

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALTRIA CLIENT SERVICES LLC
Petitioner,

v.

YIWU JINGANGKE TRADING CO., LTD.,
Patent Owner

Patent No. D. 1,081,032 S
Issue Date: June 24, 2025
Title: DOG TOY SET

Case No. PGR2026-00035

DECLARATION OF ALAN BALL

Altria Client Services v. Yiwu Jingangke Trading PGR2026-00035 Patent No. D1,081,032 Ex. 1003

I, Alan Ball, declare as follows:

I. INTRODUCTION

1. I have been retained by Altria Client Services LLC (“Petitioner”) as an independent expert to opine on the design claimed in U.S. Patent No. D. 1,081,032 S (the “’032 Patent”) (Ex. 1001), which identifies Yiwu Jingangke Trading Co., Ltd. as its assignee (“Patent Owner”).

2. I am being compensated at a rate of \$530 per hour in this matter. No part of my compensation is dependent on the outcome of this proceeding, and I have no other interest in this proceeding.

3. I understand that Petitioner is challenging the validity of the ’032 Patent and is contemporaneously filing a petition for post-grant review (“Petition”) with this Declaration. In the Petition, I understand that Petitioner raises ten (10) grounds on which the ’032 Patent is invalid based on five (5) references alone or in combination with one another. The five references are:

Exhibit	Prior Art	Publication Date
1004	Life Magazine Marlboro [®] Advertisement dated March 30, 1959 (“1959 Marlboro [®] Ad”)	March 30, 1959
1005	U.S. Trademark Registration No. 1,039,413 (“the ’413 Registration”)	May 11, 1976
1007	U.S. D 1,114,395 (“Pitman”)	February 17, 2026
1008	Frisko Plush Cigar Dog Toy Reviews	November 21, 2019

1009	U.S. Patent No. 2,610,851 (“Jones”)	April 1, 1948
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4. I understand that Petitioner raises the following specific grounds of invalidity:

Ground	Statutory Basis	Prior Art
1	§ 102	1959 Marlboro® Ad
2	§ 103	1959 Marlboro® Ad in View of Knowledge in the Art
3	§ 103	1959 Marlboro® Ad in View of Pitman and Knowledge in the Art
4	§ 103	1959 Marlboro® Ad in View of Chewy Frisco Review and Knowledge in the Art
5	§ 103	1959 Marlboro® Ad in View of Jones and Knowledge in the Art
6	§ 102	’413 Registration
7	§ 103	’413 Registration in View of Knowledge in the Art
8	§ 103	’413 Registration in View of Pitman and Knowledge in the Art
9	§ 103	’413 Registration in View of Chewy Frisco Review and Knowledge in the Art
10	§ 103	’413 Registration in View of Jones and Knowledge in the Art

5. I have been asked to consider the Section 102 (anticipation) and Section 103 (obviousness) arguments raised by Petitioner in Grounds 1–10 of the Petition. My opinions are set forth below.

II. QUALIFICATIONS

6. I am an Industrial Designer, inventor, and product design consultant. I have a Bachelor of Industrial Design (B.I.D.) from Syracuse University. I am listed as an inventor on 57 design patents and 11 utility patents. A more detailed summary of my background, experience, and publications is provided in my curriculum vitae, which I understand is being submitted as **Exhibit 1**.

7. I have worked as an Industrial Designer continuously for 30 years since receiving my degree in 1987. I have a broad range of product design experience including, but not limited to, consumer products, medical products, and industrial equipment and instrumentation. Many of the products that I have designed have been recognized for design excellence by the Industrial Designers Society of America (IDSA), iF International Forum Design GmbH, and the Consumer Electronics Association. Details of these awards are included in my curriculum vitae.

8. I have experience designing pet products, including dog toys. I invented the LeashLight (US Patent No. 6,003,472, US Patent No. D. 410,117), a combination retractable dog leash and light that we licensed to Black and Decker. I have also designed pet grooming products for Black and Decker, and other illuminated leashes and plush toys for dogs and cats, including a plush fish-shaped toy with a chirping/wiggling mechanism.

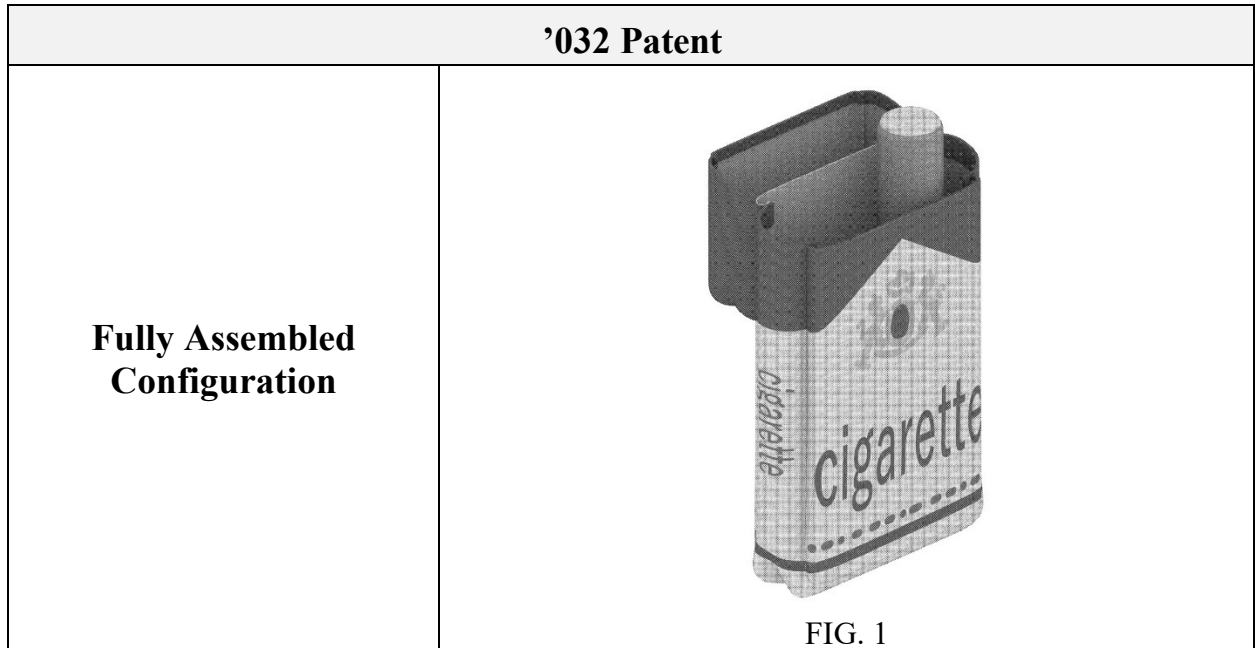


III. THE '032 PATENT

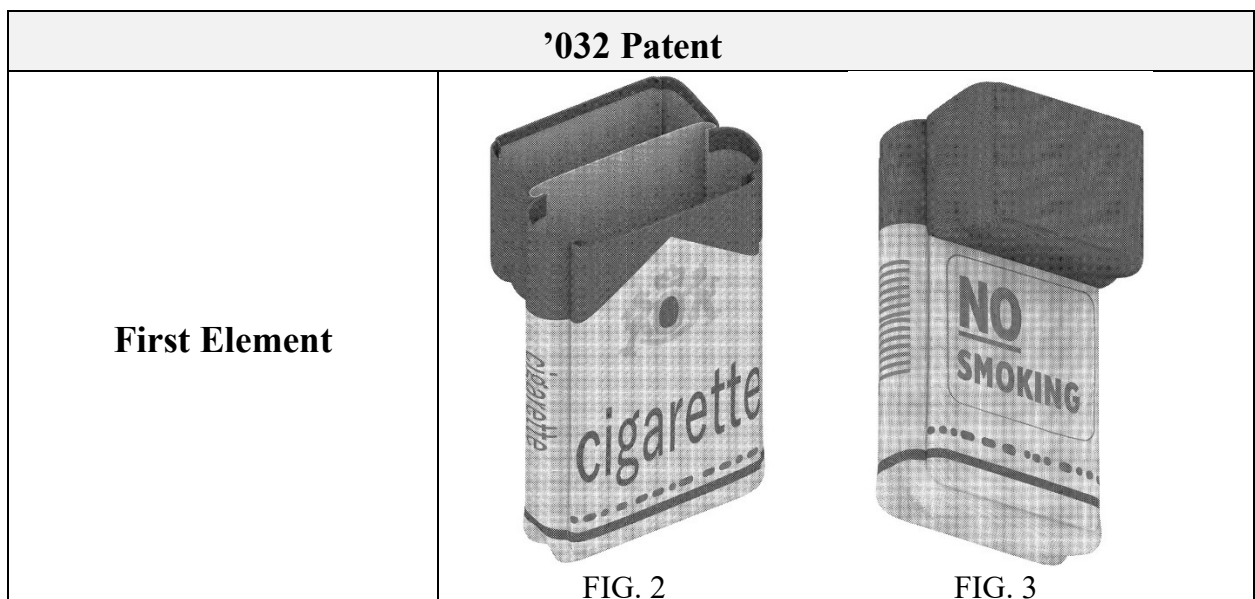
9. The Patent Owner filed the '032 Patent on November 5, 2024 as application number 29/971,640 (the "'640 Application"). November 5, 2024 is the earliest priority date. The '640 Application issued on June 24, 2025 as D 1,081,032 S.

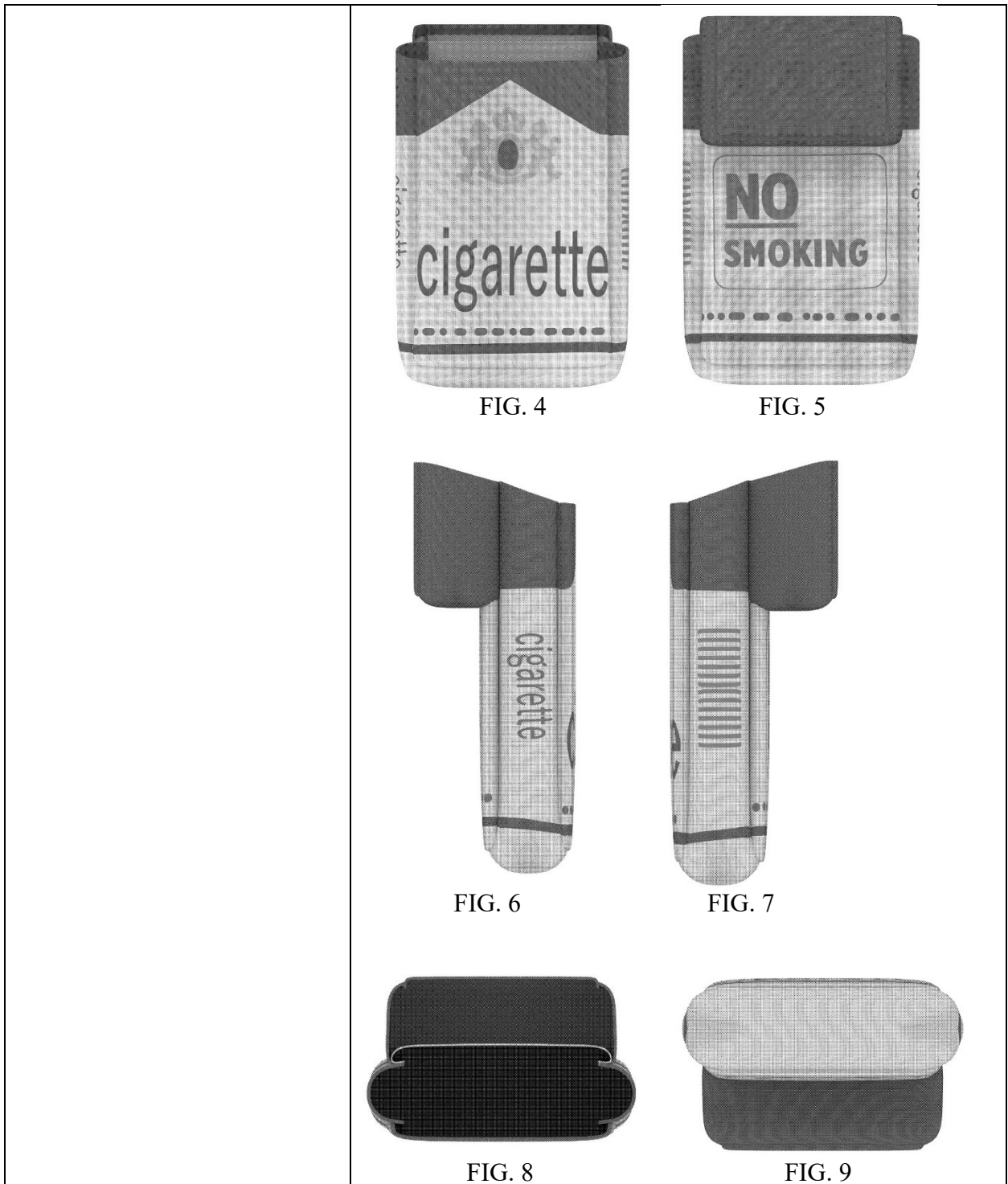
10. The '032 Patent has a single claim for the "ornamental design for dog toy set, as shown and described." *Id.* The '032 Patent claims a two-component, dog-toy design that visually imitates a Marlboro® cigarette pack and a cigarette. It includes seventeen figures, with FIG. 1 describing a "Fully Assembled Configuration," FIGS. 2–9 describing the "First Element" and FIGS. 10–17 describing the "Second Element." The Fully Assembled Configuration consists of the First Element and the Second Element. The Fully Assembled Configuration

shows a dog-toy set consisting of a cigarette pack dog toy and an accompanying cigarette dog toy:



11. The “first element” of the dog-toy set consists of a cigarette pack toy, as shown in FIGS. 2–9:





12. The “second element” of the dog-toy set consists of a cigarette toy, as shown in FIGS. 10–17:

'032 Patent

Second Element

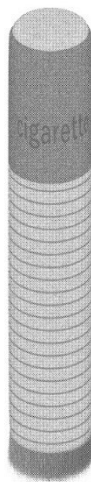


FIG. 10

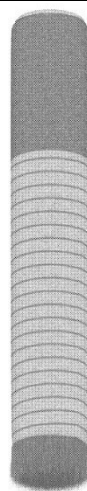


FIG. 11



FIG. 12



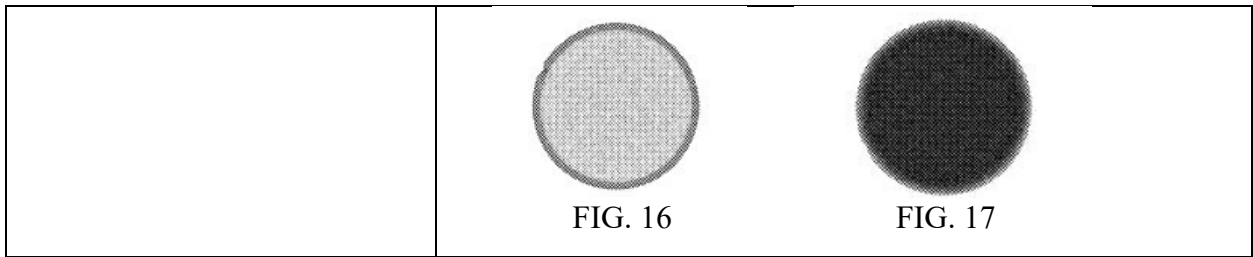
FIG. 13



FIG. 14



FIG. 15



13. The '032 Patent depicts a two-component, dog-toy set. Figures 1 through 9 illustrate a rectangular box resembling a Marlboro® cigarette pack.

14. Key ornamental features of the cigarette pack toy include a rectangular carton-like body, a hinged flip-top lid, a cylindrical cigarette-like element protruding from the top opening, a roof design at the top of the carton, a crest located directly under the middle of the roof design, and a horizontal solid line extending along the bottom of the carton.

15. Figures 10 through 17 illustrate a separate elongated cylindrical toy resembling a cigarette. Key ornamental features of the cigarette toy include a long cylindrical body, a distinct filter-like segment near one end, and a two-toned appearance separating the filter portion from the body.

16. The drawings of the '032 Patent show the cigarette toy inserted into the cigarette pack toy and that it is removable from the pack toy. The claimed design encompasses the visual appearance of the toy set as a whole, consisting of both objects together.

17. I understand from counsel that although a design patent is not directed to a design in the abstract, but rather to a design as applied to an article of

manufacture, it is permissible to consider designs from different articles where the overall visual impression is substantially the same. Accordingly, a design that copies the same distinct ornamental appearance of the Marlboro® cigarette packaging would suggest the application of those features in a dog-toy design thereby anticipating or rendering obvious the claimed design.

IV. PROSECUTION HISTORY OF THE '640 APPLICATION

18. I have reviewed the prosecution history of the '640 Application (Ex. 1002), which led to the issuance of the '032 Patent.

19. During prosecution, the examiner issued a Non-Final Office Action rejecting the sole design claim under both 35 U.S.C. § 102 and § 103. Ex. 1002 at 40. The examiner identified as prior art a product referred to as the “Nocciola Dog Toy,” which appeared in an Amazon.com product listing and was reportedly available as early as June 20, 2024—prior to the November 5, 2024 filing date of the '640 Application. *Id.* at 42.

20. In the § 102 rejection, the examiner determined that the appearance of the dog toy shown in the Nocciola product listing was substantially the same as the claimed design. Ex. 1002, at 42. The examiner’s finding is significant because the Nocciola Dog Toy, like the claimed design, visually imitates the appearance of a Marlboro® cigarette pack and cigarette. The examiner thus recognized—independently of this proceeding—that a prior product bearing the same Marlboro®-

derived ornamental appearance was substantially identical to the design now claimed in the '032 Patent.

21. In the § 103 rejection, the examiner noted that the Nocciola product appeared to include a cigarette pack toy with multiple cigarette toys, whereas the claimed design depicts a pack with a single cigarette element. Ex. 1002, at 43–44. The examiner concluded that removing one or more cigarette elements from the prior design would have been an obvious modification that did not impart patentable distinction. *Id.* at 44. In my opinion, the examiner's conclusion on this point is consistent with my own analysis: variations in the number of simple, unornamented cylindrical cigarette elements depicted alongside a Marlboro[®]-style pack do not alter the dominant visual impression of the design.

22. The applicant did not overcome the examiner's rejection by demonstrating that the claimed design was ornamentally distinct from the Nocciola Dog Toy. Instead, the applicant submitted a declaration under 37 C.F.R. § 1.130(a), asserting that the Nocciola Dog Toy disclosure originated from the inventor or from an entity that obtained the design from the inventor. Ex. 1002 at 28. Specifically, the declaration stated that the Nocciola-branded product available on Amazon was associated with Beijing Youyou Bear Technology Co., Ltd., which had allegedly obtained the design from the named inventor, Jufen Zheng. *Id.* The applicant argued that because the disclosure was derived from the inventor and occurred within one

year of the filing date, it qualified for the grace-period exception under 35 U.S.C. § 102(b)(1). *Id.*

23. The examiner accepted this declaration, withdrew the prior-art rejections, and allowed the application. Ex. 1002 at 14.

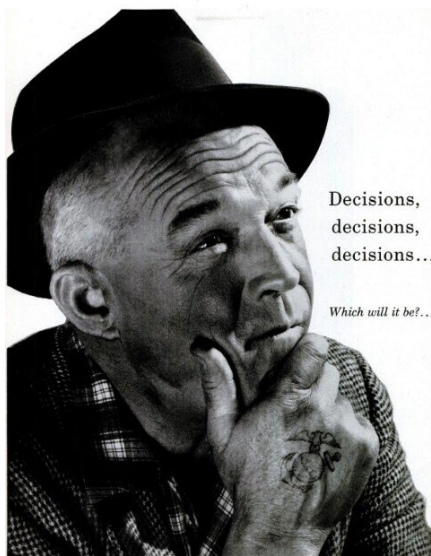
V. PRIOR ART OVERVIEW

24. It is my view that everything claimed in the '032 Patent's design was known in the prior art before the effective filing date of the '032 Patent. The '032 Patent simply claims a plush dog toy that captures the design of a Marlboro® cigarette box.

1. 1959 Life Magazine Marlboro® Advertisement (Ex. 1004)

25. A 1959 Life Magazine featured a multipage Marlboro® cigarette advertisement prominently displaying Marlboro® cigarette packaging and individual cigarettes arranged to emphasize the distinctive design of the Marlboro® cigarette pack.

Marlboro® Ad (March 30, 1959)



Advertisement

Copyright © 1959



soft pack...



or flip-top box?

26. The Marlboro® Ad depicts a standard Marlboro® cigarette pack with its characteristic rectangular pack shape and hinged top that opens to reveal multiple

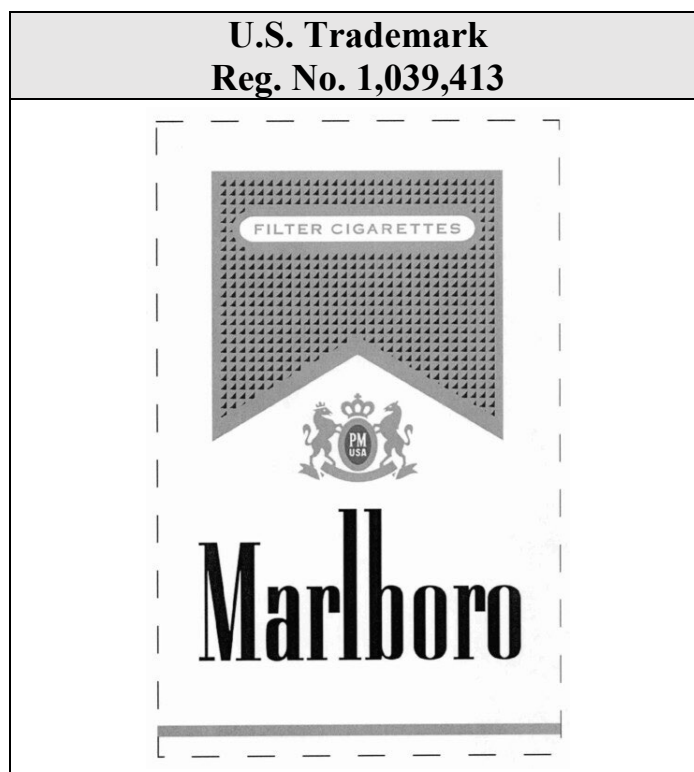
individual cigarettes inside the pack. The individual cigarettes are shown partially exposed and removable from the pack, visually demonstrating the functional and ornamental configuration of the cigarette packaging.

27. The Marlboro[®] Ad prominently presents the Marlboro[®] brand name and packaging graphics, including the well-known triangular roof design and associated branding elements on the front of the pack. The advertisement highlights the pack's hinged lid structure and the arrangement of cylindrical cigarettes contained within the pack. By depicting both the pack and the individual cigarettes together, the advertisement visually communicates the conventional configuration of a cigarette pack that opens via a hinged lid to hold multiple cylindrical cigarettes. The advertisement forms part of Marlboro[®]'s longstanding print advertising campaign that prominently featured the Marlboro[®] cigarette pack as a recognizable product design element and brand identifier.

28. The 1959 Marlboro[®] Ad was not prior art of record and was not considered during prosecution of the '032 Patent. *See* Ex. 1001.

2. U.S. Trademark Reg. No. 1,039,413 (Ex. 1005)

29. U.S. Trademark Registration No. 1,039,413 publicly discloses the distinctive Marlboro[®] cigarette-pack design.



30. Philip Morris USA, Inc. filed an application (Trademark App. No. 72/430,002) for the above-identified trademark on July 17, 1972. Ex. 1004. The description of the mark states that “the mark consists of a roof design with dark stippling located at the top of the design. Within the roof is an oval with the words FILTER CIGARETTES. A crest with an oval center with the words PM USA is located directly under the middle of the roof design. The word MARLBORO® is located in the lower portion of the design. There is a line located at the bottom of the design. The broken lines outlining the packaging are intended to show the position of the mark and is not part of the mark.” *Id.* The first use date of this trademark is September 2, 1971.

31. The '413 Registration was not prior art of record and was not considered during prosecution of the '032 Patent. *See* Ex. 1001. The '413 Registration registered on May 11, 1976 and was published prior to that date in the Trademark Official Gazette. The '413 Registration has been publicly accessible since it was first published.

3. U.S. D 1,114,395 (“Pitman”) (Ex. 1007)

32. Pitman claims the ornamental design for a plush dog toy. Ex. 1007. The patent application (App. No. 29/764,593) was filed on September 28, 2023 and issued February 17, 2026. Pitman contains a single claim directed to “[t]he ornamental design for a plush dog toy, as shown and described.” *Id.* Pitman specifically illustrates a dog toy that resembles a reindeer. *Id.* The body is plush. *Id.*

33. The claimed design is depicted in seven figures showing perspective, top, bottom, front, back, and side views of the toy. The figures of Pitman are shown below.

Pitman FIGS. 1–7



FIG. 1

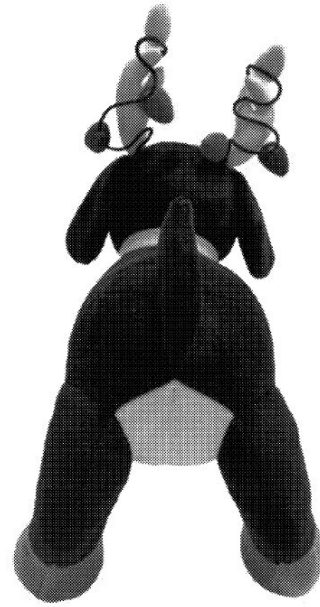


FIG. 2

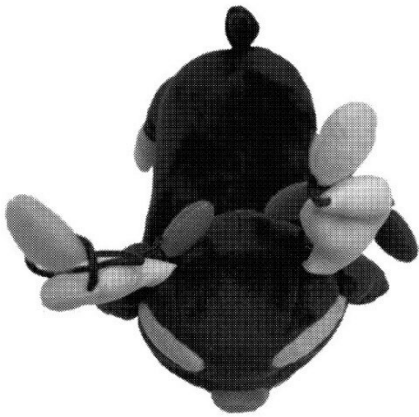


FIG. 3

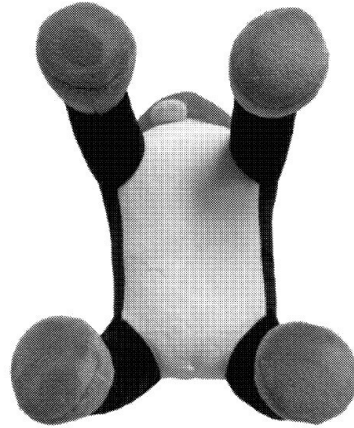
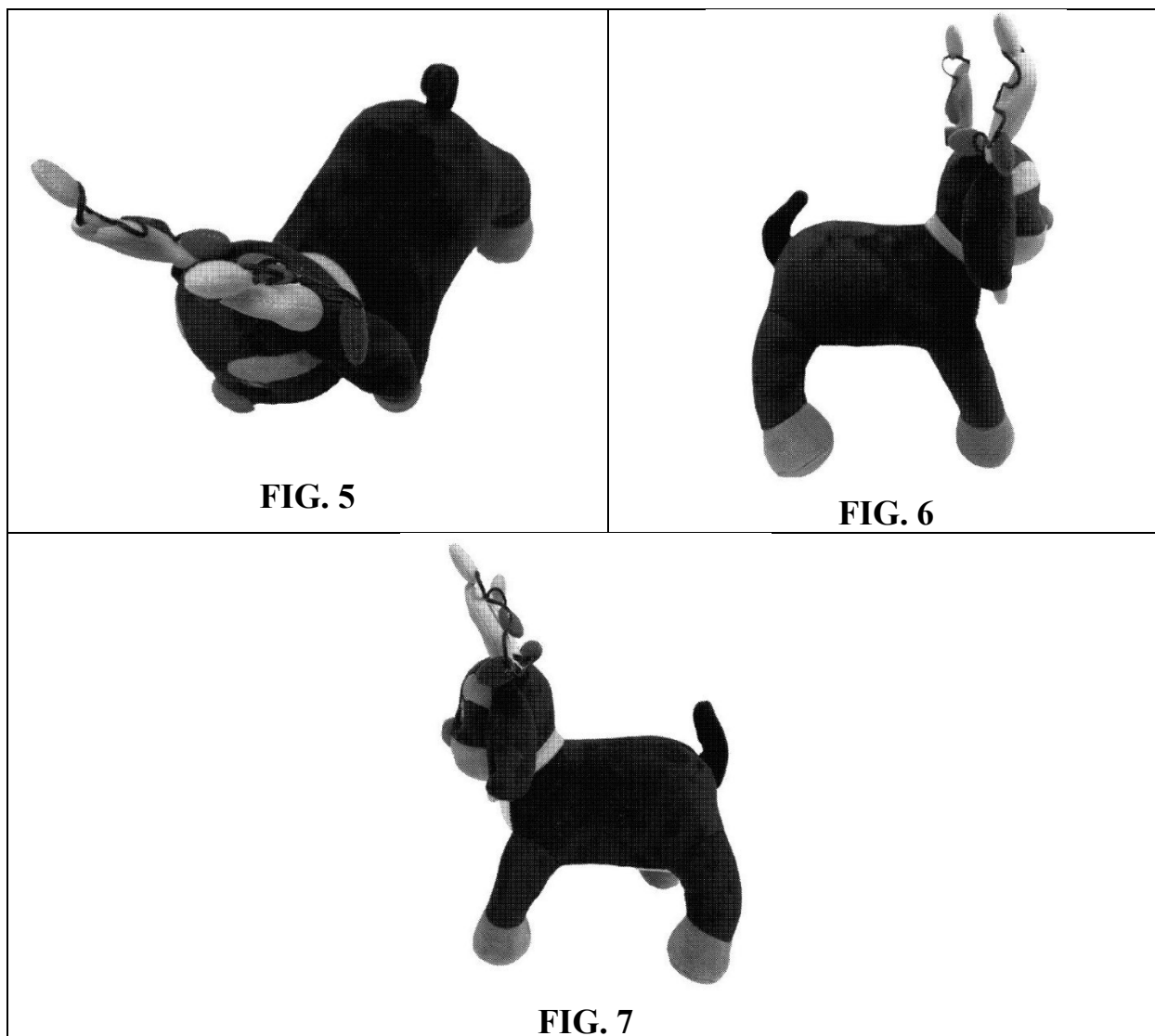


FIG. 4



34. Pitman was filed on September 28, 2023 and published on February 17, 2026. Pitman is not prior art of record and was not considered during prosecution of the '032 Patent. *See* Ex. 1001.

4. Frisco Plush Cigar Dog Toy Reviews (Ex. 1008)

35. The Frisco Plush Cigar Dog was a novelty dog toy sold under the Frisco brand, a private-label line of pet products developed and sold by Chewy. Frisco products include a variety of plush toys, chew toys, and novelty pet items

designed to create entertaining play experiences for dogs. The Frisco Plush Cigar Dog Toy is a plush novelty toy designed to resemble a cigar. The toy is made of soft fabric and contains an internal squeaker intended to stimulate play when the dog bites or squeezes the toy. Plush toys of this type are typically used for interactive play activities such as fetch, tug-of-war, or general chewing, while also serving as a soft object dogs may carry or cuddle. The Frisco Plush Cigar Dog Toy is shown below.



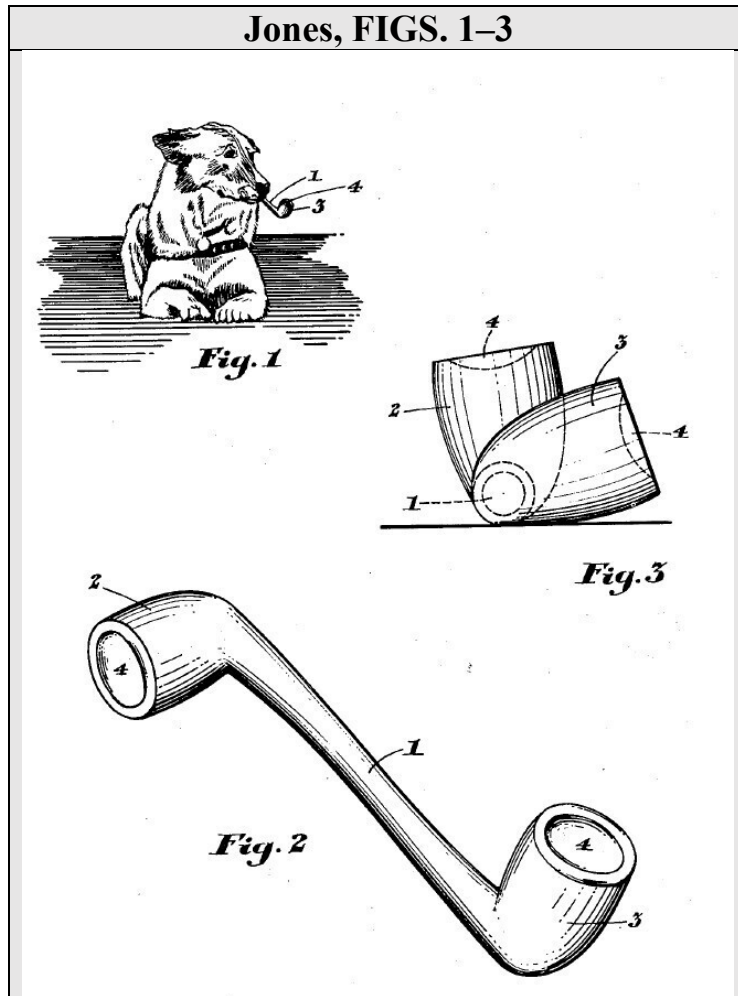
36. From November 21, 2019 to January 22, 2020, ten customers reviewed the Frisco Plush Cigar Dog Toy, giving it an average rating of 3.8 out of 5 stars. The Frisco Plush Cigar Dog Toy was publicly available at least as early as November 21, 2019.

37. The Frisco Plush Cigar Dog Toy was not prior art of record and was not considered during prosecution of the '032 Patent. *See* Ex. 1001 at 1.

5. U.S. Patent No. 2,610,851 (“Jones”) (Ex. 1009)

38. Jones discloses a dog toy comprising an elongated stem with end portions configured to resemble pipe bowls. Ex. 1009. The toy is designed in a way such that one end may be inserted in a dog’s mouth, while the opposite end projects outward. Jones issued on April 1, 1948 and is not prior art of record and was not considered during prosecution of the ’032 Patent. *See* Ex. 1001 at 1.

39. As shown in the figures, the device includes a cylindrical stem and enlarged end portions, forming a pipe-like configuration. “The primary objects of the invention are to provide a dogs toy which, when held in the mouth of a dog or puppy, will produce a comical effect as though the animal were smoking a pipe.” Ex. 1009, 1:4–9. The patent also teaches that the toy is molded of rubber or similar material for chewing and durability making it suitable for canine use. *Id.*



6. Knowledge in the Art

40. Designers of pet toys frequently create novelty products that replicate the appearance of familiar consumer goods and household items. These designs intentionally mimic recognizable products so that the toy produces a humorous or recognizable visual effect when carried or chewed by a dog. Because consumers readily recognize these objects, designers routinely adapt the appearance of well-known consumer products into dog-toy designs.

41. Designers of pet toys commonly created novelty toys that resembled everyday products such as beverage containers, food packaging, and other consumer goods. Dog toys shaped like cigars, beer bottles, wine bottles, soda cans, and similar consumer items have long been sold through pet retailers and online marketplaces. The goal of these designs is to produce a recognizable and humorous visual impression by adapting the appearance of familiar consumer products into dog toys.

42. A “famous” example of this design practice is the novelty dog toy called “Bad Spaniels,” which mimicked the appearance of a Jack Daniel’s whiskey bottle. The toy replicated the distinctive bottle shape and label layout of the Jack Daniel’s product while replacing the wording with humorous phrases, as shown below.



43. Another famous example is the “Chewy Vuiton” dog toy, which intentionally imitated the appearance and branding of Louis Vuitton handbags, as shown below.



44. “Bad Spaniels” and “Chewy Vuiton” are examples of designers adapting the appearance of well-known consumer products into novelty dog toys.

45. U.S. Patent No. D. 1,098,629 to Richard Ochoa (“Ochoa”) is another novelty dog toy in the prior art. Ochoa has a single claim covering the design for a dog toy styled to resemble a bitcoin with dog paws shown in the letter “B” and the language “BITECOINZ” and “IN DOGS WE TRUST” surrounding the coin, as shown below.

Bitcoin v. Ochoa



46. The design elements that transform consumer products into dog toys are largely functional and well known in the field. For example, dog toys must generally be sized and shaped so that they can be gripped, chewed, and carried by a dog. These functional requirements influence the scale and materials of the product but do not materially alter the ornamental appearance being replicated. As a result, when designers adapt the appearance of familiar consumer products into dog toys, the primary ornamental features remain those of the original product being mimicked.

47. Because novelty pet toys frequently replicate recognizable consumer products, an ordinary designer in the field would readily consider adapting the appearance of other well-known products into dog-toy designs. Cigarette packaging is one such recognizable product. The concept of creating a dog toy that mimics the appearance of a cigarette pack or cigarette would have been well within the

knowledge and creativity of a designer of ordinary skill in the field prior to the priority date of the '032 Patent.

VI. LEGAL STANDARDS FOR INVALIDITY

48. I understand that in post-grant review proceedings, a patent claim is construed using the same standard that would be used in a civil action, and that a claim should be construed in accordance with the ordinary and customary meaning of the claim as it would be understood by a person of ordinary skill in the art.

49. For design patents like the '032 Patent, I understand that the claimed designed is better represented by illustrations than by a detailed written description, although it may be appropriate to also address issues such as the role of broken lines in the figures of such a design patent, or to distinguish between ornamental features shown in the patent and features that are purely functional.

Anticipation

50. I understand that a design patent may be deemed invalid based on anticipation or obviousness over the prior art. I understand that the test for anticipation is the “ordinary observer test,” which asks whether “in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same, if the resemblance is such as to deceive such an observer, inducing him to purchase one supposing it to be the other.” I further understand that the ordinary observer test focuses on the overall visual effect of the design, and that

anticipation can be avoided only by a showing of more than minor differences between the two designs.

51. I further understand that the test for anticipation with design patents requires only “substantial” similarity—“minor differences cannot prevent a finding of anticipation.” Thus, I understand that anticipation can be avoided in a design patent analysis only by a showing of more than minor differences between the two designs.

Ordinary Observer

52. In my opinion, the ordinary observer for purposes of the '032 Patent is a purchaser for dog-toy sets. As one example, an ordinary observer could be a user of a dog-toy set that mimics a household item such as a dog owner, or a person purchasing a gift for a dog owner.

53. Based on my experience in consumer product design, including familiarity with the retail channels through which novelty pet products are sold, I offer the following observations about the ordinary observer and the level of attention such a purchaser would typically give when encountering the claimed design.

54. Novelty dog toys are relatively inexpensive, impulse-oriented consumer purchases. Products in this category—plush toys, squeaky toys, and novelty-themed chew toys—are typically priced in the range of approximately \$5 to

\$20. They are commonly displayed in retail environments designed to encourage browsing and impulse purchasing, such as end-cap displays at pet stores, checkout-adjacent racks, and curated “fun” or “gift” sections of online pet retailers like Chewy.com and Amazon. Purchasers of these products do not typically engage in the kind of extended, careful comparison shopping associated with higher-value goods. Rather, the purchasing decision is driven primarily by immediate visual recognition and appeal: the purchaser sees the toy, recognizes the product it is imitating, finds it amusing, and adds it to the cart. This purchasing behavior means that the ordinary observer for the ’032 Patent is giving relatively casual attention to the design—the kind of quick, impression-based assessment that the “ordinary observer” standard contemplates.

55. The relatively low level of purchaser attention strengthens the anticipation and obviousness analysis. Because the ordinary observer for novelty dog toys is making a quick, visually driven purchasing decision, that observer is more likely to perceive two designs as substantially the same if they share the same dominant visual impression. The ordinary observer is not carefully scrutinizing fine ornamental details or comparing subtle differences in proportions, line weights, or decorative flourishes. Instead, the observer is reacting to the overall visual gestalt of the product: does it look like a Marlboro[®] cigarette pack? If so, the design has communicated its essential character. Minor differences between the ’032 Patent’s

claimed design and the prior art—such as slight variations in the rendering of crest details, the precise proportions of condensed text, or the presence or absence of a single cylindrical cigarette element—are precisely the kinds of differences that a casual, impression-driven purchaser would not notice or would regard as inconsequential.

56. The ordinary observer would be familiar with the Marlboro[®] cigarette-pack design. The Marlboro[®] brand is one of the most widely recognized consumer brands in the world. The Marlboro[®] cigarette pack—with its distinctive red and white color scheme, triangular roof element, central heraldic crest, and bold lower text—has been in continuous commercial use since at least the 1950s and has been the subject of extensive print, broadcast, and point-of-sale advertising over many decades. Although cigarette advertising in the United States has been subject to increasing restrictions over time, the Marlboro[®] pack design remains deeply embedded in American visual culture. An ordinary observer encountering the ‘032 Patent’s claimed design would immediately recognize it as imitating a Marlboro[®] cigarette pack. That same observer, encountering the designs shown in the 1959 Marlboro[®] Ad or the ‘413 Registration, would recognize the same Marlboro[®] cigarette-pack appearance. The ordinary observer’s familiarity with the Marlboro[®] packaging design makes the visual similarity between the ‘032 Patent and the prior

art references particularly striking—the observer would perceive both as depicting the same iconic product design.

57. The novelty dog-toy context reinforces the ordinary observer's focus on the imitated product's appearance. The entire commercial appeal of a novelty dog toy that mimics a consumer product lies in the purchaser's ability to recognize the product being imitated. A purchaser encountering a dog toy shaped like a Marlboro® cigarette pack is drawn to the toy because it looks like a Marlboro® cigarette pack—that recognition is the source of the humor and novelty that drives the purchase. This means that the ordinary observer's attention is directed precisely to the ornamental features that the '032 Patent shares with the prior art: the rectangular carton silhouette, the triangular roof, the heraldic crest, the lower condensed text, the hinged flip-top lid, and the protruding cylindrical cigarette. These are the features that make the toy recognizable as a Marlboro® cigarette pack, and they are the same features disclosed in the 1959 Marlboro® Ad and the '413 Registration. An ordinary observer focused on recognizing the imitated product would perceive the '032 Patent's design and the prior art designs as substantially the same because both communicate the same visual message: this is a Marlboro® cigarette pack.

58. The ordinary observer would not perceive the transition from actual packaging to dog-toy form as creating a materially different visual impression. An ordinary observer encountering both the prior art (actual Marlboro® packaging or

advertising depicting Marlboro® packaging) and the ‘032 Patent (a dog toy imitating Marlboro® packaging) would recognize both as presenting the same ornamental design. The fact that one is actual packaging and the other is a plush toy does not alter the dominant visual impression. The ornamental features—the roof, crest, condensed text, rectangular silhouette, hinged top, and protruding cigarette—are the same in both. The differences attributable to the change in medium (softer edges, plush material, slightly different proportions dictated by the functional requirements of a dog toy) are not ornamental design choices; they are the predictable and largely invisible consequences of rendering the same design in a different material for a different product category. An ordinary observer giving the level of attention typical for a novelty dog toy purchase would look past these medium-driven differences and perceive the underlying ornamental design as the same.

Obviousness

59. I understand that the test for obviousness asks whether the design would have been obvious to a designer of ordinary skill who designs articles of the type involved. I further understand that an obviousness analysis of a design patent entails multiple steps. The obviousness inquiry starts with a “primary reference” that is something in existence and is visually similar. Once a primary reference is found, differences between the primary reference and the patented design are determined by comparing the visual appearance from the perspective of an ordinary designer in

the field of the article of manufacture. If the differences between the primary reference and the patented design are de minimis, then the design is invalid as obvious without the need to consider any secondary reference. But secondary considerations should be taken into account if evidence is present.

60. For design patents, I understand that the ultimate inquiry is whether an ordinary designer in the field would have been motivated to modify the prior art design to create the same overall visual appearance as the claimed design. The inquiry focuses on the visual impression of the claimed design as a whole and not on selected individual pieces. The more visually similar the primary reference design is to the claimed design, the better positioned the patent challenger will be to prove the design is obvious. In an obviousness analysis, I understand that the overall claimed design is what is important; small differences are inconsequential.

Designer of Ordinary Skill

61. It is my view that the designer of ordinary skill would be someone with a degree in industrial or product design and two years of professional experience designing consumer products or pet products. In lieu of a degree, the designer of ordinary skill would need an additional one to two years of design experience.

VII. CLAIM CONSTRUCTION

62. I understand from counsel that the Petitioner considers the sole claim of the '032 Patent as based on the solid lines along with verbal descriptions of certain features relevant to the prior art. Here, the solid lines show that the '032 Patent design encompasses a rectangular box resembling a cigarette pack. Key ornamental features of the cigarette pack toy include a rectangular carton-like body, a hinged flip-top lid, a cylindrical cigarette-like element protruding from the top opening, a roof design at the top of the carton, a crest located directly under the middle of the roof design, and a horizontal solid line extending along the bottom of the carton. As a whole, the '032 Patent gives an ordinary designer an overall visual impression of a rectangular design for a cigarette box containing a cigarette.

VIII. DETAILED EXPLANATION OF GROUNDS FOR UNPATENTABILITY

1. Ground 1: The '032 Patent Claim is Anticipated by the 1959 Life Magazine Marlboro® Ad

63. It is my view that there is no patentable difference between the '032 Patent's claimed design and the 1959 Life Magazine Marlboro® Ad. The 1959 Marlboro® Ad discloses substantially the same overall cigarette-pack and cigarette-visual appearance shown in the '032 Patent. Any differences between the Marlboro® Ad and the claimed design are minor and would not be noticeable to an ordinary observer. The overall visual impression of the designs is substantially the same.

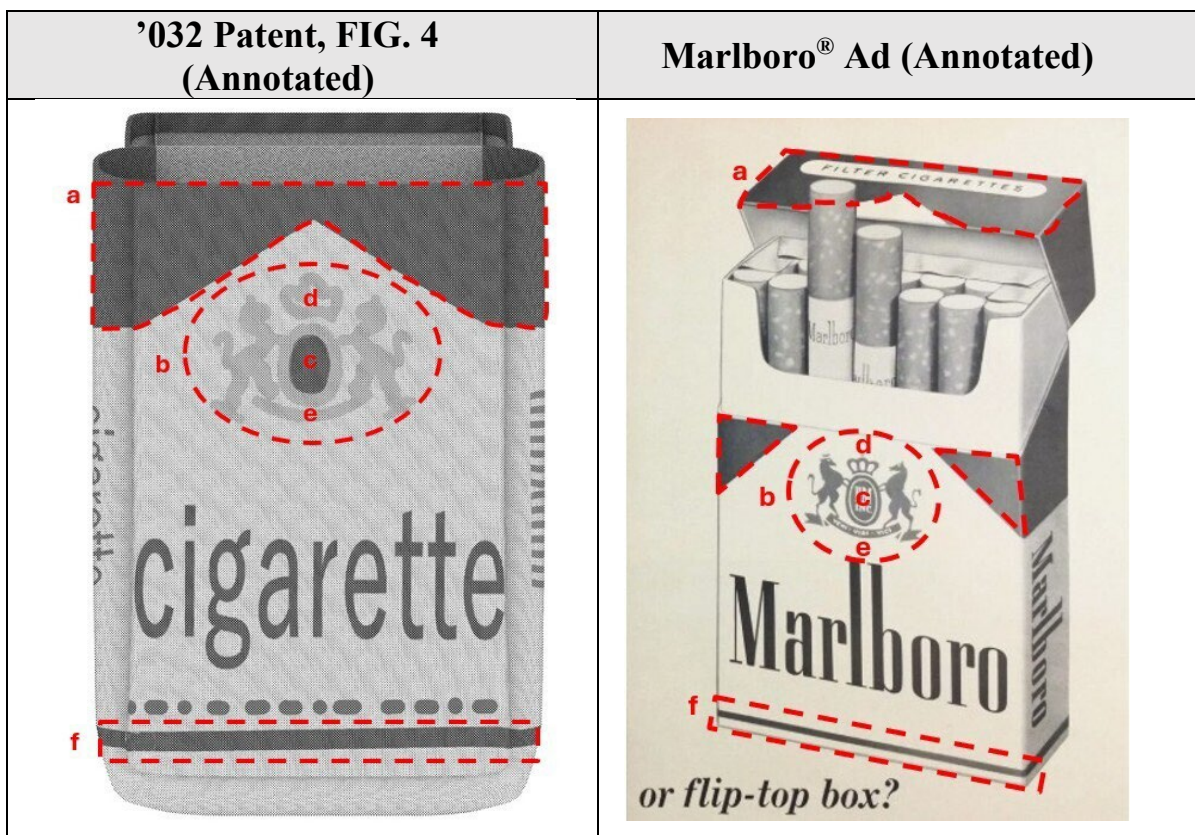
64. The Marlboro® Ad discloses a cigarette packaging design with an overall appearance that is substantially the same as the elements of the '032 Patent. The Marlboro® Ad discloses the same ornamental configuration depicted in the claimed design, including the cigarette-pack form and the protruding cylindrical cigarette element.

65. As shown in the annotated figures below, both designs have the following features:

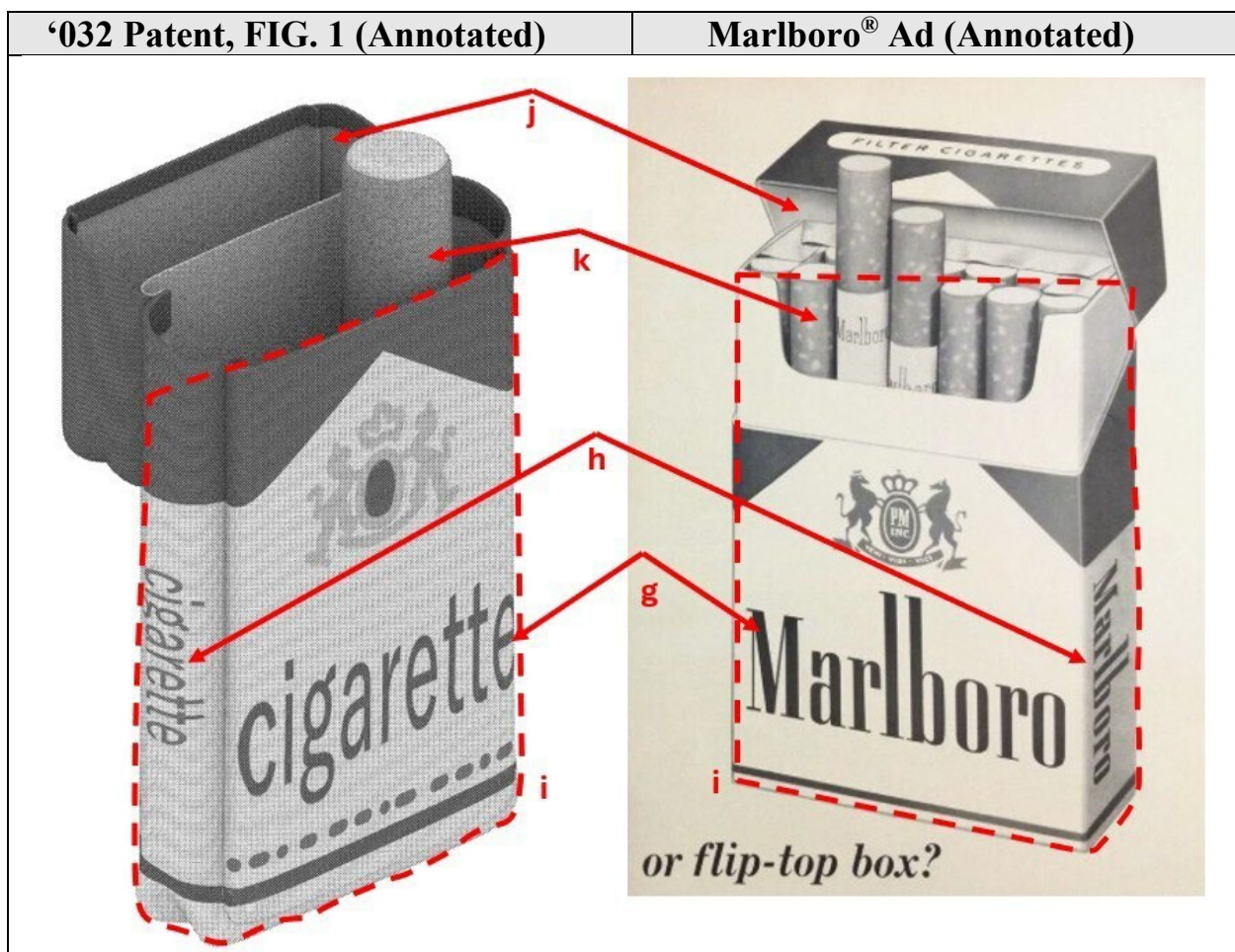
- a) A triangular roof element;
- b) A central crest;
- c) In the central crest, an outlined oval between two horse-like creatures;
- d) In the central crest, a crown above the outlined oval;
- e) In the central crest, a banner under the outlined oval connecting to the horse-like creatures;
- f) A solid line surrounding the base;
- g) Lower condensed text in the bottom portion of the box;
- h) Condensed text on the side of the box;
- i) A rectangular cigarette-pack silhouette;
- j) A “flip-top” or hinged aspect of the design at the top of the box;
- k) An individual cigarette protruding from the box; and
- l) The individual cigarette protruding having a two-toned appearance to show the cigarette filter.

66. These elements create the dominant ornamental impression of the design and would be immediately recognized by an ordinary observer.

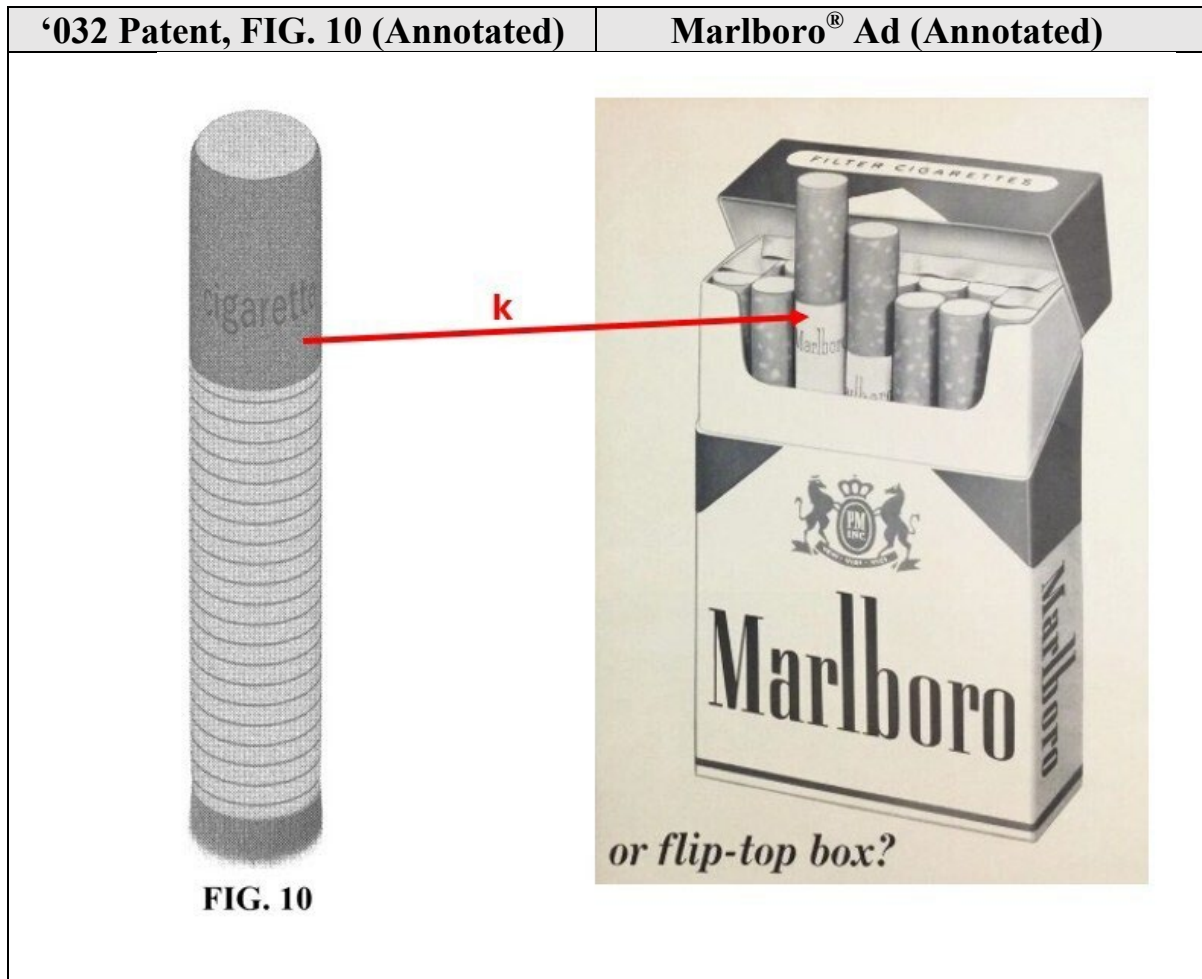
67. The annotated figures below highlight the substantially shared elements between the Fully Assembled and First Element of '032 Patent and the Marlboro® cigarette box design disclosed in the Marlboro® Ad. The annotations emphasize the **(a)** triangular roof element, **(b)** the central crest—with **(c)** an outlined oval between two horse-like creatures, **(d)** a crown above the oval, and **(e)** a banner under the oval connecting to the horse-like creatures—and **(f)** the solid line surrounding the base.



68. Other design similarities shown in the figures below include **(g)** the lower condensed text, **(h)** the condensed text on the side of the box, **(i)** the rectangular cigarette-pack silhouette, **(j)** the “flip-top” or hinged aspect of the design, and **(k)** an individual cigarette protruding from the box that is two-toned to show the cigarette filter, as shown below. I understand from counsel that the difference in text in the lower condensed text is not relevant to patentability.



69. The Marlboro® Ad also depicts (k) an individual cigarette that is two-toned to show the difference between the cigarette and the cigarette filter, as shown below.



70. These elements illustrate that the design of the '032 Patent created the dominant ornamental impression of the design and would be immediately recognized as substantially similar to the 1959 Marlboro® Ad by an ordinary observer. Even if minor differences exist between the prior art and the claimed

design, those differences would not alter the overall visual impression of the design and therefore cannot avoid anticipation under the ordinary observer test.

2. Ground 2: The '032 Patent Claim is Rendered Obvious by the 1959 Life Magazine Marlboro® Ad in View of Knowledge in the Art

71. I understand from counsel that the 1959 Marlboro® Ad is a primary reference for purposes of 35 U.S.C. § 103.

72. Developing dog toys that resemble everyday items was well known in the art. A designer of skill in the art would have known that dog toys were regularly designed to resemble consumer products. For example, the Bad Spaniels and Chewy Vuiton products and the Ochoa art were known in the art. The elements that convert these ornamental designs into dog toys are both functional and well known in the art. For example, a dog toy must be a size that can fit in a dog's mouth so it can be chewed by the dog. As a result of that size, the dog toy has certain visual features. But those features are not ornamental, they are functional because they enable the toy to be chewed by a dog.

73. The ornamental features are those of the Marlboro® package shown in the 1959 Marlboro® Ad. Therefore, it is my opinion that the ornamental features of the '032 Patent are rendered obvious by the 1959 Marlboro® Ad in view of the Knowledge in the Art.

3. Ground 3: The '032 Patent Claim is Obvious Over the 1959 Marlboro® Ad in View of Pitman and Knowledge in the Art

74. I understand from counsel that the 1959 Marlboro® Ad is a primary reference for purposes of 35 U.S.C. § 103.

75. The 1959 Marlboro® Ad depicts the well-known Marlboro® cigarette package, which features a simple rectangular carton and a distinctive arrangement of cylindrical cigarette elements extending from the top of the package. This configuration creates an overall visual appearance substantially similar to the design shown in Figures 1–17 of the '032 Patent.

76. An ordinary designer would have been motivated to apply this recognizable cigarette-pack appearance to the dog-toy structure disclosed in Pitman. Designers in the pet-toy industry routinely create novelty toys that mimic familiar consumer products to produce humorous and visually distinctive products. Such products include beverage containers, food packaging, and other everyday items. The Marlboro® cigarette package shown in the 1959 Marlboro® Ad is a widely recognized consumer product with a distinctive appearance that would readily lend itself to such a novelty design.

77. Pitman discloses a conventional dog-toy structure well known in the field of pet-toy design. Pitman teaches an ornamental design of a plush that

resembles a reindeer. The patent depicts the toy from multiple perspectives, including perspective, top, side, and bottom views.

78. Pitman specifically illustrates a dog toy that resembles a reindeer. The body is plush.



79. A designer of ordinary skill would have recognized the Marlboro[®] cigarette pack disclosed in the 1959 Marlboro[®] Ad as a well-known consumer product. The product has been used for over a century and has a distinctive and recognizable visual appearance. Designers of pet toys frequently incorporate the visual appearance of such consumer products into novelty toy designs.

80. Applying the Marlboro[®] cigarette-pack appearance to the dog-toy structure disclosed in Pitman would have been a straightforward and predictable

design modification. The Marlboro® advertisement provides the recognizable cigarette-pack configuration, including the rectangular carton and the arrangement of cylindrical cigarette elements. Pitman provides the underlying dog-toy structure.

81. Combining these features would have yielded a dog toy resembling a cigarette pack containing multiple cylindrical elements, consistent with the overall visual appearance of the claimed design. This modification reflects a predictable application of a familiar consumer-product appearance to an existing dog-toy form. Designers routinely use this approach in novelty pet-toy design.

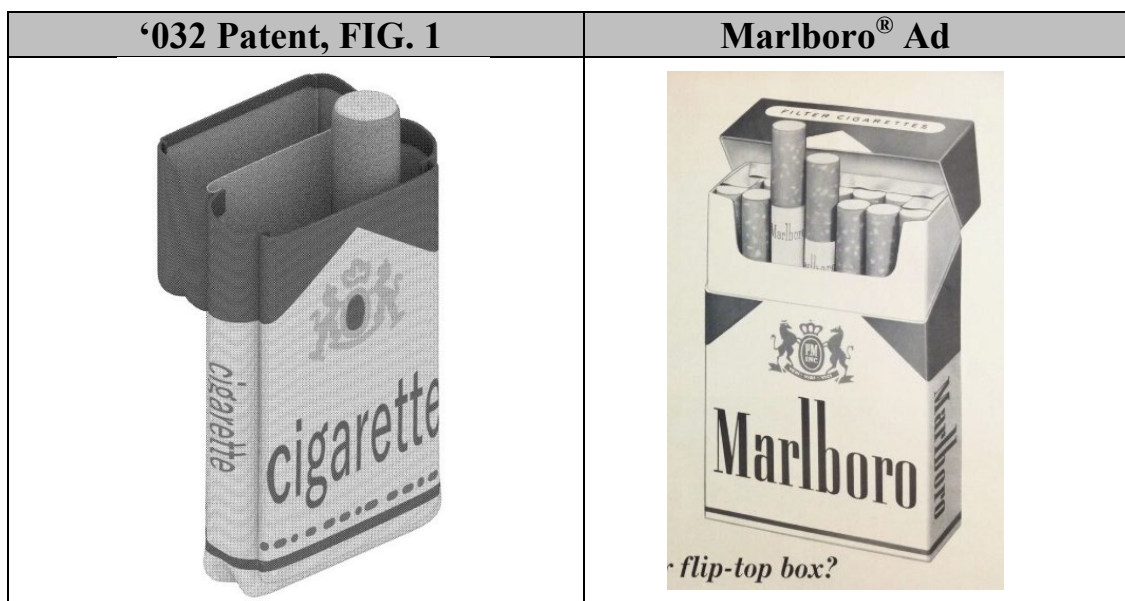
82. Because Pitman discloses the underlying plush dog-toy structure and the 1959 Marlboro® Ad discloses the distinctive cigarette-pack visual appearance incorporated into the claimed design, an ordinary designer would have been motivated to combine these references to achieve the claimed design. Therefore, it is my opinion that the '032 Patent would have been obvious over the 1959 Marlboro® Ad in view of Pitman and Knowledge in the Art.

4. Ground 4: The '032 Patent Claim is Obvious Over the 1959 Marlboro® Ad in View of the Chewy Frisco Review and Knowledge in the Art

83. I understand from counsel that the 1959 Marlboro® Ad is a primary reference for purposes of 35 U.S.C. § 103.

84. The 1959 Marlboro® Ad depicts the well-known Marlboro® cigarette package, which features a simple rectangular carton and a distinctive arrangement

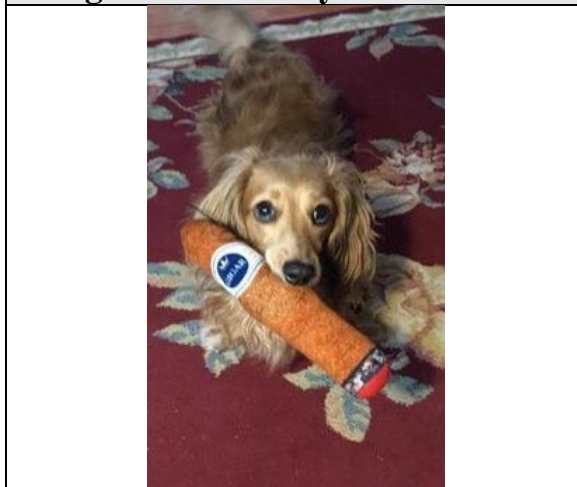
of cylindrical cigarette elements extending from the top of the package. This configuration creates an overall visual appearance substantially similar to the design shown in Figures 1–17 of the '032 Patent.



85. The Chewy.com product review page for the Frisco Plush Cigar Dog Toy (hereinafter “Chewy Frisco Review”) shows the Frisco toy, which is a plush dog toy shaped like a cigar, marketed as a novelty squeaky toy for dogs.

86. The Chewy Frisco Review includes multiple customer reviews from November 21, 2019 to January 22, 2020, describing the cigar-shaped toy and its use by dogs, as shown in the photo below attached to a review dated January 20, 2020.

Image From Chewy Frisco Review



87. A designer of ordinary skill would have recognized the Marlboro[®] cigarette pack as a well-known consumer product. The product has been used for over a century and has a distinctive and recognizable visual appearance. Designers of pet toys frequently incorporate the visual appearance of such consumer products into novelty toy designs.

88. The Chewy Frisco Review establishes that tobacco-themed dog toys were already a recognized product category before the '032 Patent's priority date. The Frisco Plush Cigar Dog Toy is a novelty dog toy that intentionally replicates the appearance of a tobacco product—specifically, a cigar. The toy's elongated cylindrical shape, its brown coloring, and its tapered form are all designed to evoke the visual impression of a real cigar. The existence of this product demonstrates that designers in the pet-toy field had already applied the appearance of tobacco products to dog-toy designs well before November 5, 2024. The concept of a tobacco-themed

dog toy was therefore not new at the time of the '032 Patent's filing; it was an established design approach within the novelty pet-toy market.

89. The step from a cigar-shaped dog toy to a cigarette-pack-shaped dog toy is a small and predictable one. Cigars and cigarettes are closely related tobacco products. They share the same product category, the same general cultural associations, and—in the case of the cylindrical cigarette element—similar physical forms. If a designer had already created a plush dog toy replicating the appearance of a cigar, the next logical step within the same tobacco-product design space would be to create a dog toy replicating the appearance of a cigarette or cigarette pack. This is especially true for a product as visually distinctive and widely recognized as the Marlboro® cigarette pack. A designer of ordinary skill, aware that cigar-shaped dog toys were commercially available and well received, would have had every reason to apply the same design approach to the equally recognizable—and arguably more iconic—Marlboro® cigarette pack.

90. Applying the Marlboro® cigarette-pack appearance to the cigar-shaped dog-toy structure disclosed in the Chewy Frisco Review would have been a straightforward and predictable design modification. The Marlboro® Ad provides the recognizable cigarette-pack configuration, including the rectangular carton, and the arrangement of cylindrical cigarette elements. The Chewy Frisco Review provides the underlying dog-toy structure in the form of the cigarette that protrudes

from the '032 design. The Chewy Frisco Review also shows that tobacco-themed dog toys were known in the art.

91. Combining the Marlboro[®] cigarette-pack appearance shown in the 1959 Marlboro[®] Ad with the tobacco-themed, dog-toy concept and underlying cylindrical structure shown in the Chewy Frisco Review would have yielded a dog-toy set resembling a cigarette pack containing a cylindrical cigarette element—consistent with the overall visual appearance of the claimed design. This combination reflects a predictable application of two well-established design approaches: (a) adapting the appearance of a well-known consumer product into a novelty dog toy, and (b) creating dog toys that replicate the appearance of tobacco products specifically. Both approaches were known in the art before the '032 Patent's priority date.

92. Combining these features would have yielded a dog toy resembling a cigarette pack containing multiple cylindrical elements, consistent with the overall visual appearance of the claimed design. This modification reflects a predictable application of a familiar consumer-product appearance to an existing dog-toy form. Designers routinely use this approach in novelty pet-toy design.

93. A designer of ordinary skill would have been motivated to make this combination for at least three reasons. First, the Marlboro[®] cigarette pack is one of the most visually distinctive and widely recognized consumer product designs in

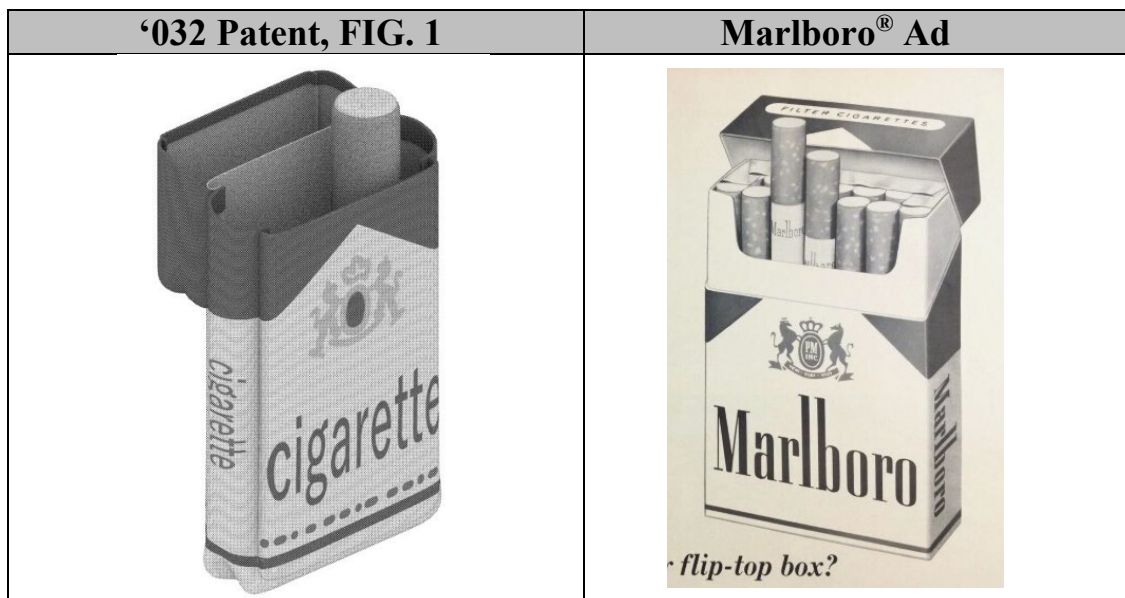
existence, making it an obvious candidate for the novelty dog-toy treatment that designers routinely apply to well-known consumer products. Second, the Chewy Frisco Review demonstrates that the specific subcategory of tobacco-themed dog toys was already commercially viable. Third, the design modification required to combine these references is minimal and predictable—the Marlboro® Ad supplies the dominant ornamental appearance (the pack design and branding) and the Chewy Frisco Review supplies both the tobacco-themed, dog-toy concept and a closely analogous cylindrical dog-toy form for the cigarette element.

94. Because the Chewy Frisco Review discloses the underlying dog-toy structure in the form of a cigar and the 1959 Marlboro® Ad discloses the distinctive cigarette-pack visual appearance incorporated into the claimed design, an ordinary designer would have been motivated to combine these references to achieve the claimed design. Therefore, it is my opinion that the '032 Patent would have been obvious over the 1959 Marlboro® Ad in view of the Chewy Frisco Review and Knowledge in the Art.

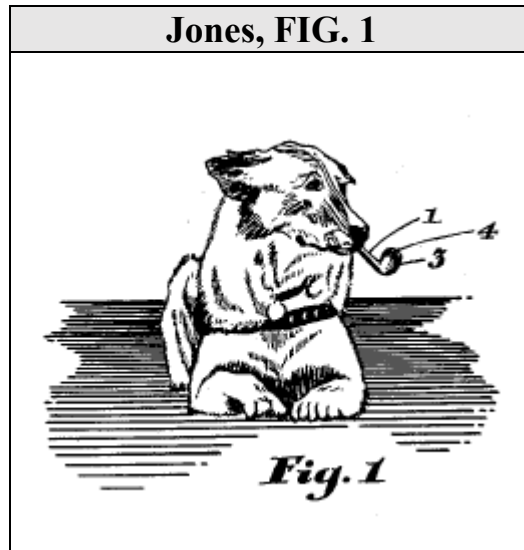
5. Ground 5: The '032 Patent Claim is Obvious Over the 1959 Marlboro® Ad in View of Jones and Knowledge in the Art

95. I understand from counsel that the 1959 Marlboro® Ad is a primary reference for purposes of 35 U.S.C. § 103.

96. The 1959 Marlboro® Ad depicts the well-known Marlboro® cigarette package, which features a simple rectangular carton and a distinctive arrangement of cylindrical cigarette elements extending from the top of the package. This configuration creates an overall visual appearance substantially similar to the design shown in Figures 1–17 of the '032 Patent.



97. Jones shows a “dog’s toy which, when held in the mouth of a dog or puppy, will produce a comical effect as though the animal were smoking a pipe”. Ex. 1009 at 1:4–9. The dog toy is a novelty tobacco pipe for a dog.



98. A designer of ordinary skill would have recognized the Marlboro® cigarette pack as a well-known consumer product. The product has been used for over a century and has a distinctive and recognizable visual appearance. Designers of pet toys frequently incorporate the visual appearance of such consumer products into novelty toy designs.

99. Applying the Marlboro® cigarette-pack appearance to the pipe-shaped, dog-toy structure disclosed in Jones would have been a straightforward and predictable design modification. The Marlboro® advertisement provides the recognizable cigarette-pack configuration, including the rectangular carton and the arrangement of cylindrical cigarette elements. Jones provides the underlying dog-toy structure from the '032 design. Jones also shows that tobacco-themed dog toys were known in the art.

100. Combining these features would have yielded a dog toy resembling a cigarette pack containing multiple cylindrical elements, consistent with the overall visual appearance of the claimed design. This modification reflects a predictable application of a familiar consumer-product appearance to an existing dog-toy form. Designers routinely use this approach in novelty pet-toy design.

101. Because Jones discloses the underlying dog-toy structure in the form of a tobacco pipe and the 1959 Marlboro® Ad discloses the distinctive cigarette-pack visual appearance incorporated into the claimed design, an ordinary designer would have been motivated to combine these references to achieve the claimed design. Therefore, it is my opinion that '032 Patent would have been obvious over the 1959 Marlboro® Ad in view of the Jones and Knowledge in the Art

6. Ground 6: The '032 Patent Claim is Anticipated by the '413 Registration

102. It is my view that there is no patentable difference between the '032 Patent's claimed design and the '413 Registration. The '413 Registration discloses substantially the same overall cigarette-pack and cigarette-visual appearance shown in the '032 Patent. The '413 Registration discloses a cigarette packaging design with an overall appearance that is substantially the same as the elements of the '032 Patent, as explained below.

103. In the eye of an ordinary observer, giving such attention as a purchaser usually gives, the '032 Patent's claimed design is substantially the same

as the corresponding design in the '413 Registration such that the resemblance would deceive the observer.

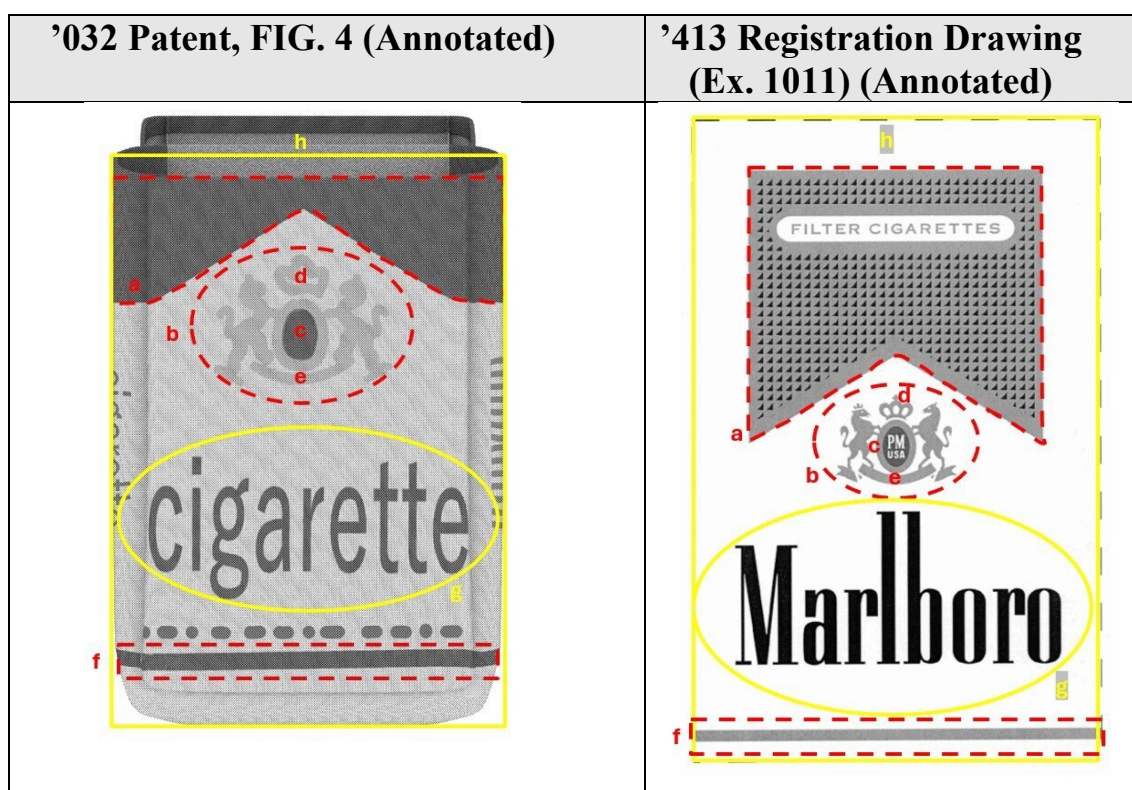
104. As shown in the annotated figures below, both designs have the following features:

- a) A triangular roof element;
- b) A central crest;
- c) In the central crest, an outlined oval between two horse-like creatures;
- d) In the central crest, a crown above the outlined oval;
- e) In the central crest, a banner under the outlined oval connecting to the horse-like creatures;
- f) A solid line surrounding the base;
- g) Lower condensed text in the bottom portion of the box;
- h) A rectangular cigarette-pack silhouette; and
- i) A “flip-top” or hinged aspect of the design at the top of the box.

105. These elements create the dominant ornamental impression of the design and would be immediately recognized by an ordinary observer. Therefore, it is my opinion that the design of the '032 Patent is anticipated by the '413 Registration.

106. The annotated figures below highlight the substantially shared elements between the Fully Assembled and First Element of the '032 Patent and the Marlboro® cigarette box design disclosed in the '413 Registration. The annotations

emphasize **(a)** the triangular roof element, **(b)** the central crest—with **(c)** an outlined oval between two horse-like creatures, **(d)** a crown above the oval, and **(e)** a banner under the oval connecting to the horse-like creatures—**(f)** the solid line surrounding the base, **(g)** lower condensed text in the bottom portion of the box, and **(h)** a rectangular cigarette-pack silhouette. I understand from counsel that the difference in text in the lower condensed text is not relevant to patentability.



107. These elements create the dominant ornamental impression of the design and would be immediately recognized by an ordinary observer.

108. Figures 1 through 9 of the '032 Patent depict a hinge on the cigarette-pack toy that allows the top portion of the pack to swing open and closed. This hinging feature enables a user to open the cigarette-pack toy and insert the individual

cigarette-shaped toys into the pack. The owner of the '413 Registration has submitted multiple specimens demonstrating bona fide use of the registered mark on cigarette packaging that incorporates the same hinging pack-top structure. Ex. 1012; Ex. 1005 at 28, 42, 143. As shown in the side-by-side comparison below, the packaging depicted in those specimens includes a hinged top design that opens and closes in the same manner as the hinging feature illustrated in the '032 Patent.

'032 Patent, FIG. 2 (Annotated)	'413 Registration Specimen (Ex. 1012) (Annotated)
	

109. The '032 Patent also includes a cylindrical toy element resembling an individual cigarette. However, this element does not materially alter the dominant visual impression of the design. Any alleged difference between the '413

Registration and the figures of the '032 Patent is immaterial to the invalidity of the '032 Patent's claimed design.

110. The '032 Patent includes, as part of its claimed design, a cylindrical toy element resembling an individual cigarette (the “Second Element,” shown in Figures 10–17). The '413 Registration does not separately depict an individual cigarette. In my opinion, this difference does not defeat anticipation because it does not materially alter the dominant visual impression of the claimed design, for the reasons set forth below.

111. The pack-shaped component dominates the overall visual impression of the claimed design. When viewed as a whole, the cigarette-pack component (the “First Element”) occupies the overwhelming majority of the design's visual field and contains all of the design's distinctive ornamental features—the triangular roof element, the central crest with its horse-like creatures, crown, and banner; the lower condensed text; and the solid baseline. These are the features that immediately draw the eye of an ordinary observer and define the character of the design. By contrast, the cylindrical cigarette element is a simple, unadorned, two-toned cylinder. It contains no branding, no distinctive ornamentation, and no design detail that would independently capture an observer's attention. In the Fully Assembled Configuration shown in Figure 1, the cigarette element is largely concealed within the pack, with only a small portion protruding above the pack's opening. The relative visual weight

of the two components is not close: the pack dominates, and the cigarette is subordinate.

112. The proportions of the claimed design confirm this conclusion. Examining Figure 1, the First Element (the cigarette pack) accounts for approximately [80–85]% of the overall height and nearly the entire width of the Fully Assembled Configuration. The exposed portion of the Second Element (the protruding cigarette) is a narrow cylinder visible only above the pack’s flip-top opening. An ordinary observer giving such attention as a purchaser usually gives would focus on the pack—its shape, its branding elements, and its overall configuration—not on the sliver of cylindrical form extending from its top.

113. The cylindrical cigarette element reinforces, rather than distinguishes, the cigarette-pack theme already disclosed by the ’413 Registration. The Second Element does not introduce an independent ornamental concept. Rather, it serves to reinforce the same visual theme—cigarette packaging—that is the entire subject of the ’413 Registration. An ordinary observer encountering the ’413 Registration’s design on actual product packaging would understand that the depicted pack is designed to hold cylindrical cigarettes. The presence or absence of a depicted cigarette does not change the overall impression that the design is a Marlboro® cigarette pack.

114. The specimens submitted in connection with the '413 Registration confirm that the trademark is used on packaging containing individual cigarettes. I have reviewed the specimens filed in support of the '413 Registration (Ex. 1005 at 28, 42, 143), which show actual Marlboro[®] cigarette packaging bearing the registered mark. That packaging includes a hinged flip-top lid that opens to reveal individual cigarettes inside the carton, in the same configuration depicted in the '032 Patent's Fully Assembled Configuration. An ordinary observer familiar with the '413 Registration's design as applied to its associated product would understand that the carton contains individual cylindrical cigarettes, even though the trademark drawing—which by its nature focuses on the mark itself—does not separately illustrate them.

115. The cigarette element is the conventional and expected contents of the depicted packaging. A cigarette is the ordinary, expected object found inside cigarette packaging. An ordinary observer viewing a cigarette pack—whether depicted in the '413 Registration or in the '032 Patent—would expect the pack to contain cigarettes. The inclusion of a simple cylindrical cigarette element protruding from the top of the pack in the '032 Patent adds no unexpected or distinctive ornamental character to the design. It merely depicts what any observer would already assume is present inside the packaging. This kind of minor addition—

showing the expected contents of a container already depicted in the prior art—does not create a materially different visual impression sufficient to avoid anticipation.

116. The difference is, at most, a minor one that cannot prevent a finding of anticipation. I understand from counsel that anticipation of a design patent requires only substantial similarity, and that minor differences cannot prevent a finding of anticipation. In my opinion, the addition of a simple, unornamented cylindrical element protruding from a pack that is otherwise substantially identical to the '413 Registration is precisely the kind of minor difference that does not defeat anticipation. The overall visual effect of the claimed design in the '032 Patent—a Marlboro® cigarette pack with its characteristic branding and configuration—is substantially the same as the design disclosed in the '413 Registration. An ordinary observer, giving such attention as a purchaser usually gives, would view these designs as substantially the same.

117. When focusing on just the claimed parts of the design, both designs have substantially the same overall appearance such as a triangular roof element; a central crest with an outlined oval between two horse-like creatures, a crown above the outlined oval, and a banner under the outlined oval connecting to the horse-like creatures; lower condensed text in the bottom portion of the box; a rectangular cigarette pack silhouette; and a solid line surrounding the base. Such minor differences do not change the conclusion that the '413 Registration anticipates the

'032 Patent. The overall visual effect of the claimed design in the '032 Patent and the design disclosed in the '413 Registration would be substantially the same to an ordinary observer.

118. For the reasons described above, it is my opinion that the presence of the cylindrical cigarette element in the '032 Patent does not materially distinguish the claimed design from the '413 Registration, and the '032 Patent is anticipated by the '413 Registration.

7. Ground 7: The '032 Patent Claim is Rendered Obvious by the '413 Registration in View of Knowledge in the Art

119. I understand from counsel that the '413 Registration is a primary reference for purposes of 35 U.S.C. § 103.

120. The '413 Registration discloses the same dominant Marlboro® packaging appearance, and adapting that appearance to a dog toy was well within the knowledge of an ordinary designer.

121. Developing dog toys that resemble everyday items was well known in the art. A designer of skill in the art would have known that dog toys were regularly designed to resemble consumer products. For example, the Bad Spaniels and Chewy Vuiton products and the Ochoa art were known in the art. The elements that convert these ornamental designs into dog toys are both functional and well known in the art. For example, a dog toy must be a size that can fit in a dog's mouth so it can be chewed by the dog. As a result of that size, the dog toy has certain visual

features. But those features are not ornamental, they are functional because they enable the toy to be chewed by a dog.

122. The ornamental features are those of the Marlboro® package shown in the '413 Registration. Therefore, it is my opinion that the ornamental features of the '032 Patent are rendered obvious by the '413 Registration in view of the Knowledge in the Art.

8. Ground 8: The '032 Patent Claim is Obvious Over the '413 Registration in View of Pitman and Knowledge in the Art

123. I understand from counsel that the '413 Registration is a primary reference for purposes of 35 U.S.C. § 103.

124. The '413 Registration in view of Pitman and Knowledge in the Art discloses the same dominant Marlboro® packaging appearance, and adapting that appearance to a dog toy was well within the knowledge of an ordinary designer.

125. The '413 Registration depicts the well-known Marlboro® cigarette package, which features a simple rectangular carton. This configuration creates an overall visual appearance substantially similar to the design shown in Figures 1–17 of the '032 Patent. An ordinary designer would have been motivated to apply this recognizable cigarette-pack appearance to the dog-toy structure disclosed in Pitman.

126. Designers in the pet-toy industry routinely create novelty toys that mimic familiar consumer products to produce humorous and visually distinctive

products. Such products include beverage containers, food packaging, and other everyday items. The Marlboro® cigarette package shown in the '413 Registration is a widely recognized consumer product with a distinctive appearance that would readily lend itself to such a novelty design.

127. Pitman discloses a conventional dog-toy structure well known in the field of pet-toy design. Pitman teaches an ornamental design of a plus dog toy that resembles a reindeer. The patent depicts the toy from multiple perspectives, including perspective, top, side, and bottom views.

128. Pitman specifically illustrates a dog toy that resembles a reindeer. The body is plush.



129. A designer of ordinary skill would have recognized the Marlboro® cigarette pack as a well-known consumer product. The product has been used for over a century and has a distinctive and recognizable visual appearance. Designers of pet toys frequently incorporate the visual appearance of such consumer products into novelty toy designs.

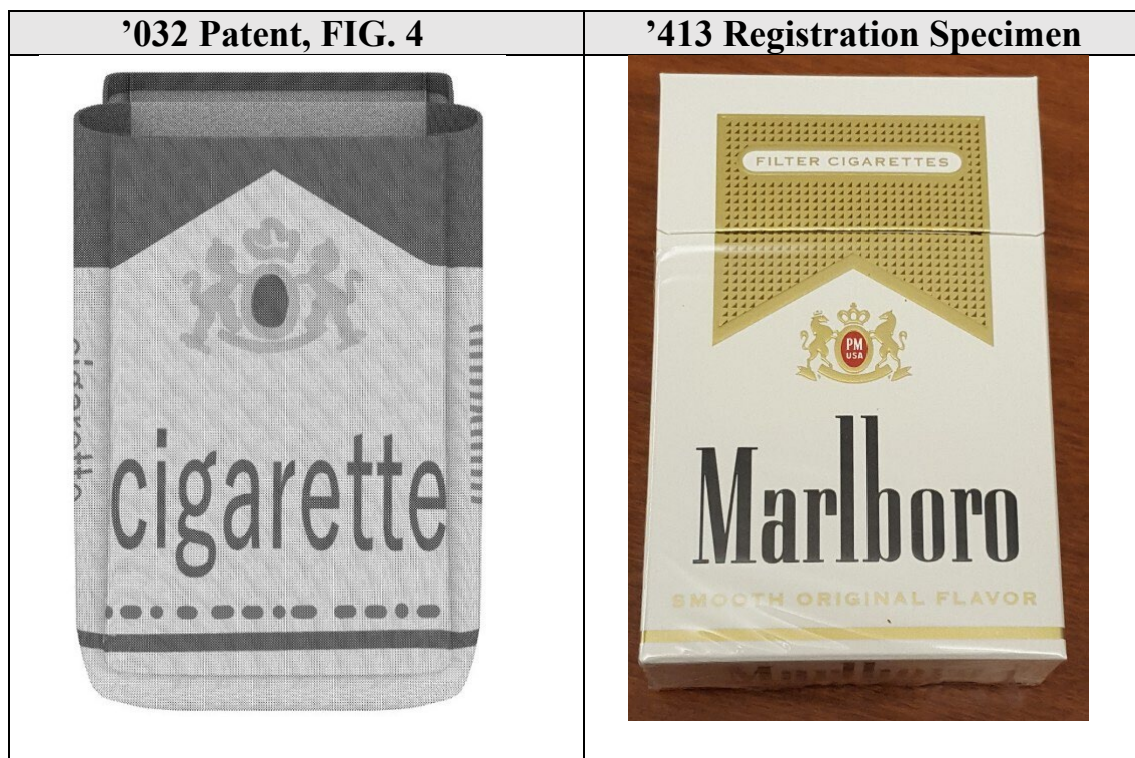
130. Applying the Marlboro® cigarette-pack appearance to the dog-toy structure disclosed in Pitman would have been a straightforward and predictable design modification. The '413 Registration provides the recognizable cigarette-pack configuration, including the rectangular carton. Pitman provides the underlying dog-toy structure. Combining these features would have yielded a dog toy resembling a cigarette pack, consistent with the overall visual appearance of the claimed design. This modification reflects a predictable application of a familiar consumer-product appearance to an existing dog-toy form. Designers routinely use this approach in novelty pet-toy design.

131. Because Pitman discloses the underlying plush dog-toy structure and the '413 Registration discloses the distinctive cigarette-pack visual appearance incorporated into the claimed design, an ordinary designer would have been motivated to combine these references to achieve the claimed design. Accordingly, it is my opinion that the '032 Patent would have been obvious over the '413 Registration in view of Pitman and Knowledge in the Art.

9. Ground 9: The '032 Patent Claim is Obvious Over the '413 Registration in View of the Chewy Frisco Review and Knowledge in the Art

132. I understand from counsel that the '413 Registration is a primary reference for purposes of 35 U.S.C. § 103.

133. The '413 Registration in view of the Chewy Frisco Review and Knowledge in the Art discloses the same dominant Marlboro® packaging appearance, and adapting that appearance to a dog toy was well within the knowledge of an ordinary designer.



134. The '413 Registration depicts the well-known Marlboro® cigarette package, which features a simple rectangular carton. This configuration creates an

overall visual appearance substantially similar to the design shown in Figures 1–17 of the '032 Patent.

135. As described in Section IV.4 above, the Chewy Frisco Review shows the Frisco toy, which is a plush dog toy shaped like a cigar marketed as a novelty squeaky toy for dogs. The Chewy Frisco Review includes multiple customer reviews from November 21, 2019 to January 22, 2020, describing the cigar-shaped toy and its use by dogs, as shown in the photo below attached to a review dated January 20, 2020.



136. A designer of ordinary skill would have recognized the Marlboro[®] cigarette pack as a well-known consumer product. The product has been used for over a century and has a distinctive and recognizable visual appearance. Designers of pet toys frequently incorporate the visual appearance of such consumer products

into novelty toy designs. The Chewy Frisco Review also shows that tobacco-themed dog toys were known in the art.

137. Applying the Marlboro[®] cigarette-pack appearance to the cigar-shaped, dog-toy structure disclosed in the Chewy Frisco Review would have been a straightforward and predictable design modification. The '413 Registration provides the recognizable cigarette-pack configuration, i.e., the rectangular carton. The Chewy Frisco Review provides the underlying dog-toy structure in the form of the cigarette that protrudes from the '032 design. Combining these features would have yielded a dog toy resembling a cigarette pack containing multiple cylindrical elements, consistent with the overall visual appearance of the claimed design. This modification reflects a predictable application of a familiar consumer-product appearance to an existing dog-toy form. Designers routinely use this approach in novelty pet-toy design.

138. Because the Chewy Frisco Review discloses the underlying cigar-shaped, dog-toy structure and the '413 Registration discloses the distinctive cigarette-pack visual appearance incorporated into the claimed design, an ordinary designer would have been motivated to combine these references to achieve the claimed design. Accordingly, it is my opinion that the '032 Patent would have been obvious over the '413 Registration in view of the Chewy Frisco Review and Knowledge in the Art.

139. I also incorporate my discussion of Ground 4 here. The reasons to combine the Chewy Frisco Review with the 1959 Marlboro® Ad apply to combining the '413 Registration too.

10. Ground 10: The '032 Patent Claim is Obvious Over the 413 Registration in View of Jones and Knowledge in the Art

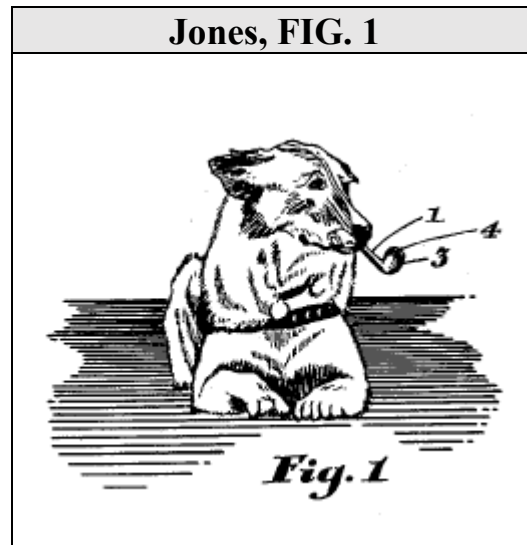
140. I understand from counsel that the '413 Registration is a primary reference for purposes of 35 U.S.C. § 103.

141. The '413 Registration depicts the well-known Marlboro® cigarette package, which features a simple rectangular carton. This configuration creates an overall visual appearance substantially similar to the design shown in Figures 1–17 of the '032 Patent.

142. An ordinary designer would have been motivated to apply this recognizable cigarette-pack appearance to the dog-toy structure disclosed in Jones. Designers in the pet-toy industry routinely create novelty toys that mimic familiar consumer products to produce humorous and visually distinctive products. Such products include beverage containers, food packaging, and other everyday items. The Marlboro® cigarette package shown in the '413 Registration is a widely recognized consumer product with a distinctive appearance that would readily lend itself to such a novelty design.

143. Jones shows a “dog’s toy which, when held in the mouth of a dog or puppy, will produce a comical effect as though the animal were smoking a pipe”.

Ex. 1009 at 1:4–9. The dog toy is a novelty tobacco pipe for a dog.



144. A designer of ordinary skill would have recognized the Marlboro[®] cigarette pack as a well-known consumer product. The product has been used for over a century and has a distinctive and recognizable visual appearance. Designers of pet toys frequently incorporate the visual appearance of such consumer products into novelty toy designs.

145. Applying the Marlboro[®] cigarette-pack appearance to the pipe-shaped, dog-toy structure disclosed in Jones would have been a straightforward and predictable design modification. The '413 Registration provides the recognizable cigarette-pack configuration, including the rectangular carton. Jones provides the

underlying dog-toy structure from the '032 design. Jones also shows that tobacco-themed dog toys were known in the art.

146. Combining these features would have yielded a dog toy resembling a cigarette pack consistent with the overall visual appearance of the claimed design. This modification reflects a predictable application of a familiar consumer-product appearance to an existing dog-toy form. Designers routinely use this approach in novelty pet-toy design.

147. Because Jones discloses the underlying dog-toy structure in the form of a tobacco pipe and the '413 Registration discloses the distinctive cigarette-pack visual appearance incorporated into the claimed design, an ordinary designer would have been motivated to combine these references to achieve the claimed design. Therefore, it is my opinion that the '032 Patent would have been obvious over the '413 Registration in view of the Jones and Knowledge in the Art.

IX. CONCLUSION

148. For the reasons discussed above, it is clear to me that the '032 Patent is invalid. It is anticipated and obvious based on the prior art designs described above.

149. I declare that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and that these statements were made with the knowledge that willful false statements and

the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the U.S. Code.

Dated: March 24, 2026

By: 
Alan Ball

EXHIBIT 1

Alan D. Ball, IDSA

Industrial Designer, Inventor, and Design Expert.

50 Francesca Ave, Somerville, MA 02144-2002

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"I'm going to credit the testimony of Mr. Ball in all respects over the other witnesses who testified to the contrary. I thought his expert report was thorough and credible, and I thought his testimony was thorough and credible. And to the extent that I have not made a full oral ruling in that respect, I'm adopting his testimony because I thought that I found it credible and covered the areas that deal with infringement very well."

*- Honorable **Thomas M. Durkin**, United States District Court for the Northern District of Illinois, from the transcript of December 7, 2021, Oral Ruling Vacating TRO and Denying Motion for Preliminary Injunction, **Think Green Limited d/b/a Haakaa v. Medela**, Case No. 1:21-cv-05445.*

Expert Witness Employment:

- | | |
|--------------|---|
| 2024-present | MacNeil Automotive Products (WeatherTech), LTD. v. Yita LLC , Case No. 2:20-cv-00278-TSZ, United States District Court Western District of Washington at Seattle. Provided expert services to Lewis Brisbois representing Defendant Yita. |
| 2024 | Verterra, Ltd. V. Leafware Llc , Case No. 2:23-cv-00290-DAD-CSK, United States District Court for the Eastern District of California. Provided expert services to representing patent owner Verterra. |
| 2022-2024 | Apple Inc., Plaintiff, v. Masimo Corporation and Sound United, LLC , Case No. 1:22-cv-01377-MN, The United States District Court for the District of Delaware. Provided expert services to Desmarais LLP representing patent owner Apple. |
| 2022-2024 | Nite Glow Industries, Inc., I Did It, Inc., & Marni Markell Hurwitz, v. Central Garden & Pet Company & Four Paws Pet Company, D/B/A Four Paws Products, LTD. , Case No. 2:12-CV-04047-KSH-CLW, United States District Court for the District of New Jersey. Provided expert services to Orrick representing defendant Central. |
| 2023-2024 | Fiskars v. Woodland Tools Inc. , Case 22-cv-540-jdp, United States District Court for the Western District of Wisconsin. Provided expert services to DeWitt representing Defendant Woodland Tools. |
| 2023 | Cricut, Inc. v. Enough For Everyone Inc. , Case No. 2:21-cv-00601-TS-DAO, United States District Court District of Utah, Central Division. Provided expert services to Maschoff Brennan representing Enough For Everyone Inc.. |
| 2023 | Nike Inc. v. By Kiy, LLC , Case No. 1:22-cv-10176, United States District Court for the Southern District of New York. Provided expert services to Arnold & Porter representing patent owner Nike. |
| 2022-2023 | Molo Design, Ltd., V. Chanel, Inc. , Case No. 21-CV-1578 (VEC), United States District Court for the Southern District of New York. Provided expert services to Bracewell LLP representing patent owner Molo. |

2022-2023 **Nike Inc. v. Customs by Ilene, Inc.**, Case No. 5:21-cv-01201, United States District Court Central District of California. Provided expert services to Arnold & Porter representing patent owner Nike.

2021-2023 **Think Green Limited d/b/a Haakaa v. Medela**, Case No. 1:21-cv-05445, United States District Court for the Northern District of Illinois. Provided expert services to Marshall, Gerstein & Borun LLP representing defendant Medela.

2022 **Cisco Systems, Inc. & Cisco Technology, Inc., v. Wilson Chung, James He, Jedd Williams, and Thomas Puorro, individuals, and Plantronics, Inc. dba Poly**, Case No. 4:19-cv-07562-PJH, The United States District Court Northern District of California Oakland. Provided expert services to Desmarais LLP representing plaintiff Cisco.

2022 **Nike Inc. v. La La Land Production & Design, Inc. and John Geiger Collection LLC.**, Case No. 2:21-cv-0443-MCS-PVC, United States District Court Central District of California. Provided expert services to Arnold & Porter representing patent owner Nike.

2022 **YETI Coolers, LLC, v. RTIC Outdoors, LLC; and Corporate Support & Fulfillment, LLC**, Case No. 1:21-cv-00214 – RP, United States District Court Western District of Texas Austin Division. Provided expert services to Banner & Witcoff, LTD. representing patent owner Yeti.

2018-2021 **Boehringer Ingelheim Pharmaceuticals, Inc. v. Lupin Atlantis Holdings SA**, Consolidated Civil Action No. 18-cv-12663-BRM-TJB, United States District Court for the District Of New Jersey. Provided expert services to Covington & Burling LLP representing patent owner Boehringer Ingelheim.

2020-2021 **Raffel Systems LLC, v. Man Wah Holdings LTD Inc.**, Case No. 2:18-CV-01765, United States District Court for the Eastern District of Wisconsin. Provided expert services to Mayer Brown for defendant Man Wah Holdings.

2019-2021 **United States District Court Central District of California** appointed Special Master to the Court by Hon. Judge David O. Carter in the matter of Case No.: 8:19-cv-01118-DOC-DFM, Panasonic Corporation, vs. Getac Technology Corporation.

2020-2021 **Skull Shaver, LLC, V. Ideavillage Products Corporation**, CIVIL ACTION No. 2:18-cv-03836, United States District Court for the District Of New Jersey. Provided expert services to Delarosa & Associates representing defendant Ideavillage.

2020-2021 **Gentex Corporation v. Galvion Ltd.**, Case No. 19-921-MN, United States District Court for the District of Delaware. Provided expert services to Morgan, Lewis & Bockius LLP representing patent owner Gentex Corp.

2020-2021 **Hyper Ice, Inc. v. Addaday LLC, Performance Health Systems, LLC, WODFitters, Massimo Motor Sports, LLC, Kinghood International Logistics Inc., Manybo Ecommerce Ltd., Shenzhen Let Us Win-Win Technology Co., Shenzhen Infein Technology Co., Ltd., Hong Kong Yongxu Capital Management Co., Ltd., Laiwushiyu Xinuan Trading Company, Shenzhen QingYueTang E-commerce Co., Ltd., Shenzhen Shiluo Trading Co., Ltd., Kula eCommerce Co., Ltd., Fu Si, Shenzhen Qifeng Technology Co., Ltd., Rechar, Inc., Ning Chen, Opove, and Shenzhen Shufang E-Commerce Co., Ltd.**, Investigation No. 337-Ta-1206, United States International Trade Commission Washington, DC. Provided expert services to Lewis Brisbois Bisgaard & Smith LLP representing patent owner Hyper Ice, Inc.

2020-2021 **Five Star Gourmet Foods, Inc., v. Ready Pac Foods, Inc.**, Case No. 5:18-cv-2436-DDP-KK, United States District Court Central District of California. Provided expert services to Morgan, Lewis & Bockius LLP representing defendant Ready Pac Foods.

2018-2021 **Nike Inc. v. Skechers USA Inc.**, Case No. Case No. 2:17-cv-08509-JAK(Ex), United States District Court Central District of California. Provided expert services to Banner & Witcoff, LTD. representing patent owner Nike.

2019-2020 **Kolcraft Enterprises, Inc., v. Graco Children's Products Inc.**, Case No. 1:15-cv-07950, United States District Court for the Northern District of Illinois Eastern Division. Provided expert services to Meunier Carlin & Curfman LLC representing defendant Graco.

2019 **Radio Flyer Inc., v. American Plastic Toys, Inc.**, Case No. 1:19-Cv-05527, United States District Court for The Northern District of Illinois Eastern Division. Provided expert services to Barnes & Thornburg LLP representing patent owner Radio Flyer Inc.

2019 **Hunter Fan Company v. Luminex international Co., LTD.**, Civil Action No. 18-cv-344, United States District Court for the Western District of Wisconsin. Provided expert services to Baker, Donelson, Bearman, Caldwell & Berkowitz, PC representing plaintiff Hunter Fan.

2018 **Spigen Korea Co., Ltd. v. Modne, Inc., et al.**, Civil Action No. 3:17-cv-00771, United States District Court, Central District of California. Provided expert services to Stradling Yocca Carlson & Rauth, P.C. representing defendant Modne, Inc.

2018 **Stephen F. Evans & Roof N Box, Inc., v. Building Materials Corporation of America**, Civil Action No.: 16-CV-282-GBL-IDD, United States District Court for the Eastern District of Virginia. Provided expert services to Fitzpatrick, Cella, Harper & Scinto representing defendant Building Materials Corporation of America.

2017-2018 **Apple Inc., v. Samsung Electronics Co. Ltd., et al**, Case No. 11-CV-01846-LHK, United States District Court Northern District of California, San Jose Division. Provided expert services to WilmerHale and Morrison & Foerster LLP representing patent owner Apple Computer.

2016-2018 **Nike Inc. v. Skechers USA Inc.**, Case No. IPR2017-00621, United States Patent and Trademark Office Before the Patent Trial and Appeal Board. Provided expert services to Banner & Witcoff, LTD. representing patent owner Nike.

2015-2018 **Hinrichs v. Beats Electronics, LLC**, Case No. BC 533089, Superior Court of The State of California, County of Los Angeles. Provided expert services to Morrison & Foerster LLP representing defendant Beats.

2014-2018 **Pass and Seymour, Inc., Opposer, v. Lutron Electronics Co., Inc., Applicant**, Application Nos. 85/298,572, 85/298,600, 85/298,606, Mark: Product Configuration for Light Dimmer Switch Opposition Nos. 91208865 (parent), 91212529, 91212524. United States Patent and Trademark Office before The Trademark Trial and Appeal Board. Provided expert services to McCarter English representing opposer.

2017 **Bridgestone Brands, LLC v. BKT Tires Inc.**, Civil Action No. 3:17-cv-00771, United States District Court, Middle District of Tennessee, Nashville Division. Provided expert services to Covington & Burling LLP representing defendant BKT Tires Inc.

- 2017 **Pono Paani, LLC v. Belkin International, Inc.**, Civil Action No. 1:17-cv-00054-SS, United States District Court, Western District of Texas, Austin Division. Provided expert services to Meyertons, Hood, Kivlin, Kowert & Goetzel (MHKKG) representing plaintiff Pono Paani.
- 2015-2017 **C&A Marketing Inc. v. GoPro Inc.**, Case No. 1:15-cv-7854-RMB-JS, United States District Court, District of New Jersey. Provided expert services to Morrison & Foerster LLP representing plaintiff C&A Marketing.
- 2014-2017 **Dyson, Inc. v. SharkNinja Operating LLC**, Case No. 1:14-cv-00779, United States District Court for the Northern District of Illinois, Eastern Division. Provided expert services to Jones Day representing defendant Shark Ninja.
- 2016 **Snap-On, L.P. v. Harbor Freight**, Case No. 2:16-cv-01265-LA, United States District Court, Eastern District of Wisconsin, Milwaukee Division. Provided expert services to Quinn Emanuel Urquhart & Sullivan, LLP representing defendant Harbor Freight.
- 2015-2016 **Schluter Systems, L.P. v. Imre Batori and Progress Profiles**, Civil Act No. 1:15cv144 (CMH/IDD), United States District Court for the Eastern District of Virginia, Alexandria Division. Provided expert services to Fish & Richardson P.C. (Dallas) representing plaintiff Schluter Systems.
- 2015-2016 **Hamilton Beach, petitioner v. Courtesy Products, patent owner**, Cases IPR2014-01257 and 01258, United States Patent and Trademark Office, before the Patent Trial and Appeal Board. Provided expert services to Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (Washington DC) representing patent owner Courtesy Products.
- 2014-15 **Caterpillar, Inc., petitioner, V. Miller International, Ltd., patent owner**. Case IPR2015-00416, Patent D673,982 S, United States Patent and Trademark Office, before the Patent Trial and Appeal Board. Provided expert services to Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (Washington DC) representing petitioner Caterpillar, Inc.
- 2014-15 **SkyHawke Technologies, LLC petitioner v. L&H Concepts, LLC patent owner**, Cases IPR2014-00437 & IPR2014-00438, United States Patent and Trademark Office, before the Patent Trial and Appeal Board. Provided expert services to Fish & Richardson P.C. (Austin) representing US 5,779,566 patent owner L&H Concepts, LLC.
- 2014 **Sunlight Supply Inc. v. Maverick Sun Inc.**, Case No. 2:13-cv-2052, United States District Court Western District of Washington at Seattle. Provided expert services to Betts Patterson Mines (Seattle) representing defendant Maverick Sun.
- 2013-14 **Nokia Corporation et al. v. HTC Corporation et al.**, Investigation Number 337-TA-847. United States International Trade Commission, Washington DC. Provided expert services to Finnegan, Henderson, Farabow, Garrett & Dunner, LLP (Washington DC) representing the defendant, HTC.
- 2013-14 **Ethicon Endo-Surgery, Inc. et al. v. Covidien Inc., et al.**, 11-cv-871 (S.D. Ohio). Served as the expert witness for the plaintiff, Ethicon, concerning alleged infringement of design patents US D661,801; US D661,802; US D661,803; and US D661,804. Provided expert services to Patterson Belknap Webb & Tyler LLP (NYC) representing plaintiff Ethicon.
- 2012 **Emerson Electric Company v. Anaheim Manufacturing Company**, In the Matter of Certain Food Waste Disposers and Components and Packaging Thereof, Investigation Number 337-TA-838. United States International Trade Commission, Washington DC. Provided expert services to Dechert LLP (Philadelphia) representing defendant Anaheim.

2012 **Samsung Electronics (UK) LTD. v Apple Inc.**, Case No: HC 11 C 03050, In the High Court of Justice, Chancery Division Patents Court. Provided expert services to Morrison & Foerster LLP (San Francisco) and Freshfields Bruckhaus Deringer, (London) representing Apple computer.

Design Employment:

2002-present Alan Ball Industrial Design, Inc. (A.B.I.D.), Somerville, Massachusetts, President.

2006-present Margit Manufacturing Company, Somerville MA, President

2011-2013 Respirigames Inc., Somerville MA, Director of Product Development.

2000-2002 Ziba Boston LLC, Arlington, Massachusetts, Managing Director.

1994-2000 Shinola LLC, Somerville, MA, Founder and President.

1992-2000 Altitude Inc., Somerville, Massachusetts, Founder and Principal, Director of Design.

1991-1992 Herbst Lazar Bell, Inc., Cambridge, Massachusetts, Freelance Industrial Designer.

1988-1991 Design Continuum, Inc., Boston, Massachusetts, Industrial Designer.

1987-1988 Group Four Design Inc., Avon, Connecticut, Industrial Designer.

Education:

2008 IDSA Expert Witness Certification Seminar, Reston, VA.

1981-1987 Syracuse University, Syracuse NY, Bachelor of Industrial Design, Minor in Information Studies, 1987. Magna Cum Laude.

Awards, Honors and Other Activities:

2007 DIME Mexican Design Industry Congress, featured keynote speaker.

2005 Best in Category, 2nd Annual HomeWorld Business® Housewares Design Awards, CSC-650 Slow Cooker, Cuisinart Inc.

2004 Innovations CES Design and Engineering Showcase Award, PepperPad Handheld Tablet Computer, Pepper Computer Inc.

2002 IDSA/BusinessWeek IDEA Gold Award, Xpressa IP Business Telephone, Pingtel Corporation.

2000 IDSA/BusinessWeek IDEA Silver Award, DeWalt Worksite Radio/Charger, Black and Decker, Inc.

2000 IDSA/BusinessWeek IDEA Silver Award, ID Research Process, PDT 7200 Barcode Scanner Terminal, Symbol Technologies, Inc.

1999 IDSA/BusinessWeek IDEA Bronze Award, Brita Cascade Water Filtration Pitcher, the Clorox Company.

1998	IDSA/BusinessWeek IDEA Gold Award, P300 Phaser Barcode Scanning Terminal, Symbol Technologies, Inc.
1998	IDSA/BusinessWeek IDEA Silver Award, LS2100 Hotshot Retail Barcode Scanner, Symbol Technologies, Inc.
1998	IDSA/BusinessWeek IDEA Silver Award, Cyclone Retail Scanner Concept, Symbol Technologies, Inc.
1998	IDSA/BusinessWeek IDEA Bronze Award, LeashLight Dog Leash w/integrated flashlight, Black and Decker, Inc.
1998	Bronze Bean Award: IDSA Boston Chapter, Award for leadership and contribution to the local design community.
1997	IDSA/BusinessWeek IDEA Gold Award, DLL 5010M Laser Barcode Scanner, Symbol Technologies, Inc. and Datalogic S.p.A.
1997	IDSA/BusinessWeek IDEA Bronze Award, Snake Light Outdoor Lanterns, Black and Decker, Inc.
1997	IDSA/BusinessWeek IDEA Bronze Award, DeWalt 12.0 Volt Flexible Floodlight, Black and Decker, Inc.
1997	IDSA NE Regional Conference Serious Fun Syracuse NY. Featured Speaker.
1997	Industrie Forum (iF) Seal for Design Excellence, PPT4600 Plato Barcode Scanning Terminal, Symbol Technologies, Inc.
1997	Industrie Forum (iF) Seal for Design Excellence, LS4000 Eclipse Retail Barcode Scanner, Symbol Technologies, Inc. and Datalogic S.p.A.
1996	IDSA/BusinessWeek IDEA Gold Award, PPT4600 Plato Barcode Scanning Terminal, Symbol Technologies, Inc.
1996	IDSA/BusinessWeek IDEA Silver Award, LS4000 Eclipse Retail Barcode Scanner, Symbol Technologies, Inc.
1996	IDSA/BusinessWeek IDEA Silver Award, PDT 4000 Zircon Barcode Scanning Terminal, Symbol Technologies, Inc.
1987	IDSA Student Merit Award.

US Design Patents (57):

2012	D690,992	Beverage Filter Stand, Eternal East (HK) Ltd. (Bonavita).
2010	D611,760	Blender, Cuisinart (Conair Corporation).
2009	D586,807	Hand-held Computer, Pepper Computer.
2008	D561,758	Hand-held Computer, Pepper Computer.
2008	D575,578	Slow Cooker, Cuisinart (Conair Corporation).
2008	D575,579	Slow Cooker, Cuisinart (Conair Corporation).
2008	D559,133	Temperature Probe, Cuisinart (Conair Corporation).
2007	D553,427	Food Processor, Cuisinart (Conair Corporation).
2006	D521,314	Control knob for toaster, Cuisinart (Conair Corporation).

2006	D522,308	Cooker, Cuisinart (Conair Corporation).
2006	D529,491	Handheld Computer, Pepper Computer.
2006	D530,146	Standmixer, Cuisinart (Conair Corporation).
2006	D532,644	Toaster oven, Cuisinart (Conair Corporation).
2006	D533,390	Toaster oven, Cuisinart (Conair Corporation).
2006	D534,189	Frozen food maker, Cuisinart (Conair Corporation).
2006	D534,190	Frozen food maker, Cuisinart (Conair Corporation).
2006	D554,637	Handheld Computer, Pepper Computer.
2005	D510,675	Coffee Urn, Cuisinart (Conair Corporation).
2005	D511,643	Cooker, Cuisinart (Conair Corporation).
2005	D512,058	Hand-held Computer, Pepper Computer.
2005	D507,149	Blender Base, Cuisinart (Conair Corporation).
2004	D492,770	Inhalation device, Glaxo Group Limited.
2004	D492,771	Mouthpiece for an inhalation device, Glaxo Group Limited.
2004	D492,993	Mouthpiece for an inhalation device, Glaxo Group Limited.
2004	D492,994	Mouthpiece for an inhalation device, Glaxo Group Limited.
2004	D493,222	Mouthpiece for an inhalation device, Glaxo Group Limited.
2004	D494,673	Inhalation device, Glaxo Group Limited.
2004	D494,674	Actuator body for an inhalation device, Glaxo Group Limited.
2004	D495,414	Inhalation device, Glaxo Group Limited.
2004	D496,455	Actuator body for an inhalation device, Glaxo Group Limited.
2004	D497,988	Actuator body for an inhalation device, Glaxo Group Limited.
2004	D498,840	Inhalation device, Glaxo Group Limited.
2004	D507,149	Consumer blender base design, Cuisinart (Conair Corporation).
2003	D480,475	Actuator body for an inhalation device, Glaxo Group Limited.
2001	D437,027	Water filter reservoir, The Clorox Company.
2001	D438,524	Telephone base, Pingtel Inc.
2001	D445,627	Coffee maker, Black & Decker Inc.
2001	D445,795	Game controller precision button, Acco Brands, Inc.
2001	D450,687	Scroll wheel for a telephone base, Pingtel Inc.
2001	D451,091	Bezel for a telephone base, Pingtel Inc.
2000	D418,714	Water filtration pitcher, The Clorox Company.
2000	D419,027	Water filtration pitcher, The Clorox Company.
2000	D425,980	Hand-held tissue examination device, Assurance Medical, Inc.
2000	D435,084	Water filter, The Clorox Company.
2000	D445,627	Electric coffee maker housing, Black and Decker.
1999	D408,566	Flexible Flashlight, Black and Decker Inc.

1999	D410,117	Combination light and retractable leash, Black & Decker Inc.
1999	D414,171	Optical Scanner, Symbol Technologies Inc.
1999	D416,247	Game pad for laptop computers, Acco Brands, Inc.
1999	D417,934	Combined mop head with squeegee, Easy Day Manufacturing Company.
1998	D391,250	Ring mounted optical scanner, Symbol Technologies Inc.
1997	D378,295	Binoculars, Essecson Associates, Inc.
1997	D382,359	Miniature Lantern, Black and Decker Inc.
1997	D385,075	Electric Iron, Black and Decker Inc.
1997	D388,076	Optical Scanner, Symbol Technologies Inc.
1996	D370,478	Combined optical scanner and portable terminal, Symbol Technologies Inc.
1996	D372,772	Portable fan, Black and Decker Inc.

U.S. Utility Patents (11)

2008	7,325,413	Ice cream maker & dispenser apparatus, Cuisinart (Conair Corporation).
2007	7,224,345	Pad computer, Pepper Computer.
2000	6,024,054	Combined retractable leash and flashlight, Black & Decker Inc.
2000	6,058,548	Removable cleaning elements from mop, Easy Day Manufacturing Company.
2000	6,098,886	Glove-mounted System for reading bar code symbols, Symbol Technologies.
1999	5,950,020	Folding photographic method and apparatus, Polaroid Corporation.
1999	5,979,764	Hand-held electronic apparatus with pivoting display, Symbol Technologies Inc.
1999	6,003,187	Combination mop and wiper, Easy Day Manufacturing Company.
1999	6,003,472	Combined retractable leash and flashlight, Black & Decker Inc.
1998	5,763,865	Bar code reader terminal module, Symbol Technologies Inc.
1997	5,610,386	Portable optical scanning system, Symbol Technologies Inc.

Professional Affiliations:

1983-present	Member Industrial Designs Society of America (IDSA).
2004-2012	Member, Design Management Institute (DMI).
1994-2010	Member, American Institute of Graphic Artists (AIGA).
2004- 2008	Member, Toastmasters International.
1994-1999	Member Color Marketing Group (CMG).