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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PACIFIC CORNETTA, INC.

Civil Action No.

Plaintiff,

JURY TRIAL DEMANDED

vs.

05 1309

DICK'S SPORTING GOODS, INC.

Defendants.

COMPLAINT

Plaintiff, Pacific Cornetta, Inc., (Pacific) for its claims against the Defendants Dick's Sporting Goods, Inc. (Dick's) alleges that:

1. Plaintiff Pacific Cornetta, Inc. is a corporation organized and existing under the laws of the State of Oregon, having its principal place of business at 25999 SW Canyon Creek Road, Suite C, Wilsonville, Oregon 97070.
2. Defendant, Dick's Sporting Goods, Inc. is a corporation established pursuant to the laws of the State of Delaware and registered as a foreign corporation in the Commonwealth of Pennsylvania, with a registered agent for receipt of service at 2706 Commerce Drive, Harrisburg, Pennsylvania 17110.
3. Defendant does business in the Western Judicial District of Pennsylvania with corporate offices at 300 Industry Drive, RIDC Park West, Pittsburgh, Pennsylvania 15275 and with places of retail business located in at least six separate locations in Allegheny County, Pennsylvania.

4. This District Court has original jurisdiction of this civil action and of Plaintiff's causes of action based on the laws of the United States of America concerning Plaintiff's enforcement of its rights in Plaintiff's United States Patent and infringement of that Patent by Defendants pursuant to the provisions of Title 28 USC §1331 and §1338(a) and (b). This action arises under the patent laws of the United States of America, Title 35 USC §§271, 281, 284 and 285.
5. This District Court has original jurisdiction of this civil action and of Plaintiff's causes of action as asserted herein pursuant to the provisions of Title 28 USC §1332(a)(1). The matter in controversy exceeds the sum of \$75,000 exclusive of interest and costs. The controversy is between Plaintiff, a corporation and citizen of the State of Oregon having its principal place of business in the State of Oregon and Defendant Dick's, incorporated under the laws of the State of Delaware.
6. Venue lies in this judicial district pursuant to the provisions of Title 28 USC §1391(b) and (c) and §1400(b).
7. This Court has jurisdiction over the subject causes of action and over the Parties to this civil action.

CLAIM FOR PATENT INFRINGEMENT

8. All of the averments set forth above in paragraphs 1 through 7, inclusive are incorporated herein by reference as though fully set forth.
9. On May 29, 2001, United States Letters Patent No. 6,237,801 (the Patent), entitled "Double-Walled Mug with Handle", issued with Ching Liu identified as inventor and

with the assignee identified on the Patent's face, and of record in the United States Patent and Trademark Office, as Pacific Cornetta, Inc., Wilsonville, Oregon.

10. A copy of the Patent is attached hereto as Exhibits A.1 through A.5, the contents of which are incorporated herein by reference as though fully set forth.
11. Plaintiff owns and controls the Patent.
12. Defendant has infringed, and still is infringing, the Patent by advertising, offering for sale, making, selling and using mugs embodying the invention claimed in the Patent, within this judicial district and elsewhere, and will continue to do so unless enjoined by this Court. Attached and incorporated herein by reference as Exhibits E-1 through E-5 are photographs of one type of Defendant's infringing mug.
13. Defendant has induced other persons and entities to infringe the Patent, and has contributed to infringement of the Patent by other persons and entities, in the making, selling and using by other persons and entities of mugs embodying the invention claimed in the Patent, and will continue to so induce infringement and contribute to infringement unless enjoined by this Court.

14a. Pursuant to Title 35 USC §287, Plaintiff has placed the required statutory notice on all mugs manufactured and sold by Plaintiff under the Patent, and has given written notice to Defendant of their infringement.

b. Attached hereto as Exhibit B, the contents of which are incorporated herein by reference, is a copy of a December 30, 2004 infringement notice letter from Plaintiff's Product Development Manager, Matt Fildes, directed to the Legal Department of Defendant Dick's Sporting Goods, Inc.

c. Attached hereto as Exhibit C, the contents of which are incorporated herein by reference, is a second infringement notice letter dated March 28, 2005 from Plaintiff's retained patent counsel, Steven J. Adamson, to Defendant's Dick's legal counsel Bradley Walent, Esquire and LuAnn Datash, Esquire.

d. Attached hereto as Exhibit D, the contents of which are incorporated herein by reference, is a third infringement notice letter of May 18, 2005 from Plaintiff's retained patent counsel Adamson to Defendant Dick's legal counsel, Attorney Walent and Attorney Datesh.

15. Despite the infringement notice letters sent by Plaintiffs representative, Defendant continues to infringe the Patent claims.

16. Defendant's acts of infringement of the Patent were done, and are being done, without consent, permission, authorization or license from Plaintiff.

17. Defendant's acts of infringement of the Patent have been, and continue to be, willful and intentional.

18. As a direct and proximate result of Defendant's acts of infringement, Plaintiff has suffered monetary losses and other damages, the full amount and extent of which can not be ascertained until discovery is completed.

19. As a result of Defendant's willful infringement of the patent, Plaintiff is entitled to treble the damages finally determined under 35 USC §284, as well as reasonable attorney's fees under 35 USC §285.

WHEREFORE, Plaintiff demands a preliminary injunction and final injunction against continued infringement, an accounting for damages, and an assessment of interest and costs against Defendant.

CLAIM FOR UNFAIR COMPETITION

20. All of the averments set forth above in paragraphs 1 through 19, inclusive, are incorporated herein by reference as though fully set forth.
21. In this action for unfair competition, this Court has jurisdiction pursuant to Title 28 USC 1338(b) because this claim is joined with a substantial and related claim for patent infringement, and further pursuant to the provisions of Title 28 USC 1332(a)(1) because this matter in controversy is between citizens of different states and the amount in controversy is in excess of \$75,000, exclusive of interest and costs.
22. In the manufacturing, marketing and selling of its mugs, Plaintiff has developed an original, unique, distinctive and non-functional trade dress of Plaintiff's mugs that has acquired secondary meaning and identification in the market place as a proprietary mug owned, manufactured and sold by Plaintiff.
23. The original, unique, distinctive and non-functional elements and characteristics of Plaintiff's mug, which constitute Plaintiff's proprietary trade dress include :
- a. A substantially conically shaped portion of the mug outer shell intermediate the upper portion and lower portion of the outer shell, and
  - b. A material of composition of the conically shaped outer shell portion having optical properties enabling passage of light through the shaped body material and reflection of light from a metallic inner cup surface back through the shaped outer shell material, and
  - c. An outer surface of the substantially conically shaped outer shell material that imparts a unique tactile sensation to the user.

- d. Color of the substantially conically shaped outer shell material that imparts unique, vivid color translucence to the shaped outer shell.

24. Defendant has misappropriated and copied, in the infringing, competing mugs sold by Defendant, each and all of Plaintiff's unique trade dress elements described above.
25. Defendant's misappropriation and copying of Plaintiff's trade dress constitutes a false designation of the origin of the misappropriated and infringing mugs made and sold by Defendant and has caused confusion in fact, and is likely to cause confusion, or to cause mistake, or to deceive the consuming public and end users of the infringing, misappropriated mugs, regarding origin, sponsorship and approval of Defendant's infringing, misappropriated mugs.

WHEREFORE, Plaintiff demands:

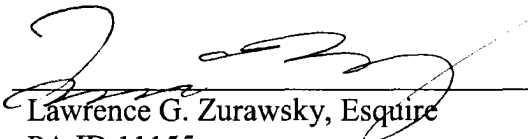
1. That Defendant, Dick's Sporting Goods, Inc., and their agents and servants be enjoined, during the pendency of this action and permanently, from further misappropriation and copying of Plaintiff's mug trade dress elements and characteristics in mugs manufactured and sold by the Defendant.
2. That Defendant be required to pay to Plaintiff such damages as Plaintiff has sustained in consequence of Defendant's acts of unfair competition and misappropriation and copying of Plaintiff's mug trade dress and to account for all gains, profits and advantages derived by Defendant from said unfair competition.
3. That Defendant be required to deliver up, to be impounded during the pendency of this action, all of Defendant's mugs embodying misappropriation of Plaintiff's trade dress in Defendants' possession or under their control, and

to deliver up for destruction all molds, dies and other equipment and objects of actual or potential utility in making Defendant's mugs embodying the misappropriated trade dress.

4. That Defendant pay to Plaintiff the costs of this action and reasonable attorney's fees to be allowed to the Plaintiff by the Court.
5. That Plaintiff have such other and further relief as is just.

Respectfully submitted,

September 20, 2005



Lawrence G. Zurawsky, Esquire  
PA ID 11155

429 Forbes Avenue, Suite 600  
Pittsburgh, PA 15219  
Telephone (412) 281-7766



US006237801B1

(12) **United States Patent**  
Liu

(10) Patent No.: **US 6,237,801 B1**

(45) Date of Patent: **May 29, 2001**

(54) **DOUBLE-WALLED MUG WITH HANDLE**

(56)

References Cited

(75) Inventor: **Ching Liu, Lake Oswego, OR (US)**

U.S. PATENT DOCUMENTS

(73) Assignee: **Pacific Cometta, Inc., Wilsonville, OR (US)**

901,400	*	10/1908	Vinceat	.....	220/752
2,905,500	*	9/1959	Thombs	.....	220/769
4,206,852	*	6/1980	Iten et al.	.....	220/769
4,220,254	*	9/1980	Morton	.....	220/769
5,025,939	*	6/1991	Bunn et al.	.....	220/752
5,560,506	*	10/1996	Yanagisawa et al.	.....	220/752
5,752,618	*	5/1998	Tebitz et al.	.....	220/769

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

\* cited by examiner

(21) Appl. No.: **09/542,152**

Primary Examiner—Joseph M. Moy  
(74) Attorney, Agent, or Firm—Chernoff, Vilhauer, McClung & Stenzel

(22) Filed: **Apr. 4, 2000**

(51) Int. Cl.<sup>7</sup> ..... **B65D 7/44**

(57) **ABSTRACT**

(52) U.S. Cl. .... **220/592.17; 220/759; 220/769**

A double-walled beverage container assembly comprising an outer shell and a handle and an inner cup assembled in a tight-fitting compression fit.

(58) Field of Search ..... **220/759, 769, 220/752, 592.17, 592.27, 592.28**

**6 Claims, 2 Drawing Sheets**

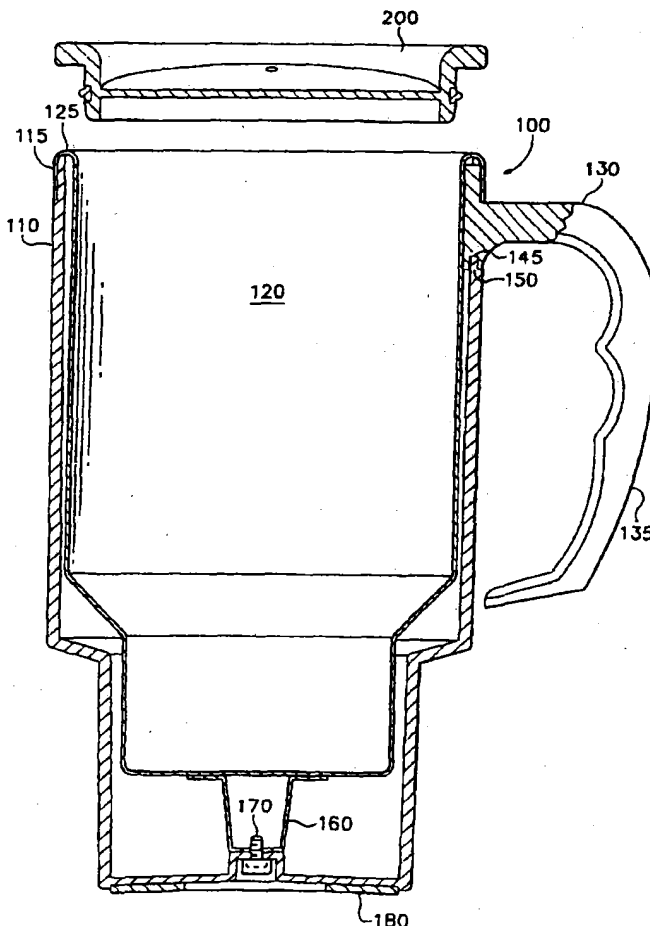


Exhibit A-1

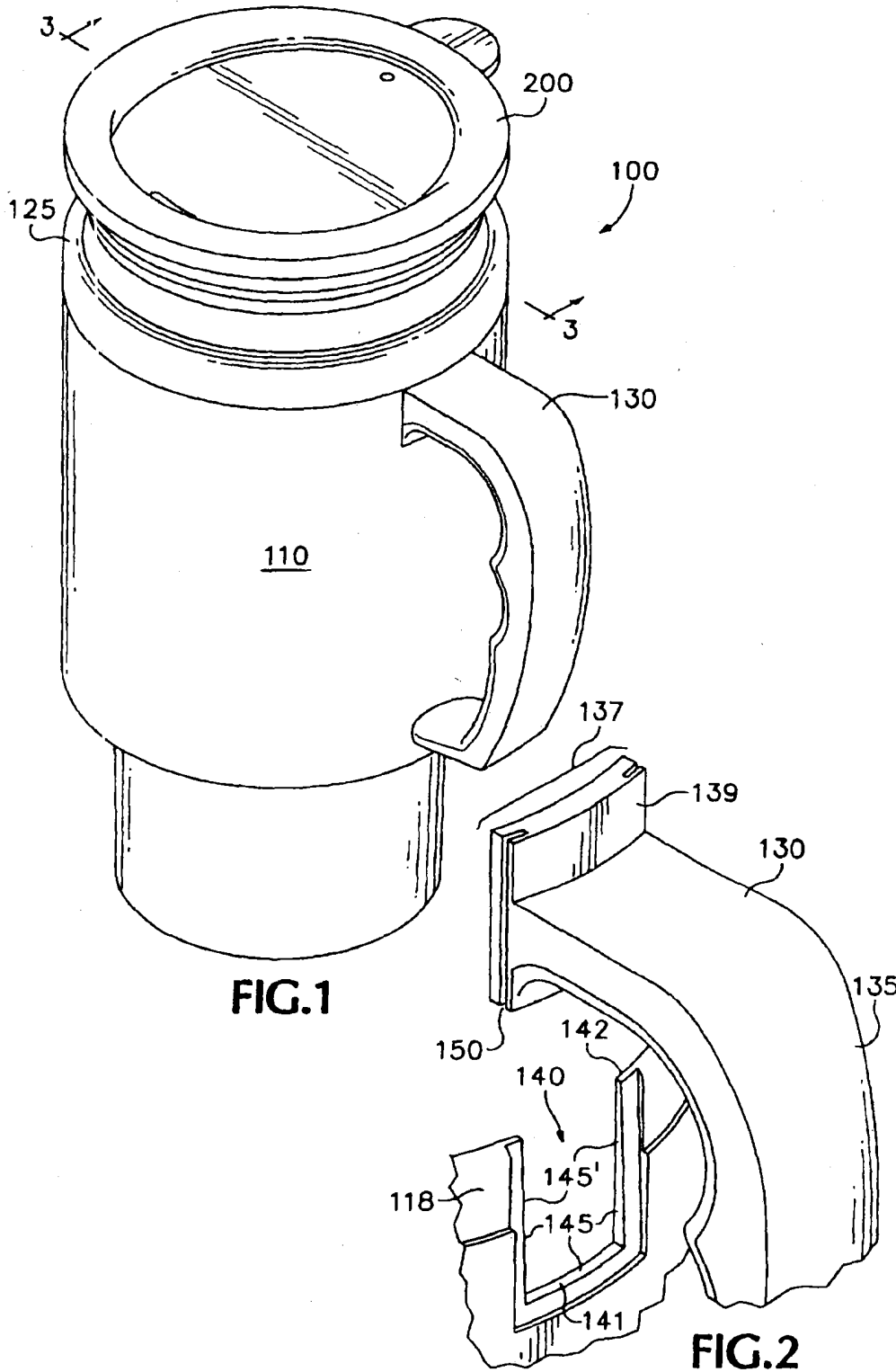


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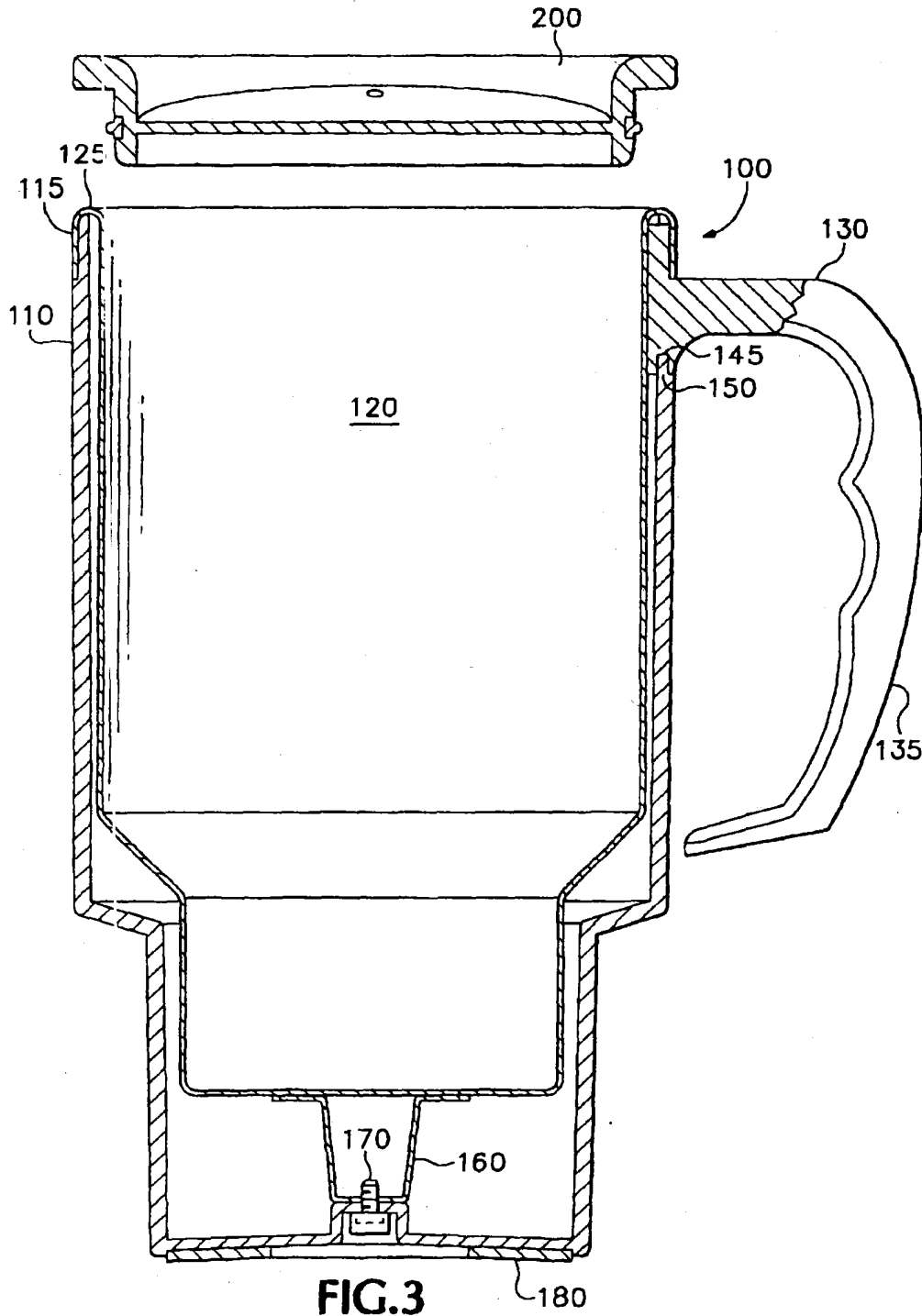


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## 1

### DOUBLE-WALLED MUG WITH HANDLE

#### BACKGROUND OF THE INVENTION

The present invention relates to a drinking container used for holding, dispensing and consuming beverages. In particular the invention relates to a double-walled mug with a secure handle.

Double-walled mugs are well known for holding and the consumption of hot and cold beverages. The doubled-walled construction provides thermal insulation. Such mugs have been constructed to include a handle that is attached to the body of the container. Mugs with such handles are usually constructed in one of two methods: casting the handle and body as an integral item or producing the handle and body as two separate items and then joining them by welding, by adhesives, or by threaded fasteners. Both these methods, however, have drawbacks.

Integral handle/body mugs produced by casting result in a strong connection between the body and the handle. However, such mugs are expensive to produce, require expensive tooling which often has a short tooling life, and require relatively long production cycles. Moreover, these mugs are aesthetically limited in the sense that, since the body and handle must be made of the same material, they must also be of the same color. In addition, integral casting causes an unattractive mold separation line running along both the handle and the body.

Producing the handle and the mug body separately and then securing the components together using welds, adhesives or fasteners avoids some of the aesthetic disadvantages of the integral casting method. However, such mugs are also expensive to produce since construction involves many additional steps. Moreover, the connection between the handle and the body is inherently insecure as handles which are attached with screws or adhesives will loosen over time due to the torque they are subjected to from daily use.

Accordingly, what is needed is a double-walled beverage mug that can be constructed from separate components and wherein the handle is not molded or cast as part of the body, or glued, fastened or welded to the body.

#### SUMMARY OF THE INVENTION

The present invention is directed to a mug comprising a hollow outer shell having a rim with portions providing a notch, a handle which comprises a hand grip portion and a notch-engaging portion adapted to engage the rim at the notch, and an inner cup with a flange that is adapted to engage the rim of the outer shell and restrain the notch-engaging portion of the handle in the notch when the inner cup is inserted into the hollow outer shell.

The handle and body of the mug of the present invention can be manufactured separately and joined together without the use of welds or adhesives, or multiple fasteners. The outer shell and handle are assembled so that the handle engages the outer shell and the insertion of the inner cup restrains and unifies the entire assembly. This assembly has distinct advantages over the prior art mugs discussed above: simple and inexpensive tooling is required to manufacture the component parts and multiple cavity tooling can be used, thereby reducing production run times. Furthermore, the present invention avoids the aesthetic drawbacks encountered in prior art mugs. Because the handle and body are produced separately, simple molds can be used, thereby eliminating the mold parting lines running along both the handle and the body. Moreover, the handle and body may be made of different materials, be of different colors, or have different finishes.

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### BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWINGS

FIG. 1 is a perspective view of an exemplary embodiment of the invention.

FIG. 2 is a partial exploded view of an exemplary embodiment of the invention.

FIG. 3 is a sectional view taken through plane 3—3 of FIG. 1.

### DETAILED DESCRIPTION OF PREFERRED EMBODIMENT

Referring to the drawings, wherein like numerals refer to the same elements, there is shown in FIG. 1 a double-walled beverage container 100 comprising an outer shell 110, an inner cup 120 with a flange 125, a handle 130 and an optional lid 200. In FIG. 2, handle 130 comprises a hand grip portion 135 and a notch-engaging portion 139. Notch-engaging portion 139 engages with outer shell notch 140, forming a connection between the handle and outer shell.

Referring to FIGS. 2 and 3, the connection between notch-engaging portion 139 and outer shell notch 140 is accomplished by a slidingly mating engagement between, on the one hand, notch flange 145, and on the other hand, peripheral groove 150. Notch flange 145 is tapered on its side portions 145' from its base 141 toward its upper portion 142. The taper of notch flange 145 causes a compressive effect, lightly wedging notch flange 145 into peripheral groove 150, and so creating a secure attachment of handle 130 to outer shell 110.

Referring again to FIGS. 2 and 3, inner cup 120 includes a flange 125 that fits over upper rim 115 and annular recess 118 of outer shell 110. Annular recess 118 is sized so that when inner cup 120 is inserted into outer shell 110, flange 125 snugly engages both annular recess 118 and the top portion 137 of notch-engaging portion 139 of handle 130, creating a tight compression fit between inner cup 120, outer shell 110 and handle 130, all without gluing, welding or screws.

Inner cup 120 is preferably anchored to outer shell 110 at its base by means of a threaded anchoring bracket 160 secured to the bottom of inner cup 120, and a threaded fastener such as a screw 170 through the base of outer shell 110. The bottom of outer shell 110 may optionally be covered with an elastomeric material 180 to provide a non-slip surface.

The terms and expressions which have been employed in the foregoing specification are used therein as terms of description and not of limitation, and there is no intention in the use of such terms and expressions of excluding equivalents of the features shown and described or portions thereof, it being recognized that the scope of the invention is defined and limited only by the claims which follow.

What is claimed is:

1. A beverage container comprising:
  - (a) a cylindrical outer shell open at its upper end so as to form a rim, said rim having a notch;
  - (b) a handle comprising a hand grip portion and a notch-engaging portion adapted to engage said rim at said notch; and
  - (c) an inner cup insertable into said outer shell and including an upper rim and a peripheral flange on said upper rim adapted to compressively engage said rim of said outer shell and said notch-engaging portion of said handle.
2. The beverage container of claim 1 wherein said notch of said outer shell is thicker at its base than at said rim.

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3. The beverage container of claim 2 wherein said notch-engaging portion of said handle includes a peripheral groove engagable with said notch of said outer shell such that, upon engagement, said notch-engaging portion becomes tightly wedged into said notch.

4. The beverage container of claim 3 wherein said notch-engaging portion of said handle is made of a resilient material.

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5. The beverage container of claim 4, including an anchoring bracket attached to the bottom of said inner cup and a threaded fastener engagable with said bracket.

6. The beverage container of claim 5 including a lid that fits over the top of said inner cup.

\* \* \* \* \*



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Phone (503) 582.8787  
Fax (503) 570.8585

ATTN: Legal Department  
Dick's Sporting Goods, Inc.  
300 Industry Drive, RIDC Park West  
Pittsburgh, PA 15275

December 30, 2004

To Whom It May Concern:

Pacific Cornetta, Inc., (PCI) is the owner of certain intellectual property rights covering construction and design of travel mugs. PCI has invested over four years developing, promoting, and marketing products featuring proprietary construction and design, and in preserving its intellectual property position. For example, PCI is the owner of Patent No. 6,237,801 by the U.S. Patent and Trademark Office, a copy of which is enclosed for your convenience.

It has come to PCI's attention that Dick's Sporting Goods, Inc. is distributing and selling a Northeast® Out Fitters travel mug like PCI's Patent No. 6,237,801. The UPC number for one sample of this product is 822688222556.

Given PCI's superior patent and other intellectual property rights, it is believed that any producing and/or selling any products featuring this construction would require the authorization of PCI. PCI therefore requests that you provide, within ten (10) days of the date of this letter, your confirmation that Dick's will discontinue sales of this product and not introduce, produce, have made, distribute, promote, sell and/or offer to sell any unauthorized travel mugs featuring this construction.

If Dick's has a future interest in commercializing these travel mugs, PCI would like to reach a mutually beneficial agreement with Dick's that permits Dick's to legally commercialize this product and enjoy the market advantage conferred by it.

PCI appreciates Dick's prompt attention to this matter, its respect for proprietary products, and looks forward to being of service in the future.

Best wishes,

Matt Fildes  
Product Development Manager  
Ph. 503-218-5165  
Fax: 503-218-5146

Exhibit B

**Steven J. Adamson, PC**  
Patent and Trademark Attorneys

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March 28, 2005

Mr. Hugh Jaeger  
1000 Superior Blvd, Suite 302  
Wayzata, MN 55391-1873

Re: Infringement of U.S. Patent no. 6,237,801

Dear Mr. Jaeger:

This firm represent Pacific Cornetta, Inc. (PCI), in matters of patent law. It is our understanding, based on your letter to Matt Fildes on February 10, 2005, that you represent Dick's Sporting Goods (Dick's) in such matters. Since, however, we do not have confirmation of this representation, we are sending a copy of this letter to Mr. Bradley J. Walent of Dick's.

As you are aware, it has come to PCI's attention that Dick's is selling a mug product that infringes U.S. patent no. 6,237,801, issued to Ching Liu and owned by PCI (the '801 patent).

It is apparent from the specification of the '801 patent (particularly the Background and Summary sections) that the '801 patent is directed towards providing a mug in which the handle is not cast with nor welded to the body of the mug, but rather mounted into a notch provided near the top of the mug and held in place by the rim of the inner cup.

These elements are recited in the claims of the '801 patent and found in the infringing product sold by Dick's. Infringement is present both literally and through the *Doctrine of Equivalents*.

We would ask you to remind your client that remedies available to PCI and penalties for which Dick's may be liable include temporary and permanent injunction of sale of the infringing product and payment of all damages incurred by PCI due to the infringement, those damages to be in no event less than a reasonable royalty together with interest and costs. Furthermore, since your client has continued to sell the infringing product after receiving notice of the '801 patent, your client is liable for up to three times the initial damage award found by a court *and* the payment of PCI's attorneys fees.

While PCI welcomes discussion of a license agreement, let me make it unequivocally clear that PCI will protect its intellectual property to the fullest extent of the law.

Very truly yours,

Steven J. Adamson

cc: Bradley J. Walent, Dick's Sporting Goods

SJA:tat

Exhibit C

**Steven J. Adamson, PC**  
Patent and Trademark Attorneys

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May 18, 2005

Via Facsimile (724.227.1928)

Bradley Walent, Esq.  
Lu Ann Datesh, Esq.  
Dick's Sporting Goods  
300 Industry Drive, RIDC Park West  
Pittsburgh, PA 15275

Re: Dick's Infringement of U.S. Patent no. 6,237,801

Dear Mr. Walent and Ms. Datesh:

This firm represent Pacific Cornetta, Inc. (PCI), in matters of patent law.

On March 28, 2005, we sent your organization a letter informing you that a product your organization is selling falls within the scope of U.S. Patent no. 6,237,801 ('801 patent) owned by PCI. We have had no response from you.

We assume that this lack of response signifies that your organization will no longer introduce, produce, have made, promote, sell and/or offer to sell any unauthorized double walled drinking mugs having a handle. Please provide written assurances of this as soon as possible.

If Dick's would like information about how to obtain authorized products or a license from PCI to sell authorized products, please let me know and I will forward your request to PCI.

Very truly yours,

Steven J. Adamson

SJA:tat



Exhibit E-1





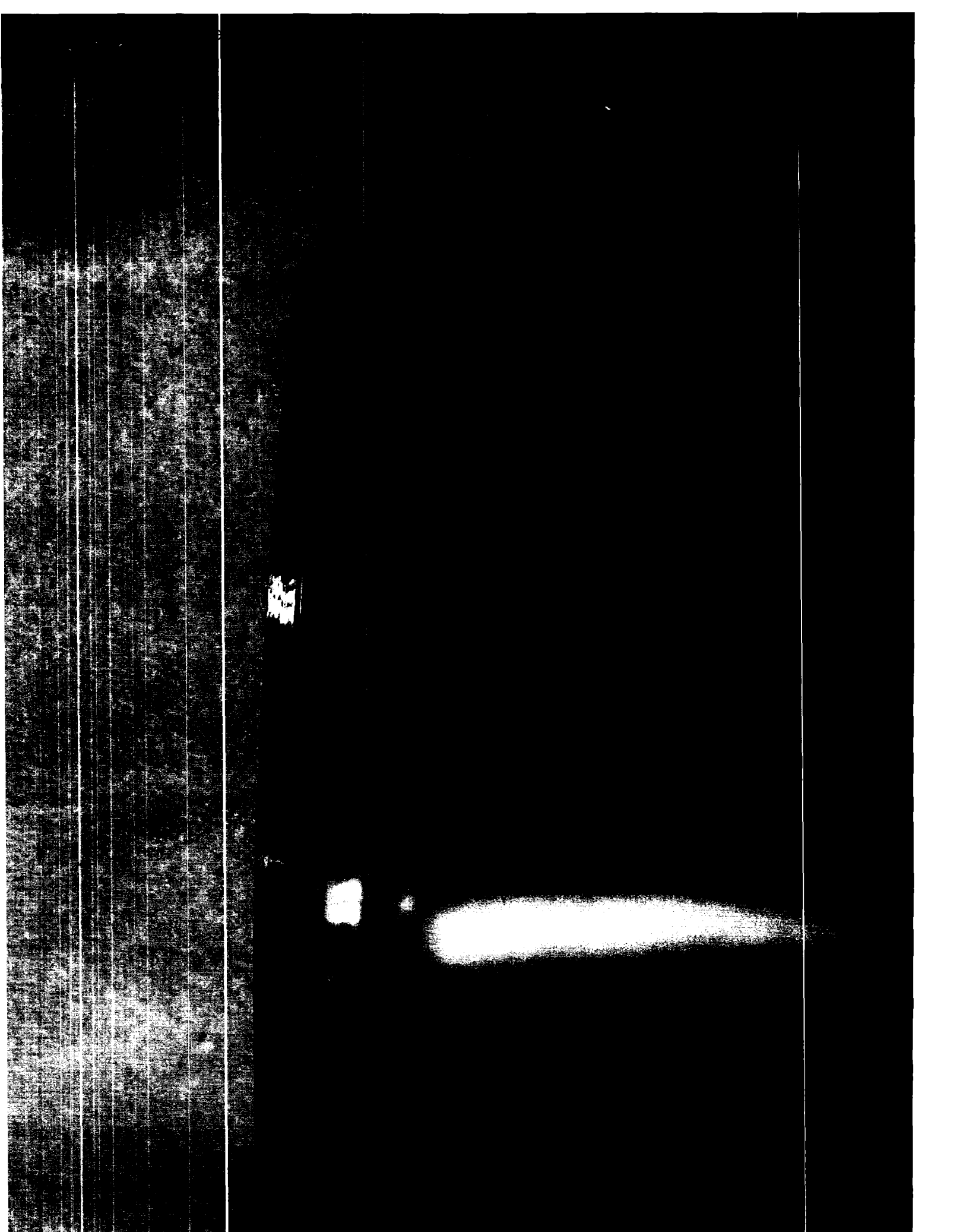




Exhibit E-4



Exhibit E-5