

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FILED-ED4
15-6-02
CLERK
U.S. DISTRICT COURT

CFM CORPORATION,
CFM-RMC INTERNATIONAL, and
THE VERMONT CASTINGS MAJESTIC
PRODUCTS COMPANY,

Plaintiffs,

v.

UNIFLAME CORPORATION AND
BLUE RHINO CORPORATION

Defendants.

Case No.

02C 8733

Judge

JUDGE COAR

**COMPLAINT FOR PATENT
INFRINGEMENT**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, by and through their attorneys, for their Complaint against Defendants
allege as follows:

**DOCKETED
DEC 04 2002**

JURISDICTION AND VENUE

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, and more specifically, under Title 35, United States Code § 1 et seq. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338, and 35 U.S.C. §§ 271, 281, 283 and 284. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400.

2. Plaintiff CFM-RMC International ("CFM-RMC") has its principal place of business at 3501 West Howard Street, Skokie, Illinois, and is a division of The Vermont Castings Majestic Products Company ("VCM"), which is an entity organized and existing under the laws of the State of Delaware and has a principal place of business at the same location as Plaintiff CFM Corporation, which is a corporation organized and existing under the laws of Ontario, Canada, with its principal place of business at 460 Admiral Boulevard,

11

Mississauga, Ontario, Canada L5T 3A3. VCM is its wholly owned subsidiary. CFM-RMC, VCM and CFM Corporation are all referred to collectively hereafter as "CFM."

3. Defendant, UniFlame Corporation ("UniFlame"), is a corporation organized and existing under the laws of the State of Delaware and having a place of business at 1817 North Kenosha Road, Zion, Illinois 60099. CFM is advised and believes, and on that basis alleges, that UniFlame has regularly and systematically done business within this judicial District and Division, is so doing business now, and has committed acts of patent infringement as hereinafter set forth within this District and elsewhere in the State of Illinois and the United States of America.

4. On information and belief, defendant UniFlame is a wholly owned subsidiary of Blue Rhino Corporation ("Blue Rhino"), which is a corporation organized and existing under the laws of the State of Delaware and having a principal place of business at 104 Cambridge Plaza Drive, Winston-Salem, North Carolina 27104. CFM is advised and believes, and on that basis alleges, that Blue Rhino has regularly and systematically done business within this judicial District and Division, is so doing business now, and has committed acts of patent infringement, through at least its wholly owned subsidiary of UniFlame, as hereinafter set forth within the State of Illinois and in this District.

INFRINGEMENT OF U.S. PATENT NO. 6,446,623

5. On September 10, 2002, United States Patent No. 6,446,623 ("the '623 patent"), entitled "Miniature Patio Heater," was duly and legally issued by the United States Patent and Trademark Office. A copy of the '623 patent is attached hereto as Exhibit A.

6. The '623 patent is assigned to CFM, which owns all right and title thereto. The patent is valid and subsisting. CFM has the right to bring suit against infringers of the '623 patent.

8. UniFlame and Blue Rhino manufacture and distribute a product identified as "Endless Summer Mini Portable Outdoor Heater," which is an LP gas heater. UniFlame and Blue Rhino have manufactured, used, sold, and/or offered for sale one or more "Endless Summer Mini Portable Outdoor Heater(s)" in this District and elsewhere without right or license from CFM.

9. The foregoing acts of UniFlame and Blue Rhino as to the "Endless Summer Mini Portable Outdoor Heater" by this name or in other form, constitute infringement of the '623 patent, and on information and belief, UniFlame and Blue Rhino's acts of infringement have been, and will continue to be, deliberate and willful.

10. The infringing activities have damaged and continue to damage CFM, and continued infringement upon the '623 patent is and will continue to cause irreparable harm to CFM unless enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against Defendants as follows:

A. That U.S. Patent No. 6,446,623 be adjudged infringed by each of Defendants, and that the infringement be held to be willful;

B. That CFM be awarded compensatory damages for past infringement by Defendants in an amount no less than a reasonable royalty, in a sum to be determined at trial, and that said damages be trebled in view of the willful and deliberate nature of the infringement;

C. That Defendants, their officers, agents, servants, employees and attorneys, and other persons in active concert or participation with either of them be permanently enjoined from further infringement of the '623 patent;

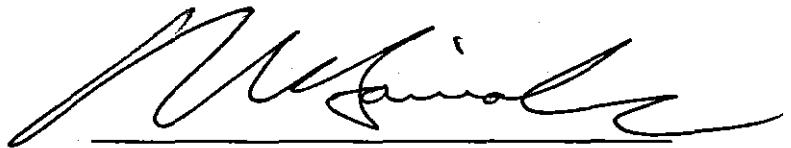
D. That Defendants be ordered to deliver up for destruction all infringing products and systems in their possession;

E. That this case be declared an exceptional case under 35 U.S.C. § 285 as to each Defendant, and that CFM be awarded attorney fees incurred in this action;

F. For an award to CFM of costs of this action, interest on the award and other charges to the maximum extent permitted; and

G. For such other further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,



Dated: December 2, 2002

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Attorneys for Plaintiffs
CFM Corporation,
CFM-RMC International, Inc., and
Vermont Castings Majestic Products
Company

EXHIBIT

A

(12) **United States Patent**
Resmo et al.

(10) Patent No.: **US 6,446,623 B1**
(45) Date of Patent: **Sep. 10, 2002**

(54) **MINIATURE PATIO HEATER**

(75) Inventors: **Michael Resmo**, Castle Rock, CO (US); **Sung Boo Yoon**, Bu San (KR)

(73) Assignee: **CFM-RMC International**, a division of the Vermont Castings Majestics Products Company, Huntingtin, IN (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **09/662,976**

(22) Filed: **Sep. 15, 2000**

(51) Int. Cl.⁷ **F24C 15/100**

(52) U.S. Cl. **126/92 R; 431/344; 285/181; 285/272**

(58) Field of Search **126/92 R, 92 AC, 126/92 B; 431/344; 119/310; 285/181, 272, 278, 280, 281**

(56) **References Cited**

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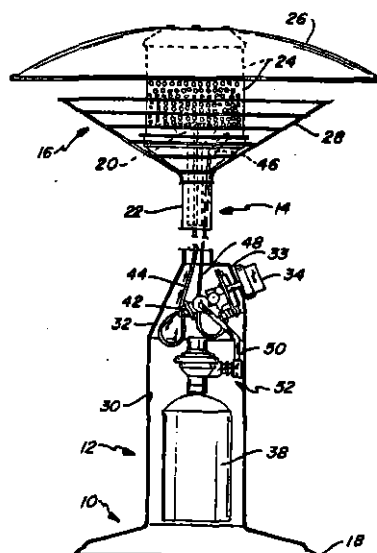
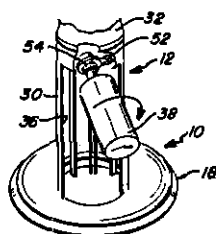
Primary Examiner—Sara Clarke

(74) Attorney, Agent, or Firm—Sheridan Ross P.C.

(57) **ABSTRACT**

A miniature patio heater is provided which has a total height of approximately 3 ft. and which has a shroud with a diameter less than 2 ft. The patio heater includes a base having a vertically extending chamber, which is approximately 1.5 ft. high, for receiving a small gas bottle. A hollow post extends upwardly from the upper end of the chamber. A heater assembly and shroud are supported at the upper end of the post. A gas line extends along the inside of the hollow post between the heater assembly and the chamber. A connector assembly provides a pivotal connection between the end of the gas line and a regulator connected to a gas bottle within the chamber. The chamber is provided with an access opening for inserting and removing the gas bottle. Thus, the gas bottle, with attached regulator, can be swung from a vertical upright position within the chamber outwardly through the access opening to an angular position to facilitate removal of an empty gas bottle and replacement with a full gas bottle. The full gas bottle can then be swung from the angular position to a vertical upright position within the chamber. A removable cover can be provided over the access opening.

12 Claims, 3 Drawing Sheets

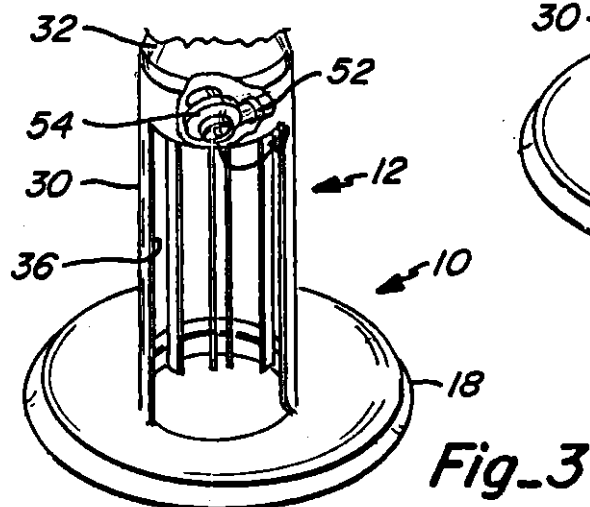
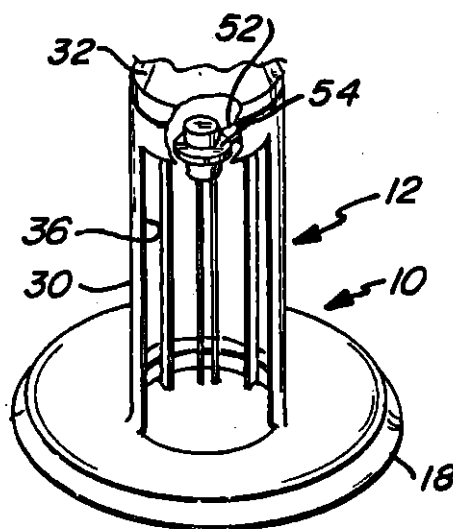
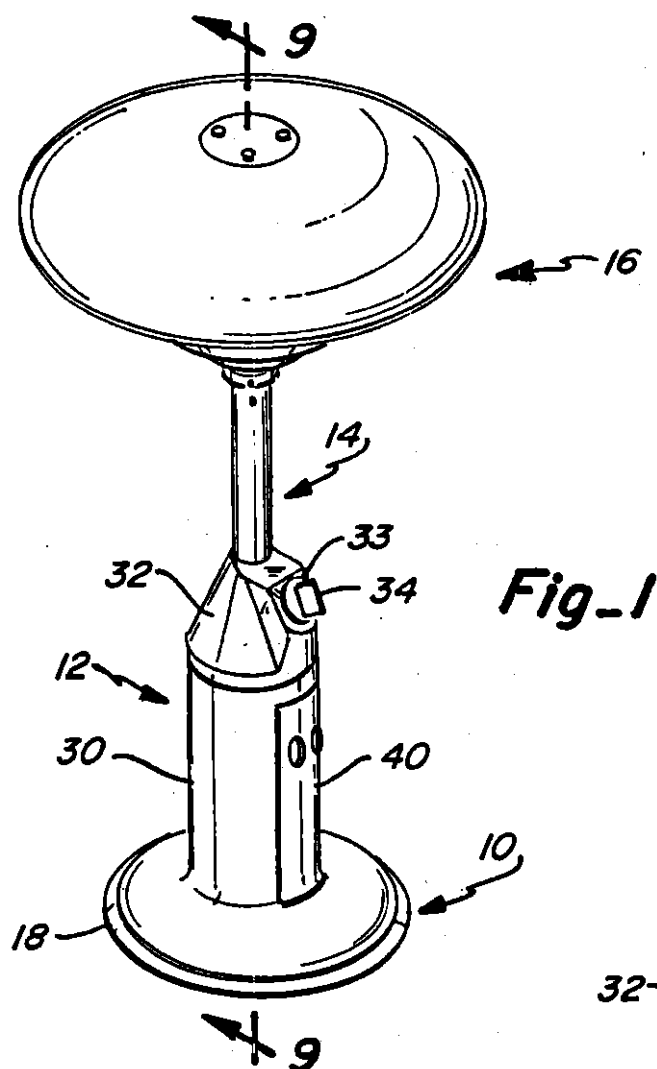


U.S. Patent

Sep. 10, 2002

Sheet 1 of 3

US 6,446,623 B1



U.S. Patent

Sep. 10, 2002

Sheet 2 of 3

US 6,446,623 B1

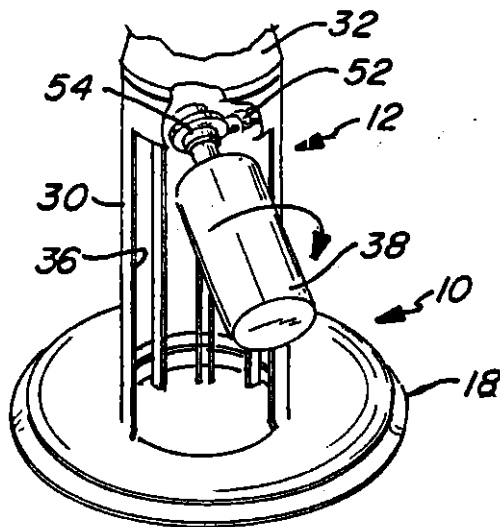


Fig. 4

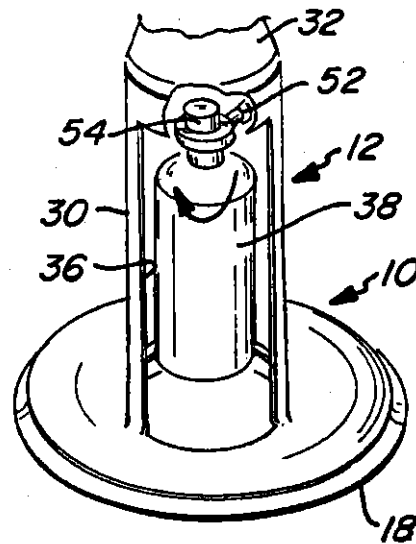


Fig. 5

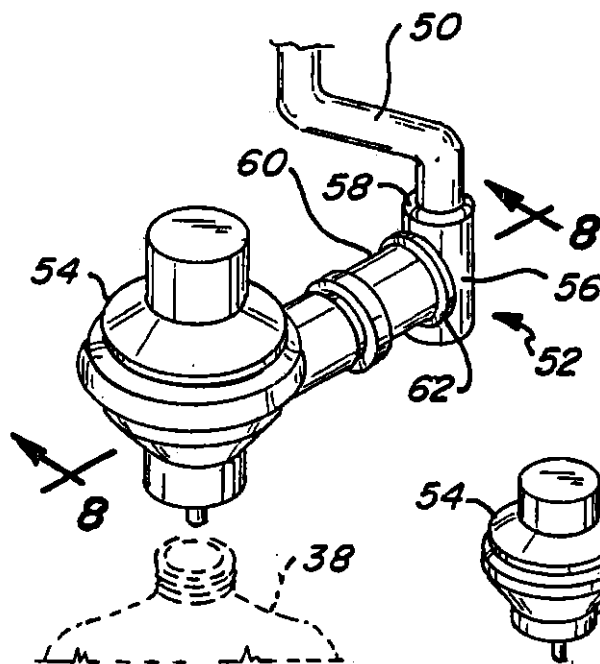


Fig. 6

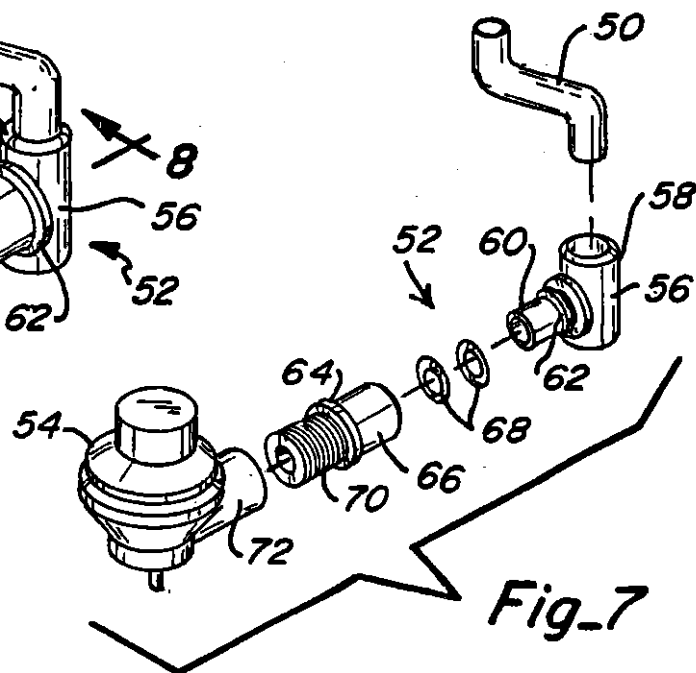


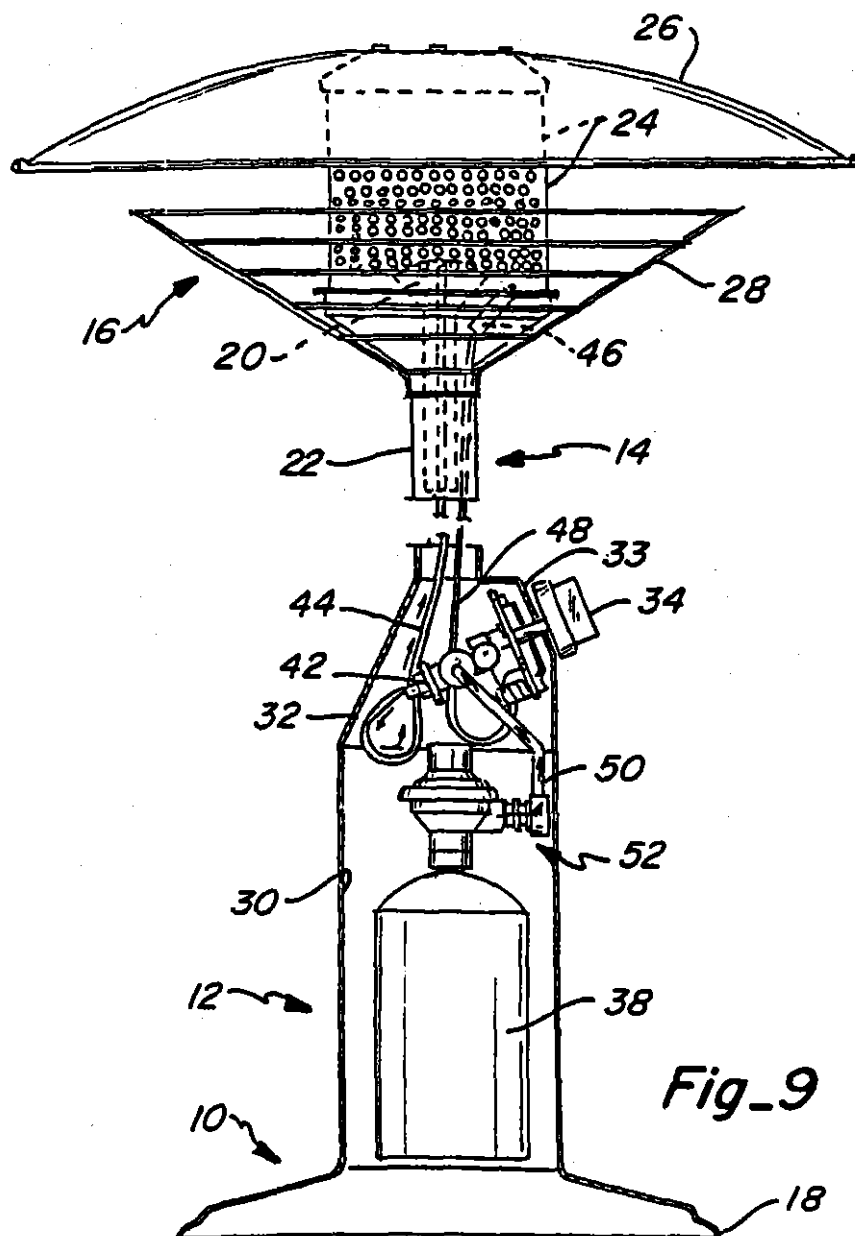
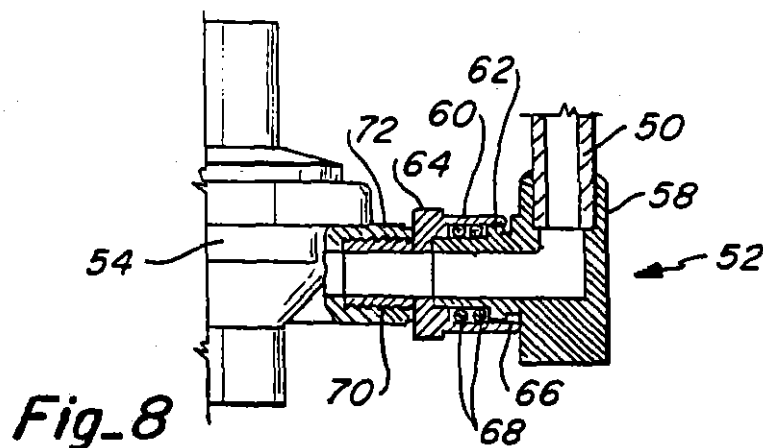
Fig. 7

U.S. Patent

Sep. 10, 2002

Sheet 3 of 3

US 6,446,623 B1



US 6,446,623 B1

1

MINIATURE PATIO HEATER**TECHNICAL FIELD**

This invention relates to an outdoor space heater and, more particularly, to a miniature patio heater for home use.

BACKGROUND ART

Large patio heaters for commercial use, such as outdoor patios at restaurants and outdoor recreational facilities, have been in use for many years. These patio heaters extend the hours of the day and the season during which outdoor activities may be comfortably enjoyed. Such outdoor patio heaters are typically quite large, being 8 to 10 ft. in height so that they spread heat over a large 15 ft. diameter area. In some applications, the heater and shroud are supported by a roof structure. However, it is more common for the heater and shroud to be supported on a post. In some instances, the post is mounted in the patio surface and gas is supplied from a central supply through gas tubing extending under the patio surface and up through the post to the heater. In other instances, the lower end of the posts is mounted in a large base. Gas is supplied to the heater from a gas bottle mounted in the base. Such patio heaters require a large gas bottle. Therefore, the base must be of substantial size in order to accommodate the large gas bottle. Furthermore, the base must be of substantial size and weight in order to support the large patio heater safely so that it does not topple over due to winds or people leaning against it.

Examples of such patio heaters are shown in U.S. Pat. No. Des. 325,963 to Anderson and U.S. Pat. No. 5,964,233 to Clark, et al. Although these patio heaters are suitable for their intended purpose, they are not practical for home use on a patio wherein space is often limited and the size and weight of a large patio heater is prohibitive in that it cannot be easily moved around by persons in the household.

DISCLOSURE OF THE INVENTION

A miniature patio heater is provided which has a total height of approximately 3 ft. and which has a shroud with a diameter less than 2 ft. The patio heater includes a base having a vertically extending chamber, which is approximately 1.5 ft. high, for receiving a small gas bottle. A hollow post extends upwardly from the upper end of the chamber. A heater assembly and shroud are supported at the upper end of the post. A gas line extends along the inside of the hollow post between the heater assembly and the chamber. A connector assembly provides a pivotal connection between the end of the gas line and a regulator connected to a gas bottle within the chamber. The chamber is provided with an access opening for inserting and removing the gas bottle. Thus, the gas bottle, with attached regulator, can be swung from a vertical upright position within the chamber outwardly through the access opening to an angular position to facilitate removal of an empty gas bottle and replacement with a full gas bottle. The full gas bottle can then be swung from the angular position to a vertical upright position within the chamber. A removable cover can be provided over the access opening.

This arrangement allows one to change bottles without getting down on their hands and knees. Also, the height

2

requirement for the chamber is minimized because extra vertical space for attaching and detaching the gas bottle is not required. Additional advantages of this invention will become readily apparent from the description which follows, taken in conjunction with the accompanying drawings.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a perspective view of the miniature patio heater of this invention;

FIG. 2 is a fragmentary perspective view of the lower portion of the miniature patio heater showing the connector assembly with attached regulator in a vertical position within the gas bottle chamber;

FIG. 3 is a fragmentary perspective view, similar to FIG. 2, but showing the regulator rotated to an angular position;

FIG. 4 is a fragmentary perspective view, similar to FIG. 3, but showing a gas bottle being attached to the regulator in an angular position;

FIG. 5 is a fragmentary perspective view, similar to FIG. 2, but showing a gas bottle attached to the regulator and in an upright vertical position;

FIG. 6 is an enlarged perspective view of the regulator and connector assembly;

FIG. 7 is an exploded view of the connector assembly;

FIG. 8 is a vertical section, taken along line 8—8 of FIG. 6; and

FIG. 9 is a fragmentary, vertical sectional view of the miniature patio heater.

BEST MODE FOR CARRYING OUT THE INVENTION

As best seen in FIGS. 1 and 9, the miniature patio heater of this invention includes a base 10, a gas bottle chamber 12 extending upwardly from the center of base 10, a hollow post 14 which has a lower end connected to the upper end of chamber 12 and an upper end which supports heater assembly 16. Base 10 has a circular peripheral edge 18 which is of sufficient diameter to minimize the possibility of the patio heater tipping over. Although base 10 is shown as being circular, it will be understood that it could be of any other suitable configuration, such as square, octagonal, etc. As best seen in FIG. 9, heater assembly 16 includes a conventional burner assembly 20 mounted on a sleeve 22 at the upper end of post 14. A combustion chamber 24 is positioned above burner assembly 20 and supports a shroud 26 which reflects radiant heat toward the ground. A safety guard 28 extends around burner assembly 20 and the lower portion of combustion chamber 24.

Chamber 12 has a generally cylindrical side wall 30 and a tapered upper end 32, as shown, which includes a control panel 33 on which a control knob 34 is mounted. An access opening 36 is formed in side wall 30 for inserting and removing a gas bottle 38, shown in FIGS. 4 and 5, and described more fully below. Access opening 36 may be closed by a removable access cover 40, seen in FIG. 1. Referring to FIG. 9, control knob 34 operates a valve assembly 42 for controlling the flow of gas from gas bottle 38 to gas line 44. Knob 34 or some other device can be

US 6,446,623 B1

3

provided to selectively activate a spark ignition device 46 through wire 48. A gas conduit 50 extends from valve 42 to a connector assembly 52 which facilitates the rotation of regulator 54 between the vertical position shown in FIG. 2 to the angular position shown in FIG. 3 and back again.

Referring to FIGS. 6 and 7, connector assembly 52 includes a first coupling half in the form of elbow 56 having a collar 58 for receiving the lower end of gas conduit 50. A suitable adhesive can be used between the end of gas conduit 50 and collar 58 to provide a gas-proof seal. Elbow 52 has a tubular male coupling 60 extending at right angles to collar 58 and includes a shoulder 62, as shown. A second coupling half in the form of union 64 has a tubular sleeve 66 which is received over male coupling 60 and snaps over shoulder 62. A pair of seals 68 are positioned between shoulder 62 and the inner end of sleeve 66. This structure permits union 64 to rotate with respect to elbow 56. The opposite end 70 of union 64 is threaded for attachment to outlet 72 of regulator 54. The ability of union 64 to rotate relative to elbow 56 in connector assembly 52 is highly advantageous in changing gas bottles.

To replace an empty gas bottle, access cover 40 is removed from chamber 12 for access to an empty gas bottle 38 through access opening 36. The gas bottle 38 is grasped and rotated, with regulator 54, from a vertical upright position to the angular position shown in FIG. 4 because of the relative rotation between union 64 and elbow 56. The empty gas bottle 38 is removed from regulator 54 and replaced with a full gas bottle 38. Then the full gas bottle 38, with regulator 54, is rotated from the angular position back to a vertical upright position as shown in FIG. 5. Finally, access cover 40 is replaced to close access opening 36.

There are several advantages to this arrangement. In the first place, chamber 12 can be shorter than would otherwise be possible to replace gas bottle 38 since no extra vertical height is required for detaching and attaching gas bottle 38 to regulator 54. Furthermore, this arrangement is easier for the person changing the gas bottles. If the gas bottles had to be changed while in the vertical position, the person would have to get down on their hands and knees to do so. With the arrangement of this invention, the person need only to bend over and grasp the gas bottle and rotate it, along with regulator 54, from the vertical upright position to the angular position. After changing bottles, the full gas bottle can be swung from the angular position to the vertical upright position without getting down on hands and knees.

This invention has been described in detail with reference to particular embodiments thereof, but it will be understood that various other modifications can be effected within the spirit and scope of this invention.

What is claimed is:

1. A miniature patio heater having a base which includes a chamber for receiving a gas bottle, said chamber having a side wall, a post extending upwardly from said base, said post having a first lower end attached to said base and an upper end, a heater assembly attached to said upper end of said post, a shroud attached to said heater, a regulator in said chamber, a gas line extending from said regulator to said heater, the improvement comprising:

an access opening in said side wall of said chamber; and
a connector assembly attached to one of said regulator and said gas line and pivotally connected to the other of said

4

regulator and said gas line so that the gas bottle can be swung from a vertical position within said chamber outwardly through said access opening to an angular position for replacement.

2. A miniature patio heater, as claimed in claim 1, wherein the connector assembly includes:

a first coupling half having a first end connected to said gas line and having a second end;

a second coupling half having a first end connected in fluid communication to said regulator and a second end which receives said second end of said first coupling half for rotational movement of said second coupling half about said second end of said first coupling half; and

at least one seal positioned between said second ends.

3. A miniature patio heater, as claimed in claim 2, wherein:

said at least one seal includes a plurality of seals spaced along said second end of said first coupling half in frictional engagement with said second end of said second coupling half.

4. A miniature patio heater, as claimed in claim 2, wherein:

said first coupling half is in the form of an elbow, said first end thereof includes a collar connected to said gas line; and

said second coupling half is in the form of a union, said first end thereof includes a threaded end connected to said regulator.

5. A miniature patio heater, as claimed in claim 1, wherein the improvement further comprises:

a removable cover positioned over said access opening.

6. A miniature patio heater having a base which includes a chamber for receiving a gas bottle, said chamber having a side wall, a post extending upwardly from said base, said post having a first lower end attached to said base and an upper end, a heater assembly attached to said upper end of said post, a shroud attached to said heater, a regulator in said chamber, a gas line extending from said regulator to said heater, the improvement comprising:

means for providing rotation between said regulator and said gas line enabling said gas bottle connected to said regulator to be selectively rotated between a first use position and a second angular replacement position.

7. A miniature patio heater, as claimed in claim 6, wherein said means for rotation comprises:

a first coupling half having a first end connected to said gas line and having a second end;

a second coupling half having a first end connected in fluid communication to said regulator and a second end which receives said second end of said first coupling half for rotational movement of said second coupling half about said second end of said first coupling half; and

at least one seal positioned between said second ends.

8. A miniature patio heater, as claimed in claim 7, wherein:

said at least one seal includes a plurality of seals spaced along said second end of said first coupling half in frictional engagement with said second end of said second coupling half.

9. A miniature patio heater, as claimed in claim 7, wherein:

US 6,446,623 B1

5

said first coupling half is in the form of an elbow, said first end thereof includes a collar connected to said gas line; and

said second coupling half is in the form of a union, said first end thereof includes a threaded end connected to said regulator. 5

10. A miniature patio heater, as claimed in claim 6, wherein the improvement further comprises:

a removable cover positioned over said access opening. 10

11. A method of changing a gas bottle in a chamber formed in the base of a miniature patio heater in which the chamber has a side wall with an access opening, said method comprising:

pivoting a first bottle and a regulator attached thereto from a vertical upright position within the chamber to an angular position so that the first gas bottle extends through the access opening; 15

6

detaching the first gas bottle from the regulator; attaching a second gas bottle to the regulator; and pivoting the second gas bottle and regulator from the angular position back to a vertical upright position within the chamber.

12. A method, as claimed in claim 11, including the further steps of:

removing an access cover from the access opening prior to pivoting the first gas bottle and the regulator from the vertical upright position to the angular position; and replacing the access cover over the access opening after pivoting the second gas bottle and the regulator back from the angular position to the vertical upright position. 20

* * * * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): CFM Corporation, CFM-RMC International, and The Vermont Castings Majestic Products Company

Defendant(s): UniFlame Corporation and Blue Rhino Corporation

County of Residence: Mississauga, Ontario, Canada

County of Residence:

Plaintiff's Atty: Michael H. Baniak
Baniak Pine & Gannon
150 N. Wacker Dr., #1200,
Chicago, IL 60606
312-673-0360

Defendant's Atty: Lawrence J. Crain
Greer, Burns & Crain, Ltd.
300 S. Wacker Dr., #2500
Chicago, IL 60606
312-360-0080

II. Basis of Jurisdiction: **3. Federal Question (U.S. not a party)**

JUDGE COAR DOCKETED

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: - N/A
Defendant: - N/A

02C 8733 DEC 04 2002

MAGISTRATE JUDGE DENLOW

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **830 Patent**

VI. Cause of Action: **Patent infringement (Title 35 U.S.C. Sec. 1, et seq.)**

VII. Requested in Complaint

Class Action:
Dollar Demand:
Jury Demand: Yes

VIII. This case IS NOT a refiling of a previously dismissed case.

Signature: [Signature]

Date: 12/2/02

FILED-ED4
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U.S. DISTRICT COURT
CLERK

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size in your browser display to make the form print properly.**

Revised: 06/28/00

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

In the Matter of

CFM CORPORATION, *et al.*,

Plaintiff,

Case Number

020 8733

v.

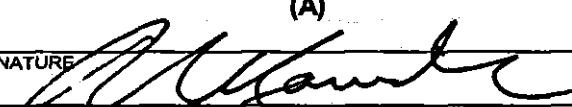
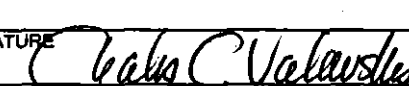
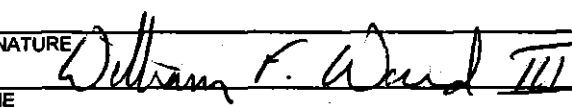
UNIFLAME CORPORATION and
BLUE RHINO CORPORATION,

Defendants.

JUDGE COAR,**MAGISTRATE JUDGE DENLOW**

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Plaintiffs CFM Corporation, CFM-RMC International, and The Vermont Castings Majestic Products Company

(A)	(B)
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TELEPHONE NUMBER (312) 673-0360	TELEPHONE NUMBER (312) 673-0360
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6191091	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6181485
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
(C)	(D)
SIGNATURE 	SIGNATURE
NAME William F. Ward, III	NAME
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STREET ADDRESS 150 N. Wacker Drive, Suite 1200	STREET ADDRESS
CITY/STATE/ZIP Chicago, Illinois 60606	CITY/STATE/ZIP
TELEPHONE NUMBER (312) 673-0360	TELEPHONE NUMBER
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6276873	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)
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DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

PLEASE COMPLETE IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE.

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