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Attorneys for Plaintiff Imperial Toy LLC



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FILED

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SACV11-1636 DOC(ANX)

IMPERIAL TOY LLC,

PLAINTIFF,

v.

MERCHSOURCE, LLC,

DEFENDANT.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF (PATENT
INFRINGEMENT); DEMAND FOR JURY
TRIAL**

For its Complaint, plaintiff Imperial Toy LLC ("Imperial Toy") avers as follows:

PARTIES

1. Imperial Toy is a limited liability company duly organized and existing under the laws of the State of California, with its corporate headquarters and principal place of business within the Central District of California at 16641 Roscoe Place, North Hills, CA 91343. Imperial Toy is the assignee and owner of all rights, title and interest in and to the United States Letters Patent No. 5,498,191

1 (“the ’191 patent”), which issued March 12, 1996, for BUBBLE PRODUCING
2 TOY.

3
4 2. Imperial Toy is informed and believes, and on that basis avers, that
5 defendant MerchSource, LLC (“MerchSource”) is a limited liability company,
6 organized and existing under the laws of California with its principal place of
7 business at 19517 Pauling St., Foothill Ranch, CA 92869.

8
9 **JURISDICTION AND VENUE**

10
11 3. This claim arises under the United States patent laws, 35 U.S.C. §§ 1
12 *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331
13 and 1338(a).

14
15 4. This Court has personal jurisdiction over MerchSource as
16 MerchSource is organized under the laws of this State and District and has regularly
17 engaged in business in this State and District, for example, by making, using,
18 selling and/or offering to sale articles, including MerchSource’s Discovery Kids
19 Bubble Blower (“Bubble Blower”), which infringe at least claim 1 of the ’191
20 patent and/or knowingly and actively inducing others to do so.

21
22 5. Venue in this District is proper based on 28 U.S.C. §§ 1391 and 1400.
23 MerchSource does business, have infringed, and continue to infringe the ’191
24 patent in this District.

CLAIM FOR RELIEF

(For Patent Infringement, U.S. Patent No. 5,498,191)

6. Imperial Toy is the owner by assignment of the '191 patent, which issued March 12, 1996, for BUBBLE PRODUCING TOY. A copy of the '191 patent is attached hereto as Exhibit A.

7. Imperial Toy is informed and believes, and on that basis avers, that MerchSource has made, used, sold and/or offered for sale in this District and elsewhere in the United States and/or has imported into the United States articles (including MerchSource's Bubble Blower) infringing at least claim 1 of the '191 patent and/or has knowingly and actively induced others to do so. Imperial Toy is further informed and believes, and on that basis alleges, that this infringement will continue unless and until enjoined by this Court.

8. Imperial Toy, by this Complaint and otherwise, has notified MerchSource of its infringement, which has been and continues to be willful and deliberate. Imperial Toy has been and continues to be damaged by the above-alleged infringement and will suffer irreparable harm until such time as that infringement is enjoined.

PRAYER

Wherefore, plaintiff Imperial Toy LLC prays for judgment as follows:

1. For a preliminary and permanent injunction against infringement of the '191 patent;

1 2. For an accounting and award of actual damages sustained by Imperial
2 Toy (but no less than a reasonable royalty) as a result of infringement of the '191
3 patent;

4
5 3. For treble damages under 35 U.S.C. § 285;

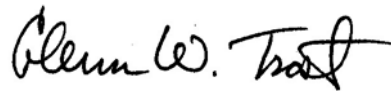
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7 4. For plaintiff's attorneys fees and costs incurred in prosecution of this
8 action under, *inter alia*, 35 U.S.C. § 285; and

9
10 5. For such other and further relief as this Court may deem just and
11 proper.

12
13 Dated: October 21, 2011

CONNOLLY BOVE LODGE & HUTZ LLP

14
15 By:



16 Glenn W. Trost
17 Attorneys for Plaintiff Imperial Toy LLC
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DEMAND FOR JURY TRIAL

Plaintiff Imperial Toy LLC hereby demand trial by jury.

Dated: October 21, 2011

CONNOLLY BOVE LODGE & HUTZ LLP

By: 

Glenn W. Trost
Attorneys for Plaintiff Imperial Toy LLC

EXHIBIT A



US005498191A

United States Patent [19]

DeMars

[11] **Patent Number:** **5,498,191**[45] **Date of Patent:** **Mar. 12, 1996**[54] **BUBBLE PRODUCING TOY**

[76] **Inventor:** **Robert A. DeMars**, 5000 N. Parkway
Calabasas- Suite 233, Calabasas, Calif.
91302

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[51] **Int. Cl.⁶** **A63H 33/28; A63H 33/40**[52] **U.S. Cl.** **446/015; 446/178**

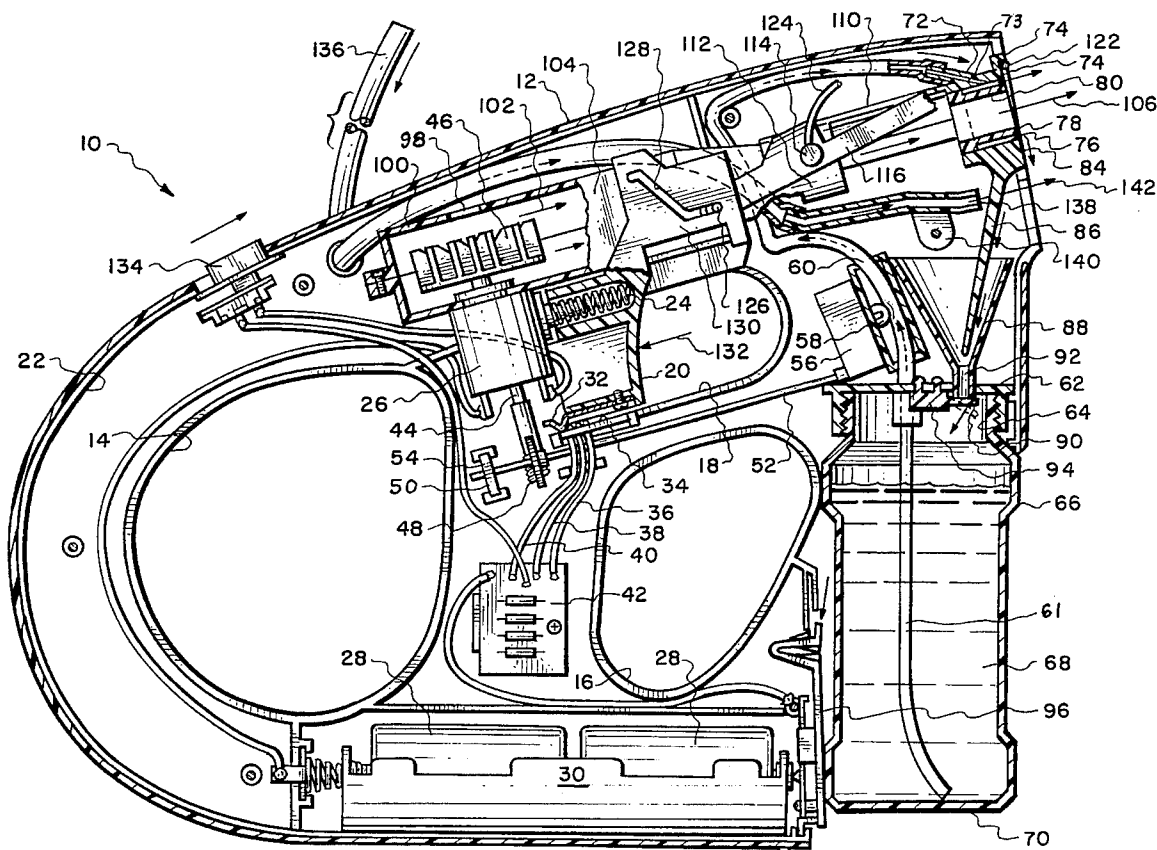
[58] **Field of Search** 446/15, 16, 17,
446/18, 90, 20, 21, 178, 182, 194, 195,
267, 475, 483, 484

Primary Examiner—Robert A. Mafer*Assistant Examiner*—D. Neal Muir*Attorney, Agent, or Firm*—Jack C. Munro[57] **ABSTRACT**

A hand holdable bubble producing toy that, when activated by the user, produces a stream of bubbles. Activation of the toy is accomplished by manually moving of a trigger which electrically operates a fan and a pump as well as a film producing mechanism in order to produce the dispensed bubbles and includes a collection system for recycling unused bubble solution.

[56] **References Cited****U.S. PATENT DOCUMENTS**

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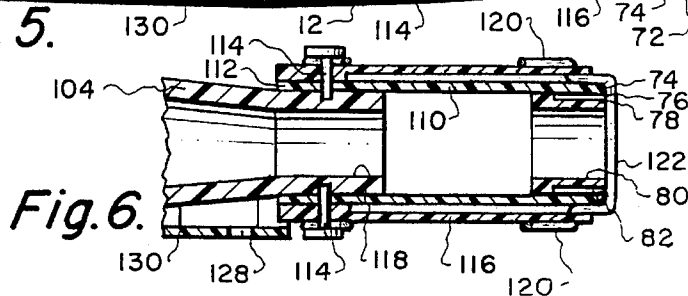
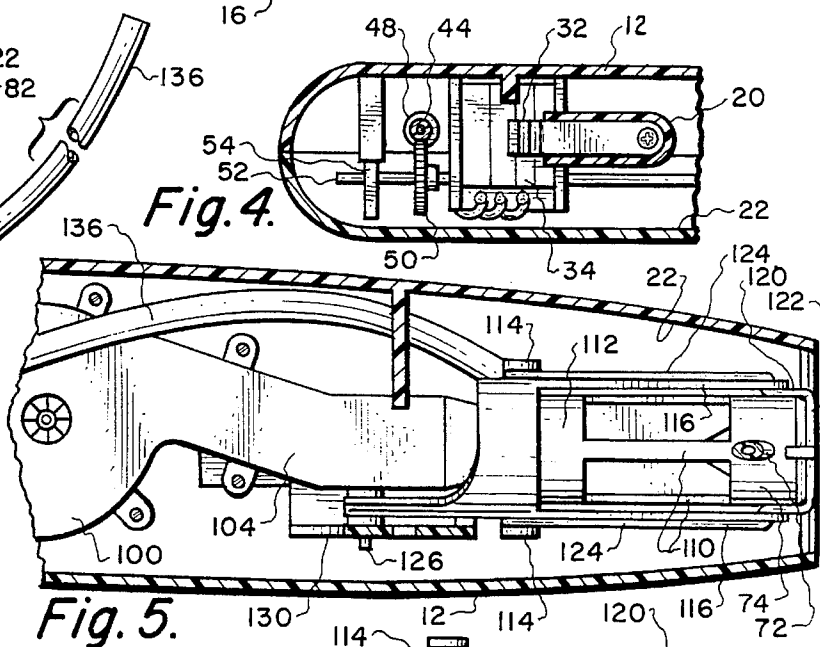
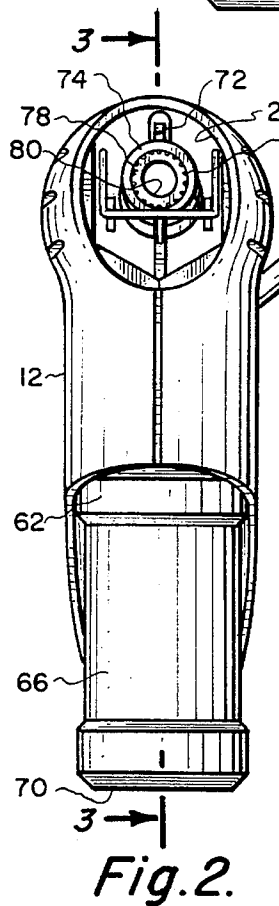
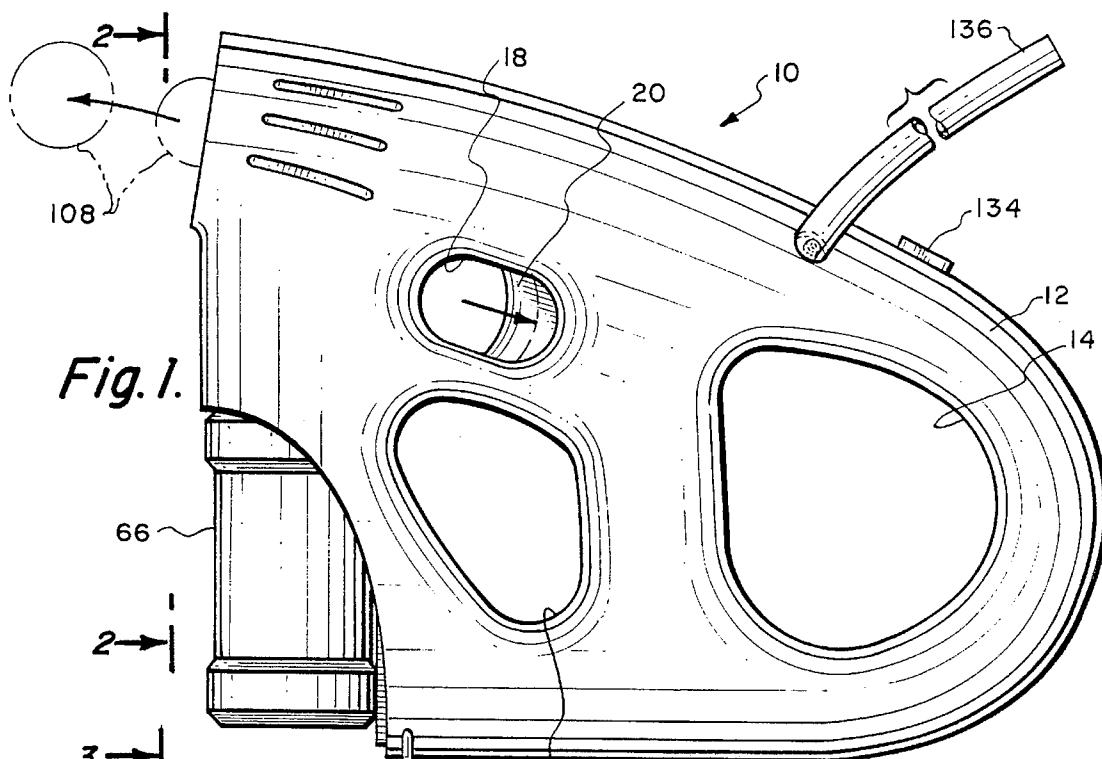
15 Claims, 3 Drawing Sheets

U.S. Patent

Mar. 12, 1996

Sheet 1 of 3

5,498,191



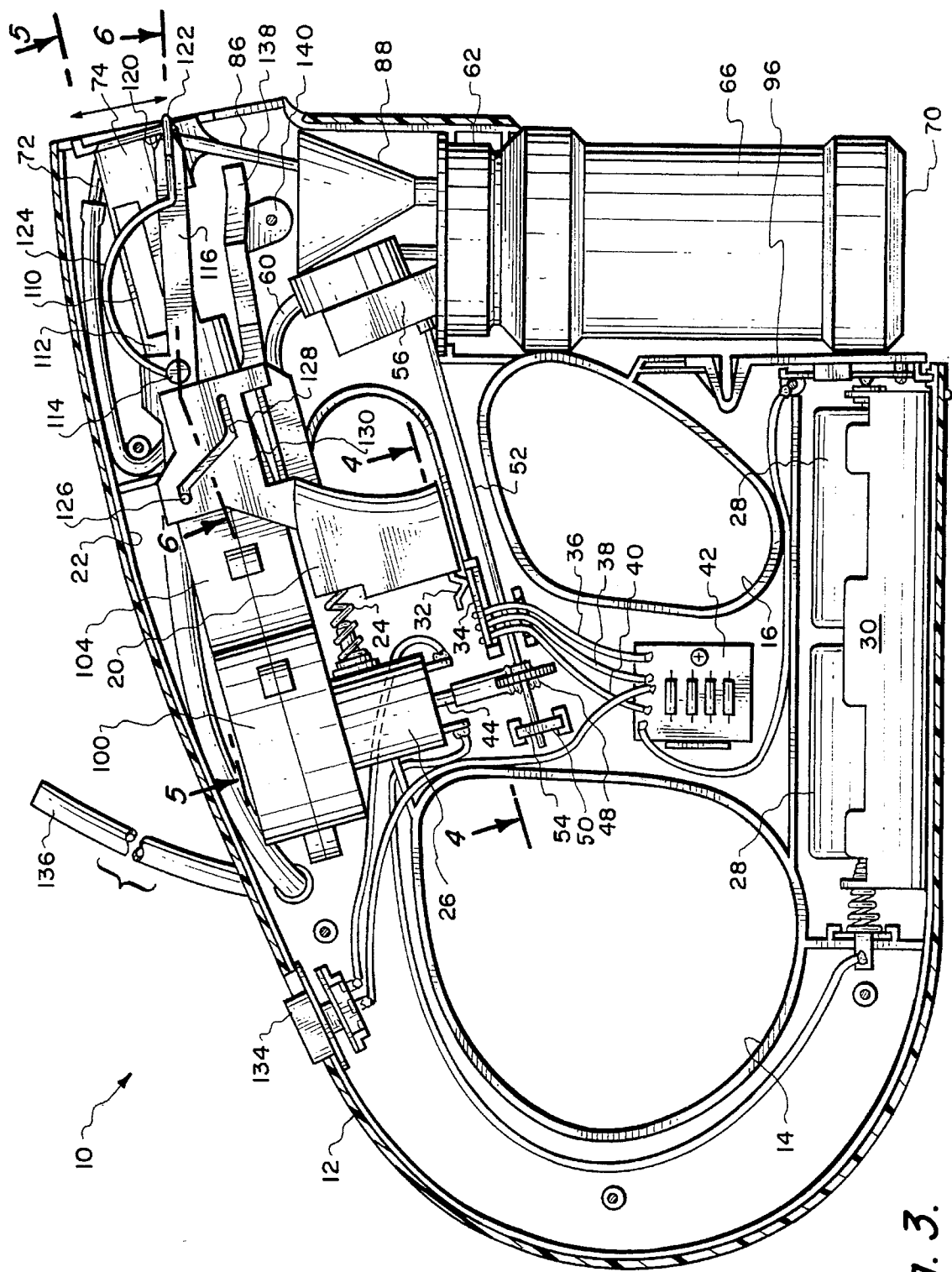


Fig. 3.

U.S. Patent

Mar. 12, 1996

Sheet 3 of 3

5,498,191

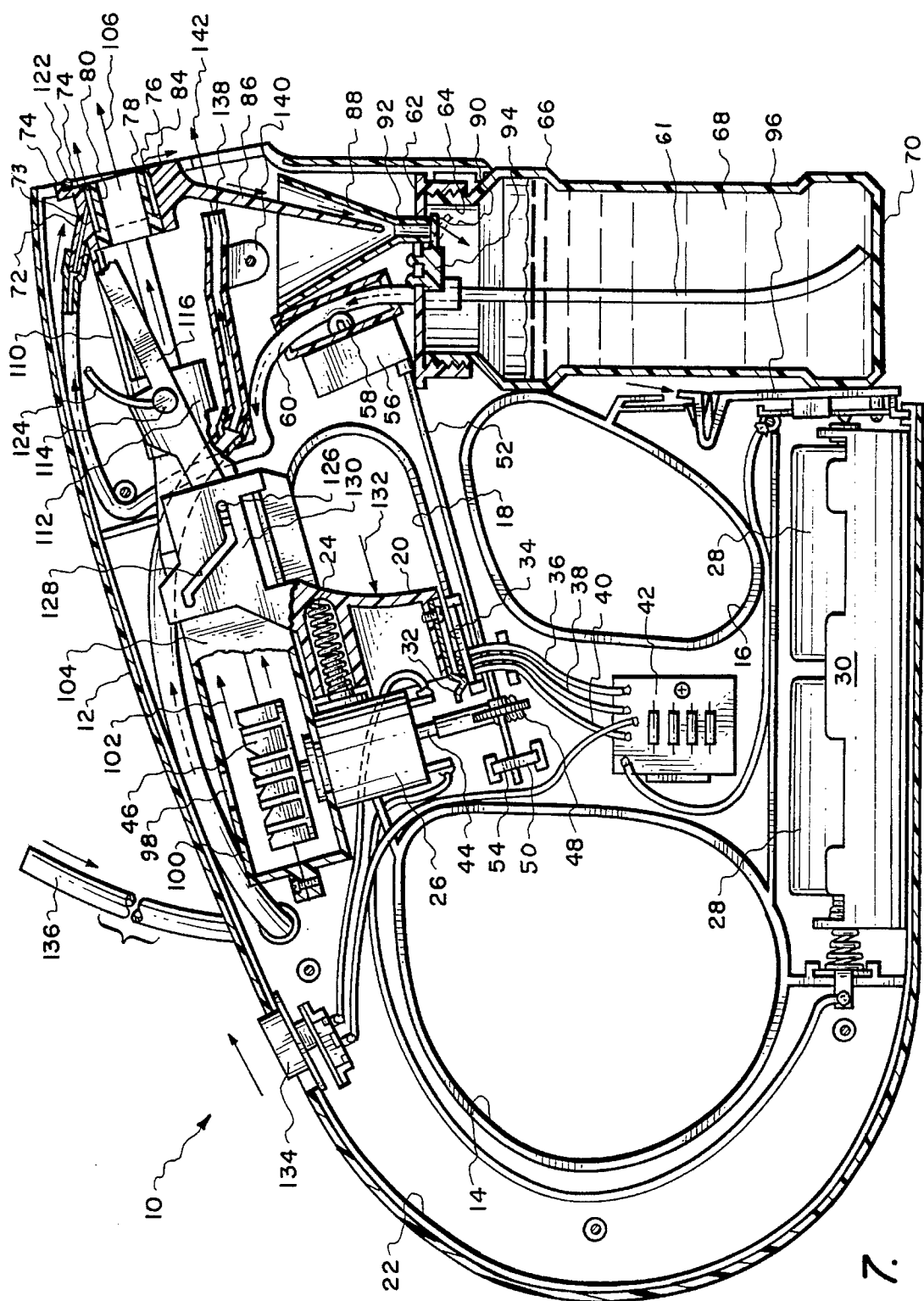


Fig. 7.

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BUBBLE PRODUCING TOY

BACKGROUND OF THE INVENTION

1. Field of the Invention

The field of this invention relates to toys and more particularly to a hand holdable toy to be normally used by a child that dispenses a stream of air bubbles from a liquid such as a soap solution.

2. Description of the Prior Art

Trigger actuated toys, generally in the form of a pistol or a rifle, are in exceedingly common usage. Such toys can be used to make noise and not propel an object from the toy. Also such toys can propel harmless objects such as corks, plastic slugs or water.

Another type of toy is a hand holdable ring which is to be inserted within a liquid solution such as a soap solution which places a film across the ring and when blown upon with air by the child, produces one or several air bubbles. Prior to the present invention, there are trigger actuated toys which are required to be dipped into a reservoir and also a toy with a windmill of rings which are to be dipped into a reservoir. These toys are prone to dipping and spilling. A toy emitting a steady stream of air bubbles made from a closed fluid system which contains and controls the fluid and is designed to eliminate or minimize spillage during handling of the toy would provide an exciting toy to the child and please any parent.

SUMMARY OF THE INVENTION

The bubble producing toy of the present invention is located within a hand holdable housing which includes a manually movable trigger. Within the internal chamber of the housing there is located a battery driven electrical motor attached to a fan which is activated by operation of the trigger. The trigger also activates simultaneously a film producing mechanism. Operation of the motor produces movement of air outward by means of the fan and also movement of a film making liquid from a reservoir by means of a pump to feed the film producing mechanism. The film producing mechanism includes an applicating bar which is held against the outer face of the sleeve. It is the function of the applicating bar to create a thin film of the liquid across the face of the sleeve as the applicator bar is moved relative to the sleeve. Both the air and the liquid, in the form of a film, come together at a sleeve mounted within a dispensing opening of the housing to the ambient. The thin film, when blown against the air from the fan, produces one or more air bubbles.

The primary objective of the present invention is to construct an entertaining and safe toy for a child which is triggered as is any firearm but which discharges a steady stream of harmless air bubbles.

Another objective of the present invention is to construct a bubble producing toy which is capable of being manufactured at a reasonable cost and therefore sold to the ultimate consumer at a reasonable cost.

Another objective of the present invention is to provide a bubble producing toy which recovers surplus film making liquid and is designed to prevent spillage or leaking of the liquid solution which might be displeasing to users.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a side elevational view of the bubble producing toy of the present invention depicting dispensing of a series of bubbles;

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FIG. 2 is a front view of the bubble producing toy of the present invention taken along line 2—2 of FIG. 1;

FIG. 3 is a longitudinal cross-sectional view of the bubble producing toy of the present invention taken along line 3—3 of FIG. 2 showing the toy in the inactivated position;

FIG. 4 is a cross-sectional view through the trigger of the bubble producing toy of the present invention taken along line 4—4 of FIG. 3;

FIG. 5 is a cross-sectional view showing in more detail the film producing mechanism utilized within the bubble producing toy of the present invention taken along line 5—5 of FIG. 3;

FIG. 6 is a cross-sectional view taken along line 6—6 of FIG. 3 showing more clearly the film producing mechanism utilized within the bubble producing toy of the present invention; and

FIG. 7 is a longitudinal cross-sectional view similar to FIG. 3 but with the trigger mechanism located in the activated position.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

A bubble is defined as a small globule of gas in a thin liquid envelope. Children have long used a liquid solution to produce bubbles. A common form of such a liquid solution is water combined with a detergent or soap. The detergent or soap lowers the surface tension of the water permitting a small quantity of the liquid to be stretched across an enclosing device such as a ring. When air is propelled into this film, the film breaks free of the ring and encloses a quantity of the air producing a bubble. Although a soapy water has been found to be a desirable form for such a liquid, other liquids could be utilized or water combined with other substances such as glycerin. However, one function of glycerin is for the purpose of extending the life of any produced air bubble.

Referring particularly to the drawings, there is shown the bubble producing toy 10 of this invention. The bubble producing toy 10 includes an exterior sheet material plastic housing 12 which includes an enlarged opening 14 and a smaller sized opening 16. The user, when holding the toy 10 of this invention, will normally place the palm of the user's hand (not shown) between the opening 14 and the opening 16 and the fingers (with the exception of the thumb and forefinger) within the smaller sized opening 16. The forefinger, which is frequently called the trigger finger, is to be located within the trigger opening 18 and the thumb in the enlarged opening 14. Movably mounted within the trigger opening 18 is a lineally movable trigger 20.

The housing 12 includes an internal chamber 22. The trigger 20 is movably mounted against the bias of a coil spring 24. The trigger 20 is shown in its normally at-rest position in FIG. 3 and in its maximum moved position in FIG. 7. The outer end of the coil spring 24 is mounted against motor housing 26. The motor housing 26 is fixedly positioned relative to the housing 12. Included within the motor housing 26 is an electrically operated motor, with this motor being driven by means of batteries 28 which are mounted within battery holder 30 with this battery holder in turn being fixedly secured to the wall of the internal chamber 22. An electrical contact 32 is mounted on the trigger 20. The electrical contact 32 rests against contact board 34. Mounted on the contact board 34 are three separate contacts which are connected by wires 36, 38 and 40 to an electrical circuit board 42. Upon the electrical contact 32 being located in electrical connection with the wire 36, the motor located

within the motor housing 26 will be driven at the slowest possible speed. When the electrical contact 34 is connected with the wire 38, the motor located within the motor housing 26 will be driven at an intermediate speed. Also if the electrical contact 32 is connection with the wire 40, the motor mounted within the motor housing 26 will be operated at the fastest possible speed.

The motor mounted within the motor housing 26 has a through shaft 44 one end of which has physically mounted thereon a centrifugal fan blade 46. The opposite end of the shaft 44 has mounted thereon a worm gear 48. The worm gear 48 is in continuous engagement with a spur gear 50. The spur gear 50 is fixedly mounted on an elongated shaft 52. The aft end of the shaft 52 is mounted within bearing assembly 54 which is fixedly positioned on the housing 12. The front end of the shaft 52 is connected to a pump housing 56. Mounted within the pump housing 56 is a peristaltic pump (not shown) which includes a wheel upon which are mounted a plurality of rollers with only a single roller 58 being shown. One of the rollers, including roller 58, is in continuous contact with an elastomeric tube 60.

Elastomeric tube 60 connects to a suction tube 61 which extends through a cap 62. Cap 62 is fixedly mounted to the wall surface of the internal chamber 22 and includes screw threads 64 which threadingly engage, in a removable manner, with the screw threads around the open upper end of a reservoir 66. Included within the reservoir 66 is a quantity of a liquid 68. Suction tube 61 is to extend directly adjacent to the bottom 70 of the reservoir 66. Power from the motor mounted within motor housing 26 is transferred to the pump mounted in the pump housing 56 by means of the shaft 52 and additional gearing (not shown) causing the rollers 58 to move along the portion of the elastomeric tube 60 contained within the pump housing 56 in one direction, thus displacing some of the liquid 68 from within the reservoir 66 to the upper end of the tube 60 which is connected to connector 72. Connector 72 is integrally mounted onto a sleeve 74. The liquid 68 is to be conducted through a through hole 73 provided within the connector 72 to be deposited within annular chamber 76 which is located between the sleeve 74 and a sleeve insert 78 which is mounted within the sleeve 74. The sleeve insert 78 includes an enlarged center through opening 80.

The exterior wall surface of the sleeve insert 78 is formed to include a plurality of small spaced-apart holes 82 that connect with the annular chamber 76. These holes 82, which can only be seen in FIG. 2 of the drawings, are to supply the liquid from the annular chamber 76 to the dispensing surface 84 of the sleeve 74. Any excess liquid from the dispensing surface 84 will flow onto drip rod 86 and then be gravitationally deposited within funnel 88. From funnel 88 the liquid is to be conducted past check valve 90 which normally covers the drain hole 92 of the funnel 88. Negative pressure caused by the transfer of the liquid 68 through the suction tube 61 will cause the check valve 90 to deflect slightly away from the outlet hole 92 permitting the liquid to drain back into the reservoir 66. Check valve 90 prevents leakage exteriorly of the housing 12 if the toy 10 is turned sideways or upside down. The check valve 90 is mounted by mounting block directly to the cap 62. Access into the batteries 28 is provided by means of a battery cap 96 which is removably mounted on the housing 12. In order to gain access to the battery cap 96, the reservoir 66 has to be disengaged from the cap 62.

Air is to be moved from within the internal chamber 22 through through hole 98 of the fan housing 100. The fan housing 100 is fixedly positioned to the housing 12 within

the internal chamber 22. The air that is moved as depicted by arrows 102 is moved through channel 104 in close proximity to the sleeve 74. The air is then moved through the center opening 80 into the ambient with this air movement being depicted by arrow 106. Upon there being a thin film of the liquid 68 placed across the center opening 80 by the applying bar 122, a bubble 108 will be formed and dispensed into the ambient as shown in FIG. 1. Variation in air speed will affect bubble size and volume.

The sleeve 74 is integral with an extension 110. The extension 110 connects to mounting ring 112. Mounting ring 112 is mounted in a tight manner on the channel 104. Pivotaly mounted by means of pins 114 onto the mounting ring 112 and the channel 104 are a pair of arms 116. The arms 116 are located diametrically opposite each other relative to the channel opening 118 formed within the channel 104. Mounted on the arms 116 is a U-shaped wire rod 120. The U-shaped wire rod 120 includes an outer end forming applying bar 122 which is to be located continuously flush against the dispensing surface 84. In order to maintain this applying bar 122 in continuous contact with the dispensing surface 84, it is necessary to have the applying bar 122 be under a continuous bias toward the dispensing surface 84. This is achieved by incorporating within the wire rod 120 bowed sections 124 with the bowed sections 124 creating an inherent resiliency that holds the applying bar 122 into continuous contact with the dispensing surface 84. This continuous contact is maintained even during the pivoting movement of the arms 116 about the pivot pins 114. Arms 116 are always pivoted together. One of the arms 116 is mounted by guide pin 126 within a slot 128 of a guide plate 130. The guide plate 130 is fixedly mounted on the trigger 20.

Lineal movement of the trigger 20 from the position shown in FIG. 3 in the direction of arrow 132, as is shown in FIG. 7, will result in the guide pin 126 moving within the slot 128. This causes the arms 116 to pivot approximately twenty-five to thirty degrees. This moves the applying bar 122 across the dispensing surface 84, and with each movement there across an attempt is made to place a thin film of the liquid 68 across the dispensing surface 84. When this thin film of liquid is pushed against by the air being conducted through the center opening 80, the film is dislodged from the dispensing surface 84 which encloses forming the bubble 108. The user, by the single action of operating a lineally moving of the trigger 20, operates the motor within the motor housing 26 which in turn moves the air by means of the fan blade 46 and pumps the liquid 68 from the reservoir 66 to the annular chamber 76. Also as previously mentioned, this movement of the trigger 20 produces the applying action of the applying bar 122 of the rod 120. It is to be understood that when the trigger 20 is released, the applying bar 122 returns to its at rest position and there is no longer any electrical operation of the motor within the motor housing 26 or the pump in pump housing 56.

There is incorporated a switch 134 mounted within the housing 12 which when moved to an activating position, operates the motor within the motor housing 26 regardless of the position of the trigger 20. In essence the switch 134 can be moved to continuously operate the motor within the motor housing 26 bypassing the trigger 20.

When the user wishes to propel the bubbles 108 a greater distance than normal from the toy 10 of this invention, the user can utilize tube 136. The user places the outer end of tube 136 within the user's mouth and blows, which causes air to flow through the tube 136 which is located within the

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internal chamber 22 with the outer end 138 of the tube 136 being fixedly mounted by bracket 140 to the wall of the internal chamber 22. The outer end 138 of the tube 136 directs this flow of booster air in the direction of arrows 142 which comes into contact with the bubbles 108 as they are propelled from the dispensing surface 84. This boosting flow of air pushes the bubbles 108 a substantial distance from the toy 10. It is to be understood that usage of the tube 136 is deemed to be optional.

What is claimed is:

1. A bubble producing toy comprising:

a housing having an internal chamber;

a dispensing opening connecting with said internal chamber, said dispensing opening connecting to the ambient, a sleeve mounted within said dispensing opening, said sleeve having a central opening and a dispensing surface;

a reservoir mounted on said housing, said reservoir to contain a liquid, said liquid being capable of producing air bubbles;

a pump mounted within said housing, said pump connected to said reservoir by a tube to supply said liquid to said pump;

a source of blown air originated from within said internal chamber, said source to be dispensed into said central opening of said sleeve into the ambient;

a film producing mechanism mounted on said housing, said film producing mechanism including an applying bar, said applying bar being located against said dispensing surface, said applying bar being movable across said dispensing surface, said liquid from said reservoir to be moved by said pump to said dispensing surface, whereby said applying bar locates a thin film of said liquid across said dispensing surface as said applying bar is moved across said dispensing surface which creates an air bubble upon said source flowing through said thin film mounted across said central opening.

2. The bubble producing toy as defined in claim 1 wherein:

said applying bar being biased into continuous contact with said dispensing surface.

3. The bubble producing toy as defined in claim 1 wherein:

a separate boosting air source connected to said housing, said boosting air source originating exteriorly of said housing, said boosting air source to be dispensed directly adjacent said sleeve but exteriorly thereof, said boosting air source functioning to cause greater propelling into the ambient the bubbles that are produced from said sleeve.

4. The bubble producing toy as defined in claim 3 wherein:

said separate boosting air source comprising a flexible tube which has an open outer end which is designed to be connected to the mouth of the user of said bubble producing toy.

5. The bubble producing toy as defined in claim 1 wherein:

a drip rod being mounted within said housing, said drip rod being connected to said sleeve, unused liquid is to be conducted by said drip rod into a catching funnel, said catching funnel being located within said internal chamber and connected to said reservoir, any unused liquid is to be caused to flow through said catching funnel back into said reservoir.

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6. A bubble producing toy comprising:

a housing having an internal chamber;

a dispensing opening connecting with said internal chamber, said dispensing opening connecting to the ambient, a sleeve mounted within said dispensing opening, said sleeve having a central opening and a dispensing surface;

a reservoir mounted on said housing, said reservoir to contain a liquid, said liquid being capable of producing air bubbles;

a pump mounted on said housing, said pump being connected to said reservoir;

a source of blown air originated from within said internal chamber, said source to be dispensed into said central opening of said sleeve into the ambient;

a film producing mechanism mounted on said housing, said film producing mechanism including an applying bar, said applying bar being located against said dispensing surface, said applying bar being movable across said dispensing surface, said liquid from said reservoir to be moved by said pump to said dispensing surface, whereby said applying bar locates a thin film of said liquid across said dispensing surface as said applying bar is moved across said dispensing surface which creates an air bubble upon said source flowing through said thin film mounted across said central opening; and

said source of blown air being produced by a fan, said fan being mounted within said internal chamber of said housing, said fan being operated by an electrical motor, said pump being operable to move said liquid to be dispensed at said sleeve, said electrical motor also operating said pump.

7. The bubble producing toy as defined in claim 6 wherein:

said fan and said pump being operated simultaneously by said motor.

8. The bubble producing toy as defined in claim 7 wherein:

said housing including an activating switch, manual movement of said activating switch causes activation of said motor and said pump.

9. The bubble producing toy as defined in claim 8 wherein:

said activating switch comprising a trigger mechanism.

10. The bubble producing toy as defined in claim 6 wherein:

said electrical motor being connected to a plurality of electrical contacts which cause said electrical motor to be operable at a plurality of different speeds by means of a manually operated switch which connects with said electrical contacts.

11. A bubble producing toy comprising:

a housing having an internal chamber;

a dispensing opening connecting with said internal chamber, said dispensing opening connecting to the ambient, a sleeve mounted within said dispensing opening, said sleeve having a central opening and a dispensing surface;

a reservoir mounted on said housing, said reservoir to contain a liquid, said liquid being capable of producing air bubbles;

a pump mounted on said housing, said pump being connected to said reservoir;

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a source of blown air originated from within said internal chamber, said source to be dispensed into said central opening of said sleeve into the ambient;

a film producing mechanism mounted on said housing, said film producing mechanism including an applicat-
ing bar, said applying bar being located against said
dispensing surface, said applying bar being movable
across said dispensing surface, said liquid from said
reservoir to be moved by said pump to said dispensing
surface, whereby said applying bar locates a thin film
of said liquid across said dispensing surface as said
applying bar is moved across said dispensing surface
which creates an air bubble upon said source flowing
through said thin film mounted across said central
opening;

said applying bar being biased into continuous contact
with said dispensing surface, said applying bar being
pivotaly mounted on said housing; and

said source of blown air comprising a fan being operated
by an electrical motor, a pump mounted within said
housing, said pump being connected to said reservoir,
said pump being operable to move said liquid to be
dispensed at said sleeve, electricity being supplied to
said electrical motor to operate said electrical motor,
said electrical motor also operating said pump.

12. The bubble producing toy as defined in claim **11**
wherein:

a trigger actuating switch being mounted on said housing,
manual movement of said trigger actuating switch
causes simultaneous operation of said electrical motor
and said pump as well as movement of said applying
bar across said dispensing surface due to a linkage
connection between said trigger actuating switch and
said applying bar, said pump and said electrical
motor.

13. The bubble producing toy as defined in claim **12**
wherein:

said applying bar comprising a thin rod.

14. A bubble producing toy comprising:

a housing having an internal chamber;

a dispensing opening connecting with said internal cham-
ber, said dispensing opening connecting to the ambient,
a sleeve mounted within said dispensing opening, said

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sleeve having a central opening and a dispensing sur-
face;

a reservoir mounted on said housing, said reservoir to
contain a liquid, said liquid being capable of producing
air bubbles;

a pump mounted on said housing, said pump being
connected to said reservoir;

a source of blown air originated from within said internal
chamber, said source to be dispensed into said central
opening of said sleeve into the ambient;

a film producing mechanism mounted on said housing,
said film producing mechanism including an applicat-
ing bar, said applying bar being located against said
dispensing surface, said applying bar being movable
across said dispensing surface, said liquid from said
reservoir to be moved by said pump to said dispensing
surface, whereby said applying bar locates a thin film
of said liquid across said dispensing surface as said
applying bar is moved across said dispensing surface
which creates an air bubble upon said source flowing
through said thin film mounted across said central
opening;

a drip rod being mounted within said housing, said drip
rod being connected to said sleeve, unused liquid is to
be conducted by said drip rod into a catching funnel,
said catching funnel being located within said internal
chamber and connected to said reservoir, any unused
liquid is to be caused to flow through said catching
funnel back into said reservoir; and

there being a one-way valve mounted between said catch-
ing funnel and said reservoir that only permits liquid to
be conducted from said catching funnel into said res-
ervoir.

15. The bubble producing toy as defined in claim **14**
wherein:

said reservoir being sealed from the ambient air so that
removal of liquid from said reservoir creates negative
pressure within said reservoir which aids in the return
of unused liquid from said drip bar while operating the
toy, thereby minimizing leakage of liquid through said
one-way valve when said toy is not in operation or if
said toy is mishandled during operation.

* * * * *

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge David O. Carter and the assigned discovery Magistrate Judge is Arthur Nakazato.

The case number on all documents filed with the Court should read as follows:

SACV11- 1636 DOC (ANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

Imperial Toy LLC

Plaintiff

v.

MerchSource, LLC

Defendant



COPY

Civil Action No.

SACV11-1636 DOC (ANX)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* MerchSource, LLC
19517 Pauling
Foothill Ranch, California 92869

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Glenn W. Trost, Esq.
Connolly Bove Lodge & Hutz, LLP
333 S. Grand Avenue, Suite 2300
Los Angeles, California 90071
gtrost@cblh.com
213.787.2500

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

OCT 21 2011

Date: _____

CLERK OF COURT

JULIE PRADO SEAL

Signature of Clerk or Deputy Clerk

COPY

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) IMPERIAL TOY LLC		DEFENDANTS MERCHSOURCE, LLC	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Glenn W. Trost Connolly Bove Lodge & Hutz, LLP 333 S. Grand Ave., Suite 2300, Los Angeles, CA 90071		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:47%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify):
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: **JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No
 MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Suit for patent infringement under 35 U.S.C. § 1 et seq.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE PENALTIES <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) (405(g)) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: _____

SACV11-1636

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes
If yes, list case number(s): CV11-7408-R (JCx) and CV10-3832-DMG (FFMx)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☒ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Imperial Toy LLC - Los Angeles County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Glen W. Tait Date October 21, 2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))