

REMARKS

Rejection under 35 U.S.C. §§ 102, 103

The Examiner stated that claims 21 and 22 are anticipated by U.S. patent application number 2009/0274991 (hereinafter *Black*). *Office Action*, 2. The Examiner also contends that the independent claims of the present application are rendered obvious by *Black* in view of U.S. patent number 4,083,115 (hereinafter *McKelvey*). *Office Action*, 3. The Applicants respectfully traverse.

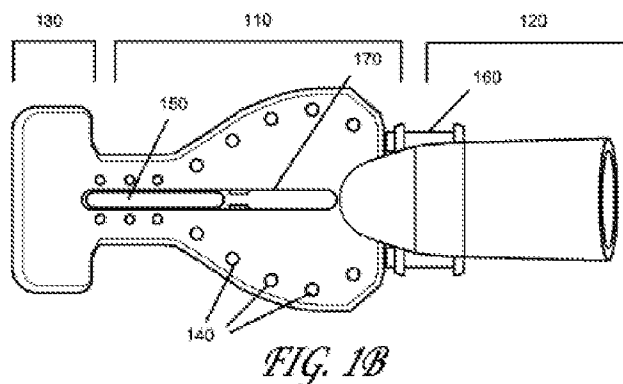
Specific elements of the independent claims are discussed below:

1. *'a main body portion configured as a pocket having an interior defined by:'*

The main body portion is described by the specification as follows:

An exemplary main body portion 110, when placed in a mouth, may include an anterior wall facing the front of the mouth (e.g., the side with slit 170) and a posterior wall facing the back of the mouth. The two walls may connect at a superior wall and an inferior wall forming a body that is at least partially enclosed.

Specification, [0035]; see also FIG. 1B (provided below)



As described and illustrated, main body portion 110 is a partially enclosed body (e.g., pocket) defined by several walls.

2. *'an anterior wall having a shape defined by an exterior edge, wherein the anterior wall includes an opening to the interior of the pocket'*

As illustrated in FIG. 1B provided above, the anterior wall (the wall facing the viewer in FIG. 1B) has a defined shape marked by an exterior edge and includes an opening into the interior of the body (e.g., pocket).

3. *'a posterior wall having a shape corresponding to the defined shape of the anterior wall, wherein an exterior edge of the posterior wall shape corresponds to the exterior edge of the anterior wall'*

The posterior wall is illustrated in FIG. 1C as follows:

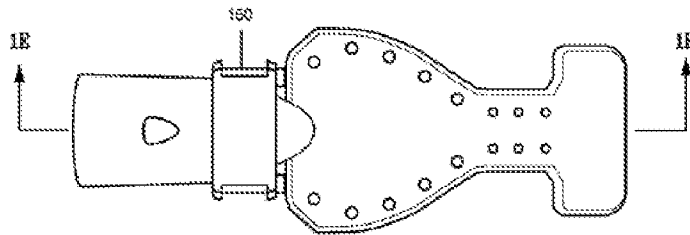


FIG. 1C

As illustrated, the posterior wall (the wall facing the viewer in FIG. 1C) has a defined shape that corresponds to the shape of the anterior wall. Similarly, the shape of the posterior wall is defined by a corresponding exterior edge.

4. *'a side wall connecting the exterior edge of the anterior wall to the corresponding exterior edge of the posterior wall, and wherein at least part of the side wall comprises a plurality of perforations into the interior of the pocket'*

The side wall is illustrated in FIGs. 1A, 1D, and 4 (provided below):

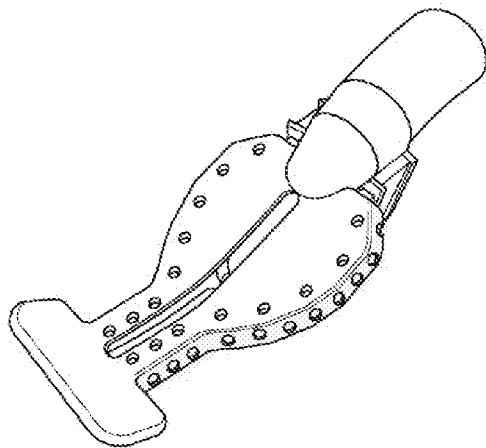


FIG. 1A

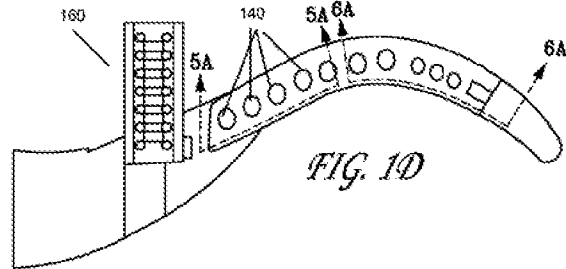


FIG. 1D

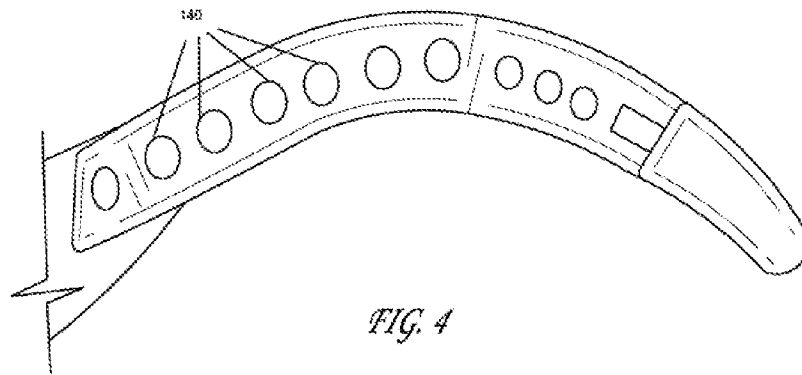


FIG. 4

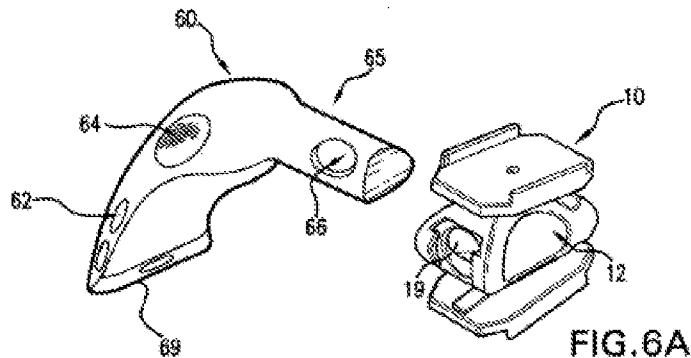
As can be seen from the illustrations provided, the side wall connects the defined exterior edge of the anterior wall to the defined exterior edge of the posterior wall.

4. *'a suction connector connected to one end of the main body portion, the suction connector connecting a vacuum source with the interior of the pocket within the main body portion; and a connection to a cheek retractor at another end of the main body portion, the other end opposite to the end of the main body portion'*

As can be seen from at least FIGs. 1A and 1B(provided above), the claimed mouthpiece has a suction connector connected to one of the main body and a cheek retractor connection at the opposite end of the main body.

Black

The mouthpiece of *Black* does not have each and every element discussed above with respect to the claimed mouthpiece. Exemplary mouthpieces disclosed by *Black* are provided below:



The Examiner specifically refers to “tongue shield aspirator 60” as teaching the claimed ‘main body.’ *Office Action*, 2. The Examiner does not identify any anterior wall, any posterior wall, or side wall, however. Although the Examiner refers generally to paragraph 82 of *Black*, that paragraph refers to a different figure. And the “edges” referenced by paragraph 82 of *Black* are not disclosed as defining corresponding **shapes**, nor are there any teachings regarding a side wall that connects the edges.

On the contrary, paragraph 82 of *Black* indicates that there is no side wall. In particular, *Black* teaches that “top edge 40c of the proximal flap may be formed by the respective top edges of the posterior layer 48a and the anterior layer 48b,” indicating that the edges are connected directly rather than via a distinct ‘side wall,’ as claimed. *Black* therefore fails to teach any ‘side wall’ (with perforations) that connects the anterior wall edge to the posterior wall edge.

McKelvey cannot cure *Black*’s failure to teach each any every element recited in the independent claims as *McKelvey* merely discloses a “dental saliva ejector” and wholly lacks