

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GRACO INC. AND GRACO MINNESOTA
INC.

Plaintiffs,

v.

CARLISLE CONSTRUCTION
MATERIALS, LLC,

Defendant.

C.A. No. 21-245 (MN)

DEMAND FOR JURY TRIAL

FIRST AMENDED COMPLAINT

Plaintiffs Graco Inc. and Graco Minnesota Inc. (collectively “Plaintiffs” or “Graco”), by and through their undersigned attorneys, bring this First Amended Complaint against Carlisle Construction Materials, LLC (“Defendant” or “Carlisle”).

PARTIES

1. Plaintiff Graco Inc. is a corporation organized under the laws of the State of Minnesota with a place of business at 88 11th Ave N.E., Minneapolis, Minnesota 55413.

2. Plaintiff Graco Minnesota Inc. is a corporation organized under the laws of the State of Minnesota with a place of business at 88 11th Ave N.E., Minneapolis, Minnesota 55413. Graco Minnesota Inc. is a wholly owned subsidiary of Graco Inc.

3. Defendant Carlisle Construction Materials, LLC is a corporation organized under the laws of the State of Delaware with a place of business at 1285 Ritner Highway, Carlisle, PA 17013, and it may be served through its registered agent for service of process in Delaware at United Agent Group, Inc., 3411 Silverside Rd., Tatnall Building #104, Wilmington, DE 19810.

FACTUAL BACKGROUND

4. Founded in 1926 by two brothers, Russell and Leil Gray, Graco has a long history of designing and manufacturing fluid handling equipment. By the 1930s, Graco was an industry leader in lubrication management equipment, with sales across the country.

5. In 1958, Graco introduced the first airless paint sprayer, revolutionizing the paint spraying industry. In the following decades, Graco's business continued to grow, spreading to international markets and diversifying Graco's spray-gun technology portfolio.

6. Graco Minnesota is the owner by assignment of all right, title, and interest in and to United States Patent No. RE46,002 ("the '002 Patent"), entitled "Plural Component Spray Gun for Fast Setting Materials." The USPTO duly and legally issued the '002 Patent on May 17, 2016. A true and correct copy of the '002 Patent is attached as Exhibit A.

7. Graco Minnesota is the owner by assignment of all right, title, and interest in and to United States Patent No. 7,527,172 ("the '172 Patent"), entitled "Plural Component Mixing and Dispensing Apparatus." The USPTO duly and legally issued the '172 Patent on May 5, 2009. A true and correct copy of the '172 Patent is attached as Exhibit B.

8. Collectively, the '002 and '172 patents are referred to as the "Patents-in-Suit."

9. In general, the Patents-in-Suit relate to innovative spray gun assemblies employed for spraying quick setting materials such as foams, polyurea, and the like.

10. Defendant makes, uses, offers for sale, sells, and/or imports its ST1 spray gun, alone or in connection with its IS40 Intellispray Proportioner.

JURISDICTION AND VENUE

11. This action arises under the patent laws of the United States, 35 U.S.C. § 1, et seq. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338.

12. The Court has personal jurisdiction over Defendant at least because Defendant has continuous business contacts in the State of Delaware and in this District. Defendant has engaged in business activities including transacting business in this District and purposefully directing its business activities in this District, including the marketing and sale of its infringing ST1 sprayer device.

13. Venue is proper in this District because, in accordance with 28 U.S.C. § 1400(b), Defendant is incorporated in and resides in this District.

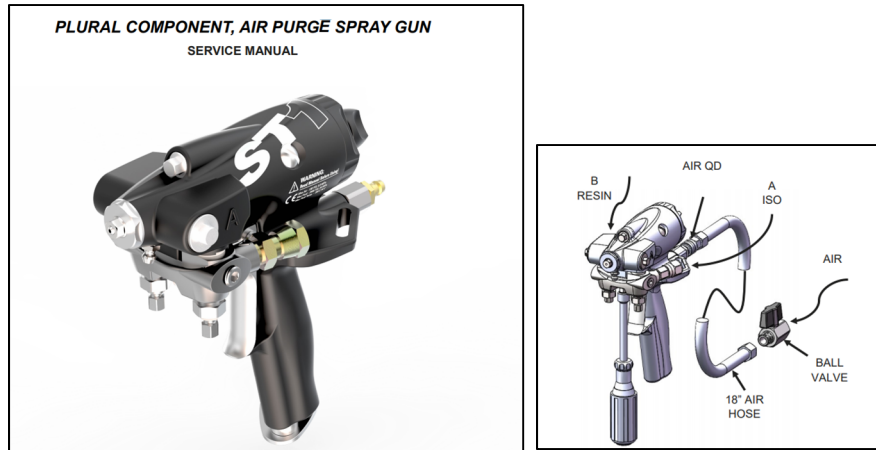
COUNT 1: INFRINGEMENT OF U.S. PATENT NO. RE46,002

14. Graco realleges and incorporates by reference paragraphs 1-13 above, as if fully set forth herein.

15. Each and every claim of the '002 Patent is valid and enforceable.

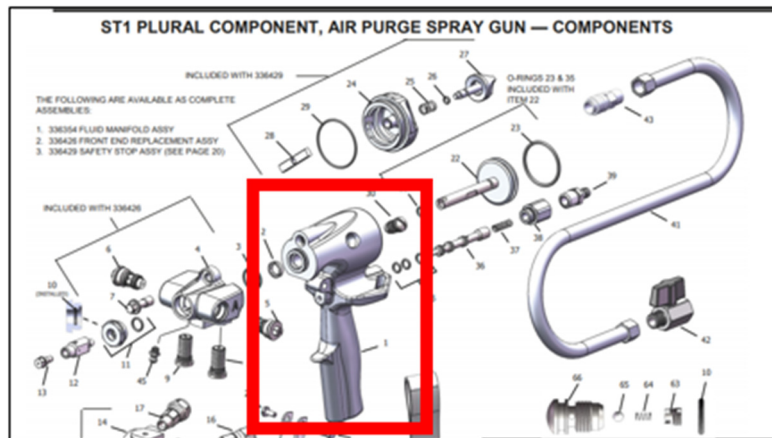
16. In violation of 35 U.S.C. § 271, Defendant has infringed at least claim 11 of the '002 Patent by, among other things, making, using, offering for sale, selling, and/or importing into the United States unlicensed products that infringe. Such unlicensed products include, by way of example and without limitation, Defendants' ST1 Spray Gun system and/or the components thereof.

17. The ST1 is a spray gun for fast setting plural component materials, as shown below:



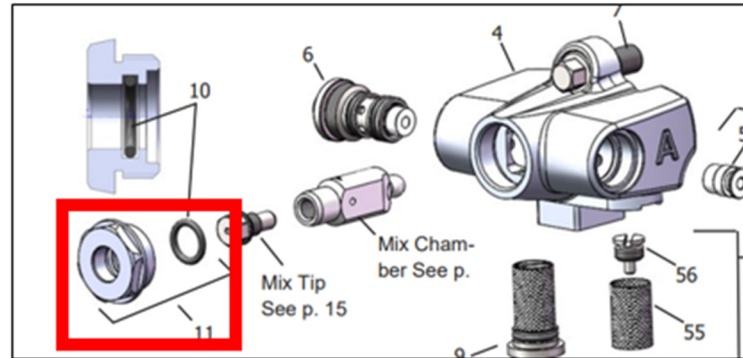
See Exhibit C at 1, 10. As shown above, the ST1 Service Manual states that the ST1 is an “air purge spray gun.” *Id.* at 1. As further shown above, the ST1 is a plural component spray gun, including, e.g., “resin” and “iso,” which are fast setting.

18. The ST1 comprises a gun body as shown below:



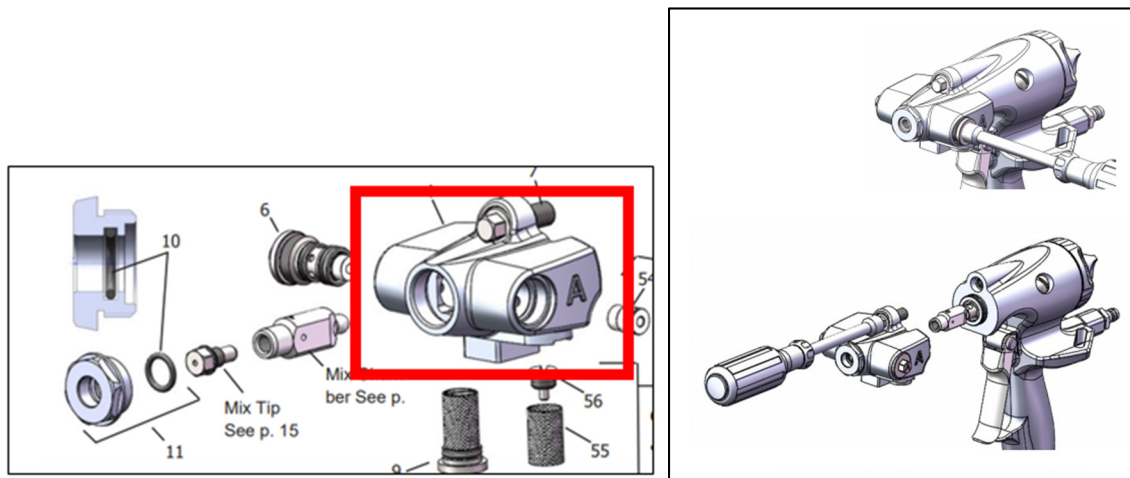
See Exhibit C at 18.

19. The ST1 further comprises an air cap, as shown below:



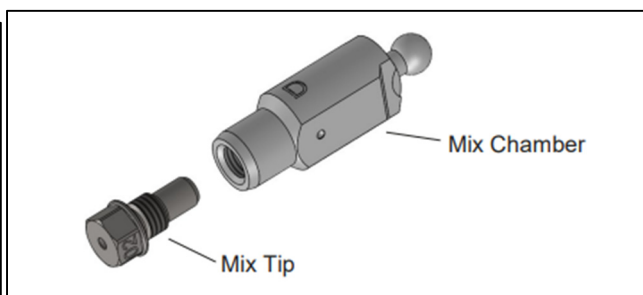
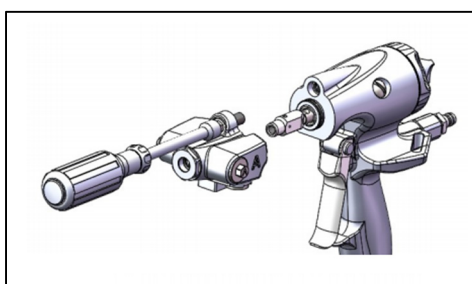
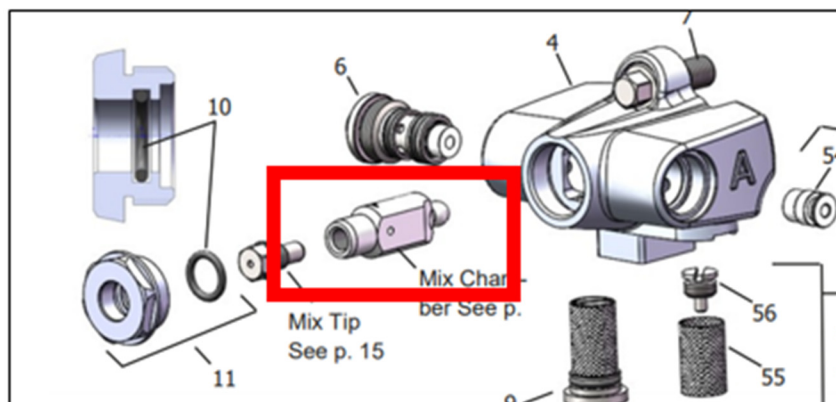
See Exhibit C at 25.

20. The ST1 further comprises a fluid housing attached to said gun body and receiving said air cap, as shown below:



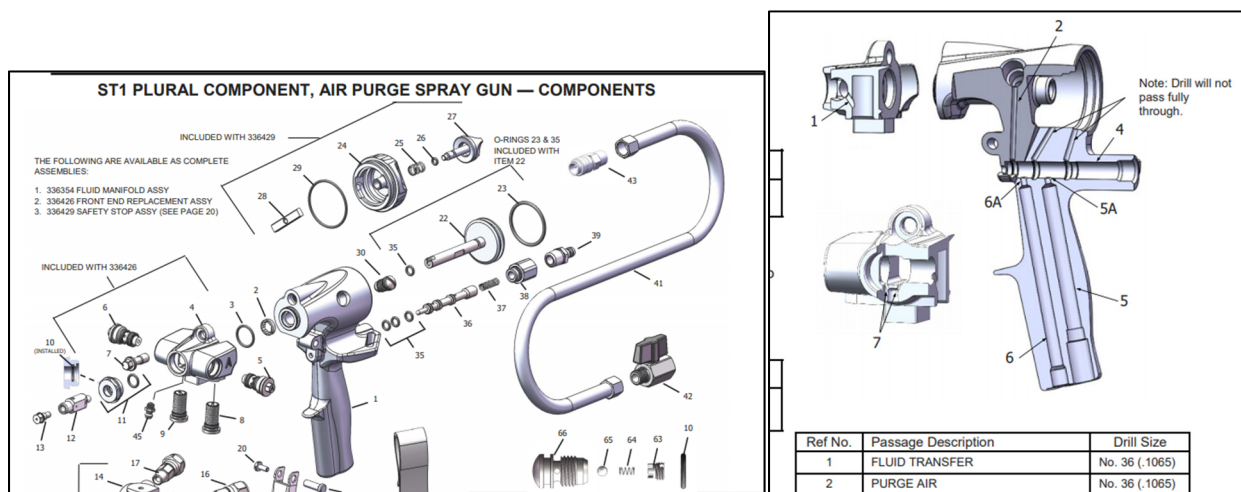
See Exhibit C at 16, 18. As can be seen above in the image on the right, the fluid housing (indicated with a red box) attaches to the gun body (identified in paragraph ¶18 above) and receives the air cap (parts 10/11 identified in ¶19).

21. The ST1 further comprises a mix chamber located in said fluid housing, as shown below:



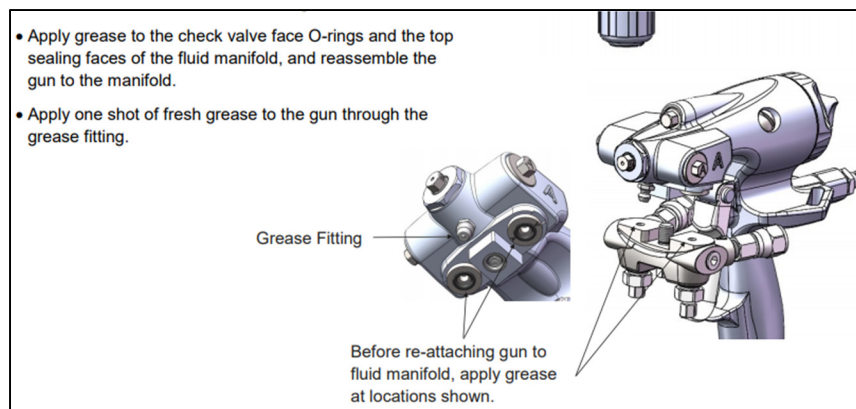
See Exhibit C at 16, 20, 25. The ST1 Service Manual labels the “mix chamber,” and as shown above, the mix chamber is located in the fluid housing when assembled.

22. The ST1 further comprises a purge air passage as shown below:



See Exhibit C at 18, 23 (describing passage “2” as “purge air”).

23. The ST1 further comprises a grease fitting connected to said purge air passage through which grease is injected into the fluid housing for storage, as shown below:



See Exhibit C at 17.

24. At least by way of this complaint, Defendant has knowledge of and is aware of the '002 Patent, and knows that it is infringing the '002 Patent. Further, upon information and belief, Defendant is aware and has previously been aware of Graco's patents through Graco's online marking website (<https://www.graco.com/us/en/patents.html>).¹

25. By its actions, Defendant has injured Graco and is liable to Graco for infringement of the '002 Patent pursuant to 35 U.S.C. § 271.

COUNT 2: INFRINGEMENT OF U.S. PATENT NO. 7,527,172

26. Graco realleges and incorporates by reference paragraphs 1-26 above, as if fully set forth herein.

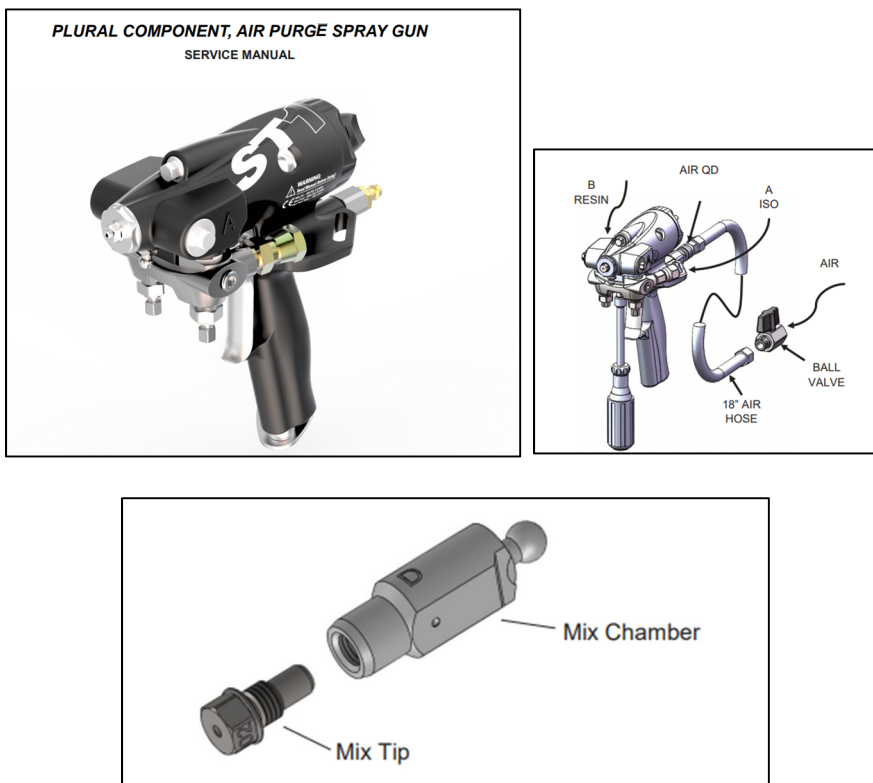
27. Each and every claim of the '172 Patent is valid and enforceable.

28. In violation of 35 U.S.C. § 271, Defendant has infringed at least claim 10 of the '172 Patent by, among other things, making, using, offering for sale, selling, and/or importing into the United States unlicensed products that infringe. Such unlicensed products include, by

¹ In the interest of efficiency, Graco is not pleading willful infringement at this time, but believes that discovery will demonstrate willfulness. Graco reserves its right to amend at the appropriate time.

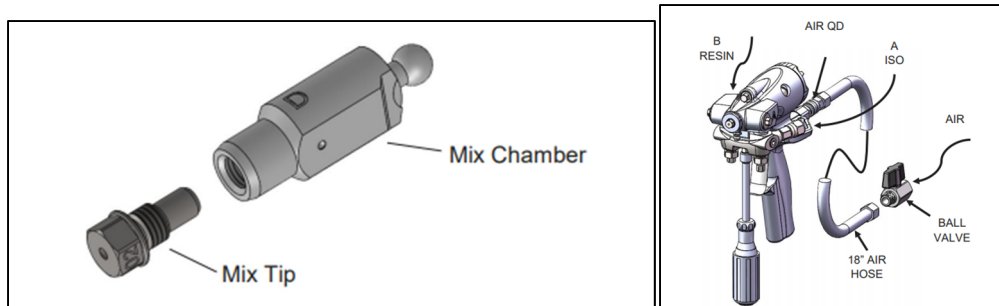
way of example and without limitation, Defendant's ST1 Spray Gun system and/or the components thereof.

29. For example, the ST1 comprises a mixing and spraying element for a plural component spraying apparatus, as shown below:

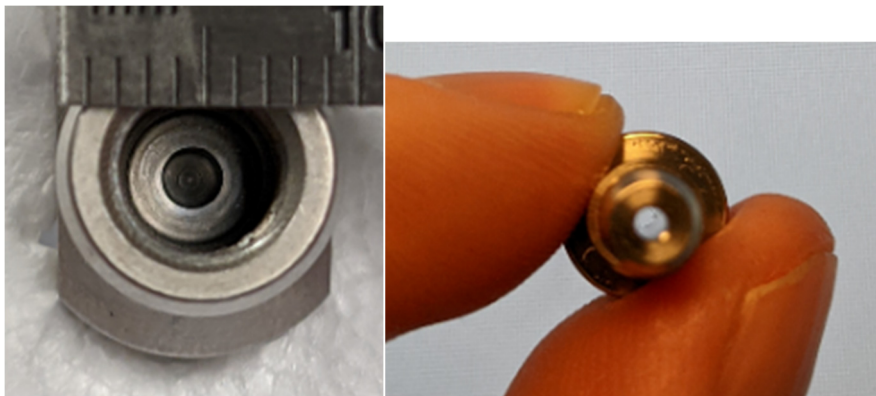


See Exhibit C at 1, 10, 20.

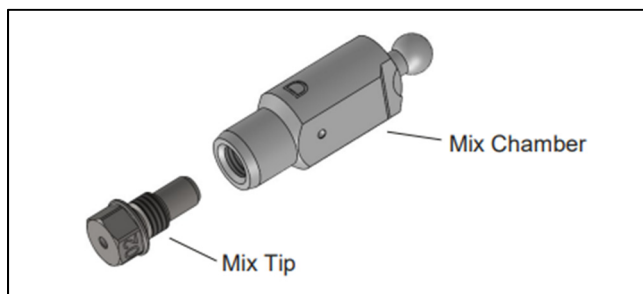
30. Further, the ST1 comprises a two-part assembly having a forward part and a rearward part, and forming an unobstructed cylindrical internal mixing chamber to provide mixing and spraying of the mixed plural components, as shown below in portions of the ST1 service manual and photographs of a sample ST1:



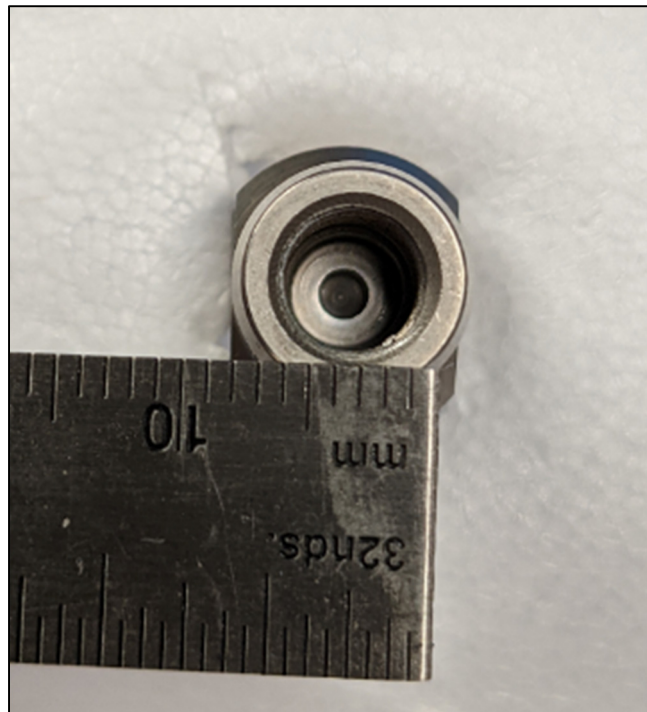
See Exhibit C at 10, 20. As shown above, the “mix tip” is a “forward part” and the “mix chamber” is a “rearward part.” As shown below, the two-part assembly forms an unobstructed cylindrical internal mixing chamber to provide mixing and spraying of the mixed plural components (e.g., Resin and ISO as identified in the image above on the right).



31. Further, the rearward part of the ST1 has planar and opposed outer side portions, forming a rearward internal mixing chamber portion including an unobstructed central passageway with a cylindrical side wall extending to its forward end, as shown below:

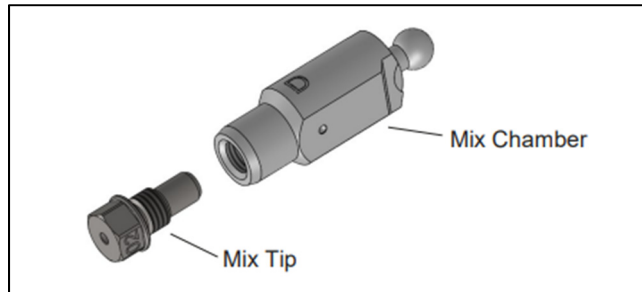


See Exhibit C at 20. As shown above, and in the images below, the “mix chamber” of the ST1 includes planar and opposed outer side portions, forming a rearward internal mixing chamber portion. This portion of the mix chamber further comprises an unobstructed central passageway with a cylindrical side wall extending to its forward end as shown below:

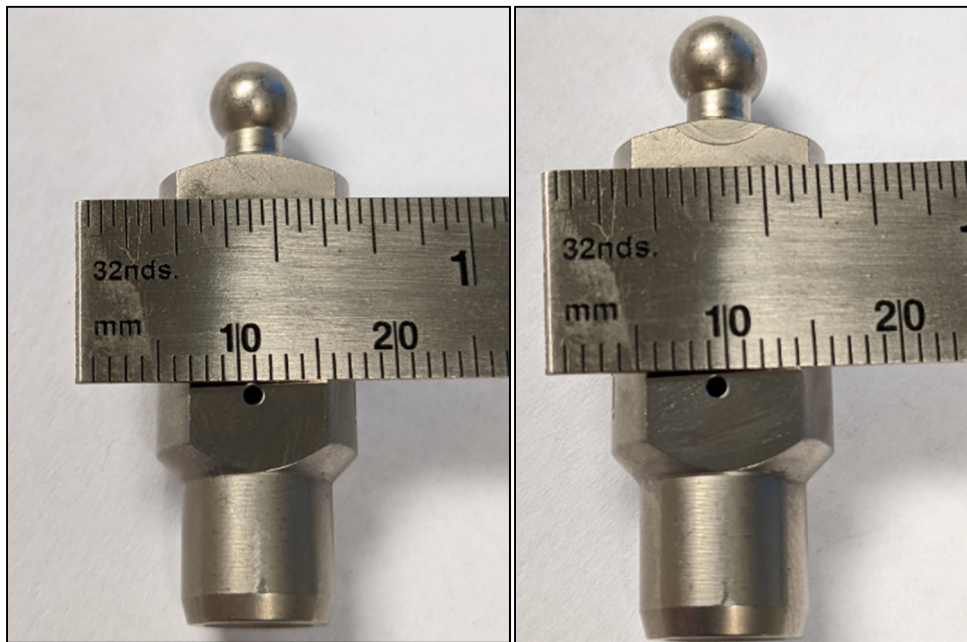


32. Further, the ST1 comprises a rearward part that has at least two admission passages having cylindrical side walls, with each admission passage extending between each of the planar and opposed outer side portions and the unobstructed central passageway and with its

cylindrical sidewall being tangent to the cylindrical sidewall of the rearward internal mixing chamber portion, as shown below:



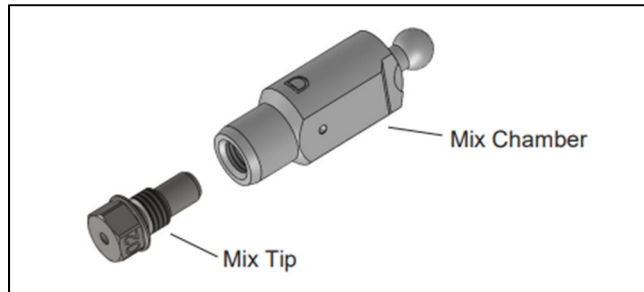
See Exhibit C at 20. The images below from a sample ST1 show the two admission passages having cylindrical side walls, with each admission passage extending between each of the planar and opposed outer side portions and the unobstructed central passageway.



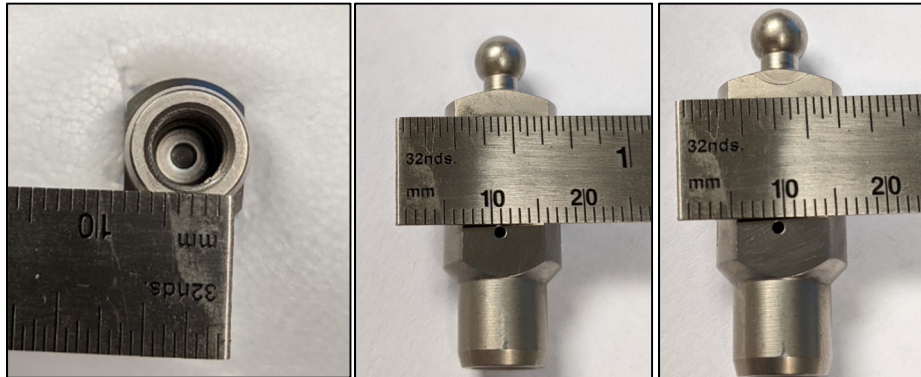
33. The cylindrical sidewalls of the admission passages (shown above) are tangent to the cylindrical sidewall of the rearward internal mixing chamber portion. For example, each of the admission passages individually reaches or touches the internal mixing chamber portion.

34. The cylindrical side wall of the rearward internal mixing chamber portion has a diameter greater than the diameters of the cylindrical side walls of the admission openings, said

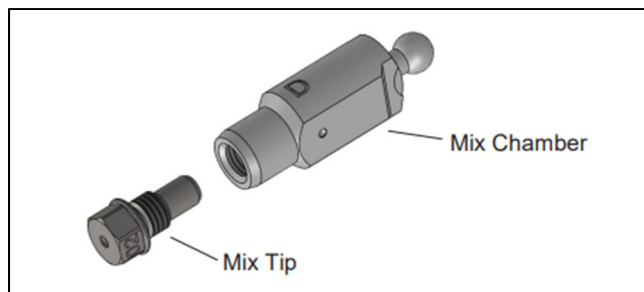
rearward part being adapted at its forward end to accept the insertion of the forward part, as shown below:



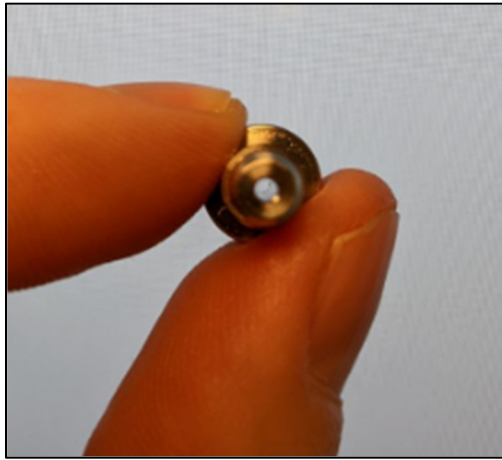
See Exhibit C at 20.



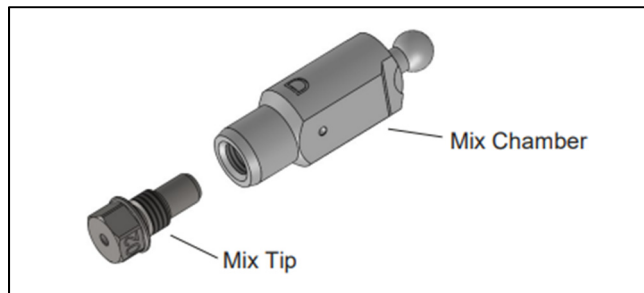
35. The forward part of the ST1 forms a forward internal mixing chamber portion including an unobstructed central passageway with a cylindrical sidewall forming a spraying orifice at its forward termination, said forward part being adapted at its rear for insertion and joining with the rearward part, the unobstructed central passageway of the forward part being located for open communication with the unobstructed central passageway of the rearward part when inserted and joined with the rearward part, as shown below:



See Exhibit C at 20.

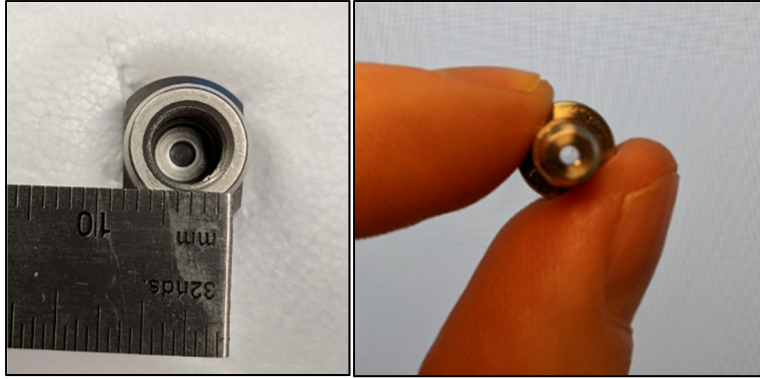


36. The cylindrical sidewall of the unobstructed central passageway of the rearward part has a larger diameter than the unobstructed central passageway of the forward part, as shown below:

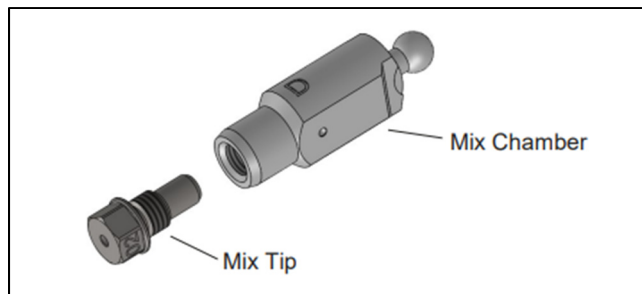


See Exhibit C at 20.





37. The sum of the cross-sectional areas of the cylindrical admission passages are substantially equal to the cross sectional area of the spraying orifice, as shown below:



MIX CHAMBER IMPINGEMENT CLEAN-OUT DRILLS				MIX TIP CLEAN-OUT DRILLS			
PART NO.	DESCRIPTION	SIZE	QTY	PART NO.	DESCRIPTION	SIZE	QTY
336464	NO. 68 DRILL (.031)	A	6	336467	NO. 55 DRILL (.052)	00	6
336465	NO. 58 DRILL (.042)	B	6	336468	NO. 53 DRILL (.0595)	01	6
336466	NO. 56 DRILL (.0465)	C	6	336469	NO. 52 DRILL (.0635)	15	6
336467	NO. 55 DRILL (.052)	D	6	336470	NO. 50 DRILL (.070)	02	6
336468	NO. 53 DRILL (.0595)	E	6	336471	NO. 44 DRILL (.086)	03	6
336470	NO. 50 DRILL (.070)	F	6	336472	NO. 42 DRILL (.0935)	04	6

See Exhibit C at 20, 22. For example, and without limitation, based on the charts above, the sum of the cross-sectional area of the cylindrical admission passages of mix chamber B is .0028 inches; the cross-sectional area of the spraying orifice of mix tip 01 is also .0028 inches.

38. At least by way this complaint, Defendant is aware of the '172 Patent, and knows that it is infringing the '172 Patent. Further, upon information and belief, Defendant is aware

and has previously been aware of Graco's patents through Graco's online marking website, <https://www.graco.com/us/en/patents.html>.²

39. By its actions, Defendant has injured Graco and is liable to Graco for infringement of the '172 Patent pursuant to 35 U.S.C. § 271.

DEMAND FOR JURY TRIAL

Graco hereby demands trial by jury on all claims and issues so triable.

PRAYER FOR RELIEF

Graco respectfully requests that this Court enter judgment against Defendant for the Patents-in-Suit as follows:

- A. Finding that each of the Patents-in-Suit has been infringed by Defendant;
- B. Awarding damages adequate to compensate Graco for the patent infringement that has occurred, in accordance with 35 U.S.C. § 284, including an assessment of pre-judgment and post-judgment interest and costs, and an accounting as appropriate for infringing activity not captured within any applicable jury verdict;
- C. Enjoining Defendant from further infringement;
- D. Providing an award of all other damages permitted by 35 U.S.C. § 284, including increased damages up to three times the amount of compensatory damages found;
- E. Finding that this is an exceptional case and an award to Graco of its costs, expenses, and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285; and

² In the interest of efficiency, Graco is not pleading willful infringement at this time, but believes that discovery will demonstrate willfulness. Graco reserves its right to amend at the appropriate time.

- F. Providing such other relief, including other monetary and equitable relief, as this Court deems just and proper.

Dated: April 28, 2021

FISH & RICHARDSON P.C.

By: /s/ Nitika Gupta Fiorella

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