

**UNITED STATES DISTRICT COURT
THE DISTRICT OF NEW JERSEY**

ND Products, Inc.,

Plaintiff,

v.

Telebrands Corporation (d/b/a BulbHead.com),

Defendant.

Civil Action No.

Document Electronically Filed

COMPLAINT

ND Products, Inc. (“Plaintiff”), hereby files this Complaint for patent infringement and trademark infringement against Telebrands Corporation (doing business as BulbHead.com) (“Defendant”), on personal knowledge as to Plaintiff’s own activities and on information and belief as to the activities of others:

Nature of the Action

1. This is an action by PLAINTIFF against DEFENDANT arising out of DEFENDANT’s counterfeit sales of patent infringing and trademark infringing products. As a result of Defendant’s unauthorized sales, Defendant is harming consumers and Plaintiff’s business relationships, deceiving and misleading the consuming public, and violating Plaintiff’s rights in its proprietary intellectual property.

The Parties

2. Plaintiff is Virginia corporation with a principal place of business in Mclean, Virginia.

3. PLAINTIFF is engaged in the business of manufacturing, distributing, and retailing specialized consumer products throughout the world, including within the District of New Jersey.

4. DEFENDANT is a New Jersey corporation with its headquarters located at 79 Two Bridges Road, Fairfield New Jersey 07004.

Jurisdiction

5. This action arises under the patent laws of the United States, Titles 15 and 35 of the United States Code. This Court has original jurisdiction over this action pursuant to 35 U.S.C. § 1, et seq., 28 U.S.C. § 1338(a)-(b), and 28 U.S.C. § 1331.

6. This Court has general personal jurisdiction over Defendant because Defendant is physically located, maintains offices, and conducts business within the State of New Jersey.

7. Defendant is further subject to the Court's jurisdiction pursuant to N.J. Court Rule 4:4-4 because, *inter alia*, Defendant contracts with distributors and consumers to conduct business within the State of New Jersey.

8. Defendant is further subject to the specific personal jurisdiction of this Court because Defendant has sufficient, minimum contacts with the State of New Jersey with respect to the subject matter of this action to satisfy Constitutional due process. Defendant, *inter alia*, conducts business within this District, is a registered corporation in this District, and maintains a principal place of business in this District. As a result of Defendant's business activities directed to the State of New Jersey, Defendant could reasonably have anticipated being brought into court in this forum.

9. This Court also has original subject matter jurisdiction over Plaintiff's unfair competition claims, pursuant to 28 U.S.C. § 1338(b) because they are joined with Plaintiff's substantial and related trademark claims under 15 U.S.C. §1114.

10. Pursuant to 28 U.S.C. § 1367, the Court has supplemental subject matter jurisdiction over Plaintiff's remaining claims because they form part of the same case or controversy as Plaintiff's trademark and unfair competition claims.

11. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 in that the Defendant resides within this district and is subject to personal jurisdiction in this District.

Facts

12. Plaintiff is the owner of U.S. Patent No. 10,813,792 (the “’792 Patent”), U.S. Design Patent No. D866,763 (the “D763 Patent”), and U.S. Trademark Registration No. 4455913 for “Smart Swab” (the “913 Mark”). The ‘792 Patent is attached as Exhibit A. The D763 Patent is attached as Exhibit B. The 913 Mark is attached as Exhibit C.

13. The ‘792 Patent and D763 Patent cover Plaintiff’s Smart Swab® earwax removal product (the “Product”).

14. Plaintiff sells the Products on the internet and through interstate commerce. Plaintiff markets its Product with the following: “This is the only US patented Safe Ear Wax Remover with original quality on the market.”

15. Plaintiff has spent significant resources to develop, market, and protect each of its U.S. Patents and registered Trademark.

16. Plaintiff sells the Product on its United States website (<https://ndproducts.com/>) (the “Website”), through select online retailers, such as Amazon (https://www.amazon.com/stores/Smart+Swab/page/34B5B772-A4C3-4065-8A58-5BF17970F35B?ref_=ast_bln), and in traditional brick-and-mortar establishments.

17. Plaintiff strives to ensure that consumers of its Product are receiving authentic Products from Plaintiff itself.

18. For example, in *ND Products, Inc. v. Does 1-359*, 1:22-cv-00099 (N.D. Illinois) (“Counterfeiter Case 1”), Plaintiff, who was the named Plaintiff in Counterfeiter Case 1, sought and obtained a preliminary injunction, a temporary restraining order, and a permanent injunction

against illegal uses of the claimed invention of the '792 Patent. Plaintiff also obtained default judgments of no invalidity, no unenforceability, and infringement by the offending parties.

19. In *ND Products, Inc. v. Does 1-127*, 1:22-cv-03444 (N.D. Illinois) (“Counterfeiter Case 2”), Plaintiff, who was the named Plaintiff in Counterfeiter Case 2, sought and obtained a preliminary injunction and temporary restraining order against illegal uses of the claimed invention of the '792 Patent.

20. As a result of the foregoing, Plaintiff has become an industry leader in the market, and its Product is synonymous with revolutionary, patented, high-end earwax removal devices.

21. At one point, October 22, 2015, Plaintiff and Defendant had entered into a marketing and license agreement (“Agreement”) that authorized Defendant to exploit its U.S. Design Patent No. D545,431 (the “D431 Patent”) as well as the '913 Mark.

22. The Agreement was terminated on August 10, 2019 by way of an Addendum to Marketing and License Agreement (“Addendum”). As part of that Addendum, the Defendant assigned and transferred back any IP rights it had been licensed by Plaintiff.

23. According to the Addendum, Defendant was permitted to “sell Product in its inventory until all such inventory is sold off.”

24. On August 5, 2021, Legal Counsel for Defendant stated the following in an email to Mr. Nami Khademhosseini, the owner of PLAINTIFF:

We have confirmed that the inventory we have in stock is 11 units of Smart Swab and 13,802 packs of replacement heads. We do not intend to manufacture any more Smart Swab units or replacement heads and solely intend to sell through the remaining inventory we have left.

Exhibit D.

25. In an August 3, 2023 email from Bob Barnett of Defendant to Plaintiff's owner, Mr. Barnett stated, "[t]he last smart swab units I show us selling is February/March 21. These went to big and mortar retailers." Exhibit E.

26. On November 24, 2023, Plaintiff discovered the Product was being sold by a third party through Walmart and inquired by whom such unauthorized sales had been made.

27. In a November 27, 2023 email, John Schneider, a Senior Paralegal, for Walmart, wrote:

Please know that Walmart takes claims of intellectual property infringement seriously and strives to respect the intellectual property rights of others. Note that pursuant to our agreement with the Suppliers, Walmart allows the Supplier the opportunity to resolve intellectual property claims directly with the claimant. The Supplier's contact information for the item identified in your claim is set forth below:

Telebrands Corp.

Contact: Bob Barnett

Email: Bob@telebrands.com

Exhibit F.

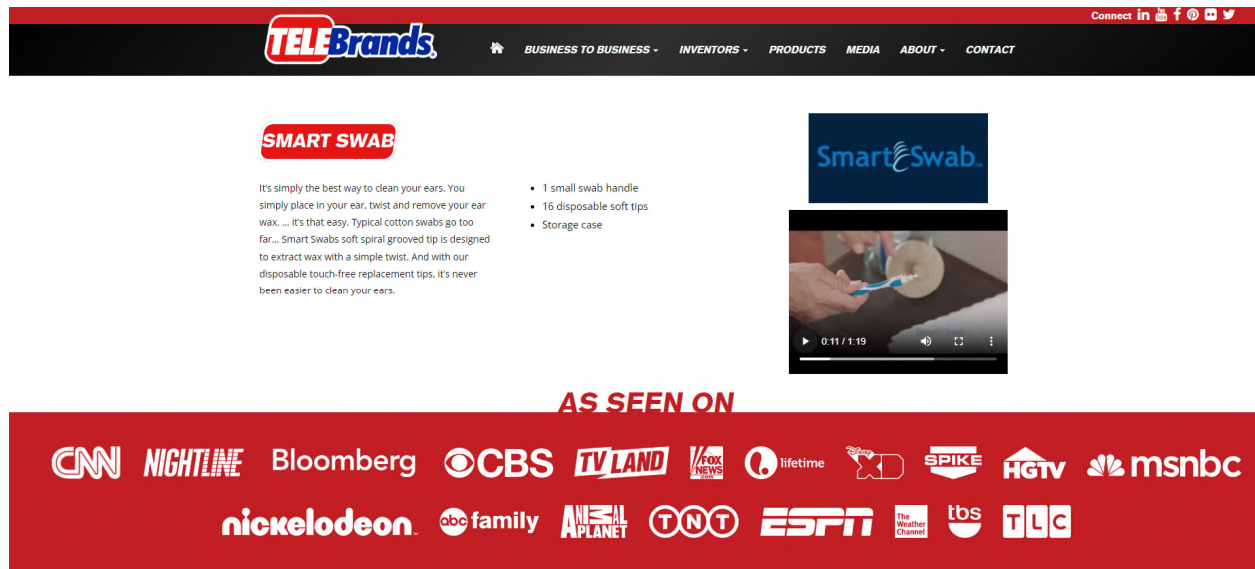
28. On November 24, 2023, Plaintiff purchased Defendant's version of the Product through Walmart, which appears as shown below:



“Counterfeit Product”.

29. Defendant’s Counterfeit Product that it sells through Walmart is made without license under any claim of the ‘792 Patent or the D763 Patent.

30. Defendant’s Counterfeit Product misappropriates and fails to provide the registered status of Plaintiff’s 913 Mark for Smart Swab®. For example, Defendant still promotes Plaintiff’s product as its own via its website:



<http://www.telebrands.com/smart-swab/> (last visited August 5, 2024).

31. Defendant falsely marked the Counterfeit Product as being covered by Plaintiff's now-expired D411 Patent and nonexistent "other patents pending" in Defendant's name.

32. Upon information and belief, Defendant is aware that Plaintiff markets its Product as "the only US patented Safe Ear Wax Remover with original quality on the market."

33. Upon information and belief, Defendant makes, uses, imports, offers for sale, and sells the Counterfeit Product using Plaintiff's 913 Mark and Plaintiff's now-expired D411 Patent with the intent to deceive the public into believing the Counterfeit Product was made, used, imported, offered for sale, and sold under license from Plaintiff.

34. Upon information and belief, Defendant makes, uses, imports, offers for sale, and sells the Counterfeit Product using Plaintiff's 913 Mark and Plaintiff's now-expired D411 Patent with the intent to deceive the public into believing the counterfeit Product is of the same original quality as that produced by Plaintiff.

35. Defendant has sold its infringing Counterfeit Products through other establishments:



HOME / TELEBRANDS

Telebrands 10817-12 Smart Swab Ear Wax Remover, Blue/White

~~\$15.86~~ \$5.87

In stock and available

- 1 +

ADD TO CART

It is expected to arrive in 5-7 days

SKU: 43007833

Category: Telebrands

Tag: home goods&personal care&ear car

<https://www.furniture-depots.com/product/telebrands-10817-12-smart-swab-ear-wax-remover-blue-white/> (last visited August 5, 2024).

36. As a result of Defendant's unauthorized and unlicensed sales of Counterfeit Product, Defendant is harming consumers and Plaintiff's business relationships, deceiving and misleading the consuming public, and violating Plaintiff's rights in its proprietary intellectual property.

37. These unauthorized sales and infringing activities are illegal and have harmed, and will continue to harm, Plaintiff if the Court does not grant the relief sought by way of this Complaint.

38. Upon information and belief, Defendant may also sell the Counterfeit Product to other distributors and resellers, and/or directly to consumers through one or more forms of retail, wholesale, and electronic commerce platforms and networks.

39. As of the date of this filing, Defendant has not agreed to cease and desist from selling the Counterfeit Product and infringing upon Plaintiff's rights in the '792 Patent, the D763 Patent, and the 913 Mark.

COUNT ONE
(Infringement of the '792 Patent under 35 U.S.C. §§ 271(a), (b), and (c))

40. Plaintiff incorporates by reference all of the paragraphs above as though fully set forth herein.

41. The '792 Patent was filed on June 12, 2015.

42. The '792 Patent was duly and legally issued from U.S. Patent Application Serial No. 14/737,511.

43. Claim 1 of the '792 Patent recites:

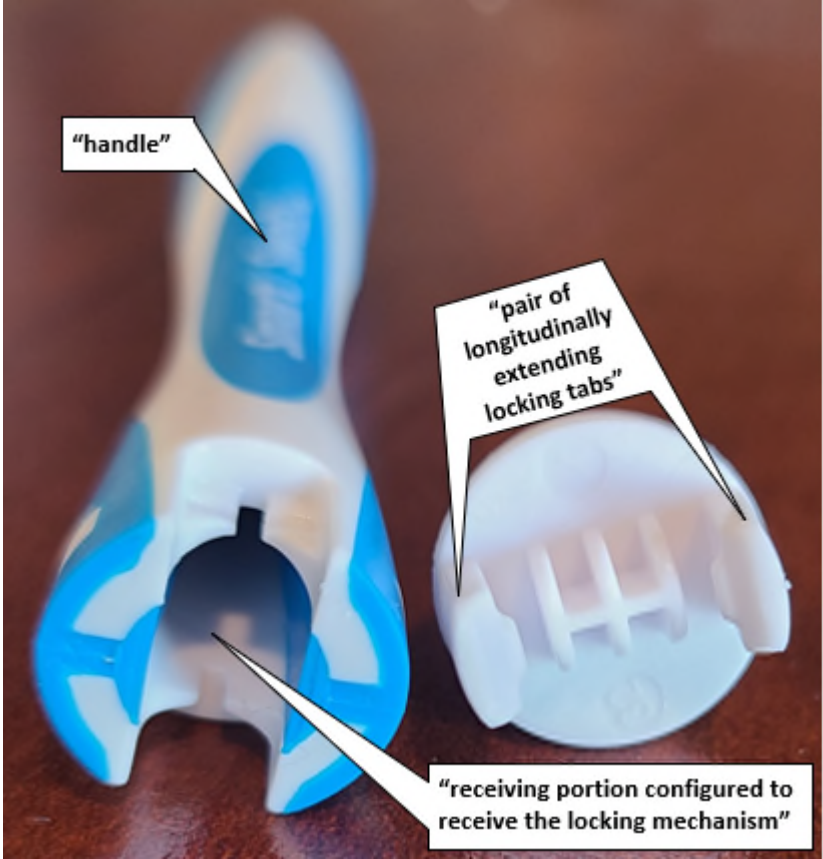
An ear cleaning apparatus comprising:

a spiral-shaped head;

a locking mechanism coupled to the spiral-shaped head, the locking mechanism including a center protrusion and a pair of longitudinally extending locking tabs;
and

a handle including a receiving portion configured to receive the locking mechanism to releasably couple the spiral-shaped head to the handle, wherein the center protrusion includes a plurality of ribs.

44. Defendant's Counterfeit Product meets each and every limitation of Claim 1 of the '792 Patent:



45. The spiral-shaped head of Defendant's Counterfeit Product includes a soft material, which is a foam that is porous and also includes a plastic material making up the locking mechanism that is configured such that the spiral-shaped head is removable from the receiving portion via a pressure applied to one of the pair of locking tabs.

46. The spiral-shaped head of Defendant's Counterfeit Product also has a locking mechanism that is configured to be removably coupled and decoupled from the handle without touching the spiral-shaped head.

47. The spiral-shaped head of Defendant's Counterfeit Product and the locking mechanism are both disposable.

48. The Defendant's Counterfeit Product meets each and every limitation of Claims 1-9 of the '792 Patent and infringes the same under 35 U.S.C. § 271(a).

49. Defendant has carried out the aforesaid acts with actual and constructive knowledge of the existence of the '792 Patent and have acted with willful blindness of the same.

50. Defendant has actively induced infringement of the '792 Patent in this judicial district and elsewhere in the United States by manufacturing, marketing, offering for sale, and selling Product to distributors for resale to the public knowing that the distributors offer for sale and sale of the Product to the public, and the public's use of the Product, constitute patent infringement, or have acted with willful blindness to such infringement of the '792 Patent despite knowledge of the same.

51. Defendant has had actual knowledge of the '792 Patent since the date of its issuance through the filing of the current lawsuit but continues the infringing activities despite such knowledge.

52. Upon information and belief, Defendant's infringements of the '792 Patent have been in willful disregard of Plaintiff's patent rights, making this an exceptional case, and entitling Plaintiff to enhanced damages pursuant to 35 U.S.C. § 284, and to recovery of their attorney fees and costs incurred in prosecuting this action pursuant to 35 U.S.C. § 285.

53. The aforesaid infringing activity has caused damage to Plaintiff, including loss of profits from sales they would have made but for Defendant's infringements. Unless enjoined, the aforesaid infringing activity will continue, causing irreparable injury to Plaintiff for which there is no adequate remedy at law.

COUNT TWO

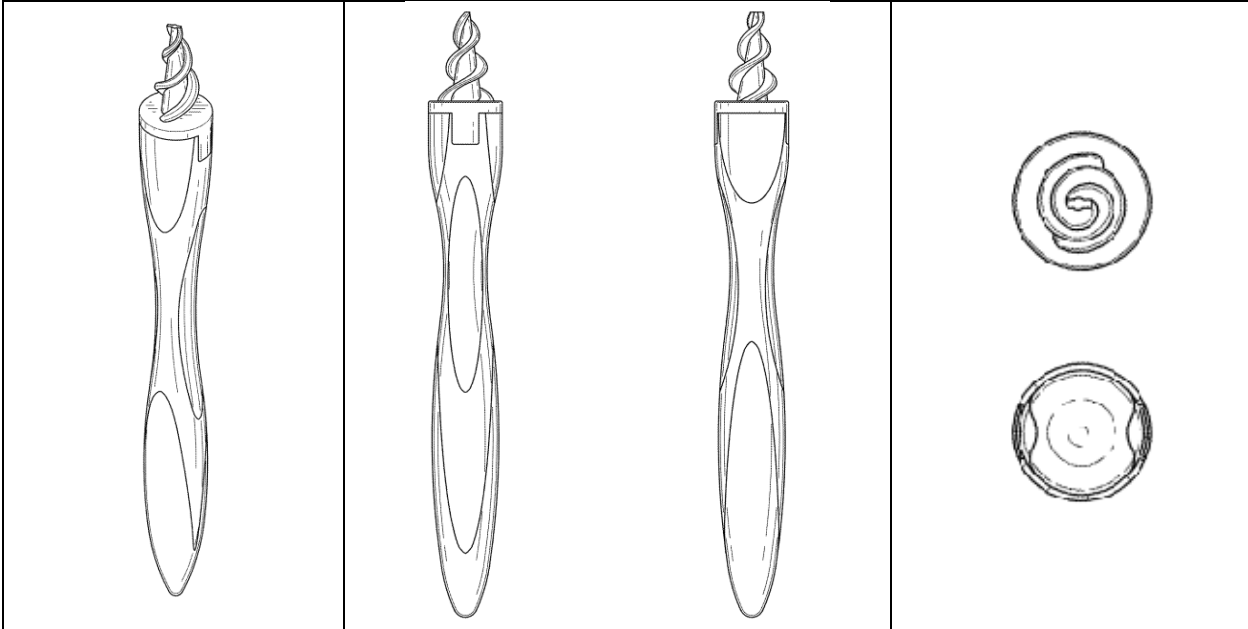
(Infringement of the D763 Patent under 35 U.S.C. §§ 271(a), (b), and (c))

54. Plaintiff incorporates by reference all of the paragraphs above as though fully set forth herein.

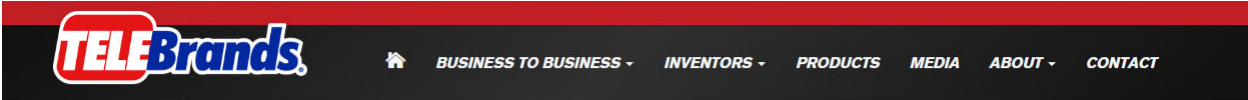
55. The D763 Patent was filed on June 12, 2015 as a continuation-in-part of U.S. Patent Application Serial No. 14/737,511 from which the '792 Patent issued.

56. The D763 Patent recites: "The ornamental design for an ear cleaning apparatus, as shown and described."

57. The figures of the D763 Patent are reproduced below:



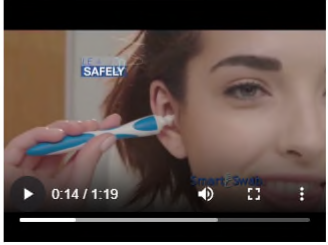
58. Defendant advertises its Counterfeit Product with the following designs:



SMART SWAB

It's simply the best way to clean your ears. You simply place in your ear, twist and remove your ear wax. ... It's that easy. Typical cotton swabs go too far... Smart Swabs soft spiral grooved tip is designed to extract wax with a simple twist. And with our disposable touch-free replacement tips, it's never been easier to clean your ears.

- 1 small swab handle
- 16 disposable soft tips
- Storage case



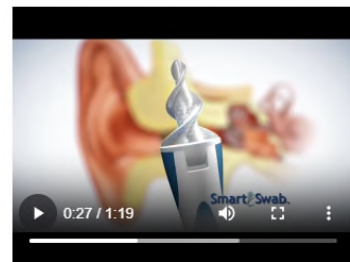




SMART SWAB

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- 1 small swab handle
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<http://www.telebrands.com/smart-swab/> (last viewed August 5, 2024).

59. Defendant's Counterfeit Product is so substantially similar to the ornamental design claimed by the D763 Patent that it is nearly identical in all respects. Indeed, Defendant calls its Counterfeit Product by Plaintiff's tradename, SMART SWAB®, except Defendant fails to recognize that its use of "SMART SWAB" is a registered trademark.

60. Defendant infringes the D763 Patent literally and under the doctrine of equivalents because, *inter alia*, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the D763 Patent and the Counterfeit Product are each substantially the same.

61. The resemblance of the claim of D763 Patent in the Counterfeit Product is so substantially similar that it deceives the ordinary observer, inducing him/her to purchase one supposing it to be the other.

62. The Defendant's Counterfeit Product meets each and every limitation of the D763 Patent Claim and infringes the same under 35 U.S.C. § 271(a).

63. Defendant has carried out the aforesaid acts with actual and constructive knowledge of the existence of the D763 Patent and has acted with willful blindness of the same.

64. Defendant has actively induced infringement of the D763 Patent in this judicial district and elsewhere in the United States by manufacturing, marketing, offering for sale, and selling Counterfeit Product to distributors for resale to the public knowing that the distributors offer for sale and sale of the Product to the public, and the public's use of the Product, constitute patent infringement, or have acted with willful blindness to such infringement of the D763 Patent despite knowledge of the same.

65. Defendant has had actual knowledge of the D763 Patent since the date of its issuance through the filing of the current lawsuit but continues the infringing activities despite such knowledge.

66. Upon information and belief, Defendant's infringements of the D763 Patent have been in willful disregard of Plaintiff's patent rights, making this an exceptional case, and entitling Plaintiff to enhanced damages pursuant to 35 U.S.C. § 284, and to recovery of their attorney fees and costs incurred in prosecuting this action pursuant to 35 U.S.C. § 285.

67. The aforesaid infringing activity has caused damage to Plaintiff, including loss of profits from sales they would have made but for Defendant's infringements. Unless enjoined, the

aforesaid infringing activity will continue, causing irreparable injury to Plaintiff for which there is no adequate remedy at law.

COUNT THREE

(Lanham Act Registered Trademark Infringement under 15 U.S.C. § 1114(1)(a))

68. Plaintiff incorporates by reference all of the paragraphs above as though fully set forth herein.

69. Plaintiff is the owner of the valid and enforceable registered SMART SWAB® mark attached as Exhibit C. Since September 2013, Plaintiff has used this mark to advertise and identify its own earwax removal devices to consumers.

70. Even though Defendant is not authorized to use the SMART SWAB® mark, or any confusingly similar mark, Defendant has willfully infringed the SMART SWAB® mark to advertise and identify earwax removal devices. This infringement is particularly damaging because the identical infringing SMART SWAB® mark is used in connection with identical goods as Plaintiff's SMART SWAB® mark – earwax removal devices – to common customers in overlapping territories throughout the United States and points of sale, e.g., Walmart.

71. Defendant's distribution, advertisement, offering for sale, and sale of the Counterfeit Product constitutes a use in commerce that is likely to continue to cause confusion, to cause mistake, or to deceive, in violation of Section 32(1) of the Lanham Act (15 U.S.C. § 1114(1)).

72. Defendant's use of the Counterfeit Product commenced well after Plaintiff's use and extensive worldwide advertising of its own SMART SWAB® products.

73. Upon information and belief, the activities of the Defendant in selling the Counterfeit Product have been done with the express intention of confusing, misleading, and

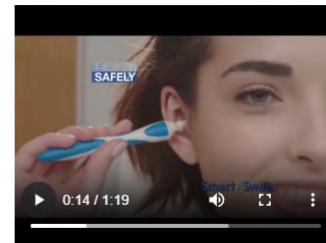
deceiving purchasers and members of the public into believing they are purchasing Plaintiff's products.

74. Examples of Defendant's willful and blatant trademark infringements are shown below, including Defendant's own unauthorized use of Plaintiff's SMART SWAB® Mark as its own:



It's simply the best way to clean your ears. You simply place in your ear, twist and remove your ear wax. ... It's that easy. Typical cotton swabs go too far... Smart Swabs soft spiral grooved tip is designed to extract wax with a simple twist. And with our disposable touch-free replacement tips, it's never been easier to clean your ears.

- 1 small swab handle
- 16 disposable soft tips
- Storage case



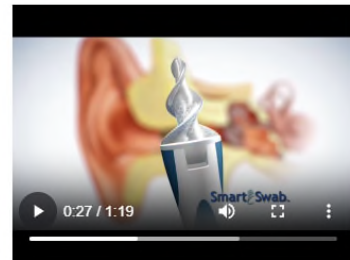




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It's simply the best way to clean your ears. You simply place in your ear, twist and remove your ear wax. ... It's that easy. Typical cotton swabs go too far... Smart Swabs soft spiral grooved tip is designed to extract wax with a simple twist. And with our disposable touch-free replacement tips, it's never been easier to clean your ears.

- 1 small swab handle
- 16 disposable soft tips
- Storage case





<http://www.telebrands.com/smart-swab/> (last viewed June 30, 2024).

75. Defendant knew, or should have known, that its impermissible use of an identical mark would likely cause confusion, mistake and/or deception as to the affiliation, connection or association of Defendant's earwax removal devices with those of Plaintiff.

76. Defendant's activities were committed willfully, knowingly, maliciously, and in conscious disregard of Plaintiff's prior rights in the SMART SWAB® and with the willful intent to cause confusion and trade on Plaintiff's goodwill.

77. Plaintiff has no adequate remedy at law. Defendant's conduct has caused, and, if not enjoined, will continue to cause immediate and irreparable damage to Plaintiff's trademark

rights, business, reputation, and goodwill in a manner that cannot be adequately calculated or compensated in money damages alone.

78. Due to Defendant's violations of the Lanham Act, Plaintiff is entitled to injunctive relief, actual, compensatory, and punitive damages in an amount to be determined at trial, attorneys' fees, costs, and disbursements.

79. The intentional nature of this trademark infringement renders this an exceptional case under 15 U.S.C. § 1117(a).

80. Based on Defendant's actions as alleged herein, Plaintiff is entitled to injunctive relief, damages for the irreparable harm that Plaintiff has sustained, and will sustain, as a result of Defendant's unlawful and infringing actions as alleged herein, and all gains, profits and advantages obtained by Defendant as a result thereof, enhanced discretionary damages, as well as other remedies provided by 15 U.S.C. §§ 1116, 1117, and 1118, and reasonable attorneys' fees and costs.

COUNT FOUR
(Violation of Section 43(a) of the Lanham Act)

81. Plaintiff incorporates by reference all of the paragraphs above as though fully set forth herein.

82. Section 43(a)(1) of the federal Lanham Trademark Act provides:

Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact or false or misleading representation of fact, which — (A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or — (B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods services, or commercial activities, shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act. 15 U.S.C.A. § 1125(a).

83. Defendant's distribution, advertisement, offering for sale, and sale of the Counterfeit Product constitutes false designations of origin, which are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendant's product with Plaintiff, or as to the origin, sponsorship, or approval of Defendant's products by Plaintiff, in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).

84. Upon information and belief, the activities of the Defendant in selling such Counterfeit Products have been done with the express intention of confusing, misleading, and deceiving purchasers and members of the public into believing they are purchasing Plaintiff's products.

85. Defendant's actions have continued in spite of the Defendant's knowledge that the use of any of Plaintiff's trademarks, or any reproductions, counterfeits, copies, or colorable imitations of such trademarks, is in violation of Plaintiff's rights.

86. Defendant's actions were committed willfully, knowingly, maliciously, and in conscious disregard of Plaintiff's legal rights.

87. Plaintiff has no adequate remedy at law. Defendant's conduct has caused, and, if not enjoined, will continue to cause immediate and irreparable damage to Plaintiff's trademark rights, business, reputation, and goodwill in a manner that cannot be adequately calculated or compensated in money damages alone.

88. Due to Defendant's violations of the Lanham Act, Plaintiff is entitled to injunctive relief, actual, compensatory, and punitive damages in an amount to be determined at trial, attorneys' fees, costs, and disbursements.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment against Defendant as well as its subsidiaries, agents, servants, employees, attorneys and all persons in active concert or participation with it, and grant Plaintiff the following relief:

A. An award to Plaintiff of such damages pursuant to 35 U.S.C. § 284 that are adequate to compensate it for Defendant's patent infringement, in an amount equal to Plaintiff's lost profits, but in no event less than a reasonable royalty;

B. An award of prejudgment interest from the date infringement began of the '792 Patent;

C. A permanent injunction pursuant to 35 U.S.C. § 283 prohibiting further infringement of the '792 Patent;

D. An award of prejudgment interest from the date infringement began of the D763 Patent;

E. A permanent injunction pursuant to 35 U.S.C. § 283 prohibiting further infringement of the D763 Patent;

F. An award of treble damages pursuant to 35 U.S.C. § 284 to the extent that Defendant's infringements of the '792 Patent and D763 Patent are ultimately found to be willful;

G. An award to Plaintiff compensating it for Defendant's willful infringements of Plaintiff's trademark.

H. An award to Plaintiff compensating it for damages sustained as a consequence of Defendant's trademark infringement, false advertising and false designation of origin and to account for all gains, profits, and advantages derived by Defendant's trademark infringement and

that the award to Plaintiff be trebled as provided for under 15 U.S.C. § 1117; alternatively, that the Plaintiff be awarded statutory damages pursuant to 15 U.S.C. § 1117(c)-(d).

I. That the Court issue an order that Plaintiff recover the costs of the trademark infringement together with reasonable attorney and investigator fees and prejudgment interest in accordance with 15 U.S.C. § 1117;

J. That Defendant be permanently enjoined from directly or indirectly infringing Plaintiff's SMART SWAB® mark through the impermissible use of the identical SMART SWAB® mark, and/or any confusingly similar mark. Any award or injunction should require that any past infringing advertising materials be destroyed by Defendant, and that an explanation of the infringement be sent by Defendant to its relevant consumers;

K. That any infringing Defendant trademark application be cancelled and deemed invalid and unenforceable, as Plaintiff has prior use rights to the SMART SWAB® mark;

L. A judgment and order that Defendant make an accounting to Plaintiff and pay over to Plaintiff:

- a. the extent of Defendant's total profits and revenues realized and derived from its infringement of the '792 Patent, D763 Patent, and Plaintiff's SMART SWAB® trademark, and actual damages to Plaintiff in an amount not less than a reasonable royalty for Defendant's infringements;
- b. exemplary, compensatory punitive, and/or treble damages pursuant to 35 U.S.C. § 284 for Defendant's malicious, willful, and deliberate infringement, and as permitted under other applicable laws;

M. An Order deeming this case an exceptional case pursuant to 15 U.S.C. § 1117(a) and (b) and 35 U.S.C. § 285, and that Defendant be deemed liable for and be ordered to pay

Plaintiff, in addition to the aforesaid damages, Plaintiff's costs and attorneys' fees, and that the amount of actual damages be trebled;

N. For an award of Defendant's profits and Plaintiff's damages pursuant to 15 U.S.C. § 1117(a), enhanced discretionary damages under 15 U.S.C. § 1117(a) and treble damages in the amount of a sum equal to three (3) times such profits or damages, whichever is greater, pursuant to 15 U.S.C. § 1117(b) for willfully and intentionally using a mark or designation, knowing such mark or designation is a counterfeit mark in violation of 15 U.S.C. § 1114(1)(a); and

O. In the alternative to Defendant's profits and Plaintiff's actual damages, enhanced discretionary damages and treble damages for willful use of a counterfeit mark in connection with the sale, offering for sale or distribution of goods or services, for statutory damages pursuant to 15 U.S.C. § 1117(c) in the amount of not more than \$2,000,000 per counterfeit mark per type of goods or services sold, offered for sale or distributed, as the Court considers just, which Plaintiffs may elect prior to the rendering of final judgment;

P. Such other and further relief as the Court may deem just and necessary.

JURY DEMAND

A jury trial is hereby demanded for all issues that are triable to a jury.

Dated: September 6, 2024

NORRIS McLAUGHLIN, PA
Attorneys for Plaintiff

By: /s/Nicholas A. Duston
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(908) 722-0700

Joseph A. Farco, Esq. (pro hac vice to be filed)
7 Times Square, 21st Floor
New York, NY 10036
(917) 369-8865

LOCAL CIV. R. 11.2 CERTIFICATION

I certify that to the best of my present knowledge, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: September 6, 2024

/s/Nicholas A. Duston

Nicholas A. Duston, Esq.
NORRIS McLAUGHLIN, PA
400 Crossing Blvd. 8th Fl.
Bridgewater, NJ 08807
(908) 722-0700
Attorneys for Plaintiff

EXHIBIT A



(12) **United States Patent**
Khademhosseini

(10) **Patent No.:** **US 10,813,792 B2**
(45) **Date of Patent:** **Oct. 27, 2020**

(54) **SYSTEM AND METHOD FOR REMOVAL OF EARWAX AND PARTICULATES**

(71) Applicant: **ND Products Inc.**, Falls Church, VA (US)

(72) Inventor: **Nami Khademhosseini**, Falls Church, VA (US)

(73) Assignee: **ND PRODUCTS INC.**, Falls Church, VA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1195 days.

(21) Appl. No.: **14/737,511**

(22) Filed: **Jun. 12, 2015**

(65) **Prior Publication Data**
US 2016/0361203 A1 Dec. 15, 2016

(51) **Int. Cl.**
A61F 11/00 (2006.01)
A61M 1/00 (2006.01)
A61F 13/38 (2006.01)
A61M 3/00 (2006.01)
A61M 3/02 (2006.01)

(52) **U.S. Cl.**
CPC *A61F 11/006* (2013.01); *A61F 13/38* (2013.01); *A61M 1/0058* (2013.01); *A61M 1/0084* (2013.01); *A61M 3/005* (2013.01); *A61M 3/0262* (2013.01); *A61M 3/0279* (2013.01); *A61M 1/0072* (2014.02); *A61M 2210/0662* (2013.01)

(58) **Field of Classification Search**
CPC *A61F 11/006*; *A61F 13/38*; *A61M 2210/0662*; *A61M 2210/0668*; *A61M 2210/0675*

See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

1,980,826 A *	11/1934	Reiss	A61F 11/006
			15/209.1
2,170,222 A *	8/1939	Strauss	A61F 13/38
			604/2
4,746,238 A	5/1988	Levine	
5,107,861 A	4/1992	Narboni	
5,456,265 A *	10/1995	Yim	A61B 10/0291
			600/569
5,509,921 A *	4/1996	Karell	A61B 1/227
			606/162
5,593,402 A *	1/1997	Patrick	A61B 17/29
			604/902
5,715,850 A *	2/1998	Markgraaf	A61F 11/006
			132/333
5,888,199 A *	3/1999	Karell	A61F 11/006
			606/162

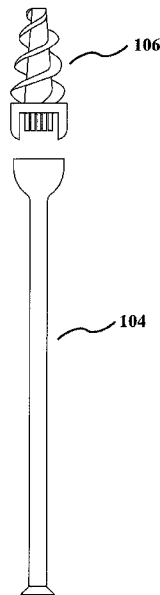
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Primary Examiner — Alexander J Orkin
(74) *Attorney, Agent, or Firm* — Aslan Law, P.C.

(57) **ABSTRACT**

In one example, we describe a method and apparatus for cleaning the ear canal of cerumen contaminants, dust, and particulates. That includes a handle and replaceable tips, a combination of a flared design and solid base plate attached to the bottom of the tips, limiting the excessive insertion of the tip into the deep area of ear canal that could contact eardrum, which can seriously damage the eardrum and hearing capabilities. The handle has a slot in the front in which a tip can snap into, and as the whole system is secured together, the user can operate the system by spinning the handle, using fingers, e.g., in a clockwise direction, as the user proceeds to insert the tip in the ear canal. Different variations are also presented here.

19 Claims, 42 Drawing Sheets



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Page 2

(56)

References Cited

U.S. PATENT DOCUMENTS

5,982,908 A	11/1999	Bauman	2004/0097997 A1 *	5/2004	Di Cecco	A61F 11/006	606/162
6,152,940 A *	11/2000	Carter	2006/0085018 A1 *	4/2006	Clevenger	A61F 11/006	606/162
6,695,802 B1 *	2/2004	Thompson	2008/0142385 A1	6/2008	Stein et al.		
6,706,023 B1 *	3/2004	Huttner	2008/0300527 A1 *	12/2008	Bivins	A61F 13/38	604/1
7,074,230 B2	7/2006	Olson	2009/0012424 A1 *	1/2009	Huschmand Nia	A61B 10/0045	600/569
D545,431 S	6/2007	Khademhosseini	2011/0066172 A1 *	3/2011	Silverstein	A61F 11/006	606/162
7,658,745 B2	2/2010	Olson	2011/0301572 A1 *	12/2011	Vlodaver	A61F 11/00	604/514
D701,600 S	3/2014	Kauffman	2012/0296355 A1 *	11/2012	Burres	A61F 11/006	606/162
8,777,972 B2	7/2014	Burres	2013/0190647 A1 *	7/2013	Pahuja	A61B 5/1076	600/559
2003/0181933 A1 *	9/2003	Eicoff	2015/0142029 A1	5/2015	Fahn et al.		
2003/0187469 A1 *	10/2003	Olson					

* cited by examiner

FIG. 1

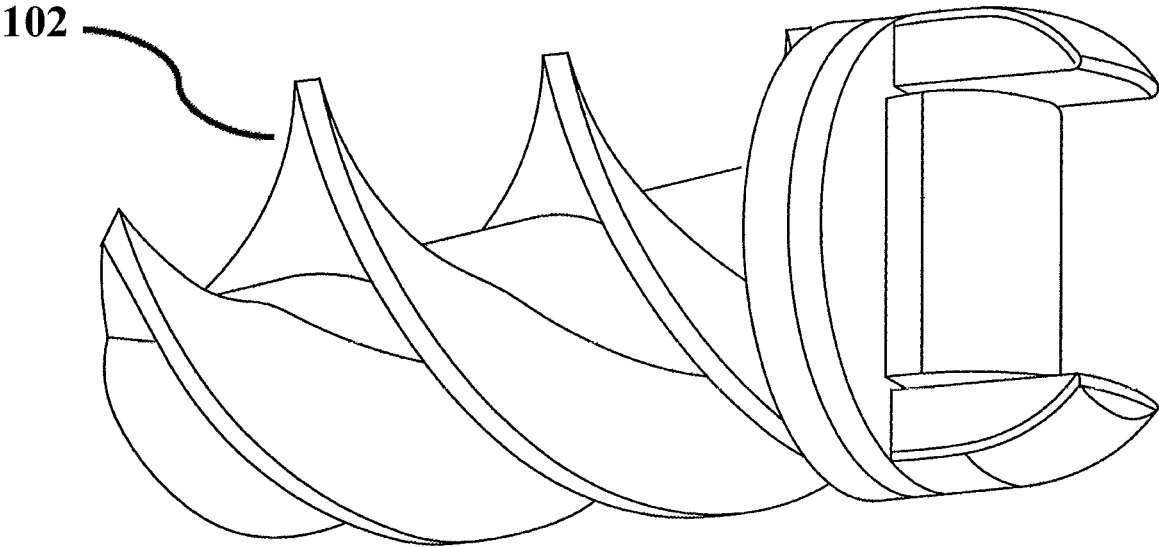
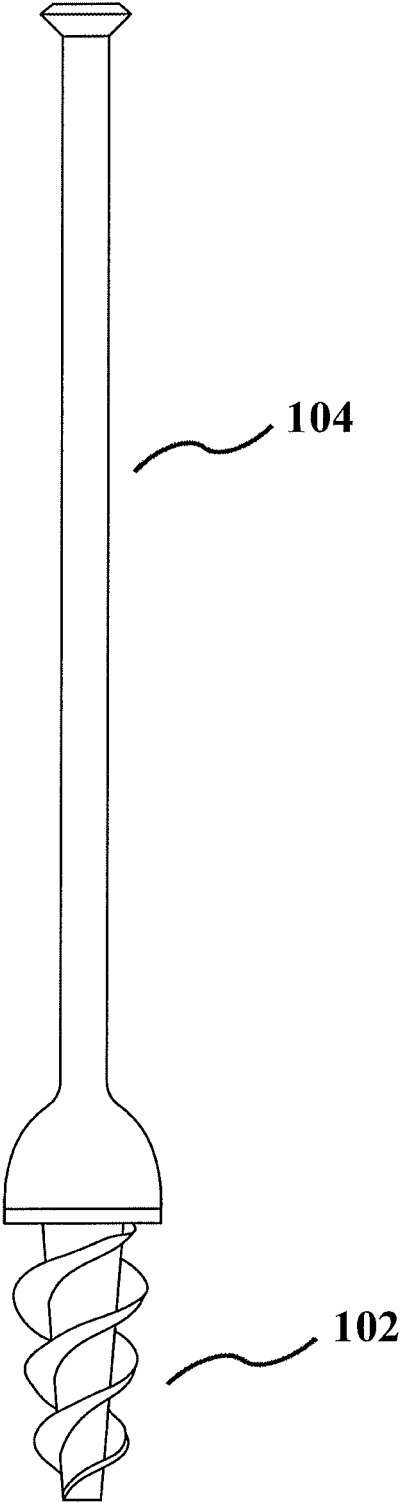
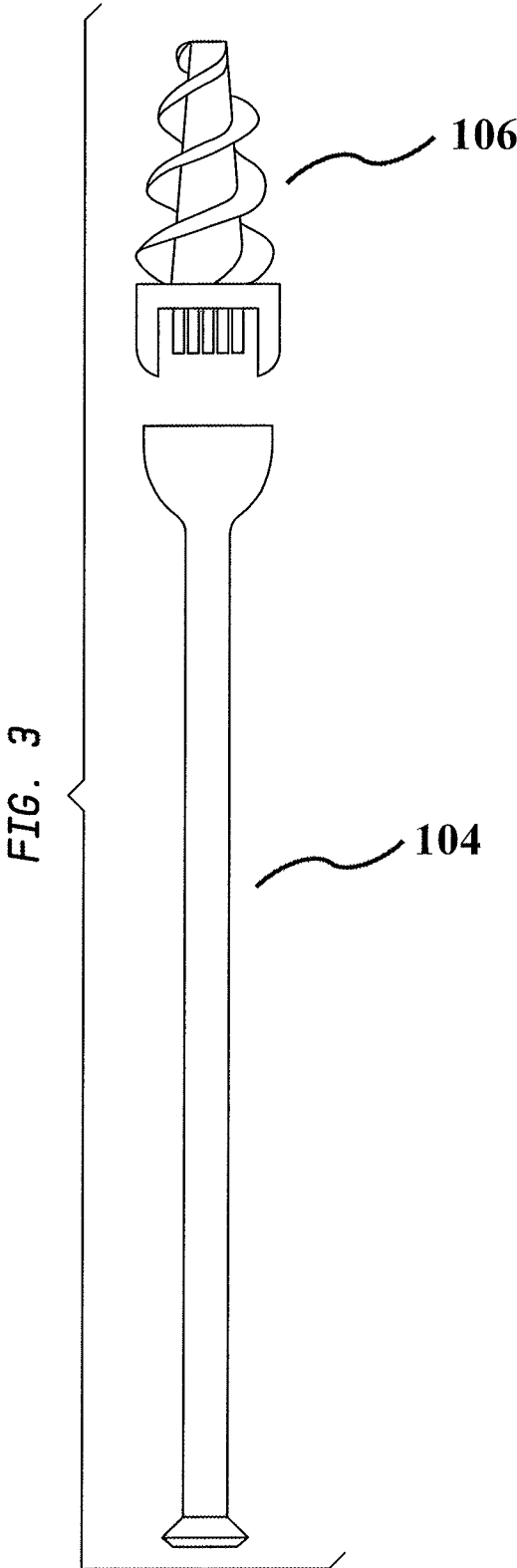


FIG. 2





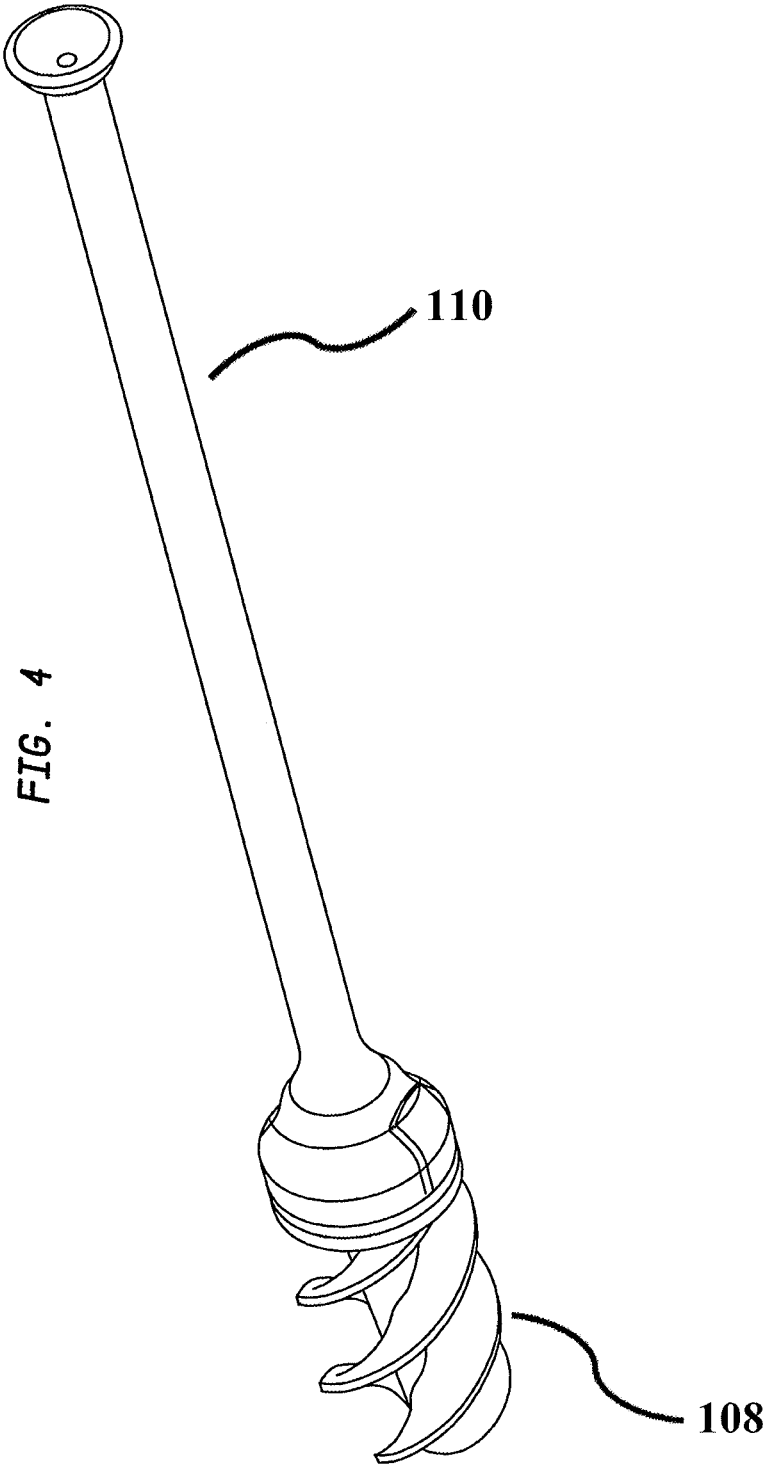


FIG. 5

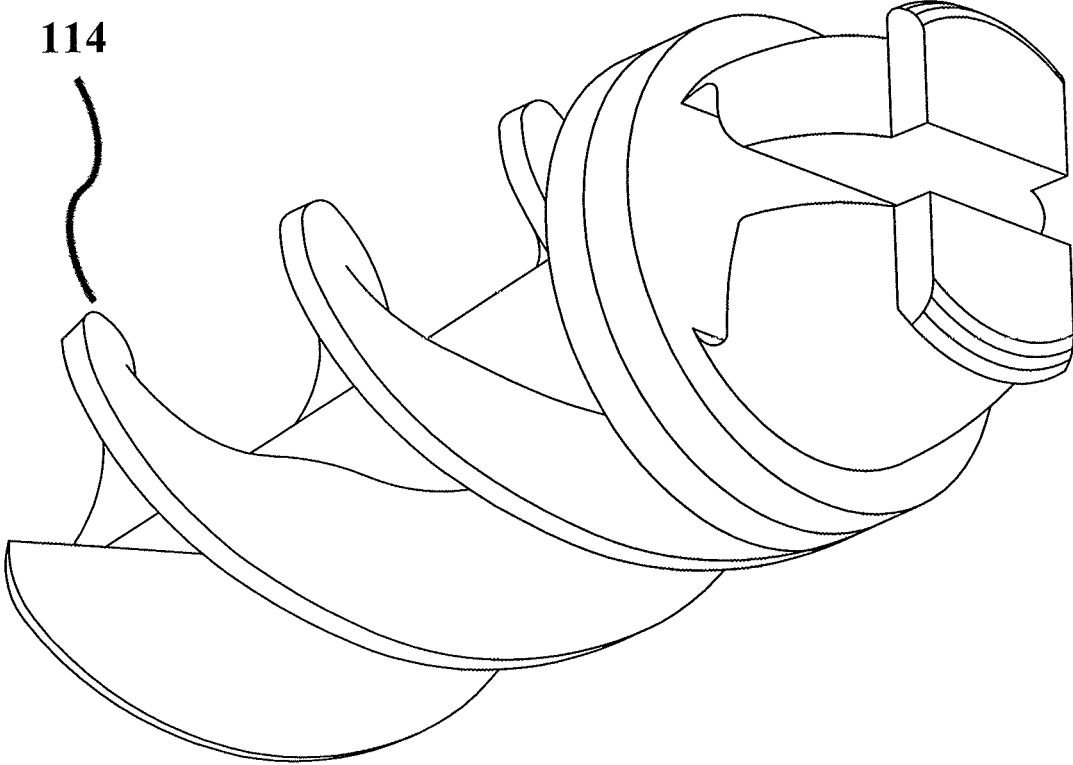
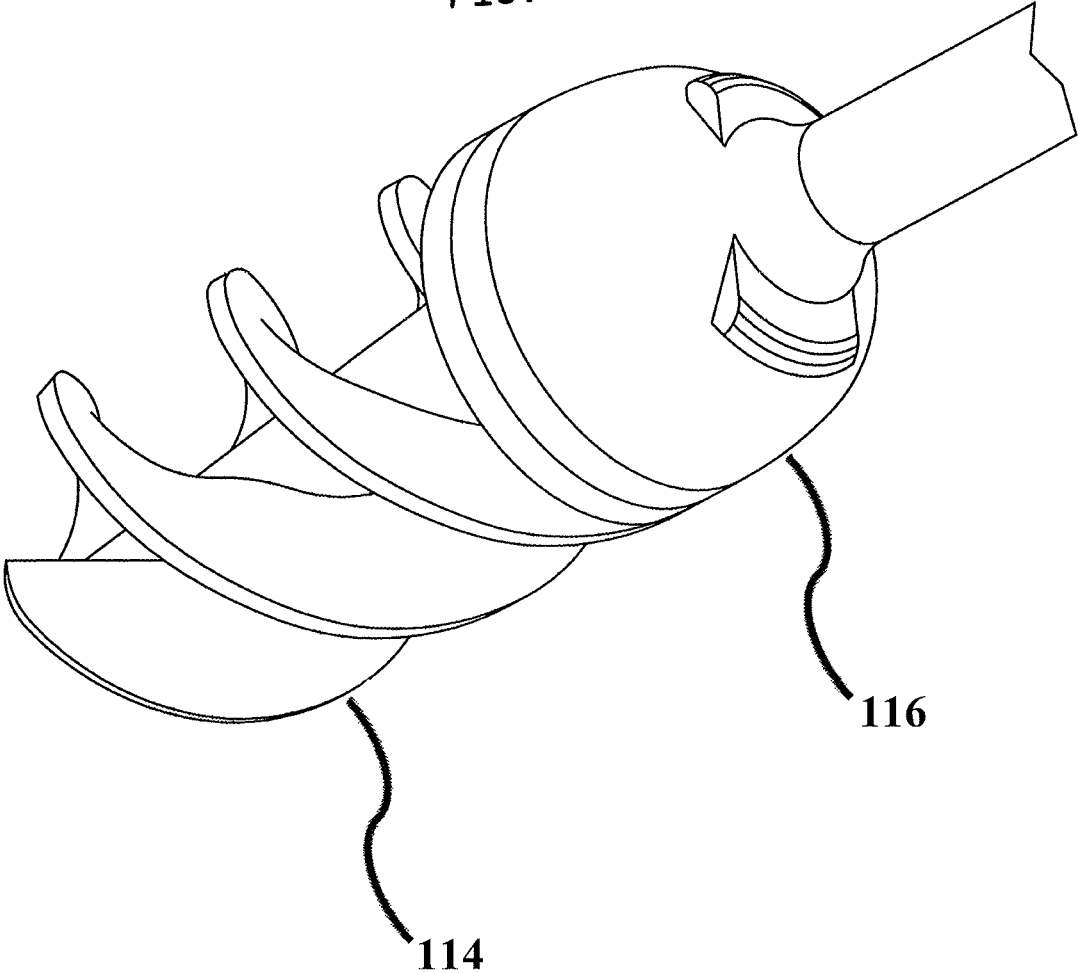


FIG. 6



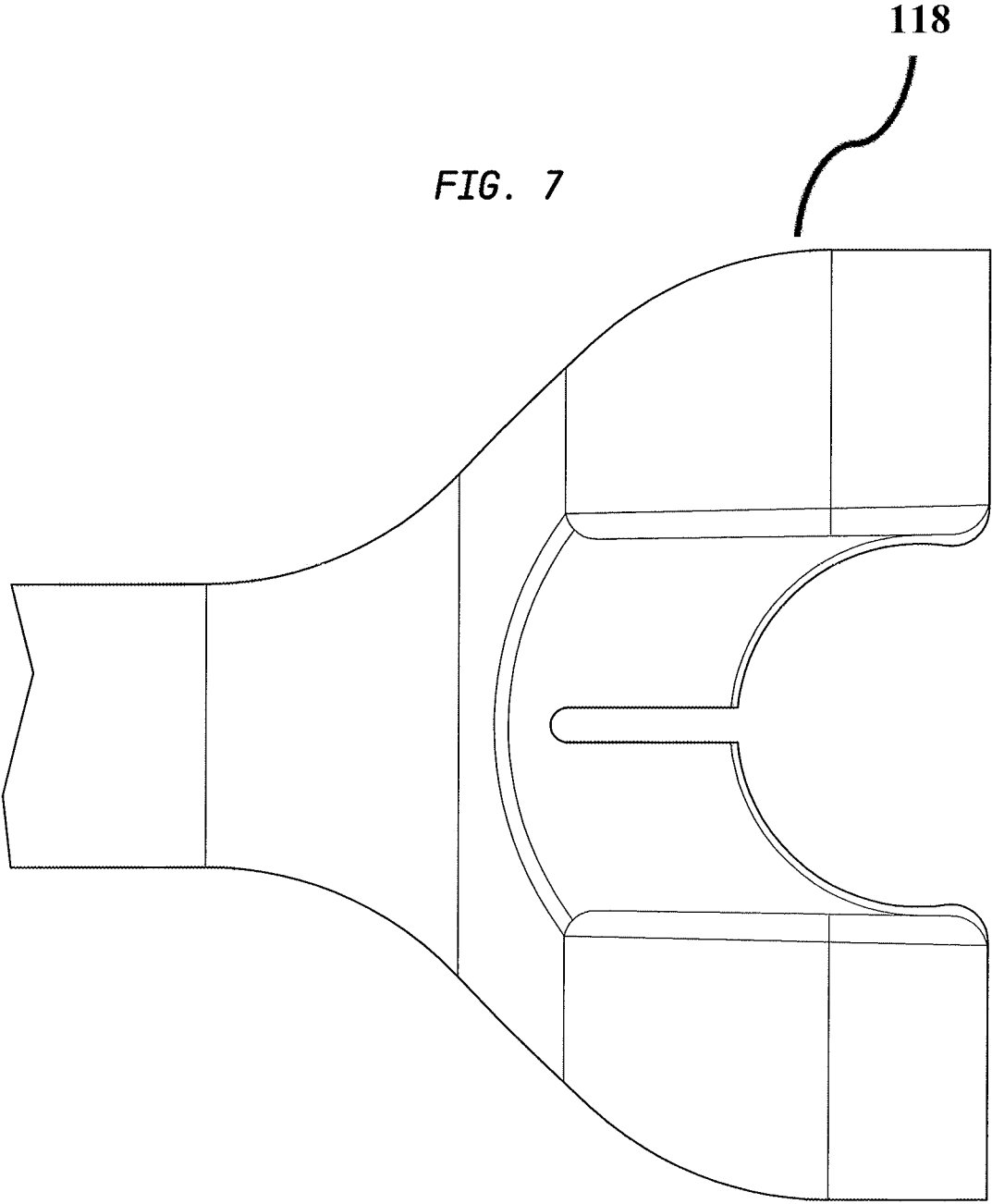
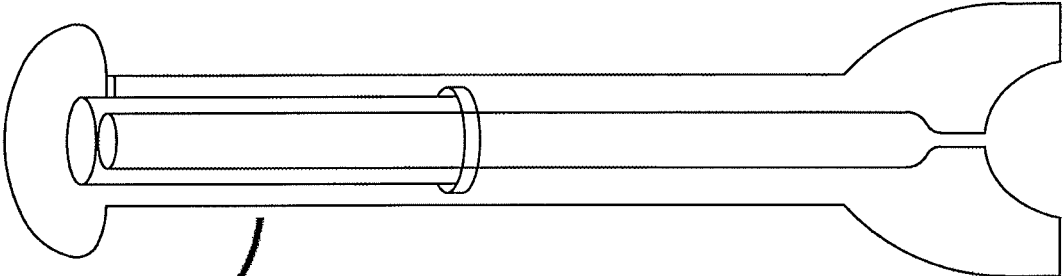
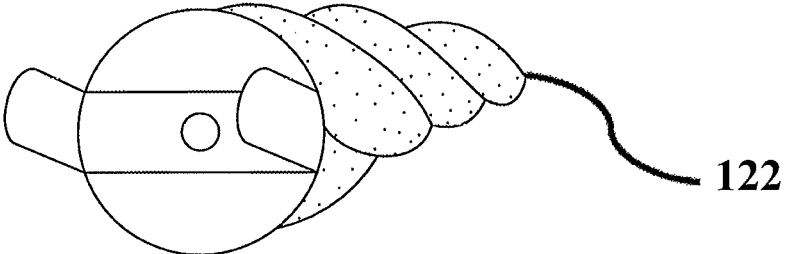


FIG. 8



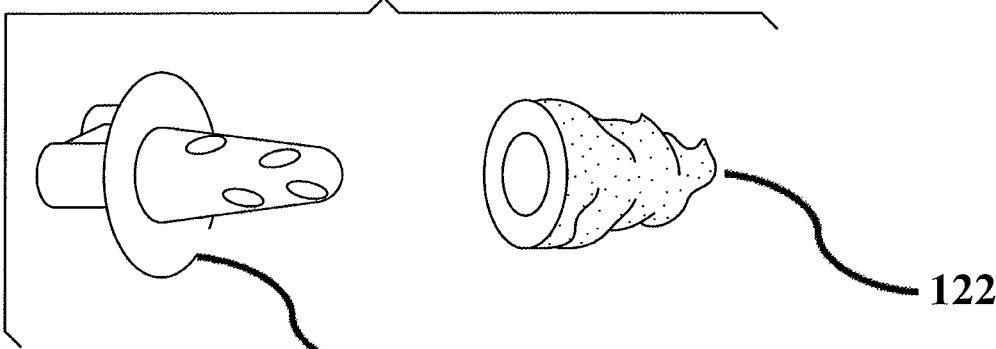
120

FIG. 9



122

FIG. 10



124

122

FIG. 11

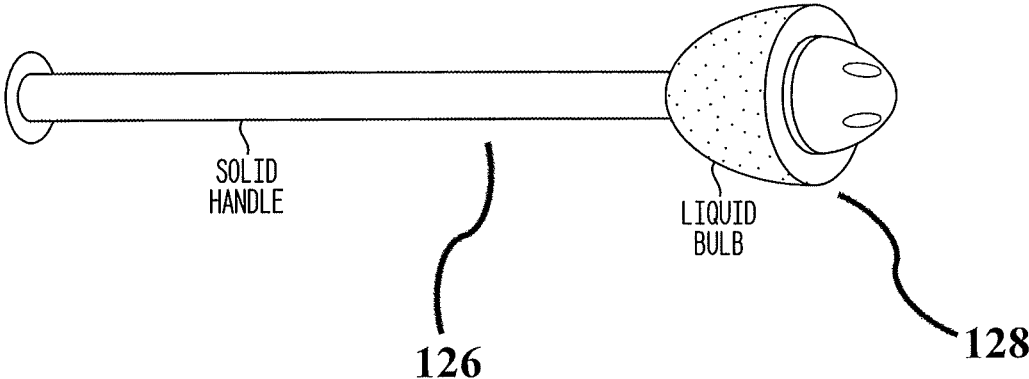
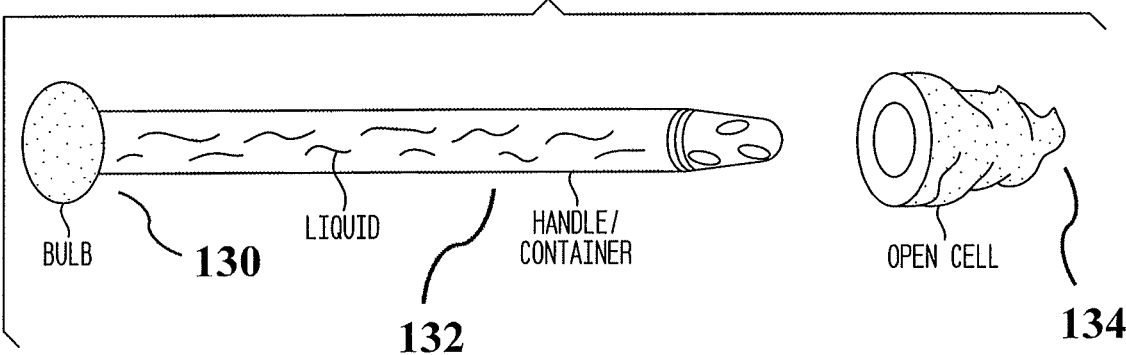
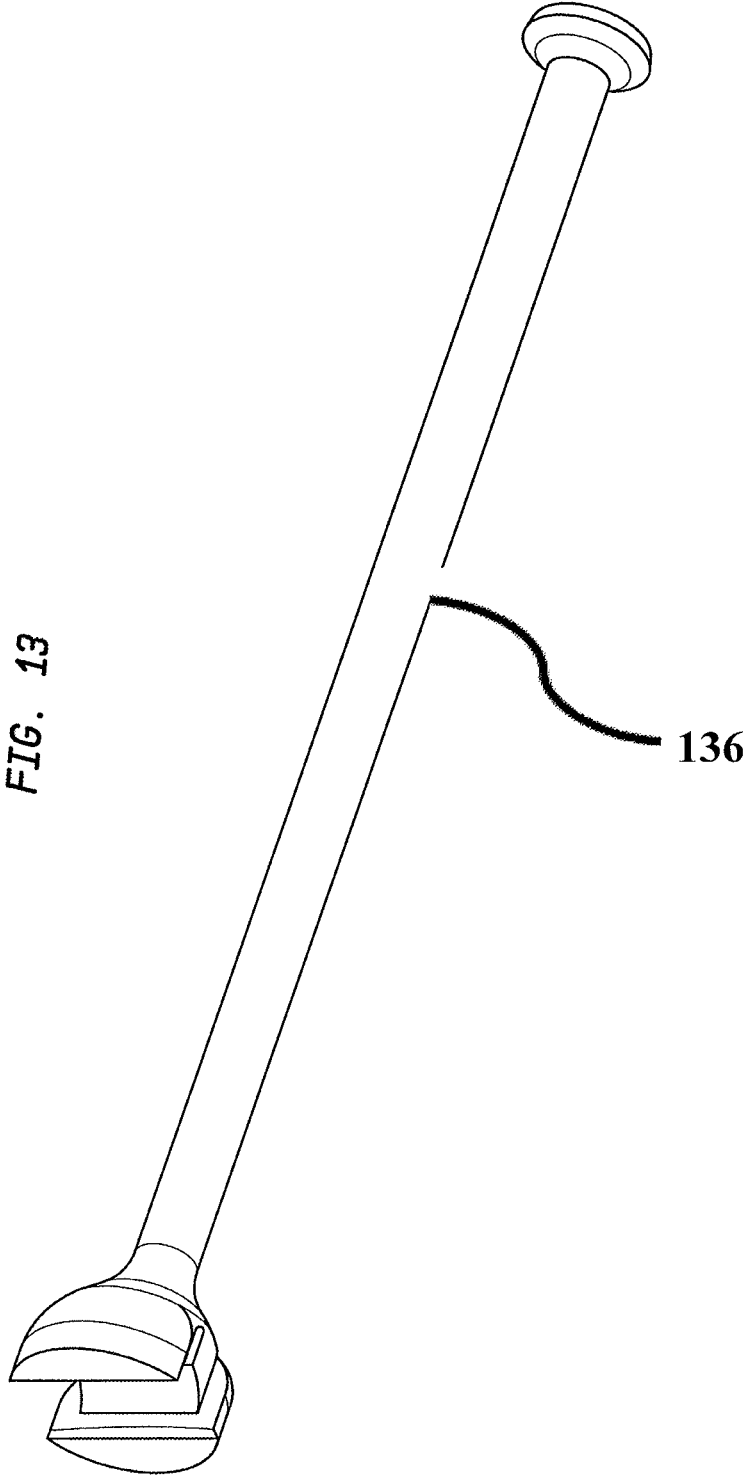


FIG. 12





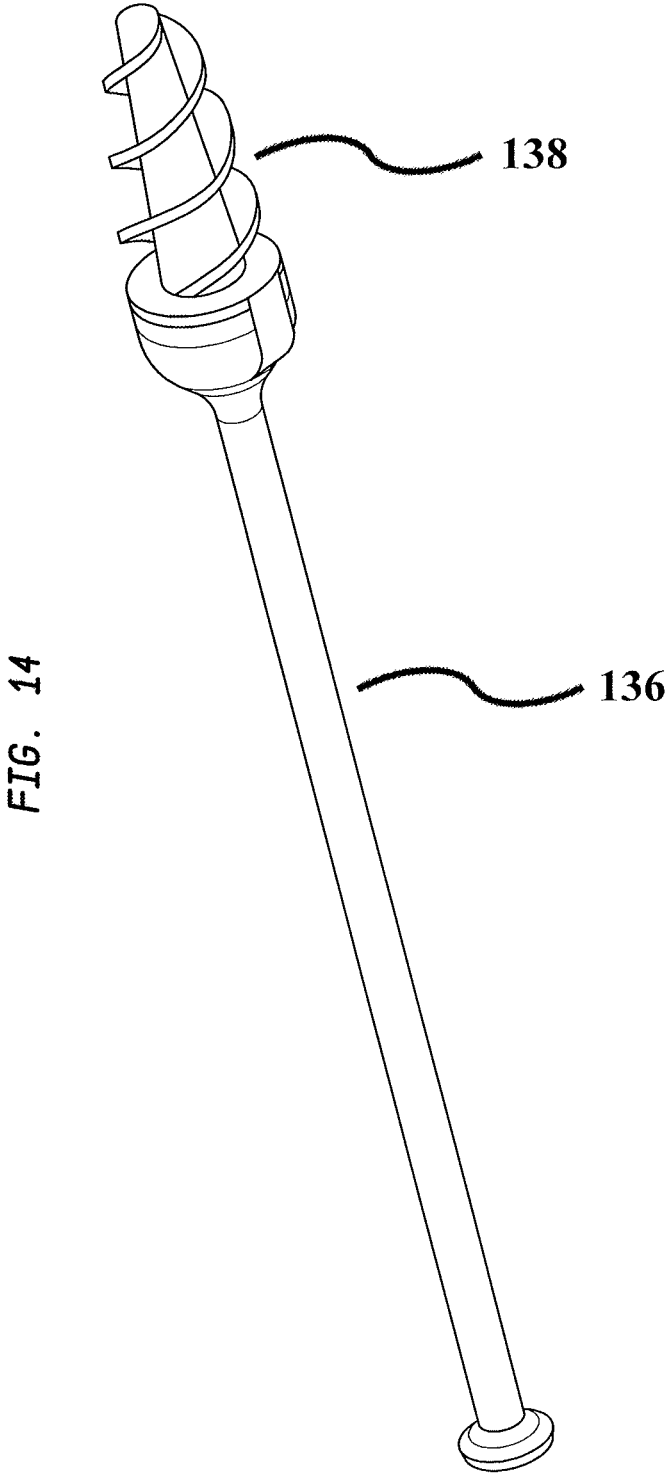


FIG. 15

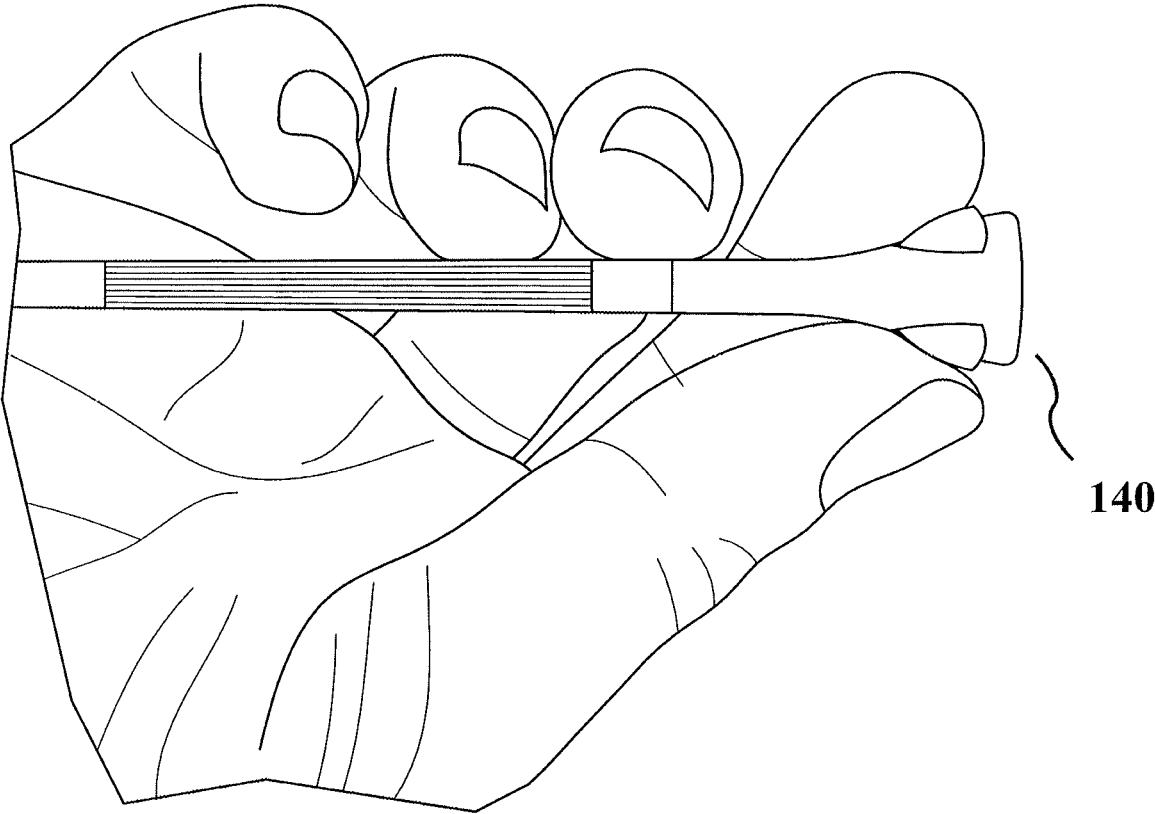


FIG. 16

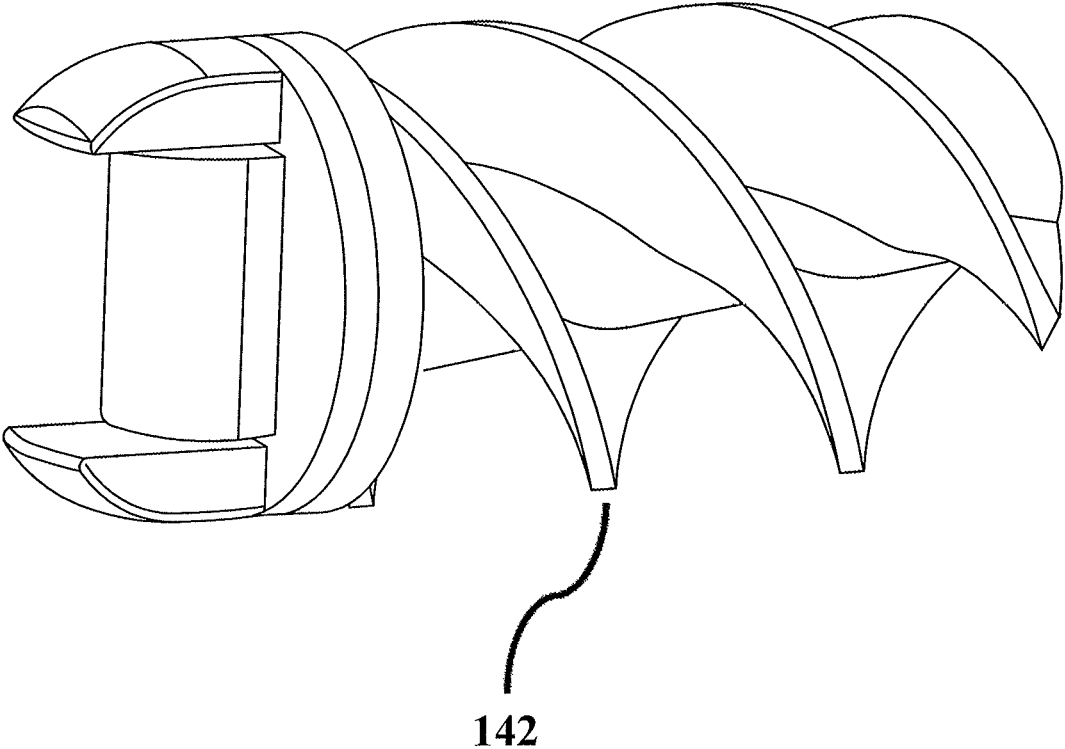
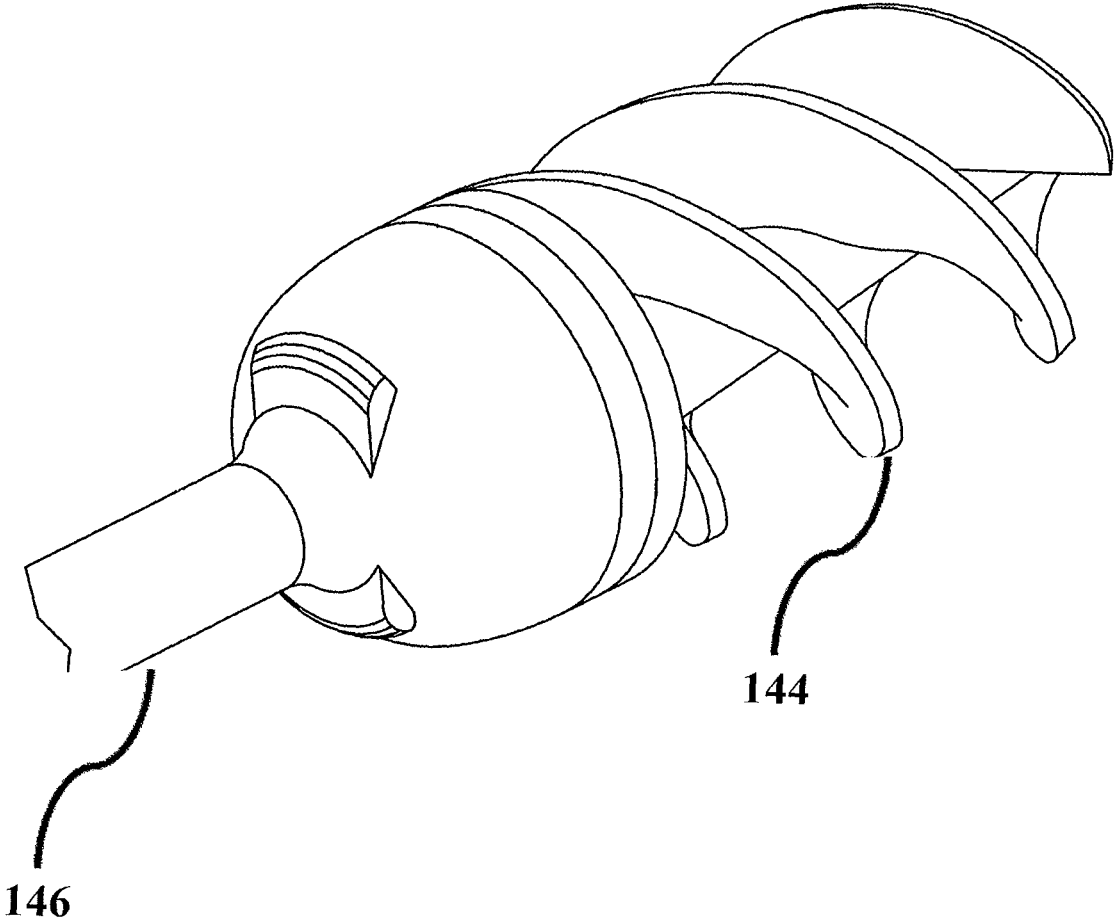


FIG. 17



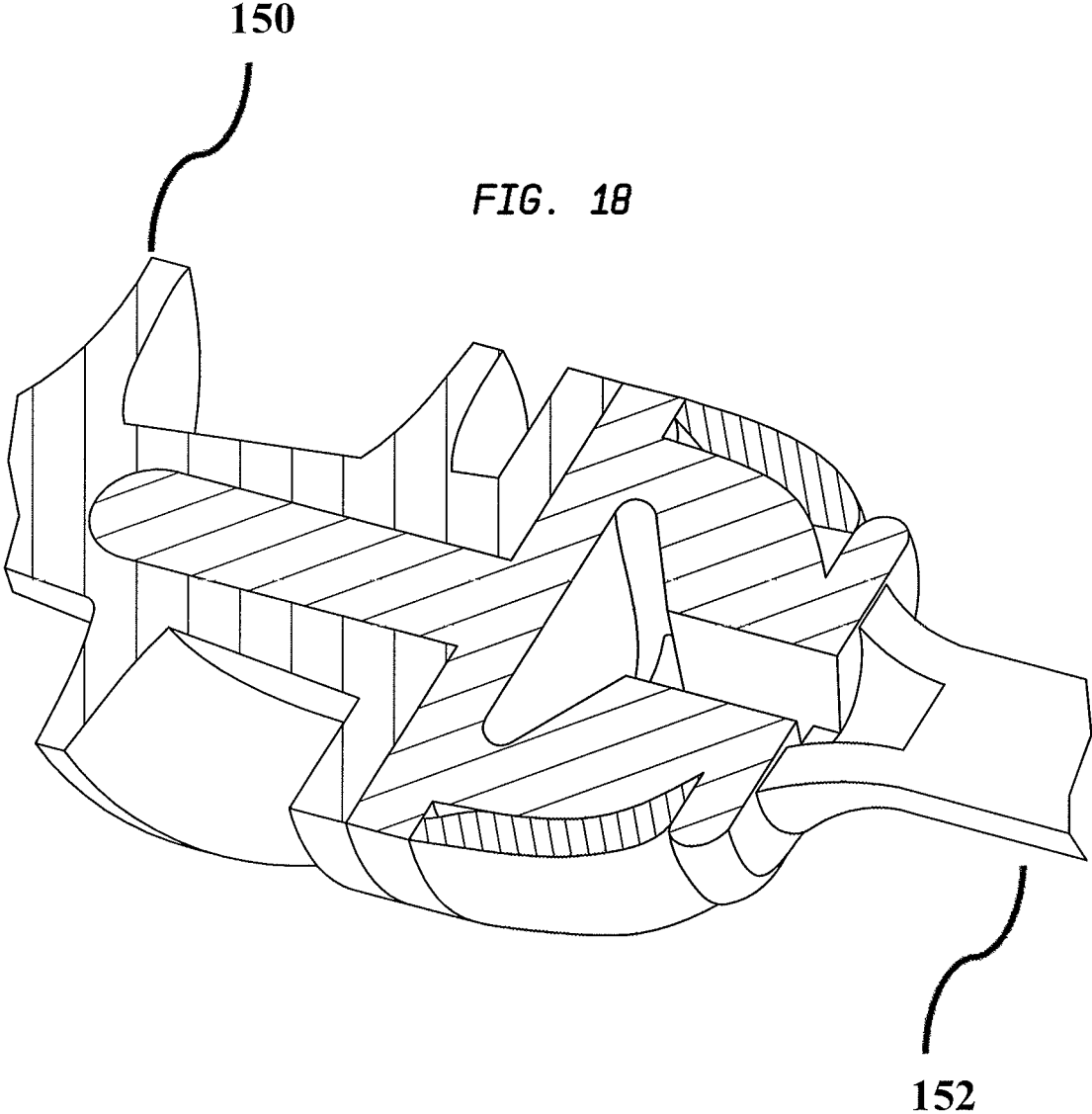


FIG. 19

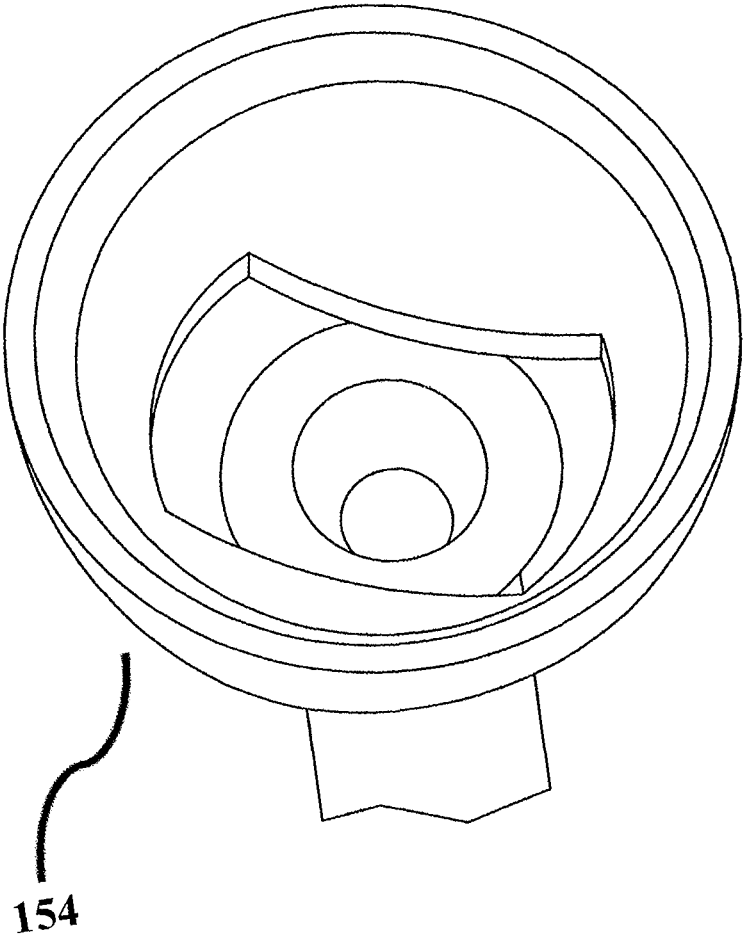


FIG. 20

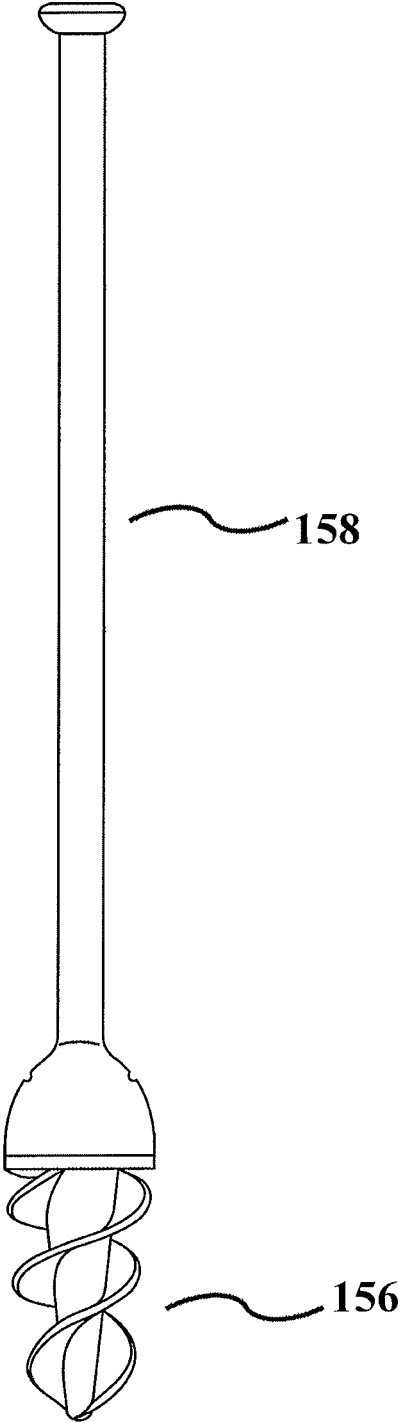


FIG. 21

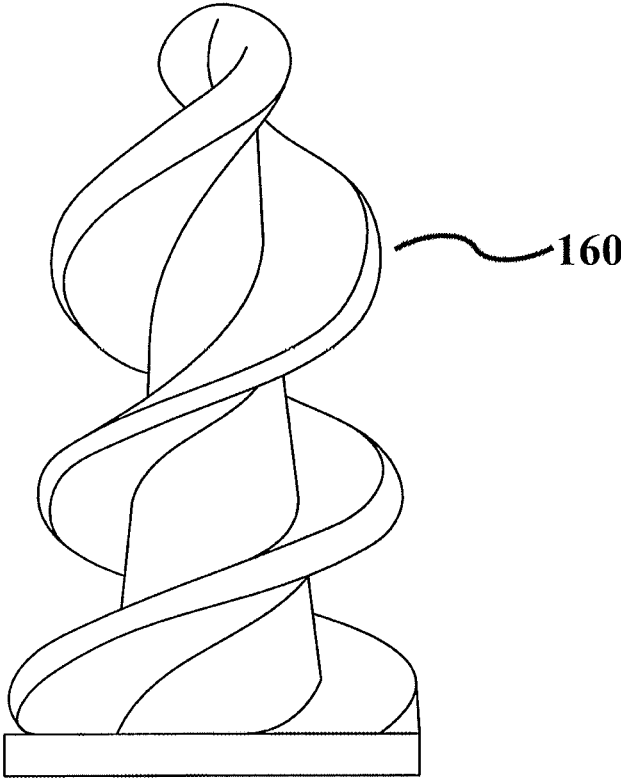


FIG. 22C

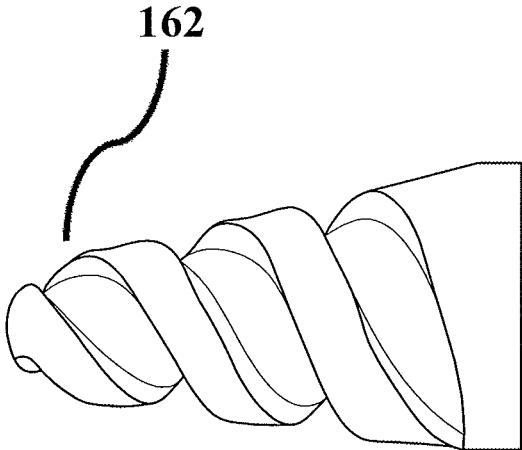


FIG. 22B

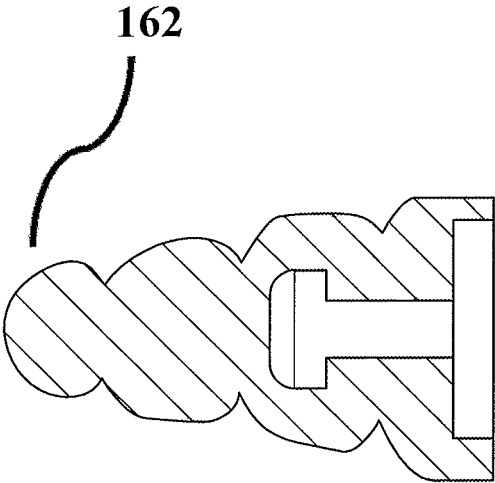


FIG. 22A

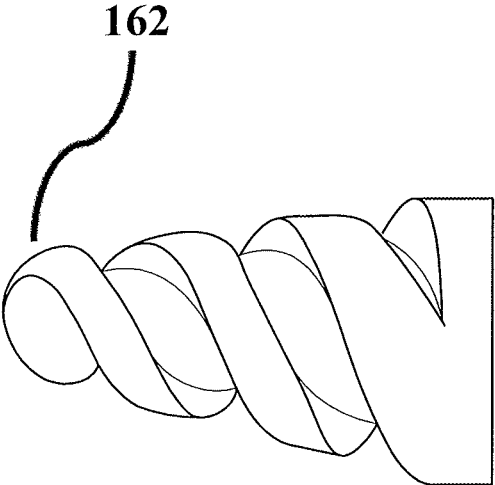


FIG. 23

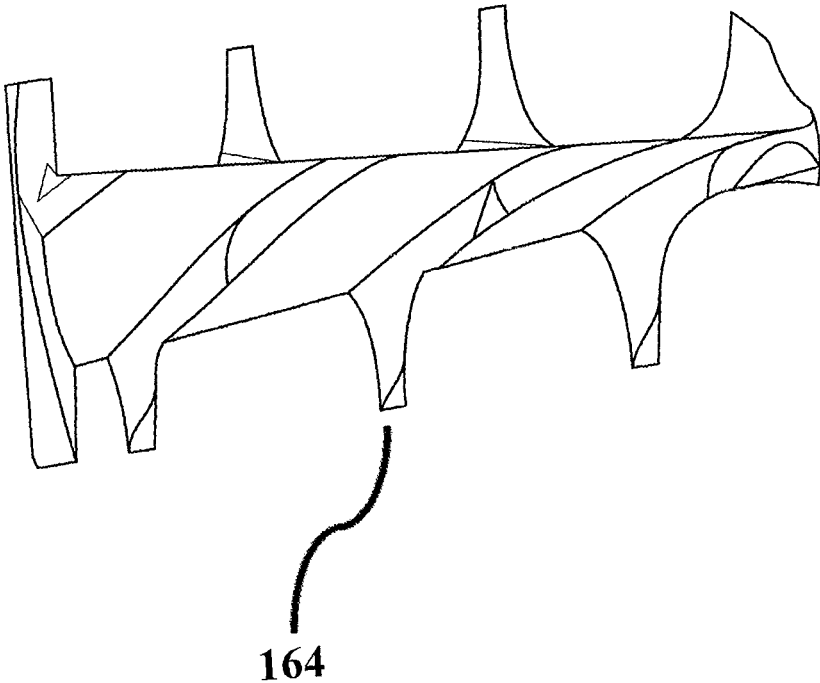


FIG. 24

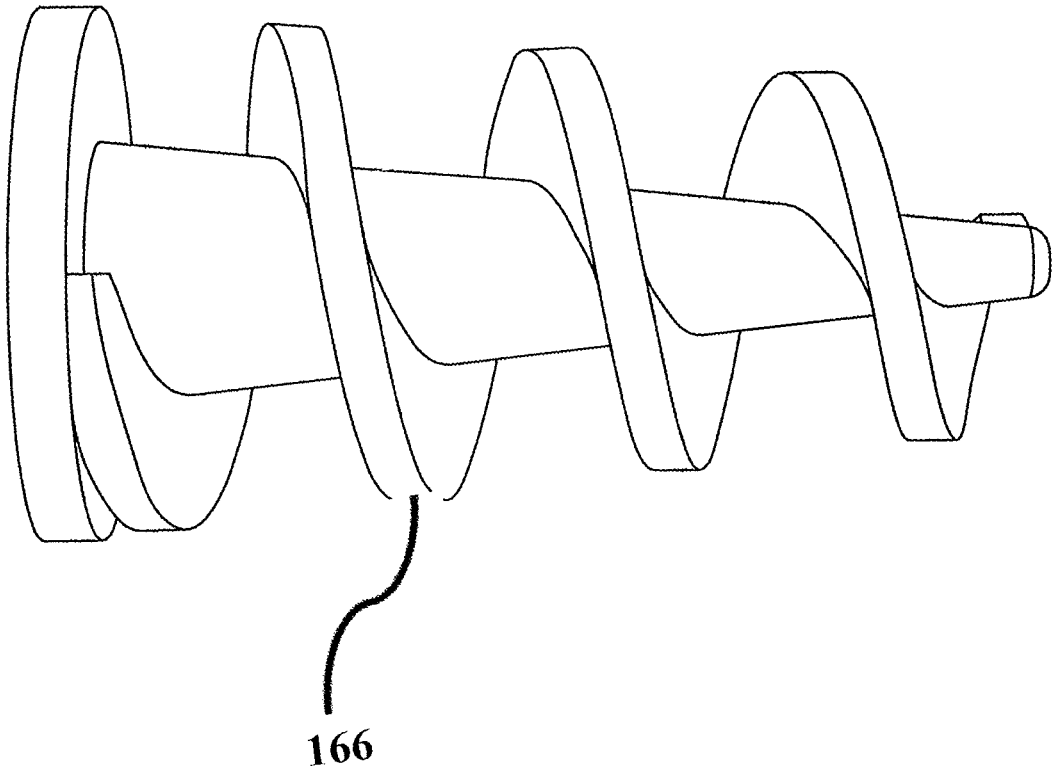


FIG. 25

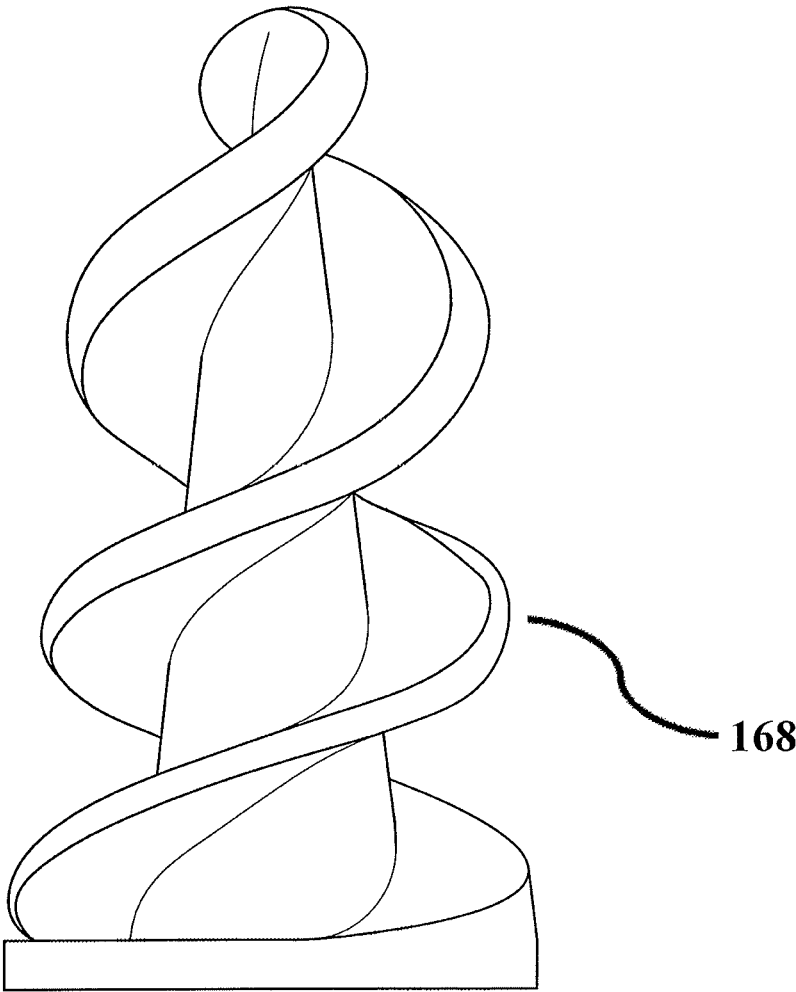


FIG. 26

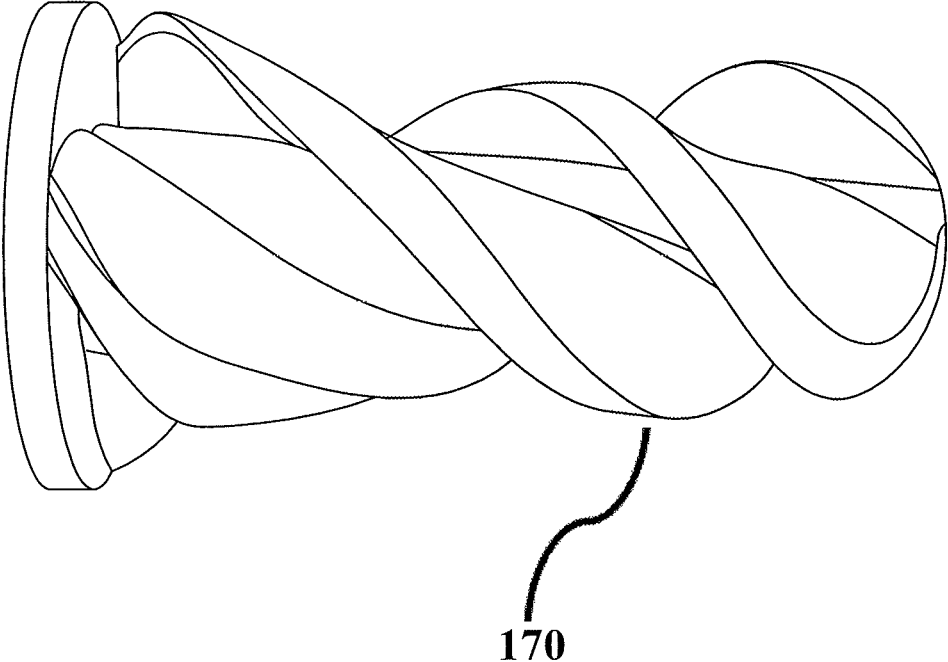


FIG. 27

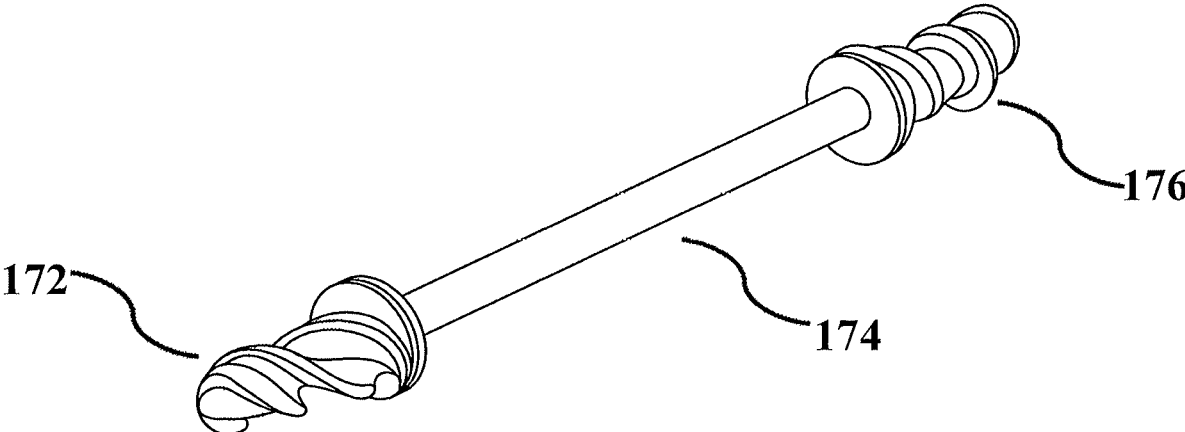


FIG. 28

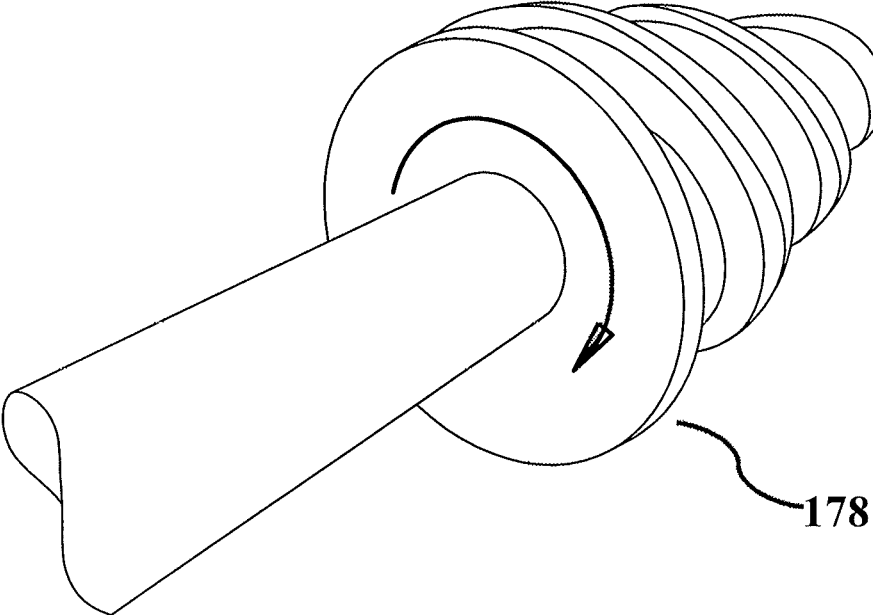


FIG. 29

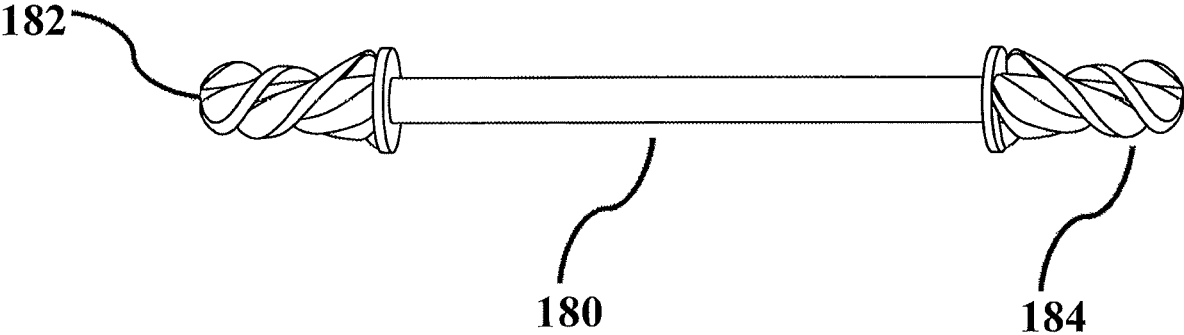


FIG. 30A

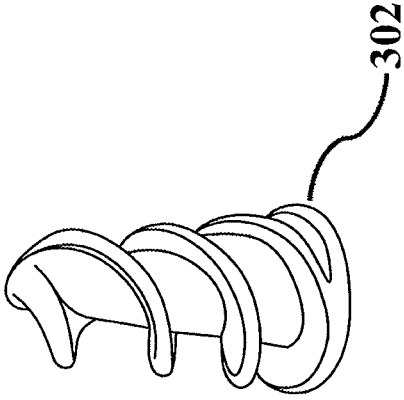


FIG. 30G

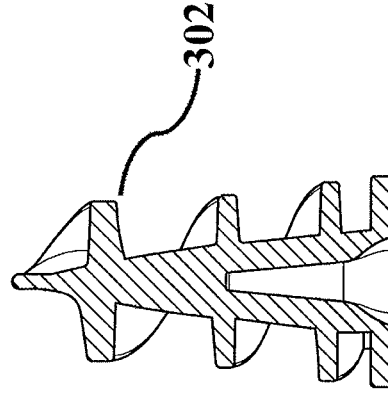


FIG. 30C

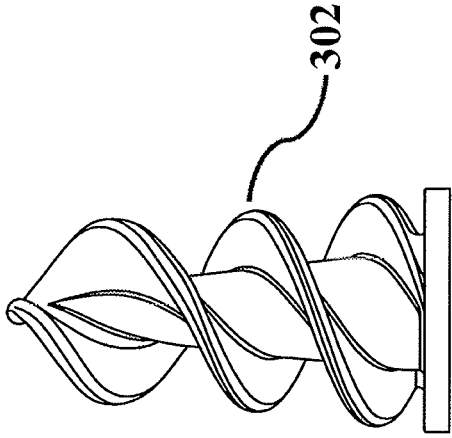


FIG. 30F

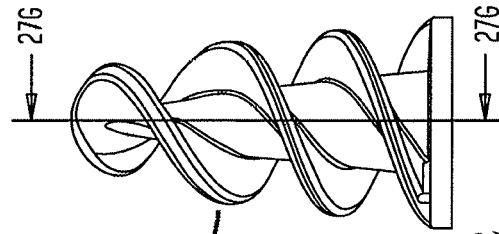


FIG. 30B

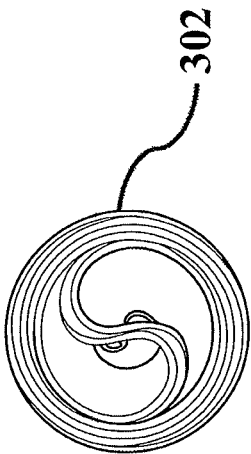


FIG. 30D

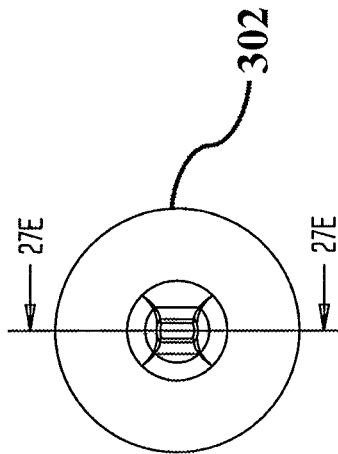


FIG. 30E

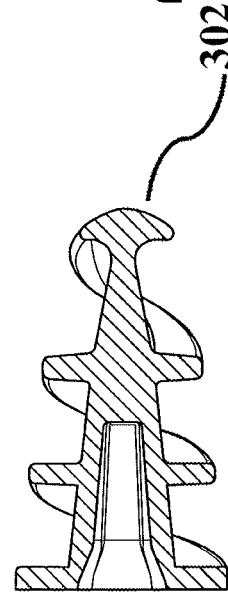


FIG. 31A

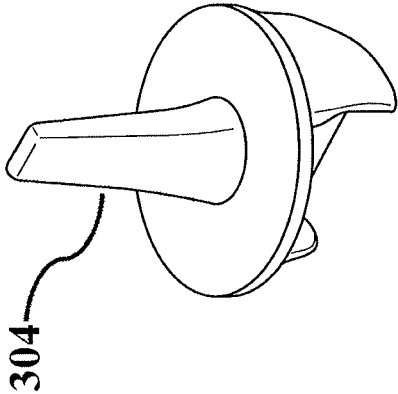


FIG. 31C

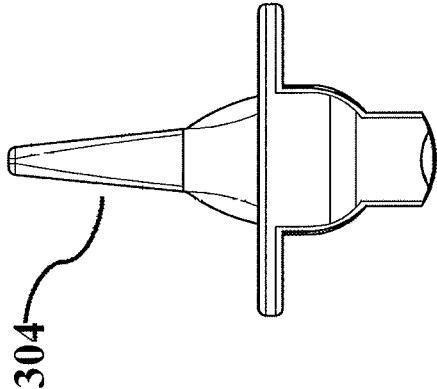


FIG. 31B

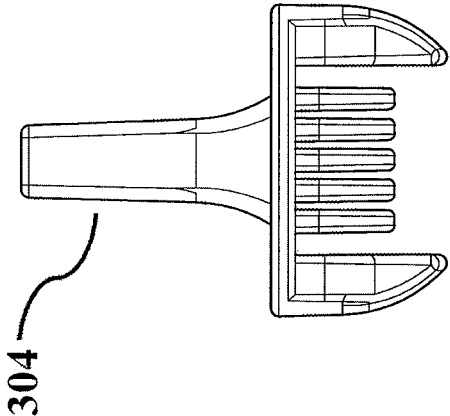


FIG. 31E

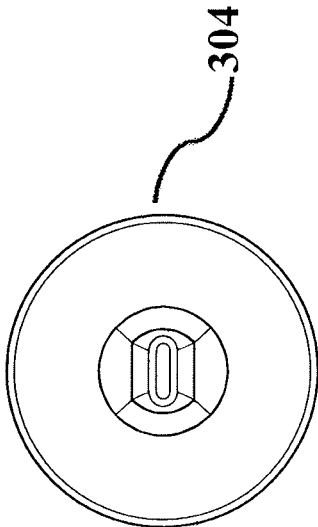


FIG. 31D

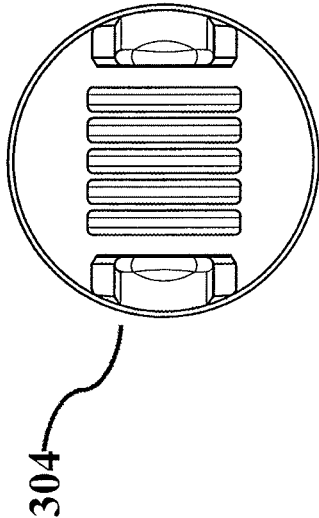


FIG. 32B

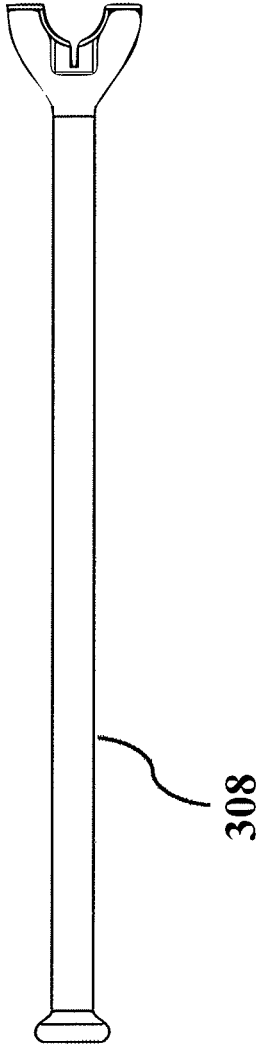


FIG. 32C

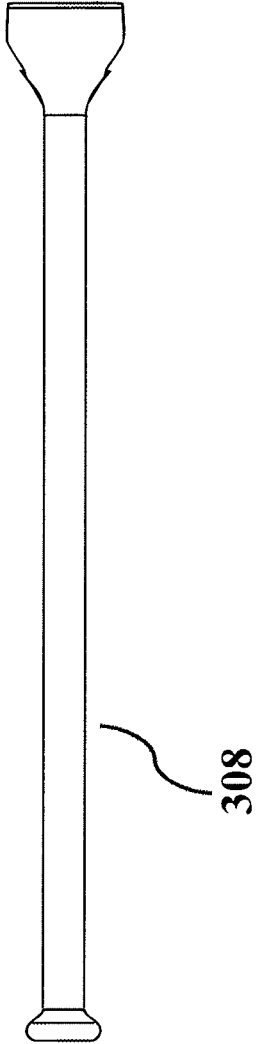


FIG. 32A

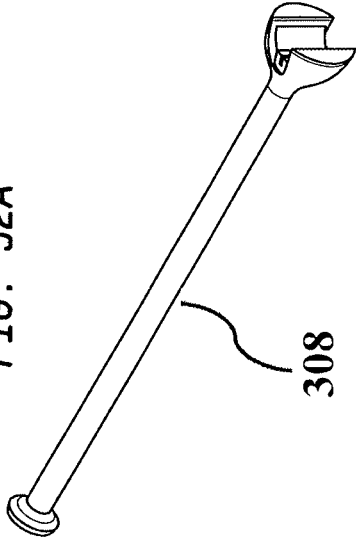


FIG. 32D

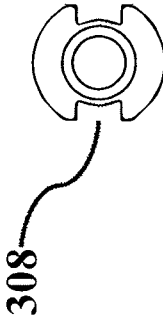
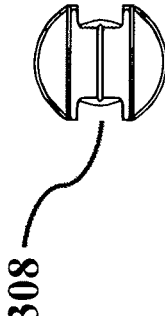
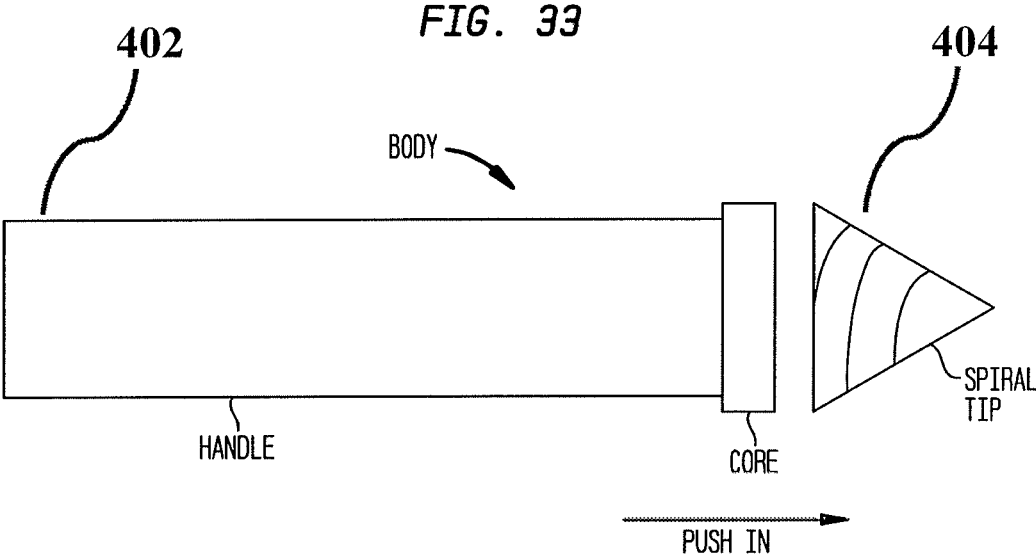


FIG. 32E





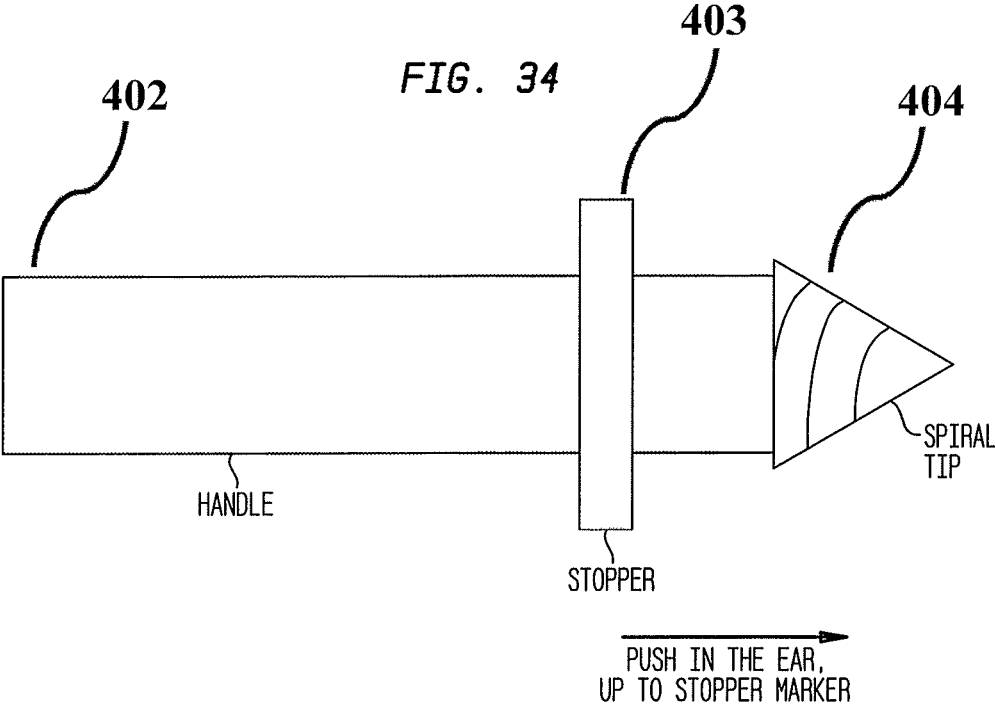


FIG. 35

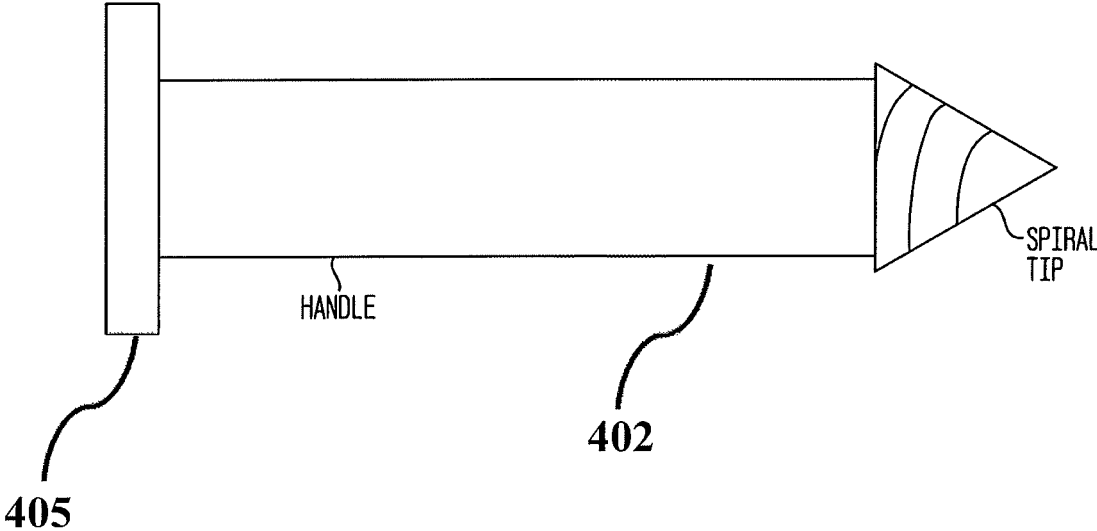


FIG. 36

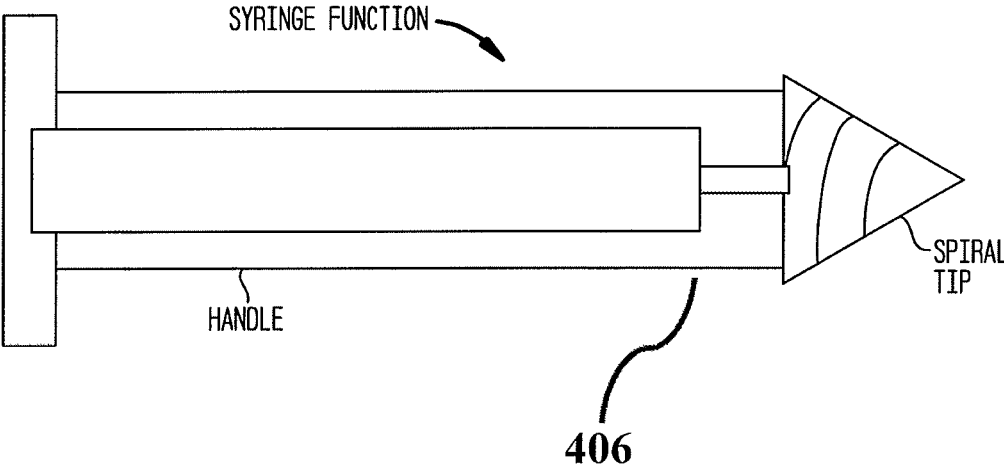


FIG. 37

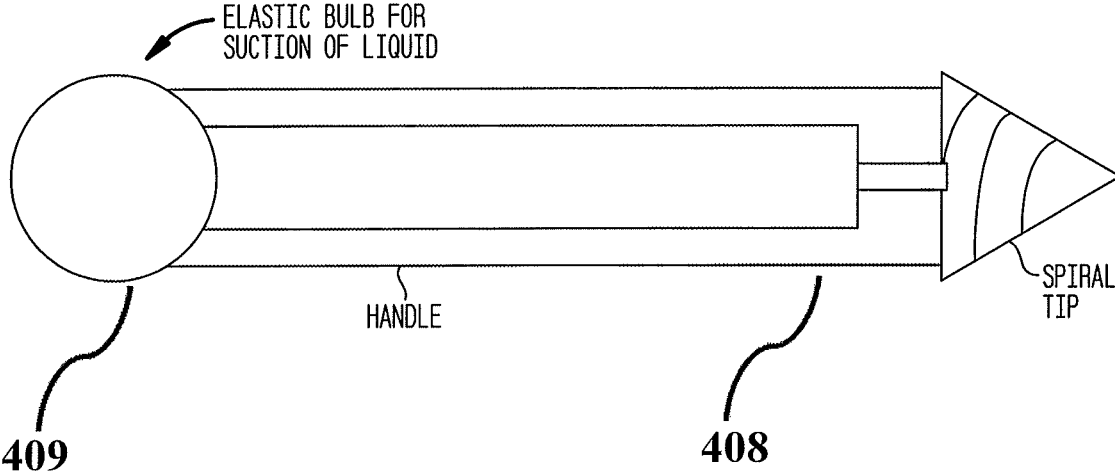


FIG. 38

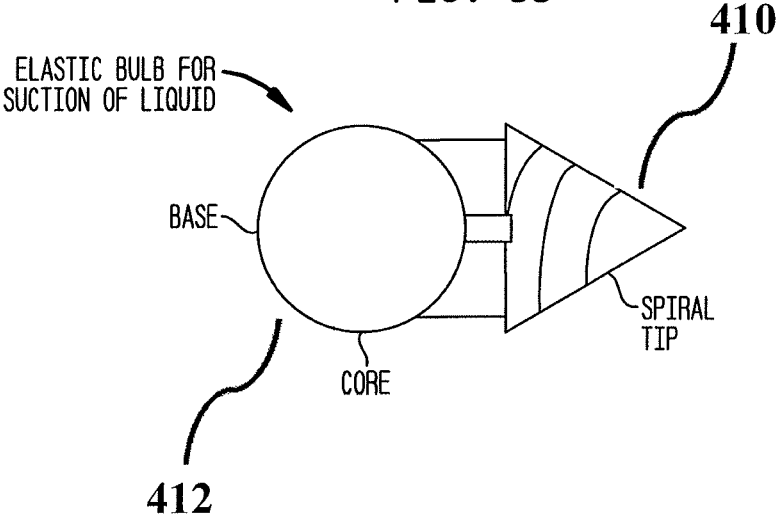
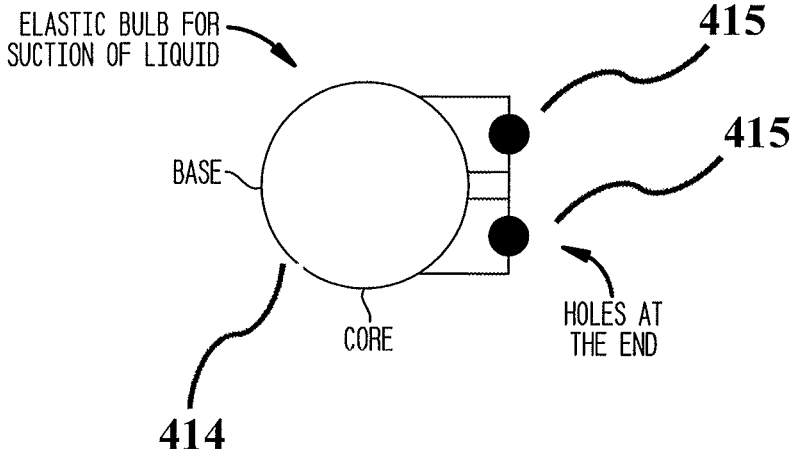


FIG. 39



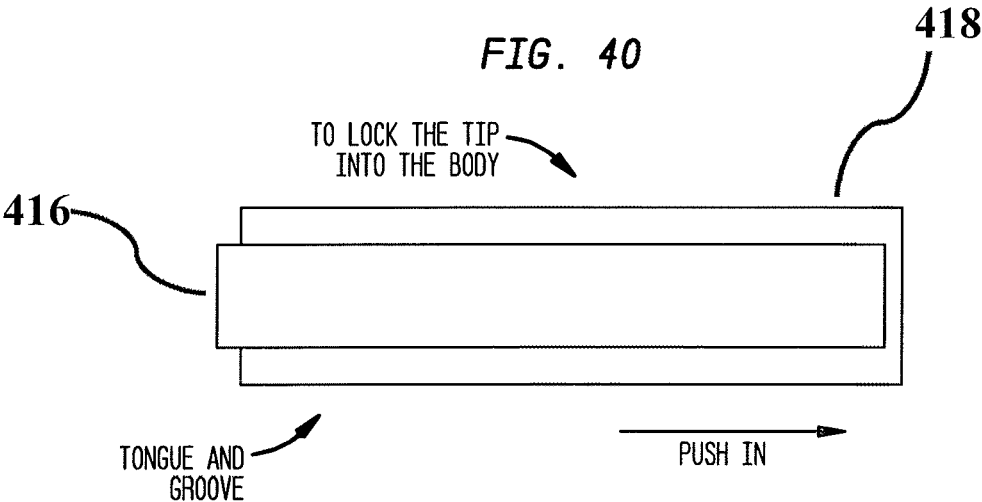


FIG. 41

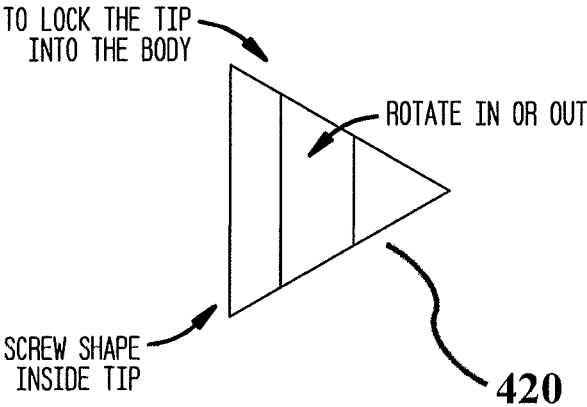


FIG. 42

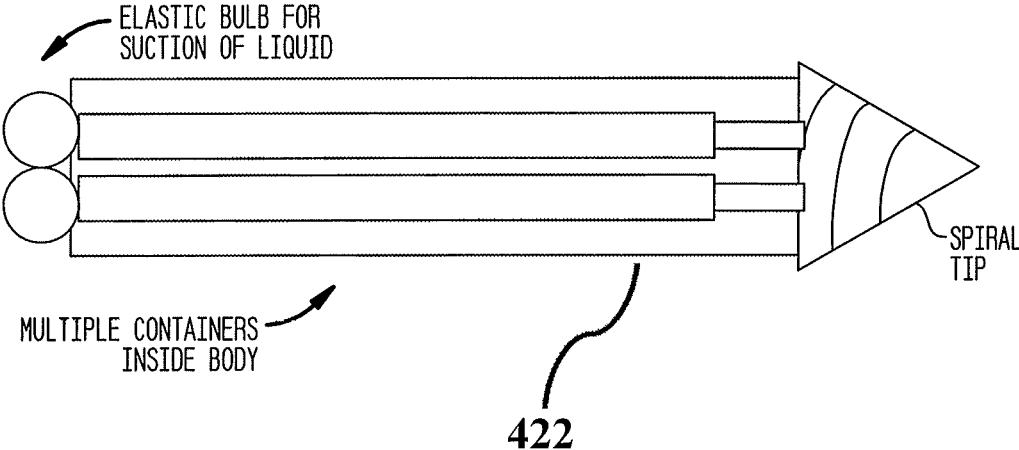


FIG. 43

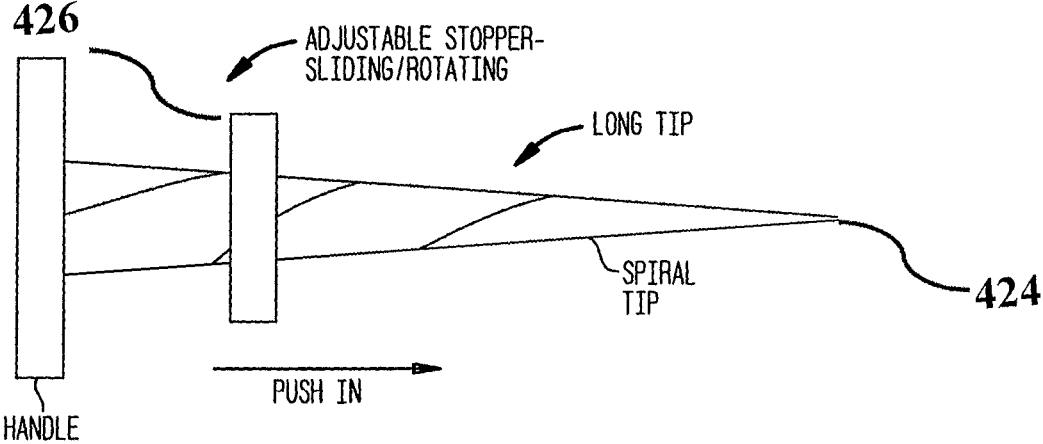


FIG. 44

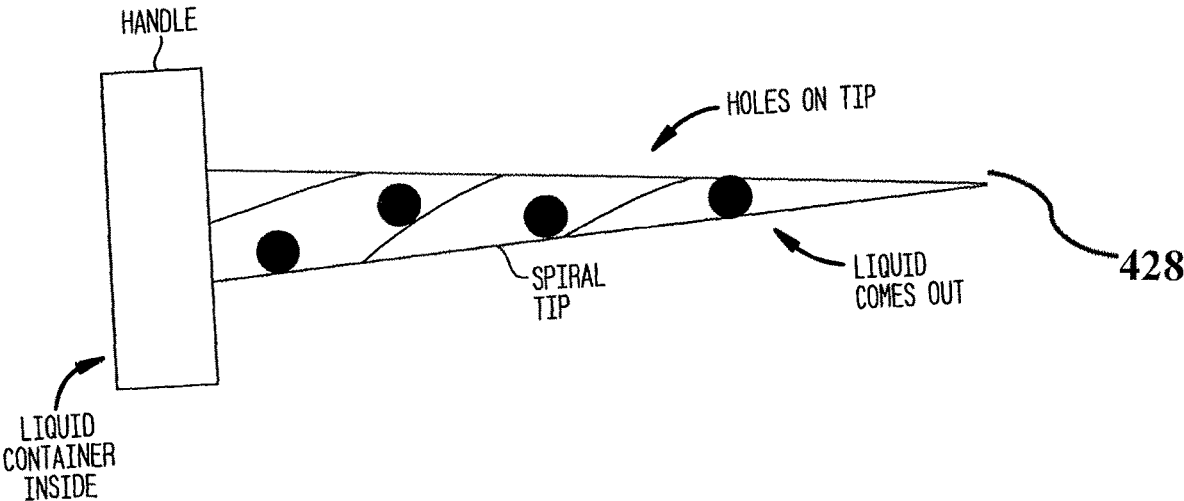
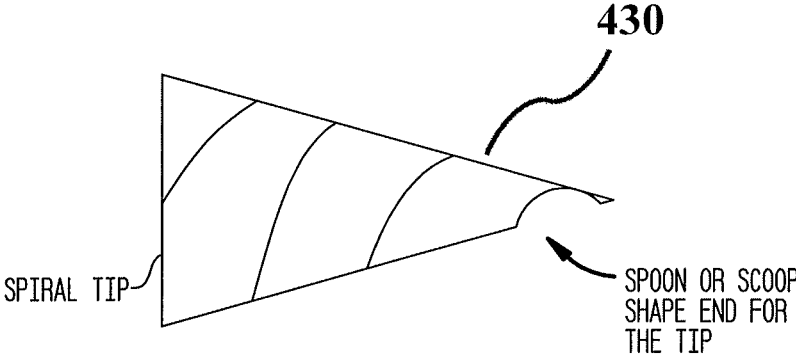


FIG. 45



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**SYSTEM AND METHOD FOR REMOVAL OF
EARWAX AND PARTICULATES**

BACKGROUND OF THE INVENTION

The ear canal in human produce cerumen, also known as “earwax”, in outer part of the ear canal. The use of audio and mobile device’s ear buds, hearing aid buds, or sound protector ear plugs can push the earwax deeper into the ear canal, in which case it can cause many complications, such as reduction of hearing, due to earwax plague in the ear canal. Cerumen Impaction (Earwax Buildup and Blockage) is a major problem for many people. Regular Q-tip or cotton swab usually push the earwax further in, blocking and possibly damaging the ear.

This invention solves this problem, by using a system to remove ear wax properly. However, the invention and embodiments described here, below, have not been addressed or presented in any prior art. For example, some other patents are: D545431 by N. Khademhosseini, PN 8,777,972 by Steven Burres (Device and method for removing earwax), 6,695,802 (Ear cleaner device), 5,982,908 (Ear wax collection device for a hearing aid), and 5,107,861 (Safe ear clean button and protection with attachment device).

SUMMARY OF THE INVENTION

In one embodiment, we describe a method and a device for cleaning the ear canal of cerumen contaminants, dust, and particulates. That includes a handle and replaceable tips, a combination of a flared design and solid base plate attached to the bottom of the tips, limiting the excessive insertion of the tip into the deep area of ear canal that could contact eardrum, which can seriously damage the eardrum and hearing capabilities.

The handle has a slot in the front in which a tip can snap into, and as the whole system is secured together, the user can operate the system by spinning the handle, using fingers, in a clockwise direction, as the user proceeds to insert the tip in the ear canal. The handle also can be made, as a new design for syringe, to hold and dispense liquid that may facilitate the ear cleansing in different type of ear with different earwax condition.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is for one embodiment, as an example, for tip.
 FIG. 2 is for one embodiment, as an example, for handle and tip.
 FIG. 3 is for one embodiment, as an example, for handle and tip.
 FIG. 4 is for one embodiment, as an example, for handle and tip.
 FIG. 5 is for one embodiment, as an example, for tip.
 FIG. 6 is for one embodiment, as an example, for tip and handle.
 FIG. 7 is for one embodiment, as an example, for handle.
 FIG. 8 is for one embodiment, as an example, for handle.
 FIG. 9 is for one embodiment, as an example, for tip
 FIG. 10 is for one embodiment, as an example, for tip.
 FIG. 11 is for one embodiment, as an example, for handle and liquid bulb.
 FIG. 12 is for one embodiment, as an example, for handle and tip.
 FIG. 13 is for one embodiment, as an example, for handle.
 FIG. 14 is for one embodiment, as an example, for handle and tip.

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FIG. 15 is for one embodiment, as an example, for handle.
 FIG. 16 is for one embodiment, as an example, for tip.
 FIG. 17 is for one embodiment, as an example, for handle and tip.
 FIG. 18 is for one embodiment, as an example, for tip.
 FIG. 19 is for one embodiment, as an example, for handle.
 FIG. 20 is for one embodiment, as an example, for handle and tip.
 FIG. 21 is for one embodiment, as an example, for tip.
 FIG. 22A is for one embodiment, as an example, for tip.
 FIG. 22B is for one embodiment, as an example, for tip.
 FIG. 22C is for one embodiment, as an example, for tip.
 FIG. 23 is for one embodiment, as an example for tip.
 FIG. 24 is for one embodiment, as an example, for tip.
 FIG. 25 is for one embodiment, as an example, for tip.
 FIG. 26 is for one embodiment, as an example, for tip.
 FIG. 27 is for one embodiment, as an example, for handle and tip.
 FIG. 28 is for one embodiment, as an example, for handle and tip.
 FIG. 29 is for one embodiment, as an example, for handle and tip.
 FIG. 30A is for one embodiment, as an example, for tip.
 FIG. 30B is for one embodiment, as an example, for tip.
 FIG. 30C is for one embodiment, as an example, for tip.
 FIG. 30D is for one embodiment, as an example, for tip.
 FIG. 30E is for one embodiment, as an example, for tip.
 FIG. 30F is for one embodiment, as an example, for tip.
 FIG. 30G is for one embodiment, as an example, for tip.
 FIG. 31A is for one embodiment, as an example, for tip.
 FIG. 31B is for one embodiment, as an example, for tip.
 FIG. 31C is for one embodiment, as an example, for tip.
 FIG. 31D is for one embodiment, as an example, for tip.
 FIG. 31E is for one embodiment, as an example, for tip.
 FIG. 32A is for one embodiment, as an example, for handle.
 FIG. 32B is for one embodiment, as an example, for handle.
 FIG. 32C is for one embodiment, as an example, for handle.
 FIG. 32D is for one embodiment, as an example, for handle.
 FIG. 32E is for one embodiment, as an example, for handle.
 FIG. 33 is for one embodiment, as an example, for handle and tip.
 FIG. 34 is for one embodiment, as an example, for handle and tip, with stopper.
 FIG. 35 is for one embodiment, as an example, for handle with extra grip place.
 FIG. 36 is for one embodiment, as an example, for handle with syringe function.
 FIG. 37 is for one embodiment, as an example, for handle with elastic bulb for suction.
 FIG. 38 is for one embodiment, as an example, for core/base and tip.
 FIG. 39 is for one embodiment, as an example, for base with holes.
 FIG. 40 is for one embodiment, as an example, for tongue and groove to lock the tip into the body, as one piece.
 FIG. 41 is for one embodiment, as an example, for screw action inside the tip, to lock into the body.
 FIG. 42 is for one embodiment, as an example, for multiple containers (2 or more) inside body or handle.
 FIG. 43 is for one embodiment, as an example, for long tip with stopper.

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FIG. 44 is for one embodiment, as an example, for tip with holes.

FIG. 45 is for one embodiment, as an example, for tip with the end acting as spoon or scoop, with curved wide area or surface.

DETAILED DESCRIPTION OF THE
PREFERRED EMBODIMENTS

The invention enables a user to perform a proper ear cleaning at home and without the need of visiting a doctor for ear cleaning. One embodiment features a flared design, combined with solid plate at the tip base, limiting penetration into ear canal, therefore, preventing it from reaching to eardrum, to prevent injury.

One embodiment features:

Soft spirally finned tip that excavate and exfoliate earwax and articulates outward, and prevent pushing it further. A handle locking system, specifically designed to:

- i. snap into the back of the tip, to work as a system for spinning the spiral tip.
- ii. It comprises of locking tabs that can be pushed forward by the user (after use) to snap off the tip, to facilitate disposal of the used tip, without the need of touching them, for cleanliness and better hygiene.

iii. Handle adapted to be grabbed by hand, and it can be made in two different categories for two separate methods of use:

1. a solid piece, just as handle.
2. a hollow handle that comprises of a syringe system to load, store, dispense, or spray a liquid into the ear canal, either

before installing a tip to handle, or with open cell tip on it (opening in the foam, to allow liquid through the tip, around the ear canal). In this case, there will be an opening within the core piece that connects the tip to the handle to direct the liquid from handle to the tip.

Please refer to the 3D CAD design files in FIGS. 1 to 45 for some embodiments and variations, with details.

One embodiment is a handle which comprises of a syringe system. The end of the handle is connected to the short piston (about half size of the handle's length), which can unlock from the body of the handle by a twist, so it can be free to be pulled back and out, which results to vacuuming function that pulls liquid in.

One embodiment is a tip that comprises of an opening in the middle of the bottom of the tip core piece, which directs liquid from handle to the tip.

One embodiment is a core locking piece with opening that allows liquid inside the handle to be sprayed in different angles inside the ear canal, before a tip is added to the system. In this method, consumer sprays wash inside ear directly with the liquid. After softening some hard earwax, one applies the tip on top of the sprayer to swab inside the ear canal and also to get the moist out.

One embodiment is a handle that comprises of a squeezable syringe bulb at the front flared part of the handle.

One embodiment is a handle, comprising of a squeezable syringe bulb at the end of the handle which helps the handle to work like a dripper. After spray wash inside ear, a tip can be snapped on the front of the handle, in order to spin the spiral tip for cleaning and getting the moist out.

Please note the importance of the flared design of the tip and the round plate at bottom (works as a stopper), that

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discourages the excessive penetration of the tip into the ear canal which results in safeguarding ear drum from accidental perforation.

FIG. 1 shows a 3-D view of the tip 102, for one embodiment. FIG. 2 shows a 3-D view of the tip 102 and handle 106, together, as one piece, for one embodiment. FIG. 3 shows a 3-D view of the tip 106 and handle 104, separated, as 2 pieces, for one embodiment. FIG. 4 shows a 3-D view of the tip 108 and handle 110, together, as one piece, attached, for one embodiment. FIG. 5 shows a 3-D view of the tip 112, for one embodiment. FIG. 6 shows a 3-D view of the tip 114, attached to a handle 116, for one embodiment. FIG. 7 shows a 3-D view of the connection mechanism 118 between tip and handle, for one embodiment.

FIGS. 30A to 30G show 3-D views of the tip 302, from various angles and cross sections, with dimensions for a typical example, for one embodiment. FIGS. 31A to 31E show 3-D views of the core 304 and connection mechanism 306, from various angles and cross sections, with dimensions for a typical example, for one embodiment. FIGS. 32A to 32E show 3-D views of the handle 308, from various angles and cross sections, with dimensions for a typical example, for one embodiment.

FIG. 8 shows a view of the body 120 with container in the middle, for one embodiment. FIG. 9 shows a view of the tip 122, for one embodiment. FIG. 10 shows a view of the tip 122 with matching ending 124, with holes, for one embodiment. FIG. 11 shows a view of the solid handle 126 with liquid bulb 128, with holes, for suction of liquid, for one embodiment, for cleaning, rinsing, flushing, soaking, dissolving, medicating, drug-delivery, coating, or drying (the ear or the wax or the dirt). The soft plastic or elastic bulb or rubber can be pushed in by fingers, and then get back to the original spherical shape by itself, to suck the air or liquid or fluid from the ear or container or bottle or jar, for any or all the purposes mentioned above.

FIG. 12 shows a bulb 130 at the end of the handle 132, doing the same function as described above, with container within or hollow body, to have the liquid or fluid in, for storage and later usage, in the long handle, with tip 134 narrowing down, with holes near the tip of the handle 132, which will match and inserted into an open cell foam tip 134 or other tips (e.g., replaceable or exchangeable or temporary or disposable or permanent tip, with different materials or properties), as shown in the figure, for one embodiment.

FIG. 13 shows a view of the body, with handle 136, for one embodiment. One end is circular flat for holding fingers or as marker, and the other end is for engaging and attaching to the tip.

FIG. 14 shows a view of the body, with handle 136, with spiral tip 138 attached on one end, for one embodiment. FIG. 15 shows a view of the body, with handle 140, at one end, for one embodiment. FIG. 16 shows a view of the tip, with spiral tip 142, with attaching or engaging end, for one embodiment. FIG. 17 shows a view of the tip, with spiral tip 144, attached to a body 146, for one embodiment.

FIG. 18 shows a view of the tip, with spiral tip 150, attached to a body 152, for one embodiment, shown as a cross section, cut in half, along the length. FIG. 19 shows a view of the body 154, at one end, for attachment to a tip, with gaps or slits or cuts or openings, to engage the tip and attach to the tip, for one embodiment.

FIG. 20 shows a view of the tip, with spiral tip 156, attached to a body 158, for one embodiment. FIG. 21 shows a view of the tip, with spiral tip 160, for one embodiment.

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FIGS. 22A, 22B, and 22C show views of the tip, with spiral tip 162, for one embodiment, with 3D views and a cross section from half/middle, for one-fin spiral configuration. FIG. 23 shows a view of the tip, with spiral tip 164, for one embodiment, with 3D view, for one-fin spiral configuration. FIG. 24 shows a view of the tip, with spiral tip 166, for one embodiment, with 3D view, for one-fin spiral configuration.

FIG. 25 shows a view of the tip, with spiral tip 168, for one embodiment, with 3D view, for two-fin spiral configuration. FIG. 26 shows a view of the tip, with spiral tip 170, for one embodiment, with 3D view, for three-fin spiral configuration.

FIG. 27 shows a view of the 2 tips at 2 ends of a handle or body 174, with spiral tips 174, 176, for one embodiment, with 3D view. FIG. 28 shows a view of the spiral tip 178, for one embodiment, with 3D view. FIG. 29 shows a view of the 2 tips at 2 ends of a handle or body 180, with spiral tips 182, 184, for one embodiment, with 3D view.

As shown above, we can have N-fin spiral configuration, but after or above N=3, it may not be any more efficient in action as the lower number fin situations on the spiral tip, for the removal of ear wax. So, for most cases, in one embodiment, we use 2-fin and 3-fin configurations. One-fin models are very simple in design and still do the job very well.

As shown above, in figures, for one embodiment, we have rib shape or tubs or multiple pins or array of small bars or brush shape or comb shape, for the tip and/or body, to lock into each other, with slit or opening on the other side to engage the other side, to lock in and attach with each other, as one unit. The locking is done by pushing these two parts toward each other, to snap into a locked position. To release, the fingers push on the locked parts, to push in, and pull apart the parts simultaneously, to get the parts separated from each other. So, we can do the snap off by fingers, to separate them (tip separated from the body).

For one embodiment, we have touch free tip replacement, with clean tip or sterilized tip, without touching with fingers to avoid contamination of the tip. For one embodiment, we have locking system for the tip and body. For one embodiment, we can have any material for the body or handle, e.g., metal, alloy, plastic, rubber, elastic, wood, polymer, glass, or the like. For one embodiment, we have bowl shaped or spoon shaped tip for scooping the ear wax easier and more efficiently, and avoid sharp edges on tip in the ear canal for possible injury.

For one embodiment, we have tip made of open cell foam, moist absorbent, regular foam, sponge, cotton, clothing, soft tissue, towel, Q-tip material, wool, silk, nylon, acrylic, petroleum based material, synthetic material, porous material for absorbing moisture and liquid, dry fabric, filter material, coarse material, bumpy surface material, or the like.

For one embodiment, we have container or box or enclosure or tube or filler or space or storage or liquid holder for liquid or fluid for cleaning ear, e.g., wash, anti-bacteria, dissolve wax, soften wax, rinse, dry, or the like, through for example, the tip or holes or syringe shape or the like. For one embodiment, we have disposable tip. For one embodiment, we have the pressure from the back side, instead of the handle, to remove the tip.

For one embodiment, we have liquid stored in the end of the body or the whole body. For one embodiment, we have pushing mechanism to push the liquid out to clean the ear. For one embodiment, we have spoon or scoop shape at the head of the tip, to better take out the wax, or use a wide-curved surface for that purpose. For one embodiment,

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we have syringe operation with handle for holding the liquid, to load and unload. For one embodiment, we have piston to load and unload liquid.

For one embodiment, we have cap like grooves to rotate the tip into the body similar to the screw action, to lock that in, to attach to the body or handle. For one embodiment, we have syringe action to suck the liquid and store and then push the piston to eject the liquid for use. For one embodiment, we have core piece attached to the tip, with holes in the core piece, for different positions and directions, dispensing liquid into the ear.

For one embodiment, we have syringe bulb as elastic sphere for use of liquid and storage into the container within body. For one embodiment, we have 2 holes on core piece at one end to engage with the tip. For one embodiment, we have variations on holes (number and shapes and patterns) on core piece. For one embodiment, we have syringe bulb for suction action and function at the end of the handle, similar to eye dripper device. For one embodiment, we have one piece tab or tongue to go into groove or opening for better locking purpose and longevity of the tab or tongue. For one embodiment, we have elastic or flexible material for tip to have a soft tip for better operation.

For one embodiment, we have container for liquid as glass, metal, plastic, wood, fiber, or the like. For one embodiment, we have o-ring or copper ring or plastic ring or elastic ring or band or the like, to avoid leaking from the container or syringe sides or cylinder sides, inside the handle or body, for proper operation.

FIG. 33 is for one embodiment, as an example, for handle 402 and tip 404. FIG. 34 is for one embodiment, as an example, for handle 402 and tip 404, with stopper 403. FIG. 35 is for one embodiment, as an example, for handle 402 with extra grip place 405. FIG. 36 is for one embodiment, as an example, for handle 406 with syringe function. FIG. 37 is for one embodiment, as an example, for handle 408 with elastic bulb 409 for suction.

FIG. 38 is for one embodiment, as an example, for core/base 412 and tip 410. FIG. 39 is for one embodiment, as an example, for base 414 with holes 415. FIG. 40 is for one embodiment, as an example, for tongue and groove to lock the tip 416 into the body 418, as one piece. FIG. 41 is for one embodiment, as an example, for screw action inside the tip 420, to lock into the body. FIG. 42 is for one embodiment, as an example, for multiple containers (2 or more) inside body or handle 422.

FIG. 43 is for one embodiment, as an example, for long tip 424 with stopper 426. FIG. 44 is for one embodiment, as an example, for tip 428 with holes. FIG. 45 is for one embodiment, as an example, for tip 430 with the end acting as spoon or scoop, with curved wide area or surface.

Any variations of the above teaching are also intended to be covered by this patent application.

The invention claimed is:

1. An ear cleaning apparatus comprising: a spiral-shaped head; a locking mechanism coupled to the spiral-shaped head, the locking mechanism including a center protrusion and a pair of longitudinally extending locking tabs; and a handle including a receiving portion configured to receive the locking mechanism to releasably couple the spiral-shaped head to the handle, wherein the center protrusion includes a plurality of ribs.
2. The ear cleaning apparatus of claim 1, wherein the spiral-shaped head includes a soft material.
3. The ear cleaning apparatus of claim 1, wherein the spiral-shaped head includes a foam material.

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4. The ear cleaning apparatus of claim 1, wherein the spiral-shaped head includes a plastic material.

5. The ear cleaning apparatus of claim 1, wherein the spiral-shaped head is porous.

6. The ear cleaning apparatus of claim 1, wherein the locking mechanism is configured such that the spiral-shaped head is removable from the receiving portion via a pressure applied to one of the pair of locking tabs.

7. The ear cleaning apparatus of claim 1, wherein the spiral-shaped head and locking mechanism are configured to be removably coupled and decoupled from the handle without touching the spiral-shaped head.

8. The ear cleaning apparatus of claim 1, wherein the spiral-shaped head is disposable.

9. The ear cleaning apparatus of claim 1, wherein the locking mechanism is disposable.

10. The ear cleaning apparatus of claim 1, wherein the ear cleaning apparatus includes a stopper configured to prevent excessive insertion of the ear cleaning apparatus into an ear canal.

11. The ear cleaning apparatus of claim 10, wherein the handle includes the stopper.

12. The ear cleaning apparatus of claim 10, wherein the stopper is adjustable.

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13. The ear cleaning apparatus of claim 10, wherein the spiral-shaped head includes a tapered shape, and the tapered shape acts as the stopper.

14. The ear cleaning apparatus of claim 1, wherein the handle includes at least one container for liquid.

15. The ear cleaning apparatus of claim 1, wherein the head includes at least one container for liquid.

16. The ear cleaning apparatus of claim 1, wherein the ear cleaning apparatus includes a syringe.

17. The ear cleaning apparatus of claim 1, wherein the spiral-shaped head includes a spoon-shaped feature disposed at a distal end of the spiral-shaped head.

18. An ear cleaning apparatus comprising:
a spiral-shaped head;
a locking mechanism coupled to the spiral-shaped head, the locking mechanism including a center protrusion and a pair of longitudinally extending locking tabs; and
a handle including a receiving portion configured to receive the locking mechanism to releasably couple the spiral-shaped head to the handle,

wherein the spiral-shaped head includes a spoon-shaped feature disposed at a distal end of the spiral-shaped head.

19. The ear cleaning apparatus of claim 18, wherein the center protrusion includes a plurality of ribs.

* * * * *

EXHIBIT B



(12) **United States Design Patent** (10) **Patent No.:** **US D866,763 S**
Khademhosseini et al. (45) **Date of Patent:** **** Nov. 12, 2019**

(54) **EAR CLEANING APPARATUS**
 (71) Applicant: **Telebrands Corp.**, Fairfield, NJ (US)
 (72) Inventors: **Nami Khademhosseini**, Falls Church, VA (US); **Ajit Khubani**, Saddle River, NJ (US)
 (**) Term: **15 Years**
 (21) Appl. No.: **29/576,873**

D547,869 S * 7/2007 Eckman D24/147
 D560,806 S * 1/2008 Eckman D24/147
 D631,957 S * 2/2011 Perez A61F 11/006
 D24/119
 D654,591 S * 2/2012 Gunnerson D24/151
 D656,609 S * 3/2012 Perez A61F 11/006
 D24/119
 D661,393 S * 6/2012 Miller D24/141
 D701,600 S * 3/2014 Kauffman D24/119
 D757,938 S * 5/2016 Jackson D24/151

(22) Filed: **Sep. 7, 2016**

Related U.S. Application Data

(63) Continuation-in-part of application No. 14/737,511, filed on Jun. 12, 2015.
 (51) **LOC (12) CL.** **10-01**
 (52) **U.S. CL.**
 USPC **D24/151**
 (58) **Field of Classification Search**
 USPC D24/146, 147, 133, 114, 144, 145
 CPC A61F 11/006; A61F 11/00
 See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

D296,005 S * 5/1988 Alkire D24/119
 4,820,259 A * 4/1989 Stevens A61F 11/00
 604/1
 5,632,756 A * 5/1997 Kruglick A61F 11/006
 606/160
 5,715,559 A * 2/1998 Mitri A61F 13/38
 15/118
 6,033,417 A * 3/2000 Tseng A61F 11/006
 606/106
 D432,239 S * 10/2000 Shimizu D24/133
 D441,141 S * 4/2001 Shalita D24/119
 D489,133 S * 4/2004 Shimizu D24/133
 D490,523 S * 5/2004 Samborski D24/119
 D545,431 S * 6/2007 Khademhosseini D24/119

OTHER PUBLICATIONS

Smart Swab, [online],[site visited Jun. 18, 2019]. Available from the internet,<URL: <https://www.youtube.com/watch?v=PQeA0Rlh4e4>> 1 page Publication date Dec. 2016.*
 Smart Swab, [online],[site visited Jun. 7, 2019]. Available from the internet,<URL: <https://www.amerimark.com/health/personal-care/grooming-tools/smart-swab/121055.html>> 2 pages No Publication date available.*

* cited by examiner

Primary Examiner — Lakiya G Rogers
Assistant Examiner — Carissa C Fitts

(57) **CLAIM**

The ornamental design for an ear cleaning apparatus, as shown and described.

DESCRIPTION

FIG. 1 is a front perspective view of an ear cleaning apparatus in accordance with the present design;
 FIG. 2 is a front view thereof;
 FIG. 3 is a left view thereof
 FIG. 4 is a back view thereof
 FIG. 5 is a right side view thereof;
 FIG. 6 is a top view thereof; and,
 FIG. 7 is a bottom view thereof.
 The shading represents contour of the claimed design.

1 Claim, 4 Drawing Sheets



FIG. 1

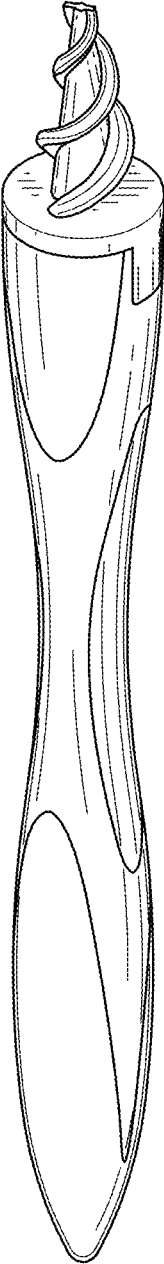


FIG. 2

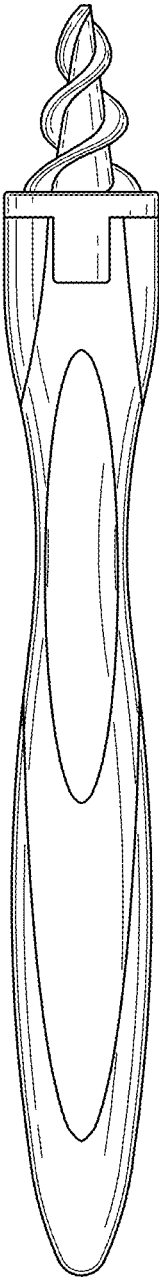


FIG. 3

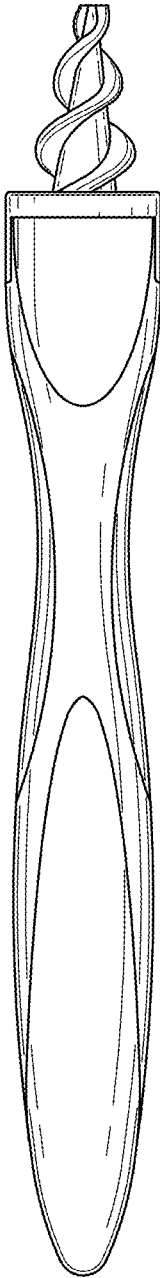


FIG. 4

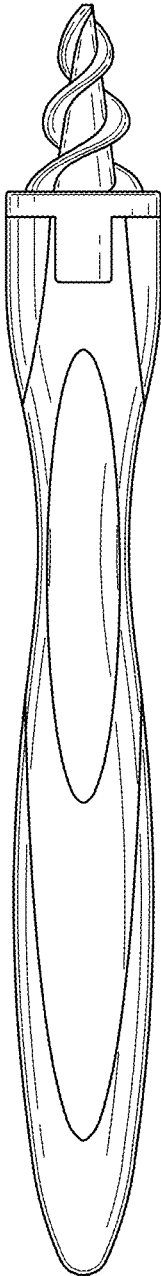


FIG. 5

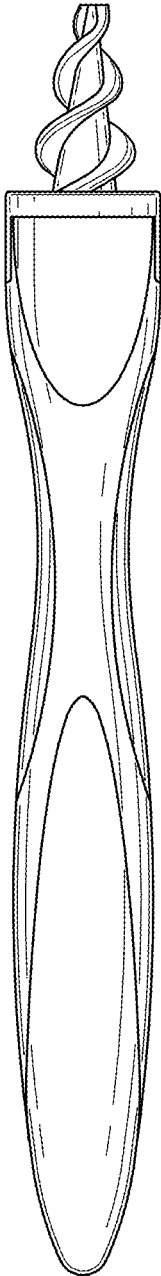


FIG. 6



FIG. 7

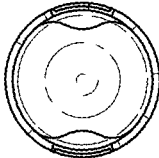


EXHIBIT C

United States of America
United States Patent and Trademark Office

Smart Swab

Reg. No. 4,455,913

NAMI KHADEMHOSEINI (UNITED STATES INDIVIDUAL)
3100 S.MANCHESTER ST. UNIT # 310

Registered Dec. 24, 2013

FALLSCHURCH, VA 22044

Int. Cl.: 3

FOR: FOAM SWAB FOR PERSONAL USE AND EAR CLEANING, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

TRADEMARK

FIRST USE 8-10-2013; IN COMMERCE 9-10-2013.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SWAB", APART FROM THE MARK AS SHOWN.

SN 85-649,761, FILED 6-12-2012.

SUE LAWRENCE, EXAMINING ATTORNEY



Deborah S. Cohn

Commissioner for Trademarks of the
United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

EXHIBIT D

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Elina Slavin
 Infringement no
 Hi Nami, Apolog

Elina Slavin
 Fw: Smart Swab

Re: Smart Swab sale

Elina Slavin <elina@bulbhead.com>
 Thu 8/5/2021 2:03 PM
 To: Nami K <nami@ndproducts.com>
 Hello Nami,

We have confirmed that the inventory we have in stock is 11 units of Smart Swab and 13,802 packs of replacement heads. We do not intend to manufacture any more Smart Swab units or replacement heads and solely intend to sell through the remaining inventory we have left.

--
 Bright Regards,
 Elina Slavin
 Legal Counsel



A DBA of Telebrands Corp.

One BulbHead Way
 79 Two Bridges Road
 Fairfield, NJ 07004

E elina@bulbhead.com
 W +1-973-244-0300

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- Other: New messages (99)
- Google: monday.com: Extra Holidays: Fl...
- Bob Barnett
> Fw: Smart Swab Sale 3:09 PM
Hi Nami: You just copied me. I didn't...
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A new business you should...
Washington Sports Medicine Institut...
- Y YouGov 2:10 PM
Planning an in-game event?
Here's how to measure ROI View this...
- S sunny 11:26 AM
Hello Nami Khadem, are ...
Hello Nami Khadem, Hoping this em...

Fw: Smart Swab Sale

BB
To: Nami K
Cc: Bala Iyer <bala@bulbhead.com>
Thu 2023-08-03 3:09 PM

You just copied me. I didn't see a previous email. The last smart swab units I show us selling is February/March 21. These went to big and mortar retailers.

Thanks

Bob

On Thu, Aug 3, 2023 at 2:54 PM Nami K <nami@ndproducts.com> wrote:
Hi Bala,

Following our call last month on checking on your sale of Smart Swab on Walmart and other places, you mentioned that Telebrands stopped selling Smart Swab years ago and put Bob Burnett on the call and asked him to send me documents about stop selling Smart Swab sometime around 2019. Since I didn't hear back from Bob, I sent him the following email as reminder, but still have not received any reply about the date when you liquidated the remaining Smart Swab inventory as you mentioned took place several years ago. As I explained before for many years I have been struggling to provide a document to retail platforms to proof that the 3rd party competitor sellers are unauthorized and not your affiliates but they keep stealing my market share as your 3rd party sellers and I had no document from you to proof otherwise to stop them from infringing.

Would you please ask Bob to provide the documents confirming when you sold out Smart Swab inventory?

