

Alexander Chen [SBN 245798]
alexc@inhouseco.com
Katja M. Grosch [SBN 266935]
kmg@inhouseco.com
INHOUSE CO. LAW FIRM
7700 Irvine Center Drive, Suite 800
Irvine, CA 92618
Telephone: 949-250-1555
Facsimile: 714-882-7770

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

TOPFIRE LIMITED, a foreign company; **HK MIUSON INTERNATIONAL CO., LIMITED**, a foreign company;
JIANGGONGXIUSHENZHENGUOJI-MAOYIYOUXIANGONGSI, a foreign company; foreign company; and
SHENZHENSILINGBINQIPEI-YOUXIANGONGSI, a foreign company.

Plaintiffs,

v.

BENJAMIN D. COOK., an individual; and **DOES 1 through 10**, inclusive.

Defendants.

Case No.

COMPLAINT FOR:

- 1. DECLARATORY JUDGMENT OF NON INFRINGEMENT OF U.S. PATENT NO. 11,772,539 B2;**
- 2. CALIFORNIA UNFAIR COMPETITION [CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200, 17500, 17535];**
- 3. TRADE LIBEL;**
- 4. TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE; and**
- 5. DECLARATION OF UNENFORCEABLILITY OF US PATENT NO. 11,772,539 B2**

INHOUSE CO. LAW FIRM



1 NOW COMES Plaintiffs Topfire Limited, HK Miuson International Co., Limited,
2 Shenzhenshilingbinqipeiyouxiangongsi, and Jianggongxiushenzhenguojimaoyiyouxiangongsi, with
3 knowledge as to their respective action and events, and upon information and belief as to other matters,
4 allege as follows against Defendant Benjamin D. Cook (“Cook” or “Defendant”):

5 **NATURE OF THE ACTION**

6 1. This case is for unfair competition arising under federal patent laws 35 U.S.C. § 1 et seq.
7 for declaratory judgment of noninfringement, California Business and Profession Code §§ 17200,
8 17500, 17535, and common law tortuous interference with economic advantage.

9 2. Plaintiffs seek declaratory judgment under federal patent laws that Plaintiffs do not
10 infringe Defendant’s U.S. Patent No. US 11,772,539 B2 (“the ‘539 Patent”). See **Exhibit 1** for U.S.
11 Patent No. 11,772,539 B2.

12 3. Plaintiffs also bring this action, in part, under California law against Defendant for
13 illegal conduct, specifically targeting Plaintiffs, arising from Defendant’s acts of interference and unfair
14 competition affecting the markets for cup expander products for automobiles (“Cup Expander
15 Products”). As a result of Defendant’s anticompetitive conduct, Plaintiffs have sustained injury for
16 which it seeks monetary damages and other appropriate relief to compensate Plaintiffs for the harm it
17 suffered and injunction relief to end Defendant’s illegal conduct. Defendant’s intentional conduct has
18 resulted in tortious inference with, and disruption of, Plaintiffs’ business with Amazon, and Plaintiffs’
19 prospective business relations with existing and potential customers. Defendant’s unfounded claims of
20 infringement have also resulted in increased costs and higher prices to Plaintiffs and have injured
21 competition and consumers in California, and elsewhere, with attendant increased prices for the
22 aforementioned products.

23 4. Plaintiffs have had valuable business relationships with their respective business
24 partners, including Amazon, on which Plaintiffs distribute their Cup Expander Products. Plaintiffs have
25 had, during the period of this complaint, reasonable valuable expectations of actual and prospective
26 business relationships, both from existing and new customers. Defendant was aware or should be aware
27 of the existence of those actual and prospective relationships. As a result of Defendant’s intentional
28 conduct, Plaintiffs have sustained injury for which it seeks money damages, injunctive relief and other

1 appropriate relief to compensate each of the Plaintiffs for the harm suffered. Defendant has falsely
2 informed Amazon that Plaintiffs' Cup Expander Products infringes the '539 Patent. Defendant has
3 misled Amazon into believing that Defendant has exclusive patent rights which prohibit selling or
4 distributing Plaintiffs' Cup Expander Products and customers will be prohibited from buying Plaintiffs'
5 Cup Expander Products, when no such valid rights actually exist. Defendant's false and misleading
6 demand letters have caused Amazon and others in the trade to believe that Plaintiffs' Cup Expander
7 Products are illegal, unlawful and that Plaintiffs are engaged in unlawful conduct and, that Plaintiffs are
8 a dishonest and disreputable business. Defendant's statements are unfounded and not true.

9 5. The conduct and acts of Defendant alleged herein have violated general principals of law
10 and equity, constitute unfair competition under the laws of the State of California, and have damaged
11 Plaintiffs as set forth herein.

12 6. As a result of the wrongful conduct and acts of the Defendant alleged herein, Defendant
13 has been unjustly enriched.

14 7. Upon information and belief, as a result of the false or misleading description of fact, or
15 false or misleading representations of fact, Amazon have been confused and/or are likely to be
16 confused. Due to Defendant's wrongful demand to desist and to delist the listing of Plaintiffs' products,
17 Plaintiffs lost sales on Plaintiffs' own relevant goods. In addition, the goodwill associated with
18 Plaintiffs' products has lessened, and is likely to be lessened.

19 8. As a direct and proximate result of the violations alleged herein, Plaintiffs have been,
20 and will continue to be immediately and irreparably injured in its business and property by Defendant's
21 continuing violations. Plaintiffs have no adequate remedy at law to compensate for such injury, and
22 unless Defendant is restrained by an appropriate order of this Court, Plaintiffs will continue to suffer an
23 inability to compete fully and fairly in the market, loss of revenues, loss of profits Plaintiffs would
24 otherwise have made, loss of substantial goodwill and reputation normally attached to a profitable
25 enterprise, and a reduction in the value of its business as a going concern.

26 9. As a direct and proximate result of the violations alleged herein and as intended by
27 Defendant, Plaintiffs have sustained injury to its business, respective business and property, as follows:

28 (a) Plaintiffs have incurred attorneys' fees in the defense of Defendant's baseless, exclusivity claims



1 described above; (b) Plaintiffs have lost and will lose profits in an amount as yet undetermined with
2 certainty at present; (c) Plaintiffs have suffered or will suffer a loss in the value of its business as a
3 going concern; (d) Plaintiffs have suffered or will suffer a substantial loss of goodwill normally
4 attached to a profitable enterprise; and (e) Plaintiffs have suffered a lost potential for growth.

5 10. Plaintiffs cannot now measure these damages with specificity but estimate such amount
6 to be in excess of One Million Dollars (\$1,000,000.00).

7 **PARTIES**

8 11. Plaintiff Topfire Limited with Amazon marketplace name “Auto Off-roading”
9 (“Topfire”) is a company organized and existing under the laws of Hong Kong, having its principal
10 place of business in Hong Kong, China. Topfire is a wholesaler, distributor, and retailer of automotive
11 accessories and other retail products in the United States and elsewhere. Topfire distributes its products
12 on ecommerce platforms such as Amazon.com.

13 12. Plaintiff HK Miuson International Co., Limited with Amazon marketplace name
14 “Freedream4x4” (“Miuson”) is a company organized and existing under the laws of Hong Kong, having
15 its principal place of business in Hong Kong, China. Miuson is a distributor of automotive accessories in
16 the United States and elsewhere Miuson distributes its products on ecommerce platforms such as
17 Amazon.com.

18 13. Plaintiff Shenzhenshilingbinqipeiyouxiangongsi with Amazon marketplace name
19 “Autobasis” (“Autobasis”) is a company organized and existing under the laws of the Guangdong,
20 China. Autobasis is a distributor of automotive accessories in the United States and elsewhere.
21 Autobasis distributes its products on ecommerce platforms such as Amazon.com.

22 14. Plaintiff Jianggongxiushenzhenguojimaoyiyouxiangongsi with Amazon marketplace
23 name “MASTERSHOW” (“Mastershow”) is a company organized and existing under the laws of the
24 Guangdong, China. Mastershow is a distributor of automotive accessories in the United States and
25 elsewhere. Mastershow distributes its products on ecommerce platforms such as Amazon.com.

26 15. Upon information and belief, Defendant Benjamin D. Cook (“Cook”) is an individual
27 located in Placer County in the State of California.

28



1 22. The matter in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs.

2 23. This Court has personal jurisdiction over Defendant by virtue of Defendant conducting
3 business in this Judicial District. Defendant has also engaged in statutory violations within the State of
4 California.

5 24. Venue properly lies within the Eastern District of California pursuant to 28 U.S.C.
6 § 1391(b), (c), and (d) and §1400.

7 **FACTUAL BACKGROUND**

8 25. Plaintiffs Topfire, Miuson, Mastershow, and Autobasis all distribute automotive
9 accessories, including various products in the United States. Each of the Plaintiffs sells through e-
10 commerce, including on Amazon.com marketplace.

11 26. Specifically, Plaintiff Topfire sells via e-commerce and online retailer several types of
12 cup expander for automobiles, including, but not limited to the following items on Amazon.com market
13 place:

- 14 • **Amazon.com ASIN:** B09NBKXSL

15 **Item title:** Upgraded Car Cup Holder Expander Adapter with Offset Adjustable
16 Base, Compatible with Yeti 14/24/36/46oz Ramblers, Hydro Flasks 32/40oz, Other
17 Large Bottles Mugs in 3.4"-4.0", 1 Pack

18 **Link:** <https://www.amazon.com/gp/product/B09NBKXSL>

- 19 • **Amazon.com ASIN:** B09N8K3H8Y

20 **Item title:** Upgraded Car Cup Holder Expander Adapter with Offset Adjustable
21 Base, Compatible with Yeti 14/24/36/46oz Ramblers, Hydro Flasks 32/40oz, Other
22 Large Bottles Mugs in 3.4"-4.0", 2 Pack

23 **Link:** <https://www.amazon.com/gp/product/B09N8K3H8Y>

24 27. Plaintiff Miuson sells via e-commerce and online retailer several types of cup expander
25 for automobiles, including, but not limited to the following items on Amazon.com market place:

- 26 • **Amazon.com ASIN:** B0BFWJNNRL



1 **Item title:** SEVEN SPARTA Cup Holder Phone Mount for Car Cup Holder
2 Expander Adjustable Base with 360° Rotation Cup Phone Holder for Car
3 Compatible with iPhone Samsung Galaxy All Smartphones Upgrade 2-in-1

4 **Link:** <https://www.amazon.com/gp/product/B0BFWJNNRL>

5 28. Plaintiff Autobasis sells via e-commerce and online retailer several types of cup
6 expander for automobiles, including, but not limited to the following items on Amazon.com market
7 place:

- 8 • **Amazon.com ASIN:** B0CC1XPK1Z

9 **Item Title:** Seven Sparta Car Cup Holder Tray, 2 in 1 Car Food Tray Cup Holder
10 Expander Compatible with Yeti, Hydro Flasks, Other Large Bottles Mugs in 3.4"-
11 4.0", Car Travel Accessories for Long Trips

12 **Link:** <https://www.amazon.com/gp/product/B0CC1XPK1Z>

13 29. Plaintiff Mastershow sells via e-commerce and online retailer several types of cup
14 expander for automobiles, including, but not limited to the following items on Amazon.com market
15 place:

- 16 • **Amazon.com ASIN:** B09GLVQZ1Q

17 **Item title:** Upgraded Large Cup Holder Expander for Car with Offset Expandable
18 Base Compatible with Yeti Mug10/14oz Yeti Rambler 20/24/26/30/36/46oz Hydro
19 Flasks 32/40oz Other Large Bottles in 3.4"-4" Diameter

20 **Link:** <https://www.amazon.com/gp/product/B09GLVQZ1Q>

- 21 • **Amazon.com ASIN:** B0BD56KZ19

22 **Item Title:** Master Show 2-in-1 Car Cup Holder Cell Phone Holder, Large Car Cup
23 Holder Expander with Phone Holder, Cell Phone Holder for Car, Compatible with
24 iPhone, Samsung & All Smartphones

25 **Link:** <https://www.amazon.com/gp/product/B0BD56KZ19>

26 30. The products in the listing above from each of the Plaintiffs hereinafter are individually
27 referred to as "Cup Expander Product" and collectively referred to as "Cup Expander Products."

28 31. Defendant is a direct competitor of each of the Plaintiffs.



1 32. Around October 2023, each of the Plaintiffs received an email from Amazon.com, Inc.
2 (“Amazon”) informing that each of them that Amazon received a “report” from Defendant who
3 believes that the items listed in the email, which includes all of the above listed Cup Expander
4 Products, infringe the ‘539 Patent and requested Amazon to immediate take down the respective
5 listings of each of the Plaintiffs for the Cup Expander Products on Amazon’s website.

6 33. Amazon’s email further provided that the sellers on Amazon’s marketplace may
7 continue to sell the listed items only if the patent owner—the Defendant—agrees to retract its
8 complaint.

9 34. Amazon provided an option for the parties to participate in Amazon’s own evaluation
10 procedure entitled “Amazon Patent Evaluation Express” (APEX) which is a limited procedure that
11 provides no discovery and limited defenses. The cost to participate in APEX for each of the Plaintiffs is
12 \$4,000. Failure to participate in APEX would result in the take down of each of the Plaintiffs’
13 respective listings by Amazon. See attached **Exhibit 2** for a true and correct copy of the Amazon Patent
14 Evaluation Express (APEX) Agreement executed by Defendant listing the accused products, including
15 the Cup Expander Products, on Amazon.

16 35. Amazon further indicated that it would also accept the finding by a court of competent
17 jurisdiction regarding the issue whether there is patent infringement and the defenses on the basis of
18 invalidity and/or unenforceability and the use of prior art.

19 36. As a result of Defendant’s “report” to Amazon, Amazon has threatened to delist each of
20 the Plaintiffs’ listings for each of the Cup Expander Products. Amazon has set a deadline to delist each
21 of the listings and the take down of the listings on Amazon marketplace is imminent.

22 37. Defendant has spread knowingly false statements for the purpose of harming the
23 Plaintiffs. These statements include the falsehood that, as of the time such statements were made,
24 Plaintiffs’ Cup Expander Products infringes the ‘539 Patent.

25 38. Defendant’s continuous false, unfair, or otherwise unlawful tactics with the intention of
26 harassing Plaintiffs and forcing Plaintiffs to cease selling Plaintiffs’ Cup Expander Products have
27 caused serious interference with Plaintiffs’ business operation and caused huge loss of profits to
28 Plaintiffs. Further, Plaintiffs’ goodwill and business reputation have also been negatively affected.



INTERSTATE COMMERCE

1
2 39. Defendant’s activities, including activities relating to its illegal and unfair competition,
3 are in the flow of and substantially affect interstate commerce.

4 40. Upon information and belief, Defendant ships its cup expanders across state lines.
5 Defendant reaps substantial revenues from sales of such products, which are at issue in this Complaint,
6 amounting to a significant dollar amount throughout the United States.

7 41. The actions taken by Defendant to wrongfully enforce of the ‘539 Patent was
8 specifically intended to monopolize and restrain trade in the relevant markets. The threats of
9 infringement also have created a substantial disruption among customers and consumers in the relevant
10 markets.

11 42. Upon information and belief, Defendant knew its unlawful actions directed at Plaintiffs,
12 and the consuming public in California and elsewhere, were intended to extend the ‘539 Patent scope
13 beyond its legitimate coverage to intimidate and harm competitors such as Plaintiffs from competing in
14 the relevant markets.

15 43. As a direct and proximate result of the violations alleged herein, Plaintiffs have been,
16 and will continue to be immediately and irreparably injured in its business and property by Defendant’s
17 continuing wrongful conducts. Plaintiffs have no adequate remedy at law to compensate for such
18 injury, and unless Defendant is restrained by an appropriate order of this Court, Plaintiffs will continue
19 to suffer an inability to compete fully and fairly in the market, loss of its revenues, loss of profits it
20 would other have made, loss of substantial goodwill and reputation normally attached to a profitable
21 enterprise, and a reduction in the value of its business as a going concern.

22 44. Plaintiffs cannot now measure the damages with specificity. When Plaintiffs have
23 sufficient information to permit it alleges with specificity the quantum of its damages, Plaintiffs will
24 ask leave of the Court to amend this Complaint to insert said sum herein.

25 45. Defendant’s action in alleging infringement have placed Plaintiffs at reasonable
26 apprehension of suit for infringement of the ‘539 Patent.

27 46. Absent a declaration of rights by this Court, the assertions and threats by Defendant will
28 subject Plaintiffs to continuing uncertainty and damages to its business. To resolve the legal and factual



1 questions raised by Plaintiffs and to afford relief from uncertainty and controversy which the assertions
2 and threats by Defendant have precipitated, Plaintiffs are entitled to a declaratory judgment of its rights
3 under 28 U.S.C. §§ 2201 and 2202.

4 **CLAIMS FOR RELIEF**

5 **COUNT ONE**

6 **DECLARATORY JUDGMENT OF NONINFRINGEMENT OF THE ‘539 PATENT**

7 47. Plaintiffs hereby re-allege and incorporate by reference the allegations set forth in the
8 preceding paragraphs.

9 48. Plaintiffs’ Cup Expander Products have been wrongfully accused by Defendant of
10 infringing the ‘539 Patent.

11 49. Plaintiffs’ Cup Expander Products do not infringe the ‘539 Patent.

12 50. As a result of Defendant’s actions, statements, and the totality of circumstances detailed
13 above, a controversy exists between Plaintiffs and Defendant concerning whether each of the Plaintiffs’
14 Cup Expander Products infringe the ‘539 Patent owned by Defendant.

15 51. Therefore, Plaintiffs are requesting the Court to grant the Plaintiffs a judgment declaring
16 that Plaintiffs’ Cup Expander Products do not infringing the ‘539 Patent.

17 **COUNT TWO**

18 **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW SECTION 17200**

19 **(CAL. BUS. & PROF. CODE §17200, *et seq.*)**

20 52. Plaintiffs hereby re-allege and incorporate by reference the allegations set forth in the
21 preceding paragraphs.

22 53. The California Unfair Competition Law (“UCL”) prohibits acts of “unfair competition”,
23 including any “unlawful, unfair and fraudulent business act or practice”. Cal. Bus. & Prof. Code §
24 17200.

25 54. Defendant’s actions set forth herein constitute intentional business acts and practices that
26 are unlawful, unfair, and fraudulent, including Defendant’s unreasonable demand, unreasonable
27 “reports” of alleged infringement to Amazon, and harassment to Plaintiffs.

1 55. As stated above, Defendant violated the Unfair Competition Law by making false
2 “reports” to Amazon and engaging in disseminating misleading statements as to the alleged Plaintiffs’
3 infringement of the ‘539 Patent to Amazon.

4 56. Defendant will continue to cause confusion, mistake, and deception as to Plaintiffs’ Cup
5 Expander Products due to Defendant wrongfully accusing Plaintiffs’ infringement of the ‘539 Patent.

6 57. Plaintiffs directly compete with Defendant in the cup expander industry.

7 58. By reason of Defendant’s acts of unfair competition, Plaintiffs have suffered and will
8 continue to suffer irreparable injury unless and until this Court enters an order enjoining Defendant from
9 any further acts of unfair competition. Defendant’s continuing acts of unfair competition, unless
10 enjoined, will cause irreparable damage to Plaintiffs in that there is no adequate remedy at law to compel
11 Defendant to cease such acts, and no way to determine its losses proximately caused by such acts of
12 Defendant. Plaintiffs are therefore entitled to a preliminary injunction against further unlawful and
13 unfair conduct by Defendant.

14 59. As a direct and proximate result of Defendant’s acts of unfair competition, Defendant has
15 wrongfully taken Plaintiffs’ profits and sales, as well as its substantial investment of time, energy and
16 money. Defendant should therefore disgorge all profits from the above conduct and further should be
17 ordered to perform full restitution to Plaintiffs as a consequence of Defendant’s unlawful, unfair, and
18 fraudulent activities.

19 **COUNT THREE**

20 **TRADE LIBEL**

21 60. Plaintiffs hereby re-allege and incorporate by reference the allegations set forth in the
22 preceding paragraphs.

23 61. To prove trade libel under California common law, Plaintiffs must show that (1) the
24 accused party made a statement disparaging the claimant’s product, (2) the disparaging statement was
25 couched as fact and not opinion, (3) the statement was false, (4) the statement was made with malice,
26 and (5) the statement caused monetary loss. *Optinrealbig.com LLC v. Ironport Sys., Inc.*, 323 F. Supp.
27 2d 1037, 1048 (C.D. Cal. 2004).
28



1 62. Defendant made a statement in Defendant’s “report” to Amazon alleging that Plaintiffs’
2 Cup Expander Products infringe the ‘539 Patent owned by Defendant.

3 63. This statement was made with malice, and Defendant’s sole purpose is to interfere with
4 Plaintiffs’ normal business and force Plaintiffs to cease selling each of Plaintiffs’ Cup Expander
5 Products, which directly compete with Defendant’s Products.

6 64. On information and belief, Defendant willfully, and without justification, communicated
7 to one or more of Plaintiffs’ business partners, including Amazon, regarding false statement that
8 Plaintiffs’ Cup Expander Products infringe the ‘634 Patent owned by Defendant.

9 65. On information and belief, these statements were reasonably understood by one or more
10 of the persons to whom they were published to be statements of fact concerning Plaintiffs, their
11 respective businesses, and/or their respective products.

12 66. On information and belief, Defendant’s statements disparaged the above described
13 Plaintiffs’ product and commercial activities in that they falsely cast doubt on Plaintiffs’ rights to make,
14 use, offer for sale, sell, and import its technology and/or products.

15 67. The statement was couched as fact since Defendant indicated Plaintiffs’ product was an
16 infringement, and there are no words that indicate Defendant had an opinion of whether there was
17 infringement. In the demand letter, Defendant plainly stated Plaintiffs’ product infringed its ‘539 patent.

18 68. The statement is false as Plaintiffs’ Products do not infringe the ‘539 Patent.

19 69. On information and belief, Defendant made these false statements with malice and in bad
20 faith because it made them with knowledge of their falsity or with reckless disregard for their truth or
21 falsity.

22 70. As a proximate result Defendant’s publication of statement, Plaintiffs have suffered and
23 will continue to suffer disruption to its business and financial loss once Amazon delists the Cup
24 Expander Products from Amazon marketplace.

25 71. Plaintiffs are thus entitled to recovery of damages for at least the damages to their
26 respective goodwill well as the eventual loss of sales.



1 72. Furthermore, on information and belief, Defendant’s statements were motivated by an
2 intent to damage Plaintiffs amounting to malice on Defendant’s part. This malice therefore justifies an
3 award of exemplary and punitive damages.

4 **COUNT FOUR**

5 **TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

6 73. Plaintiffs hereby re-allege and incorporate by reference the allegations set forth in the
7 preceding paragraphs.

8 74. Plaintiffs have valuable prospective business relations with its business partners—
9 including, in this particular instance, Amazon—and its customers in this Judicial District and throughout
10 the country. Defendant knew or should have known these business relationships because Plaintiffs and
11 Defendant are in direct competition.

12 75. There were existing business or economic relationships between Plaintiffs and Amazon
13 as well as certain customers, and these relationships were reasonably certain to produce future economic
14 benefits to Plaintiffs.

15 76. On information and belief, Defendant knew or should have known of these relationships.

16 77. On information and belief, Defendant knew that its “report” would result in the take
17 down of each of the listings for the Cup Expander Products by Amazon.

18 78. On information and belief, Defendant intentionally and in bad faith committed wrongful
19 acts designed to interfere with or disrupt these relationships. On information and belief, Defendant
20 wrongfully and intentionally represented to Amazon that Plaintiffs’ Cup Expander Products infringe the
21 ‘539 Patent.

22 79. Defendant’s conduct was wrongful for a number of reasons, including, but not limited to,
23 the fact that it amounts to unfair, or anti-competitive business practices and trade libel.

24 80. On information and belief, Defendant’s wrongful acts caused disruption of the above-
25 mentioned relationships.

26 81. Plaintiffs suffered damages caused by the disruption of the above-mentioned
27 relationships.

28



1 82. Plaintiffs are informed, and believes, and based thereon alleges that Defendant acted with
2 fraud, malice, and oppression, such that an award of punitive damages is justified.

3 **COUNT FIVE**

4 **DECLARATION OF INVALIDITY OF US 11,772,539 B2 PATENT**

5 83. Plaintiffs hereby re-allege and incorporate by reference the allegations set forth in the
6 preceding paragraphs.

7 84. U.S. Patent No. 11,772,539 B2 is owned by Defendant and a copy thereof is attached
8 hereto as **Exhibit 1**.

9 85. Plaintiffs contend that the claims of the '539 Patent is invalid for failure to comply with
10 one or more conditions for patentability set forth in Part II of Title 35 of the United States Code,
11 including 35 U.S.C. §103 because it is anticipated or is obvious in view of prior arts available.

12 86. In particular, a claimed design is invalid as "obvious" if it would have been obvious to a
13 designer of ordinary skill who designs articles of the type involved.

14 87. Here, the combination of the prior arts available would suggest the claimed design to a
15 designer of ordinary skill. Indeed, a designer of ordinary skill would have combined these references to
16 create the same overall visual appearance as the claimed design.

17 88. By combining the design of the prior art, the '539 Patent is invalid for obviousness
18 under 35 U.S.C. § 103.

19 89. An actual and justiciable controversy within the meaning of the Declaratory Judgment
20 Act, 28 U.S.C. § 2201, et seq., exists between Plaintiffs and Defendant with respect to the invalidity of
21 the '539 Patent.

22 90. A judicial declaration of the invalidity of the '539 Patent, under 35 U.S.C. § 103 for
23 Obviousness, is necessary and appropriate to resolve this controversy.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs pray for relief and judgment against Defendant as follows:

26 91. The entry of Declaratory Judgment that Plaintiffs do not infringe the '539 Patent;
27
28

1 92. An Order enjoying Defendant from engaging in the false and unlawful conduct
2 described in this lawsuit, including but not limited to preventing Defendant from causing any of the
3 Plaintiffs listings for the Cup Expander Products from being taken down on Amazon;

4 93. That Defendant takes nothing by its complaint;

5 94. An Order declaring that the claims of the '539 Patent is invalid;

6 95. Damages under the aforesaid cause of action in the form of actual damages, and an
7 award of enhanced or treble damages, in an amount to be determined at trial;

8 96. An Order requiring Defendant to pay both pre- and post-judgment interest on any
9 amounts awarded to the extent allowed by law;

10 97. An award of reasonable attorney's fees and costs of suit incurred herein; and

11 98. Any further relief as the Court deems appropriate.

12
13
14 DATED: October 30, 2023

INHOUSE CO. LAW FIRM



15
16
17 By: _____

Alexander Chen, Esq.
Katja M. Grosch, Esq.
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all claims.

DATED: October 30, 2023

INHOUSE CO. LAW FIRM



By: _____

Alexander Chen, Esq.
Katja M. Grosch, Esq.
Attorneys for Plaintiffs

INHOUSE CO. LAW FIRM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit 1

(12) **United States Patent**
Cook

(10) **Patent No.:** **US 11,772,539 B2**
(45) **Date of Patent:** ***Oct. 3, 2023**

(54) **CUPHOLDER AND ADAPTER FOR LARGE CONTAINERS DURING VEHICLE USE**

(71) Applicant: **Benjamin Cook**, Lincoln, CA (US)

(72) Inventor: **Benjamin Cook**, Lincoln, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

This patent is subject to a terminal disclaimer.

5,330,145 A *	7/1994	Evans	.....	B60N 3/107
				224/547
5,560,578 A *	10/1996	Schenken	.....	B60N 3/106
				248/229.21
5,655,742 A *	8/1997	Whitman	.....	B60N 3/103
				248/311.2
5,676,340 A *	10/1997	Ruhnau	.....	B60N 3/103
				248/314
6,113,049 A *	9/2000	Miljanich	.....	B60N 3/103
				248/314
6,705,580 B1 *	3/2004	Bain	.....	B60N 3/106
				248/311.2
10,562,430 B1 *	2/2020	Veillon	.....	B60N 3/103
10,609,872 B2 *	4/2020	Rentzhog	.....	A01G 9/042

(Continued)

(21) Appl. No.: **18/137,864**

(22) Filed: **Apr. 21, 2023**

(65) **Prior Publication Data**

US 2023/0256881 A1 Aug. 17, 2023

Related U.S. Application Data

(63) Continuation of application No. 17/592,418, filed on Feb. 3, 2022, now Pat. No. 11,660,995.

(60) Provisional application No. 63/146,581, filed on Feb. 6, 2021.

(51) **Int. Cl.**
B60N 3/10 (2006.01)

(52) **U.S. Cl.**
CPC **B60N 3/103** (2013.01); **B60N 3/105** (2013.01)

(58) **Field of Classification Search**
CPC B60N 3/103; B60N 3/105
USPC 224/544
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

4,854,468 A *	8/1989	Dahlquist, II	.....	B60N 3/103
				248/346.11
5,285,953 A *	2/1994	Smith	.....	A47G 23/0216
				220/737

Primary Examiner — Nathan J Newhouse

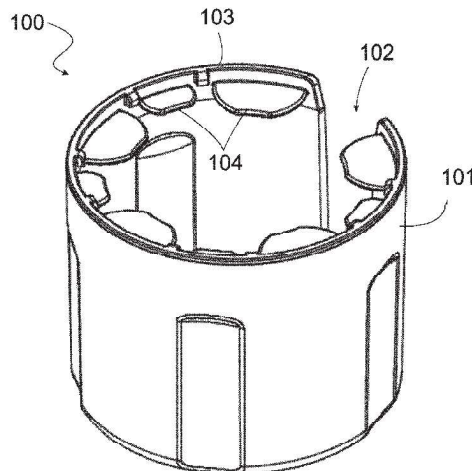
Assistant Examiner — Lester L Vanterpool

(74) *Attorney, Agent, or Firm* — My Patent Guys; Christopher Pilling

(57) **ABSTRACT**

A cupholder adapter configured for use with an existing cupholder on a vehicle is provided. The cupholder adapter includes a cylindrical cupholder having a hollow internal volume, a collar attached to a top portion of the cylindrical cupholder, wherein the collar includes a plurality of tabs extending perpendicularly into the hollow internal volume, and an adapter base coupled to the cylindrical cupholder, wherein the adapter base includes a plurality of legs configured to expand and retract such that the diameter of the adapter base is configured to expand from a minimum diameter to a maximum diameter. The plurality of tabs includes tabs of different lengths and widths which enables and accommodates wide, tall, and narrow beverage containers during vehicle use. The adapter base is configured to install into the recessed cupholder near the console of most vehicles.

7 Claims, 16 Drawing Sheets



US 11,772,539 B2

Page 2

(56)

References Cited

U.S. PATENT DOCUMENTS

11,254,253	B1 *	2/2022	Fan	.....	B60N 3/106
11,447,053	B1 *	9/2022	Fan	.....	B60N 3/106
2017/0108269	A1 *	4/2017	Shiu	.....	F25B 21/02

* cited by examiner

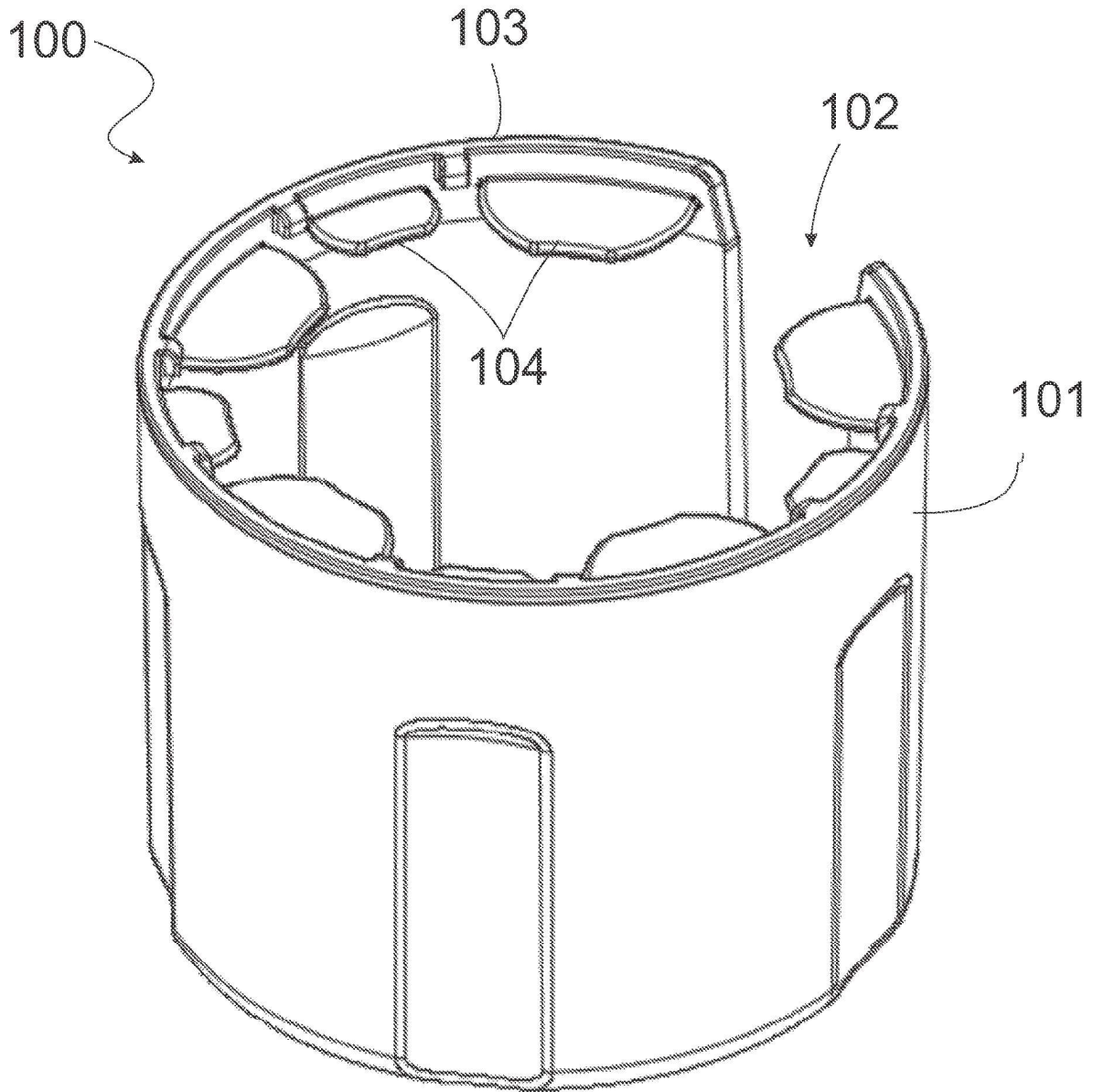


FIG. 1

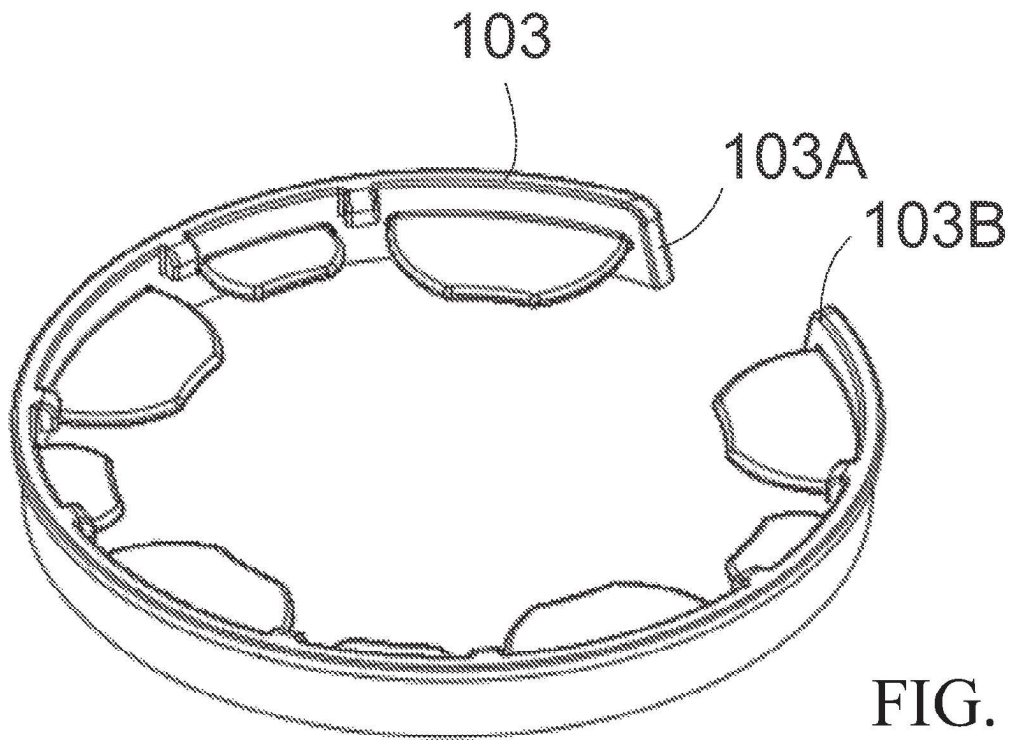


FIG. 2

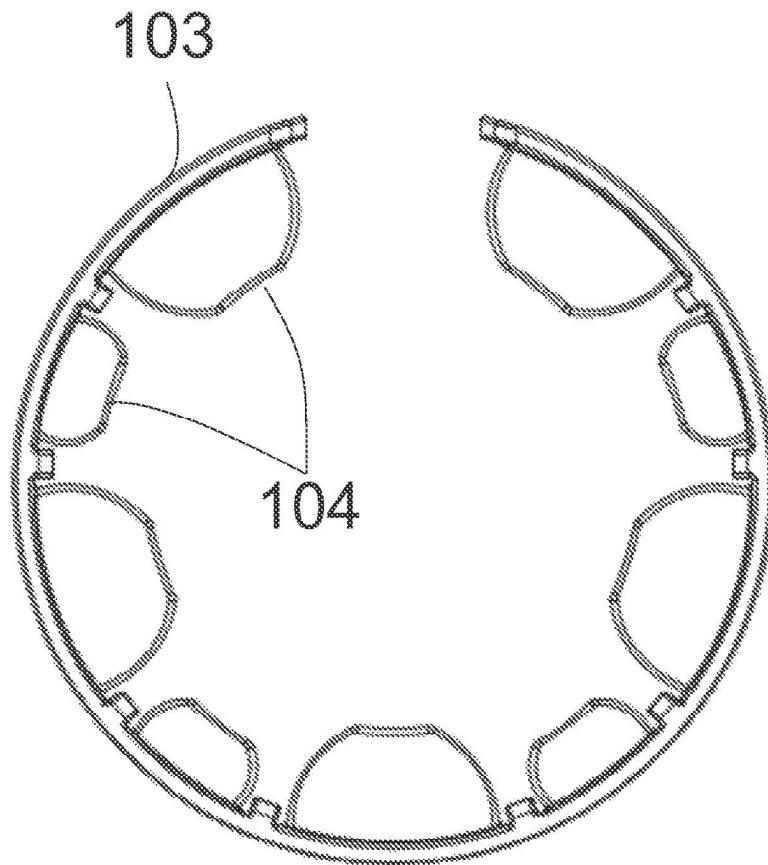


FIG. 3

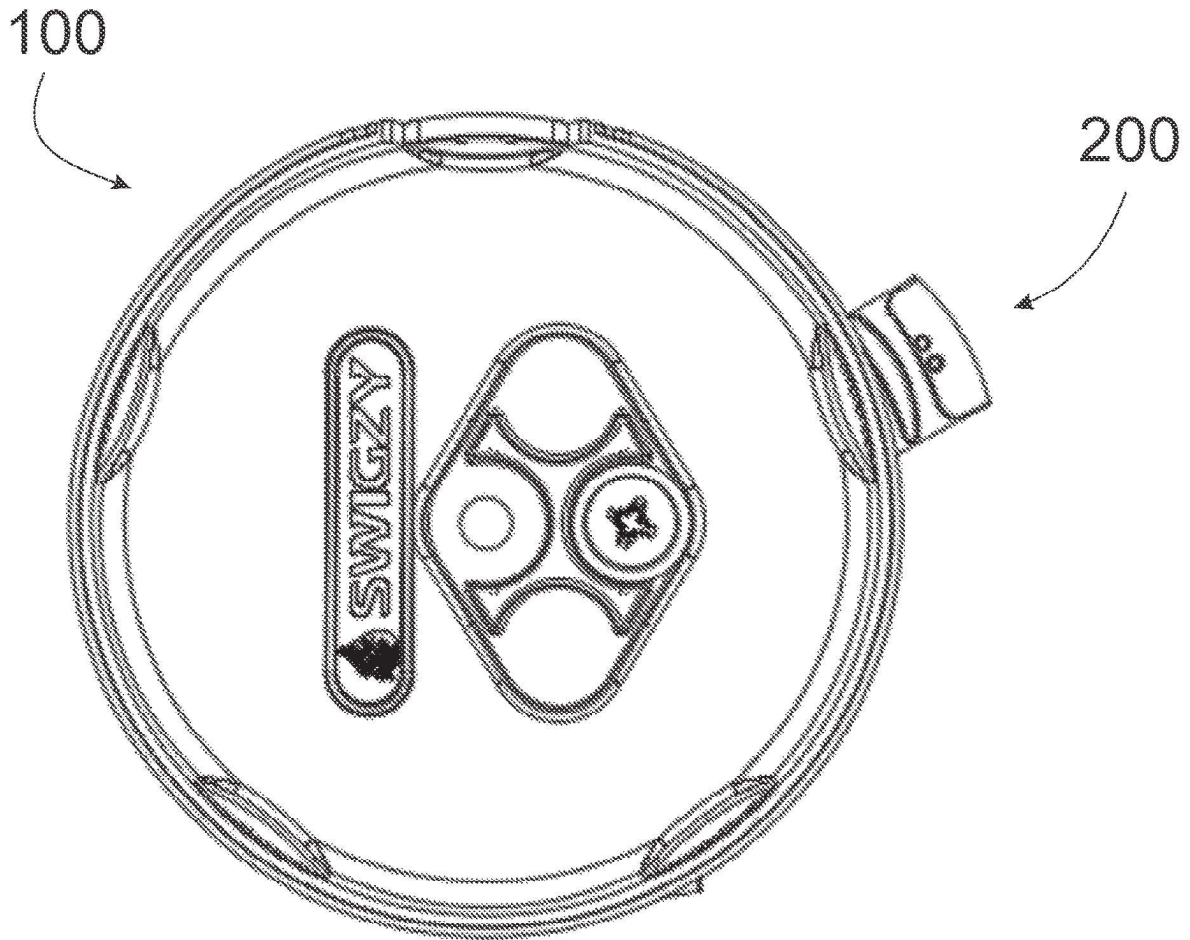


FIG. 4

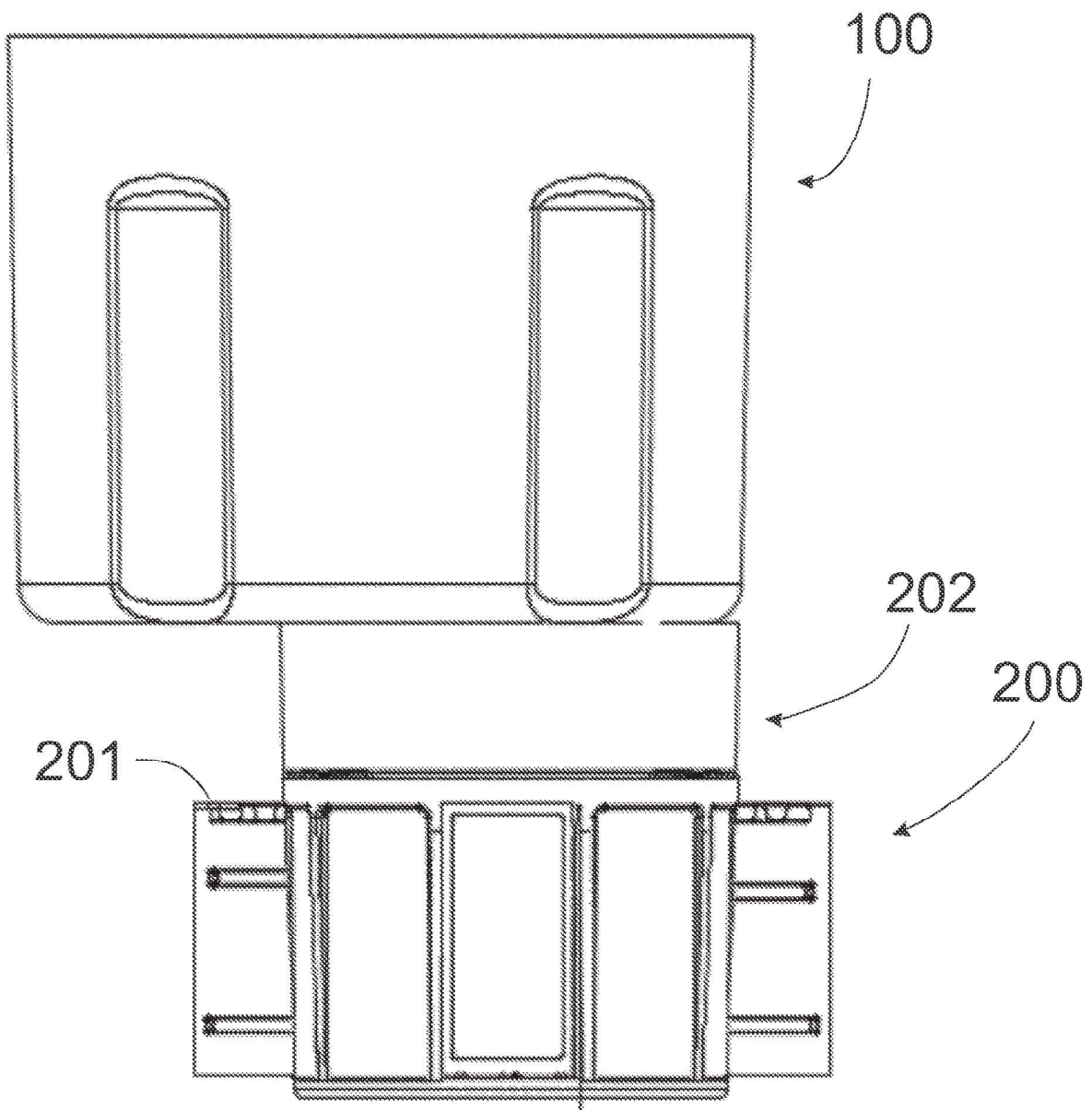


FIG. 5

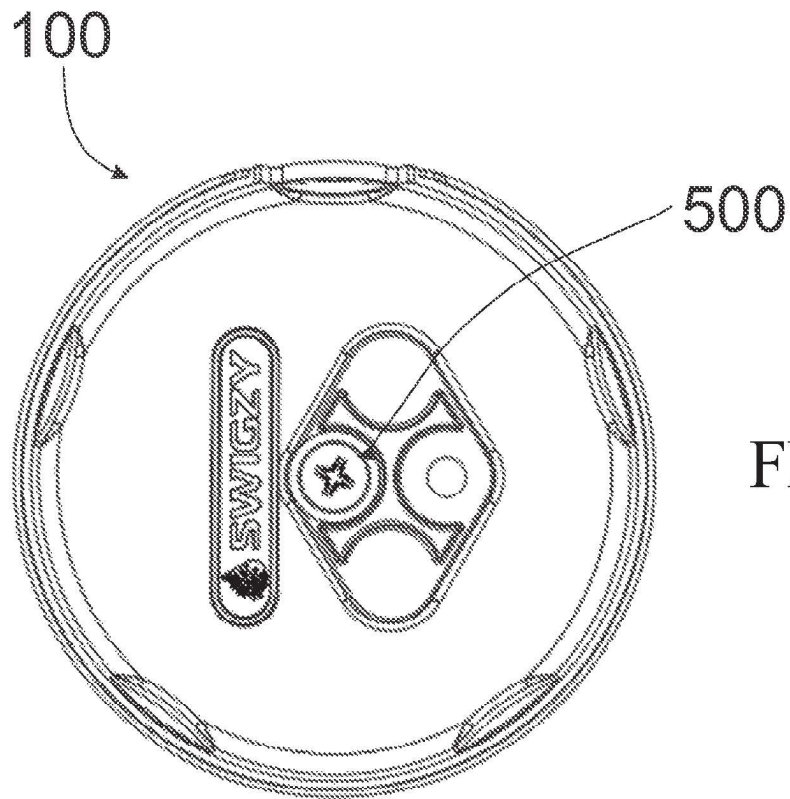


FIG. 6

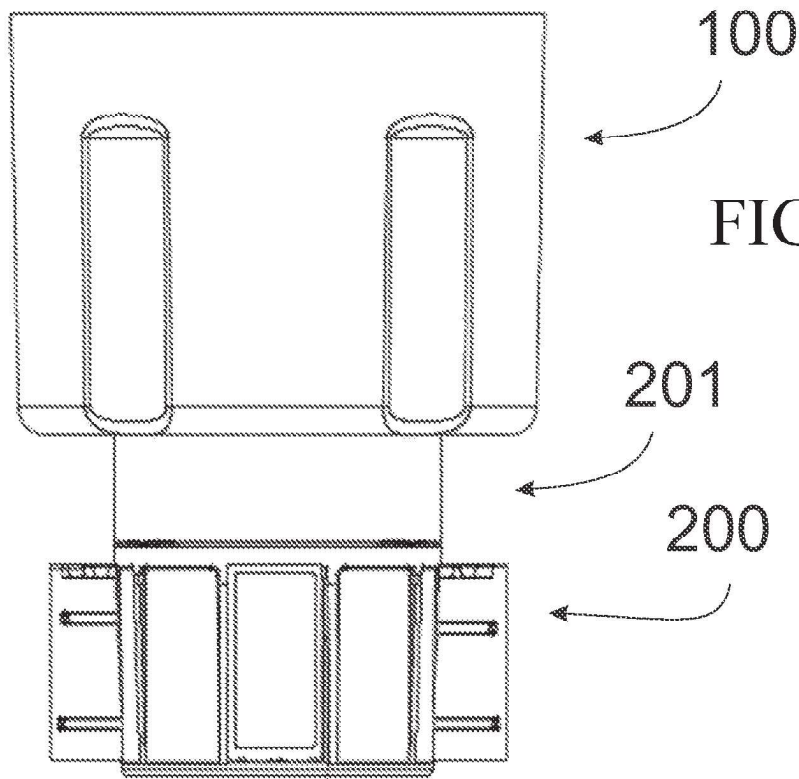


FIG. 7

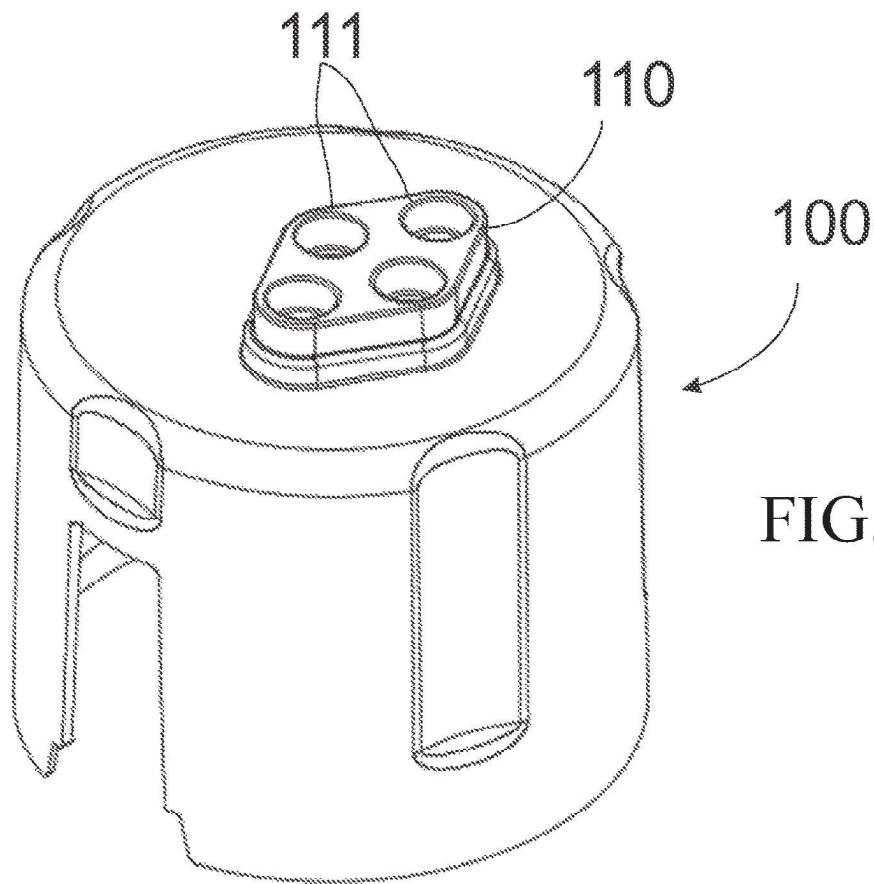


FIG. 8

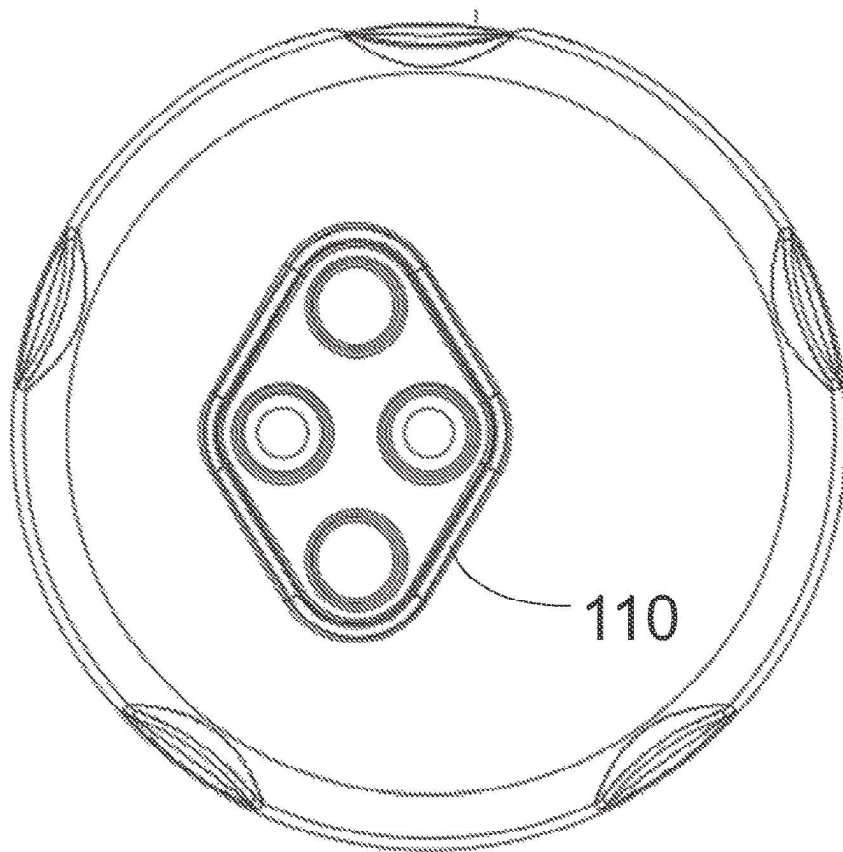


FIG. 9

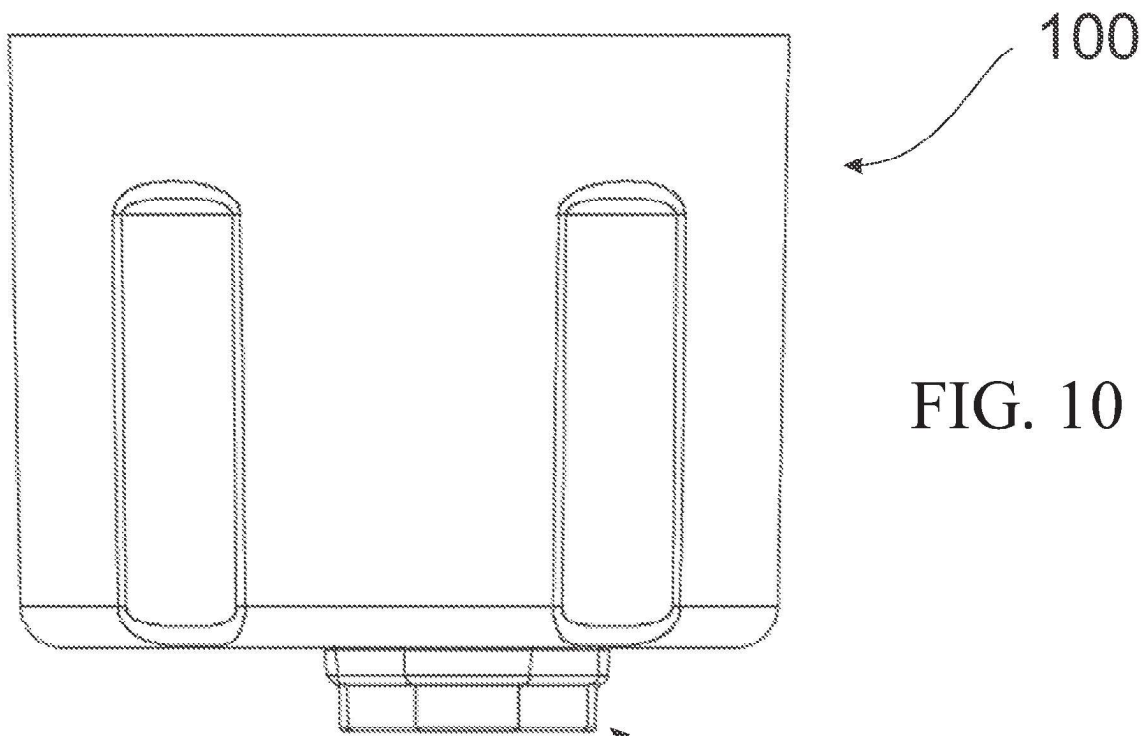


FIG. 10

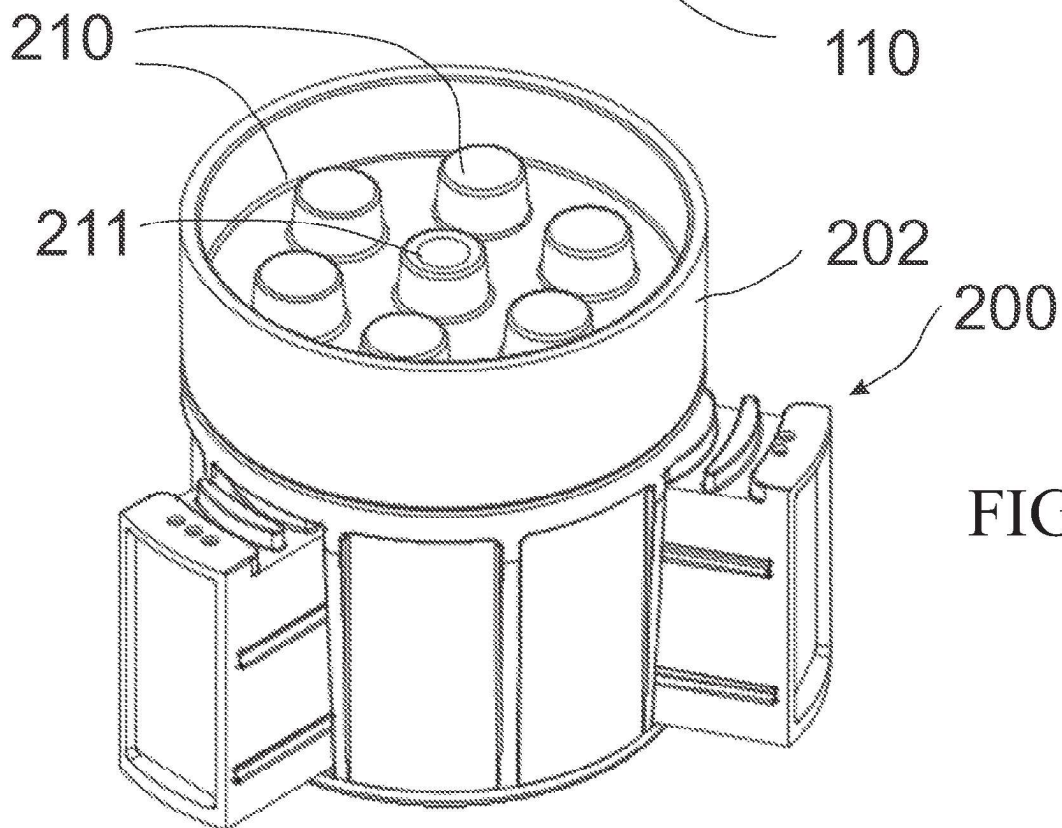


FIG. 11

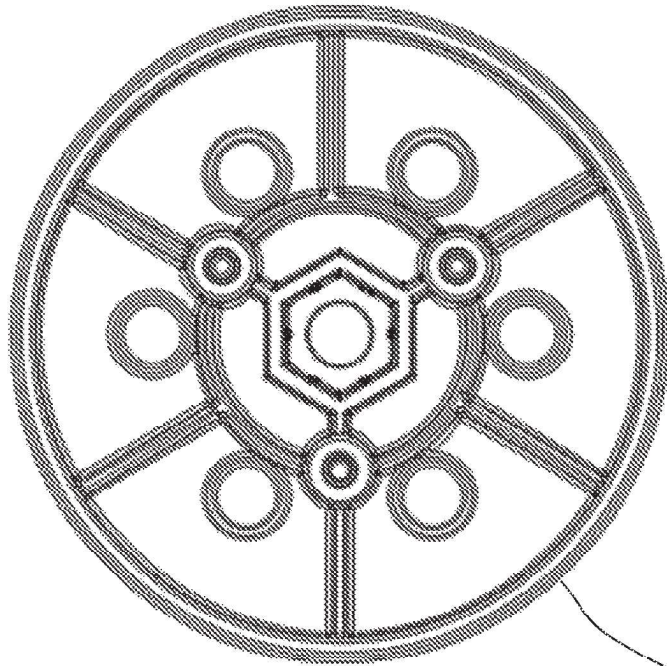
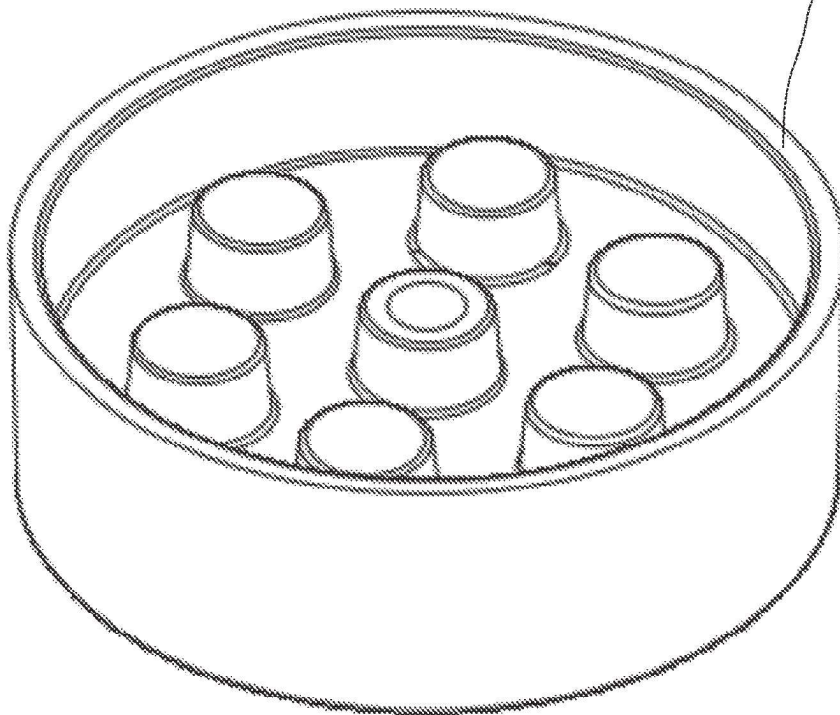


FIG. 12



202

FIG. 13

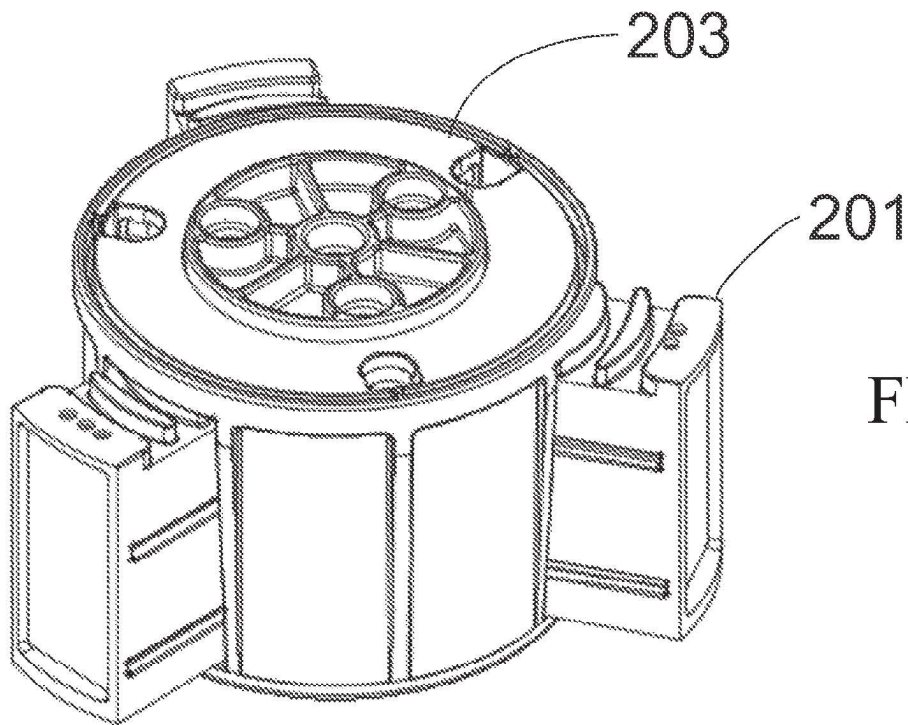


FIG. 14

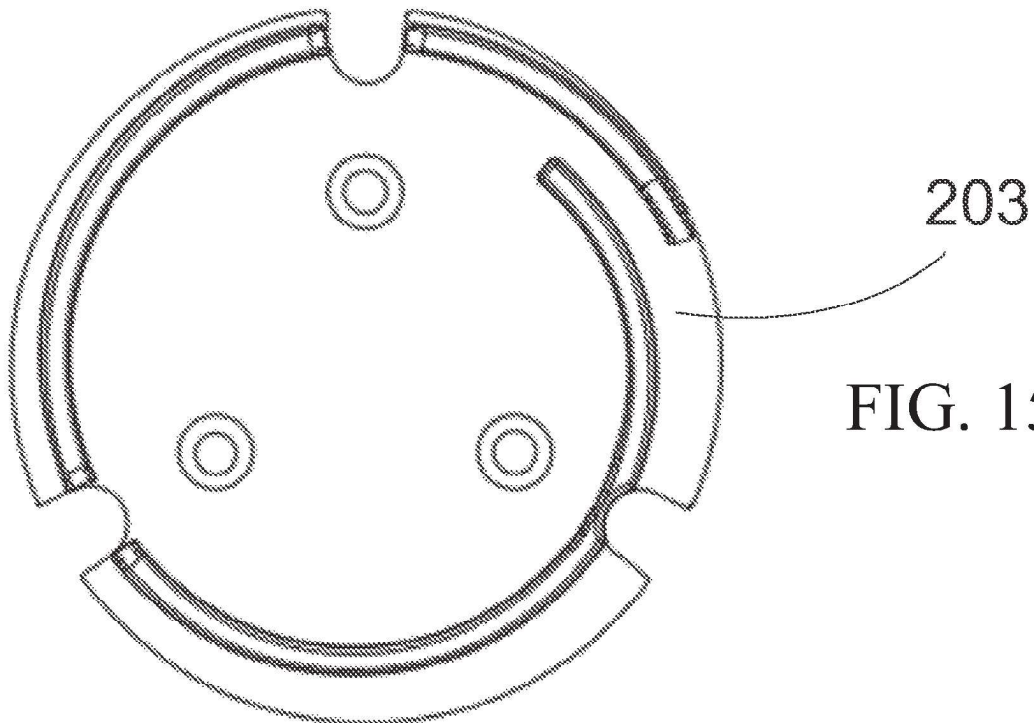


FIG. 15

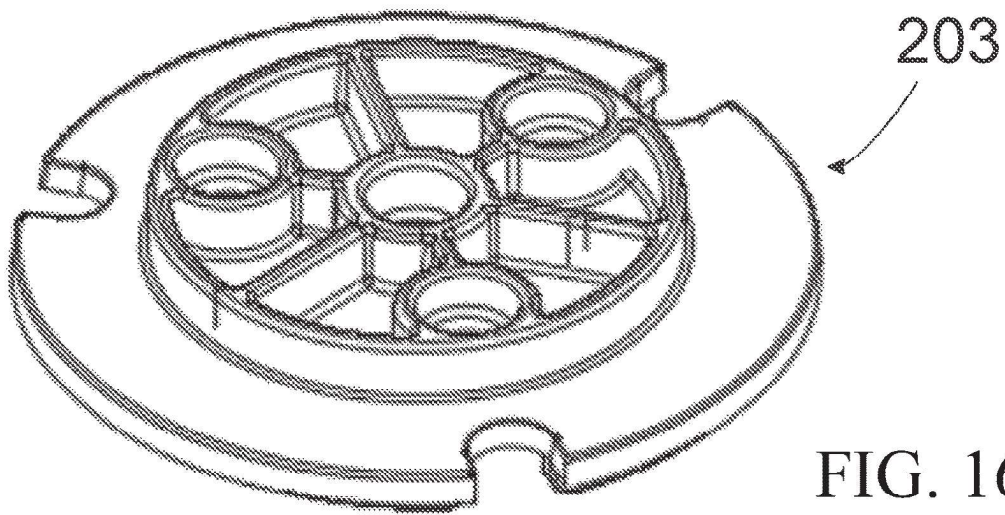


FIG. 16

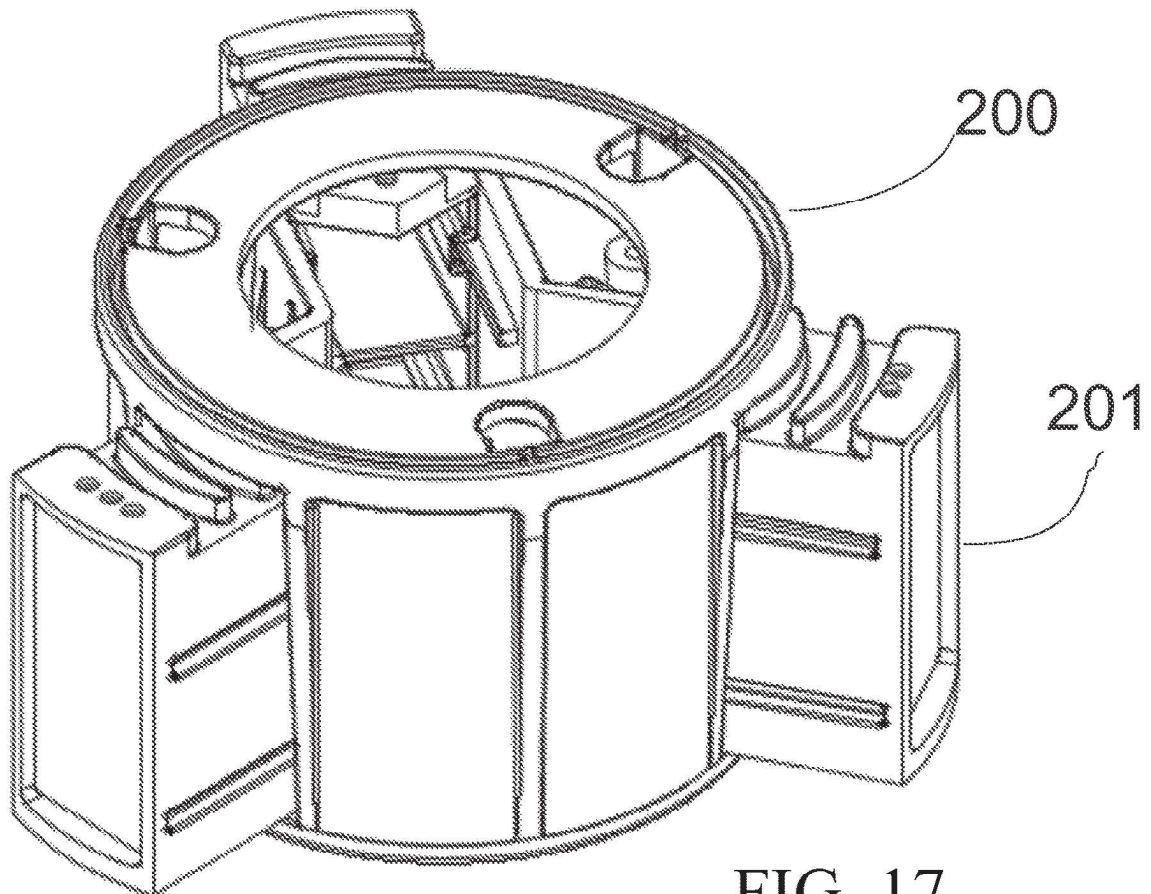


FIG. 17

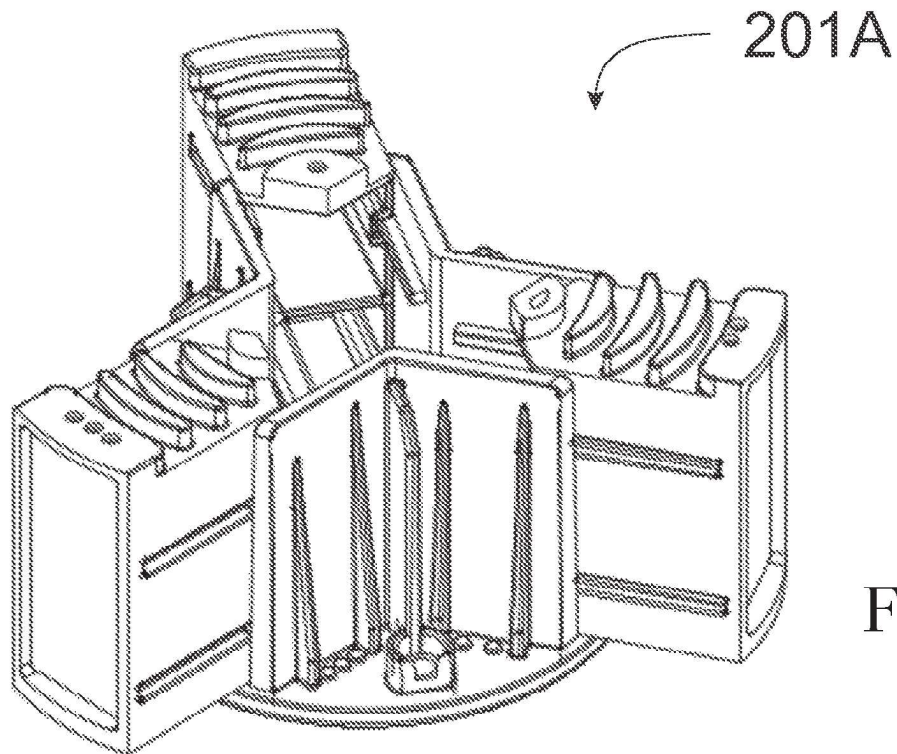


FIG. 18

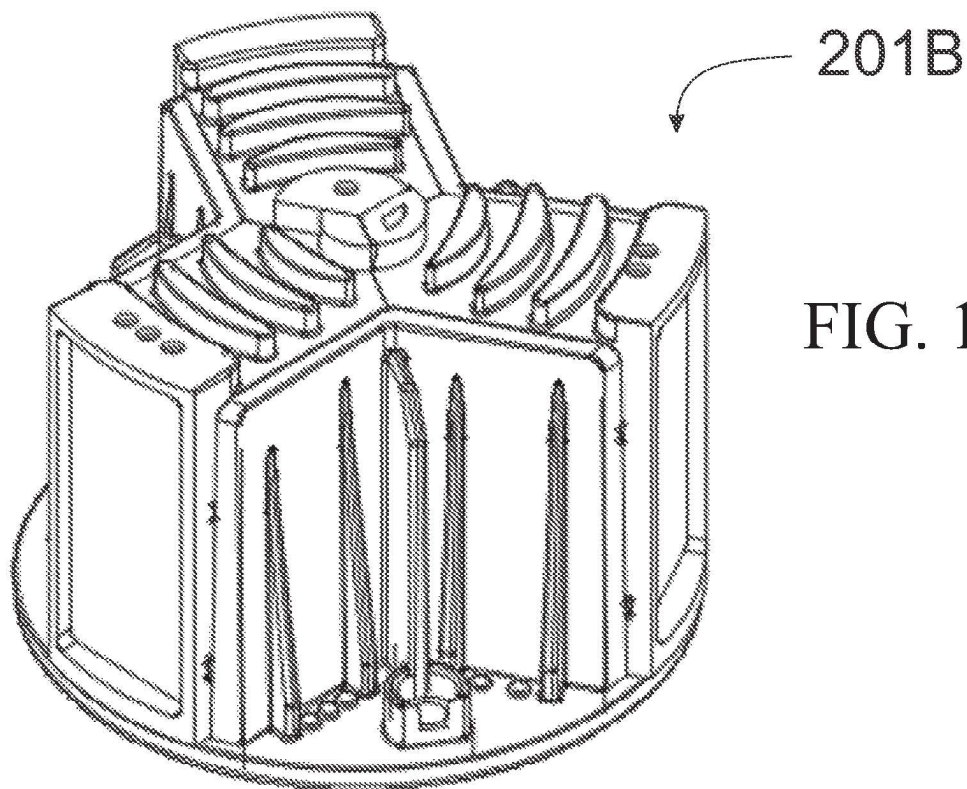


FIG. 19

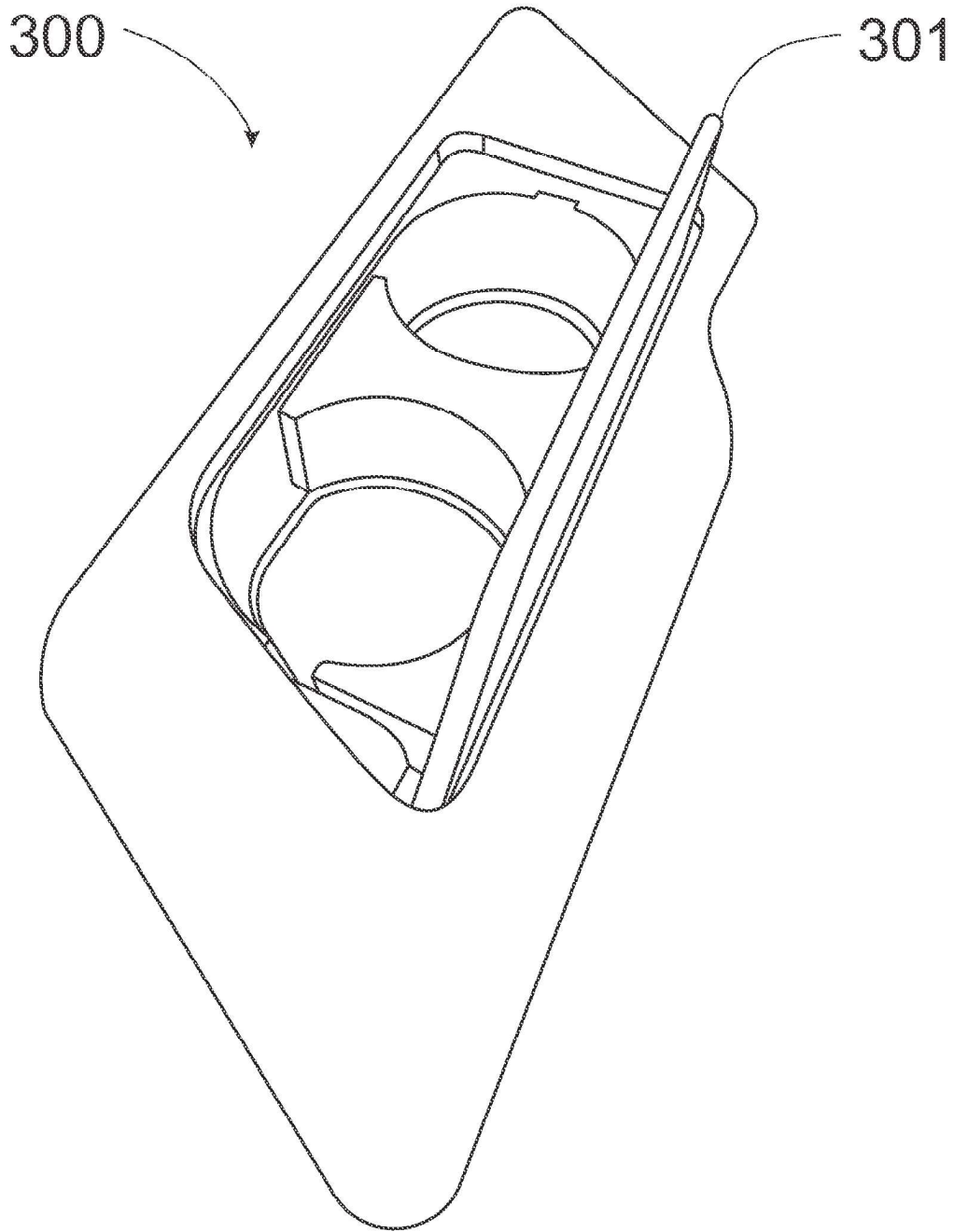


FIG. 20

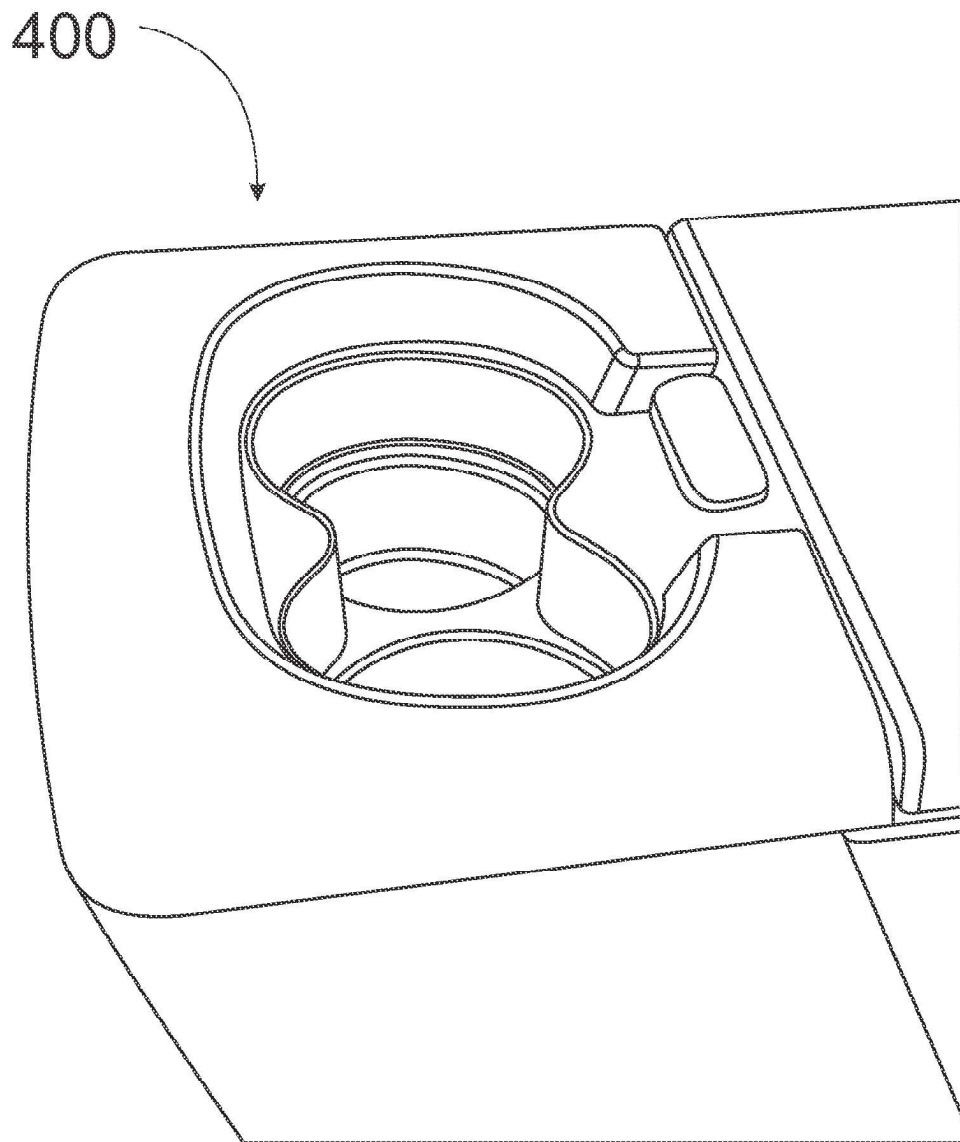


FIG. 21

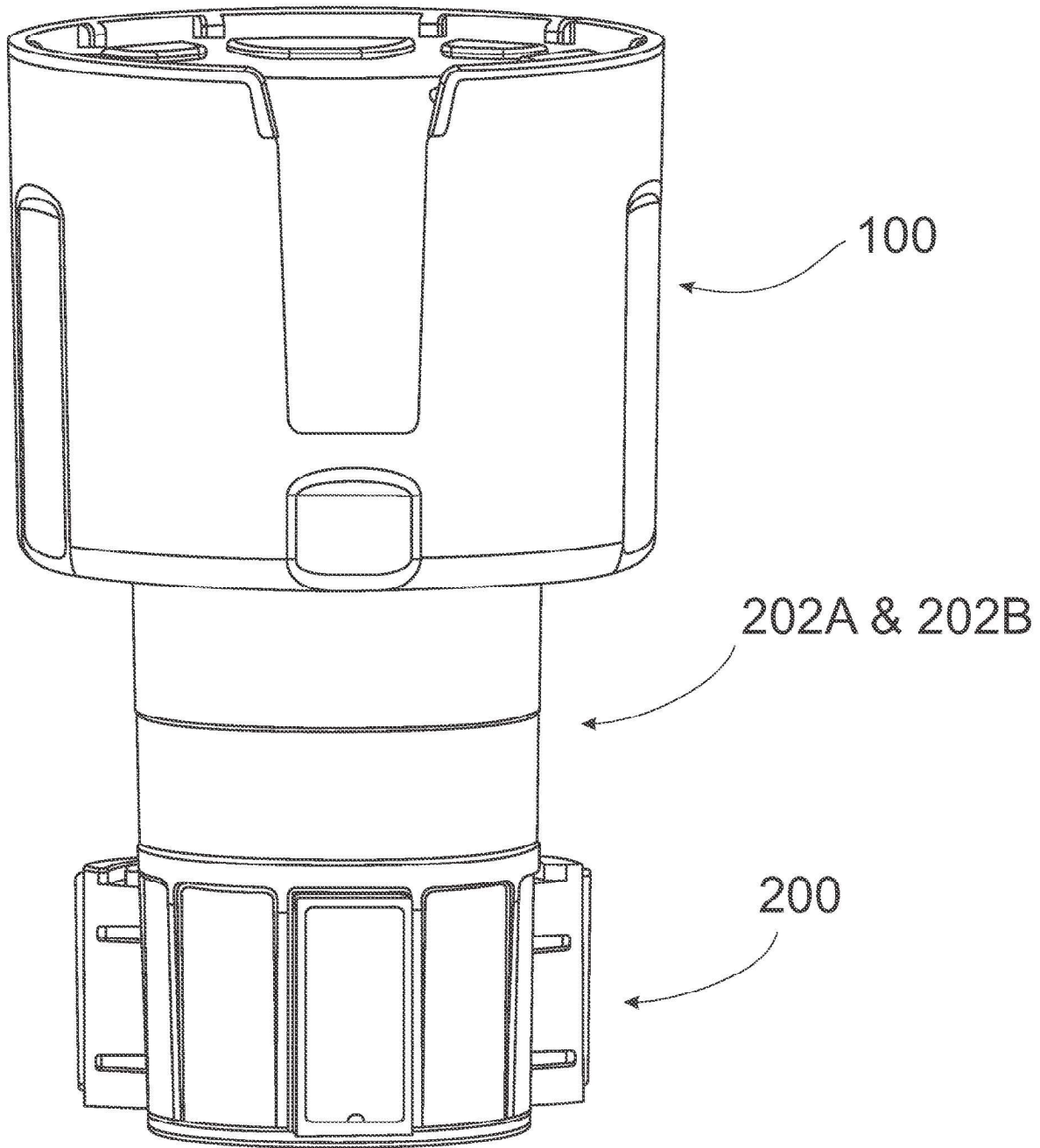


FIG. 22

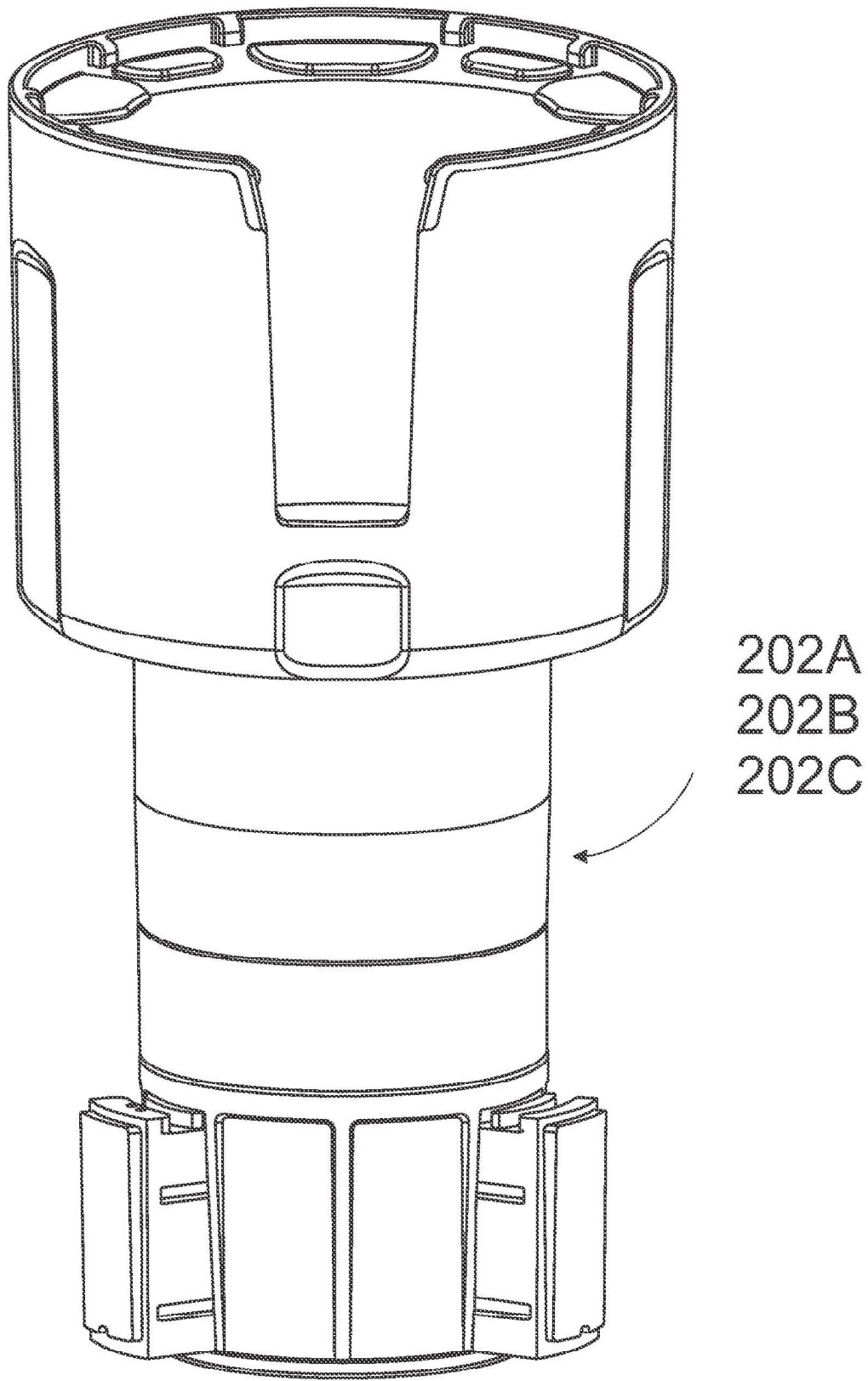


FIG. 23

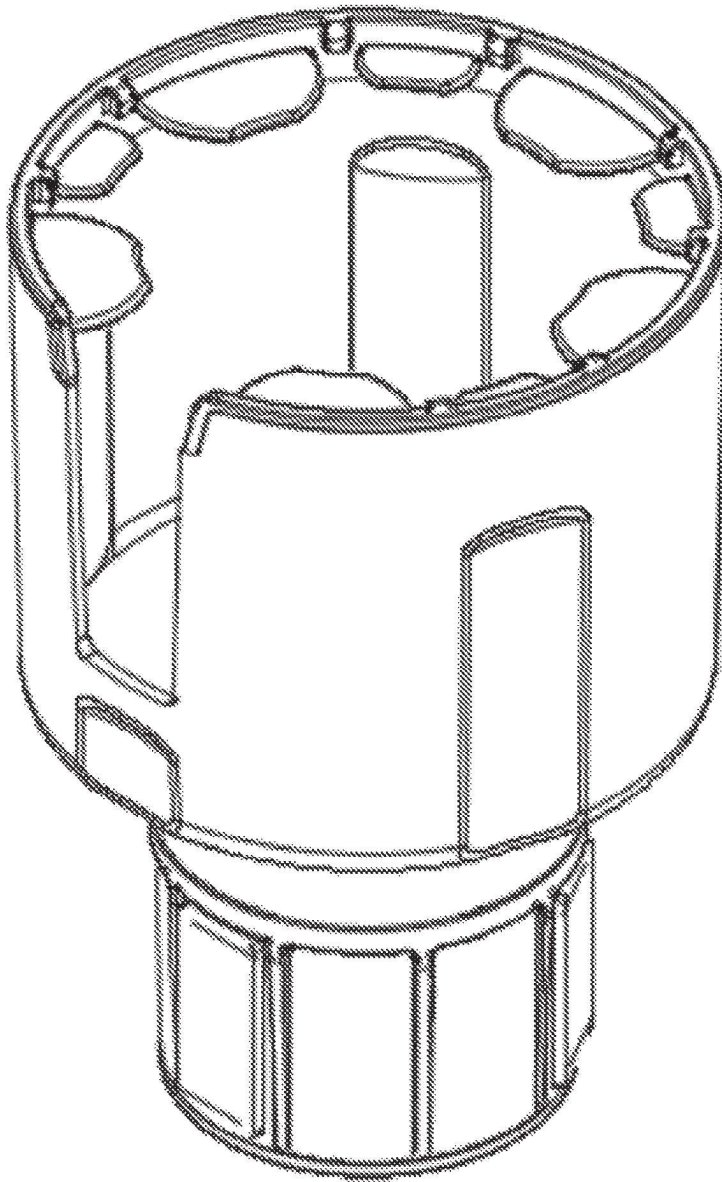


FIG. 24

US 11,772,539 B2

1

**CUPHOLDER AND ADAPTER FOR LARGE
CONTAINERS DURING VEHICLE USE****CROSS-REFERENCE TO RELATED
APPLICATIONS**

The present application in a continuation to Nonprovisional application Ser. No. 17/92,418, filed Feb. 3, 2022 which claims priority to provisional application 63/146,581, filed on Feb. 6, 2021, the disclosure of which is hereby incorporated in its entirety at least by reference.

BACKGROUND OF THE INVENTION**1. Field of the Invention**

The present invention relates generally to cupholders but more particularly to a cupholder and adapter for large containers during vehicle use.

2. Description of Related Art

Cupholders provided by most motor vehicles are recessed into a center console area or dashboard area of the vehicle. The cupholders are several inches in diameter and fully accommodate narrow and short containers such as disposable cardboard beverage cups and standard carbonated soda cans. Taller or wider containers either cannot fit at all or fit in a manner wherein the container may tip over or rattle about. Such problems may lead to spillage and potential danger to the vehicle and its occupants. Consequently, a cupholder and adapter for large containers during vehicle use is provided.

BRIEF SUMMARY OF THE INVENTION

The following presents a simplified summary of some embodiments of the invention in order to provide a basic understanding of the invention. This summary is not an extensive overview of the invention. It is not intended to identify key/critical elements of the invention or to delineate the scope of the invention. Its sole purpose is to present some embodiments of the invention in a simplified form as a prelude to the more detailed description that is presented later.

In one aspect of the invention, a cupholder adapter configured for use with an existing cupholder on a vehicle is provided, the cupholder adapter comprising a cylindrical cupholder having a hollow internal volume; a collar attached to a top portion of the cylindrical cupholder, wherein the collar includes a plurality of tabs extending perpendicularly into the hollow internal volume; an adapter base coupled to the cylindrical cupholder, wherein the adapter base includes a plurality of legs configured to expand and retract such that the diameter of the adapter base is configured to expand from a minimum diameter to a maximum diameter.

In one embodiment, the plurality of legs are configured to expand and retract via rotation of the cupholder. In one embodiment, the cylindrical cupholder is configured to be coupled to the adapter base in a variety of configurations including at least (a) the cylindrical cupholder's axis is aligned with the adapter base's axis; and (b) the cylindrical cupholder's axis is not aligned with the adapter base's axis. In another embodiment, an attachment member positioned on a bottom surface of the cylindrical cupholder is provided, wherein the attachment member enables the coupling of the adapter base and the cylindrical cupholder via a mounting

2

spacer attached to the adapter base. In one embodiment, the attachment member comprises a number of mounting holes and the mounting spacer comprises a number of protrusions including a central protrusion having a hole, wherein a mounting hole of the number of mounting holes is configured to align with the central protrusion such that a fastener can extend through the mounting hole and the hole of the central protrusion. In another embodiment, the number of mounting holes of the attachment member enables multiple configuration of the cylindrical cupholder in relation to the adapter base including an aligned configuration and off-set configuration. In one embodiment, at least one spacer positioned between the cylindrical cupholder and the adapter base is provided. In one embodiment, a screw gear is provided to enable the movement of the plurality of legs via rotation. In one embodiment, the minimum diameter is approximately 2.6 inches and the maximum diameter is approximately 3.8 inches. In one embodiment, the plurality of tabs comprises tabs of varying length and width.

In another aspect of the invention, a cupholder adapter configured for use with an existing cupholder on a vehicle is provided, the cupholder adapter comprising a cylindrical cupholder having a hollow internal volume; an adapter base coupled to the cylindrical cupholder, wherein the adapter base includes a plurality of legs configured to expand and retract such that the diameter of the adapter base is configured to expand from a minimum diameter to a maximum diameter.

In yet another aspect of the present invention, a cupholder adapter configured for use with an existing cupholder on a vehicle is provided, the cupholder adapter comprising a cylindrical cupholder having a hollow internal volume; an adapter base coupled to the cylindrical cupholder; and, wherein the cylindrical cupholder is configured to be coupled to the adapter in at least two configurations: (a) the cylindrical cupholder's axis is aligned with the adapter base's axis; and, (b) the cylindrical cupholder's axis is not aligned with the adapter base's axis.

The foregoing has outlined rather broadly the more pertinent and important features of the present disclosure so that the detailed description of the invention that follows may be better understood and so that the present contribution to the art can be more fully appreciated. Additional features of the invention will be described hereinafter which form the subject of the claims of the invention. It should be appreciated by those skilled in the art that the conception and the disclosed specific methods and structures may be readily utilized as a basis for modifying or designing other structures for carrying out the same purposes of the present disclosure. It should be realized by those skilled in the art that such equivalent structures do not depart from the spirit and scope of the invention as set forth in the appended claims.

**BRIEF DESCRIPTION OF THE SEVERAL
VIEWS OF THE DRAWINGS**

Other features and advantages of the present invention will become apparent when the following detailed description is read in conjunction with the accompanying drawings, in which:

FIG. 1 is a perspective view of a cupholder according to an embodiment of the invention.

FIG. 2 is a perspective view of the collar of the cupholder of FIG. 1.

FIG. 3 is a top view of FIG. 2.

3

FIG. 4 is a top view of the cupholder mounted off-center from the adapter according to an embodiment of the present invention.

FIG. 5 is a side view of FIG. 4.

FIG. 6 is a top view of the cupholder mounted in the center of the adapter according to an embodiment of the present invention.

FIG. 7 is a side view of FIG. 6.

FIG. 8 is a perspective bottom view of the cupholder showing the attachment member according to an embodiment of the present invention.

FIG. 9 is a bottom view of FIG. 8.

FIG. 10 is a side view of the cupholder showing the attachment member according to an embodiment of the present invention.

FIG. 11 is a perspective view of the adapter with a mounting spacer according to an embodiment of the present invention.

FIG. 12 is a bottom view of the mounting spacer according to an embodiment of the present invention.

FIG. 13 is a perspective view of FIG. 12.

FIG. 14 is a perspective view of the adapter showing the scroll gear according to an embodiment of the present invention.

FIG. 15 is a bottom view of the scroll gear showing the scroll thread according to an embodiment of the present invention.

FIG. 16 is a top view of the scroll gear according to an embodiment of the present invention.

FIG. 17 is a perspective view of the adapter with the legs expanded according to an embodiment of the present invention.

FIG. 18 is a cutaway view of the legs expanded.

FIG. 19 is a cutaway view of the legs retracted.

FIG. 20 is an exemplary of a manufacturer-installed cupholder in a vehicle showing a lid partially blocking the cupholder.

FIG. 21 is an exemplary of a manufacturer-installed deep cupholder in a vehicle.

FIG. 22 is a perspective view of the present invention with two spacers installed according to an embodiment of the present invention.

FIG. 23 is a perspective view of the present invention with three spacers installed according to an embodiment of the present invention.

FIG. 24 is a perspective view of the present invention with one spacer installed according to an embodiment of the present invention.

DETAILED DESCRIPTION OF THE INVENTION

The following description is provided to enable any person skilled in the art to make and use the invention and sets forth the best modes contemplated by the inventor of carrying out his invention. Various modifications, however, will remain readily apparent to those skilled in the art, since the general principles of the present invention have been defined herein to specifically provide a cupholder and adapter for large containers during vehicle use.

It is to be understood that the terminology used herein is for the purpose of describing particular embodiments only and is not intended to be limiting. The terms “a” or “an,” as used herein, are defined as to mean “at least one.” The term “plurality,” as used herein, is defined as two or more. The term “another,” as used herein, is defined as at least a second or more. The terms “including” and/or “having,” as used

4

herein, are defined as comprising (i.e., open language). The term “coupled,” as used herein, is defined as connected, although not necessarily directly, not necessarily mechanically, and not permanent. The term “providing” is defined herein in its broadest sense, e.g., bringing/coming into physical existence, making available, and/or supplying to someone or something, in whole or in multiple parts at once or over a period of time. As used herein, the terms “about,” “generally,” or “approximately” apply to all numeric values, whether or not explicitly indicated. These terms generally refer to a range of numbers that one of skill in the art would consider near the stated amount by about 0%, 5%, or 10%, including increments therein. In many instances these terms may include numbers that are rounded to the nearest significant figure.

Referring now to accompanying FIGS. 1-3, a cupholder 100 of the present invention is illustrated. In one embodiment, the cupholder 100 comprises a generally cylindrical housing 101 having a gap 102 enabling the use of beverage containers having handles to be used. In one embodiment, the cupholder 100 includes a collar 103 having a plurality of tabs 104, wherein the plurality of tabs 104 are of differing sizes and lengths. The plurality of tabs of differing lengths and widths are attached at the top of the cupholder via the collar and point horizontally inward toward the center area of the cupholder. Advantageously, as the tabs are of varying lengths, they are configured to promote stabilization of beverage containers, such as travel cups, water bottles, juice bottles, and carbonated beverage cans of varying widths. The shorter tabs are configured to stabilize cups and cans that are relatively wide. By contrast, the adjacent tabs that are long and extend further inward stabilize containers that are narrow and that might otherwise tip or rattle about while the vehicle is in motion.

Further, the tabs are sufficiently wide to hold large and wide containers that may be too wide to fit in the standard cupholder provided by many motor vehicles. With its width and the aforementioned tabs of varying lengths along with an adapter base that is configured to fit into the cupholder of most vehicles, the cupholder provided herein can accommodate many wide containers and hold them steady as a vehicle rounds corners and encounters rough surfaces. This will be discussed in greater details below.

In one embodiment, the cupholder 100 is configured to hold containers up to approximately 3.85" in diameter, as well as containers down to approximately 2.8" in diameter. In addition, the cupholder provides better support for tapered bottles.

In one embodiment, the plurality of tabs 104 are constructed from a thin, flexible material, such that they may bend fairly easily when a bottle is inserted. In one embodiment, the tabs are constructed of rubber. Otherwise, it would be difficult to insert or remove the bottle. The majority of rubber tabs/flaps in the prior art protrude in a perpendicular manner and are bent down when a bottle is inserted. However, if the tabs remain unbent, and can stay perpendicular to the side of the container, it provides significantly more support for the container and help prevent tipping even when the host vehicle may be turning or braking hard. Thus, the tabs of the present invention are configured to remain unbent and remain perpendicular to the side of the container during use. In one embodiment, the plurality of tabs include a large tab and a small tab, wherein the large tab is approximately 31 mm wide and 16 mm long (at the longest point where the tab extends toward center area of the cupholder) and the

US 11,772,539 B2

5

small tab is approximately 19 mm wide and 9.5 mm long. In one embodiment, the thickness of the plurality of tabs is approximately 1.75 mm.

Advantageously, with multiple length tabs, the cupholder 100 is configured to be used with almost any size bottle without having to make adjustments. The size of the bottle will determine which tabs stay perpendicular and which tabs bend. In some instances, some bottles may end up slightly off-center and a combination of some of the large tabs and some small tabs will stay perpendicular and provide support.

Referring now to FIGS. 4-5, the cupholder 100 is shown attached to an adapter 200, wherein the attachment is offset. The adapter 200 is configured to act as the base for the cupholder 100. Advantageously, the adapter 200 acts as a base having extendable and retractable leg members 201 enabling the adapter to fit into the existing cupholder of the hosting vehicle (such as the cupholders shown in FIGS. 20 and 21). The adapter 200 may be manipulated to tighten (via extending the leg members 201) within the cupholder of the vehicle and provide stability. This will be discussed in further details below. In one embodiment, a spacer 202 is positioned between the adapter 200 and cupholder 100. The spacer 202 enables the cupholder 100 to be free of an existing cupholder's dimensions. In some embodiments, more than one spacer may be used. This will be discussed in further details below.

As seen in FIG. 20, in some situations, existing cupholders 300 often have an obstruction such as lid 30 that limits the use of some beverage containers from being used. Thus, the cupholder 100 of the present invention may be off-set from the adapter to avoid the obstructions. That is, the cupholder is not symmetrically positioned above the adapter, wherein the axis of the cupholder is not aligned with the axis of the adapter. This functionality permits the adapter 200 to be installed firmly into the vehicle's own cupholder (such as 300) but for the cupholder 100 provided herein to be moved "off to the side" or away from the obstruction or existing component of the vehicle that would otherwise be blocking the cupholder of the present invention. Alternatively, as shown in FIGS. 6 and 7 the cupholder 100 may be installed and aligned symmetrically over the adapter, i.e. not off-set.

Referring now to FIGS. 8-13, various views of the attachment member 110 and spacer 202 are illustrated. The method of attachment between the cupholder 100 and adapter 200 will be described below. In one embodiment, the cupholder 100 includes an attachment member 110 positioned on a bottom surface of the cupholder. In one embodiment, the attachment member 100 includes four mounting holes 111, wherein the holes 111 are configured to align with a number of protrusions 210 provided in spacer 202. The hole/protrusion combination determines how the cupholder 110 sits on the adapter, i.e. centered or off-set. In one embodiment, the attachment member 110 is offset, wherein a mounting hole is positioned in the center of the bottom surface of the cupholder (best seen in FIG. 9). Best seen in FIGS. 11 and 13, in one embodiment, the central protrusion of protrusion 210 includes a hole 211 such that a fastener 500 (FIG. 6) may be used to attach the cupholder to the spacer (and in turn the adapter). When the fastener is used, the other protrusions provide support with their connection to the corresponding mounting holes. In one embodiment, the fastener is a bolt, and a user would need to unscrew the bolt from the bottom of the cupholder 100, lift the cupholder off the spacer 202, and reposition the cupholder such that an "off center" hole on attachment member 110 is positioned over the center protrusion of protrusions 210 of the spacer. This action may enable the large and wide cupholder 100 to

6

be securely positioned upright in the vehicle and not be blocked by the vehicle's console lid, emergency brake, gear shift, or other protruding component as shown in the arrangement of FIGS. 4-5. It should be understood, that although four mounting holes and eight corresponding protrusions are illustrated, the number of mounting holes and/or protrusions may vary.

Referring now to FIGS. 14-19, a mechanism of the adapter enabling the legs to expand and retract is illustrated. As previously mentioned, it is a particular advantage of the present invention to provide an adapter 200 which acts as a base for the cupholder of the present invention, wherein the adapter is configured to be positioned within an existing cupholder of a vehicle. In one embodiment, the adapter 200 comprises retractable and expandable legs 201 configured to press against the inside surface of the vehicle's cupholder. In one embodiment, the legs may be retracted or expanded via turning the coupled cupholder of the present invention. Advantageously, this allows the adapter to fit more snugly within the existing cupholder providing stability. It also allows the adapter to be used in different sized cupholders, wherein ultimately the present invention can accommodate a variety of beverage container sizes with a variety of vehicle cupholder sizes. The configurability allows beverage containers, in particular wide beverage containers, to be accommodated that otherwise would not fit in an existing vehicle cupholder, while providing features to ensure stability of the beverage within the cupholder and the adapter within the existing vehicle cupholder.

In one embodiment, a screw gear 203 is provided on a top portion of the adapter, wherein the top of the legs include gear teeth, such that the spiral-shaped thread engages the gear teeth causing the legs to horizontally expand or contract depending on the direction of the rotation. The adapter and screw gear 203 is attached to the bottom of the spacer, which is attached to the cupholder, such that rotating the cupholder activates the screw gear 203. The fully contracted position 201B is illustrated in FIG. 19, and the fully expanded position 201A is illustrated in FIG. 18. In one embodiment, the legs enable the adapter base to vary in diameter between 2.6" to 3.8".

FIG. 20 shows a manufacturer-installed cupholder 300 in a vehicle showing a lid 301 partially blocking the cupholder. Referring now to FIGS. 5 and 20, as previously mentioned, in this situation the cupholder 100 can be offset from the adapter base 200 such that their axes are not aligned. In this way, the cupholder 100 can avoid the obstruction of the lid 301.

FIG. 21 shows a manufacturer-installed deep cupholder 400 in a vehicle. Referring now to FIGS. 21-24, when faced with a deep cupholder 400, more spacers can be used to extend the distance between the adapter base 200 and cupholder 100. FIG. 22 shows two spacers 202A and 202B installed. Likewise, FIG. 23 shows three spacers 202A, 202B, and 202C used. In one embodiment, the spacers are attached to the adjacent spacer via mechanical hardware, such a screw or bolt. In some embodiments, one screw or bolt may be used to join the multiple spacers. The number of spacers can be selected depending on the depth of the existing cupholder.

As one skilled in the art can appreciate, the present invention is adaptable for a variety of existing cupholder situations. Only a few exemplary existing cupholders were shown, but it should be understood that the present invention can be modified to accommodate approximately all of the existing cupholders on the market in a vehicle, wherein the

7

vehicle includes cars, trucks, buses, golf carts, etc. while providing stability for the beverage.

Although the invention has been described in considerable detail in language specific to structural features, it is to be understood that the invention defined in the appended claims is not necessarily limited to the specific features described. Rather, the specific features are disclosed as exemplary preferred forms of implementing the claimed invention. Stated otherwise, it is to be understood that the phraseology and terminology employed herein, as well as the abstract, are for the purpose of description and should not be regarded as limiting. Therefore, while exemplary illustrative embodiments of the invention have been described, numerous variations and alternative embodiments will occur to those skilled in the art. Such variations and alternate embodiments are contemplated, and can be made without departing from the spirit and scope of the invention. For instance, although a screw gear is used to facilitate the functionality of the expandable and retractable legs, other methods may be used.

It should further be noted that throughout the entire disclosure, the labels such as left, right, front, back, top, bottom, forward, reverse, clockwise, counter clockwise, up, down, or other similar terms such as upper, lower, aft, fore, vertical, horizontal, oblique, proximal, distal, parallel, perpendicular, transverse, longitudinal, etc. have been used for convenience purposes only and are not intended to imply any particular fixed direction or orientation. Instead, they are used to reflect relative locations and/or directions/orientations between various portions of an object.

In addition, reference to “first,” “second,” “third,” and etc. members throughout the disclosure (and in particular, claims) are not used to show a serial or numerical limitation but instead are used to distinguish or identify the various members of the group.

What is claimed is:

1. A cupholder adapter configured for use with an existing cupholder on a vehicle, the cupholder adapter comprising:
 a cylindrical cupholder having a hollow internal volume;
 a collar attached to a top portion of the cylindrical cupholder, wherein the collar includes a plurality of tabs extending perpendicularly into the hollow internal volume;

8

an adapter base coupled to the cylindrical cupholder, wherein the adapter base includes a plurality of legs configured to expand and retract such that the diameter of the adapter base is configured to expand from a minimum diameter to a maximum diameter;

an attachment member positioned on a bottom surface of the cylindrical cupholder, wherein the attachment member enables the coupling of the adapter base and the cylindrical cupholder; and,

wherein the attachment member comprises a number of mounting holes and the adapter base or a spacer comprises a number of protrusions, at least one protrusion of the number of protrusions having a hole, wherein a mounting hole of the number of mounting holes is configured to align with the hole such that a fastener can extend through the mounting hole and the hole of the at least one protrusion of the number of protrusions.

2. The cupholder adapter of claim 1, wherein the plurality of legs are configured to expand and retract via rotation of the cupholder.

3. The cupholder adapter of claim 1, wherein the cylindrical cupholder is configured to be coupled to the adapter base in a variety of configurations including at least (a) the cylindrical cupholder’s axis is aligned with the adapter base’s axis; and (b) the cylindrical cupholder’s axis is not aligned with the adapter base’s axis.

4. The cupholder adapter of claim 1, wherein the number of mounting holes of the attachment member enable multiple configurations of the cylindrical cupholder in relation to the adapter base including an aligned configuration and off-set configuration.

5. The cupholder adapter of claim 1, further comprising at least one spacer positioned between the cylindrical cupholder and the adapter base.

6. The cupholder adapter of claim 2, wherein a screw gear is provided to enable the movement of the plurality of legs via rotation.

7. The cupholder adapter of claim 1, wherein the minimum diameter is 2.6 inches and the maximum diameter is 3.8 inches.

* * * * *

Exhibit 2

Amazon Patent Evaluation Express Agreement

This Amazon Patent Evaluation Express (APEX) Agreement (“Agreement”) is between the Patent Owner (or Patent Owner’s authorized representative) listed in Exhibit 1 and the Seller or Sellers (or their authorized representative(s)) listed in Exhibit 2 (collectively, “Participants”).

Amazon.com, Inc. (“Amazon”) has developed the APEX Procedure (“Procedure”) for owners of United States utility patents to obtain an evaluation of their patent infringement claims against products offered by third-party sellers on amazon.com (“Evaluation”). By executing this agreement, the Patent Owner represents and warrants that it owns or has the right to enforce the patent identified in Exhibit 1 (“Patent”), and asserts that listings identified by the Amazon Standard Identification Numbers (“ASINs”) in Exhibit 1 (“Products”) infringe the patent claim identified in Exhibit 1.

By respectively executing Exhibits 1 and 2, Patent Owner and Seller agree as follows:

- 1. Following the Evaluation Procedure.** Patent Owner and Seller have reviewed and agree to comply with the Procedure, which is incorporated herein by reference. Patent Owner agrees to accurately complete Exhibit 1, and Seller agrees to accurately complete Exhibit 2. Both Exhibits 1 and 2 are incorporated herein by reference.
- 2. Confidentiality; No Discovery.** Participants agree not to disclose to third parties information or documents learned from other Participants, Amazon, or Evaluator in the Evaluation, except to their respective affiliates, legal counsel or as required by law; provided, however, that the fact that an Accused Product and ASIN (identified in Exhibit 1) was either removed or not as a result of an Evaluation, and the identity of the patent claim in that Evaluation, shall not be considered confidential. Participants agree that receipt or disclosure of any information relating to patents in APEX may not be used in court or any agency proceeding to establish notice of patent infringement, knowledge of any patent, or to establish damages. Participants agree not to seek discovery from other Participants, Amazon, or Evaluator relating to the Evaluation in any litigation, arbitration, or agency proceeding.
- 3. Waiver of Claims.** Participants acknowledge and agree that neither Amazon nor Evaluator shall be liable for any claims arising out of the Procedure or Evaluation, and Participants hereby waive any claims (including claims that are unknown or are based on activities that have not yet occurred) against Amazon or Evaluator relating to the Procedure or Evaluation; provided that, the foregoing shall not be deemed to waive any rights or claims of a Participant to receive a refund of amounts paid by a Participant that should be returned to a Participant pursuant to the rules of the Procedure. Participants agree that Amazon’s liability to any Participant relating to the Evaluation is limited to any payment made by that Participant to the Evaluator. Participants agree not to sue Amazon or its affiliates for infringement of the Patent with respect to the ASINs listed on Exhibit 1 or materially identical products. Nothing in this Agreement shall limit a Participant’s ability to sue any Seller or other third party for infringement of the Patent.
- 4. Updating Participant’s Information.** Contact during the Evaluation will occur through the email addresses listed in Exhibits 1 and 2. It is each Participant’s responsibility to ensure that its email address and other information in Exhibits 1 and 2 remain accurate and current.
- 5. General Matters.** This Agreement shall be governed by the laws of the state of Washington, USA, and Participants agree to the jurisdiction and venue of the federal and state courts located in King County, Seattle, Washington. Any dispute regarding this Agreement may be submitted to the Evaluator, and if not resolved by the Evaluator may only be resolved by Amazon, in its sole discretion. Participants may not assign their rights or obligations under this Agreement. This Agreement does not create any partnership or any fiduciary relationship between or among the Participants, the Evaluator and Amazon. No third party is intended to be a beneficiary of this Agreement, except that the parties agree and acknowledge that the Evaluator and Amazon are third- party beneficiaries of Sections 2 and 3 of this Agreement. This Agreement and the APEX Procedure are the entire agreement for the Evaluation and supersede any prior agreements related to the Evaluation.

Exhibit 1: Patent Owner-Supplied Information

Patent Owner name: Benjamin Cook

Patent Owner physical address: 200 Gateway Dr. #2046
Lincoln, CA 95648

Names of any corporate parents, subsidiaries, or other entities related to Patent Owner:

Name of individual contact for Patent Owner or Patent Owner's authorized representative: Ben Cook

Is Patent Owner registered in Amazon's Brand Registry? If yes, please identify the brand(s) registered in Brand Registry: Swigzy

Email Address for contact (this email address will be used by the Evaluator and Amazon for communications related to the Evaluation): info@swigzy.com

United States utility patent number ("Asserted Patent") for Evaluation: US 11,772,539 B2

Patent Claim number for Evaluation: 1

Amazon Standard Identification Numbers (ASINs) of Accused Products:

B09NBKXSLL	B0C46KQHWG	B09GLVQZ1Q	B0CC1XPK1Z	B0BNTR6GTB
B0BGHDZ2DP	B09N8K3H8Y	B09MJ4TFV7	B0CHW9S3ND	B0BFWJNNRL
B0BNQMLTGK	B0BHT9BSC9	B0C3GMM2R3	B0BKWKW522	B0BD56KZ19
B0BGLH4KQ7	B0BJ32D6KQ	B0BZP51KR9	B0BVFHQTG2	B0BZY28YCF

Signature: Benjamin Cook

Name: Benjamin Cook

Title: Patent Owner

Date: 10/9/2023

Exhibit 2: Seller-Supplied Information

Seller name:

Seller physical address:

Names of any corporate parents, subsidiaries, or other entities related to Seller:

Name of individual contact for Seller or Seller's authorized representative:

Email Address for contact (this email address will be used by the Evaluator and Amazon for communications related to the Evaluation):

Amazon Standard Identification Numbers (ASINs) of Accused Products for which Seller will participate in the Evaluation:

Signature: _____

Name: _____

Title: _____

Date: _____