

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

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PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43*bis*.1)

Date of mailing
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19 FEB 2020

Applicant's or agent's file reference
082486.0204

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US 19/63036

International filing date (day/month/year)

25 November 2019 (25.11.2019)

Priority date (day/month/year)

30 November 2018 (30.11.2018)

International Patent Classification (IPC) or both national classification and IPC

IPC - B65D 65/02 (2020.01)

CPC - B65D 65/02

Applicant

NICE-PAK PRODUCTS, INC.

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 43*bis*.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 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 66.1*bis*(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/US
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Date of completion of this opinion

24 January 2020

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Box No. I Basis of this 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 43*bis*.1(b)).
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:
- a. forming part of the international application as filed:
- in the form of an Annex C/ST.25 text file.
- on paper or in the form of an image file.
- b. furnished together with the international application under PCT Rule 13*ter*.1(a) for the purposes of international search only in the form of an Annex C/ST.25 text file.
- c. furnished subsequent to the international filing date for the purposes of international search only:
- in the form of an Annex C/ST.25 text file (Rule 13*ter*.1(a)).
- on paper or in the form of an image file (Rule 13*ter*.1(b) and Administrative Instructions, Section 713).
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 forming part of the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

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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

1. Statement

Novelty (N)	Claims	4, 6-10, 13-14, 18-21	YES
	Claims	1-3, 5, 11-12, 15-17	NO
Inventive step (IS)	Claims	NONE	YES
	Claims	1-21	NO
Industrial applicability (IA)	Claims	1-21	YES
	Claims	NONE	NO

2. Citations and explanations:

Claims 1-3, 5, 11-12, and 15-17 lack novelty under PCT Article 33(2) as being anticipated by IL 104180 A1 (HAIM) (hereinafter "Haim").

Regarding claim 1, Haim teaches a lid assembly (which includes both 16 and 18, as illustrated in Figs. 1A-C; pg 10, first para) for a container (14, Fig. 1A; pg 10, first para) comprising:

a base frame (16, Fig. 1A; pg 10, first para);

a cover panel (which includes both 18 and the portion of 16 vertically upright and adjacent 18, as illustrated in Fig. 1A; "taken together" pg 10, first para) coupled to the base frame along a longitudinal side thereof (the unnumbered vertical ligament illustrated atop 16, as illustrated in Fig. 1; pg 10, first para), the cover panel movable between a closed position (illustrated in Fig. 1B) and an open position (illustrated in Fig. 1A), the cover panel defining a housing (18, Fig. 1A; pg 10, first para), and

a sound device disposed in the housing ("a cap 18 in which is housed an audio signal generator (not shown)" pg 10, first para), wherein the sound device is activated when the cover panel moves between the closed position and the open position ("the audio signal generator comprises a light-actuated audio signal generated which is actuated by the impingement of light on an aperture 20 formed in the cap 18" pg 10, second para).

Regarding claim 2, Haim teaches the lid assembly of claim 1, and Haim also teaches that the sound device emits sound when the sound device is activated ("an audio signal" pg 10, last full para).

Regarding claim 3, Haim teaches the lid assembly of claim 2, and Haim also teaches that the sound comprises at least one of a song, melody, music, or speech (a melody: "melody" pg 11, ln 5-6).

Regarding claim 5, Haim teaches the lid assembly of claim 1, and Haim also teaches that the cover panel has a transition position (illustrated in Fig. 1C) between the closed position and the open position (as illustrated in Figs. 1A-C).

Regarding claim 11, Haim teaches the lid assembly of claim 1, and Haim also teaches that the cover panel is hingedly coupled to the frame (as illustrated in Figs. 1B-C) by at least one of a living hinge, a butterfly hinge, a bi-fold hinge, a butt hinge, a concealed hinge, or a continuous hinge (a living hinge: the ligament between 18 and 16 in Figs. 1B-C is self-evidently a living hinge; pg 10, first para).

Regarding claim 12, Haim teaches the lid assembly of claim 1, and Haim also teaches that the lid assembly is configured to be coupled to the container (see Box VIII) for dispensing wipes (product 12, Fig. 1A; "wet wipes" pg 10, first para).

Regarding claim 15, Haim teaches the lid assembly of claim 1, and Haim also teaches that the base frame defines an orifice therein (the unnumbered X-shaped feature at center of 16 is self-evidently a flexible opening for dispensing wipes 12 upon assembly, as illustrated in Fig. 1A; pg 10, first para).

Regarding claim 16, Haim teaches the lid assembly of claim 15, and Haim also teaches that a wipe (product 12, Fig. 1A; "wet wipes" pg 10, first para) is accessible through the orifice when the lid is in the open position (as illustrated in Figs. 1A and 1C).

Regarding claim 17, Haim teaches a dispenser system (10, Fig. 1A; pg 10, first para) comprising:

a base compartment defining an internal cavity (body element 14, Fig. 1A; pg 10, first para); and

a lid assembly coupled with the container (which includes top element 18 and top element 16, as illustrated in Fig. 1A; pg 10, first para)

having:

a cover panel (which includes both 18 and the portion of 16 vertically upright and adjacent 18, as illustrated in Fig. 1A; "taken together" pg 10, first para) coupled to the base compartment (as illustrated in Figs. 1B-C), the cover panel movable between a closed position to seal the orifice (illustrated in Fig. 1B) and an open position to permit access to the orifice (illustrated in Fig. 1A), the cover panel defining a housing (18, Fig. 1A; pg 10, first para), and

a sound device disposed in the housing ("a cap 18 in which is housed an audio signal generator (not shown)" pg 10, first para), wherein the sound device is activated when the cover panel moves between the closed position and the open position ("the audio signal generator comprises a light-actuated audio signal generated which is actuated by the impingement of light on an aperture 20 formed in the cap 18" pg 10, second para).

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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:

Regarding claim 12, "a container" has antecedent basis in the preamble of claim 1 and so this instance has been interpreted as "the container".

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

-*- Box V.2 - Citations and Explanations -*-

Claims 6-7 and 18-21 lack an inventive step under PCT Article 33(3) as being obvious over Haim.

Regarding claim 6, Haim teaches the lid assembly of claim 1.

Haim does not teach the lid assembly further comprising an override button that deactivates the sound device when the cover panel is in the transition position or the open position.

However, Haim teaches the general concept of using a button to control a sound device (132, Figs. 8A-B; "the apparatus of Figs. 1A - 1C" pg 14, first and second full paras), as well as powering audio signals using batteries ("battery-operated audio signal" pg 15, first full para). Haim also teaches the dispenser being for babies ("baby's skin" pg 9, first para). Accordingly, it would have been obvious to one having ordinary skill in the art that the method taught by Haim could have been modified as claimed to extend the service life of a battery or to otherwise be able to silence something that could wake a baby.

Regarding claim 7, Haim teaches the lid assembly of claim 5, and Haim also teaches that the sound device has a sensor (aperture 20, Fig. 1A; "light-actuated" pg 10, second para) that activates the sound device in the transition position or open position ("impingement of light" pg 10, second para).

Haim does not teach that the sensor deactivates the sound device in the closed position.

However, Haim teaches using the impingement of light upon emergence of a sensor from dark in order to begin the music ("light-actuated audio signal" pg 10, second para), as well as powering audio signals using batteries ("battery-operated audio signal" pg 15, first full para). Haim also teaches the dispenser being for babies ("baby's skin" pg 9, first para). Accordingly, it would have been obvious to one having ordinary skill in the art that the method taught by Haim could have been modified as claimed to extend the service life of a battery or to otherwise be able to silence something that could wake a baby.

Regarding claim 18, Haim teaches the dispenser system of claim 17, and Haim also teaches that the cover panel has a transition position (illustrated in Fig. 1C) between the closed position and the open position (as illustrated in Figs 1A-C).

Haim does not teach the dispenser system further comprising an override button that deactivates the sound device when the cover panel is in the transition position or the open position.

However, Haim teaches the general concept of using a button to control a sound device (132, Figs. 8A-B; "the apparatus of Figs. 1A - 1C" pg 14, first and second full paras), as well as powering audio signals using batteries ("battery-operated audio signal" pg 15, first full para). Haim also teaches the dispenser being for babies ("baby's skin" pg 9, first para). Accordingly, it would have been obvious to one having ordinary skill in the art that the method taught by Haim could have been modified as claimed to extend the service life of a battery or to otherwise be able to silence something that could wake a baby.

Regarding claim 19, Haim teaches a method of operating a musical wipes dispenser (illustrated generally in Figs. 1A-C) comprising:

providing a dispenser (10, Fig. 1A; pg 10, first para) including:

a base compartment defining an internal cavity (body element 14, Fig. 1A; pg 10, first para) to house wipes therein (product 12, Fig. 1A;

"wet wipes" pg 10, first para), and

a lid assembly coupled with the container (which includes top element 18 and top element 16, as illustrated in Fig. 1A; pg 10, first para)

having:

a base frame (the generally horizontal disc-shaped portion of 16, as illustrated in Fig. 1A; pg 10, first para) defining an orifice therein to access the internal cavity (the unnumbered X-shaped feature at center of 16 is self-evidently a flexible opening for dispensing wipes 12 upon assembly, as illustrated in Fig. 1A; pg 10, first para),

a cover panel (the portion of 16 vertically upright and adjacent 18, as illustrated in Fig. 1A; "taken together" pg 10, first para) coupled to the base frame along a longitudinal side thereof (unnumbered; the strap extending upward from 16, as illustrated in Fig. 1A; pg 10, first para), the cover panel movable between a closed position to seal the orifice (illustrated in Fig. 1B) and an open position to permit access to the orifice (illustrated in Fig. 1A), the cover panel defining a housing (18, Fig. 1A; pg 10, first para), and

a sound device disposed in the housing ("a cap 18 in which is housed an audio signal generator (not shown)" pg 10, first para);

moving the cover panel between the closed position and the open position to access the wipes in the internal cavity (as illustrated in Figs. 1B-C); and

activating the sound device when the cover panel moves between the closed position and the open position ("the audio signal generator comprises a light-actuated audio signal generated which is actuated by the impingement of light on an aperture 20 formed in the cap 18" pg 10, second para).

While Haim does not explicitly disclose the positive recitation of a method, the device of Haim is inherently used to perform the method as claimed. Haim teaches how the lid operates and how to use it. Accordingly, it would have been obvious to one having ordinary skill in the art that the system and teachings of Haim could have been utilized as a whole to effectively provide a method of use thereof by enabling a user to operate the lid so as to properly retrieve a wipe from a musical container.

Regarding claim 20, the modified Haim teaches the method of claim 19.

Haim does not teach comprising the step of deactivating the sound device when the cover panel is in the closed position.

However, Haim teaches using the impingement of light upon emergence of a sensor from dark in order to begin the music ("light-actuated audio signal" pg 10, second para), as well as powering audio signals using batteries ("battery-operated audio signal" pg 15, first full para). Haim also teaches the dispenser being for babies ("baby's skin" pg 9, first para). Accordingly, it would have been obvious to one having ordinary skill in the art that the method taught by Haim could have been modified as claimed to extend the service life of a battery or to otherwise be able to silence something that could wake a baby.

-*- See Next Supplemental Sheet -*-

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

-*- Box V.2 - Citations and Explanations -*-

Regarding claim 21, the modified Haim teaches the method of claim 19, and Haim also teaches that the sound device emits the tune when the sound device is activated (pg 10, third para).

Haim does not expressly teach the step of recording a tune with the sound device.

However, Haim does teach supplying the memory of the device with a recording of a tune ("melody" pg 10, last full para; the tune must be recorded in order to play), with the capacity to combine both a recording device and a device that emits such recordings being known by the general public at the time of the invention to have been well within the grasp of those having ordinary skill in the art at the time of the invention (such technology was used in products such as recordable audio greeting cards). Accordingly, it would have been obvious to one having ordinary skill in the art that the modified Haim could have been modified by a skilled artisan as desired or necessary to meet the demands or requirements of a given application.

Claim 4 lacks an inventive step under PCT Article 33(3) as being obvious over Haim in view of US 2016/0297583 A1 to STAEBEN et al. (hereinafter "Staeben").

Regarding claim 4, Haim teaches the lid assembly of claim 1.

Haim does not teach that the sound device at least one of displays at least one image, releases a scent, or activates a light when the sound device is activated.

However, Staeben teaches a device (LED 28, Fig. 1; para [0043]) that activates a light when the device is activated (as illustrated in Fig. 1; "ON/OFF switch automatically activated by opening and closing the lid 24" para [0043]).

Staeben teaches including this technical feature to enhance visual recognition of a dispensed product ("point light in the direction of dispensing" para [0012]). Accordingly, it would have been obvious to one having ordinary skill in the art that the lid assembly taught by Haim could have been modified as claimed in view of Staeben to reduce the time taken to train one's gaze to a dispensable product.

Claims 1 and 14 lack an inventive step under PCT Article 33(3) as being obvious over US 6,545,594 B1 to KNIGHT et al. (hereinafter "Knight") in view of Staeben.

Regarding claim 1, Knight teaches a lid assembly (100, Fig. 1; col 4 ln 61-64) for a container (200, Fig. 1; col 5 ln 28-31), the lid assembly comprising:

a base frame (outer cap 130, Fig. 1; col 4 ln 64-66);

a cover panel (cup 150, Fig. 1; col 5 ln 6-8) movable between a closed position (Fig. 1) and an open position (as illustrated in Fig. 2; "the bottom ... has been removed from the bottle" col 6 ln 64-67), the cover panel defining a housing (into which 160 fits, as illustrated in Fig. 1; col 5 ln 24-25); and

a sound device (audio device 120, Fig. 1; col 5 ln 49-50) disposed in the housing (as illustrated in Fig. 1), wherein the sound device is activated when the cover panel moves between the closed position and the open position (via triggering mechanism 110, as illustrated in Fig. 1; col 5 ln 38-39).

Knight does not teach the lid assembly comprising:

a base frame;

wherein the cover panel is coupled to the base frame along a longitudinal side thereof and movable between the closed position and the open position.

However, Staeben teaches a lid assembly (12, Fig. 1; para [0043]) comprising:

a base frame (threaded dispensing portion 18, Fig. 1; para [0043]);

a cover panel (24, Fig. 1; para [0043]) coupled to the base frame along a longitudinal side thereof (living hinge 26, as illustrated in Fig. 1; para [0044]), the cover panel movable between a closed position (the position of 24 relative to 18, as illustrated in Fig. 2; para [0043]) and an open position (the position of 24 relative to 18, as illustrated in Fig. 1; para [0043]).

Staeben teaches including this technical feature to reduce the number of hands required to open a threaded container ("ideal for one-handed operation" para [0016]; see also "retrofitting on product bottles" para [0015]). Accordingly, it would have been obvious to one having ordinary skill in the art that the lid assembly taught by Knight could have been modified as claimed in view of Staeben to increase the dexterous capacity of one engaged in manually opening a container.

Regarding claim 14, the modified Knight teaches the lid assembly of claim 1, and Knight also teaches comprising a sealing plate (membrane 280, Fig. 1; col 6 ln 32-33) coupled with the housing (as illustrated in Fig. 1), wherein the sealing plate seals and secures the sound device within the housing (as illustrated in Fig. 1; col 6 ln 32-33).

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In case the space in any of the preceding boxes is not sufficient.

Continuation of:

- Box V.2 - Citations and Explanations -

Claim 13 lacks an inventive step under PCT Article 33(3) as being obvious over Haim in view of Knight.

Regarding claim 13, Haim teaches the lid assembly of claim 12, and Haim teaches that the container is for dispensing wipes (as illustrated in Fig. 1A).

Haim does not teach that the sound device comprises a movable insulating tab and a circuit, wherein the insulating tab engages with the circuit to deactivate the sound device in the closed position, wherein the insulating tab is coupled to the container.

However, Knight teaches a lid assembly (100, Fig. 1; col 4 In 61-64) for a container (200, Fig. 1; col 5 In 28-31), the lid assembly comprising:

a sound device (which includes triggering mechanism 110 and audio device 120, as illustrated in Fig. 1; col 5 In 49-50, col 6 In 57-59); the sound device comprising a movable insulating tab (ledge 240, Fig. 4A; col 5 In 42-44 and "flexible thermoplastic" col 5 In 18-21) and a circuit (circuit board 260, Fig. 4A; col 5 In 49-50), wherein the insulating tab engages with the circuit (as illustrated in Fig. 4A).

Knight does not teach that the circuit deactivates the sound device in the closed position.

However, Knight teaches the circuit being powered by batteries of finite lifespan (col 5 In 50-52, "batteries 250 have expired" col 12 In 51-54). Accordingly, it would have been obvious to one having ordinary skill in the art that the lid assembly taught by the modified Knight could have been modified as claimed to extend service life.

Claims 8-10 meet the criteria of having novelty and an inventive step under PCT Article 33(2-3) because, as will be shown, the subject matter does not meet, nor does it fairly suggest, the limitations as claimed.

The most similar prior art is exemplified by (1) Knight; (2) Staeben

(1) Knight teaches a lid assembly (100, Fig. 1; col 4 In 61-64) for a container (200, Fig. 1; col 5 In 28-31), the lid assembly comprising:

a base frame (outer cap 130, Fig. 1; col 4 In 64-66);

a cover panel (cup 150, Fig. 1; col 5 In 6-8) movable between a closed position (Fig. 1) and an open position (as illustrated in Fig. 2; "the bottom ... has been removed from the bottle" col 6 In 64-67), the cover panel defining a housing (into which 160 fits, as illustrated in Fig. 1; col 5 In 24-25); and

a sound device (audio device 120, Fig. 1; col 5 In 49-50) disposed in the housing (as illustrated in Fig. 1), wherein the sound device is activated when the cover panel moves between the closed position and the open position (via triggering mechanism 110, as illustrated in Fig. 1; col 5 In 38-39).

(2) Staeben teaches a lid assembly (12, Fig. 1; para [0043]) comprising:

a base frame (threaded dispensing portion 18, Fig. 1; para [0043]);

a cover panel (24, Fig. 1; para [0043]) coupled to the base frame along a longitudinal side thereof (living hinge 26, as illustrated in Fig. 1; para [0044]), the cover panel movable between a closed position (the position of 24 relative to 18, as illustrated in Fig. 2; para [0043]) and an open position (the position of 24 relative to 18, as illustrated in Fig. 1; para [0043]).

Regarding claim 8, the modified Knight teaches the lid assembly of claim 1, and Knight also teaches that the sound device comprising a tab (ledge 240, Fig. 4A; col 5 In 42-44 and "flexible thermoplastic" col 5 In 18-21) and a circuit (circuit board 260, Fig. 4A; col 5 In 49-50), wherein the tab engages with the circuit (as illustrated in Fig. 4A).

However, inasmuch as Knight disparages expenditure on circuitry ("lithium batteries, however, are generally more expensive on a per unit basis" col 11 In 34-37) and teaches supplying sounds for short periods of time ("an audible message that lasts about six (6) seconds and can be heard for at least a four (4) foot radius" col 11 In 64-67), one of ordinary skill in the art would not have been motivated to complicate the circuitry with a silencing button/trigger.

Accordingly, the prior art does not teach, nor does it fairly suggest, such an apparatus wherein the tab is a movable insulating tab that engages with the circuit to deactivate the sound device in the closed position.

Regarding claims 9-10, the prior art does not teach, nor does it fairly suggest, the limitations as claimed, as claims 9-10 depend from claim 8.

Claims 1-21 have industrial applicability under PCT Article 33(4) because the subject matter can be made or used in industry.