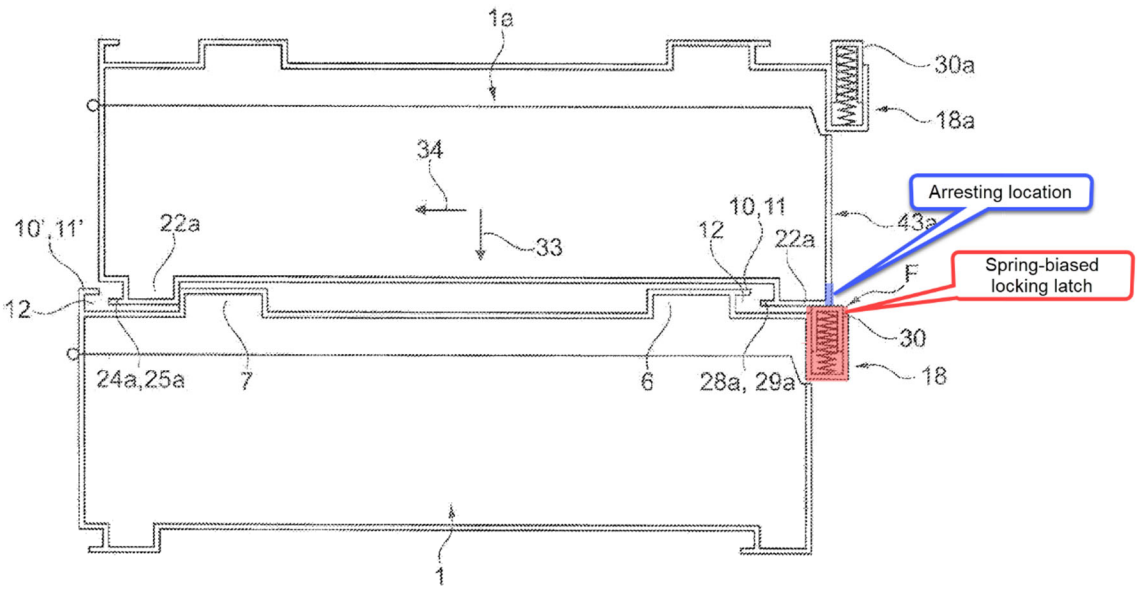


Fig. 4

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; Ex. 1003, ¶108. The stop position for the **locking latch** is on the lower front face of the second container and is a **locking latch arresting location**. *Id.*

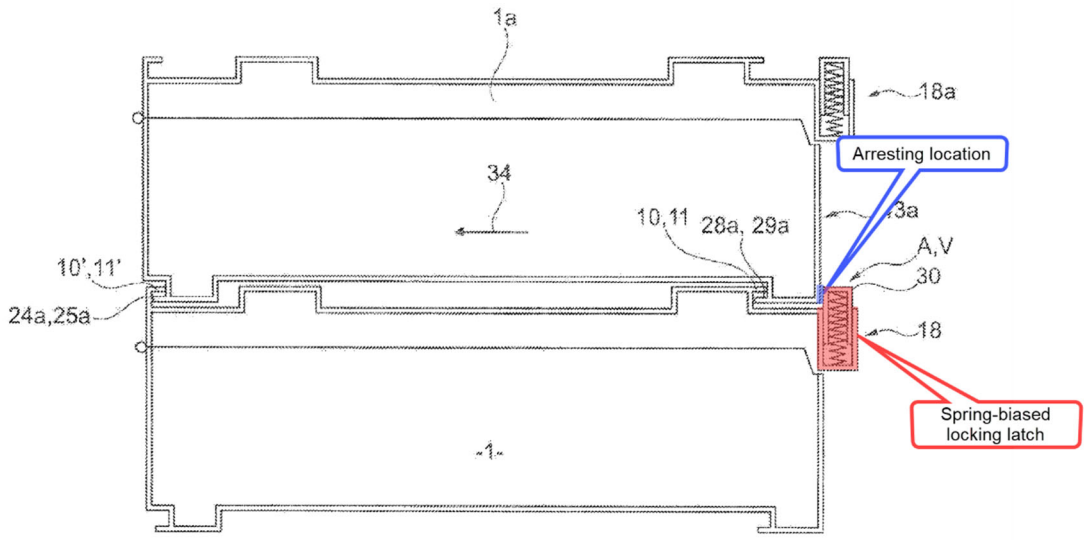


Fig. 5

Burchia explains that the "stop surface" is brought into contact against the locking element in the locking position to hold the locking element in place. Ex. 1004, 6:42-47; Ex. 1003, ¶109. Burchia explains that the "stop surface" can be on a face of the container. *Id.* An exemplary stop surface on the front face of the container is shown as element 20a in Figure 3. *Id.*

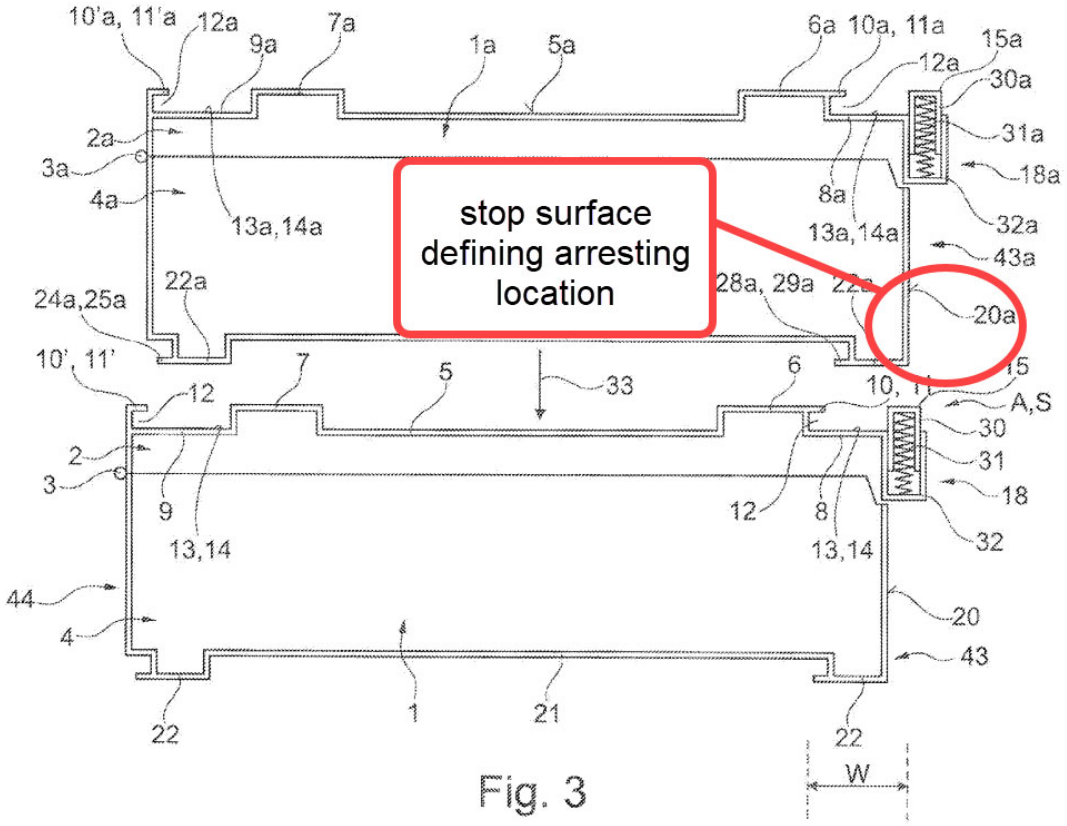


Fig. 3

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 recess. Ex. 1004, 6:48-50; Ex. 1003, ¶110. 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. 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. Ex. 1003, ¶110.

A POSITA would further understand that using a setback surface or recess would protect the locking mechanism, making it more robust in transportation and preventing a user from unintentionally unlatching the lock. *Id.*, ¶111.

An illustration of one manner of using a "setback surface" as a "stop surface" is shown below in annotated Figure 5. *Id.*, ¶112. 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. *Id.* 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. *Id.*

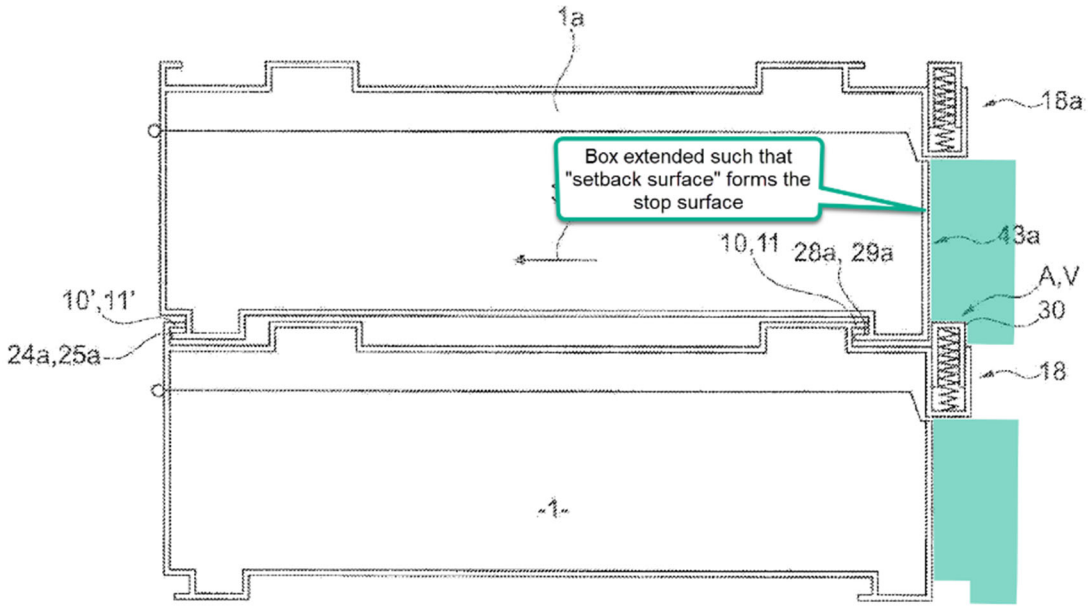


Fig. 5

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

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.

Burchia's **locking latch** is shown in annotated Figure 5 below. Ex. 1003, ¶114.

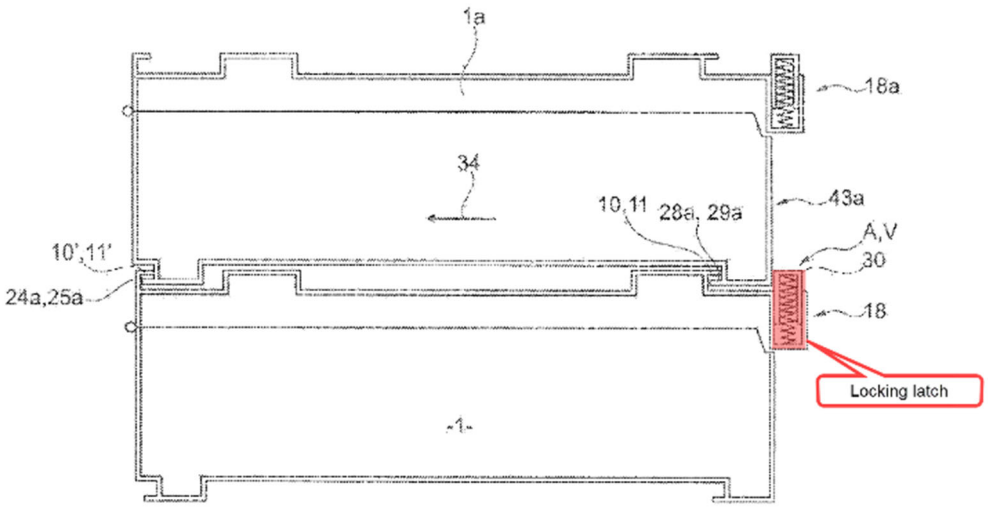


Fig. 5

Figures 4 and 5 show the **locking latch** being positioned in a locked position in the **locking latch arresting location**. *Id.*, ¶115. In Figure 4, the **locking latch** is depressed downward to allow the container to couple. Ex. 1004, 12:53-58; Ex. 1002, ¶109.

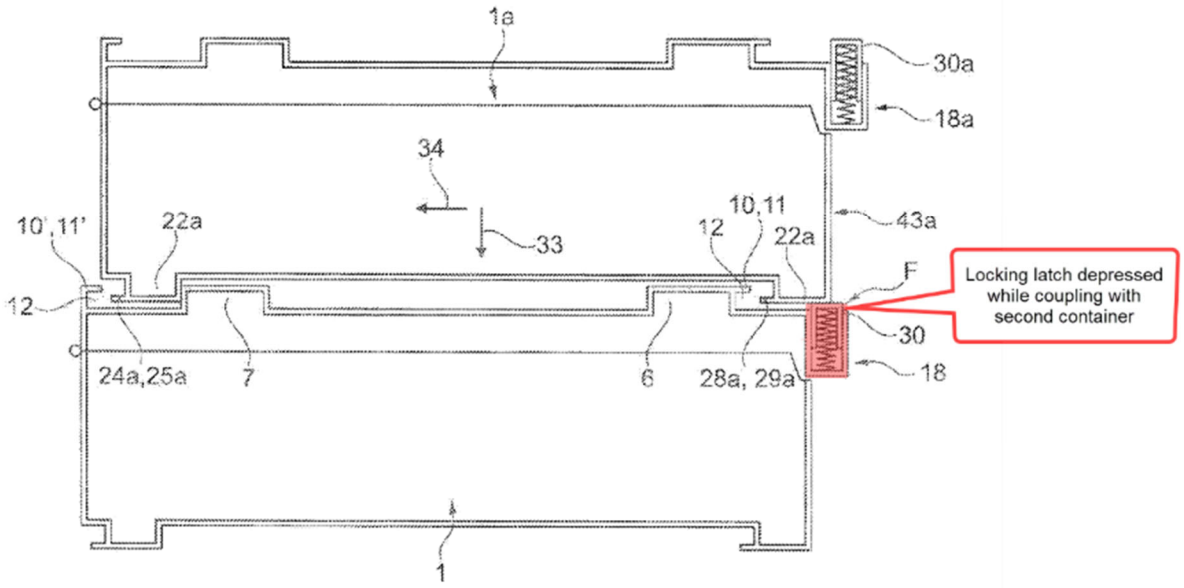


Fig. 4

In Figure 5, the **locking latch** enters the **locking latch arresting location**, thereby locking the containers together. Ex. 1003, ¶117.

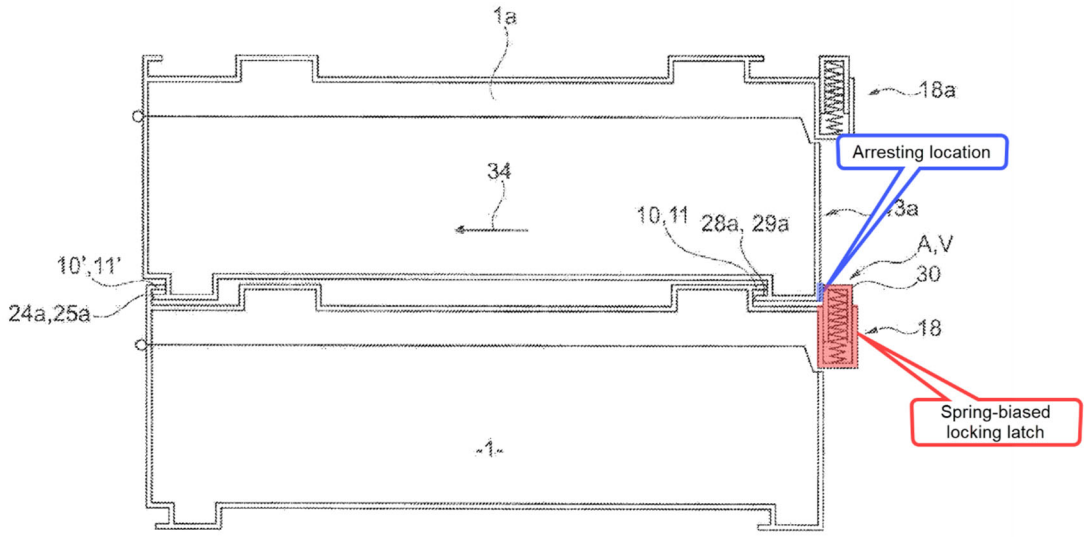


Fig. 5

As explained with respect to element 1[l], Burchia also teaches that the locking latch arresting location can be a "setback surface" or recess rather than the lower front face of the container. Ex. 1003, ¶118. 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 (*id.*):

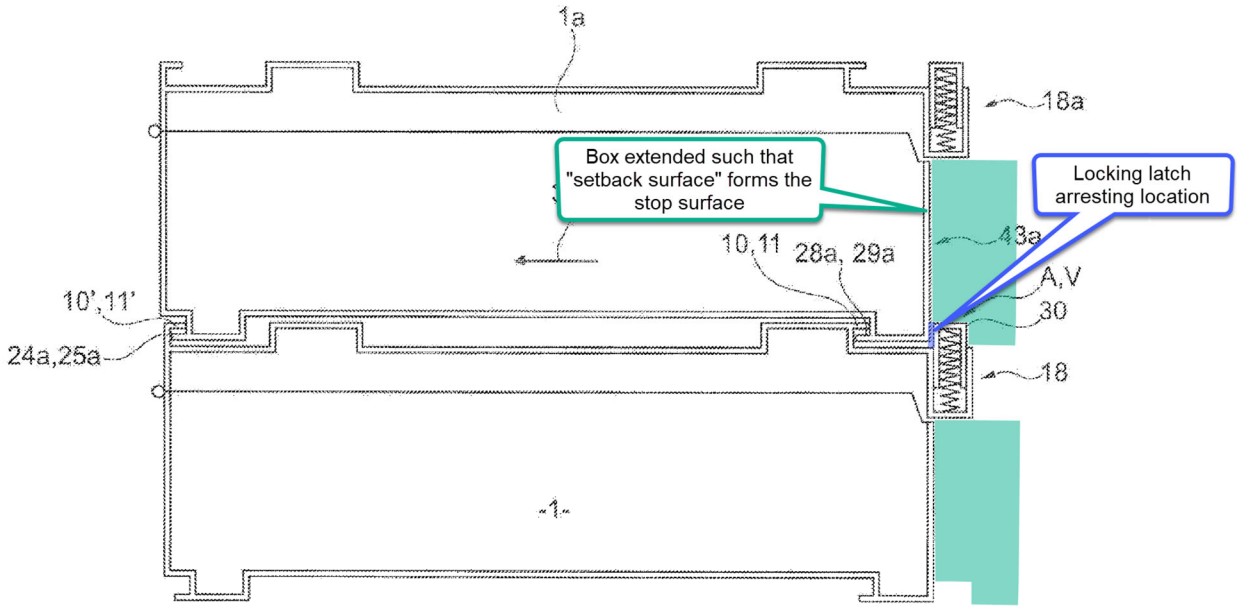


Fig. 5

The locking latch limits sliding displacement of the first container with respect to the second container. *Id.*, ¶119. 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. Ex. 1003, ¶119.

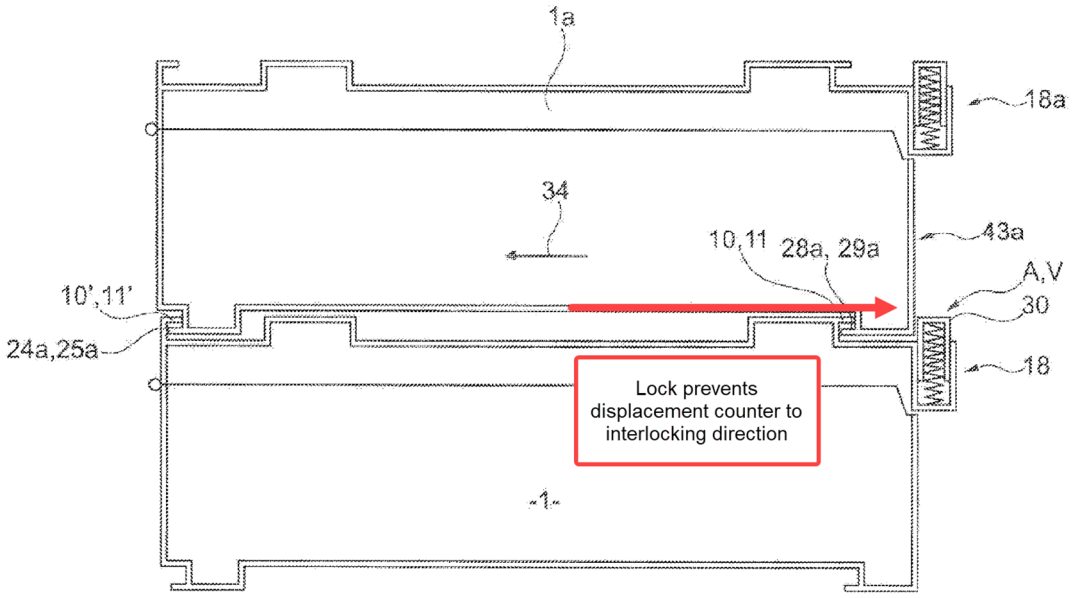


Fig. 5

Burchia further describes that displacement is prevented until the user "manually press[es] the sliding part 30 downward . . ." Ex. 1004, 13:9-16; Ex. 1003, ¶120.

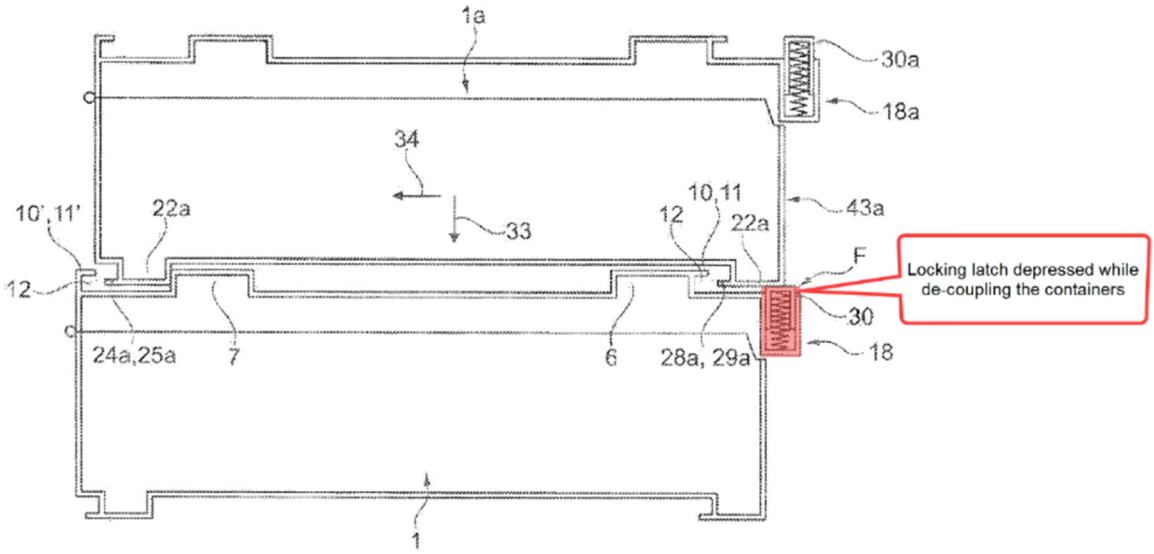


Fig. 4

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

As shown in the below annotated Figure, Burchia discloses a container assembly wherein the **sliding path** 34 is perpendicular to the **locking latch** 18. Ex. 1003, ¶122. 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. *Id.*

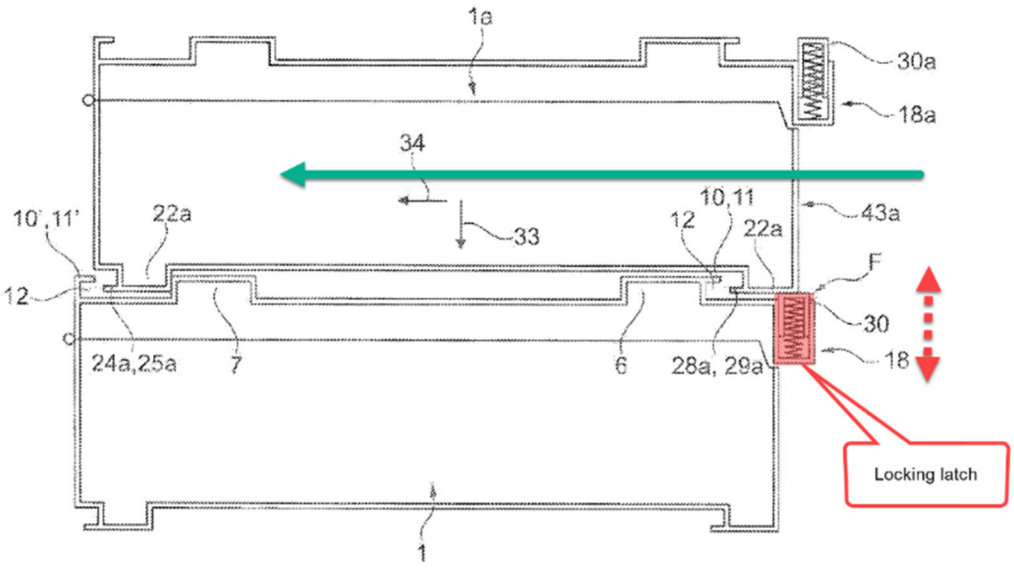


Fig. 4

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

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. Ex. 1003, ¶¶123-125. The green line reflects how far it extends in its default, biased position.

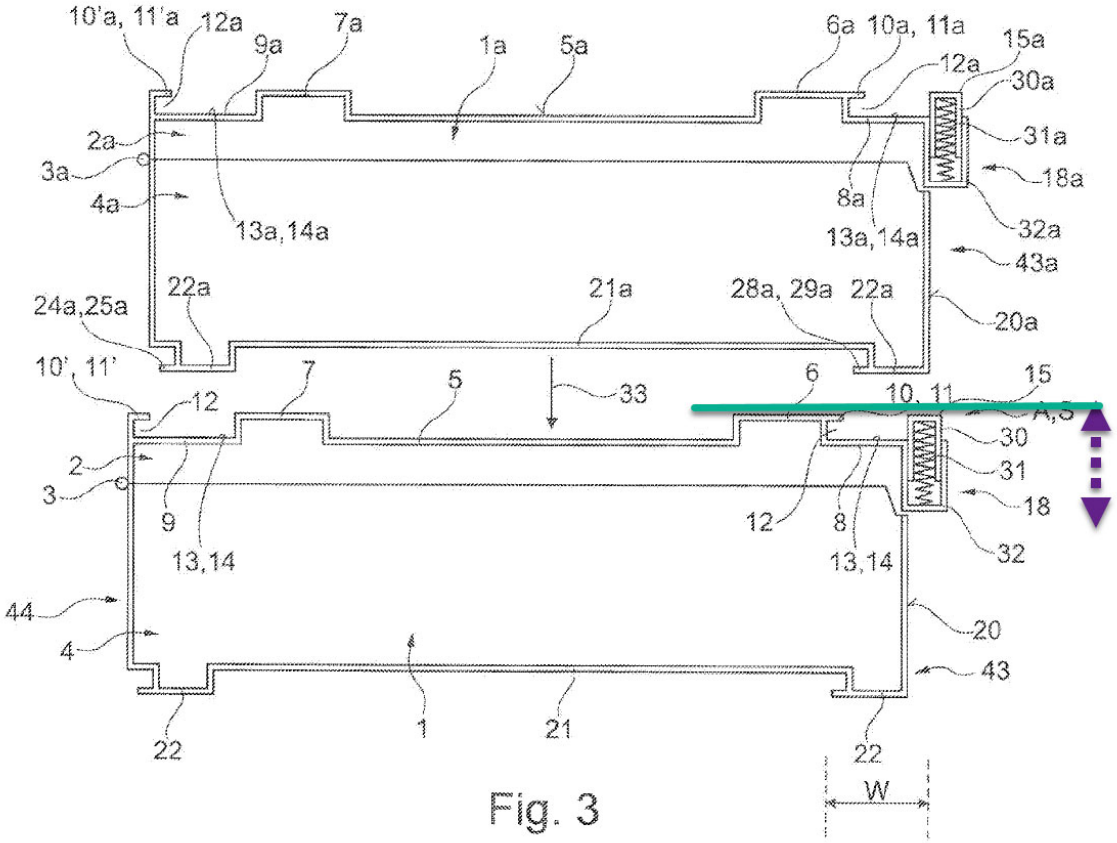


Fig. 3

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. *Id.*, ¶124.

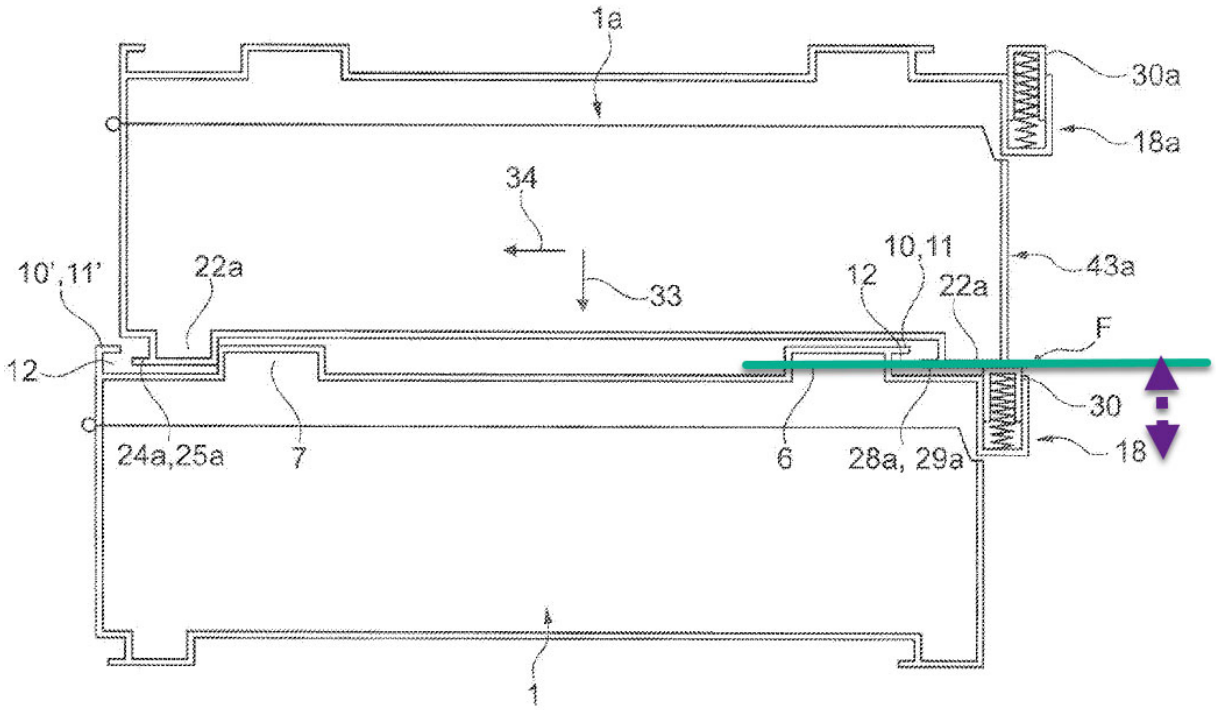


Fig. 4

In Figure 5, the locking latch enters the locking latch arresting location, thereby locking the containers together. *Id.*, ¶125. 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. *Id.*

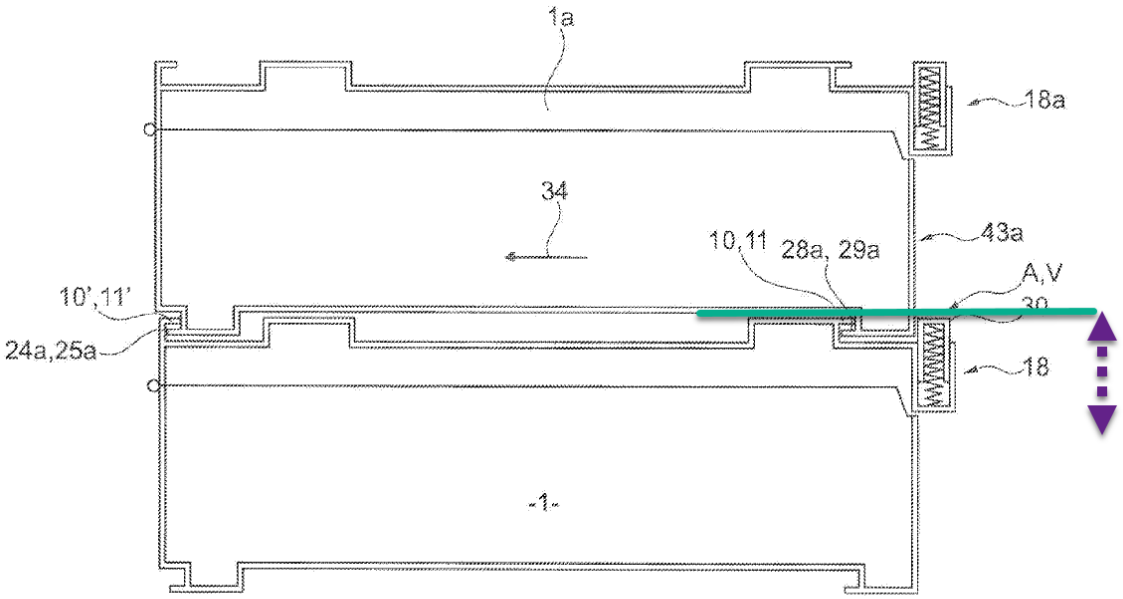


Fig. 5

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.

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. Ex. 1003, ¶126. 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.

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 would understand includes "**toggle locking latches**." Ex. 1003, ¶¶127-128.

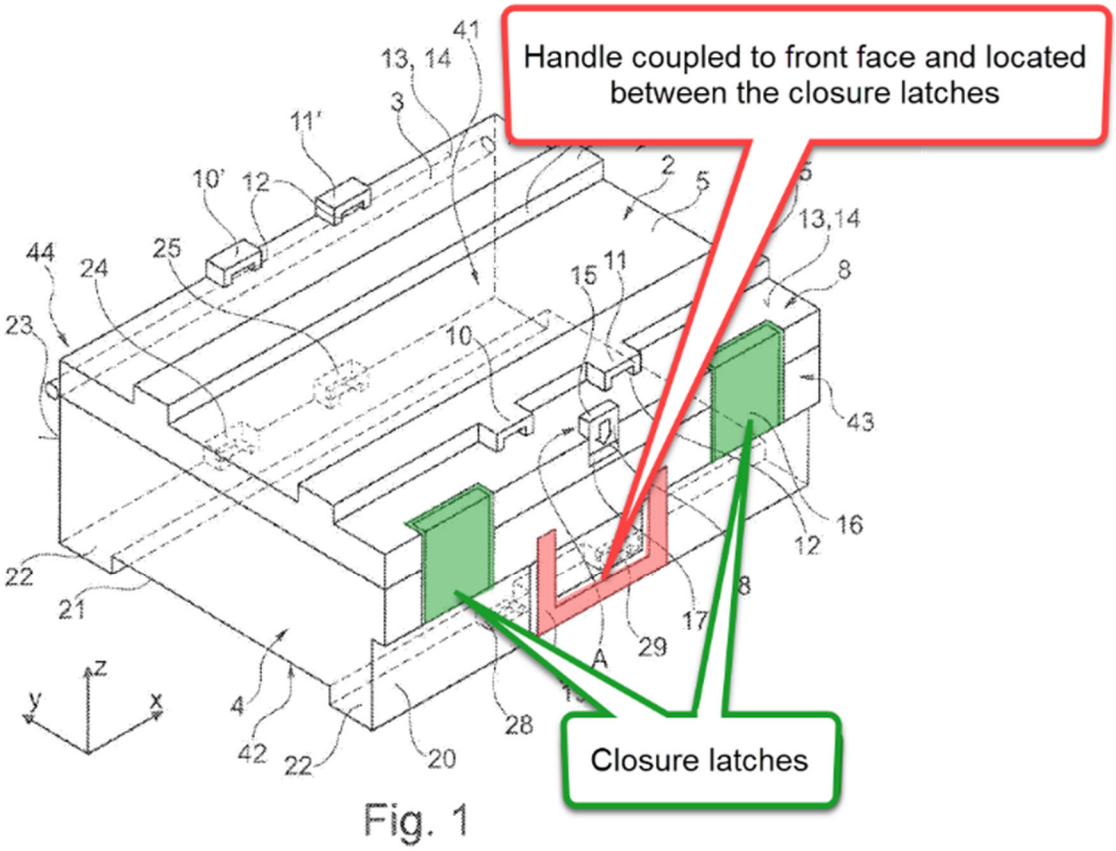


Fig. 1

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

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.

As shown in the annotated Figure 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. Ex. 1003, ¶¶129-131.

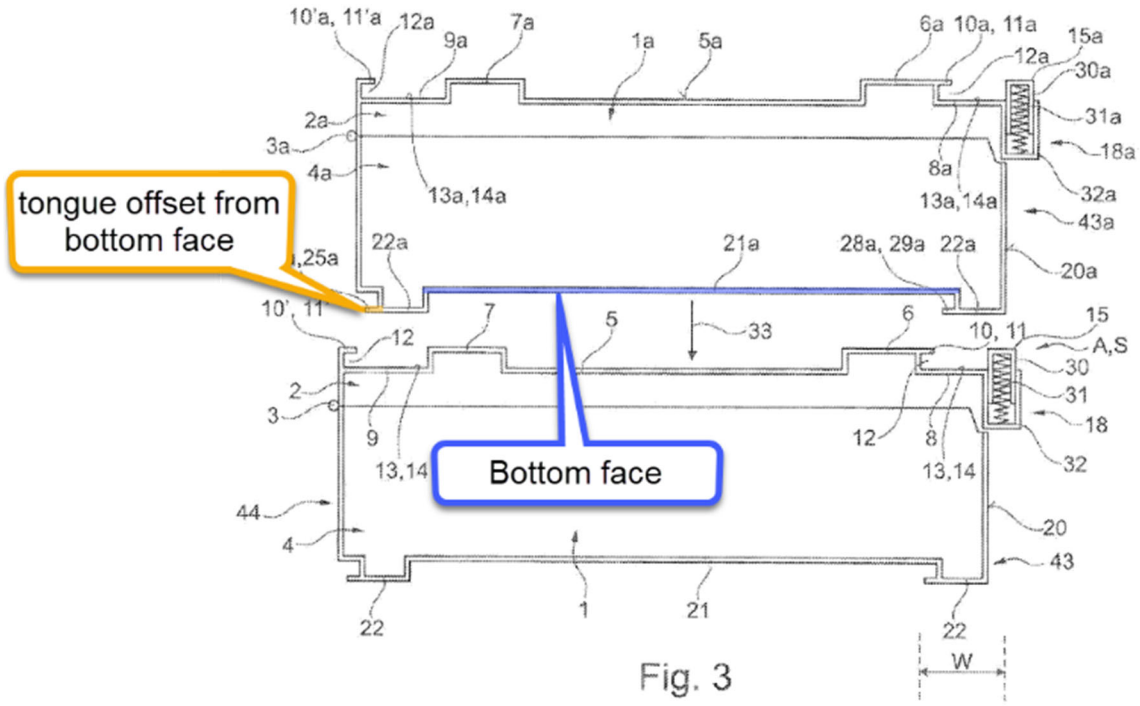


Fig. 3

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

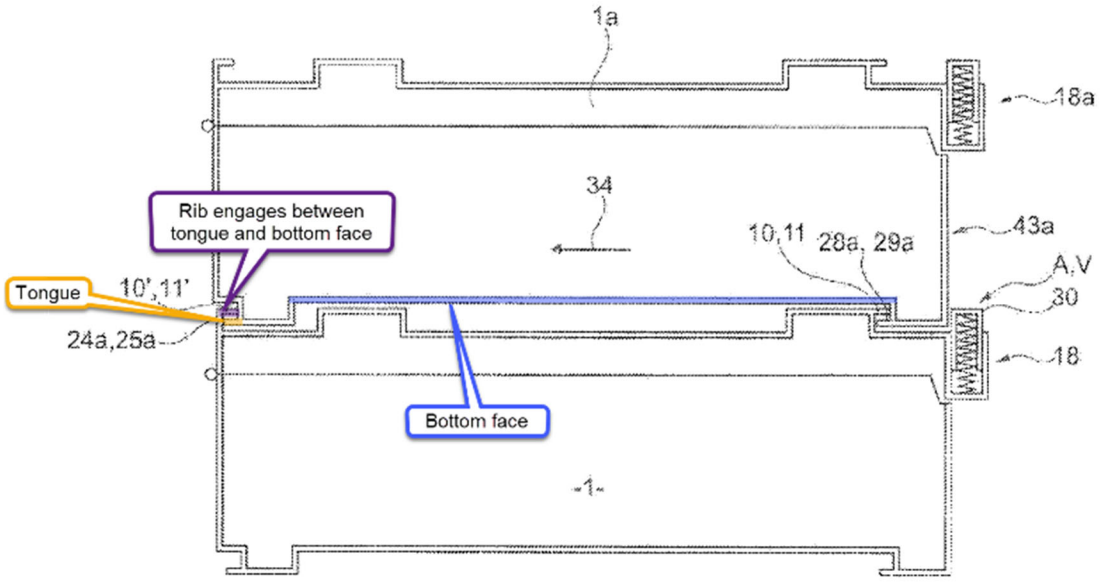


Fig. 5

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. *Id.*, ¶131. 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. *Id.*

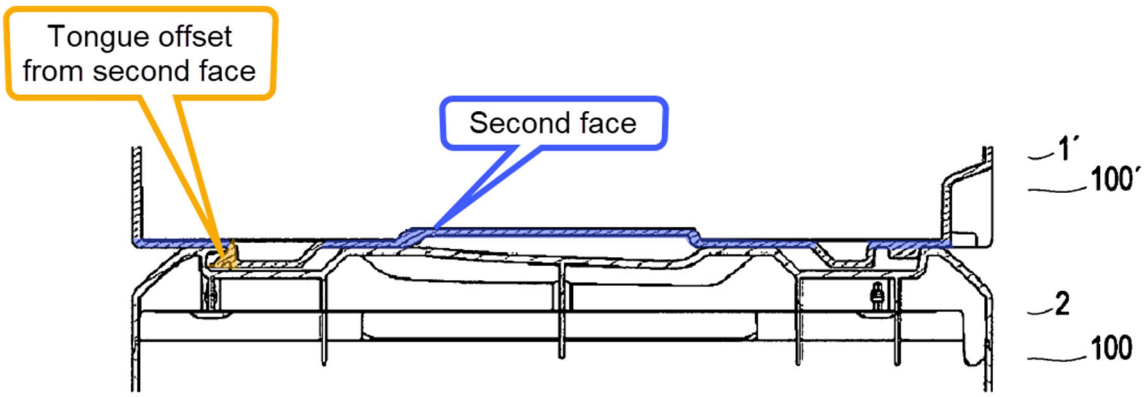


Fig. 4

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.

Burchia's first container defines a **width axis parallel to a front face of the first container**, as shown in the annotated Figure 1 below. Ex. 1003, ¶132.

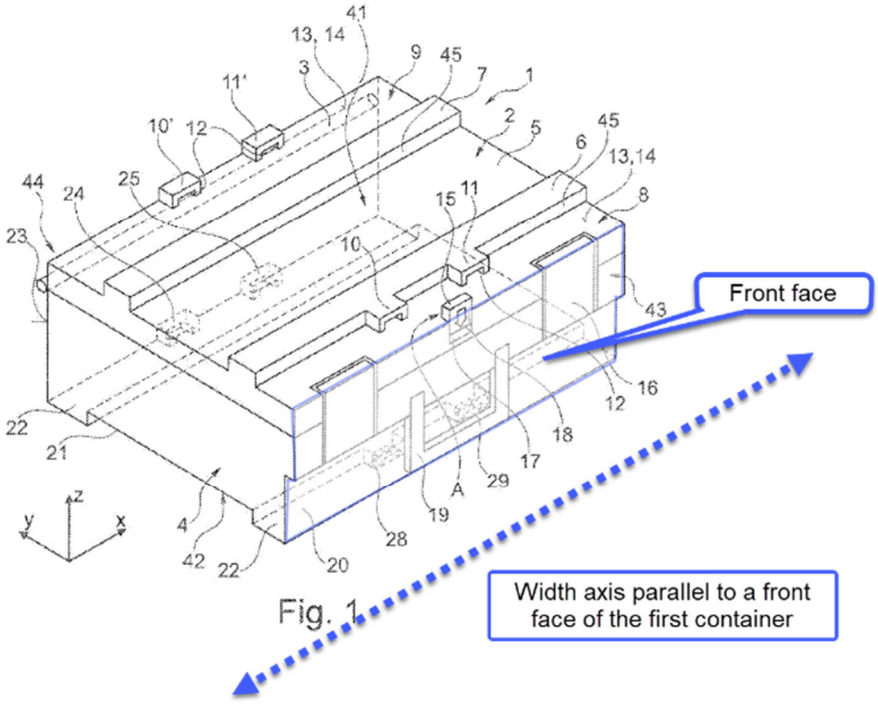


Fig. 1

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

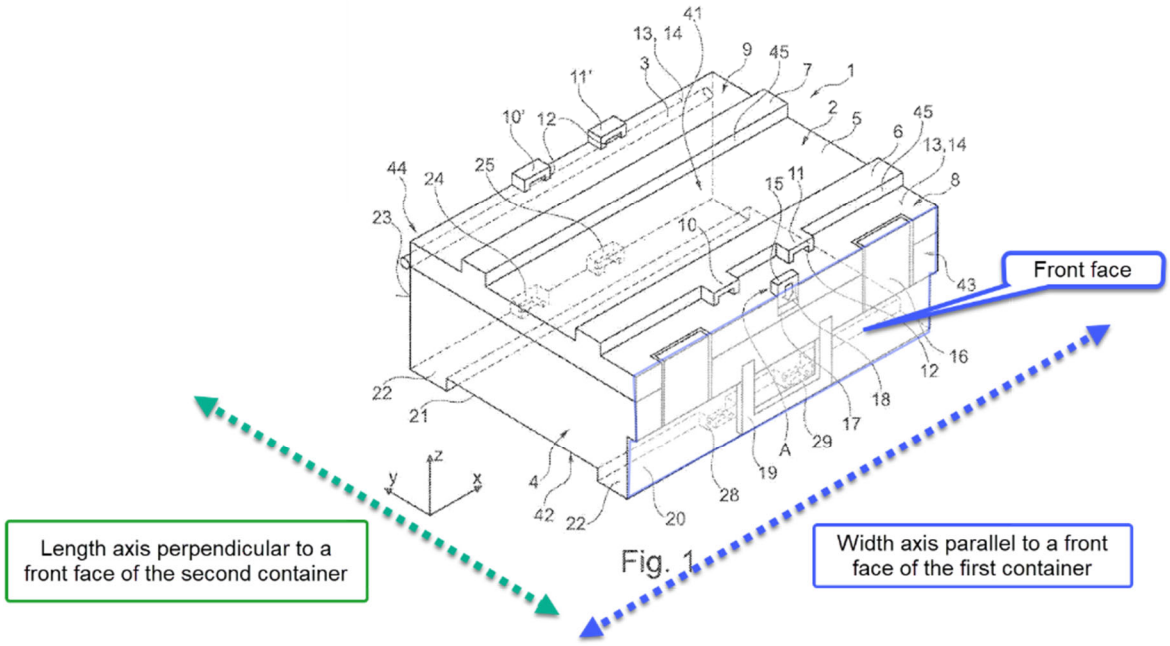


Fig. 1

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. *Id.*, ¶134.

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.

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 an obvious design choice for a POSITA to include such wheels and telescoping handle for the sake of mobility of the container assembly. Ex. 1003, ¶¶135-137. 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. 1020, ¶[0001]. With wheels being the most obvious way to assist moving an assembly of potentially heavy items. Ex. 1003, ¶135.

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."). *Id.*, ¶136.

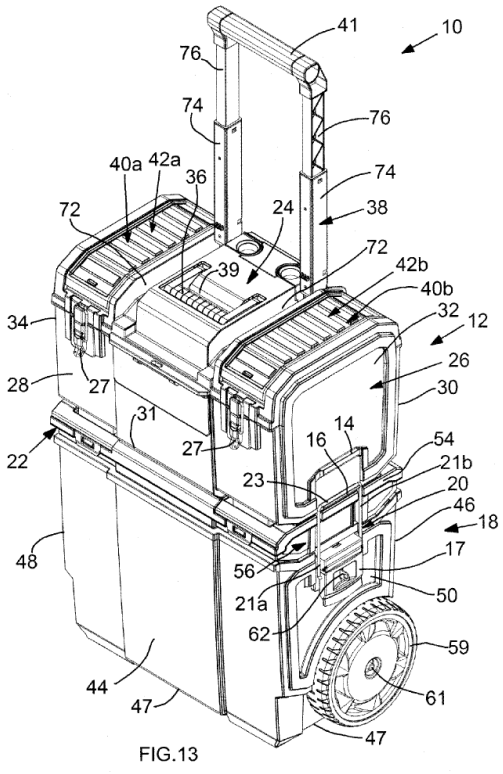


FIG.13

The addition of a telescoping handle on the rear wall of the first (bottom) container for mobility was an obvious design choice for a POSITA. *Id.*, ¶137.

J. Claim 9

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. Ex. 1003, ¶138.

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]

Claim 9[h] is similar to claim 1[h] and differs only in that 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. *Id.*, ¶139. This is shown expressly in Burchia, as shown in the below annotated Figures 3 and 5. *Id.*

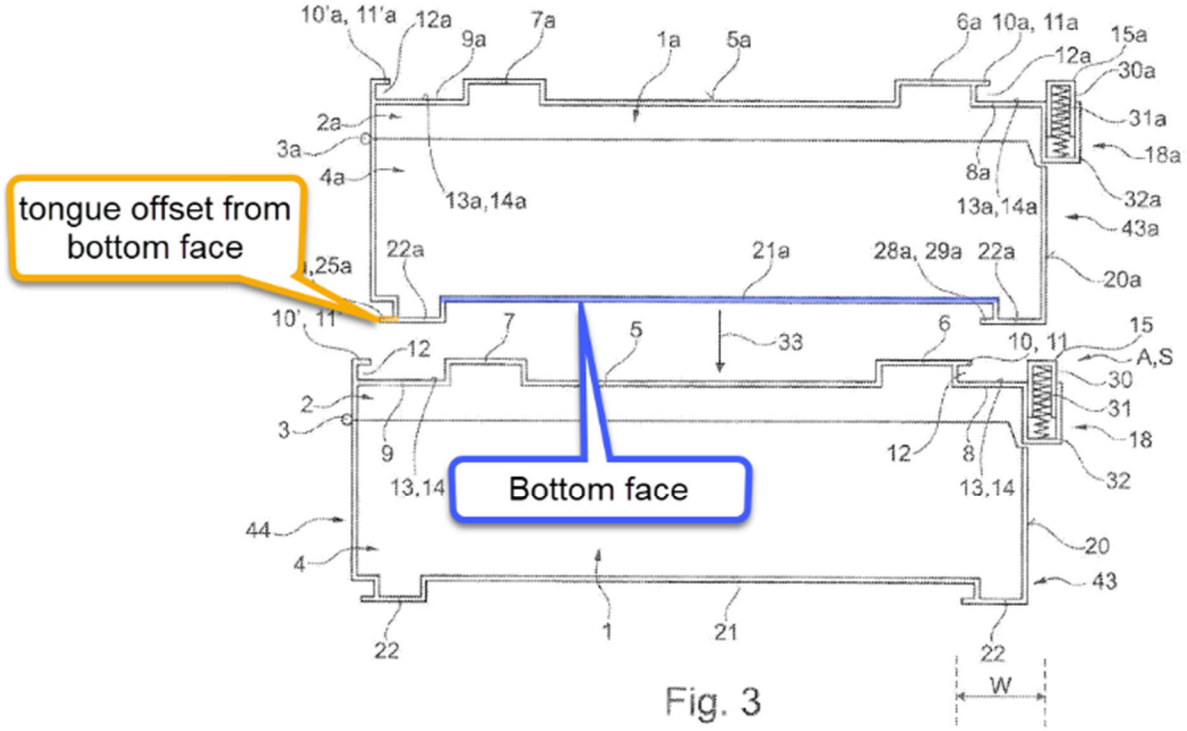

tongue offset from bottom face
Bottom face
10'a, 11'a
12a
9a
7a
1a
5a
6a
10a, 11a
15a
30a
31a
18a
32a
43a
20a
2a
3a
4a
13a,14a
8a
22a
21a
28a, 29a
10', 11'
12
7
5
33
6
10, 11
15
A,S
30
31
18
32
2
3
9
13,14
44
4
20
43
22
1
21
W

Fig. 3

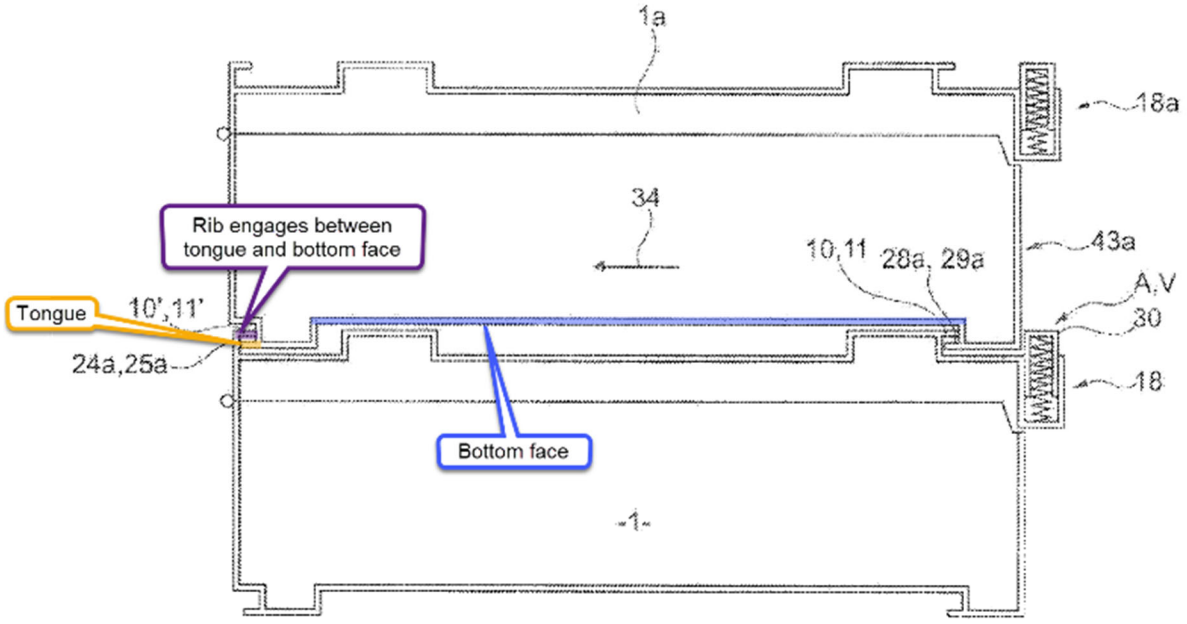

1a
18a
34
Rib engages between tongue and bottom face
10,11
28a, 29a
43a
A,V
30
Tongue
10',11'
24a,25a
18
Bottom face
1

Fig. 5

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. *Id.*, ¶140. 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**. *Id.*

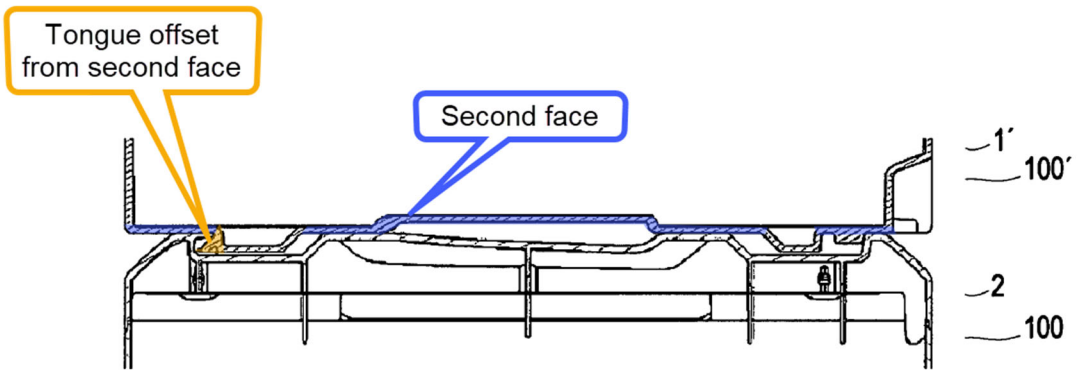


Fig. 4

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. *Id.*, ¶141.

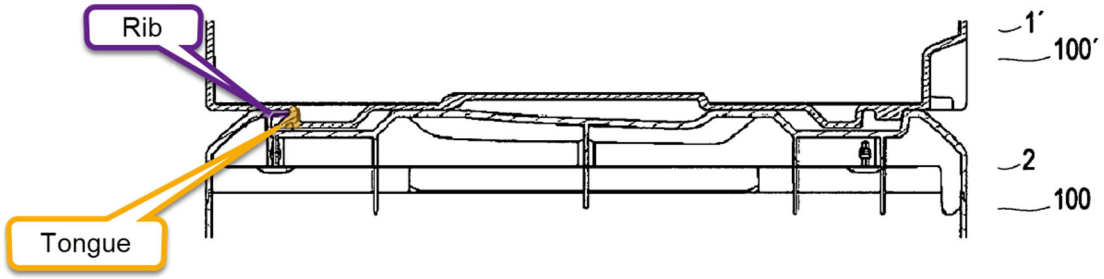


Fig. 4

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

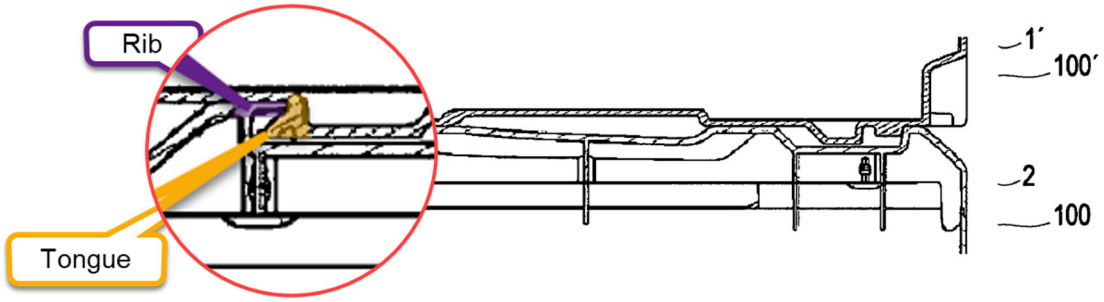


Fig. 4

L. Claim 10:

As discussed above in connection with claim 1[k] and 1[l], it would have been obvious to a POSITA to include corner bumpers, as discussed above. *Id.*, ¶144.

M. Claim 11

As discussed above in connection with claim 2, Burchia discloses a container assembly wherein the sliding path is perpendicular to the locking latch. *Id.*, ¶145.

N. Claim 12

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. *Id.*, ¶146.

O. Claim 13

As discussed above in connection with claim 4, it would have been an obvious design choice for a POSITA to make different size containers (e.g., half a width of the first container). *Id.*, ¶147.

P. Claim 14

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**." *Id.*, ¶148.

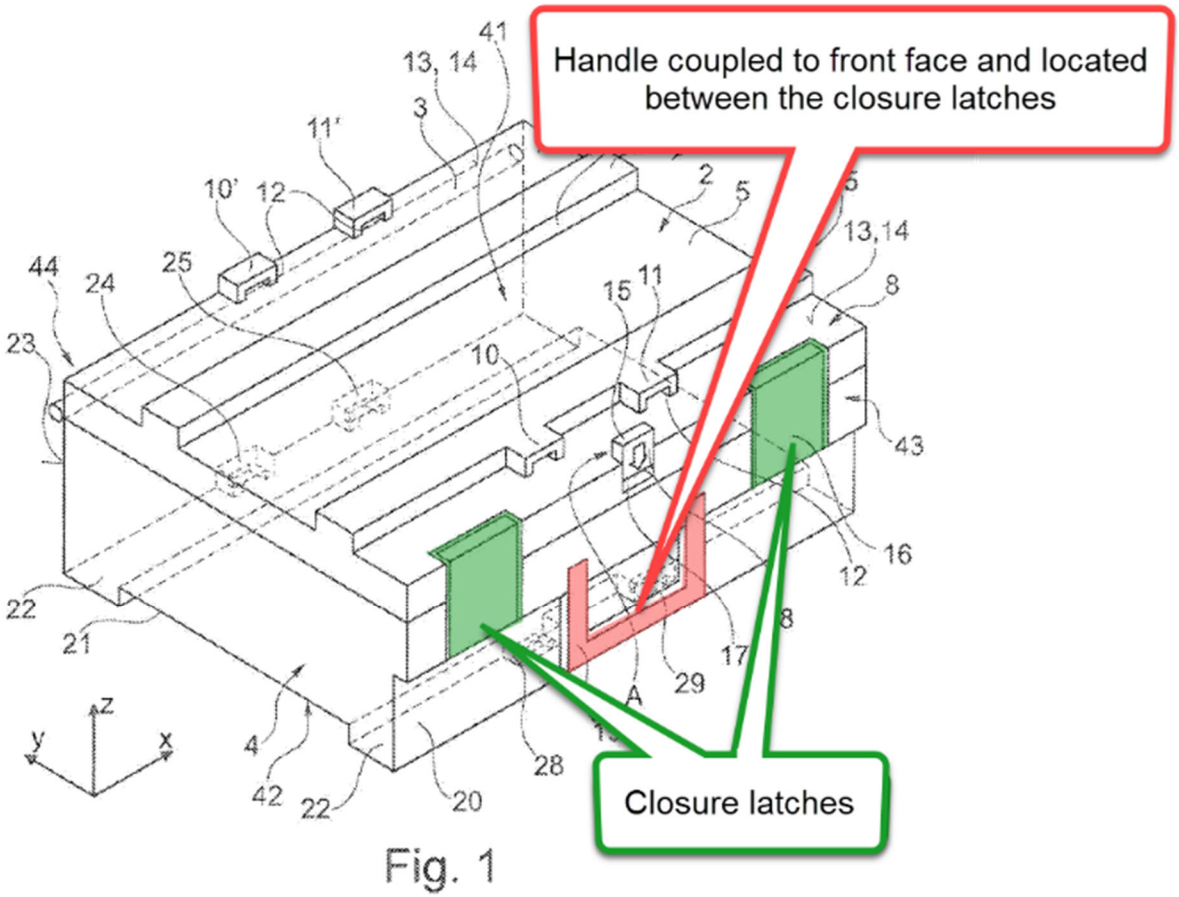


Fig. 1

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. *Id.*, ¶149.

Q. Claim 15

As discussed above in connection with claim 7, Burchia discloses a width axis of the first container perpendicular to the length axis of the second container when the second container is coupled on top of the first container. *Id.*, ¶150.

R. Claim 16

As discussed above in connection with claim 8, it would have been an obvious design choice for a POSITA to include rear wheels and telescoping handle for the sake of mobility of the container assembly. *Id.*, ¶¶151-53.

S. Claim 17

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. *Id.*, ¶¶154-55.

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

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 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. *Id.*, ¶156.

U. Claim 19

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. *Id.*, ¶157.

V. Claim 20

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. *Id.*, ¶158.

W. Claim 21

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**." *Id.*, ¶¶159-160.

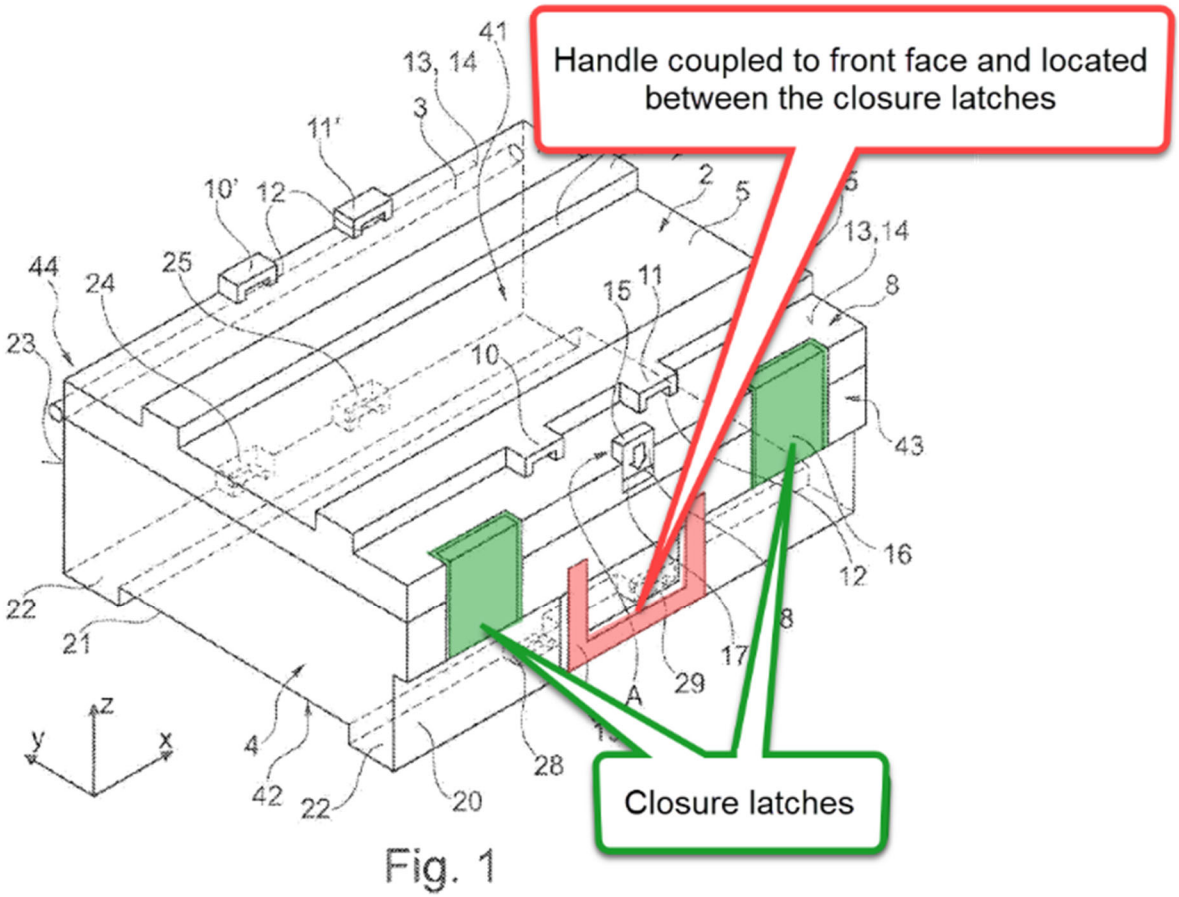


Fig. 1

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. *Id.*, ¶160.

X. Claim 22

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. *Id.*, ¶161.

Y. Claim 23

As discussed above in connection with claims 8 and 16, it would have been an obvious design choice for a POSITA to include rear wheels and telescoping handle for the sake of mobility of the container assembly. *Id.*, ¶¶162-64.

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

To the extent patent owner argues that Burchia lacks an "arresting location," it would have been obvious to modify Burchia according to Lafragette's teaching to include a recess as an arresting location. *Id.*, ¶¶165-175.

A. Motivation to Combine Burchia with Lafragette's Teachings

Patent owner may (incorrectly) argue that Burchia lacks an arresting location for its locking latch. As set forth above, Burchia expressly teaches multiple embodiments including arresting locations for its locking latch.

To the extent patent owner argues Burchia fails to disclose the claimed arresting location, it would have been obvious for a POSITA to have modified Burchia according to the teaching of Lafragette to include one. Ex. 1003, ¶¶166-174. Lafragette discloses a recess in one of its containers that serves as an arresting location for its locking latch. *Id.,* ¶166. 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. *Id.*

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. *Id.,* ¶167. 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. *Id.* 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). *Id.* 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. *Id.*

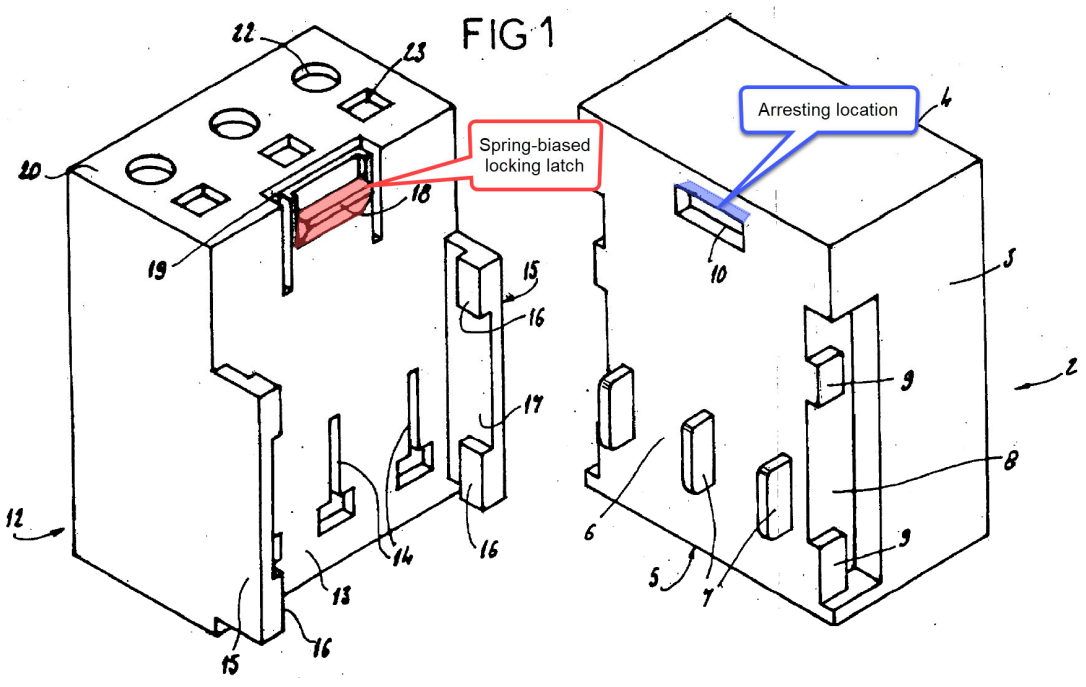
Moreover, a POSITA would have been motivated to use the recess of Lafragette in the container assembly of Burchia, for example, to provide additional protection and support to a spring-biased locking latch. *Id.*, ¶168. These are obvious design choices within the common knowledge and common sense of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

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. *Id.*, ¶169. 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. *Id.* A slot in the face of the latch could provide a place for a user to depress the latch to release the containers. *Id.*, ¶170.

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

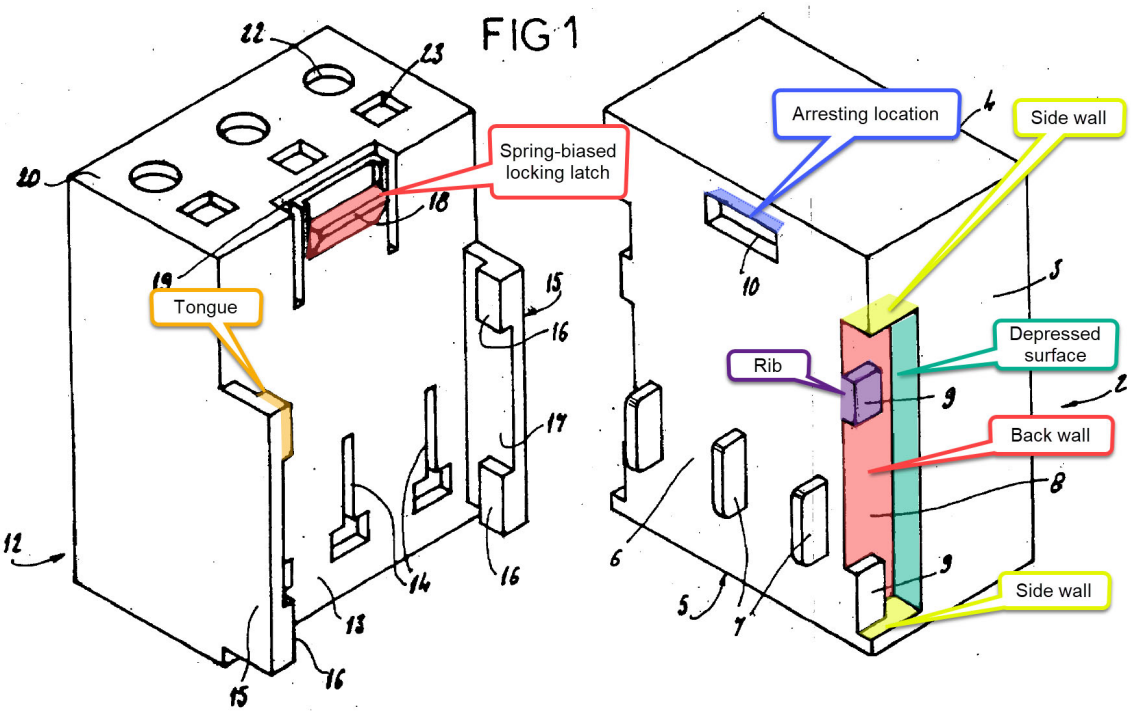
Lafragette also expressly discloses a **locking latch arresting location** defined as a recess in its second container. Ex. 1003, ¶¶171-175.

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; Ex. 1003, ¶172. The tab "penetrates the recess" "at the end of the longitudinal movement" used to couples the containers. Ex. 1005, ¶33; Ex. 1003, ¶172. 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):



Ex. 1003, ¶172.

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**. *Id.*, ¶173. The claimed features are annotated Fig. 1 of Lafragette below:

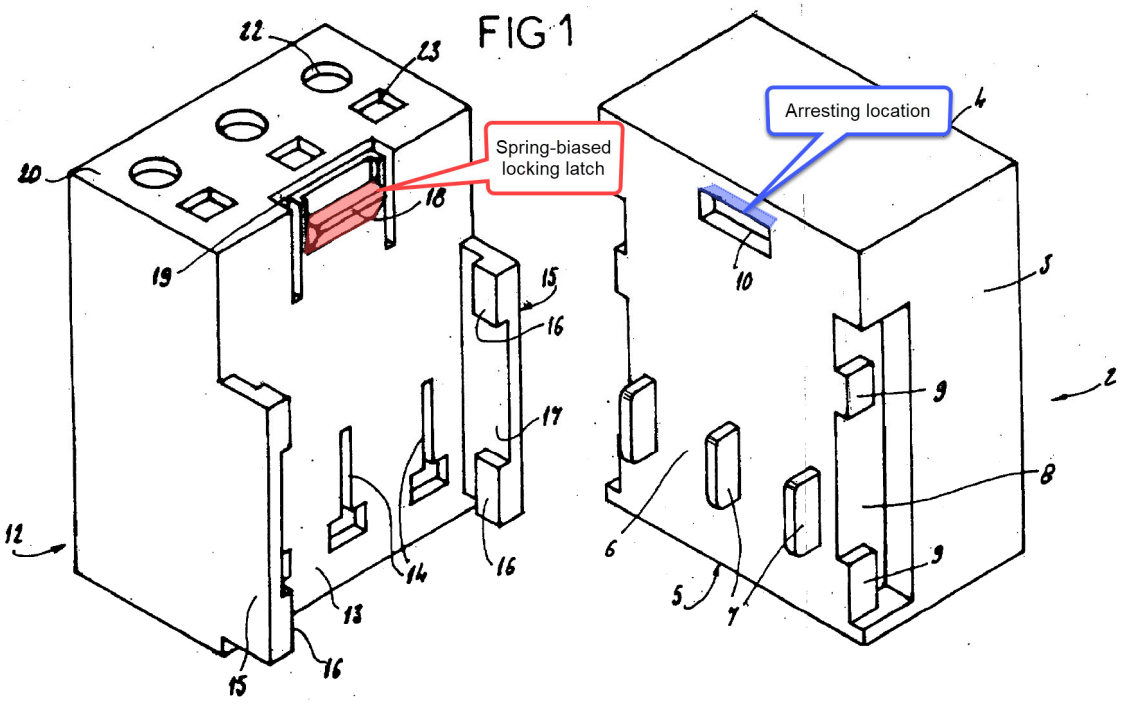


Id., ¶173.

As discussed above, 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. *Id.*, ¶174.

As noted above, Lafragette also discloses a **spring-biased locking latch** that is positionable in a locked position engaging the **locking latch arresting location**. *Id.*, ¶175. 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. *Id.*



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

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. *Id.*, ¶¶176-184.

A. Motivation to Combine

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

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

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

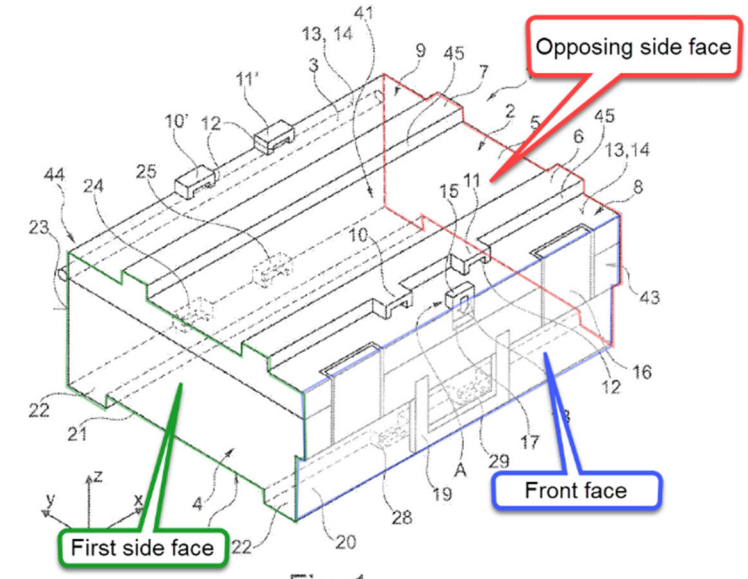
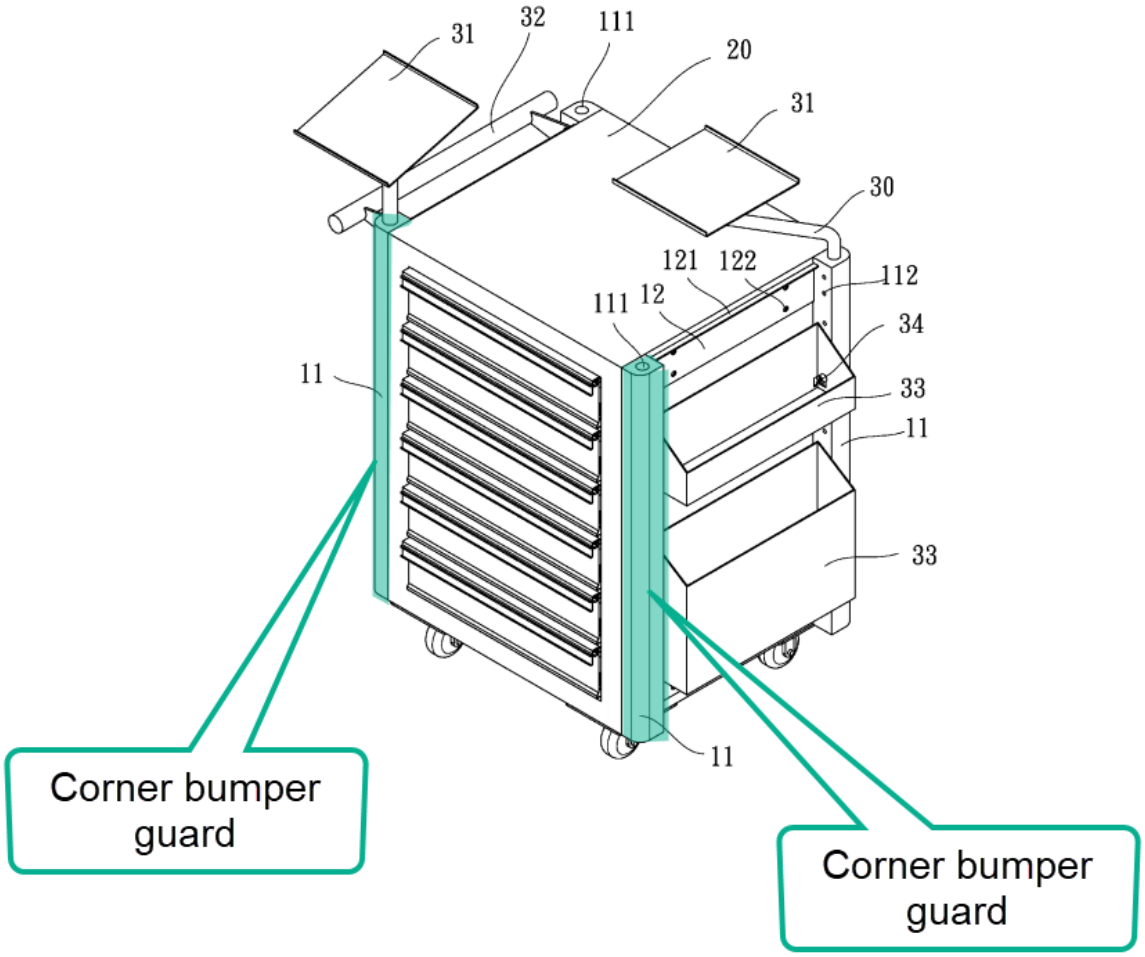


Fig. 1

As discussed above in Ground 1, limitations 1[k], 1[l], and claims 10 and 18, it would have been obvious to a POSITA to include corner bumpers, such as those disclosed in Welsh, to provide additional protection to the corners of the container and were an obvious design option (a mere design choice). *Id.*, ¶¶176-181.

Further, it would have been obvious to a POSITA to combine Burchia (or Metabowerke) with Chen. *Id.*, ¶179. Chen discloses the use of corner

bumpers in a modular container assembly as shown in the below annotated figure.[7] *Id.*, ¶182.



A POSITA would have had a reasonable expectation of success because of the straightforward mechanical technology, and the corner bumpers would

[7] As discussed above, the use of corner bumpers in modular toolbox and container design was prolific. *Id.*, ¶¶101-102, 184 (Exs. 1025-1028).

have predictably protected the corners of the modular toolboxes from damage. *Id.*, ¶183.

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

Lin discloses a half-width container and as discussed below, it would have been obvious to combine Burchia and Metabowerke (and optionally Lafragette) with Lin. *Id.*, ¶¶185-188.

A. Motivation to Combine

Lin, Burchia, Metabowerke, Lafragette, and the '952 patent, are in the analogous field of connectable containers. *Id.*, ¶186. Tools and supplies come in all sizes, and sometimes a smaller container is all a worker may need. *Id.* Thus, a POSITA would have been motivated to use the half-width containers of Lin with the stackable containers of Burchia or Metabowerke. *Id.* 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). *Id.* The optional addition of Lafragette's recess would not impact the functionality of smaller sized containers. *Id.*

B. Claims 4 and 13

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. *Id.*, ¶187.

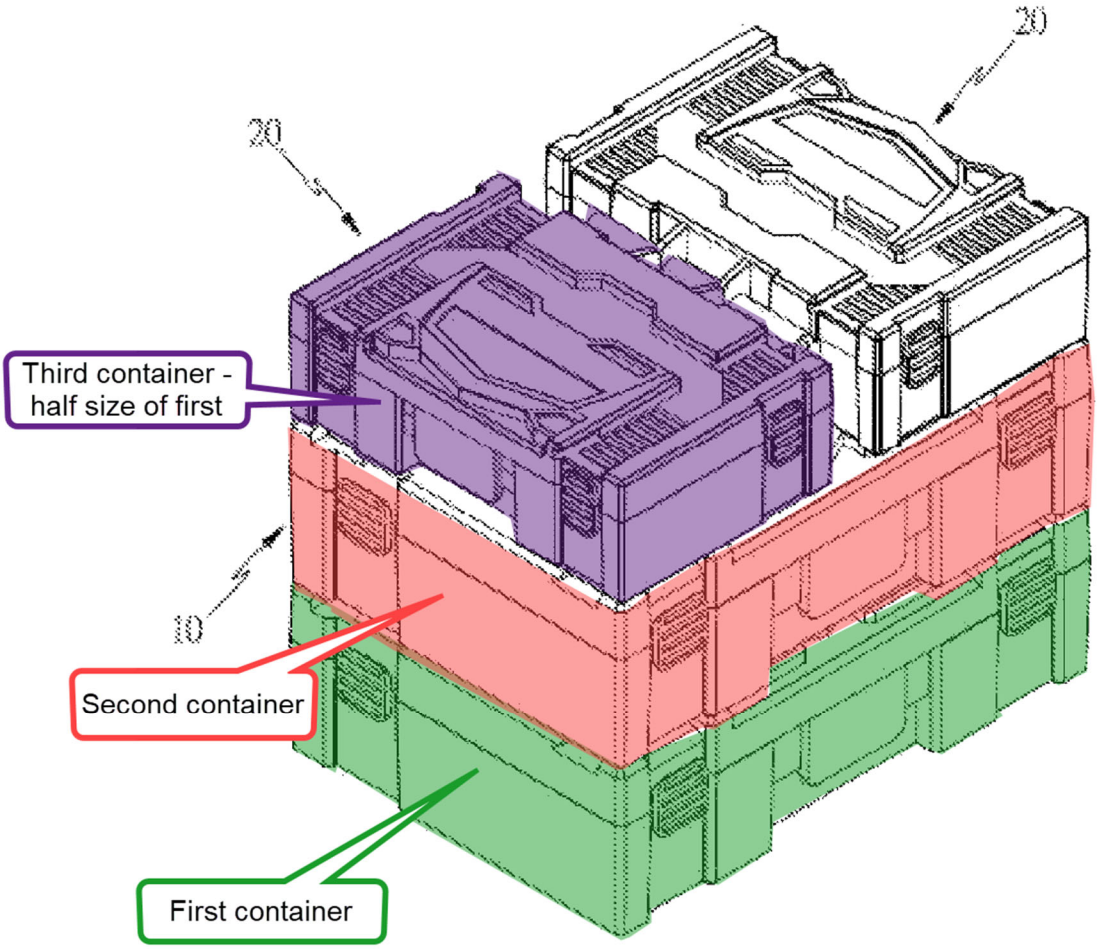


FIG.10

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. *Id.*, ¶188. 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; Ex. 1003, ¶188. A second container "half of a width" of the first container is half the size of the first container. Ex. 1003, ¶188. Thus, a POSITA would have 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. *Id.*

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

Bensman discloses containers with a pair of wheels and a telescoping handle. *Id.*, ¶189. As discussed below, it would have been obvious to combine Bensman with Burchia and Metabowerke (and optionally Lafragette). *Id.*, ¶¶189-193.

A. Motivation to Combine

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. *Id.*, ¶190. Tools can be heavy and may need to be transported from one area to another. *Id.* In addition, when multiple tools are stored together, they will be even heavier. *Id.* As Metabowerke teaches, "assemblies of similar containers can be formed which

can be easily transported together and stored stacked." Ex. 1020, ¶[0001]; Ex. 1003, ¶190. With wheels being the most obvious option to move a heavy object. Ex. 1003, ¶190.

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. *Id.*, ¶191.

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). *Id.,* ¶192. 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. *Id.*

Bensman, Burchia, Metabowerke, Lafragette and the '952 patent are in the analogous field of connectable containers. *Id.,* ¶193. 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. *Id.*

XIV. GROUND 6: METABOWERKE, BURCHIA AND LAFRAGETTE RENDER OBVIOUS CLAIMS 1 TO 23

Ground 6 relies primarily on Metabowerke as disclosing all claim limitations. *Id.*, ¶¶194-280. However, Metabowerke does not expressly disclose a spring-biased locking latch. *Id.*, ¶194. It would have been obvious to incorporate Burchia's spring-biased locking latch in the container assembly of Metabowerke. *Id.*

A. Motivation to Combine

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. *Id.*, ¶195.

Metabowerke does not expressly disclose a spring-biased locking latch. A POSITA, however, would have readily modified Metabowerke according to the teachings of Lafragette (or Burchia) to include a spring-biased locking latch. *Id.*, ¶196. 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. *Id.* 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. *Id.*

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. *Id.*, ¶197.

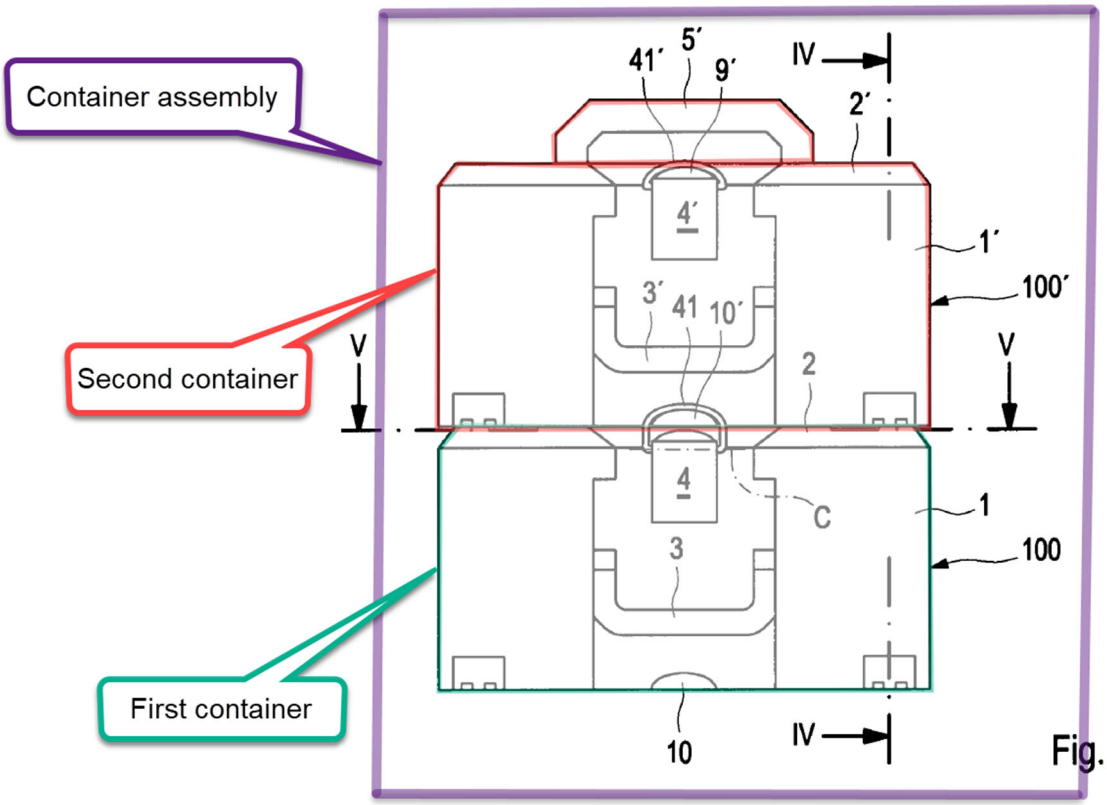
For the locking latch, a POSITA could have opted for a manual latch arrested on a tab protruding from the face of the other container, as in Metabowerke, or a spring-biased locking latch, as in Burchia or Lafragette (resilient tab and recess). *Id.*, ¶198. Therefore, depending upon the designer's preference (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. Ex. 1003, ¶198.

B. Claim 1

1. 1[pre]

To the extent the preamble is limiting, Metabowerke discloses a container assembly comprising 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.***"); Ex. 1003, ¶199.

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



Ex. 1003, ¶200.

2. 1[a]

As shown in the below annotated Figures, Metabowerke discloses a first container comprising a **first coupler** extended from a **top (outer) face of the first container**. Ex. 1020, Figs. 1, 4; Ex. 1003, ¶¶201-203.

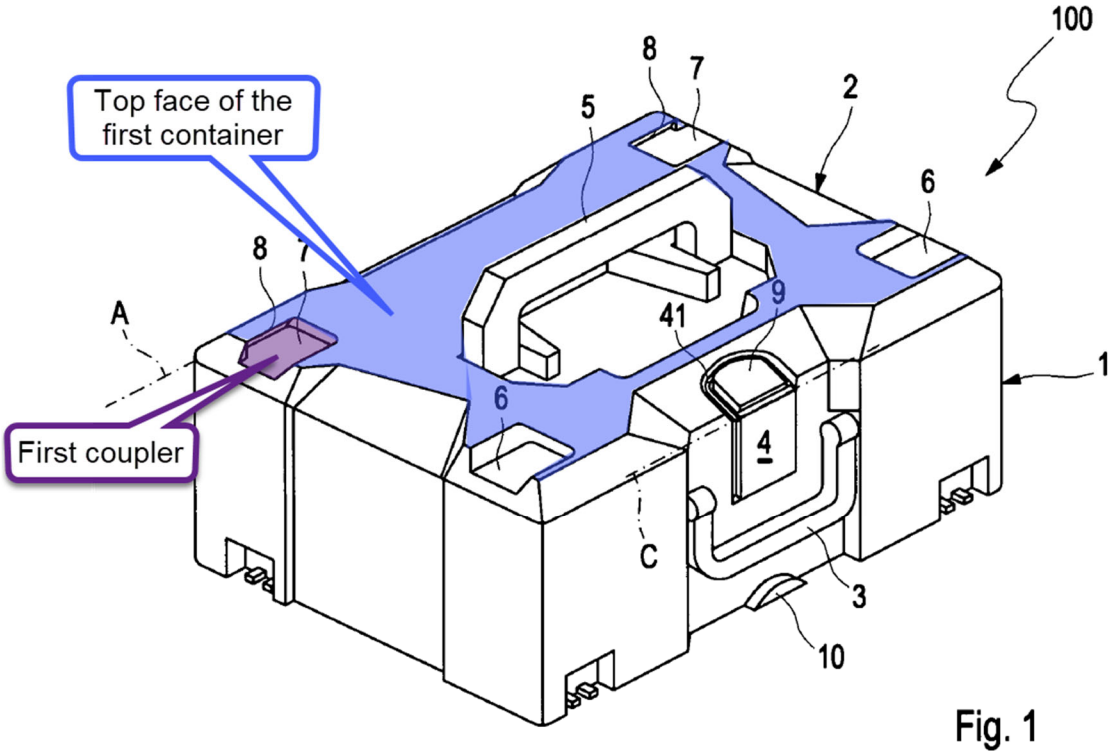


Fig. 1

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]; Ex. 1003, ¶202.

In the below annotated Figure, Metabowerke illustrates in 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]; Ex. 1003, ¶203.

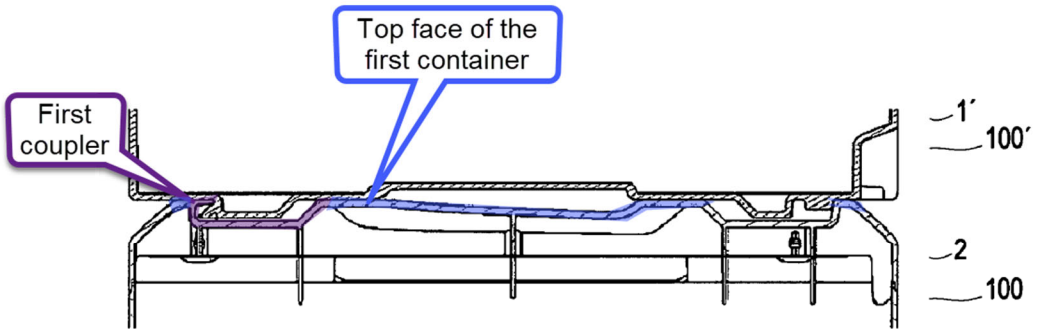


Fig. 4

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); Ex. 1003, ¶203.

3. 1[b]

As shown in the below annotated Figures, Metabowerke discloses a first coupler comprising **two sidewalls**, **a back wall**, and a **rib**, the **back wall** located between the **two sidewalls**, which are singular planes. Ex. 1020, Figs. 1, 4; Ex. 1003, ¶¶204-209.

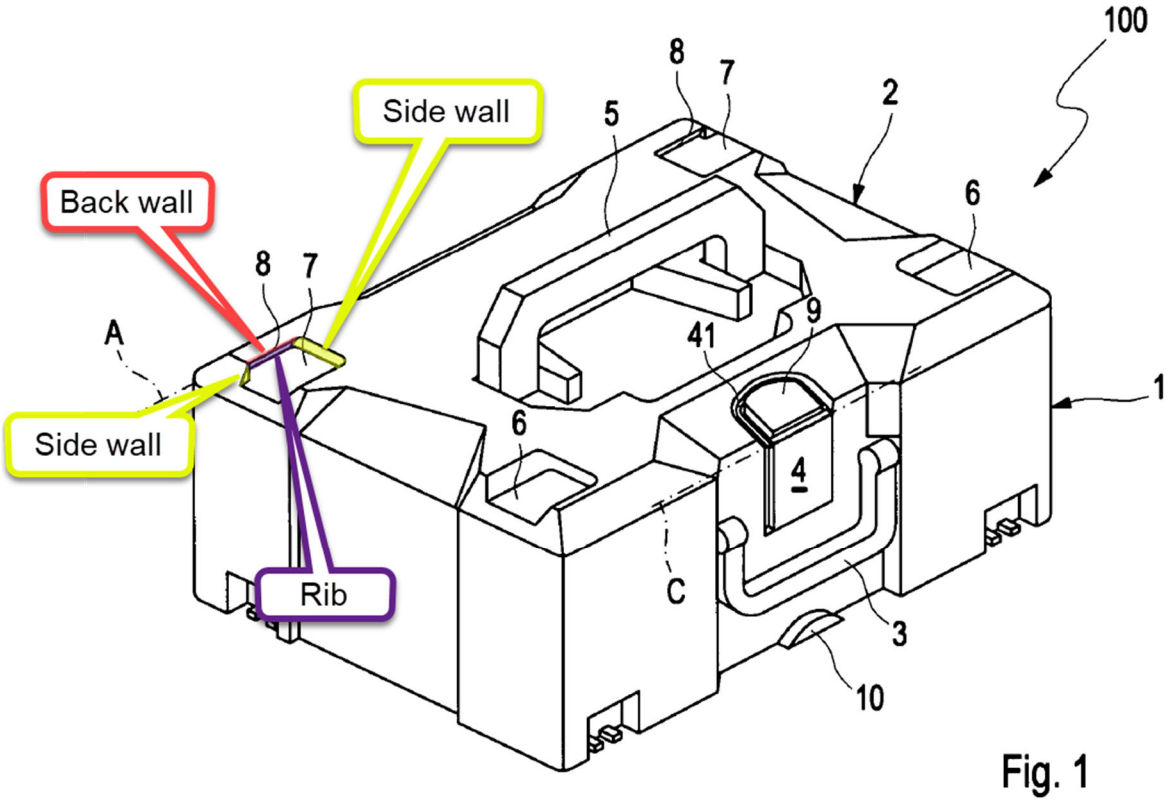


Fig. 1

And in below annotated Figure, the **first coupler** is shown magnified to clearly show the **rib** and **back wall** located between the **two sidewalls**. Ex. 1003, ¶205.

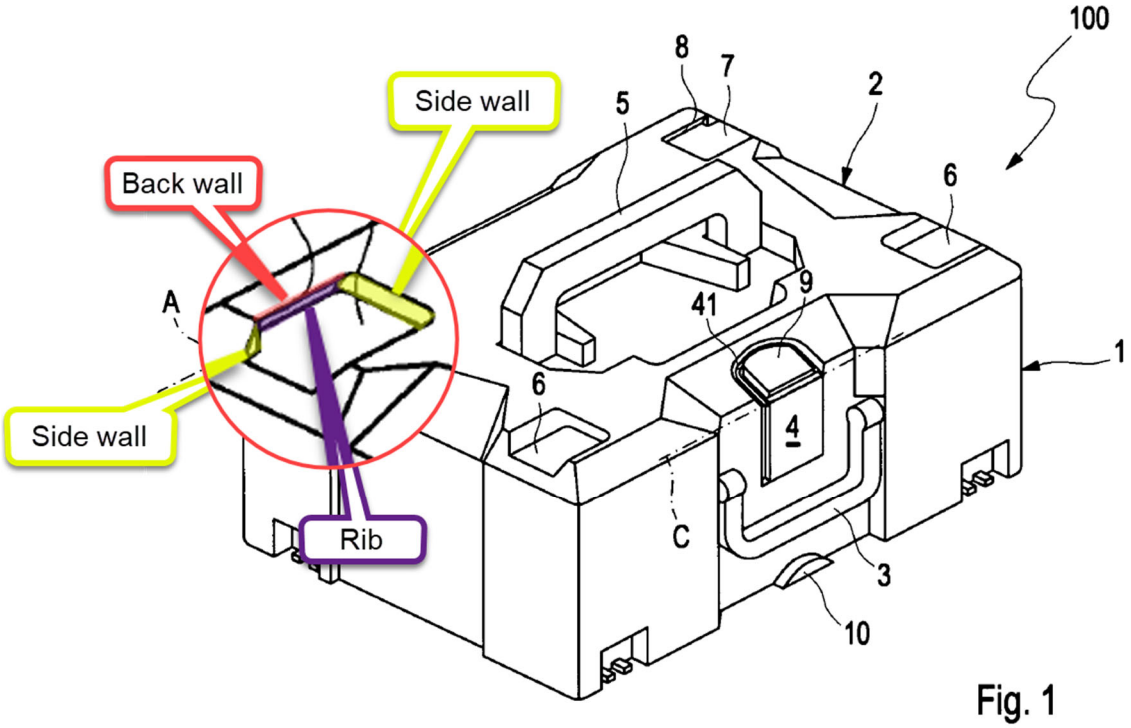


Fig. 1

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

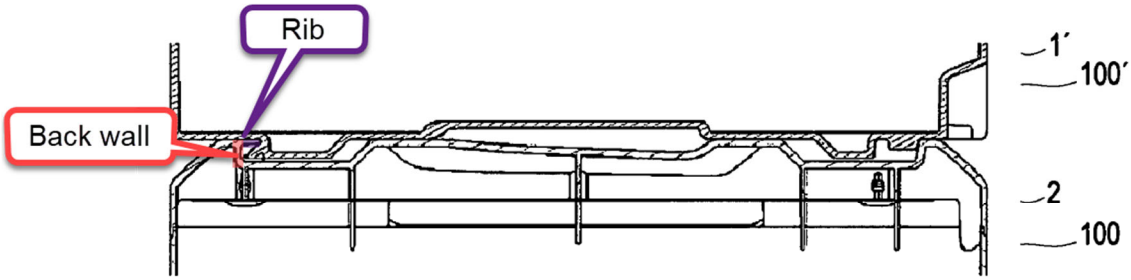


Fig. 4

Id., ¶206.

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:

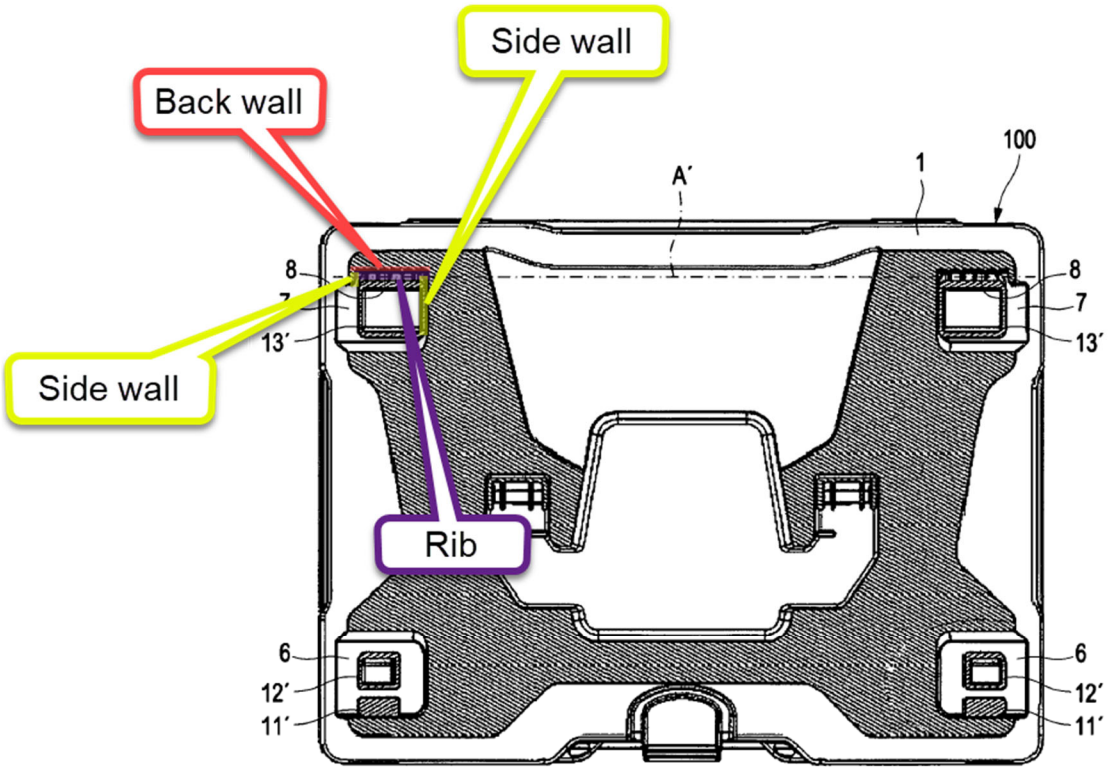


Fig. 5

Id., ¶207.

A magnified version of the annotated Figure is provided below:

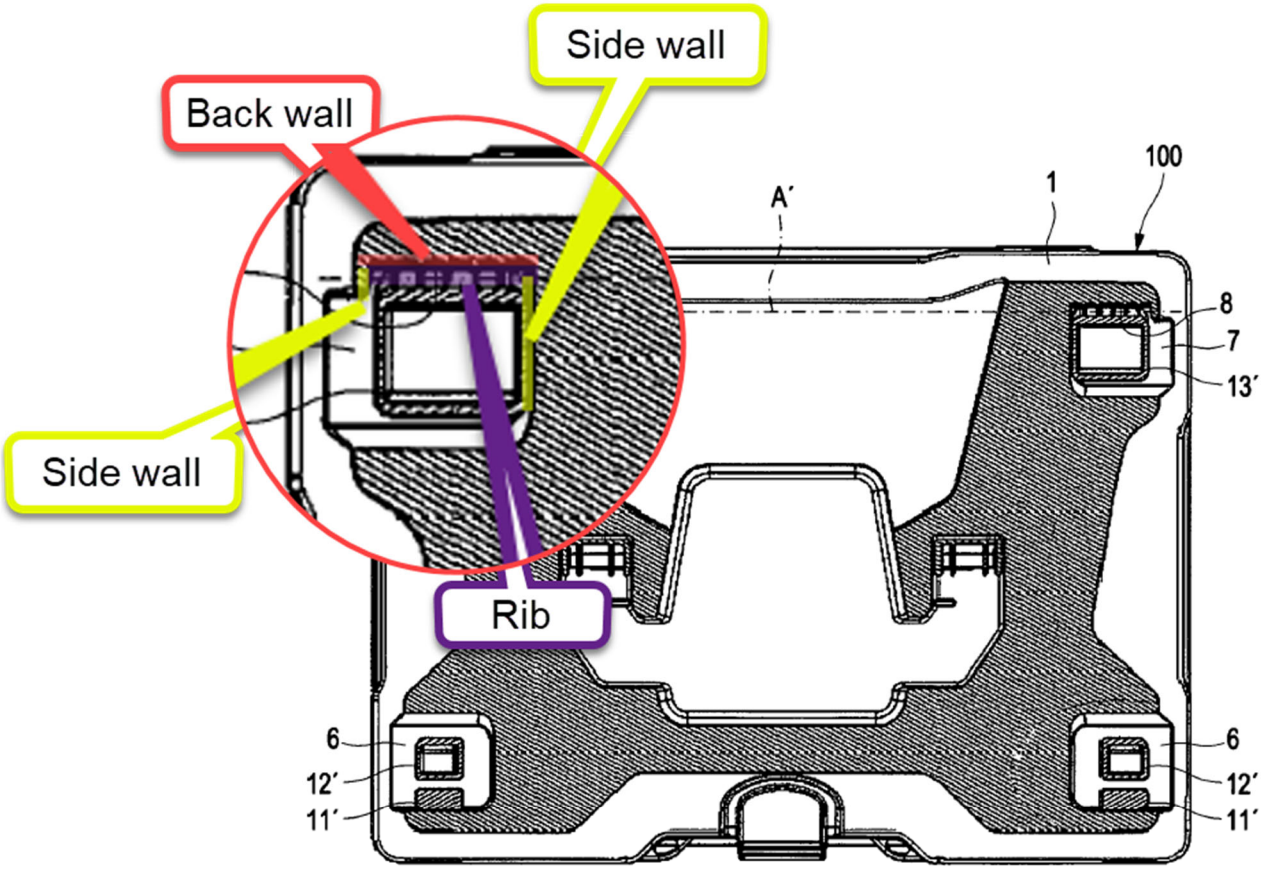


Fig. 5

Id., ¶208.

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]; Ex. 1003, ¶209.

4. 1[c]

As shown in the below annotated Figures, Metabowerke discloses **two side walls** and the **back wall** projecting from a **depressed surface** of the **first face**. Ex. 1020, Figs 1, 4; Ex. 1003, ¶¶210-213.

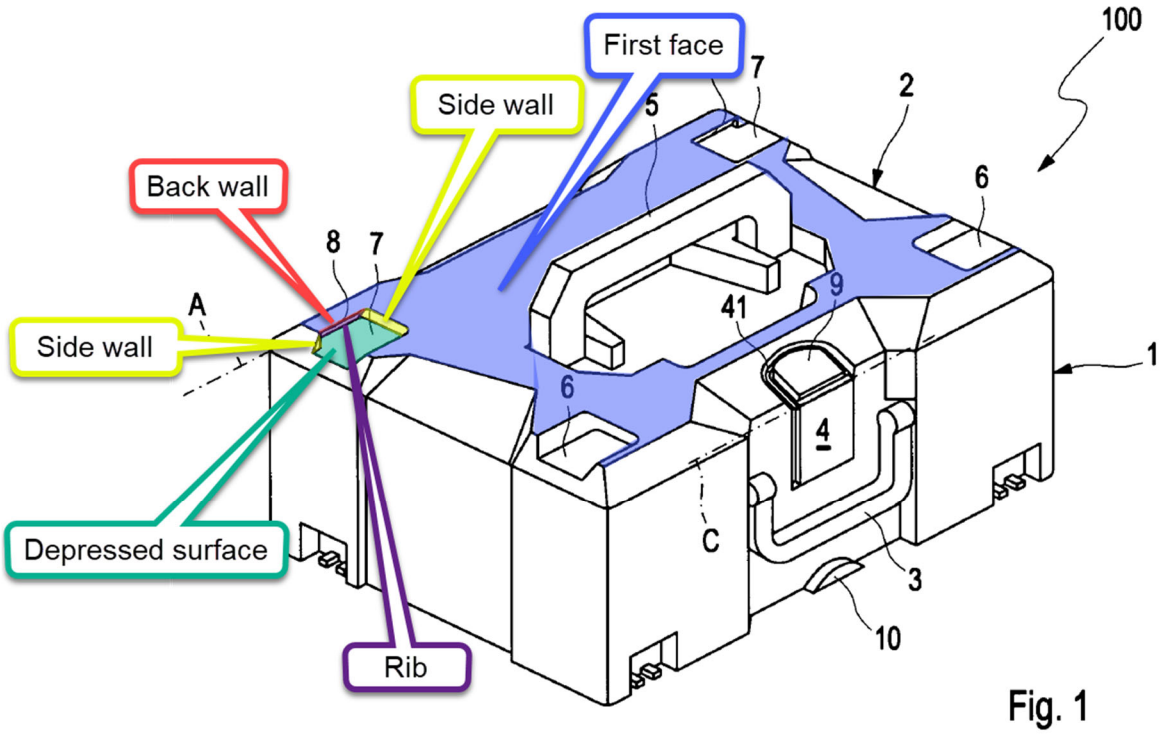


Fig. 1

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

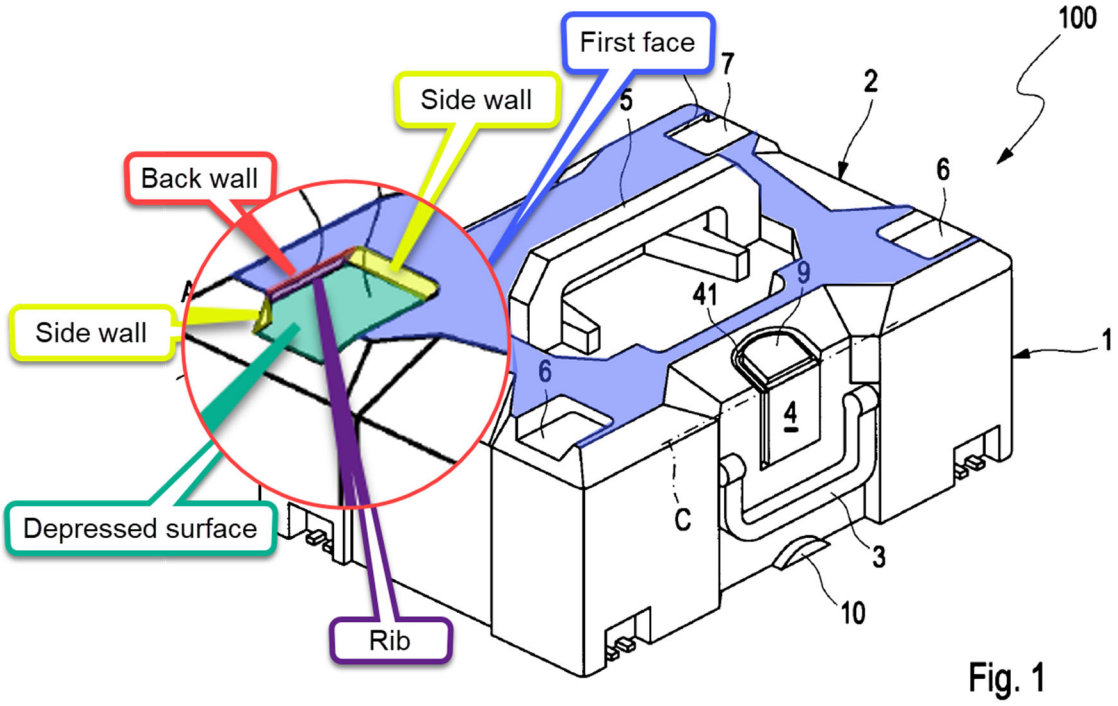


Fig. 1

Ex. 1003, ¶211.

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:

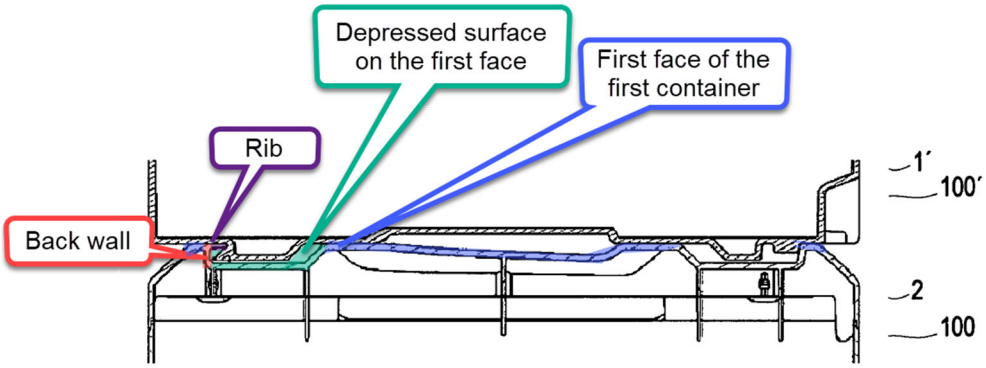


Fig. 4

Id., ¶212.

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

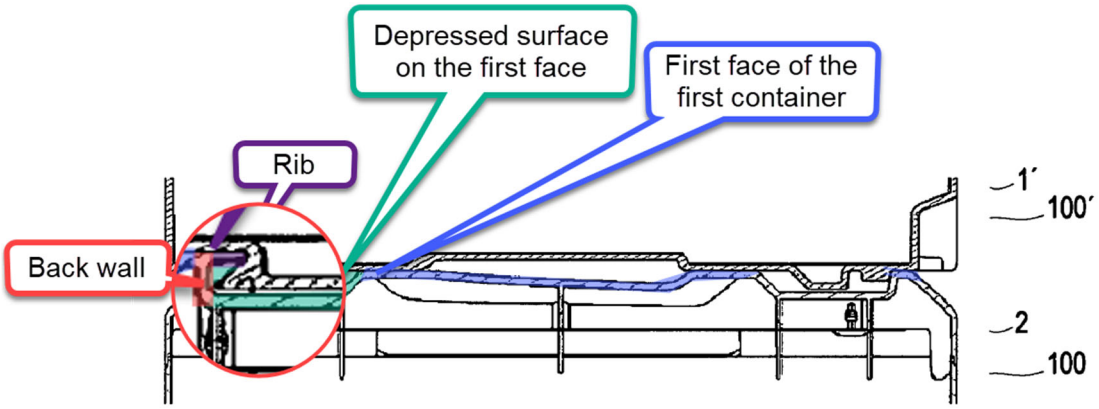


Fig. 4

Id., ¶213.

5. 1[d]

As shown in the below annotated Figures, Metabowerke discloses the **rib** extending from the **back wall** in a **first direction**. Ex. 1020, Figs 1, 4; Ex. 1003, ¶214.

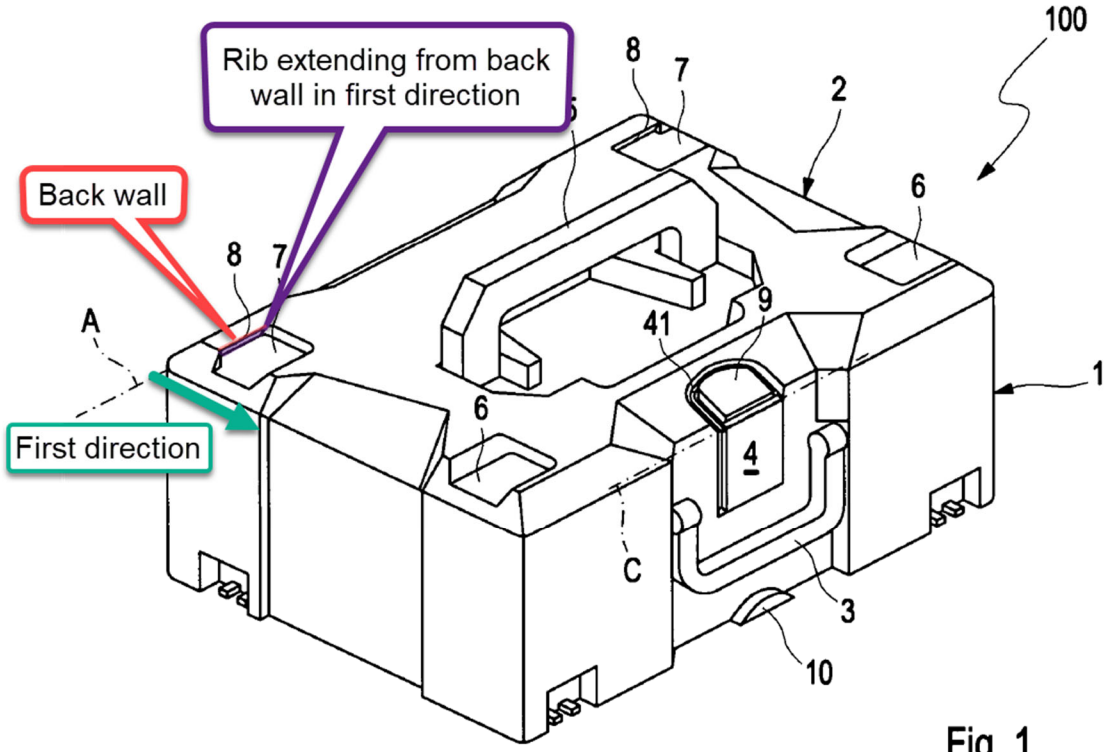


Fig. 1

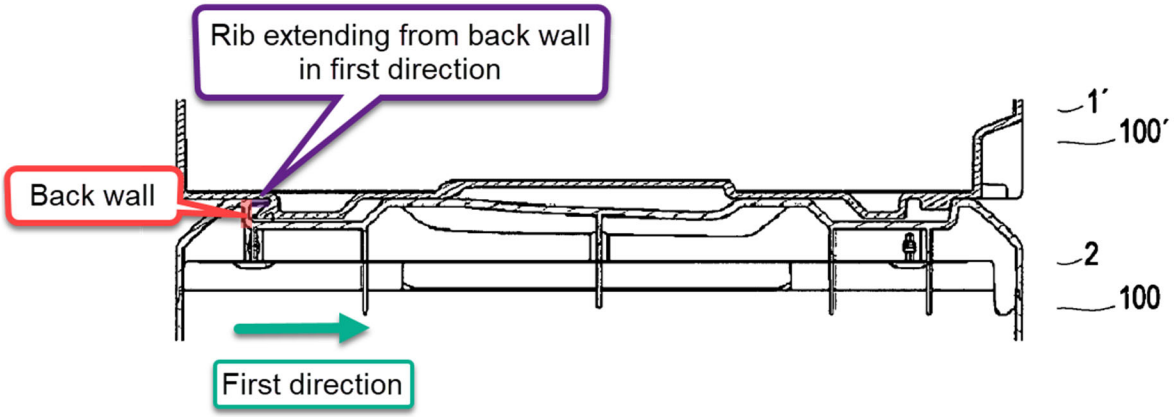


Fig. 4

6. 1[e]

Metabowerke 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."); Ex. 1003, ¶¶215-16.

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." Ex. 1003, ¶216.

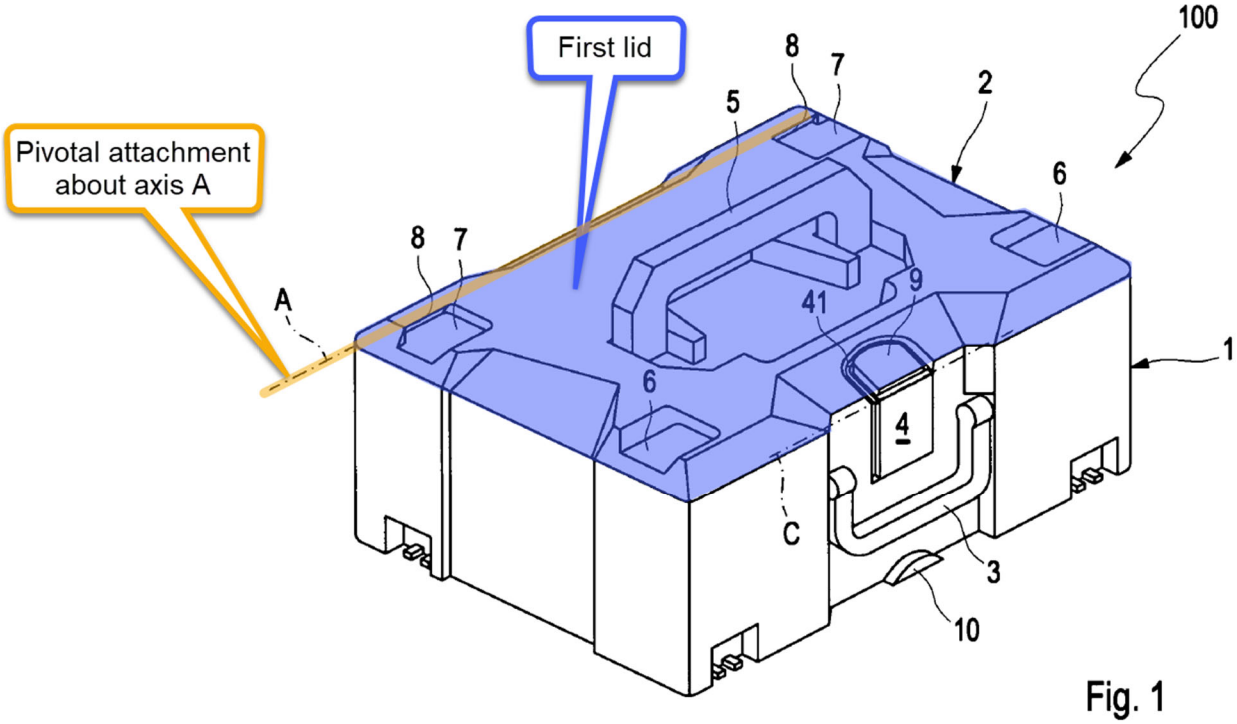


Fig. 1

7. 1[f]

In the below annotated Figure, Metabowerke discloses a **toggle locking latch** configured to latch the **first lid** of the first container in a closed position. Ex. 1003, ¶¶217-19.

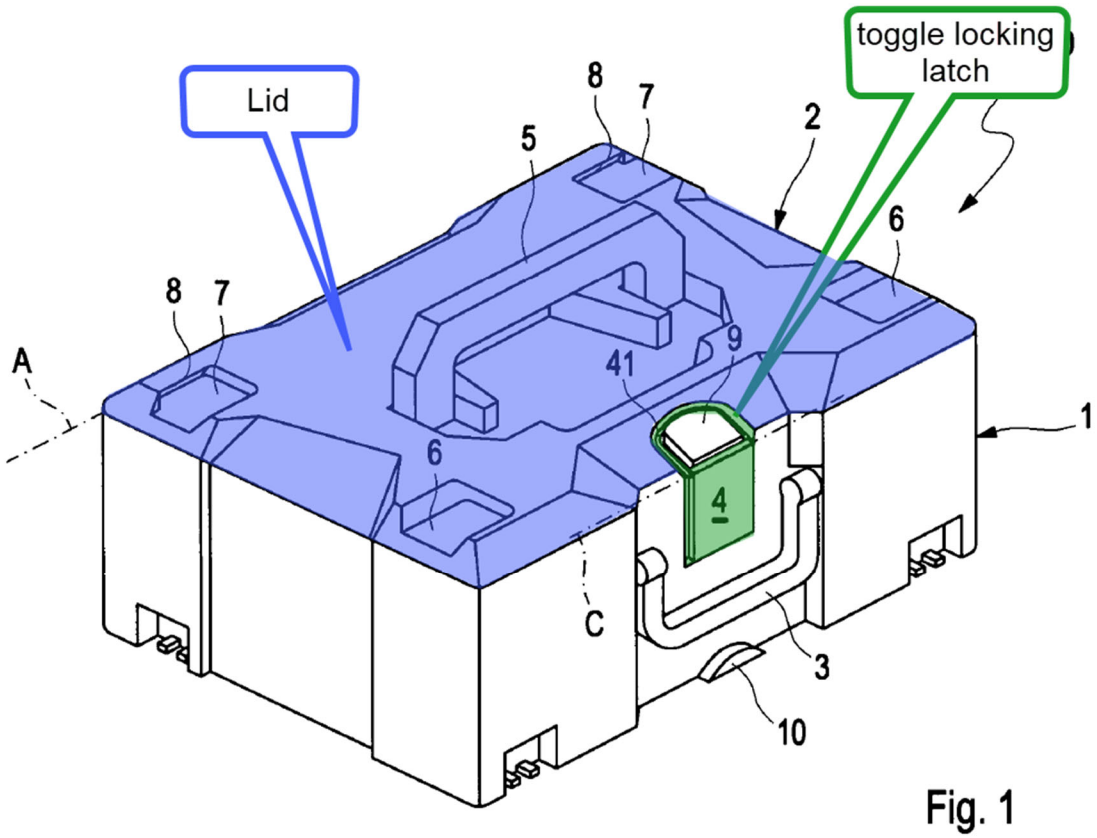


Fig. 1

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]; Ex. 1003, ¶218.

Moreover, toggle locking latches were an obvious way to lock a toolbox lid, as discussed above in connection with ground 1, limitation 1[f]. Ex. 1003, ¶219.

8. 1[g]

As shown in the below annotated Figures, Metabowerke discloses a second container comprising a **second coupler** extended from the second container. Ex. 1020, Figs. 16, 4; Ex. 1003, ¶¶220-21. Metabowerke calls its **second coupler** a "rear standing foot 13."

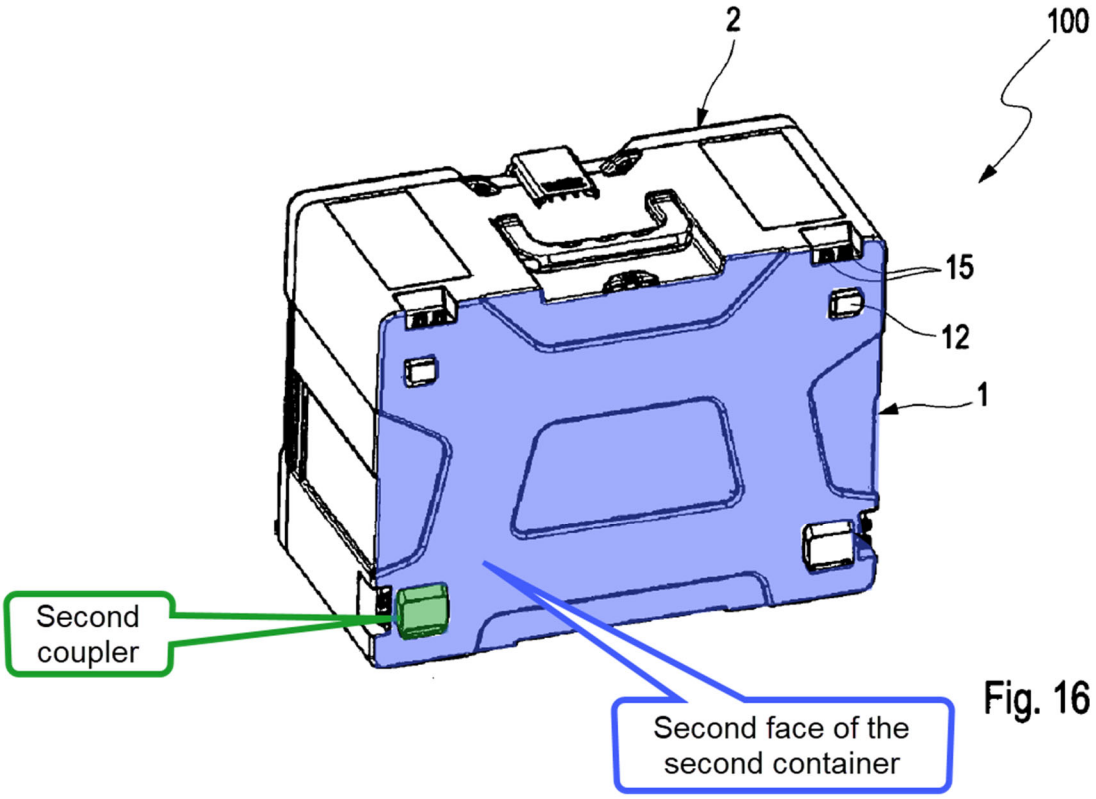


Fig. 16

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

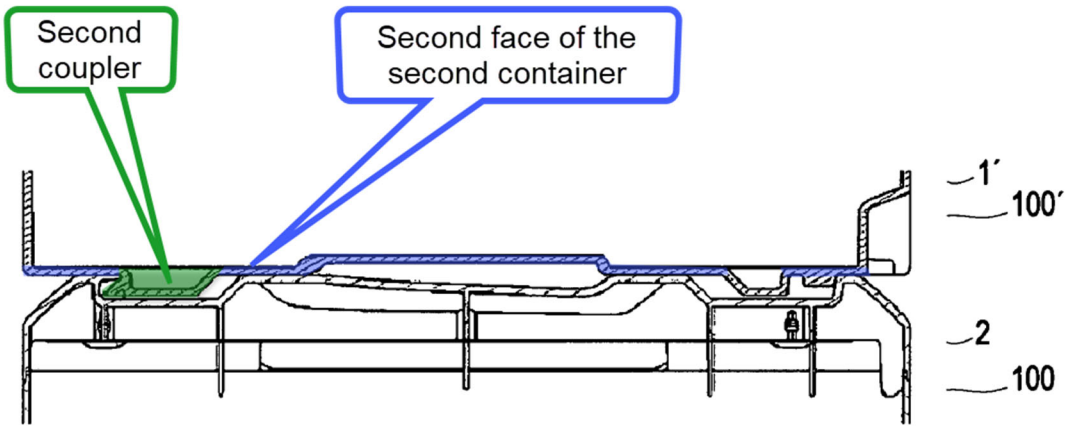


Fig. 4

Ex. 1003, ¶221.

9. 1[h]

As shown in the annotated Figure 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 ←). Ex. 1003, ¶¶222-24.

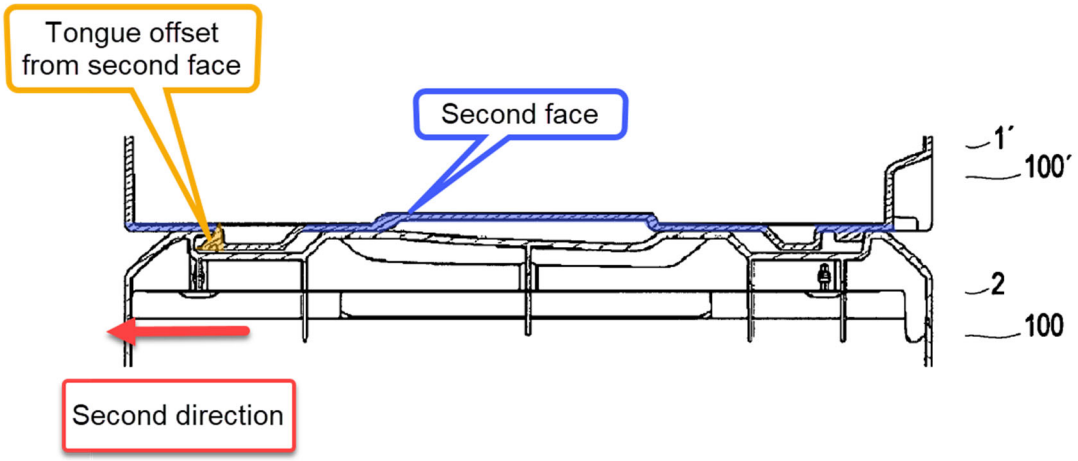


Fig. 4

Further, as shown in below annotated Figure 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. *Id.*, ¶223.

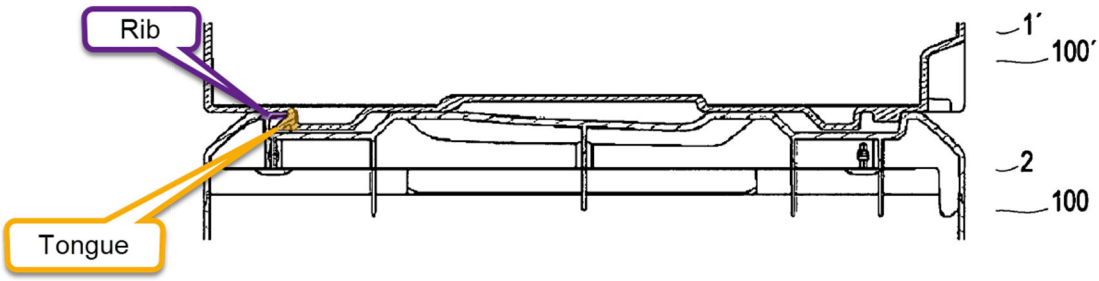


Fig. 4

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

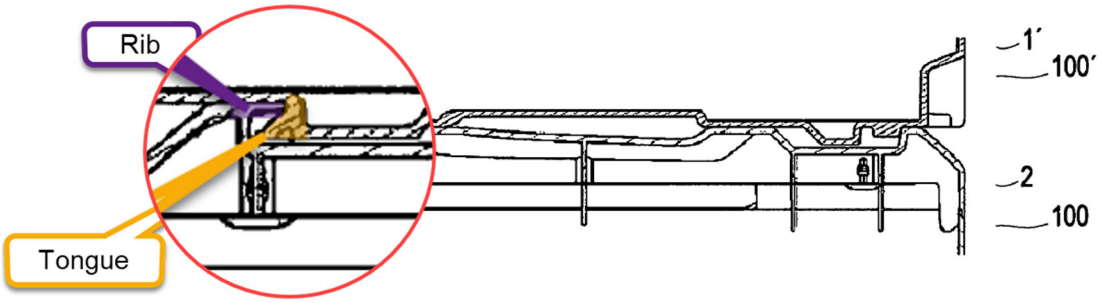


Fig. 4

10. 1[i]

As discussed above with respect to limitation 1[e], Metabowerke discloses a container having a **pivotally attached lid**. Ex. 1003, ¶¶225-26. Figure 1 depicts the **lid** and **pivotal attachment** about axis A. *Id.*, ¶225.

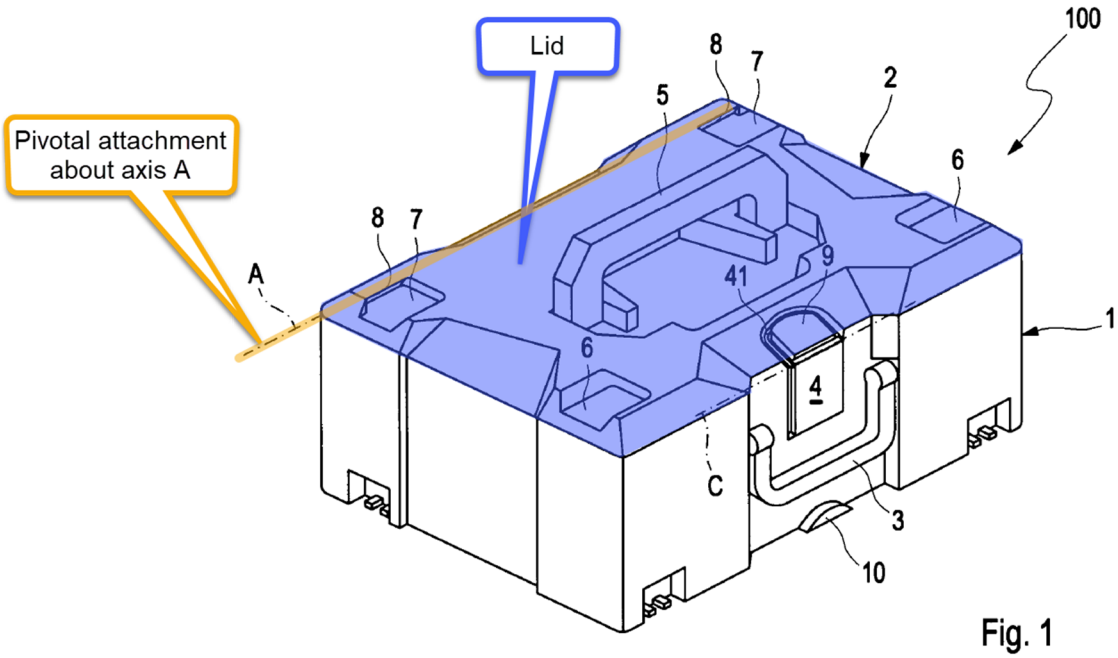


Fig. 1

Figure 2 confirms that the second container has a **second lid**:

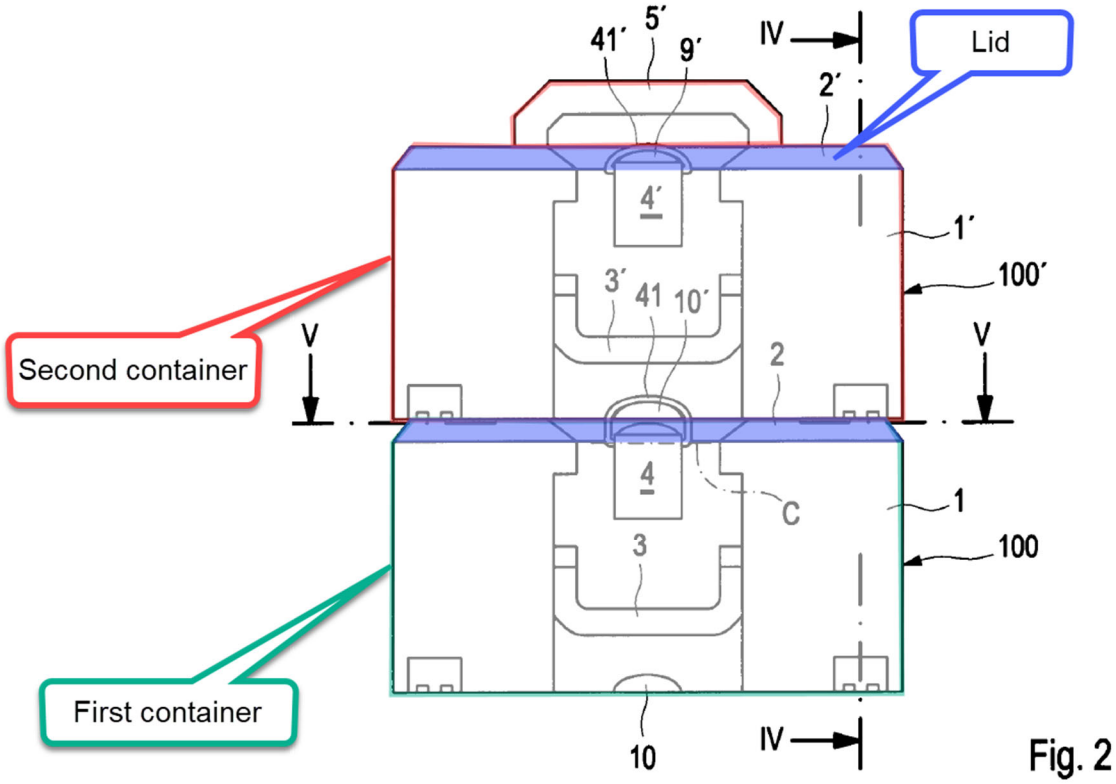


Fig. 2

Id., ¶226.

11. 1[j]

As discussed above in connection with element 1[f], in the below annotated Figure, Metabowerke discloses a **toggle locking latch** configured to latch the **lid** of its container in a closed position. *Id.*, ¶¶227-29.

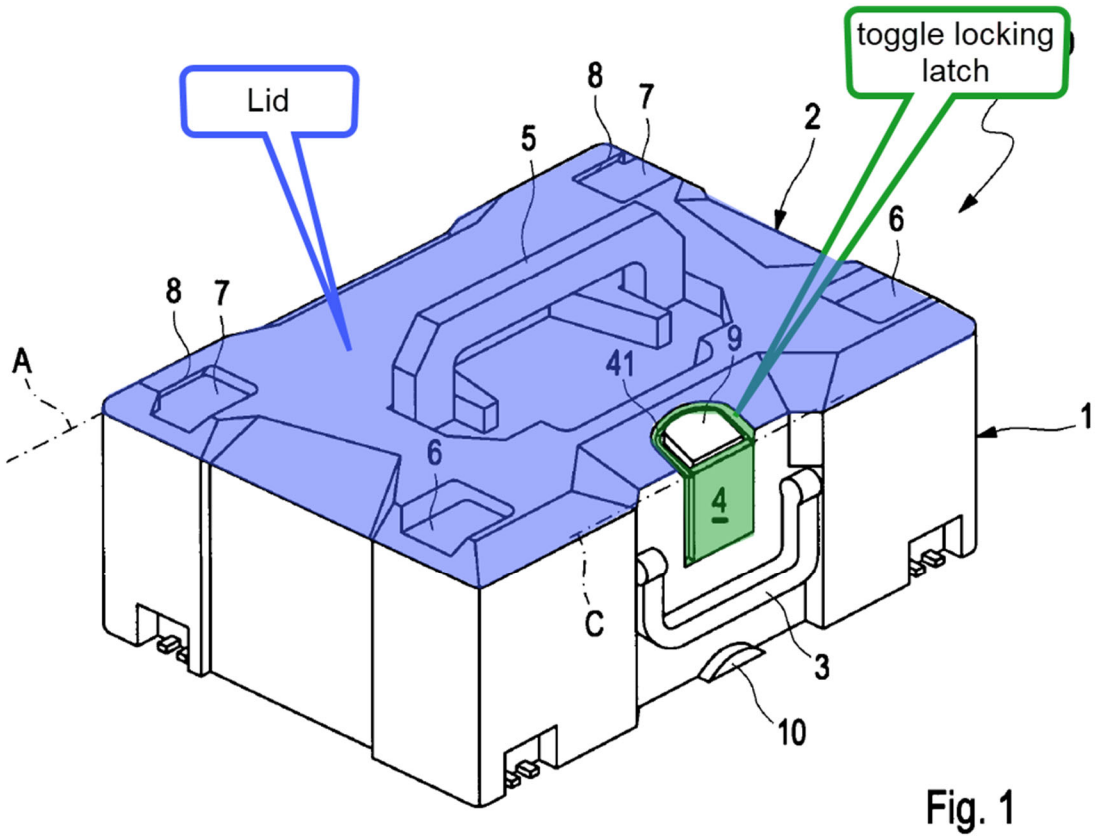


Fig. 1

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]; Ex. 1003, ¶228.

Moreover, toggle locking latches were an obvious way to lock a toolbox, as discussed above in connection with Ground 1, limitation 1[f]. Ex. 1003, ¶229.

12. 1[k]

Metabowerke has a **front face**, a **first side face**, and an **opposing side face**. Ex. 1003, ¶¶230-33.

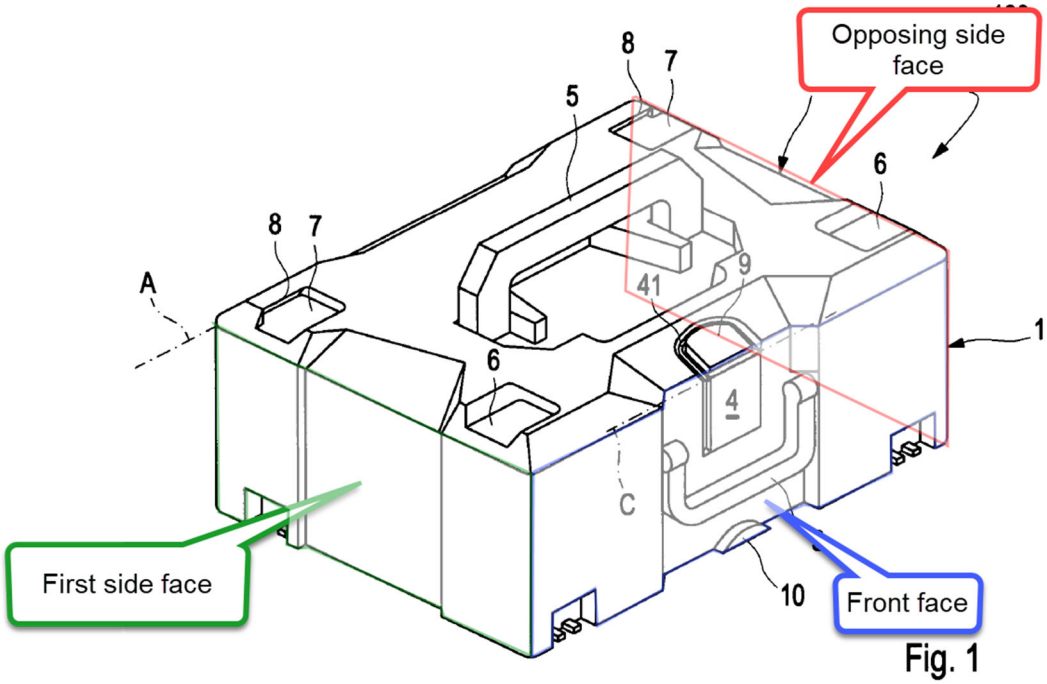


Fig. 1

As discussed above in connection with ground 1, claim 1[k], 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. *Id.*, ¶233.

13. 1[l]

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. *Id.*, ¶234. Such a bumper would provide additional protection to the corner of the container and was an obvious design option. *Id.*

14. 1[m]

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***." Ex. 1020, ¶[0041] (emphasis added).

Ex. 1003, ¶¶235-36.

As shown in the annotated Figure 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**. *Id.*, ¶236.

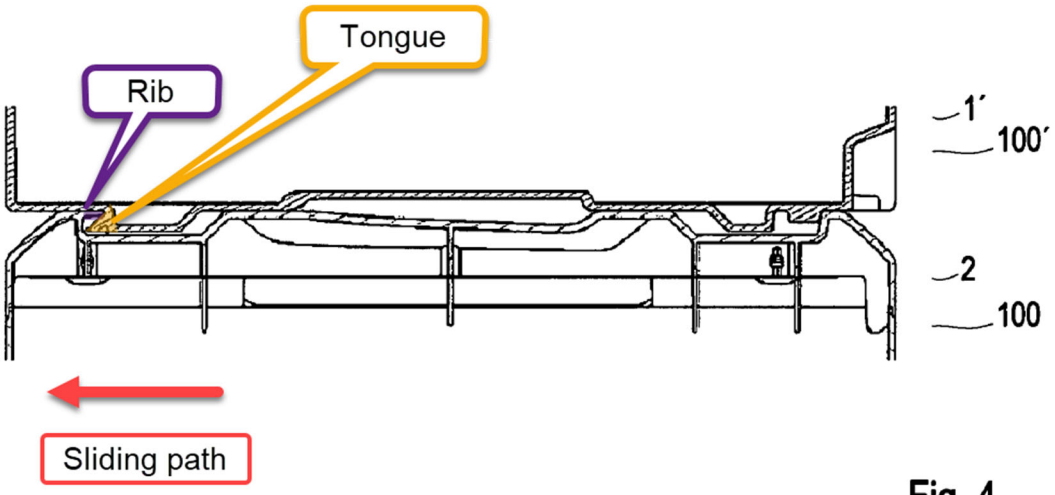


Fig. 4

15. 1[n]

Metabowerke discloses a **locking latch arresting location** defined by the lower front face of the second container. *Id.*, ¶¶237-40. 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." Ex. 1020, ¶[0042]; Ex. 1003, ¶237.

The **locking latch** and 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. Ex. 1003, ¶238.

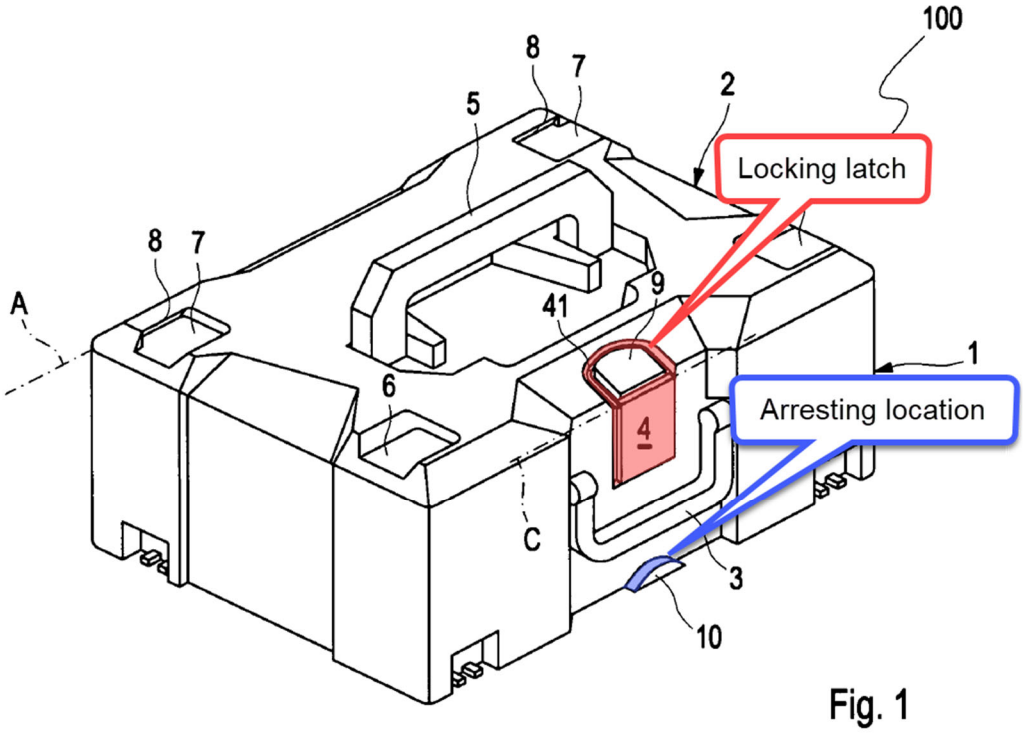

100
8
7
5
2
Locking latch
8
7
A
41
9
1
6
4
Arresting location
C
3
10

Fig. 1

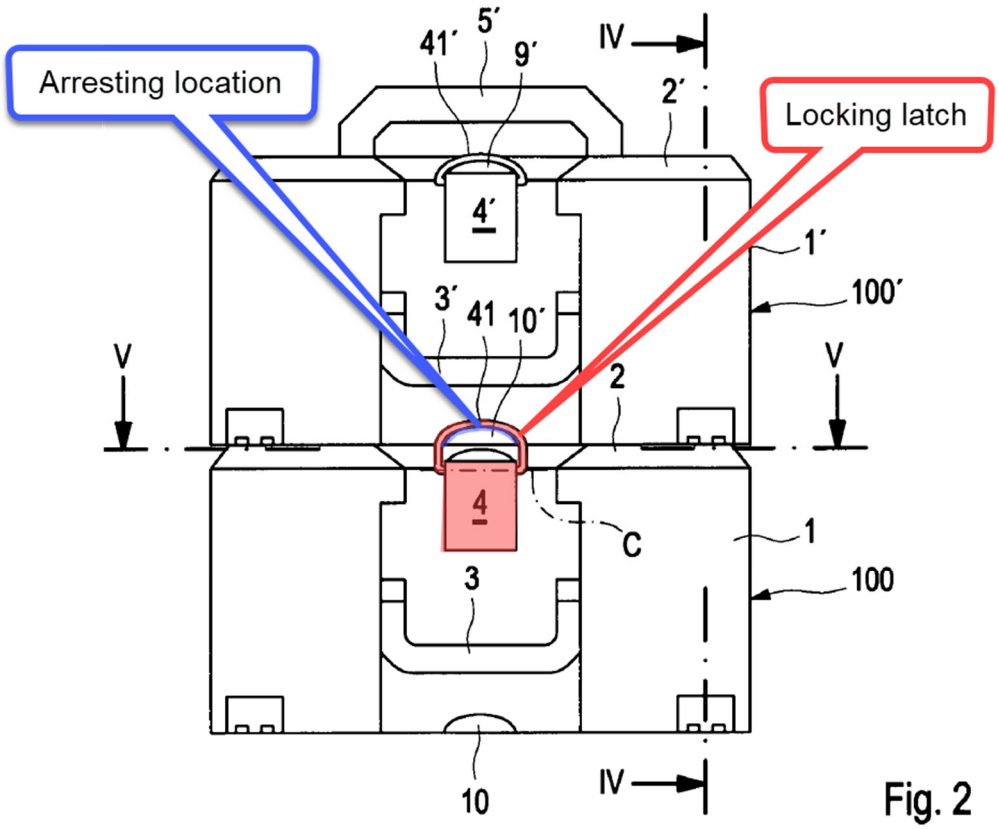

Arresting location
41′
5′
9′
IV
2′
Locking latch
4′
1′
100′
3′
41
10′
V
V
2
4
C
1
3
100
10
IV

Fig. 2

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 Burchia (or optionally Lafragette), both of which disclose alternative locations for locking latch arresting locations, including a recess in the other container. *Id.*, ¶239.

As discussed above in connection with Ground 2, Lafragette expressly discloses a recessed arresting location. *Id.*, ¶240. A POSITA would have been motivated to modify Metabowerke to include Burchia's setback recess or 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. *Id.* 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). *Id.*

16. 1[o]

Metabowerke's **locking latch** is shown in annotated Figures 1 and 2 below. *Id.*, ¶241.

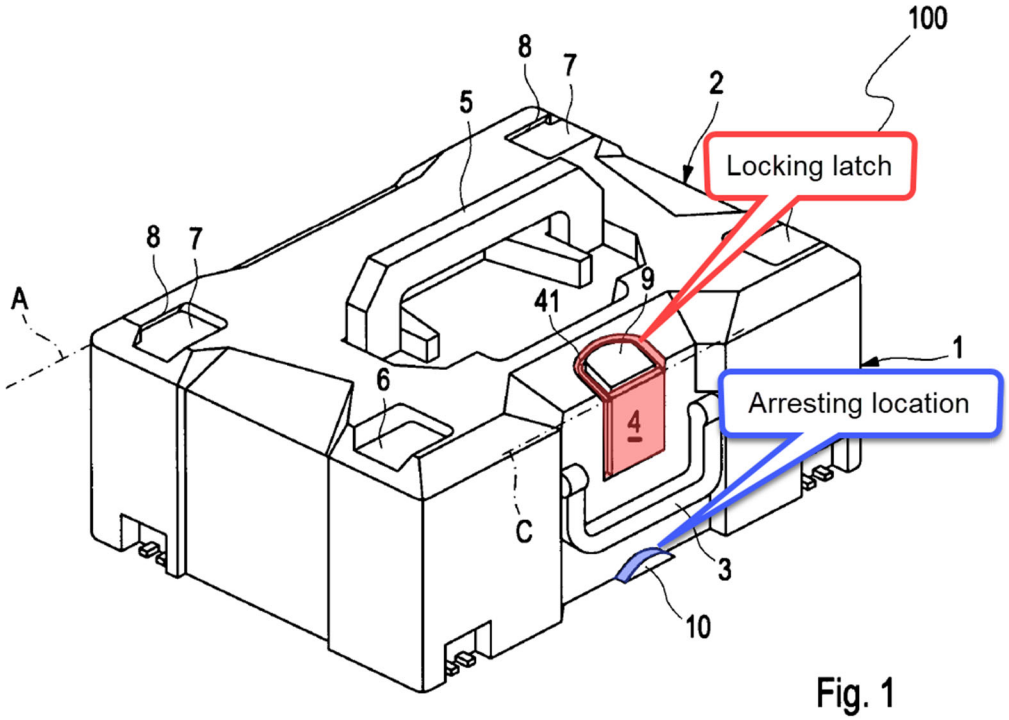

100
8
7
5
2
Locking latch
8
7
A
41
9
1
6
4
Arresting location
C
3
10

Fig. 1

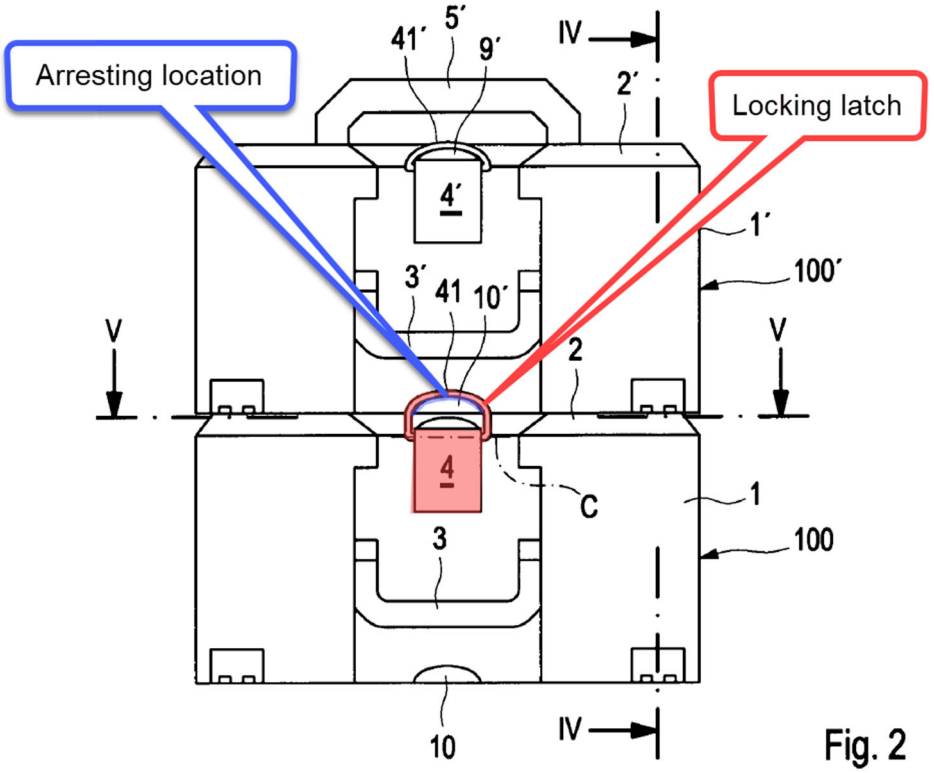

Arresting location
41′
5′
9′
IV
2′
Locking latch
4′
1′
100′
3′
41
10′
V
V
2
4
C
1
3
100
10
IV

Fig. 2

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

The locking latch limits sliding displacement of the first container with respect to the second container. *Id.*, ¶243. 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]; Ex. 1003, ¶243.

As discussed above in connection with Ground 2, Burchia and Lafragette disclose recesses as arresting locations. *Id.*, ¶244. A POSITA would have been motivated to modify Metabowerke to include Burchia's or 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. *Id.*

C. Claim 2

As shown in the below annotated Figure, Metabowerke discloses a container assembly wherein the **sliding path** is perpendicular to the **locking latch**. *Id.*, ¶¶246-48. 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. *Id.*, ¶246.

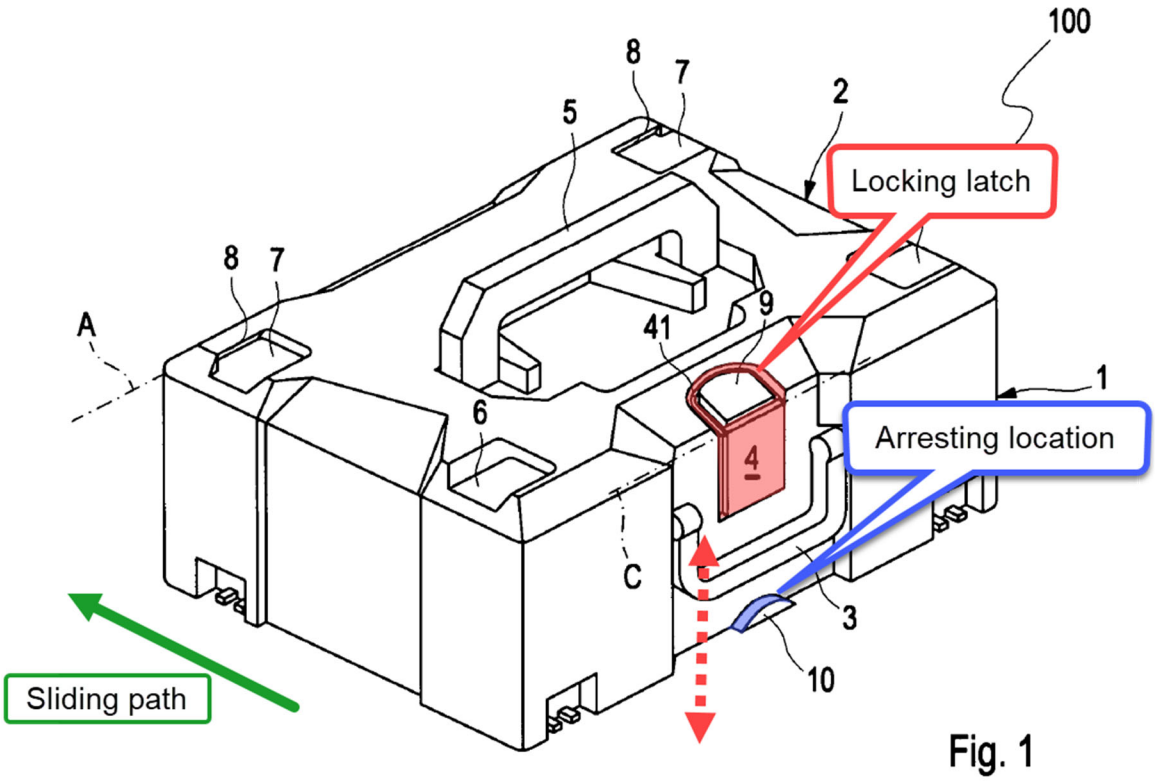
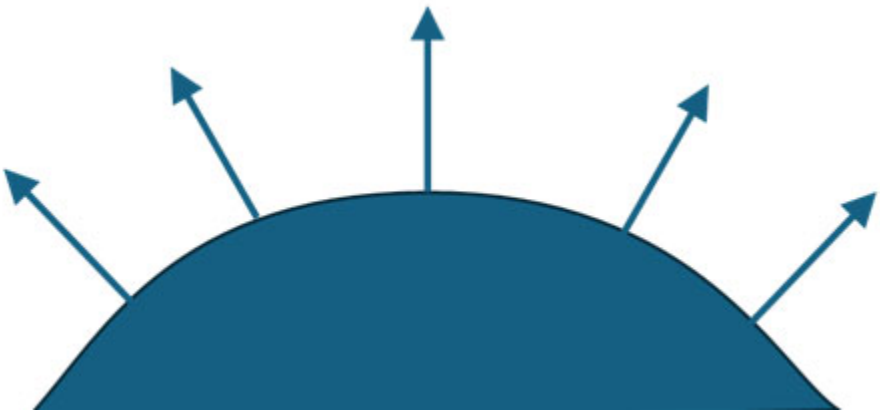


Fig. 1

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. *Id.*, ¶247.



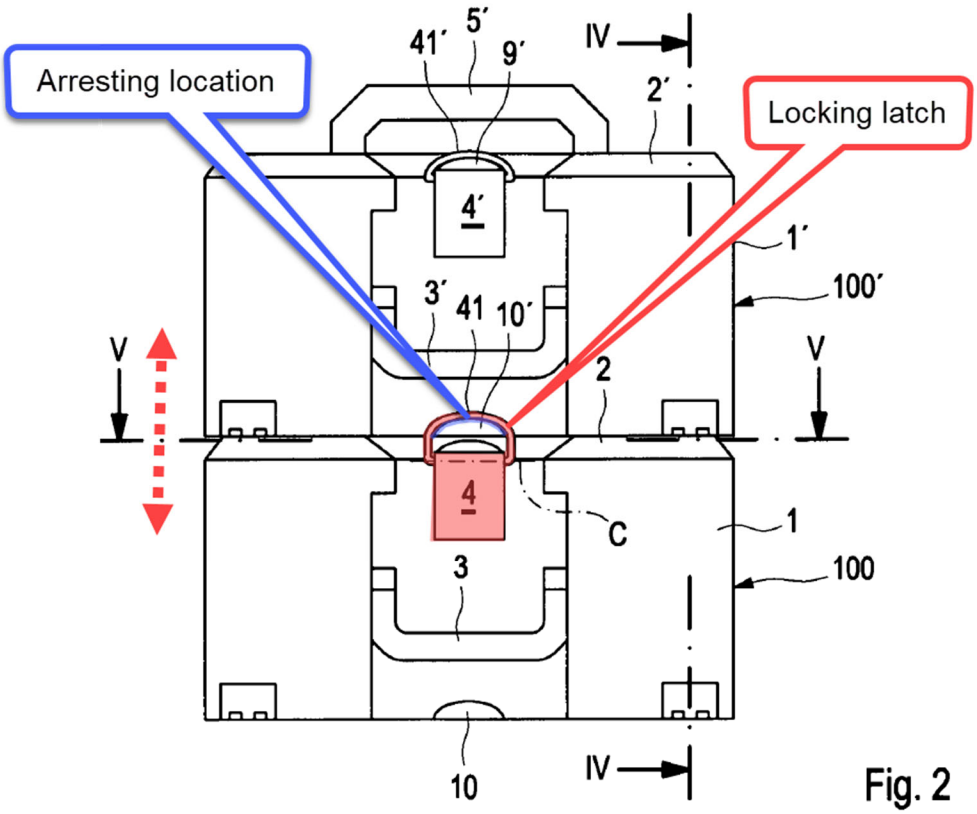


Fig. 2

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. *Id.*, ¶248. This would be incorrect. *Id.* 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. *Id.* It is this backwards sliding direction that is referenced above. *Id.* 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. *Id.*

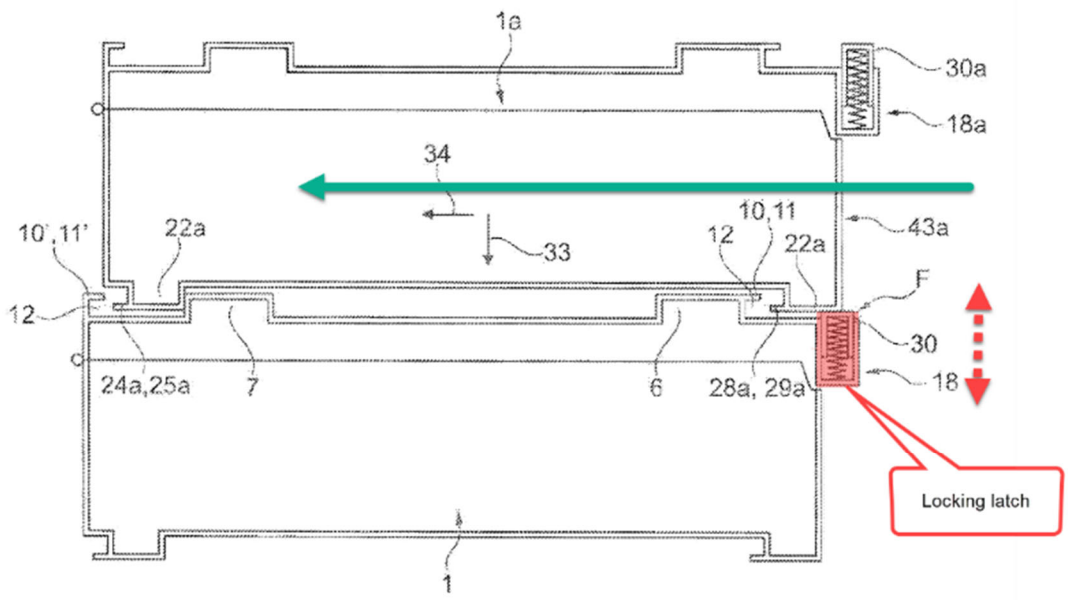


Fig. 4

D. Claim 3

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. *Id.*, ¶249. 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. *Id.* It would have been obvious 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. *Id.*

E. Claim 4

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. *Id.*, ¶250. 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. Ex. 1003, ¶250.

F. Claim 5

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**. *Id.*, ¶¶251-52.

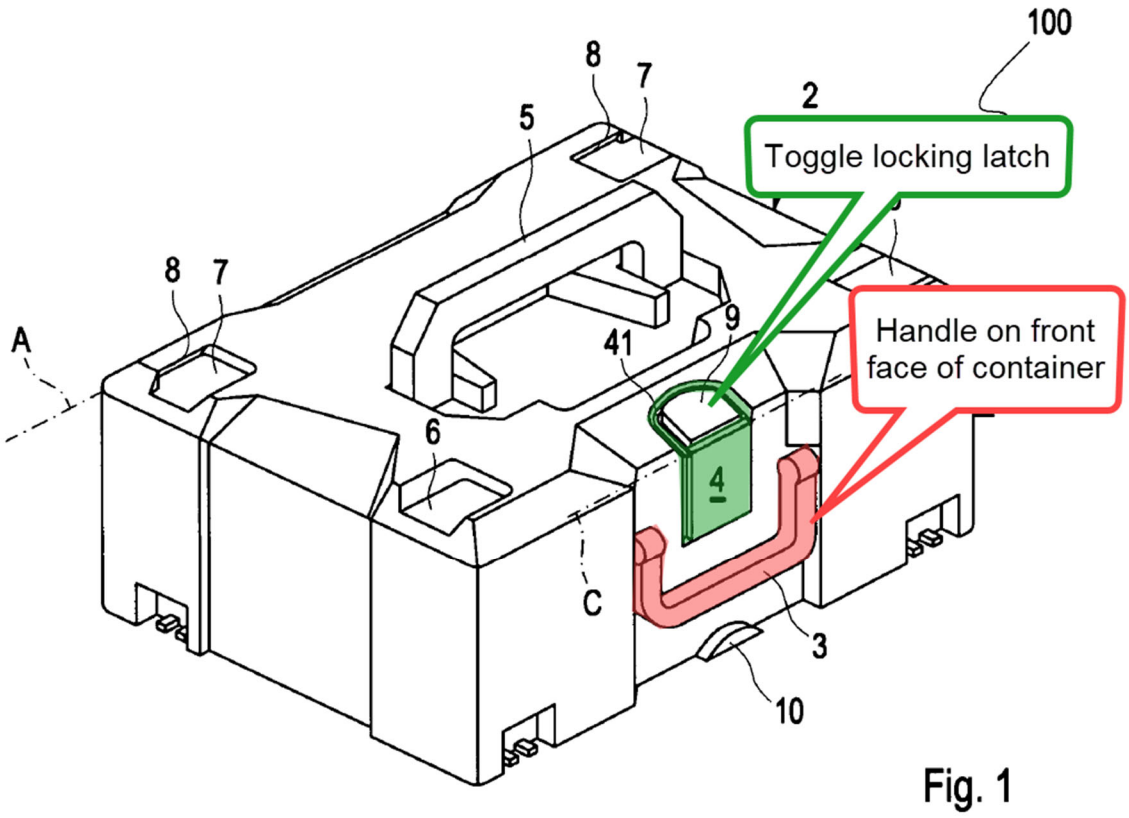


Fig. 1

Moreover, as discussed above in connection with limitation 1[f] and 1[j], it would have 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. *Id.*, ¶252.

G. Claim 6

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**. *Id.*, ¶¶253-55.

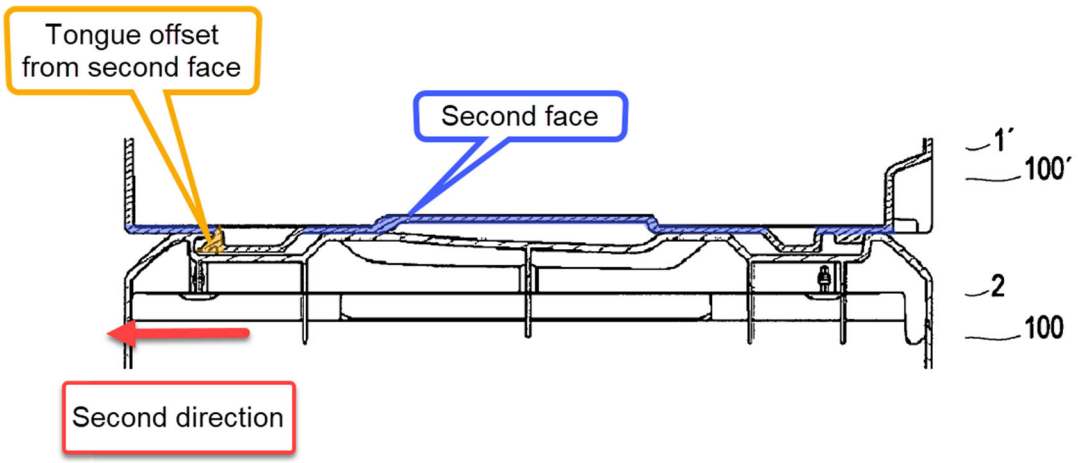


Fig. 4

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. *Id.*, ¶254.

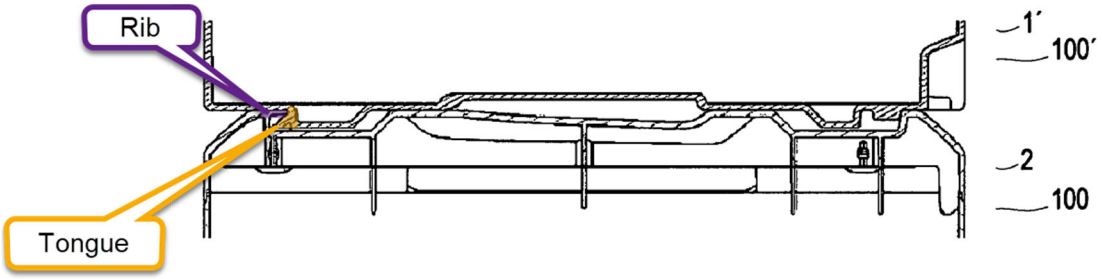


Fig. 4

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

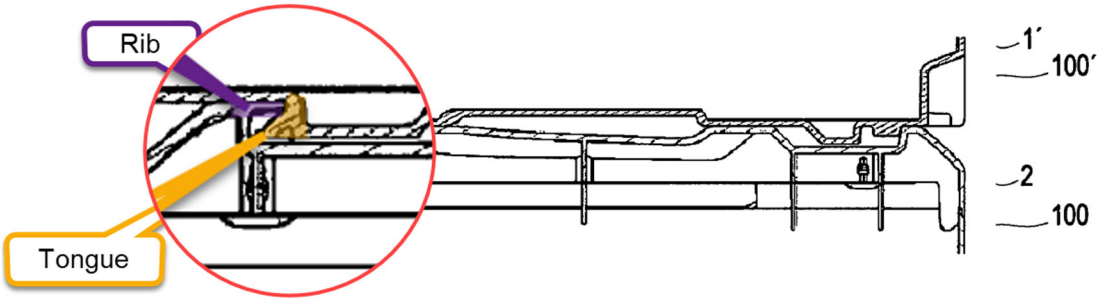


Fig. 4

H. Claim 7

Metabowerke's first container defines a **width axis parallel to a front face of the first container**, as shown in the annotated Figure below. *Id.*, ¶¶256-58.

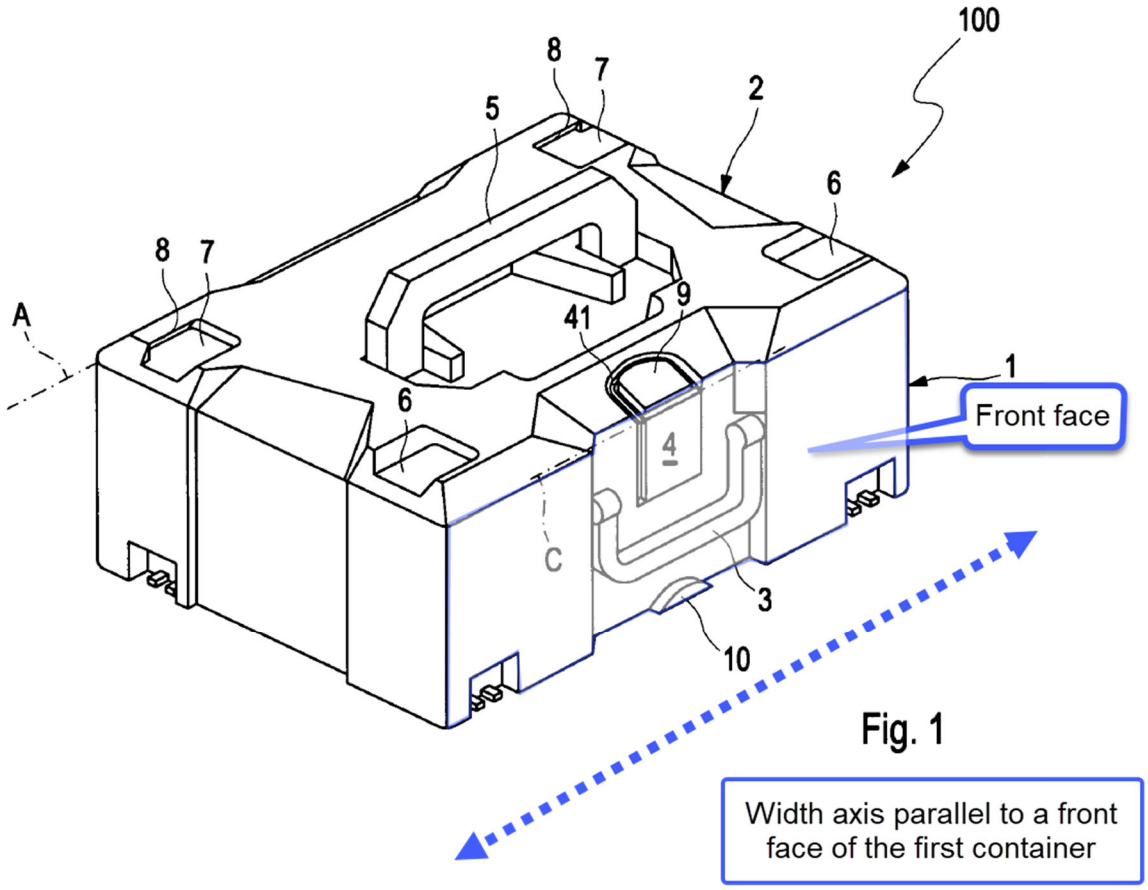


Fig. 1

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

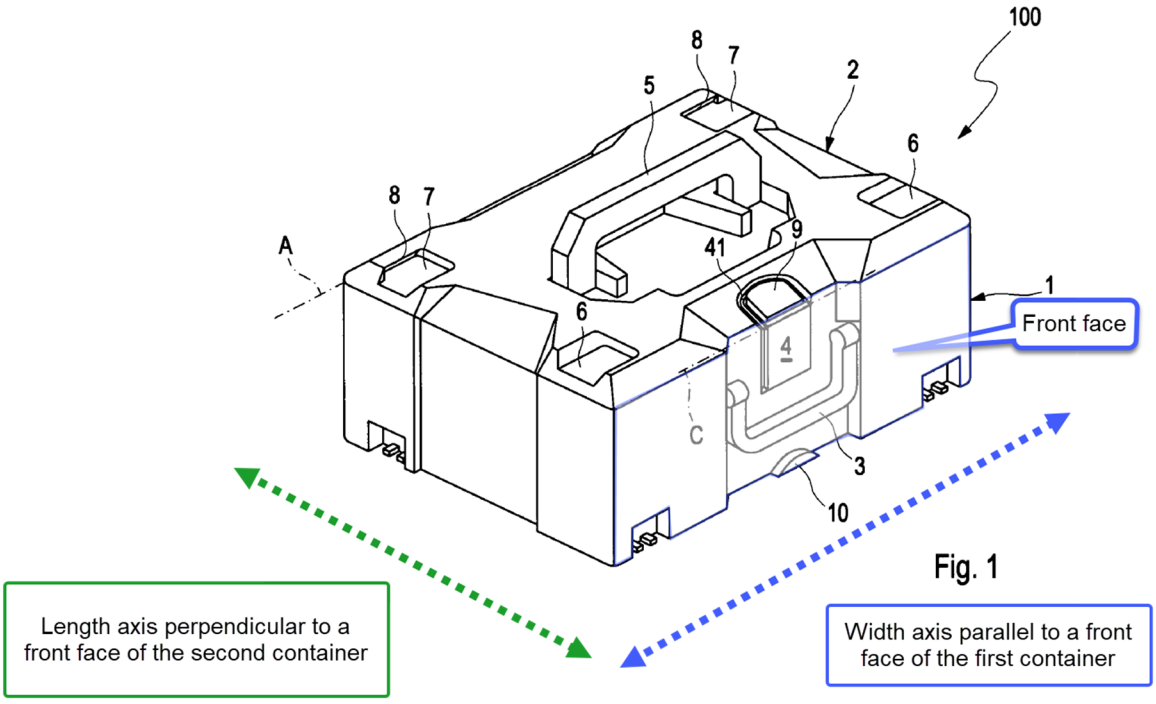


Fig. 1

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. *Id.*, ¶258.

I. Claim 8

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 been an obvious design choice for a POSITA to include such wheels and telescoping handle for the sake of mobility of the container assembly. *Id.*, ¶¶259-61.

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."). *Id.*, ¶260.

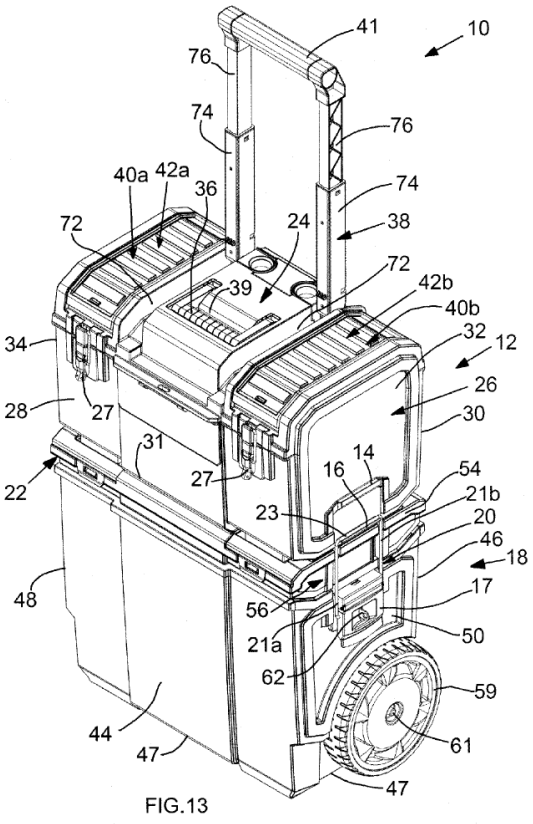


FIG.13

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

J. Claim 9

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. *Id.*, ¶¶262-66.

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]

Claim 9[h] is similar to claim 1[h] and differs only in that 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. *Id.*, ¶¶263-

66. This is shown expressly in Metabowerke, as shown in the below annotated Figures.

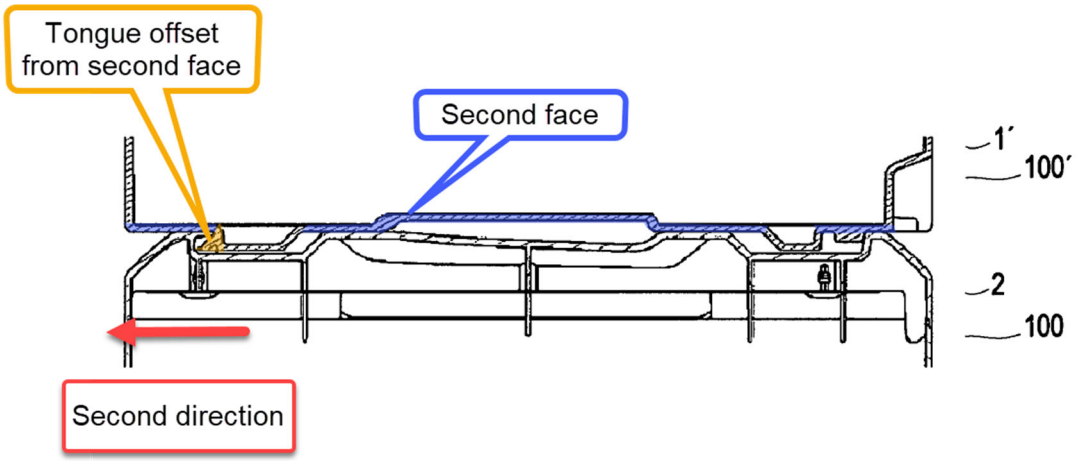


Fig. 4

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

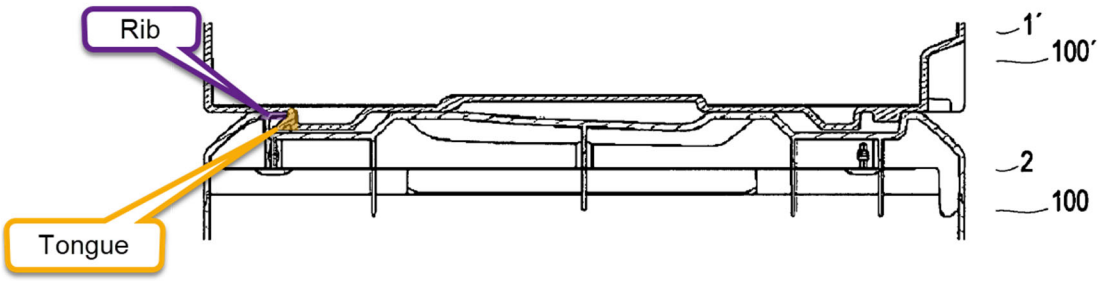


Fig. 4

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

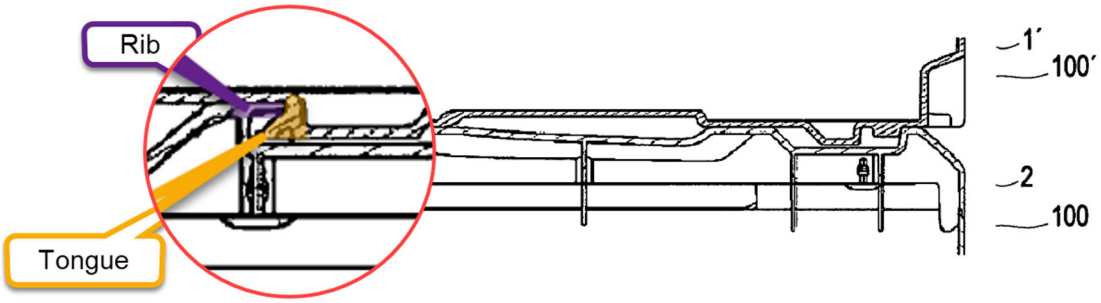


Fig. 4

L. Claim 10

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

M. Claim 11

Claim 11 is unpatentable for the same reasons discussed above in connection with claim 2. *Id.*, ¶268.

N. Claim 12

Claim 12 is unpatentable for the same reasons and prior art disclosure discussed in connection with claim 3. *Id.*, ¶269.

O. Claim 13

Claim 13 is unpatentable for the same reasons and prior art disclosure discussed in connection with claim 4. *Id.*, ¶270.

P. Claim 14

Claim 14 is unpatentable for the same reasons and prior art disclosure discussed in connection with claim 5. *Id.*, ¶271.

Q. Claim 15

Claim 15 is unpatentable for the same reasons discussed above in connection with claim 7. *Id.*, ¶272.

R. Claim 16

Claim 16 is unpatentable for the same reasons and prior art disclosure discussed in connection with claim 8. *Id.*, ¶273.

S. Claim 17

Like claim 9, claim 17 largely mirrors claim 1's limitations. *Id.*, ¶274. 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 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

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

U. Claim 19

Claim 19 is unpatentable for the same reasons and based on the same prior art disclosures relied upon in claims 2 and 11. *Id.*, ¶276.

V. Claim 20

Claim 20 is unpatentable for the same reasons and based on the same prior art disclosures relied upon in claims 3 and 12. *Id.*, ¶277.

W. Claim 21

Claim 21 is unpatentable for the same reasons and based on the same prior art disclosures relied upon in claims 5 and 14. *Id.*, ¶278.

X. Claim 22

Claim 18 is unpatentable for the same reasons discussed above in connection with claim 6. *Id.*, ¶279.

Y. Claim 23

Claim 23 is unpatentable for the same reasons and based on the same prior art disclosures relied upon in claims 8 and 16. *Id.*, ¶280.

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

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. *Id.*, ¶¶281-82.

Chen, Metabowerke, Burchia, Lafragette, and the '952 patent, are in the analogous field of modular toolboxes and containers. Metabowerke discloses corner bumpers, or in the alternative 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. *Id.*, ¶282.

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

As discussed above in Ground 4, Lin discloses claims 4 and 13. It would have been obvious to combine Metabowerke and Burchia with Lin. *Id.*, ¶¶283-84.

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 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). *Id.*, ¶284.

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

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. *Id.*, ¶¶285-88.

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. *Id.*, ¶286.

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). *Id.*, ¶287. 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). *Id.*

Bensman, Metabowerke, Burchia, and the '952 patent are in the analogous field of connectable containers—and a POSITA would have modified the containers of Metabowerke and Burchia for the same reasons, to facilitate moving the containers from one place to another. *Id.*, ¶288.

XVIII. CONCLUSION

For at least the foregoing reasons, the instant petition should be instituted.

Date: September 17, 2024

By: */s/ James Glass*

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CERTIFICATE OF LENGTH (37 C.F.R. §§ 42.24(D))

The undersigned hereby certifies that, according to the word-processing system used to prepare the foregoing document, this document has 13,969 words and thus complies with the applicable word limit.

Date: September 17, 2024

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CERTIFICATE OF SERVICE (37 C.F.R. §§ 42.6(E), 42.105(A))

The undersigned hereby certifies that on September 18, 2024 copies of this petition and supporting exhibits were served on counsel of record at the mailing address below via Federal Express Standard Overnight mail:

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