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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ICI USA LLC, a Washington limited liability
company,

Plaintiff,

v.

III LAB, III LABS, III LABORATORIES,
III SALES & MARKETING Pte Ltd, and
ISAAC FRANCIS,

Defendants.

Case No. _____

COMPLAINT FOR PATENT AND
TRADE DRESS INFRINGEMENT

JURY DEMAND

ICI USA LLC hereby states its complaint against Defendants III Labs and III Sales & Marketing Pte Ltd as follows:

I. PARTIES

1. Plaintiff ICI USA LLC (“ICI”) is a Washington company with its principal place of business in Seattle, Washington. ICI develops unique, innovative products that solve everyday problems, including sphere ice molds.

2. Upon information and belief, Defendant III Sales & Marketing Pte Ltd is a foreign company with its principal place of business in Singapore. Upon information and belief, III Sales & Marketing Pte Ltd owns, manages, controls, and/or is affiliated with III

1 Lab, III Labs, and/or III Laboratories (collectively, “III Lab”). Upon information and belief,
2 III Lab makes and sells a sphere ice mold.

3 3. Upon information and belief, Defendant III Sales & Marketing Pte Ltd is a
4 company established under the laws of Singapore.

5 4. Upon information and belief, Defendant Isaac Francis operates and/or controls
6 sales, marketing, and distribution for III Lab and III Sales & Marketing Pte Ltd. in the United
7 States.
8

9 **II. JURISDICTION AND VENUE**

10 5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and § 1332.

11 6. This Court has personal jurisdiction because Defendants commit intentional
12 acts to sell their products in the stream of commerce in the forum state; they have sufficient
13 minimum contacts with the forum state; they specifically sell their product in the forum state;
14 they sell their product through an Internet site requiring active participation in the forum
15 state; and they maintain a universal presence through Internet sales in the forum state.
16

17 7. Venue is proper under 28 U.S.C. §§ 1391(b)(2) and 1400(b) because a
18 substantial part of the events giving rise to the claim occurred in this judicial district, and the
19 property that is the subject of this action, namely, the Tovolo sphere ice mold, was created,
20 designed, and sold in this judicial district. In addition, Defendants sold infringing products in
21 this judicial district.
22

23 // // // // //

24 // // // // //

25 // // // // //

1 **III. FACTUAL ALLEGATIONS**

2 **A. ICI Has Sold Over One Million of Its Innovative and Well-Known**
3 **Sphere Ice Molds.**

4 8. ICI designs innovative new products that surprise and delight the user. ICI
5 has built a team of experts dedicated to each phase of product development including
6 marketers, industrial and graphic designers, and packaging experts. ICI’s clients include
7 Bed Bath & Beyond, Crate & Barrel, Pier 1 Imports, Sur La Table, Macy’s, and Williams
8 Sonoma, among others, all of whom sell the ICI products.

9 9. One of ICI’s well known product lines is the Tovolo product line. ICI uses
10 the Tovolo brand to market utensils, kitchen gadgets, and beverage devices including tea
11 infusers, ice cube trays, wine bottle holders, crock book holders, spreaders, scoops, pizza
12 wheels, and ice sphere molds, among many other successful products.

14 10. The Tovolo products all have a certain look and feel in terms of design. The
15 Tovolo products incorporate bright colors; high-quality, sturdy-looking plastics; professional
16 quality-looking designs; and unique shapes. The designs among products look similar and
17 help customers identify products that are part of the Tovolo line of products.

18 11. The Tovolo product line includes a product called Sphere Ice Molds. The
19 innovative and clever design produces an ice sphere, which melts slowly when added to a
20 drink.

21 12. ICI sells the Tovolo sphere ice molds through Amazon.com among other
22 places. The product received 4.6 out of 5 stars on Amazon after being reviewed by over
23 2100 customers. The Tovolo sphere ice mold is a best seller on Amazon.com and among the
24 Top 100 products in Kitchen & Dining. The product is the “#1 Best Seller” out of all the ice
25
26

1 cube molds and trays sold on Amazon.com.

2 13. In addition, ICI sells the Tovolo sphere ice mold through Bed Bath & Beyond,
3 Sur La Table, and Williams Sonoma in addition to other fine retailers.

4 14. In total, ICI has sold over one million Tovolo sphere ice molds through its
5 various retailers.

6
7 15. Since its creation, the Tovolo sphere ice mold has featured a unique design
8 and combination of design elements. This design and trade dress includes a clear plastic
9 mold base with two swirled-looking lines with the Tovolo trademark in the middle and a
10 gray plastic mold top with grooves, lines, ridges, and a wagon wheel design. The colors and
11 design elements help the mold look ready for professional kitchen use. None of these design
12 elements are functional or necessary to the mold in any manner; rather, they add a unique
13 touch similar to all of the other Tovolo products. Because these design elements fit in the
14 family of the other Tovolo products, they help to signify the source of the products.
15

16 **B. Defendants’ “ICE ORB CAST” Ice Mold Infringes the Tovolo**
17 **Product.**

18 16. On or about June 9, 2015, the Defendants’ Ice Orb Cast was purchased from
19 Amazon.com and delivered to the offices of Schwabe, Williamson, & Wyatt located in
20 Seattle, Washington. *See Attachment A.*

21 17. Defendants also sell the infringing Ice Orb Cast through, at a minimum, its
22 website at www.iiilaboratories.com. *See Attachment B.*

23 18. Defendants’ Ice Orb Cast as sold on its website and Amazon.com, see
24 **Attachment C**, copies and infringes the trade dress of the Tovolo sphere ice molds.

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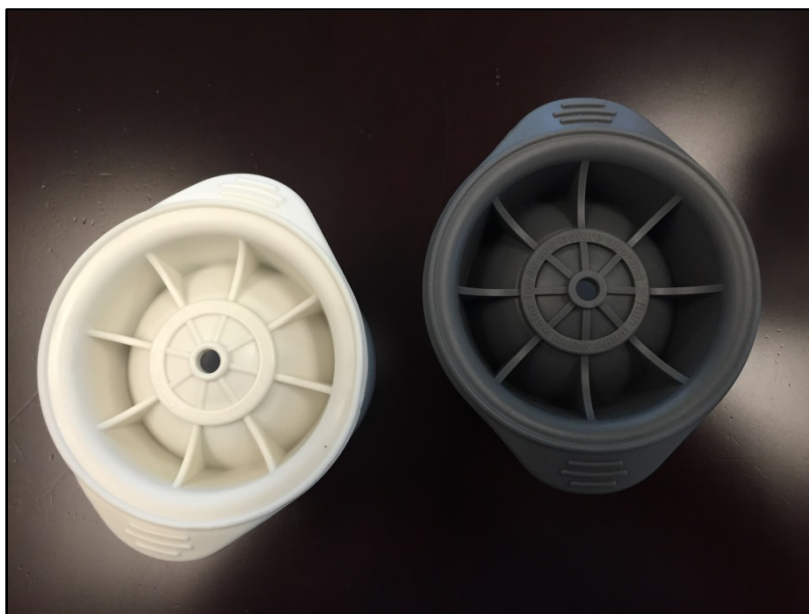
III Labs Product

Tovolo Product



III Labs Product

Tovolo Product



/////

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/////

IV. CLAIMS FOR RELIEF

CAUSE OF ACTION – PATENT INFRINGEMENT UNDER 35 U.S.C § 271

19. ICI repeats, and realleges, and incorporates all of the above allegations.

20. On June 9, 2015, US D731,264 (the “264 Patent”), entitled “Sphere Mold,” attached hereto as **Attachment D**, was issued to ICI.

21. The ‘264 Patent is presumed valid.

22. Defendants’ Ice Orb Casts is infringing the ‘264 Patent, at least Fig. 1, 2, 3, 4, 5, 8, 9 of the ‘264 product.

23. Defendants manufacture, sell, and distribute the infringing product.

24. Defendants’ actions have damaged ICI.

CAUSE OF ACTION – TRADE DRESS INFRINGEMENT UNDER 15 U.S.C. § 1125(a)

25. ICI repeats, realleges, and incorporates all of the above allegations.

26. ICI owns a protectable trade dress in the clearly articulated design elements and combination of elements in the Tovolo sphere ice mold, including a clear plastic mold base that features two swirled-looking lines with the Tovolo trademark in the middle and a gray plastic mold top with grooves, lines, ridges, and a wagon wheel design.

27. None of the trade dress in the Tovolo sphere ice mold is functional. Rather, the design elements and combination thereof were selected to fit in with the other products in Tovolo’s kitchen and beverage lines and to designate Tovolo and ICI as the source. Indeed, the Tovolo trademark is incorporated into the trade dress of the product and packaging as another way to indicate the product source.

28. The trade dress in the Tovolo sphere ice mold and packaging is inherently distinctive or has acquired secondary meaning through ICI’s sales and marketing efforts of

1 the mold as described above. The product and packaging design and features are well known
2 in all of the markets in which ICI sells the products.

3 29. Defendants’ Ice Orb Cast design creates a likelihood of confusion as to
4 source, sponsorship, affiliation, connection, or association because the Defendants’ product
5 copies all of the non-functional trade dress elements of the Tovolo sphere ice mold product.
6 Customers are likely to be confused or deceived as to the origination of the Defendants’
7 product or are likely to think that the Defendants’ product is somehow connected to or
8 associated with ICI and Tovolo.
9

10 30. The general impression made by the Defendants’ product upon the eye of the
11 ordinary purchaser or user is deceiving given the similarity to the Tovolo trade dress. The
12 multiplicity of similarities between the products constitutes trade dress infringement.
13

14 31. Defendants’ conduct violates section 1125(a) and has damaged ICI.

15 **V. PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff ICI prays for relief as follows:

- 17 1. For a judgment against Defendants;
- 18 2. For an injunction against Defendants that prohibits Defendants from
19 manufacturing, selling, incorporating or otherwise using ICI’s proprietary trade dress.
- 20 3. For damages against Defendants in an amount to be determined at trial;
- 21 4. For reasonable attorneys’ fees and the costs of pursuing ICI’s claims as may
22 be allowed by law; and;
- 23 5. Such other and further relief as the Court determines is just and proper.

24
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26

1 Dated this 24th day of June, 2015.

2 SCHWABE, WILLIAMSON & WYATT, P.C.

3
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13 1420 5th Avenue, Suite 3400
14 Seattle, WA 98101-4010
15 *Attorneys for Plaintiff ICI USA LLC*

ATTACHMENT A



SDmdJTDm5k

Your order of June 9, 2015 (Order ID 103-6412454-6381059)

Qty.	Item	Item Price	Total
1	III LAB Sphere Ice Mold - Exquisite White - 100 Recipes - Round Ice Molds - 2.5 Inch - Set of 2 (*w P-1-B23D27 **w) X000KRNGIH MN-2XUJ-RYTS 820I03904551 (Sold by III LAB)	\$ 8.94	\$ 8.94
1	Ice Sphere Molds & Ice Ball Maker - Set of 4 Ice Cube Trays - Create Whiskey Ice Balls and Round Ice Cubes That Won't Wa... (*w P-1-B53D46 **w) X000QZARXF 83-0VZ1-66FO 806802094212 (Sold by Pratico Goods)	\$ 16.99	\$ 16.99
We've sent this part of your order to ensure quicker service. The other items will ship separately at no additional shipping cost.		Subtotal	\$ 25.93
Have feedback on how we packaged your order? Tell us at www.amazon.com/packaging.		Shipment Total	\$ 25.93
		Paid via credit/debit	\$ 1.52
		Balance due	\$ 0.00

Returns Are Easy! Most items can be refunded, exchanged, or replaced when returned in original and unopened condition. Visit <http://www.amazon.com/returns> to start your return, or <http://www.amazon.com/help> for more information on return policies.



2/DmdJTDm5k/-2 of 2-//UPS-2DAY/second/9374931/0609-23:00/0609-17:35 1A5

ATTACHMENT B

out the full flavors of your favorite drink (alcoholic or not).

Simply, a sphere shape object has the least surface area when compared to other shape objects of the same radius. The least surface area means least contact with the air and/or substance, therefore resulting in **SLOWER MELTING** and lower dilution rates. In this slow-melting phenomenon, it is able to draw out the full flavors hidden in a drink.

Here, III LAB presents to you the world's most desirable ice ball mold for your drinks. The Ice Orb Cast (IOC). Perfect for your favorite whiskeys, cocktails or non-liquors. It creates full **2.5 inches** or **6.35 cm** diameter ice balls. Made in **highest quality 100% BPA Free** certified materials. A unique addition to your bar accessories.

Ice Orb Cast (IOC)



Like 4
Follow
Pin it
+1

Unstacked
World's Most Desirable Ice Ball Mold For Your Drinks



(click on center image above to enlarge)

BENEFITS

- Share with everyone the bright way to relax for a cold drink in full flavors
- Enjoy this affordable 5-star world-class indulgence with your family, friends or clients
- Be at the center of attention with this **CROWD-CHARMER** at any bar, restaurant or party
- Display this good-looking gadget in your home, office or venue for a stunning impression
- Create unlimited fun and amusement for both children and adults on any occasion

ATTACHMENT C

amazon Home & Kitchen INTRODUCING amazon echo

Shop by Department Your Amazon.com Today's Deals Gift Cards Sell Help Hello, Sign in Your Account Try Prime Wish List Cart

Kitchen & Dining Best Sellers Wedding Registry Small Appliances Kitchen Tools Cookware Bakeware Cutlery Dining & Entertaining Storage & Organization

Home & Kitchen Kitchen & Dining



Roll over image to zoom in

III LAB Ice Ball Mold - Exquisite White - 100 Recipes - Round Ice Molds - 2.5 Inch - Set of 2

by III LAB
 ☆☆☆☆☆ 161 customer reviews | 5 answered questions

Price: ~~\$29.99~~
 Sale: **\$8.94 & FREE Shipping** on orders over \$35. Details
 You Save: \$20.86 (70%)

In Stock.
 Sold by III LAB and Fulfilled by Amazon. Gift-wrap available.

Want it tomorrow, June 24? Order within 5 hrs 47 mins and choose **One-Day Shipping** at checkout. Details

- PERFECT DRINKS EVERY TIME: III LAB Ice Orb Cast (IOC). A voted 5-star ice ball mold that creates full 2.5 inches or 6.35 cm diameter ice balls that melt slowly to draw out the full flavors hidden in your drinks. Perfect for your favorite whiskey, cocktail or non-liquor. Loved by both children and adults.
- WORLD-CLASS INDULGENCE: Born for the individual with a refined taste for smart quality products. Savor a fresh ice ball every time with these singular enclosed round ice molds. Relax for a zero-spill and leak-free freezing process with such sturdy molds. Enjoy an unbelievably simple to use cool gadget.
- FREE 100 DRINK RECIPES: "Timeless Secrets of 50 Cocks & 50 Mocks" (valued at \$14.99) is a private collection of delicious time-proven cocktail and mocktail recipes in classic and modern styles. Each meticulously crafted recipe is paired with deluxe imagery and technically enhanced with an interactive content interface for a user-friendly experience.
- HIGHEST QUALITY MATERIALS: Product tested over 3 months for quality and efficiency before release in the US. 100% BPA Free. Food Safe. Freezer Safe. Dishwasher Safe. Durable recyclable materials with reinforced design for long-lasting usage. Modular parts stack to conserve space. Chic packaging design ideal as gifts for all occasions.
- LIFETIME GUARANTEE: 100% Quality & Satisfaction Guaranteed. No Questions Asked. Free Replacement. The Ice Orb Cast (IOC) is the only white color ice ball maker in the market and together with its exclusive drinks recipe e-book is available on Amazon only. Beware of unauthorized sellers or imitations elsewhere: the writings, images and packaging design here are original professional works of III LAB.

1 used from \$6.99

Share

Buy new: **\$8.94**

Qty: 1

Yes, I want **FREE Two-Day Shipping** with Amazon Prime.

Turn on 1-Click ordering for this browser

Ship to: **WA 98101**

Buy used: **\$6.99**

Other Sellers on Amazon

2 used & new from \$6.99

Have one to sell?

Sponsored by **Bialetti**

Bialetti Moka Express 6-Cup Stovetop Espresso
 ☆☆☆☆☆ (3,319)
 \$33.30

Ad feedback

Frequently Bought Together



Price for all three: **\$35.92**

Show availability and shipping details

- This item: III LAB Ice Ball Mold - Exquisite White - 100 Recipes - Round Ice Molds - 2.5 Inch - Set of 2 1 <
- Tovolo Sphere Ice Molds - Set of 2 4 3 <
- Sun's Tea (TM) 9 oz Strong Double Wall Manhattan Style old-fashioned Scotch/Whiskey Glasses, Set of 2 4 8 1 <

Customers Who Bought This Item Also Bought



Tovolo Sphere Ice Molds - Set of 2
 ☆☆☆☆☆ 2,407
 \$10.99
 Get it by Tomorrow



Zappo® - MORE FOR LESS 4 X 2.5" Huge Perfect Ice Balls Value for Money Best...
 ☆☆☆☆☆ 158
 \$15.99
 Get it by Tomorrow



Zoku Ice Ball Ice Sphere Mold, Set of 2
 ☆☆☆☆☆ 89
 \$16.99
 Get it by Tomorrow



iPerfect Kitchen Sphere Ice Mold - Premium Silicone Ice Ball Maker - Set of 2 X 2.5"
 ☆☆☆☆☆ 1,111
 \$10.95
 Get it by Tomorrow



Ice Ball Maker Mold by BAR-KRAFT® - #1 Rated on Amazon - Deluxe Black Silicone Tray with 4 x...
 ☆☆☆☆☆ 474
#1 Best Seller in Hurricane Glasses
 \$9.50
 Get it by Tomorrow



Lucentee® Large Ice Ball Mold That Creates 4x2" Ice Balls...
 ☆☆☆☆☆ 255
#1 Best Seller in Compost Serving Bowls
 \$8.99
 Get it by Tomorrow

ATTACHMENT D



US00D731264S

(12) **United States Design Patent** (10) **Patent No.:** **US D731,264 S**
Frank et al. (45) **Date of Patent:** **** Jun. 9, 2015**

(54) **SPHERE MOLD**
 (71) Applicant: **ICI USA, LLC**, Seattle, WA (US)
 (72) Inventors: **Matthew Frank**, Seattle, WA (US);
Ryan H Peloquin, Seattle, WA (US)
 (73) Assignee: **ICI USA, LLC**, Seattle, WA (US)
 (**) Term: **14 Years**
 (21) Appl. No.: **29/452,215**
 (22) Filed: **Apr. 12, 2013**

Related U.S. Application Data

(63) Continuation of application No. 29/417,609, filed on Apr. 5, 2012, now abandoned.
 (51) **LOC (10) Cl.** **07-04**
 (52) **U.S. Cl.**
 USPC **D7/672**
 (58) **Field of Classification Search**
 USPC D7/368, 603, 672-676, 638, 669, 323, D7/354, 376, 543-546, 549, 555, 601-602, D7/677, 681, 701, 705, 708; 249/63, 69, 249/70, 127, 132, 81, 91-92, 118-121, 249/94-97, 126, 173, 175; 62/135, 348, 62/352, 350, 300, 66, 228.2, 250, 312, 62/398, 400, 459; D15/80, 89-90, 82-83; D1/101-103, 105; D23/200, 202, D23/204-206; 425/117, 118, 125, 126.1, 425/126.2, 234; 294/87.11; 206/563, 423, 206/822; 220/659, 669, 674-675, 220/FOR. 112, FOR. 115, 800; D6/329, 351
 See application file for complete search history.

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(Continued)

Primary Examiner — Wan Laymon
Assistant Examiner — Mark Booker
 (74) *Attorney, Agent, or Firm* — Schwabe Williamson & Wyatt PC

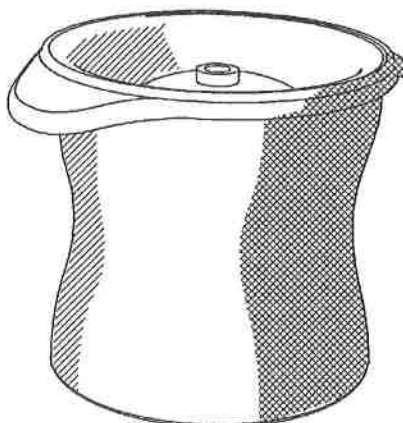
CLAIM

(57) I claim as my invention the ornamental design for a sphere mold, as shown and described.

DESCRIPTION

FIG. 1 shows a perspective view of the sphere mold;
 FIG. 2 shows a first, side view of the sphere mold when it is in a closed position where the opposite side is to the same as the side shown;
 FIG. 3 shows a top of the sphere mold when it is in a closed position;
 FIG. 4 shows a second side view of the sphere mold when it is in a closed position where the opposite side is the same as the to the side shown;
 FIG. 5 shows a top view of the sphere mold when it is in an open position;
 FIG. 6 is a side view of the sphere mold when it is in a closed position;
 FIG. 7 is a sectional view of the sphere mold taken from line 7-7 of FIG. 6;
 FIG. 8 is an exploded view of the sphere mold; and,
 FIG. 9 is a bottom view of the sphere mold.

1 Claim, 8 Drawing Sheets



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Page 2

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U.S. Patent

Jun. 9, 2015

Sheet 1 of 8

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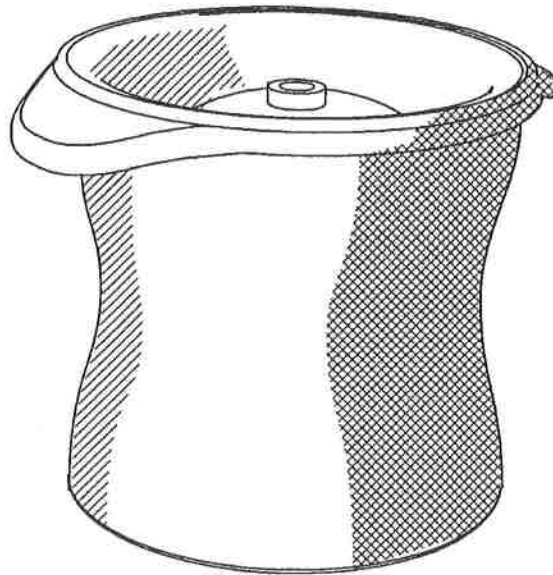


FIG 1

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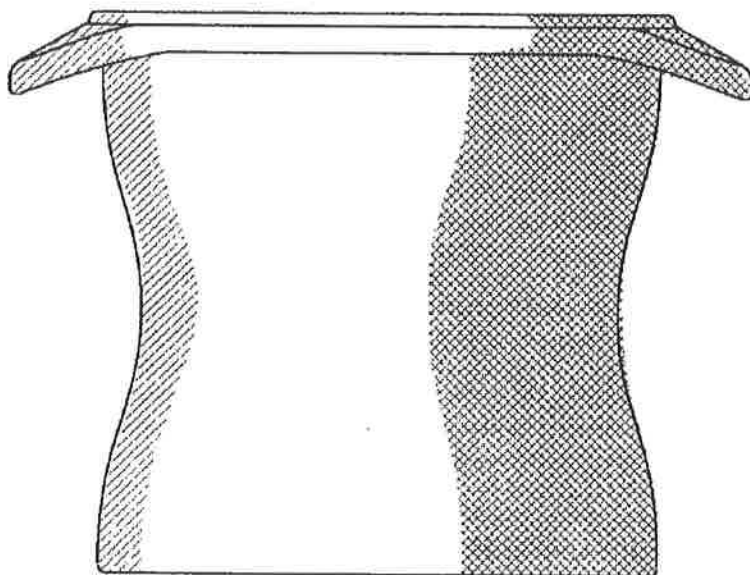


FIG 2

U.S. Patent

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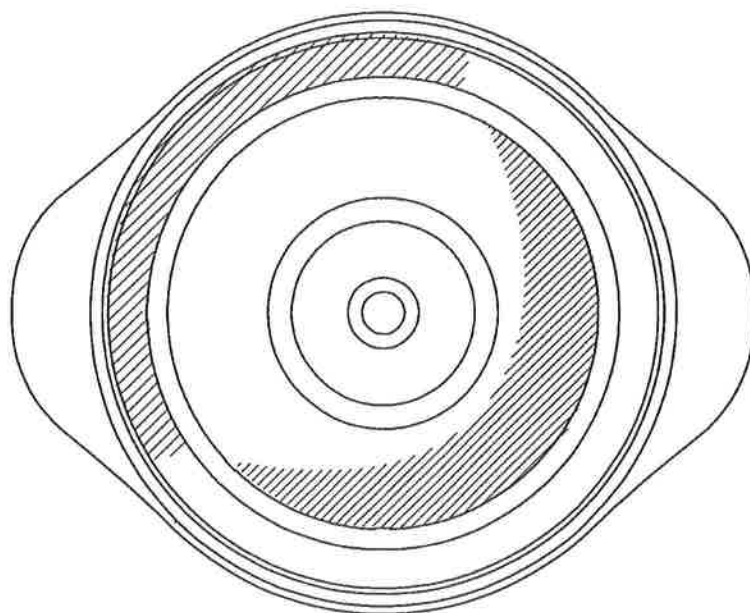


FIG 3

U.S. Patent

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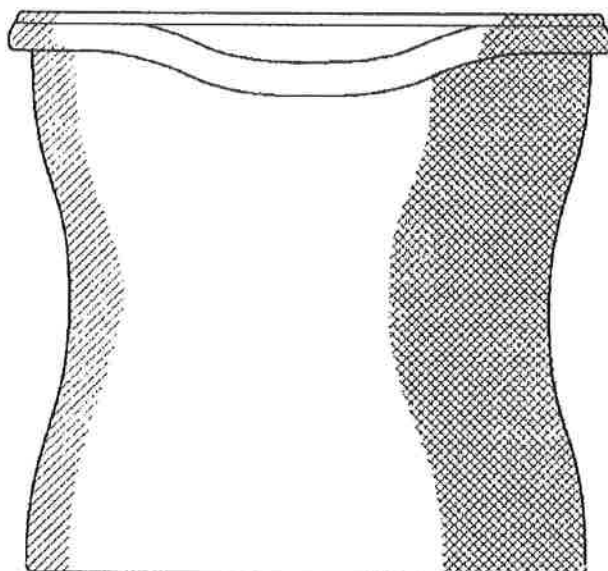


FIG 4

U.S. Patent

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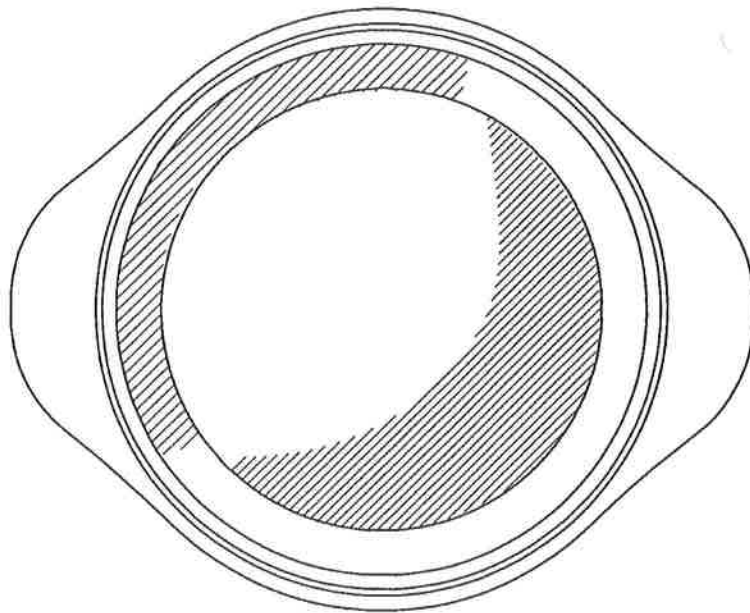


FIG 5

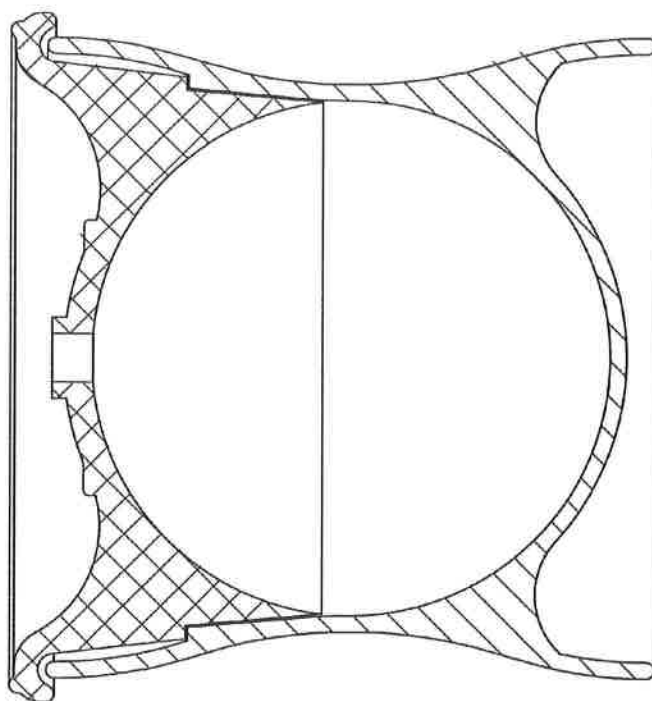


FIG 7

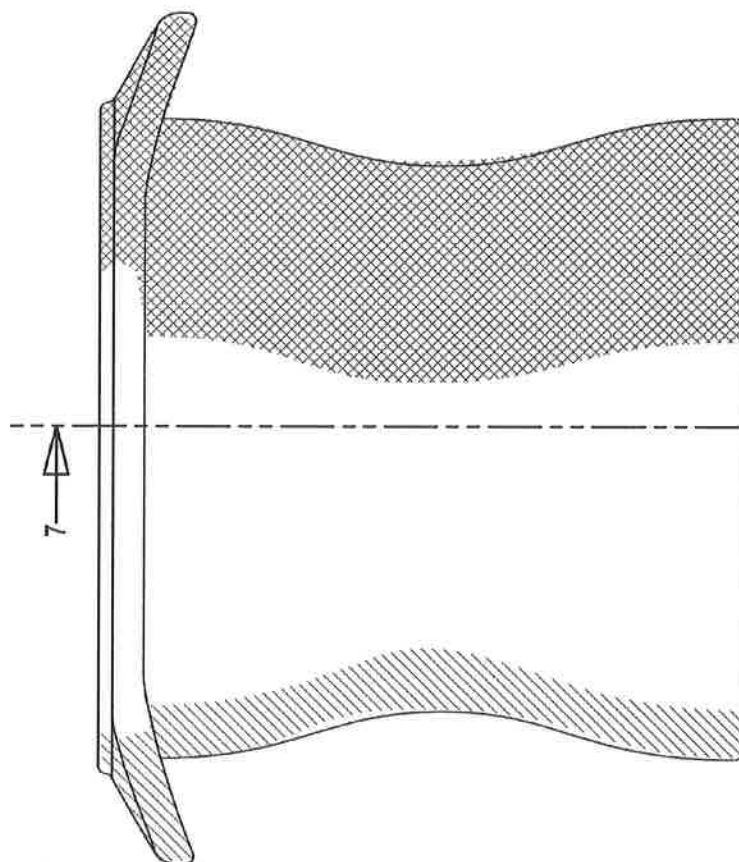


FIG 6

U.S. Patent

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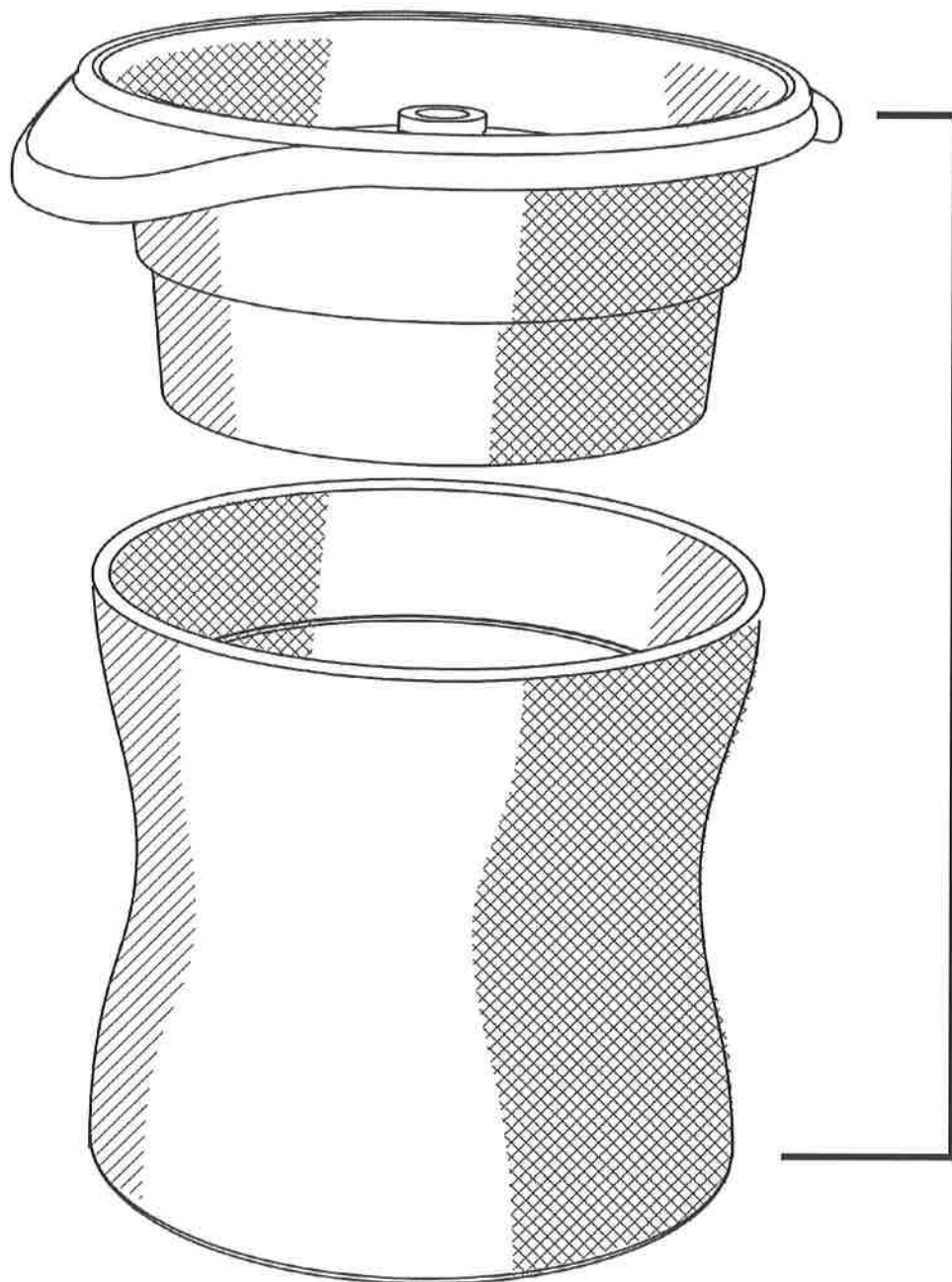


FIG 8

U.S. Patent

Jun. 9, 2015

Sheet 8 of 8

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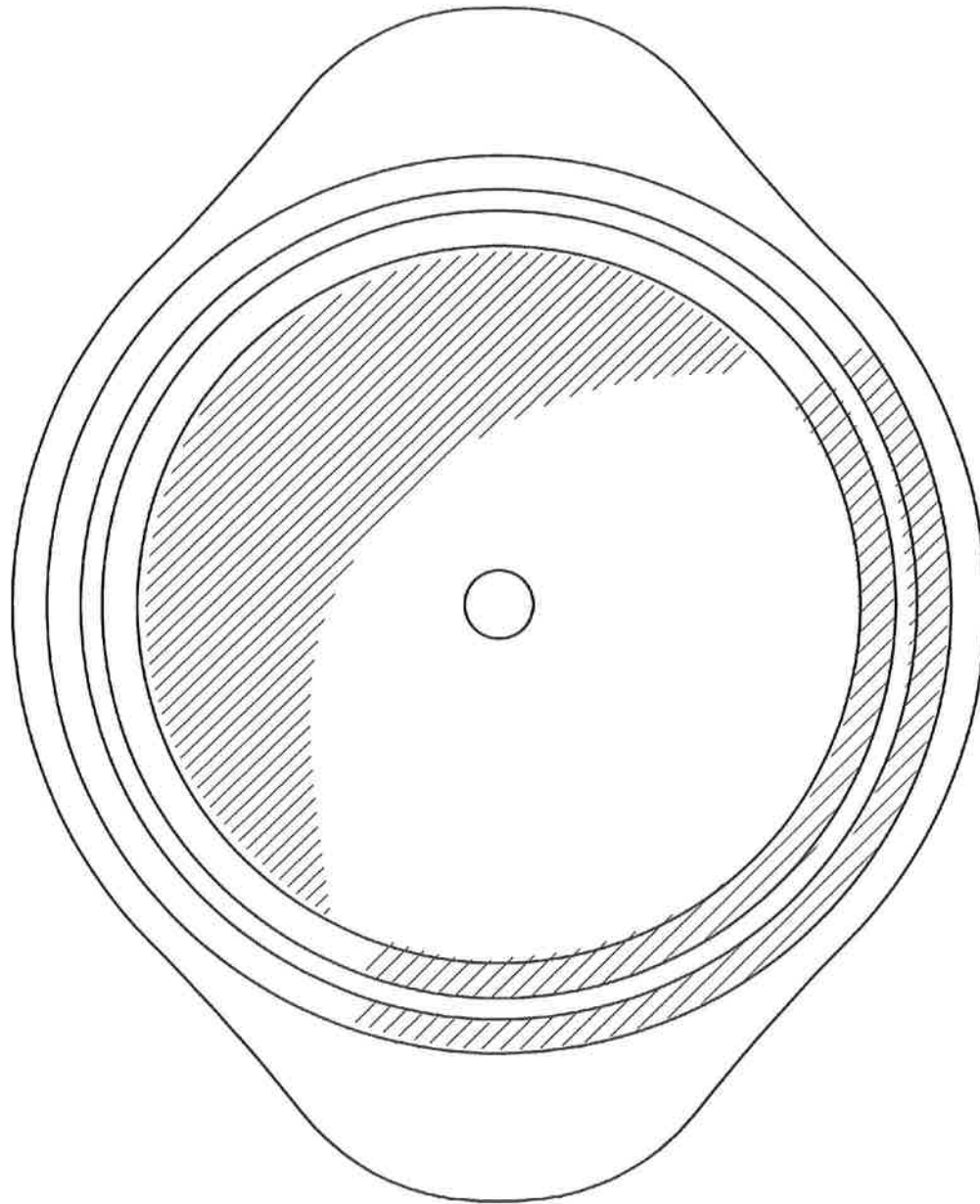


FIG 9