In the Matter of

PUMP TOP INSULATED CONTAINERS

Investigation No. 337-TA-59

USITC PUBLICATION 1010

NOVEMBER 1979

United States International Trade Commission / Washington, D.C. 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

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Kenneth R. Mason, Secretary to the Commission

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Office of the Secretary
United States International Trade Commission
Washington, D.C. 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of PUMP TOP INSULATED CONTAINERS	Investigation No. 337-TA-59

NOTICE OF COMMISSION HEARING ON THE PRESIDING OFFICER'S RECOMMENDED DETERMINATIONS, RELIEF, THE PUBLIC INTEREST, AND BONDING, AND OF THE SCHEDULE FOR FILING WRITTEN SUBMISSIONS

Recommended determinations of the presiding officer

In connection with the U.S. International Trade Commission's investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain pump top insulated containers in the United States, the presiding officer issued a recommended determination on June 15, 1979, that the Commission determine that there are violations of section 337 by Apollo Limited and in the unauthorized importation of certain pump top insulated containers into the United States from Korea and Taiwan. The presiding officer certified the evidentiary record to the Commission for its consideration.

The presiding officer on July 9, 1979, issued a second recommended determination that the Commission determine that there is no violation by Rollin Corporation. The presiding officer certified the additional evidentiary record to the Commission for its consideration.

Previous to the two above described recommended determinations, the presiding officer recommended that the investigation be terminated as to two

other respondents, The Warren Company and Rainbow National, Inc. That recommendation will not be the subject of these oral arguments and oral presentations.

Interested persons may obtain copies of the presiding officer's recommended determinations (and all other public documents) by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161.

Commission hearing scheduled

The Commission will hold a hearing beginning at 10:00 a.m., e.d.t., on October 12, 1979, in the Commission's Hearing Room (Room 331), 701 E Street NW., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral arguments on the presiding officer's recommendations that there are violations of section 337 of the Tariff Act of 1930, as amended, by Apollo Limited and in the unauthorized importation of certain pump top insulated containers from Korea and Taiwan, but no violation by Rollin Corporation. Second, the Commission will hear oral presentations concerning appropriate relief, the public-interest factors, and bonding, for consideration in the event that the Commission determines that there is a violation of section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for each portion of the hearing follows.

Oral argument concerning the presiding officer's recommended determinations

A party to the Commission's investigation or an interested agency wishing to present to the Commission an oral argument concerning the presiding

officer's recommended determinations will be limited to no more than 30 minutes. A party or interested agency may reserve 10 minutes of its time for rebuttal. The oral arguments will be held in this order: complainant, respondents, interested agencies, and Commission investigative staff. Any rebuttals will be held in this order: respondents, complainant, interested agencies, and Commission investigative staff.

Oral presentations on relief, the public interest, and bonding

Following the oral arguments on the presiding officer's recommended determinations, a party to the investigation, an interested agency, a public-interest group, or any interested member of the public may make an oral presentation on relief, the public-interest factors, and bonding.

1. Relief. If the Commission finds a violation of section 337, it may issue (1) an order which could result in the exclusion from entry of certain pump top insulated containers into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of certain pump top insulated containers. Accordingly, the Commission is interested in what relief should be ordered, if any.

2. The public interest. If the Commission finds a violation of section 337 and orders some form of relief, it must consider the effect of that relief upon the public. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

3. Bonding. If the Commission finds a violation of section 337 and orders some form of relief, such relief would not become final for a 60-day period, during which the President would consider the Commission's report. During this period certain pump top insulated containers would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

Those persons making an oral presentation on any or all of the above topics will be limited to 15 minutes, with an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainant, respondents, interested agencies, public-interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing

Any person desiring to appear at the Commission's hearing must file a written request to appear with the Secretary to the U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.d.t.) on October 3, 1979. The written request must indicate whether such person wishes to present an oral argument concerning the presiding officer's recommended determinations and/or an oral presentation concerning relief, bonding, and the public interest. While only parties to the Commission's investigation, interested agencies, and the Commission investigative staff may present an oral argument concerning the presiding officer's recommended determination, public-interest groups and other

interested members of the public are encouraged to make an oral presentation concerning the public interest.

Written submissions to the Commission

The Commission requests that briefs and written comments as described below be filed no later than the close of business on October 3, 1979. Written requests to participate in the hearing must also be filed by October 3, 1979.

1. Briefs on the presiding officer's recommended determinations. Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommended determinations. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record. Persons with the same positions on the issues are encouraged to consolidate their briefs, if possible.

2. Written comments and information concerning relief, the public interest, and bonding. Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, the public interest, and bonding. These submissions should include a proposed remedy, a discussion of the effect of the proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, as well as a proposed determination of bonding.

3. Requests to participate in the hearing. Written requests to appear at the Commission hearing must be filed by October 3, 1979, as described above.

Additional information

The original and 19 true copies of all briefs and written comments and any written request to participate must be filed with the Secretary to the Commission.

Any person desiring to discuss confidential information at the hearing shall request the Chairman to direct that a portion of the hearing be held in camera. Documents containing confidential information which has been previously submitted subject to the protective order in this investigation will be treated accordingly. Documents containing information which has not been previously submitted as confidential subject to the protective order will be treated as confidential only upon written request directed to the Secretary which includes a full statement of the reasons why the Commission should grant such treatment. All nonconfidential written submissions will be open to public inspection at the Secretary's office.

Notice of the Commission's investigation was published in the Federal Register of November 9, 1978 (43 F.R. 52297).

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: September 24, 1979

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of	)	
	)	Investigation No. 337-TA-59
CERTAIN PUMP TOP INSULATED CONTAINERS	)	

NOTICE OF AMENDMENT TO THE SUPPLEMENTED COMPLAINT AND NOTICE OF INVESTIGATION

Upon consideration of Motion Docket No. 59-1, as certified to the Commission by the administrative law judge (ALJ) on January 24, 1979, together with the supporting documents filed by the complainant and the Commission investigative attorney, and the ALJ's recommendation of January 24, 1979, that the supplemented complaint and notice of investigation be amended, the Commission is ordering:

(1) The deletion of W.P. Hemenway Co. as a respondent in the supplemented complaint and the notice of investigation which was filed in the Federal Register on November 9, 1978 (43 F.R. 52297);

(2) The deletion of the New York Merchandise Co. as a respondent in the supplemented complaint; and

(3) The addition of the following new respondents to the supplemented complaint and the notice of investigation:

The Warren Co.
3104 West Lake Street
Minneapolis, Minnesota 55416

The Rollin Corp.
P.O. Box 3774
Taipei, Taiwan

Apollo Limited
459-22 Karibong-Dong
Seoul, Korea

The Commission is also ordering that complainant's motion for removal of the request for a temporary exclusion order from the supplemented complaint is denied.

Copies of the "Commission Action, Order, and Opinion" are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161.

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: *March 30, 1979*

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of	)	
PUMP TOP INSULATED CONTAINERS	)	Investigation No. 337-TA-59

NOTICE OF INVESTIGATION

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 25, 1978, and supplemented on October 6, 1978, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Aladdin Industries, Inc., Nashville, Tennessee 37210, alleging that unfair methods of competition and unfair acts exist in the importation of certain pump top insulated containers into the United States, or in their sale, by reason of:

A. The alleged coverage of such pump top insulated containers by the claims of U.S. Letters Patent 4,113,147;

B. The passing off of such pump top insulated containers as though they were complainant's product; and

C. The failure to indicate the country of origin on such pump top insulated containers.

The supplemented complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests a temporary order of exclusion from entry into the United States of the imports in question. Complainant further requests that, after a full investigation a permanent exclusion of said imports be ordered, and a cease and desist order be issued.

Having considered the supplemented complaint, the U.S. International Trade Commission, on October 24, 1978, ORDERED:

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the supplemented complaint, there is, or there is reason to believe there is, a violation of subsection (a) of this section in the importation into the United States and the sale within the United States of pump top insulated containers or components thereof by reason of:

(a) The alleged coverage of such pump top insulated containers by claims of the U.S. Letters Patent 4,113,147;

(b) The passing off of such pump top insulated containers as though they were complainant's product; and

(c) The failure to indicate the country of origin on such pump top insulated containers, wherein

the effect or tendency of these alleged unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) That, for the purpose of this investigation so instituted, the following are hereby named as parties:

(a) The complainant is:

Aladdin Industries, Inc.
703 Murfreesboro Road
Nashville, Tennessee 37210

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their

sale, and are parties upon which the supplemented complaint and this notice are to be served:

W.P. Hemmenway Company
1405 N.W. 14th Street
Portland, Oregon 97209

Rainbow National, Inc.
3104 West Lake Street
Minneapolis, Minnesota 55416

(c) Donald R. Dinan, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation.

(3) That, for the investigation so instituted, Chief Administrative Law Judge, Donald K. Duvall, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the U.S. International Trade Commission's Rules of Practice and Procedure, as amended (19 C.F.R. 210.21). Pursuant to 201.16(d) and 210.21(a) of the Rules, such responses will be considered by the U.S. International Trade Commission if received not later than 20 days after the date of service of the supplemented complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the supplemented complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the supplemented complaint and this notice, and will authorize the presiding officer and the U.S. International Trade Commission, without further notice to the respondent, to find the facts to

be as alleged in the supplemented complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The supplemented complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, and in the New York City office of the U.S. International Trade Commission, 6 World Trade Center, New York, New York 10048.

By order of the Commission.

Kenneth R. Mason

KENNETH R. MASON
Secretary

ISSUED: November 6, 1978

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

In the Matter of PUMP TOP INSULATED CONTAINERS	Investigation No. 337-TA-59

COMMISSION DETERMINATION, ORDER, AND OPINION

The U.S. International Trade Commission conducted an investigation under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the unauthorized importation into or sale in the United States of pump top insulated containers 1/ by reason of the infringement of U.S. Letters Patent No. 4,113,147, the unlawful copying of trade dress, and the failure to indicate the country of origin. 2/ On November 1, 1979, the Commission unanimously determined that there was a violation of section 337 and ordered that pump top insulated containers which infringe U.S. Letters Patent No. 4,113,147 be excluded from entry into the United States for the term of that patent (until September 25, 1995) unless the importation is licensed by the patent owner.

1/ Pump top insulated containers are vacuum bottles fitted with a pumping mechanism which allows the user to pump the liquid from inside the container without opening it. This helps to keep the liquid at the desired temperature and to eliminate most spills. These containers are known as "air pots" within the industry.

2/ This last allegation was withdrawn by Aladdin.

The purpose of the Commission determination and order which follow is to provide for the final disposition of the Commission's investigation of pump top insulated containers.

Determination

Having reviewed the record compiled in this investigation, the Commission on November 1, 1979, determined--

1. That with respect to Apollo Limited, a respondent in this investigation, there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation into and sale in the United States of pump top insulated containers by the owner, importer, consignee, or agent of either, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

2. That the appropriate remedy for such violation is to direct that pump top insulated containers manufactured abroad which infringe U.S. Letters Patent No. 4,113,147 be excluded from entry into the United States for the term of said patent, except where such importation is licensed by the owner of said patent;

3. That, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, such pump top insulated containers should be excluded from entry; and

4. That the bond provided for in subsection (g)(3) of section 337 of the Tariff Act of 1930, as amended, be in the amount of 63 percent ad valorem (ad valorem to be determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a)) of the imported article.

Order

Accordingly, it is hereby ordered--

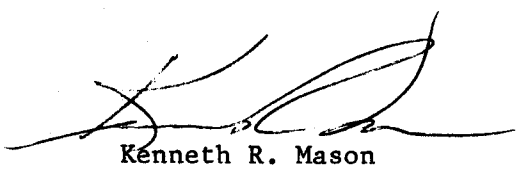
1. That pump top insulated containers which infringe U.S. Letters Patent No. 4,113,147 are excluded from entry into the United States for the term of said patent, except where such importation is licensed by the owner of said patent;

2. That pump top insulated containers ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 63 percent ad valorem (ad valorem to be determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a)) from the day after this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves or disapproves this action, but, in any event, not later than 60 days after such date of receipt;

3. That this order be published in the Federal Register and that this order and the opinion in support thereof be served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury; and

4. That the Commission may amend this order at any time.

By the order of the Commission.



Kenneth R. Mason
Secretary

Issued: November 9, 1979

COMMISSION OPINION

Procedural History

The present investigation was instituted by the Commission on November 9, 1978, on the basis of a complaint filed by Aladdin Industries, Incorporated (Aladdin). Aladdin alleged that there was a violation of section 337 of the Tariff Act of 1930, as amended, by reason of the unauthorized importation or sale of pump top insulated containers which (a) infringe Aladdin's patent, U.S. Letters Patent No. 4,113,147 (the '147 patent), (b) unlawfully copy Aladdin's trade dress, and (c) fail to indicate on the imported pump top insulated containers the country of origin. 1/

The notice of investigation, published in the Federal Register on November 9, 1978 (43 F.R. 52297), named W.P. Hemenway Co. (Hemenway) and Rainbow National, Inc. (Rainbow) as respondents. However, on March 30, 1979, the Commission ordered 2/ that the notice of investigation be amended, pursuant to a motion by Aladdin, 3/ to delete Hemenway as a respondent and to add The Warren Company (Warren), Apollo Limited (Apollo), and The Rollin Corporation (Rollin) as respondents. Rollin, however, was named as respondent only insofar as the allegation of unlawful copying of trade dress. 4/

On May 18, 1979, Aladdin moved to terminate 5/ Warren and Rainbow. The motion was based on a settlement agreement between Aladdin and these two respondents. (Apollo and Rollin were unaffected by this motion.) Warren,

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1/ Aladdin later abandoned this third allegation.
2/ Commission Action, Order, and Opinion of March 30, 1979 (Opinion issued April 9, 1979).
3/ Motion Docket No. 59-1.
4/ Commission Action, Order, and Opinion of March 30, 1979 (Opinion issued April 9, 1979), at p. 5 of Opinion.
5/ Motion Docket No. 59-3.

Appollo, the Commission investigative attorney, and the ALJ supported the motion for termination. 6/

On August 3, 1979, the Commission voted to accept the settlement agreement and terminate the investigation as to Warren and Rainbow. The Department of Justice and the Federal Trade Commission were given the opportunity to comment on the agreement, but no opposing comments were received. The order to terminate was issued on September 25, 1979. 7/

On May 18, 1979, Aladdin and the Commission investigative attorney filed a joint motion for summary determination. 8/ The motion alleged that Apollo, Rollin, and eight other companies known to have either imported or exported pump top insulated containers to the United States 9/ had engaged in the unfair methods of competition or unfair acts of patent infringement and/or unlawful copying of trade dress. The motion was supported by a memorandum and various affidavits and exhibits.

On June 15, 1979, the ALJ recommended (hereinafter June 15 RD) on the basis of that joint motion that Apollo be found in violation of section 337 and that a violation be found in the unauthorized importation of certain pump top insulated containers into the United States from Korea and Taiwan.

6/ Warren and Rainbow joined in the motion (see Motion Docket No. 59-3; filed May 18, 1979), and the Commission investigative attorney signed the motion in concurrence. On June 12, 1979, the ALJ issued her recommendation that the motion be granted without a finding of violation.

7/ See Commission Action, Order, and Memorandum Opinion of September 25, 1979. The notice of termination was published in 44 F.R. 56995, Oct. 3, 1979.

8/ Motion Docket No. 59-4.

9/ Those eight companies were served by the Commission investigative attorney with requests for information and informed of the possibility to intervene. See Motion for Summary Determination (Motion Docket No. 59-4), at 4. No motions to intervene were filed.

The ALJ in the June 15 RD also stated that the facts established in the joint motion for summary determination did not support a finding of violation in regard to Rollin. 10/ Aladdin moved for reconsideration of the recommendation (Motion No. 59-5); 11/ the motion was denied. 12/ A hearing was held on June 26, 1979, by the ALJ, who considered evidence and arguments of Aladdin and the Commission investigative attorney concerning the allegations against Rollin, which did not appear at the hearing. On July 9, 1979, the ALJ issued a second recommended determination (July 9 RD) in which she recommended that Rollin be found not in violation of section 337 based on the fact that there was no evidence that Rollin had imported pump top insulated containers into the United States.

Both Aladdin and the Commission investigative attorney filed exceptions to the July 9 RD, arguing that the evidence on record showed that Rollin had violated section 337 of the Tariff Act, as amended.

Apollo never answered the complaint or motions filed with the Commission or made an appearance. Rollin contacted the Commission by letter and requested that the investigation regarding it be terminated. 13/ The ALJ denied the motion to terminate. 14/

Oral arguments and oral presentations were held on the ALJ's recommended determinations as well as the issues of appropriate relief, the public interest, and bonding on October 12, 1979. 15/ Aladdin and the Commission

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10/ See June 15 RD, at app. A, p. 9.
11/ Filed June 20, 1979.
12/ Order No. 2, issued June 21, 1979.
13/ Motion Docket No. 59-6.
14/ Order No. 3; issued June 21, 1979.
15/ See Hearing Transcript, Oct. 12, 1979.

investigative attorney were represented; neither respondent appeared. The government agencies notified of the hearing did not comment.

On November 1, 1979, the Commission determined unanimously that Apollo was in violation of section 337. Additionally, the Commission determined unanimously to exclude from entry into the United States pump top insulated containers which infringe U.S. Letters Patent No. 4,113,147. The bond, pursuant to section 337(g)(3), was determined in the amount of 63 percent ad valorem (ad valorem to be determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a)) of the imported article.

The Issue of Violation

Having considered the ALJ's recommended determinations and the record compiled in this proceeding, the Commission determines that there is a violation of section 337 in the importation into and sale in the United States of certain pump top insulated containers, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States. Specifically, the Commission finds that the products of Apollo infringe the '147 patent owned by Aladdin, which has the effect or tendency to substantially injure Aladdin, an efficiently and economically operated industry in the United States. The Commission also finds no violation of section 337 by Rollin. 16/ The Commission hereby adopts the findings of fact and conclusions of law of the ALJ, more fully discussed below, to the extent not inconsistent with this opinion. The reasons for our findings are as follows.

16/ But see n. 20, infra.

1. Unfair methods of competition and unfair acts.

(a) Patent infringement. Aladdin owns the '147 patent by virtue of assignment of that patent, which was issued on September 12, 1978. 17/ The '147 patent covers the pump top insulated container which Aladdin manufactures and sells in the United States.

Under 35 U.S.C. 282, the validity of a patent is to be presumed unless the party asserting that the patent is invalid can prove its invalidity. No challenge has been made to the validity of the '147 patent; therefore, it is presumed valid.

For a patent to be infringed, it is necessary that at least one valid claim be infringed. Whether infringement of a claim exists, and therefore infringement of the patent, is a question for the finder of fact. It requires comparison of the elements of the claims with the product which allegedly infringes that claim.

Aladdin argued patent infringement and used as illustrative claims, claims 1, 4, and 15 of the '147 patent. 18/ Upon comparison on the basis of those claims with the physical exhibit on the record which is attributed to Apollo, 19/ the Commission finds that the Apollo product does infringe the '147 patent. All the elements of those three claims are present in the Apollo product.

The Commission, therefore, adopts the conclusions of law of the ALJ as they relate to the issue of patent infringement by Apollo.

17/ See appendix for certified copy of the '147 patent.
18/ See appendix, infra. Generally, those claims cover the pumping mechanism which includes a circular disk and rubber diaphragm and the combination of that mechanism with a vacuum bottle.
19/ Exh. No. 4, submitted with complaint; filed Sept. 25, 1978.

(b) Unlawful copying of trade dress. Having found patent infringement, the Commission does not reach the allegation of unlawful copying of Aladdin's trade dress by Apollo. 20/

20/ Commissioners Stern and Alberger also determine that there is no unlawful misappropriation of complainant's trade dress by any of the respondents in this investigation. While the ALJ found the requisite elements of violation to exist with respect to this issue, the other Commissioners do not address it. Commissioners Alberger and Stern make the following statement on this issue:

"We find that complainant has not met the burden of showing the requisite elements for a finding of misappropriation of trade dress. In Certain Novelty Glasses (Inv. No. 337-TA-55) we stated that three elements must be shown to receive protection against another using the same or confusingly similar trade dress. First, the trade dress must include nonfunctional design features. Second, there must be a showing that such features have acquired secondary meaning, i.e., that the public associates a particular trade dress with a certain product and understands it to come from a single source. Third, there must be a likelihood of confusion.

In this case, there is not the same compelling showing of secondary meaning which existed in Novelty Glasses. In establishing secondary meaning, courts look to several factors, including length of time on the market, the amount of advertising, consumer surveys, and other factors. The decision is one to be left to the trier of fact on the basis of the record before it. While some might not see the differences between the record in the present case and in Novelty Glasses, there are certain differences. In this case, the product had been on the market for a shorter period of time than in our prior decision (5 months as opposed to 18 months). The length of time on the market is particularly important in this case, because unlike in Novelty Glasses, we are dealing with nonfunctional features which are not so unusual or arbitrary as to distinguish the product in question from other, similar products. The more distinctive a particular design is, the more rapidly it is liable to acquire secondary meaning. But in this case we do not feel that the facts support such a finding.

Certain Novelty Glasses also differed from the present case in that we had actual evidence of deliberate copying, which many courts have held to be a sufficient basis for establishing at least a presumption of secondary meaning, particularly where the design is distinctive. See, E.R. Squibb & Sons, Inc. v. Premo Pharmaceutical Labs, Inc., 195 U.S.P.Q. 545 (S.D.N.Y. 1977); Scholl Inc. v. Tops E.H.R. Corp. 185 U.S.P.Q. 754 (D.C.N.Y. 1975). No such evidence was presented in this case, and we cannot make any inferences of intentional palming off from the record before us.

There is evidence on the record that the product in question was advertised extensively on national television. While we cited advertising efforts as a relevant consideration in Novelty Glasses, we do not feel that

(Continued)

2. Importation and sale. The ALJ has found that Apollo has imported some 50,000 pump top insulated containers. 21/ We think the record supports that finding of fact and adopt her findings of fact and conclusions of law as to this issue.

In the July 9 RD, the ALJ concluded that Aladdin had not proved that the pump top insulated containers manufactured by Rollin were imported into or sold in the United States. Based on our examination of the record, we have reached the same conclusion and, therefore, have not found Rollin in violation of section 337.

We base our conclusion on the same grounds as did the ALJ and adopt those findings of fact and conclusions of law. The record shows that Rollin offered to export pump top insulated containers to Cut-Rate Toys in the United States, but that this offer was solicited by Aladdin. 22/ No evidence is on the record which would show that sales were actually made. Additionally, no evidence appears in the record demonstrating that Venture Department Stores in Chicago, which sold allegedly infringing pump top insulated containers to counsel for Aladdin, had purchased those containers from Rollin.

Lacking a showing of importation or sale by Rollin to U.S. retailers or consumers, Rollin cannot be found in violation of section 337.

(Continued)
the evidence in this case of advertising is alone sufficient to warrant a finding of secondary meaning, particularly in light of the differences mentioned above.

In sum, we do not find that complainant has established even a prima facie showing on the trade dress issue. We, therefore, in accordance with CFR section 210.50 and section 210.55, determine with respect to this question that there is no violation of section 337."

21/ See Hogen deposition, at 6-7.

22/ Transcript of June 27, 1979 hearing before the ALJ, at 18. Complainant's hearing exh. No. 3.

3. Injury and causation thereof. The ALJ in her June 15 RD found that domestic shipments declined between the fiscal year ending in April 1978, and the fiscal year ending in April 1979. 23/ Additionally, she found that Aladdin was forced to reduce the price it charged for its pump top insulated containers in order to compete with the imported pump top insulated containers. 24/ Moreover, we note that Aladdin's comptroller has sworn in an affidavit that there was a decrease in gross sales which exceeds the amount which corresponds to the price decrease. 25/ For these reasons we think the record supports the allegation of substantial injury to Aladdin.

The importation by Warren of approximately 50,000 pump top insulated containers from Apollo occurred during the period October 1978 through February 1979. This was the same period during which Aladdin's domestic shipments declined and is evidence in support of the finding that these importations were the cause of the injury.

4. Efficiently and economically operated domestic industry. We have concluded that Aladdin has shown that its production of pump top insulated containers manufactured in accordance with the '147 patent is an efficiently and economically operated domestic industry.

Aladdin has purchased and uses modern equipment in the manufacture of the products in question as well as with its other lines of vacuum bottles. This equipment is continually updated as the technology changes. A sizable capital program has been available for maintaining the equipment as well as continuing

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23/ June 15 RD (confidential version), app. A, at 7.
24/ Id.
25/ See Katsoulis affidavit (confidential version), at 2.

to support research and development for its products, including the pump top insulated container.

Aladdin in its manufacturing facilities for the pump top insulated container has employed a large number of persons for the various aspects of producing the product. Additionally, there is substantial space dedicated to the manufacture and warehousing of these products. 26/

Remedy, the Public Interest, and Bonding

1. Remedy.

The Commission finds that an exclusion order is the appropriate remedy for the violation of section 337 which we have found to exist. Therefore, we have ordered exclusion from entry into the United States of pump top insulated containers which infringe U.S. Letters Patent No. 4,113,147, except where such importation is licensed by the owner. This exclusion will run for the term of this patent, i.e., through September 25, 1995.

2. The public interest.

Under subsection (d) of section 337, the Commission must consider the effect of an exclusion order on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the U.S. economy, and U.S. consumers. Opportunity for making comments on those possible effects was given to the public, as well as to the Federal Trade Commission, the Department of Justice, the Department of Health, Education, and Welfare, and the Customs Service. No substantive comments were received which indicated that the exclusion order would have a negative effect

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26/ See, in general, Church affidavit (confidential version), at 2-3.

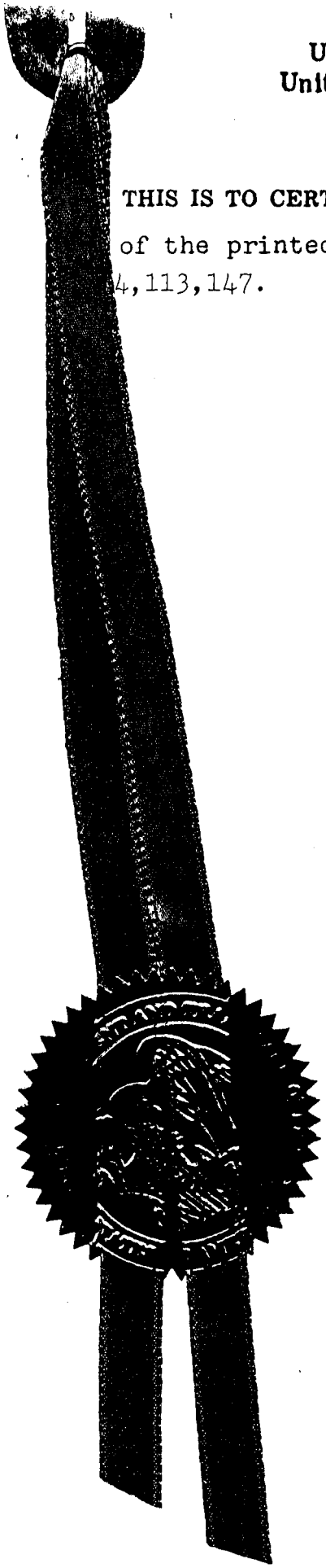
on those elements. The Commission, therefore, determined that there are no public-interest factors which oppose the issuance of the exclusion order in this investigation.

3. Bonding.

The Commission has determined that a bond in the amount of 63 percent ad valorem (ad valorem to be determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a)) of the imported pump top insulated containers should be required during the 60-day period in which the President may approve the Commission's determination or disapprove it for policy reasons. A bond in this amount is designed to offset any unfair competitive advantage accruing to importers or sellers of pump top insulated containers which infringe the '147 patent.

APPENDIX

U.S. Letters Patent No. 4,113,147



U. S DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

21 SEP 1978
(Date)

THIS IS TO CERTIFY that the annexed is a true copy from the records of this office of the printed specification and drawings of U. S. Patent No. 4,113,147.

By authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

Certifying Officer.

United States Patent [19]

Frazier et al.

[11] **4,113,147**

[45] **Sep. 12, 1978**

[54] **VACUUM BOTTLE WITH AIR PUMP TO PRESSURIZED BOTTLE TO EFFECT DISPENSING**

[75] Inventors: **Albert A. Frazier**, Nashville; **Howard W. Phillips**, Brentwood, both of Tenn.

[73] Assignee: **Aladdin Industries, Incorporated**, Nashville, Tenn.

[21] Appl. No.: **837,519**

[22] Filed: **Sep. 29, 1977**

Related U.S. Application Data

[63] Continuation-in-part of Ser. No. 803,736, Jun. 6, 1977, abandoned.

[51] **Int. Cl.**[2] **F04B 43/02**; B65D 47/34; B67D 5/42; B67D 5/54

[52] **U.S. Cl.** **222/131**; 222/209; 222/383; 222/401

[58] **Field of Search** 222/209, 373, 400.5, 222/400.8, 401, 402, 211, 383, 385, 131; 251/859

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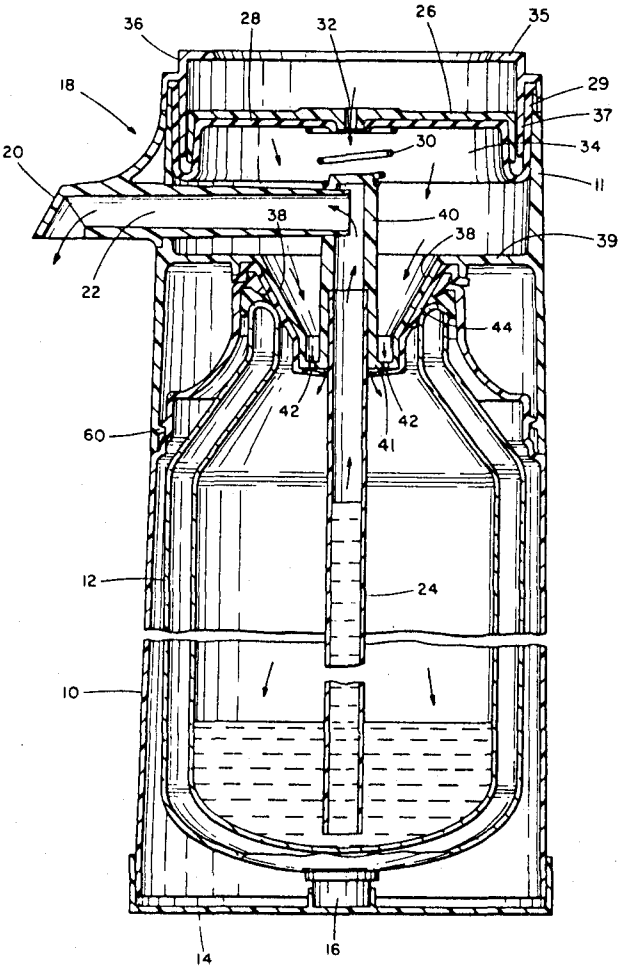
Primary Examiner—David A. Scherbel
Attorney, Agent, or Firm—McDougall, Hersh and Scott

[57] **ABSTRACT**

A vacuum bottle includes a pump dispenser for dispensing liquids from the temperature insulating interior without the need for removing the top or pouring. The pump dispenser employs a manually operated disk to pump air from a diaphragm into the bottle interior where it forces the liquid contents up a fluid tube and out a dispensing spout. A plurality of spaced ribs improve the operation of the dispenser mechanism by preventing twisting of the disk during pumping.

17 Claims, 10 Drawing Figures



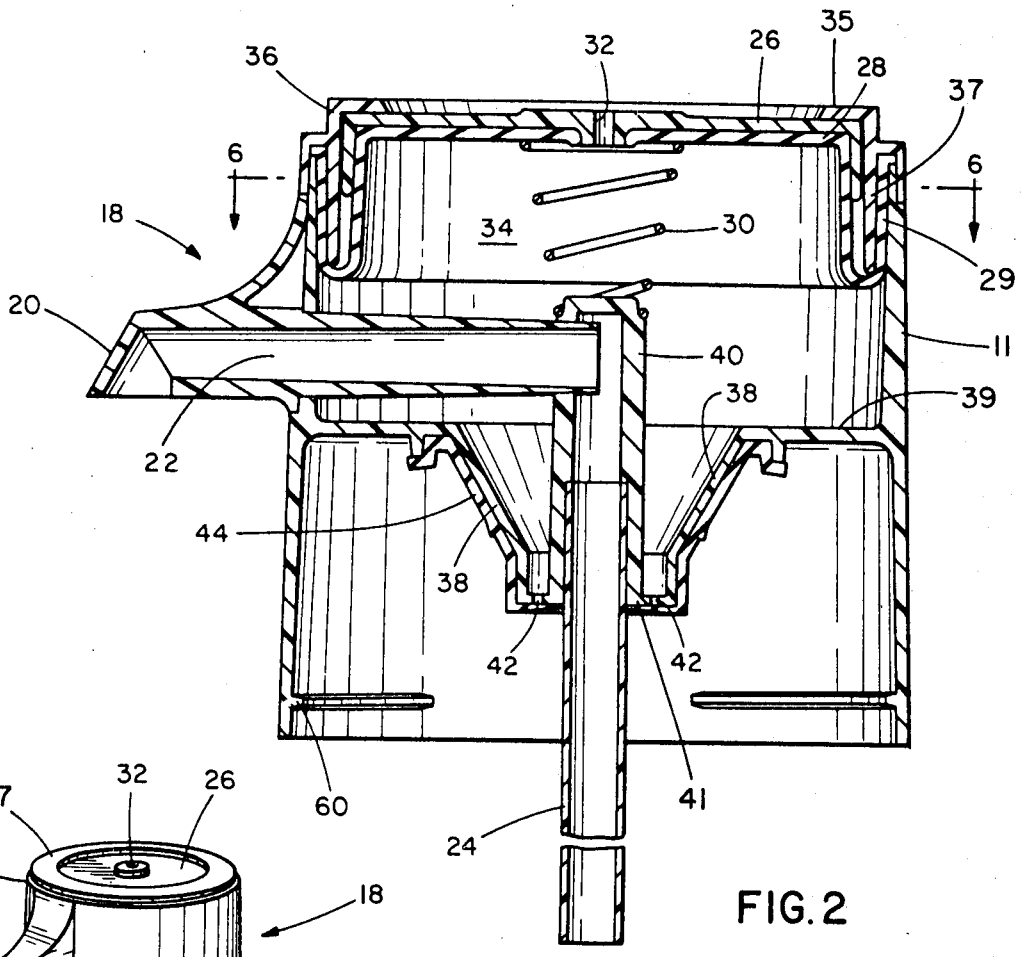

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FIG. 2

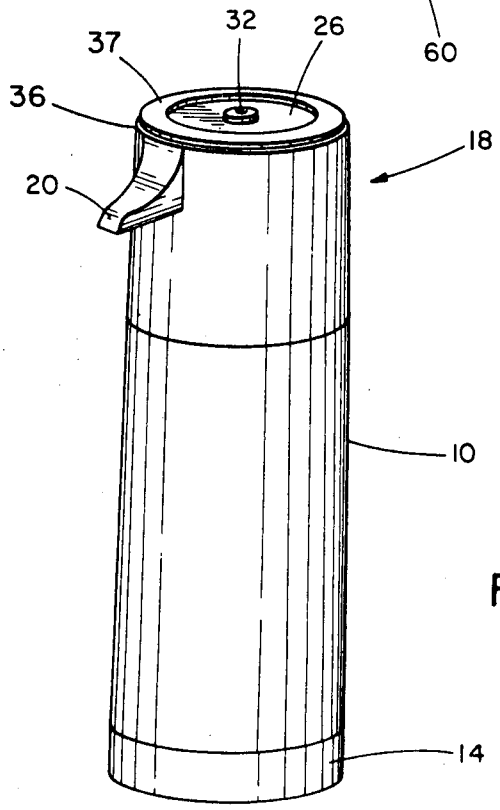
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FIG. 1

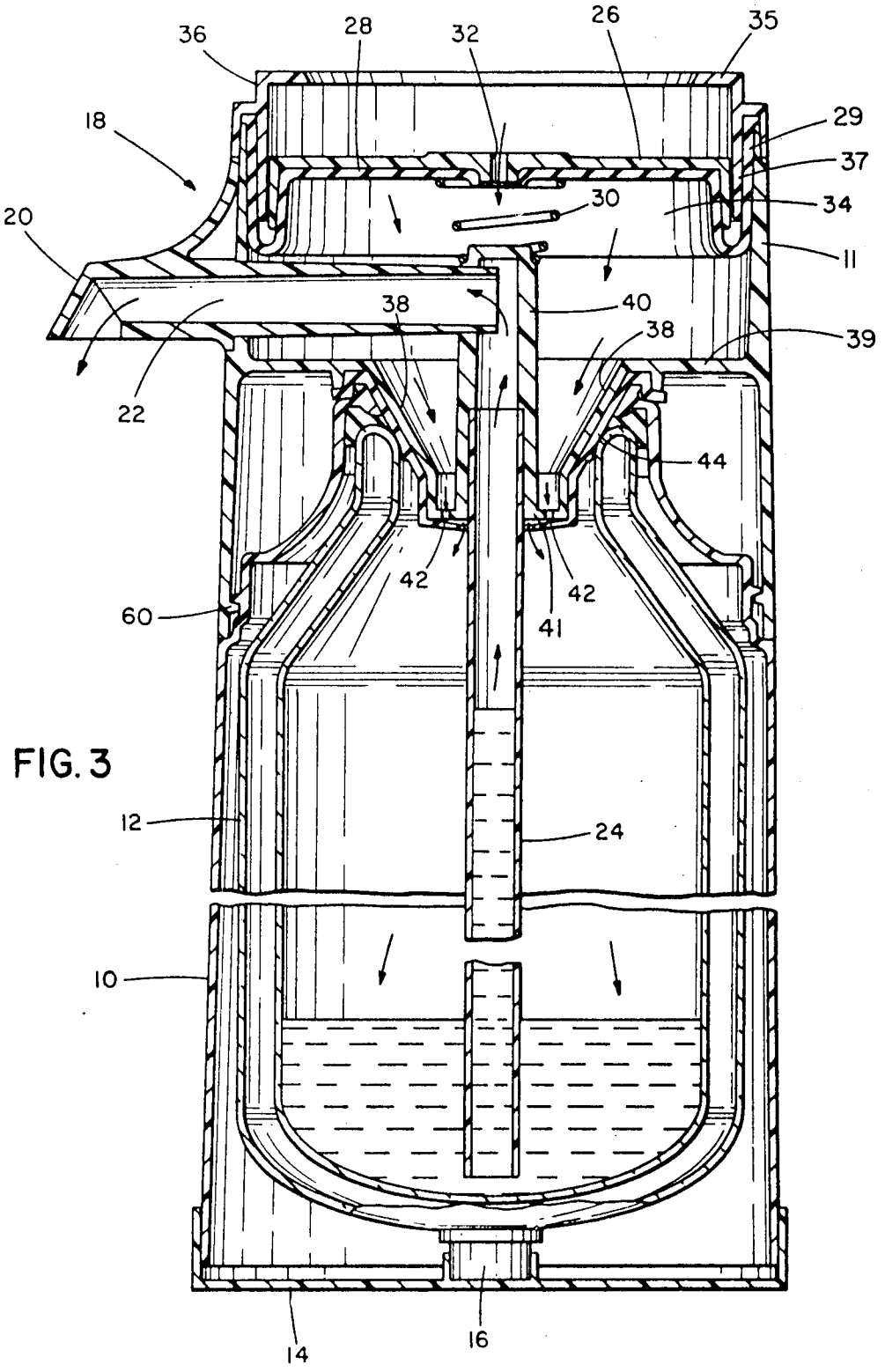
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FIG. 3

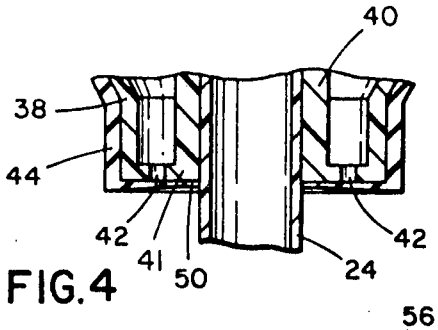

FIG. 4

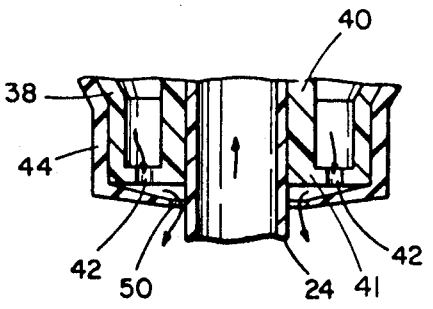

FIG. 5

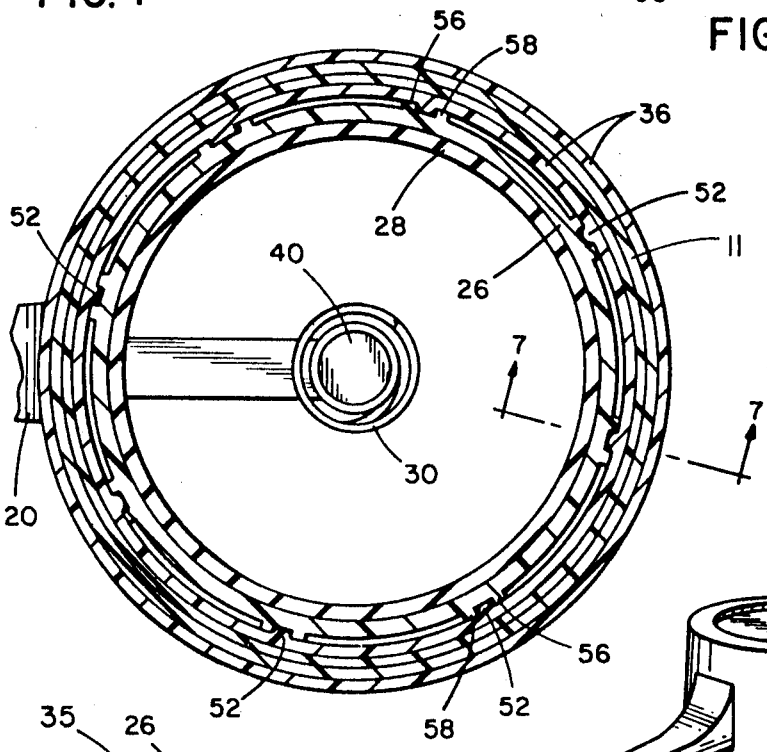

FIG. 6

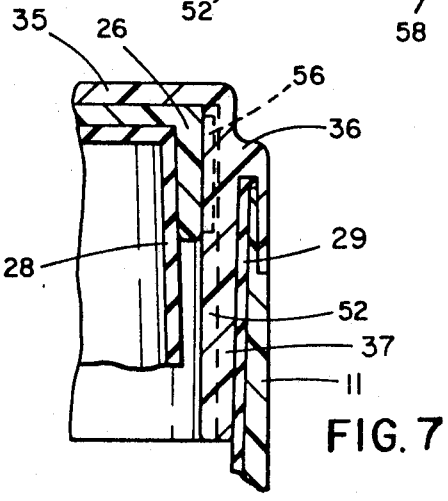

FIG. 7

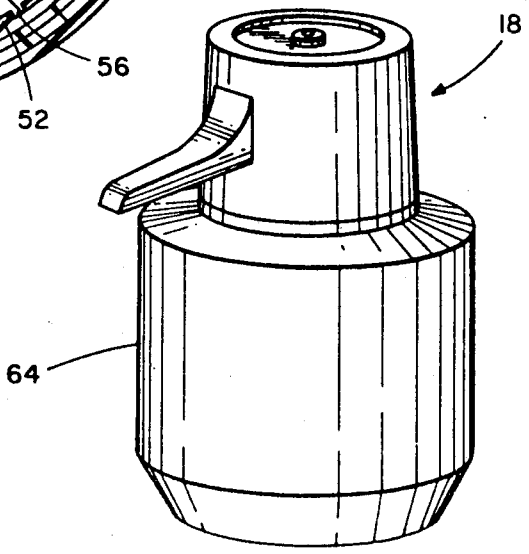

FIG. 8

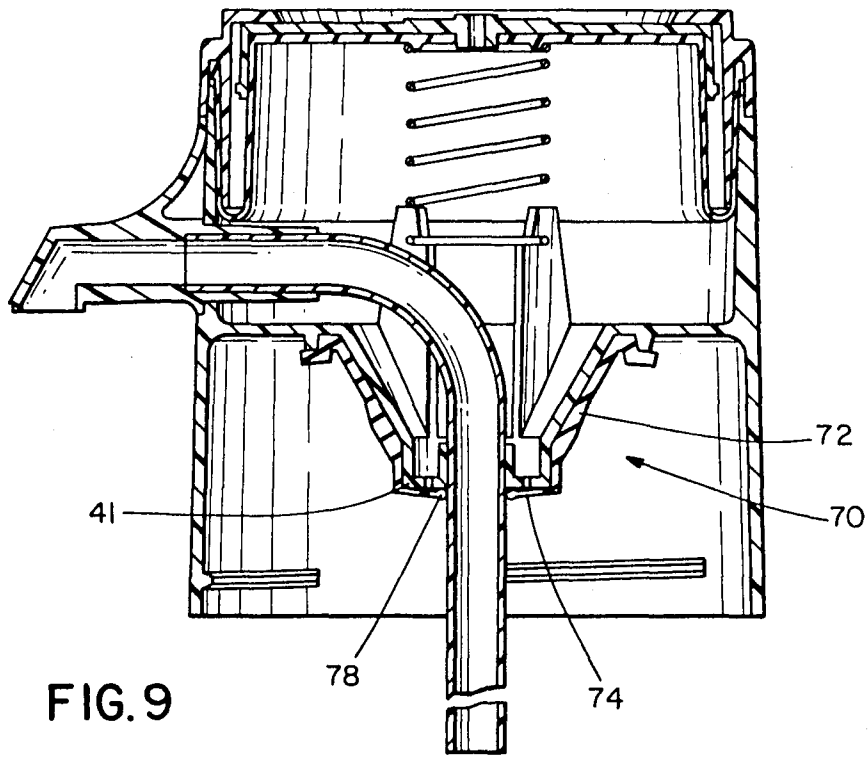

FIG. 9

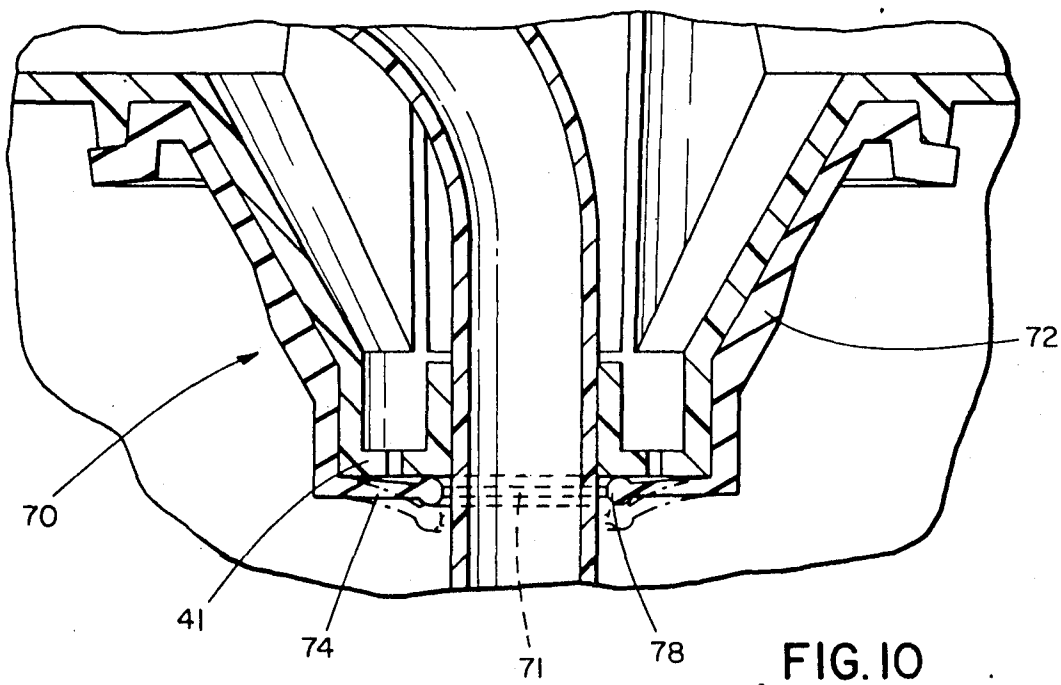

FIG. 10

VACUUM BOTTLE WITH AIR PUMP TO PRESSURIZED BOTTLE TO EFFECT DISPENSING

CROSS REFERENCE TO RELATED APPLICATION

This application is a continuation-in-part of application Ser. No. 803,736, filed June 6, 1977, now abandoned.

BACKGROUND OF THE INVENTION

This invention relates to the field of vacuum insulated containers of the type commonly referred to as thermos bottles. More specifically, it relates to an improvement in thermos bottle construction whereby the need to remove a cap to dispense the liquid therefrom is avoided. Since the purpose of a thermos bottle is to maintain its contents at a desired serving temperature, either hot in the case of coffee and the like or cold in the case of soft drinks, it is desirable to maintain the integrity of the vacuum unit to prevent heat transfer.

Prior thermos bottle designs, whether wide mouth or narrow mouth in construction, usually require that a cap be removed and the bottle be tipped to some degree to pour the contents from the bottle. During this dispensing operation the insulating properties of the bottle are impaired. Another disadvantage of prior designs is that during pouring it is easy to spill the contents and if the liquid is hot, burns can result. The present invention provides an improved vacuum bottle design which avoids the necessity for pouring liquids therefrom and which maintains the integrity of the temperature insulating bottle. These objectives are accomplished by the provision of a pump dispenser as part of the vacuum bottle design. The dispenser is mounted on the top of the bottle in place of a cap and permits the dispensing of liquids from the heat insulating interior in response to manual pumping.

Pump units for vacuum bottles have been developed by others. These devices are highly complex employing a great number of components and being relatively more expensive to manufacture than the present invention. The present invention achieves its simplicity through the use of a user controlled air intake and an efficient design whereby many of the components serve more than one function in the overall design.

It is, accordingly, one object of the invention to provide a simple low cost pump unit having a vacuum insulated or similarly insulated bottle which employs a relatively low number of reliable components to accomplish its fluid pumping function.

Another object of the invention is the provision of a pump dispenser for a vacuum bottle which can be substituted for a cap of existing vacuum bottles.

A further object is the provision of a pump dispenser for an insulating container, such as a Styrofoam container, which dispenser can be utilized in place of a cap.

A further object is the provision of a pump dispenser which is manually operated to dispense liquids from the interior of a container and which employs a mechanically operated pumping device free from jamming due to angular movement of the pumping disk.

Other objects and advantages of the invention will be apparent from the remaining portion of the specification.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. **1** is a perspective view of a thermos bottle and pump dispenser according to the invention.

FIG. **2** is a cross sectional view of the pump dispenser according to the invention.

FIG. **3** is a cross sectional view of the pump dispenser and thermos bottle showing the dispenser in its actuated position.

FIGS. **4** and **5** are enlarged sectional views of the lower portion of the pump dispenser illustrating operation of the gasket seal.

FIG. **6** is a sectional view along the lines **6**—**6** of FIG. **2**.

FIG. **7** is a sectional view along the lines 7—7 of FIG. **6**.

FIG. **8** illustrates the use of a pump unit according to the present invention on a nonvacuum insulated container of a larger size than the thermos bottle of FIG. **1**.

FIG. **9** is a view similar to FIG. **2** illustrating the use of a gasket according to a second embodiment of the invention.

FIG. **10** is a sectional view similar to FIGS. **4** and **5** illustrating the operation of the gasket according to the second embodiment.

DETAILED DESCRIPTION

Referring to FIGS. **1**, **2** and **3**, the vacuum bottle and dispenser according to the invention are illustrated. The vacuum bottle, for the purpose of the present application, includes an outer jacket **10**, a vacuum filler **12**, a bottom cap **14**, and a filler spacer **16** which positions the filler **12** in the jacket and protects the glass nipple through which air is withdrawn from the interior of the filler. In the embodiment illustrated in FIG. **3** the filler is shown as being a narrow neck bottle, that is, one which tapers at its top to form a convenient pouring neck. As will be indicated, the pump dispenser according to the invention is also capable of being used with wide mouth bottles. A wide mouth bottle does not have the taper and, accordingly, the pump dispenser would have a dimensional change to correspond to the opening of the wide mouth filler.

The pump **18**, according to the invention, includes a dispensing spout **20**, a spout channel **22** and a fluid tube **24** which extends downwardly into the interior of the thermos bottle. In response to air being forced into the interior of the thermos from the pump, fluid passes upwardly through the tube **24** into the channel **22** and out of spout **20**.

Air is forced into the interior of the thermos by the manually operable pump portion of the unit which includes a disk **26**, a flexible sealing member or pump diaphragm **28** and a return spring **30**. The disk **26** has an air port **32** located at its center for permitting the passage of air to an interior space **34** which is enclosed in part by the pump diaphragm **28**. The disk is retained in the position shown by FIG. **2** by the inwardly directed flange **35** of a pump housing **36**. The disk **26** and diaphragm **28** can, however, move vertically downward against the bias of a spring **30** to effect the pumping action to be described. The spring **30** urges the disk and diaphragm back to their initial positions when manual pressure on the disk is removed. The diaphragm **28**, which has its outer end **29** secured between an upper portion **11** of the jacket **10** and a downwardly depending portion **37** of the housing **36**, effectively seals the upper portion of interior space **34** to make it airtight

except for opening 32 in the disk. The inner surface of the diaphragm 28 is secured to the disk by any suitable bonding technique.

The lower portion of the space 34 is enclosed by a wall 39, a conical section 38, bottom 41, and a center post 40. The upper portion of the center post 40 provides a means for mounting the helical spring 30. Bottom portion 41 is provided with a number of openings 42 to permit the passage of air from the interior space 34 into the filler 12 in order to increase the air pressure on the surface of the liquid during pumping.

The number and size of the openings 42 depends upon the size of the pump unit and can be empirically determined for any given construction. In order to prevent liquid from entering the interior space 34 should the thermos be turned on its side or upside down a gasket 44 according to a first embodiment encompasses the conical section 38 and bottom 41 of the pump housing. When the pump is secured over the filler 12 the gasket engages the top of the filler 12 to provide a fluid seal between the filler top and the conical section 38.

As best illustrated in FIGS. 4 and 5, the central portion of the gasket has an aperture therethrough to permit the fluid tube 24 to pass downwardly into the bottle interior. When the pump is not being operated the gasket is retained in close proximity to the junction of the housing and the fluid tube. This securely covers the openings 42 to prevent the passage of liquid upwardly from the thermos into the interior space 34 (FIG. 4). When the pump dispenser is operated, however, the lower portion of the gasket flexes away from the housing and fluid tube, as indicated in FIG. 5, due to the air pressure generated by the pump unit. This permits the air to pass through the openings 42 and around the gasket end 50 into the interior of the thermos. Upon completion of the pumping operation the gasket returns to its FIG. 4 position to again seal the pumping unit.

Operation of the pump unit as thus far described is as follows. The unit is secured to a thermos or other container for liquids by securing it to the top in the manner illustrated in FIGS. 1 and 3. When it is desired to dispense fluid from the interior without the need for pouring or opening the container the index finger or thumb of the user is placed over the opening 32 of the disk 26 thereby sealing the pump interior 34. The user then applies downward pressure to the disk while maintaining the seal thereby forcing the air contained in the interior space 34 downwardly through the openings 42 into the interior of the vacuum bottle. This air pressure acts in a well understood manner to force the fluid in the container up the fluid tube 24 through the channel 22 and out the spout 20 to a cup or glass, as desired. During pumping the gasket 44 alternately seals and unseals the openings 42 to prevent back flow of liquid while permitting entry of air to the container.

At the bottom of its travel the pump disk 26 is released by the user and the air port 32 is unblocked. This permits the return spring 30 to return the disk and the attached diaphragm 28 back to the initial position illustrated in FIG. 2. This also fills the interior 34 with air in preparation for the next pumping stroke.

Referring to FIGS. 9 and 10, a sealing arrangement according to a second embodiment of the invention is illustrated. Unlike the FIG. 1 embodiment, the gasket illustrated in FIGS. 9 and 10 is not in physical contact with the fluid tube 24. Instead, it is spaced slightly therefrom by virtue of having a slightly larger diameter aperture 71. The following dimensions are exemplary of the type of relationship between the outside diameter of the fluid tube and the diameter of the aperture through the bottom of the gasket:

tube diameter — 0.37 inches
gasket aperture — 0.40 inches

A gasket 70, according to the second embodiment, is provided with a relatively thick tapering wall 72 and a relatively thin bottom wall 74. The opening 71 through the bottom of the gasket is defined by a circular bead 78 of increased dimension as compared to the bottom wall 74. As illustrated in FIGS. 9 and 10, bead 78 is intended to normally maintain contact with the bottom portion 41 of the housing. The holes 42 through the bottom portion 41 are located on the side of bead 78 opposite the tube 24 so that the bead normally provides a sealing relationship to prevent liquid from entering the pump interior through the holes 42.

When air is pumped, by operation of the disk and diaphragm, the resulting air pressure causes a slight flexing of bead 78 away from bottom portion 41 permitting air to pass into the vacuum filler to dispense the liquid contained therein. As will be apparent, in order to operate properly, the gasket should be formed of a suitable material which will retain its initial shape so that it will return to the desired sealing position after each flexing away from the bottom of the housing. Many suitable materials are available for this purpose and exemplary thereof is the material sold under the trademark KRATON. As indicated in FIG. 10, the underside of gasket bottom 74 may taper upwardly and reduce in thickness (as viewed from the edge) to improve the flexing capability of the bead. The angle of taper, as measured from the edge, may be on the order of 3°. While this arrangement does not seal the pump unit against liquid as securely as the first embodiment does, it has the advantage of substantially reducing the amount of pressure required to operate the pump unit. This is due to the ease with which the gasket bead can be caused to flex away from the housing bottom 41 as compared to the pressure required to pass air around the gasket illustrated in FIGS. 4 and 5.

Referring now to FIGS. 6 and 7, an important feature of the present invention is illustrated. During the manual pumping operation there is a tendency for the pump disk 26 to wobble, twist or otherwise become angularly disoriented from its intended position. This does have a material affect on the pumping operation in that it increases the difficulty of operation and may cause the unit to jam. It is, therefore, desirable that the disk stay essentially perpendicular to the fluid tube during its movement between the FIG. 2 and FIG. 3 positions. In order to prevent this undesirable movement of the disk 26, the pump housing 36 is provided with a plurality of guide ribs 52 spaced around its circumference. The ribs extend vertically substantially the entire length of travel of the disk between the positions illustrated in FIGS. 2 and 3. The disk 26 is provided with a corresponding set of grooves defined by projections 56 and 58 which mate with the guide ribs 52. Thus, as the disk moves vertically, twisting movement of the disk is prevented by the projections tracking along the vertical length of the guide ribs. Large angular displacement of the disk is also generally avoided by employing these ribs since this problem is in part caused by the twisting movement of the disk. Thus, the guide rib and groove arrangement provides a smoother and more efficient pumping operation than would otherwise be obtained.

As indicated in FIGS. 2 and 3, the pump unit may be provided with an internal thread 60 for engaging a mating thread on the jacket 10 of the thermos bottle. The conical section 38 of the pump housing is dimensioned to securely seal on the filler opening so that as the threads are engaged the gasket 44 effects a good seal between the pump unit and the top of the filler. The threads 60 permit the pump housing to engage the thermos bottle jacket quickly and conveniently to allow the pump unit to be attached to or removed from the thermos bottle for cleaning and refilling purposes.

As mentioned earlier, this pump unit is designed for use with vacuum bottles or similar insulated containers, such as, foam bottles and the like. FIG. 8 illustrates the use of a pump unit according to the invention in conjunction with a quart container 64 which may be of the foam type or similar construction.

While we have shown and described embodiments of this invention is some detail, it will be understood that this description and illustrations are offered merely by way of example, and that the invention is to be limited in scope only by the appended claims.

We claim:

1. A manually operated pump dispenser for a container comprising:

(a) a pump housing having an interior space,

(b) displaceable diaphragm means in said housing for pumping air into said container, said diaphragm means having a sealable opening therethrough to permit air to enter said interior space and including

(i) a circular disk having an aperture therethrough and a downwardly projecting rim at its outer circumference, and

(ii) a flexible diaphragm having an inner portion and an outer periphery terminating radially outwardly of said inner portion, the inner portion of said diaphragm being in contact with said disk, the outer periphery thereof being attached to said housing adjacent the upper end of said housing,

(c) at least one opening through the bottom of said housing for communicating said enclosed space with the interior of said container,

(d) said diaphragm means opening being sealed during the downward displacement of said diaphragm means to force air in said interior space into the container interior via said bottom opening, and left unsealed during upward displacement of the diaphragm means to draw air into said interior space, and

(e) means for permitting fluid to pass out of said container responsive to the air pressure created in said container from the downward displacement of said diaphragm means.

2. The device according to claim 1 wherein said permitting means includes a fluid tube extending into said container to a point near the bottom of the container.

3. The combination according to claim 1 wherein said diaphragm includes an outer portion which doubles back upon itself and terminates in an edge secured in position against said housing.

4. In combination an insulated container having a pouring opening through which liquids pass into and out of the interior of the container and a pump dispenser for said container adapted to removably engage the container and seal the pouring opening to prevent heat loss and spilling, said dispenser including:

(a) a pump housing defining an interior space and having a first opening therein and at least one opening through the bottom of said housing, the latter opening for communicating said interior space with the interior of said container,

(b) means positioned in said housing for pumping air into said container including:

(i) a rigid force applying member positioned directly beneath said first opening and accessible therethrough for direct user actuation,

(ii) a flexible diaphragm having an inner portion and an outer periphery terminating radially outwardly of said inner portion, the inner portion of said diaphragm being in contact with said force applying member, the outer periphery thereof being attached to said housing adjacent the upper end of said housing,

(c) at least one opening through the bottom of said housing for communicating said enclosed space with the interior of said container,

(d) said diaphragm means opening being sealed during downward displacement of said diaphragm means to force air in said interior space into the container interior via said bottom opening, and left unsealed during upward displacement of the diaphragm means to draw air into said interior space, and

(e) means for permitting fluid to pass out of the container in response to air pressure created therein as the result of the downward displacement of said diaphragm means.

5. The device according to claim 4 further including means for restricting liquid in the container from entering said pumping means, said restricting means including a gasket on said pump dispenser normally in a position to restrict liquid from entering said pump means but flexible to a position permitting air to pass from the pumping means into said container when said pump means is operated.

6. The device according to claim 4 wherein said permitting means includes a fluid tube extending into said container to a point near the bottom of the container.

7. The dispenser according to claim 4 wherein said pump housing includes means for removably engaging said container whereby the dispenser may be easily attached to and removed therefrom.

8. The dispenser according to claim 7 wherein the pump is positioned over the pouring opening of said container.

9. The device according to claim 4 wherein said pump means includes a spring for moving said force applying member upwardly in the absence of manual pressure thereon.

10. The combination according to claim 4 wherein said diaphragm includes an outer portion which doubles back upon itself and terminates in an edge secured in position against said housing.

11. The combination according to claim 4 wherein said diaphragm includes:

(a) an inner portion extending substantially across said first opening in contact with said force applying member,

(b) an outer portion including a first part, and a second part which doubles back upon said first part and terminates in an edge secured in position against said housing, said diaphragm being displaceable in said housing by the movement of the

first part of the outer portion relative to the second part.

12. The combination of claim **4** wherein said insulated container comprises a vacuum insulated filler.

13. The combination of claim **12** wherein said rigid force applying member is a circular disk having an aperture therethrough.

14. The dispenser according to claim **13** further including a plurality of vertically disposed ribs on said housing and a plurality of mating grooves on said disk whereby during vertical displacement of said disk relative to said housing, said disk is restrained from twisting or tilting.

15. A manually operated pump dispenser for a container comprising:

(a) a pump housing defining an interior space and having a first opening therein and at least one opening through the bottom of said housing, the latter opening for communicating said interior space with the interior of said container,

(b) means positioned in said housing for pumping air into said container including:

(i) a rigid force applying member positioned directly beneath said first opening and accessible therethrough for direct user actuation,

(ii) a flexible diaphragm including an outer portion which doubles back on itself disposed directly beneath said force applying member and in contact therewith, the outer edge of said diaphragm secured in position against said housing,

(c) means for permitting fluid to pass out of the container in response to the air pressure created in said container from the downward displacement of said pumping means.

16. The pump dispenser of claim **15** wherein said diaphragm has an inner portion extending substantially across said first opening in contact with said force applying member.

17. The pump according to claim **16** wherein said housing includes a downwardly depending member which separates the first and second parts of said outer portion.

* * * * *

Library Cataloging Data

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(USITC Publication 1010)

1. Bottles. 2. Containers. I. Title.
II. Title: Pump top insulated containers.

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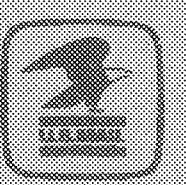

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