

EXHIBIT 2001



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	03/23/2021	RE48479	7300-0002	1586

133404 7590 03/03/2021
Schaffer IP Law, LLC
2187 SW Market Street Dr.
Portland, OR 97201

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Extension or Adjustment under 35 U.S.C. 154 (b)

A reissue patent is for "the unexpired part of the term of the original patent." See 35 U.S.C. 251. Accordingly, the above-identified reissue application is not eligible for Patent Term Extension or Adjustment under 35 U.S.C. 154(b).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Bruce Cannon, Portland, OR;
Happy Products, Inc., Portland, OR, Assignee (with 37 CFR 1.172 Interest);
Juliette Fassett, Portland, OR;

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation, and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage and facilitate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), by mail or fax, or via EFS-Web.

By mail, send to: Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By fax, send to: (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

133404 7590 02/02/2021
Schaffer IP Law, LLC
2187 SW Market Street Dr.
Portland, OR 97201

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being transmitted to the USPTO via EFS-Web or by facsimile to (571) 273-2885, on the date below.

(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586

TITLE OF INVENTION: MULTIPLE VIEWING ANGLE MEDIA SUPPORT

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$600	\$0.00	\$0.00	\$600	05/03/2021

EXAMINER	ART UNIT	CLASS-SUBCLASS
WEHNER, CARY ELLEN	3993	248-454000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-09 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) The names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Schaffer IP Law, LLC
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document must have been previously recorded, or filed for recordation, as set forth in 37 CFR 3.11 and 37 CFR 3.81(a). Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Happy Products, Inc.

Portland, Oregon

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. Fees submitted: ☒ Issue Fee ☐ Publication Fee (if required) ☐ Advance Order - # of Copies _____

4b. Method of Payment: (Please first reapply any previously paid fee shown above)

☒ Electronic Payment via EFS-Web ☐ Enclosed check ☐ Non-electronic payment by credit card (Attach form PTO-2038)

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

5. Change in Entity Status (from status indicated above)

☐ Applicant certifying micro entity status. See 37 CFR 1.29

☐ Applicant asserting small entity status. See 37 CFR 1.27

☐ Applicant changing to regular undiscounted fee status

NOTE: Absent a valid certification of Micro Entity Status (see forms PTO/SB/15A and 15B), issue fee payment in the micro entity amount will not be accepted at the risk of application abandonment.

NOTE: If the application was previously under micro entity status, checking this box will be taken to be a notification of loss of entitlement to micro entity status.

NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 3.1 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____

Date February 4, 2021

Typed or printed name Scott A. Schaffer

Registration No. 38,610

Electronic Patent Application Fee Transmittal

Application Number:	16262797			
Filing Date:	30-Jan-2019			
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT			
First Named Inventor/Applicant Name:	Bruce Cannon			
Filer:	Scott Alexander Schaffer			
Attorney Docket Number:	7300-0002			
Filed as Small Entity				
Filing Fees for Utility under 35 USC 111(a)				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
REISSUE ISSUE FEE	2511	1	600	600

HPI-ONTEL0000029

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension-of-Time:				
Miscellaneous:				
Total in USD (\$)				600

Electronic Acknowledgement Receipt

EFS ID:	41840862
Application Number:	16262797
International Application Number:	
Confirmation Number:	1586
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT
First Named Inventor/Applicant Name:	Bruce Cannon
Customer Number:	133404
Filer:	Scott Alexander Schaffer
Filer Authorized By:	
Attorney Docket Number:	7300-0002
Receipt Date:	04-FEB-2021
Filing Date:	30-JAN-2019
Time Stamp:	16:43:04
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	\$600
RAM confirmation Number	E202124G44072370
Deposit Account	
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

HPI-ONTEL0000031

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Issue Fee Payment (PTO-85B)	2021_02_04-Issue-Fee-payment-MULTI-ANGLE-MEDIA-SUPPORT.pdf	98396	no	1
			76fad826484a77c879880578621949c4b83be568		
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30356	no	2
			615d8d588a15040ce41b4880481498fce6f4cbdd		
Warnings:					
Information:					
Total Files Size (in bytes):			128752		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					



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NOTICE OF ALLOWANCE AND FEE(S) DUE

133404 7590 02/02/2021
Schaffer IP Law, LLC
2187 SW Market Street Dr.
Portland, OR 97201

EXAMINER	
WEHNER, CARY ELLEN	
ART UNIT	PAPER NUMBER

3993

DATE MAILED: 02/02/2021

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586

TITLE OF INVENTION: MULTIPLE VIEWING ANGLE MEDIA SUPPORT

APPLN. TYPE	ENTITY STATUS	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	SMALL	\$600	\$0.00	\$0.00	\$600	05/03/2021

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the ENTITY STATUS shown above. If the ENTITY STATUS is shown as SMALL or MICRO, verify whether entitlement to that entity status still applies.

If the ENTITY STATUS is the same as shown above, pay the TOTAL FEE(S) DUE shown above.

If the ENTITY STATUS is changed from that shown above, on PART B - FEE(S) TRANSMITTAL, complete section number 5 titled "Change in Entity Status (from status indicated above)".

For purposes of this notice, small entity fees are 1/2 the amount of undiscounted fees, and micro entity fees are 1/2 the amount of small entity fees.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Maintenance fees are due in utility patents issuing on applications filed on or after Dec. 12, 1980. It is patentee's responsibility to ensure timely payment of maintenance fees when due. More information is available at www.uspto.gov/PatentMaintenanceFees.

PART B - FEE(S) TRANSMITTAL

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Commissioner for Patents
P.O. Box 1450
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(Typed or printed name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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nonprovisional	SMALL	\$600	\$0.00	\$0.00	\$600	05/03/2021

EXAMINER	ART UNIT	CLASS-SUBCLASS
WEHNER, CARY ELLEN	3993	248-454000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-09 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) The names of up to 3 registered patent attorneys or agents OR, alternatively,

1 _____

(2) The name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

2 _____

3 _____

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(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. Fees submitted: ☐ Issue Fee ☐ Publication Fee (if required) ☐ Advance Order - # of Copies _____

4b. Method of Payment: (Please first reapply any previously paid fee shown above)

☐ Electronic Payment via EFS-Web ☐ Enclosed check ☐ Non-electronic payment by credit card (Attach form PTO-2038)

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment to Deposit Account No. _____

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☐ Applicant asserting small entity status. See 37 CFR 1.27

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NOTE: Checking this box will be taken to be a notification of loss of entitlement to small or micro entity status, as applicable.

NOTE: This form must be signed in accordance with 37 CFR 1.31 and 1.33. See 37 CFR 1.4 for signature requirements and certifications.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586
133404	7590	02/02/2021	EXAMINER	
Schaffer IP Law, LLC 2187 SW Market Street Dr. Portland, OR 97201			WEHNER, CARY ELLEN	
			ART UNIT	PAPER NUMBER
			3993	
DATE MAILED: 02/02/2021				

Determination of Patent Term Extension or Adjustment under 35 U.S.C. 154 (b)

A reissue patent is for "the unexpired part of the term of the original patent." See 35 U.S.C. 251. Accordingly, the above-identified reissue application is not eligible for Patent Term Extension or Adjustment under 35 U.S.C. 154(b).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

OMB Clearance and PRA Burden Statement for PTOL-85 Part B

The Paperwork Reduction Act (PRA) of 1995 requires Federal agencies to obtain Office of Management and Budget approval before requesting most types of information from the public. When OMB approves an agency request to collect information from the public, OMB (i) provides a valid OMB Control Number and expiration date for the agency to display on the instrument that will be used to collect the information and (ii) requires the agency to inform the public about the OMB Control Number's legal significance in accordance with 5 CFR 1320.5(b).

The information collected by PTOL-85 Part B is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Notice of Allowability	Application No. 16/262,797	Applicant(s) Cannon et al.	
	Examiner CARY E WEHNER	Art Unit 3993	AIA (FITF) Status Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendment filed 12/16/20.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

2. ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____; the restriction requirement and election have been incorporated into this action.

3. ☒ The allowed claim(s) is/are 1-10 and 21-39. As a result of the allowed claim(s), you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a) ☐ All b) ☐ Some *c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892) 2. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____. 3. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material _____. 4. ☐ Interview Summary (PTO-413), Paper No./Mail Date. _____.	5. ☐ Examiner's Amendment/Comment 6. ☒ Examiner's Statement of Reasons for Allowance 7. ☐ Other _____.
--	--

/CARY E WEHNER/
Primary Examiner, Art Unit 3993

Notice of Pre-AIA or AIA Status

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: The prior art of record does not disclose or fairly suggest an apparatus having three support sides each comprising a back support and an edge support with an edge angle of between 85 and 120 degrees to an adjacent support back, wherein the apparatus configured to provide first, second and third viewing angles of the first, second and third support backs that are different from one another.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARY E WEHNER whose telephone number is (571)272-4715. The examiner can normally be reached on 9am to 5 pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <https://ppair-my.uspto.gov/pair/PrivatePair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CARY E WEHNER/
Primary Examiner, Art Unit 3993

Conferee:/gkd/

Conferee: /E.D.L/
SPRS, Art Unit 3993

<i>Index of Claims</i> 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

CLAIMS										
☐ Claims renumbered in the same order as presented by applicant					☐ CPA		☐ T.D.		☐ R.1.47	
CLAIM		DATE								
Final	Original	09/25/2019	03/17/2020	01/22/2021						
1	1	✓	✓	=						
2	2	✓	✓	=						
3	3	✓	✓	=						
4	4	✓	✓	=						
5	5	✓	✓	=						
6	6	✓	✓	=						
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29	39		✓	=						

<i>Search Notes</i> 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

CPC - Searched*		
Symbol	Date	Examiner
a47b23/042	09/24/2019	cew
updated	03/17/2020	cew
updated	01/22/2021	

CPC Combination Sets - Searched*		
Symbol	Date	Examiner

US Classification - Searched*			
Class	Subclass	Date	Examiner
248	441.1, 454	09/24/2019	cew
D6	419,406	09/24/2019	cew
D9	91	09/24/2019	cew
updated		03/17/2020	cew
updated		01/22/2021	cew

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
See EAST search strategy printout	09/24/2019	cew
updated	03/17/2020	cew
updated	01/22/2021	cew

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<i>Search Notes</i> 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner
a47b	13/042	01/22/2021	cew
248	441.1, 454	01/22/2021	cew
D6	419,406	01/22/2021	cew
D9	91	01/22/2021	cew
	Search terms support and angle	01/22/2021	cew

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Issue Classification 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

CPC		
Symbol	Type	Version
A47B / 23 / 042	F	2013-01-01

CPC Combination Sets				
Symbol	Type	Set	Ranking	Version
/ /				

NONE (Assistant Examiner) _____ (Date) _____		Total Claims Allowed: 29	
/CARY E WEHNER/ Primary Examiner, Art Unit 3993 (Primary Examiner) _____ (Date) 22 January 2021		O.G. Print Claim(s) 22	O.G. Print Figure 1

Issue Classification 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

INTERNATIONAL CLASSIFICATION			
CLAIMED			
A47B	/	97	/ 04
A47B	/	23	/ 04

NON-CLAIMED			
	/		/

US ORIGINAL CLASSIFICATION	
CLASS	SUBCLASS

CROSS REFERENCES(S)						
CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)					

NONE		Total Claims Allowed:	
(Assistant Examiner)	(Date)	29	
/CARY E WEHNER/ Primary Examiner, Art Unit 3993 (Primary Examiner)	22 January 2021 (Date)	O.G. Print Claim(s) 22	O.G. Print Figure 1

Issue Classification 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47															
CLAIMS															
Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
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2	2		11		20	19	29	28	38						
3	3		12	11	21	20	30	29	39						
4	4		13	12	22	21	31								
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7	7		16	15	25	24	34								
8	8		17	16	26	25	35								
9	9		18	17	27	26	36								

NONE (Assistant Examiner) _____ (Date) _____		Total Claims Allowed: 29	
/CARY E WEHNER/ Primary Examiner, Art Unit 3993 (Primary Examiner) _____ (Date) 22 January 2021		O.G. Print Claim(s) 22	O.G. Print Figure 1

United States Patent And Trademark Office <u>Reissue Terminal Disclaimer Review Form</u>	Application No. 16/262,797	Art Unit 3993
	Examiner CARY E WEHNER	AIA Status Yes

Original Patent Number of Patent to be Reissued is: <u>9,642,454</u>	The Maintenance fee status is: ☒ up to date ☐ not up to date (Consult with SPRS)
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Is there a terminal disclaimer filed and accepted during the prosecution of (i) the current reissue application, (ii) the underlying patent, and/or (iii) reexamination proceeding(s) of the underlying patent?

☒ NO
☐ YES (Complete the rest of the form)

The reissue patent is subject to Terminal Disclaimer(s) that was/were:

☐ filed and accepted (DISQ or DISQ.E.FILE) during the prosecution of the current reissue application.
(Enter terminal disclaimer(s) filing date(s) below).

1. _____ 2. _____ 3. _____

The underlying patent of the current reissue application is subject to Terminal Disclaimer(s) that was/were:

☐ accepted (DISQ or DISQ.E.FILE) and of record in the prosecution of the underlying patent and/or reexamination proceeding(s) of the underlying patent. (Enter application/control no(s) and terminal disclaimer(s) filing date(s) below).

1. _____ 2. _____ 3. _____



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BIB DATA SHEET

CONFIRMATION NO. 1586

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.		
16/262,797	01/30/2019	248	3993	7300-0002		
RULE						
APPLICANTS Happy Products, Inc., Portland, OR, Assignee (with 37 CFR 1.172 Interest); INVENTORS Bruce Cannon, Portland, OR; Juliette Fassett, Portland, OR; ** CONTINUING DATA ***** This application is a REI of 15/192,737 06/24/2016 PAT 9642454 which is a CIP of 14/518,443 10/20/2014 ABN which claims benefit of 61/896,540 10/28/2013 ** FOREIGN APPLICATIONS ***** ** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** * SMALL ENTITY ** 03/26/2019						
Foreign Priority claimed 35 USC 119(a-d) conditions met Verified and Acknowledged	☐ Yes ☒ No ☐ Yes ☐ No /CARY ELLEN WEHNER/ Examiner's Signature	☐ Met after Allowance Initials	STATE OR COUNTRY OR	SHEETS DRAWINGS 4	TOTAL CLAIMS 20	INDEPENDENT CLAIMS 2
ADDRESS Schaffer IP Law, LLC 2187 SW Market Street Dr. Portland, OR 97201 UNITED STATES						
TITLE MULTIPLE VIEWING ANGLE MEDIA SUPPORT						
FILING FEE RECEIVED 2030	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:			☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit		

PE2E SEARCH - Search History (Prior Art)

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PE2E SEARCH - Search History (Interference)

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N4	661	N3 AND support AND angle	US-PGPUB; USPAT	OR	ON	ON	2021/01/22 05:00 PM
N5	284	N3 AND (support AND angle).clm.	US-PGPUB; USPAT	OR	ON	ON	2021/01/22 05:01 PM

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875	Application or Docket Number 16/262,797	Filing Date 01/30/2019	☐ To be Mailed
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ENTITY: ☒ LARGE ☐ SMALL ☐ MICRO

APPLICATION AS FILED - PART I

FOR	(Column 1) NUMBER FILED	(Column 2) NUMBER EXTRA	RATE (\$)	FEE (\$)
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))	N/A	N/A	N/A	
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 = *		x \$100 =	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 = *		x \$460 =	
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$310 (\$155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				
* If the difference in column 1 is less than zero, enter "0" in column 2.			TOTAL	

APPLICATION AS AMENDED - PART II

	(Column 1)		(Column 2)	(Column 3)	RATE (\$)	ADDITIONAL FEE (\$)
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	Independent (37 CFR 1.16(h))	* 3	Minus	*** 3	= 0	x \$480 = 0
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	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))					
TOTAL ADD'L FEE						0
AMENDMENT			CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	
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	Independent (37 CFR 1.16(h))	*	Minus	***	=	x \$0 =
	☐ Application Size Fee (37 CFR 1.16(s))					
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))					
TOTAL ADD'L FEE						
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.						LIE
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".						/RHONDA BELL/
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".						
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.						

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HPI-ONTEL0000054

REISSUE PATENT APPLICATION
Docket No. 7300-0002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Bruce CANNON, et al. Conf. No. 1586
Serial No. 16/262,797 Examiner: WEHNER, Cary Ellen
Filed: January 8, 2016 Art Unit: 3993
For: MULTIPLE VIEWING ANGLE MEDIA SUPPORT
Date: December 16, 2020

Commissioner for Patents
Filed via Electronic Filing System (EFS)

AMENDMENT AFTER NON-FINAL REJECTION
APPLICATION FOR REISSUE OF U.S. PAT. NO. 9,642,454

CLAIMS AS AMENDED					
For	Number After Amendment	Previous Number paid for	Extra	Rate	Additional Fee
Total Claims	29	29	0	x \$ 50.00 =	\$0
Independent Claims	3	3	0	x \$230.00 =	\$0
TOTAL ADDITIONAL FEE					\$0

This communication is responsive to the non-Final Office Action, dated November 27, 2020, in connection with Applicants' request for reissue of U.S. Patent No. 9,642,454 B2. Accordingly, please amend the above-identified application as follows:

- **Amendments to the Claims** begin on page 2.
- **Remarks** begin on page 8.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application. The claim amendments comply with 37 C.F.R. §§ 1.173(b)(2), (c), (e); M.P.E.P. §§ 1453(V)(B)-(D).

Listing of Claims:

1. (Original Patented Claim) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support, wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends of a solid interior, each edge support comprises an edge support width of 2 centimeters (cm) with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis, a plane of a first back support is at a first plane angle of 60 degrees to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support, a plane of the second back support is at a second plane angle of 80 degrees to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support, a plane of a third back support is at a third plane angle of 40 degrees to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support, and wherein each back support, each edge support, and each end is a surface of the solid interior, the solid interior is a pillow covered in fabric, a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.

2. (Original Patented Claim) The apparatus of claim 1, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

3. (Original Patented Claim) The apparatus of claim 2, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

4. (Original Patented Claim) The apparatus of claim 1, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

5. (Original Patented Claim) The apparatus of claim 4, wherein each back support has a latitudinal length of 15 cm.

6. (Original Patented Claim) The apparatus of claim 1, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

7. (Original Patented Claim) The apparatus of claim 6, wherein each edge support has a latitudinal length of 7 cm.

8. (Original Patented Claim) The apparatus of claim 1, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

9. (Original Patented Claim) The apparatus of claim 1, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

10. (Original Patented Claim) The apparatus of claim 9, wherein the edge angle is 90 degrees.

Cancel claims 11-20

21. (New) The apparatus of claim 1, wherein a latitudinal length of each of the first, second, and third edge supports is different from a latitudinal length of the corresponding first, second, and third side supports.

22. (New, amended) A media support apparatus comprising:
a body having a first support back, a second support back, and a third support back disposed about a central axis;

a first support edge disposed between the first support back and the second support back, the first support back and first support edge are configured to support a media device at a first support angle;

a second support edge disposed between the second support back and third support back, the second support back and second support edge are configured to support a media device at a second support angle;

a third support edge disposed between the third support back and first support back, the third support back and third support edge are configured to support a media device at a third support angle, wherein each edge support comprises an edge support width with an edge angle in the range of 85 to 120 degrees to an adjacent support back, a face of each edge support width oriented clockwise about the central axis;

wherein the media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane between a top of the second support back and an outer edge of the second edge support, on a second virtual plane between a top of the third support back and an outer edge of the third edge support, and on a third virtual plane between a top of the first support back and an outer edge of the first edge support; and

wherein the media support apparatus is configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle, a second viewing angle when the media support apparatus body rests on the second virtual plane and the media device is supported at the second support angle, and a third viewing angle when the media support apparatus body rests on the third virtual plane and the media device is supported at the third support angle, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

23. (New) The apparatus of claim 22, wherein the first support angle is between 50 and 60 degrees to the second virtual plane, the second support angle is between 55 and 65 degrees to the third virtual plane, and the third support angle is between 50 and 75 degrees to the first virtual plane.

24. (New) The apparatus of claim 22, wherein the first support angle is 60 degrees to the second virtual plane, the second support angle is 68 degrees to the third virtual plane, and the third support angle is 52 degrees to the first virtual plane.

25. (New, amended) The apparatus of claim of 22, wherein the edge support angle is 90 degrees.

26. (New, amended) The apparatus of claim 25 wherein the edge support width is 2cm.

27. (New) The apparatus of claim 22, wherein the body includes three solid corners, with each of the corners interposed between two adjacent support backs and including a respective edge support.

28. (New) The apparatus of claim 22, wherein the body is foam having an indentation force deflection (IFD) in the range of 15-30 kilograms at 25% indentation.

29. (New, amended) The apparatus of claim 22, wherein the edge support width is in the range of 1 to 5cm.

30. (New, amended) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support,
wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends,

wherein each edge support comprises an edge support width with an edge angle to an adjacent back support in the range of 85 to 120 degrees to an adjacent back support,
wherein a face of each edge support width is oriented clockwise about the central axis,
wherein a plane of a first back support is at a first plane angle to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support,
wherein a plane of the second back support is at a second plane angle to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support,
wherein a plane of a third back support is at a third plane angle to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support,
wherein the first plane angle, the second plane angle, and the third plane angle are different from one another and are configured to provide a first viewing angle, a second viewing angle, and a third viewing angle that are different from one another; and
wherein each back support, each edge support, and each end is a surface of an interior.

31. (New) The apparatus of claim 30, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

32. (New) The apparatus of claim 31, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

33. (New) The apparatus of claim 30, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

34. (New) The apparatus of claim 33, wherein each back support has a latitudinal length of 15 cm.

35. (New) The apparatus of claim 30, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

36. (New) The apparatus of claim 35, wherein each edge support has a latitudinal length of 7 cm.

37. (New) The apparatus of claim 30, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

38. (New, amended) The apparatus of claim 30, wherein a plane of each edge support forms an edge angle of 90 degrees with an adjacent back support.

39. (New, amended) The apparatus of claim 38, wherein each edge support has an edge support width of 2 centimeters (cm).

REMARKS

Claims 1-10 are the original, unamended claims of the '454 patent.

New claims 21-39 are sought to be added and are all directed to a previously unclaimed embodiment of the 14/518,443 and 61/896,540 original disclosures. New claims 22 and 30 are independent.

The examiner has withdrawn all rejections under 35 U.S.C. §103 and has confirmed that the claims are patentable.

The only issue remaining is whether the claims should remain rejected under the recapture rule under 35 U.S.C. §251, as explained in the November 27, 2020 Office Action, which presented “edge angle” and “viewing angle” features the examiner alleged should be recited in claims 22 and 30. [Office Action, p.8] As detailed further below, the new claims have been materially narrowed by amendment herein to include both the different “viewing angles” feature and the “edge angle” features sufficient to avoid recapture of subject matter surrendered in the applications resulting in the original '454 patent.

The claims should now be in condition for allowance and such is respectfully requested.

WITHDRAWAL FROM APPEAL

The Examiner has withdrawn this case from Appeal and presented new grounds of rejection, namely that the new claims do not include both the “edge angle” and different “viewing angle” features.

STATEMENT OF SUBSTANCE OF

DECEMBER 15, 2020 TELEPHONE INTERVIEW WITH EXAMINER

Applicant wishes to thank Examiner Wehner for the informal telephone conference conducted on December 15, 2020 to discuss the most recent Office Action and detailed requirements to avoid recapture. The Office Action acknowledges, and the Examiner confirmed during the telephone conference, that the different “viewing angles” feature is a material narrowing of claim 29 and, by itself, avoids recapture but that an “edge angle” feature is required for claim 29 to fully avoid recapture.

Applicant proposed amendments to independent claim 22 and claim 30 to avoid recapture so as to include materially narrowed features compared to the original claims as filed, namely in

connection with the different “viewing angles” feature and the “edge angles” features cited by the Examiner. **The Examiner agreed during the telephone conference that the claims, as proposed in the amendments, avoid recapture**, namely:

CLAIM 22 – adds “different” viewing angles feature from claim 29, and “edge angle range of 85 to 120 degrees to an adjacent support back, a face of each edge support width oriented clockwise about the central axis.” The 85-120 degree range is disclosed in the original applications 14/518,443 and 61/896,540 for U.S. Patent No. 9,642,454 (col. 3, line 57) from which the reissue is taken. Examiner indicated that this edge angle range is a material narrowing of the claim and, together with the “different viewing angles” feature, would avoid recapture and make the claim allowable in reissue.

CLAIM 30 – adds “different viewing angles” feature (which further clarifies the different “virtual plane angles” feature) and, further, adds the “edge angle” feature as being within a range of between 85 and 120 degrees. As with claim 22, the Examiner indicated that the claim is now in condition for allowance and reissue.

CLAIM AMENDMENTS

Without acquiescing to any rejections or comments of the Examiner, and merely to expedite prosecution, claims 22, 25, 26, 29-30, and 38-39 have been amended to address alleged deficiencies with the claims noted by the Examiner at the bottom of page 11 of the Office Action, namely that:

- (i) claim 29—although the “viewing angles” feature is materially narrowed—does not include the “edge angle” feature and therefore has been rejected under 35 U.S.C. § 251 as being an improper recapture of subject matter surrendered during prosecution. Independent claim 22 has been amended to include both the “viewing angles” feature noted in claim 29 and cited by the Examiner as being a material narrowing of the claim. Additionally, claim 22 has been amended to include a material narrowing of the claim with respect to the “edge angles.” New, amended claims 25, 26, and 29 further specify various aspects of the edge angles and edge angle widths; and
- (ii) claim 30 cites to “plane angles” and not “viewing” angles, and also does not include an “edge angle” feature, and therefore has been rejected under 35 U.S.C.

§ 251 as being an improper recapture of subject matter surrendered during prosecution. New independent claim 30 has now been amended to include both of these features. New, amended claims 38-39 further specify various aspects of the edge angles and edge angle widths.

A statement showing support for features of the new claims in reissue is included in the following pages.

STATEMENT OF SUPPORT FOR NEW CLAIMS – 37 C.F.R. § 1.173(C)

Each statement of support is of an exemplary portion of the '454 patent, and are not meant to be limiting in any way.

CLAIM 21: (col. 2, lines 47-49)

CLAIM 22: Claim 22 is amended to add the “edge angle” feature stating “wherein each edge support comprises an edge support width with an edge angle in the range of 85 to 120 degrees to an adjacent support back, a face of each edge support width oriented clockwise about the central axis” after “third support angle” and to also add a “viewing angle feature” stating, “wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another” at the end of the claim. Support for these changes is found, for example, in FIG. 2; col. 2, lines 15-16; col. 2, line 33; col. 2, lines 54-55; col. 3, line 51; col. 3, line 57; col. 4, line 10; col. 4, line 20 with claim numbered elements noted below

A media support apparatus (100) comprising:

a body having a first support back (105a), a second support back (105c), and a third support back (105b) disposed about a central axis (125);

a first support edge (110c) disposed between the first support back and the second support back, wherein the first support back and first support edge are configured to support a media device at a first support angle (orthogonal to viewing angle 160a);

a second support edge (110b) disposed between the second support back and third support back, wherein the second support back and second support edge are configured to support a media device at a second support angle (orthogonal to viewing angle 160c);

a third support edge (110a) disposed between the third support back and first support back, where the third support back and third support edge are configured to support a media device at a third support angle (orthogonal to viewing angle 160b); **wherein each edge support comprises an edge support width with an edge angle in the range of 85 to 120 degrees to an adjacent support back, a face of each edge support width oriented clockwise about the central axis (col. 3, line 57);**

wherein the media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane (130c) between a top of the second support back (105c) and an outer edge of the second edge support (110b), on a second virtual plane (130b) between a top of the third support back (105b) and an outer edge of the third edge support (110a), and on a third virtual plane (130a) between a top of the first support back (105a) and an outer edge of the first edge support (110c); and

wherein the media support apparatus is configured to provide a first viewing angle (160a) of the media device when the media support apparatus body rests on

the first virtual plane (130c) and the media device is supported at the first support angle, a second viewing angle (160c) when the media support apparatus body rests on the second virtual plane (130b) and the media device is supported at the second support angle, and a third viewing angle (160b) when the media support apparatus body rests on the third virtual plane (130a) and the media device is supported at the third support angle, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another, **wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.**

CLAIM 23: (col. 3, lines 16-39)

CLAIM 24: (col. 3, lines 40-49)

CLAIM 25: Claim 25 is amended to eliminate the specific viewing angles 36, 74, and 49 degrees and replace with “edge support angle is 90 degrees.” Support for this feature can be found at col. 3, line 58. With items added in bold, and removed elements struck through, claim 25 is shown thusly: The apparatus of claim of 22, wherein the **edge support angle is 90 degrees** first viewing angle is 36 degrees, the second viewing angle is 74 degrees, and the third viewing angle is 49 degrees.

CLAIM 26: Claim 26 is amended to change dependency to claim 25, to eliminate the edge angle feature (made redundant to its dependency on claim 25), and to add an “edge support width is 2cm” feature. Support for this feature can be found at col. 3, line 61. With items added in bold, and removed elements struck through, claim 26 is shown thusly: The apparatus of claim **25** wherein the **edge support width is 2cm** first, second, and third edge supports form an edge angle with respective first, second, and third back supports of between 85 and 120 degrees.

CLAIM 27: (col. 2, lines 64-65)

CLAIM 28: (col. 2, lines 65-67)

CLAIM 29: Claim 29 is amended to remove the “viewing angles are different from one another”—as this feature has now been added to independent claim 22—and to instead add “the edge support width is in the range of 1 to 5cm” feature. Support for this feature can be found at col. 3, line 60. With items added in bold, and removed elements struck through, claim 29 is shown thusly: The apparatus of claim 22, wherein **the edge support width is in the range of 1 to 5cm** the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

CLAIM 30: Claim 30 is amended to add “in the range of 85 to 120 degrees to an adjacent back support” after “edge angle to an adjacent back support” in line 7 of the claim, and add “and are configured to provide a first viewing angle, a second viewing angle, and a third viewing angle that are different from one another” after “from one another” in line 19. Support for these features can be found at col. 3, line 57 and col. 4, line 20, respectively. With items added in bold, and removed elements struck through, claim 30 is shown thusly:

30. An apparatus comprising:
three support sides, each support side comprising a back support and an edge support,
wherein a top of each back support is in physical communication with an adjacent edge
support clockwise about a central axis and each back support and each edge support is in physical
communication with two ends,
wherein each edge support comprises an edge support width with an edge angle to an
adjacent back support **in the range of 85 to 120 degrees to an adjacent back support,**
wherein a face of each edge support width is oriented clockwise about the central axis,
wherein a plane of a first back support is at a first plane angle to a second virtual plane
between the top of a second back support counterclockwise to the first back support and an outer
edge of a second edge support counterclockwise to the first back support,
wherein a plane of the second back support is at a second plane angle to a third virtual plane
between the top of a third back support counterclockwise to the second back support and an outer
edge of a third edge support counterclockwise to the second back support,
wherein a plane of a third back support is at a third plane angle to a first virtual plane
between the top of the first back support counterclockwise to the third back support and an outer
edge of the first edge support counterclockwise to the third back support,
wherein the first plane angle, the second plane angle, and the third plane angle are different
from one another **and are configured to provide a first viewing angle, a second viewing angle,**
and a third viewing angle that are different from one another; and
wherein each back support, each edge support, and each end is a surface of an interior
CLAIMS 31-38: (original claims) (col. 3, lines 40-44) (col. 3, lines 44-49) (col. 2, lines 44-45) (col. 2, lines 45-46) (col. 2, lines 49-50) (col. 2, lines 52-53) (col. 3, lines 59-60) (col. 3, lines 56-57) (col. 3, lines 57-58)

CLAIM 38: Claim 38 is amended to state that each “edge support angle is 90 degrees.” Support for this feature can be found at col. 3, line 58. With items added in bold, and removed elements struck through, claim 38 is shown thusly: The apparatus of claim 30, wherein a plane of each edge support forms an edge angle ~~in the range of 85 to 120~~ of **90** degrees with an adjacent back support.

Claim 39: Claim 39 has been previously cancelled in a previous Response and is now reintroduced with features similar to claim 26, namely “each edge support has an edge support width of 2 centimeters (cm).” Support for this feature can be found in col. 3, line 61.

//

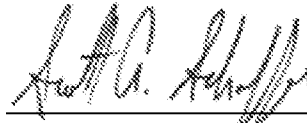
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Conclusion

Applicants submit that the present reissue application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to take the initiative and telephone the undersigned at (503) 970-5119 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Scott A. Schaffer", is written over a horizontal line.

Scott A. Schaffer

Reg. No. 38,610

SCHAFFER IP LAW, LLC
2187 SW Market Street Dr.
Portland, OR 97201
503-970-5119
Customer No. 133404

Electronic Acknowledgement Receipt

EFS ID:	41402598
Application Number:	16262797
International Application Number:	
Confirmation Number:	1586
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT
First Named Inventor/Applicant Name:	Bruce Cannon
Customer Number:	133404
Filer:	Scott Alexander Schaffer
Filer Authorized By:	
Attorney Docket Number:	7300-0002
Receipt Date:	16-DEC-2020
Filing Date:	30-JAN-2019
Time Stamp:	13:13:07
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		7300-0002d.pdf	266304	yes	15
			597ed69bc97a398636d1927fa87f9ad2df38e7ca		

HPI-ONTEL0000070

Multipart Description/PDF files in .zip description			
Document Description	Start	End	
Amendment/Req. Reconsideration-After Non-Final Reject	1	1	
Claims	2	7	
Applicant Arguments/Remarks Made in an Amendment	8	15	

Warnings:

Information:

Total Files Size (in bytes):	266304
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This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586

133404 7590 11/27/2020
Schaffer IP Law, LLC
2187 SW Market Street Dr.
Portland, OR 97201

EXAMINER

WEHNER, CARY ELLEN

ART UNIT	PAPER NUMBER
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3993

MAIL DATE	DELIVERY MODE
-----------	---------------

11/27/2020

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

16/262,797

Applicant(s)

Cannon et al.

Examiner

CARY E WEHNER

Art Unit

3993

AIA (FITF) Status

Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 24 August 2020.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.

2a) ☐ This action is **FINAL**.

2b) ☒ This action is non-final.

3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.

4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5) ☒ Claim(s) 1-10 and 21-38 is/are pending in the application.

5a) Of the above claim(s) ____ is/are withdrawn from consideration.

6) ☒ Claim(s) 1-10 and 21 is/are allowed.

7) ☒ Claim(s) 22-38 is/are rejected.

8) ☐ Claim(s) ____ is/are objected to.

9) ☐ Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10) ☐ The specification is objected to by the Examiner.

11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a) ☐ All b) ☐ Some** c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. ____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

3) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date ____.

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)

4) ☐ Other: ____.

Paper No(s)/Mail Date ____.

Notice of Pre-AIA or AIA Status

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

REISSUE APPLICATIONS

DETAILED ACTION

In view of the Appeal Brief filed on August 24, 2020, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Gay Ann Spahn/
Supervisory Patent Reexamination Specialist
Central Reexamination Unit, Art Unit 3993

AIA - Reissue Applications

For reissue applications filed on or after September 16, 2012, all references to 35 U.S.C. 251 and 37 CFR 1.172, 1.175, and 3.73 are to the current provisions.

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Related Proceedings

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 9,642,454 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

Status of Amendments

An amendment was filed on May 19, 2020 and has been entered. The status of the claims is:

Original claims: 1-10.

New claims: 21-38.

Canceled claims 11-20 and 38.

Claim Rejections – 35 U.S.C. 251

Claims 22-24 and 26-38 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Greenliant Systems, Inc. et al v. Xicor LLC*, 692 F.3d 1261, 103 USPQ2d 1951 (Fed. Cir. 2012); *In re Shahram Mostafazadeh and Joseph O.*

Smith, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011); *North American Container, Inc. v. Plastipak Packaging, Inc.*, 415 F.3d 1335, 75 USPQ2d 1545 (Fed. Cir. 2005); *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the original application for the patent shows that the broadening aspect (in the reissue) relates to claimed subject matter that applicant previously surrendered during the prosecution of the application. **The "original application" includes the patent family's entire prosecution history.** *MBO Laboratories, Inc. v. Becton, Dickinson & Co.*, 602 F.3d 1306, 94 USPQ2d 1598 (Fed. Cir. 2010). Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope of claim subject matter surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

MPEP 1412.02 II summarizes the three-step test for recapture:

Clement, 131 F.3d at 1468-70, 45 USPQ2d at 1164-65, the Court of Appeals for the Federal Circuit set forth a three step test for recapture analysis. In *North American Container*, 415 F.3d at 1349, 75 USPQ2d at 1556, the court restated this test as follows:

We apply the recapture rule as a three-step process:

(1) first, we determine whether, and in what respect, the reissue claims are broader in scope than the original patent claims;

[NOTE: if the claims are not broader in scope than the original patent claims, there is no recapture; if the claims are broader in scope, then proceed to step (2).]

(2) next, we determine whether the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution. Step 2 includes two subsets:

1. The Two Sub-Steps:

(A) One must first determine whether applicant surrendered any subject matter in the prosecution of the original application that became the patent to be reissued.

If an original patent claim limitation now being omitted or broadened in the present reissue application was originally relied upon by applicant in the original application to make the claims allowable over the art, the omitted limitation relates to subject matter previously surrendered by applicant. The reliance by applicant to define the original patent claims over the art can be by presentation of new/amended claims to define over the art, or an argument/statement by applicant that a limitation of the claim(s) defines over the art. To determine whether such reliance occurred, the examiner must review the prosecution history of the original application (of the patent to be reissued and any related application(s)) for surrender of claimed subject matter which may result in recapture. The prosecution history includes the rejections and applicant's arguments made therein.

With respect to whether applicant surrendered any subject matter, it is to be noted that a patent owner (reissue applicant) is bound by the argument that applicant relied upon to overcome an art rejection in the original application for the patent to be reissued, regardless of whether the Office adopted the argument in allowing the claims. *Greenliant Systems, Inc. v. Xicor LLC*, 692 F.3d 1261, 1271, 103 USPQ2d 1951, 1958 (Fed. Cir. 2012). As pointed out by the court, "[i]t does not matter whether the examiner or the Board adopted a certain argument for allowance; the sole question is whether the argument was made." *Id.*

If applicant did not surrender any subject matter in the prosecution of the original application, the analysis ends and there is no recapture.

(B) If applicant did surrender subject matter in the original application prosecution, the examiner must then determine whether any of the broadening of the reissue claims is in the area of the surrendered subject matter. The examiner must analyze all of the broadening aspects of the reissue claims to determine if any of the omitted/broadened limitation(s) are directed to limitations relied upon by applicant in the original application to make the claims allowable over the art. and

[NOTE: if the broader aspects of the reissue claims do not relate to surrendered subject matter, there is no recapture; if the broader aspects of the reissue claims do relate to surrendered subject matter, then proceed to step (3).]

(3) finally, we determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.

[NOTE: if the reissue claims were materially narrowed in aspects related to the surrendered subject matter, there is no recapture; if the claims were not materially narrowed in related aspects or were narrowed in unrelated aspects, there is recapture.]

In North American Container, the court cited Pannu, 258 F.3d at 1371, 59 USPQ2d at 1600; Hester, 142 F.3d at 1482-83, 46 USPQ2d at 1649-50; and Clement, 131 F.3d at 1468, 45 USPQ2d at 1164-65 as cases that lead to, and explain the language in, the North American Container recapture test.

A review of the prosecution history of Application Nos. 15/192,737 ('737 application) and 14/518,443 ('443 application) reveals the following:

The '443 application.

1. The '443 application was filed on October 20, 2014 with claims 1-14.
2. A non-final Office action was mailed on August 14, 2015. The Office action rejected claims 1-14 under 35 USC 103(a) as being unpatentable over Patti Halpin U.S. Patent Publication 2003/0001063 A1 (Halpin) in view Zvi Klepar U.S. Design Patent D703,216 S (Klepar).
3. In response to the Office action, on November 13, 2015, Applicant amended claim 1 to add "each edge support comprising an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis" and "wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees." Applicant argued that the prior art cited did not teach these two limitation. Remarks, 11/13/15, page 10.
4. A Final Office Action was mailed on February 11, 2016 which included a rejection of claim 1 under 35 USC 112(a) because the amendment (the first viewing angle of the first back support to be 36 degrees and the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees) was not adequately supported by the original disclosure.

The '737 application.

1. The '737 application claimed priority, as a continuation-in-part, to application number 14/518,443, which was filed on October 20, 2014. The '737 application was filed on June 24, 2016 with claims 1-10.

2. Claim 1 of the '737 application included the limitations “each edge support comprising an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis” and “a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.”

3. A Notice of Allowability was mailed on January 6, 2017 and was accompanied by an examiner's statement of reasons for allowance that stated “[t]he prior art does not disclose a three sided support for media device . . . each side allows for three distinct display angles for the media device.”

The present Reissue application.

1. The present reissue application was filed on January 30, 2017. New claim 22-24 and 26-38 been presented without the specific viewing angles (36, 74 and 49 degrees) or the limitation that each edge support comprising an edge angle of 90 degrees to the adjacent back support.

Three step analysis of current reissue:

Step 1. Are there reissue claims that are broader in scope than the original claims?

New independent claims 22-24 and 26-29 are broader in scope because they do not include the following limitations:

- a) each edge support comprising an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis (“edge angle” limitation)
- b) a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees (“viewing angle” limitation).

Claims 30-38 do not mention viewing angles at all. New claim 25 (dependent on claim 22) includes these specific viewing angles but does not include the edge support having an edge angle of 90 degrees to an adjacent back support.

Accordingly, claims 22-38 are broader in scope than the original claims.

Step 2: Determine if the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution.

Sub step A: During the prosecution of the original application, 14/518,443, claim 1 was amended to include the limitations specified above in Step 1. Applicant argued: “Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements . . . each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ..and . . . wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees...” recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims.” (14/518,443, Remarks, 11/13/15, pg. 10).

Subset B:

Claims 22-24 and 26-39 of the present application are broader than original patented claim 1 of the ‘454 patent because they do not include the limitation “wherein a

first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees." Neither claim 22 nor claim 30 mention anything about the angle of the back support. This limitation is considered to be a surrender generating limitation because applicant argued that this limitation was not taught by the prior art. Furthermore, claims 22-24 and 26-38 do not include the limitation that each edge support has an edge angle of 90 degrees with respect to an adjacent back support. Claim 25 includes the specific viewing angles but does not include the limitation that each edge support has an edge angle of 90 degrees with respect to an adjacent back support. This limitation is also considered to be a surrender generating limitation because applicant argued that it was not taught by the prior art.

Accordingly, the broader aspects of new claims 22-38 related to subject matter surrendered in the original prosecution.

Step Three: Determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.

MPEP 1412.02.II.C states:

As pointed out above, this third step of the recapture determination, as set forth in *North American Container*, considers the significance of the claim limitations that were added and deleted, during prosecution of the patent (to be reissued) to determine whether the reissue claims should be barred under the recapture doctrine.

In the decision of *In re Mostafazadeh*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011), the Federal Circuit stated that to avoid the recapture rule "the claims must be materially narrowed relative to the surrendered subject matter such that the surrendered subject matter is not entirely or substantially recaptured." *Id.* at 1361, 98 USPQ2d at 1644. Under this third step, it must be determined if there is entire or substantial recapture of the surrendered subject matter because there is no or insufficient material narrowing to avoid the recapture rule.

The following discussion addresses analyzing the reissue claims that have eliminated or modified a surrender generating limitation, as determined under step 2 analysis. In any broadening reissue application, the examiner will determine, under steps 1 and 2 of the recapture analysis on a claim-by-claim basis, whether the broadening relates to subject matter that was surrendered during the examination of the patent for which reissue is requested. Under step 3, it

must be determined if such reissue claims are materially narrowed so as to escape the effects of the recapture doctrine. Note, examiners should consider any relevant preliminary applicant arguments of record as part of the recapture determination. See subsection VII., below, "REBUTTAL BY THE REISSUE APPLICANT," which points out how the recapture finding of the Office can be rebutted by applicant, in some limited instances, by showing that material narrowing is present in the claims.

The modification of a surrender generating limitation is broken down into two possibilities that will be addressed below.

1) If a surrender generating limitation (SGL) has been entirely eliminated from a claim present in the reissue application, then a recapture rejection under 35 U.S.C. 251 may be proper. For example, if a claim limitation present in the original patent that was added to overcome a rejection or that was argued by applicant to distinguish over the prior art is entirely eliminated from a claim in the reissue application and not replaced by a new SGL-related limitation, then a recapture rejection under 35 U.S.C. 251 is proper and must be made for that claim.

Such an omission in a reissue claim, even if it is accompanied by other limitations making the reissue claim narrower than the patent claim in other unrelated aspects, is impermissible recapture. Pannu, 258 F.3d at 1371-72, 59 USPQ2d at 1600. But note that even if the SGL limitation in the patent claims was entirely eliminated, the reissue applicant may have added a new limitation that relates to surrendered subject matter. See the last paragraph of this subsection below.

2) If the SGL has not been entirely eliminated from a claim in the reissue application (i.e., the amendment narrowing the claim or the argued limitation has not been entirely eliminated from the claim in the reissue application), but rather it has been made less restrictive in the reissue application claim (such that the claim is broadened), the analysis (based on In re Mostafazadeh, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011) and In re Youman, 679 F.3d 1335, 102 USPQ2d 1862 (Fed. Cir. 2012)) is as follows:

It must be determined what portion of the amendment or argued limitation has been retained, and whether the retained portion materially narrows the original claims to avoid recapture.

See Youman, 679 F.3d at 1346 n.4, 102 USPQ2d at 1870 n.4 ("original claims' are defined as 'the claims before surrender'"). **"[I]f the patentee modifies the added [or argued] limitation such that it is broader than the patented claim yet still materially narrows relative to the original claim, the recapture rule does not bar reissue."** Id. at 1347, 102 USPQ2d at 1870. **On the other hand, if the retained portion of the modified limitation is "well known in the prior art," impermissible recapture has not been avoided. See Mostafazadeh, 643 F.3d at 1361, 98 USPQ2d at 1644. It is to be noted that if the retained portion of the modified limitation is well known in the prior art, then impermissible recapture exists, even in a case where a further limitation which is not related to the surrendered subject matter (i.e., a limitation that does not materially narrow the claims) has been added to define the claims over the art. Id. (Emphasis added).**

New claims 22-38 violate the recapture rule because they are broader in scope than the surrendered version of patented claim 1 due to omission of the "edge angle" limitation. These claims do not materially narrow the limitation relative to the original claim. Claims 22-24, 26-28 modify the "viewing angle" limitation such that the angles could be any angle, including the same angle. Accordingly the limitation has not been materially narrowed relative to the original claim. Claim 25 includes the "viewing angle" limitation. Claim 29 adds that the viewing angles

are different, thus materially narrowing the limitation relative to the original claim. Claims 30-38 also do not include the “viewing angle” limitation. Claim 30 defines back support angles define plane angles relative to a virtual plane and states that these plane angles are different. However, this limitation is not directed to any viewing angles and therefore does not materially narrow relative to the original claim. Because none of the new claims include both the “edge angle” and the “viewing angle” limitation, impermissible recapture exists.

Allowable Subject Matter

Claims 1-10 and 21 are allowed.

Response to Arguments

Applicant’s arguments, see Remarks, filed May 19, 2020, with respect to the rejection under 35 USC 251, based on a defective reissue declaration, of all the claims have been fully considered and are persuasive. This rejection of claims 1-10, 21-38 has been withdrawn.

Applicant’s arguments, see Remarks, filed May 19, 2020, with respect to the rejection of claims 30-38, under 35 USC 112, second paragraph have been fully considered and are persuasive. This rejection of claims 30-38 has been withdrawn.

Applicant’s arguments filed in the Appeal Brief of August 24, 2020 have been fully considered but they are not persuasive. Applicant argues that the reissue claims are materially narrowed with respect to the originally filed claim. It is conceded that claim 29 is materially narrowed as to the “viewing angles” limitation. However, claim 29 has eliminated the “edge angle” limitation entirely and therefore does not avoid the recapture rule. Furthermore, claim 30 does not include either limitation. Claim 30 claims that “plane” angles are different but it is unclear how the limitation of the plane angles are related to the viewing angles.

Applicant further argues that claims 22-24, 26-28 are directed to previously unclaimed aspect and are therefore not subject to a rejection under the recapture rule. First, Applicant asserts that the claims are directed to the relationship of the support backs with the support edges to create three different virtual planes to provide three different viewing angles. However, the claims do not include a limitation that the virtual planes or the viewing planes are different. Second, According to MPEP 1412.02, claims to overlooked aspects are "[c]laims to separate inventions/embodiments/species that were not claimed in the original application prosecution." MPEP.1412.01 states that "[t]he reissue claims must be for the same invention as that **disclosed** as being the invention as the original patent" and "[t]o satisfy the original patent requirement where a new invention is sought by reissue, '... the specification must clearly and unequivocally disclose the newly claimed invention is a separate invention.'" *Antares Pharma, Inc.* 771 F.3d at 1363, 112 USPQ2d [1865] at 1871. Therefore, claims drawn to an invention comprising a newly claimed combination of features that were only disclosed in the original patent as suggested alternatives (and not as a single combination) or only as part of the original invention and not an invention separate from the original invention would not satisfy the original patent requirement." Applicant has not established that that claim 22 is directed to patentably distinct invention, embodiment or species and not merely different definitions of the same embodiment, varying in breadth or scope of definition. "[t]he recapture rule is violated when a limitation added during prosecution is eliminated entirely, even if other narrowing limitations are added to the claim." *In re Mostafazadeh*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011). Applicant contends that claim 22 recites only unclaimed, patentably distinct embodiment of the '443 application. However, Applicant further states "pending independent claim 22, by containing a three-backed design, *merely reiterates* limitations that Applicant has always maintained make it invention unique." Appeal Brief, pg. 16.

Applicant further argues that the final Office action does not provided any evidence that the applicant's amendment was an admission that the scope of the claim was not patentable.

Applicant points to the statement made in the parent application on Nov. 13, 2015 that

"[a]pplicants are not conceding that the claims amended and/or canceled are not patentable over the art cited by the Examiner, as the present claim amendments and/or cancellations are only for facilitating expeditious prosecution. Applicants respectively reserve the right to pursue these and other claims in one or more continuation and/or divisional applications." However, this boiler plate statement contradicts applicant's other statements in the same response.

"Applicants submit that claim 1 is patentably distinguished from the combination of Halpin and Klepar by reciting the distinguishing elements '.each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ...' and '...wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees....'" "Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements '...each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ...' and '... wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees...' recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims."

Applicant also argues that there is no evidence that applicant deliberately surrendered the subject matter in question. Attention is again directed to the response of Nov. 13, 2015 in the parent application that "[a]pplicants submit that claim 1 is patentably distinguished from the combination of Halpin and Klepar by reciting the distinguishing elements . .each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ..and . .wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of

the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees....” The Examiner notes that Klepar teaches a back support in physical communication with an adjacent edge support. OA, page 3, citing Klepar, fig. 7.....Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements “.. .each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ...” and “... wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees...” recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims.” This statement, along with others in the response, indicate a clear, deliberate surrender of the subject matter to distinguish over the prior art.

Applicant notes that an examiner’s reasons for allowance cannot be used as support for a recapture rejection. The examiner agrees that the examiner’s reasons for allowance cannot, by itself, provide the basis for establishing surrender and recapture. Ex parte Yamaguchi, 61 USPQ2d 1043 (Bd. Pat. App. & Inter. 2001)(precedential). Applicant asserts that because these claims were never allowed, there was no acquiescence in the rejection and acceptance of a patent whose claims include the limitations added by applicant to distinguish the claims over the prior art. **It is noted, however, a patent owner (reissue applicant) is bound by the argument that applicant relied upon to overcome an art rejection in the original application for the patent to be reissued, regardless of whether the Office adopted the argument in allowing the claims.** Greenliant Systems, Inc. v. Xicor LLC, 692 F.3d 1261, 1271, 103 USPQ2d 1951, 1958 (Fed. Cir. 2012).

Since the claims 22-38 do not include both the “edge angle” limitation and the “viewing angle” limitation, surrendered by applicant during prosecution of the original application, impermissible recapture exists.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARY E WEHNER whose telephone number is (571)272-4715. The examiner can normally be reached on 9am to 5 pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <https://ppair-my.uspto.gov/pair/PrivatePair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CARY E WEHNER/
Primary Examiner, Art Unit 3993

Conferees: /gkd/ and /GAS/



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586
133404	7590	11/06/2020		
Schaffer IP Law, LLC 2187 SW Market Street Dr. Portland, OR 97201			EXAMINER WEHNER, CARY ELLEN	
			ART UNIT	PAPER NUMBER
			3993	
			MAIL DATE	DELIVERY MODE
			11/06/2020	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

16/262,797

Applicant(s)

Cannon et al.

Examiner

CARY E WEHNER

Art Unit

3993

AIA (FITF) Status

Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 24 August 2020.

☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.

2a) ☐ This action is **FINAL**.

2b) ☒ This action is non-final.

3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.

4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

5) ☒ Claim(s) 1-10 and 21-38 is/are pending in the application.

5a) Of the above claim(s) ____ is/are withdrawn from consideration.

6) ☒ Claim(s) 1-10 and 21 is/are allowed.

7) ☒ Claim(s) 22-38 is/are rejected.

8) ☐ Claim(s) ____ is/are objected to.

9) ☐ Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10) ☐ The specification is objected to by the Examiner.

11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a) ☐ All b) ☐ Some** c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. ____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

3) ☐ Interview Summary (PTO-413)

Paper No(s)/Mail Date ____.

2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)

4) ☐ Other: ____.

Paper No(s)/Mail Date ____.

Notice of Pre-AIA or AIA Status

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

REISSUE APPLICATIONS

DETAILED ACTION

AIA - Reissue Applications

For reissue applications filed on or after September 16, 2012, all references to 35 U.S.C. 251 and 37 CFR 1.172, 1.175, and 3.73 are to the current provisions.

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Related Proceedings

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 9,642,454 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

Status of Amendments

An amendment was filed on May 19, 2020 and has been entered. The status of the claims is:

Original claims: 1-10.

New claims: 21-38.

Canceled claims 11-20 and 38.

Claim Rejections – 35 U.S.C. 251

Claims 22-24 and 26-38 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Greenliant Systems, Inc. et al v. Xicor LLC*, 692 F.3d 1261, 103 USPQ2d 1951 (Fed. Cir. 2012); *In re Shahram Mostafazadeh and Joseph O. Smith*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011); *North American Container, Inc. v. Plastipak Packaging, Inc.*, 415 F.3d 1335, 75 USPQ2d 1545 (Fed. Cir. 2005); *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the original application for the patent shows that the broadening aspect (in the reissue) relates to claimed subject matter that applicant previously surrendered during the prosecution of the application. **The "original application" includes the patent family's entire prosecution history.** *MBO Laboratories, Inc. v. Becton, Dickinson & Co.*, 602 F.3d 1306, 94 USPQ2d 1598 (Fed. Cir. 2010). Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope of claim subject matter surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

MPEP 1412.02 II summarizes the three-step test for recapture:

Clement, 131 F.3d at 1468-70, 45 USPQ2d at 1164-65, the Court of Appeals for the Federal Circuit set forth a three step test for recapture analysis. In *North American Container*, 415 F.3d at 1349, 75 USPQ2d at 1556, the court restated this test as follows:

We apply the recapture rule as a three-step process:

(1) first, we determine whether, and in what respect, the reissue claims are broader in scope than the original patent claims;

[NOTE: if the claims are not broader in scope than the original patent claims, there is no recapture; if the claims are broader in scope, then proceed to step (2).]

(2) next, we determine whether the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution. Step 2 includes two subsets:

1. The Two Sub-Steps:

(A) One must first determine whether applicant surrendered any subject matter in the prosecution of the original application that became the patent to be reissued.

If an original patent claim limitation now being omitted or broadened in the present reissue application was originally relied upon by applicant in the original application to make the claims allowable over the art, the omitted limitation relates to subject matter previously surrendered by applicant. The reliance by applicant to define the original patent claims over the art can be by presentation of new/amended claims to define over the art, or an argument/statement by applicant that a limitation of the claim(s) defines over the art. To determine whether such reliance occurred, the examiner must review the prosecution history of the original application (of the patent to be reissued and any related application(s)) for surrender of claimed subject matter which may result in recapture. The prosecution history includes the rejections and applicant's arguments made therein.

With respect to whether applicant surrendered any subject matter, it is to be noted that a patent owner (reissue applicant) is bound by the argument that applicant relied upon to overcome an art rejection in the original application for the patent to be reissued, regardless of whether the Office adopted the argument in allowing the claims. *Greenliant Systems, Inc. v. Xicor LLC*, 692 F.3d 1261, 1271, 103 USPQ2d 1951, 1958 (Fed. Cir. 2012). As pointed out by the court, "[i]t does not matter whether the examiner or the Board adopted a certain argument for allowance; the sole question is whether the argument was made." *Id.*

If applicant did not surrender any subject matter in the prosecution of the original application, the analysis ends and there is no recapture.

(B) If applicant did surrender subject matter in the original application prosecution, the examiner must then determine whether any of the broadening of the

reissue claims is in the area of the surrendered subject matter. The examiner must analyze all of the broadening aspects of the reissue claims to determine if any of the omitted/broadened limitation(s) are directed to limitations relied upon by applicant in the original application to make the claims allowable over the art. and

[NOTE: if the broader aspects of the reissue claims do not relate to surrendered subject matter, there is no recapture; if the broader aspects of the reissue claims do relate to surrendered subject matter, then proceed to step (3).]

(3) finally, we determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.

[NOTE: if the reissue claims were materially narrowed in aspects related to the surrendered subject matter, there is no recapture; if the claims were not materially narrowed in related aspects or were narrowed in unrelated aspects, there is recapture.]

In *North American Container*, the court cited *Pannu*, 258 F.3d at 1371, 59 USPQ2d at 1600; *Hester*, 142 F.3d at 1482-83, 46 USPQ2d at 1649-50; and *Clement*, 131 F.3d at 1468, 45 USPQ2d at 1164-65 as cases that lead to, and explain the language in, the *North American Container* recapture test.

A review of the prosecution history of Application Nos. 15/192,737 ('737 application) and 14/518,443 ('443 application) reveals the following:

The '443 application.

1. The '443 application was filed on October 20, 2014 with claims 1-14.
2. A non-final Office action was mailed on August 14, 2015. The Office action rejected claims 1-14 under 35 USC 103(a) as being unpatentable over Patti Halpin U.S. Patent Publication 2003/0001063 A1 (Halpin) in view Zvi Klepar U.S. Design Patent D703,216 S (Klepar).
3. In response to the Office action, on November 13, 2015, Applicant amended claim 1 to add "each edge support comprising an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis" and "wherein a first

viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.” Applicant argued that the prior art cited did not teach these two limitation. Remarks, 11/13/15, page 10.

4. A Final Office Action was mailed on February 11, 2016 which included a rejection of claim 1 under 35 USC 112(a) because the amendment (the first viewing angle of the first back support to be 36 degrees and the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees) was not adequately supported by the original disclosure.

The ‘737 application.

1. The ‘737 application claimed priority, as a continuation-in-part, to application number 14/518,443, which was filed on October 20, 2014. The ‘737 application was filed on June 24, 2016 with claims 1-10.

2. Claim 1 of the ‘737 application included the limitations “each edge support comprising an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis” and “a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.”

3. A Notice of Allowability was mailed on January 6, 2017 and was accompanied by an examiner’s statement of reasons for allowance that stated “[t]he prior art does not disclose a three sided support for media device . . . each side allows for three distinct display angles for the media device.”

The present Reissue application.

1. The present reissue application was filed on January 30, 2017. New claim 22-24 and 26-38 been presented without the specific viewing angles (36,

74 and 49 degrees) or the limitation that each edge support comprising an edge angle of 90 degrees to the adjacent back support.

Three step analysis of current reissue:

Step 1. Are there reissue claims that are broader in scope than the original claims?

New independent claims 22-24 and 26-29 are broader in scope because they do not include the following limitations:

- a) each edge support comprising an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis (“edge angle” limitation)
- b) a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees (“viewing angle” limitation).

Claims 30-38 do not mention viewing angles at all. New claim 25 (dependent on claim 22) includes these specific viewing angles but does not include the edge support having an edge angle of 90 degrees to an adjacent back support.

Accordingly, claims 22-38 are broader in scope than the original claims.

Step 2: Determine if the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution.

Sub step A: During the prosecution of the original application, 14/518,443, claim 1 was amended to include the limitations specified above in Step 1. Applicant argued:

“Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements . . . each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ..and . . . wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support

is 74 degrees, and a third viewing angle of the third back support is 49 degrees...”

recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims.” (14/518,443, Remarks, 11/13/15, pg. 10).

Subset B:

Claims 22-24 and 26-39 of the present application are broader than original patented claim 1 of the ‘454 patent because they do not include the limitation “wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.” Neither claim 22 nor claim 30 mention anything about the angle of the back support. This limitation is considered to be a surrender generating limitation because applicant argued that this limitation was not taught by the prior art. Furthermore, claims 22-24 and 26-38 do not include the limitation that each edge support has an edge angle of 90 degrees with respect to an adjacent back support. Claim 25 includes the specific viewing angles but does not include the limitation that each edge support has an edge angle of 90 degrees with respect to an adjacent back support. This limitation is also considered to be a surrender generating limitation because applicant argued that it was not taught by the prior art.

Accordingly, the broader aspects of new claims 22-38 related to subject matter surrendered in the original prosecution.

Step Three: Determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.

MPEP 1412.02.II.C states:

As pointed out above, this third step of the recapture determination, as set forth in *North American Container*, considers the significance of the claim limitations that were added and deleted, during prosecution of the patent (to be reissued) to determine whether the reissue claims should be barred under the recapture doctrine.

In the decision of *In re Mostafazadeh*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011), the Federal Circuit stated that to avoid the recapture rule "the claims must be materially narrowed relative to the surrendered subject matter such that the surrendered subject matter is not entirely or substantially recaptured." *Id.* at 1361, 98 USPQ2d at 1644. Under this third step, it must be determined if there is entire or substantial recapture of the surrendered subject matter because there is no or insufficient material narrowing to avoid the recapture rule.

The following discussion addresses analyzing the reissue claims that have eliminated or modified a surrender generating limitation, as determined under step 2 analysis. In any broadening reissue application, the examiner will determine, under steps 1 and 2 of the recapture analysis on a claim-by-claim basis, whether the broadening relates to subject matter that was surrendered during the examination of the patent for which reissue is requested. Under step 3, it must be determined if such reissue claims are materially narrowed so as to escape the effects of the recapture doctrine. Note, examiners should consider any relevant preliminary applicant arguments of record as part of the recapture determination. See subsection VII., below, "REBUTTAL BY THE REISSUE APPLICANT," which points out how the recapture finding of the Office can be rebutted by applicant, in some limited instances, by showing that material narrowing is present in the claims.

The modification of a surrender generating limitation is broken down into two possibilities that will be addressed below.

1) If a surrender generating limitation (SGL) has been entirely eliminated from a claim present in the reissue application, then a recapture rejection under 35 U.S.C. 251 may be proper. For example, if a claim limitation present in the original patent that was added to overcome a rejection or that was argued by applicant to distinguish over the prior art is entirely eliminated from a claim in the reissue application and not replaced by a new SGL-related limitation, then a recapture rejection under 35 U.S.C. 251 is proper and must be made for that claim.

Such an omission in a reissue claim, even if it is accompanied by other limitations making the reissue claim narrower than the patent claim in other unrelated aspects, is impermissible recapture. *Pannu*, 258 F.3d at 1371-72, 59 USPQ2d at 1600. But note that even if the SGL limitation in the patent claims was entirely eliminated, the reissue applicant may have added a new limitation that relates to surrendered subject matter. See the last paragraph of this subsection below.

2) If the SGL has not been entirely eliminated from a claim in the reissue application (i.e., the amendment narrowing the claim or the argued limitation has not been entirely eliminated from the claim in the reissue application), but rather it has been made less restrictive in the reissue application claim (such that the claim is broadened), the analysis (based on *In re Mostafazadeh*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011) and *In re Youman*, 679 F.3d 1335, 102 USPQ2d 1862 (Fed. Cir. 2012)) is as follows:

It must be determined what portion of the amendment or argued limitation has been retained, and whether the retained portion materially narrows the original claims to avoid recapture.

See *Youman*, 679 F.3d at 1346 n.4, 102 USPQ2d at 1870 n.4 ("original claims' are defined as 'the claims before surrender'"). "[I]f the patentee modifies the added [or argued] limitation such that it is broader than the patented claim yet still materially narrows relative to the original claim, the recapture rule does not bar reissue." *Id.* at 1347, 102 USPQ2d at 1870. On the other hand, if the retained portion of the modified limitation is "well known in the prior art," impermissible recapture has not been avoided. See *Mostafazadeh*, 643 F.3d at 1361, 98 USPQ2d at 1644. It is to be noted that if the retained portion of the modified limitation is well known in the prior art, then impermissible recapture exists, even in a case where a further limitation which is not related to the surrendered

subject matter (i.e., a limitation that does not materially narrow the claims) has been added to define the claims over the art. Id. (Emphasis added).

New claims 22-38 violate the recapture rule because they are broader in scope than the surrendered version of patented claim 1 due to omission of the “edge angle” limitation. These claims do not materially narrow the limitation relative to the original claim. Claims 22-24, 26-28 modify the “viewing angle” limitation such that the angles could be any angle, including the same angle. Accordingly the limitation has not been materially narrowed relative to the original claim. Claim 25 includes the “viewing angle” limitation. Claim 29 adds that the viewing angles are different, thus materially narrowing the limitation relative to the original claim. Claims 30-38 also do not include the “viewing angle” limitation. Claim 30 defines back support angles define plane angles relative to a virtual plane and states that these plane angles are different. However, this limitation is not directed to any viewing angles and therefore does not materially narrow relative to the original claim. Because none of the new claims include both the “edge angle” and the “viewing angle” limitation, impermissible recapture exists.

Allowable Subject Matter

Claims 1-10 and 21 are allowed.

Response to Arguments

Applicant’s arguments, see Remarks, filed May 19, 2020, with respect to the rejection under 35 USC 251, based on a defective reissue declaration, of all the claims have been fully considered and are persuasive. This rejection of claims 1-10, 21-38 has been withdrawn.

Applicant’s arguments, see Remarks, filed May 19, 2020, with respect to the rejection of claims 30-38, under 35 USC 112, second paragraph have been fully considered and are persuasive. This rejection of claims 30-38 has been withdrawn.

Applicant's arguments filed in the Appeal Brief of August 24, 2020 have been fully considered but they are not persuasive. Applicant argues that the reissue claims are materially narrowed with respect to the originally filed claim. It is conceded that claim 29 is materially narrowed as to the "viewing angles" limitation. However, claim 29 has eliminated the "edge angle" limitation entirely and therefore does not avoid the recapture rule. Furthermore, claim 30 does not include either limitation. Claim 30 claims that "plane" angles are different but it is unclear how the limitation of the plane angles are related to the viewing angles.

Applicant further argues that claims 22-24, 26-28 are directed to previously unclaimed aspect and are therefore not subject to a rejection under the recapture rule. First, Applicant asserts that the claims are directed to the relationship of the support backs with the support edges to create three different virtual planes to provide three different viewing angles. However, the claims do not include a limitation that the virtual planes or the viewing planes are different. Second, According to MPEP 1412.02, claims to overlooked aspects are "[c]laims to separate inventions/embodiments/species that were not claimed in the original application prosecution." MPEP.1412.01 states that "[t]he reissue claims must be for the same invention as that **disclosed** as being the invention as the original patent" and "[t]o satisfy the original patent requirement where a new invention is sought by reissue, '... the specification must clearly and unequivocally disclose the newly claimed invention is a separate invention.'" *Antares Pharma, Inc.* 771 F.3d at 1363, 112 USPQ2d [1865] at 1871. Therefore, claims drawn to an invention comprising a newly claimed combination of features that were only disclosed in the original patent as suggested alternatives (and not as a single combination) or only as part of the original invention and not an invention separate from the original invention would not satisfy the original patent requirement." Applicant has not established that that claim 22 is directed to patentably distinct invention, embodiment or species and not merely different definitions of the same embodiment, varying in breadth or scope of definition. "[t]he recapture rule is violated when a limitation added during prosecution is eliminated entirely, even if other narrowing limitations are

added to the claim.” *In re Mostafazadeh*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011).

Applicant contends that claim 22 recites only unclaimed, patentably distinct embodiment of the ‘443 application. However, Applicant further states “pending independent claim 22, by containing a three-backed design, *merely reiterates* limitations that Applicant has always maintained make it invention unique.” Appeal Brief, pg. 16.

Applicant further argues that the final Office action does not provided any evidence that the applicant's amendment was an admission that the scope of the claim was not patentable. Applicant points to the statement made in the parent application on Nov. 13, 2015 that “[a]pplicants are not conceding that the claims amended and/or canceled are not patentable over the art cited by the Examiner, as the present claim amendments and/or cancellations are only for facilitating expeditious prosecution. Applicants respectively reserve the right to pursue these and other claims in one or more continuation and/or divisional applications.” However, this boiler plate statement contradicts applicant's other statements in the same response. “Applicants submit that claim 1 is patentably distinguished from the combination of Halpin and Klepar by reciting the distinguishing elements ‘. .each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ...’ and ‘...wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees....” “Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements ‘...each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ...’ and ‘... wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees...’ recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims.”

Applicant also argues that there is no evidence that applicant deliberately surrendered the subject matter in question. Attention is again directed to the response of Nov. 13, 2015 in the parent application that "[a]pplicants submit that claim 1 is patentably distinguished from the combination of Halpin and Klepar by reciting the distinguishing elements . .each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ..and . .wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees...." The Examiner notes that Klepar teaches a back support in physical communication with an adjacent edge support. OA, page 3, citing Klepar, fig. 7.....Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements "... each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ..." and "... wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees..." recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims." This statement, along with others in the response, indicate a clear, deliberate surrender of the subject matter to distinguish over the prior art.

Applicant notes that an examiner's reasons for allowance cannot be used as support for a recapture rejection. The examiner agrees that the examiner's reasons for allowance cannot, by itself, provide the basis for establishing surrender and recapture. *Ex parte Yamaguchi*, 61 USPQ2d 1043 (Bd. Pat. App. & Inter. 2001)(precedential). Applicant asserts that because these claims were never allowed, there was no acquiescence in the rejection and acceptance of a patent whose claims include the limitations added by applicant to distinguish the claims over

the prior art. **It is noted, however, a patent owner (reissue applicant) is bound by the argument that applicant relied upon to overcome an art rejection in the original application for the patent to be reissued, regardless of whether the Office adopted the argument in allowing the claims.** *Greenliant Systems, Inc. v. Xicor LLC*, 692 F.3d 1261, 1271, 103 USPQ2d 1951, 1958 (Fed. Cir. 2012).

Since the claims 22-38 do not include both the “edge angle” limitation and the “viewing angle” limitation, surrendered by applicant during prosecution of the original application, impermissible recapture exists.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARY E WEHNER whose telephone number is (571)272-4715. The examiner can normally be reached on 9am to 5 pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <https://ppair-my.uspto.gov/pair/PrivatePair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CARY E WEHNER/
Primary Examiner, Art Unit 3993

Conferee:/gkd/

Conferee: /E.D.L/
SPRS, Art Unit 3993

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Bruce CANNON, et al. Conf. No. 1586
Serial No. 16/262,797 Examiner: WEHNER, Cary Ellen
Filed: January 8, 2016 Art Unit: 3993
For: MULTIPLE VIEWING ANGLE MEDIA SUPPORT
Date: August 24, 2020

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S BRIEF UNDER 37 CFR §41.37

Appeal is taken from the examiner's Final Office Action mailed April 30, 2020, finally rejecting claims 22-24 and 26-38 in the instant application.

SUBSEQUENTLY FILED DOCUMENTS: Applicant submitted an Amendment After Final on May 19, 2020, which was entered by Advisory Action dated June 4, 2020 to overcome ancillary issues not on Appeal. Claims 1-10, 21, and 25 have been allowed. This Appeal Brief is in furtherance of the Notice of Appeal mailed in this case on June 24, 2020.

The fees required under §41.37(a)(2) and any required petition for extension of time for filing this Brief and fees therefor are PAID via EFS-Web together with this filing.

A single copy of this brief is submitted in accordance with 37 C.F.R. § 41.37(a)(1).

This Brief contains these items under the following headings, and in the order set forth below.

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I. REAL PARTY IN INTEREST
37 CFR §41.37(c)(1)(i)

Happy Products, Inc. of 5741 NE 87th Ave., Portland, Oregon 97220 is the assignee of the patent application from its inventors and is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES
37 CFR §41.37(c)(1)(ii)

There are no other prior and pending appeals, judicial proceedings or interferences known to the appellant which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

37 CFR §41.37(c)(1)(iii)

A. Status of Claims

Claims 1-10 and 21-38 are in the case of which:

1. Claims allowed: 1-10, 21 and 25
2. Claim objected to: NONE
3. Claims rejected: 22-24 and 26-38
4. Claims withdrawn from consideration: NONE

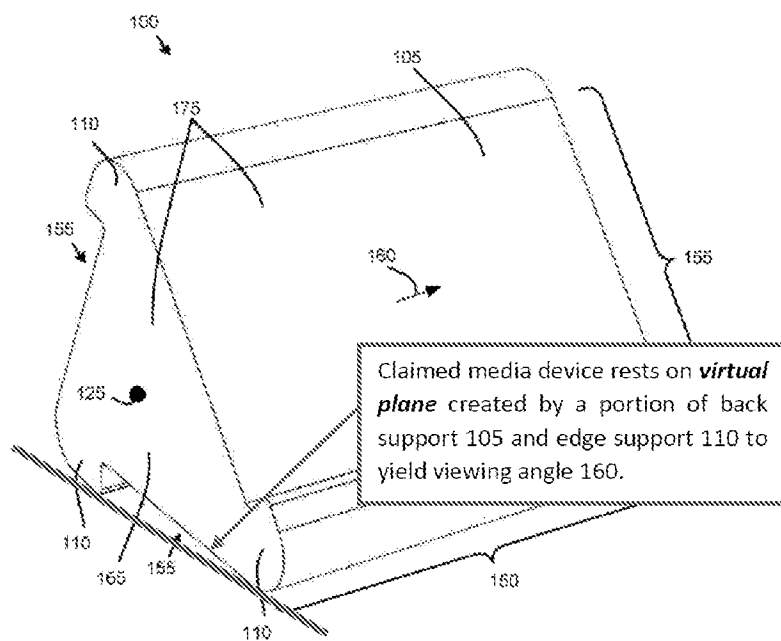
All the rejected claims, namely claims 22-24 and 26-38 are being appealed. The appealed claims are eligible for appeal, having been finally rejected.

B. Status of Amendments

Applicant submitted an Amendment After Final on May 19, 2020, which was entered by Advisory Action dated June 4, 2020 and overcame ancillary issues not on Appeal.

C. Summary of Claimed Subject Matter

The claims on appeal are directed to a media support with three sets of back and edge supports arranged clockwise about a central axis of the media support body. The body (100) can then be rotated in a clockwise or counterclockwise direction about its central axis (125) to present one of the sets of back (105) and edge supports (110) so that a media device (e.g. iPad) can be rested on the supports to display the media device at an angle (160) to the viewer. Each of the sets of back and edge supports allows the media device to be displayed at a ***different angle*** so as to accommodate different positions that the user is reading from, e.g. a sitting user would read the media device at a first angle, a user that is laying on their back at a second angle, and a user laying on their front at a



third angle. This angle is in respect to a *virtual plane* created by the top of a downward-facing back support and respective edge support. To change the support side and thus the angle, the user can simply “flip” the device by rotating it around the central axis. The device can be continually flipped in the same direction until the proper side with the most comfortable viewing angle is presented.

FIG. 2 of the Reissue Application shows the three different angles (160a, 160b, 160c) created when the media support device rests on a virtual plane (130a, 130b, 130c). The display angle (160c) as shown is dictated by the angle of the resting virtual plane (130b) with the display side (105c). The media support apparatus can then be rotated clockwise to an adjacent virtual support plane (e.g. support plane 130c) so as to present an adjacent display angle (e.g. display angle 160a).

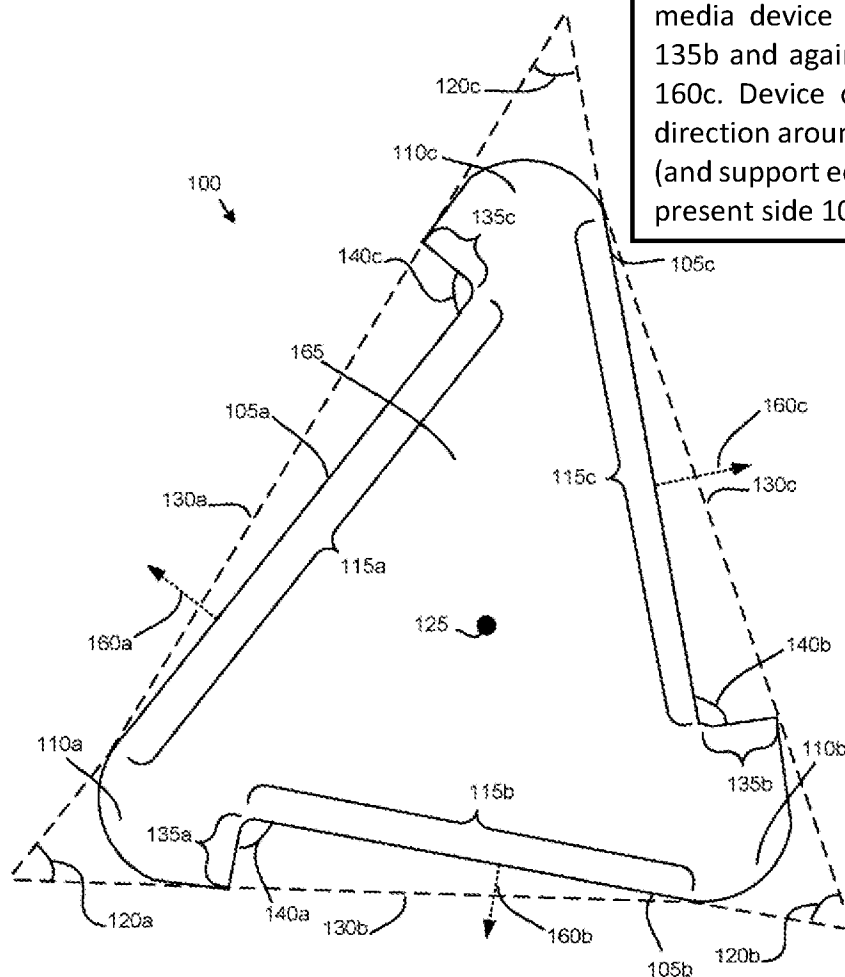


FIG. 2 illustrates where media support device 100 rests on virtual plane 130b to support media device (not shown) on support edge 135b and against back 105c at viewing angle 160c. Device can be rotated in a clockwise direction around axis 125 to present side 105a (and support edge 135c). And rotated again to present side 105b (and support edge 135a).

FIG. 2

D. Support for Claim Limitations

The following listing is intended to assist the Board to quickly determine where the claimed subject matter is described in the application:

- CLAIM 22: (FIG. 2; col. 2, lines 15-16; col. 2, line 33; col. 2, lines 54-55; col. 3, line 51; col. 4, line 10; col. 4, line 20) with claim numbered elements noted below

Claim Term (claim 22) – claim elements are numbered
A media support apparatus (100) comprising:
a body having a first support back (105a), a second support back (105c), and a third support back (105b) disposed about a central axis (125);
a first support edge (110c) disposed between the first support back and the second support back, wherein the first support back and first support edge are configured to support a media device at a first support angle (orthogonal to viewing angle 160a);
a second support edge (110b) disposed between the second support back and third support back, wherein the second support back and second support edge are configured to support a media device at a second support angle (orthogonal to viewing angle 160c);
a third support edge (110a) disposed between the third support back and first support back, where the third support back and third support edge are configured to support a media device at a third support angle (orthogonal to viewing angle 160b);
wherein said media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane (130c) between a top of the second support back (105c) and an outer edge of the second edge support (110b), on a second virtual plane (130b) between a top of the third support back (105b) and an outer edge of the third edge support (110a), and on a third virtual plane (130a) between a top of the first support back (105a) and an outer edge of the first edge support (110c); and
wherein the media support apparatus is configured to provide a first viewing angle (160a) of the media device when the media support apparatus body rests on the first virtual plane (130c) and the media device is supported at the first support angle, a second viewing angle (160c) when the media support apparatus body rests on the second virtual plane (130b) and the media device is supported at the second support angle, and a third viewing angle (160b) when the media support apparatus body rests on the third virtual plane (130a) and the media device is supported at the third support angle.

- CLAIM 29

Claim Term (claim 29)	Disclosure
The apparatus of claim 22, wherein the first viewing angle, the second viewing angle,	FIGs. 1 and 2

and the third viewing angle are different from one another.	col. 2, line 29; col. 2, lines 54-55 “The side supports 155 may be arranged to provide three different viewing angles 160 for three different user positions”; col. 4, lines 19-21
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- CLAIM 30: (col. 3, lines 40-44) (col. 3, lines 44-49) (col. 2, lines 44-45) (col. 2, lines 45-46) (col. 2, lines 49-50) (col. 2, lines 52-53) (col. 3, lines 59-60) (col. 3, lines 56-57) (col. 3, lines 57-58)

Claim Term (claim 30) – claim elements are numbered
An apparatus (100) comprising:
three support sides (155a, b, c—FIG. 1), each support side comprising a back support (105a, b, c) and an edge support (110a, b, c),
wherein a top of each back support (105) is in physical communication with an adjacent edge support (110) clockwise about a central axis (125) and each back support and each edge support is in physical communication with two ends (165),
wherein each edge support (110) comprises an edge support width (135—FIG. 2) with an edge angle (140) to an adjacent back support (105),
wherein a face of each edge support width (135) is oriented clockwise about the central axis (125),
wherein a plane (115a—FIG. 2) of a first back support (105a) is at a first plane angle (120a) to a second virtual plane (130b) between the top of a second back support (105b) counterclockwise to the first back support (105a) and an outer edge of a second edge support (135a) counterclockwise to the first back support,
wherein a plane (155b) of the second back support (105b) is at a second plane angle (120b) to a third virtual plane (130c) between the top of a third back support (105c) counterclockwise to the second back support (105b) and an outer edge of a third edge support (135c) counterclockwise to the second back support,
wherein a plane (155c) of a third back support (105c) is at a third plane angle (120c) to a first virtual plane (130a) between the top of the first back support (105a) counterclockwise to the third back support (105c) and an outer edge of the first edge support (135a) counterclockwise to the third back support,
wherein the first plane angle (120a), the second plane angle (120b), and the third plane angle (120c) are different from one another (col. 2, line 29; col. 2, lines 54-55 “The side supports 155 may be arranged to provide three different viewing angles 160 for three different user positions”; col. 4, lines 19-21); and
wherein each back support (105—FIG. 3), each edge support (110), and each end (165) is a surface (180) of an interior.

VII. ARGUMENT
37 CFR §41.37(c)(1)(vii)

A. Grounds of rejection to be reviewed on appeal

As all claims have been found to be allowable over the prior art, there is only a single issue remaining that needs to be reviewed on Appeal: Whether rejected claims 11-24 and 26-38 of the reissue application impermissible recapture subject matter surrendered from the originally issued patent, i.e., whether Applicant seeks to now “recapture” subject matter surrendered during prosecution of the original patent (i.e. U.S. Patent No. 9,642,454 – herein referred to as the ’454 patent), including prosecution of the parent application (i.e. U.S. Patent Application Serial No. 14/518,443 – herein referred to as the ’443 application) and the related child application (i.e. U.S. Patent Application Serial No. 15/192,737 – herein referred to as the ’737 application).

This Appeal requests the Board’s reconsideration, *inter alia*, of whether the Recapture Rule applies to the material narrowing of the original claim on reissue, namely adding:

wherein the first plane angle, the second plane angle, and the third plane angle are ***different*** from one another (emphasis added)

in place of the limitation added to the patented claim during prosecution, namely:

a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees

For reasons noted below, Applicant argues that the Recapture Rule does not apply and that all claims should be in condition for reissue.

B. Recapture Rule is NOT violated since reissue claim is materially narrowed with respect to originally filed claim

The recapture rule is violated when a limitation added during prosecution is eliminated ***entirely***, even if other narrowing limitations are added to the claim. If the added limitation is modified but not eliminated (as is the case with the present reissue claims), the claims must be materially narrowed relative to the surrendered subject matter such that the surrendered subject matter is not entirely or substantially recaptured. *In re Mostafazadeh*, 643 F.3d 1353, 1360 (Fed. Cir. 2011)

The examiner has already stated that the “different” angles limitation added within the reissue claims is both (a) related to the surrendered subject matter, and (b) is a “material

narrowing” relative to the original claim:

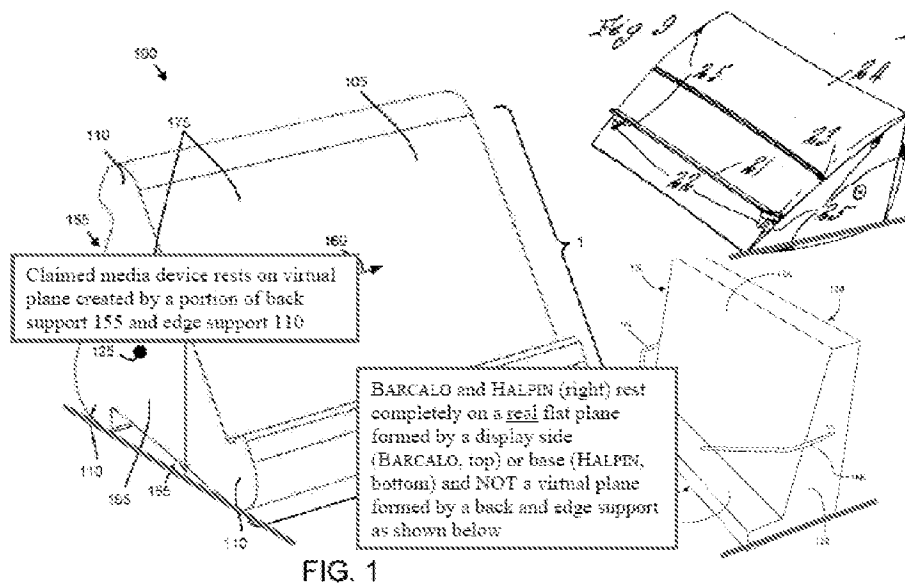
“Claim [30] was amended to include the limitation first, second and third viewing angles are different. New claim [22] also includes this limitation. Therefore, the **surrender generating limitation has not been entirely eliminated** because it is broader yet is **materially narrowed** relative to the original claim.” (*emphasis added*)

Office Action dated Oct. 18, 2019 (p.10)

The above definitive statement by the examiner should be the end of the matter. “If the patentee modifies the added [or argued] limitation such that it is broader than the patented claim yet still materially narrows relative to the original claim, the recapture rule does not bar reissue.” *In re Youman*, 679 F.3d 1335, 1347 (Fed. Cir. 2012).

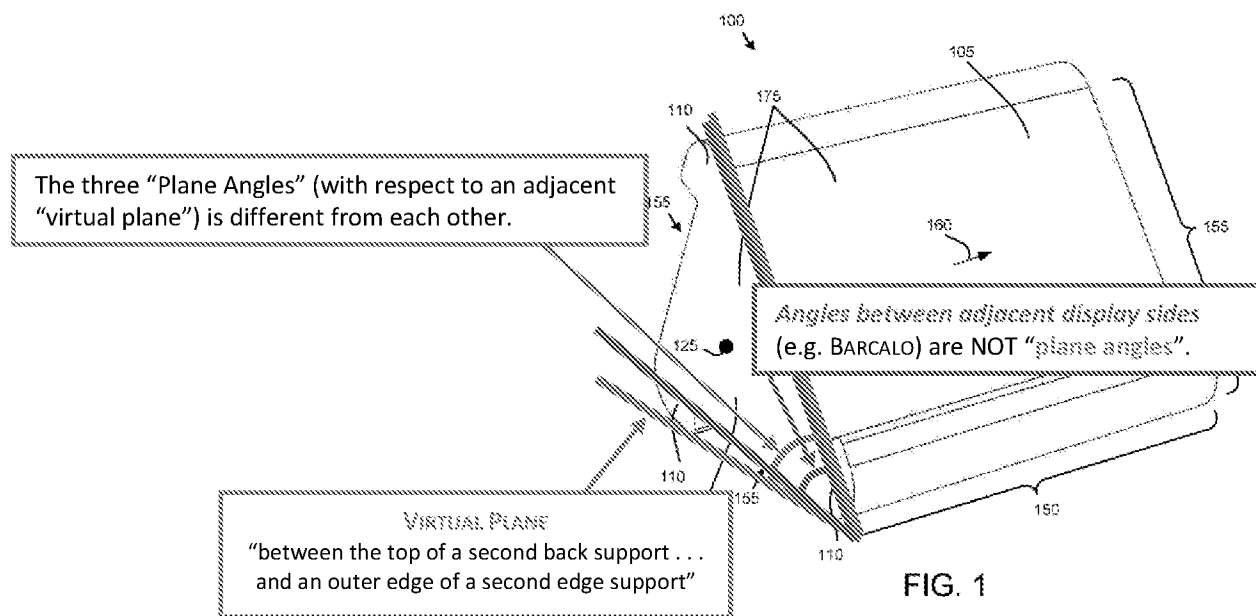
Although the examiner has already stated that the addition of the “different” angles limitation is a material narrowing, the examiner is in error that such a limitation is well known in the prior art, namely the circa 1932 Barcalo reference (U.S. Pat. No. 1,928,806). The claimed viewing angles are not simply between three viewing angle sides as in Barcalo (which, by having a purely triangular cross-section, would add up to 180 degrees). Instead, the plane angles dictating the viewing angles are between support sides on “virtual planes” and adjacent display sides, a relationship that does not require the cumulative support angles of the sides to equal 180 degrees. For instance, the very specific support angles listed in claim 1 of the ’454 patent are 36 degrees, 74 degrees, and 49 degrees, which combine to equal a total of 159 degrees.

The image right, used by Applicant in the previous Response to Office Action to overcome rejections under the prior art, illustrates how the Barcalo device rests directly on a support side to prop up an adjacent support side at a predetermined angle. A fundamental principal of geometry is that triangular shapes such as the



Barcalo device (top right) have interior angles that combine for a total of 180 degrees. This in contrast to the claimed media support device (left), which rests on virtual planes and allows the support sides (105) to be tilted at a more custom-controlled angle as by enlarging or reducing the size of the downward-facing edge support [i.e. edge support (110) on bottom-left]. The resulting structure allows the three display angles to be more custom tailored and is not restricted to having a total combined 180 degrees as with Barcalo.

The limitation “where the first plane angle, the second plane angle, and the third plane angle are *different*” (claim 30) is NOT well known in the prior art.

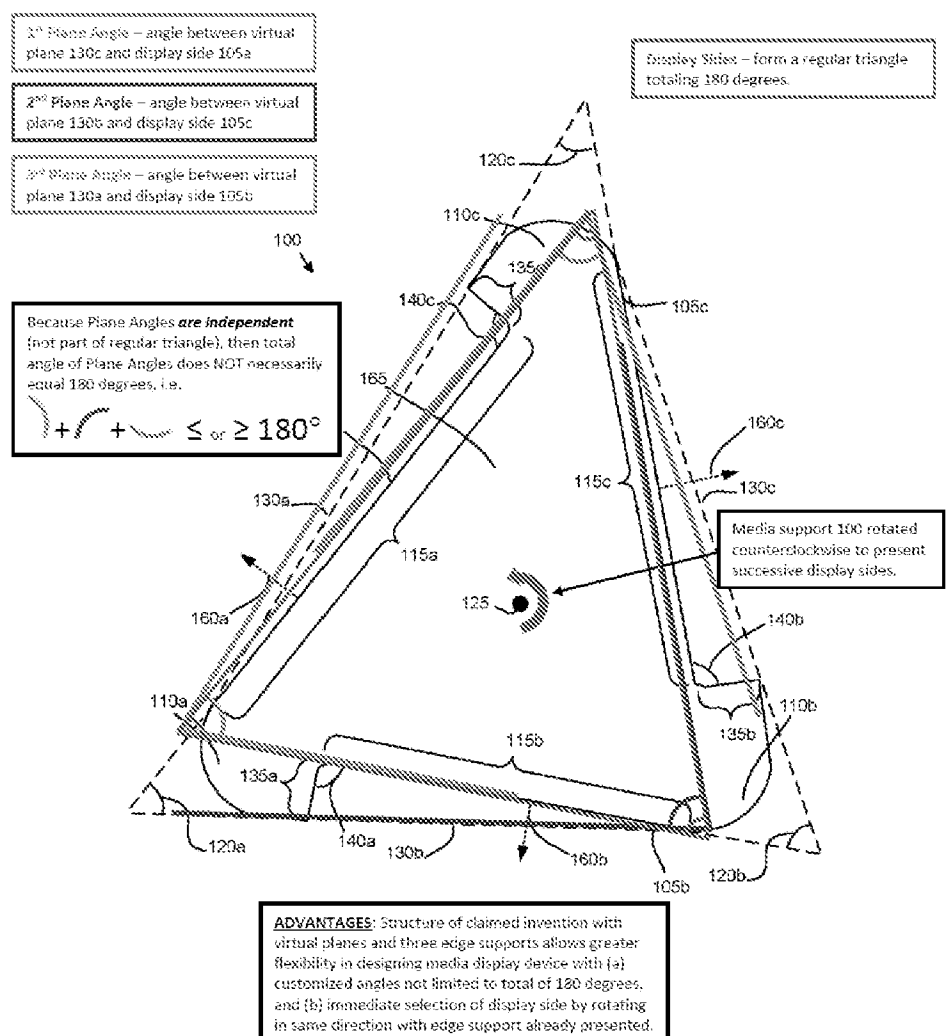


The image above illustrates that these plane angles are defined between the display plane and an adjacent *virtual* plane, NOT between adjacent display planes as with Barcalo. As explained above, this structure provides non-obvious advantages over the prior art and is thus—as the examiner has already stated—a material narrowing of the claim related to the surrendered subject matter.

The present situation is different from the narrow exception carved out by the *Mostafazadeh* case. The court in *Mostafazadeh* rejected the materiality of the added limitation on the grounds that the “solder pad” limitation added to the claim on reissue was so well known that it was fully described in the Background of Invention section of Applicant’s own patent application. Such is not the case here. In fact, none of the prior art cited during the

original prosecution of the application—namely, the Halpin (US2003/0001063) and Klepar (D703,216) references—even included all three display sides (Halpin had one, and Klepar had two). It was only five years later, during reissue, that a previously unknown reference—Barcalo (US1,928,806)—was cited, and even then *Barcalo does not disclose different angles between virtual sides and an adjacent display side*. It is clear then that no prior art, even the newly cited Barcalo reference, discloses the concept of virtual planes or that the angles between virtual planes and display sides are different from one another. Applicant’s added limitation in reissue related to the display angles or plane angles as being “different” is therefore NOT well known in the prior art and is a material narrowing of the original claim sufficient to avoid recapture.

In summary, therefore, while Applicant agrees with the examiner that the added “different” plane angles limitation is a *material narrowing* of the original claim, the examiner is incorrect that such a limitation is well known in the prior art since no reference actually discloses use of such virtual planes to prop up a display side. Accordingly, it should be clear that the Federal Circuit rule set forth in the *Youman* case controls, namely that the recapture rule does not bar reissue of claims 29-38 because Applicant modified the added limitation such that it is broader than the patented claim yet still materially narrows relative to the original claim.



C. The USPTO has committed a critical error by not allowing the originally-filed claim 1, an error correctable in equity by issuance of the reissued claims

The only substantive difference between originally filed claim 1 of the parent ‘443 application (parent to Issued Patent 9,642,454) and claim 30 of the Reissue application is the clarification that the first, second, and third plane angles are “different from one another”.

As claim 30 (and claim 29) of the Reissue application is allowable over the prior art, the only inference that can be made apart from USPTO error in the original prosecution is that the “different angles” (with respect to virtual planes) is a material narrowing of the original claim sufficient to avoid recapture and is related to the reasons for overcoming the prior art.

The examiner of the Reissue application cited the “three support edges” limitation as the reason for withdrawing rejection of the claim under the prior art. But this limitation was in the original claim 1 as filed in the parent ‘443 application. (“three support sides, each support side comprising a back support and an edge support...”).

The USPTO has either committed a critical error in prosecution of the original parent application by not allowing claims with the “three support edges” limitation, and/or is mistaken as to the materiality of the narrowing of the original claim to specify “different angles.” Either way, granting of the Reissue is required under equity to give Applicant the patent that they were entitled to. *In re Weiler*, 790 F.2d 1576, 1579 (Fed. Cir. 1986) (the reissue statute “is remedial in nature, based on fundamental principles of equity and fairness.”)

The “different plane angles” limitation of claims 30-38 (or “different” viewing angles with respect to virtual planes in claim 29) is not well known in the prior art. Instead, the added reissue claims refer to different angles with respect to “virtual planes” on the media support apparatus. This distinguishes from the newly cited Barcalo reference where viewing angles are with respect to real sides of the apparatus. This difference yields very real results in that the combination of viewing angles in the present device need not equal 180 degrees (as with the purely triangular Barcalo) and are therefore much more configurable.

The narrow exception stated in *In re Mostafazadeh*—i.e. that the addition of “well-known” features of the prior art is not a material narrowing of the claim—therefore does **not** apply here. The *Mostafazadeh* court dealt with an added limitation (“attachment pad”) that was disclosed in the prior art section of the *Mostafazadeh* patent application and, in addition to it being obvious and admitted prior art, was “relied on by the examiner” during prosecution

of the case. Or as stated by the *Mostafazadeh* court:

As part of the "background of the invention," U.S. Patent Number 5,796,589 col. 1 ll. 39-44 (filed Dec. 20, 1995), which was relied on by the examiner in the original prosecution, discloses the use of "solder pads" (i.e., attachment pads).

Mostafazadeh at 1361.

It is important to keep in mind that the Barcalo reference was never cited as prior art during the original prosecution of the '454 patent. This is a clear difference with the examiner's citation of *In re Mostafazadeh* [643 F.3d 1353 (Fed. Cir. 2011)] in which the added "attachment pads" limitation in the *Mostafazadeh* case was part of the background of the invention in the *Mostafazadeh* patent and "relied upon by the examiner in the original prosecution." (see *Mostafazadeh*, 643 F.3d at 1361 n.4) No such reliance on prior art showing different viewing angles *with respect to virtual planes* took place in the present case, and this limitation is not well known in the prior art. Unlike in *Mostafazadeh*, Applicant is not attempting to relitigate arguments made during prosecution of the original patent and is not trying to recapture any subject matter originally rejected in view of the Barcalo reference. Also unlike in *Mostafazadeh*, *the Barcalo reference was not cited by the USPTO in the original prosecution* and could not therefore be relied upon by the examiner in the original prosecution, but instead was only found five years later by the current examiner after issuance of the original patent. But even if it were, Barcalo does not disclose or even suggest different angles with respect to virtual planes, which is a limitation that yields non-obvious advantages over the prior art as discussed in more detail in the section above. Thus, impermissible recapture does not exist and Applicant respectfully requests reconsideration and removal of this rejection.

D. At least claims 22-24 and 26-29 are directed to a previously unclaimed aspect of the invention in view of the disclosure-dedication rule and thus not subject to rejection under the recapture rule

At least claims 22-24 and 26-29 are directed to the specific relationship of the three support backs of the media support body with the three support edges so as to create three different support "virtual planes" to provide three (e.g. different) respective viewing angles. The structure and limitations of independent claim 22 (and its dependents) were not covered

by a claim—e.g. a generic claim—at any point during prosecution of either the ‘443 application or the ‘737 continuation-in-part upon which the issued ‘454 patent is based.

Reissue claims directed to unclaimed aspects are not subject to a rejection for recapture because the claims are, by definition, unrelated to subject matter that was alleged by the examiner to be surrendered during prosecution of the original application. *In re Youman*, 679 F.3d 1335, 102 USPTO2d 1862 (Fed. Cir. 2012) (“Whereas the recapture rule applies when surrendered subject matter is being reclaimed, overlooked aspects by definition were never claimed and thus never surrendered”).

By way of example, claim 22 specifies that the first support edge is disposed between first and second support backs, that the second support edge is disposed between the second and third support back, and that the third support edge is disposed between the third and first support back. Further, claim 22 specifies that the media support device is configured to be rotated about a central axis so that the body can rest on either first, second, or third virtual planes (between stated support edges and support backs) to provide first, second, or third viewing angles, respectively. These are aspects that are not specified within the claims of the ‘454 patent, and further provide aspects disclosed within the original ‘443 application that were unappreciated and unclaimed during original prosecution.

Applicant respectfully disagrees with the examiner’s analysis that claim 22 is not considered to be drawn to a separate invention, embodiment or species because (as the examiner states) back supports, support edges and virtual planes are already present in original claims 1-10. Instead, the examiner is directed to the very specific relationship of first, second, and third support backs to respective first, second, and third support edges **and** to the previously unclaimed fact that the media support device is configured to rest on a horizontal support created by the virtual planes to provide first, second, and third viewing angles. These are aspects of the structure and function of the invention that were never presented in a claim or argued during prosecution. And as noted in Section E below, this structural configuration allows the creation of three viewing angles that, collectively, **can but are not required to** equal a total of 180 degrees, thus providing an advantage over purely triangular devices such as the Barcalo reference which **do** required a total of 180 degrees.

Pending independent claim 22 does not attempt to recapture any claim limitations *deliberately* surrendered (see Section C below) during prosecution of the related applications.

Rather, claim 22 claim recites only unclaimed, patentably distinct embodiments of the '443 application that include the three backed design of a media support apparatus that allows for the support *on virtual planes* of a media device at three (e.g. different) viewing angles. Applicant has never disputed that this feature is part of what makes the claimed subject matter unique. For example, in differentiating between the two primary references cited against the claims during prosecution of the '443 application, Applicant in its November 13, 2015 Amendment and Response stated:

[T]he claimed invention provides *three distinct viewing angles In contrast, Halpin and Klepar only support one and two distinct viewing angles respectively as they lack all the multiple support edges oriented clockwise around a central axis*. These advantages have resulted in significant commercial success, with 5000 units of media support based on the claimed invention sold to date. [emphases added].

Thus, pending independent claim 22, by containing a three-backed design, merely reiterate limitations that Applicant has always maintained make its invention unique. As a result, the lack of recitation of the specific viewing angles in claim 22 is not a disqualifying feature of the claims because the previously allowed claims, reciting the specific viewing angles, are merely an embodiment, but a separate embodiment, of the three-backed design that is at the heart of the uniqueness of the reissue claims. Applicant has never conceded this point during the prosecution of any of the related applications. Thus, there has never been a surrender of this previously unclaimed subject matter. And by adding this previously unclaimed embodiment, Applicant is not exposed to the disclosure-dedication doctrine.

E. The Final Office Action fails to demonstrate that the original prosecution amendments were an admission of unpatentability over the prior art or that they were made in view of Examiner action

The recapture rule does not apply in the absence of evidence that the applicant's amendment was "an admission that the scope of that claim was not in fact patentable," *Seattle Box Co. v. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 826 (Fed. Cir. 1984). Although deliberately canceling or amending a claim in an effort to overcome a reference strongly suggests that the applicant admits that the scope of the claim before the cancellation or amendment is unpatentable, it is not dispositive because other evidence in the prosecution history may indicate the contrary. See *Mentor Corp. v. Colorplast, Inc.*, 998 F.2d 992, 995-96 (Fed. Cir. 1993); *Ball Corp. v. U.S.*, 729 F.2d 1429, 1438 (Fed. Cir. 1984); *Seattle Box Co.*,

731 F.2d at 826, (declining to apply the recapture rule in the absence of evidence that the applicant's "amendment ... was in any sense an admission that the scope of [the] claim was not patentable"); *Haliczer v. United States*, 356 F.2d 541, 545 (Ct. Cl. 1966); *In re Willingham*, 282 F.2d 353, 354, 357 (CCPA 1960) (no intent to surrender where the applicant canceled and replaced a claim without an intervening action by the examiner).

The *Seattle Box Co.* case is particularly instructive as it includes many of the same type of amendments as the present case. In *Seattle Box Co.*, the patent attorney narrowed claim 1 during the application's prosecution so as to specify that the spacer block used in a claimed shipping bundle had a height "*greater than* the diameter of the pipe." Soon after the attorney made this narrowing amendment, although not necessarily because of it, the patent examiner allowed each of the application's claims. Seattle Box later filed an application to have the patent reissued with broader claims that specified that the spacer block be not only greater than the diameter of the pipe, but also "*substantially equal to* the thickness of the tier of pipe length." The Federal Circuit held that the recapture rule did not apply here even though the broadening was to a limitation specifically added to the claim during prosecution because "there is no evidence that Seattle Box's amendment of its originally filed claims was in any sense an admission that the scope of that claim was not in fact patentable."

In the present case, the '737 CIP application that resulted in issuance of the issued '454 patent was **a first action allowance** in which the claims were allowed as originally presented. The parent patent application to the '737 CIP application—the '443 application—had but a single Response to Office Action in which the Applicant specifically disavowed that the amendments were made to make an unpatentable claim patentable. Instead, Applicant stated as follows:

Applicants are not conceding that the claims amended and/or canceled are not patentable over the art cited by the Examiner, as the present claim amendments and/or cancellations *are only for facilitating expeditious prosecution*. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications.

(Response to Office Action dated Nov. 13, 2015; p.7) [emphasis added]

Applicants were only interested in "facilitating expeditious prosecution" and continued to argue patentability of the broader concept underlying the claims. This situation is thus distinguishable over cases such as *Clement* cited by the examiner, where the applicant in that

case explicitly admitted during prosecution that the amendments to the claims were “in order to distinguish over the prior art.”

It should be noted that claims in the '443 application were never allowed, and in fact all claims in that '443 application (including those that included the overly-specific display angles) were rejected in view of cited art. As no patent issued, there was thus no “acquiescence in the rejection and acceptance of a patent whose claims include the limitation added by the applicant to distinguish the claims from the prior art.” *Haliczer*, 356 F.2d at 545. Nevertheless, during prosecution of the '443 application, Applicants pointed out the differences with the prior art, namely that the Halpin and Klepar references “only support one and two distinct viewing angles respectively” while the claimed invention “provides three distinct viewing angles.” (Nov. 13, 2015 Response, p.10)

Accordingly, just like *Seattle Box*, the recapture rule should not apply to the reissue claims herein since there is no evidence that Applicant did not think the originally prosecuted claims patentable over the prior art. On the contrary, Applicant pointed out the distinctions with the prior art.

Applicant thus believes that the original attorney prosecuting the application may have committed error correctable by reissue by arguing this distinction without explicitly including the “different viewing angles” limitation within the claims—a distinction that is now corrected with the new reissue claim set and particularly within claims 29 and 30.

*F. As there was NO intentional or deliberate surrender of subject matter, and NO admission that the scope of the claim was unpatentable, recapture does **not** apply*

To invoke recapture, it must be shown that applicant is attempting to regain, through reissue, subject matter that was *surrendered* during prosecution to overcome prior art references. *See Medtronic, Inc. v. Guidant Corp.*, 465 F.3d 1360, 1373 (Fed. Cir. 2006). The law is clear that this surrender must be *intentional or deliberate and for the express purpose to overcome a prior art rejection*. *Id.* at 1372-73 (“Under the ‘recapture’ rule, the *deliberate* surrender of a claim to certain subject matter during the original prosecution of the application for a patent ‘made in an effort to overcome a prior art rejection’ is not such ‘error’ as will allow the patentee to recapture that subject matter in a reissue”) (emphasis added). Thus, there can be no recapture under law or policy if: (1) there is no showing that Applicant

intentionally or deliberately surrendered subject matter during prosecution to overcome prior art references, and (2) there is no admission that the scope of the claims were unpatentable under the prior art.

As an initial matter, Applicant respectfully submits that examiner has not shown that Applicant has ever deliberately surrendered any subject matter to overcome the references asserted during the prosecution of the related applications. As a result, the threshold requirement to invoke recapture is not met.

Applicant respectfully submits that a comparison of the originally filed claims of U.S. Appl. No. 14/518,443 (the “’443 application”); the subsequent amendments to those claims during prosecution of the ’443 application; and the further amendment to those claims as a part of claims filed in U.S. Appl. No. 15/192,737 (the “’737 application”), which is a continuation in part of the ’443 application, and which ultimately resulted in allowance and issuance of U.S. Pat. No. 9,642,454 (the “’454 patent”), indicates that ***no subject matter was ever deliberately surrendered by Applicant to overcome the references previously asserted against the claims.***

Rather, Applicant respectfully submits that the claims in the previous applications were amended to narrow the scope of the claimed subject matter, and to add limitations to encompass certain embodiments of the disclosure *for expediency to allowance*. These features included adding specific angles and further specifying the geometry of the viewing angles and support edges. As clearly stated by Applicant in its responses to the Office Actions, the reason for adding these limitations was to obtain prompt allowance of the claimed subject matter rather than go through a lengthy and expensive prosecution. Explicit statements by Applicant during prosecution of the ’443 application, specifically statements in the November 13, 2015 Response to Office Action (the “Nov. 13 Response”) make this clear. In the November 13 Response, (p.7), Applicant stated:

Applicants are not conceding that the claims amended and/or canceled are not patentable over the art cited by the Examiner, as the present claim amendments and/or cancellations are ***only for facilitating expeditious prosecution***. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications.” [emphasis added].

Thus, Applicant respectfully submits that the record clearly indicates that any amendments made to the previous applications was not for the deliberate purpose of surrendering subject matter Applicant believed was in any of the references. Rather, they

were made to expedite allowance of the claims. As a result, the threshold requirement for recapture has not been met. Compare *In re Clement*, 131 F.3d 1464, 1471 (Fed. Cir. 1997) (holding that recapture did apply based on patentees admissions on the record that the added limitations during the prosecution history of the patent were made to distinguish over the prior art).

G. The Examiner's reasons for allowance for the '454 patent cannot be used as support for a recapture rejection

The March 30, 2020 Final Office Action point #7 (FOA, p.7) is properly cited but wrongly interpreted. The examiner's Notice of Allowability for the '454 patent states that "the prior art does not disclose a three sided support for media device . . . each side allows for three distinct display angles for the media device." In this context, the word "distinct" does not refer to the raw numbers—e.g. 36, 74, and 49 degrees—but that the angles are DIFFERENT. This is supported by applicant's use of the word "distinct" in the original '443 application (paragraphs [0023] and [0027]) as well as the common definition of the word as "recognizably different" or "readily distinguishable." The synonym "different" is also used throughout the issued patent—e.g. col. 2, lines 29 and 55; and col. 4, line 20. As such, the claims presented in the reissue application use the word "different" as a synonym to "distinct" in order to refer to the fact that the three distinct viewing angles of the media support pillow are different from one another.

As explained in Section C above, the examiner of the original '737 application rejected claims with the specific angles 36, 74, and 49 degrees *in view of the references*. The reissue examiner cannot now argue on one hand that these original patent claim's specific angles were the reason for allowance of the '737 application, and on the other hand use this to reject the reissue application under the recapture rule.

The March 30, 2020 Final Office Action point #4 (FOA, p.6)—referring to a rejection of claim 1 under §112(a) on the grounds that the specific angles within the claims is not support by the original disclosure—is significantly incomplete. Claim 1 was also rejected in view of the references. Since no prior art was overcome by inclusion of the exact 36, 74, 48 degree viewing angles during prosecution of the '454 patent and its parent case, such limitations are unnecessarily restrictive and may be broadened during reissue without running

afoul of the restriction against recapture. The Federal Circuit addressed a similar situation in *In re Peters* [723 F.2d 891 (Fed. Cir. 1983)] where the original claims required, among other things, a metal tip having a tapered shape. *Id.* at 892. The patent owner filed a reissue application seeking to broaden the claims to cover both tapered and non-tapered tips. *Id.* The Board held that the broadened claims sought by the reissue application were not supported by the original disclosure because the only tips disclosed were tapered. *Id.* at 893. The Federal Circuit overturned, however, holding that “[t]he broadened claims merely omit an unnecessary limitation that had restricted one element of the invention to the exact and non-critical shape disclosed in the original patent.” *Id.* The Federal Circuit reasoned that the disclosed tip configuration was not critical because no prior art was overcome based on the tip shape and “one skilled in the art would readily understand that in practicing the invention it is unimportant whether the tips are tapered.” *Id.*

Similarly, and with particular respect to claims 29 and (now-amended) claim 30, it is not the exact angles but rather the fact that the three display side angles *with respect to virtual planes* are distinct/different that can provide comfortable viewing of the media in any one of a variety of different viewing positions, e.g. in a reader’s lap while sitting up, when laying down, or when positioned on a table or desk when reading upright. Applicants can provide evidence of success of recent products without these exact angles to show that such angles are non-critical; it is only important that these angles be different. Like *Peters*, the broadened claims in the reissue merely omit an unnecessary limitation, e.g. the extraordinarily specific viewing angles subject to any expansion under the Doctrine of Equivalents, that had restricted one element of the invention to the exact and non-critical shape disclosed in the original patent.

In summary, therefore, Applicants dispute that the recapture rule is applicable in this case for the following notable reasons:

1. The claims in the CIP, allowed by first action allowance, do not match any claim within the parent application;
2. The limitations added to the claims during prosecution of the patent application were never allowed over the prior art; and
3. The reason for allowance cited by the examiner in allowing the ‘454 patent claims in a first action allowance does not mention the 36, 74, 48 degree viewing angles of the three sides. Instead, the reasons only make mention that each side allows for three distinct (e.g. different) display angles for the media device.

The prosecution history of the issued patent is also distinguishable from the legal citations noted by the examiner. The present situation does not significantly fall within the fact patterns of these cases, but is more akin to the *Seattle Box Co.* and *In re Peters* cases where recapture was not applicable.

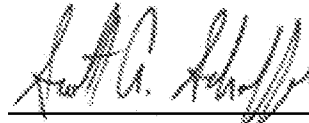
In summary, therefore, Applicant respectfully disagrees with the examiner position that currently pending claims 22-24 and 26-38 are attempting to recapture material surrendered during the prosecution of '454 patent for at least five reasons. First, recapture does not apply when the claims have been materially narrowed relative to the originally filed claims (i.e. originally filed claim 1 of the '443 application). Claim 29 and amended claim 30, for instance, include a feature that the examiner has already held to be a “material narrowing relative to the original claim.” This material narrowing—i.e. that all three plane angles as measured from back supports to respective virtual planes are different from one another—is not well-known and confers materially significant operational improvements (discussed below) that were not available in the prior art. Second, claims 22-24 and 26-29 are directed to a previously unclaimed, patentably distinct embodiment that captures aspects of the invention in a much different way than the patented claims, e.g., relying on disclosure found only in the original '443 patent application. These claims are directed to the specific relationship of the three support backs of the media support body with the three support edges so as to create three different support “virtual planes” to provide three (e.g. different) respective viewing angles. The structure and limitations of independent claim 22 (and its dependents) were not covered by a claim—e.g. a generic claim—at any point during prosecution of either the '443 application or the '737 continuation-in-part upon which the issued '454 patent is based. Applicant has added this new embodiment to the claims in view of the disclosure-dedication doctrine. Third, recapture does not apply in the absence of evidence that the Applicant's amendments were an admission that the scope of that claim was not in fact patentable. Fourth, recapture does not apply in the absence of evidence that Applicant intentionally or deliberately surrendered any subject matter during the original prosecution. Fifth, the examiner's reasons for allowance of the '454 patent cannot be used as support for a recapture rejection of the claims.

For at least these reasons, and under the law, recapture is not available as a ground of rejection and Applicant therefore respectfully traverses.

CONCLUSION

The Appellant requests favorable consideration by the Board. If any questions remain, the Board is encouraged to contact the undersigned at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott A. Schaffer", is written over a solid horizontal line.

Scott A. Schaffer
Reg. No. 38,610

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2187 SW Market Street Dr.
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Customer No. 133404

VIII. CLAIMS APPENDIX

37 CFR §41.37(c)(1)(viii)

The text of the claims on appeal is:

Claims 1-10 and 21-38, as follows:

1. (Original Patented Claim) An apparatus comprising:

three support sides, each support side comprising a back support and an edge support, wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends of a solid interior, each edge support comprises an edge support width of 2 centimeters (cm) with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis, a plane of a first back support is at a first plane angle of 60 degrees to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support, a plane of the second back support is at a second plane angle of 80 degrees to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support, a plane of a third back support is at a third plane angle of 40 degrees to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support, and wherein each back support, each edge support, and each end is a surface of the solid interior, the solid interior is a pillow covered in fabric, a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.

2. (Original Patented Claim) The apparatus of claim 1, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

3. (Original Patented Claim) The apparatus of claim 2, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

4. (Original Patented Claim) The apparatus of claim 1, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

5. (Original Patented Claim) The apparatus of claim 4, wherein each back support has a latitudinal length of 15 cm.

6. (Original Patented Claim) The apparatus of claim 1, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

7. (Original Patented Claim) The apparatus of claim 6, wherein each edge support has a latitudinal length of 7 cm.

8. (Original Patented Claim) The apparatus of claim 1, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

9. (Original Patented Claim) The apparatus of claim 1, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

10. (Original Patented Claim) The apparatus of claim 9, wherein the edge angle is 90 degrees.

Cancelled claims 11-20

21. (New) The apparatus of claim 1, wherein a latitudinal length of each of the first, second, and third edge supports is different from a latitudinal length of the corresponding first, second, and third side supports.

22. (New) A media support apparatus comprising:
a body having a first support back, a second support back, and a third support back
disposed about a central axis;
a first support edge disposed between the first support back and the second support
back, the first support back and first support edge are configured to support a media device at
a first support angle;
a second support edge disposed between the second support back and third support

back, the second support back and second support edge are configured to support a media device at a second support angle;

a third support edge disposed between the third support back and first support back, the third support back and third support edge are configured to support a media device at a third support angle;

wherein the media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane between a top of the second support back and an outer edge of the second edge support, on a second virtual plane between a top of the third support back and an outer edge of the third edge support, and on a third virtual plane between a top of the first support back and an outer edge of the first edge support; and

wherein the media support apparatus is configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle, a second viewing angle when the media support apparatus body rests on the second virtual plane and the media device is supported at the second support angle, and a third viewing angle when the media support apparatus body rests on the third virtual plane and the media device is supported at the third support angle.

23. (New) The apparatus of claim 22, wherein the first support angle is between 50 and 60 degrees to the second virtual plane, the second support angle is between 55 and 65 degrees to the third virtual plane, and the third support angle is between 50 and 75 degrees to the first virtual plane.

24. (New) The apparatus of claim 22, wherein the first support angle is 60 degrees to the second virtual plane, the second support angle is 68 degrees to the third virtual plane, and the third support angle is 52 degrees to the first virtual plane.

25. (New) The apparatus of claim of 22, wherein the first viewing angle is 36 degrees, the second viewing angle is 74 degrees, and the third viewing angle is 49 degrees.

26. (New) The apparatus of claim 22 wherein the first, second, and third edge supports form an edge angle with respective first, second, and third back supports of between 85 and 120 degrees.

27. (New) The apparatus of claim 22, wherein the body includes three solid corners, with each of the corners interposed between two adjacent support backs and including a respective edge support.

28. (New) The apparatus of claim 22, wherein the body is foam having an indentation force deflection (IFD) in the range of 15-30 kilograms at 25% indentation.

29. (New) The apparatus of claim 22, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

30. (New, amended) An apparatus comprising:

three support sides, each support side comprising a back support and an edge support,
wherein a top of each back support is in physical communication with an adjacent
edge support clockwise about a central axis and each back support and each edge support is in
physical communication with two ends,

wherein each edge support comprises an edge support width with an edge angle to an
adjacent back support,

wherein a face of each edge support width is oriented clockwise about the central axis,
wherein a plane of a first back support is at a first plane angle to a second virtual plane
between the top of a second back support counterclockwise to the first back support and an
outer edge of a second edge support counterclockwise to the first back support,

wherein a plane of the second back support is at a second plane angle to a third virtual
plane between the top of a third back support counterclockwise to the second back support
and an outer edge of a third edge support counterclockwise to the second back support,

wherein a plane of a third back support is at a third plane angle to a first virtual plane
between the top of the first back support counterclockwise to the third back support and an
outer edge of the first edge support counterclockwise to the third back support,

wherein the first plane angle, the second plane angle, and the third plane angle are
different from one another; and

wherein each back support, each edge support, and each end is a surface of an interior.

31. (New) The apparatus of claim 30, wherein the first back support has a
longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a
longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal

length in the range of 10 to 22 cm.

32. (New) The apparatus of claim 31, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

33. (New) The apparatus of claim 30, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

34. (New) The apparatus of claim 33, wherein each back support has a latitudinal length of 15 cm.

35. (New) The apparatus of claim 30, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

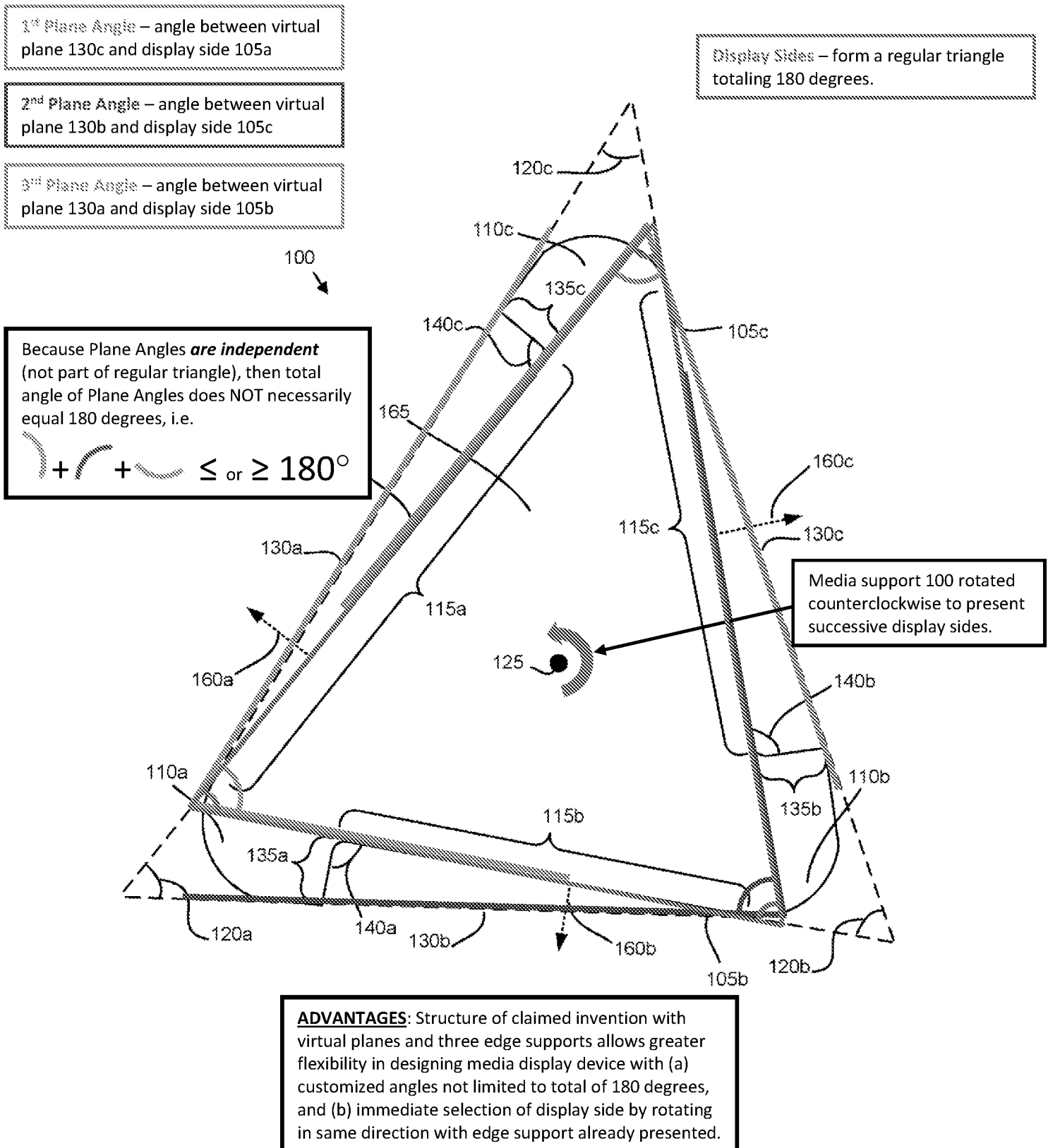
36. (New) The apparatus of claim 35, wherein each edge support has a latitudinal length of 7 cm.

37. (New) The apparatus of claim 30, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

38. (New) The apparatus of claim 30, wherein a plane of each edge support forms

an edge angle in the range of 85 to 120 degrees with an adjacent back support.

IX. EVIDENCE APPENDIX



Electronic Acknowledgement Receipt

EFS ID:	40368492
Application Number:	16262797
International Application Number:	
Confirmation Number:	1586
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT
First Named Inventor/Applicant Name:	Bruce Cannon
Customer Number:	133404
Filer:	Scott Alexander Schaffer
Filer Authorized By:	
Attorney Docket Number:	7300-0002
Receipt Date:	24-AUG-2020
Filing Date:	30-JAN-2019
Time Stamp:	18:24:37
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Appeal Brief Filed	AppealBrief-7300-0002.pdf	1272881	no	32
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	Application Number <u>16/262,797</u>	Filed <u>01/30/2019</u>
	For MULTIPLE VIEWING ANGLE MEDIA SUPPORT	
	Art Unit 3993	Examiner WHENER, Cary Ellen

Applicant hereby **appeals** to the Patent Trial and Appeal Board from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ 800

☒ Applicant asserts small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by 50%, and the resulting fee is: \$ 400

☐ Applicant certifies micro entity status. See 37 CFR 1.29. Therefore, the fee shown above is reduced by 75%, and the resulting fee is: \$ _____
 Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. _____.

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☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/AIA/22 or equivalent) is enclosed.
 For extensions of time in reexamination proceedings, see 37 CFR 1.550.

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I am the

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 ☒ attorney or agent of record
 Registration number 38,610
☐ attorney or agent acting under 37 CFR 1.34
 Registration number _____

Signature /scott a schaffer/

Typed or printed name Scott A. Schaffer

Telephone Number 503-970-5119

Date June 24, 2020

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications. Submit multiple forms if more than one signature is required, see below*.

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This collection of information is required by 37 CFR 41.20(b)(1) and 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Electronic Patent Application Fee Transmittal

Application Number:	16262797			
Filing Date:	30-Jan-2019			
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT			
First Named Inventor/Applicant Name:	Bruce Cannon			
Filer:	Scott Alexander Schaffer			
Attorney Docket Number:	7300-0002			
Filed as Small Entity				
Filing Fees for Utility under 35 USC 111(a)				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
NOTICE OF APPEAL	2401	1	400	400
Post-Allowance-and-Post-Issuance:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension-of-Time:				
Miscellaneous:				
Total in USD (\$)				400

Electronic Acknowledgement Receipt

EFS ID:	39813371
Application Number:	16262797
International Application Number:	
Confirmation Number:	1586
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT
First Named Inventor/Applicant Name:	Bruce Cannon
Customer Number:	133404
Filer:	Scott Alexander Schaffer
Filer Authorized By:	
Attorney Docket Number:	7300-0002
Receipt Date:	24-JUN-2020
Filing Date:	30-JAN-2019
Time Stamp:	13:09:35
Application Type:	Utility under 35 USC 111(a)

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Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	\$ 400
RAM confirmation Number	E20206ND10052703
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1	Notice of Appeal Filed	2020_06_24NoticeOfAppeal-- aia0031--7300-0002.pdf	254418	no	2
			35b977b01dc986d3a1db77fa184058f6cbb 6b8a3		
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	30304	no	2
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586

133404 7590 06/04/2020
Schaffer IP Law, LLC
2187 SW Market Street Dr.
Portland, OR 97201

EXAMINER

WEHNER, CARY ELLEN

ART UNIT	PAPER NUMBER
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3993

MAIL DATE	DELIVERY MODE
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06/04/2020

PAPER

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The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 16/262,797	Applicant(s) Cannon et al.	
	Examiner CARY E WEHNER	Art Unit 3993	AIA (FITF) Status Yes

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2020 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

NO NOTICE OF APPEAL FILED

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

c) ☐ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires _____ months from the mailing date of the prior Advisory Action or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANTS FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) or (c) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because

a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

b) ☐ They raise the issue of new matter (see NOTE below);

c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____ (See 37CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicants reply has overcome the following rejection(s): See Continuation Sheet

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): (a) ☐ will not be entered, or (b) ☒ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____

9. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

10. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

11. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

12. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

13. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____

14. ☐ Other: _____

STATUS OF CLAIMS

15. The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 1-10, 21 and 25.
 Claim(s) objected to: _____.
 Claim(s) rejected: 11-24 and 26-38.
 Claim(s) withdrawn from consideration: _____.

/CARY E WEHNER/ Primary Examiner, Art Unit 3993	conferees: /GKD/ /E.D.L/ SPRS, Art Unit 3993
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Continuation of AMENDMENTS 5. Applicant's reply has overcome the following rejection(s): The rejection of all claims under 35 USC 251 based on a defective reissue declaration, and the rejection under 35 USC 112.

Continuation of REQUEST FOR RECONSIDERATION/OTHER 12. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: The recapture rejection of claims 22-24 and 26-38 is the only issue remaining in this prosecution. First applicant argues that claim 22 directed to unclaimed aspects. According to MPEP 1412.02, claims to overlooked aspects are "[c]laims to separate inventions/embodiments/species that were not claimed in the original application prosecution." MPEP.1412.01 states that "[t]he reissue claims must be for the same invention as that **disclosed** as being the invention as the original patent" and "[t]o satisfy the original patent requirement where a new invention is sought by reissue, '... the specification must clearly and unequivocally disclose the newly claimed invention is a separate invention.'" *Antares Pharma, Inc.* 771 F.3d at 1363, 112 USPQ2d [1865] at 1871. Therefore, claims drawn to an invention comprising a newly claimed combination of features that were only disclosed in the original patent as suggested alternatives (and not as a single combination) or only as part of the original invention and not an invention separate from the original invention would not satisfy the original patent requirement." In this case, there is nothing to indicate that the media support of claim 22 is a separate invention/embodiment/species from the media support set forth in claim 1. The original specification discloses only a single embodiment having all of the limitations set forth in the claims.

Applicant further argues that the final Office action does not provided any evidence that the applicant's amendment was an admission that the scope of the claim was not patentable. Applicant points to the statement made in the parent application on Nov. 13, 2015 that "[a]pplicants are not conceding that the claims amended and/or canceled are not patentable over the art cited by the Examiner, as the present claim amendments and/or cancellations are only for facilitating expeditious prosecution. Applicants respectively reserve the right to pursue these and other claims in one or more continuation and/or divisional applications." However, this boiler plate statement contradicts applicant's other statements in the same response. "Applicants submit that claim 1 is patentably distinguished from the combination of Halpin and Klepar by reciting the distinguishing elements '...each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ...' and '...wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees....'" "Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements '...each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ...' and '... wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees...' recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims." Applicant asserts that because these claims were never allowed, there was no acquiescence in the rejection and acceptance of a patent whose claims include the limitations added by applicant to distinguish the claims over the prior art . It is noted, however, a patent owner (reissue applicant) is bound by the argument that applicant relied upon to overcome an art rejection in the original application for the patent to be reissued, regardless of whether the Office adopted the argument in allowing the claims. *Greenliant Systems, Inc. v. Xicor LLC*, 692 F.3d 1261, 1271, 103 USPQ2d 1951, 1958 (Fed. Cir. 2012).

Applicant also argues that there is no evidence that applicant deliberately surrendered the subject matter in question. Attention is again directed to the response of Nov. 13, 2015 in the parent application that "[a]pplicants submit that claim 1 is patentably distinguished from the combination of Halpin and Klepar by reciting the distinguishing elements '...each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise

about the central axis ..and . .wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees....” The Examiner notes that Klepar teaches a back support in physical communication with an adjacent edge support. OA, page 3, citing Klepar, fig. 7.....Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements “.. .each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ...” and “... wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees...” recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims.” This statement, along with others in the response, indicate a clear, deliberate surrender of the subject matter to distinguish over the prior art.

Applicant notes that an examiner's reasons for allowance cannot be used as support for a recapture rejection. The examiner agrees that the examiner's reasons for allowance cannot, by itself, provide the basis for establishing surrender and recapture. Ex parte Yamaguchi, 61 USPQ2d 1043 (Bd. Pat. App. & Inter. 2001)(precedential). With regard to claim 30, applicant argues that "it is not the exact angles but rather the fact that the three display side angles with respect to virtual planes are distinct/different." Response, 5/19/20, pg. 17. Despite the fact that the reasons for allowance does not mention the specific angles set forth in original patented claim 1, the fact still remains that the applicant expressly stated that these specific angles were not taught by the prior art.

Applicant argues that the reissue claims are materially narrowed relative to the original claims but is still broader than the patented claim, such that the surrender generating limitation is not entirely or substantially recaptured. Applicant asserts that the reissue claim 22 recite support edges and backs to create virtual planes that allow greater freedom to vary the viewing angles. However, it is noted that claim 22 is broad enough to encompass viewing angles that are the same, thereby completely eliminating the distinct/different viewing angles limitation. While claim 30 includes the different viewing angle limitation, by claiming that the plane angles of the back supports are different, the examiner does not agree that the different viewing angle limitation is the surrender generating limitation because it is already taught by the prior art. Barcalo shows a media support device and discloses "[t]he edges of the triangular ends are preferably nearly, but not equal in length, and all the angles of the triangle also are preferably unequal, so that when the pillow is supported upon different inclinations to the supporting surface. Page 1, lines 86-91. The court found, in In re Mostafazadeh, 643 F.3d 1353, 98 USPQ2.d 1639, "[r]etention of the attachment pad limitation is related to the surrendered subject matter, but is not materially narrowing because the use of an attachment pad was well known in the prior art." In this case, the different viewing angles limitation is well known in the prior art. Accordingly, recapture is not avoided. The fact that the prior art rejection has been withdrawn does not have any impact on the recapture issue. The prior art rejection was withdrawn because of applicant's arguments in the response of Jan. 23, 2020 which pointed out that Barcalo does not have three support edges (Barcalo discloses a single support bar that is repositioned to the side that is to hold the media). This feature has nothing to do with the specific viewing angles set forth in patent claim 1.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application. The claim amendments comply with 37 C.F.R. §§ 1.173(b)(2), (c), (e); M.P.E.P. §§ 1453(V)(B)-(D).

Listing of Claims:

1. (Original Patented Claim) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support, wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends of a solid interior, each edge support comprises an edge support width of 2 centimeters (cm) with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis, a plane of a first back support is at a first plane angle of 60 degrees to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support, a plane of the second back support is at a second plane angle of 80 degrees to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support, a plane of a third back support is at a third plane angle of 40 degrees to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support, and wherein each back support, each edge support, and each end is a surface of the solid interior, the solid interior is a pillow covered in fabric, a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.

2. (Original Patented Claim) The apparatus of claim 1, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

3. (Original Patented Claim) The apparatus of claim 2, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

4. (Original Patented Claim) The apparatus of claim 1, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

5. (Original Patented Claim) The apparatus of claim 4, wherein each back support has a latitudinal length of 15 cm.

6. (Original Patented Claim) The apparatus of claim 1, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

7. (Original Patented Claim) The apparatus of claim 6, wherein each edge support has a latitudinal length of 7 cm.

8. (Original Patented Claim) The apparatus of claim 1, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

9. (Original Patented Claim) The apparatus of claim 1, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

10. (Original Patented Claim) The apparatus of claim 9, wherein the edge angle is 90 degrees.

Cancel claims 11-20

21. (New) The apparatus of claim 1, wherein a latitudinal length of each of the first, second, and third edge supports is different from a latitudinal length of the corresponding first, second, and third side supports.

22. (New) A media support apparatus comprising:
a body having a first support back, a second support back, and a third support back disposed about a central axis;

a first support edge disposed between the first support back and the second support back, the first support back and first support edge are configured to support a media device at a first support angle;

a second support edge disposed between the second support back and third support back, the second support back and second support edge are configured to support a media device at a second support angle;

a third support edge disposed between the third support back and first support back, the third support back and third support edge are configured to support a media device at a third support angle;

wherein the media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane between a top of the second support back and an outer edge of the second edge support, on a second virtual plane between a top of the third support back and an outer edge of the third edge support, and on a third virtual plane between a top of the first support back and an outer edge of the first edge support; and

wherein the media support apparatus is configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle, a second viewing angle when the media support apparatus body rests on the second virtual plane and the media device is supported at the second support angle, and a third viewing angle when the media support apparatus body rests on the third virtual plane and the media device is supported at the third support angle.

23. (New) The apparatus of claim 22, wherein the first support angle is between 50 and 60 degrees to the second virtual plane, the second support angle is between 55 and 65 degrees to the third virtual plane, and the third support angle is between 50 and 75 degrees to the first virtual plane.

24. (New) The apparatus of claim 22, wherein the first support angle is 60 degrees to the second virtual plane, the second support angle is 68 degrees to the third virtual plane, and the third support angle is 52 degrees to the first virtual plane.

25. (New) The apparatus of claim of 22, wherein the first viewing angle is 36 degrees, the second viewing angle is 74 degrees, and the third viewing angle is 49 degrees.

26. (New) The apparatus of claim 22 wherein the first, second, and third edge supports form an edge angle with respective first, second, and third back supports of between 85 and 120 degrees.

27. (New) The apparatus of claim 22, wherein the body includes three solid corners, with each of the corners interposed between two adjacent support backs and including a respective edge support.

28. (New) The apparatus of claim 22, wherein the body is foam having an indentation force deflection (IFD) in the range of 15-30 kilograms at 25% indentation.

29. (New) The apparatus of claim 22, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

30. (New, amended) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support,
wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends,

wherein each edge support comprises an edge support width with an edge angle to an adjacent back support,

wherein a face of each edge support width is oriented clockwise about the central axis,

wherein a plane of a first back support is at a first plane angle to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support,

wherein a plane of the second back support is at a second plane angle to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support,

wherein a plane of a third back support is at a third plane angle to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support,

wherein the first plane angle, the second plane angle, and the third plane angle are different from one another; and

wherein each back support, each edge support, and each end is a surface of an interior.

31. (New) The apparatus of claim 30, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

32. (New) The apparatus of claim 31, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

33. (New) The apparatus of claim 30, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

34. (New) The apparatus of claim 33, wherein each back support has a latitudinal length of 15 cm.

35. (New) The apparatus of claim 30, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

36. (New) The apparatus of claim 35, wherein each edge support has a latitudinal length of 7 cm.

37. (New) The apparatus of claim 30, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

38. (New) The apparatus of claim 30, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

Cancel claim 39.

RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 1742

PATENT APPLICATION
Docket No. 7300-0002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Bruce CANNON, et al. Conf. No. 1586
Serial No. 16/262,797 Examiner: WEHNER, Cary Ellen
Filed: January 8, 2016 Art Unit: 3993
For: MULTIPLE VIEWING ANGLE MEDIA SUPPORT
Date: May 19, 2020

Commissioner for Patents
Filed via Electronic Filing System (EFS)

**AMENDMENT AFTER FINAL REJECTION
APPLICATION FOR REISSUE OF U.S. PAT. NO. 9,642,454**

CLAIMS AS AMENDED					
For	Number After Amendment	Previous Number paid for	Extra	Rate	Additional Fee
Total Claims	28	29	0	x \$ 50.00 =	\$0
Independent Claims	3	3	0	x \$230.00 =	\$0
TOTAL ADDITIONAL FEE					\$0

This communication is responsive to the Final Office Action, dated March 30, 2020, in connection with Applicants' request for reissue of U.S. Patent No. 9,642,454 B2. In order to place the application in better condition for Appeal, should it be necessary, please amend the above-identified application as follows:

- **Amendments to the Claims** begin on page 2.
- **Remarks** begin on page 8.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application. The claim amendments comply with 37 C.F.R. §§ 1.173(b)(2), (c), (e); M.P.E.P. §§ 1453(V)(B)-(D).

Listing of Claims:

1. (Original Patented Claim) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support, wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends of a solid interior, each edge support comprises an edge support width of 2 centimeters (cm) with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis, a plane of a first back support is at a first plane angle of 60 degrees to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support, a plane of the second back support is at a second plane angle of 80 degrees to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support, a plane of a third back support is at a third plane angle of 40 degrees to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support, and wherein each back support, each edge support, and each end is a surface of the solid interior, the solid interior is a pillow covered in fabric, a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.

2. (Original Patented Claim) The apparatus of claim 1, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

3. (Original Patented Claim) The apparatus of claim 2, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

4. (Original Patented Claim) The apparatus of claim 1, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

5. (Original Patented Claim) The apparatus of claim 4, wherein each back support has a latitudinal length of 15 cm.

6. (Original Patented Claim) The apparatus of claim 1, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

7. (Original Patented Claim) The apparatus of claim 6, wherein each edge support has a latitudinal length of 7 cm.

8. (Original Patented Claim) The apparatus of claim 1, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

9. (Original Patented Claim) The apparatus of claim 1, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

10. (Original Patented Claim) The apparatus of claim 9, wherein the edge angle is 90 degrees.

Cancel claims 11-20

21. (New) The apparatus of claim 1, wherein a latitudinal length of each of the first, second, and third edge supports is different from a latitudinal length of the corresponding first, second, and third side supports.

22. (New) A media support apparatus comprising:
a body having a first support back, a second support back, and a third support back disposed about a central axis;

a first support edge disposed between the first support back and the second support back, the first support back and first support edge are configured to support a media device at a first support angle;

a second support edge disposed between the second support back and third support back, the second support back and second support edge are configured to support a media device at a second support angle;

a third support edge disposed between the third support back and first support back, the third support back and third support edge are configured to support a media device at a third support angle;

wherein the media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane between a top of the second support back and an outer edge of the second edge support, on a second virtual plane between a top of the third support back and an outer edge of the third edge support, and on a third virtual plane between a top of the first support back and an outer edge of the first edge support; and

wherein the media support apparatus is configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle, a second viewing angle when the media support apparatus body rests on the second virtual plane and the media device is supported at the second support angle, and a third viewing angle when the media support apparatus body rests on the third virtual plane and the media device is supported at the third support angle.

23. (New) The apparatus of claim 22, wherein the first support angle is between 50 and 60 degrees to the second virtual plane, the second support angle is between 55 and 65 degrees to the third virtual plane, and the third support angle is between 50 and 75 degrees to the first virtual plane.

24. (New) The apparatus of claim 22, wherein the first support angle is 60 degrees to the second virtual plane, the second support angle is 68 degrees to the third virtual plane, and the third support angle is 52 degrees to the first virtual plane.

25. (New) The apparatus of claim of 22, wherein the first viewing angle is 36 degrees, the second viewing angle is 74 degrees, and the third viewing angle is 49 degrees.

26. (New) The apparatus of claim 22 wherein the first, second, and third edge supports form an edge angle with respective first, second, and third back supports of between 85 and 120 degrees.

27. (New) The apparatus of claim 22, wherein the body includes three solid corners, with each of the corners interposed between two adjacent support backs and including a respective edge support.

28. (New) The apparatus of claim 22, wherein the body is foam having an indentation force deflection (IFD) in the range of 15-30 kilograms at 25% indentation.

29. (New) The apparatus of claim 22, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

30. (New, amended) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support,
wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends,

wherein each edge support comprises an edge support width with an edge angle to an adjacent back support,

wherein a face of each edge support width is oriented clockwise about the central axis,

wherein a plane of a first back support is at a first plane angle to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support,

wherein a plane of the second back support is at a second plane angle to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support,

wherein a plane of a third back support is at a third plane angle to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support,

wherein the first plane angle, the second plane angle, and the third plane angle are different from one another; and

wherein each back support, each edge support, and each end is a surface of an interior.

31. (New) The apparatus of claim 30, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

32. (New) The apparatus of claim 31, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

33. (New) The apparatus of claim 30, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

34. (New) The apparatus of claim 33, wherein each back support has a latitudinal length of 15 cm.

35. (New) The apparatus of claim 30, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

36. (New) The apparatus of claim 35, wherein each edge support has a latitudinal length of 7 cm.

37. (New) The apparatus of claim 30, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

38. (New) The apparatus of claim 30, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

Cancel claim 39.

REMARKS

Claims 1-10 are the original, unamended claims of the '454 patent.

New claims 21-38 are sought to be added and are all directed to a previously unclaimed embodiment of the original disclosure.

The examiner has withdrawn all rejections under 35 U.S.C. §103 and has confirmed that the claims are patentable over the prior art.

Remaining issues include:

- a defective reissue oath/declaration—corrected by the new Declaration filed herewith;
- an antecedent basis rejection of claim 30 under 35 U.S.C. §112(b)—now corrected by amendment; and
- a rejection of claims 22-24 and 26-39 under 35 U.S.C. §251 as being an improper recapture of broadened claimed subject matter—Applicant's arguments against this rejection are stated further below.

CLAIM AMENDMENTS: Applicant has amended claim 30—now referring to “an interior” in place of “the interior”—to address the antecedent basis issue noted by the Examiner in the Final Office Action. Claim 30 has also been amended to incorporate limitations from previously presented new claim 39 (now cancelled) so that independent claim 30 now recites that all three plane angles, as measured from back supports to respective virtual planes, are different from one another. No further changes have been made to the claims.

Applicants respectfully request reconsideration of the rejections in view of the amendments and following remarks.

SUBSTITUTE REISSUE OATH/DECLARATION

The Substitute Declaration filed in connection with Applicant's Response to Office Action dated January 28, 2020 has been alleged to be defective. Applicant's representative conducted a short telephone conference with Examiner Wehner and confirmed that a technical glitch prevented the Examiner from accessing the entirety of the “error statement” within the Declaration. The error statement within the prepared, executed, and submitted Jan. 28, 2020

Declaration included more text than could be displayed within electronic PDF document “error statement” field, which triggered a scrolling function within the document. The text scrolling within the electronic PDF document was submitted in PAIR, but was cut-off in the document received by the USPTO. Examiner Wehner confirmed that this is a known problem and recommended the abbreviated language included in the Declaration submitted with this Amendment-After-Final response.

To confirm and complete the record, the text of the error statement from that rejected Declaration is included herein. The substitute Declaration filed on January 23, 2020 with Applicants’ Response to Office Action stated as follows:

Applicant believes the original patent to be partially inoperative by reason of the patentee claiming less than patentee had a right to claim. Among other actions, therefore, applicant seeks to broaden issued claim 1.

Furthermore, applicant believes an error was made in not pursuing overlooked aspects of the invention. Such overlooked aspects have never been covered by a claim at any point during prosecution of the original application.

Finally, applicant submits that the original attorney in the case may have committed error by failure to fully appreciate the scope of the invention. The application for patent disclosed an apparatus with three support sides disposed about a central axis with the support sides generating three distinct and "different" viewing angles for a supported object such as a book or iPad. (col. 4, lines 9-25) These "different" viewing angles are with respect to "virtual planes," and effect a general advantage in the art that extends beyond the specific angles limitations in the issued claims.

RECAPTURE RULE

The Examiner has rejected new reissue claims 22-24 and 26-39 on the grounds that the reissue oath/declaration filed with the application is allegedly defective under the Recapture Rule. That is, the Examiner believes that Applicant seeks to now “recapture” subject matter surrendered during prosecution of the original patent (i.e. U.S. Patent No. 9,642,454 – herein referred to as *the ’454 patent*), including prosecution of the parent application (i.e. U.S. Patent Application Serial No. 14/518,443 – herein referred to as *the ’443 application*) and the related child application (i.e. U.S. Patent Application Serial No. 15/192,737 – herein referred to as *the ’737 application*).

Applicant respectfully disagrees with the Examiner that currently pending claims 22-24 and 26-38 are attempting to recapture material surrendered during the prosecution of '454 patent for at least five reasons. **First**, claims 22-24 and 26-29 are directed to a previously unclaimed, patentably distinct embodiment that captures aspects of the invention in a much different way than the patented claims, e.g., relying on disclosure found only in the original '443 patent application. These claims are directed to the specific relationship of the three support backs of the media support body with the three support edges so as to create three different support “virtual planes” to provide three (e.g. different) respective viewing angles. The structure and limitations of independent claim 22 (and its dependents) were not covered by a claim—e.g. a generic claim—at any point during prosecution of either the '443 application or the '737 continuation-in-part upon which the issued '454 patent is based. Applicant has added this new embodiment to the claims in view of the *disclosure-dedication doctrine*. **Second**, recapture does not apply in the absence of evidence that the Applicant's amendments were an admission that the scope of that claim was not in fact patentable. **Third**, recapture does not apply in the absence of evidence that Applicant intentionally or deliberately surrendered any subject matter during the original prosecution. **Fourth**, the Examiner's reasons for allowance of the '454 patent cannot be used as support for a recapture rejection of the claims. **Finally**, and perhaps most clearly, recapture does not apply when the claims have been materially narrowed relative to the originally filed claims (i.e. originally filed claim 1 of the '443 application). Claim 29 and amended claim 30, for instance, include a feature that the examiner has already held to be a “material narrowing relative to the original claim.” This material narrowing—i.e. that all three plane angles as measured from back supports to respective *virtual planes* are different from one another—is not well-known and confers materially significant operational improvements (discussed below) that were not available in the prior art.

For at least these reasons, and under the law, recapture is not available as a ground of rejection and Applicant therefore respectfully traverses.

A. At least claims 22-24 and 26-29 are directed to a previously unclaimed aspect of the invention in view of the disclosure-dedication rule and thus not subject to rejection under the recapture rule

At least claims 22-24 and 26-29 are directed to the specific relationship of the three support backs of the media support body with the three support edges so as to create three

different support “virtual planes” to provide three (e.g. different) respective viewing angles. The structure and limitations of independent claim 22 (and its dependents) were not covered by a claim—e.g. a generic claim—at any point during prosecution of either the ‘443 application or the ‘737 continuation-in-part upon which the issued ‘454 patent is based.

Reissue claims directed to unclaimed aspects are not subject to a rejection for recapture because the claims are, by definition, unrelated to subject matter that was alleged by the Examiner to be surrendered during prosecution of the original application. *In re Youman*, 679 F.3d 1335, 102 USPTO2d 1862 (Fed. Cir. 2012) (“Whereas the recapture rule applies when surrendered subject matter is being reclaimed, overlooked aspects by definition were never claimed and thus never surrendered”).

By way of example, claim 22 specifies that the first support edge is disposed between first and second support backs, that the second support edge is disposed between the second and third support back, and that the third support edge is disposed between the third and first support back. Further, claim 22 specifies that the media support device is configured to be rotated about a central axis so that the body can rest on either first, second, or third virtual planes (between stated support edges and support backs) to provide first, second, or third viewing angles, respectively. These are aspects that are not specified within the claims of the ‘454 patent, and further provide aspects disclosed within the original ‘443 application that were unappreciated and unclaimed during original prosecution.

Applicant respectfully disagrees with the Examiner’s analysis that claim 22 is not considered to be drawn to a separate invention, embodiment or species because (as the examiner states) back supports, support edges and virtual planes are already present in original claims 1-10. Instead, the examiner is directed to the very specific relationship of first, second, and third support backs to respective first, second, and third support edges **and** to the previously unclaimed fact that the media support device is configured to rest on a horizontal support created by the virtual planes to provide first, second, and third viewing angles. These are aspects of the structure and function of the invention that were never presented in a claim or argued during prosecution. And as noted in Section E below, this structural configuration allows the creation of three viewing angles that, collectively, **can but are not required to** equal a total of 180 degrees, thus providing an advantage over purely triangular devices such as the Barcalo reference which **do** required a total of 180 degrees.

Pending independent claim 22 does not attempt to recapture any claim limitations *deliberately* surrendered (see Section C below) during prosecution of the related applications. Rather, claim 22 claim recites only unclaimed, patentably distinct embodiments of the '443 application that include the three backed design of a media support apparatus that allows for the support *on virtual planes* of a media device at three (e.g. different) viewing angles. Applicant has never disputed that this feature is part of what makes the claimed subject matter unique. For example, in differentiating between the two primary references cited against the claims during prosecution of the '443 application, Applicant in its November 13, 2015 Amendment and Response stated:

[T]he claimed invention provides *three distinct viewing angles In contrast, Halpin and Klepar only support one and two distinct viewing angles respectively as they lack all the multiple support edges oriented clockwise around a central axis*. These advantages have resulted in significant commercial success, with 5000 units of media support based on the claimed invention sold to date. [emphases added].

Thus, pending independent claim 22, by containing a three-backed design, merely reiterate limitations that Applicant has always maintained make its invention unique. As a result, the lack of recitation of the specific viewing angles in claim 22 is not a disqualifying feature of the claims because the previously allowed claims, reciting the specific viewing angles, are merely an embodiment, but a separate embodiment, of the three-backed design that is at the heart of the uniqueness of the reissue claims. Applicant has never conceded this point during the prosecution of any of the related applications. Thus, there has never been a surrender of this previously unclaimed subject matter. And by adding this previously unclaimed embodiment, Applicant is not exposed to the disclosure-dedication doctrine.

B. The Final Office Action fails to demonstrate that the original prosecution amendments were an admission of unpatentability over the prior art or that they were made in view of Examiner action

The recapture rule does not apply in the absence of evidence that the applicant's amendment was "an admission that the scope of that claim was not in fact patentable," *Seattle Box Co. v. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 826 (Fed. Cir. 1984). Although deliberately canceling or amending a claim in an effort to overcome a reference strongly suggests that the applicant admits that the scope of the claim before the cancellation or amendment is unpatentable, it is not dispositive because other evidence in the prosecution history may indicate the contrary. See *Mentor Corp. v. Colorplast, Inc.*, 998 F.2d 992, 995-96 (Fed. Cir. 1993); *Ball*

Corp. v. U.S., 729 F.2d 1429, 1438 (Fed. Cir. 1984); *Seattle Box Co.*, 731 F.2d at 826, (declining to apply the recapture rule in the absence of evidence that the applicant's "amendment ... was in any sense an admission that the scope of [the] claim was not patentable"); *Haliczer v. United States*, 356 F.2d 541, 545 (Ct. Cl. 1966); *In re Willingham*, 282 F.2d 353, 354, 357 (CCPA 1960) (no intent to surrender where the applicant canceled and replaced a claim without an intervening action by the examiner).

The *Seattle Box Co.* case is particularly instructive as it includes many of the same type of amendments as the present case. In *Seattle Box Co.*, the patent attorney narrowed claim 1 during the application's prosecution so as to specify that the spacer block used in a claimed shipping bundle had a height "*greater than* the diameter of the pipe." Soon after the attorney made this narrowing amendment, although not necessarily because of it, the patent examiner allowed each of the application's claims. *Seattle Box* later filed an application to have the patent reissued with broader claims that specified that the spacer block be not only greater than the diameter of the pipe, but also "*substantially equal to* the thickness of the tier of pipe length." The Federal Circuit held that the recapture rule did not apply here even though the broadening was to a limitation specifically added to the claim during prosecution because "there is no evidence that *Seattle Box*'s amendment of its originally filed claims was in any sense an admission that the scope of that claim was not in fact patentable."

In the present case, the '737 CIP application that resulted in issuance of the issued '454 patent was **a first action allowance** in which the claims were allowed as originally presented. The parent patent application to the '737 CIP application—the '443 application—had but a single Response to Office Action in which the Applicant specifically disavowed that the amendments were made to make an unpatentable claim patentable. Instead, Applicant stated as follows:

Applicants are not conceding that the claims amended and/or canceled are not patentable over the art cited by the Examiner, as the present claim amendments and/or cancellations *are only for facilitating expeditious prosecution*. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications.

(Response to Office Action dated Nov. 13, 2015; p.7) [emphasis added]

Applicants were only interested in "facilitating expeditious prosecution" and continued to argue patentability of the broader concept underlying the claims. This situation is thus distinguishable over cases such as *Clement* cited by the Examiner, where the applicant in that case explicitly

admitted during prosecution that the amendments to the claims were “in order to distinguish over the prior art.”

It should be noted that claims in the ’443 application were never allowed, and in fact all claims in that ’443 application (including those that included the overly-specific display angles) were rejected in view of cited art. As no patent issued, there was thus no “acquiescence in the rejection and acceptance of a patent whose claims include the limitation added by the applicant to distinguish the claims from the prior art.” *Haliczer*, 356 F.2d at 545. Nevertheless, during prosecution of the ’443 application, Applicants pointed out the differences with the prior art, namely that the Halpin and Klepar references “only support one and two distinct viewing angles respectively” while the claimed invention “provides three distinct viewing angles.” (Nov. 13, 2015 Response, p.10)

Accordingly, just like *Seattle Box*, the recapture rule should not apply to the reissue claims herein since there is no evidence that Applicant did not think the originally prosecuted claims patentable over the prior art. On the contrary, Applicant pointed out the distinctions with the prior art.

Applicant thus believes that the original attorney prosecuting the application may have committed error correctable by reissue by arguing this distinction without explicitly including the “different viewing angles” limitation within the claims—a distinction that is now corrected with the new reissue claim set and particularly within claims 29 and 30.

*C. As there was NO intentional or deliberate surrender of subject matter, and NO admission that the scope of the claim was unpatentable, recapture does **not** apply*

To invoke recapture, it must be shown that applicant is attempting to regain, through reissue, subject matter that was *surrendered* during prosecution to overcome prior art references. *See Medtronic, Inc. v. Guidant Corp.*, 465 F.3d 1360, 1373 (Fed. Cir. 2006). The law is clear that this surrender must be *intentional or deliberate and for the express purpose to overcome a prior art rejection*. *Id.* at 1372-73 (“Under the ‘recapture’ rule, the *deliberate* surrender of a claim to certain subject matter during the original prosecution of the application for a patent ‘made in an effort to overcome a prior art rejection’ is not such ‘error’ as will allow the patentee to recapture that subject matter in a reissue”) (emphasis added). Thus, there can be no recapture under law or policy if: (1) there is no showing that Applicant intentionally or deliberately

surrendered subject matter during prosecution to overcome prior art references, and (2) there is no admission that the scope of the claims were unpatentable under the prior art.

As an initial matter, Applicant respectfully submits that Examiner has not shown that Applicant has ever deliberately surrendered any subject matter to overcome the references asserted during the prosecution of the related applications. As a result, the threshold requirement to invoke recapture is not met.

Applicant respectfully submits that a comparison of the originally filed claims of U.S. Appl. No. 14/518,443 (the “’443 application”); the subsequent amendments to those claims during prosecution of the ’443 application; and the further amendment to those claims as a part of claims filed in U.S. Appl. No. 15/192,737 (the “’737 application”), which is a continuation in part of the ’443 application, and which ultimately resulted in allowance and issuance of U.S. Pat. No. 9,642,454 (the “’454 patent”), indicates that ***no subject matter was ever deliberately surrendered by Applicant to overcome the references previously asserted against the claims.***

Rather, Applicant respectfully submits that the claims in the previous applications were amended to narrow the scope of the claimed subject matter, and to add limitations to encompass certain embodiments of the disclosure *for expediency to allowance*. These features included adding specific angles and further specifying the geometry of the viewing angles and support edges. As clearly stated by Applicant in its responses to the Office Actions, the reason for adding these limitations was to obtain prompt allowance of the claimed subject matter rather than go through a lengthy and expensive prosecution. Explicit statements by Applicant during prosecution of the ’443 application, specifically statements in the November 13, 2015 Response to Office Action (the “Nov. 13 Response”) make this clear. In the November 13 Response, (p.7), Applicant stated:

Applicants are not conceding that the claims amended and/or canceled are not patentable over the art cited by the Examiner, as the present claim amendments and/or cancellations are ***only for facilitating expeditious prosecution***. Applicants respectfully reserve the right to pursue these and other claims in one or more continuation and/or divisional patent applications.” [emphasis added].

Thus, Applicant respectfully submits that the record clearly indicates that any amendments made to the previous applications was not for the deliberate purpose of surrendering subject matter Applicant believed was in any of the references. Rather, they were made to expedite allowance of the claims. As a result, the threshold requirement for recapture has not been met. Compare *In re Clement*, 131 F.3d 1464, 1471 (Fed. Cir. 1997) (holding that recapture

did apply based on patentees admissions on the record that the added limitations during the prosecution history of the patent were made to distinguish over the prior art).

D. The Examiner's reasons for allowance for the '454 patent cannot be used as support for a recapture rejection

The March 30, 2020 Final Office Action point #7 (FOA, p.7) is properly cited but wrongly interpreted. The examiner's Notice of Allowability for the '454 patent states that "the prior art does not disclose a three sided support for media device . . . each side allows for three distinct display angles for the media device." In this context, the word "distinct" does not refer to the raw numbers—e.g. 36, 74, and 49 degrees—but that the angles are DIFFERENT. This is supported by applicant's use of the word "distinct" in the original '443 application (paragraphs [0023] and [0027]) as well as the common definition of the word as "recognizably different" or "readily distinguishable." The synonym "different" is also used throughout the issued patent—e.g. col. 2, lines 29 and 55; and col. 4, line 20. As such, the claims presented in the reissue application use the word "different" as a synonym to "distinct" in order to refer to the fact that the three distinct viewing angles of the media support pillow are different from one another.

As explained in Section C above, the examiner of the original '737 application rejected claims with the specific angles 36, 74, and 49 degrees *in view of the references*. The reissue examiner cannot now argue on one hand that these original patent claim's specific angles were the reason for allowance of the '737 application, and on the other hand use this to reject the reissue application under the recapture rule.

The March 30, 2020 Final Office Action point #4 (FOA, p.6)—referring to a rejection of claim 1 under §112(a) on the grounds that the specific angles within the claims is not support by the original disclosure—is significantly incomplete. Claim 1 was also rejected in view of the references. Since no prior art was overcome by inclusion of the exact 36, 74, 48 degree viewing angles during prosecution of the '454 patent and its parent case, such limitations are unnecessarily restrictive and may be broadened during reissue without running afoul of the restriction against recapture. The Federal Circuit addressed a similar situation in *In re Peters* [723 F.2d 891 (Fed. Cir. 1983)] where the original claims required, among other things, a metal tip having a tapered shape. *Id.* at 892. The patent owner filed a reissue application seeking to broaden the claims to cover both tapered and non-tapered tips. *Id.* The Board held that the

broadened claims sought by the reissue application were not supported by the original disclosure because the only tips disclosed were tapered. *Id.* at 893. The Federal Circuit overturned, however, holding that “[t]he broadened claims merely omit an unnecessary limitation that had restricted one element of the invention to the exact and non-critical shape disclosed in the original patent.” *Id.* The Federal Circuit reasoned that the disclosed tip configuration was not critical because no prior art was overcome based on the tip shape and “one skilled in the art would readily understand that in practicing the invention it is unimportant whether the tips are tapered.” *Id.*

Similarly, and with particular respect to claims 29 and (now-amended) claim 30, it is not the exact angles but rather the fact that the three display side angles *with respect to virtual planes* are distinct/different that can provide comfortable viewing of the media in any one of a variety of different viewing positions, e.g. in a reader’s lap while sitting up, when laying down, or when positioned on a table or desk when reading upright. Applicants can provide evidence of success of recent products without these exact angles to show that such angles are non-critical; it is only important that these angles be different. Like *Peters*, the broadened claims in the reissue merely omit an unnecessary limitation, e.g. the extraordinarily specific viewing angles subject to any expansion under the Doctrine of Equivalents, that had restricted one element of the invention to the exact and non-critical shape disclosed in the original patent.

In summary, therefore, Applicants dispute that the recapture rule is applicable in this case for the following notable reasons:

1. The claims in the CIP, allowed by first action allowance, do not match any claim within the parent application;
2. The limitations added to the claims during prosecution of the patent application were never allowed over the prior art; and
3. The reason for allowance cited by the examiner in allowing the ‘454 patent claims in a first action allowance does not mention the 36, 74, 48 degree viewing angles of the three sides. Instead, the reasons only make mention that each side allows for three distinct (e.g. different) display angles for the media device.

The prosecution history of the issued patent is also distinguishable from the legal citations noted by the examiner. The present situation does not significantly fall within the fact patterns of these cases, but is more akin to the *Seattle Box Co.* and *In re Peters* cases where recapture was not applicable.

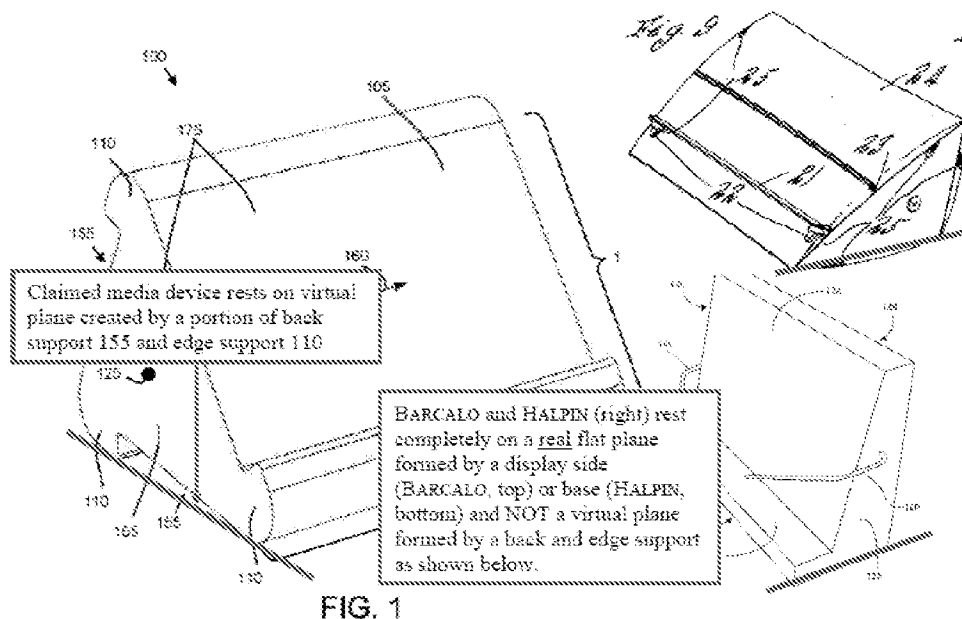
*E. The reissue claims are **materially** narrowed relative to the original claim (e.g. claim 1 of the '443 application), but still broader than the patented claims, such that the surrendered subject matter is not entirely or substantially recaptured*

“[I]f the patentee modifies the added [or argued] limitation such that it is broader than the patented claim yet still materially narrows relative to the original claim, the recapture rule does not bar reissue.” *In re Youman*, 679 F.3d 1335, 1347 (Fed. Cir. 2012). Here, claims 22-24 and 26-38 are materially narrowed compared to the originally filed claim 1 of the '443 application, reciting an embodiment distinguished from the 36, 74, 49 degree angles added to patented claim 1 of the '454 patent. For example, the reissue claims recite support edges and support backs to create virtual planes that allow much greater freedom to vary the viewing angles. Additionally, claim 29 and (now-amended) independent claim 30 further recite support or plane angles “different from one another,” which is a material narrowing of the original claim 1 of the parent '443 application as these claim are (i) related to the overly specific viewing angles removed from the new claims, and (ii) not a well-known feature of the prior art when such angles are measured in connection with the virtual planes. The Examiner already appears to agree with this position since the Barcalo rejection was withdrawn.

Applicant respectfully submits that the Examiner cannot now allege that the viewing angles being different *with respect to virtual planes* is both allowable over Barcalo **and** well known in the prior art. This logic is in conflict with and ignores the fact that the claimed viewing angles are not simply between three viewing angle sides as in Barcalo (which, by having a purely triangular cross-section, would add up to 180 degrees), but instead are in relation to support sides on “virtual planes” that do not require the cumulative support angles of the sides to equal 180 degrees. For instance, the very specific support sides listed in claim 1 of the '454 patent are 36 degrees, 74 degrees, and 49 degrees, which combine to equal a total of 159 degrees. The very fact that the reissue claims include features added to the original claim scope and that now change a claim that had been previously unpatentable over the prior art (claim 1 in the '443 application) to claims that are patentable over the prior art such as Barcalo should by its very definition make it “material narrower” than the originally presented '443 patent original claim 1. Moreover, the Examiner has explicitly stated that claims 29 and 39 (now incorporated into independent claim 30) include *materially* narrowing limitations.

The image below, used by Applicant in the previous Response to Office Action to overcome rejections under the prior art, illustrates how the Barcalo device rests directly on a support side to

prop up an adjacent support side at a predetermined angle. A fundamental principal of geometry is that triangular shapes such as the Barcalo device have interior angles that combine for a total of 180 degrees. This in contrast to the claimed media support device, which rests on virtual planes and allows the support sides (105) to be tilted at a more custom-controlled angle as by enlarging or reducing the size of the downward-facing edge support [i.e. edge support (110) on bottom-left]. The resulting structure allows the three display angles to be more custom tailored and is not restricted to having a total combined 180 degrees as with Barcalo.



Finally, it is important to keep in mind that the Barcalo reference was never cited as prior art during the original prosecution of the '454 patent. This is a clear difference with the Examiner's citation of *In re Mostafazadeh* [643 F.3d 1353 (Fed. Cir. 2011)] in which the added "attachment pads" limitation in the *Mostafazadeh* case were part of the background of the invention in the *Mostafazadeh* patent and "relied upon by the examiner in the original prosecution." (see *Mostafazadeh*, 643 F.3d at 1361 n.4) No such reliance on prior art showing different viewing angles *with respect to virtual planes* took place in the present case, and this limitation is not well known in the prior art. Unlike in *Mostafazadeh*, Applicant is not attempting to relitigate arguments made during prosecution of the original patent and is not trying to recapture any subject matter originally rejected in view of the Barcalo reference. Thus, impermissible recapture does not exist and Applicant respectfully requests reconsideration and removal of this rejection.

The Recapture Rule does not apply in every instances where a limitation, even one added during prosecution of the application, is removed from a claim submitted for reissue. The claims submitted for reissue in the present case fall within the exceptions cited within *Seattle Box* and *In re Peters* because (a) the specific angles were not cited as a reason for allowance in distinguishing the prior art in the '454 patent—only that the angles were distinct [i.e. different] from one another, (b) the term “different” is simply being inserted in the reissue claims 29 and 30 to better match the examiner’s reason for allowance of the claim under a first action allowance of the '454 patent, and (c) certain claims, e.g. claims 22-29, are directed to an overlooked aspect of the invention due to error by the original attorney in the case and thus not subject to rejection under the recapture rule. For these reasons and those explained in more detail in the sections above, applicants respectfully request reconsideration and removal of the rejection to Applicant’s Declaration and submitted reissue claims.

For the aforementioned reasons, Applicant respectfully requests that the examiner withdraw the rejection based on recapture and allow all claims.

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STATEMENT OF SUPPORT FOR NEW CLAIMS – 37 C.F.R. § 1.173(C)

CLAIM 21: (col. 2, lines 47-49)

CLAIM 22: (FIG. 2; col. 2, lines 15-16; col. 2, line 33; col. 2, lines 54-55; col. 3, line 51; col. 4, line 10; col. 4, line 20) with claim numbered elements noted below

A media support apparatus (100) comprising:

a body having a first support back (105a), a second support back (105c), and a third support back (105b) disposed about a central axis (125);

a first support edge (110c) disposed between the first support back and the second support back, wherein the first support back and first support edge are configured to support a media device at a first support angle (orthogonal to viewing angle 160a);

a second support edge (110b) disposed between the second support back and third support back, wherein the second support back and second support edge are configured to support a media device at a second support angle (orthogonal to viewing angle 160c);

a third support edge (110a) disposed between the third support back and first support back, where the third support back and third support edge are configured to support a media device at a third support angle (orthogonal to viewing angle 160b);

wherein said media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane (130c) between a top of the second support back (105c) and an outer edge of the second edge support (110b), on a second virtual plane (130b) between a top of the third support back (105b) and an outer edge of the third edge support (110a), and on a third virtual plane (130a) between a top of the first support back (105a) and an outer edge of the first edge support (110c); and

wherein the media support apparatus is configured to provide a first viewing angle (160a) of the media device when the media support apparatus body rests on the first virtual plane (130c) and the media device is supported at the first support angle, a second viewing angle (160c) when the media support apparatus body rests on the second virtual plane (130b) and the media device is supported at the second support angle, and a third viewing angle (160b) when the media support apparatus body rests on the third virtual plane (130a) and the media device is supported at the third support angle.

CLAIM 23: (col. 3, lines 16-39)

CLAIM 24: (col. 3, lines 40-49)

CLAIM 25: (col. 3, lines 50-54)

CLAIM 26: (col. 3, lines 55-57)

CLAIM 27: (col. 2, lines 64-65)

CLAIM 28: (col. 2, lines 65-67)

CLAIM 29: (col. 3, lines 3-5)

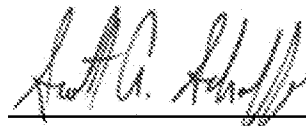
CLAIM 30: (FIG. 2; col. 2, lines 15-16; col. 2, line 33; col. 2, lines 54-55; col. 3, line 51; col. 4, line 10; col. 4, line 20)

CLAIMS 31-38: (original claims) (col. 3, lines 40-44) (col. 3, lines 44-49) (col. 2, lines 44-45) (col. 2, lines 45-46) (col. 2, lines 49-50) (col. 2, lines 52-53) (col. 3, lines 59-60) (col. 3, lines 56-57) (col. 3, lines 57-58)

Conclusion

Applicants submit that the present reissue application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to take the initiative and telephone the undersigned at (503) 970-5119 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,



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REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)

7300-0002

I hereby declare that:

Each inventor's residence, mailing address and citizenship are stated below next to their name.

I believe the inventors named below to be the original and first inventor(s) of the subject matter which is described and claimed

in patent number 5,642,454, granted May 8, 2017 and for which areissue patent is sought on the invention entitled MULTIPLE VIEWING ANGLE MEDIA SUPPORT

the specification of which

☒ is attached hereto.☐ was filed on _____ as reissue application number _____and was amended on _____
(If applicable)

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. This application was made or was authorized to be made by me.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

☐ I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.☐ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

The patent disclosed an apparatus with three support sides disposed about a central axis with the support sides generating three distinct and "different" viewing angles for a supported object such as a book or iPad. (col. 4, lines 9-25) The original patented claim 1 recites that the support sides generate very specific viewing angles of 36 degrees, 74 degrees, and 49 degrees even though the support sides do not actually require those specific angles to be effective. Applicant believes that these specific angles are not necessary to patentability.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9196 and select option 2.

(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

Docket Number (Optional)
 7300-0002

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

Note: To appoint a power of attorney, use form PTO/SB/81.

Correspondence Address: Direct all communications about the application to:

☒ The address associated with Customer Number: 133404

OR

☐ Firm or Individual Name

Address

City

State

Zip

Country

Telephone

Email

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed. I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

Full name of sole or first inventor (given name, family name)

Bruce Cannon

Inventor's signature

Date

Residence
 Portland, OR

Citizenship
 US

Mailing Address

c/o Happy Products, Inc. 5741 NE 87th Ave., Portland, OR 97220

Full name of second joint inventor (given name, family name)

Juliette Fassett

Inventor's signature

Date

Residence
 Portland, OR

Citizenship
 US

Mailing Address

c/o Happy Products, Inc. 5741 NE 87th Ave., Portland, OR 97220

☐ Additional joint inventors or legal representatives are named on separately numbered sheets forms PTO/SB/81A or 02/L1 attached herein.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Acknowledgement Receipt

EFS ID:	39478848
Application Number:	16262797
International Application Number:	
Confirmation Number:	1586
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT
First Named Inventor/Applicant Name:	Bruce Cannon
Customer Number:	133404
Filer:	Scott Alexander Schaffer
Filer Authorized By:	
Attorney Docket Number:	7300-0002
Receipt Date:	19-MAY-2020
Filing Date:	30-JAN-2019
Time Stamp:	13:02:36
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		7300-0002c-after-final.pdf	557879	yes	22
			0b0abd8e8e1bbd30096f9d854f01a201c6b93996		

Multipart Description/PDF files in .zip description					
Document Description			Start	End	
Response After Final Action			1	1	
Claims			2	7	
Applicant Arguments/Remarks Made in an Amendment			8	22	
Warnings:					
Information:					
2	Oath or Declaration filed	signed-aia0051-7300-002-reissue-declaration-2ndRevised.pdf	1048743	no	3
			f9b233d1628d8e3c32f7f9866b38554077e92a67		
Warnings:					
Information:					
Total Files Size (in bytes):			1606622		
This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503. <u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application. <u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course. <u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.					

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875				Application or Docket Number 16/262,797		Filing Date 01/30/2019		☐ To be Mailed		
ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO										
APPLICATION AS FILED - PART I										
		(Column 1)	(Column 2)							
FOR		NUMBER FILED	NUMBER EXTRA	RATE (\$)		FEE (\$)				
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))		N/A	N/A	N/A						
☐ SEARCH FEE (37 CFR 1.16(k), (i), or (m))		N/A	N/A	N/A						
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))		N/A	N/A	N/A						
TOTAL CLAIMS (37 CFR 1.16(i))		minus 20 =	*	x \$50 =						
INDEPENDENT CLAIMS (37 CFR 1.16(h))		minus 3 =	*	x \$230 =						
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))		If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$310 (\$155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).								
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))										
* If the difference in column 1 is less than zero, enter "0" in column 2.				TOTAL						
APPLICATION AS AMENDED - PART II										
		(Column 1)		(Column 2)	(Column 3)					
AMENDMENT	05/19/2020	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)		ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(i))	* 28	Minus	** 29	= 0	x \$50 =		0		
	Independent (37 CFR 1.16(h))	* 3	Minus	***	=	x \$230 =				
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))									
						TOTAL ADD'L FEE		0		
		(Column 1)		(Column 2)	(Column 3)					
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)		ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(i))	*	Minus	**	=	x \$0 =				
	Independent (37 CFR 1.16(h))	*	Minus	***	=	x \$0 =				
	☐ Application Size Fee (37 CFR 1.16(s))									
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))									
						TOTAL ADD'L FEE				
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.						LIE				
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".						/RHONDA BELL/				
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".										
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.										

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586

133404 7590 03/30/2020
Schaffer IP Law, LLC
2187 SW Market Street Dr.
Portland, OR 97201

EXAMINER

WEHNER, CARY ELLEN

ART UNIT	PAPER NUMBER
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3993

MAIL DATE	DELIVERY MODE
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03/30/2020

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 16/262,797	Applicant(s) Cannon et al.	
	Examiner CARY E WEHNER	Art Unit 3993	AIA (FITF) Status Yes

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/23/20.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims*

- 5) ☒ Claim(s) 1-10 and 21-39 is/are pending in the application.
5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-10 and 21-39 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

- a) ☐ All b) ☐ Some** c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date ____.
- 3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 4) ☐ Other: ____.

REISSUE APPLICATIONS

DETAILED ACTION

AIA - Reissue Applications

For reissue applications filed on or after September 16, 2012, all references to 35 U.S.C. 251 and 37 CFR 1.172, 1.175, and 3.73 are to the current provisions.

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Related Proceedings

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 9,642,454 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

Status of Amendments

A preliminary amendment was filed on January 23, 2020 and has been entered. The status of the claims is:

Original claims: 1-10.

New claims: 21-39.

Reissue Oath/Declaration

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

MPEP 1414 states:

The "at least one error" which is relied upon to support the reissue application must be set forth in the oath/declaration. It is not necessary, however, to point out how (or when) the error arose or occurred. Further, it is not necessary to point out how (or when) the error was discovered. If an applicant chooses to point out these matters, the statements directed to these matters will not be reviewed by the examiner, and the applicant should be so informed in the next Office action. What is needed for the oath/declaration statement as to error is the identification of "at least one error" relied upon. For an application filed on or after September 16, 2012 that seeks to enlarge the scope of the claims of the patent, **the reissue oath or declaration must also identify a claim that the application seeks to broaden.** A general statement, e.g., that all claims are broadened, is not sufficient to satisfy this requirement. In identifying the error, it is sufficient that the reissue oath/declaration **identify a single word, phrase, or expression in the specification or in an original claim**, and how it renders the original patent wholly or partly inoperative or invalid. Emphasis added.

In this case, the declaration does not identify **both** the claim to be broadened and the word(s), phrase(s) or expression(s) and how it renders the original patent wholly or partially inoperative or invalid. Also, applicant has check two of the boxes ("by reason of the patentee..." and "by reason of other errors". Since it appears that only errors in the claims are being corrected, the only the box "by reason of the patentee claiming more or less than he had the right to claim in the patent" should be checked.

Furthermore, the error statement appears to be incomplete because the last line is not a complete sentence.

Assignment

The examiner has noticed that the mailing address for the inventors has been changed to what appears to be a company address which is different than the assignee designated on the Statement Under 37 CFR 3.73(c), Happy Products Inc. Applicant is reminded that the Office

must be apprised of any assignment changes and that any change would require the submission of a new 3.73(c) statement and a new Consent of Assignee.

Claim Rejections – 35 U.S.C. 251

Declaration:

Claims 1-10 and 21-39 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Recapture:

Claims 22-24 and 26-39 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Greenliant Systems, Inc. et al v. Xicor LLC*, 692 F.3d 1261, 103 USPQ2d 1951 (Fed. Cir. 2012); *In re Shahram Mostafazadeh and Joseph O. Smith*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011); *North American Container, Inc. v. Plastipak Packaging, Inc.*, 415 F.3d 1335, 75 USPQ2d 1545 (Fed. Cir. 2005); *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the original application for the patent shows that the broadening aspect (in the reissue) relates to claimed subject matter that applicant previously surrendered during the prosecution of the application. **The "original application" includes the patent family's entire prosecution history.** *MBO Laboratories, Inc. v. Becton, Dickinson & Co.*, 602 F.3d 1306, 94 USPQ2d 1598 (Fed. Cir. 2010). Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader

scope of claim subject matter surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

MPEP 1412.02 II summarizes the three-step test for recapture:

Clement, 131 F.3d at 1468-70, 45 USPQ2d at 1164-65, the Court of Appeals for the Federal Circuit set forth a three step test for recapture analysis. In *North American Container*, 415 F.3d at 1349, 75 USPQ2d at 1556, the court restated this test as follows:

We apply the recapture rule as a three-step process:

(1) first, we determine whether, and in what respect, the reissue claims are broader in scope than the original patent claims;

[NOTE: if the claims are not broader in scope than the original patent claims, there is no recapture; if the claims are broader in scope, then proceed to step (2).]

(2) next, we determine whether the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution. Step 2 includes two subsets:

1. The Two Sub-Steps:

(A) One must first determine whether applicant surrendered any subject matter in the prosecution of the original application that became the patent to be reissued.

If an original patent claim limitation now being omitted or broadened in the present reissue application was originally relied upon by applicant in the original application to make the claims allowable over the art, the omitted limitation relates to subject matter previously surrendered by applicant. The reliance by applicant to define the original patent claims over the art can be by presentation of new/amended claims to define over the art, or an argument/statement by applicant that a limitation of the claim(s) defines over the art. To determine whether such reliance occurred, the examiner must review the prosecution history of the original application (of the patent to be reissued and any related application(s)) for surrender of claimed subject matter which may result in

recapture. The prosecution history includes the rejections and applicant's arguments made therein.

With respect to whether applicant surrendered any subject matter, it is to be noted that a patent owner (reissue applicant) is bound by the argument that applicant relied upon to overcome an art rejection in the original application for the patent to be reissued, regardless of whether the Office adopted the argument in allowing the claims. *Greenliant Systems, Inc. v. Xicor LLC*, 692 F.3d 1261, 1271, 103 USPQ2d 1951, 1958 (Fed. Cir. 2012). As pointed out by the court, "[i]t does not matter whether the examiner or the Board adopted a certain argument for allowance; the sole question is whether the argument was made." *Id.*

If applicant did not surrender any subject matter in the prosecution of the original application, the analysis ends and there is no recapture.

(B) If applicant did surrender subject matter in the original application prosecution, the examiner must then determine whether any of the broadening of the reissue claims is in the area of the surrendered subject matter. The examiner must analyze all of the broadening aspects of the reissue claims to determine if any of the omitted/broadened limitation(s) are directed to limitations relied upon by applicant in the original application to make the claims allowable over the art. and

[NOTE: if the broader aspects of the reissue claims do not relate to surrendered subject matter, there is no recapture; if the broader aspects of the reissue claims do relate to surrendered subject matter, then proceed to step (3).]

(3) finally, we determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.

[NOTE: if the reissue claims were materially narrowed in aspects related to the surrendered subject matter, there is no recapture; if the claims were not materially narrowed in related aspects or were narrowed in unrelated aspects, there is recapture.]

In *North American Container*, the court cited *Pannu*, 258 F.3d at 1371, 59 USPQ2d at 1600; *Hester*, 142 F.3d at 1482-83, 46 USPQ2d at 1649-50; and *Clement*, 131 F.3d at 1468, 45

USPQ2d at 1164-65 as cases that lead to, and explain the language in, the North American Container recapture test.

A review of the prosecution history of Application Nos. 15/192,737 and 14/518,443 reveals the following:

1. The '443 application was filed on October 20, 2014 with claims 1-14.
2. A non-final Office action was mailed on August 14, 2015. The Office action rejected claims 1-14 under 35 USC 103(a) as being unpatentable over Patti Halpin U.S. Patent Publication 2003/0001063 A1 (Halpin) in view Zvi Klepar U.S. Design Patent D703,216 S (Klepar).
3. In response to the Office action, Applicant amended claim 1 to add "wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees."
4. A Final Office Action was mailed on February 11, 2016 which included a rejection of claim 1 under 35 USC 112(a) because the amendment (the first viewing angle of the first back support to be 36 degrees and the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees) was not adequately supported by the original disclosure.
5. The '737 application claimed priority, as a continuation-in-part, to application number 14/518,443, which was filed on October 20, 2014. Application No. 15/192,737 was filed on June 24, 2016 with claims 1-10.
6. Claim 1 of the '737 application included the limitation "a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees."

7. A Notice of Allowability was mailed on January 6, 2017 and was accompanied by an examiner's statement of reasons for allowance that stated "[t]he prior art does not disclose a three sided support for media device . . . each side allows for three distinct display angles for the media device."

8. The present reissue application was filed on January 30, 2017. New claim 22-24 and 26-39 been presented without the specific viewing angles (36, 74 and 49 degrees).

Three step analysis of current reissue:

Step 1. Are there reissue claims that are broader in scope than the original claims?

New independent claims 22-24 and 26-39 do not include the specific viewing angles (36, 74 and 49 degrees). New claim 25 (dependent on claim 22 include these specific viewing angles. Accordingly, claims 22-24 and 27-39 are broader in scope than the original claims.

Step 3: Determine if the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution.

Substep A: During the prosecution of the original application, 14/267,636, applicant argued: "Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements . . each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ..and . . wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees..." recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims." (14/267,636, Remarks, 11/13/15, pg. 10).

Claims 22-24 and 26-39 of the present application are broader than original patented claim 1 of the '454 patent because they do not include the limitation ""wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees." This limitation is considered to be a surrender generating limitation because applicant argued that this limitation was not taught by the prior art. Because the claims do not present any of the surrendered limitations, this constitutes an improper recapture of broadened claimed subject matter.

Subset B:

As shown above, claims 22-24 and 26-39 do not include the surrendered limitations.

Step Three: Determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.

MPEP 1412.02.II.C states:

As pointed out above, this third step of the recapture determination, as set forth in *North American Container*, considers the significance of the claim limitations that were added and deleted, during prosecution of the patent (to be reissued) to determine whether the reissue claims should be barred under the recapture doctrine.

In the decision of *In re Mostafazadeh*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011), the Federal Circuit stated that to avoid the recapture rule "the claims must be materially narrowed relative to the surrendered subject matter such that the surrendered subject matter is not entirely or substantially recaptured." *Id.* at 1361, 98 USPQ2d at 1644. Under this third step, it must be determined if there is entire or substantial recapture of the surrendered subject matter because there is no or insufficient material narrowing to avoid the recapture rule.

The following discussion addresses analyzing the reissue claims that have eliminated or modified a surrender generating limitation, as determined under step 2 analysis. In any broadening reissue application, the examiner will determine, under steps 1 and 2 of the recapture analysis on a claim-by-claim basis, whether the broadening relates to subject matter that was surrendered during the examination of the patent for which reissue is requested. Under step 3, it must be determined if such reissue claims are materially narrowed so as to escape the effects of the recapture doctrine. Note, examiners should consider any relevant preliminary applicant arguments of record as part of the recapture determination. See subsection VII., below, "REBUTTAL BY THE REISSUE APPLICANT," which points out how the recapture finding of the Office can be rebutted by applicant, in some limited instances, by showing that material narrowing is present in the claims.

The modification of a surrender generating limitation is broken down into two possibilities that will be addressed below.

1) If a surrender generating limitation (SGL) has been entirely eliminated from a claim present in the reissue application, then a recapture rejection under 35 U.S.C. 251 may be proper. For example, if a claim limitation present in the original patent that was added to overcome a rejection or that was argued by applicant to distinguish over the prior art is entirely eliminated from a claim in the reissue application and not replaced by a new SGL-related limitation, then a recapture rejection under 35 U.S.C. 251 is proper and must be made for that claim.

Such an omission in a reissue claim, even if it is accompanied by other limitations making the reissue claim narrower than the patent claim in other unrelated aspects, is **impermissible recapture**. Pannu, 258 F.3d at 1371-72, 59 USPQ2d at 1600. But note that even if the SGL limitation in the patent claims was entirely eliminated, the reissue applicant may have added a new limitation that relates to surrendered subject matter. See the last paragraph of this subsection below.

2) If the SGL has not been entirely eliminated from a claim in the reissue application (i.e., the amendment narrowing the claim or the argued limitation has not been entirely eliminated from the claim in the reissue application), but rather it has been made less restrictive in the reissue application claim (such that the claim is broadened), the analysis (based on In re Mostafazadeh, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011) and In re Youman, 679 F.3d 1335, 102 USPQ2d 1862 (Fed. Cir. 2012)) is as follows:

It must be determined what portion of the amendment or argued limitation has been retained, and whether the retained portion materially narrows the original claims to avoid recapture.

See Youman, 679 F.3d at 1346 n.4, 102 USPQ2d at 1870 n.4 ("original claims' are defined as 'the claims before surrender'"). "[I]f the patentee modifies the added [or argued] limitation such that it is broader than the patented claim yet still materially narrows relative to the original claim, the recapture rule does not bar reissue." Id. at 1347, 102 USPQ2d at 1870. On the other hand, if the retained portion of the modified limitation is "well known in the prior art," impermissible recapture has not been avoided. See Mostafazadeh, 643 F.3d at 1361, 98 USPQ2d at 1644. It is to be noted that if the retained portion of the modified limitation is well known in the prior art, then impermissible recapture exists, even in a case where a further limitation which is not related to the surrendered subject matter (i.e., a limitation that does not materially narrow the claims) has been added to define the claims over the art. Id. (Emphasis added).

Claim 1 was amended to include the limitation first, second and third viewing angles are different. New claims 22, 23, 26-28, 30, 31, 33-38 do not include this limitation or the specific viewing angles, identified above as a surrender generating limitation, therefore impermissible recapture exists. Claims 29 and 39 include it as a broader limitation so the surrender generating limitation has not been entirely eliminated because it is broader yet is materially narrowed relative to the original claim (claim 1 of the '443 application). However, the limitation that the viewing angles are different is well known in the prior art, as demonstrated by the patent to Barcalo 1,928,806 (discussed below). Accordingly, impermissible recapture exists.

Claim Rejections - 35 USC § 112

The following is a quotation of 35 U.S.C. 112(b):

(b) CONCLUSION.—The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), second paragraph:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30-39 are rejected under 35 U.S.C. 112(b) or 35 U.S.C. 112 (pre-AIA), second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the inventor or a joint inventor, or for pre-AIA the applicant regards as the invention.

Claim 30 recites the limitation "the interior" in the last line. There is insufficient antecedent basis for this limitation in the claim.

Response to Arguments

Applicant's arguments filed January 23, 2020 have been fully considered but they are not persuasive. **Recapture:** Applicant argues that recapture has been avoided in the new claims because they are directed to overlooked aspects. Applicant assert that new claim 22 is directed to "the specific relationship of the three supports backs . . . with the three support edges so as to create three different support 'virtual planes' to provide three different respective viewing angles." (Remarks, pg. 9). MPEP 1412.01(II) allows claims to separate inventions/embodiments/species that were disclosed but never claimed and are considered to as claims to overlooked aspects. Claim 22 is not considered to be drawn to a separate invention, embodiment or species because back supports, support edges and virtual planes are already present in original claims 1-10. The only disclosure of a separate invention/embodiment/species is Fig. 3 which includes a frame rather than a solid form. In all the embodiments, the relative angles, planes and lengths are the same. Claim 22 is only an

alternate expression to what is already claim in original claim 1. It is noted that there is no limitation in claim 22 that limits the viewing angles as “different” than each other.

Applicant does not identify the limitations in new claim 30 that are considered overlooked aspects. Review of claim 30 reveals that it is merely a broader recitation of original claim 1 – all of the limitations in claim 30 are present in claim 1. Therefore, claim 30 cannot be considered to be directed to overlooked aspects.

Applicant’s arguments, see Remarks, filed January 23, 2020, with respect to the prior art rejections have been fully considered and are persuasive. The rejections under 35 USC 103 of claims 1-10 has been withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARY E WEHNER whose telephone number is (571)272-4715. The examiner can normally be reached on 9am to 5 pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <https://ppair-my.uspto.gov/pair/PrivatePair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

//CARY E WEHNER/
Primary Examiner, Art Unit 3993

Conferee:/gkd/

Conferee: /E.D.L/
SPRS, Art Unit 3993

<i>Search Notes</i> 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

CPC - Searched*		
Symbol	Date	Examiner
a47b23/042	09/24/2019	cew
updated	03/17/2020	cew

CPC Combination Sets - Searched*		
Symbol	Date	Examiner

US Classification - Searched*			
Class	Subclass	Date	Examiner
248	441.1, 454	09/24/2019	cew
D6	419,406	09/24/2019	cew
D9	91	09/24/2019	cew
updated		03/17/2020	cew

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
See EAST search strategy printout	09/24/2019	cew
updated	03/17/2020	cew

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner

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<i>Index of Claims</i> 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

✓	Rejected	-	Cancelled	N	Non-Elected	A	Appeal
=	Allowed	÷	Restricted	I	Interference	O	Objected

CLAIMS										
☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47										
CLAIM		DATE								
Final	Original	09/25/2019	03/17/2020							
	1	✓	✓							
	2	✓	✓							
	3	✓	✓							
	4	✓	✓							
	5	✓	✓							
	6	✓	✓							
	7	✓	✓							
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	38		✓							
	39		✓							



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586
133404	7590	02/06/2020		
Schaffer IP Law, LLC 2187 SW Market Street Dr. Portland, OR 97201			EXAMINER WEHNER, CARY ELLEN	
			ART UNIT	PAPER NUMBER
			3993	
			MAIL DATE	DELIVERY MODE
			02/06/2020	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<i>Applicant-Initiated Interview Summary</i>	Application No. 16/262,797	Applicant(s) Cannon et al.	
	Examiner CARY E WEHNER	Art Unit 3993	AIA (FITF) Status Yes

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

(1) CARY E. WEHNER. (3) Scott Schaffer, Jason Eisenberg (attys).

(2) Catherine Williams, Glenn Dawson. (4) Juliette Fassett (applicant).

Date of Interview: 21 January 2020.

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

Exhibit shown or demonstration conducted: ☒ Yes ☐ No.
 If Yes, brief description: The media support was shown.

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

Claim(s) discussed: all.

Identification of prior art discussed: Barcalo, Halpin, Klepar.

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

Mr. Schaffer showed the subject invention and demonstrated how the orientations of edge supports relative to the back supports prevents the back supports from resting on the support surface (i.e. lap, table, etc.). Applicant's representative argued that the prior art does not teach the edge supports are in locations such that that the top of each back support is in physical communication with an adjacent edge support. Mr. Schaffer pointed out that Barcalo does not teach that the top of each back support is in communication with an adjacent edge support clockwise about a central axis. The edge supports are located such that the device cannot be simply rotated clockwise or counterclockwise about the axis of the body of the pillow, to bring each back support to the proper viewing position. Discussed the recapture rejection. Applicant's representative argued that the recapture rejection could be overcome when the 103 rejection is overcome. No agreement was made.

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

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

☐ Attachment

/CARY E WEHNER/ Primary Examiner, Art Unit 3993	/CSW/ /GKD/
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Summary of Record of Interview Requirements

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

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

Title 37 Code of Federal Regulations (CFR) 1.133 Interviews

Paragraph (b)

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

37 CFR §1.2 Business to be transacted in writing.

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

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

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

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

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

The Form provides for recordation of the following information:

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

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

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

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

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

Examiner to Check for Accuracy

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875				Application or Docket Number 16/262,797		Filing Date 01/30/2019		☐ To be Mailed	
ENTITY: ☐ LARGE ☒ SMALL ☐ MICRO									
APPLICATION AS FILED - PART I									
		(Column 1)	(Column 2)						
FOR		NUMBER FILED	NUMBER EXTRA		RATE (\$)		FEE (\$)		
☐ BASIC FEE (37 CFR 1.16(a), (b), or (c))		N/A	N/A		N/A				
☐ SEARCH FEE (37 CFR 1.16(k), (l), or (m))		N/A	N/A		N/A				
☐ EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))		N/A	N/A		N/A				
TOTAL CLAIMS (37 CFR 1.16(i))		20 minus 20 =	* 0		x \$50 =		0		
INDEPENDENT CLAIMS (37 CFR 1.16(h))		2 minus 3 =	* 0		x \$230 =		0		
☐ APPLICATION SIZE FEE (37 CFR 1.16(s))		If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$310 (\$155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))									
* If the difference in column 1 is less than zero, enter "0" in column 2.					TOTAL		0		
APPLICATION AS AMENDED - PART II									
		(Column 1)	(Column 2)		(Column 3)				
AMENDMENT	01/23/2020	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(i))	* 29	Minus	** 20	= 9	x \$50 =	450		
	Independent (37 CFR 1.16(h))	* 3	Minus	*** 3	= 0	x \$230 =	0		
	☐ Application Size Fee (37 CFR 1.16(s))								
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))								
						TOTAL ADD'L FEE		450	
AMENDMENT		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)		
	Total (37 CFR 1.16(i))	*	Minus	**	=	x \$0 =			
	Independent (37 CFR 1.16(h))	*	Minus	***	=	x \$0 =			
	☐ Application Size Fee (37 CFR 1.16(s))								
	☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))								
						TOTAL ADD'L FEE			
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.						LIE			
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".						/RHONDA BELL/			
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".									
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.									

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

REISSUE PATENT APPLICATION
Docket No. 7300-0002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Bruce CANNON, et al. Conf. No. 1586
Serial No. 16/262,797 Examiner: WEHNER, Cary Ellen
Filed: January 8, 2016 Art Unit: 3993
For: MULTIPLE VIEWING ANGLE MEDIA SUPPORT
Date: January 23, 2020

Commissioner for Patents
Filed via Electronic Filing System (EFS)

AMENDMENT AFTER NON-FINAL REJECTION
APPLICATION FOR REISSUE OF U.S. PAT. NO. 9,642,454

CLAIMS AS AMENDED					
For	Number After Amendme nt	Previous Number paid for	Extra	Rate	Additional Fee
Total Claims	29	20	0	x \$ 50.00 =	\$450
Independent Claims	3	3	0	x \$230.00 =	\$0
TOTAL ADDITIONAL FEE					\$450

This communication is responsive to the non-Final Office Action, dated October 18, 2019, in connection with Applicants' request for reissue of U.S. Patent No. 9,642,454 B2. Accordingly, please amend the above-identified application as follows:

- **Amendments to the Claims** begin on page 2.
- **Remarks** begin on page 8.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application. The claim amendments comply with 37 C.F.R. §§ 1.173(b)(2), (c), (e); M.P.E.P. §§ 1453(V)(B)-(D).

Listing of Claims:

1. (Original) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support, wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends of a solid interior, each edge support comprises an edge support width of 2 centimeters (cm) with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis, a plane of a first back support is at a first plane angle of 60 degrees to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support, a plane of the second back support is at a second plane angle of 80 degrees to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support, a plane of a third back support is at a third plane angle of 40 degrees to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support, and wherein each back support, each edge support, and each end is a surface of the solid interior, the solid interior is a pillow covered in fabric, a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.

2. (Original) The apparatus of claim 1, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

3. (Original) The apparatus of claim 2, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

4. (Original) The apparatus of claim 1, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

5. (Original) The apparatus of claim 4, wherein each back support has a latitudinal length of 15 cm.

6. (Original) The apparatus of claim 1, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

7. (Original) The apparatus of claim 6, wherein each edge support has a latitudinal length of 7 cm.

8. (Original) The apparatus of claim 1, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

9. (Original) The apparatus of claim 1, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

10. (Original) The apparatus of claim 9, wherein the edge angle is 90 degrees.

Cancel claims 11-20

21. (New) The apparatus of claim 1, wherein a latitudinal length of each of the first, second, and third edge supports is different from a latitudinal length of the corresponding first, second, and third side supports.

22. (New) A media support apparatus comprising:
a body having a first support back, a second support back, and a third support back disposed about a central axis;

a first support edge disposed between the first support back and the second support back, the first support back and first support edge are configured to support a media device at a first support angle;

a second support edge disposed between the second support back and third support back, the second support back and second support edge are configured to support a media device at a second support angle;

a third support edge disposed between the third support back and first support back, the third support back and third support edge are configured to support a media device at a third support angle;

wherein the media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane between a top of the second support back and an outer edge of the second edge support, on a second virtual plane between a top of the third support back and an outer edge of the third edge support, and on a third virtual plane between a top of the first support back and an outer edge of the first edge support; and

wherein the media support apparatus is configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle, a second viewing angle when the media support apparatus body rests on the second virtual plane and the media device is supported at the second support angle, and a third viewing angle when the media support apparatus body rests on the third virtual plane and the media device is supported at the third support angle.

23. (New) The apparatus of claim 22, wherein the first support angle is between 50 and 60 degrees to the second virtual plane, the second support angle is between 55 and 65 degrees to the third virtual plane, and the third support angle is between 50 and 75 degrees to the first virtual plane.

24. (New) The apparatus of claim 22, wherein the first support angle is 60 degrees to the second virtual plane, the second support angle is 68 degrees to the third virtual plane, and the third support angle is 52 degrees to the first virtual plane.

25. (New) The apparatus of claim of 22, wherein the first viewing angle is 36 degrees, the second viewing angle is 74 degrees, and the third viewing angle is 49 degrees.

26. (New) The apparatus of claim 22 wherein the first, second, and third edge supports form an edge angle with respective first, second, and third back supports of between 85 and 120 degrees.

27. (New) The apparatus of claim 22, wherein the body includes three solid corners, with each of the corners interposed between two adjacent support backs and including a respective edge support.

28. (New) The apparatus of claim 22, wherein the body is foam having an indentation force deflection (IFD) in the range of 15-30 kilograms at 25% indentation.

29. (New) The apparatus of claim 22, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

30. (New) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support,
wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends,

wherein each edge support comprises an edge support width with an edge angle to an adjacent back support,

wherein a face of each edge support width is oriented clockwise about the central axis,

wherein a plane of a first back support is at a first plane angle to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support,

wherein a plane of the second back support is at a second plane angle to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support,

wherein a plane of a third back support is at a third plane angle to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support, and

wherein each back support, each edge support, and each end is a surface of the interior.

31. (New) The apparatus of claim 30, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

32. (New) The apparatus of claim 31, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

33. (New) The apparatus of claim 30, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

34. (New) The apparatus of claim 33, wherein each back support has a latitudinal length of 15 cm.

35. (New) The apparatus of claim 30, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

36. (New) The apparatus of claim 35, wherein each edge support has a latitudinal length of 7 cm.

37. (New) The apparatus of claim 30, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

38. (New) The apparatus of claim 30, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

39. (New) The apparatus of claim 38, wherein the first plane angle, the second plane angle, and the third plane angle are different from one another.

REMARKS

Claims 1-10 are the original, now unamended claims of the '454 patent. All previously amendments to original patent claims 1-10 have been reversed in the amendments above.

Previously added claims 12-20 are cancelled without prejudice to or disclaimer of the subject matter therein.

New claims 21-39 are sought to be added and are all directed to a previously unclaimed embodiment of the original disclosure.

Applicants respectfully request reconsideration of the rejections in view of the amendments and following remarks.

JANUARY 21, 2020 TELEPHONE INTERVIEW WITH EXAMINER

Applicant wishes to thank Examiner Wehner for the WebEx interview conducted on January 21, 2020 in which was discussed many of the arguments and distinguishing features of the claims. The Examiner appeared to acknowledge during the interview that the arrangement of structures in the claims, and particularly the arrangement of the three back supports with the three edge supports, allowed the device to be rotated on an axis to reach each of the display positions in sequential clockwise or counterclockwise rotations, and that this functionality is not possible under the newly cited Barcalo reference. These and other arguments for patentability are described in further detail below.

SUBSTITUTE REISSUE OATH/DECLARATION

The newly submitted reissue oath/declaration filed herewith provides “at least one error” which is relied upon to support the reissue application. And because Applicants seek to enlarge the scope of the claims of the patent, the reissue oath/declaration also identifies a claim (e.g. claim 1) that the application seeks to broaden. The substitute oath/declaration furthermore makes reference to claims (e.g. claim 22) relating to overlooked aspects of the application that were never covered by a claim at any point during prosecution of the original application. Finally, the substitute oath/declaration states as an additional reason for error the attorney’s failure to appreciate the full scope of the embodiments, which qualifies as an error under section 251 and that is correctable by reissue. See, e.g. *In re Wilder*, 736 F.2d 1516, 1519, 22 USPQ 369, 370-71 (Fed. Cir. 1984).

RECAPTURE RULE

The Examiner has rejected originally submitted reissue claims 1-20 on the grounds that the reissue oath/declaration filed with the application is allegedly defective under the Recapture Rule. That is, the Examiner believes that Applicants seek to now “recapture” subject matter surrendered during prosecution of the original patent and amendment of the claims, and that this is not an “error” within the meaning of 35 U.S.C. 251 correctable through reissue.

Without acquiescing to the propriety of the rejection, Applicants have reversed the claim amendments to the original claims made in the preliminary amendment, rendering the recapture rejection moot.

Additionally, Applicants seek to enter new claims 21-39 that are directed to previously unclaimed subject matter. Claims 21-39 are directed to the specific relationship of the three support backs of the media support body with the three support edges so as to create three different support “virtual planes” to provide three different respective viewing angles. The structure and limitations of independent claim 21 (and its dependents) were not covered by a claim—e.g. a generic claim—at any point during prosecution of either the ‘737 application or the ‘433 continuation-in-part upon which the issued ‘454 patent is based. Furthermore, the features provide a material narrowing of the claims as originally presented, and that these features effect materially significant operational improvements (discussed below) that were not available in the prior art.

CLAIM REJECTION UNDER 35 U.S.C. §103

Claims 1-20 have been rejected under 35 U.S.C. § 103 as allegedly being obvious in view of the combination: Barcalo (U.S. Patent No. 1,928,806) in view of Halpin (U.S. Pub. No. 2003/0001063). Without acquiescing to the propriety of the rejection, claims 11-20 have been cancelled rendering their rejection moot. Additionally, without acquiescing to the propriety of the rejection, Applicants have amended claims 1-10 to place them back into their originally issued form. Applicants argue, however, that this rejection is in error because the references cannot and would not be properly combined and, either separately or in combination, do not teach or suggest all elements of the claims. It would therefore be inappropriate without more to reject the claims under §103.

A. *BARCALO* only includes a **single** edge support, and not three as required in claims 1, 22, and 30.

All pending claims in the reissue application require that the media support device include an edge support for each of the three support sides:

- CLAIMS 1 and 30 – “three support sides, each support side comprising a back support and an edge support”
- CLAIM 22 – “first support edge,” “second support edge,” and “third support edge”

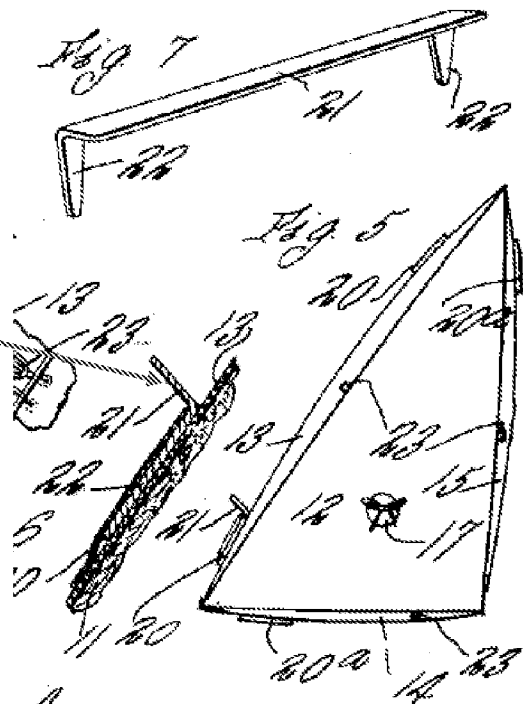
The purpose of having an edge support for each of the three media support sides is stated in the patent as allowing the user to quickly rotate the device to a different support side:

When the user changes position, the media support 100 may be quickly rotated to provide a different viewing angle 160. As a result, the media support 100 is quickly deployed to provide the appropriate viewing angle 160. In addition, the comfort of the user is greatly enhanced as the media may be viewed at the appropriate viewing angle 160 without the user holding the media.

(U.S. Patent No. 9,642,454, col. 4, lines 19-25)

Whereas the pending claims have three support edges that allow the media support pillow to be quickly rotated to a new display position ready for use, *Barcalo discloses a media support pillow that uses only a single support bar 21*. This support bar is removed prior to rotating the media display pillow to a new side, and the single support bar is then inserted in the new display side.

BARCALO
U.S. Pat. No. 1,928,806
Has only ONE edge support 21
that must be removed from pocket
20 before being used in different
pocket (e.g. pocket 20a on side 15).



It would not be obvious to simply include multiple support bars in the Barcalo device so that the bars are permanently attached to each of the three support sides. For one, none of the multiple embodiments of the Barcalo pillow show multiple support bars. Thus, the Examiner's reasoning is either hindsight or speculation. Second, the specification goes to great pains to describe removeable structures (e.g. feet 22 that are removably received within pockets 20) and does not indicate that these support bars are to be permanently affixed within the pockets. Thus, the Examiner's theory would result in a change of principle of operation. Third, it is clear from the shape of the Barcalo support bar 21 that it is not intended to be used as a support on a downward facing side. Instead, the narrowness of the described support bar edge would be extremely uncomfortable when bearing against a user's lap.

Judicial decisions do not support the inference that it would be obvious to merely modify Barcalo to include edge supports 21 for all of the support sides 13, 14, and 15. The Court of Appeals for the Federal Circuit has held that the precedents do not establish any per se rules of obviousness, and that reliance on per se rules of obviousness is legally incorrect without required legal analysis of the applicability of the case to the current facts. *In re Ochiai*, 37 USPQ2d 1127, 1133 (Fed. Cir. 1995). The holding of *In re Ochiai* is entirely consistent with *KSR v. Teleflex* in which the Supreme Court cautioned against the use of rigid and mandatory formulas, and that obviousness requires a articulated reasoning with rational underpinning. See, *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1398 (U.S. 2007).

Instead, 35 U.S.C. §103 requires a fact-intensive comparison of the claims as a whole, with the teachings of the references. As explained above, independent claims 22 and 30 are directed to a media support apparatus configured with three support edges to display a media device at different viewing angles from each of the three sides. Barcalo is the only reference used to show a three-sided display pillow; but it is configured with only a single, detachable support edge that is NOT shown, described, suggested, or even intended to be attached to a downwardly-facing expanse of the pillow. To impute the inclusion of additional support edges on Barcalo, especially when doing so would cause a support edge on a downwardly-facing edge of the pillow to be unstable and/or uncomfortable, is either speculation or an impermissible use of hindsight analysis.

The Federal Circuit has been consistent in reversing the PTO when a rejection is made on the basis of hindsight, that is when an Examiner rejects the application under 35 U.S.C. §103(a) grounds as obvious under a combination of two or more patents without any specific suggestion within the patents to combine the features. *Plantronics v. Aliph, Inc.*, 724 F.3d 1343, 1354 (Fed. Cir. 2013) (citation omitted) (“Where, as here, the necessary reasoning is absent, we cannot simply assume that ‘an ordinary artisan would be awakened to modify prior art in such a way as to lead to an obviousness rejection.’ It is in such circumstances, moreover, that it is especially important to guard against the dangers of hindsight bias.”); *In re Rouffett*, 47 USPQ2d 1453 (Fed. Cir. 1998) (the Federal Circuit refused to uphold an obviousness rejection, even where skill in the art is high, absent the specific identification of principal, known to one of ordinary skill in the art that suggests the claimed combination.)

The Federal Circuit reemphasized the care to be taken when combining references in obviousness findings in *Ecolchem v. Southern Cal. Edison*, 56 USPQ2d 1065 (Fed. Cir. 2000), stating that such absence of evidence to combine references “is defective as hindsight analysis.” The Federal Circuit held similarly in *In re Kotzab*, 55 USPQ2d 1313 (Fed. Cir. 2000), reversing the PTO and stating that, “[i]dentification of prior art statements that, in abstract, appear to suggest claimed limitation does not establish prima facie case of obviousness without finding as to specific understanding or principal within knowledge of skilled artisan that would have motivated one with no knowledge of the invention to make the combination in the manner claimed.”

Finally, the Federal Circuit has reaffirmed their view that the PTO used improper hindsight analysis to reject patent claims under §103(a) in the recent case of *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002), stating that a specific suggestion in the references is required and not a simple citation to “common knowledge and common sense.”

Lee includes a tour-de-force of case law directed to the issue of combining references including those as follows:

- “The factual inquiry whether to combine references must be thorough and searching. . . . It must be based on objective evidence of record. This precedent has been reinforced in myriad decisions, and cannot be dispensed with.” (*Lee*, 277 F.3d at 1343)
- “A showing of a suggestion, teaching, or motivation to combine the prior art

references is an essential component of an obviousness holding.” (*quoting Brown & Williamson Tobacco Corp. v. Philip Morris, Inc.*, 229 F.3d 1120, 1124-25 (Fed. Cir. 2000))

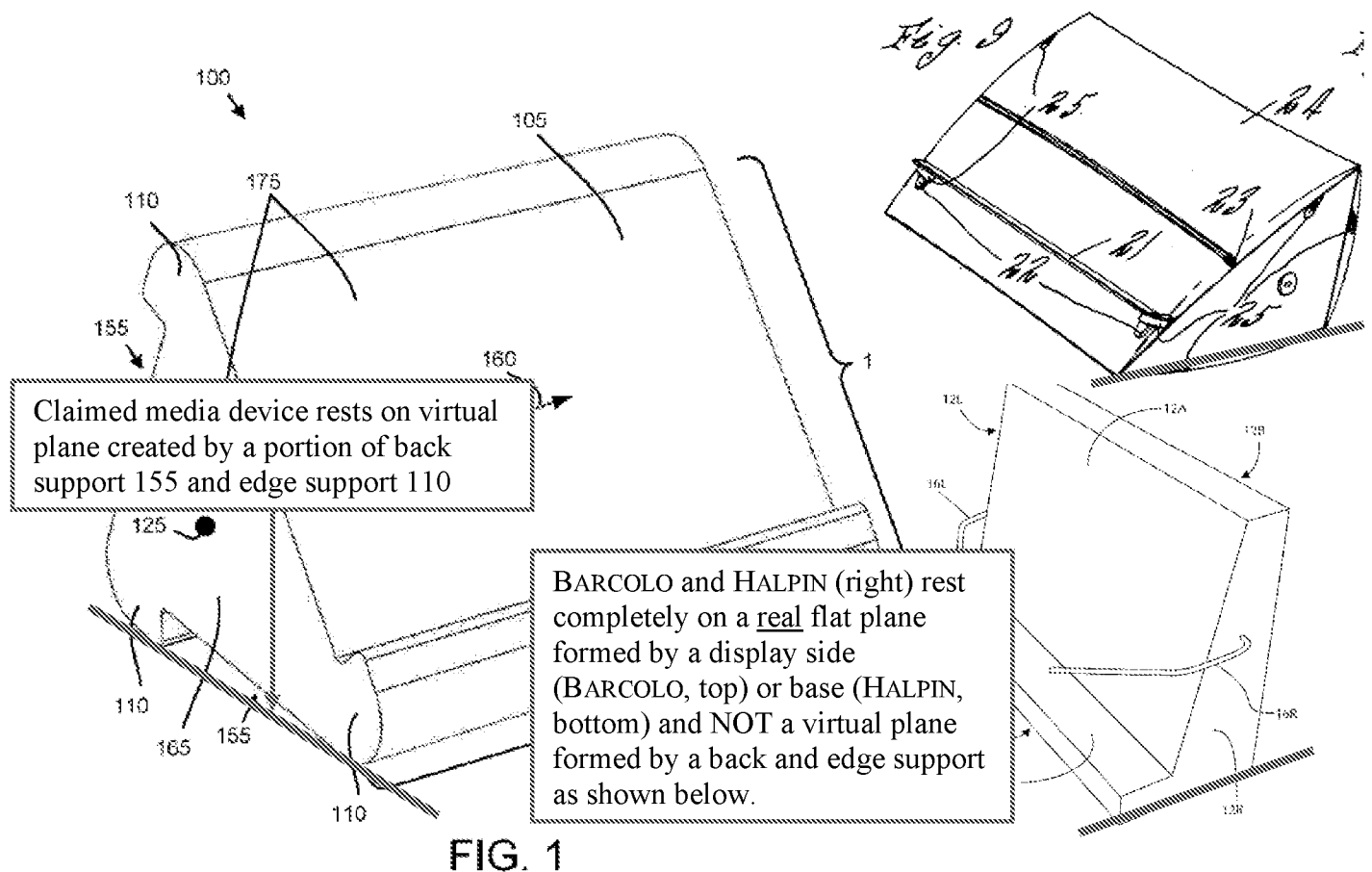
- “Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.” (*quoting C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed. Cir. 1998))
- “There must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant.” (*quoting In re Dance*, 160 F.3d 1339, 1343 (Fed. Cir. 1998))
- “Teachings of references can be combined *only* if there is some suggestion or incentive to do so.” (*quoting In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988) (emphasis in original))

In the end, the Patent Office has failed to display the rigor required by the Federal Circuit holdings in demonstrating a suggestion within the art that the applied references should be combined.

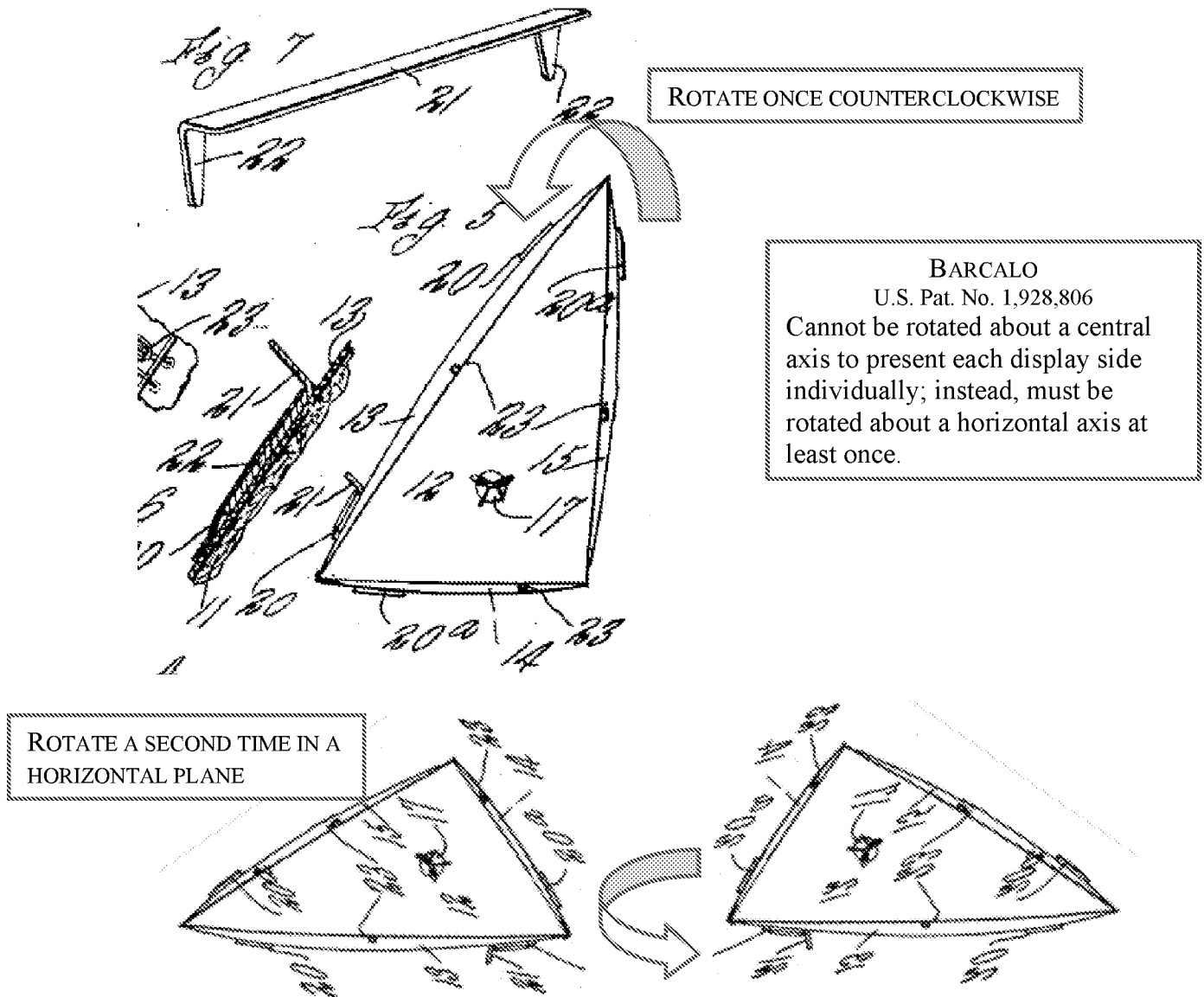
*B. The applied references are **not** structured to allow the media display device to rest on a lower surface/”virtual plane” defined by BOTH the back support and edge support*

All pending claims in the reissue application require that the media support device include virtual support resting surfaces created by both the back support and edge support surfaces:

- CLAIMS 1 and 30 – e.g. “a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support”
- CLAIM 22 – “the body can rest on a horizontal support in any one of three positions including on a first virtual plane between a top of the second support back and an outer edge of the second edge support”



The Barcalo reference dictates that this single support bar 21 “*should be removed*” (Barcolo, 2, line 52) from one side before attaching it to another. The support bar 21 is thus never used as a resting support on a downward-facing side of the pillow. Instead, and as shown in all embodiments of the Barcalo pillow, only the rectangular faces 13, 14, 15 serve to support the pillow on the ground; the support bar 21 never does. Barcalo FIG. 9 above shows the support bar 21 with angular feet 22 at each end. To use the detached support bar 21, the angular feet 22 are inserted into a pair of pockets 20 on the display face (e.g. any one of face 13, 14, or 15) of the pillow. FIG. 9 shows the feet 22 inserted within the pockets 20 of face 13. To use with face 15, the bar 21 is removed from the pockets 20, the pillow rotated counterclockwise, and the bar inserted within pocket 20a on face 15. To use with face 14, the bar 21 is removed from pockets 20a and the pillow rotated about a horizontal plane and then inserted into pocket 20a. (see below)



The examiner clarified during the WebEx interview on Jan. 21, 2020 that that the “edge support” limitation in the claims could potentially be satisfied by each of the three pockets 20a of Barcalo, one for each side. Applicants respectfully disagree, however, because it is clear that these pockets are only intended to be receptacles for the single Barcalo support bar 21 that is interchanged between the pockets. The Barcalo pockets are not intended to provide an “edge support” for a media device as is the intent in the present invention. In claim 22, for instance, the edge support is noted as being “configured to support a media device at a first support angle.” The pockets 20/20a in the Barcalo device are incapable of providing such support.

Case law is fairly specific on how claim language is to be interpreted during prosecution. “Words in a claim are generally given their ordinary and accustomed meaning unless the

inventor chooses to be his own lexicographer in the specification.” *Lantech, Inc. v. Keip Mach. Co.*, 32 F.3d 542, 547, 31 USPQ2d 1666, 1670 (Fed. Cir. 1994). “In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification.” *In re Yamamoto*, 740 F.2d 1569, 1571, 222 USPQ 934, 936 (Fed. Cir. 1984). The Federal Circuit cautions, however, that the PTO is not to erroneously construe the claims (as was the case in *Baker Hughes*) where such construction was “beyond that which was reasonable in light of the totality of the written description.” *In re Baker Hughes, Inc.*, 215 F.3d 1297, 55 USPQ2d 1149 (Fed. Cir. 2000).

If Barcalo intended the pockets 20a to be “edge supports” for the purpose of supporting media devices (or books, or papers), then there would be no need to include the support bar 21. Instead, it is clear that the pockets are extraordinarily shallow and incapable of providing a usable edge support surface for anything meaningful. Papers would simply slide off or fold under their own weight. And books or anything thicker would simply fall off. Since the pockets are unusable as “edge supports,” and because such structures could not reasonably operate as edge supports for anything useful, then it would be error to read Barcalo as including edge supports on each of the three sides simply due to the pockets 20a.

C. BARCALO and HALPIN do not allow rotation about a central axis in a single direction to present each of the display sides as with the claims

All claims in the reissue application require that the media support be configured (properly position the edge support with respect to the back support) so that the media device need simply be rotated about a central axis to present the next, differently angled, display side:

- CLAIMS 1 and 30 – “each back support is in physical communication with an adjacent edge support clockwise about a central axis”
- CLAIM 22 – “configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions”

One ease-of-use innovation of the pending claims is that the structure allows the display pillow to be spun about its central axis 125 to present a new display side at the proper orientation, e.g. with the support edge 110 down so that the media device can be supported and displayed at a proper angle.

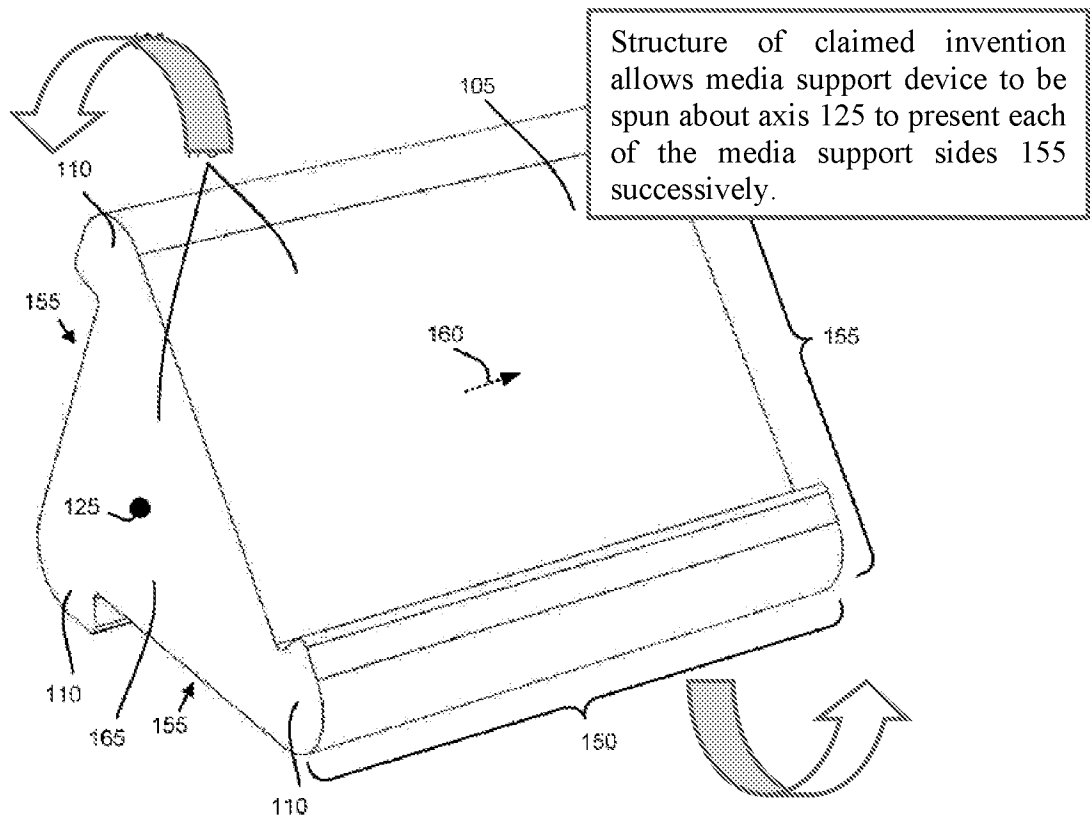
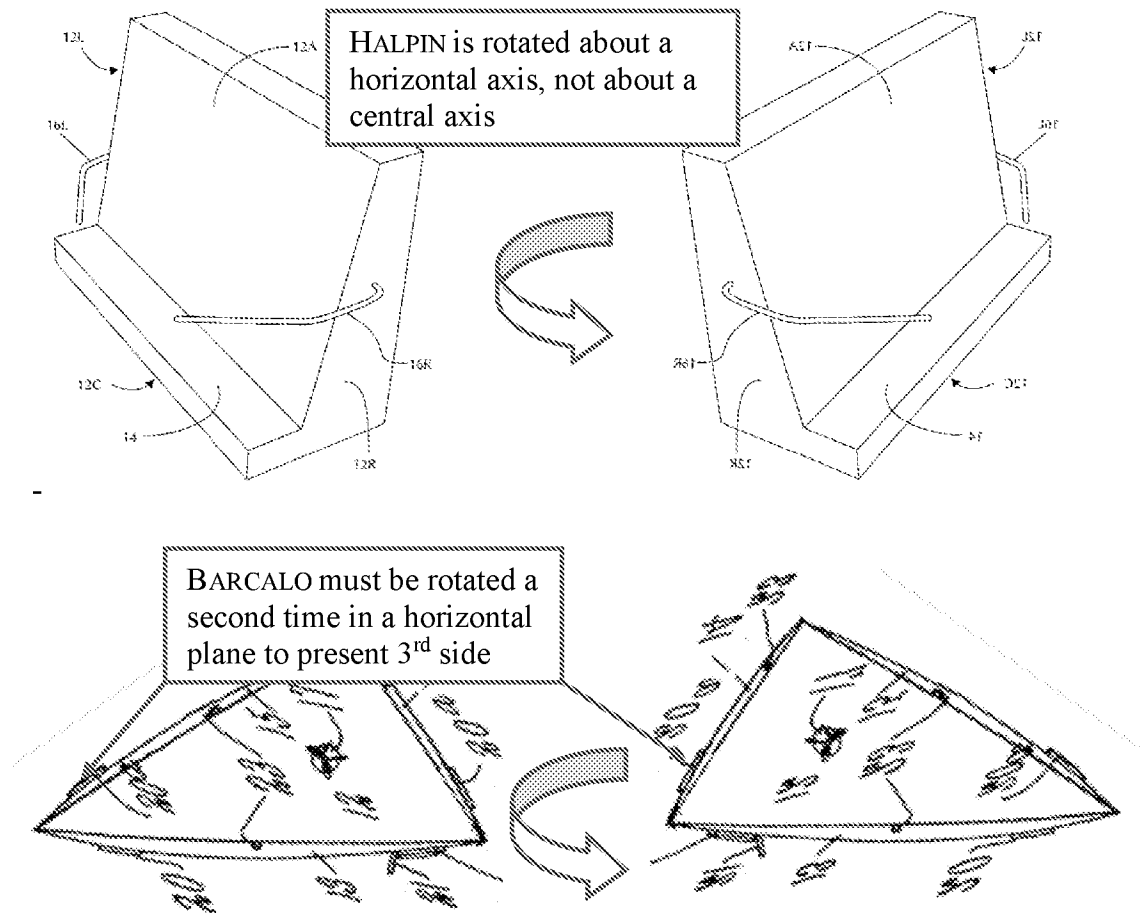


FIG. 1

The specification makes clear that an advantage of the structure shown and described above is that the user may place the media support 100 on a table, in the user's lap, or on the user while lying down. (col. 3, lines 6-15). The user may further *rotate* the media support to a new side to select a back support 105 with a comfortable viewing angle 160. Rotations occur in the same direction to present each of the sides sequentially, either clockwise or counterclockwise. This makes it easier to find a side a display angle that best works for the user.

In contrast, the Barcalo device like the Halpin device (and the previously cited Klepar device D703,216) must be spun about a horizontal plane in order to properly display at least one of its sides. Halpin has only one display side. Klepar has two. And while Barcalo does in fact describe three display sides, not all of them can be accessed in the proper configuration as shown in the previous section, e.g. with the support edge on a lower portion of the display side.



D. BARCALO support edge(s) are not structured as required in claim 22 and thus cannot anticipate the structure of the claims sufficient to support a §103 rejection

Claim 22 includes the following structure:

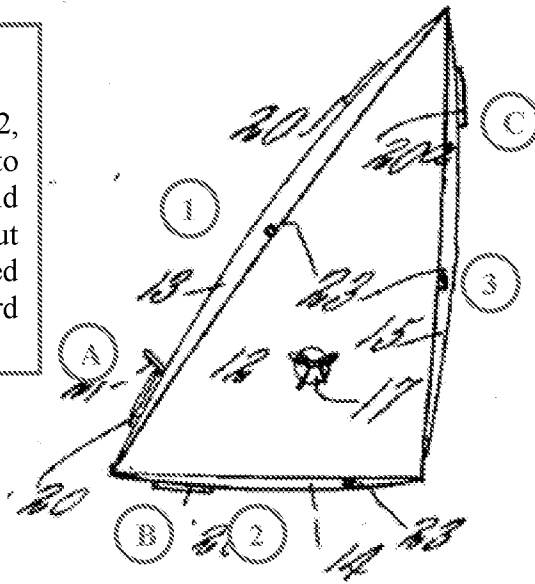
- a first support edge disposed between the first support back and the second support back, wherein the first support back and first support edge are configured to support a media device at a first support angle;
- a second support edge disposed between the second support back and third support back, wherein the second support back and second support edge are configured to support a media device at a second support angle;
- a third support edge disposed between the third support back and first support back, where the third support back and third support edge are configured to support a media device at a third support angle;

It is clear from even an expansive reading of the Barcalo structure that it does NOT and cannot fulfill each and every one of these structural limitations.

BARCALO

U.S. Pat. No. 1,928,806

To fulfill structure of claim 22, first support edge A would need to be between first and second support backs 1 and 2 (it is); but second support edge B would need to be between second and third support backs 2 and 3 (it isn't).



The structural differences of the Barcalo device—e.g. where the second support edge B is NOT between the second 2 and third 3 support back—results in a user not being able to rotate the Barcalo display pillow around a central axis as with the claims to present each side sequentially. There is no suggestion within the Barcalo patent that it should be structured otherwise, and thus it would be improper to impute a variation in the Barcalo design to anticipate the claims, particularly as laid out in claim 22.

E. The Examiner has committed error by reading features in the applied references that are not in fact there

The Office Action erroneously finds three features in the Barcalo reference that are not, in fact, part of the structure or fairly suggested by the disclosure. These errors are:

- (1) **ERROR #1:** “Barcalo discloses an apparatus comprising three support sides, each comprising a back support 13, 14 or 15 and an edge support...” (OA, p. 11.) This finding is in error. While Barcalo discloses an apparatus comprising three support sides, it does not disclose an embodiment where each of the support sides includes an edge support (i.e. there are not three edge supports). Instead, Barcalo only shows use of a single edge support 21 that is removably reused for the designed support side.
- (2) **ERROR #2:** “Barcalo discloses . . . an edge support 21 in physical communication with two ends 12 of the interior.” (OA, p. 11.) This finding is also in error. The

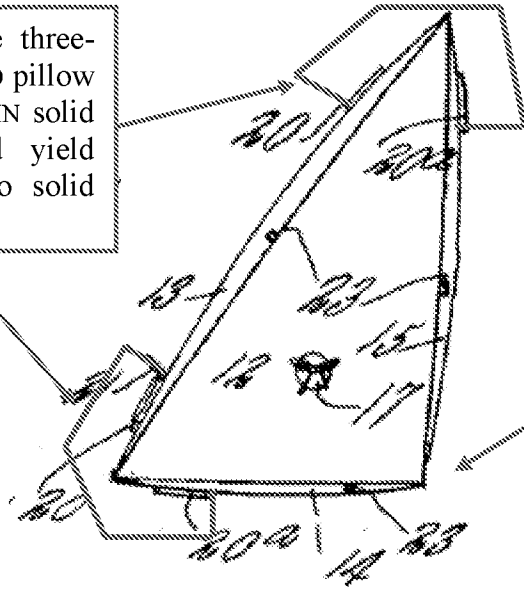
Barcalo edge support is not in “physical communication with two ends of the interior.” Instead, the edge support 21 is only in physical communication with a single support side. When that edge support is removed from side 14, as shown in the figure in the previous page, the Barcalo device rests facedown solely on side 14. This in contrast with the structure of the claims where the edge support, e.g. edge support 110, extends to the corner of the device and contacts both of adjacent display sides 160, 155.

- (3) **ERROR #3:** “The . . . face of each edge support is oriented clockwise of the central axis.” (OA, p. 11.) As there is only a single edge support in Barcalo, it cannot be oriented clockwise of itself. Even if it were suggested to insert additional edge supports in the Barcalo device—and there is no suggestion or advantage to do so—then the faces of the Barcalo edge supports, if placed in the pockets 20a shown in FIGs. 5-6 would not be oriented clockwise of the central axis. Instead, and as shown in the figure above on page 18 of this Response, while the Barcalo pocket for side 15 is oriented counter-clockwise of the central axis with respect to the pocket for side 13, the pocket for side 14 is oriented with a rotation about a vertical axis with respect to the pocket 13. In other words, *the Barcalo media support pillow cannot be rotated in the same clockwise direction to present each of the three properly oriented support edges as with the claims.*
- (4) **ERROR #4:** “It would have been obvious to form the apparatus of Barcalo of a one piece block such that the back supports, the edge supports and the ends are integral, in view of the teachings of Halpin.” (OA, p. 11.)

There is no suggestion in either Barcalo or Halpin that these structures should be combined. But even if they were, the solid edge support of Halpin would be placed in the stead of the pockets 20 capable of holding the support edge 21 of Barcalo (see drawing on next page). This would result in the structure shown above, where only two corners of the triangular pillow have support edges and not the third side. Not all structures of the claimed device would therefore be shown by even a combination of Barcalo and Halpin.

It would NOT be obvious to form BARCALO of a one piece block as with HALPIN, and even if you did it would not result in the structure set forth in the claims.

Combining the three-sided BARCALO pillow with the HALPIN solid corners would yield only these two solid corners.



There is no pocket adjacent this corner, and thus no incentive to create a solid support edge here.

In view of these highlighted structural differences with the applied references, Applicants respectfully request removal of the rejections and passage of the claims to allowance.

STATEMENT OF SUPPORT FOR NEW CLAIMS – 37 C.F.R. § 1.173(C)

CLAIM 21: (col. 2, lines 47-49)

CLAIM 22: (FIG. 2; col. 2, lines 15-16; col. 2, line 33; col. 2, lines 54-55; col. 3, line 51; col. 4, line 10; col. 4, line 20) with claim numbered elements noted below

A media support apparatus (100) comprising:

a body having a first support back (105a), a second support back (105c), and a third support back (105b) disposed about a central axis (125);

a first support edge (110c) disposed between the first support back and the second support back, wherein the first support back and first support edge are configured to support a media device at a first support angle (orthogonal to viewing angle 160a);

a second support edge (110b) disposed between the second support back and third support back, wherein the second support back and second support edge are configured to support a media device at a second support angle (orthogonal to viewing angle 160c);

a third support edge (110a) disposed between the third support back and first support back, where the third support back and third support edge are configured to support a media device at a third support angle (orthogonal to viewing angle 160b);

wherein said media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three

positions including on a first virtual plane (130c) between a top of the second support back (105c) and an outer edge of the second edge support (110b), on a second virtual plane (130b) between a top of the third support back (105b) and an outer edge of the third edge support (110a), and on a third virtual plane (130a) between a top of the first support back (105a) and an outer edge of the first edge support (110c); and

wherein the media support apparatus is configured to provide a first viewing angle (160a) of the media device when the media support apparatus body rests on the first virtual plane (130c) and the media device is supported at the first support angle, a second viewing angle (160c) when the media support apparatus body rests on the second virtual plane (130b) and the media device is supported at the second support angle, and a third viewing angle (160b) when the media support apparatus body rests on the third virtual plane (130a) and the media device is supported at the third support angle, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

CLAIM 23: (col. 3, lines 16-39)

CLAIM 24: (col. 3, lines 40-49)

CLAIM 25: (col. 3, lines 50-54)

CLAIM 26: (col. 3, lines 55-57)

CLAIM 27: (col. 2, lines 64-65)

CLAIM 28: (col. 2, lines 65-67)

CLAIM 29: (col. 3, lines 3-5)

CLAIM 30: (FIG. 2; col. 2, lines 15-16; col. 2, line 33; col. 2, lines 54-55; col. 3, line 51; col. 4, line 10; col. 4, line 20)

CLAIMS 31-39: (original claims) (col. 3, lines 40-44) (col. 3, lines 44-49) (col. 2, lines 44-45) (col. 2, lines 45-46) (col. 2, lines 49-50) (col. 2, lines 52-53) (col. 3, lines 59-60) (col. 3, lines 56-57) (col. 3, lines 57-58)

//

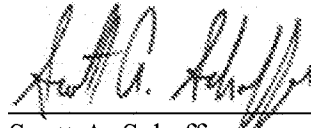
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Conclusion

Applicants submit that the present reissue application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to take the initiative and telephone the undersigned at (503) 970-5119 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Scott A. Schaffer", is written over a horizontal line.

Scott A. Schaffer

Reg. No. 38,610

SCHAFFER IP LAW, LLC
2187 SW Market Street Dr.
Portland, OR 97201
503-970-5119
Customer No. 133404

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)

7300-0002

I hereby declare that:

Each inventor's residence, mailing address and citizenship are stated below next to their name.

I believe the inventors named below to be the original and first inventor(s) of the subject matter which is described and claimed in patent number 9,642,454, granted May 9, 2017 and for which a reissue patent is sought on the invention entitled MULTIPLE VIEWING ANGLE MEDIA SUPPORT,

the specification of which

☐ is attached hereto.☒ was filed on Jan. 30, 2019 as reissue application number 16/262,797and was amended on January 23, 2019
(If applicable)

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. This application was made or was authorized to be made by me.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

☐ I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.☒ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

Applicant believes the original patent to be partially inoperative by reason of the patentee claiming less than patentee had a right to claim. Among other actions, therefore, applicant seeks to broaden issued claim 1.

Furthermore, applicant believes an error was made in not pursuing overlooked aspects of the invention. Such overlooked aspects have never been covered by a claim at any point during prosecution of the original application.

Finally, applicant submits that the original attorney in the case may have committed error by

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

HPI-ONTEL0000225

(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

Docket Number (Optional)

7300-0002

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

Note: To appoint a power of attorney, use form PTO/SB/81.

Correspondence Address: Direct all communications about the application to:



The address associated with Customer Number:

133404

OR



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WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed. I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

Full name of sole or first inventor (given name, family name)

Bruce Cannon

Inventor's signature

Date

1-21-20

Residence
Portland, OR

Citizenship
US

Mailing Address

c/o CartLogic, 1200 NW Naito Parkway, #180, Portland, OR 97209

Full name of second joint inventor (given name, family name)

Juliette Fassett

Inventor's signature

Date

Residence
Portland, OR

Citizenship
US

Mailing Address

c/o CartLogic, 1200 NW Naito Parkway, #180, Portland, OR 97209

☐ Additional joint inventors or legal representative(s) are named on separately numbered sheets forms PTO/SB/02A or 02LR attached hereto.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Patent Application Fee Transmittal

Application Number:	16262797			
Filing Date:	30-Jan-2019			
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT			
First Named Inventor/Applicant Name:	Bruce Cannon			
Filer:	Scott Alexander Schaffer			
Attorney Docket Number:	7300-0002			
Filed as Small Entity				
Filing Fees for Utility under 35 USC 111(a)				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
CLAIMS IN EXCESS OF 20	2202	9	50	450
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension-of-Time:				
Extension - 1 month with \$0 paid	2251	1	100	100
Miscellaneous:				
Total in USD (\$)				550

Electronic Acknowledgement Receipt

EFS ID:	38378789
Application Number:	16262797
International Application Number:	
Confirmation Number:	1586
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT
First Named Inventor/Applicant Name:	Bruce Cannon
Customer Number:	133404
Filer:	Scott Alexander Schaffer
Filer Authorized By:	
Attorney Docket Number:	7300-0002
Receipt Date:	23-JAN-2020
Filing Date:	30-JAN-2019
Time Stamp:	13:45:43
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	\$550
RAM confirmation Number	E20201MD46091489
Deposit Account	
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

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File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1		7300-0002b.pdf	688539	yes	23
			514e8bb7326f4f06e458a9a85c11f11dbe25fb01		
	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Amendment/Req. Reconsideration-After Non-Final Reject		1	1	
	Claims		2	7	
	Applicant Arguments/Remarks Made in an Amendment		8	23	
Warnings:					
Information:					
2	Oath or Declaration filed	signed-substitute-aia0051-reissue-declaration-7300-002.pdf	1807180	no	3
			704555bd2890fda675eae45910366a45ed010d25		
Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	32313	no	2
			a15f40c066822b9f1956313e25657f3dad541693		
Warnings:					
Information:					
Total Files Size (in bytes):			2528032		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.



UNITED STATES PATENT AND TRADEMARK OFFICE

USPTO Automated Interview Request (AIR)

Jan 9 2020

This paper requesting to schedule and/or conduct an interview is appropriate because:

This submission is requested to be accepted as an authorization for this interview to communicate via the internet. Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with the undersigned concerning scheduling of the interview via video conference, instant messaging, or electronic mail, and to conduct the interview in accordance with office practice including video conferencing.

Name(s) :

Scott A. Schaffer

S-signature:

/scott a schaffer/

Registration Number:

38610

U.S. Application Number:

16262797

Confirmation Number:

1586

E-mail Address:

scott@schafferiplaw.com

Phone Number:

+1 5039705119 ext 05119

Proposed Time of Interview:

1-21-2020 1:00 PM ET

Alternative Proposed Time(s) of Interview:

1-22-2020 1:00 PM ET

Alternative Proposed Time(s) of Interview:

1-23-2020 1:00 PM ET

Preferred Interview Type:

Video Conference

I am the applicant or applicant's representative for this application.

Topic for Discussion:

Applicant wishes to discuss elements of the claims that are not disclosed or fairly suggested by the prior art and thus unable to support a rejection under 35 USC 103, and also to overlooked aspects of the invention that were not part of prosecution of the original patent under reissue.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/262,797	01/30/2019	Bruce Cannon	7300-0002	1586

133404 7590 10/18/2019
Schaffer IP Law, LLC
2187 SW Market Street Dr.
Portland, OR 97201

EXAMINER

WEHNER, CARY ELLEN

ART UNIT	PAPER NUMBER
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3993

MAIL DATE	DELIVERY MODE
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10/18/2019

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

REISSUE APPLICATIONS

DETAILED ACTION

AIA - Reissue Applications

For reissue applications filed on or after September 16, 2012, all references to 35 U.S.C. 251 and 37 CFR 1.172, 1.175, and 3.73 are to the current provisions.

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

Related Proceedings

Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 9,642,454 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprise the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP §§ 1404, 1442.01 and 1442.04.

Status of Amendments

A preliminary amendment was filed on January 30, 2019. This amendment does not comply with the requirements for amendments for reissue applications. 37 CFR 1.173(b)-(g). Specifically, matter that is to be deleted must be enclosed in single brackets and matter to be added is to be underlined. New claims must be completely underlined. See below for the requirements set forth in 37 CFR 1.173(b)-(g).

For purposes of examination, the preliminary amendment has been entered and the status of the claims are as follows:

Amended original claims: 1

Original claims: 2 – 10

New claims: 11-20.

Reissue Oath/Declaration

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

MPEP 1414 states:

The "at least one error" which is relied upon to support the reissue application must be set forth in the oath/declaration. It is not necessary, however, to point out how (or when) the error arose or occurred. Further, it is not necessary to point out how (or when) the error was discovered. If an applicant chooses to point out these matters, the statements directed to these matters will not be reviewed by the examiner, and the applicant should be so informed in the next Office action. What is needed for the oath/declaration statement as to error is the identification of "at least one error" relied upon. For an application filed on or after September 16, 2012 that seeks to enlarge the scope of the claims of the patent, **the reissue oath or declaration must also identify a claim that the application seeks to broaden.** A general statement, e.g., that all claims are broadened, is not sufficient to satisfy this requirement. In identifying the error, it is sufficient that the reissue oath/declaration identify a single word, phrase, or expression in the specification or in an original claim, and how it renders the original patent wholly or partly inoperative or invalid. Emphasis added.

In this case, the statement provided in the declaration does not identify a specific claim or claims that the application seeks to broaden.

Claim Rejections – 35 U.S.C. 251

Declaration:

Claims 1-20 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Recapture:

Claims 1-10, 12-15 and 17-20 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Greenliant Systems, Inc. et al v. Xicor LLC*, 692 F.3d 1261, 103 USPQ2d 1951 (Fed. Cir. 2012); *In re Shahram Mostafazadeh and Joseph O. Smith*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011); *North American Container, Inc. v. Plastipak Packaging, Inc.*, 415 F.3d 1335, 75 USPQ2d 1545 (Fed. Cir. 2005); *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the original application for the patent shows that the broadening aspect (in the reissue) relates to claimed subject matter that applicant previously surrendered during the prosecution of the application. **The "original application" includes the patent family's entire prosecution history.** *MBO Laboratories, Inc. v. Becton, Dickinson & Co.*, 602 F.3d 1306, 94 USPQ2d 1598 (Fed. Cir. 2010). Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope of claim subject matter surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

MPEP 1412.02 II summarizes the three-step test for recapture:

Clement, 131 F.3d at 1468-70, 45 USPQ2d at 1164-65, the Court of Appeals for the Federal Circuit set forth a three step test for recapture analysis. In *North American Container*, 415 F.3d at 1349, 75 USPQ2d at 1556, the court restated this test as follows:

We apply the recapture rule as a three-step process:

(1) first, we determine whether, and in what respect, the reissue claims are broader in scope than the original patent claims;

[NOTE: if the claims are not broader in scope than the original patent claims, there is no recapture; if the claims are broader in scope, then proceed to step (2).]

(2) next, we determine whether the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution. Step 2 includes two subsets:

1. The Two Sub-Steps:

(A) One must first determine whether applicant surrendered any subject matter in the prosecution of the original application that became the patent to be reissued.

If an original patent claim limitation now being omitted or broadened in the present reissue application was originally relied upon by applicant in the original application to make the claims allowable over the art, the omitted limitation relates to subject matter previously surrendered by applicant. The reliance by applicant to define the original patent claims over the art can be by presentation of new/amended claims to define over the art, or an argument/statement by applicant that a limitation of the claim(s) defines over the art. To determine whether such reliance occurred, the examiner must review the prosecution history of the original application (of the patent to be reissued and any related application(s)) for surrender of claimed subject matter which may result in recapture. The prosecution history includes the rejections and applicant's arguments made therein.

With respect to whether applicant surrendered any subject matter, it is to be noted that a patent owner (reissue applicant) is bound by the argument that applicant relied upon to overcome an art rejection in the original application for the patent to be reissued, regardless of whether the Office adopted the argument in allowing the claims. *Greenliant Systems, Inc. v. Xicor LLC*, 692 F.3d 1261, 1271, 103 USPQ2d 1951, 1958 (Fed. Cir. 2012). As pointed out by the court, "[i]t does not matter whether the examiner

or the Board adopted a certain argument for allowance; the sole question is whether the argument was made." *Id.*

If applicant did not surrender any subject matter in the prosecution of the original application, the analysis ends and there is no recapture.

(B) If applicant did surrender subject matter in the original application prosecution, the examiner must then determine whether any of the broadening of the reissue claims is in the area of the surrendered subject matter. The examiner must analyze all of the broadening aspects of the reissue claims to determine if any of the omitted/broadened limitation(s) are directed to limitations relied upon by applicant in the original application to make the claims allowable over the art. and

[NOTE: if the broader aspects of the reissue claims do not relate to surrendered subject matter, there is no recapture; if the broader aspects of the reissue claims do relate to surrendered subject matter, then proceed to step (3).]

(3) finally, we determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.

[NOTE: if the reissue claims were materially narrowed in aspects related to the surrendered subject matter, there is no recapture; if the claims were not materially narrowed in related aspects or were narrowed in unrelated aspects, there is recapture.]

In *North American Container*, the court cited *Pannu*, 258 F.3d at 1371, 59 USPQ2d at 1600; *Hester*, 142 F.3d at 1482-83, 46 USPQ2d at 1649-50; and *Clement*, 131 F.3d at 1468, 45 USPQ2d at 1164-65 as cases that lead to, and explain the language in, the *North American Container* recapture test.

A review of the prosecution history of Application Nos. 15/192,737 and 14/518,443 reveals the following:

1. The '443 application was filed on October 20, 2014 with claims 1-14.
2. A non-final Office action was mailed on August 14, 2015. The Office action rejected claims 1-14 under 35 USC 103(a) as being unpatentable over

Patti Halpin U.S. Patent Publication 2003/0001063 A1 (Halpin) in view Zvi Klepar U.S. Design Patent D703,216 S (Klepar).

3. In response to the Office action, Applicant amended claim 1 to add “wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.”

4. A Final Office Action was mailed on February 11, 2016 which included a rejection of claim 1 under 35 USC 112(a) because the amendment (the first viewing angle of the first back support to be 36 degrees and the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees) was not adequately supported by the original disclosure.

5. The ‘737 application claimed priority, as a continuation-in-part, to application number 14/518,443, which was filed on October 20, 2014. Application No. 15/192,737 was filed on June 24, 2016 with claims 1-10.

6. Claim 1 of the ‘737 application included the limitation “a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.”

7. A Notice of Allowability was mailed on January 6, 2017 and was accompanied by an examiner’s statement of reasons for allowance that stated “[t]he prior art does not disclose a three sided support for media device . . . each side allows for three distinct display angles for the media device.”

8. The present reissue application was filed on January 30, 2017. Original independent claim 1 has been amended to remove the specific viewing angles (36, 74 and 49 degrees) and add the limitation that the viewing angles form three different viewing angles. The preliminary amendment included new

independent claim 13 which does not include the specific viewing angles set forth in original claim 1.

Three step analysis of current reissue:

Step 1. Are there reissue claims that are broader in scope than the original claims?

Amended independent claim 1 and new independent claim 13 do not include the specific viewing angles (36, 74 and 49 degrees). New claims 11 (dependent on claim 1) and 16 (dependent on claim 13) include these specific viewing angles. Accordingly, claims 1-10, 12-15 and 17-20 are broader in scope than the original claims.

Step 3: Determine if the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution.

Substep A: During the prosecution of the original application, 14/267,636, applicant argued: "Applicants therefore submit that the combination of Halpin and Klepar does not teach the distinguishing elements . .each edge support comprises an edge support width with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis ..and . .wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees..." recited for claim 1, that claim 1 is allowable, and that claims depending from claim 1 are also allowable as depending from allowable claims." (14/267,636, Remarks, 11/13/15, pg. 10).

Claims 1-10, 12-15 and 17-20 of the present application are broader than original patented claim 1 of the '454 patent because they do not include the limitation ""wherein a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third

viewing angle of the third back support is 49 degrees.” This limitation is considered to be a surrender generating limitation because applicant argued that this limitation was not taught by the prior art. Because the claims do not present any of the surrendered limitations, this constitutes an improper recapture of broadened claimed subject matter.

Subset B:

As shown above, claims 1-10, 12-15 and 17-20 do not include the surrendered limitations.

Step Three: Determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.

MPEP 1412.02.II.C states:

As pointed out above, this third step of the recapture determination, as set forth in *North American Container*, considers the significance of the claim limitations that were added and deleted, during prosecution of the patent (to be reissued) to determine whether the reissue claims should be barred under the recapture doctrine.

In the decision of *In re Mostafazadeh*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011), the Federal Circuit stated that to avoid the recapture rule “the claims must be materially narrowed relative to the surrendered subject matter such that the surrendered subject matter is not entirely or substantially recaptured.” *Id.* at 1361, 98 USPQ2d at 1644. Under this third step, it must be determined if there is entire or substantial recapture of the surrendered subject matter because there is no or insufficient material narrowing to avoid the recapture rule.

The following discussion addresses analyzing the reissue claims that have eliminated or modified a surrender generating limitation, as determined under step 2 analysis. In any broadening reissue application, the examiner will determine, under steps 1 and 2 of the recapture analysis on a claim-by-claim basis, whether the broadening relates to subject matter that was surrendered during the examination of the patent for which reissue is requested. Under step 3, it must be determined if such reissue claims are materially narrowed so as to escape the effects of the recapture doctrine. Note, examiners should consider any relevant preliminary applicant arguments of record as part of the recapture determination. See subsection VII., below, “REBUTTAL BY THE REISSUE APPLICANT,” which points out how the recapture finding of the Office can be rebutted by applicant, in some limited instances, by showing that material narrowing is present in the claims.

The modification of a surrender generating limitation is broken down into two possibilities that will be addressed below.

1) If a surrender generating limitation (SGL) has been entirely eliminated from a claim present in the reissue application, then a recapture rejection under 35 U.S.C. 251 may be proper. For example, if a claim limitation present in the original patent that was added to overcome a rejection or that was argued by applicant to distinguish over the prior art is entirely eliminated

from a claim in the reissue application and not replaced by a new SGL-related limitation, then a recapture rejection under 35 U.S.C. 251 is proper and must be made for that claim.

Such an omission in a reissue claim, even if it is accompanied by other limitations making the reissue claim narrower than the patent claim in other unrelated aspects, is impermissible recapture. *Pannu*, 258 F.3d at 1371-72, 59 USPQ2d at 1600. But note that even if the SGL limitation in the patent claims was entirely eliminated, the reissue applicant may have added a new limitation that relates to surrendered subject matter. See the last paragraph of this subsection below.

2) If the SGL has not been entirely eliminated from a claim in the reissue application (i.e., the amendment narrowing the claim or the argued limitation has not been entirely eliminated from the claim in the reissue application), but rather it has been made less restrictive in the reissue application claim (such that the claim is broadened), the analysis (based on *In re Mostafazadeh*, 643 F.3d 1353, 98 USPQ2d 1639 (Fed. Cir. 2011) and *In re Youman*, 679 F.3d 1335, 102 USPQ2d 1862 (Fed. Cir. 2012)) is as follows:

It must be determined what portion of the amendment or argued limitation has been retained, and whether the retained portion materially narrows the original claims to avoid recapture.

See *Youman*, 679 F.3d at 1346 n.4, 102 USPQ2d at 1870 n.4 ("original claims' are defined as 'the claims before surrender'"). "[I]f the patentee modifies the added [or argued] limitation such that it is broader than the patented claim yet still materially narrows relative to the original claim, the recapture rule does not bar reissue." *Id.* at 1347, 102 USPQ2d at 1870. On the other hand, if the retained portion of the modified limitation is "well known in the prior art," impermissible recapture has not been avoided. See *Mostafazadeh*, 643 F.3d at 1361, 98 USPQ2d at 1644. It is to be noted that if the retained portion of the modified limitation is well known in the prior art, then impermissible recapture exists, even in a case where a further limitation which is not related to the surrendered subject matter (i.e., a limitation that does not materially narrow the claims) has been added to define the claims over the art. *Id.* (Emphasis added).

Claim 1 was amended to include the limitation first, second and third viewing angles are different. New claim 13 also includes this limitation. Therefore, the surrender generating limitation has not been entirely eliminated because it is broader yet is materially narrowed relative to the original claim (claim 1 of the '443 application). However, the limitation that the viewing angles are different is well known in the prior art, as demonstrated by the patent to Barcalo 1,928,806 (discussed below). Accordingly, impermissible recapture exists.

Claim Rejections - 35 USC § 103

In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103 as being unpatentable over Barcalo (1,928,806) in view of Halpin (2003/0001063). Barcalo discloses an apparatus comprising three support sides, each comprising a back support 13, 14 or 15 and an edge support 21 in physical communication with two ends 12 of the interior. The edge support widths are at an edge angle to the adjacent back support and the face of each edge support is oriented clockwise of the central axis. Figs. 5 and 6. Barcalo states "[t]he edges of the triangular ends are preferably nearly, but not equal in length, and all the angles of the triangle also are preferably unequal, so that when the pillow is supported upon different side faces, the other side faces will have different inclinations to the supporting surface." Page 1, lines 86-91. Accordingly, the back supports form different viewing angles. Barcalo does not disclose that the edge supports are surfaces of the solid, one-piece interior. Halpin discloses an apparatus comprising a support side comprising a back support 12A, an edge support 12C and two ends 12R, 12L of a solid interior. The edge support extends at an angle to the back support. Halpin teaches that the foam construction allows for low manufacturing costs, ease of production and shipping, and lighter overall weight. It would have been obvious to form the apparatus of Barcalo of a one piece block such that the back supports, the edge supports and the ends are integral, in view of the teachings of Halpin, in order to lower costs and ease production (by not having to form separate edge supports). Regarding claim 2-12, 14-17, Barcalo discloses that the back supports have different lengths. It would have been an obvious matter of design choice to form the back support of Barcalo with the specified dimensions, since such a modification would have

involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claim 18, the apparatus of Barcalo comprises a pillow having a solid interior.

Regarding claim 19, Barcalo teaches that the fill of the pillow is made of a “soft, loose, yielding or elastic filling . . . more or less pliable or resilient.” Page 1, lines 69-73. Regarding claim 20, Barcalo discloses that the pillow may be covered by a “flexible sheet material, such as textile fabric or leather.” Pg. 1, lines 67-69. Ultra-suede is a leather material.

Claims 1-20 are rejected under 35 U.S.C. 103 as being unpatentable over Halpin (2003/0001063) in view of Barcalo (1,928,806). Halpin discloses an apparatus comprising a support side comprising a back support 12A, an edge support 12C and two ends 12R, 12L of a solid interior. The edge support extends at an angle to the back support. Halpin does not disclose three support sides each comprising a back support and an edge support. Barcalo discloses an apparatus comprising three support sides, each comprising a back support 13, 14 or 15 and an edge support 21 in physical communication with two ends 12 of the interior. The edge support widths are at an edge angle to the adjacent back support and the face of each edge support is oriented clockwise of the central axis. Figs. 5 and 6. Barcalo states “[t]he edges of the triangular ends are preferably nearly, but not equal in length, and all the angles of the triangle also are preferably unequal, so that when the pillow is supported upon different side faces, the other side faces will take different inclinations to the supporting surface.” Page 1, lines 86-91. Accordingly, the back supports form different viewing angles. It would have been obvious to one of ordinary skill in the art to form the apparatus of Halpin with three support sides each comprising a back support and an edge support wherein each back support forming a different viewing angles, as taught by Barcalo, in order to increase the flexibility of the apparatus by providing more viewing angle to accommodate the user’s needs. Regarding claim 2-12, 14-17, Barcalo discloses that the back supports have different lengths. It would have been an obvious matter of design choice to form the back support of Barcalo with the specified

dimensions, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955). Regarding claim 18, the apparatus of Barcalo comprises a pillow having a solid interior. Regarding claim 19, Halpin discloses that the body may be formed of a pliable material to allow a user to partially depress a book. Para. [0052]. Barcalo teaches that the fill of the pillow is made of a "soft, loose, yielding or elastic filling . . . more or less pliable or resilient." Page 1, lines 69-73. Regarding claim 20, Barcalo discloses that the pillow may be covered by a "flexible sheet material, such as textile fabric or leather." Pg. 1, lines 67-69. Ultra-suede is a leather material.

Amendments in Reissue Applications

Applicant is notified that any subsequent amendment to the specification, claims and drawings must comply with 37 CFR 1.173(b)-(g).

Specification

The provisions of 37 CFR 1.173(b)(1), (d), (f) and (g) govern amendments to the specification (other than the claims) in reissue applications. The following guidance is provided as to the procedure for amending the specification:

a) All amendments which include deletions or additions must be made by submission of the entire text of each added or rewritten paragraph **containing the bracketing and/or underlining required by 37 CFR 1.173(d)**.

b) An entire paragraph of specification text may be deleted by a statement deleting the paragraph without presentation of the text of the paragraph.

c) Applicant must indicate the precise point where each amendment is made.

d) ***All bracketing and underlining is made in comparison to the original patent, not in comparison to any prior amendment in the reissue application.*** Thus, all paragraphs which are newly added to the specification of the original patent must be submitted as completely underlined each time they are re-submitted in the reissue application.

- (1) **The matter to be omitted by reissue must be enclosed in brackets;** and
- (2) **The matter to be added by reissue must be underlined**, except for amendments submitted on compact discs (§§ 1.96 and 1.821(c)).

Claims

The provisions of 37 CFR 1.173(b)(2), (c)-(e) and (g) govern amendments to the claims in reissue applications. The following guidance is provided as to the procedure for amending the claims:

- a) For each claim that is being amended, the entire text of the claim must be presented with the **bracketing and/or underlining** required by 37 CFR 1.173(d). [(1) **The matter to be omitted by reissue must be enclosed in brackets;** and (2) **The matter to be added by reissue must be underlined.**]
- b) **For each new claim added to the reissue, the entire text of the added claim must be presented completely underlined.**
- c) A patent claim should be canceled by a direction to cancel that claim. There is no need to present the patent claim surrounded by brackets.
- d) A new claim (previously added in the reissue) should be canceled by a direction to cancel that claim.
- e) Pursuant to 37 CFR 1.173(b)(2), each claim that is amended or added should include the appropriate status indicator following the claim number, e.g., “(amended)”, “(twice amended)”, “(new)”, and “(canceled)”.
- f) Pursuant to 37 CFR 1.173(c), each amendment submitted must set forth the status of all patent claims and all added claims as of the date of the submission. The status to be set forth is whether the claim is pending or canceled.
- g) Also pursuant to 37 CFR 1.173(c), each claim amendment must be accompanied by an explanation of the support in the patent’s disclosure for all changes made in the claim(s), whether insertions or deletions.
- h) Pursuant to 37 CFR 1.173(e), original patent claims are never to be renumbered. A patent claim retains its number even if it is canceled in the reissue proceeding, and the numbering of any added claims must begin after the last original patent claim.
- i) Pursuant to 37 CFR 1.173(g), all bracketing and underlining is made in comparison to the original patent, not in comparison to any prior amendment in the reissue application.

Drawings

The provisions of 37 CFR 1.173(b)(3) govern amendments to the drawings in reissue applications. The following guidance is provided as to the procedure for amending drawings:

b) Where a change to the drawings is desired, applicant must submit a replacement sheet for each sheet of drawings containing a figure to be revised. Any replacement sheet must comply with 37 CFR 1.84 and include all of the figures appearing on the original version of the sheet, even if only one figure is being amended. **Each figure that is amended must be identified by placing the word “Amended” at the bottom of that figure.** Any added figure must be identified as “New”. In the event that a figure is canceled, the figure must be identified as “Canceled” and also surrounded by brackets.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARY E WEHNER whose telephone number is (571)272-4715. The examiner can normally be reached on 9am to 5 pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CARY E WEHNER/
Primary Examiner, Art Unit 3993

Conferee: /CSW/
Conferee: /E.D.L/
SPRS, Art Unit 3993

<i>Notice of References Cited</i>	Application/Control No. 16/262,797		Applicant(s)/Patent Under Reexamination Cannon et al.	
	Examiner CARY E WEHNER		Art Unit 3993	Page 1 of 1

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<i>Search Notes</i> 	Application/Control No. 16/262,797	Applicant(s)/Patent Under Reexamination Cannon et al.
	Examiner CARY E WEHNER	Art Unit 3993

CPC - Searched*		
Symbol	Date	Examiner
a47b23/042	09/24/2019	cew

CPC Combination Sets - Searched*		
Symbol	Date	Examiner

US Classification - Searched*			
Class	Subclass	Date	Examiner
248	441.1, 454	09/24/2019	cew
D6	419,406	09/24/2019	cew
D9	91	09/24/2019	cew

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
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STATEMENT BY APPLICANT**
(Not for submission under 37 CFR 1.99)

Application Number

Filing Date

First Named Inventor

Bruce Cannon

Art Unit

Examiner Name

Attorney Docket Number

7300-0002

U.S.PATENTS[Remove](#)

Examiner Initial*	Cite No	Patent Number	Kind Code ¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
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	2	7492538	B2	2009-02-17	Ishizawa et al.	
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Application Number		
Filing Date		
First Named Inventor	Bruce Cannon	
Art Unit		
Examiner Name		
Attorney Docket Number	7300-0002	

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First Named Inventor	Bruce Cannon	
Art Unit		
Examiner Name		
Attorney Docket Number	7300-0002	

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First Named Inventor	Bruce Cannon	
Art Unit		
Examiner Name		
Attorney Docket Number	7300-0002	

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	1	20030001063	A1	2003-01-02	Halpin	
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Art Unit	
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INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)

Application Number		
Filing Date		
First Named Inventor	Bruce Cannon	
Art Unit		
Examiner Name		
Attorney Docket Number	7300-0002	

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☒ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

See attached certification statement.

The fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☒ A certification statement is not submitted herewith.

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature	/scott a schaffer/	Date (YYYY-MM-DD)	2019-01-30
Name/Print	Scott A. Schaffer	Registration Number	38,610

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	19	(US-1274616-\$ US-1541190-\$ US-1593876-\$ US-1880327-\$ US-1991812-\$ US-3029797-\$ US-3320319-\$ US-3364603-\$ US-3365687-\$ US-3805895-\$).DID.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/21 12:43
L2	8	(US-4462096-\$ US-7492538-\$ US-7626776-\$ US-7627238-\$ US-7639440-\$ US-7641403-\$ US-7652833-\$ US-7705909-\$).DID.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/21 12:45
L3	23	((("7852579") or ("d805895") or ("3364603") or ("4274616") or ("4541190") or ("4593876") or ("4880327") or ("4991812") or ("5029797") or ("d320319") or ("5365687") or ("5413305") or ("d365461") or ("5582382") or ("d391474") or ("6196512") or ("6270049") or ("6651367") or ("6934084") or ("d640112") or ("8038116") or ("d677669")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2019/09/21 12:52
L4	1	("d392474").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2019/09/21 12:53
L5	3	((("d690308") or ("d703216") or ("20030136036")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2019/09/21 12:54
S1	1	("9642454").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2019/08/15 11:38
S2	30	("0805895" "20030001063" "20030136036" "3364603" "4274616" "4541190" "4593876" "4880327" "4991812" "5029797" "5365687" "5413305" "5582382" "6196512" "6270049" "6651367" "6934084" "8038116" "D320319" "D365461" "D392474" "D640112" "D677669" "D690308" "D703216").PN. OR ("9642454").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/20 16:40
S3	30	("0805895" "20030001063" "20030136036" "3364603" "4274616" "4541190" "4593876" "4880327" "4991812" "5029797" "5365687" "5413305" "5582382" "6196512" "6270049" "6651367" "6934084" "8038116" "D320319" "D365461" "D392474" "D640112" "D677669" "D690308" "D703216").PN. OR ("9642454").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/20 16:41
S4	30	("0805895" "20030001063" "20030136036" "3364603" "4274616" "4541190" "4593876" "4880327" "4991812" "5029797" "5365687" "5413305"	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/20 17:05

		"5582382" "6196512" "6270049" "6651367" "6934084" "8038116" "D320319" "D365461" "D392474" "D640112" "D677669" "D690308" "D703216").PN. OR ("9642454").URPN.				
S5	2266	((248/441.1,454) or (d6/419,406) or (d19/91)).CCLS.	US- PGPUB; USPAT; USOCR	OR	OFF	2019/09/20 17:13
S6	1942	a47b23/042.cpc.	US- PGPUB; USPAT; USOCR	OR	ON	2019/09/20 17:24
S7	3852	S5 or S6	US- PGPUB; USPAT; USOCR	OR	ON	2019/09/20 17:25
S8	1650	((248/441.1,454) or (d6/419,406) or (d19/91)).CCLS.	US- PGPUB; USPAT	OR	OFF	2019/09/20 17:26
S9	1141	a47b23/042.cpc.	US- PGPUB; USPAT	OR	ON	2019/09/20 17:26
S10	2587	S8 or S9	US- PGPUB; USPAT; USOCR	OR	ON	2019/09/20 17:27
S11	39	("1934254" "4313112" "4607817" "4967992" "D220343" "D328314").PN. OR ("D365461").URPN.	US- PGPUB; USPAT; USOCR	OR	ON	2019/09/20 18:00
S12	18	("D362565" "D365461" "D555655" "D569380" "D571815" "D639816" "D666995" "D667831" "D672783" "D677669" "D696258" "D703216").PN. OR ("D768138").URPN.	US- PGPUB; USPAT; USOCR	OR	ON	2019/09/20 18:02
S13	15	(US-20030001063-\$ or US-20170071333- \$).did. or (US-D807432-\$ or US-D703216-\$ or US-D690308-\$ or US-6412743-\$ or US- 6270049-\$ or US-D365461-\$ or US-D768138-\$ or US-D696258-\$ or US-3746296-\$ or US- 3476254-\$ or US-1934254-\$ or US-1928806-\$ or US-D677669-\$).did.	US- PGPUB; USPAT	OR	ON	2019/09/21 11:35
S14	1	("9642454").PN.	US- PGPUB; USPAT; USOCR	OR	OFF	2019/09/21 12:32
S15	1650	((248/441.1,454) or (d6/419,406) or (d19/91)).CCLS.	US- PGPUB; USPAT	OR	OFF	2019/09/21 12:34
S16	1141	a47b23/042.cpc.	US- PGPUB; USPAT	OR	ON	2019/09/21 12:34
S17	2587	S15 or S16	US- PGPUB; USPAT; USOCR	OR	ON	2019/09/21 12:34
S18	4	(S15 or S16) and suede	US- PGPUB;	OR	ON	2019/09/21 12:35

			USPAT; USOCR			
S19	33	(S15 or S16) and indentation	US- PGPUB; USPAT; USOCR	OR	ON	2019/09/21 12:36

9/ 21/ 2019 12:55:07 PM
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MULTIPLE DEPENDENT CLAIM FEE CALCULATION SHEET Substitute for Form PTO-1360 (For use with Form PTO/SB/06)							Application Number 16262797		Filing Date				
							Applicant(s) Bruce Cannon						
							* May be used for additional claims or amendments						
CLAIMS	AS FILED		AFTER FIRST AMENDMENT		AFTER SECOND AMENDMENT			*		*		*	
	Indep	Depend	Indep	Depend	Indep	Depend		Indep	Depend	Indep	Depend	Indep	Depend
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Total Depend	18		0		0								
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PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875						Application or Docket Number 16/262,797				
APPLICATION AS FILED - PART I										
(Column 1)		(Column 2)		SMALL ENTITY		OR OTHER THAN SMALL ENTITY				
FOR	NUMBER FILED	NUMBER EXTRA	RATE(\$)	FEE(\$)		RATE(\$)	FEE(\$)			
BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A	150		N/A				
SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A	N/A	330		N/A				
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A	1100		N/A				
TOTAL CLAIMS (37 CFR 1.16(j))	20	minus 20 = *	x 50 =	0.00	OR					
INDEPENDENT CLAIMS (37 CFR 1.16(h))	2	minus 3 = *	x 230 =	0.00						
APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$310 (\$155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).			0.00						
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))				0.00						
			TOTAL	1580		TOTAL				
* If the difference in column 1 is less than zero, enter "0" in column 2.										
APPLICATION AS AMENDED - PART II										
(Column 1)		(Column 2)		(Column 3)		SMALL ENTITY		OR OTHER THAN SMALL ENTITY		
AMENDMENT A		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE(\$)	ADDITIONAL FEE(\$)		RATE(\$)	ADDITIONAL FEE(\$)
	Total (37 CFR 1.16(i))	*	Minus	**	=	x	=	OR	x	=
	Independent (37 CFR 1.16(h))	*	Minus	***	=	x	=	OR	x	=
	Application Size Fee (37 CFR 1.16(s))							OR		
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	
AMENDMENT B		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE(\$)	ADDITIONAL FEE(\$)		RATE(\$)	ADDITIONAL FEE(\$)
	Total (37 CFR 1.16(i))	*	Minus	**	=	x	=	OR	x	=
	Independent (37 CFR 1.16(h))	*	Minus	***	=	x	=	OR	x	=
	Application Size Fee (37 CFR 1.16(s))							OR		
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
						TOTAL ADD'L FEE		OR	TOTAL ADD'L FEE	
* If the entry in column 1 is less than the entry in column 2, write "0" in column 3. ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". The "Highest Number Previously Paid For" (Total or Independent) is the highest found in the appropriate box in column 1.										



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
16/262,797	01/30/2019	3632	1580	7300-0002	20	2

CONFIRMATION NO. 1586

FILING RECEIPT



0000000106903304

133404
Schaffer IP Law, LLC
2187 SW Market Street Dr.
Portland, OR 97201

Date Mailed: 03/27/2019

Receipt is acknowledged of this reissue patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Inventor(s)

Bruce Cannon, Portland, OR;
Juliette Fassett, Portland, OR;

Applicant(s)

Happy Products, Inc., Portland, OR, Assignee (with 37 CFR 1.172 Interest);

Assignment For Published Patent Application

Happy Products, Inc., Portland, OR

Power of Attorney: The patent practitioners associated with Customer Number 133404

Domestic Priority data as claimed by applicant

This application is a REI of 15/192,737 06/24/2016 PAT 9642454
which is a CIP of 14/518,443 10/20/2014 ABN
which claims benefit of 61/896,540 10/28/2013

Foreign Applications for which priority is claimed (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.) - None.

Foreign application information must be provided in an Application Data Sheet in order to constitute a claim to foreign priority. See 37 CFR 1.55 and 1.76.

Permission to Access Application via Priority Document Exchange: Yes

Permission to Access Search Results: No

Applicant may provide or rescind an authorization for access using Form PTO/SB/39 or Form PTO/SB/69 as appropriate.

If Required, Foreign Filing License Granted: 03/26/2019

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 16/262,797**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

MULTIPLE VIEWING ANGLE MEDIA SUPPORT

Preliminary Class

248

Statement under 37 CFR 1.55 or 1.78 for AIA (First Inventor to File) Transition Applications: Yes

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4258).

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		
	Filing Date		
	First Named Inventor	Bruce Cannon	
	Art Unit		
	Examiner Name		
	Attorney Docket Number	7300-0002	

U.S.PATENTS						Remove
Examiner Initial*	Cite No	Patent Number	Kind Code ¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
	1	4462096	A1	1984-07-24	Kusaka	
	2	7492538	B2	2009-02-17	Ishizawa et al.	
	3	7626776	B2	2009-12-01	Honma et al.	
	4	7627238	B2	2009-12-01	Osaka et al.	
	5	7639440	B2	2009-12-29	Ishizawa et al.	
	6	7641403	B2	2010-01-05	Ishizawa et al.	
	7	7652833	B2	2010-01-26	Honma	
	8	7705909	B2	2010-04-27	Ishizawa et al.	

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**
(Not for submission under 37 CFR 1.99)

Application Number		
Filing Date		
First Named Inventor	Bruce Cannon	
Art Unit		
Examiner Name		
Attorney Docket Number	7300-0002	

9	7852579	B2	2010-12-14	Osaka et al.	
10	0805895	A	1905-11-28	Wedderburn	
11	3364603	A	1968-01-23	Tate, Jr.	
12	4274616	A	1981-06-23	Radtke	
13	4541190	A	1985-09-17	Weiner et al.	
14	4593876	A	1986-06-10	Greiner	
15	4880327	A	1989-11-14	Sanabria	
16	4991812	A	1991-02-12	MacEwan	
17	5029797	A	1991-07-09	Levorchick et al.	
18	D320319	S	1991-10-01	Brothers et al.	
19	5365687	A	1994-11-22	Sclater	

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**
(Not for submission under 37 CFR 1.99)

Application Number		
Filing Date		
First Named Inventor	Bruce Cannon	
Art Unit		
Examiner Name		
Attorney Docket Number	7300-0002	

20	5413305	A	1995-05-09	Leeb	
21	D365461	S	1995-12-26	Falter	
22	5582382	A	1996-12-10	Pan-Yang	
23	D392474	S	1998-03-24	Frasketi	
24	6196512	B1	2001-03-06	Ure	
25	6270049	B1	2001-08-07	Olvey	
26	6651367	B1	2003-11-25	Barragan	
27	6934084	B2	2005-08-23	Pandya	
28	D640112	S	2011-06-21	Smith	
29	8038116	B2	2011-10-18	Lee et al.	
30	D677669	S	2013-03-12	Liu	

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**
(Not for submission under 37 CFR 1.99)

Application Number		
Filing Date		
First Named Inventor	Bruce Cannon	
Art Unit		
Examiner Name		
Attorney Docket Number	7300-0002	

31	D690308	S	2013-09-24	McCoy	
32	D703216	S	2014-04-22	Klepar	

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U.S.PATENT APPLICATION PUBLICATIONS

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Examiner Initial*	Cite No	Publication Number	Kind Code ¹	Publication Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear
	1	20030001063	A1	2003-01-02	Halpin	
	2	20030136036	A1	2003-07-24	Zubli	

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FOREIGN PATENT DOCUMENTS

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Examiner Initial*	Cite No	Foreign Document Number ³	Country Code ² i	Kind Code ⁴	Publication Date	Name of Patentee or Applicant of cited Document	Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear	T ⁵
	1							

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Examiner Initials*	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, pages(s), volume-issue number(s), publisher, city and/or country where published.	T ⁵
	1		

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**
(Not for submission under 37 CFR 1.99)

Application Number	
Filing Date	
First Named Inventor	Bruce Cannon
Art Unit	
Examiner Name	
Attorney Docket Number	7300-0002

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EXAMINER SIGNATURE

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. ² Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). ³ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁴ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁵ Applicant is to place a check mark here if English language translation is attached.

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**
(Not for submission under 37 CFR 1.99)

Application Number	
Filing Date	
First Named Inventor	Bruce Cannon
Art Unit	
Examiner Name	
Attorney Docket Number	7300-0002

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☒ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

See attached certification statement.

The fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☒ A certification statement is not submitted herewith.

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature	/scott a schaffer/	Date (YYYY-MM-DD)	2019-01-30
Name/Print	Scott A. Schaffer	Registration Number	38,610

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Electronic Patent Application Fee Transmittal

Application Number:

Filing Date:

Title of Invention:

MULTIPLE VIEWING ANGLE MEDIA SUPPORT

First Named Inventor/Applicant Name:

Bruce Cannon

Filer:

Scott Alexander Schaffer

Attorney Docket Number:

7300-0002

Filed as Small Entity

Filing Fees for Reissue (Utility)

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
UTILITY REISSUE BASIC	2014	1	150	150
REISSUE OR REISSUE DESIGN CPA SEARCH FEE	2114	1	330	330
REISSUE OR REISSUE DESIGN CPA EXAM. FEE	2314	1	1100	1100

Pages:

Claims:

Miscellaneous-Filing:

Petition:

Patent-Appeals-and-Interference:

HPI-ONTEL0000276

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Miscellaneous:				
Total in USD (\$)				1580

Electronic Acknowledgement Receipt

EFS ID:	35013109
Application Number:	16262797
International Application Number:	
Confirmation Number:	1586
Title of Invention:	MULTIPLE VIEWING ANGLE MEDIA SUPPORT
First Named Inventor/Applicant Name:	Bruce Cannon
Customer Number:	133404
Filer:	Scott Alexander Schaffer
Filer Authorized By:	
Attorney Docket Number:	7300-0002
Receipt Date:	30-JAN-2019
Filing Date:	
Time Stamp:	20:20:06
Application Type:	Reissue (Utility)

Payment information:

Submitted with Payment	yes
Payment Type	CARD
Payment was successfully received in RAM	\$ 1580
RAM confirmation Number	013119INTEFSW20211200
Deposit Account	
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

HPI-ONTEL0000278

File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Transmittal Reissue Application	1-aia0050-7300-002-reissue-transmittal.pdf	958306	no	2
			3b5c8bef86249092e2369990d2cc8ccd4efb1ceb		
Warnings:					
Information:					
2	Fee Worksheet (SB06)	2-aia0056-7300-002-reissue-feetransmittal.pdf	1173879	no	2
			1bc02d5db7602c6cb5219bdf05574e49db5d71		
Warnings:					
Information:					
3		3-US9642454-Cannon.pdf	525495	yes	9
			c3ec1b46527e3679ec59d5f4751b98eccb6c0305		
	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Abstract		1	2	
	Drawings-only black and white line drawings		3	6	
	Specification		7	7	
	Claims		8	9	
Warnings:					
Information:					
4	Reissue dec filed in accordance with MPEP 1414	4-aia0051-reissue-declaration-7300-002-signed.pdf	761868	no	3
			66fc8f200808796c34e376bf86a38895b19c8b83		
Warnings:					
Information:					

5	Application Data Sheet	5-aia0014-7300-0002-reissue.pdf	1505510	no	7
			0feb52236923078c3ac9b9b8808cc2ea5c442cd		
Warnings:					
Information:					
6	Consent of Assignee accompanying the declaration	6-aia0053-ReissueConsent-7300-0002.pdf	297092	no	1
			a07d58ba28a2857cc53c0cfa2cd1c726148ec61e		
Warnings:					
Information:					
7	Assignee showing of ownership per 37 CFR 3.73	7-aia0096-AssigneeStatement.pdf	1105577	no	3
			163568f1556391a5a1c4e31f8ed4c15303c2b230		
Warnings:					
Information:					
8	Power of Attorney	8-aia0080-POA-7300-0002-signed.pdf	345605	no	1
			6dea9e9736b120be84ab338bd8409b1eb5422ac7		
Warnings:					
Information:					
9	Information Disclosure Statement (IDS) Form (SB08)	9-IDS-7300-0002-reissue.pdf	613080	no	7
			6f94e9067f5041f4321e5560472db6abbcd252fc		
Warnings:					
Information:					
10	Preliminary Amendment	10-PreliminaryAmendment-7300-0002a-.pdf	2202069	no	7
			31cd2a2b1817a2ee12c4f75e9d3605d56c49e8f8		
Warnings:					
Information:					
11	Fee Worksheet (SB06)	fee-info.pdf	34957	no	2
			7f0e510148d6bece00f8b0969e4f26cd41d61fb0		
Warnings:					
Information:					
Total Files Size (in bytes):			9523438		

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National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

REISSUE PATENT APPLICATION
Docket No. 7300-0002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Bruce CANNON, et al. Conf. No.
Serial No. Examiner:
Filed: January 8, 2016 Art Unit:
For: MULTIPLE VIEWING ANGLE MEDIA SUPPORT
Date: January 30, 2019

Commissioner for Patents
Filed via Electronic Filing System (EFS)

PRELIMINARY AMENDMENT TO REISSUE APPLICATION
FOR U.S. PAT. NO. 9,642,454

CLAIMS AS AMENDED					
For	Number After Amendment	Previous Number paid for	Extra	Rate	Additional Fee
Total Claims	20	20	0	x \$ 40.00 =	\$0
Independent Claims	2	3	0	x \$210.00 =	\$0
TOTAL ADDITIONAL FEE					\$0

This Preliminary Amendment is submitted in support of the Applicant's request for reissue of U.S. Patent No. 9,642,454 B2, issued May 9, 2017. Accordingly, please amend the above-identified application as follows:

- **Amendments to the Claims** begin on page 2.
- **Remarks** begin on page 6.

Amendments to the Claims:

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

Listing of Claims:

1. (Currently Amended) An apparatus comprising:
three support sides, each support side comprising a back support and an edge support, wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends of a solid interior, each edge support comprises an edge support width of ~~2 centimeters (cm)~~ with an edge angle of ~~90 degrees~~ to an adjacent back support, a face of each edge support width oriented clockwise about the central axis, a plane of a first back support is at a first plane angle of ~~60 degrees~~ to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support, a plane of the second back support is at a second plane angle of ~~80 degrees~~ to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support, a plane of a third back support is at a third plane angle of ~~40 degrees~~ to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support, and wherein each back support, each edge support, and each end is a surface of the solid interior, ~~the solid interior is a pillow covered in fabric, and wherein~~ a first viewing angle of the first back support is ~~36 degrees~~, a second viewing angle of the second back support is ~~74 degrees~~, and a third viewing angle of the third back support form three different viewing angles ~~is 49 degrees~~.

2. (Original) The apparatus of claim 1, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

3. (Original) The apparatus of claim 2, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.
4. (Original) The apparatus of claim 1, wherein each back support has a latitudinal length in the range of 9 to 25 cm.
5. (Original) The apparatus of claim 4, wherein each back support has a latitudinal length of 15 cm.
6. (Original) The apparatus of claim 1, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.
7. (Original) The apparatus of claim 6, wherein each edge support has a latitudinal length of 7 cm.
8. (Original) The apparatus of claim 1, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).
9. (Original) The apparatus of claim 1, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.
10. (Original) The apparatus of claim 9, wherein the edge angle is 90 degrees.
11. (New) An apparatus of claim 1, wherein the first viewing angle of the first back support is 36 degrees, the second viewing angle of the second back support is 74 degrees, and the third viewing angle of the third back support is 49 degrees.
12. (New) The apparatus of claim 1, wherein a latitudinal length of each of the first, second, and third edge supports is different from a latitudinal length of the corresponding first, second, and third side supports.

13. (New) A media support apparatus comprising:

a body having a first support back, a second support back, and a third support back disposed about a central axis;

a first support edge disposed between the first support back and the second support back, wherein the first support back and first support edge are configured to support a media device at a first support angle;

a second support edge disposed between the second support back and third support back, wherein the second support back and second support edge are configured to support a media device at a second support angle;

a third support edge disposed between the third support back and first support back, where the third support back and third support edge are configured to support a media device at a third support angle;

wherein said media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane between a top of the second support back and an outer edge of the second edge support, on a second virtual plane between a top of the third support back and an outer edge of the third edge support, and on a third virtual plane between a top of the first support back and an outer edge of the first edge support; and

wherein the media support apparatus is configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle, a second viewing angle when the media support apparatus body rests on the second virtual plane and the media device is supported at the second support angle, and a third viewing angle when the media support apparatus body rests on the third virtual plane and the media device is supported at the third support angle, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

14. (New) The apparatus of claim 13, wherein the first support angle is between 50 and 60 degrees to the second virtual plane, the second support angle is between 55 and 65 degrees to the third virtual plane, and the third support angle is between 50 and 75 degrees to the first virtual plane.

15. (New) The apparatus of claim 13, wherein the first support angle is 60 degrees to the second virtual plane, the second support angle is 68 degrees to the third virtual plane, and the third support angle is 52 degrees to the first virtual plane.

16. (New) The apparatus of claim of 13, wherein the first viewing angle is 36 degrees, the second viewing angle is 74 degrees, and the third viewing angle is 49 degrees.

17. (New) The apparatus of claim 13 wherein the first, second, and third edge supports form an edge angle with respective first, second, and third back supports of between 85 and 120 degrees.

18. (New) The apparatus of claim 13, wherein the body is a pillow having a solid interior.

19. (New) The apparatus of claim 18, wherein the solid interior is foam having an indentation force deflection (IFD) in the range of 15-30 kilograms at 25% indentation.

20. (New) The apparatus of claim 18, wherein the pillow is covered in an ultra-suede fabric.

REMARKS

Applicant is filing the present broadening reissue application for U.S. Patent No. 9,642,454 B2 within two years of issuance. A reissue oath/declaration is filed herewith.

Full benefit of the filing date of U.S. Application 15/192,737, filed June 24, 2016—which itself claims benefit to and is a continuation-in-part of U.S. Application No. 14/518,433 filed Oct. 20, 2014—is claimed pursuant to the provisions of 35 U.S.C. Section 120.

Accompanying this Preliminary Amendment is an Information Disclosure Statement citing all of the references cited in the prosecution of Patent No. 9,642,454 B2. The submission of the listed documents is not intended as an admission that any such document constitutes prior art against the claims of the present application.

Support for the claim amendments and new claims is found in the patent specification as follows:

CLAIM 1: (FIG. 2; col. 2, lines 15-16; col. 2, line 33; col. 2, lines 54-55; col. 3, line 51; col. 4, line 10; col. 4, line 20)

CLAIMS 2-10: (original claims) (col. 3, lines 40-44) (col. 3, lines 44-49) (col. 2, lines 44-45) (col. 2, lines 45-46) (col. 2, lines 49-50) (col. 2, lines 52-53) (col. 3, lines 59-60) (col. 3, lines 56-57) (col. 3, lines 57-58)

CLAIM 11: (col. 3, lines 50-54)

CLAIM 12: (col. 2, lines 47-49)

CLAIM 13: (FIG. 2; col. 2, lines 15-16; col. 2, line 33; col. 2, lines 54-55; col. 3, line 51; col. 4, line 10; col. 4, line 20) with claim numbered elements noted below

A media support apparatus (100) comprising:

a body having a first support back (105a), a second support back (105c), and a third support back (105b) disposed about a central axis (125);

a first support edge (110c) disposed between the first support back and the second support back, wherein the first support back and first support edge are configured to support a media device at a first support angle (orthogonal to viewing angle 160a);

a second support edge (110b) disposed between the second support back and third support back, wherein the second support back and second support edge are configured to support a media device at a second support angle (orthogonal to viewing angle 160c);

a third support edge (110a) disposed between the third support back and first support back, where the third support back and third support edge are configured to support a media device at a third support angle (orthogonal to viewing angle 160b);

wherein said media support apparatus is configured to be rotated about the central axis so that the body can rest on a horizontal support in any one of three positions including on a first virtual plane (130c) between a top of the second support back (105c) and an outer edge of the second edge

support (110b), on a second virtual plane (130b) between a top of the third support back (105b) and an outer edge of the third edge support (110a), and on a third virtual plane (130a) between a top of the first support back (105a) and an outer edge of the first edge support (110c); and

wherein the media support apparatus is configured to provide a first viewing angle (160a) of the media device when the media support apparatus body rests on the first virtual plane (130c) and the media device is supported at the first support angle, a second viewing angle (160c) when the media support apparatus body rests on the second virtual plane (130b) and the media device is supported at the second support angle, and a third viewing angle (160b) when the media support apparatus body rests on the third virtual plane (130a) and the media device is supported at the third support angle, wherein the first viewing angle, the second viewing angle, and the third viewing angle are different from one another.

CLAIM 14: (col. 3, lines 16-39)

CLAIM 15: (col. 3, lines 40-49)

CLAIM 16: (col. 3, lines 50-54)

CLAIM 17: (col. 3, lines 55-57)

CLAIM 18: (col. 2, lines 64-65)

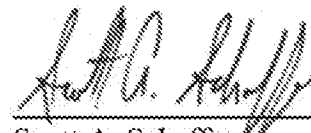
CLAIM 19: (col. 2, lines 65-67)

CLAIM 20: (col. 3, lines 3-5)

Conclusion

Applicant submits that the present reissue application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to take the initiative and telephone the undersigned at (503) 970-5119 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,



Scott A. Schaffer
Reg. No. 38,610

SCHAFFER IP LAW, LLC
2187 SW Market Street Dr.
Portland, OR 97201
503-970-5119
Customer No. 133404

POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(c).

I hereby appoint:

☒ Practitioners associated with Customer Number: 133404

OR

☐ Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

As attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(c).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(c) to:

☒ The address associated with Customer Number: 133404

OR

☐ Firm or individual name		
Address		
City	State	Zip
Country		
Telephone	Email	

Assignee name and address:

Happy Products, Inc.

A copy of this form, together with a statement under 37 CFR 3.73(c) (Form PTO/AIA/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(c) may be completed by one of the practitioners appointed in this form, and must identify the application in which this Power of Attorney is to be filed.

SIGNATURE of Assignee of Record

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee.

Signature 	Date 1/2/17
Name Juliette Fassett	Telephone 503-257-2822
Title CEO of Happy Products, Inc.	

This collection of information is required by 37 CFR 1.31, 1.32, and 1.33. The information is required to obtain or retain a benefit by the public, which is to update (and by the USPTO to process) the file of a patent or reexamination proceeding. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 18 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



US009642454B2

(12) **United States Patent**
Cannon et al.

(10) **Patent No.:** **US 9,642,454 B2**

(45) **Date of Patent:** **May 9, 2017**

(54) **MULTIPLE VIEWING ANGLE MEDIA SUPPORT**

(56) **References Cited**

U.S. PATENT DOCUMENTS

(71) Applicants: **Bruce Cannon**, Portland, OR (US);
Juliette Fassett, Portland, OR (US)

(72) Inventors: **Bruce Cannon**, Portland, OR (US);
Juliette Fassett, Portland, OR (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

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(Continued)

Primary Examiner — Shin Kim

(74) *Attorney, Agent, or Firm* — Kunzler Law Group

(65) **Prior Publication Data**

US 2016/0302568 A1 Oct. 20, 2016

Related U.S. Application Data

(63) Continuation-in-part of application No. 14/518,443, filed on Oct. 20, 2014, now abandoned.

(60) Provisional application No. 61/896,540, filed on Oct. 28, 2013.

(51) **Int. Cl.**
A47B 97/04 (2006.01)
A47B 23/04 (2006.01)

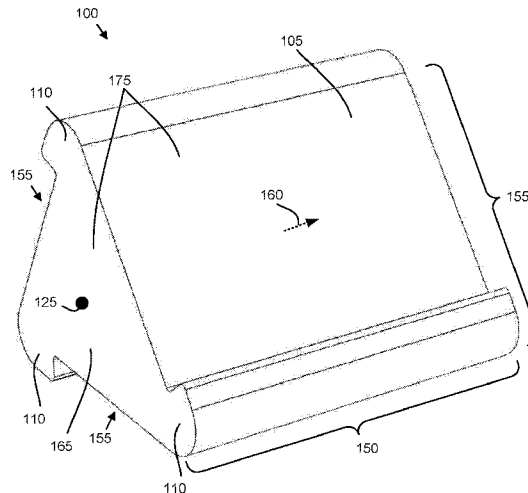
(52) **U.S. Cl.**
CPC **A47B 23/042** (2013.01)

(58) **Field of Classification Search**
CPC A47B 23/042; A47B 23/043; F16M 13/00;
F16M 13/022
USPC 40/124.15
See application file for complete search history.

(57) **ABSTRACT**

For multiple viewing angle media support, and apparatus includes three support sides. Each support side includes a back support and an edge support. A top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends of a solid interior. Each back support, each edge support, and each end is a surface of the solid interior, the solid interior is a pillow covered in fabric, a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.

10 Claims, 4 Drawing Sheets



(56)

References Cited

U.S. PATENT DOCUMENTS

2003/0001063	A1	1/2003	Halpin
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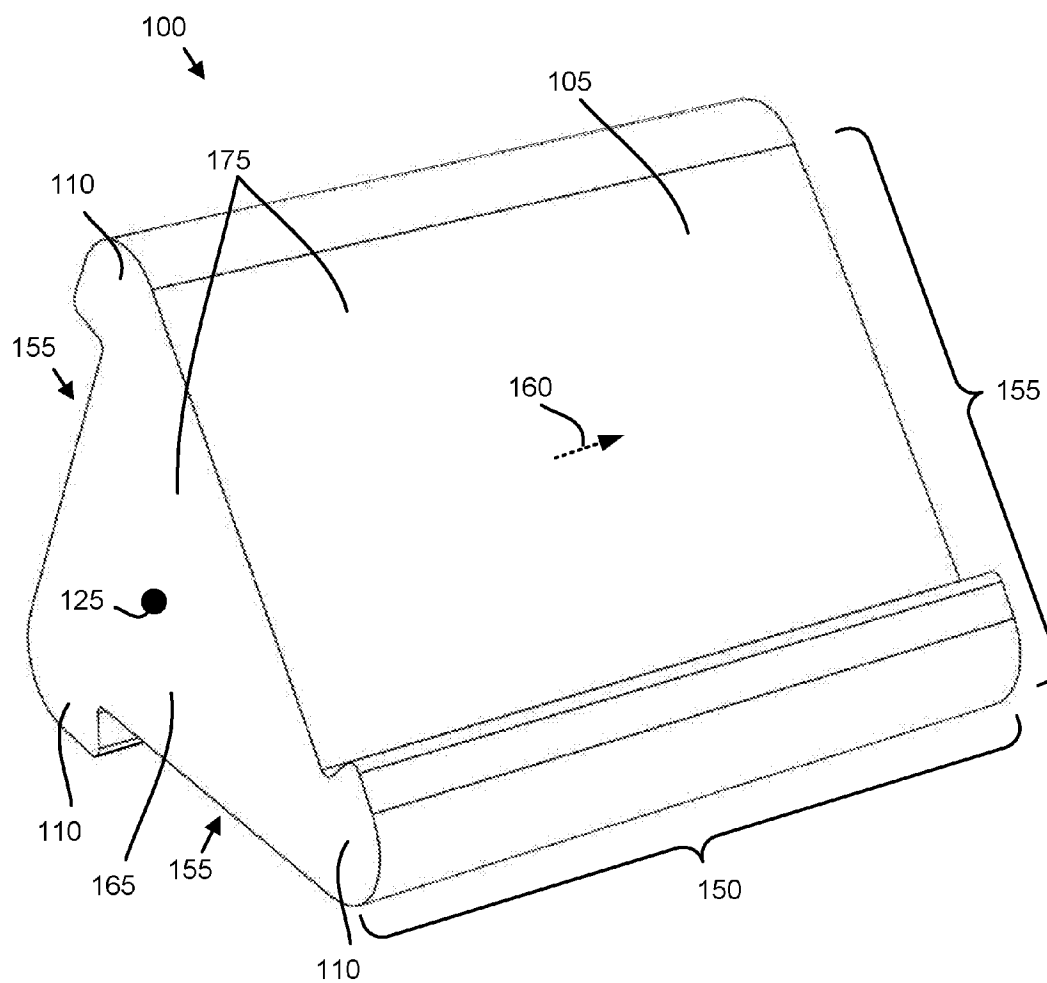


FIG. 1

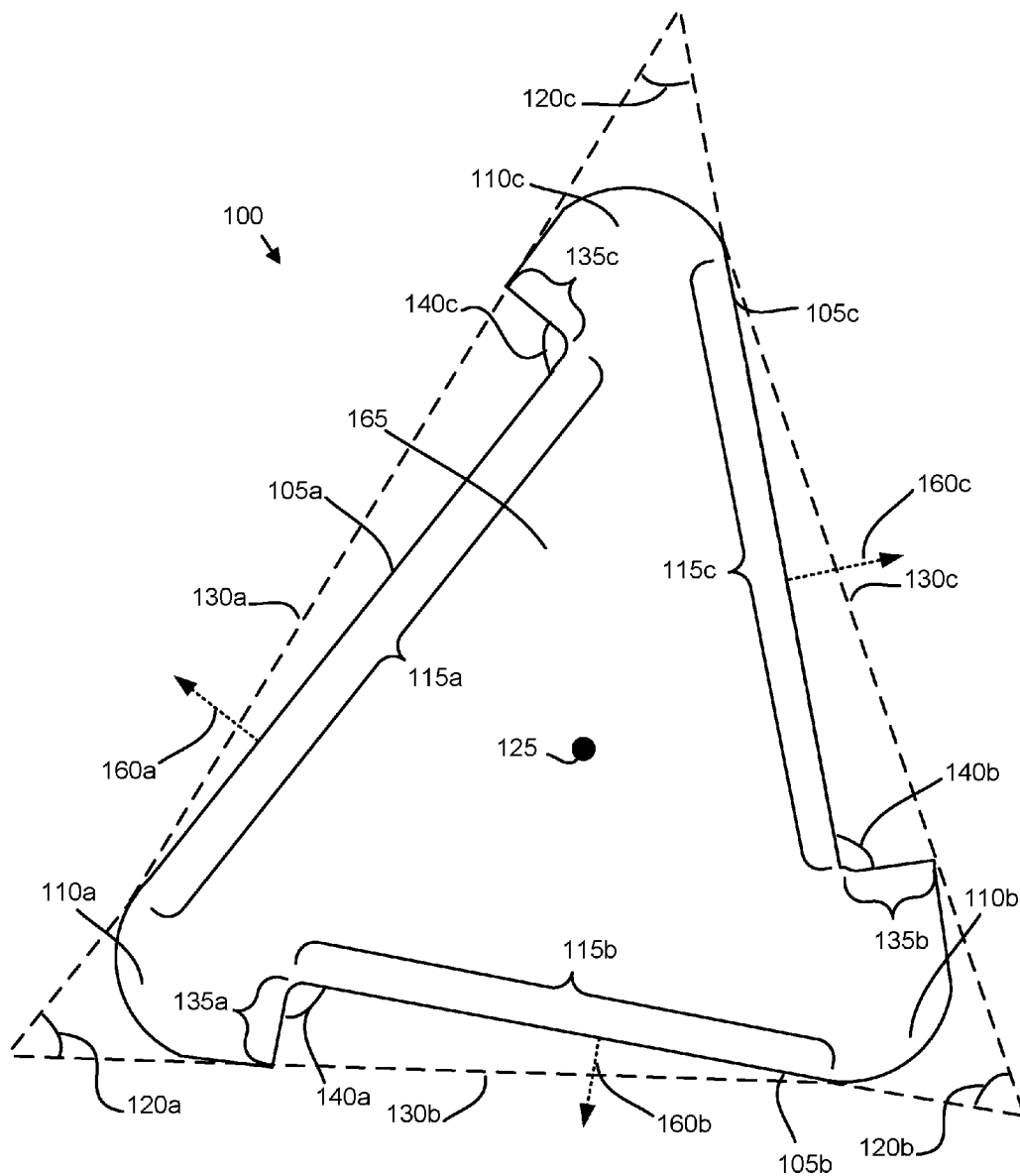


FIG. 2

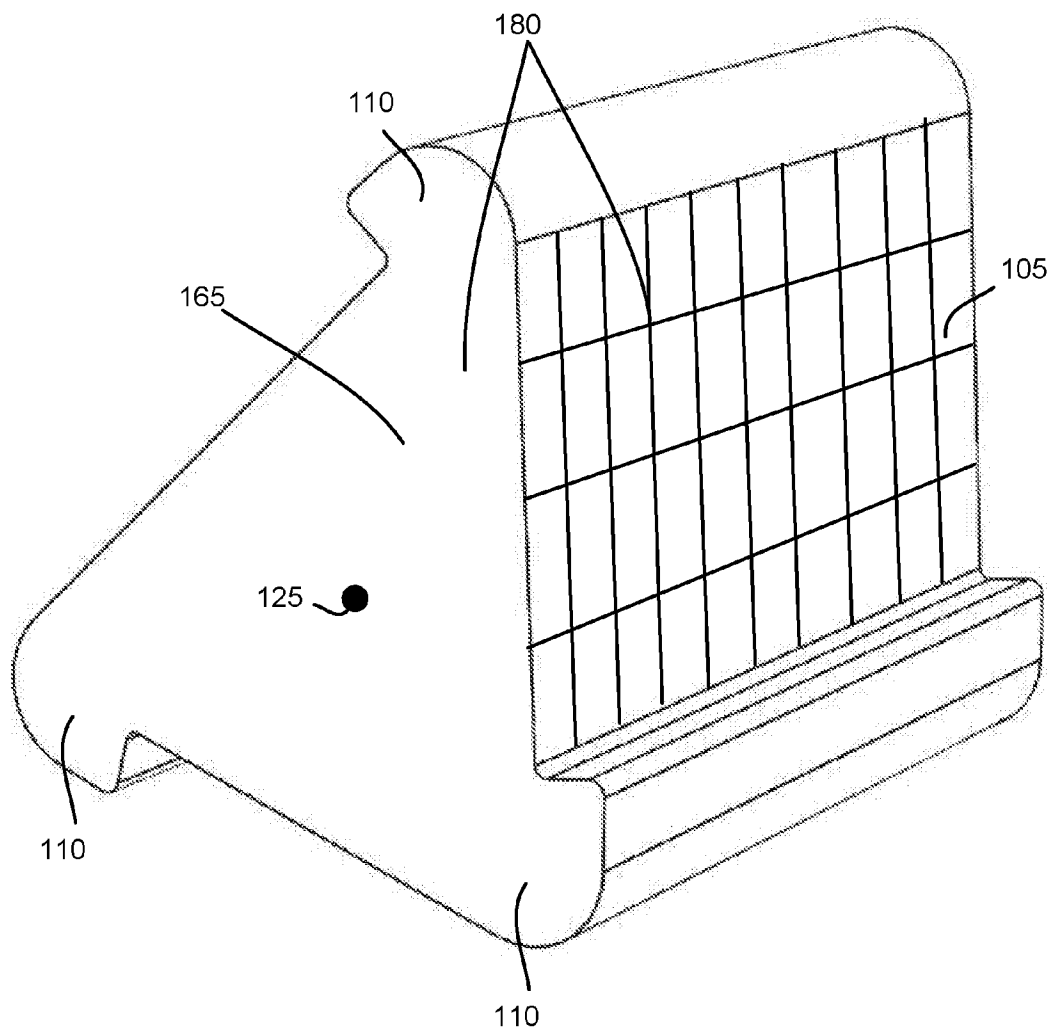


FIG. 3

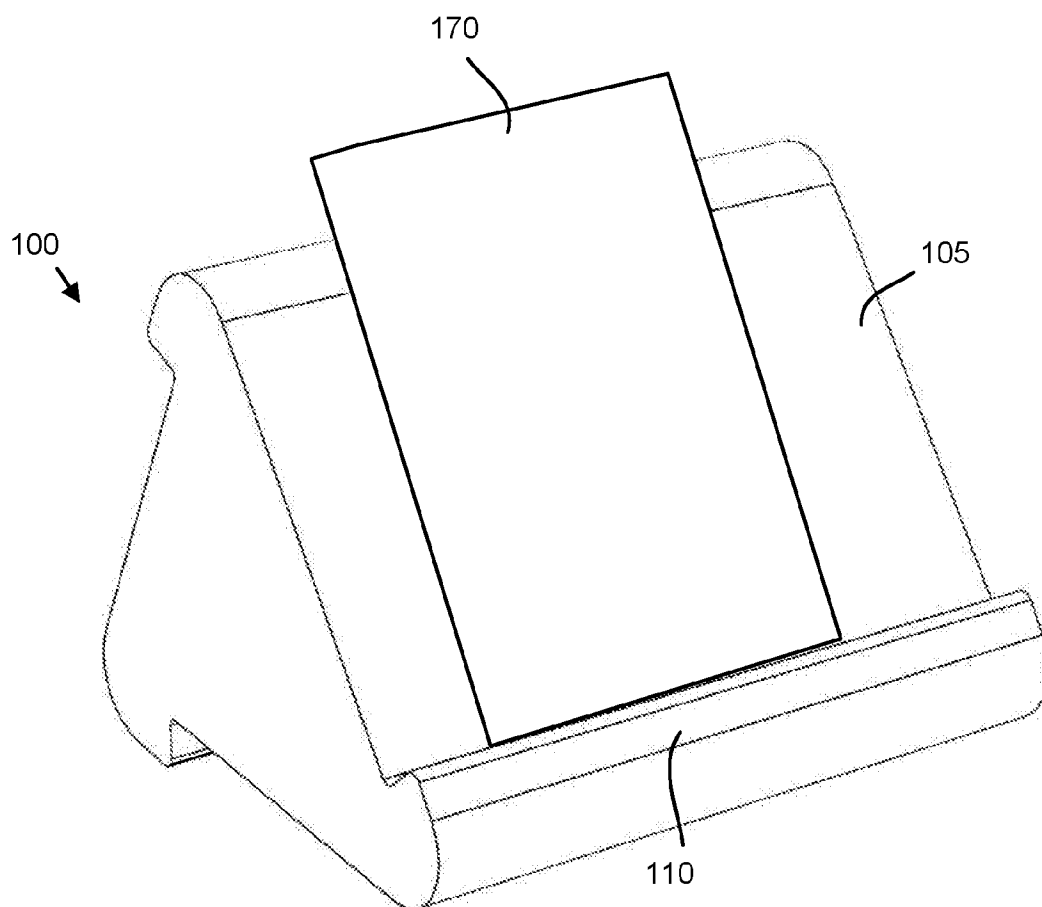


FIG. 4

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MULTIPLE VIEWING ANGLE MEDIA SUPPORT

CROSS-REFERENCE TO RELATED APPLICATIONS

This is a continuation-in-part of and claims priority to U.S. patent application Ser. No. 14/518,443 entitled “MULTIPLE VIEWING ANGLE MEDIA SUPPORT” and filed on Oct. 20, 2014 for Bruce Cannon, which is incorporated herein by reference. U.S. patent application Ser. No. 14/518,443 claims priority to U.S. Provisional Patent Application No. 61/896,540 entitled “FLIPY EREADER PILLOW” and filed on Oct. 28, 2013 for Bruce Cannon, which is incorporated herein by reference.

FIELD

The subject matter disclosed herein relates to media support and more particularly relates to multiple viewing angle media support.

BACKGROUND

Description of the Related Art

It is often comfortable to support media such as electronic readers, tablet computers, magazines, and books while viewing the media.

BRIEF DESCRIPTION OF THE DRAWINGS

A more particular description of the embodiments briefly described above will be rendered by reference to specific embodiments that are illustrated in the appended drawings. Understanding that these drawings depict only some embodiments and are not therefore to be considered to be limiting of scope, the embodiments will be described and explained with additional specificity and detail through the use of the accompanying drawings, in which:

FIG. 1 is a perspective drawing illustrating one embodiment of a media support;

FIG. 2 is a side view drawing illustrating one embodiment of a media support;

FIG. 3 is a perspective drawing illustrating one alternate embodiment of a media support; and

FIG. 4 is a perspective drawing illustrating one embodiment of media disposed on a media support.

DETAILED DESCRIPTION

Reference throughout this specification to “one embodiment,” “an embodiment,” or similar language means that a particular feature, structure, or characteristic described in connection with the embodiment is included in at least one embodiment. Thus, appearances of the phrases “in one embodiment,” “in an embodiment,” and similar language throughout this specification may, but do not necessarily, all refer to the same embodiment, but mean “one or more but not all embodiments” unless expressly specified otherwise. The terms “including,” “comprising,” “having,” and variations thereof mean “including but not limited to” unless expressly specified otherwise. An enumerated listing of items does not imply that any or all of the items are mutually exclusive and/or mutually inclusive, unless expressly specified otherwise. The terms “a,” “an,” and “the” also refer to “one or more” unless expressly specified otherwise.

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Furthermore, the described features, advantages, and characteristics of the embodiments may be combined in any suitable manner. One skilled in the relevant art will recognize that the embodiments may be practiced without one or more of the specific features or advantages of a particular embodiment. In other instances, additional features and advantages may be recognized in certain embodiments that may not be present in all embodiments.

The description of elements in each figure may refer to elements of preceding figures. Like numbers refer to like elements in all figures, including alternate embodiments of like elements.

FIG. 1 is a perspective drawing illustrating one embodiment of a media support **100**. The media support **100** may position media at one of three varied and carefully chosen angles for viewing by a user. The media may be handheld media. In addition, the media may be an electronic reader, a tablet computer, a video display, a magazine, a book, or the like. Because the media may be handheld, it is often viewed while the user is sitting at a table with the media on the table, while the user is sitting with the media disposed in the user's lap, or while the user is lying down.

During extended periods of viewing, it may be comfortable for the user to prop up the media to reduce hand and arm fatigue. Unfortunately, the use of traditional pillows may position the media at a less than advantageous angle. In addition, during extended viewing periods, the user may shift position, resulting in a need for a support with a different viewing angle. For example, a user may shift from reading while sitting on a couch to reading while lying on the couch.

The embodiments described herein provide support for multiple viewing angles. The angles are carefully chosen to support the media on a table for a sitting user, in the lap of a sitting user, and on a lying user. As a result, the media support **100** provides a comfortable support at an appropriate angle for the most common viewing positions.

In the depicted embodiment, the media support **100** includes three support sides **155**. Each support side **155** comprises a support back **105** and a support edge **110**. The support sides **155** may be disposed about a central axis **125**. The media support **100** may have a latitudinal length **150**. The latitudinal length **150** may be in the range of 6 to 50 centimeters (cm). In a certain embodiment, the latitudinal length **150** is in the range of 9 to 25 cm. In one embodiment, the latitudinal length **150** is 15 cm.

In one embodiment, the latitudinal length **150** of an edge support **110** may be different from the latitudinal length **150** of the corresponding side support **155**. The edge support latitudinal length **150** may be in the range of 2 to 10 cm. In a certain embodiment, the edge support latitudinal length **150** is in the range of 6 to 8 cm. In one embodiment, the edge support latitudinal length **150** is 7 cm.

The side supports **155** may be arranged to provide three different viewing angles **160** for three different user positions. Each viewing angle **160** is orthogonal to a support back **105**. The arrangement of the side supports **155** are disclosed in greater detail in FIG. 2.

In one embodiment, each back support **105** and each edge support **110** is a surface **175** of a solid. The solid media support **100** may have one or more ends **165**. Each back support **105** and each edge support **110** may be in physical communication with two ends **165** of a solid interior.

The solid media support **100** may be a pillow. The solid interior may be foam. The foam may have an Indentation Force Deflection (IFD) of in the range of 15-30 kilograms at 25% indentation. In one embodiment, the surface **175** of the

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solid may be a fabric. Each back support **105**, each edge support **110**, and each end **165** may a surface **175** of the solid interior. The surface **175** of the solid interior may be a pillow is covered in fabric. In one embodiment, the fabric is ultra-suede.

A user may place the media support **100** on a table, in the user's lap, or on the user while lying down. The semi-rigid pillow feel of the media support **100** comfortably contacts the user while providing firm support for the media. The user may further rotate the media support **100** to select a back support **105** with a comfortable viewing angle **160**. The user may place media on the edge support **110**. The edge support **110** holds the media with the back of the media against the back support **105**. As a result, the media may be viewed at the viewing angle **160**.

FIG. 2 is a side view drawing illustrating one embodiment of a media support **100**. The support backs **105** and the support edges **110** of the three support sides **155** are shown about an end **165**. A top of each back support **105** is in physical communication with an adjacent edge support **110** about the central axis **125**. A plane of a first back support **105a** may be at a first plane angle **120a** in a range of 50 to 60 degrees to a second virtual plane **130b** between the top of a second back support **105b** counterclockwise to the first back support **105a** and an outer edge of a second edge support **110b** counterclockwise to the first back support **105a**. In addition, a plane of the second back support **105b** may be at a second plane angle **120b** in a range of 55 to 65 degrees to a third virtual plane **130c** between the top of a third back support **105c** counterclockwise to the second back support **105b** and an outer edge of a third edge support **110c** counterclockwise to the second back support **110b**. A plane of a third back support **105c** may be at a third plane angle **120c** in a range of 50 to 75 degrees to a first virtual plane **130a** between the top of the first back support **105a** counterclockwise to the third back support **105c** and an outer edge of the first edge support **110a** counterclockwise to the third back support **105c**.

In one embodiment, the first back support **105a** has a longitudinal length **115a** in the range of 12 to 26 cm, the second back support **105b** has a longitudinal length **115b** in the range of 9 to 21 cm, and the third back support **105c** has a longitudinal length **115c** in the range of 10 to 22 cm. In a certain embodiment, the first longitudinal length **115a** is 19 cm, the first plane angle **120a** is 60 degrees, the second longitudinal length **115b** is 15 cm, the second plane angle **120b** is 68 degrees, the third longitudinal length **115c** is 17 cm, and the third plane angle **120c** is 52 degrees.

The arrangement of the longitudinal lengths **115** and the plane angles **120** generate three distinct viewing angles **160**. In one embodiment, the first viewing angle **120a** may be 36 degrees, the second viewing angle **120b** may be 74 degrees, and the third viewing angle **120C** may be 49 degrees.

In one embodiment, each edge support **110** forms an edge angle **140** with an adjacent back support **105**. The edge angle **140** may be in the range of 85 to 120 degrees. The edge angle **140** may be 90 degrees. Each edge support **110** may have an edge support width **135**. The edge support width **135** may be in the range of 1 to 5 cm. In a certain embodiment, the edge support width **135** is 2 cm.

FIG. 3 is a perspective drawing illustrating one alternate embodiment of a media support **100**. In the depicted embodiment, each back support **105** and each edge support **110** is a surface **180** of a frame. Each end **165** may also be a surface **180** of a frame. The frame may include a molded mashed, a fabric mash, a wire mesh, or the like. In the

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depicted embodiment, the media support **100** includes ends **165**. Alternatively, there may be no ends **165** on the media support **100**.

FIG. 4 is a perspective drawing illustrating one embodiment of media **170** disposed on the media support **100**. A bottom edge of the media **170** is disposed in the edge support **110** while the back of the media **170** is disposed against a back support **105**.

The embodiments arrange three support sides **155** to generate three distinct viewing angles **160**. Each viewing angle **160** is chosen for a specific viewing orientation. The first viewing angle **160a** may be employed when the media support **100** and the media is disposed in the user's lap. The second viewing angle **160b** may be used when the media support **100** and the media is disposed on a table and the user is sitting upright. In addition, the 3rd viewing angle **160c** may be used when the user is lying down and the media support **100** is disposed on the user.

When the user changes position, the media support **100** may be quickly rotated to provide a different viewing angle **160**. As a result, the media support **100** is quickly deployed to provide the appropriate viewing angle **160**. In addition, the comfort of the user is greatly enhanced as the media may be viewed at the appropriate viewing angle **160** without the user holding the media.

The media support **100** has been marketed as the "Flippy Tablet Pillow" since 2013 at a retail price of \$49.98. Because of the media support's unique properties, it has enjoyed significant commercial success, with 800 units sold in 2013, 2,233 units in 2014, 925 units in 2015 and 997 units year-to-date in 2016.

Embodiments may be practiced in other specific forms. The described embodiments are to be considered in all respects only as illustrative and not restrictive. The scope of the invention is, therefore, indicated by the appended claims rather than by the foregoing description. All changes which come within the meaning and range of equivalency of the claims are to be embraced within their scope.

What is claimed is:

1. An apparatus comprising:

three support sides, each support side comprising a back support and an edge support, wherein a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis and each back support and each edge support is in physical communication with two ends of a solid interior, each edge support comprises an edge support width of 2 centimeters (cm) with an edge angle of 90 degrees to an adjacent back support, a face of each edge support width oriented clockwise about the central axis, a plane of a first back support is at a first plane angle of 60 degrees to a second virtual plane between the top of a second back support counterclockwise to the first back support and an outer edge of a second edge support counterclockwise to the first back support, a plane of the second back support is at a second plane angle of 80 degrees to a third virtual plane between the top of a third back support counterclockwise to the second back support and an outer edge of a third edge support counterclockwise to the second back support, a plane of a third back support is at a third plane angle of 40 degrees to a first virtual plane between the top of the first back support counterclockwise to the third back support and an outer edge of the first edge support counterclockwise to the third back support, and wherein each back support, each edge support, and each end is a surface of the solid interior, the solid

interior is a pillow covered in fabric, a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees.

2. The apparatus of claim 1, wherein the first back support has a longitudinal length in the range of 12 to 26 centimeters (cm), the second back support has a longitudinal length in the range of 9 to 21 cm, and the third back support has a longitudinal length in the range of 10 to 22 cm.

3. The apparatus of claim 2, wherein the first longitudinal length is 19 cm, the first plane angle is 60 degrees, the second longitudinal length is 15 cm, the second plane angle is 68 degrees, the third longitudinal length is 17 cm, and the third plane angle is 52 degrees.

4. The apparatus of claim 1, wherein each back support has a latitudinal length in the range of 9 to 25 cm.

5. The apparatus of claim 4, wherein each back support has a latitudinal length of 15 cm.

6. The apparatus of claim 1, wherein each edge support has a latitudinal length in the range of 2 to 10 cm.

7. The apparatus of claim 6, wherein each edge support has a latitudinal length of 7 cm.

8. The apparatus of claim 1, wherein each edge support has an edge support width in the range of 1 to 5 centimeters (cm).

9. The apparatus of claim 1, wherein a plane of each edge support forms an edge angle in the range of 85 to 120 degrees with an adjacent back support.

10. The apparatus of claim 9, wherein the edge angle is 90 degrees.

* * * * *

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REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)

7300-0002

I hereby declare that:

Each inventor's residence, mailing address and citizenship are stated below next to their name.

I believe the inventors named below to be the original and first inventor(s) of the subject matter which is described and claimed in patent number 9,642,454, granted May 9, 2017 and for which a reissue patent is sought on the invention entitled MULTIPLE VIEWING ANGLE MEDIA SUPPORT,

the specification of which

☒ is attached hereto.☐ was filed on _____ as reissue application number _____and was amended on _____
(If applicable)

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. This application was made or was authorized to be made by me.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

☐ I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.☐ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

Applicant believes the original patent to be partially inoperative by reason of the patentee claiming less than patentee had a right to claim. The patent disclosed an apparatus with three support sides disposed about a central axis with the support sides generating three distinct and "different" viewing angles for a supported object such as a book or iPad. (col. 4, lines 9-25) The original application claims and the patented claims recite that the support sides generate very specific viewing angles of 36 degrees, 74 degrees, and 49 degrees even though the support sides do not actually require those specific angles to be effective.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

Docket Number (Optional)

7300-0002

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

Note: To appoint a power of attorney, use form PTO/SB/81.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed. I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

Full name of sole or first inventor (given name, family name)

Bruce Cannon

Inventor's signature

Date

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Additional joint inventors or legal representative(s) are named on separately numbered sheets forms PTO/SB/02A or 02LR attached hereto

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The information provided by you in this form will be subject to the following routine uses:

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
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Application Data Sheet 37 CFR 1.76		Attorney Docket Number	7300-0002
		Application Number	
Title of Invention	MULTIPLE VIEWING ANGLE MEDIA SUPPORT		
The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76. This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.			

Secrecy Order 37 CFR 5.2

☐	Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)
--------------------------	---

Inventor Information:

Inventor	1				Remove	
Legal Name						
Prefix	Given Name	Middle Name	Family Name	Suffix		
	Bruce		Cannon			
Residence Information (Select One) ☒ US Residency ☐ Non US Residency ☐ Active US Military Service						
City	Portland	State/Province	OR	Country of Residence	US	
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Address 1		222 SW Texas Street				
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Inventor	2				Remove	
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	Juliette		Fassett			
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Mailing Address of Inventor:						
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--

Application Data Sheet 37 CFR 1.76		Attorney Docket Number	7300-0002
		Application Number	
Title of Invention	MULTIPLE VIEWING ANGLE MEDIA SUPPORT		

☐ An Address is being provided for the correspondence information of this application.

Customer Number	133404		
Email Address	scott@schaferiplaw.com	Add Email	Remove Email

Application Information:

Title of the Invention	MULTIPLE VIEWING ANGLE MEDIA SUPPORT		
Attorney Docket Number	7300-0002	Small Entity Status Claimed	☒
Application Type	Nonprovisional		
Subject Matter	Utility		
Total Number of Drawing Sheets (if any)	4	Suggested Figure for Publication (if any)	1

Publication Information:

☐ Request Early Publication (Fee required at time of Request 37 CFR 1.219)

☐ **Request Not to Publish.** I hereby request that the attached application not be published under 35 U.S.C. 122(b) and certify that the invention disclosed in the attached application **has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.

Representative Information:

Representative information should be provided for all practitioners having a power of attorney in the application. Providing this information in the Application Data Sheet does not constitute a power of attorney in the application (see 37 CFR 1.32). Either enter Customer Number or complete the Representative Name section below. If both sections are completed the customer number will be used for the Representative Information during processing.

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Customer Number	133404		

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This section allows for the applicant to either claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) or indicate National Stage entry from a PCT application. Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78.

Prior Application Status	Patented		Remove
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
	reissued of	15192737	2016-06-24
Prior Application Status	Abandoned		Remove

Application Data Sheet 37 CFR 1.76		Attorney Docket Number	7300-0002
		Application Number	
Title of Invention	MULTIPLE VIEWING ANGLE MEDIA SUPPORT		

Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
15192737	Continuation in part of	14518443	2014-10-20
Prior Application Status	Expired	Remove	

Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
14518443	non provisional of	61896540	2013-10-28

Additional Domestic Benefit/National Stage Data may be generated within this form by selecting the **Add** button.

Foreign Priority Information:

This section allows for the applicant to claim priority to a foreign application. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(d). When priority is claimed to a foreign application that is eligible for retrieval under the priority document exchange program (PDX)ⁱ the information will be used by the Office to automatically attempt retrieval pursuant to 37 CFR 1.55(h)(1) and (2). Under the PDX program, applicant bears the ultimate responsibility for ensuring that a copy of the foreign application is received by the Office from the participating foreign intellectual property office, or a certified copy of the foreign priority application is filed, within the time period specified in 37 CFR 1.55(g)(1).

Application Number	Country ⁱ	Filing Date (YYYY-MM-DD)	Access Code ⁱ (if applicable)

Additional Foreign Priority Data may be generated within this form by selecting the **Add** button.

Statement under 37 CFR 1.55 or 1.78 for AIA (First Inventor to File) Transition Applications

☒ This application (1) claims priority to or the benefit of an application filed before March 16, 2013 and (2) also contains, or contained at any time, a claim to a claimed invention that has an effective filing date on or after March 16, 2013.

NOTE: By providing this statement under 37 CFR 1.55 or 1.78, this application, with a filing date on or after March 16, 2013, will be examined under the first inventor to file provisions of the AIA.

Authorization to Permit Access:

☒ Authorization to Permit Access to the Instant Application by the Participating Offices

Application Data Sheet 37 CFR 1.76		Attorney Docket Number	7300-0002
		Application Number	
Title of Invention	MULTIPLE VIEWING ANGLE MEDIA SUPPORT		

If checked, the undersigned hereby grants the USPTO authority to provide the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the World Intellectual Property Office (WIPO), and any other intellectual property offices in which a foreign application claiming priority to the instant patent application is filed access to the instant patent application. See 37 CFR 1.14(c) and (h). This box should not be checked if the applicant does not wish the EPO, JPO, KIPO, WIPO, or other intellectual property office in which a foreign application claiming priority to the instant patent application is filed to have access to the instant patent application.

In accordance with 37 CFR 1.14(h)(3), access will be provided to a copy of the instant patent application with respect to: 1) the instant patent application-as-filed; 2) any foreign application to which the instant patent application claims priority under 35 U.S.C. 119(a)-(d) if a copy of the foreign application that satisfies the certified copy requirement of 37 CFR 1.55 has been filed in the instant patent application; and 3) any U.S. application-as-filed from which benefit is sought in the instant patent application.

In accordance with 37 CFR 1.14(c), access may be provided to information concerning the date of filing this Authorization.

Applicant Information:

Providing assignment information in this section does not substitute for compliance with any requirement of part 3 of Title 37 of CFR to have an assignment recorded by the Office.			
Applicant	1		Remove
If the applicant is the inventor (or the remaining joint inventor or inventors under 37 CFR 1.45), this section should not be completed. The information to be provided in this section is the name and address of the legal representative who is the applicant under 37 CFR 1.43; or the name and address of the assignee, person to whom the inventor is under an obligation to assign the invention, or person who otherwise shows sufficient proprietary interest in the matter who is the applicant under 37 CFR 1.46. If the applicant is an applicant under 37 CFR 1.46 (assignee, person to whom the inventor is obligated to assign, or person who otherwise shows sufficient proprietary interest) together with one or more joint inventors, then the joint inventor or inventors who are also the applicant should be identified in this section.			
Clear			
☒ Assignee	Legal Representative under 35 U.S.C. 117		Joint Inventor
Person to whom the inventor is obligated to assign.		Person who shows sufficient proprietary interest	
If applicant is the legal representative, indicate the authority to file the patent application, the inventor is:			
Name of the Deceased or Legally Incapacitated Inventor :			
If the Applicant is an Organization check here. ☒			
Organization Name	Happy Products, Inc.		
Mailing Address Information For Applicant:			
Address 1	5741 NE 87th Ave.		
Address 2			
City	Portland	State/Province	OR
Country	US	Postal Code	97220
Phone Number		Fax Number	

Application Data Sheet 37 CFR 1.76		Attorney Docket Number	7300-0002
		Application Number	
Title of Invention	MULTIPLE VIEWING ANGLE MEDIA SUPPORT		
Email Address			
Additional Applicant Data may be generated within this form by selecting the Add button.			Add

Assignee Information including Non-Applicant Assignee Information:

Providing assignment information in this section does not substitute for compliance with any requirement of part 3 of Title 37 of CFR to have an assignment recorded by the Office.

Assignee	1		
Complete this section if assignee information, including non-applicant assignee information, is desired to be included on the patent application publication. An assignee-applicant identified in the "Applicant Information" section will appear on the patent application publication as an applicant. For an assignee-applicant, complete this section only if identification as an assignee is also desired on the patent application publication.			
Remove			
If the Assignee is an Organization check here. ☒			
Organization Name	Happy Products, Inc.		
Mailing Address Information For Non-Applicant Assignee:			
Address 1	5741 NE 87th Ave.		
Address 2			
City	Portland	State/Province	OR
Country i	US	Postal Code	97220
Phone Number		Fax Number	
Email Address			
Additional Assignee Data may be generated within this form by selecting the Add button.			
Add			

Signature:

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications.					
Signature	/Scott A. Schaffer/			Date (YYYY-MM-DD)	2019-01-30
First Name	Scott A.	Last Name	Schaffer	Registration Number	38610
Additional Signature may be generated within this form by selecting the Add button.					Add

Application Data Sheet 37 CFR 1.76		Attorney Docket Number	7300-0002
		Application Number	
Title of Invention	MULTIPLE VIEWING ANGLE MEDIA SUPPORT		

This collection of information is required by 37 CFR 1.76. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REISSUE APPLICATION: CONSENT OF ASSIGNEE; STATEMENT OF NON-ASSIGNMENT		Docket Number (Optional) 7300-0002
This is part of the application for a reissue patent based on the original patent identified below.		
Name of Patentee(s) Bruce Cannon, Juliette Fassett		
Patent Number 9,642,454 B2	Date Patent Issued May 9, 2017	
Title of Invention MULTIPLE VIEWING ANGLE MEDIA SUPPORT		
1. ☒ Filed herein is a statement under 37 CFR 1.762 (Form PTO/AIA/96) 2. ☐ Ownership of the patent is in the inventor(s) and no assignment of the patent is in effect. One of boxes 1 or 2 above must be checked. If both are checked, you complete this form for each assignee. If box 2 is checked, skip the next entry and go directly to "Name of Assignee." The written consent of all assignees and inventors owning an undivided interest in the original patent is included in this application for reissue.		
The assignee(s) owning an undivided interest in said original patent is/are <u>Happy Products, Inc.</u> and the assignee(s) consents to the accompanying application for reissue.		
Name of assignee/inventor (if not assigned) Happy Products, Inc.		
Signature 	Date 1/25/19	
Typed or printed name and title of person signing for assignee (if assigned) JULIETTE FASSETT, CEO of Happy Products, Inc.		

This collection of information is required by 37 CFR 1.172. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(c)Applicant/Patent Owner: Happy Products, Inc.Application No./Patent No.: 9,642,454 Filed/Issue Date: 05/09/2017Titled: MULTIPLE VIEWING ANGLE MEDIA SUPPORTHappy Products, Inc., a corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that, for the patent application/patent identified above, it is (choose **one** of options 1, 2, 3 or 4 below):

1. ☒ The assignee of the entire right, title, and interest.
2. ☐ An assignee of less than the entire right, title, and interest (check applicable box):
- ☐ The extent (by percentage) of its ownership interest is _____%. Additional Statement(s) by the owners holding the balance of the interest must be submitted to account for 100% of the ownership interest.
- ☐ There are unspecified percentages of ownership. The other parties, including inventors, who together own the entire right, title and interest are:

Additional Statement(s) by the owner(s) holding the balance of the interest must be submitted to account for the entire right, title, and interest.

3. ☐ The assignee of an undivided interest in the entirety (a complete assignment from one of the joint inventors was made). The other parties, including inventors, who together own the entire right, title, and interest are:

Additional Statement(s) by the owner(s) holding the balance of the interest must be submitted to account for the entire right, title, and interest.

4. ☐ The recipient, via a court proceeding or the like (e.g., bankruptcy, probate), of an undivided interest in the entirety (a complete transfer of ownership interest was made). The certified document(s) showing the transfer is attached.

The interest identified in option 1, 2 or 3 above (not option 4) is evidenced by either (choose **one** of options A or B below):

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 046872, Frame 0562, or for which a copy thereof is attached.
- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:
1. From: _____ To: _____
- The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
- The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

[Page 1 of 2]

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

HPI-ONTEL0000310

STATEMENT UNDER 37 CFR 3.73(c)

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
 Reel _____, Frame _____, or for which a copy thereof is attached.

4. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
 Reel _____, Frame _____, or for which a copy thereof is attached.

5. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
 Reel _____, Frame _____, or for which a copy thereof is attached.

6. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
 Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☒ As required by 37 CFR 3.73(c)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

/scott a schaffer/

01/30/2019

Signature

Date

Scott A. Schaffer

38,610

Printed or Typed Name

Title or Registration Number

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REISSUE PATENT APPLICATION TRANSMITTAL

Address to: Mail Stop Reissue Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Attorney Docket No. 7300-0002 First Named Inventor Bruce Cannon Original Patent Number 9642454 Original Patent Issue Date (Month/Day/Year) 05/09/2017 Priority Mail Express® Label No.	
APPLICATION FOR REISSUE OF: (Check applicable box) ☒ Utility Patent ☐ Design Patent ☐ Plant Patent		
APPLICATION ELEMENTS (37 CFR 1.173) ACCOMPANYING APPLICATION PARTS		
1. ☒ Fee Transmittal Form (PTO/SB/56) 2. ☒ Applicant asserts small entity status. See 37 CFR 1.27 3. ☐ Applicant certifies micro entity status. See 37 CFR 1.29. Applicant must attach form PTO/SB/15A or B or equivalent. 4. ☒ Specification and Claims in double column copy of patent format (amended, if appropriate) 5. ☒ Drawing(s) (proposed amendments, if appropriate) 6. ☒ Reissue Oath/Declaration or Substitute Statement (37 CFR 1.175) (PTO/AIA/05, 06, or 07) 7. ☒ Application Data Sheet NOTE: Benefit claims under 37 CFR 1.78 and foreign priority claims under 37 CFR 1.55 MUST be set forth in an Application Data Sheet (ADS). 8. ☒ Original U.S. Patent currently assigned? ☒ Yes ☐ No (If Yes, check applicable box(es)) ☒ Written Consent of all Assignees (PTO/AIA/53) ☒ 37 CFR 3.73(c) Statement (PTO/AIA/96) 9. ☐ CD-ROM or CD-R in duplicate, Computer Program (Appendix) or large table ☐ Landscape Table on CD 10. Nucleotide and/or Amino Acid Sequence Submission (If applicable, items a. – c. are required) a. ☐ Computer Readable Form (CRF) b. ☐ Specification Sequence Listing on: i. ☐ CD-ROM (2 copies) or CD-R (2 copies); or ii. ☐ Paper c. ☐ Statements verifying identity of above copies 11. ☒ Statement of status and support for all changes to the claims. See 37 CFR 1.173(c). 12. ☒ Power of Attorney 13. ☒ Information Disclosure Statement (IDS) PTOSB/08 or PTO-1449 ☒ Copies of citations attached 14. ☐ English translation of Reissue Oath/Declaration (if applicable) 15. ☐ Return Receipt Postcard (MPEP § 503) (Should be specifically itemized) 16. ☒ Preliminary Amendment (37 CFR 1.173; MPEP § 1453) 17. ☐ Other: _____ _____ _____ _____ _____ _____ ☐ This is a continuation reissue or divisional reissue application (i.e., a second or subsequent reissue application for the same issued patent). (Check box if applicable.)		
18. CORRESPONDENCE ADDRESS		
☒ The address associated with Customer Number: 133404 OR ☐ Correspondence address below		
Name		
Address		
City	State	Zip Code
Country	Telephone	
Email		
Signature	/scott a. schaffer/	Date 01-30-2018
Name (Print/Type)	Scott A. Schaffer	Registration No. 38,610

This collection of information is required by 37 CFR 1.173. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Reissue, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REISSUE APPLICATION FEE TRANSMITTAL FORM							Docket Number (Optional) 7300-0002		
Application as Filed – Part 1									
	(1) Claims in Patent	(2) Claims Filed in Reissue Application	(3) Number Extra	Micro Entity		Small Entity		Undiscounted	
				Rate (\$)	Fee (\$)	Rate (\$)	Fee (\$)	Rate (\$)	Fee (\$)
Total Claims (37 CFR 1.16(i))	(A) 10	(B) 20	* 0 =	x =		x 40 =	0	x =	
Ind. Claims (37 CFR 1.16(h))	(C) 1	(D) 2	** 0 =	x =		x 390 =	0	x =	
Application Size Fee (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$400 (\$200 for small entity, \$100 for micro entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).								N A
		Filing Fee (37 CFR 1.16(e))				140			
		Search Fee (37 CFR 1.16(n))				300			
		Examination Fee (37 CFR 1.16(r))				1080			
		Total Filing Fee				1520			
Application as Amended – Part 2									
	(1) Claims Remaining After Amendment	(2) Highest Number Previously Paid For	(3) Extra Claims Present	Micro Entity		Small Entity		Undiscounted	
				Rate (\$)	Fee (\$)	Rate (\$)	Fee (\$)	Rate (\$)	Fee (\$)
Total Claims (37 CFR 1.16(i))	*** 20 -	**** 20 =	0	x =		x =	0	x =	
Ind. Claims (37 CFR 1.16(h))	*** 2 -	***** 3 =	0	x =		x =	0	x =	
Application Size Fee (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$400 (\$200 for small entity, \$100 for micro entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).								
				Total Additional Fee					0
* Enter (B) – 20, or enter “0” if (B) is less than 20. ** Enter (D) – minus 3, or enter “0” if (D) is less than 3. *** After any cancellation of claims. **** If the “Highest Number of Total Claims Previously Paid For” is less than 20, enter “20” in this space. ***** If the “Highest Number of Independent Claims Previously Paid For” is less than 3, enter “3” in this space. ☒ Applicant asserts small entity status. See 37 CFR 1.27. ☐ Applicant certifies micro entity status. See 37 CFR 1.29. Form PTO/SB/15A or B or equivalent must either be enclosed or have been submitted previously. ☐ The Director is hereby authorized to charge any additional fees under 37 CFR 1.16 or 1.17 which may be required, or credit any overpayment to Deposit Account No. _____. ☐ A check in the amount of \$ _____ to cover the filing/additional fee is enclosed. ☒ Payment made via EFS-Web. ☐ Payment by credit card. Form PTO-2038 is attached. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. /scott a schaffer/ Signature <u>Scott A. Schaffer</u> Typed or Printed Name 01/30/2019 Date <u>38,610</u> Registration Number, if applicable <u>503-970-5119</u> Telephone Number									

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.