

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
(Northern Division)**

DURR SYSTEMS, INC. *
26801 Northwestern Highway *
Southfield, Michigan 48033 *

Plaintiff, *

v. * **Civil Action No. 18-cv-02597-GJH**

EFC SYSTEMS, INC. *
1851 Clark Road *
Havre de Grace, Maryland 21078 *

SERVE ON: *
Gunnar Van Der Steur *
Resident Agent *
125 West Street *
P.O. Box 2289 *
Annapolis, Maryland 21404 *

Defendant. *

* * * * *

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT,
INDUCEMENT OF PATENT INFRINGEMENT, UNFAIR COMPETITION,
INJUNCTIVE RELIEF, AND MONETARY DAMAGES**

NOW COMES Plaintiff Durr Systems, Inc., by and through its attorneys, and for its First Amended Complaint against Defendant EFC Systems, Inc. states as follows:

THE PARTIES

1. Plaintiff Durr Systems, Inc. (“Durr Systems”) is a corporation organized under the laws of the State of Michigan with a principal place of business at 26801 Northwestern Highway, Southfield, Michigan 48033.

2. Defendant EFC Systems, Inc. (“EFC”) is a corporation organized under the laws of the State of Delaware with a principal place of business at 1851 Clark Road, Havre de Grace, Maryland 21078.

JURISDICTION AND VENUE

3. This is an action for patent infringement and inducement of patent infringement arising under the patent laws of the United States of America, Title 35 of the United States Code, and for unfair competition arising under both the laws of the United States of America, 15 U.S.C. § 1125, and the common law of the State of Maryland. This Court has subject matter jurisdiction over the matters pled herein under 28 U.S.C. §§ 1331 and 1338(a) in that this is a civil action arising out of the laws of the United States of America and under 28 U.S.C. §§ 1367.

4. Defendant directly, regularly and deliberately engaged in activities that resulted in making, using, offering for sale, and/or selling bell cups for applying spray paint in the United States, the State of Maryland, and this Jurisdiction and activities that intentionally resulted in others in making, using, offering for sale, and/or selling bell cups for applying spray paint in the United States. These activities violated the patent rights of Durr Systems, as further plead below.

5. Defendant directly, regularly, and deliberately engaged in, and continues to engage in, activities that result in Defendant intentionally and/or maliciously making deceptive, unsubstantiated and/or false representations about automated spray painting systems and components therefor, including bell cups, to customers and potential customers of Durr Systems in the United States, the State of Maryland, and this Jurisdiction. These activities harm Durr Systems in violation of Federal unfair competition law and the common law of the State of Maryland, as further plead below.

6. This court has personal jurisdiction over EFC because EFC conducts continuous and systematic business in the State of Maryland and this judicial district, and thus enjoys the benefits, privileges and protections of Maryland law.

7. Venue is proper in the District of Maryland as to EFC pursuant to 28 U.S.C. §§ 1391(b), (c) and (d) and 1400(b).

BACKGROUND

A. The Parties' Positions in the Marketplace

8. Durr Systems is a world leader in the manufacture and sale of automotive and industrial paint and sealing products including bell cups which are recognized globally for their high performance in applying spray paint and sealing products to vehicles and other components, products, and assemblies.

9. Durr Systems sells, supplies, and services complete automated spray painting systems for original and retro-fit installation in painting facilities, such as in a spray painting booth in a vehicle manufacturing plant.

10. Durr Systems' automated spray painting systems for vehicle manufacturers are typically configured for one or more of particular models of vehicles, particular coatings and paints for vehicles, particular manufacturing speeds of vehicles, and particular building and climate conditions.

11. The configuration and performance parameters for Durr Systems automated spray painting systems for vehicles typically require approval through corporate management of vehicle manufacturers.

12. Bell cups are critical components of Durr Systems automated spray painting systems.

13. Durr Systems sells and supplies replacement bell cups for its automated spray painting systems.

14. Upon information and belief, replacement bell cups for automated spray painting systems such as those sold by Durr Systems are typically used in existing particular configurations of the automated spray painting systems, respectively.

15. Upon information and belief, third party employees of a vehicle manufacturer responsible for the operation and maintenance of a Durr Systems automated spray painting system are typically required to maintain the performance of the automated spray painting systems as originally configured and therefore use replacement parts for the purpose of maintaining the approved performance.

16. The usable life of a Durr Systems bell cup depends on many variables, including: type of paint, the component or vehicle being painted, the speed of the painting operation, and the maintenance and cleaning of bell cups and the other components of automated spray paintings systems.

17. Upon information and belief, the market for automated spray painting systems for vehicles demands consistent performance.

18. Upon information and belief, the paint job on an automobile is a material part of the measure of quality of an automobile.

19. Upon information and belief, vehicle finishes are typically measured by manufacturer quality control personnel to ensure that the quality and consistency of the finish are acceptable.

20. Upon information and belief, unintentional variations in vehicle finishes are highly problematic for vehicle manufacturers.

21. EFC is an aftermarket supplier of replacement parts for spray painting equipment.

22. EFC's business includes selling bell cups represented as replacements for proprietary bell cups sold by Durr Systems.

23. Upon information and belief, in the United States, EFC is the only entity outside of Durr Systems that manufactures, sells, or offers to sell bell cups represented as replacements for Durr Systems bell cups in Durr Systems automated spray painting systems.

24. Upon information and belief, EFC's bell cup products which it represents are replacements for Durr Systems bell cups for Durr Systems automated spray painting systems have no use or function outside of a Durr Systems automated spray painting system.

25. Upon information and belief, for EFC's bell cup products which it represents are replacements for Durr Systems bell cup components for Durr Systems automated spray painting systems, EFC's market is limited to customers who first acquired an automated painting system from Durr Systems.

26. Upon information and belief, EFC markets its products to individual manufacturing facilities.

27. Upon information and belief, EFC knows that replacement parts for Durr Systems automated spray painting systems to manufacturing facilities would be unacceptable in the market unless its products meet the performance parameters which the automated spray painting systems from Durr Systems were originally designed to meet.

28. Upon information and belief, EFC achieves cost savings for its bell cups marketed as replacements for Durr Systems components by avoiding testing and approval at the corporate level.

29. Upon information and belief, EFC bell cup products marketed as replacements for Durr Systems components are acceptable only if similar or the same in both appearance and performance of Durr Systems components.

30. Upon information and belief, the market measures the performance EFC bell cup products marketed for use with Durr Systems automated spray painting systems only against Durr Systems bell cups.

31. Upon information and belief, EFC offers samples of its products to manufacturing facilities for the purpose of determining if the business unit or personnel responsible for maintaining and operating an automated painting system which originated from Durr Systems is able to switch from Durr Systems bell cups to the EFC Bell Cups without notice by quality control personnel.

32. Upon information and belief, EFC solicits spent components from Durr Systems automated spray painting systems from third parties.

33. Upon information and belief, EFC solicits Durr Systems' non-public pricing information from third parties.

34. Upon information and belief, EFC solicits Durr Systems' non-public marketing information from third parties.

B. Durr Systems' Patents

35. Durr Systems is the assignee of U.S. Patent No. 6,189,804 ("the '804 Patent"), U.S. Patent No. 6,360,962 ("the '962 Patent"), U.S. Patent No. 7,017,835 ("the '835 Patent"), U.S. Patent No. 8,141,797 ("the '797 Patent"), and U.S. Patent No. 8,590,813 ("the '813 Patent") (collectively "the Patents"). The Patents are attached to this Complaint as Exhibits A-E.

36. The Patents are all in a same family of patents.

37. The Patents share a common specification.

38. On March 27, 1998, U.S. Provisional Patent Application serial number 60/079,565 (the '565 Application) was filed at the United States Patent and Trademark Office ("USPTO").

39. On March 17, 1999, U.S. Patent Application serial number 09/271,477 (the '477 Application) titled Rotary Atomizer For Particulate Paints was filed at the USPTO claiming priority to the '565 Application.

40. The '477 Application named inventors Kurt Vetter, Rolf Schneider, Andreas Fischer, and Robert F. Heldt.

41. On or about June 1, 1999, the Inventors duly executed an Assignment of their rights in the '477 Application to Behr Systems, Inc., including rights to any and all divisions, continuations, and continuations-in-part of the '477 Application.

42. On December 16, 2004, Behr Systems, Inc. executed an Agreement, Plan and Certificate of Merger merging Behr Systems, Inc. into the surviving corporation of Durr Industries, Inc.

43. The Agreement, Plan and Certificate of Merger renamed the surviving corporation of Durr Industries, Inc. to a new name of Durr Systems, Inc.

44. On February 20, 2001, the '477 Application issued as the '804 Patent, attached as Exhibit A.

45. On January 25, 2001, U.S. Patent Application serial number 09/769,706 ("the '706 Application") was filed at the USPTO as a continuation of the '477 Application.

46. On March 26, 2002, the '706 Application issued the '962 Patent, attached as Exhibit B.

47. On January 25, 2001, U.S. Patent Application serial number 09/769,707 (“the ‘707 Application”) was filed at the USPTO as a division of the ‘477 Application.

48. On June 26, 2003, U.S. Patent Application serial number 10/606,983 (the ‘983 Application) was filed at the USPTO as a division of the ‘707 Application.

49. On March 28, 2006, the ‘983 Application issued as the ‘835 Patent, attached as Exhibit C.

50. On February 22, 2006, U.S. Patent Application serial number 11/358,993 (the ‘993 Application) was filed at the USPTO as a continuation of the ‘983 Application.

51. On March 27, 2012, the ‘993 Application issued as the ‘797 Patent, attached as Exhibit D.

52. On March 7, 2012, U.S. Patent Application serial number 13/414,194 (“the ‘194 Application”) was filed at the USPTO as a continuation of the ‘993 Application.

53. On November 26, 2013, the ‘194 Application issued as the ‘813 Patent, attached as Exhibit E.

54. Durr Systems sells multiple models of bell cups under the brand name Ecobell2.

55. Durr Systems sells multiple models of bell cups under the brand name Ecobell3.

56. Durr Systems sells multiple models of bell cups, including those sold under the Ecobell2 and Ecobell3 brand names, that are covered by one or more claims of one or more of the Patents.

57. Durr Systems sells, supplies, and services complete automated spray painting systems, of which Durr Systems’ bell cups under the brand name Ecobell2 covered by one or more claims of one or more of the Patents are critical components.

58. Durr Systems sells, supplies, and services complete automated spray painting systems, of which Durr Systems' bell cups under the brand name Ecobell3 covered by one or more claims of one or more of the Patents are critical components.

59. Durr Systems sells, supplies, and services complete automated spray painting systems, uses of which are covered by one or more of the Patents.

C. Performance of Durr Systems' Bell Cups

60. With operation and maintenance of a Durr Systems automated spray painting system as configured and instructed by Durr Systems, and based on Durr Systems' decades of experience with its automated spray painting systems and its bell cups, the wear characteristic of Durr Systems bell cups that is known to Durr Systems to be typically determinative of whether replacement of a bell cup is required to maintain performance is the condition of the inside generally conically shaped surface of the bell cup.

61. With operation and maintenance of a Durr Systems automated spray painting system as configured and instructed by Durr Systems, Durr Systems is aware of no known, measured, or observed circumstances in which the condition of the underside of the deflector component of a Durr Systems bell cup defines the usable life of a Durr Systems bell cup.

62. With operation and maintenance of a Durr Systems automated spray painting system as configured and instructed by Durr Systems, Durr Systems is aware of no known, measured, or observed circumstances in which the configuration of balance marks on a Durr Systems bell cup results in interruption of the performance of the automated spray painting system.

63. With operation and maintenance of a Durr Systems automated spray painting system as configured and instructed by Durr Systems, Durr Systems is aware of no known,

measured, or observed risks of a Durr Systems bell cup popping out of a Durr Systems automated spray painting system.

D. The Infringing EFC Bell Cups

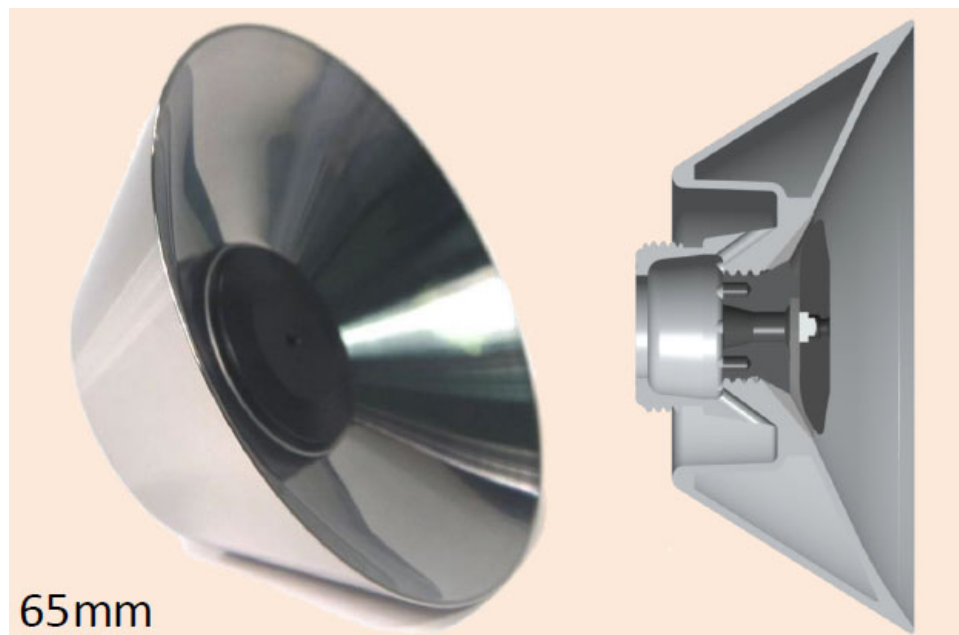
64. EFC controls a website hosted at <http://efcusa.com> (“the Website”).

65. A reproduction of content hosted at the Website and showing “Replacement Bell Cups For Ecobell2” is attached as Exhibit F.

66. Exhibit F includes representative images of bell cups offered for sale by EFC, model numbers of bell cups offered for sale by EFC, and corresponding model numbers of bell cups offered for sale by Durr Systems.

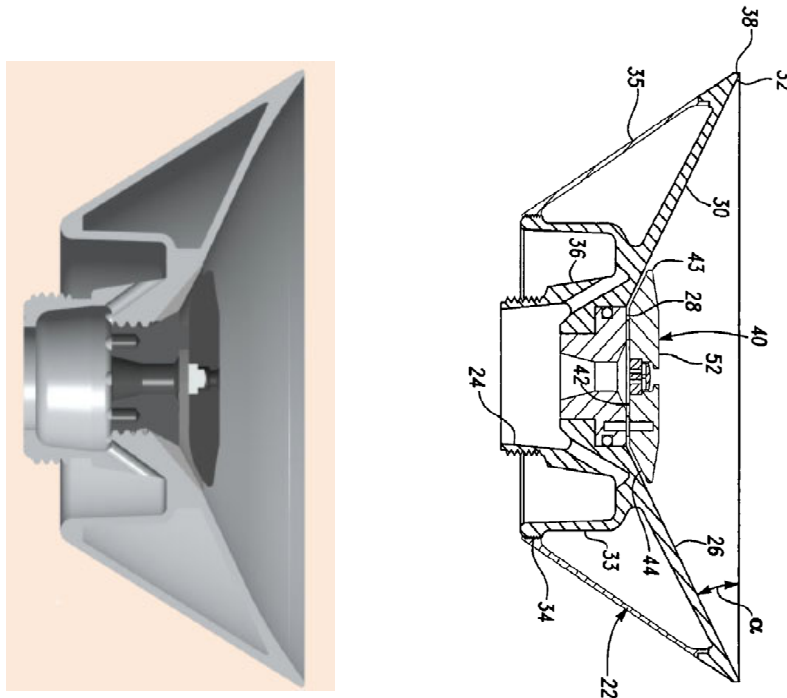
67. EFC offers for sale a family of bell cups bearing model numbers 25-2A48, 25-2A48DC, 25-2A48K, and 25-2A48KC (collectively “the 25-2A48 Family”).

68. A representative image of the 25-2A48 Family of bell cups from the Website and provided in Exhibit F is shown below:



69. The image above in paragraph 36 accurately depicts the 25-2A48 Family of bell cups offered for sale by EFC.

70. A side by side comparison of the representative image of the 25-2A48 Family of bell cups (left) with Figure 2 of the Patents (right) is shown below:



71. EFC offers for sale the 25-2A48 Family of bell cups as replacements for bell cups sold by Durr Systems bearing the model numbers N16010048, N16010048DX, N16010047, and N16010047DX.

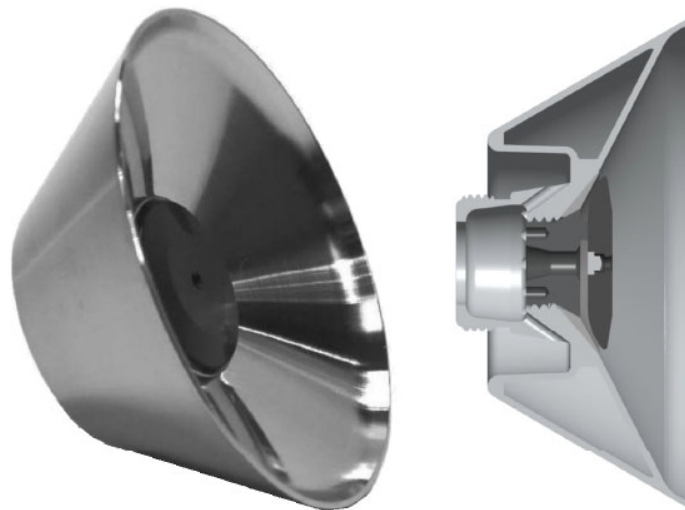
72. The EFC bell cup bearing the model number 25-2A48 is intended to replace the Durr Systems bell cup bearing the model number N16010048 at <http://efcusa.com/products/bell-cups/25-2a48>.

73. The EFC bell cup bearing the model number 25-2A48DC is intended to replace the Durr Systems bell cup bearing the model number N16010048DX at <http://efcusa.com/products/bell-cups/25-2a48dc>.

74. The EFC bell cup bearing the model number 25-2A48K is intended to replace the Durr Systems bell cup bearing the model number N16010047 at <http://efcusa.com/products/bell-cups/25-2a48k>.

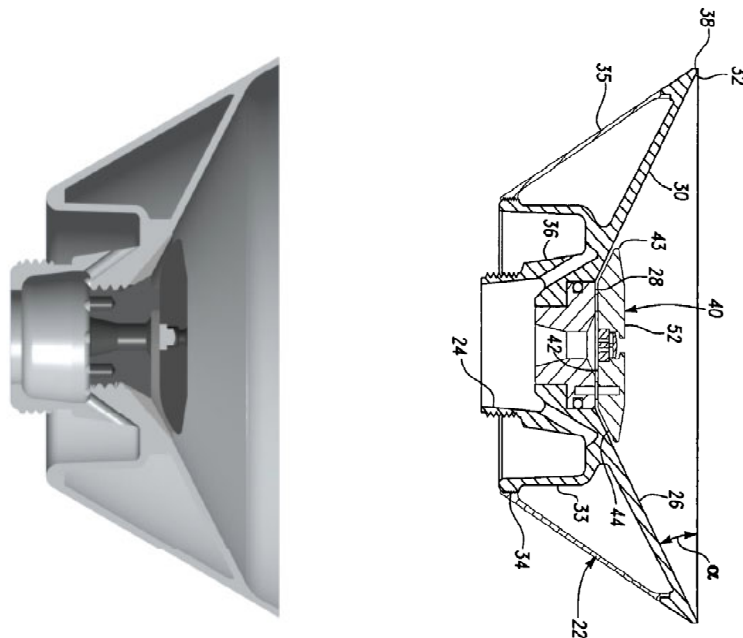
75. EFC offers for sale a family of bell cups bearing model numbers 25-2H61, 25-2H61DC, 25-2H61K, 25-2H61KC, 25-2H61DK, and 25-2H61DKC (collectively “the 25-2H61 Family”).

76. A representative image of the 25-2H61 Family of bell cups from the Website and provided in Exhibit F is shown below:



77. The image above in paragraph 44 accurately depicts 25-2H61 Family of bell cups offered for sale by EFC.

78. A side by side comparison of the representative image of the 25-2H61 Family of bell cups (left) with Figure 2 of the Patents (right) is shown below:



79. EFC offers for sale the 25-2H61 Family of bell cups as replacements for bell cups sold by Durr Systems bearing the model numbers N16010059, N16010059DX, N16010060, N16010060DX, N16010061, and 16010061DX.

80. The EFC bell cup bearing the model 25-2H61 is intended to replace the Durr Systems bell cup bearing the model number N16010059 at <http://efcusa.com/products/bell-cups/25-2h61>.

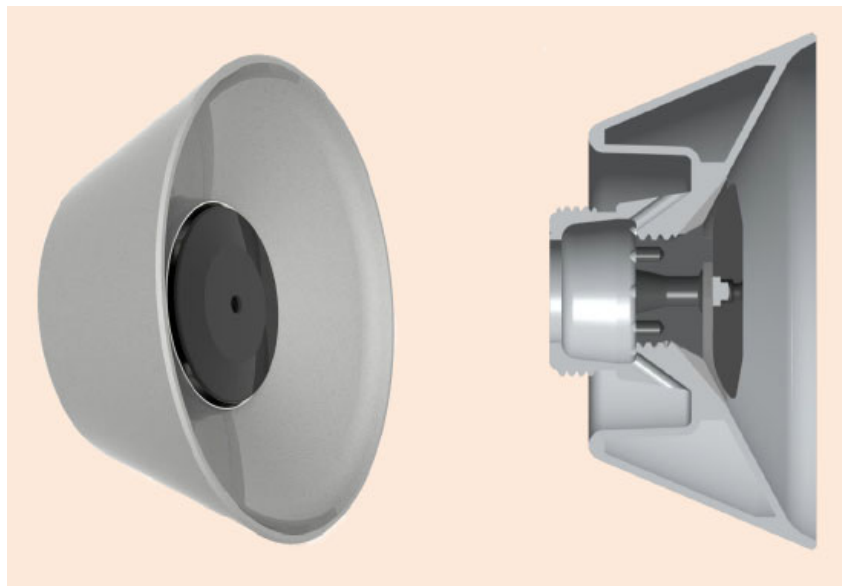
81. The EFC bell cup bearing the model number 25-2H61DC is intended to replace the Durr Systems bell cup bearing the model number N16010059DX at <http://efcusa.com/products/bell-cups/25-2h61dc>.

82. The EFC bell cup bearing the model number 25-2H61K is intended to replace the Durr Systems bell cup bearing the model number N16010060 at <http://efcusa.com/products/bell-cups/25-2h61k>.

83. The EFC bell cup bearing the model number 25-2H61DK is intended to replace the Durr Systems bell cup bearing the model N16010061 at <http://efcusa.com/products/bell-cups/25-2h61dk>.

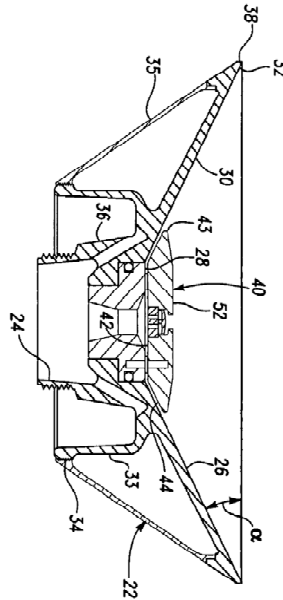
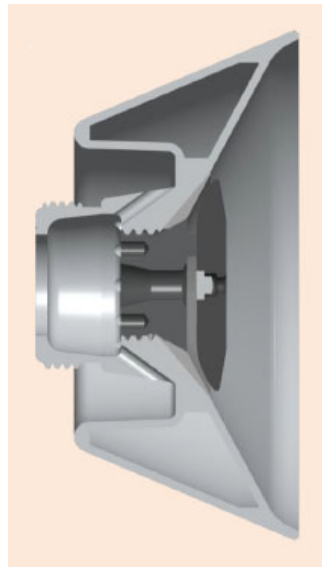
84. EFC offers for sale a family of bell cups bearing model numbers 25-2H83, 25-2H83DC, 25-2H83K, 25-2H83KC, 25-2H83DK, and 25-2H83DKC (collectively “the 25-2H83”).

85. A representative image of the 25-2H83 Family of bell cups from the Website and provided in Exhibit F is shown below:



86. The image above in paragraph 53 accurately depicts the 25-2H83 Family of bell cups offered for sale by EFC.

87. A side by side comparison of the representative image of the 25-2H83 Family of bell cups (left) with Figure 2 of the Patents (right) is shown below:

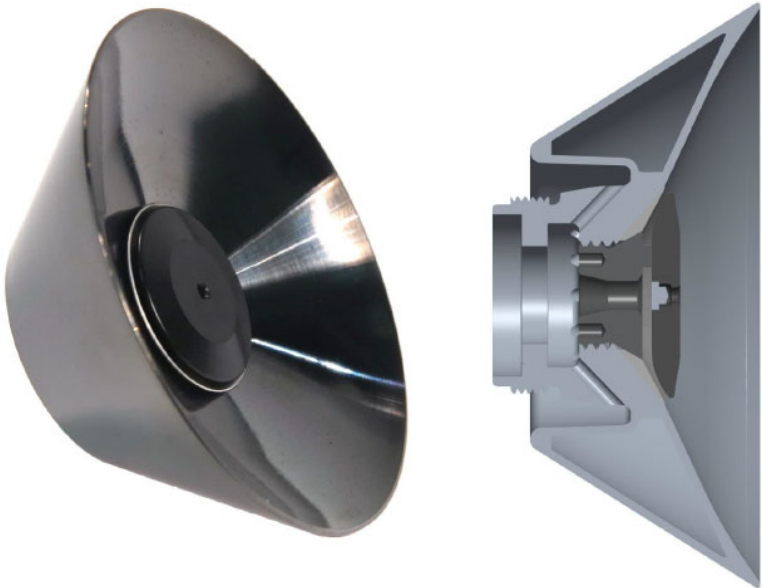


88. EFC offers for sale the 25-2H83 Family of bell cups as replacements for bell cups sold by Durr Systems bearing the model numbers N16010044, N16010044DX, N16010043, N16010043DX, N16010058, and N16010058DX.

89. A reproduction of content hosted at the Website and showing “Replacement Bell Cups For Ecobell3” is attached as Exhibit G.

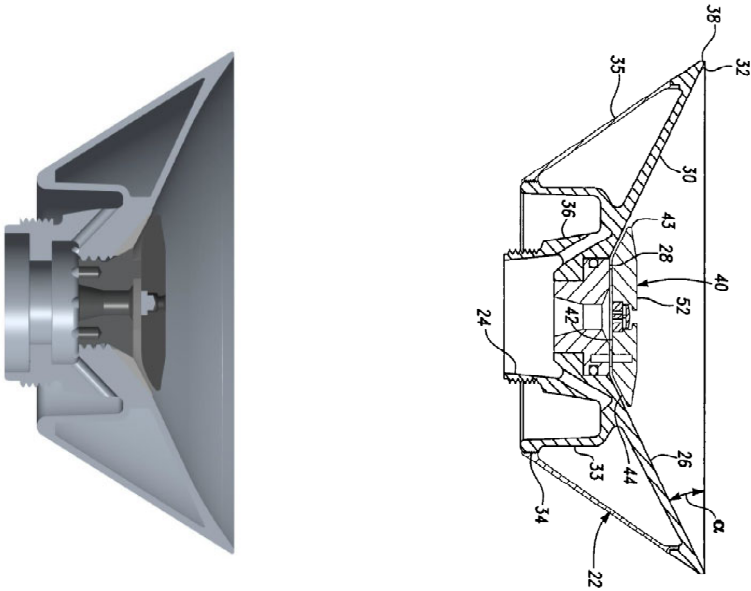
90. EFC offers for sale a family of bell cups bearing model numbers 25-2A58, 25-2A58DC, 25-2A58DK, and 25-2A58DKC (collectively “the 25-2A58 Family”).

91. A representative image of the 25-2A58 Family of bell cups from the Website and provided in Exhibit G is shown below:



92. The image above in paragraph 59 accurately depicts the 25-2A58 Family of bell cups offered for sale by EFC.

93. A side by side comparison of the representative image of the 25-2A58 Family of bell cups (left) with Figure 2 of the Patents (right) is shown below:



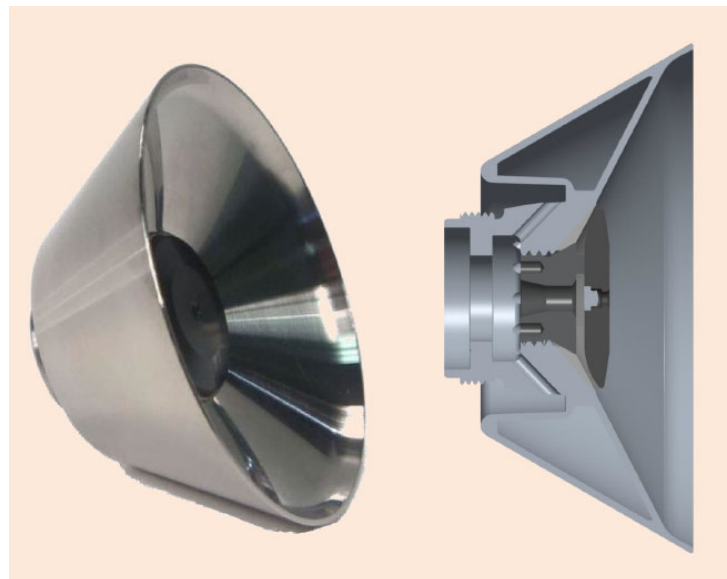
94. EFC offers for sale the 25-2A58 Family of bell cups as replacements for bell cups sold by Durr Systems bearing the model numbers N16210007 and N16210007DX.

95. The EFC bell cup bearing the model 25-2A58 is intended to replace the Durr Systems bell cup bearing the model number N16210007 at <http://efcusa.com/products/bell-cups/25-2a58>.

96. The EFC bell cup bearing the model 25-2A58DC is intended to replace the Durr Systems bell cup bearing the model number N16210007DX at <http://efcusa.com/products/bell-cups/25-2a58dc>.

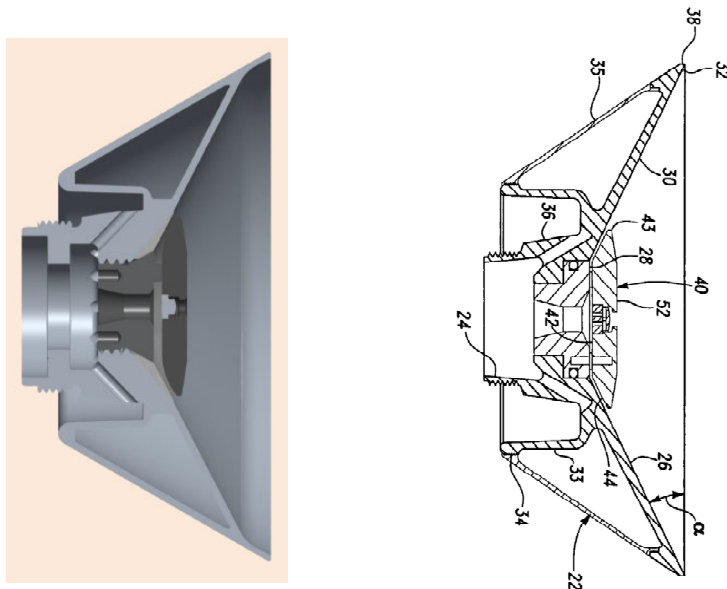
97. EFC offers for sale a family of bell cups bearing model numbers 25-2H72, 25-2H71DC, 25-2H72K, 25-2H72KC, 25-2H72DK, and 25-2H72DKC (collectively “the 25-2H72 Family”).

98. A representative image of the 25-2H72 Family of bell cups from the Website and provided in Exhibit G is shown below:



99. The image above in paragraph 66 accurately depicts the 25-2H72 Family of bell cups offered for sale by EFC.

100. A side by side comparison of the representative image of the 25-2H72 Family of bell cups with Figure 2 of the Patents is shown below:



101. EFC offers for sale the 25-2H72 Family of bell cups as replacements for bell cups sold by Durr Systems bearing the model numbers N16210004, N16210004DX, N16210005, N16210005DX, N16210006, and N16210006DX.

102. The EFC bell cup bearing the model number 25-2H72 is intended to replace the Durr Systems bell cup bearing the model number N16210004 at <http://efcusa.com/products/bell-cups/25-2h72>.

103. The EFC bell cup bearing the model number 25-2H72K is intended to replace the Durr Systems bell cup bearing the model number N16210005 at <http://efcusa.com/products/bell-cups/25-2h72k>.

104. The EFC bell cup bearing the model number 25-2H72DK is intended to replace the Durr Systems bell cup bearing the model number N16210006 at <http://efcusa.com/products/bell-cups/25-2h72dk>.

105. The Website markets the 25-2A48 Family, the 25-2H61 Family, the 25-2H83 Family, the 25-2A58 Family, and the 25-2H72 Family of bell cups (collectively “the EFC Bell Cups”) as replacements for the Ecobell2 and the Ecobell3 at <http://www.efcusa.com/news/2016-07/replacement-bell-cups-ecobell2-ecobell3>.

106. EFC offers for sale the EFC Bell Cups as replacements for Durr Systems bell cups.

107. Upon information and belief, the EFC Bell Cups only function with automated painting systems which originated from Durr Systems.

108. Upon information and belief, EFC’s potential market for the EFC Bell Cups is limited to and defined by customers who first purchased a complete automated painting system from Durr Systems.

109. Upon information and belief, EFC intends for its customers of the EFC Bell Cups to use the EFC Bell Cups only with automated painting systems which originated from Durr Systems and initially included Durr Systems bell cups.

110. Upon information and belief, EFC intends for its customers of the EFC Bell Cups to use the EFC Bell Cups with automated painting systems which originated from Durr Systems for the same particular tasks and purposes of the complete automated painted systems from Durr Systems as originally configured with Durr Systems bell cups.

111. Upon information and belief, EFC sells other products with or as a result of its sales of the EFC Bell Cups.

112. Upon information and belief, at least some of the other products that EFC sells with or as a result of its sales of the EFC Bell Cups only function with the automated painting systems which originated from Durr Systems with which the EFC Bell Cups are manufactured to be used, respectively.

113. Upon information and belief, EFC intends for its customers to achieve similar levels of performance of Durr Systems automated spray painting systems with the EFC Bell Cups as compared to performance with Durr Systems bell cups, respectively.

114. Upon information and belief, EFC's customers of the EFC Bell Cups achieve acceptably similar levels of performance of Durr Systems automated spray painting systems with the EFC Bell Cups as compared to performance with Durr Systems bell cups, respectively.

115. Upon information and belief, EFC intends for its customers of the EFC Bell Cups to operate, and customers have operated, a Durr Systems automated spray painting system with one of the EFC Bell Cups having a diameter of the spray edge between approximately 63 millimeters and approximately 75 millimeters, the system configured to atomize metallic based particulate paint by rotating the bell cup at approximately 60,000 to 80,000 rpm with a paint flow not exceeding 250 ml/min and a shaping air flow not exceeding 200 L/min, such that 80% of the droplets are within a 8-50 micron size deviation..

E. EFC's Knowledge, Intent, and Inducement of Others' Infringement

116. Upon information and belief, in 2016 representatives of EFC represented to Durr Systems' customers that the Patents in Suit had run out and EFC was able to provide the exact cup geometry as disclosed in the Patents in Suit.

117. Upon information and belief, EFC's manufacturing and/or sales of the EFC Bell Cups began in 2015.

118. The Patents in Suit did not expire until March 17, 2019.

119. Upon information and belief, a Sales Manager from EFC represented to a Durr Systems' customer in January 2018 that Durr parts were a small part of the EFC business with most of the parts sold by EFC being O-Ring technology.

120. In 2016, Durr Systems became aware of the infringing EFC Bell Cups.

121. Upon information and belief, EFC took at least six months to determine how to manufacture the EFC Bell Cups.

122. Upon information and belief, potential sales of the EFC Bell Cups are typically subject to a prospective customer's testing of the EFC Bell Cups with an automated spray painting system which originated from Durr Systems.

123. Upon information and belief, EFC intends for its customers to use the EFC Bell Cups with automated spray painting systems which originated from Durr Systems in place of bell cups from Durr Systems.

124. Between 2016 and July 30, 2018, Durr Systems believed that EFC had no material marketplace activities related to the EFC Bell Cups.

125. Because it believed that EFC did not have significant marketplace activities, Durr Systems chose to address EFC's infringement through private discussions.

126. On January 16, 2018, via email, Durr Systems provided to EFC of Durr Systems allegations of infringement of the Patents.

127. In a telephone call on May 30, 2018, Durr Systems explained in detail its basis of infringement regarding the Patents and the EFC Bells Cups to EFC and requested that EFC cease selling the accused EFC Bell Cups.

128. Durr Systems explained that it only inspected the 65mm Ecobell2 replacement which was identical to the picture on the EFC web page. Durr Systems explained its belief that since the 65mm Ecobell2 cup was identical to the information on the EFC web page all other cups were as well.

129. On July 7, 2018, EFC denied infringement. EFC did not dispute that the images in Exhibits F and G accurately depicted the infringing EFC Bell Cups.

130. On July 19, 2018, a representative of EFC informed Durr Systems that EFC agreed to pull the EFC Bell Cups from the market through the March 17, 2019 expiration of the Patents in Suit.

131. On July 30, 2018, EFC retracted its agreement based, in part, on the position that EFC had made too much progress in the market to withdraw the EFC Bell Cups.

132. EFC continued to offer, promote, test, and sell the EFC Bell Cups through the expiration of the Patents and immediately after the expiration of the Patents.

133. Upon information and belief, EFC entered the market in general with the EFC Bell Cups immediately upon expiration of the Patents.

F. EFC's Intentional and Malicious Unfair and Deceptive Conduct in the Marketplace

134. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations to customers and potential customers alleging that use of the EFC Bell Cups with an automated spray painting system which originated from Durr Systems results in improved performance attributable to the different placement of balance marks on the EFC Bell Cups compared to Durr Systems bell cups.

135. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations regarding allegedly improved performance of the EFC Bell Cups, as compared to Durr Systems bell cups, without regard to any variables in configuration, application, and/or environment of automated spray painting systems which originated from Durr Systems.

136. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations to customers and potential customers that, due to the configuration of balance marks on the EFC Bell Cups, the EFC Bell Cups avoid failure from paint build-up that allegedly occurs with Durr Systems bell cups due to the configuration of the balance marks on Durr Systems bell cups.

137. Upon information and belief, EFC has no testing or other substantiation for its representations to customers and potential customers that the configuration of the balance marks on the EFC Bell Cups results in the avoidance of paint build-up failure that allegedly occurs with Durr Systems bell cups due to the configuration of the balance marks on Durr Systems bell cups.

138. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations regarding allegedly improved durability and usable life of the EFC Bell Cups compared to Durr Systems bell cups due to the replaceable insert component of the EFC Bell Cups.

139. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations to customers and potential customers that the EFC Bell Cups remain balanced longer than counterpart Durr Systems bell cups.

140. Upon information and belief, one or more customers has been actually deceived by EFC's misleading, deceptive, unsubstantiated and/or false statements about bell cup life and/or bell cup balance.

141. Upon information and belief, EFC has no testing or other objective substantiation for its representations indicating that the insert component of the EFC Bell Cups, by virtue of being replaceable, extends the life of the EFC Bell Cups as compared to Durr Systems bell cups.

142. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations regarding alleged performance failures due to the configuration of balance marks on Durr Systems bell cups.

143. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations to customers that the configuration of balance marks on Durr Systems bell cups cause paint build up that results in turbine vibrations.

144. Upon information and belief, EFC has no testing or other objective substantiation for its representations that the configuration of balance marks on Durr Systems bell cups cause paint build up that results in turbine vibrations.

145. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations to customers that the EFC Bell Cups eliminate an alleged risk of pop out failure with Durr Systems bell cups.

146. Upon information and belief, EFC has no testing or other objective substantiation for its representations that the EFC Bell Cups eliminate an alleged risk of pop out failure with Durr Systems bell cups.

147. Upon information and belief, objective testing materials indicate that at least a sample one of the EFC Bell Cups has poorer performance than a counterpart one of Durr Systems' bell cups.

148. Upon information and belief, EFC uses non-public information that originated from Durr Systems in order to compete with Durr Systems.

149. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations that its alleged innovations in the EFC Bell Cups materially improve the performance of Durr Systems automated spray painting systems.

150. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations to customers and potential customers that it achieves cost savings for the EFC Bell Cups by alleged innovation alone, without accounting for their copying of Durr Systems' bell cup products.

151. Upon information and belief, EFC solicits exact copies of Durr Systems products from third party manufacturers.

152. Upon information and belief, EFC has made, and continues to make, misleading, deceptive, unsubstantiated and/or false representations to customers and potential customers disparaging Durr Systems' bell cup products and Durr Systems' servicing and maintenance of its automated spray painting systems.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,189,804

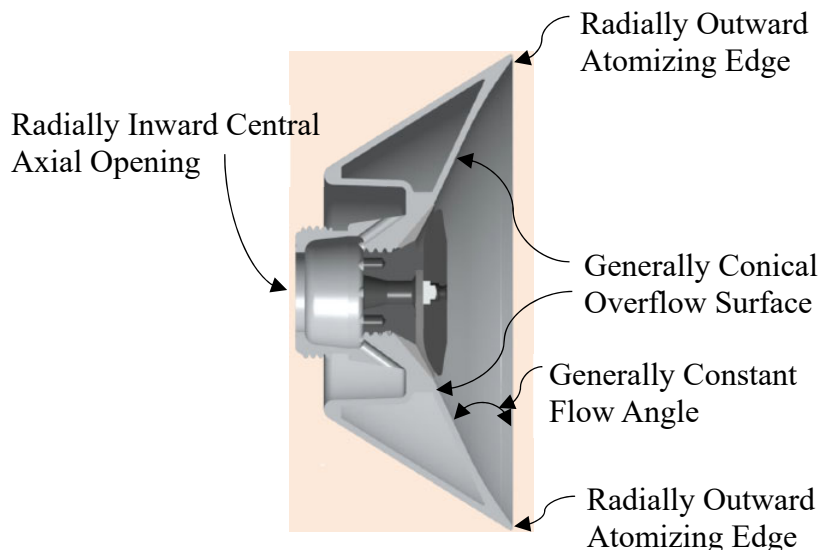
153. Durr Systems repeats and incorporates by reference all of the allegations from paragraphs 1 through 152 above, as if fully set forth herein.

154. Based on the acts complained of herein, after issuance and prior to expiration of the patent, EFC directly infringed the '804 patent by manufacturing, using, offering to sell, and selling product in violation of 35 U.S.C. § 271(a).

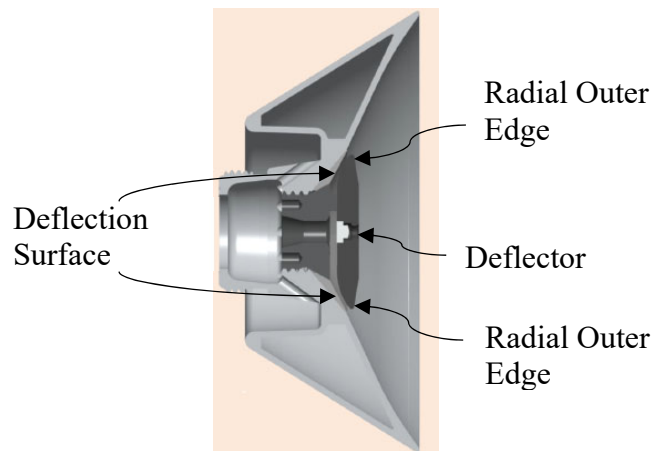
155. Claim 1 of the '804 patent recites:

1. A rotary atomizer bell cup for atomizing particulate material including paint having
a generally conical overflow surface between a radially inward central axial opening and a radially outward atomizing edge, the generally conical overflow surface having a generally constant flow angle relative to the atomizing edge and
a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having a generally constant angle relative to the axis from at least one inlet to a radial outer edge.

156. The 25-2A48 Family of bell cups include “A rotary atomizer bell cup for atomizing particulate material including paint having a generally conical overflow surface between a radially inward central axial opening and a radially outward atomizing edge, the generally conical overflow surface having a generally constant flow angle relative to the atomizing edge” as shown below.

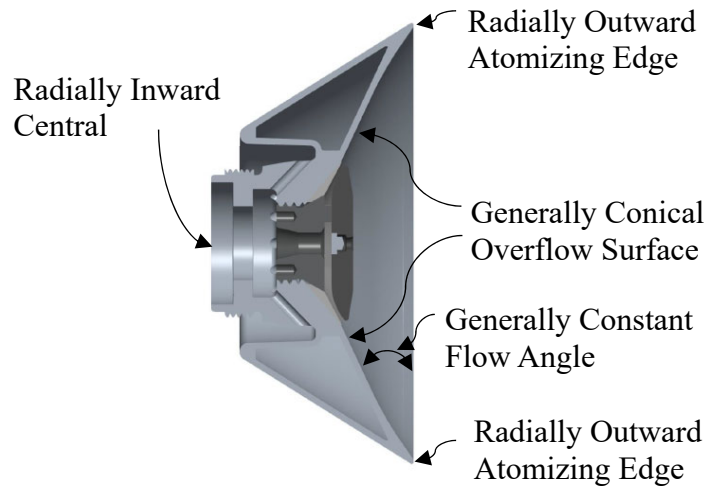


157. The 25-2A48 Family of bell cups also include “a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having a generally constant angle relative to the axis from at least one inlet to a radial outer edge.” as shown below.

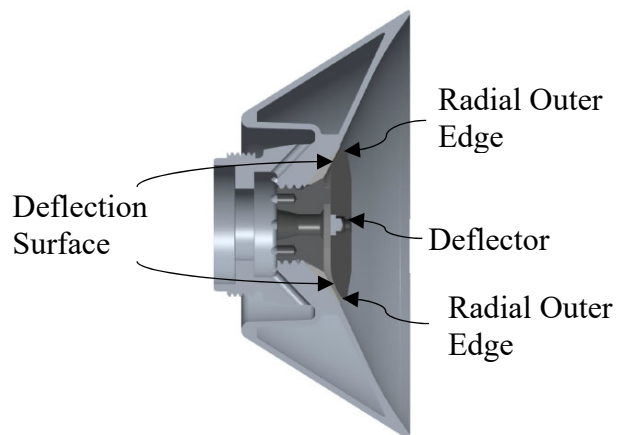


158. Accordingly, the 25-2A48 Family of bell cups have infringed at least claim 1 of the ‘804 patent.

159. The 25-2A58 Family of bell cups include “A rotary atomizer bell cup for atomizing particulate material including paint having a generally conical overflow surface between a radially inward central axial opening and a radially outward atomizing edge, the generally conical overflow surface having a generally constant flow angle relative to the atomizing edge” as shown below.



160. The 25-2A58 Family of bell cups also include “a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having a generally constant angle relative to the axis from at least one inlet to a radial outer edge.” as shown below.



161. Accordingly, the 25-2A58 Family of bell cups have infringed at least claim 1 of the '804 patent.

162. Through discovery and further investigation, Durr Systems may determine that additional claims of the '804 patent are being infringed, and Durr Systems reserves the right to assert additional patent claims against EFC.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 6,360,962

163. Durr Systems repeats and incorporates by reference all of the allegations from paragraphs 1 through 152 above, as if fully set forth herein.

164. Based on the acts complained of herein, after issuance and prior to expiration of the patent, EFC directly infringed the '962 patent by manufacturing, using, offering to sell, and selling product in violation of 35 U.S.C. § 271(a).

165. Claim 1 of the '962 patent recites:

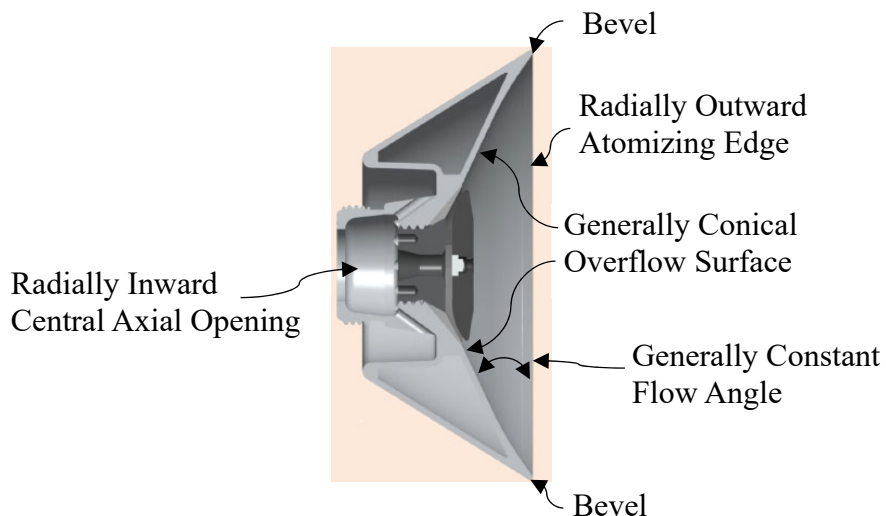
1. A rotary bell cup for atomizing particulate material including paint comprising:

a generally conical overflow surface having a generally constant flow angle defining a radially inward central axial opening and a radially outward atomizing edge having a bevel;

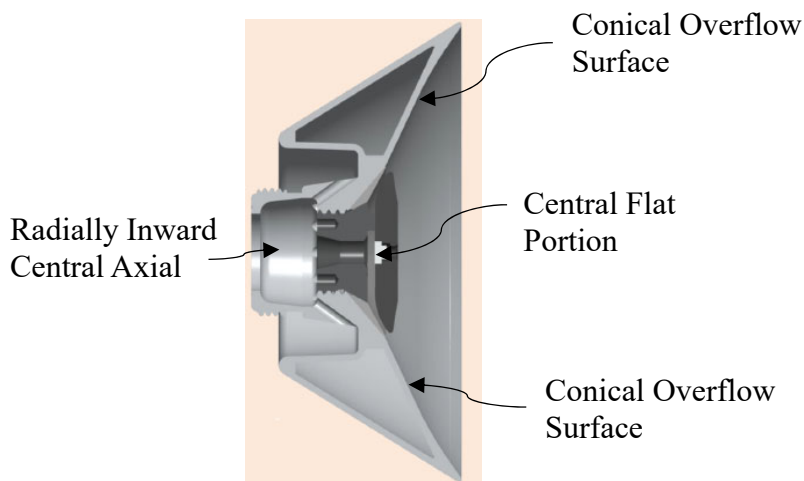
a central flat portion disposed between said conical overflow surface and said radially inward central axial opening; and

a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having a rear flat surface with a plurality of passageways disposed therethrough opposite said central opening and said rear flat surface being generally parallel to said central portion, and a rear conical surface being generally parallel to said conical overflow surface.

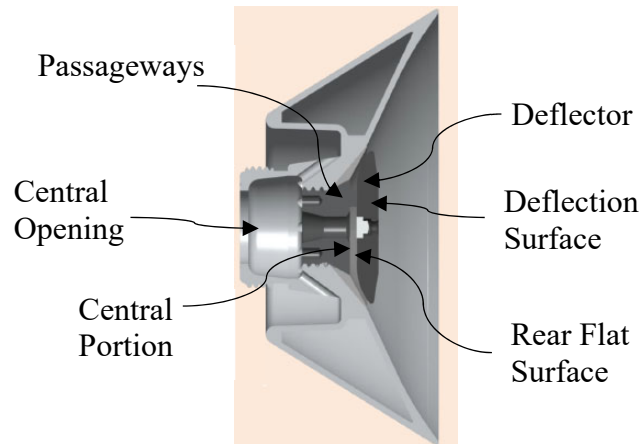
166. The 25-2A48 Family of bell cups include “a generally conical overflow surface having a generally constant flow angle defining a radially inward central axial opening and a radially outward atomizing edge having a bevel;” as shown below:



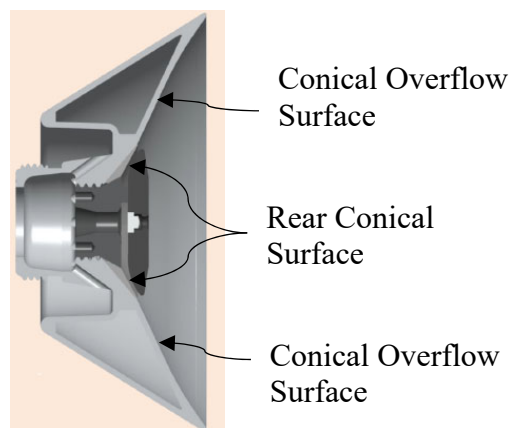
167. The 25-2A48 Family of bell cups also include “a central flat portion disposed between said conical overflow surface and said radially inward central axial opening;” as shown below:



168. The 25-2A48 Family of bell cups also include “a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having a rear flat surface with a plurality of passageways disposed therethrough opposite said central opening and said rear flat surface being generally parallel to said central portion” as shown below:

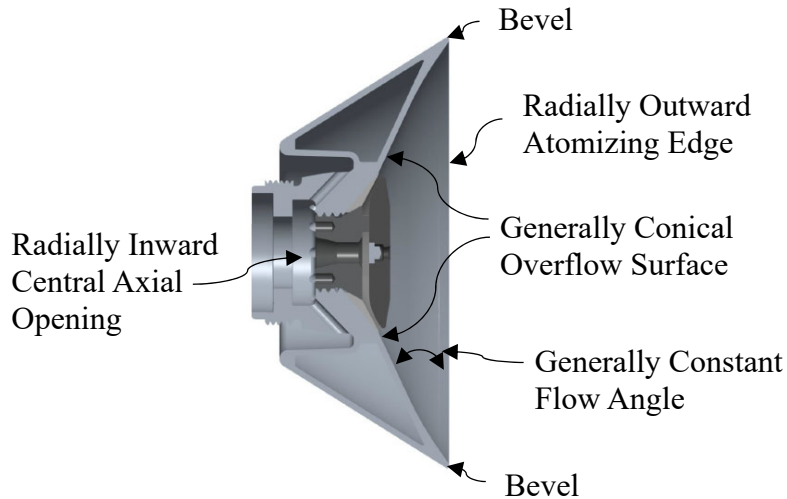


169. The 25-2A48 Family of bell cups also include “a rear conical surface being generally parallel to said conical overflow surface.” as shown below:

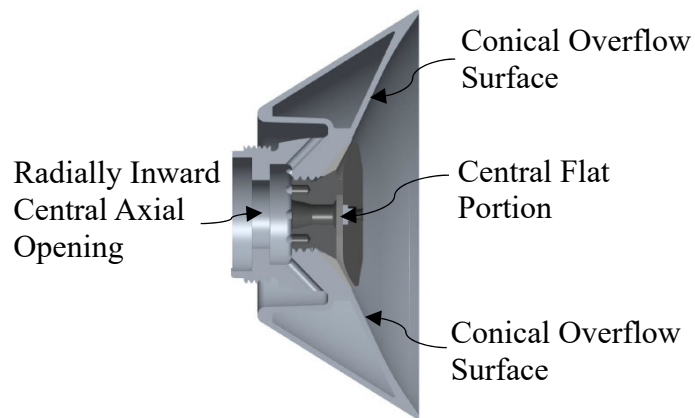


170. Accordingly, the 25-2A48 Family of bell cups have infringed at least claim 1 of the ‘962 patent.

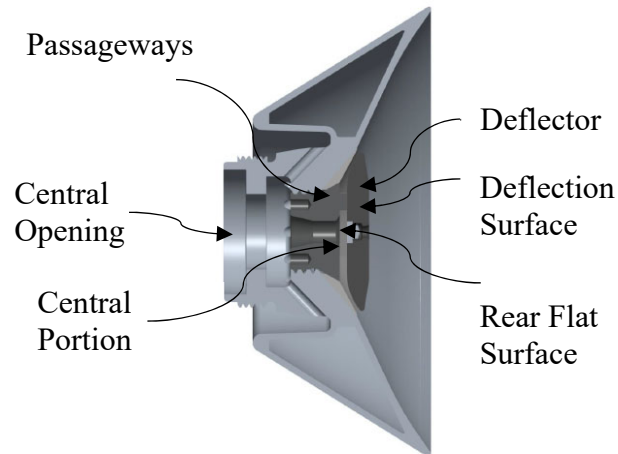
171. The 25-2A58 Family of bell cups include “a generally conical overflow surface having a generally constant flow angle defining a radially inward central axial opening and a radially outward atomizing edge having a bevel;” as shown below:



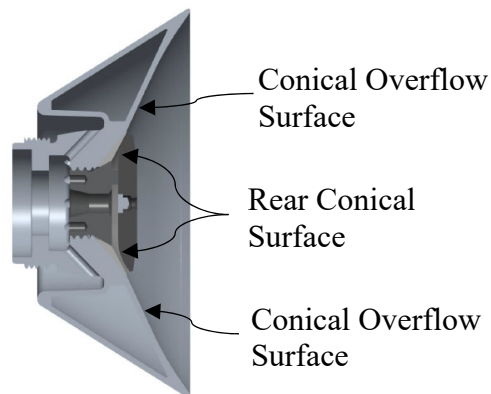
172. The 25-2A58 Family of bell cups also include “a central flat portion disposed between said conical overflow surface and said radially inward central axial opening;” as shown below:



173. The 25-2A58 Family of bell cups also include “a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having a rear flat surface with a plurality of passageways disposed therethrough opposite said central opening and said rear flat surface being generally parallel to said central portion” as shown below:



174. The 25-2A58 Family of bell cups also include “a rear conical surface being generally parallel to said conical overflow surface.” as shown below:



175. Accordingly, the 25-2A58 Family of bell cups have infringed at least claim 1 of the ‘962 patent.

176. Through discovery and further investigation, Durr Systems may determine that additional claims of the ‘962 patent are being infringed, and Durr Systems reserves the right to assert additional patent claims against EFC.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 7,017,835

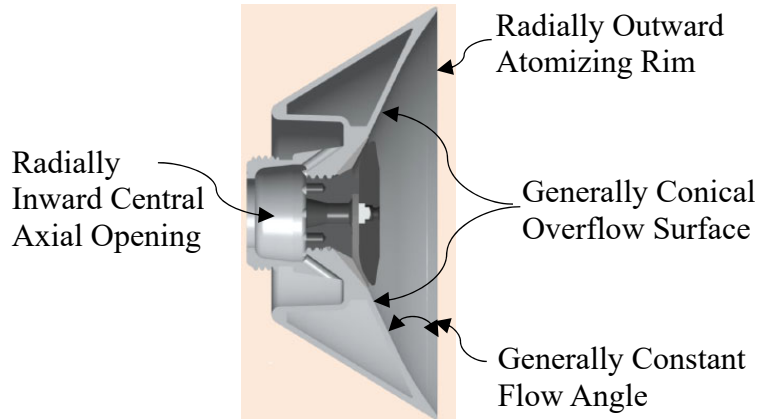
177. Durr Systems repeats and incorporates by reference all of the allegations from paragraphs 1 through 152 above, as if fully set forth herein.

178. Based on the acts complained of herein, after issuance and prior to expiration of the patent, EFC directly infringed the '835 patent by manufacturing, using, offering to sell, and selling product in violation of 35 U.S.C. § 271(a).

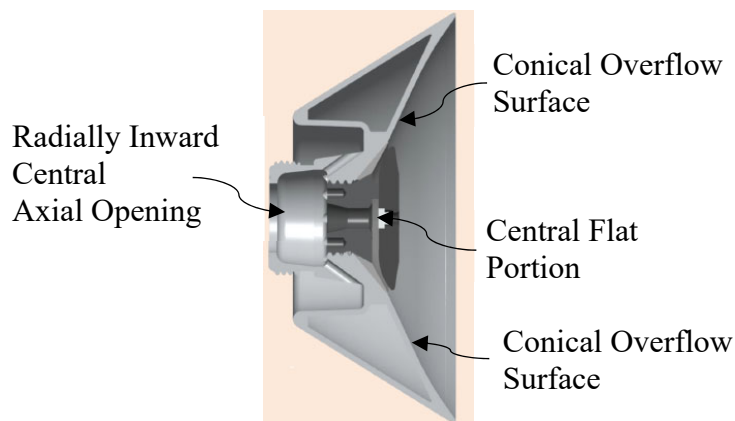
179. Claim 6 of the '835 patent recites:

6. A rotary bell cup for atomizing paint in a paint application zone, comprising:
 - a generally conical overflow surface having a generally constant flow angle defining a radially inward central axial opening and a radially outward atomizing rim;
 - a central flat portion disposed between said conical overflow surface and said radially inward central axial opening;
 - a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having plurality of passageways disposed therethrough opposite said central opening, wherein said rotary bell cup is adapted to apply either a first or a second layer of paint in said paint application zone.

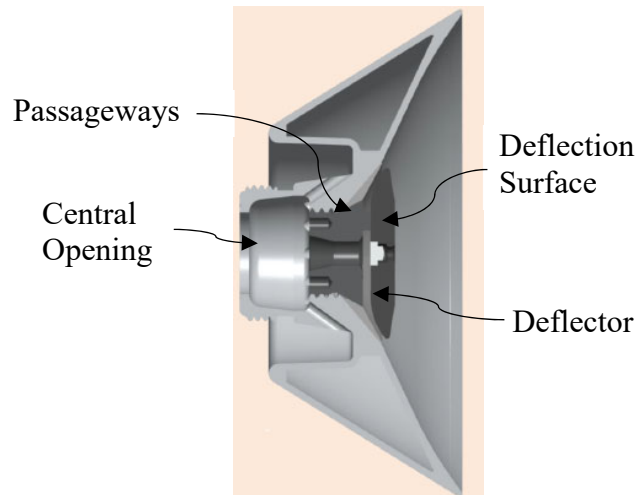
180. The 25-2A48 Family of bell cups include “a generally conical overflow surface having a generally constant flow angle defining a radially inward central axial opening and a radially outward atomizing rim;” as shown below:



181. The 25-2A48 Family of bell cups also include “a central flat portion disposed between said conical overflow surface and said radially inward central axial opening;” as shown below:

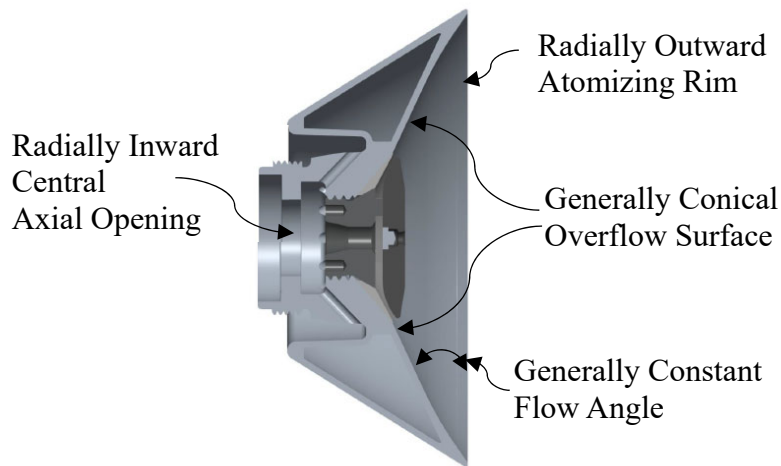


182. The 25-2A48 Family of bell cups also include “a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having plurality of passageways disposed therethrough opposite said central opening, wherein said rotary bell cup is adapted to apply either a first or a second layer of paint in said paint application zone.” as shown below:

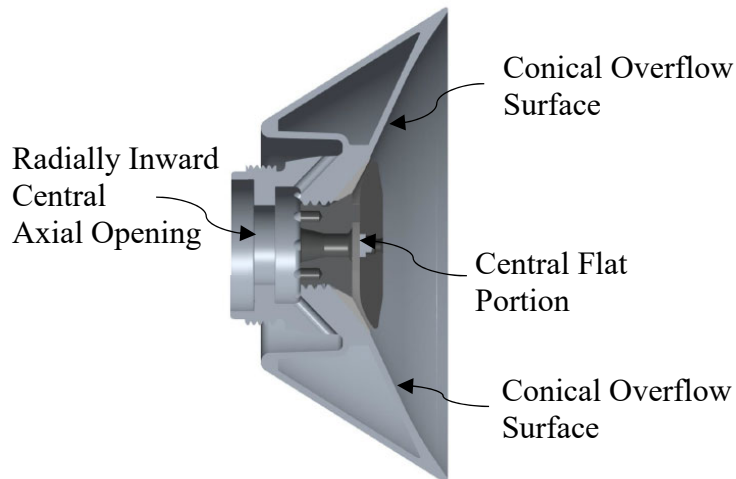


183. Accordingly, the 25-2A48 Family of bell cups have infringed at least claim 6 of the '835 patent.

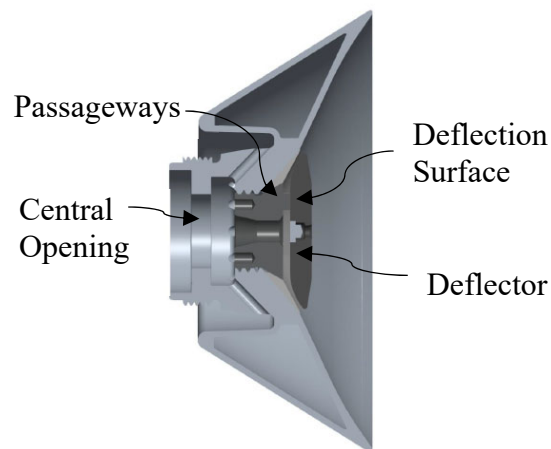
184. The 25-2A58 Family of bell cups include “a generally conical overflow surface having a generally constant flow angle defining a radially inward central axial opening and a radially outward atomizing rim;” as shown below:



185. The 25-2A58 Family of bell cups also include “a central flat portion disposed between said conical overflow surface and said radially inward central axial opening;” as shown below:



186. The 25-2A58 Family of bell cups also include “a deflector having a deflection surface of generally rotational symmetry disposed in front of said central opening having plurality of passageways disposed therethrough opposite said central opening, wherein said rotary bell cup is adapted to apply either a first or a second layer of paint in said paint application zone.” as shown below:



187. Accordingly, the 25-2A58 Family of bell cups have infringed at least claim 6 of the ‘835 patent.

188. Through discovery and further investigation, Durr Systems may determine that additional claims of the '835 patent are being infringed, and Durr Systems reserves the right to assert additional patent claims against EFC.

COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 8,141,797

189. Durr Systems repeats and incorporates by reference all of the allegations from paragraphs 1 through 152 above, as if fully set forth herein.

190. Based on the acts complained of herein, after issuance and prior to expiration of the patent, EFC directly infringed the '797 patent by manufacturing, using, offering to sell, and selling product in violation of 35 U.S.C. § 271(a).

191. Claim 8 of the '797 patent recites:

8. A rotary atomizer used to atomize a metallic based particulate paint comprising:

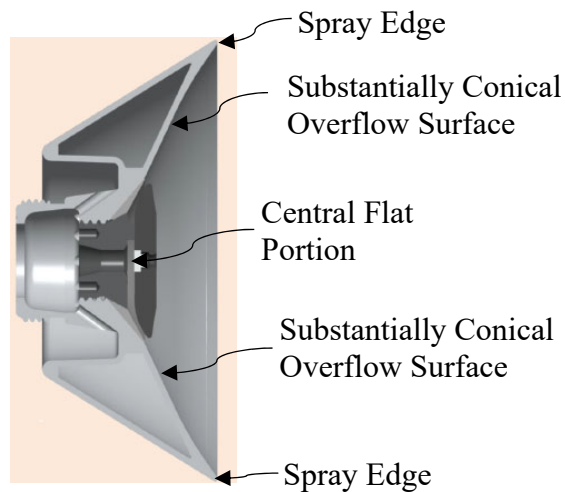
a bell cup, including:

a central flat portion leading to a substantially conical overflow surface providing a color matching flow at a spray edge, the spray edge having a diameter; the particulate paint delivered to the bell cup through a central axial opening, wherein the substantially conical overflow surface extends from the central flat portion substantially to the spray edge; and

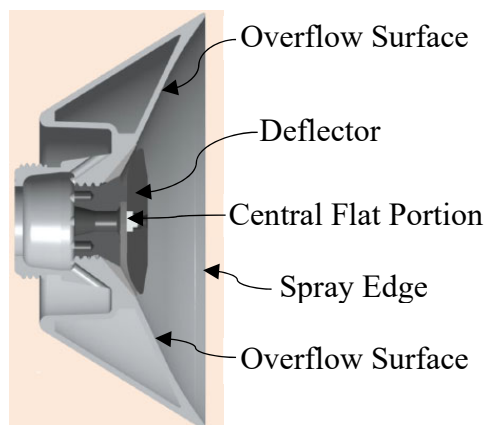
a deflector having a diameter approximately one third the diameter of the spray edge; the deflector including a rear surface parallel to the central flat portion and a generally conical surface substantially parallel to the overflow surface of the bell cup; and

a rear cover attached to the bell cup such that the atomizer is hollow, the rear cover cooperating with the bell cup to form an annular cavity, the annular cavity extending about a perimeter of the bell cup; wherein the rear cover extends from the bell cup to a hub such that the rear cover is substantially frustoconical from the bell cup to the hub.

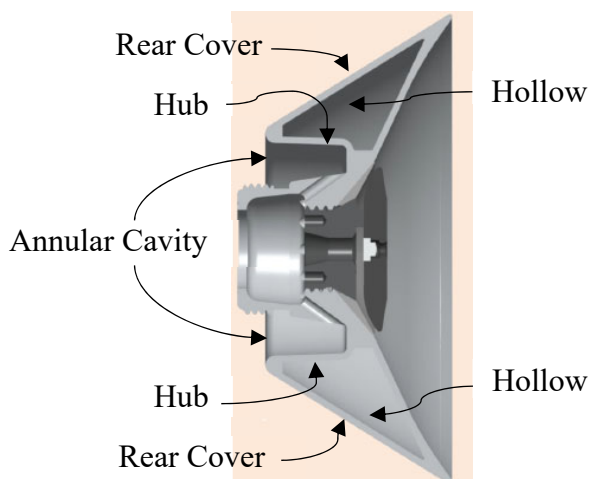
192. The 25-2A48 Family of bell cups include “a bell cup including: a central flat portion leading to a substantially conical overflow surface providing a color matching flow at a spray edge, the spray edge having a diameter; the particulate paint delivered to the bell cup through a central axial opening, wherein the substantially conical overflow surface extends from the central flat portion substantially to the spray edge” as shown below:



193. The 25-2A48 Family of bell cups also include “a deflector having a diameter approximately one third the diameter of the spray edge; the deflector including a rear surface parallel to the central flat portion and a generally conical surface substantially parallel to the overflow surface of the bell cup” as shown below:

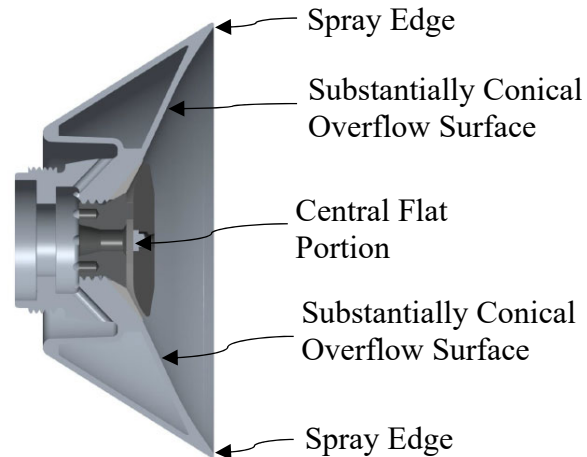


194. The 25-2A48 Family of bell cups also include “a rear cover attached to the bell cup such that the atomizer is hollow, the rear cover cooperating with the bell cup to form an annular cavity, the annular cavity extending about a perimeter of the bell cup; wherein the rear cover extends from the bell cup to a hub such that the rear cover is substantially frustoconical from the bell cup to the hub.” as shown below:

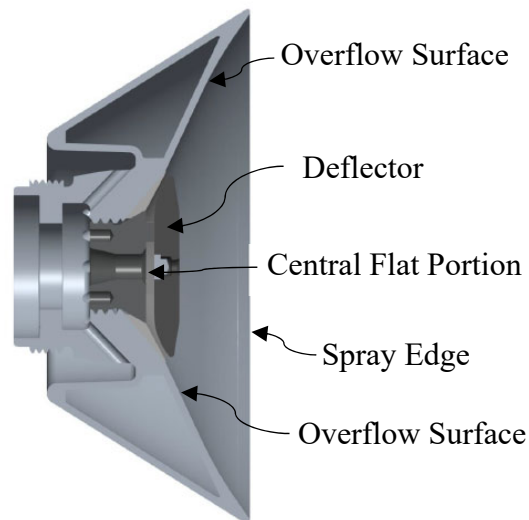


195. Accordingly, the 25-2A48 Family of bell cups have infringed at least claim 8 of the ‘797 patent.

196. The 25-2A58 Family of bell cups include “a bell cup including: a central flat portion leading to a substantially conical overflow surface providing a color matching flow at a spray edge, the spray edge having a diameter; the particulate paint delivered to the bell cup through a central axial opening, wherein the substantially conical overflow surface extends from the central flat portion substantially to the spray edge” as shown below:

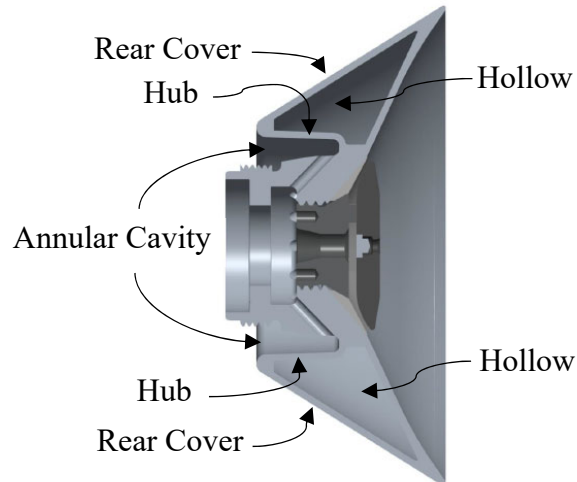


197. The 25-2A58 Family of bell cups also include “a deflector having a diameter approximately one third the diameter of the spray edge; the deflector including a rear surface parallel to the central flat portion and a generally conical surface substantially parallel to the overflow surface of the bell cup” as shown below:



198. The 25-2A58 Family of bell cups also include “a rear cover attached to the bell cup such that the atomizer is hollow, the rear cover cooperating with the bell cup to form an annular cavity, the annular cavity extending about a perimeter of the bell cup; wherein the rear

cover extends from the bell cup to a hub such that the rear cover is substantially frustoconical from the bell cup to the hub.” as shown below:



199. Accordingly, the 25-2A58 Family of bell cups have infringed at least claim 8 of the ‘797 patent.

200. Through discovery and further investigation, Durr Systems may determine that additional claims of the ‘797 patent are being infringed, and Durr Systems reserves the right to assert additional patent claims against EFC.

COUNT V – INFRINGEMENT OF U.S. PATENT NO. 8,590,813

201. Durr Systems repeats and incorporates by reference all of the allegations from paragraphs 1 through 152 above, as if fully set forth herein.

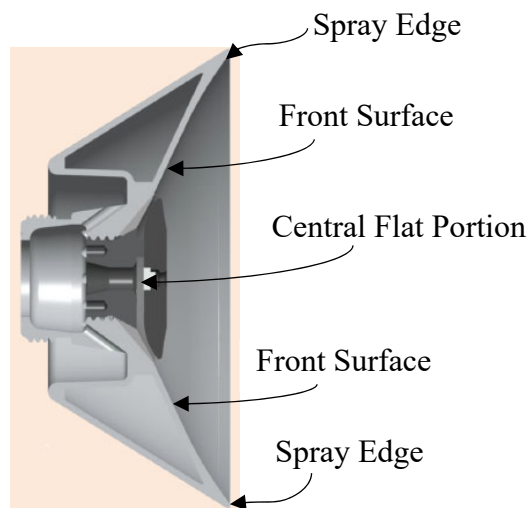
202. Based on the acts complained of herein, after issuance and prior to expiration of the patent, EFC directly infringed the ‘813 patent by manufacturing, using, offering to sell, and selling product in violation of 35 U.S.C. § 271(a).

203. Claim 1 of the ‘813 patent recites:

1. A rotary atomizer used to atomize a metallic based particulate paint comprising:

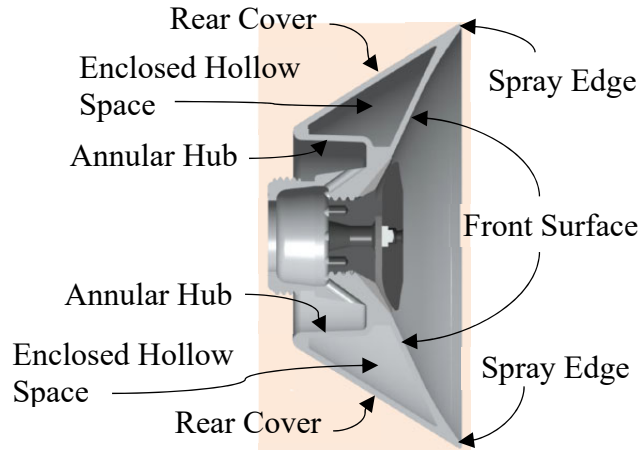
a bell cup including a front surface and a central flat portion, the front surface extending from the central flat portion to a spray edge;
the bell cup further having attached thereto a rear cover that extends from a rear of the spray edge to an annular hub such that an enclosed hollow space extending about a perimeter of the bell cup and without any component therein is formed by the front surface, the annular hub, and the rear cover;
wherein the rear cover extends from the bell cup to the annular hub such that the rear cover is substantially frustoconical from the bell cup to the annular hub, the annular hub extending rearwardly with respect to the bell cup toward the rear cover; the bell cup further including an inner hub spaced radially inwardly from the annular hub to define an open annular space therebetween.

204. The 25-2A48 Family of bell cups include “a bell cup including a front surface and a central flat portion, the front surface extending from the central flat portion to a spray edge” as shown below:

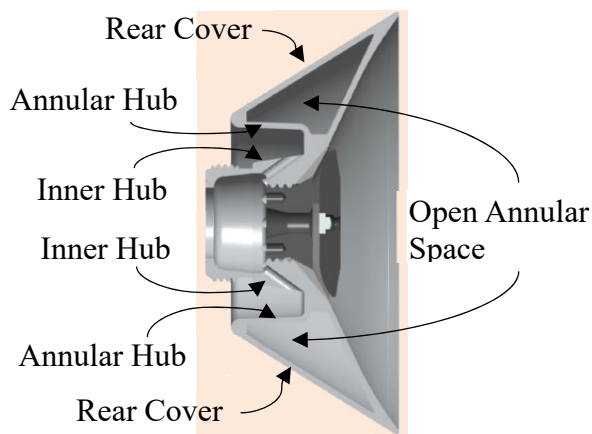


205. The 25-2A48 Family of bell cups also include “the bell cup further having attached thereto a rear cover that extends from a rear of the spray edge to an annular hub such that an enclosed hollow space extending about a perimeter of the bell cup and without any

component therein is formed by the front surface, the annular hub, and the rear cover” as shown below:

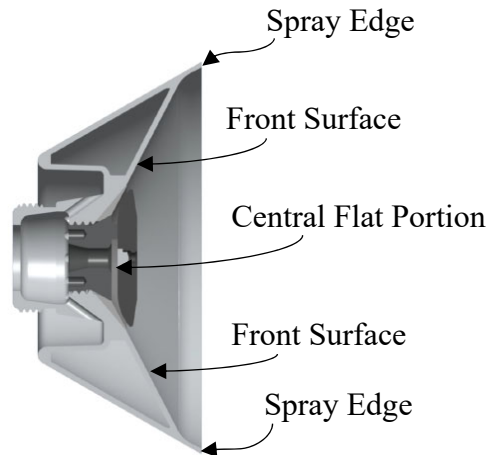


206. The 25-2A48 Family of bell cups also include “wherein the rear cover extends from the bell cup to the annular hub such that the rear cover is substantially frustoconical from the bell cup to the annular hub, the annular hub extending rearwardly with respect to the bell cup toward the rear cover; the bell cup further including an inner hub spaced radially inwardly from the annular hub to define an open annular space therebetween.” as shown below:

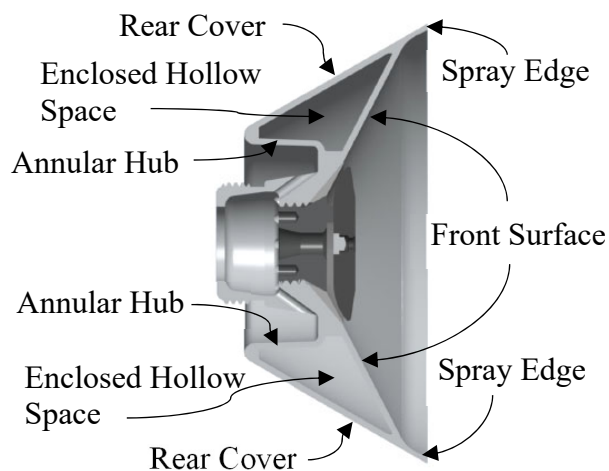


207. Accordingly, the 25-2A48 Family of bell cups have infringed at least claim 1 of the ‘813 patent.

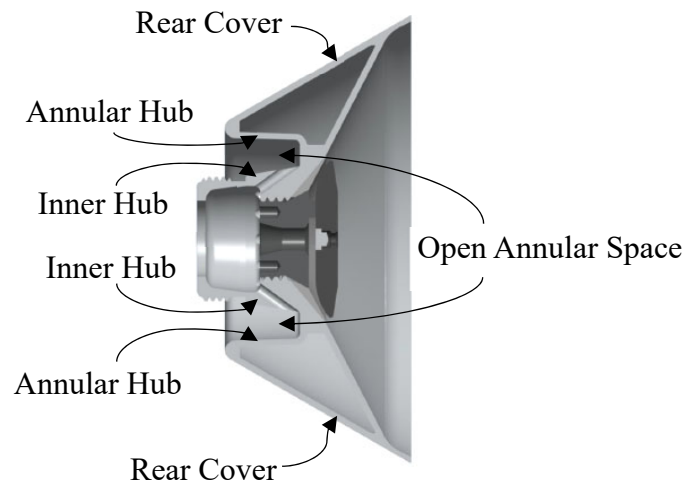
208. The 25-2H61 Family of bell cups include “a bell cup including a front surface and a central flat portion, the front surface extending from the central flat portion to a spray edge” as shown below:



209. The 25-2H61 Family of bell cups also include “the bell cup further having attached thereto a rear cover that extends from a rear of the spray edge to an annular hub such that an enclosed hollow space extending about a perimeter of the bell cup and without any component therein is formed by the front surface, the annular hub, and the rear cover” as shown below:

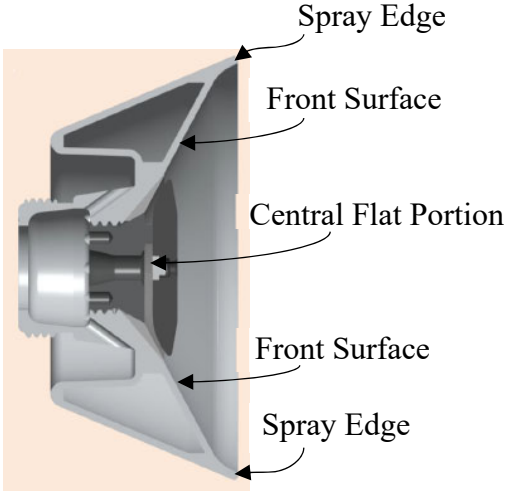


210. The 25-2H61 Family of bell cups also include “wherein the rear cover extends from the bell cup to the annular hub such that the rear cover is substantially frustoconical from the bell cup to the annular hub, the annular hub extending rearwardly with respect to the bell cup toward the rear cover; the bell cup further including an inner hub spaced radially inwardly from the annular hub to define an open annular space therebetween.” as shown below:

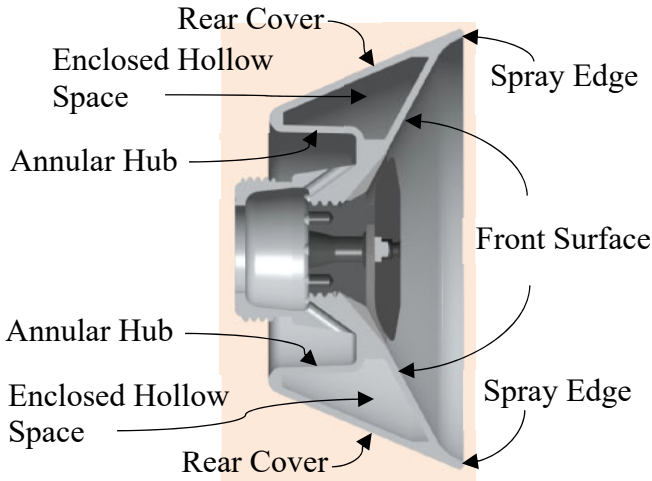


211. Accordingly, the 25-2H61 Family of bell cups have infringed at least claim 1 of the ‘813 patent.

212. The 25-2H83 Family of bell cups include “a bell cup including a front surface and a central flat portion, the front surface extending from the central flat portion to a spray edge” as shown below:

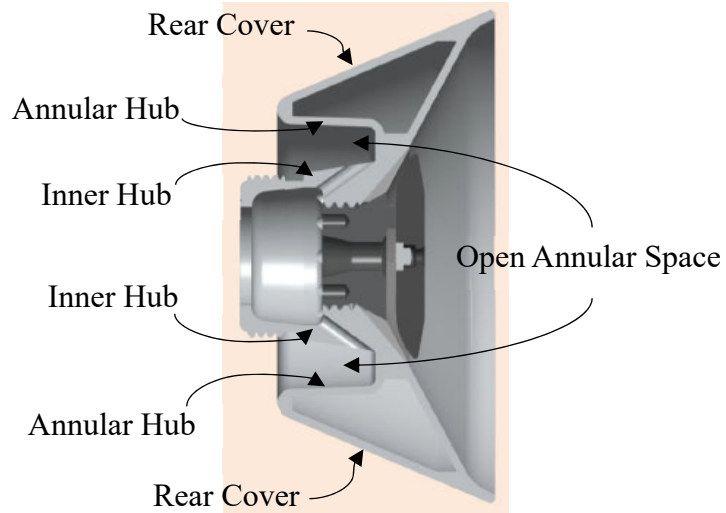


213. The 25-2H83 Family of bell cups also include “the bell cup further having attached thereto a rear cover that extends from a rear of the spray edge to an annular hub such that an enclosed hollow space extending about a perimeter of the bell cup and without any component therein is formed by the front surface, the annular hub, and the rear cover” as shown below:



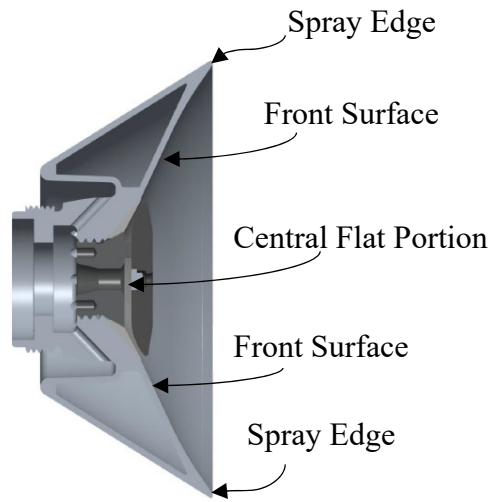
214. The 25-2H83 Family of bell cups also include “wherein the rear cover extends from the bell cup to the annular hub such that the rear cover is substantially frustoconical from the bell cup to the annular hub, the annular hub extending rearwardly with respect to the bell cup

toward the rear cover; the bell cup further including an inner hub spaced radially inwardly from the annular hub to define an open annular space therebetween.” as shown below:

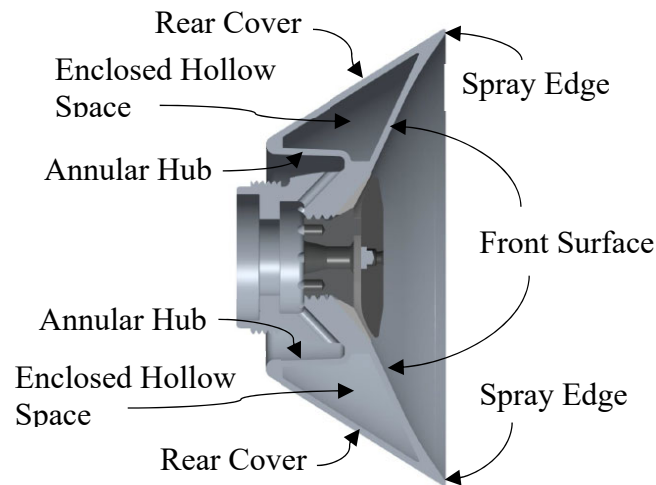


215. Accordingly, the 25-2H83 Family of bell cups have infringed at least claim 1 of the ‘813 patent.

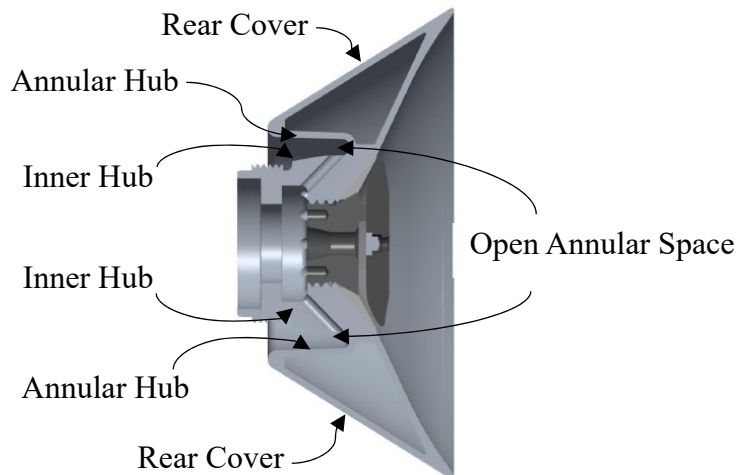
216. The 25-2A58 Family of bell cups include “a bell cup including a front surface and a central flat portion, the front surface extending from the central flat portion to a spray edge” as shown below:



217. The 25-2A58 Family of bell cups also include “the bell cup further having attached thereto a rear cover that extends from a rear of the spray edge to an annular hub such that an enclosed hollow space extending about a perimeter of the bell cup and without any component therein is formed by the front surface, the annular hub, and the rear cover” as shown below:

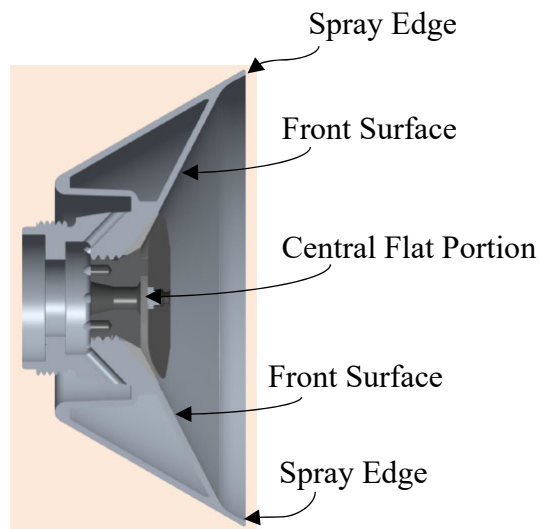


218. The 25-2A58 Family of bell cups also include “wherein the rear cover extends from the bell cup to the annular hub such that the rear cover is substantially frustoconical from the bell cup to the annular hub, the annular hub extending rearwardly with respect to the bell cup toward the rear cover; the bell cup further including an inner hub spaced radially inwardly from the annular hub to define an open annular space therebetween.” as shown below:



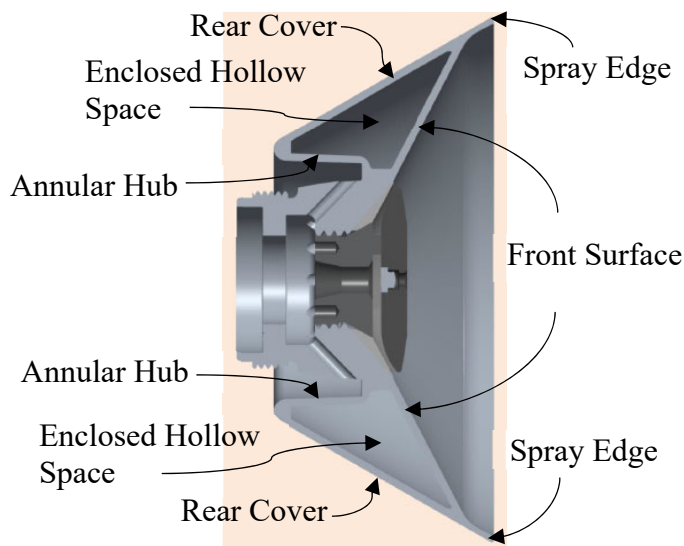
219. Accordingly, the 25-2A58 Family of bell cups have infringed at least claim 1 of the '813 patent.

220. The 25-2H72 Family of bell cups include “a bell cup including a front surface and a central flat portion, the front surface extending from the central flat portion to a spray edge” as shown below:

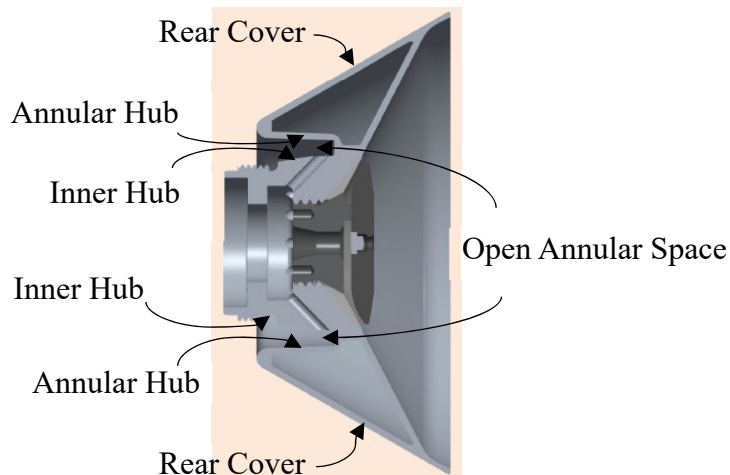


221. The 25-2H72 Family of bell cups also include “the bell cup further having attached thereto a rear cover that extends from a rear of the spray edge to an annular hub such

that an enclosed hollow space extending about a perimeter of the bell cup and without any component therein is formed by the front surface, the annular hub, and the rear cover” as shown below:



222. The 25-2H72 Family of bell cups also include “wherein the rear cover extends from the bell cup to the annular hub such that the rear cover is substantially frustoconical from the bell cup to the annular hub, the annular hub extending rearwardly with respect to the bell cup toward the rear cover; the bell cup further including an inner hub spaced radially inwardly from the annular hub to define an open annular space therebetween.” as shown below:



223. Accordingly, the 25-2H72 Family of bell cups have infringed at least claim 1 of the '813 patent.

224. Through discovery and further investigation, Durr Systems may determine that additional claims of the '813 patent have been infringed, and Durr Systems reserves the right to assert additional patent claims against EFC.

COUNT VI – INDUCEMENT OF INFRINGEMENT OF U.S. PATENT NO. 8,141,797

225. Durr Systems repeats and incorporates by reference all of the allegations from paragraphs 1 through 152 above, as if fully set forth herein.

226. Based on the acts complained of herein, during the life of the '797 patent, EFC has induced infringement of the '797 patent under 35 U.S.C. § 271(b) by purposefully selling the 25-2A48 Family of bell cups and/or the 25-2A58 Family of bell cups to customers with the intent that the customers use the 25-2A48 Family of bell cups and/or the 25-2A58 Family of bell cups with automated painting systems from Durr Systems in a manner that results in infringement of the '797 patent.

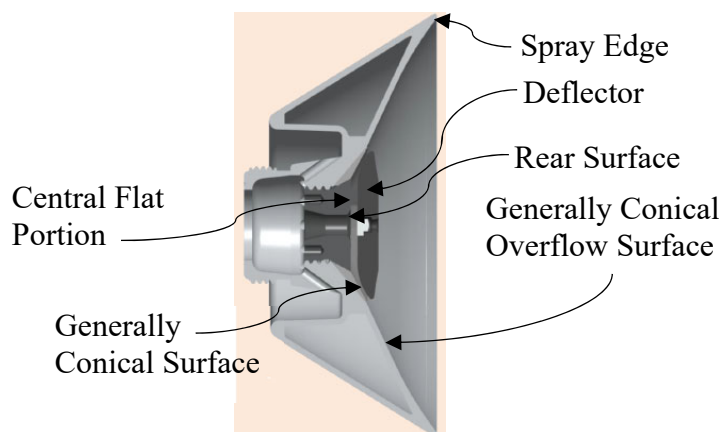
227. Claim 1 of the '797 patent recites:

1. A method of atomizing a metallic based particulate paint using a bell cup, wherein the bell cup includes a central flat portion leading to an overflow surface providing substantially laminar flow at a spray edge, and a deflector having a rear surface substantially parallel to the central flat portion and a generally conical surface substantially parallel to the generally conical surface of the bell cup, the method comprising:

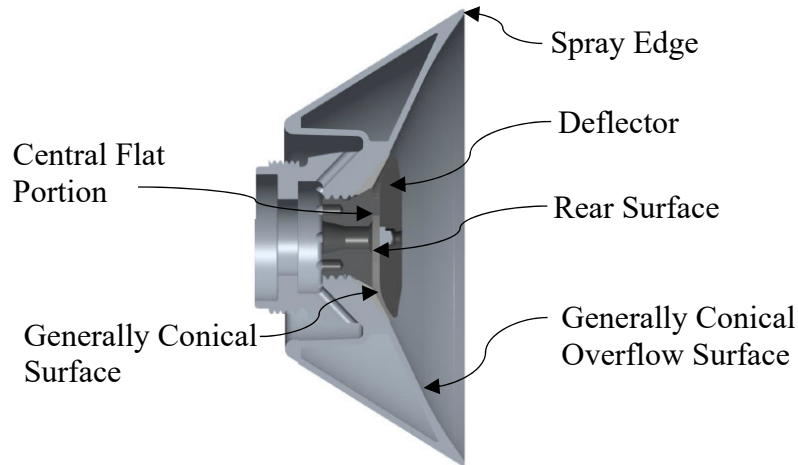
atomizing the metallic based particulate paint by rotating the bell cup at approximately 60,000 to 80,000 rpm with a paint flow not exceeding 250 ml/min and a shaping air flow not exceeding 200 L/min, such that 80% of the droplets are within a 8-50 micron size deviation;

wherein a diameter of the spray edge is between approximately 63 millimeters and approximately 75 millimeters.

228. The 25-2A48 Family of bell cups include “a central flat portion leading to an overflow surface providing substantially laminar flow at a spray edge, and a deflector having a rear surface substantially parallel to the central flat portion and a generally conical surface substantially parallel to the generally conical surface of the bell cup” as shown below:



229. The 25-2A58 Family of bell cups include “a central flat portion leading to an overflow surface providing substantially laminar flow at a spray edge, and a deflector having a rear surface substantially parallel to the central flat portion and a generally conical surface substantially parallel to the generally conical surface of the bell cup” as shown below:



230. The 25-2A48 Family of bell cups and the 25-2A58 Family of bell cups have been made and marketed by EFC to function with Durr Systems automated spray painting systems configured to atomize metallic based particulate paint by rotating the bell cup at approximately 60,000 to 80,000 rpm with a paint flow not exceeding 250 ml/min and a shaping air flow not exceeding 200 L/min, such that 80% of the droplets are within a 8-50 micron size deviation.

231. EFC has intended for its customers of the 25-2A48 Family of bell cups and the 25-2A58 Family of bell cups to use the 25-2A48 Family of bell cups and the 25-2A58 Family of bell cups with Durr Systems automated spray painting systems configured to atomize metallic based particulate paint by rotating the bell cup at approximately 60,000 to 80,000 rpm with a paint flow not exceeding 250 ml/min and a shaping air flow not exceeding 200 L/min, such that 80% of the droplets are within a 8-50 micron size deviation.

232. The 25-2A48 Family of bell cups and the 25-2A58 Family of bell cups have been sold to customers using an automated spray painting system that originated from Durr Systems configured to atomize metallic based particulate paint by rotating the bell cup at approximately 60,000 to 80,000 rpm with a paint flow not exceeding 250 ml/min and a shaping air flow not exceeding 200 L/min, such that 80% of the droplets are within a 8-50 micron size deviation.

233. The 25-2A48 Family of bell cups and the 25-2A58 Family of bell cups have been used by customers to atomize metallic based particulate paint by rotating the bell cup at approximately 60,000 to 80,000 rpm with a paint flow not exceeding 250 ml/min and a shaping air flow not exceeding 200 L/min, such that 80% of the droplets are within a 8-50 micron size deviation.

234. A diameter of the spray edge of the 25-2A48 Family of bell cups is between approximately 63 millimeters and approximately 75 millimeters.

235. A diameter of the spray edge of the 25-2A58 Family of bell cups is between approximately 63 millimeters and approximately 75 millimeters.

236. Accordingly, EFC has induced infringement at least claim 1 of the '797 patent.

237. Through discovery and further investigation, Durr Systems may determine that EFC has induced additional claims of the '797 patent to be infringed, and Durr Systems reserves the right to assert inducement of infringement of additional claims against EFC.

COUNT VII – UNFAIR COMPETITION UNDER THE LANHAM ACT

238. Durr Systems repeats and incorporates by reference all of the allegations from paragraphs 1 through 152 above, as if fully set forth herein.

239. For the reasons set forth herein, in violation of 15 U.S.C. § 1125, EFC has engaged in activities that constitute false or misleading description or representation of fact to

customers and potential customers of Durr Systems regarding EFC products marketed for use with Durr Systems automated spray painting systems or Durr Systems' products or services, which activities have caused harm to Durr Systems.

240. EFC's actions that constitute false or misleading description or representation of fact include, but are not limited to: making false or misleading statements to current and potential customers of Durr Systems regarding alleged relative performance and usable life of the EFC Bell Cups when used with an automated spray painting system that originated from Durr Systems as compared to Durr Systems bell cups; making false or misleading statements to current and potential customers of Durr Systems regarding alleged performance benefits of the EFC Bell Cups; and making false or misleading statements to current and potential customers of Durr Systems disparaging Durr Systems bell cup products.

241. Damage to Durr Systems that has resulted from EFC's activities that constitute false or misleading description or representation of fact includes, but is not limited to, lost sales and/or harm to reputation.

242. Through discovery and further investigation, Durr Systems may identify additional acts by EFC that constitute false or misleading description or representation of fact, or additional resultant damages, and Durr Systems reserves the right to assert those additional grounds for false or misleading description or representation of fact or damages against EFC.

243. There is an actual and justiciable controversy between the parties concerning whether EFC has committed acts that constitute false or misleading description or representation of fact and whether, and to what extent, such acts have damaged Durr Systems.

244. Pursuant to 15 U.S.C. § 1125, EFC seeks a judgment that Durr has committed acts that constitute false or misleading description or representation of fact.

COUNT VIII – UNFAIR COMPETITION UNDER MARYLAND LAW

245. Durr Systems repeats and incorporates by reference all of the allegations from paragraphs 1 through 152 above, as if fully set forth herein.

246. For the reasons set forth herein, EFC has engaged in deceptive activities to divert customers and potential customers of Durr Systems to EFC, which deceptive activities have caused harm to Durr Systems and unjustly enriched EFC.

247. EFC's deceptive activities include, but are not limited to: recklessly, knowingly, intentionally and/or maliciously making false or misleading statements to current and potential customers of Durr Systems regarding the performance of EFC and/or Durr Systems' products or the durability of EFC and/or Durr products; causing surreptitious trial use of EFC's products in place of Durr Systems' products outside of known approval systems; using Durr Systems' non-public pricing and product information to compete directly with Durr Systems; and representing itself as an innovator of products that are copies of Durr Systems products to divert benefits of Durr Systems' reputation and goodwill to EFC.

248. Damage to Durr Systems that has resulted from EFC's deceptive activities includes, but is not limited to, lost sales and/or harm to reputation.

249. Through discovery and further investigation, Durr Systems may identify additional deceptive acts by EFC that unfair competition, or additional resultant damages, and Durr Systems reserves the right to assert those additional grounds for unfair competition or damages against EFC.

250. There is an actual and justiciable controversy between the parties concerning whether EFC has committed acts of unfair competition and whether and to what extent such acts have damaged Durr Systems.

251. Durr Systems seeks a judgment that EFC is liable to Durr Systems for unfair competition.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Durr Systems, Inc. prays for judgment in its favor against Defendant EFC Systems, Inc. and requests that this Court enter:

- A. An Order adjudging EFC to have willfully infringed each of the Patents-in-Suit under 35 U.S.C. §§ 271(a);
- B. An award of damages adequate to compensate Durr Systems for EFC's infringement;
- C. An Order adjudging EFC to have induced infringement of the '804 patent under 35 U.S.C. § 271(b);
- D. An award of damages adequate to compensate Durr Systems for EFC's inducement of infringement;
- E. An Order for trebling of damages and/or exemplary damages pursuant to 35 U.S.C. § 284 because of EFC's willful infringement;
- F. An Order adjudging that this is an exceptional case under 35 U.S.C. § 285;
- G. An Order adjudging EFC to have engaged in unfair competition against Durr Systems in violation of 15 U.S.C. § 1125;
- H. An award of damages adequate to compensate Durr Systems for EFC's unfair competition under 15 U.S.C. § 1125;
- I. An Order adjudging that this is an exceptional case under 15 U.S. Code § 1117;

- J. An Order adjudging EFC to have engaged in unfair competition against Durr Systems under Maryland law;
- K. An award of damages to Durr Systems for EFC's unfair competition against Durr Systems in accordance with Maryland law;
- L. An award to Durr Systems of its costs and attorneys' fees;
- M. An award of pre-judgment and post-judgment interest and costs;
- N. Such other relief as this Court or a jury may deem proper and just under the circumstances.

JURY DEMAND

Plaintiff Durr Systems, Inc. demands a trial by jury on all issues so triable.

Respectfully submitted,

Date: December 13, 2019

/s/ William W. Carrier, III

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