

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AROMA360, LLC,

Petitioner,

v.

AIR ESSSENTIALS, INC.,

Patent Owner.

Case IPR 2025-00707
U.S. Patent No. 10,092,918

PATENT OWNER'S REPLY IN SUPPORT OF
PATENT OWNER'S REVISED CONTINGENT MOTION TO AMEND

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PATENT OWNER'S EXHIBIT LIST

Exhibit Number	Filing Party	Title
2001	Patent Owner	Transcript for the Deposition of Dr. Christopher White, PhD.
2002	Patent Owner	Declaration of Dr. Gerald Micklow, PhD.
2003	Patent Owner	CV and Qualifications of Dr. Gerald Micklow, PhD
2004	Patent Owner	Certified Translation of CN 20183273U (GAO)
2005	Patent Owner	Cengel Fluid Mechanics
2006	Patent Owner	Munson Fundamentals of Fluid Mechanics 2d Edition
2007	Patent Owner	Heywood Internal Combustion Engine Fundamentals, 2d Edition
2008	Patent Owner	Martinez Liquid Sprays
2009	Patent Owner	Fox Introduction to Fluid Mechanics 4th Edition
2010	Patent Owner	Micklow Primary and Secondary Spray Breakup
2011	Patent Owner	Lefebvre Atomization and Sprays 2d Edition
2012	Patent Owner	Micklow Fuel Spray Modeling
2013	Patent Owner	Smith Scientific Design of Exhaust & Intake Systems
2014	Patent Owner	Lefebvre Atomization and Sprays
2015	Patent Owner	Patent Owner's Supplemental Evidence in Response to Petitioner's Objection to Evidence
2016	Patent Owner	Declaration of Dr. Gerald Micklow

I. INTRODUCTION

Petitioner has not carried its burden under 37 C.F.R. § 42.121(d)(2) of proving, by a preponderance of the evidence, unpatentability of Patent Owner's ("PO") substitute claim 16 ("claim 16") and substitute claim 17 ("claim 17"). Petitioner's Response ("Response") to PO's Revised Motion to Amend ("Revised Motion") instead fixates on a scrivener's error it made no good-faith effort to resolve, relying otherwise on conclusory restatements of its Petition that either fail for the same reasons or are inapplicable to the substitute claims. Petitioner's Response has not carried its burden to prove unpatentability by a preponderance, and claims 16 and 17 should be found non-obvious and fully compliant with §112.

II. THE REVISED MOTION IS NOT UNCLEAR OR PREJUDICIAL.

PO acknowledges the existence of a scrivener's error in the Revised Motion, wherein the "Claim Recitation" column of its chart setting for support for the substitute claims, did not align with the amended claims set forth in the Appendix. To be clear, however, the center and right columns, indicating all of the support from the earlier-filed disclosure and original disclosure documents PO relies on, were correct and complete. PO believes that despite the scrivener's error, the Revised Motion is compliant with 47 C.F.R. §42.121 because the operative amended claims were included in a claim listing in the Claims Appendix, and the motion itself set forth the support in the original and earlier-filed disclosures.

Despite the obvious and incidental nature of these scrivener's errors, which have not prevented Petitioner from responding to the Revised Motion, PO submits a revised support chart in the appendix which follows this Reply, in accordance with 37 C.F.R. §42.24(a)(1), including the corrected language from the original Claims Appendix in the column on the left. Underlines and strikethroughs demonstrate the changes to the left column relative to the Revised Motion, to confirm that no changes were made to the center or right columns, and all of PO's support was present in the revised motion. The scrivener's error is unlikely to have prejudiced Petitioner because it proceeded with its Opposition, rather than contact PO for clarification.

III. THE SUBSTITUTE CLAIMS COMPLY WITH § 112.

A. Claim 16 Has Sufficient Support In The Specification.

Petitioner's only argument that claim 16 lacks written description support misses the mark, because it seeks *in haec verba* disclosures using the same language, which are not required. *See Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc). Instead, the test is a flexible one, calling for "an objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art" to determine whether, by reading the original disclosure, that person could "immediately discern the limitation at issue in the claims." *Id.* Petitioner has not questioned whether a POSITA could immediately

discern the limitation set forth in §III(A) of its opposition memo by reading the original and earlier-filed disclosures, and therefore concedes the point to PO.

The argument that PO has attempted to combine incompatible embodiments also fails on its face. The embodiments shown in Figures 1 and 6 and their accompanying specification descriptions both demonstrate a key limitation of the amended claim language, namely that “the compressed-air flows across said fluid inlet.” PO has followed the requirements of 37 C.F.R. §42.121(b) in providing ample support across multiple embodiments for the disputed claim limitation **in addition to** the other elements of the substitute claim. Petitioner has not explained, and cannot explain, what incompatible features are “stitched together” in claim 16.

B. Claim 16 Is Definite.

Petitioner’s first argument against the definiteness of claim 16 is based on an antecedent basis issue that does not exist in the claim language set forth in the claim listing of the Revised Motion. Paper 25, Claims Appendix, page 17 (“and defining a compressed-air flow path through said atomizer assembly.”) This compressed-air flow path is shown via arrow indicia in the cited Figure 2, which appears as support for the place in the original chart where the limitation was meant to appear absent the scrivener’s error. *Id.*, 7-8. The written support remains unchanged in substance or location within the original chart, and is encompassed by the substitute claim language included at that row. Moreover, Petitioner’s case cite for the proposition

that the limitations in the Claims Appendix of the Revised Motion should not be entered, *Lectrosonics, Inc. v. Zaxcom, Inc.*, IPR2018-01129, Paper 15 at 4 (PTAB Feb. 25, 2019), is inapposite, as this pin cite discusses the burden of proof for a motion to amend and lacks bearing on the structure of a motion.

Petitioner's equally spurious position that the term "opening laterally" is ambiguous goes against the plain meaning of the claim when read in its entirety. To wit, an "atomizer exhaust aperture . . . open[s] laterally from said mixing chamber into said lower chamber along an exhaust path transverse to a direction in which the operative fluid enters..." Paper 25, Claims Appendix. The term "laterally" here clearly refers to an orientation of the aperture, that is transverse to the direction in which the operative fluid entered the mixing chamber. Petitioner's assertion that "there is no discussion in . . . the claim, identifying what axis/plane an atomizer exhaust aperture would need to lie in" is simply untrue.

C. Claim 17 Has Sufficient Support In the Specification.

Petitioner attacks the written description support of claim 17 based on the language included in the chart, not the Claims Appendix. Paper 30, 9; Paper 25, Claims Appendix. The correct limitation of "a fluid inlet . . . substantially perpendicular to a flow path of compressed air from the compressed air source as the compressed air flows across said fluid inlet" finds support in the original chart at the position where the erroneous language was included instead. Specifically,

Figure 6 and the corresponding specification show a fluid inlet 227 perpendicular to the flow path from the compressed air source as denoted by the “Air In” indicia, which flows across the fluid inlet. Ex. 1004, Figure 6. The specification and drawings support the correct claim language directly and so satisfy § 112.

D. Claim 17 Is Definite.

In attacking the definiteness of claim 17, Petitioner attempts to address the correct claim language from the Claims Appendix by arguing that a POSITA would not understand how the atomizer air inlet channel “defines” a flow path through the atomizer assembly. Paper 30, 10. Petitioner’s selective and restrictive reading of the term “defining” does not comport with the plain and ordinary meaning of the term,¹ and Petitioner has advanced no reason to construe the term beyond its plain and ordinary meaning. The circumference and orientation of the air inlet channel necessarily “defin[e]” the flow path by providing an outer boundary and linear direction of the flow path. Paper 25, 9-10. There is no lack of written description support for the added limitation. Petitioner’s citation to Dr. White’s testimony should be disregarded as Dr. White’s analysis is premised on an antecedent basis issue which does not exist in the claim listing, and because Dr. White cannot be allowed to contradict the plain and ordinary meaning of the term “define”.

¹ See, e.g., *Define*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/define> [<https://perma.cc/ZK5T-FHZA>] (last visited July 8, 2026) (“to fix or mark the limits of”).

IV. THE ASSERTED ART DOES NOT ANTICIPATE OR OBVIATE THE SUBSTITUTE CLAIMS.

Petitioner bears the ultimate burden of proving, by a preponderance of the evidence, that claims 16 and 17 are unpatentable. 37 C.F.R. §42.121(d)(2); Preliminary Guidance (“PG”) (Paper 22, Page 6). The Response instead leans on the Petition’s showing against the unamended claims, hedges that the added limitations are taught “as can be best understood by Petitioner,” Response 11, and offers conclusory expert citations. *See* 37 C.F.R. §42.65(a); *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016). Ultimately, Petitioner’s showings are devoid of discussing portions or structures of the claims as amended, and lacking argument beyond repetitions of old arguments made in the proceeding that does not address the nuanced portions of the claims as amended. Accordingly, the Petitioner has not met its burden of proving that the claims, as amended, are unpatentable.

A. Grounds 1 and 2: Goubet, Alone or Combined With Kaiser, Does Not Render Claim 16 Unpatentable.

Claim 16 calls for an “atomizer exhaust aperture spaced from said discharge port and opening laterally from said mixing chamber into said lower chamber along an exhaust path transverse to a direction in which the operative fluid enters said mixing chamber.” Paper 25, 18; *see also* Paper 22, 6-9. The Response concedes the dispositive facts: Goubet’s “mixture exits chamber 5 vertically through outlet 11,” with droplets “pushed toward the inside of reservoir 2.” Paper 30, 14 (citing Ex.

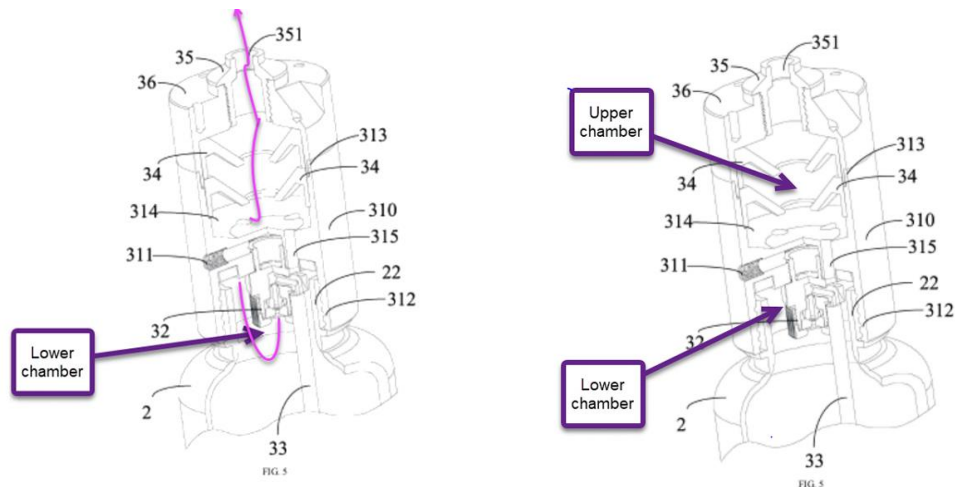
1016, 4:23–28, Fig. 2). A vertical, downward discharge does not “open[] laterally into the lower chamber.” Paper 25, Claims Appendix. At best, Goubet has a discharge into reservoir 2; which the ‘918 Patent has an analogous “container of an operative fluid.” Claim 16 also recites this structure separately from the diffusion chamber whose upper and lower chambers the diffusion unit defines. Ex. 1016, 3:31–4:2; Paper 25, 17. To this end, a container is clearly labeled as FC in the ‘918 Patent (*see* Figs. 1-3, 5). Accordingly, Patent Owner makes clear that Goubet is incapable of having an atomizer exhaust aperture opening laterally from a mixing chamber into a lower chamber.

Kaiser cures none of this: Petitioner concedes its Kaiser rationale addresses only “fluid dispersion” uniformity and “is not affected by the added limitations of claim 16.” Paper 30, 16. Ground 2 falls with Ground 1.

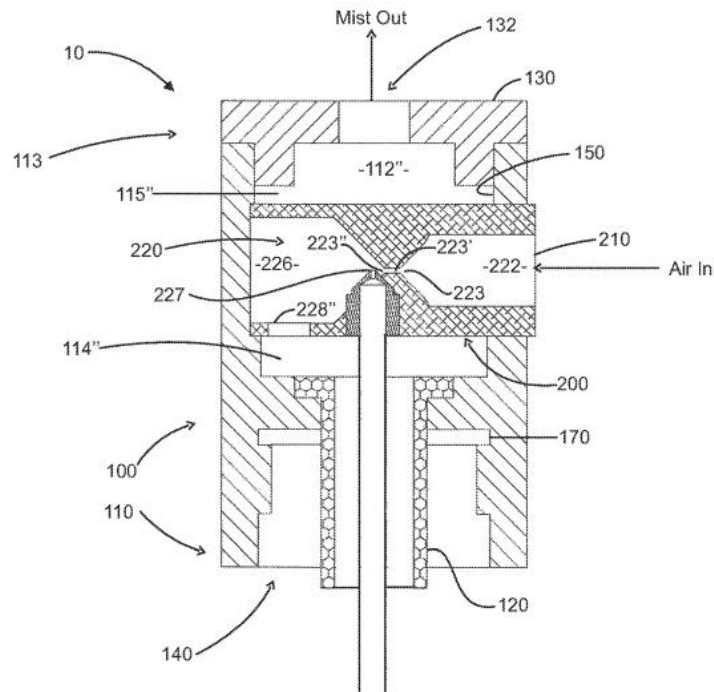
B. Grounds 3 and 4: Gao-2, Alone Or Combined With Goubet, Does Not Render Claim 16 Obvious.

Again, Claim 16 calls for an “atomizer exhaust aperture spaced from said discharge port and opening laterally from said mixing chamber into said lower chamber along an exhaust path transverse to a direction in which the operative fluid enters said mixing chamber.” Paper 25, 18; *see also* Paper 22, 6-9. By Petitioner’s own account, the oil “mixes with the airflow and is atomized at the outlet of the liquid suction hole 3224” before discharge through spray outlet 3231—which cap

323 provides “opposing the outlet of the liquid suction hole 3224.” Ex. 1042 ¶ [0036]; Ex. 1047 ¶ 46; Paper 22, 14–15. Petitioner is entirely silent on the notion that Gao-2 teaches or suggests the exhaust aperture opening laterally from a mixing chamber into a lower chamber (as defined in the ‘918 Patent). Instead, it is clear that Gao-2 discharges into a container (despite Petitioner’s attempt to label or equate this container with a lower chamber) as opposed to a lower chamber as defined by the ‘918 Patent (and diffusion unit thereof) and expressly claimed in the amended claim:



See Paper 2, 52, 62. Rather, the ‘918 Patent is clear that there is not only a distinction between a lower chamber and a container labeled FC in the ‘918 Patent, but also key structural differences defining such differences (*e.g.* the sealing washer 170 or drip tube 120):



Ex. 1001, Figure 6 (the lower chamber being reference numeral 114” where reference numeral 140 is the container interconnect to allow fluid container to be interconnect the diffusion unit to and would otherwise be a chamber). ‘918 Patent, 4:9-40. Simply, Petitioner does nothing to address this distinction, which should not allow Petitioner to meet its ultimate burden of rendering the claim unpatentable.

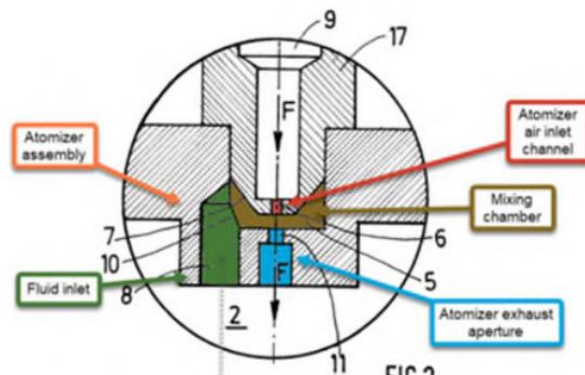
For the reasons described in the immediately preceding section, Goubet does not address this deficiency, nor render the limitation of the claim obvious.

C. Grounds 1 and 2: Goubet, Alone Or Combined With Kaiser, Does Not Render Claim 17 Unpatentable.

As explained *supra* §II, the operative substitute claims are those in the claim listing appended to the Revised Motion. Claim 17, as listed, requires, a “fluid inlet [] in fluid communication with the operative fluid in the container and comprises an

opening into said mixing chamber, said opening is disposed along said compressed air flow path such that said fluid inlet is substantially perpendicular to said compressed air flow path as the compressed air flows across said opening.” Paper 25, 19. Petitioner elected to address a different claim set, Response 4 n.1—much of its §IV(C), including an entire subsection on an “opens laterally” limitation appearing nowhere in claim 17. Paper 30, 21–22; Petitioner attacks language the operative claim does not recite.

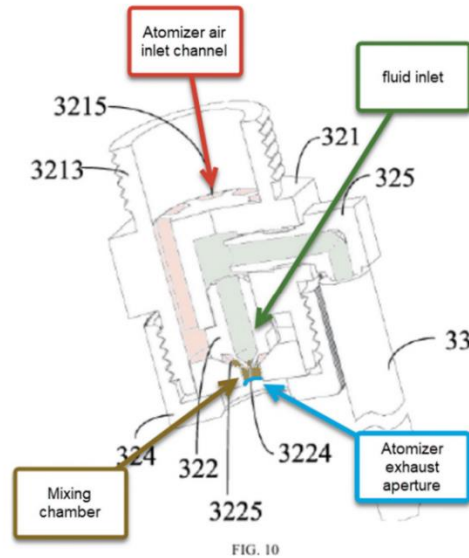
On the limitations claim 17 does recite, the Response is silent where it matters most: nothing in its prior-art analysis maps “[a] fluid inlet ... comprising an opening into [the] mixing chamber, said opening disposed along [the] compressed air flow path such that [the] fluid inlet is substantially perpendicular to said compressed-air flow path ...” with respect to Goubet. *See* Response, 20–22. Instead, Petitioner includes multiple instances where Goubet’s fluid inlet is clearly shown as *parallel* to the flow path of compressed air as the air flows through what might be described as an atomizer assembly in Goubet. Specifically, Petitioner relies on the following image multiple times:



Paper 30, 12, 15. It is clear that the fluid inlet is vertical whereas the flow path of air (*i.e.* the lines and arrows with the “F” designation) is entirely **parallel** thereto, at all times, but for perhaps a sub-45° angle at an **opening into the mixing chamber**, which the amended claim now differentiates. While the PG found that Figure 2 of Goubet depicts a “fluid inlet” that “is substantially perpendicular to a flow path of compressed air” Patent Owner has clarified that the fluid inlet is distinct from the opening as described in the now amended claim. Petitioner is naturally silent on this point and fails to suggest that Goubet, or Goubet in view of Kaiser, addresses this limitation. Accordingly, the Board should not find Petitioner has met its burden related to showing this claim is unpatentable.

D. Grounds 3 and 4: Gao-2, Alone Or Combined With Goubet, Does Not Render Claim 17 Unpatentable.

§IV(D) suffers the same defects as described above. Without more, the fluid inlet of Gao-2 is clearly **substantially parallel** to the compressed air flow path per Petitioner. Indeed, Petitioner provides the following labeled diagram of Gao-2, which illustrates the point:



Paper 30, 17. Accordingly, while there are some points of fluid flow path travel that may not be directly parallel to the path of air flow, either way, the fluid flow inlet is clearly **parallel** to the path of air flow for largely the same reasons as described above. Along those lines, for the reasons described in the immediately preceding section, Goubet does not address this deficiency, nor render the limitation of the claim obvious.

V. CONCLUSION

For the reasons set forth above, Petitioner has failed to carry its burden under 37 C.F.R. §42.121(d)(2) of proving by a preponderance of the evidence that Patent Owner's proposed substitute claims 16 or 17 are unpatentable. Petitioner has likewise failed to demonstrate a salient deficiency in Patent Owner's Revised Motion which would prevent the Board from granting same. Patent Owner's Revised Contingent Motion to Amend is due to be granted.

Dated: July 9, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH PAGE COUNT LIMIT

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that the instant Reply remains within the twelve-page limit, not including exempted sections.

Dated: July 9, 2026

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the instant Reply has been served in its entirety on July 9, 2026, by causing the instant Reply and any accompanying documents to be electronically mailed to the following attorneys of record for the Petitioner:

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APPENDIX

Claim Recitation	Support from 61/694,500	Support from 15/353,951
16. A fluid dispersion assembly operatively engages a container of an operative fluid and a compressed air source and generates and discharges a fluid dispersion into a surrounding airspace, said fluid dispersion assembly comprising:	Ex. 1006, page 21, line 23 – page 22, line 8; Ex. 1006, pages 14-15, Figures 2-3.	Ex. 1004, page 184, claim 1.
a diffusion unit at least partially defining an enclosed diffusion chamber, wherein said diffusion chamber comprises	Ex. 1006, page 22, lines 17-22; Ex. 1006, pages 13-15, Figures 1-3.	Ex. 1004, page 158, lines 23-25; Ex. 1004, pages 190-191, Figures 1-2 (reference numerals 100 and 112).
an upper chamber and a lower chamber,	Ex. 1006, pages 13-15, Figures 1-3 (upper and lower areas of figure reference 112).	Ex. 1004, page 178, lines 5-7; Ex. 1004, page 195, Figure 6 (reference numerals 114'' and 115'').
a discharge port disposed in fluid communication between said diffusion chamber and the surrounding airspace,	Ex. 1006, page 23, lines 20-24; Ex. 1006, pages 14-15, Figures 2-3.	Ex. 1004, page 163, lines 20-24; Ex. 1004, pages 190-191, Figures 1-2 (reference numeral 132).
a diffusion assembly disposed in an operative engagement with said diffusion unit, wherein said diffusion assembly comprises an atomizer assembly,	Ex. 1006, page 19, line 21 – page 20, line 5; Ex. 1006, pages 13-15, Figures 1-3.	Ex. 1004, page 166, lines 4-6; Ex. 1004, pages 190-191, Figures 1-2 (reference numeral 200).
said diffusion assembly is disposed between said upper	Ex. 1006, pages 13-15, Figures 1-3 (upper	Ex. 1004, page 178, lines 5-7; Ex. 1004, page 195, Figure 6.

chamber and said lower chamber,	and lower areas of figure reference 112).	
said atomizer assembly comprising an atomizer air inlet channel, a fluid inlet, a mixing chamber, and an atomizer exhaust aperture,	Ex. 1006, page 20, lines 5-10; Ex. 1006, pages 13-15, Figures 1-3.	Ex. 1004, page 179, lines 13-17; Ex. 1004, page 195, Figure 6.
said atomizer air inlet channel interconnected to the compressed air source <u>and defining a compressed-air flow path through said atomizer assembly</u> , said fluid inlet disposed in fluid communication with the operative fluid in the container,	Ex. 1006, page 20, lines 7-10; Ex. 1006, pages 13-15, Figures 1-3.	Ex. 1004, page 178, line 22 – page 179, line 5; Ex. 1004, pages 190-191, Figures 1-2 (reference numerals 227, FC).
and opening into said mixing chamber at an opening of said fluid inlet intersecting said compressed-air flow path,	Ex. 1006, page 27, line 15 –page 28, line 9; Ex. 1006, pages 13-15, Figures 1-3.	Ex. 1004, page 179, lines 2-5 & 13-17; Ex. 1004, pages 190-191, Figures 1-2 (reference numeral 227).
said mixing chamber disposed along said compressed-air flow path after said atomizer air inlet channel and before said atomizer exhaust aperture, and	Ex. 1006, page 28, lines 5-9; Ex. 1006, pages 14-15, Figures 2-3 (“air in”).	Ex. 1004, page 179, lines 6-12; Ex. 1004, pages 190-191, Figures 1-2.
said atomizer exhaust aperture spaced from said discharge port and opening laterally from said mixing chamber into said lower chamber along an exhaust path transverse to a direction in which the operative fluid enters said mixing chamber through said fluid inlet,	Ex. 1006, page 28, lines 1-9; Ex. 1006, pages 14-15, Figures 2-3.	Ex. 1004, page 171, line 10 – page 172, line 2; Ex. 1004, page 194, Figure 5 (reference numerals (226, 228)).
wherein the compressed air and the operative fluid are mixed	Ex. 1006, page 20, lines 10-12; Ex. 1006,	Ex. 1004, page 71, lines 17-18; Ex. 1004,

together in said mixing chamber to form the fluid dispersion.	pages 13-15, Figures 1-3.	pages 109-110, Figures 1-2.
17. A fluid dispersion assembly is operatively interconnected to a container of an operative fluid and a compressed air source to generate and discharge a fluid dispersion into a surrounding airspace, said fluid dispersion assembly comprising:	Ex. 1006, page 21, line 23 – page 22, line 8; Ex. 1006, pages 14-15, Figures 2-3.	Ex. 1004, page 184, claim 1.
a diffusion unit at least partially defining a diffusion chamber, wherein said diffusion chamber comprises	Ex. 1006, page 22, lines 17-22; Ex. 1006, pages 13-15, Figures 1-3.	Ex. 1004, page 158, lines 23-25; Ex. 1004, pages 190-191, Figures 1-2 (reference numerals 100 and 112).
an upper chamber and a lower chamber,	Ex. 1006, pages 13-15, Figures 1-3 (upper and lower areas of figure reference 112).	Ex. 1004, page 178, lines 5-7; Ex. 1004, page 195, Figure 6 (reference numerals 114'' and 115'').
a discharge port disposed in fluid communication between said diffusion chamber and the surrounding airspace, and	Ex. 1006, page 23, lines 20-24; Ex. 1006, pages 14-15, Figures 2-3.	Ex. 1004, page 163, lines 20-24; Ex. 1004, pages 190-191, Figures 1-2 (reference numeral 132).
a diffusion assembly disposed in an operative engagement with said diffusion unit, wherein said diffusion assembly comprises an atomizer assembly, said diffusion assembly is disposed between said upper chamber and said lower chamber,	Ex. 1006, page 19, line 21 – page 20, line 5; Ex. 1006, pages 13-15, Figures 1-3. reference numerals 227 and FC).	Ex. 1004, page 166, lines 4-6; Ex. 1004, pages 190-191, Figures 1-2 (reference numeral 200).
said atomizer assembly comprises an atomizer air inlet channel, a fluid inlet, a mixing	Ex. 1006, page 20, lines 5-10; Ex. 1006, pages 13-15, Figures 1-3.	Ex. 1004, page 179, lines 13-17; Ex. 1004, page 195, Figure 6.

chamber, and an atomizer exhaust aperture,		
said fluid inlet is in fluid communication with the operative fluid in the container and comprises an opening into said mixing chamber, said opening disposed along said compressed-air flow path such that said fluid inlet is substantially perpendicular to said compressed-air flow path as the compressed air flows across said opening;	Ex. 1006, page 27, line 24 – page 28, line 4; Ex. 1006, pages 14-15, Figures 2-3.	Ex. 1004, page 178, line 22 – page 179, line 5; Ex. 1004, pages 190-191, Figures 1-2 (reference numerals 227, FC).
said mixing chamber disposed along said compressed-air flow path after said atomizer air inlet channel and before said atomizer exhaust aperture, and	Ex. 1006, page 28, lines 5-9; Ex. 1006, pages 14-15, Figures 2-3 (“air in”).	Ex. 1004, page 179, lines 8-12; Ex. 1004, page 190-195, Figures 1-6 (reference numeral 226).
~~said atomizer exhaust aperture is spaced from said discharge port and opens laterally from said mixing chamber into said lower chamber along an exhaust path that is transverse to said fluid inlet~~ <u>said fluid inlet is substantially perpendicular to a flow path of compressed air from the compressed air source as the compressed air flows across said fluid inlet.</u>	Ex. 1006, page 28, lines 1-9; Ex. 1006, pages 14-15, Figures 2-3.	Ex. 1004, page 179, lines 6-12; Ex. 1004, pages 195, Figure 6.