Patent Practice and Procedure I (PPI)
Prof. Jepson

Student ID. No. _____
Section Leader _____

Claim Drafting Final 2000

General Instructions

Print your claims neatly. No credit will be given for any word about which there is any question.

Do not put your name on this exam; use only your student testing number.

This is a CLOSED BOOK exam. You may use a hand-held dictionary. You may not use anything else. YOU MAY NOT USE A COMPUTER.

Claim Drafting Instructions

You are Ace Associate. I am Training Partner. I have given you the attached two-page memo that includes a disclosure from our client Window Gardens and an attached sheet of drawings by WG. I have put a sticky note on the drawings with a few of my thoughts. WG needs to secure some patent rights quickly. WG needs our judgment as skilled patent attorneys.

Follow the specific claim drafting instructions in the Memo. You will: (**1**) draft one independent claim for approximately 100 points; (**2**) redraft two poorly written claims for approximately 40 points (total); and (**3**) draft one dependent claim for approximately 35 points. This exam is worth up to 30% of your final grade. There are further instructions for (**1**)-(**3**) in the Memo.

You may spend your time as you wish. I recommend that you read the entire Memo first. Then decide what limitation you will put in the dependent claim you draft. Next, draft the independent claim (keeping in mind the limitation added by the dependent claims). Follow by redrafting the dependent claims. Last, draft your dependent claim.

Do not use 35 USC § 112, ¶ 6 language.

You may NOT depart from the language provided by the client, unless you explain and define any different terms in a separate section following your claims. You are becoming a wordsmith; your choice of language is important. You are becoming a patent attorney; you bring value to your client by solving problems with your claim drafting skills.

Print neatly the final versions of your claims on the lined sheets provided. You have 1&1/2 hours.

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PPI Claim Drafting Final

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Ace Associate,

In the box below our client Window Gardens ("WG") describes a scoop-shaped measure for fertilizer for use by home gardeners. WG has learned that Yard KnockOffs has stolen WG drawings (Figs 1, 2, & 3 attached) and is about to use them as manufacturing drawings. I have added a note to the sheet of drawings.

Referring to Fig 1 (attached), scoop 20 is for accurate measurement of relatively small quantities of fertilizer. The capacity of scoop 20 is adjustable. Scoop 20 is made from molded plastic, polyethylene, polypropylene, cellulose nitrate, acrylonitrile-butadiene-styrene copolymer, polyvinylacetate, polyvinylbutyral, polyvinylchloride, other durable materials such as stainless steel or aluminum.

Body 22 has downwardly directed side wall 26, front wall 27, and a back wall. Side wall 26 (see Figs 1 & 3) is substantially concentric accommodating pivot 51 about a common vertical axis. This allows partition 49 of gate 23 to swing within bowl 21 while having a sliding-fit relation with the inner surfaces of side wall 26, front wall 27, and bottom wall 31.

Lip 33 (Figs 1 & 3) projects outwardly away from the side edge of body 22 and side wall 26. Lip 33 cooperates with protrusion 48 of gate 23 and holds gate 23 on body 22. Lip 33 has numerous radially spaced ribs 34 (Fig 3) and grooves 37 to determine the positions of gate 23. Protrusion 48 includes flanges (not shown) which extend into grooves 37 and engage to hold releasably gate 23 in a selected open position and thereby define the capacity of bowl 21. The radial distance between each groove 37 is the same as the radial distance between each flange on protrusion 48. Gate 23 can be pivoted about pivot 51 to move the flanges into grooves 37 to change the measuring size of bowl 21.

Reference indicia 44 are imprinted on top of body 22 to indicate the measuring size of bowl 2. Bowl 21 has a measuring capacity that may be measured in grams, or multiples of quarter-teaspoons, or ounces, or portions of a cup, or dribs and drabs, or cubic millimeters.

Cover 46 has generally linear front and rear edges and a convex curved side edge. The rear edge of cover 46 aligns with reference indicia 44 on body 22 to indicate the measuring size. Partition 49 extends downwardly into bowl 21 adjacent the inner surfaces of bowl 21. Partition 49 complements in shape the inner surfaces of bowl 21.

1. Another associate, now working elsewhere, drafted for me the two dependent claims boxed below. They are not very good. Without removing or adding any element, broadly speaking, correct all the technical flaws, formal inadequacies, and the indefiniteness; and remove any unnecessary limitations or

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qualifications to the elements. Leave each claim dependent upon claim 1. Write your redrafts of each claim in the Blue Book provided.

2. Draft a good, really clean, independent apparatus claim from which my dependent claims could depend (referring to the substance of my claims, not their form). Do not include in your independent claim any structural component added by my dependent claims.

Figures 4, 5, & 6 (below) show kitchen utensils that I am afraid the PTO will think are relevant prior art. Without including any unnecessary limitations, do all you can to avoid that art. Write your independent claim in the Blue Book provided.

3. Draft a multiple dependent claim, dependent on all the other claims, include one (and only one) whereby clause, and one (and only one) Markush element. Write your dependent claim in the Blue Book provided.

– Training Partner

These are the dependent claims that you will redraft. You will not recite in your independent claim any limitation added by either of these claims.

2. The lip of claim 1 consisting of ribs and grooves and the gate bends inwardly and catches said grooves to hold the partition in a selected open position.

3. In the claim of claim 1 wherein: each side wall has a curvature concentrically identical to the curvature of the other side wall, each curvature being coaxial with said axle.

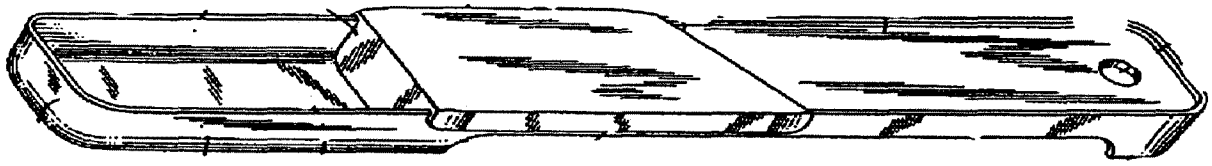


FIG 4

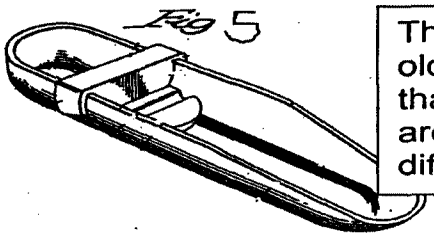


Fig 5

These are those old kitchen utensils that, frankly, I think are used for totally different purposes!

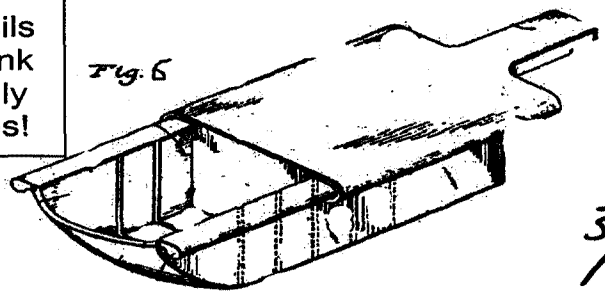


Fig. 6

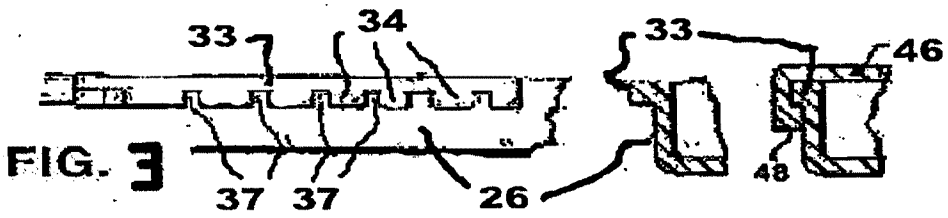


FIG. 3

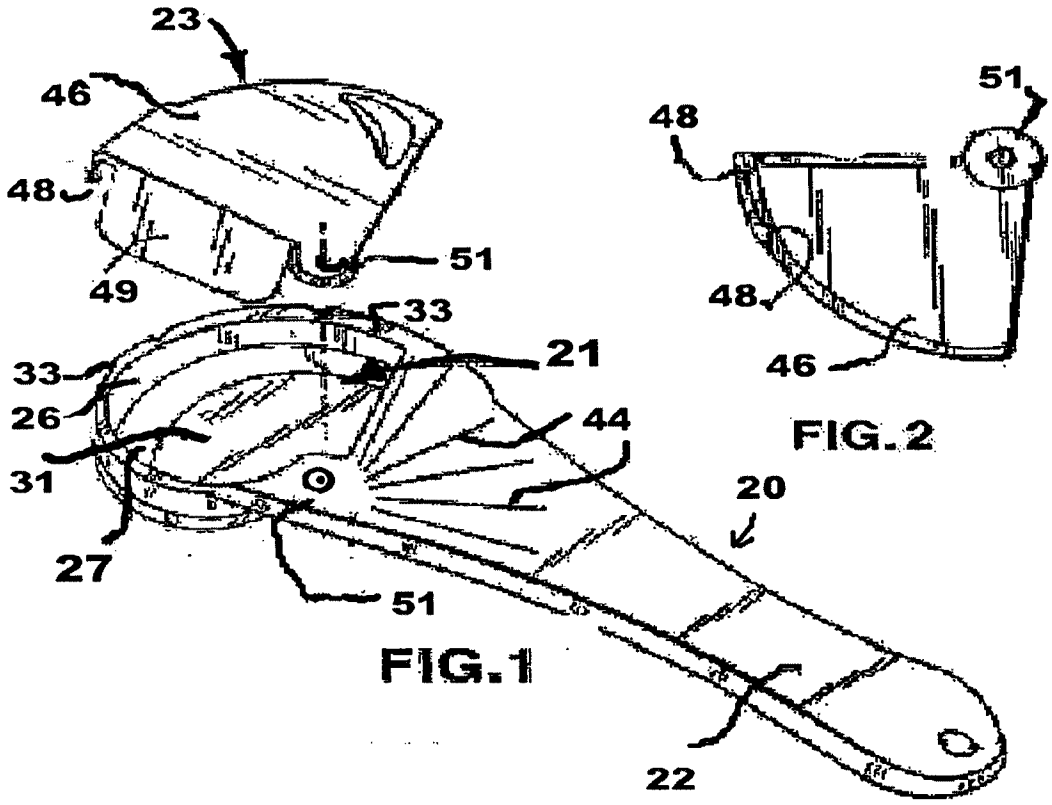


FIG. 1

FIG. 2

Fertilizer Measuring Device
Property of Window Gardens, Inc.