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The Patents Act, 1970
(Section15)

In the Matter of Patent Application no. 9732/DELNP/2008
And Review petition filed on 24/10/2017

CPS COLOR EQUIPMENT SPA CON UNICO SOCIO.....Applicant

Hearing held on 15/12/2017

Present: Naveen Varma of ZeusIP Advocates.

Decision

The Ld. Agent for Applicant argued as follows:

1. That the aperture (21) is positioned on the lateral surface of said tubular element (14), just above said perforation end (34) is the main combination of features that distinguish the present device from the cited prior art documents, both D1: EP1439000 A2; and D2: AU5931500A.

2. Whereas the cited prior art documents, document D1 discloses a colour metering device for dispensing colours into a container having a closing portion. The metering device has a plurality of delivery hollow needles connected to tanks containing the colored pigments. The needles are axially hollow and are provided with hollow ends shaped diagonally that are used both to

perforate the closing portion of the container and, when said ends are inserted into the container, to deliver the coloured pigments.

3.The teaching of document D1, the same diagonally shaped end of each needle is involved both in perforating and delivering the coloured pigments into the container. This has the major drawback of possibly damaging the pointed end after several repeated perforation operations, because said end - for allowing delivering of coloured pigments - is hollow and therefore is substantially an annular diagonally shaped wall that is fragile and mechanically suffers when cooperating with the cover of the container that is raised with a certain speed. This leads to possible deformations of the diagonally shaped ends, like burrs or cuts, and thus to a possible malfunctioning of the dispensing device, both during perforation and also during delivery of the coloured pigments.

4. Moreover, the diagonally shaped ends of the needles of document D1, besides being hollow weak structures as such, are also a possible cause of unbalanced pressure acting on the needle when perforating the cover of the container, leading, over time, to damage of the needle.

5. The cited prior art document D2 generally describes improved apparatus and methods for treating the symptoms normally associated with headaches, allergies, asthma, and the like. Such apparatus and methods should provide small volumes of gas for convenient use away from the home, substantially immediate relief of symptoms, safety with few or no side effects, efficacy without requiring unconsciousness, efficacy in a large number of patients, therapy for those contraindicated for present-day therapies, therapy without interaction with concurrent medications, low cost, a long life (in at least some embodiments), and permit the patient to administer the therapy and adapt the product usage for maximum comfort and effectiveness.

6 . That the document D2 describes an apparatus that is structurally different from the present device and that thus has been realized for different purposes with respect to the purpose of the present application, that is, among the others, to realize a dispensing device provided with a tubular element in which the perforation function of the needle (pointed end) is separated from the delivery function of the needle (lateral aperture), according to the above- underlined combination of features of claim 1.

7. ‘That the needle 18,18’ of document D2, see for example Fig. 3A and Fig. 4A-4B is a normal conic needle which is not provided with an aperture for the passage of the fluid products positioned on the lateral surface of the needle just above the perforation end and, thus, separated from the perforation end.

8. As described in document D2, the preferred needle configuration, shown in Fig. 4B permits obtaining the required very small change in orifice area by a relatively large axial displacement of 20 the needle. The lowermost portion of the needle, over a distance approximately equal to the thickness of the cartridge sealing cap 30, has essentially the same shape and size as the puncture point 97 shown in Fig. 4A as employed in the initial embodiment of the dispenser. The configuration of this point is an optimum compromise between the strength of a blunt point and the reduced force requirement of a sharp point in the puncture process. However, the needle region 98' beyond the puncture point, that is adjacent to the perforated cap wall, determines the size of the annular flow-controlling orifice of the valve seat 42 when the needle is partially withdrawn. The configuration of the flow-controlling seat region 98' of the needle is realized for obtaining the required flow regulation characteristics of the dispenser.

9. In addition to the above, reference is drawn to FIGS 3B and 3C; 9A and 9B of cited document D2, and the corresponding explanations in the detailed description of the specification, it is amply illustrative that the for the purposes of using the invention the head needs to be rotated in a specific direction thereby causing the head to lower relative to the cartridge body and to cause the needle to penetrate into cap. Such movement of the head precisely defines the penetration having the desired geometry. In terms of the use of the cartridge having the gaseous content therein, the dispenser head is rotated sufficiently to lift the needle up and out of the penetration and the cap. Furthermore, document D2 illustrates that the degree to which the needle is removed from the penetration determines the flow rate of the gaseous content therein. Similar configurational arrangements and operations can be observed from FIGS 9A and 9B of cited document D2. The above explanation of the operation of the needle in light of the structural features of the configurational arrangement in cited document D2 is completely different from the structural features of the injection needle of the present invention as claimed in the independent claim 1.

10.It was highlighted that the present needle is totally different from the needle of cited document D2, we report here below Fig. 7 of the present patent application, in

which it is clearly shown that the present injection needle (14) has at least an aperture (21) for the passage of the fluid products, wherein the perforation end (34) is pointed and said aperture (21) is positioned on the lateral surface of said tubular element (14), just above said perforation end (34) and thus separated from the perforation end (34).

11. To the argument that the provision of the aperture (21) on the lateral surface of the said tubular element (14), just above said perforation end (34) as a "mere change of position", the ld. Agent for applicant brought to the notice the following:

a) by separating the portion of the needle having the perforation function (pointed end 34) from the delivering portion (lateral aperture 21), so that the delivering portion does not interact or contact the cover when the perforation portion is inserted through the cover and, therefore, is not damaged or deformed after several repeated perforation operations over time;

b) the axis P of delivery of the fluid products is different from the axis Z of perforation (see Fig. 2), therefore possible obstructions of the perforation end 34 are avoided, since the perforation end is not open, the opening 21 for the delivery of the fluid is separated from the perforation end 34;

c) by separating the delivery function by the perforation function, it is possible to realize a more pointed or sharpened perforation end 34, because the perforation end 34 is deprived of any hole or aperture for the delivering of the fluid;

d) the closing portion 13 of the container 12 is made of at least a material able to dilate, when said tubular element or needle 14 is inserted into said delivery hole 16, to allow the passage of the fluid product injected inside the container 12, and to become compact again, that is, to close again, when said tubular element 14 is removed from the delivery hole 16, to prevent the passage of the fluid products both towards the outside and also towards the inside of the container 12; a more sharpened or pointed end 34, according to above point c), allows, firstly, a better perforation of the closing portion 13 and, secondly, once the fluid has been injected and the tubular element removed, a better re-closing of the perforation end 16 and elastic returning of the closing portion 13; and

e) the delivery of the fluid products from the tubular element 14 begins when the perforation end 34 is completely inserted in the container 12, thus when the closing portion 13 has been completely and properly perforated; in fact, the opening 21 enters the container after the entering of the perforation end 34.

12. That the cited documents D1 and D2 do not show the above-underlined combination of features of the amended claim 1. Also, the needles shown in D1 and D2 are structurally different with respect to the present injection needle, provided with an aperture 21 that is realized to have a first function, namely to allow the passage of the fluid and an end 34, separated from the aperture 21, and having a second function, that is a perforation function.

13. That the cited document D1 is completely silent about possible problems deriving from the interaction of the tip of the traditional needles with the cover of the container.

14. That the cited document D2, which relates to apparatus and methods for treating the symptoms normally associated with headaches, allergies, asthma, and the like, is completely silent about the above problem and, as shown above, the needle described in cited document D2 is totally different from the present needle and tubular element as shown in the above Fig. 7 of the present invention.

15. That the person skilled in the art has no hints to combine cited document D1 with cited document D2 in order to arrive at the present invention, as defined in present independent claim 1, because none of said cited documents describes at least the combination of advantageous features claimed in the characterizing portion of present independent claim 1, with the above advantageous effects a)-e).

16. That by means of the present invention, a dispensation device is achieved that is effective and simplified in construction, since the delivery means, equipped with the said tubular element, effect both the perforation of the container and also the dispensation of the fluid product, with considerable savings in components.

17. Moreover, advantageously, in the present dispensation device, the perforation function of the needle (pointed end) is separated from the delivery function of the needle (lateral aperture).

Agreeing to the above arguments, it is established that none of the cited prior art documents, D1-D2 alone or in combination teach, suggest or motivate the above-discussed limitations of the amended independent claim 1 and 10.

In view of the above, it is found that the present invention is inventive and not obvious over the cited prior art documents D1-D2 taken either alone or in combination with each other.

Therefore, upon review this application **9732/DELNP/2008** is hereby granted patent over amended claims 1-13 ,u/s 15 of "The Patent Act 1970.

The Application and review petition stands disposed off.

Dated: 15/12/2017

Omvir singh
Asstt. Controller Patents &Designs