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

**MICHAEL W. DOBBINS**  
**CLERK, U.S. DISTRICT COURT**

MEYER CORPORATION, U.S. and MEYER  
MARKETING (Macau Commercial Offshore)  
CO. LTD.,

Plaintiffs,

vs.

SOCIETA ITALIANA PENTOLE SpA ,  
VLADIMIRA INTRAVAJA, and SANDRO de  
PASQUALE,

Defendants.

**05C 1828**

JUDGE LEINENWEBER  
Case No.  
MAGISTRATE JUDGE LEVIN

**COMPLAINT**

This lawsuit is brought by Meyer Corporation, U.S. and Meyer Marketing (Macau Commercial Offshore) Co. Ltd. against Societa Italiana Pentole SpA (“SIP”), Vladimira Intravaja (“Intravaja”) and Sandro de Pasquale (“Pasquale”) for, *inter alia*, a declaration of invalidity of a U.S. Patent, a declaration of non- infringement of a certain U.S. Patent allegedly owned by Defendant SIP, injunctive relief, common law unfair competition, violation of the Illinois Consumer Fraud and Deceptive Practices Act, the Illinois Uniform Deceptive Trade Practices Act and common law defamation. More specifically, Plaintiffs complain as follows against SIP, Intravaja and Pasquale:

**PARTIES**

1. Plaintiff Meyer Corporation, U.S. is a Delaware corporation with its principal place of business at 1 Meyer Plaza, Vallejo, California, 94590. It distributes the pots and pans which are alleged to be infringing to various retail stores including Sears, Roebuck & Company (“Sears”). Plaintiff Meyer Marketing (Macau Commercial Offshore) Co. Ltd. (“Meyer Marketing”) is a Macau, China corporation with its principal place of business outside the United

States. It distributes some of the pots and pans which are alleged to be infringing to entities and private label organizations throughout the world. Together, Meyer Corporation U.S. and Meyer Marketing are hereinafter referred to collectively as "Meyer" unless otherwise indicated.

2. Defendant SIP is an Italian corporation which has wrongfully asserted that United States Patent No. 6,536,603 (the "603 Patent") is valid and has represented to others, including Sears in Illinois, that Plaintiffs' pasta pots and pans infringe the 603 Patent.

3. Intravaja and Pasquale, on information and belief, are residents of Italy and employees of SIP. Intravaja has engaged in tortious conduct in the state of Illinois by virtue of written defamatory statements and threats made intentionally to customers of Meyer, including Sears, which were knowingly false or misleading when made and were made for the purpose of causing harm to Plaintiffs' business relationships with targets of the defamatory communications. Pasquale has made similar threats to Meyer representatives in the United States. In fact, subsequent to December 2004 when a European Patent with claims which were identical to the 603 Patent was declared invalid and revoked by the European Patent Office, Pasquale stated that SIP intends to contact Meyer customers, including Sears in Illinois, to demand that they cease and desist selling products purchased from Meyer which allegedly infringe the European Patent as issued in the United States as the 603 Patent.

#### **JURISDICTION AND VENUE**

4. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a) and (b). This Court also has supplemental jurisdiction over the Illinois statutory and common law claims pursuant to 28 U.S.C. § 1367(a).

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and § 1400(b) because some of the facts and threats upon which this Complaint is based occurred in the Northern District of Illinois, Eastern Division. Moreover, as several of the witnesses to

whom the tortuous conduct was directed are located within the Northern District Eastern Division, venue is proper in this District.

### **BACKGROUND**

6. Meyer Corporation, U.S. is the United States distributor of various lines of pots and pans, including those which Defendants allege infringe the 603 Patent and receives commissions on certain of those pots and pans within its lines which are private labeled for specific manufacturers by Meyer Marketing. The owner/assignee of the 603 Patent allegedly is Defendant SIP. Meyer only became aware of this patent through demand letters from SIP which were sent to Meyer, Sears, QVC Handel, GMBH ("QVC") and QVC US.

7. SIP was the owner/assignee of EP 1,152,679, a former European Patent in which the claims asserted were identical to those set forth in the 603 Patent which is the subject of the instant litigation. That European Patent was revoked in December 2004 after a full evidentiary hearing before the European Patent Office. The two patents in question concern a cooking pan having a lid formed with straining holes and a fastening mechanism for securing the lid to a pan, all of which are derived from international patent application PCT/IT99/00042.

8. At all times material, Meyer has sold a range of pans having lids formed with straining holes, both individually and as parts of sets including the other conventional pans. Meyer sells its pans to various retailers, including Sears and QVC US, within the Northern District Eastern Division.

9. Until Meyer received a warning letter from SIP representatives in Italy, Meyer was unaware of any possible infringement of either of the patents referenced above. Indeed, but for the threatening correspondence, Meyer would not have had any knowledge regarding its alleged infringement of the two patents owned by SIP.

10. At the time it received the initial correspondence from SIP, the time for opposing EP 1,152,679 had not expired and in a timely fashion, Meyer Marketing filed an objection to the issuance of EP 1,152,679 with the European Patent Office.

**OPPOSITION TO THE EUROPEAN PATENT 1,152,679**

11. On July 22, 2003, Meyer Marketing filed a Notice of Opposition to a European Patent, No. 1152679 and application 99905185.7. The date of the mention of the grant in the European Patent Bulletin was October 23, 2002. The Opposition filed was directed to the patent as a whole and was based upon several different grounds. A true correct and accurate copy of the Notice of Opposition is attached hereto as Complaint Exhibit 1.

12. The facts on which the Opposition was based are as follows:

(a) European Patent 1152679B (the "European Patent") was initially granted on October 23, 2002 in the name of Societa Pentole S.p.A with the title "Pot having a Lid." The European Patent was granted on application number 99905185.7 which in turn was a European regional phase application derived from international patent application PCT/IT99/00042;

(b) The European Patent was filed on February 5, 1999 with no priority claim and was published on August 10, 2000 as WO 00/45687. An International preliminary examination was requested and the European Patent Office, acting as the international preliminary examination authority, issued the International Preliminary Examination Report ("IPER") dated February 27, 2001, together with amended claims submitted by SIP;

(c) The IPER was favorable, indicating that all the amended claims had both novelty and inventive steps. When the international application entered the European

regional phase, no further examination report issued;

(d) Meyer Marketing objected in writing to the favorable opinion and contended that the patent was issued in error and contended, *inter alia*, that the patent, as granted, lacked novelty and inventive steps.

13. The European Patent related to a type of pot or pan for cooking having a lid formed with straining holes. The presence of the straining holes in the lid allows water to be drained from the pot or pan (for example after cooking vegetables or pasta) without having to drain the vegetables or pasta through a colander or sieve, as a consequence of which the draining of water from the pot or pan can be accomplished safely without the risk of hot water spilling and possibly burning the hands or arms of a user. The European Patent comprises a single independent claim 1 and seven sub-claims 2 to 8.

14. In the Opposition proceedings before the European Patent Office, Meyer Marketing requested that the European Patent 1152679 be revoked in its entirety in accordance with Articles 100(a) and 100(b) of the European Patent Code ("EPC").

15. After the submission of evidence and argument, the Opposition Division at the oral proceedings on December 8, 2004 determined, pursuant to Article 100(a), that the subject matter of Claim 1 was not new, that the knob merely represented a normal design-alternative and was not therefore an inventive step. Accordingly, pursuant to Article 102, EPC European Patent 1152679 was revoked in its entirety.

16. Since that decision, the Defendants have continued to assert that, notwithstanding the revocation by the European Patent Office of the European Patent which contains the same claims as the 603 Patent, SIP has stated that it intends to threaten Meyer and its customers with patent infringement knowing full well that the now-revoked European Patent

is identical to the 603 Patent in all material reports and that accordingly, the 603 Patent, too, is invalid for the same reasons.

**COUNT I - DECLARATORY JUDGMENT**  
**THE U.S. PATENT 6,536,603 IS INVALID**

17. Meyer repeats and re-alleges paragraphs 1-16 above as paragraphs 1-16 of this Count I.

18. Meyer claims that under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, it is entitled to a declaratory judgment that the claim of the 603 Patent, which is alleged to be owned by SIP, is invalid for failure to comply with one or more of the provisions of Title 35 of the United States Code.

19. There is an ongoing dispute between the parties as to the validity of the 603 Patent such that declaratory relief is appropriate.

20. By reason of the Defendants' unfounded and baseless charges of potential patent infringement made against Meyer and its customers, including Sears in Illinois, Meyer is entitled to its reasonable attorney's fees incurred in connection with the prosecution of its declaratory judgment and injunctive actions.

**COUNT II – DECLARATORY JUDGMENT FOR NON-INFRINGEMENT**

21. Meyer repeats and re-alleges paragraphs 1-20 above as paragraphs 1-20 of this Count II.

22. Meyer has not sold or offered for sale any pots or pans with lids that infringe the 603 Patent.

23. This Count II for declaratory relief is made under and pursuant to the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, for declaratory judgment of non-infringement of the 603 Patent, which is allegedly owned by Defendant SIP.

24. Meyer is entitled to a judgment that it does not infringe any valid claim of the 603 Patent.

25. By reason of the Defendants' continued unfounded assertion that the 603 Patent is valid and that Meyer's products infringe the 603 Patent and the continued and unwarranted threats, Meyer believes that this is an exceptional case whereby the Court may properly award Meyer its reasonable attorney's fees incurred in having to bring this action for declaratory and injunctive relief.

### **COUNT III – INJUNCTIVE RELIEF**

26. Meyer repeats and re-alleges paragraphs 1-25 above as paragraphs 1-25 of this Count III.

27. Defendants knew that the validity of its patent was in question and disputed. Notwithstanding this uncertainty, and indeed in spite of it, Defendants circulated infringement notices to Meyer's customers.

28. Defendants continued to threaten Meyer and its customers after its European Patent was deemed invalid. For example, Defendant Pasquale stated as recently as March 23, 2005 that "Of course you will understand that we will have to take immediate action not only against yr [sic] company but also against all yr [sic] customers (QVC etc) as well as all other companies who were dealing in the past, are still dealing now and will deal in future with products infringing our patent."

29. Defendants' distribution of the infringement notices was done in bad faith, and should accordingly be enjoined.

**COUNT IV – ILLINOIS UNIFORM DECEPTIVE  
TRADE PRACTICES ACT**

30. Meyer repeats and re-alleges paragraphs 1-29 above as paragraphs 1-29 of this Count IV.

31. The acts of Defendants are intended to and are likely to cause confusion, mistake, misunderstanding or deception as to the integrity and source, origin, affiliation, sponsorship, connection or association of the SIP pasta pot with those pots and pans distributed and sold by Meyer. The clear intention of the Defendants is to create the impression among Meyer's customers that the Meyer products are merely infringing copies of SIP's patented pasta pans knowing at all times materials that the patents were invalid. As such, the conduct of the Defendants has been to attempt to deceive the market as to the origin of the Meyer products.

32. Defendant SIP has unfairly represented that its pot with lid is protected by a valid patent and has used such representations to chill Meyer's customers and to force them to refuse to purchase or continue selling Meyer products.

33. SIP has also disparaged Meyer's goods by falsely stating, in violation of 815 ILCS 510/2(8), that SIP had a valid patent.

34. SIP's conduct constitutes a deceptive trade practice and is a violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS § 510/1, *et seq.*, for which Meyer is entitled to damages in the amount established at trial.

35. SIP's actions were willful as evidenced by the continuation of the offending conduct after having its European Patent revoked by the European Patent Office. Since the claims asserted in the 603 Patent are identical to those asserted in the revoked European Patent, the 603 Patent lacks the novelty and inventive steps required to sustain its validity. As the claims contained within the two patents are identical, the Defendants knew, or



should have known, that there was no basis in fact to threaten anyone or any entity with a claim of infringement over the 603 Patent or to direct them to stop any sales, promotion, marketing or display of the Meyer products immediately.

**COUNT V – ILLINOIS CONSUMER FRAUD AND  
DECEPTIVE BUSINESS PRACTICES ACT**

36. Meyer repeats and re-alleges paragraphs 1-35 above as paragraphs 1-35 of this Count IV.

37. The acts of the Defendants described above constitute deceptive trade practices under the Illinois Uniform Deceptive Trade Practices Act.

38. The use or employment of any practice constituting a deceptive trade practice under the Uniform Deceptive Trade Practices Act also constitutes a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1, *et seq.*

39. The Defendants' actions therefore constitute a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act.

40. Meyer has suffered pecuniary injury as a direct consequence of the violations by the Defendants described above.

**COUNT VI – COMMON LAW UNFAIR COMPETITION**

41. Meyer repeats and re-alleges paragraphs 1-40 above as paragraphs 1-40 of Count V.

42. The conduct of the Defendants was intended to and is likely to confuse retail sellers and prospective purchasers as to the validity of the Meyer products and the integrity of Meyer as an ethical distributor of quality cookware products, such that their conduct constitutes unfair competition under the common law of the state of Illinois.

**COUNT VII - COMMON LAW DEFAMATION**

43. Meyer repeats and re-alleges paragraphs 1-42 above as paragraphs 1-42 of the Count VI.

44. On several occasions, Defendants have written to Sears and QVC and perhaps others threatening these Meyer customers with patent infringement litigation if they did not cease selling Meyer products which infringed the 603 Patent, and falsely alleging that Meyer was infringing the 603 Patent.

45. At the time the letters were written, Defendants knew that the patent upon which they relied was under attack in Europe and that if the opposition was successful, the representations made would be untrue and that there would be no bona fide legal basis upon which to direct any customer of Meyer to cease selling Meyer pots and pans. Notwithstanding, Defendants failed to advise Sears and QVC that Meyer Marketing had filed a Notice of Opposition and was vigorously opposing the issuance of any patent because the Defendants' device lacked novelty or any inventive step.

46. By disparaging Meyer's products and the integrity of the company, by failing to communicate the Opposition of Meyer to the European Patent to the Meyer customers, and by refusing to advise those who had been informed of allegedly infringing conduct by Meyer of the revocation of the European Patent, the Defendants intentionally defamed Meyer, questioned its commercial integrity, and maliciously ignored the fact that Meyer disputed the invalidity of the Defendants' patents and was successful in causing the revocation of the European Patent. At all times material, the Defendants knew that Meyer was challenging the very patents upon which the Defendants relied in communicating with Meyer's customers and as such, the Defendants had a duty to be complete and accurate in any communication with Meyer's customers.

47. The Defendants' communications were intended to harm Meyer in its business relationships with Sears and QVC and any other account to which Defendants sent false, misleading and incomplete cease and desist letters.

48. At no time subsequent to the issuance of the opinion revoking the European Patent have Defendants advised any Meyer customer that the claims upon which the 603 Patent is based were found to be invalid by the European Patent Office or that they were withdrawing their cease and desist demands. The actions of the Defendants towards Meyer's customers were taken knowingly, intentionally and maliciously with the intent of causing Meyer pecuniary injury and loss of reputation.

49. SIP's actions were willful, as evidenced by the continuation of the offending conduct even after having its European Patent revoked. Since the 603 Patent contains claims which are identical to the revoked European Patent, the 603 Patent is devoid of the novelty and inventive steps required and as a consequence, the Defendants knew, or should have known, that there was no basis in fact to threaten anyone or any entity with a claim of infringement over the 603 Patent or to direct them to immediately stop any sales, marketing, promotion or display of the Meyer pots and pans.

50. By reason of Defendants' continued unfounded assertions that the 603 Patent is valid and its continued threatening of Meyer's customers in the United States, this is an exceptional case whereby the Court may properly award Meyer its reasonable attorney's fees incurred in having to bring this action for declaratory and other relief.

51. SIP's actions are willful and intentional and done with actual malice, therefore entitling Meyer to punitive damages.

WHEREFORE, MEYER RESPECTFULLY PRAYS FOR THE FOLLOWING:

- A. Adjudge and decree that the 603 Patent is invalid in its entirety;
- B. Adjudge and decree that even if the 603 Patent is valid, the Meyer products do not infringe;
- C. Adjudge and decree that SIP has unfairly competed with Meyer with respect to the parties' self-draining pots;
- D. Enter a preliminary and permanent injunction prohibiting the Defendants and any of their representatives from making any further threats or demands of Meyer's customers regarding the selling of Meyer products on the ground that they infringe Defendants' patent;
- E. Award in addition to compensatory damages, punitive damages in an amount which is sufficient to punish Defendants for their malicious, intentional conduct which Meyer believes is no less than 5 million U.S. dollars; and
- F. Award Meyer its reasonable attorney's fees and costs and such other and further relief as this Court may deem just and proper.

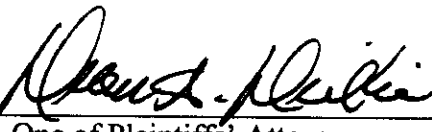
PLAINTIFFS DEMAND TRIAL BY JURY.

Dated: March 30, 2005

Respectfully submitted,

MEYER CORPORATION, U.S. and MEYER  
MARKETING (Macau Commercial Offshore)  
CO. LTD.

By:



One of Plaintiffs' Attorneys

Dean A. Dickie, Esq.  
Kristen E. Hudson, Esq.  
DYKEMA GOSSETT ROOKS PITTS PLLC  
10 South Wacker Drive - Suite 2300  
Chicago, IL 60606  
(312) 876-1700




# Notice of Opposition to a European Patent

To the  
European Patent Office

|  |  |   |                |
|--|--|---|----------------|
| I. Patent opposed  |  | for EPO use only  |                |
| Patent No.   |  | Opp. No.  | OPPO (1)       |
| Application No.  |  | 1152679   |                |
| Date of mention of the grant in the European Patent Bulletin<br>(Art. 97(4), 89(1) EPC)          |  | 99905185.7  |                |
|  |  | 23.10.2002  |                |
| Title of the invention:<br><b>POT HAVING A LID</b>   |  |   |                |
| II. Proprietor of the Patent   |  | SOCIETA ITALIANA PENTOLE SPA  |                |
| first named in the patent specification  |  |   |                |
| III. Opponent  |  | Opponent's or representative's reference (max. 15 spaces)   | SH/M10029      |
|  |  |   | OREF           |
| Name   |  | OPPO (2)  |                |
| Address  |  | MEYER MARKETING (MACAU COMMERCAL OFFSHORE) CO LTD<br>LUSO INTERNATIONAL BUILDING<br>1003 RUA DR PEDRO JOSE LOBO<br>MACAU<br>CHINA |                |
| State of residence or of principal place of business   |  |   |                |
| Telephone/Telex/Fax  |  |   |                |
| Multiple opponents   |  | <input type="checkbox"/> further opponents see additional sheet   |                |
| IV. Authorisation  |  |   |                |
| 1. Representative<br>(Name only one representative to whom notification is to be made)           |  | OPPO (9)  |                |
| Name   |  | STEVEN HOWE   |                |
| Address of place of business   |  | LLOYD WISE<br>COMMONWEALTH HOUSE<br>1-19 NEW OXFORD STREET<br>LONDON WC1A 1LW<br>UNITED KINGDOM                                   |                |
| Telephone/Telex/Fax  |  | +44 2075716200  | +44 2075716250 |
| Additional representative(s)   |  | <input checked="" type="checkbox"/> (on additional sheet/see authorisation)   | OPPO (5)       |
| 2. Employee(s) of the opponent authorised for these opposition proceedings under Art. 133(3) EPC |  | Name(s):  |                |
| Authorisation(s)   |  | <input checked="" type="checkbox"/> not considered necessary  |                |
| To 1./2.   |  | <input type="checkbox"/> has/have been registered under No.   |                |
|  |  | <input type="checkbox"/> is/are enclosed  |                |

|   |                                     |
|---|-------------------------------------|
| <p><b>V. Opposition is filed against</b></p> <p>— the patent as a whole <input checked="" type="checkbox"/></p> <p>— claim(s) No(s): <input type="text"/></p>   | <p>for EPO use only</p>             |
| <p><b>VI. Grounds for opposition:</b></p> <p>Opposition is based on the following grounds:</p> <p>(a) the subject-matter of the European patent opposed is not patentable (Art. 100(a) EPC) because:</p> <p>— it is not new (Art. 52(1); 54 EPC) <input checked="" type="checkbox"/></p> <p>— It does not involve an inventive step (Art. 52(1); 56 EPC) <input checked="" type="checkbox"/></p> <p>— patentability is excluded on other grounds, i. e. <input type="text" value="Art."/></p> <p>(b) the patent opposed does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Art. 100(b) EPC; see Art. 83 EPC). <input checked="" type="checkbox"/></p> <p>(c) the subject-matter of the patent opposed extends beyond the content of the application/ of the earlier application as filed (Art. 100(c) EPC; see Art. 123(2) EPC). <input type="checkbox"/></p> |                                     |
| <p><b>VII. Facts and arguments</b><br/>(Rule 55(c) EPC)<br/>presented in support of the opposition are submitted herewith on a separate sheet (annex 1)</p>   | <input checked="" type="checkbox"/> |
| <p><b>VIII. Other requests:</b></p> <p>IN THE EVENT THAT THE OPPOSITION DIVISION IS MINDED TO UPHOLD THE PATENT IN ITS CURRENT OR ANY AMENDED FORM, ORAL PROCEEDINGS ARE HEREBY REQUESTED.</p> <p>IN THE EVENT THAT ORAL PROCEEDINGS ARE APPOINTED AT THE REQUEST OF THE PROPRIETOR, IT IS REQUESTED THAT THE OPPONENT BE ADVISED OF THIS AND GIVEN THE OPPORTUNITY TO ATTEND THE ORAL PROCEEDINGS.</p>   |                                     |

| <b>IX. Evidence presented</b><br><br>Enclosed <input checked="" type="checkbox"/><br>will be filed at a later date <input type="checkbox"/>                                    | for EPO use only |
|--|------------------|
| <b>A. Publications:</b>  | Publication date |
| 1 US 1997509 (D1)<br><br>Particular relevance (page, column, line, fig.):  |                  |
| 2 GB231024 (D2)<br><br>Particular relevance (page, column, line, fig.):  |                  |
| 3 GB 304971 (D3)<br><br>Particular relevance (page, column, line, fig.):   |                  |
| 4 US 3065855 (D4)<br><br>Particular relevance (page, column, line, fig.):  |                  |
| 5 US 2541094 (D5)<br><br>Particular relevance (page, column, line, fig.):  |                  |
| 6 US 1328558 (D6)<br><br>Particular relevance (page, column, line, fig.):  |                  |
| 7<br><br>Particular relevance (page, column, line, fig.):  |                  |
| Continued on additional sheet <input type="checkbox"/>   |                  |
| <b>B. Other evidence</b><br><br>LETTER IN REPLY TO THE WRITTEN OPINION IN RESPECT OF WO 00/45687<br><br>INTERNATIONAL PRELIMINARY EXAMINATION REPORT IN RESPECT OF WO 00/45687 |                  |
| Continued on additional sheet <input type="checkbox"/>   |                  |

| <p><b>X. Payment of the opposition fee is made</b></p> <p><input checked="" type="checkbox"/> as indicated in the enclosed voucher for payment of fees and costs (EPO Form 1010)</p> <p><input type="checkbox"/></p>   | <p>for EPO use only</p>  |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
|--|--|---------------|---|--|--|--|---|--|---|--|--|--|--|---|--|---|-----------------------------------|---|---|--|---|---|--|
| <p><b>XI. List of documents</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; font-size: small;">Enclosure No</th> <th style="text-align: left; font-size: small;">No. of copies</th> </tr> </thead> <tbody> <tr> <td>0 <input checked="" type="checkbox"/> Form for notice of opposition</td> <td style="text-align: center;"><input style="width: 40px;" type="text" value="2"/> (min. 2)</td> </tr> <tr> <td>1 <input checked="" type="checkbox"/> Facts and arguments (see VII.)</td> <td style="text-align: center;"><input style="width: 40px;" type="text" value="2"/> (min. 2)</td> </tr> <tr> <td>2 Copies of documents presented as evidence (see IX.)</td> <td></td> </tr> <tr> <td>2a <input checked="" type="checkbox"/> — Publications</td> <td style="text-align: center;"><input style="width: 40px;" type="text" value="2"/> (min. 2 of each)</td> </tr> <tr> <td>2b <input checked="" type="checkbox"/> — Other documents</td> <td style="text-align: center;"><input style="width: 40px;" type="text" value="2"/> (min. 2 of each)</td> </tr> <tr> <td>3 <input type="checkbox"/> Signed authorisation(s) (see IV.)</td> <td style="text-align: center;"><input style="width: 40px;" type="text"/></td> </tr> <tr> <td>4 <input checked="" type="checkbox"/> Voucher for payment of fees and costs (see X.)</td> <td style="text-align: center;"><input style="width: 40px;" type="text" value="1"/></td> </tr> <tr> <td>5 <input type="checkbox"/> Cheque</td> <td style="text-align: center;"><input style="width: 40px;" type="text"/></td> </tr> <tr> <td>6 <input checked="" type="checkbox"/> Additional sheet(s)</td> <td style="text-align: center;"><input style="width: 40px;" type="text" value="2"/> (min. 2 of each)</td> </tr> <tr> <td>7 <input type="checkbox"/> Other (please specify here):</td> <td style="text-align: center;"><input style="width: 40px;" type="text"/></td> </tr> </tbody> </table> | Enclosure No   | No. of copies | 0 <input checked="" type="checkbox"/> Form for notice of opposition | <input style="width: 40px;" type="text" value="2"/> (min. 2) | 1 <input checked="" type="checkbox"/> Facts and arguments (see VII.) | <input style="width: 40px;" type="text" value="2"/> (min. 2) | 2 Copies of documents presented as evidence (see IX.) |  | 2a <input checked="" type="checkbox"/> — Publications | <input style="width: 40px;" type="text" value="2"/> (min. 2 of each) | 2b <input checked="" type="checkbox"/> — Other documents | <input style="width: 40px;" type="text" value="2"/> (min. 2 of each) | 3 <input type="checkbox"/> Signed authorisation(s) (see IV.) | <input style="width: 40px;" type="text"/> | 4 <input checked="" type="checkbox"/> Voucher for payment of fees and costs (see X.) | <input style="width: 40px;" type="text" value="1"/> | 5 <input type="checkbox"/> Cheque | <input style="width: 40px;" type="text"/> | 6 <input checked="" type="checkbox"/> Additional sheet(s) | <input style="width: 40px;" type="text" value="2"/> (min. 2 of each) | 7 <input type="checkbox"/> Other (please specify here): | <input style="width: 40px;" type="text"/> |  |
| Enclosure No   | No. of copies  |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 0 <input checked="" type="checkbox"/> Form for notice of opposition  | <input style="width: 40px;" type="text" value="2"/> (min. 2)         |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 1 <input checked="" type="checkbox"/> Facts and arguments (see VII.)   | <input style="width: 40px;" type="text" value="2"/> (min. 2)         |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 2 Copies of documents presented as evidence (see IX.)  |  |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 2a <input checked="" type="checkbox"/> — Publications  | <input style="width: 40px;" type="text" value="2"/> (min. 2 of each) |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 2b <input checked="" type="checkbox"/> — Other documents   | <input style="width: 40px;" type="text" value="2"/> (min. 2 of each) |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 3 <input type="checkbox"/> Signed authorisation(s) (see IV.)   | <input style="width: 40px;" type="text"/>                            |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 4 <input checked="" type="checkbox"/> Voucher for payment of fees and costs (see X.)   | <input style="width: 40px;" type="text" value="1"/>                  |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 5 <input type="checkbox"/> Cheque  | <input style="width: 40px;" type="text"/>                            |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 6 <input checked="" type="checkbox"/> Additional sheet(s)  | <input style="width: 40px;" type="text" value="2"/> (min. 2 of each) |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| 7 <input type="checkbox"/> Other (please specify here):  | <input style="width: 40px;" type="text"/>                            |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |
| <p><b>XII. Signature of opponent or representative</b></p> <p>Place: LONDON</p> <p>Date: 22 JULY 2003</p> <div style="text-align: center; margin-top: 20px;">  </div> <p>STEVEN HOWE, PROFESSIONAL REPRESENTATIVE</p> <p style="font-size: x-small; margin-top: 10px;">Please type name under signature. In the case of legal persons, the position which the person signing holds within the company should also be typed.</p>   |  |               |   |  |  |  |   |  |   |  |  |  |  |   |  |   |                                   |   |   |  |   |   |  |



GROUNDS OF OPPOSITION against  
EP 1152679B in the name of  
SOCIETA ITALIANA PENTOLE S.p.A.

Background

1. European patent 1152679B ("the patent") was granted on October 23 2002 in the name of Società Italiana Pentole S.p.A with the title "Pot Having a Lid". The patent was granted on application number 99905185.7 which in turn was a European regional phase application derived from international patent application PCT/IT99/00042.
2. PCT/IT99/00042 was filed on 5 February 1999 with no priority claim. PCT/IT99/00042 was published on 10 August 2000 as WO00/45687. International preliminary examination was requested and the European Patent Office acting as the international preliminary examination authority issued the International Preliminary Examination Report (IPER) dated February 27 2001 together with amended claims submitted by the Applicant.
3. The IPER was favourable indicating that all the amended claims had both novelty and inventive step. When the international application entered the European regional phase no further examination report issued.
4. We consider that the favourable opinion expressed in the IPER was in error and that the claims of the patent as granted lack novelty (Article 54 EPC) over US 1997509 (D1) and GB 231024 (D2) and/or lacks inventive step (Article 56 EPC) over D1 and D2 together with GB 304971, US 3065855, US 2541094 and US 1328558. We further submit that in addition or in the alternative the patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Article 83), in particular with regard to the shape of the top of the lid required to produce an allegedly inventive effect.

The patent

5. The patent relates to a type of pot or pan for cooking having a lid formed with straining holes. The presence of the straining holes in the lid allows water to be drained from the pot or pan (for example after cooking vegetables or pasta) without having to drain the vegetables through a colander or sieve, as a consequence of which the draining of water from the pot or pan can be accomplished safely without the risk of hot water spilling and possibly burning the hands or arms of a user. The patent comprises eight claims: a single independent claim 1 and seven sub-claims 2 to 8.

Claim 1

6. Claim 1 of the granted patent reads:  
"A pot having a lid for cooking and draining food, comprising a lid (2) having:  
- an outer convex top (20), with a central knob (21), which is dome-shaped and perforated by a plurality of through apertures (25,26) in one sector thereof, extending within one half of said top (20);  
- an edge (22) and a leaning swell (23) for leaning onto an upper brim (10) of the pot (1), which extends with a cylindrical band (24) for the reciprocal sliding coupling of the lid (2) with a mouth (11) of the pot (1), said cylindrical band (24) having an outer diameter smaller than the inner diameter of the mouth (11) so as to accomplish a substantially airtight coupling when one is inserted into the other;  
and provided with releasable engagement means for the fast locking of said lid (2) on said pot at said cylindrical band (24) of the lid (2) and in said mouth (11).
7. Claim 1 lacks novelty and/or inventive step in view of at least US 1997509 (D1) and GB 231024 (D2). In the alternative the invention claimed in claim 1

is not sufficiently described in the specification contrary to the requirements of Article 83 EPC.

8. D1 describes a pan having a lid 2 formed with straining holes (see for example column 1 lines 1 to 10). The straining holes 3 are formed within a zone 3a corresponding to the "sector" of claim 1 and zone 3a is clearly within one half of the top of the lid 2 as can be seen from Fig.2 of D1. The lid 2 has a centrally located handle 18. The lid 2 is formed at its outer periphery with a curved downturned edge portion 4 shown in Figs.1 and 3 of D1. It should also be noted that the zone 3a containing the straining holes 3 extends radially as far as the edge of the lid and in particular that the downturned edge portion 4 includes straining holes 3 (see Fig.3). We will return to a discussion of the shape of the lid below. The lid 2 is also formed with "an outwardly expressed circumferential bead 7" (column 2 lines 34 to 36 and Figs.1 and 3) "which rests upon the upper edge of the saucepan when the lid is operatively applied" (column 2 lines 36 to 38) which is clearly identical to the requirement of claim 1 of the patent that the lid have "an edge and a leaning swell for leaning onto an upper brim of the pot".
9. In D1 the downturned peripheral edge portion 4 of the lid 2 ends with a "circumferential lip 8" that is received within the mouth of the pan as can be seen from Figs.1 and 3. It is apparent from the figures of D1 that this "circumferential lip 8" is identical to the "cylindrical band 24" of the patent and is capable of the reciprocal sliding coupling of the lid 2 in the pan 6. It is apparent from Figs.1 and 3 that the "circumferential lip 8" has an outer diameter smaller than the inner diameter of the mouth of the pan. We will discuss below the requirement that the coupling of the lid and the pan be "substantially airtight".
10. D1 is provided with means for securing the lid 2 to the pan 6. This is best seen from Fig.1 of D1. As stated at column 2 lines 48 to 55 pins or rivets 13 extend

inwardly from the wall 12 of the pan. These pins or rivets engage in a "bayonet-type" manner slots 9,9a formed in the circumferential lip 8. This structure clearly provides the "releasable engagement means" required by claim 1 of the patent.

11. Claim 1 of the patent requires that the lid have "an outer convex top....which is dome-shaped". The precise meaning of this requirement is not completely clear. To begin with it is unclear as to whether the patentee considers "convex" and "dome-shaped" to be separate requirements. Little guidance can be obtained from the description as the only discussion of this feature is at column 4 lines 16 to 18 where it is stated that "the lid top 20 of the lid is dome-shaped, i.e. it is provided with a (*sic*) evident outer convexity. A dictionary definition of "dome" is "a hemispherical roof or vault" or "something shaped like [a hemispherical roof or vault]" (Collins Concise Dictionary 3<sup>rd</sup> Edition 1992). The lid top in the patent is certainly not hemispherical and it is not apparent therefore that the dictionary definition applies. No precise definition is given in the patent as to precisely what is meant by the term "top" of the lid. The patent implies, however, that the top is simply that part of the lid within the edge at which is provided the leaning swell. See for example column 4 lines 3 and 4.
12. Given that the lid of the patent does not meet the dictionary definition of "dome-shaped", and in view of the disclosure at column 4 lines 16 to 18 one concludes that "dome-shaped" can add little of patentable weight to simply "convex". The lid 2 of D1 is clearly convex because of the manner in which the downturned portions 4 of the lid lead between the central portion of the lid 2 and the circumferential lip 8. We would also observe that in D1 the lid 2 rises above the plane of the mouth of the pan defined by the top of the sidewall 12. We would submit that the lid 2 of D1 has an "evident outer convexity" and meets the requirement of claim 1 of the patent that the top of the lid be "convex" and "dome-shaped".

13. In the alternative should the Opposition Division consider that the top of lid 2 in D1 is not "convex" and "dome-shaped", then we would submit that claim 1 lacks inventive step since the shape of the lid is a simple matter of design choice. Convex and dome-shaped lids are widely known in the saucepan art as would be evidenced, for example, by GB 231024 (D2), GB 304971 (D3), US 3065855 (D4), US 2541094 (D5), and US 1328558 (D6). There can be no inventive step in simply selecting one particular shape for the lid.
14. If the patentee wishes to argue that there is an inventive step in the particular shape of the lid, then we would further submit that the patent is invalid because there is insufficient disclosure regarding the shape of the lid. We will return to this point below.
15. Claim 1 of the patent also requires a "substantially airtight" coupling between the cylindrical band of the lid and the mouth of the pot. There is no explicit statement in D1 that the circumferential lip 8 couples in a "substantially airtight" manner with the mouth of the pan, but we would observe that in the sectional view of Fig.3 the circumferential lip 8 is shown in contact with the wall 12 with no gap therebetween and thus there can be considered to be a "substantially airtight" coupling. It should be noted here that there is no discussion in the description of the patent of this feature beyond the statement at column 4 lines 13 to 15 that "The band 24 and the mouth 11 accomplish a substantially airtight coupling when one is inserted into the other". In particular, the patent contains no guidance as to just how airtight the coupling has to be to be "substantially" airtight.
16. We would also observe that it is commonplace in the art of saucepans for the lid to be quite tightly fitted into the mouth of the pan. The function of the lid when applied during cooking is to retain heat and steam within the pan, other than that which might be allowed to escape through specially provided vents

and steam holes, and this function would be negated if heat and steam could escape from between the wall of the pan and the lid and thus it would be reasonable to characterize all saucepan lids of being capable of fitting in a substantially airtight manner. Therefore although we consider that the disclosure in particular of Fig.3 of D1 shows that the lid of D1 couples in a substantially airtight manner to the mouth of the pan, should the Opposition Division disagree we would consider that claim 1 lacks inventive step contrary to Article 56 EPC on the basis that it is common practice in the saucepan art for the lid to engage the pan in a "substantially airtight" manner.

17. We will return to the "substantially airtight" requirement in our discussion below of claim 1 with regard to sufficiency.
18. In summary we consider that claim 1 lacks novelty over D1. In the alternative we consider that claim 1 lacks inventive step in view of the combination of D1 with D2 to D6 and common general knowledge and practice in the art.
19. We also submit that claim 1 lacks novelty over D2. D2 discloses a saucepan *a* having a lid *b*. The lid *b* is convex and dome-shaped as can be seen from Fig.1 of D2. The lid *b* has a handle *c* at its center. The lid has a plurality of apertures *d* for allowing water to be drained therethrough. These apertures *d* are provided in one sector only of the lid and are within one half of the top of the lid. Although not explicitly described in the text of D2 the circumferential periphery of the lid *b* has a projection when the lid is fitted to the saucepan *a* would rest on the upper edge of the saucepan wall and would thus be directly equivalent to the "leaning swell" of claim 1. Below that circumferentially projecting edge, and also clearly seen in Fig.1 of D2, is a cylindrical band that has a diameter smaller than the diameter of the mouth and couples within the mouth of the saucepan *a*.

20. D2 discloses releasable engagement means for locking the lid *b* to the saucepan *a* formed of diametrically opposed pins *n* on the lid that engage corresponding slots *o* formed at opposed locations on the top of the sidewall of the saucepan *a*. Although there is no explicit disclosure in D2 that the lid couple in a "substantially airtight" manner, Figs.2 and 3 show no gap between the lid and the wall and it is reasonable to characterize this coupling as being substantially airtight. We would observe that any significant gap between the lid and the wall of the saucepan would negate both the normal function of the lid when cooking by allowing steam and heat to escape, and would also negate the straining functions of the apertures *d* because liquid would simply drain between the wall of the saucepan and the lid. Although the wall of the saucepan *a* in D2 does include a notch *m* (which is for allowing operation of a mechanism that allows the apertures *d* to be opened and closed), this is only a small notch in one specific location. There is still a substantially airtight coupling around the remainder of the saucepan and lid, and furthermore note that claim 1 only requires a "substantially" airtight coupling.
21. In the alternative, if the Opposition Division were to conclude that the notch *m* precludes the coupling from being substantially airtight in D2, then we would submit that claim 1 lacks inventive step over D2. As mentioned above the purpose of the notch *m* is to allow operation (through lug *j*) of a mechanism that allows the apertures *d* to be opened and closed. A skilled man would understand that this opening and closing mechanism is only an optional feature and that the saucepan of D2 could readily be modified to exclude that opening and closing mechanism. If the opening and closing mechanism were excluded from the saucepan of D2 the notch *m* would not be present (as in D1).
22. We would also submit that the invention claimed in claim 1 of the patent is not sufficiently clearly and completely described to enable a skilled man to put the invention into practice contrary to the requirement of Article 83 EPC.

This applies in particular to the requirements of claim 1 concerning the shape of the lid, as well as the substantially airtight coupling between the lid and the mouth of the pot. A further summary of the prosecution history of the patent will assist in the understanding of this ground for opposition.

23. Claim 1 of the international application as filed read as follows: "A pot having a lid for cooking food, comprising a lid (2) of the kind having an outer convex top (20) with a central knob (21), an edge (22) and a leaning swell (23) for leaning onto an upper brim (10) of the pot (1), which extends with a cylindrical band (24) for the coupling to slidingly couple a mouth (11) of the pot (1) characterized in that said top (20) of the lid (2) is dome-shaped and perforated by a plurality of through apertures (25,26) in one sector thereof, extending within one half of said top (20); releasable engagement means being provided for the fast locking of said lid (2) on said pot (1) at said cylindrical band (24) of the lid (2) and in said mouth (11)."
24. The International Search Report cited against the application D1, D2, D3 and D6 of this Opposition together with US 5730045. In response to the Written Opinion in the international preliminary examination, the representatives for the patentee submitted amended claims with a covering letter dated January 19 2001. The primary amendment made at this stage was to introduce the "substantially airtight" feature, and claim 1 as amended by the patentee at this stage corresponds to claim 1 in the patent. The patentee also submitted arguments distinguishing the amended claim 1 from the prior art cited in the search report. From this letter and the subsequent international preliminary examination report (IPER) a number of observations can be taken many of which relate back to the novelty and inventive step objections set out above, but which also demonstrate that the claimed invention is insufficiently described in the patent.



25. The letter of January 19 2001 puts forward a number of arguments as to why the amended claim was distinguished over the prior art in the search report. Since two of those documents are D1 and D2 in this Opposition it is worth reviewing those comments.
26. With regard to D1 in this Opposition (which was D3 in the letter of January 19 2001), the patentee stated "the lid of [D1] is completely flat". This is quite clearly incorrect. Although the central part of the lid of D1 may be flat, the lid has a circumferential rounded downturned portion that merges with the circumferential lip. This downturned portion includes some of the straining holes. It is difficult to see how the lid of D1 can be characterized as "completely flat".
27. With regard to D2 in this Opposition (also D2 in the letter of January 19 2001) the patentee stated "D2 discloses a lid without any leaning swell". We do not agree with this characterisation and believe that the circumferential projection shown in Fig.1 is equivalent to a leaning swell. The patentee also refers to the slots *o* which mean that the lid/pan coupling cannot be completely airtight. But the claim only calls for the coupling to be substantially airtight. Furthermore in the letter of January 19 2001 the patentee acknowledges that D1 (D3 in the letter) could teach modifying D2 to avoid such a perforation. This statement also implies that the patentee would acknowledge that D1 has a substantially airtight coupling.
28. In the letter of June 19 2001 the patentee also made some general comments on inventive step, including in particular the following: "While the prior devices shown (*sic*) locking means which can retain the lid attached to pot (*sic*) in opposition to the water weight, the claimed subject-matter provides a pot and lid assembly wherein the weight of the water increases the securing force which bonds the lid to the pot. As a matter of fact, the presence of a leaning swell (23) and of a dome shaped top (20) produces a wall, receiving

the weight of the water, which is inclined and raised with respect to the plane identified by the rim (10) of the mouth (11) of the pot. Consequently, the lid body is subject to a torque according to a rotation axis coinciding with the axis around which the pot is overturned, ie the axis perpendicular to the drawing sheet of figure 4 of the present application. This torque forces and presses the edges of the cylindrical band (24) against the inner surface of the wall of the pot, producing a force opposing to the weight of the water in addition to that produced by the locking means."

29. This argument appears to have been accepted by the international preliminary examiner since the IPER concludes that the claims have both novelty and inventive step and includes the following statement: "Thanks to the combination of the dome shape of the lid with the particular configuration of its closing edge (a leaning swell with a cylindrical flange which is pressed in an airtight manner against the inside wall of the pot), the lid body is subjected to a torque when the pot is overturned due to the liquid pressure on it. This torque produces a force opposing the weight of the water and thus enhancing the locking effect between the pot and the lid."
30. The patentee appears to have argued (and this has been accepted by the examiner responsible for the international preliminary examination) that there is a synergistic effect between the "dome-shape" of the lid, the leaning swell, and the cylindrical band coupling in a "substantially airtight" manner with the wall of the pot. It should be noted, however, that there is no discussion whatsoever in the specification of the patent of this synergistic effect. Furthermore, if such a synergistic effect does exist the same effect would also exist in D1. D1 discloses a dome-shaped convex lid (as far as the meaning of that term can best be understood), a circumferential bead 7 that clearly functions as a leaning swell, and a circumferential lip 8 that corresponds to the "cylindrical band" of the claim and which slidingly couples in an airtight manner in the mouth of the pot. It should also be noted that the downturned

portion 4 of the lid of D1 provides "a wall, receiving the weight of water, which is inclined and raised with respect to the plane identified by the rim of the mouth of the pot." (as mentioned in the patentee's letter of January 19 2001 in reply to the Written Opinion).

31. If the patentee were to contend that the difference between claim 1 of the patent and D1 lies in the precise shape of the lid, then we would submit that there is insufficient disclosure in the patent for a skilled reader to understand precisely what shape the lid has to be to obtain the synergistic effect. The lid in D1 is convex. If "dome-shaped" means simply convex (as is implied at column 4 lines 16 to 18) then the lid in D1 is also dome-shaped. If "dome-shaped" means something other than convex then this is not described in the specification, and if the particular shape of the lid is critical to achieving the object of the claimed invention, then it must be described sufficiently clearly to meet the requirements of Article 83 EPC. Since the meaning of "dome-shaped" is not described in any detail in the specification, then the patent is invalid because of insufficient disclosure contrary to Article 83 EPC.
  
32. If the alleged synergistic effect does exist then the same effect would also exist in D2 which includes a dome-shaped lid, a circumferential projection that although not described evidently functions as a leaning swell, and although not described also clearly includes a cylindrical band. The lid of D2 is clearly convex and dome-shaped and would provide "a wall, receiving the weight of water, which is inclined and raised with respect to the plane identified by the rim of the mouth of the pot.". In the letter of January 19 2001 the patentee stated that in D2 the lid "is only slightly dome-shaped", but the claim makes no reference to the degree of the dome-shape, and there is no disclosure in the specification that would provide any teaching to a skilled man of how pronouncedly "dome-shaped" the lid has to be to meet the objectives of the alleged invention.

33. The only conceivable difference between claim 1 of the patent and D2 lies in the question of whether the lid slidingly couples into the mouth of the pot in a "substantially airtight" manner in view of the notch *m*. As stated above we would submit that there is still a "substantially" airtight coupling, but if the Opposition Division disagrees and if the patentee argues that the particular degree to which the coupling is "airtight" is important in obtaining the synergistic effect described, then we would submit that there is insufficient disclosure in the specification of this feature. There is nothing in the description that tells a skilled man precisely how airtight the coupling must be to achieve the desired effect and how airtight is "substantially" airtight. The patent is therefore invalid as being contrary to Article 83 EPC.

Claim 2

34. Claim 2 of the patent further defines the "releasable engagement means" as being of a bayonet-type with inner projections on the mouth of the pot engaging corresponding "opposed grooved recesses" formed in the cylindrical band.
35. D1 discloses "diametrically opposite inward projections which may be constituted by pins or rivets 13" (column 2 lines 48 to 51) which engage in slots 9, 9a formed in the circumferential lip 8. We would therefore submit that claim 2 lacks novelty over D1. If the Opposition Division or patentee were to consider that there is a difference between a "slot" as taught by D1 and a "grooved recess" as required by claim 2, then we would submit that these are clear functional equivalents and that claim 2 lacks inventive step. There is certainly no description in the patent of there being any particular significance in the use of grooved recesses.
36. Claim 2 also lacks inventive step in view of the combination of D1 and D2. Insofar as claim 1 is invalid for lack of novelty and/or inventive step over D2

as described above, claim 2 further lacks inventive step. The difference between D2 and claim 2 is that in D2 the position of the projections is reversed in that instead of extending inwardly from the mouth of the pot, they (see bayonet lugs *n*) extend outwardly from the cylindrical band of the lid and engage in notches *o*. This is clearly functionally equivalent, and furthermore D1 would teach a skilled reader that D2 could be modified by reversing the arrangement of the lugs and notches so that the lugs *n* extended inwardly from the mouth of the pot.

Claim 3

37. Claim 3 requires that the projections are “formed by punching”. D1 discloses the possibility that the projections may be formed by “localized inward expressions of the wall” of the pot, ie by punching inwardly the wall of the pot. See column 2 lines 51 and 52 of D1. Claim 3 therefore lacks novelty over D1 and/or inventive step over the combination of D1 and D2.

Claim 4

38. Claim 4 requires that the projections “consist of a pair of opposed pins inserted in said mouth”. This feature is disclosed in D1 which describes the use of “pins or rivets 13” in the side wall 12 of the saucepan. See column 2 lines 47 to 50 of D1 and see also Figs.1, 2 and 6. D2 also discloses the use of pins (page 1 lines 51 to 55 of D2) albeit in the functionally equivalent alternative of providing the pins on the cylindrical band of the lid. Claim 4 therefore lacks novelty over D1 and/or inventive step over the combination of D1 and D2.

Claim 5

39. Claim 5 requires that the releasable engagement means is a screw-type fastening between the lid and the pot. The use of a screwthread to attach a lid

to a container or utensil is a trivial and very well-known alternative and therefore claim 5 lacks inventive step over D1 and D2 either alone together with common general knowledge or in combination.

Claim 6

40. Claim 6 requires that the apertures of claim 1 are "holes". It is not immediately apparent what further limitation this makes to claim 1, but if the claim is attempting to cover the possibility that the apertures are circular, then it should be noted that the straining holes 3 in D1 are circular holes. Claim 6 therefore lacks novelty over D1 and/or inventive step in view of D1 and D2.

Claim 7

41. Claim 7 requires that the apertures are "elongated slots". The apertures *d* in D2 are elongate slots as can be seen from the Figures. Claim 7 therefore lacks novelty based on D2, and/or inventive step based on the combination of D1 and D2.

Claim 8

42. Claim 8 requires that the central knob be "secured to said lid". One would have thought that this was inevitably the case, but in any event in D2 the handle *c* is clearly secured to the lid. In D1 the handle 18 is not secured directly to the lid but to a cover plate that is operable to alternately cover and expose the straining holes. It would be obvious to a skilled man that this cover plate would not be essential and could be removed in which case the handle would be fixed to the lid as in D2. Claim 8 therefore lacks novelty over D2 and/or inventive step based on the combination of D1 and D2.

LLOYD WISE  
22 July 2003