

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)**

To:

see form PCT/ISA/220

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference see form PCT/ISA/220	FOR FURTHER ACTION See paragraph 2 below
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International application No. PCT/US2012/030165	International filing date (day/month/year) 22.03.2012	Priority date (day/month/year) 28.03.2011
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International Patent Classification (IPC) or both national classification and IPC
INV. A46B11/00 A45D27/04

Applicant
OLD SKOOL PRODUCTIONS, LLC

1. This opinion contains indications relating to the following items:


- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step and industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Fax: +49 89 2399 - 4465	Date of completion of this opinion see form PCT/ISA/210	Authorized Officer Wirth, Christian Telephone No. +49 89 2399-8264
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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - the international application in the language in which it was filed
 - a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of a sequence listing filed or furnished:
 - a. (means)
 - on paper
 - in electronic form
 - b. (time)
 - in the international application as filed
 - together with the international application in electronic form
 - subsequently to this Authority for the purposes of search
4. In addition, in the case that more than one version or copy of a sequence listing has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of

the entire international application

claims Nos. 7, 16

because:

the said international application, or the said claims Nos. relate to the following subject matter which does not require an international search (*specify*):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed (*specify*):

no international search report has been established for the whole application or for said claims Nos. 7, 16

a meaningful opinion could not be formed without the sequence listing; the applicant did not, within the prescribed time limit:

furnish a sequence listing on paper complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

furnish a sequence listing in electronic form complying with the standard provided for in Annex C of the Administrative Instructions, and such listing was not available to the International Searching Authority in a form and manner acceptable to it.

pay the required late furnishing fee for the furnishing of a sequence listing in response to an invitation under Rules 13~~ter~~.1(a) or (b).

See Supplemental Box for further details

Box No. IV Lack of unity of invention

1. In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has, within the applicable time limit:
- paid additional fees
 - paid additional fees under protest and, where applicable, the protest fee
 - paid additional fees under protest but the applicable protest fee was not paid
 - not paid additional fees
2. This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- complied with
 - not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- all parts.
 - the parts relating to claims Nos. 1-6, 8-15, 17-20

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement
- | | | |
|-------------------------------|-------------|-------------------------|
| Novelty (N) | Yes: Claims | |
| | No: Claims | <u>1-6, 8-15, 17-20</u> |
| Inventive step (IS) | Yes: Claims | |
| | No: Claims | <u>1-6, 8-15, 17-20</u> |
| Industrial applicability (IA) | Yes: Claims | <u>1-6, 8-15, 17-20</u> |
| | No: Claims | |

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Reference is made to the following documents:

- D1 US 3 653 090 A (WEAVER RONALD L) 4 April 1972 (1972-04-04) cited in the application
- D2 EP 0 126 905 A2 (BRAUN & WETTBERG GMBH [DE]) 5 December 1984 (1984-12-05)

Concerning item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

Due to the lack of unity the search was limited to the invention first mentioned in the claims (claims 1-6, 8-15, 17-20).

Concerning item IV

Lack of unity of invention

1. This Authority considers that the application does not meet the requirements of unity of invention and that there are two groups of inventions covered by the claims indicated as follows:

I: Claims 1-6, 8-15, 17-20;

II: Claims 1, 7, 16;

The reasons for which the inventions are not so linked as to form a single general inventive concept, as required by Rule 13.1 PCT, are as follows:

2. Document D1 (see Fig. 3) discloses a shaving brush assembly (see col. 1, lines 29-31) comprising: a plurality of bristles (23); a base (10): having a first side coupled to and supporting the plurality of bristles; a second side opposite the first side; and defining a passageway (15), (16), (20) from the first side to the second side, the passageway (15), (16), (20) dimensioned to receive at least a portion of a nozzle (26) of a shaving cream container (C); and a sleeve (12) coupled to and extending from the second side of the base, the sleeve (12) having an inner diameter less than an outer diameter of a standard-sized container (C) of shaving cream (see col. 1, lines 8-21).

The passageway comprises: an inner diameter that is greater than a largest outer diameter of a dispensing nozzle (26) of a container (C) of shaving cream (see col. 2, lines 37-43).

The passageway comprises: a first inner diameter (portion 20) that is less than a largest outer diameter of a dispensing nozzle (26) of a container of shaving cream;

and a second inner diameter (portion 16) that is greater than a largest outer diameter of a dispensing nozzle (26) of a container (C) of shaving cream (see col. 2, lines 37-43).

The first inner diameter (portion 20) of the passageway is closer to the first side of the base than is the second inner diameter (portion 16) (see Fig. 3).

The passageway is located substantially in the center of the base (see col. 2, lines 9-11).

The sleeve (12) is tubular in shape (see col. 2, lines 1-4 and Fig. 3, 4).

The base (10) and the sleeve (12) are portions of a single physical element (see Fig. 3).

Therefore the subject-matter of claims 1, 3, 4, 5, 6, 8, 9 is not new and said claims do not meet the requirement of the PCT concerning novelty (Art. 33(2) PCT).

3. Likewise document D1 (see Fig. 3) discloses a method for applying shaving cream to a shaving brush (see col. 2, lines 1-45), the method comprising:

providing a shaving brush assembly including: a plurality of bristles (23);

a base (10): having a first side coupled to and supporting the plurality of bristles; a second side opposite the first side; and defining a passageway (15), (16), (20) from the first side to the second side; and

a sleeve (12) coupled to the base (10), the sleeve (12) having an inner diameter less than an outer diameter of a standard-sized container (C) of shaving cream (see col. 1, lines 8-21);

inserting a travel-size container of shaving cream (see remark below) within the sleeve so that a dispensing nozzle of the travel-size container of shaving cream is inserted at least partially within the passageway; and applying a pressing force to the travel-size container of shaving cream in a direction toward the bristles (see col. 2, lines 1-45).

The passageway comprises: an inner diameter that is greater than a largest outer diameter of a dispensing nozzle (26) of a container (C) of shaving cream (see col. 2, lines 37-43).

The passageway comprises: a first inner diameter (portion 20) that is less than a largest outer diameter of a dispensing nozzle (26) of a container (C) of shaving cream; and a second inner diameter (portion 16) that is greater than a largest outer diameter of a dispensing nozzle (26) of a container (C) of shaving cream (see col. 2, lines 37-43).

The first inner diameter (portion 20) of the passageway is closer to the first side of the base than is the second inner diameter (portion 16) (see Fig. 3).

The passageway is located substantially in the center of the base (see col. 2, lines 9-11).

The sleeve (12) is tubular in shape (see col. 2, lines 1-4 and Fig. 3, 4).

The base (10) and the sleeve (12) are portions of a single physical element (see Fig 3).

Remark: The expression "travel-size" is not defined in the claims. A "travel-size container" may be a container of any size which can be transported during travelling.

Therefore the subject-matter of claims 10-15, 17, 18 is not new and said claims do not meet the requirement of the PCT concerning novelty (Art. 33(2) PCT).

4. Likewise document D1 (see Fig. 3) discloses a method of manufacturing a shaving brush assembly, the method comprising:

providing a shaving brush assembly including: a plurality of bristles (23); and a base (10): having a first side coupled to and supporting the plurality of bristles (23); and a second side opposite the first side;

boring a passageway (20) from the first side of the base to the second side of the base (see Fig. 3 and remark below), the passageway dimensioned to receive at least a portion of a nozzle (26) of a shaving cream container (C); and coupling a sleeve (12) to the base, the sleeve (12) extending from the second side of the base and having an inner diameter less than an outer diameter of a standard-sized container (C) of shaving cream (see col. 2, lines 1-45).

Remark: The passageway is constituted by a vertical bore (see col. 1, lines 30-35), which implies the process of boring.

Therefore the subject-matter of claim 19 is not new and said claim does not meet the requirement of the PCT concerning novelty (Art. 33(2) PCT).

5. The technical features of claims 2, 7, 11, 16 and 20 make a contribution over the prior art and can be considered as special technical features within the meaning of Rule 13.2 PCT:

Claims 2, 11, 20: The inner diameter of the sleeve is greater than a largest outer diameter of a travel-size container of shaving cream.

Claims 7, 16: A length of the sleeve is substantially the standard length of a travel-size container of shaving cream.

These special technical features solve different problems:

Claims 2, 11, 20: The sleeve surrounds the container of shaving cream and provides a frictional resistance against the smaller-than-standard container and in this way provides a holding force of the container within the sleeve (see also description page 7, lines 21-26).

Claims 7, 16: The sleeve serves as a handle which protects the shaving cream during lathering (see also description page 7, lines 9-11).

Since there are two different problems solved which cannot be considered as to be corresponding, there is no single general inventive concept between the independent claims 2, 11, 20 and claims 7, 16.

6. Groups of inventions

The following 2 groups of inventions can be distinguished:

I: Claims 1-6, 8-15, 17-20: Shaving brush assembly with inner diameter of a sleeve being greater than a largest outer diameter of a travel-size container;

II: Claims 1, 7, 16: Shaving brush assembly with a sleeve that has substantially the standard length of a travel-size container of shaving cream;

In conclusion, the groups of claims are not linked by common or corresponding special technical features and define two different inventions not linked by a single general inventive concept. The application, hence does not meet the requirements of unity of invention as defined in Rules 13.1 and 13.2 PCT.

Concerning item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Independent claim 1 - Novelty

Document D2 (see Fig. 1) discloses a shaving brush assembly comprising: a plurality of bristles (2); a base (6): having a first side coupled to and supporting the plurality of bristles (2); a second side opposite the first side; and defining a passageway (7), (10) from the first side to the second side (see page 4, lines 9-14 and claim 1), the passageway (10) dimensioned to receive at least a portion of a nozzle (11) of a shaving cream container (see page 4, lines 16-20); and a sleeve (14) coupled to and extending from the second side of the base (see page 4,

line 29 to page 5, line 9), the sleeve (14) having an inner diameter less than an outer diameter of a standard-sized container (18) of shaving cream (see page 1, lines 6-23 and remark below).

Remark:

Since the shaving brush assembly is especially adapted for travelling (see page 1, lines 6-23), the container is to be considered as a "travel-size container" which is generally smaller than a "standard-sized container". Further more, the container (12) serves as an extension for the handle (14) (see page 2, lines 32-34) which implies that the diameter is smaller than the diameter of a "standard-sized" shaving cream container (of 2.75" according to the description page 1, lines 27, 28) which is to thick to be comfortably handled with one single hand as it is common with conventional shaving brushes during lathering.

Therefore the subject-matter of claim 1 is not new and said claim does not meet the requirement of the PCT concerning novelty (Art. 33(2) PCT).

2. Independent claim 10

Document D2 (see Fig. 1) discloses a method for applying shaving cream to a shaving brush (see page 4, line 16 to page 5, line 9), the method comprising:

providing a shaving brush assembly including: a plurality of bristles (2); a base (6): having a first side coupled to and supporting the plurality of bristles (2); a second side opposite the first side; and defining a passageway (7), (10) from the first side to the second side (see page 4, lines 9-14 and claim 1); and a sleeve (14) coupled to the base (6), the sleeve (14) having an inner diameter less than an outer diameter of a standard-sized container (18) of shaving cream (see page 1, lines 6-23 and also remark in 1. for independent claim 1); inserting a travel-size container (18) of shaving cream within the sleeve (14) so that a dispensing nozzle (11) of the travel-size container (18) of shaving cream is inserted at least partially within the passageway (10); and applying a pressing force to the travel-size container (18) (see page 1, lines 6-23, page 4, line 16 to page 5, line 9, and also remark in 1. for independent claim 1) of shaving cream in a direction toward the bristles (2).

Therefore the subject-matter of claim 10 is not new and said claim does not meet the requirement of the PCT concerning novelty (Art. 33(2) PCT).

3. Independent claim 19

Document D2 (see Fig. 1) discloses a method of manufacturing a shaving brush assembly, the method comprising:

providing a shaving brush assembly including: a plurality of bristles (2); and a base (6): having a first side coupled to and supporting the plurality of bristles (2); and a second side opposite the first side;

boring a passageway (7), (10) from the first side of the base to the second side of the base (see page 4, lines 9-14), the passageway (10) dimensioned to receive at least a portion of a nozzle (11) of a shaving cream container (see page 4, lines 16-20); and coupling a sleeve (14) to the base (6), the sleeve (14) extending from the second side of the base (6) and having an inner diameter less than an outer diameter of a standard-sized container (18) of shaving cream (see page 1, lines 6-23 and also remark in 1. for independent claim 1).

Therefore the subject-matter of claim 19 is not new and said claim does not meet the requirement of the PCT concerning novelty (Art. 33(2) PCT).

4 Dependent claims 2-6, 8, 9, 11-15, 17,18, 20

The features of claims 2-6, 8, 9, 11-15, 17,18, 20 are known from D2 (see Fig. 1) and therefore also not new.

claims 2, 11, 20: see Fig. 1 and remark for independent claim 1 in 1.;

claims 3, 12: see Fig. 1, and page 4, lines 16-20;

claims 4, 13: see Fig. 1, and page 4, lines 16-20;

claims 5, 14: see Fig. 1;

claims 6, 15: see Fig. 1, page 4, lines 9-14 and page 4, line 29 to page 5, line 9;

claims 8, 17: see Fig. 1 and page 4, line 29 to page 5, line 9;

claims 9, 18: see Fig. 1.

Therefore claims 2-6, 8, 9, 11-15, 17,18, 20 do not meet the requirement of the PCT concerning novelty (Art. 33(2) PCT).

Concerning item VII

Certain defects in the international application

1. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in D2 is not mentioned in the description, nor is this document identified therein.

2. The units of measure on pages 1 and 7 are not additionally expressed in terms of the units stipulated by Rule 10.1(a) PCT.

3. The features of claims 1-6, 8-15, 17-20 are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

Concerning item VIII

Certain observations on the international application

1. Claims 1, 2, 10, 11, 19 and 20 are not clear (Art. 6 PCT), because the terms "standard-size" and "travel-size" describe arbitrary sizes which are not clearly defined in the claims.
2. Claims 1, 2, 4, 10, 11, 19, 20 are not clear (Art. 6 PCT), since their subject-matter is defined against a second entity (container of shaving cream) which is not part of the claim, rather than in terms of technical features.
3. Claims 3, 4, 12, 13, 19 are not clear (Art. 6 PCT), since their subject-matter is defined against a second entity (nozzle of a shaving cream container) which is not part of the claim, rather than in terms of technical features.