

Liza M. Walsh
Agnes Antonian
CONNELL FOLEY LLP
Roseland, New Jersey 07068
Tel: (973) 535-0500
Fax: (973) 533-9217

Counsel for Plaintiff
The Procter & Gamble Company

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

THE PROCTER & GAMBLE COMPANY,)	
)	
Plaintiff,)	Civil Action No.:
)	
vs.)	
)	
RANDALL S. ASHER, D.D.S., M.S.,)	
)	COMPLAINT AND JURY DEMAND
Defendant.)	
)	

Plaintiff, The Procter & Gamble Company (“P&G”), for its claims against Defendant Randall S. Asher, D.D.S., M.S. (“Asher”), hereby states and alleges the following:

THE PARTIES AND PERSONAL JURISDICTION

1. Plaintiff P&G is a corporation organized and existing under the laws of the State of Ohio that maintains its principal place of business at One Procter & Gamble Plaza, Cincinnati, Ohio 45201.

2. P&G has a sales office in the State of New Jersey located at 300 Broadacres Drive, Suite 400, Bloomfield, New Jersey 07003. P&G also has a manufacturing facility in the State of New Jersey located at 100 Essex East Avenue, Avenel, New Jersey 07001.

3. Upon information and belief, Defendant Asher is an individual residing at 50 Falcon Hills Drive, Highlands Ranch, Colorado, and engaging in the practice of dentistry in Englewood, Colorado.

4. On information and belief, this Court has personal jurisdiction over Asher under New Jersey's long-arm statute (N.J. Ct. R. 4:4-4).

5. On information and belief, Asher non-exclusively licensed U.S. Patent No. 5,735,011 ("the '011 Patent") to a number of entities, including, but not limited to, Johnson & Johnson ("J&J"). A copy of the '011 Patent is attached at Exhibit A.

6. On information and belief, at least one of the licensees of the '011 Patent, including, but not limited to, J&J, resides in the State of New Jersey.

7. On information and belief, the licensees of the '011 Patent, including, but not limited to, J&J, transact business in this State.

8. On information and belief, Asher's licensing negotiations with J&J relating to the '011 Patent took place at least in part in the State of New Jersey.

9. On or about August 9, 2005, counsel representing Asher sent a letter to Unilever, a New Jersey company, inviting Unilever to engage in licensing negotiations in connection with the '011 Patent. (Exhibit B). On or about August 23, 2005, a representative of Unilever sent a letter in response to the letter dated August 9, 2005. (Exhibit B).

10. On information and belief, Asher attempted to negotiate a license agreement with Church & Dwight Co., Inc. ("Church & Dwight"), a company having its principal place of business in this State at 469 North Harrison Street, Princeton, New Jersey 08543-5297.

11. By virtue of the foregoing dealings in the State of New Jersey and this District, Defendant Asher is subject to the personal jurisdiction of this Court.

FACTUAL BACKGROUND

The '011 Patent

12. Asher is the sole named inventor listed on the face of the '011 Patent. (Exhibit A).

13. The '011 Patent issued on April 7, 1998, and is assigned on its face to Asher. (Exhibit A).

14. The '011 Patent is directed generally to dental cleaning devices, such as toothbrushes.

15. On or about April 30, 1999, Asher executed an assignment (hereafter "the First Assignment") in which he assigned all right, title and interest in the '011 Patent to Asher Innovations, Inc. ("Asher Innovations"). (Exhibit C).

16. On or about May 17, 1999, Asher recorded the First Assignment with the United States Patent and Trademark Office ("USPTO").

17. On or about August 7, 2007, Asher Innovations executed an assignment (hereafter "the Second Assignment") of all right, title and interest in the '011 Patent to Asher. (Exhibit D).

18. On or about August 9, 2007, Asher recorded the Second Assignment with the USPTO. (Exhibit D).

Relationship Between Asher and P&G

19. P&G markets and sells various toothbrush products, including, but not limited to, the Oral-B® Pulsar® ("Pulsar®"), Oral-B® Triumph® ("Triumph®"), and products in the field of professional care (e.g., products sold to dentists). The Triumph® and some of the professional care products are sold with toothbrush heads, such as the Oral-B® PowerPolisher® ("PowerPolisher®") and Oral-B® FlossAction® ("FlossAction®"). P&G also markets and sells

those toothbrush heads alone as replacement heads. P&G's toothbrush products and replacement heads are hereafter referred to collectively as "P&G's Dental Cleaning Products."

20. On or about August 9, 2005, counsel for Asher sent a letter to P&G's Chief Patent Counsel inviting negotiations regarding licensing of the '011 Patent. (Hereafter "the August 9, 2005 letter" – *see* Exhibit E). That letter referred to "successful litigation" against J&J resulting in a settlement with J&J in which J&J purportedly paid a sum of money and obtained a license to practice the '011 Patent. (Exhibit E). The letter stated that based on research of the market, P&G may wish to take a license under the '011 Patent. (Exhibit E).

21. On February 8, 2007, Asher filed a patent infringement action in the District of Colorado alleging that P&G, GlaxoSmithKline ("GSK"), Conair Corporation ("Conair") and Church & Dwight infringe the '011 Patent. (Hereafter "the Colorado action"). Asher Innovations was not named as a party in that action.

22. Asher did not have standing to bring the Colorado action, because at the time that action was filed, Asher did not own all right, title and interest in the '011 Patent. (*See* Exhibits C, D). Asher Innovations owned all right, title and interest in the '011 Patent at the time the Colorado action was filed. P&G and Church & Dwight are, therefore, moving to dismiss the Colorado action for lack of subject matter jurisdiction.

COUNT I
DECLARATORY JUDGMENT OF
NON-INFRINGEMENT, INVALIDITY AND UNENFORCEABILITY

Jurisdiction and Venue

23. P&G hereby refers to and incorporates by reference Paragraphs 1-22 above, as if fully set forth herein.

24. Count I arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.* The subject matter jurisdiction of this Court over Count I is proper under 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202. Venue for Count I is proper in this District under 28 U.S.C. § 1391(b)(2) or 1391(b)(3).

25. P&G's Dental Cleaning Products are and have been sold throughout the United States.

26. The statements made in the August 9, 2005 letter in conjunction with Asher's claims in the Colorado action that P&G's Dental Cleaning products infringe the '011 Patent have caused P&G to have a reasonable apprehension of being sued by Asher for infringement of the '011 Patent.

27. A case of actual controversy exists between P&G and Asher. Accordingly, subject matter jurisdiction for this declaratory action is proper in this Court under 28 U.S.C. §§ 2201 and 2202.

Non-Infringement, Invalidity And Unenforceability Of The '011 Patent

28. P&G hereby refers to and incorporates by reference Paragraphs 1-27 above, as if fully set forth herein.

29. P&G has manufactured, used, offered for sale or sold products that Asher alleges infringe the '011 Patent.

30. P&G has not directly or indirectly infringed, induced infringement of, or contributed to the infringement of any valid claim (or claims) of the '011 Patent under 35 U.S.C. § 271.

31. The claims of the '011 Patent are invalid under 35 U.S.C. § 1, *et seq.*, including, but not limited to, sections 102, 103, and/or 112.

32. The '011 Patent is unenforceable by virtue of various legal doctrines, including, but not limited to, laches, equitable estoppel, patent misuse and/or inequitable conduct.

PRAYER FOR RELIEF

P&G respectfully prays for the following relief:

A. That the Court enter a declaratory judgment pursuant to 28 U.S.C. § 2201 that P&G has not infringed any claim of U.S. Patent No. 5,735,011;

B. That the Court enter a declaratory judgment pursuant to 28 U.S.C. § 2201 that the claims of U.S. Patent No. 5,735,011 are invalid;

C. That the Court enter a declaratory judgment pursuant to 28 U.S.C. § 2201 that U.S. Patent No. 5,735,011 is unenforceable;

D. That the Court preliminarily and permanently enjoin Asher from asserting infringement of U.S. Patent No. 5,735,011 against P&G;

E. That the Court adjudge and decree that this case is exceptional and award P&G its reasonable attorneys' fees, expenses and costs in this action; and

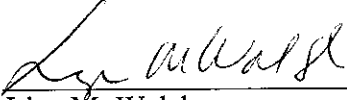
F. That this Court grant P&G such other and further relief that this Court deems just and proper.

JURY TRIAL DEMAND

P&G demands a trial by jury of all issues triable of right by jury.

Dated: September 5, 2007

CONNELL FOLEY LLP,



Liza M. Walsh
Agnes Antonian
85 Livingston Avenue
Roseland, NJ 07068
Telephone: (973) 535-0500
Facsimile: (973) 535-9217

Kenneth R. Adamo, Ohio Bar 0009303
Robert L. Canala, Ohio Bar 0037133
Ryan B. McCrum, Ohio Bar 0071519

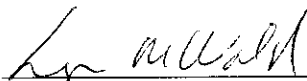
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, OH 44114-1190
Telephone: (216) 586-3939
Facsimile: (216) 579-0212

*Counsel for Plaintiff
The Procter & Gamble Company*

RULE 11.2 CERTIFICATION

We hereby certify that the matter in controversy is related to the following action captioned *Randall S. Asher D.D.S., M.S. v. GlaxoSmithKline et al.*, Civil Action No. 07-CV-00339-WYD (D. Colo. 2007).

CONNELL FOLEY LLP

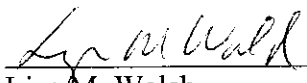
By: 
Liza M. Walsh
Counsel for Plaintiff
The Procter & Gamble Company

Dated: September 5, 2007

RULE 201.1 CERTIFICATION

We hereby certify that the above-captioned matter is not subject to compulsory arbitration in that the plaintiffs seek, *inter alia*, injunctive relief.

CONNELL FOLEY LLP

By: 
Liza M. Walsh
Counsel for Plaintiff
The Procter & Gamble Company

Dated: September 5, 2007

Exhibit A



US005735011A

United States Patent [19]
Asher

[11] **Patent Number:** **5,735,011**
 [45] **Date of Patent:** **Apr. 7, 1998**

[54] **PLAQUE REMOVING TOOTHBRUSH**

[76] **Inventor:** **Randall S. Asher, 8756 S. Aberdeen Cir., Highlands Ranch, Colo. 80126**

[21] **Appl. No.:** **751,388**

[22] **Filed:** **Nov. 19, 1996**

[51] **Int. CL⁶** **A46B 9/04**

[52] **U.S. Cl.** **15/167.1; 15/110; 15/207.2; 15/DIG. 6**

[58] **Field of Search** **15/110, 111, 114, 15/167.1, 188, 207.2, DIG. 6; 601/141**

[56] **References Cited**

U.S. PATENT DOCUMENTS

564,497	7/1896	Babis .	
1,128,139	2/1915	Hoffman	15/111
1,694,636	12/1928	Barker .	
2,702,914	3/1955	Kittle	15/110
3,007,441	11/1961	Eyer .	
3,103,027	9/1963	Birch .	
3,133,546	5/1964	Dent .	
3,230,562	1/1966	Birch .	
3,717,898	2/1973	Jones .	
3,985,147	10/1976	Ricketts et al. .	
4,288,883	9/1981	Dolinsky	15/110

4,571,768	2/1986	Kawashima .	
5,040,260	8/1991	Michaels .	
5,337,436	8/1994	Saxer et al. .	
5,534,336	7/1996	Nomura et al. .	
5,604,951	2/1997	Shipp	15/110
5,678,275	10/1997	Derfner	15/167.1

OTHER PUBLICATIONS

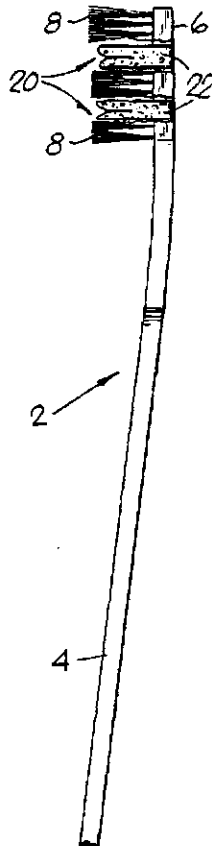
Macklanburg-Duncan Brochure. Date unknown.
 Henry Schein Dental '97-'97 Catalog, Sep. 15.—March 14.

Primary Examiner—Terrence Till
Attorney, Agent, or Firm—Klaas, Law, O'Meara & Malkin, P.C.; Joseph J. Kelly, Esq.

[57] **ABSTRACT**

A toothbrush capable of removing plaque from teeth wherein a plurality of plaque removing members formed from a mixture of a relatively soft elastomeric material and particles of an abrasive material project outwardly from a support portion of the toothbrush and each plaque removing member is surrounded by a plurality of tufts of bristles formed from conventional materials and wherein each plaque removing member has a base portion and a plurality of spaced apart projections with each projection having an outer surface with a plurality of crevices formed therein.

20 Claims, 1 Drawing Sheet



U.S. Patent

Apr. 7, 1998

5,735,011

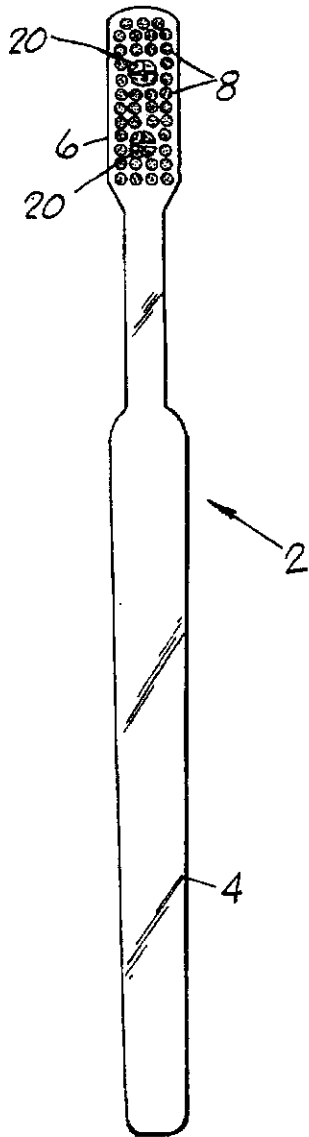


FIG. 1

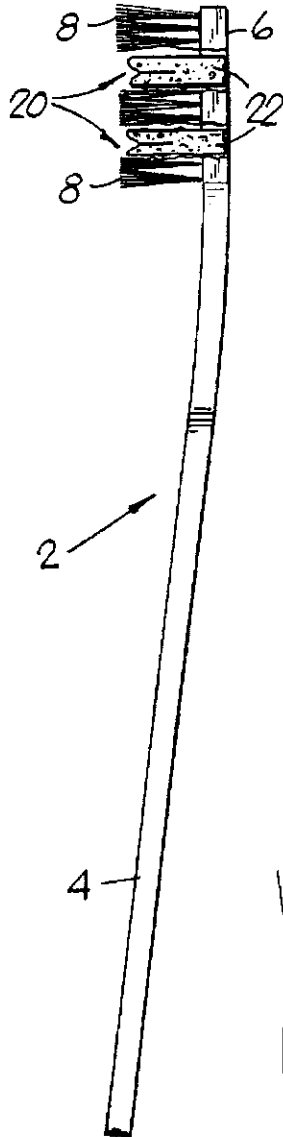


FIG. 2

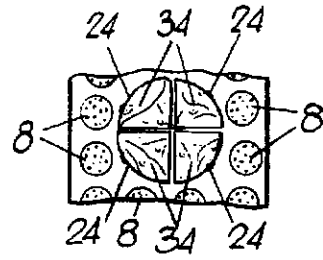


FIG. 3

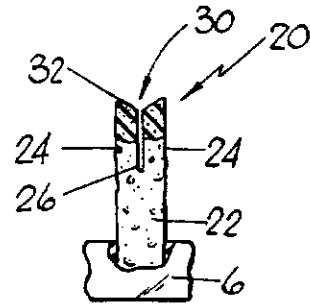


FIG. 4

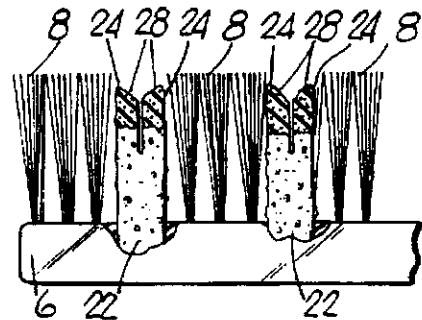


FIG. 5

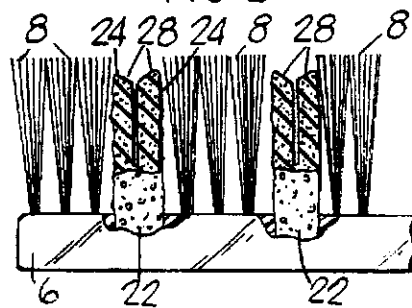


FIG. 6

5,735,011

1

PLAQUE REMOVING TOOTHBRUSH**FIELD OF THE INVENTION**

This invention relates generally to toothbrushes for the cleaning of human teeth and relates specifically to a toothbrush for the cleaning of human teeth that is provided with special plaque removing properties.

BACKGROUND OF THE INVENTION

Convention toothbrushes using a plurality of spaced apart tufts of bristles have been used for ages in the cleaning of human teeth. The bristles have been formed from various materials that have been classified from hard to soft. However classified, a bristle remains a bristle. Several attempts have been made to improve these conventional toothbrushes. U.S. Pat. Nos. 3,103,027 and 3,230,562 disclose toothbrushes having conventional bristles with a plurality of gum massaging tips or wedges interspersed therewith. U.S. Pat. No. 4,571,768 discloses a toothbrush having conventional bristles and a plurality of resilient projecting elements interspersed therewith. Each projecting element comprises a hollow silicone rubber tube having one closed end with a magnet adjacent to the closed end and a thin synthetic resin piece is inserted into the hollow tube to improve the strength and resiliency thereof against bending. U.S. Pat. No. 5,040,260 discloses a toothbrush having a plurality of projections each formed from a thermoplastic elastomer. The inner projections are truncated cylinders with the free ends thereof of a beveled configuration. The outer projections have a conical configuration having a tip as the free end. U.S. Pat. No. 3,985,147 discloses an implement for removing stains and plaque from teeth and has a wheel formed from a hardened rubber, plastic or similar material with an abrasive material, such as Carborundum particles, pumice or the like embedded therein. As far as applicant is aware of, none of the above-described patented toothbrushes have been commercially successful.

BRIEF DESCRIPTION OF THE INVENTION

This invention provides a toothbrush for the cleaning of human teeth and removing the plaque therefrom wherein a plaque removing member or members are each surrounded by a plurality of conventional bristles, all of which project outwardly from a support portion of a conventional toothbrush handle.

In a preferred embodiment of the invention, a conventional toothbrush handle has a support portion having a plurality of spaced apart tufts of conventional bristles, formed from natural or synthetic materials, secured in and projecting outwardly from the support portion. At least one plaque removing member, preferably two or more plaque removing members, is secured to and projects outwardly from the support portion. Each plaque removing member is surrounded by a plurality of the spaced apart tufts of conventional bristles. Each plaque removing member is formed from a mixture of an elastomeric material, such as a silicone rubber, a thermoplastic elastomer or other materials having similar characteristics, and particles of an abrasive material, such as pumice or other materials having similar characteristics. The conventional bristles in the plurality of the spaced apart tufts preferably extend outwardly from the support portion for a distance greater than the distance that the plaque removal member or members project from the support portion.

In a preferred embodiment of the invention, the ratio in the mixture from which the plaque removing member is formed is between about 5.0 and 20.0 parts of the elastomeric material to 1.0 part of the abrasive material by

2

volume. Also, the elastomeric material preferably is a silicone rubber such as that marketed by Macklanburg-Duncan under the trade designation SILICONE 100% Silicone Rubber Sealant and the abrasive material preferably comprises particles of pumice such as those marketed by HENRY SCHEIN under the trade designation flour, fine or medium. The plaque removing member may be formed by mixing the above-described preferred materials in a blender and then pressed into a mold and allowed to cure. However, since the wear of the plaque removal member or members is minimal, it may only be necessary to embed the abrasive materials into the exposed outer portion of the plaque removing member or members.

Each plaque removing member has a transverse cross-sectional area that is substantially larger than the transverse cross-sectional area of a tuft of the conventional bristles. Also, each plaque removing member preferably comprises a base portion secured to the support portion and a plurality of spaced apart projections extending outwardly from the base portion, which projections are preferably four in number. The outer surface of the combined projections preferably has a central portion recessed inwardly from an outer rim portion. The outer surface of each projection preferably has a plurality of crevices formed therein and some of the crevices may have a connecting portion. The longitudinal length of each projection may vary between about one-quarter of the overall length of the plaque removing member to about three-quarters of the overall length of the plaque removing member.

BRIEF DESCRIPTION OF THE DRAWINGS

Illustrative and presently preferred embodiments of the invention are illustrated in the accompanying drawing in which:

FIG. 1 is a top plan view of a toothbrush of this invention;

FIG. 2 is a side elevational view of FIG. 1 with parts removed;

FIG. 3 is an enlarged top plan view of a portion of FIG. 1;

FIG. 4 is an enlarged side elevational view of a plaque removing member of this invention;

FIG. 5 is an enlarged side elevational view with parts removed of a portion of FIG. 1 of one preferred embodiment of the invention; and

FIG. 6 is an enlarged side elevational view with parts removed of a portion of FIG. 1 of another preferred embodiment of the invention.

DETAILED DESCRIPTION OF THE INVENTION

In FIGS. 1 and 2, there is disclosed a toothbrush 2 of this invention which has a handle portion 4 and a support portion 6 formed from conventional materials. A plurality of tufts 8 of bristles formed from conventional materials are secured to and project outwardly from the support portion 6 and are in a spaced apart relationship.

At least one and preferably two or more plaque removing members 20 have a base portion 22 which is secured to and projects outwardly from the support portion 6 and are each located to be surrounded by a plurality of the plurality of tufts 8 of bristles. Each plaque removing member 20 has a plurality of spaced apart projections 24 which are integral with and extend outwardly from the base portion 22. A groove 26 separates one projection 24 from another projection 24. Each projection 24 has a longitudinal length in the ratio of about 0.25 and 0.75 of the length of the plaque removing member 20 that extends from the support portion 6. Each projection 24 has an outer surface 28 which, when

5,735,011

3

the four illustrated projections 24 are considered, has a central portion 30 that is recessed inwardly from an outer rim 32. The outer surface of each projection 24 has a plurality of crevices 34. FIG. 3, formed therein.

Each plaque removing member 20 is preferably formed from a mixture of an elastomeric material and an abrasive material. The elastomeric material preferably comprises a silicone rubber or a thermoplastic elastomer such as those described in U.S. Pat. No. 5,040,260. The abrasive material preferably comprises particles of pumice or Carborundum such as those described above in U.S. Patent No. 3,985,147. The ratio of the elastomeric material and the abrasive material, when the elastomeric material is a silicone rubber marketed by Macklanburg-Duncan and the abrasive material is pumice marketed by HENRY SCHEIN under the trade designation flour, is preferably in the range of between about 5.0 and 20.0 parts of the elastomeric material by volume to 1.0 part of the abrasive material by volume and preferably comprises 10.0 parts of the elastomeric material by volume to 1.0 part of the abrasive material by volume. The foregoing ratios are based on the procedure wherein the elastomeric material and the abrasive material are mixed together so that the particles of the abrasive material are generally evenly spaced apart in the elastomeric material. However, since the plaque removing material is subject to minimal wear, it may be possible to embed fewer quantities of the particles of the abrasive material into the outer surface portions of the plaque removing member that contacts the teeth and gums of the user while retaining the benefit of the mixture.

The toothbrush of this invention is used in a conventional manner. After applying toothpaste, the toothbrush is moved over the teeth while applying pressure thereto. The projections move away from each other and contact a wide surface area of each tooth. Each projection provide a wiping action on each tooth that combines with the abrasive particles to disrupt the plaque on each tooth. Since the projections are spread apart, this provides openings for the removal of the plaque from the cleaning area. The nature of the mixture of the elastomeric material and the particles of the abrasive material in the plaque removing member is such that the particles of the abrasive material have no deleterious effect on the teeth. While the illustrated shape of the plaque removing member is preferred, it is understood that it can be of other configurations.

It is contemplated that the inventive concepts herein described may be variously otherwise embodied and it is intended that the appended claims be construed to include alternative embodiments of the invention except insofar as limited by the prior art.

What is claimed is:

1. A toothbrush having a plurality of bristles supported on and projecting outwardly from a support portion of a conventional toothbrush handle in a spaced apart relationship which bristles are formed from conventional relatively hard materials comprising:

at least one plaque removing member supported on and projecting outwardly from said support portion;
said at least one plaque removing member surrounded by a plurality of said plurality of bristles;
said at least one plaque removing member being formed from a mixture of relatively soft elastomeric material and particles of an abrasive material.

2. A toothbrush as in claim 1 wherein:

said at least one plaque removing member comprises a plurality of plaque removing members.

3. A toothbrush as in claim 1 wherein:

said plurality of bristles project outwardly from said support portion for a distance greater than the distance said at least one plaque removing member projects from said support portion.

4

4. A toothbrush as in claim 3 wherein:

said mixture comprises between about 5.0 and 20.0 parts of said elastomeric material by volume to 1.0 part of said particles of an abrasive material by volume.

5. A toothbrush as in claim 4 wherein:

said thermoplastic elastomer is a silicone rubber; and said abrasive material is pumice.

6. A toothbrush as in claim 3 wherein:

said mixture comprises about 10.0 parts of said elastomeric material by volume to 1.0 part of said particles of an abrasive material by volume.

7. A toothbrush as in claim 6 wherein:

said elastomeric material is a silicone rubber.

8. A toothbrush as in claim 1 wherein:

said plurality of bristles comprises a plurality of spaced apart tufts of bristles with each tuft having a plurality of bristles each formed from a relatively hard material.

9. A toothbrush as in claim 8 wherein said at least one plaque removing member comprises:

a base portion secured to said support and projecting outwardly from said support; and

a plurality of spaced apart projections outwardly extending outwardly from said base portion.

10. A toothbrush as in claim 9 wherein:

each of said projections having a transverse cross-sectional area substantially greater than the cross-sectional area of one of said plurality of bristles.

11. A toothbrush as in claim 10 wherein:

said at least one plaque removing member comprises a plurality of plaque removing members.

12. A toothbrush as in claim 11 wherein:

said plurality of bristles projecting outwardly from said support a distance greater than the distance each of said plurality of plaque removing members project outwardly from said support.

13. A toothbrush as in claim 12 and further comprising: each of said projection having an outer surface; and said outer surface having a plurality of crevices formed therein.

14. A toothbrush as in claim 9 and further comprising: each of said projections having an outer surface; and said outer surface having a plurality of crevices formed therein.

15. A toothbrush as in claim 9 wherein:

said at least one plaque removing member comprises a plurality of plaque removing members.

16. A toothbrush as in claim 15 wherein:

said mixture comprises between about 5.0 and 20.0 parts of said elastomeric material by volume to 1.0 part of said abrasive material by volume.

17. A toothbrush as in claim 15 wherein:

said mixture comprises about 10.0 parts of said elastomeric material by volume to 1.0 part of said abrasive material by volume.

18. A toothbrush as in claim 17 wherein:

said elastomeric material comprises a thermoplastic elastomer.

19. A toothbrush as in claim 17 and further comprising: each of said projections having an outer surface; and said outer surface having a plurality of crevices formed therein.

20. A toothbrush as in claim 17 wherein:

said thermoplastic elastomer is a silicone rubber; and said abrasive material is pumice.

* * * * *

Exhibit B

COCHRAN FREUND & YOUNG
An Intellectual Property Law Firm

William W. Cochran
Samuel M. Freund*
James R. Young
Paul M. Thompson**

3555 STANFORD ROAD
SUITE 230
FORT COLLINS, COLORADO 80525

Telephone: (970) 377-6363
Facsimile: (970) 207-1985

4450 Arapahoe Avenue
Suite 100
Boulder, Colorado 80303
Telephone: (303) 448-8889

Denver Metro: (303) 288-4596

Internet: www.patentlegal.com

August 9, 2005

Chief Patent Counsel
Unilever
45 River Road
Edgewater, NJ 07020

Re: Offer of License under US Patent 5,735,011

Dear Sir or Madam:

This letter is an invitation to open negotiations regarding the licensing of US Patent 5,735,011. We have just completed a successful litigation against Johnson & Johnson in which Johnson & Johnson has settled this matter by payment of a sum of money and taking a license under the above-referenced patent. This litigation involved the Reach Max Brightener toothbrush which uses a polishing member as well as nylon bristles.

We have researched the market and have found that you may wish to take a license for the following toothbrush product: Mentadent White & Clean with Whitening Ribbon.

Please contact me by September 1, 2005 if you are interested in discussing a license agreement under this patent.

Very truly yours,

Cochran Freund & Young LLC



William W. Cochran

WWC:kmm

cc: Stephen Shear
Church and Dwight Co. Inc.
469 North Harrison Street
Princeton, NJ 08543

0020



Unilever Patent Group
Building C2 South
700 Sylvan Avenue
Englewood Cliffs, NJ 07632-3100
Fax. Tel.: 201-894-2400
Direct Line 201-894-2403
E-mail: Milton.Honig@unilever.com

August 23, 2005

Mr. William W. Cochran
Cochran Freund & Young LLC
3555 Stanford Road
Suite 230
Fort Collins, Colorado 80525

RE: Offer of License under US Patent 5,735,011

Dear Mr. Cochran:

We are in receipt of your letter dated August 9, 2005 offering to open negotiations regarding licensing of US Patent 5,735,011.

In October 2003, Unilever exited the US dental business. The US business was sold to Church and Dwight, Inc. We have neither need nor interest in licensing your patent. Your letter indicates the patent may be relevant to Mentadent® White & Clean with Whitening Ribbon. We are curious as to how your patent with claims to abrasive particles relates to the Mentadent® toothbrush.

Very truly yours,

A handwritten signature in black ink that reads 'Milton L. Honig'.

Milton L. Honig
Deputy General Counsel

MLH/sm

cc: Stephen Shear
Church and Dwight Co., Inc.
469 North Harrison Street
Princeton, NJ 07543

0021

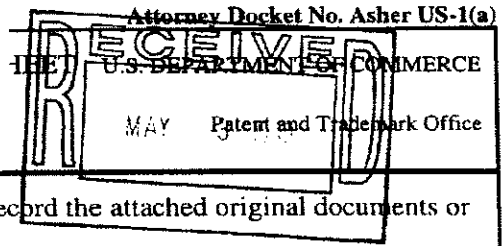
Exhibit C

5399

05-18-1999

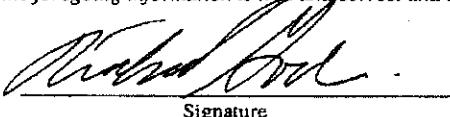


101040137



FORM PTO 1595
6-97

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

<p>1. Name of conveying party(ies) Randall S. Asher Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Names and address of receiving party(ies): Name: ASHER INNOVATIONS, INC. Internal Address: 9025 East Mineral Circle Suite 100 Street Address: 9025 East Mineral Circle Suite 100 City, State & Zip: Englewood, Colorado 80112 Additional names & addresses attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____ Execution Date: April 30, 1999</p>	
<p>4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application is: _____ A. Patent Application No.(s) B. Patent No.(s) — 5,735,011 Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>5. Name and address of party to whom correspondence concerning document should be mailed: Name: MICHAEL A. GOODWIN, ESQ. Internal Address: KLAAS, LAW, O'MEARA & MALKIN 1999 Broadway, Suite 2225 Denver, Colorado 80202 Street Address: KLAAS, LAW, O'MEARA & MALKIN 1999 Broadway, Suite 2225 City, State, Zip: Denver, Colorado 80202</p>	<p>6. Total number of applications and patents involved: one (1) 7. Total fee (37 CFR 3.41) \$ 40.00 <input checked="" type="checkbox"/> Enclosed Check no. 10553 <input type="checkbox"/> Authorized to be charged to deposit account 8. Deposit account number: 11-1150 (Attached duplicate copy of this page if paying by deposit account)</p>
<p>DO NOT USE THIS SPACE</p>	
<p>9. Statement and signature. <i>To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.</i> Michael A. Goodwin Name of person signing  Signature 4/30/99 Date 05/17/1999 DNGUYEN 00000224 5735011 01 FC:581 40.00 DP Total number of pages comprising cover sheet: [1]</p>	

PATENT
REEL: 009942 FRAME: 0336

ASSIGNMENT OF PATENT AND RELATED RIGHTS

I the undersigned have agreed and hereby agree to assign to ASHER INNOVATIONS, INC., a Colorado corporation having a place of business at 9025 East Mineral Circle, No. 100, Englewood, Colorado 80112, in furtherance of my obligations to ASHER INNOVATIONS, INC. and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and do hereby sell, assign and transfer to ASHER INNOVATIONS, INC., its successors and assigns, the entire right title and interest, including the right of priority, in, to and under the following Letters Patent of the United States:

Patent Number 5,735,011; Issued April 7, 1998; for PLAQUE REMOVING TOOTHBRUSH

and the invention(s) and improvement(s) set forth therein, and any and all continuations, divisionals, renewals of and substitutes for said Letters Patent, and any and all Letters Patents and applications of countries foreign to the United States which may be filed or granted thereon or therefor (including, without limitation, International Application No. PCT/US97/19942 bearing an international filing date of November 6, 1997); and any reissues, or reexaminations, or extensions of said Letters Patents.

I additionally authorize ASHER INNOVATIONS, INC. to file applications in my name for Letters Patent in any country, to be held and enjoyed by ASHER INNOVATIONS, INC., its successors, assigns, nominees or legal representatives, to the full end of the term or terms for which said Letters Patent respectively may be granted, reissued or extended, as fully and entirely as the same would have been held and enjoyed by me had this assignment, sale and transfer not been made;

AND I hereby covenant that I have full right to convey the entire interest herein assigned, and that I have not executed and will not execute any agreement in conflict herewith, and I further covenant and agree that I will, each time a request is made, and without undue delay, execute and deliver all such papers as may be necessary or desirable to perfect the title to said invention(s) or improvement(s), said applications and said Letters Patents, to ASHER INNOVATIONS, INC., its successors, assigns, nominees or legal representatives, and I agree to communicate to ASHER INNOVATIONS, INC., or to its nominee, all known facts respecting said invention(s) or improvement(s), said applications and said Letters Patents, to testify in any legal proceedings, to sign all lawful papers, to execute all disclaimers and divisionals, continuations, reissue and foreign applications, to make all rightful oaths and declarations, and generally to do everything possible to aid ASHER INNOVATIONS, INC., its successors, assigns, nominees and legal representatives to obtain and enforce, for its or their own behalf, proper patent protection for said invention(s) or improvement(s) in any and all countries provided the expenses which may be incurred by me in lending such cooperation and assistance are paid by ASHER INNOVATIONS, INC.;

AND I hereby authorize and request the Commissioner of Patents and Trademarks of the United States and any official of any country or countries foreign to the United States whose duty it is to issue patents on applications as aforesaid, to issue to ASHER INNOVATIONS, INC., as assignee of the entire right, title and interest, any and all Letters Patent for said invention(s) or improvement(s) in accordance with the terms of this assignment.

For the consideration set forth above and other good and valuable consideration, the receipt of which is hereby acknowledged, I also hereby assign to ASHER INNOVATIONS, INC. all of my rights, title, and interest in and to all works of authorship embodied within said PLAQUE REMOVING TOOTHBRUSH without restriction and any derivations/modifications thereof including, without limitation, all rights of authorship, including copyright, associated therewith. In accordance with the assignment of rights set forth above, I further agree without requiring payment of additional consideration to execute any subsequent documents necessary to perfect the rights of ASHER INNOVATIONS, INC. or its assignees in such works of authorship, including any additional assignments and applications for federal copyright registrations.

IN WITNESS WHEREOF, I hereunto set my hand and seal:

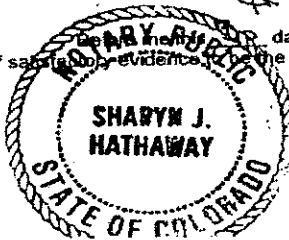
Randall S. Asher
Inventor's Signature (Seal)

Date: 4/7/99

Inventor's Typed Name: RANDALL S. ASHER

State of Colorado }
County of Denver } ss.:

On this April day of April, 1999, personally appeared Randall S. Asher who is personally known or proved to me on the basis of satisfactory evidence to be the person who acknowledged the foregoing instrument of assignment to be his/her free act and deed.



Sharyn J. Hathaway
Notary Public

My commission expires: August 29, 2001

RECORDED: 05/03/1999

PATENT
REEL: 009942 FRAME: 0337

Exhibit D

ASSIGNMENT

WHEREAS, ASHER INNOVATIONS, INC. now owns the entire right, title, and interest in a certain invention entitled PLAQUE REMOVING TOOTHBRUSH, for which Letters Patent of the United States were issued on April 7, 1998, and assigned U.S. Patent No. 5,735,011, which right, title, and interest ASHER INNOVATIONS, INC., acquired by assignment from Randall S. Asher dated April 30, 1999, and recorded with the United States Patent and Trademark Office at reel/frame number 9942/0336;

WHEREAS, RANDALL S. ASHER, an individual, is desirous of acquiring any and all of the right, title, and interest in the said Patent No. 5,735,011 that is or may be owned by ASHER INNOVATIONS, INC.;

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) and certain other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, ASHER INNOVATIONS, INC., by these presents does sell, assign and transfer unto the said RANDALL S. ASHER, his successors, legal representatives and assigns, its entire right, title, and interest in and to the said invention and aforesaid Letters Patent, including the right to recover for past, present, and/or future infringement thereof, for the territory of the United States of America and for all related patents and applications in any foreign countries and to all Letters Patent, continuations, divisionals, reissues, and extensions to be obtained therefor; and further agrees to cooperate with the assignee hereunder in obtaining, sustaining, and enforcing any and all such Letters Patent, but at the expense of said assignee, including executing all appropriate documents as necessary.

IN WITNESS WHEREOF, an officer of ASHER INNOVATIONS, INC., has hereunto set his hand and seal on the date set forth hereinafter.

ASHER INNOVATIONS, INC.

Randall S. Asher

By: Randall S. Asher, President

)
) ss.
)

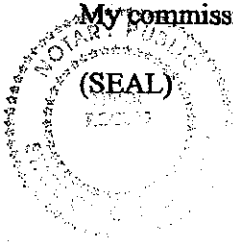
STATE OF Colorado

COUNTY OF Jefferson

Before me, a Notary Public in and for the said County and State, personally appeared RANDALL S. ASHER, known to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 17th day of August, 2007.

My commission expires: 9/15/07



Heidi Rogers

NOTARY PUBLIC

USPTO

8/10/2007 3:43:56 PM PAGE 2/004 Fax Server

TO: COCHRAN FREUND & YOUNG LLC COMPANY: 2026 CARIBOU DRIVE

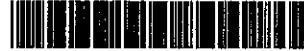


UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUGUST 09, 2007

PTAS



500331844

COCHRAN FREUND & YOUNG LLC
2026 CARIBOU DRIVE
SUITE 201
FORT COLLINS, CO 80525

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 08/09/2007

REEL/FRAME: 019668/0675
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: ASHER

ASSIGNOR:

ASHER INNOVATIONS, INC.

DOC DATE: 08/07/2007

ASSIGNEE:

ASHER, RANDALL S
50 FALCON HILLS DRIVE
HIGHLANDS RANCH, COLORADO 80126

SERIAL NUMBER: 08751388
PATENT NUMBER: 5735011
TITLE: PLAQUE REMOVING TOOTHBRUSH

FILING DATE: 11/19/1996
ISSUE DATE: 04/07/1998

Exhibit E

CO IRAN FREUND & YOUNG
An Intellectual Property Law Firm

William W. Cochran
Samuel M. Freund*
James R. Young
Paul M. Thompson**

*Licensed in New Mexico
**Registered Patent Agent

3555 STANFORD ROAD
SUITE 230
FORT COLLINS, COLORADO 80525

Telephone: (970) 377-6363
Facsimile: (970) 207-1985

4450 Arapahoe Avenue
Suite 100
Boulder, Colorado 80303
Telephone: (303) 448-8889

Denver Metro: (303) 288-4596

Internet: www.patentlegal.com

August 9, 2005

Chief Patent Counsel
The Proctor and Gamble Company
5299 Spring Grove Avenue
Ivorydale Technical Center
Cincinnati, OH 45217

Re: Offer of License under US Patent 5,735,011

Dear Sir or Madam:

This letter is an invitation to open negotiations regarding the licensing of US Patent 5,735,011. We have just completed a successful litigation against Johnson & Johnson in which Johnson & Johnson has settled this matter by payment of a sum of money and taking a license under the above-referenced patent. This litigation involved the Reach Max Brightener toothbrush which uses a polishing member as well as nylon bristles.

We have researched the market and have found that you may wish to take a license for the following toothbrush products: Oral-B Pulsar, Oral-B CrossAction Vitalizer, Crest Glide, Crest SpinBrush Pro Whitening and Walgreen's Fresh Breath.

Please contact me by September 1, 2005 if you are interested in discussing a license agreement under this patent.

Very truly yours,

Cochran Freund & Young LLC



William W. Cochran

WWC:kmm

0023