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11/338,221	01/23/2006	James E. Freidell	402-085	6464

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EXAMINER

WILLIAMS, MONICA L

ART UNIT	PAPER NUMBER
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3644

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PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES E. FREIDELL

Appeal 2010-000971
Application 11/338,221
Technology Center 3600

Before: JOHN C. KERINS, GAY ANN SPAHN, and
WILLIAM V. SAINDON, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 25-41, 44-48, and 52. We have jurisdiction under 35 U.S.C. § 6(b). The disclosed subject matter is generally directed to a pet grooming tool. Claim 25, reproduced below, is illustrative of the claimed subject matter.

25. An apparatus comprising:
- (a) a vacuum nozzle having a hollow body terminating in a mouth opening and attachable to a vacuum source; and
 - (b) a grooming blade spanning the mouth opening, the grooming blade having a plurality of teeth on the sides of which are formed sharp edges, the grooming blade having two sides and positioned with respect to the mouth opening to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade, during grooming operations as the grooming blade is pushed or pulled across a pet's coat, the negative airflow lifts top coat hair of the pet's coat to expose undercoat hair to the sharp edges of the grooming blade which are configured to remove ready to be shed undercoat hair by snagging the ready to be shed undercoat hair thereby increasing efficiency of deshedding operations as compared to conventional deshedding operations by eliminating operational strokes and reducing time associated with the deshedding operations.

Rejections

- I. Claims 25, 28, 30, 33, 35, 37, 39, 45-48, and 52 are rejected under 35 U.S.C. § 102(b) as anticipated by Suter (US 1,878,345, iss. Sept. 20, 1932).
- II. Claims 26, 27, 31, 32, 36, 40, and 41 are rejected under § 103(a) as unpatentable over Suter.

III. Claims 29, 34, 38, and 44 are rejected under § 103(a) as unpatentable over Suter and Zaidan (US 3,797,066, iss. Mar. 19, 1974).

We REVERSE.

OPINION

Independent claims 25, 30, and 35 each require a blade to span a mouth opening, to have sharp edges¹, and to have airflow over two sides of the blade. Independent claim 45 is similar, but requires “an animal grooming device” instead of a blade and does not require sharp edges. The Examiner rejected the independent claims as a group as anticipated by Suter.

Ans. 3.

The Examiner first found that Suter describes blade 17 and teeth 21. Ans. 3 (referring to combs 17 having triangular teeth 21). Appellant raised the issue of whether Suter’s blades 17 had airflow over both sides of the blade, pointing to the fact that the blades 17 were mounted to the periphery of the mouth opening. App. Br. 5-6; *see* Suter, fig. 1 (noting combs 17 mounted on walls of nozzle 13, to either side of opening 16). In view of this, the Examiner found that airflow passed over both sides of the triangularly shaped agitators 17, the two sides coming together to form a tip.

Ans. 5. Essentially, the Examiner found that the air flows over two sides of a single triangular tooth 21, which apparently is also now regarded as the blade. However, a tooth of Suter cannot be the blade of claims 25 and 35 because a tooth in Suter does not have a plurality of teeth or peaks on the tooth. In addition, a tooth cannot be the blade of any of the claims because a

¹ In particular, claim 25 requires the sharp edges to be formed on a plurality of teeth on the blade, claim 35 requires the sharp edges to be formed on a plurality of peaks on the blade, and claim 30 requires merely sharp edges on the blade.

tooth does not span² the mouth opening 16. Instead, a tooth tip is merely next to the opening.

Accordingly, the Examiner has not sufficiently demonstrated that the grooming tool of Suter anticipates the subject matter of independent claims 25, 30, 35, and 45. The Examiner does not make any findings or present any analysis in the obviousness rejections that cure this underlying deficiency.

DECISION

For the above reasons, we reverse the Examiner's decision regarding claims 25-41, 44-48, and 52.

REVERSED

Klh

² A dictionary definition of "span" includes "to cover (as a given space between supports) with a transverse member," "to bridge over," "something conceived of as an extent, stretch, reach, or spread between two definite limits." *Webster's Third New International Dictionary* (1993) (retrieved from lionreference.chadwyck.com) (last visited Jan. 10, 2012).

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PTO/SB/122 (11-08)

Approved for use through 11/30/2011. OMB 0851-0035

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<p align="center">CHANGE OF CORRESPONDENCE ADDRESS <i>Application</i></p> <p>Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</p>	Application Number	11/338,221
	Filing Date	January 23, 2008
	First Named Inventor	James E. Freidell
	Art Unit	3644
	Examiner Name	Monica L. Williams
	Attorney Docket Number	402-065

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- Assignee of record of the entire interest. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).
- Attorney or agent of record. Registration Number 27,954
- Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number _____

Signature Mark P. Stone, Attorney for Applicant

Typed or Printed Name *Mark P. Stone*

Date 3/1/11 Telephone (914) 769-1106

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402-085

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: James E. Freidell : Examiner: Monica L. Williams
Title: VACUUM GROOMING TOOL : Group Art Unit: 3644
Serial No.: 11/338, 221 :
Filed: January 23, 2006

Commissioner for Patents
P.O. Box 1450
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CERTIFICATE OF FACSIMILE TRANSMISSION

The undersigned hereby certifies that the enclosed Transmittal Letter and European Patent EP 1 955 590 B1 was forwarded to the U.S. Patent and Trademark Office by facsimile transmission to facsimile Tel. No. (571) 273-8300 on the date indicated below.

Respectfully submitted,

Dated: 11/30/10



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402-085

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
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Filed: January 23, 2006

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TRANSMITTAL LETTER

Enclosed is copy of European Patent EP 1 955 590 81, granted on November 24, 2010.

The present patent application on appeal, and the enclosed European Patent, both claim priority from the same United States Provisional Patent Application – Serial No. 60/291, 762 filed on May 17, 2001.

Applicant submits the European Patent for consideration by the Board to the extent that it might be relevant to the presently pending appeal.

Since the European Patent was first granted on November 24, 2010, it could not be presented to the Board any earlier during the dependency of this appeal.

Respectfully submitted,



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(19)



(11) EP 1 955 590 B1

(12) EUROPEAN PATENT SPECIFICATION

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(54) Vacuum grooming tool

Vorrichtung zum Striegeln mit Saugluft

Etrille aspirante

(84) Designated Contracting States: AT BE CH CY DE DK ES FI FR GB GR IE IT LI LU MC NL PT SE TR

(72) Inventor: Freidell, James, E. Littleton, CO 80123 (US)

(30) Priority: 17.05.2001 US 291762 P

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(43) Date of publication of application: 13.08.2008 Bulletin 2008/33

(62) Document number(s) of the earlier application(s) in accordance with Art. 76 EPC: 02737000.6 / 1 392 108

(56) References cited: DE-C- 497 159 DE-C- 971 687 DE-U- 29 715 247 FR-A- 2 583 280 GB-A- 283 988 US-A- 3 985 527 US-A- 5 095 853 US-A- 5 655 481 US-A- 5 788 747 US-A- 5 870 851 US-A- 5 881 462 US-A- 5 924 202 US-A- 6 055 938

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EP 1 955 590 B1

1

EP 1 955 590 B1

2

Description**Cross Reference to Related Application**

[0001] The present application claims priority to U. S. Provisional Application No. 60/281,762 filed May 17, 2001.

Field of the Invention

[0002] The present invention relates generally to animal grooming tools and more particularly to animal grooming vacuum tools.

Background of the Invention

[0003] Professional animal groomers deal with a large amount of hair during the grooming process. Hair accumulates on the grooming table, floor, and in the bathing tub. Much of this hair is introduced into the air environment as a result of blow drying, hair stripping, brushing, combing, raking, clipping, shearing, de-shedding, carding, and dematting operations. Much of this hair is physically handled by the groomer as he/she manually removes accumulated hair from various hand tools such as slicker brushes, combs, and rakes. In this latter case, the groomer must use both hands and either drops extracted hair on the floor or deposits such into a waste receptacle. During the bathing process, an abundance of animal hair often finds its way into the drain causing frequent blockage.

[0004] Most professional grooming shops have plumbing professionals clean shop bathing drains as frequently as every two weeks as a precautionary measure.

[0005] Many states employ licensing and/or regulations requiring that animal hair be cleaned up after grooming each animal before another can be groomed at the same workstation. In practice, either hair accumulates on the floor until which time as the groomer decides it must be cleaned up, or it is cleaned up after each animal. Most professional groomers use a standard wet/dry vacuum to accomplish this clean-up operation. Fewer perform such clean-up with brush, broom and dustpan. The environment containing accumulated hair, dander and pests is recognized as unhealthy for both humans and animals. Airborne hair and dander is one way of transmitting skin ailments and disease between animals, and allergens to humans, confined in closed spaces.

[0006] Clean-up time can be a substantial portion of the total time allocated to groom an animal.

[0007] Most grooming business advisors espouse the need to continuously maintain as clean as possible a grooming environment to appease discerning customers.

[0008] Professional groomers often suffer from carpal tunnel syndrome, tendonitis, and other maladies resulting from repetitive motion, particularly repetitive motion that involves strain due to weight or resistance to such

motion. Anything that can reduce the number of repetitions and/or relieve strain, particularly in using common hand tools, can reduce the incidence and severity of such maladies.

[0009] Pet owners often must deal with volumes of hair naturally shed by many animals. This shed hair accumulates around the home during shedding season, creating a general nuisance and requiring more frequent home vacuuming and cleaning.

[0010] One of the problems faced by all groomers is the accumulation of hair on their hand tools (combs, rakes, brushes, etc.) during use. Figure 9 (A) shows a slicker brush before use, and Figure 9 (B) after use. Groomers normally use their free hand to remove the hair (and with slicker brushes in particular, presents a relatively arduous, repetitive task). Figure 9C illustrates that even rakes and combs are affected.

Summary of the Invention

[0011] The present invention discloses a system of tools which, when attached to a vacuum source, reduces the need for the tool user (groomer) to manually deal with animal hair accumulating on or in such tools during use, or manually clean up hair displaced from the animal during the grooming process. Certain of these tools are used with standard professional grooming hand tools. Others integrate vacuum plenums into and with standard professional grooming tool functionality. Others yet facilitate the drying of animals. These tools also reduce exposure to animal dander and pests often found in animal coats.

[0012] Features of this system of tools and/or individual tools (as applicable) include: 1. aerodynamic design to allow operation under vacuum application without significantly contributing to environmental noise; 2. ergonomic design to be lightweight and comfortable to use; 3. increased efficiency, compared to common grooming tools that the invention replaces, as measured in the amount of hair extracted per operational stroke and/or the elimination of operational strokes, both of which can directly translate to reduction of repetitive motion actions and the amount of time required to groom an animal; 4. the ability to automatically capture most animal hair, dander, and pests that otherwise would be released in the environment as a result of the grooming process; 5. designs comparable to the professional hand tools the invention replaces in their ability to properly accommodate animal body contour (s) and varying types of animal hair; 6. the ability to use such tools with a single hand, allowing the groomer the ability to always keep one hand on the animal being groomed; 7. reduction of time devoted to animal drying after bathing; 8. reduction of the amount of hair introduced into bath drains and thereby reducing the incidence of drain clogging resulting from animal bathing; 9. reduction of the acoustic noise environment, particularly during blow drying and clean-up, either in sound pressure level (intensity) reduction or time of exposure to such, or both; and 10. design of certain tools

to be usable by animal owners employing a standard home vacuum cleaner (upright or canister) as the vacuum source.

Brief Description of the Drawings

[0013] Other objects and advantages of the invention will become apparent upon reading the following detailed description and upon reference to the drawings in which:

Figure 1 shows a set of embodiments of the invention in which the vacuum grooming tool includes shedding blade (s);

Figure 2 shows the grooming tools shown in Figures 1 (A), 1 (B) and 1 (C), respectively, in a different perspective;

Figure 3 shows a side view of the grooming tools shown in Figure 2;

Figure 4 shows another embodiment of the invention, in which the grooming tool includes a brush;

Figure 5 shows another set of embodiments of the invention, in which the grooming tool includes a comb;

Figure 6 (A) shows another embodiment of the invention, in which the grooming tool includes a rake;

Figure 6 (B) shows a conventional grooming rake;

Figure 7 shows another embodiment of the invention, in which the grooming tool includes a rake;

Figure 8 shows another embodiment of the invention, in which the grooming tool includes a dematting tool;

Figures 9 (A), 9 (B) and 9 (C) show examples of conventional grooming tools;

Figures 9 (D) and 9 (E) show examples of the vacuuming grooming tools according to the invention in their condition after use;

Figures 10 and 11 show a grooming tool cleaner according to the invention and examples of various uses of the cleaner; and

Figures 12 and 13 show an articulated cleaner according to an aspect of the invention.

Detailed Description of Specific Embodiments

[0014] Figure 1D depicts an animal grooming vacuum tool 100 having an integrated shedding tool blade 110. The device has a suction nozzle 120 having an integrally formed suction pipe 122 to connect to a source of negative pressure (such as a vacuum). The suction pipe 122 is in physical communication with a hollow body 124 terminating in an integrally formed mouth opening 126. In the preferred embodiment, the mouth 126 is substantially rectangular and is defined by a first pair of integrally formed spaced rectangular walls 128 which are substantially parallel to each other and a second pair of integrally formed spaced rectangular walls 130 which are substantially parallel to each other.

[0015] The apparatus has one or more substantially

straight stainless steel grooming blades 110, illustrated in more detail in Figure 1 (F), disposed within the rectangular mouth opening.

[0016] Each blade 110 has two shaped and smoothed ends 112, each end is attached to one of the second pair of integrally formed spaced rectangular walls 130. Each blade also has a serrated edge 114 extending outside the plane of the rectangular mouth opening 126. In multiple blade implementations, such as those schematically shown in Figures 1 (A), 1 (B), 1 (C) and 1 (E) each blade 110 is substantially parallel to the other blades 110 and to the first pair of integrally formed spaced rectangular walls. In addition, the blades 110 are positioned to provide an air passage extending from the mouth opening 126 into the hollow body portion 124 of the nozzle 120 between each of the blades 110 and between the blades 110 and the first pair of integrally formed spaced rectangular walls 128. Better results are achieved if the animal hair can be sucked down from both sides of the blade 110.

[0017] Although the mouth 126 of the preferred embodiment is rectangular, those skilled in the art will recognize that other mouth shapes such as ovals may be used, so long as the blades 110, in multiple blade devices, are substantially parallel to each other.

[0018] Each blade 110 can be attached to the mouth opening 126 in a variety of ways. For example the blades 110 can be glued to the walls using commercially available epoxies.

[0019] For additional stability, receiving slots can be cut in the nozzle housing to receive the ends of each blade 110 or the entire edge of the blade 110 opposite the serrated teeth 114.

[0020] Blades 110 may be constructed out of stainless steel or a plastic blade may be used provided the mold for the serrated edges of such (or post molding operations) give rise to sharp edges. The ends 112 of the blades are shaped (and may be smoothed) in order to minimize sharp corners which could cut or scrape an animal's skin when used. These tools are designed to be pushed or pulled on the animal's coat, not side-to-side, which could injure the coat or underlying skin.

[0021] The blade can be formed from a substantially straight piece of the toothed metal, as opposed to trying to maintain a curve in the metal blade. The blade can be integrated with an upholstery nozzle that does not have bristles. The blade can also take the form of any manual shedding blade. For example, in the embodiment illustrated in Figure 1 (G), the blade 140 has faceted teeth 142 with sharply angled channels 144 between the teeth 142 and sharp edges 145 for pulling hair. A blade similar to a hair clipper blade, with teeth that have cutting edges, can also be used.

[0022] As illustrated in Figure 1 (H), the orientation of the blade (s) can be set at an angle 116 relative to the direction of tool motion 118 during the intended normal use. Typically, the tool is moved in a direction substantially perpendicular to the rim of the mouth opening 126 so that the vacuuming action is the most efficient. The

blade can be perpendicular to the tool motion, or deviate from the perpendicular orientation by an angle 118. Typically, the blade is perpendicular or angled away from the tool motion 118.

[0023] Figures 2 (A), 2 (B) and 2 (C) as well as Figures 3 (A), 3 (B) and 3 (C) depict, respectively, blades having different heights 210, depending upon the type of animal's coat to be groomed. The angle 220 between the hose attachment point (i. e., suction pipe 122, which serves as the handle) and blade (a) 110 may vary according to customer preference and/or ergonomic design considerations. In the preferred embodiment the blade protrudes between 1/8" to 5/8" from the mouth of the nozzle.

[0024] The blade could also be mechanically secured to the mouth using a clip or other fastener.

[0025] Those skilled in the art will recognize that using a mechanical mechanism allows blades to be exchanged.

[0026] The present invention will operate with commercially available wet/dry and standard vacuum cleaners. The greater suction of the wet/dry vacuum (compared to the upright or canister vacuum) tends to be more effective in lifting the animal's coat (its hair), almost to the point of standing upright within the vacuum tool. Nevertheless, care should be taken to ensure that too much suction is not used. In the event a strong vacuum is used, an adjustable vacuum suction hose can be used to reduce the vacuum pressure.

[0027] Other means can be used to reduce suction. For example, a vacuum with a variable-speed motor drive can be used to create variable suction; a vent, with or without a valve, can also be placed on the grooming tool itself.

[0028] Adequate CFM and vacuum pressure is important. In the preferred embodiment, the vacuum pressure should be at least 40 inches of water at or above 90 CFM. Tools may be fabricated with smaller vacuum orifices to accommodate less powerful vacuum cleaners.

[0029] Similarly, larger tools designed for horses and similar large animals may operate best with greater vacuum pressure and airflow.

[0030] Figures 1, 2 and 3 show several tools incorporating shedding tool functionality into a vacuum nozzle. The number of blades and overall tool size varies depending upon the type and size of animal, and the characteristics of the animal's hair. For example, Tool E in Figure 1 is sized for horses and other large animals. The length of the blade 110 is typically a few inches in the preferred embodiment, but may be built larger or smaller to suit the intended use. An example of where a smaller tool may be of value would be one for small dogs and particularly legs of dogs generally. For such a purpose, a tool approximately 1 to 2 in wide may prove most useful.

[0031] Figure 4 discloses an alternate embodiment using a pin brush 410 instead of one or more blades. The pin brush 410 has a large number of plastic or metal wire pins 420 held by base 430. Base 430 may be rigid or flexible. The pins allow air flow from a vacuum to suck

hair through the slots 440 formed in the base 430 and the mouth 126 of the device.

[0032] The slot configuration of this design also aids blow drying. The slots 440 allow airflow created by the vacuum to help suck hair (and fleas, ticks, dirt, etc.) up into the brush while brushing and to evacuate loosened hair and moisture. Note that hair may wrap around the brush pins (more than the shedding blade) and require additional procedures to remove the hair. Airflow may be induced in reverse (connected to the blower output of a vacuum cleaner for example) to further aid blow drying while brushing the animal.

[0033] Those skilled in the art will recognize that the slot size, shape, number and length of pins may all vary depending on the animal's hair length and the required amount of brushing or drying assistance. Overall size may also vary depending on the size of the animal. Instead of brush pins, bristles can also be used in the embodiment shown in Figure 4.

[0034] Figure 5 discloses an alternate embodiment using combs 510, 530 and 560 instead of a blade. Three styles of vacuum combs are shown, respectively. Two (Figures 5 (A) and 5 (B)) of the depicted embodiments are intended to be used like a rake (moved fore and aft). Pulling the rake works better than pushing. The third vacuum comb (Figure 5 (C)) is designed to be used more like a traditional comb (moved sideways).

[0035] In all cases, airflow (created by vacuum) flows around both sides of the comb to suck hair up into the comb and evacuate loosened hair (along with dirt, dander, fleas, ticks, etc.).

[0036] The combs may be constructed of metal or plastic. Comb length and pitch (number of teeth per inch), may be varied according to personal preference and the type and length of hair on the animal to be groomed. Hair will accumulate in the teeth during use, requiring removal. Size may vary also (length of teeth) depending on personal preference and the size of the animal.

[0037] Figures 6 and 7 depict rakes 610 and 710, respectively, of the invention. Conventional rakes, such as the one shown in Figure 6 (B), are used for some dog breeds. Figure 7 shows a double row rake integrated into a vacuum hand tool, creating a vacuum rake in accordance with the present invention. Shown in Figure 6 (A) is a single row Teflon coated rake of the invention. Again, vacuum causes airflow around the rake so to suck up hair, dirt, fleas, ticks, etc. into the tool. Preferably, air flow would also flow between the rows of the double row rake 710. The devices were made using metal rakes (some Teflon coated), but can be made of any suitable material, such as metal and plastic. The number of teeth, pitch, length of rake, and length of rake tangs may vary, according to the preferences of the user and breed of animal to be groomed. The rake tangs could be made of plastic. In use, hair will build up in the tangs, requiring removal.

[0038] Figure 8 depicts two vacuum dematting tools. Dematting tools usually have replaceable blades 820, 860 that are very sharp for cutting hair. The purpose

is to cut through hair mats, somewhat shredding such in order to allow a comb to effectively run through the hair. Blades are replaceable in both cases but need not be in either. Air (from the vacuum) flows around both sides of the blades 820,860 (the cutting and non-cutting edges), and in one case between the blades 860. A thumb rest 870 is shown on the embodiment illustrated in Figure 8 (B). Blades are reversible to accommodate both right and left-handed users. Blades might be made of plastic. Cut hair may accumulate in the blades during use, requiring removal.

[0039] As mentioned above, and illustrated as examples in Figures 9 (D) and 9 (E), the animal hair may accumulate in the tool of the invention during use. Figure 10 through 13 depict devices that are used to remove accumulated hair from tools during use, thereby eliminating the need for using ones fingers to do so.

[0040] One embodiment is a static vacuum cleaner 1000 shown in Figures 10 and 11. A vacuum source (not shown) is adapted to a cleaner head 1010 having an opening 1020 at least the size (length) of most tools. The other dimension (width) is such that maximum airflow is created, yet the opening is adequate to easily accommodate any of the non-brush tools.

[0041] Brush tools are cleaned across the cleaner opening 1020, providing mechanical scrubbing action to facilitate the vacuum action. Non-brush tools are merely held in the vacuum cleaner opening 1020.

[0042] Disconnecting the source of vacuum from the vacuum tool before attempting to remove hair from the tool with the vacuum cleaner typically makes hair removal from said tool easier and more complete (vacuum sources and resultant airflow don't compete).

[0043] Figures 12 and 13 show one of many possible implementations of an articulated tool cleaner 1200 according to one aspect of the invention. The tool cleaner 1200 can be activated by placing the tool to be cleaned onto the cleaner opening 1220 of a movable vacuum plenum 1210 and pressing down, causing rotation of the cleaner about a pivot 1230 held in place by channels effectuating a rotational sliding mechanism similar to the action of a standard linear motion blast gate. This rotation effectively switches the vacuum source from a vacuum tool to the cleaner, allowing both the vacuum tool and cleaner to share the same vacuum source, but not simultaneously. This switches the vacuum off to the connected vacuum tool and on to the cleaner, such that the airflow through the cleaner does not have to compete with any vacuum or airflow through the tool to be cleaned (wiped). If a brush is used, the brush is wiped across the cleaner opening, (while pressing down) providing mechanical assistance to assist the vacuum in removing hair. Releasing the downward force causes a spring to return the cleaner to the original position (via counter-rotation about the pivot point).

[0044] An auxiliary vacuum device 1250 (AVD), shown in Figure 12 (B) is designed to split the vacuum source to it in order to provide vacuum outlets 1270 to either side

of the movable vacuum plenum 1210. This provides flexibility in mounting the entire unit. The unused outlet port is plugged in normal operation. One of the many alternatives readily appreciated by one skilled in the art is a simple pipe "elbow" (not shown), providing tool attachment on only one side of the movable vacuum plenum 1210. Such pipe elbow could also be configured such that it could be rotated to provide tool attachment on either side of the movable vacuum plenum 1210.

[0045] Mechanical articulation and rotation can be minimized or eliminated by using a pressure or other switch to activate pneumatic (even vacuum-driven) or electrical motorized opening and closing of respective valves to achieve the same function as that described above.

[0046] In the preferred embodiment, the articulated brush scrubber is made up of the following: a fixed 2-1/4" vacuum plenum 1280, to which vacuum is continuously supplied; a moveable vacuum plenum 1210, which rotates up and down around a fixed pivot point 1230. One end of the moveable vacuum plenum 1210 has an opening 1220 having a width just larger than the width of the tool to be cleaned. The other end of the moveable vacuum plenum has a sliding vacuum seal 1290 (shown in Figure 13 (B) sealing off the fixed vacuum plenum).

[0047] The device is activated by pushing the moveable vacuum plenum 1210 down with the tool to be cleaned. This action, as illustrated in Figure 13 (C), rotates the sliding vacuum seal 1290 off the fixed vacuum plenum 1280 and simultaneously rotates the previously open end of the moveable vacuum plenum 1210 to engage a seal with the fixed vacuum plenum 1280. This causes air flow through the moveable vacuum plenum 1210. It also stops or reduces air flow through the AVD 1250. The device being cleaned is then pushed across or inserted into the open end 1220 of the moveable vacuum plenum 1210 to release trapped hair, which is sucked up by the moveable vacuum plenum 1210, through the seal between moveable and fixed vacuum plenums and on to a vacuum source.

[0048] At the completion of the cleaning motion, pressure on the moveable vacuum plenum 1210 by the device being cleaned is released by lifting the device being cleaned off. A return spring 1282 biases the moveable vacuum plenum 1210 back to the starting position, sealing off the vacuum from the fixed vacuum plenum 1280 to the moveable vacuum plenum 1210 and restoring full vacuum to the AVD 1250. This device could be used with any standard grooming tool as well as any of the vacuum tools (with vacuum still running to such). In the case of a shedding blade, comb, rake, or dematting tool, the tool would be cleared of trapped hair simply by engaging the open end of the moveable vacuum plenum, pushing both down. No aft-fore motion of the tool would be required- the trapped hair would be just sucked off. As for a non-vacuum assisted slicker, bristle or pin brush, wiping motion of a pin brush style vacuum tool would facilitate clear-

ing of hair from the pins. Cleaning a vacuum tool connected to its vacuum source via the AVD1250 gains the benefit of having its vacuum supply automatically stopped or reduced through such engagement of the open end of the movable vacuum plenum, effectively disconnecting the AVD 1250, and hence the source of vacuum to the vacuum tool from fixed vacuum plenum 1280. [0049] In the preferred embodiment, the device has a sufficient seal so that leakage is not a significant source of noise. Also, the seal remains adequate throughout many cycles. In addition the vacuum plenums are designed with aerodynamically smooth inner surfaces to avoid generation of noise. Finally, the entire tool cleaner is designed as a single unit that can easily be attached (with screws, etc.) to either the top or bottom of a grooming table 1302, or to a wall so to provide easy, natural access to such by any tool held in a groomer's hand. [0050] With this implementation, a vacuum source could easily be shared between the tool cleaner and vacuum tools. Doing so may even make both tools work better. Full vacuum would be available to the vacuum tool when grooming. Activation of the tool cleaner would release some or all of the vacuum from the vacuum tool, making it that much easier for the tool cleaner to suck trapped hair off the vacuum tool. Full vacuum would be restored to the vacuum tool upon release of the tool cleaner. All of this action is accomplished with just the one hand holding the tool that is to be "scrubbed" of hair.

Claims

1. An apparatus comprising:

- (a) a vacuum nozzle having a hollow body terminating in a mouth opening and attachable to a vacuum source; and
- (b) at least one grooming blade spanning the mouth opening and being attached to a pair of integrally-formed spaced rectangular walls of the mouth opening, the grooming blade having formed thereon sharp edges, the grooming blade having two sides and positioned with respect to the mouth opening to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade and providing an air passage between the at least one blade and the adjacent walls of the mouth opening and wherein an angle of engagement of the grooming blade can be set to a plurality of different orientations.

2. The apparatus of claim 1, wherein the grooming blade further comprises a plurality of teeth on the sides of which are formed the sharp edges.

3. The apparatus of claim 1, wherein the grooming blade further comprises a plurality of peaks on the

sides of which are formed the sharp edges.

- 4. The apparatus of one or more of claims 1 to 3, wherein the sharp edges are burrs.
- 5. The apparatus of one or more of claims 1 to 4, wherein the grooming blade is made of stainless steel and the sharp edges are a result of a metal stamping process.
- 6. The apparatus of claim 1, wherein the grooming blade is molded from plastic.
- 7. The apparatus of claim 1, wherein the grooming blade is one of a plurality of grooming blades which are aligned in a substantially parallel manner.
- 8. The apparatus of claim 1, wherein the animal grooming device further comprises an additional blade, and wherein the additional blade and the grooming blade are spaced apart and substantially parallel to each other.
- 9. The apparatus of claim 1, wherein the vacuum source includes a vacuum port and a blower port, the vacuum port and the blower port being alternately attachable to the vacuum nozzle.
- 10. The apparatus of claim 1, wherein the vacuum nozzle defines a vent on the hollow body for reducing suction at the mouth opening.
- 11. The apparatus of claim 10, further comprising a valve positioned to regulate air flow through the vent.

Patentansprüche

1. Vorrichtung, die umfasst:

- a) eine Saugdüse, die einen hohlen Körper aufweist, der in einer Mündungsöffnung endet und an einer Unterdruckquelle angebracht werden kann; und
- b) wenigstens eine Kammklinge, die die Mündungsöffnung überspannt und an einem Paar integral ausgebildeter beabstandeter rechtwinkliger Wände der Mündungsöffnung angebracht ist, wobei an der Kammklinge scharfe Kanten ausgebildet sind und die Kammklinge zwei Seiten hat und in Bezug auf die Mündungsöffnung so angeordnet ist, dass sie zulässt, dass Luft-Unterdruckstrom, der durch die Unterdruckquelle erzeugt wird, über die zwei Seiten der Kammklinge strömt, und einen Luftdurchlass zwischen der wenigstens einen Klinge und den angrenzenden Wänden der Mündungsöffnung schafft, und wobei ein Eingriffswinkel der Kammklinge

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auf eine Vielzahl unterschiedlicher Ausrichtungen eingestellt werden kann.

2. Vorrichtung nach Anspruch 1, wobei die Kammklinge des Weiteren eine Vielzahl von Zähnen umfasst, an deren Seiten die scharfen Kanten ausgebildet sind. 5
3. Vorrichtung nach Anspruch 1, wobei die Kammklinge des Weiteren eine Vielzahl von Spitzen umfasst, an deren Seiten die scharfen Kanten ausgebildet sind. 10
4. Vorrichtung nach einem der Ansprüche 1 bis 3, wobei die scharfen Kanten Grate sind. 15
5. Vorrichtung nach einem der Ansprüche 1 bis 4, wobei die Kammklinge aus rostfreiem Stahl besteht und die scharfen Kanten ein Ergebnis eines Metall-Stanzprozesses sind. 20
6. Vorrichtung nach Anspruch 1, wobei die Kammklinge aus Kunststoff geformt ist.
7. Vorrichtung nach Anspruch 1, wobei die Kammklinge eine einer Vielzahl von Kammklingen ist, die im wenigstens parallel ausgerichtet sind. 25
8. Vorrichtung nach Anspruch 1, wobei die Tier-Kämmvorrichtung des Weiteren eine zusätzliche Klinge umfasst und die zusätzliche Klinge sowie die Kammklinge voneinander beabstandet und im Wesentlichen parallel zueinander sind. 30
9. Vorrichtung nach Anspruch 1, wobei die Unterdruckquelle einen Sauganschluss und einen Gebläseanschluss enthält und der Sauganschluss und der Gebläseanschluss wechselweise an der Saugdüse angebracht werden können. 35
10. Vorrichtung nach Anspruch 1, wobei die Saugdüse eine Belüftungsöffnung an dem hohlen Körper zum Verringern von Sog an der Mündungsöffnung aufweist. 40
11. Vorrichtung nach Anspruch 10, die des Weiteren ein Ventil umfasst, das so angeordnet ist, dass es den Luftstrom durch die Belüftungsöffnung reguliert. 45

Revendications

1. Appareil comprenant :

(a) une buse d'aspiration ayant un corps creux se terminant par une ouverture d'embouchure et pouvant être fixée sur une source d'aspiration ; et

(b) au moins une lame de toilettage recouvrant l'ouverture d'embouchure et étant fixée sur une paire de parois rectangulaires espacées formées de manière solidaire de l'ouverture d'embouchure, la lame de toilettage ayant, formé sur cette dernière, des bords tranchants, la lame de toilettage ayant deux côtés et étant positionnée par rapport à l'ouverture d'embouchure pour permettre à l'écoulement d'air négatif créé par la source d'aspiration de s'écouler sur les deux côtés de la lame de toilettage et fournissant un passage d'air entre la au moins une lame et les parois adjacentes de l'ouverture d'embouchure et dans lequel un angle de mise en prise de la lame de toilettage peut être déterminé dans une pluralité de différentes orientations.

2. Appareil selon la revendication 1, dans lequel la lame de toilettage comprend en outre une pluralité de dents sur les côtés desquelles sont formés les bords tranchants.
3. Appareil selon la revendication 1, dans lequel la lame de toilettage comprend en outre une pluralité de pics sur les côtés desquels sont formés les bords tranchants.
4. Appareil selon une ou plusieurs des revendications 1 à 3, dans lequel les bords tranchants sont des barbes.
5. Appareil selon une ou plusieurs des revendications 1 à 4, dans lequel la lame de toilettage est réalisée à partir d'acier inoxydable et les bords tranchants résultent d'un procédé d'estampage de métal.
6. Appareil selon la revendication 1, dans lequel la lame de toilettage est moulée à partir de plastique.
7. Appareil selon la revendication 1, dans lequel la lame de toilettage est l'une d'une pluralité de lames de toilettage qui sont alignées d'une manière sensiblement parallèle. 40
8. Appareil selon la revendication 1, dans lequel le dispositif de toilettage pour animaux comprend en outre une lame supplémentaire et dans lequel la lame supplémentaire et la lame de toilettage sont espacées et sensiblement parallèles entre elles. 45
9. Appareil selon la revendication 1, dans lequel la source d'aspiration comprend un orifice d'aspiration et un orifice de soufflage, l'orifice d'aspiration et l'orifice de soufflage pouvant être fixés de manière alternée sur la buse d'aspiration.
10. Appareil selon la revendication 1, dans lequel la buse d'aspiration définit une évacuation sur le corps creux 50

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afin de réduire l'aspiration au niveau de l'ouverture d'embouchure.

- 11. Appareil selon la revendication 10, comprenant en outre une valve positionnée afin de réguler l'écoulement de l'air par le biais de l'évacuation. 5

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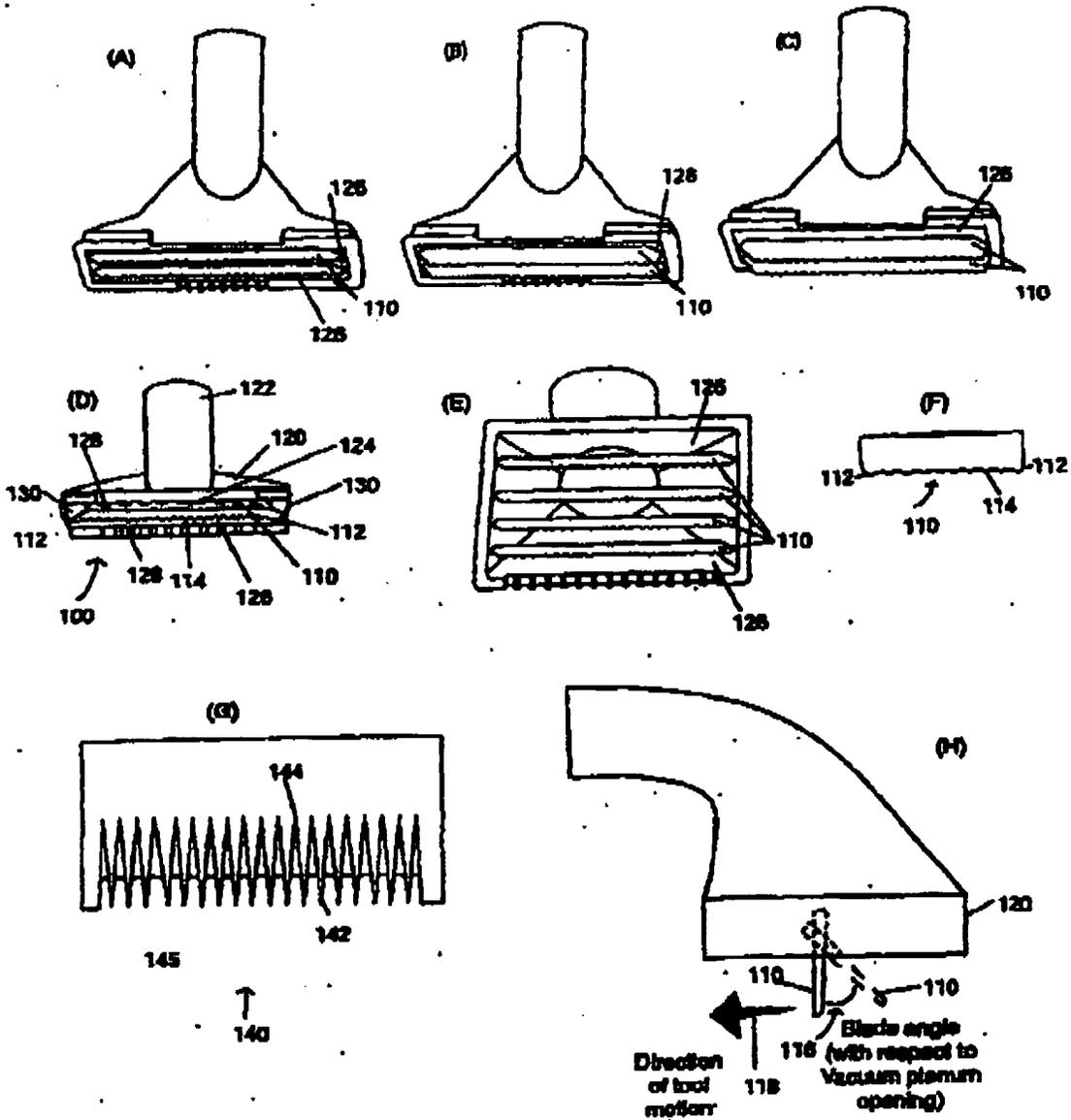


Figure 1

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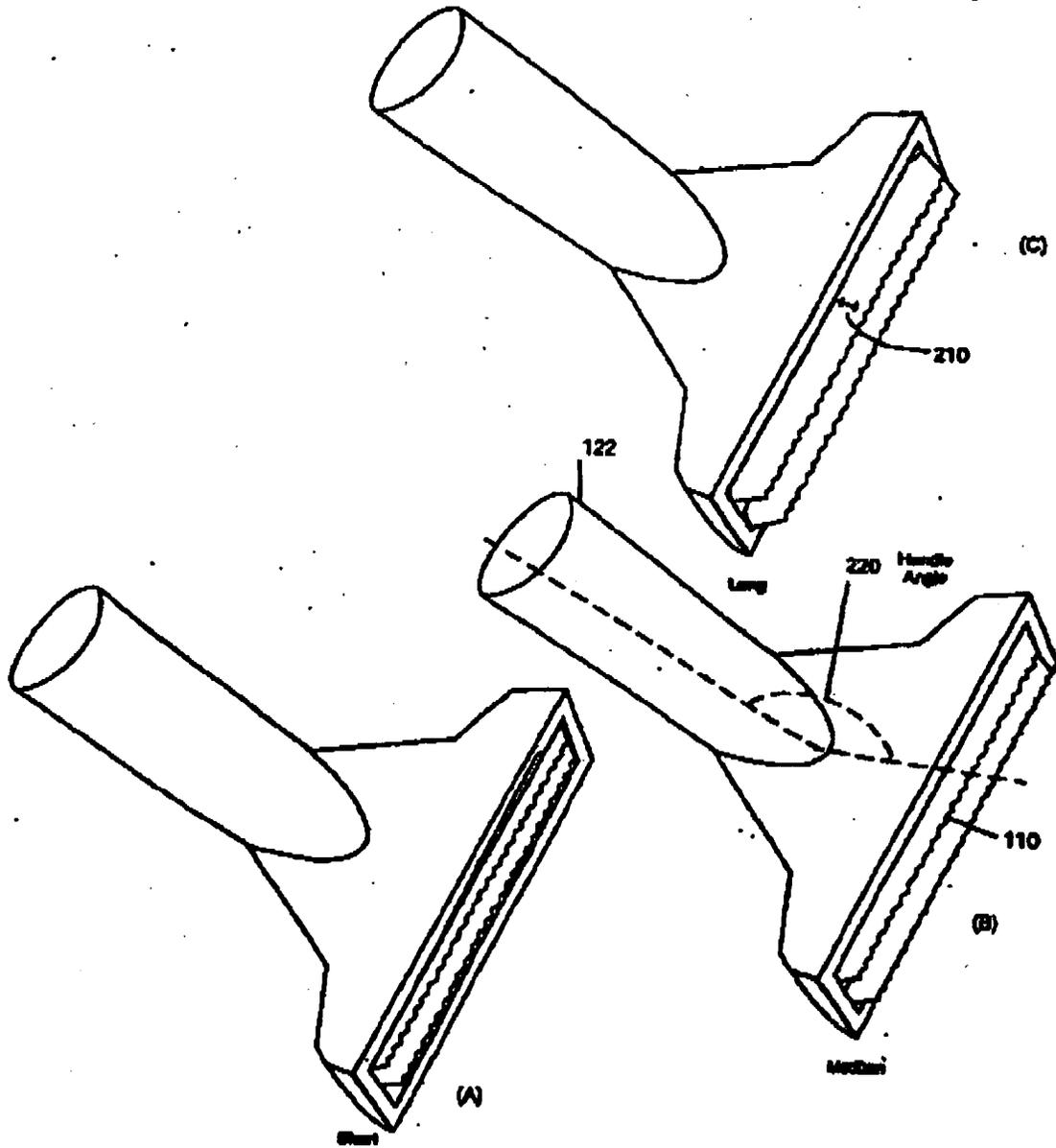


Figure 2

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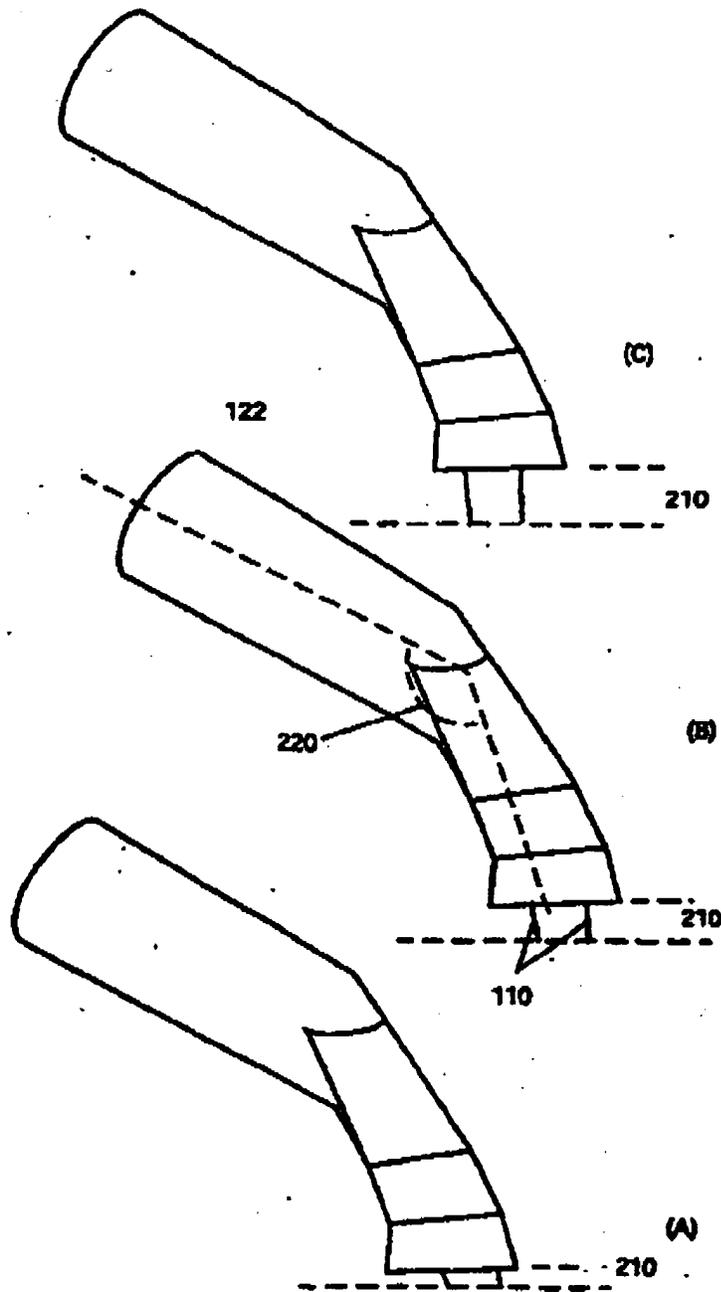


Figure 3

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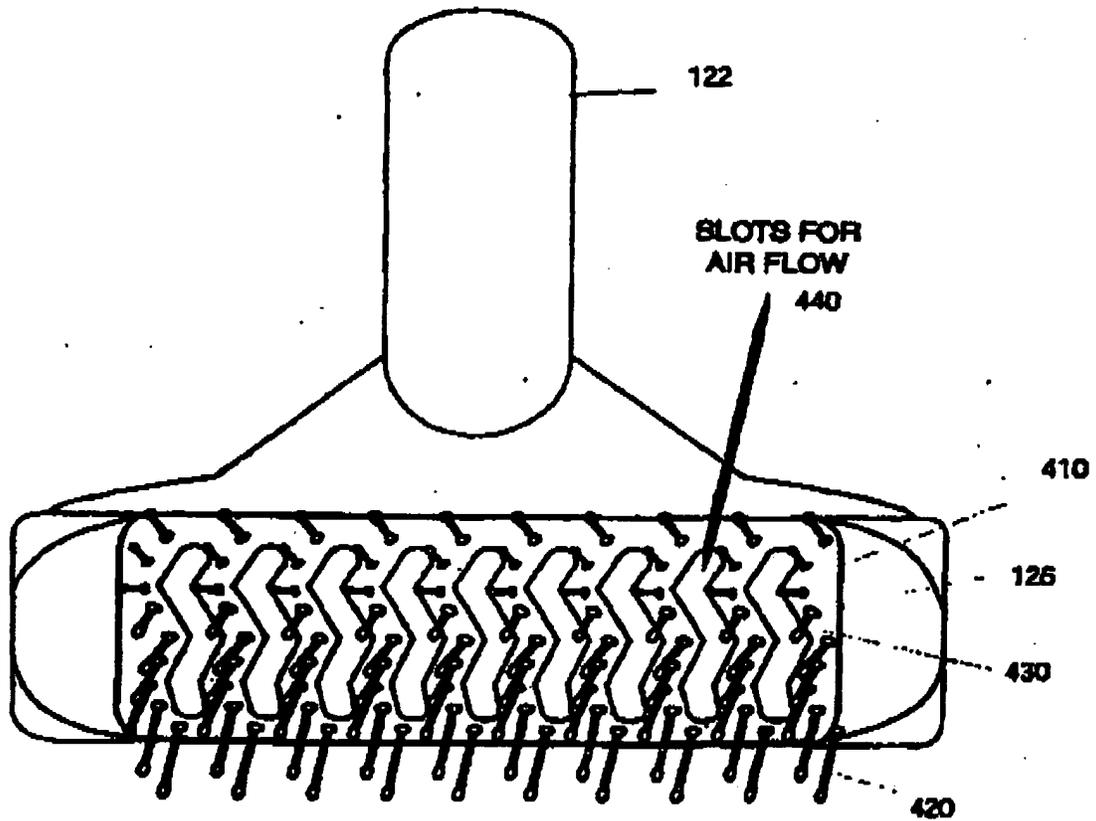


FIGURE 4

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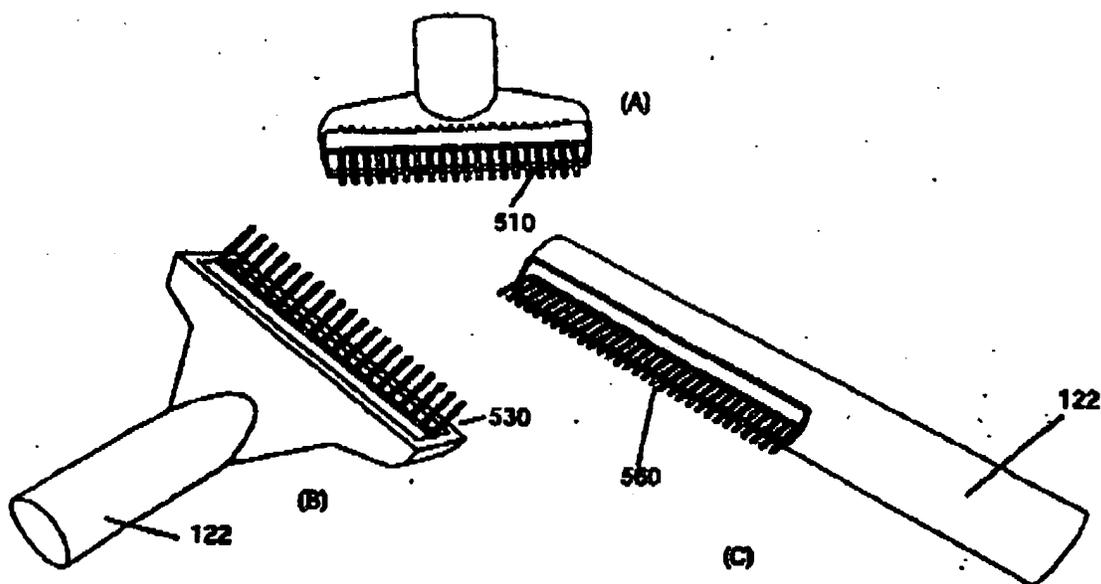


FIGURE 5

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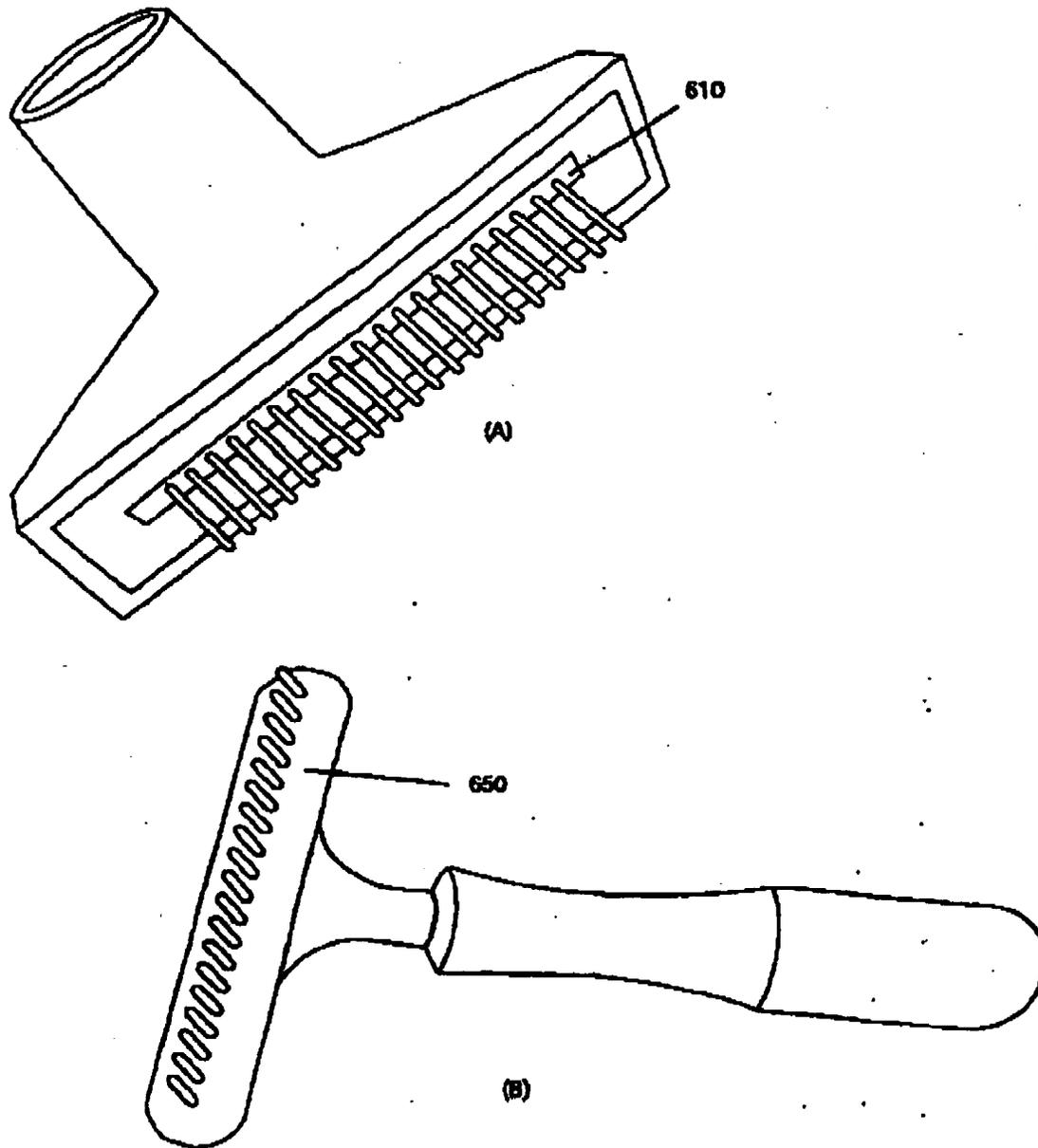


Figure 6

EP 1 955 590 B1

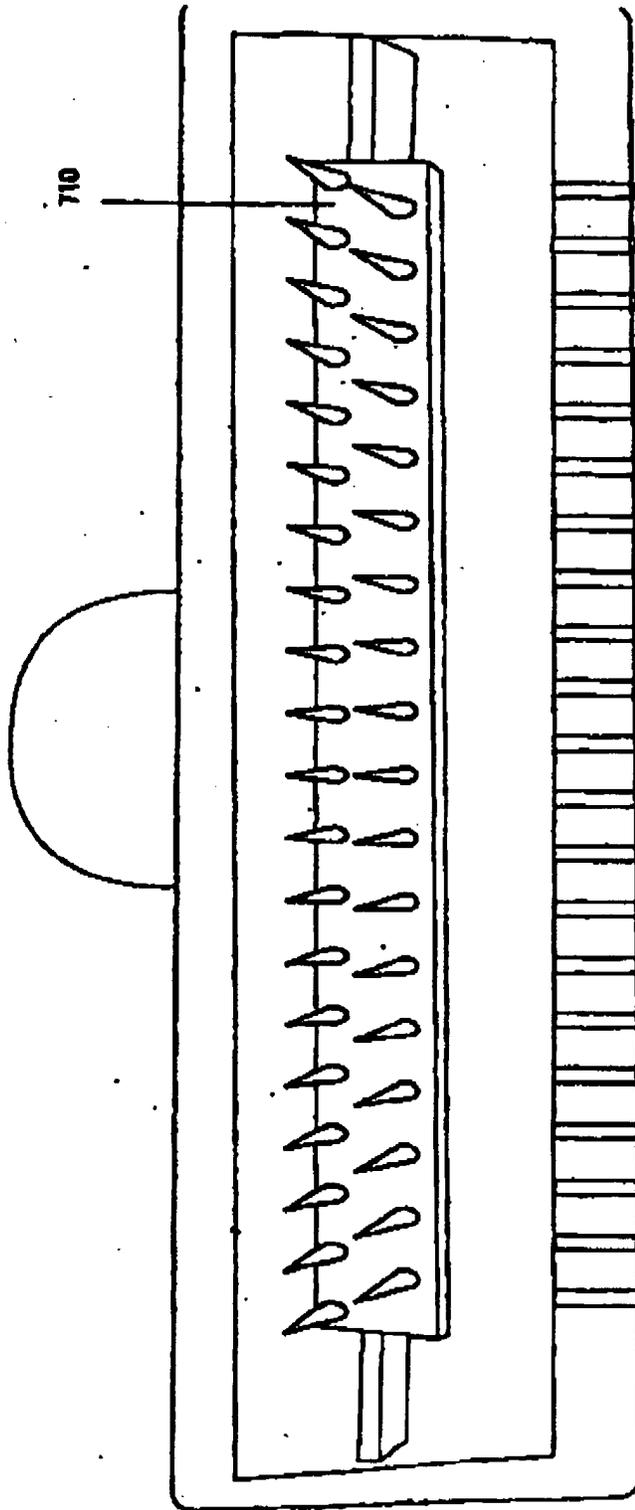


Figure 7

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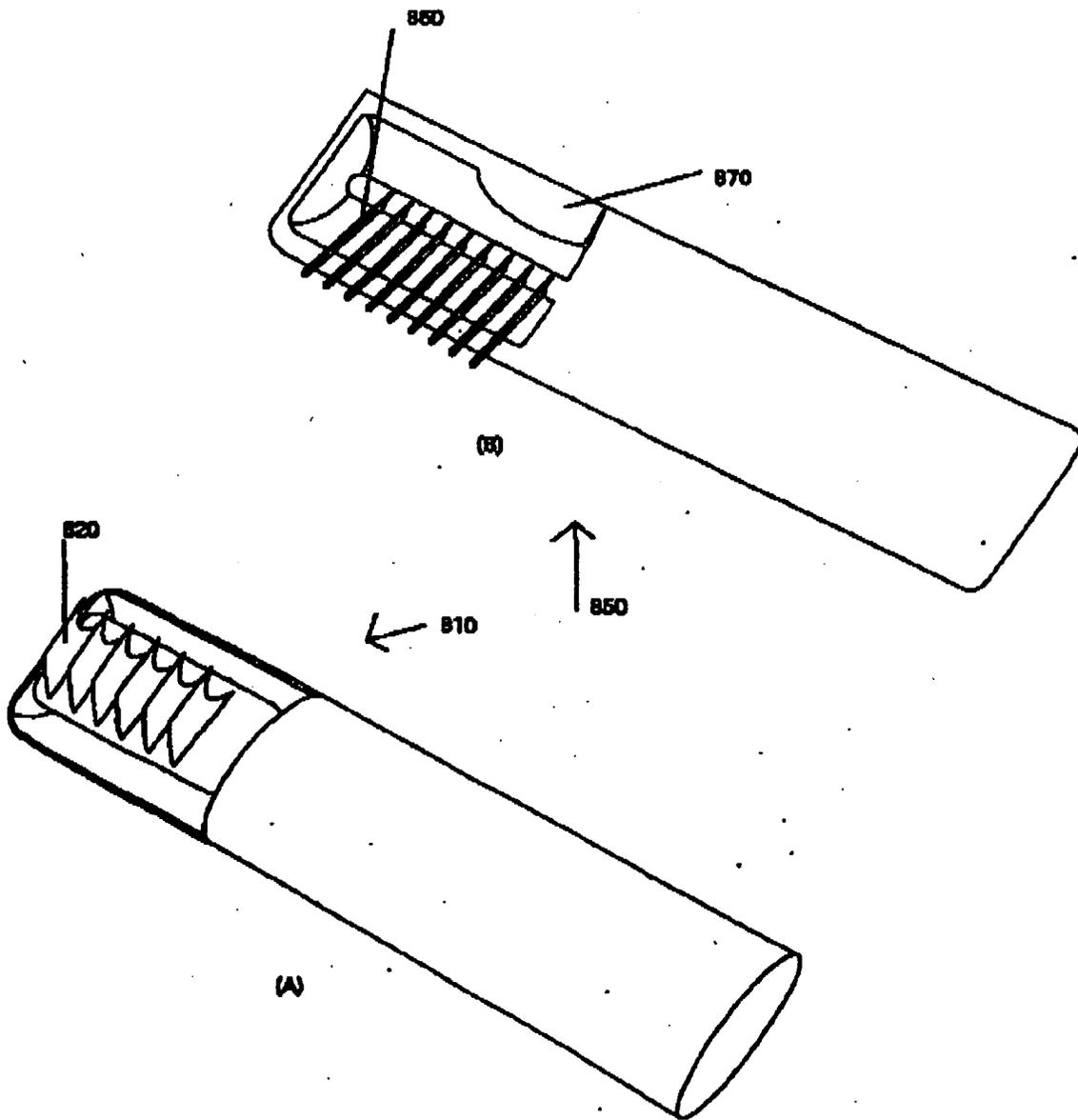


Figure 8

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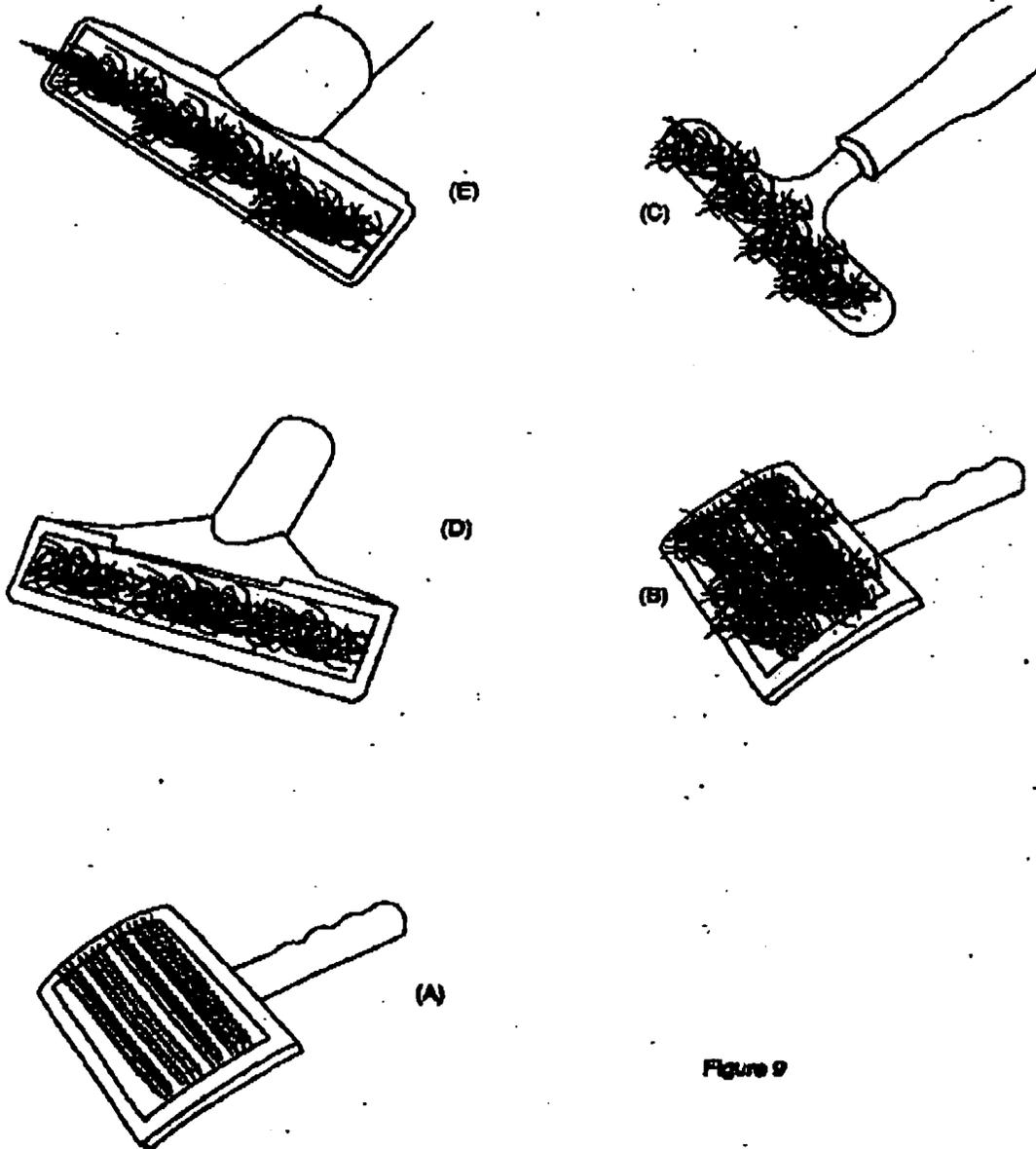


Figure 9

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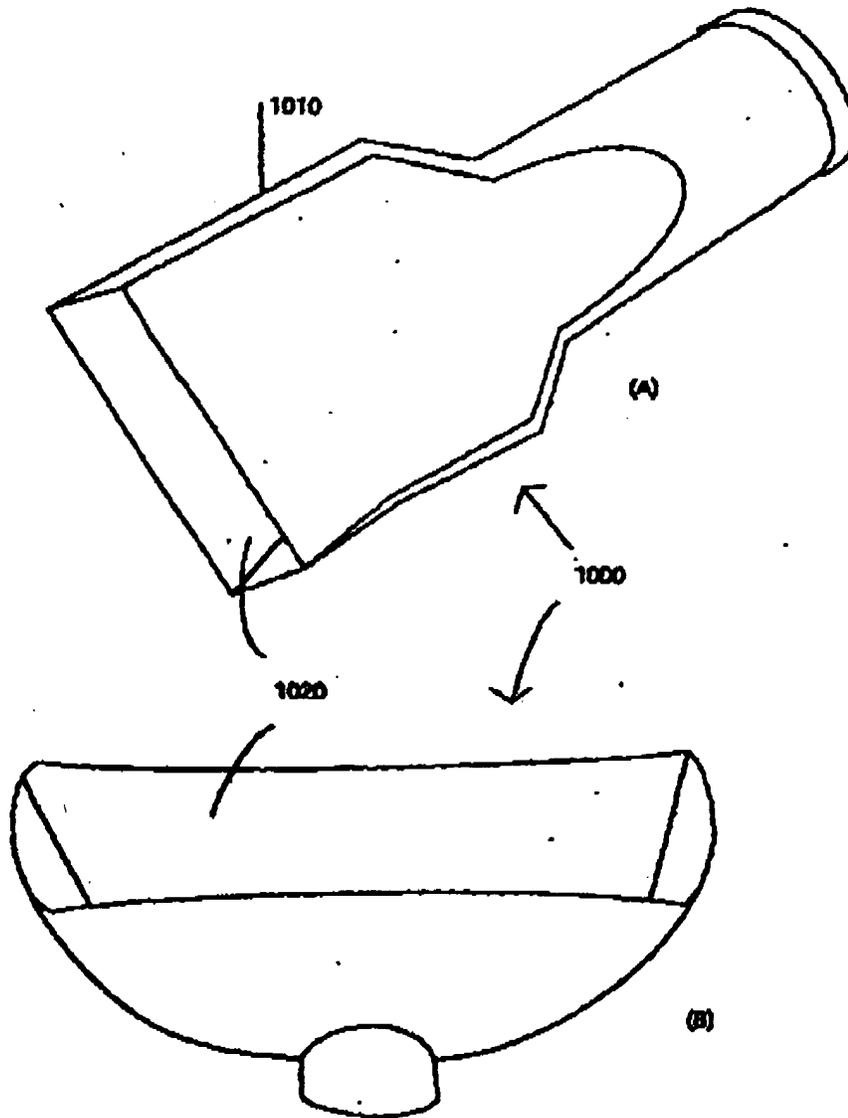


Figure 10

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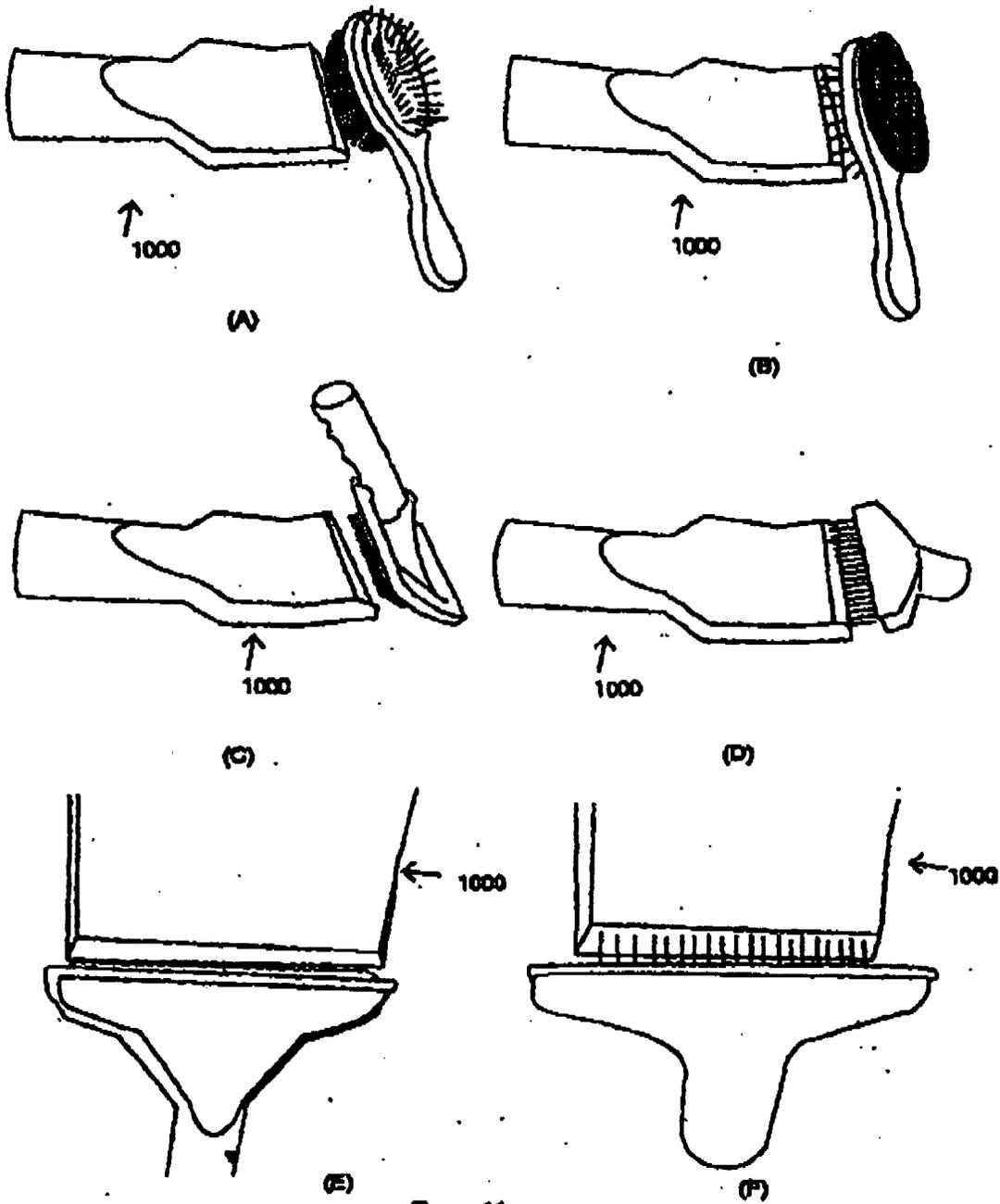


Figure 11

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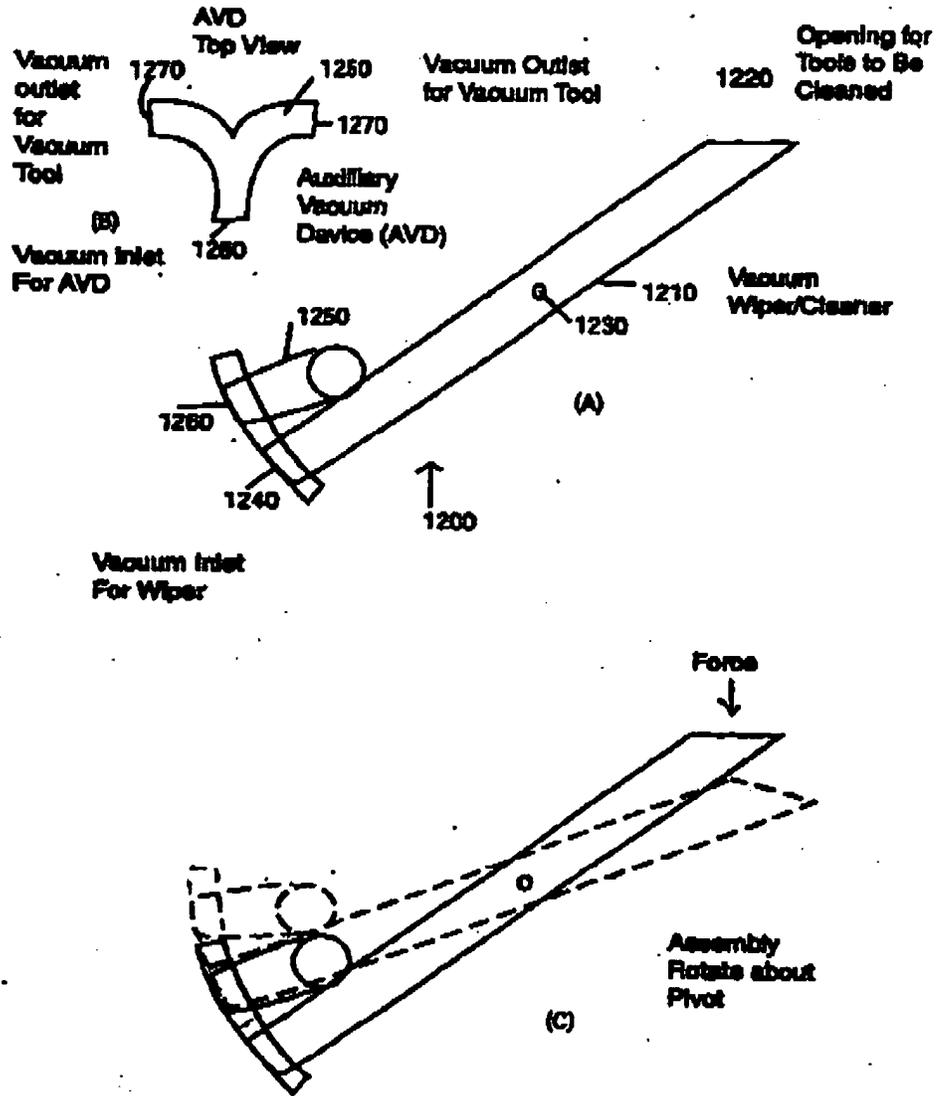


Figure 12

EP 1 955 590 B1

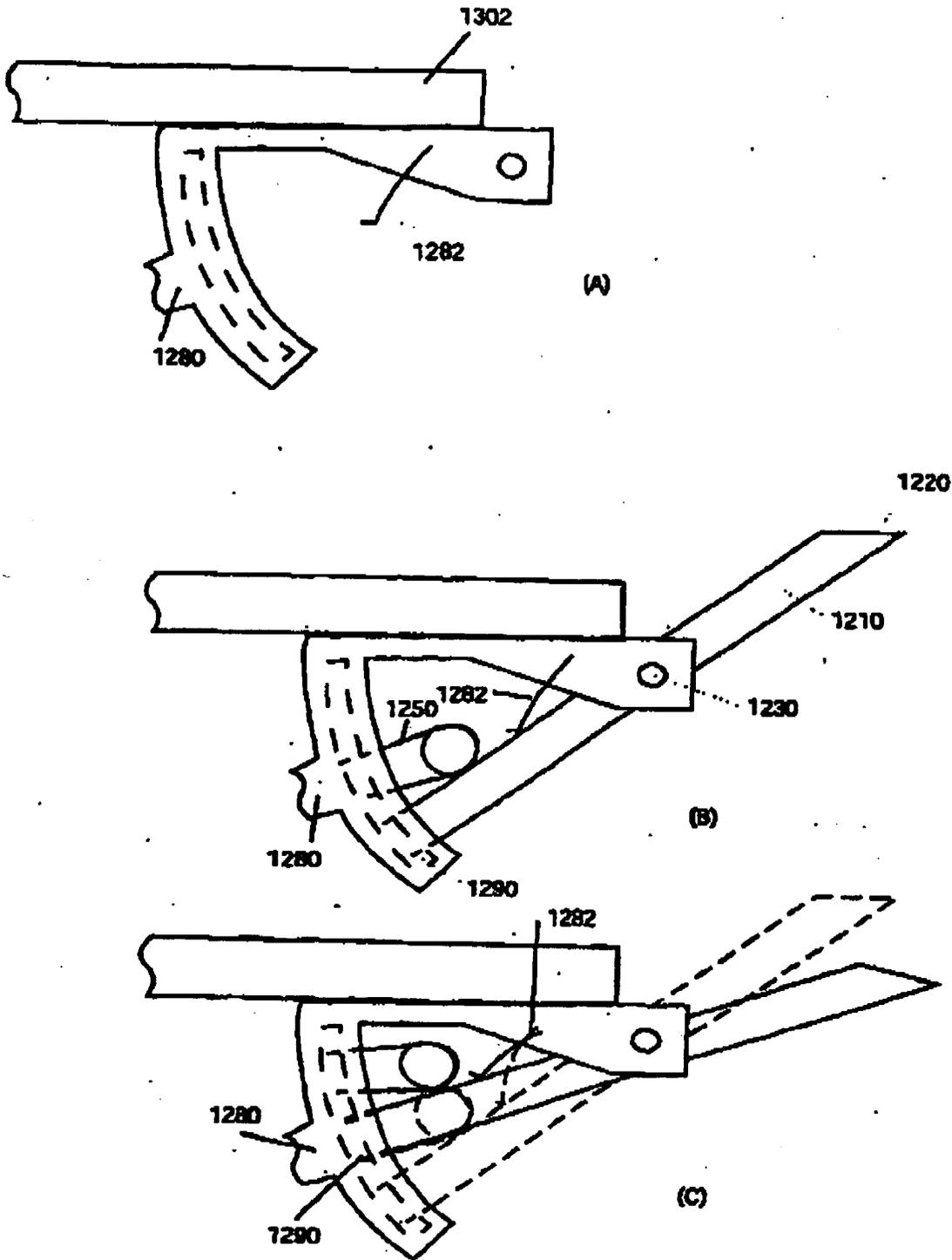


Figure 13

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REFERENCES CITED IN THE DESCRIPTION

This list of references cited by the applicant is for the reader's convenience only. It does not form part of the European patent document. Even though great care has been taken in compiling the references, errors or omissions cannot be excluded and the EPO disclaims all liability in this regard.

Patent documents cited in the description

- US 60291762 B [0001]



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/338,221	01/23/2006	James E. Freidell	402-085	6464
	7590	11/17/2009	EXAMINER	
Mark P. Stone 50 Broadway Hawthorne, NY 10532			WILLIAMS, MONICA L	
			ART UNIT	PAPER NUMBER
			3644	
			MAIL DATE	DELIVERY MODE
			11/17/2009	PAPER

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MARK P. STONE

50 BROADWAY

HAWTHORNE, NY 10532

Appeal No: 2010-000971

Application: 11/338,221

Appellant: James E. Freidell

Board of Patent Appeals and Interferences Docketing Notice

Application 11/338,221 was received from the Technology Center at the Board on October 20, 2009 and has been assigned Appeal No: 2010-000971.

A review of the file indicates that the following documents have been filed by appellant:

Appeal Brief filed on: April 13, 2009
Reply Brief filed on: August 19, 2009
Request for Hearing filed on: NONE

In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

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The facsimile number of the Board is 571-273-0052. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 571-272-9797 and should be directed to a Program and Resource Administrator.

By order of the Board of Patent Appeals and Interferences.



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	7590	10/16/2009	EXAMINER	
Mark P. Stone 50 Broadway Hawthorne, NY 10532			WILLIAMS, MONICA L	
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			3644	
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			10/16/2009	PAPER

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11338221	1/23/2006	FREIDELL, JAMES E.	402-085

Mark P. Stone
50 Broadway
Hawthorne, NY 10532

EXAMINER

MONICA L. WILLIAMS

ART UNIT	PAPER
3644	20091014

3644 20091014

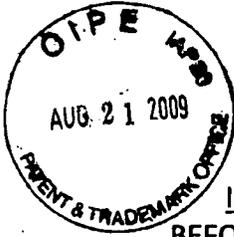
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Commissioner for Patents

The Reply Brief filed 08/21/2009 has been entered and noted by the Examiner.

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644



IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: James E. Freidell : Examiner: Monica L. Williams
 Title: VACUUM GROOMING TOOL : Group Art Unit: 3644
 Serial No.: 11/338, 221 :
 Filed: January 23, 2006 :

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Mail Stop: Appeal Brief - Patents

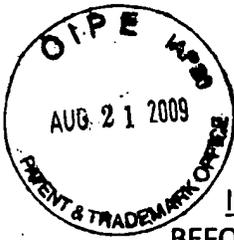
REPLY BRIEF

Applicant hereby replies to the Examiner's Answer, mailed on June 19, 2009, in connection with the appeal of the above patent application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Mark P. Stone 8/19/09

 MARK P. STONE (Date of Deposit)
 Reg. No. 27,954



402-085

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: James E. Freidell : Examiner: Monica L. Williams
Title: VACUUM GROOMING TOOL : Group Art Unit: 3644
Serial No.: 11/338, 221 :
Filed: January 23, 2006 :

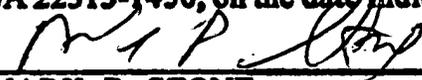
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MARK P. STONE 8/19/09
Reg. No. 27,954 (Date of Deposit)

Applicant's Amended Appeal Brief, filed on April 13, 2009, is discussed in Section 10, starting at page 5 of the Examiner's Answer and continuing onto page 6 of the Examiner's Answer.

At page 5 of the Examiner's Answer, the Examiner states: "In response to applicant's argument that Suter does not disclose air flow around both sides of the grooming blades resulting in a negative airflow to lift the topcoat of hair, This argument is not persuasive because Suter discloses triangularly shaped agitators (17), considered to be a grooming blade, which are clearly shown with two sides that come together to form the tip of the agitator (17). The air flows on both sides of the agitator (17) and the suction of the vacuum causes a negative airflow which lifts the topcoat of hair."

The Examiner's Answer completely misconstrues the nature of the airflow as disclosed by Applicant, and claimed in appealed independent claims 25, 30, 35 and 45, and misinterprets the express disclosure of the Suter patent. The airflow referred to in the Examiner's Answer with respect to the Suter patent, namely, airflow from the tip of a triangularly shaped agitator (17) over the two edges of the triangle converging to form the tip, is a different airflow than that disclosed and claimed by Applicant in which air flows laterally over two opposed substantially parallel side surfaces of a grooming blade. For purposes of illustration, enclosed as Exhibit 1 is a copy of sheet 1 of the drawing of the present patent application. Airflow disclosed by Applicant and specifically claimed in appealed independent claims 25, 30, 35, and 45 is a lateral airflow around (over) the opposed substantially parallel side surfaces (marked as

A and B on Fig. 1 H of Exhibit 1) of the grooming blade 110. It is not an airflow from the tip of the grooming blade over the converging triangular edges of the grooming blade forming the tip. In fact, as will be discussed below, lateral airflow around opposed side surfaces of the agitator (17) of the Suter patent is physically impossible since each of the two agitators (17) disclosed by the Suter patent is directly affixed to an opposed lateral side or margin of an opening or slot 16 by a bolt 18, thereby enabling airflow only over one edge of each agitator. (Page 1, lines 56-59 of the Suter Specification, and Figure 1 of the Suter drawings).

Thus, the agitators 17 of Suter are mounted at the margins or lateral edges of a slot 16 through which air flows, and this structural arrangement precludes flow of air around both side surfaces of one or more agitators, as more fully addressed by Applicant at Section VIII(a), pages 5-7 of the Amended Appeal Brief. There is simply no teaching (or suggestion) in the Suter patent that air is intended to, or capable of, flowing over the two opposed substantially parallel side surfaces of a grooming blade, as disclosed and claimed by Applicant. On the contrary, Suter describes agitators (Page 1, lines 57-58) with triangular scorings resembling 2-dimensional triangular teeth (Page 1, lines 61-62) patterned or engraved into a surface of each agitator, which the Examiner's Answer incorrectly interprets as being "triangularly shaped agitators." Since the ordinary dictionary definition of the term "score" includes a notch or line cut or scratched into a surface, Suter's scored triangular teeth are, at most, lines scratched into the surface of the agitator that create the appearance of triangular form. Any 3-dimensional structure of such triangular teeth must be limited to agitator surface material deformation resulting from such scoring. No 3-dimensional triangular tooth possessing two parallel sides

and two edges converging into a tip or point can possibly result from Suter's scoring. The conclusion at page 5 of the Examiner's Answer that "The air flows on both sides of the agitator..." is clearly in error: Air may flow across the edge of an agitator but not the edge or side of a triangular tooth that is scored into an agitator (except the apparent base of such triangular scorings adjacent to the air inlet), and certainly not across both roughly parallel side surfaces of an agitator which may be "turned inwardly" (page 1, lines 60-61) (i.e., bent approximately 90 degrees) at reference numeral (20) (page 1, lines 60-61) in order to be simultaneously "held in place by bolts or the like 18" (page 1, lines 57-59) and orient surface sides of an agitator (17) adjacent to the air inlet (16) to be roughly perpendicular to airflow across the longitudinal edge of an agitator (17), pursuant to Suter's clear description. This is apparent from closely inspecting Figures 2 and 3 of the drawings in conjunction with the specification (Page 1, lines 56-63) of the Suter patent. Suter clearly distinguishes agitators (17) from the triangular teeth (21) scored into an agitator (17). Based upon Suter's geometry, there is no possibility of Suter's agitator having "two sides that come together to form the tip of the agitator," as stated at page 5 of the Examiner's Answer because there is no 3-dimensional triangular tooth form which would require literal edges of material converging into a tip. At best, Suter describes scoring lines that converge into points that give the appearance of triangular teeth engraved on one surface of each of two agitators. Each agitator has just four edges and two parallel surfaces, bent longitudinally into approximately a right angle.

Notwithstanding the argument advanced above, and assuming arguendo that the device disclosed by Suter does include 3-dimensional triangular teeth (a proposition with which

Applicant disagrees), such device would still not be physically capable of meeting or achieving the express limitations recited in independent Claims 25, 30, 35 (“... to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade, ...”) and in independent claim 45 (“... to allow airflow created by the vacuum source to flow over the two sides of the grooming device, ...”). Figure 2 of Suter illustrates that airflow is through a central slot 16 defined between a right agitator 17 and a left agitator 17. The structural arrangement in which the agitators are bolted to the lateral sides of the central slot 16 requires air to flow around only the left edge of the right agitator, and around only the right edge of the left agitator, but precludes airflow over either of the two roughly parallel side surfaces of either the right or left agitators 17. The statement in the Examiner’s Answer that “...air flows on both sides of the agitator (17)...” is incorrect since the airflow referred to in the Examiner’s Answer is from a (what Applicant submits to be a non-existent 3-dimensional physical triangular) tip of the agitator (17) and around (what Applicant submits to be non-existent 3-dimensional physical triangular) converging edges of the agitator (17) forming a (what Applicant submits to be a non-existent 3-dimensional physical triangular) tip, and not the lateral air flow around the opposed substantially parallel side surfaces of a grooming blade, as disclosed and illustrated by Applicant, and as expressly recited in appealed independent claims 25, 30, 35 and 45.

At page 5 of the Examiner’s Answer, the Examiner states:

“In response to applicant’s arguments that Suter does not disclose a plurality of teeth having sharp edges formed on the sides of the teeth, this argument is not persuasive because the teeth are sharp enough to perform the claimed function of removing the undercoat of hair, (col. 2 lines 85-95), the teeth (17) meet the scope of the claim. The teeth are sharp within the scope of the claim, because sharp is a relative term.”

Applicant initially emphasizes that the portion of the disclosure of the Suter patent relied upon by the Examiner, namely, page 1, column 2, lines 85-95, does not support the Examiner’s position. This portion of the Suter Specification clearly does not teach or suggest grooming blades having opposed sides with sharpened edges (and not sharpened peaks or tips), as disclosed and claimed by Applicant, and as more fully discussed at Section VIII(b), pages 7-8, of the Amended Appeal Brief. In fact, there is no disclosure in the Suter patent that either the tip or the side edges of the teeth 17 exist in 3-dimensional form, let alone are sharp, nor does the Suter patent even use or refer to the term “sharp”. Although the Examiner’s Answer suggests that the tip of the teeth 17 of Suter are sharp, this is contrary to common knowledge within the pet grooming art – namely, a sharpened tip or point is never to be placed in direct contact with the skin of an animal to avoid injuring the animal. Thus, it is clear from the knowledge within the art that if the triangular tips of agitators actually existed in 3-dimensional form, instead of 2-dimensional lines, were to be placed directly against the skin of an animal in accordance with the portion of the Suter patent as proposed in the Examiner’s Answer, the tip of the tooth cannot be sharpened. Assuming arguendo that Suter discloses placing the tip of the triangular shaped scoring, whether sharpened or unsharpened, against the skin of an

animal to be groomed, there is nonetheless no disclosure whatsoever in the Suter patent itself teaching or suggesting a grooming blade having opposed sides with sharpened edges, and not sharpened peaks or tips.

Thus, assuming arguendo that Suter discloses that the agitators 17 include 3-dimensional triangular teeth, instead of the appearance of triangular teeth (21) scored (20) 2-dimensionally into an agitator surface, with sharp tips which are brought into contact with the animal's skin (See Figure 1 of the Suter drawing, and column 2, lines 55-62 and lines 89-91 of the Suter Specification), this is exactly opposite to the device disclosed and claimed by Applicant in which it is the physical converging edges of 3-dimensional physical, roughly triangular teeth cut or stamped into the grooming blade which are sharp, but not the tip, to avoid placing a sharp tip in direct contact with the animal's skin. The Suter patent is completely silent with regard to sharpened edges, and any position in the Examiner's Answer to the contrary is mere speculation by the Examiner.

Enclosed as Exhibit 2 is a true copy of Declaration Of Barbara E. McCue Pursuant to 37 C.F.R. § 1.132, filed on April 28, 2005, in connection with parent application Serial No. 10/147, 802, now US Patent No. 7, 159, 274. The Declaration emphasizes the significance of both airflow around two opposed substantially parallel side surfaces of a grooming blade of an animal vacuum tool, and providing the opposed sides of the grooming blade with sharpened edges. The advantages resulting directly from the airflow over two opposed sides of a grooming blade are specifically discussed at paragraphs 20-21 and 29-40 of the Declaration,

while the advantages resulting from providing a grooming blade with sharpened edges on opposed sides thereof is discussed at paragraphs 23-40 of the Declaration.

As addressed in the Declaration, it is the interaction between the lateral airflow over the opposed substantially parallel side surfaces of the grooming blade, and the sharpened converging triangular edges of the opposed sides of the grooming blade, which cooperate to result in the improved efficiency of the claimed grooming device. The prior art applied to reject the appealed claims does not suggest or recognize either of those features of the invention, let alone a combination thereof.

With regard to the Examiner's position that the Zaidan patent discloses a handle which is angularly adjustable relative to the grooming blades, Applicant submits that the only "adjustment" disclosed by this patent is the alternating of the comb or brush between two positions: 1). A combing or brushing position, and 2). A non-combing or non-brushing position (see column 2, lines 48-63 of the Zaidan Specification). As more fully discussed at Section VIII. (c), pages 9-10 of the Amended Appeal Brief, Zaidan does not teach or suggest the feature of Applicant's claimed invention in which one or more grooming blades can be set to one or more of a plurality of angular orientations relative the handle. On the contrary, Zaidan discloses a device in which no structure or structural arrangement is provided for setting one or more of

the grooming blades to one or more of a plurality of angular orientations relative to the handle of the device.

Applicant also disagrees with the Examiner's position that the Zaidan carpet cleaning device is analogous to an animal grooming device because a carpet cleaning device is reasonable pertinent to the particular problem with which Applicant was concerned "because it is a rigid comb having sharpened teeth attached to the nozzle of a vacuum for combing through an object having long hairs." Applicant respectfully disagrees with this conclusion. On the contrary, as argued throughout the prosecution of this patent application, unlike a carpet cleaning device having teeth with sharpened points or tips, it is imperative that an animal grooming device have teeth without sharpened peaks or tips to avoid injury to the skin of the animal being groomed. Therefore, problems to which carpet cleaning devices are directed, and the solutions to these problems, are significantly different from those addressed by animal grooming devices.

Applicant respectfully submits that the Examiner's Answer has misconstrued the specific recitations in the appealed independent claims with regard to 1). the lateral airflow around the opposed substantially parallel side surfaces of the grooming blade (the Examiner's Answer addresses only airflow from the tip of the toothed shaped element around the converging edges defining the tip, despite the impossibility of a 2-dimensional scored etching to possess

physical edges converging into a physical tip); 2). the multiple converging triangular edges of a grooming blade having sharpened edges (the Examiner's Answer addresses only the tip of a toothed shaped element, and furthermore speculates as to the sharpness of any component disclosed by Suter since Suter fails to address the issue of "sharpness" or the existence of physical toothed shaped elements having 3-dimensional tips or edges); and 3). the angular adjustability of the angle of the grooming device as expressly recited in appealed independent claim 44 (The Zaiden patent does not teach or suggest angular adjustment of one or more grooming blades relative to a handle).

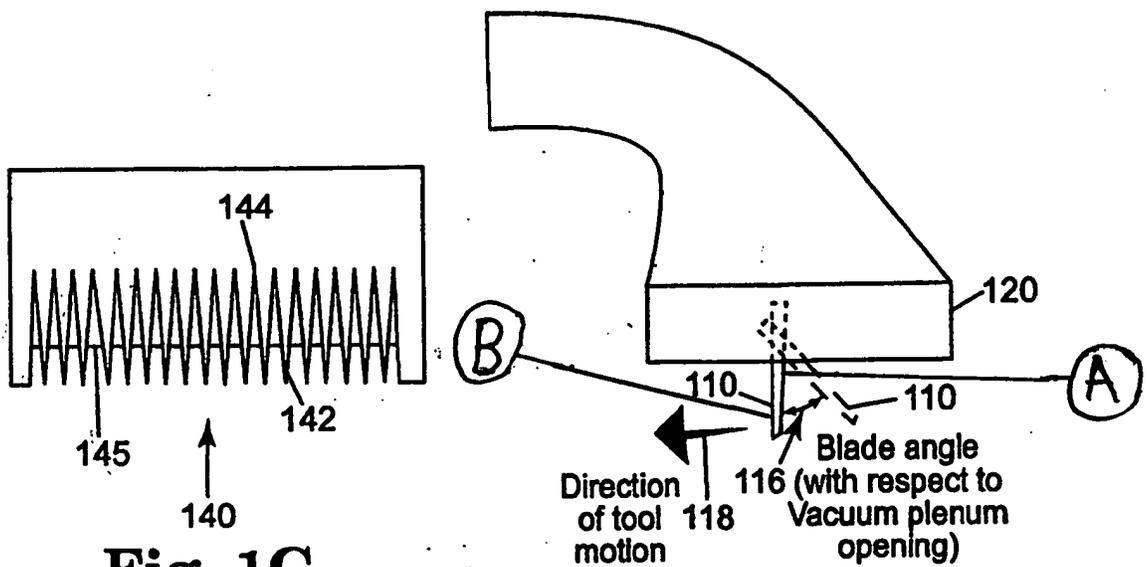
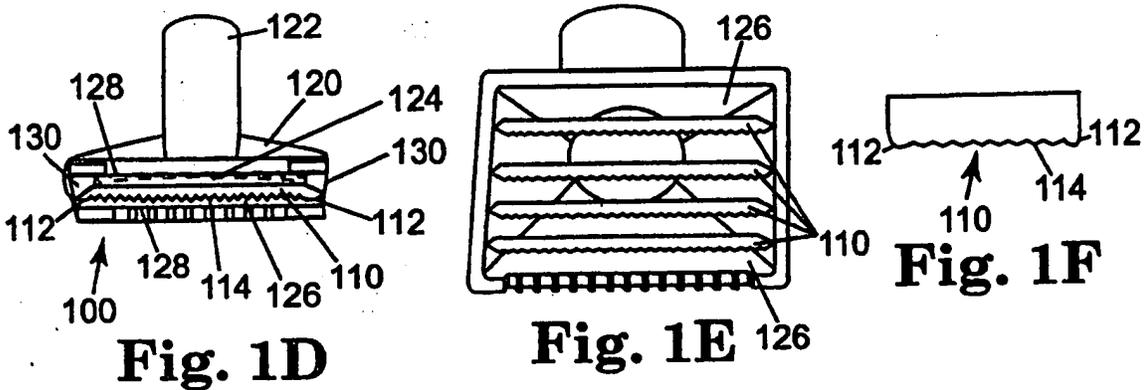
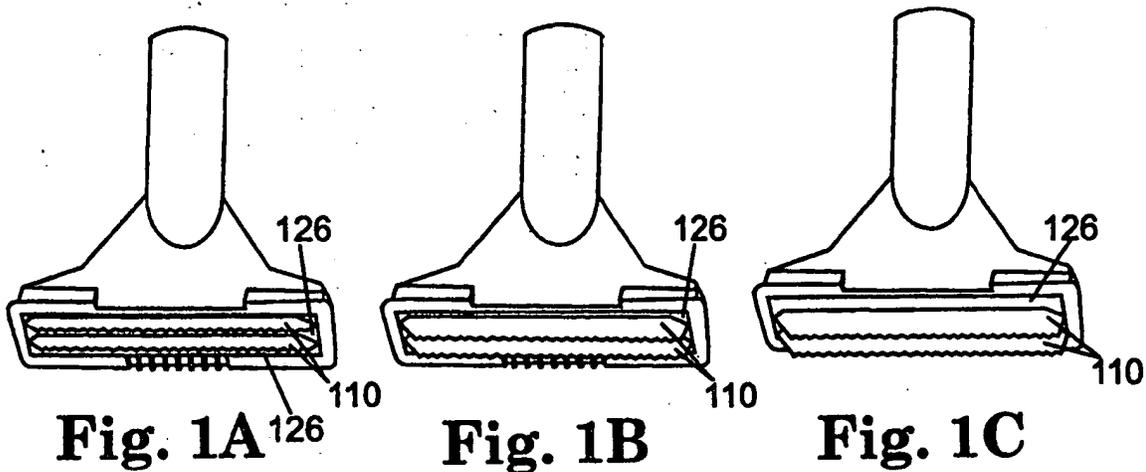
For the reasons discussed herein, in the Amended Appeal Brief, and throughout the prosecution of this patent application, Applicant respectfully submits that the appealed claims are allowable over the prior art applied in the Final Action, and respectfully requests that the final rejection of these claims be reversed.

Respectfully submitted,



Mark P. Stone
Registration No. 27, 954
Attorney for Applicant
50 Broadway
Hawthorne, NY 10532
914-769-1106

Exhibit 1



Direction of tool motion 118
 Blade angle 116 (with respect to Vacuum plenum opening)

Exhibit 2



Our Docket No: 56630-247064

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
James E. Freidell)	Examiner: Snider, Theresa
)	
Application No: 10/147,802)	Art Unit: 1744
)	
Filed: May 17, 2002)	Confirmation Number: 3155
)	
For: <u>VACUUM GROOMING TOOL</u>)	

Commissioner for Patents
Alexandria, VA 22313-1450

DECLARATION OF BARBARA E. MCCUE
Pursuant to 37 C.F.R. § 1.132

Sir:

I, Barbara E. McCue hereby declare that:

1. I have reviewed the above-identified patent application ("**Patent Application**"), including the figures, and participated in a telephonic interview with the Examiner on March 17, 2005.
2. I am currently a professional pet groomer and instructor of pet grooming. I am presently transitioning from the employ of Clean Critter to a full-time teaching position, as an independent contractor, for the International Academy of Pet Design. I have been a pet groomer for over 37 years and have taught pet grooming for over 24 years.
3. I was self-trained, starting in 1967, with the help of a poodle breeder. My formal training began in 1972 with Ms. Micki, who was the head groomer at a pet shop in Phoenix, AZ,

after which I apprenticed under Mr. Wayne, a Master Groomer, dog handler, breeder and owner of the Pet Palace Pet shop in Paradise Valley, AZ.

4. I began teaching pet grooming when I opened my first salon in Yuma, AZ. I discovered that there were few groomers in the area and the ones I did find could not groom to my high standards, so I had to teach them. I am very patient and soon became very good at teaching new groomers. I have since taught in almost every salon where I have worked plus some of the top grooming schools in the nation. Examples include the Paragon School of Pet Grooming (outside Grand Rapids, MI) and the International Academy of Pet Design (outside Atlanta, GA), where I have taught school instructors, in addition to teaching students.
5. I have taught in Colorado, New York, Arizona, Texas, Michigan and Georgia. I have also taught at grooming seminars and for Colorado Professional Pet Groomers' Association (CPPGA) meetings and workshops. I have many awards for grooming competitions and for volunteer work I have done.
6. I have taught all aspects of pet grooming, proper use of all pet grooming tools and equipment, pet grooming salon management, animal care and nutrition, every phase of obedience dog training, show grooming and handling, and creative grooming (including coloring). I have taught novices and experts, ranging from 4-H childrens groups (pet care and obedience) up to and including pet grooming instructors (advanced clipper vacuuming techniques), the latter at some of the largest and most recognized pet grooming schools in the country.
7. The job description for every job I have had since 1978 has included, in addition to grooming, the teaching of other employees and improving salon standards. By way of example, my new position, at the International Academy of Pet Design, one of the largest pet grooming schools in the country, requires me to help build the management team to

completely update the school's curriculum to world-class standards, while I am also instructing students.

8. I have served on the board of directors of the CPPGA, have been editor of two industry newsletters, and am often invited to speak at pet industry conferences on the subjects of grooming, motivation and time management.
9. I would be considered an expert on the subject of animal grooming and proper use and selection of grooming tools.
10. My current curriculum vitae is attached in Appendix A.
11. I first became introduced to Hair Patrol and Mr. Jim Freidell in early 2001 when my employer, PETCO, selected me to conduct initial testing and evaluation of some of Hair Patrol's equipment for suitability and effectiveness for prospective application in all of PETCO's 500+ pet grooming salons. Although not the subject of this testing and evaluation exercise, I became familiar with other equipment offered by Hair Patrol. This led to my exposure to Mr. Freidell's invention, which, to satisfy my own curiosity, I offered to test and evaluate outside the auspices of my official capacity at PETCO.
12. I have no formal relationship with Hair Patrol, except that I once marketed some of Hair Patrol's products and taught groomers in the use of Hair Patrol equipment on a commission basis/flat fee basis, which is something I do for other pet grooming industry manufacturers as well.
13. There are several different styles of shedding blades on the market ("**Existing Shedding Blades**"), examples of which are depicted in Appendix B.
14. In my opinion, the Existing Shedding Blades are clumsy and difficult to use.
15. In my opinion, while the Existing Shedding Blades do clear or rid the coat of some dead hair, they are very inefficient at doing so, and not at all effective at facilitating the removal of ready to be shed hair.

16. None of the pet groomers I know currently use any of the Existing Shedding Blades. Today, they are all but obsolete, except for use in connection with large animals, such as horses and cattle.
17. Shedding blades were initially designed for horses and not for smaller animals. In my experience, one must be extremely careful of joints, the spine and other boney areas when using the Existing Shedding Blades on smaller animals.
18. Since I would not consider using one of the Existing Shedding Blades, I certainly would not have contemplated modifying one and combining it with a vacuum source.
19. Mr. Freidell has invented an improved animal grooming tool that includes one or more grooming blades having formed thereon sharp edges or "burrs" which, during grooming operations, remove ready to be shed hair by snagging the ready to be shed hair (the "**Improved Tool**").
20. When the Improved Tool is coupled with a vacuum source by way of a vacuum nozzle mouth opening, the grooming blade(s) are positioned with respect to the mouth opening to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade(s) (the "**Vacuum-Assisted Improved Tool**").
21. During grooming operations with the Vacuum-Assisted Improved Tool, the negative airflow lifts top coat hair of the dog's coat up and out of the way, so to expose undercoat hair to the sharp edges (burrs) of the grooming blade(s), thereby increasing efficiency of de-shedding operations, as compared to conventional de-shedding operations, by (i) eliminating operational strokes, (ii) eliminating the need for the groomer to use a hand or comb to lift the top coat hair up and out of the way, and (iii) reducing time associated with the de-shedding operations.
22. I have used prototypes of the Improved Tool ("**non-vacuum-assisted Prototype**") and the Vacuum-Assisted Improved Tool ("**vacuum-assisted Prototype**") that include one or

more substantially parallel, toothed grooming blades similar to that illustrated in Figures 1A-H, 2A-C and 3A-C of the Patent Application (collectively, the “Prototypes”).

23. In the Prototypes, only the edges adjacent to each “point” or “peak” are sharp; the points are purposefully not sharp. One can feel these sharp edges, or burrs, by dragging ones finger across the blade.
24. When I first saw the Prototypes Mr. Freidell provided for my testing and evaluation, I was extremely skeptical regarding their usefulness. This is because I have seen over the years many, many new animal grooming tools offered for sale, all aiming to facilitate the removal of shedding and ready to shed hair, but none being much if any more effective than existing tools. On first appearance, the impression of similarity to Existing Shedding Blade structure deepened my skepticism.
25. Groomers are often tempted to purchase and try new tools that may ease this portion of their grooming jobs, which all too often leads to disappointment. Most of these new tools don’t remain on the market for long, due to user dissatisfaction. Those that do prevail typically provide only incremental improvement.
26. Mr. Freidell explained to me that at least one difference between the Prototypes and animal grooming tools currently on the market was the presence of sharp edges (“burrs”). In some Prototypes, the sharp edges (“burrs”) are formed as a result of a metal stamping process and are located on the slanted areas that form the peaks of the toothed grooming blades.
27. I believe that the presence of the sharp edges (“burrs”) on the Prototypes, Improved Tool and the Vacuum-Assisted Improved Tool aid in the snagging and removal of ready to be shed hair during animal grooming operations. I believe these new tools effectively give rise to a whole new class of carding tools that unexpectedly perform much more efficiently than any other.

28. I have tested early prototypes developed by Mr. Freidell that did not have sharp edges or “burrs” and found them comparatively useless.
29. When Mr. Freidell initially provided the Prototypes for me to test and evaluate, I expected the vacuum to perform its typical function (e.g., create suction to eliminate hair removed by the grooming blades) and the grooming blades to perform their typical function (e.g., remove loose, already shed hair). I did not expect the vacuum to aid in the removal of ready to be shed hair. Nor did I expect the grooming blades to work particularly well in view of my past experience with Existing Shedding Blades.
30. Based on my observations and past experience, the non-vacuum-assisted Prototype removed significantly more hair than grooming tools currently on the market.
31. Recently, during a carding experiment conducted on the same dog separately using (i) a hand-held #40 clipper blade; (ii) a FURminator® grooming tool (U.S. Patent No. 6,782,846), the newest tool on the market for carding, which merely attaches a handle to a traditional #40 blade, making it easier to hold, thus reducing hand cramping; and (iii) the non-vacuum-assisted Prototype, in a fixed carding period of 10 minutes, the non-vacuum-assisted Prototype removed 2 to 4 times more loose and ready to be shed hair than the #40 blade or the FURminator grooming tool.
32. Furthermore, during the same recent carding experiment, more hair was removed by the vacuum-assisted Prototype when used to perform carding on the areas of the dog’s coat that were previously treated by the #40 blade and the FURminator tool; thus, suggesting the vacuum-assisted Prototype extracted ready to be shed hair that carding with the #40 blade and the FURminator tool left behind.
33. Based on my observations, the vacuum-assisted Prototype removed noticeably more hair than the non-vacuum-assisted Prototype in approximately half the time and half the number of operational strokes; thus, suggesting an unexpected synergistic effect of combining the Improved Tool with a vacuum source.

34. Using the vacuum-assisted Prototype, grooming time was reduced by at least 75% as compared to carding with a hand-held #40 clipper blade or a FURminator grooming tool.
35. For example, using the vacuum-assisted Prototype on a Labrador Retriever, the carding time required only approximately 5 minutes as compared to 20 minutes with a hand-held #40 blade or FURminator grooming tool.
36. Using the vacuum-assisted Prototype, I estimate at least 3 times more hair is removed as compared to carding with a hand-held #40 blade and at least 2 times more hair is removed as compared to carding with a FURminator grooming tool.
37. Using the vacuum-assisted Prototype, the amount of time before the pets resumed dropping hair increased dramatically from 1 to 2 weeks to 3 to 4 weeks. This has been demonstrated to me by actual client satisfaction.
38. In view of the fact that carding strokes may cause irritation of a dog's skin, it is my opinion that carding using the vacuum-assisted Prototype will result in less irritation to dogs' skin than carding involving the use of a #40 blade or FURminator grooming tool alone.
39. In my opinion, based on the unexpected and exceptional results I observed in connection with using the Prototypes with various breeds of dogs, similar improvements are likely to be observed when grooming other domesticated pets.
40. I have not been compensated, nor do I expect to be compensated, for the testing and evaluation of the Prototypes, Improved Tool, or Vacuum-Assisted Improved Tool. Moreover, I have not been compensated for, nor do I expect to be compensated for preparing this declaration. My sole objective in engaging in such testing and evaluation, and extending support to Mr. Freidell's patent objectives, is to see these new tools come to market so that I can personally use them and teach their use to my students. I believe these tools will become highly valuable to the grooming profession, once groomers, like myself, overcome their skepticism in using them.

I, Barbara E. McCue, hereby declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made knowing that willful false statements and the like are punishable by fine or imprisonment, or both under § 1001 of Title 18 of United States Code, and such willful or false statements may jeopardize the validity of the Patent Application or any patent issuing therefrom.

Respectfully submitted,

Date: 4-7-05

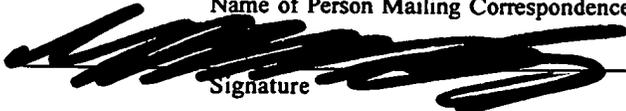

Barbara E. McCue

FIRST CLASS CERTIFICATE OF MAILING
(37 C.F.R. § 1.8(a))

I HEREBY CERTIFY THAT this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage via first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: 4/26/2005

on 4/26/2005
Date of Deposit

Michelle L. Wyss
Name of Person Mailing Correspondence


Signature

4/26/2005
Date

**Barbara E. McCue
145 S. Cody Court
Lakewood, Co. 80226
Ph. (303) 506-1192**

I have worked in the pet industry for more than 37 years. I have extensive experience in pet grooming, grooming instruction, dog training, handling, show grooming, and grooming competition. I also have extensive management experience in scheduling, personnel management, client records, phone skills, payroll and computer skills. I have excellent sales ability and a record of good public relations. I have excellent oral and written communication skills. I have core computer competence in most office software, including Microsoft Office, Photoshop and Quicken.

Education

**Graduate; Kofa High School (1966)
Yuma, Arizona**

I also took a course in sign language at Arizona Western Community College.

I was instructed in pet grooming as an apprentice to a Master Groomer/Handler in Paradise Valley, Arizona. I was schooled in all phases of pet grooming including show grooming for many breeds. Eventually I earned the titles of Master Groomer and Instructor.

I earned my certification as a dog trainer at the Greater Phoenix Dog Training Academy in Phoenix, AZ.

Once I started in the pet industry, I could not stop learning. I went to every dog show, trade show and seminar I could to continue my education. I have had various courses in all phases of the pet industry and have earned certificates from some of the biggest names in the grooming industry including Pam Lauritzen, John Stazko, and Shannon Lynnes. I continue to attend every event I can in the pet industry and have kept my grooming skills up to date along with testing every new grooming tool I can get my hands on. I was taught pet handling and restraint by several veterinarians and veterinary technicians. I am certified by the American Red Cross in pet CPR and first aid. I have also served as an emergency veterinarian assistant.

My management skills were learned on the job as the need presented itself. I have owned two successful grooming salons.

My computer skills were learned from my husband and are ongoing.

I have attended many business and sales seminars depending on the needs of my employers. I never tire of learning.

Accreditations

High School Diploma, college course in sign language, various courses of study in business and business management, completed course in real estate, various courses in the pet care and grooming profession, dog training certificate, pet grooming certificates, pet first aid and CPR, certification and grooming instruction.

Professional clubs and memberships

NDGAA (National Dog Groomers Association of America) Member; CPPGA (Colorado Professional Pet Groomers' Association) Member, Board Member, Secretary, News Letter Editor; and Member of local breed clubs.

Volunteer Service

Volunteer grooming for Humane Societies and local pet shelters
Volunteer instruction in Show Handling for 4H junior showmanship
Volunteer instruction for 4H in pet care and nutrition
Volunteer work for the CPPGA
Volunteer aid for local hospital (Candy Striper at Yuma Regional Medical Center).
Volunteer coach for little league cheerleaders

Languages Besides English

I have studied and excelled in Spanish and Sign Language, but would need refresher courses to become fluent again.

Awards Received

Grooming awards for national grooming competitions
Awards and ribbons from dog shows
Certificates and awards for volunteer work
Sales awards

Work History

I am presently in transition from employment at Clean Critter in Lakewood, Colorado to my new position of instructor at the International Academy of Pet Design in Marietta, Georgia. I begin full-time work at the Academy on April 12, 2005.

Clean Critter
550 Garrison St.
Lakewood, CO 89226
July 2001-March 2005

My position at Clean Critter was groomer but included instructing new employees and managing the salon while the owner was out of town on business. Also responsible for daily record keeping and customer relations.

PETCO

Lakewood Commons
475 S. Wadsworth
Lakewood, CO 80226
April 2000-July 2001

My position at PETCO was Grooming Salon Manager. My duties included supervising grooming department employees, grooming, scheduling, instructing, timekeeping, customer relations, daily, weekly and monthly reports, cleaning, scheduling, quality control, inventory control, and liaison between my department and the store managers. I was also tasked by corporate headquarters to test and evaluate a new animal bathing system for potential application in all PETCO store grooming departments.

PETCO

1540 West Southern
Mesa, AZ 85202
Nov. 1998-April 2000

My position was Grooming Salon Manager. This was a brand new store, requiring me to build clientele, in addition to my duties of supervising grooming department employees, grooming, scheduling, instructing, timekeeping, customer relations, daily, weekly and monthly reports, cleaning, scheduling, quality control, inventory control, and liaison between my department and the store managers.

Moonbrook Pet Grooming

3201 N Main Street Ext
Jamestown, NY 14701
1995-1998

I opened and ran this grooming salon, which was collocated in a veterinary hospital. My responsibilities involved all salon operations. I also conducted obedience classes there.

Temporary Lapse in Employment

Part of 1994 and 1995 was a time I did not work in the grooming industry as I was caring for my husband's mother who had cancer.

Alpine Pet Grooming

8631 Washington
Denver, CO 80229
1990-1994

My position at Alpine was groomer/manager. My responsibilities included opening and closing, personnel management and instruction, inventory, scheduling, customer relations, record keeping, troubleshooting, grooming, morale, and all management phases.

Bone Voyage Kennel

Arvada, CO

1989-1990

At Bone Voyage Kennel I had total control of the grooming salon, and was also in charge of all personnel. I also worked in the retail store and was responsible for overall kennel operations when the owners were absent.

PETsMart

Denver, CO (this store now closed)

1988-1989

Groomer and interim grooming department manager. All management duties including personnel management, grooming, teaching, scheduling, daily, weekly and monthly reports, and liaison between the grooming department and the store managers.

Sofia's Dog House (now closed)

860 E 24th St.

Yuma, AZ

1984-1988

I was a groomer/ manager. Additional to grooming, I was responsible for all management duties.

Sun Valley Kennel

Yuma, AZ (now closed)

1983-1984

Groomer. My duties were pet grooming, reception, and scheduling.

Fluff-N-Stuff Pet Grooming

Yuma, AZ

1981-1983

Owner/ Groomer. This was the first grooming salon that I owned and my duties included everything about the business.

Continental Groomers

Phoenix, AZ

1978-1981

Groomer. Bathing and grooming dogs.

The Pet Palace

Paradise Valley, AZ

1975-1978

Apprenticed under a master groomer, Mr. Wayne. I learned advanced and "all breed" grooming, ultimately becoming a master groomer.

Micki's Pet Grooming
Phoenix, AZ
1972-1975

First employment as a professional pet groomer. This job gave me exposure to a broad variety of dog breeds and professional breed styling.

Grooming at home
Phoenix, AZ
1967-1972

I was teaching myself to groom dogs and I groomed for neighbors, relatives and friends.

References

Heather Myers: former owner of Alpine Pet Grooming. 15941 Dale Av., Fort Lupton, CO 80621 (residence)

Barb Hall: current owner of Alpine Pet Grooming. 8631 Washington St., Thornton, CO 80229

Virginia Adams: owner of Sofia's Dog House. 860 E. 24th St. Yuma, AZ 85365

Cathy Cox: co-owner of For Paws Pet Grooming. 10201 Monterey Circle, Northglenn, CO 80260. Ph. (303) 427-8946

Peggy Kramer: co-owner, For Paws Pet Grooming. 10201 Monterey Circle, Northglenn, CO 80260. Ph. (303) 427-8946



402-085

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: James E. Freidell : Examiner: Monica L. Williams
Title: VACUUM GROOMING TOOL : Group Art Unit: 3644
Serial No.: 11/338, 221 :
Filed: January 23, 2006 :

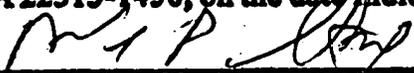
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop: Appeal Brief - Patents

REPLY BRIEF

Applicant hereby replies to the Examiner's Answer, mailed on June 19, 2009, in connection with the appeal of the above patent application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.


MARK P. STONE
Reg. No. 27,954

8/19/09
(Date of Deposit)

Applicant's Amended Appeal Brief, filed on April 13, 2009, is discussed in Section 10, starting at page 5 of the Examiner's Answer and continuing onto page 6 of the Examiner's Answer.

At page 5 of the Examiner's Answer, the Examiner states: "In response to applicant's argument that Suter does not disclose air flow around both sides of the grooming blades resulting in a negative airflow to lift the topcoat of hair, This argument is not persuasive because Suter discloses triangularly shaped agitators (17), considered to be a grooming blade, which are clearly shown with two sides that come together to form the tip of the agitator (17). The air flows on both sides of the agitator (17) and the suction of the vacuum causes a negative airflow which lifts the topcoat of hair."

The Examiner's Answer completely misconstrues the nature of the airflow as disclosed by Applicant, and claimed in appealed independent claims 25, 30, 35 and 45, and misinterprets the express disclosure of the Suter patent. The airflow referred to in the Examiner's Answer with respect to the Suter patent, namely, airflow from the tip of a triangularly shaped agitator (17) over the two edges of the triangle converging to form the tip, is a different airflow than that disclosed and claimed by Applicant in which air flows laterally over two opposed substantially parallel side surfaces of a grooming blade. For purposes of illustration, enclosed as Exhibit 1 is a copy of sheet 1 of the drawing of the present patent application. Airflow disclosed by Applicant and specifically claimed in appealed independent claims 25, 30, 35, and 45 is a lateral airflow around (over) the opposed substantially parallel side surfaces (marked as

A and B on Fig. 1 H of Exhibit 1) of the grooming blade 110. It is not an airflow from the tip of the grooming blade over the converging triangular edges of the grooming blade forming the tip. In fact, as will be discussed below, lateral airflow around opposed side surfaces of the agitator (17) of the Suter patent is physically impossible since each of the two agitators (17) disclosed by the Suter patent is directly affixed to an opposed lateral side or margin of an opening or slot 16 by a bolt 18, thereby enabling airflow only over one edge of each agitator. (Page 1, lines 56-59 of the Suter Specification, and Figure 1 of the Suter drawings).

Thus, the agitators 17 of Suter are mounted at the margins or lateral edges of a slot 16 through which air flows, and this structural arrangement precludes flow of air around both side surfaces of one or more agitators, as more fully addressed by Applicant at Section VIII(a), pages 5-7 of the Amended Appeal Brief. There is simply no teaching (or suggestion) in the Suter patent that air is intended to, or capable of, flowing over the two opposed substantially parallel side surfaces of a grooming blade, as disclosed and claimed by Applicant. On the contrary, Suter describes agitators (Page 1, lines 57-58) with triangular scorings resembling 2-dimensional triangular teeth (Page 1, lines 61-62) patterned or engraved into a surface of each agitator, which the Examiner's Answer incorrectly interprets as being "triangularly shaped agitators." Since the ordinary dictionary definition of the term "score" includes a notch or line cut or scratched into a surface, Suter's scored triangular teeth are, at most, lines scratched into the surface of the agitator that create the appearance of triangular form. Any 3-dimensional structure of such triangular teeth must be limited to agitator surface material deformation resulting from such scoring. No 3-dimensional triangular tooth possessing two parallel sides

and two edges converging into a tip or point can possibly result from Suter's scoring. The conclusion at page 5 of the Examiner's Answer that "The air flows on both sides of the agitator..." is clearly in error: Air may flow across the edge of an agitator but not the edge or side of a triangular tooth that is scored into an agitator (except the apparent base of such triangular scorings adjacent to the air inlet), and certainly not across both roughly parallel side surfaces of an agitator which may be "turned inwardly" (page 1, lines 60-61) (i.e., bent approximately 90 degrees) at reference numeral (20) (page 1, lines 60-61) in order to be simultaneously "held in place by bolts or the like 18" (page 1, lines 57-59) and orient surface sides of an agitator (17) adjacent to the air inlet (16) to be roughly perpendicular to airflow across the longitudinal edge of an agitator (17), pursuant to Suter's clear description. This is apparent from closely inspecting Figures 2 and 3 of the drawings in conjunction with the specification (Page 1, lines 56-63) of the Suter patent. Suter clearly distinguishes agitators (17) from the triangular teeth (21) scored into an agitator (17). Based upon Suter's geometry, there is no possibility of Suter's agitator having "two sides that come together to form the tip of the agitator," as stated at page 5 of the Examiner's Answer because there is no 3-dimensional triangular tooth form which would require literal edges of material converging into a tip. At best, Suter describes scoring lines that converge into points that give the appearance of triangular teeth engraved on one surface of each of two agitators. Each agitator has just four edges and two parallel surfaces, bent longitudinally into approximately a right angle.

Notwithstanding the argument advanced above, and assuming arguendo that the device disclosed by Suter does include 3-dimensional triangular teeth (a proposition with which

Applicant disagrees), such device would still not be physically capable of meeting or achieving the express limitations recited in independent Claims 25, 30, 35 (“... to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade, ...”) and in independent claim 45 (“... to allow airflow created by the vacuum source to flow over the two sides of the grooming device, ...”). Figure 2 of Suter illustrates that airflow is through a central slot 16 defined between a right agitator 17 and a left agitator 17. The structural arrangement in which the agitators are bolted to the lateral sides of the central slot 16 requires air to flow around only the left edge of the right agitator, and around only the right edge of the left agitator, but precludes airflow over either of the two roughly parallel side surfaces of either the right or left agitators 17. The statement in the Examiner’s Answer that “...air flows on both sides of the agitator (17)...” is incorrect since the airflow referred to in the Examiner’s Answer is from a (what Applicant submits to be a non-existent 3-dimensional physical triangular) tip of the agitator (17) and around (what Applicant submits to be non-existent 3-dimensional physical triangular) converging edges of the agitator (17) forming a (what Applicant submits to be a non-existent 3-dimensional physical triangular) tip, and not the lateral air flow around the opposed substantially parallel side surfaces of a grooming blade, as disclosed and illustrated by Applicant, and as expressly recited in appealed independent claims 25, 30, 35 and 45.

At page 5 of the Examiner’s Answer, the Examiner states:

"In response to applicant's arguments that Suter does not disclose a plurality of teeth having sharp edges formed on the sides of the teeth, this argument is not persuasive because the teeth are sharp enough to perform the claimed function of removing the undercoat of hair, (col. 2 lines 85-95), the teeth (17) meet the scope of the claim. The teeth are sharp within the scope of the claim, because sharp is a relative term."

Applicant initially emphasizes that the portion of the disclosure of the Suter patent relied upon by the Examiner, namely, page 1, column 2, lines 85-95, does not support the Examiner's position. This portion of the Suter Specification clearly does not teach or suggest grooming blades having opposed sides with sharpened edges (and not sharpened peaks or tips), as disclosed and claimed by Applicant, and as more fully discussed at Section VIII(b), pages 7-8, of the Amended Appeal Brief. In fact, there is no disclosure in the Suter patent that either the tip or the side edges of the teeth 17 exist in 3-dimensional form, let alone are sharp, nor does the Suter patent even use or refer to the term "sharp". Although the Examiner's Answer suggests that the tip of the teeth 17 of Suter are sharp, this is contrary to common knowledge within the pet grooming art – namely, a sharpened tip or point is never to be placed in direct contact with the skin of an animal to avoid injuring the animal. Thus, it is clear from the knowledge within the art that if the triangular tips of agitators actually existed in 3-dimensional form, instead of 2-dimensional lines, were to be placed directly against the skin of an animal in accordance with the portion of the Suter patent as proposed in the Examiner's Answer, the tip of the tooth cannot be sharpened. Assuming arguendo that Suter discloses placing the tip of the triangular shaped scoring, whether sharpened or unsharpened, against the skin of an

animal to be groomed, there is nonetheless no disclosure whatsoever in the Suter patent itself teaching or suggesting a grooming blade having opposed sides with sharpened edges, and not sharpened peaks or tips.

Thus, assuming arguendo that Suter discloses that the agitators 17 include 3-dimensional triangular teeth, instead of the appearance of triangular teeth (21) scored (20) 2-dimensionally into an agitator surface, with sharp tips which are brought into contact with the animal's skin (See Figure 1 of the Suter drawing, and column 2, lines 55-62 and lines 89-91 of the Suter Specification), this is exactly opposite to the device disclosed and claimed by Applicant in which it is the physical converging edges of 3-dimensional physical, roughly triangular teeth cut or stamped into the grooming blade which are sharp, but not the tip, to avoid placing a sharp tip in direct contact with the animal's skin. The Suter patent is completely silent with regard to sharpened edges, and any position in the Examiner's Answer to the contrary is mere speculation by the Examiner.

Enclosed as Exhibit 2 is a true copy of Declaration Of Barbara E. McCue Pursuant to 37 C.F.R. § 1.132, filed on April 28, 2005, in connection with parent application Serial No. 10/147, 802, now US Patent No. 7, 159, 274. The Declaration emphasizes the significance of both airflow around two opposed substantially parallel side surfaces of a grooming blade of an animal vacuum tool, and providing the opposed sides of the grooming blade with sharpened edges. The advantages resulting directly from the airflow over two opposed sides of a grooming blade are specifically discussed at paragraphs 20-21 and 29-40 of the Declaration,

while the advantages resulting from providing a grooming blade with sharpened edges on opposed sides thereof is discussed at paragraphs 23-40 of the Declaration.

As addressed in the Declaration, it is the interaction between the lateral airflow over the opposed substantially parallel side surfaces of the grooming blade, and the sharpened converging triangular edges of the opposed sides of the grooming blade, which cooperate to result in the improved efficiency of the claimed grooming device. The prior art applied to reject the appealed claims does not suggest or recognize either of those features of the invention, let alone a combination thereof.

With regard to the Examiner's position that the Zaidan patent discloses a handle which is angularly adjustable relative to the grooming blades, Applicant submits that the only "adjustment" disclosed by this patent is the alternating of the comb or brush between two positions: 1). A combing or brushing position, and 2). A non-combing or non-brushing position (see column 2, lines 48-63 of the Zaidan Specification). As more fully discussed at Section VIII. (c), pages 9-10 of the Amended Appeal Brief, Zaidan does not teach or suggest the feature of Applicant's claimed invention in which one or more grooming blades can be set to one or more of a plurality of angular orientations relative the handle. On the contrary, Zaidan discloses a device in which no structure or structural arrangement is provided for setting one or more of

the grooming blades to one or more of a plurality of angular orientations relative to the handle of the device.

Applicant also disagrees with the Examiner's position that the Zaidan carpet cleaning device is analogous to an animal grooming device because a carpet cleaning device is reasonable pertinent to the particular problem with which Applicant was concerned "because it is a rigid comb having sharpened teeth attached to the nozzle of a vacuum for combing through an object having long hairs." Applicant respectfully disagrees with this conclusion. On the contrary, as argued throughout the prosecution of this patent application, unlike a carpet cleaning device having teeth with sharpened points or tips, it is imperative that an animal grooming device have teeth without sharpened peaks or tips to avoid injury to the skin of the animal being groomed. Therefore, problems to which carpet cleaning devices are directed, and the solutions to these problems, are significantly different from those addressed by animal grooming devices.

Applicant respectfully submits that the Examiner's Answer has misconstrued the specific recitations in the appealed independent claims with regard to 1). the lateral airflow around the opposed substantially parallel side surfaces of the grooming blade (the Examiner's Answer addresses only airflow from the tip of the toothed shaped element around the converging edges defining the tip, despite the impossibility of a 2-dimensional scored etching to possess

physical edges converging into a physical tip); 2). the multiple converging triangular edges of a grooming blade having sharpened edges (the Examiner's Answer addresses only the tip of a toothed shaped element, and furthermore speculates as to the sharpness of any component disclosed by Suter since Suter fails to address the issue of "sharpness" or the existence of physical toothed shaped elements having 3-dimensional tips or edges); and 3). the angular adjustability of the angle of the grooming device as expressly recited in appealed independent claim 44 (The Zaiden patent does not teach or suggest angular adjustment of one or more grooming blades relative to a handle).

For the reasons discussed herein, in the Amended Appeal Brief, and throughout the prosecution of this patent application, Applicant respectfully submits that the appealed claims are allowable over the prior art applied in the Final Action, and respectfully requests that the final rejection of these claims be reversed.

Respectfully submitted,



Mark P. Stone
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Attorney for Applicant
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Hawthorne, NY 10532
914-769-1106

Exhibit 1

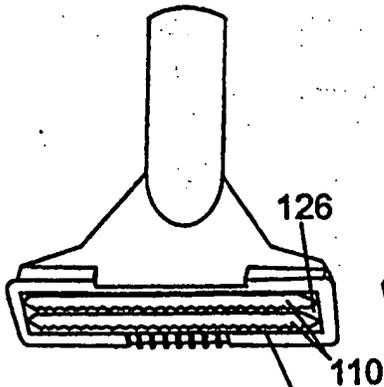


Fig. 1A

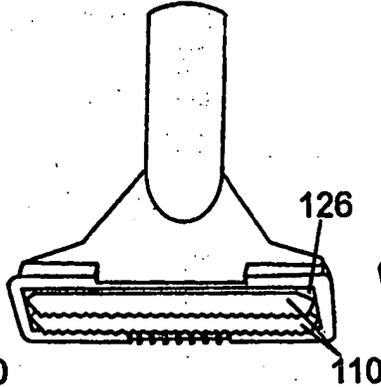


Fig. 1B

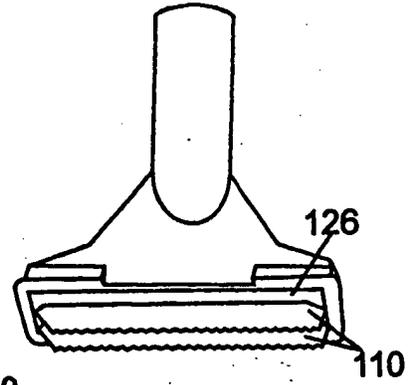


Fig. 1C

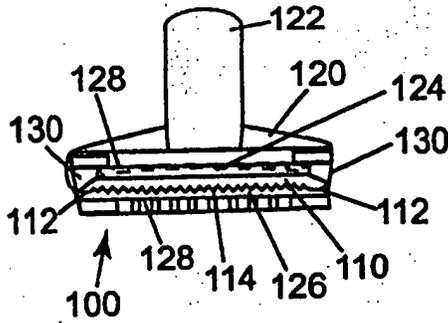


Fig. 1D

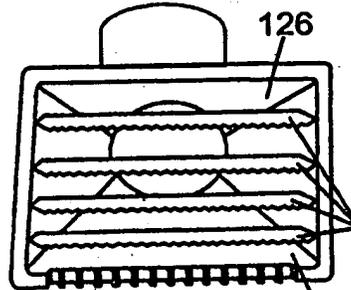


Fig. 1E

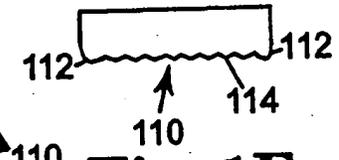


Fig. 1F

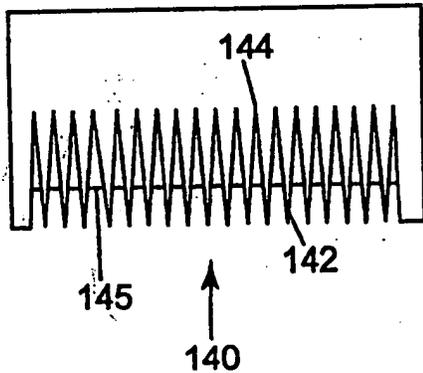


Fig. 1G

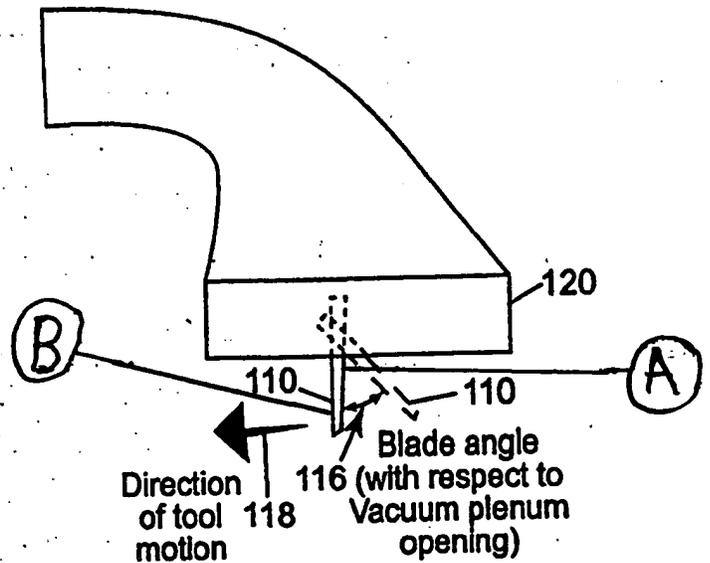


Fig. 1H

Exhibit 2

COPY

Our Docket No: 56630-247064

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)

James E. Freidell)

Examiner: Snider, Theresa

Application No: 10/147,802)

Art Unit: 1744

Filed: May 17, 2002)

Confirmation Number: 3155

For: VACUUM GROOMING TOOL)

Commissioner for Patents
Alexandria, VA 22313-1450

DECLARATION OF BARBARA E. MCCUE
Pursuant to 37 C.F.R. § 1.132

Sir:

I, Barbara E. McCue hereby declare that:

1. I have reviewed the above-identified patent application ("**Patent Application**"), including the figures, and participated in a telephonic interview with the Examiner on March 17, 2005.
2. I am currently a professional pet groomer and instructor of pet grooming. I am presently transitioning from the employ of Clean Critter to a full-time teaching position, as an independent contractor, for the International Academy of Pet Design. I have been a pet groomer for over 37 years and have taught pet grooming for over 24 years.
3. I was self-trained, starting in 1967, with the help of a poodle breeder. My formal training began in 1972 with Ms. Micki, who was the head groomer at a pet shop in Phoenix, AZ,

after which I apprenticed under Mr. Wayne, a Master Groomer, dog handler, breeder and owner of the Pet Palace Pet shop in Paradise Valley, AZ.

4. I began teaching pet grooming when I opened my first salon in Yuma, AZ. I discovered that there were few groomers in the area and the ones I did find could not groom to my high standards, so I had to teach them. I am very patient and soon became very good at teaching new groomers. I have since taught in almost every salon where I have worked plus some of the top grooming schools in the nation. Examples include the Paragon School of Pet Grooming (outside Grand Rapids, MI) and the International Academy of Pet Design (outside Atlanta, GA), where I have taught school instructors, in addition to teaching students.
5. I have taught in Colorado, New York, Arizona, Texas, Michigan and Georgia. I have also taught at grooming seminars and for Colorado Professional Pet Groomers' Association (CPPGA) meetings and workshops. I have many awards for grooming competitions and for volunteer work I have done.
6. I have taught all aspects of pet grooming, proper use of all pet grooming tools and equipment, pet grooming salon management, animal care and nutrition, every phase of obedience dog training, show grooming and handling, and creative grooming (including coloring). I have taught novices and experts, ranging from 4-H childrens groups (pet care and obedience) up to and including pet grooming instructors (advanced clipper vacuuming techniques), the latter at some of the largest and most recognized pet grooming schools in the country.
7. The job description for every job I have had since 1978 has included, in addition to grooming, the teaching of other employees and improving salon standards. By way of example, my new position, at the International Academy of Pet Design, one of the largest pet grooming schools in the country, requires me to help build the management team to

completely update the school's curriculum to world-class standards, while I am also instructing students.

8. I have served on the board of directors of the CPPGA, have been editor of two industry newsletters, and am often invited to speak at pet industry conferences on the subjects of grooming, motivation and time management.
9. I would be considered an expert on the subject of animal grooming and proper use and selection of grooming tools.
10. My current curriculum vitae is attached in Appendix A.
11. I first became introduced to Hair Patrol and Mr. Jim Freidell in early 2001 when my employer, PETCO, selected me to conduct initial testing and evaluation of some of Hair Patrol's equipment for suitability and effectiveness for prospective application in all of PETCO's 500+ pet grooming salons. Although not the subject of this testing and evaluation exercise, I became familiar with other equipment offered by Hair Patrol. This led to my exposure to Mr. Freidell's invention, which, to satisfy my own curiosity, I offered to test and evaluate outside the auspices of my official capacity at PETCO.
12. I have no formal relationship with Hair Patrol, except that I once marketed some of Hair Patrol's products and taught groomers in the use of Hair Patrol equipment on a commission basis/flat fee basis, which is something I do for other pet grooming industry manufacturers as well.
13. There are several different styles of shedding blades on the market ("**Existing Shedding Blades**"), examples of which are depicted in Appendix B.
14. In my opinion, the Existing Shedding Blades are clumsy and difficult to use.
15. In my opinion, while the Existing Shedding Blades do clear or rid the coat of some dead hair, they are very inefficient at doing so, and not at all effective at facilitating the removal of ready to be shed hair.

16. None of the pet groomers I know currently use any of the Existing Shedding Blades. Today, they are all but obsolete, except for use in connection with large animals, such as horses and cattle.
17. Shedding blades were initially designed for horses and not for smaller animals. In my experience, one must be extremely careful of joints, the spine and other boney areas when using the Existing Shedding Blades on smaller animals.
18. Since I would not consider using one of the Existing Shedding Blades, I certainly would not have contemplated modifying one and combining it with a vacuum source.
19. Mr. Freidell has invented an improved animal grooming tool that includes one or more grooming blades having formed thereon sharp edges or "burrs" which, during grooming operations, remove ready to be shed hair by snagging the ready to be shed hair (the **"Improved Tool"**).
20. When the Improved Tool is coupled with a vacuum source by way of a vacuum nozzle mouth opening, the grooming blade(s) are positioned with respect to the mouth opening to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade(s) (the **"Vacuum-Assisted Improved Tool"**).
21. During grooming operations with the Vacuum-Assisted Improved Tool, the negative airflow lifts top coat hair of the dog's coat up and out of the way, so to expose undercoat hair to the sharp edges (burrs) of the grooming blade(s), thereby increasing efficiency of de-shedding operations, as compared to conventional de-shedding operations, by (i) eliminating operational strokes, (ii) eliminating the need for the groomer to use a hand or comb to lift the top coat hair up and out of the way, and (iii) reducing time associated with the de-shedding operations.
22. I have used prototypes of the Improved Tool (**"non-vacuum-assisted Prototype"**) and the Vacuum-Assisted Improved Tool (**"vacuum-assisted Prototype"**) that include one or

more substantially parallel, toothed grooming blades similar to that illustrated in Figures 1A-H, 2A-C and 3A-C of the Patent Application (collectively, the "Prototypes").

23. In the Prototypes, only the edges adjacent to each "point" or "peak" are sharp; the points are purposefully not sharp. One can feel these sharp edges, or burrs, by dragging ones finger across the blade.
24. When I first saw the Prototypes Mr. Freidell provided for my testing and evaluation, I was extremely skeptical regarding their usefulness. This is because I have seen over the years many, many new animal grooming tools offered for sale, all aiming to facilitate the removal of shedding and ready to shed hair, but none being much if any more effective than existing tools. On first appearance, the impression of similarity to Existing Shedding Blade structure deepened my skepticism.
25. Groomers are often tempted to purchase and try new tools that may ease this portion of their grooming jobs, which all too often leads to disappointment. Most of these new tools don't remain on the market for long, due to user dissatisfaction. Those that do prevail typically provide only incremental improvement.
26. Mr. Freidell explained to me that at least one difference between the Prototypes and animal grooming tools currently on the market was the presence of sharp edges ("burrs"). In some Prototypes, the sharp edges ("burrs") are formed as a result of a metal stamping process and are located on the slanted areas that form the peaks of the toothed grooming blades.
27. I believe that the presence of the sharp edges ("burrs") on the Prototypes, Improved Tool and the Vacuum-Assisted Improved Tool aid in the snagging and removal of ready to be shed hair during animal grooming operations. I believe these new tools effectively give rise to a whole new class of carding tools that unexpectedly perform much more efficiently than any other.

28. I have tested early prototypes developed by Mr. Freidell that did not have sharp edges or "burrs" and found them comparatively useless:
29. When Mr. Freidell initially provided the Prototypes for me to test and evaluate, I expected the vacuum to perform its typical function (e.g., create suction to eliminate hair removed by the grooming blades) and the grooming blades to perform their typical function (e.g., remove loose, already shed hair). I did not expect the vacuum to aid in the removal of ready to be shed hair. Nor did I expect the grooming blades to work particularly well in view of my past experience with Existing Shedding Blades.
30. Based on my observations and past experience, the non-vacuum-assisted Prototype removed significantly more hair than grooming tools currently on the market.
31. Recently, during a carding experiment conducted on the same dog separately using (i) a hand-held #40 clipper blade; (ii) a FURminator® grooming tool (U.S. Patent No. 6,782,846), the newest tool on the market for carding, which merely attaches a handle to a traditional #40 blade, making it easier to hold, thus reducing hand cramping; and (iii) the non-vacuum-assisted Prototype, in a fixed carding period of 10 minutes, the non-vacuum-assisted Prototype removed 2 to 4 times more loose and ready to be shed hair than the #40 blade or the FURminator grooming tool.
32. Furthermore, during the same recent carding experiment, more hair was removed by the vacuum-assisted Prototype when used to perform carding on the areas of the dog's coat that were previously treated by the #40 blade and the FURminator tool; thus, suggesting the vacuum-assisted Prototype extracted ready to be shed hair that carding with the #40 blade and the FURminator tool left behind.
33. Based on my observations, the vacuum-assisted Prototype removed noticeably more hair than the non-vacuum-assisted Prototype in approximately half the time and half the number of operational strokes; thus, suggesting an unexpected synergistic effect of combining the Improved Tool with a vacuum source.

34. Using the vacuum-assisted Prototype, grooming time was reduced by at least 75% as compared to carding with a hand-held #40 clipper blade or a FURminator grooming tool.
35. For example, using the vacuum-assisted Prototype on a Labrador Retriever, the carding time required only approximately 5 minutes as compared to 20 minutes with a hand-held #40 blade or FURminator grooming tool.
36. Using the vacuum-assisted Prototype, I estimate at least 3 times more hair is removed as compared to carding with a hand-held #40 blade and at least 2 times more hair is removed as compared to carding with a FURminator grooming tool.
37. Using the vacuum-assisted Prototype, the amount of time before the pets resumed dropping hair increased dramatically from 1 to 2 weeks to 3 to 4 weeks. This has been demonstrated to me by actual client satisfaction.
38. In view of the fact that carding strokes may cause irritation of a dog's skin, it is my opinion that carding using the vacuum-assisted Prototype will result in less irritation to dogs' skin than carding involving the use of a #40 blade or FURminator grooming tool alone.
39. In my opinion, based on the unexpected and exceptional results I observed in connection with using the Prototypes with various breeds of dogs, similar improvements are likely to be observed when grooming other domesticated pets.
40. I have not been compensated, nor do I expect to be compensated, for the testing and evaluation of the Prototypes, Improved Tool, or Vacuum-Assisted Improved Tool. Moreover, I have not been compensated for, nor do I expect to be compensated for preparing this declaration. My sole objective in engaging in such testing and evaluation, and extending support to Mr. Freidell's patent objectives, is to see these new tools come to market so that I can personally use them and teach their use to my students. I believe these tools will become highly valuable to the grooming profession, once groomers, like myself, overcome their skepticism in using them.

I, Barbara E. McCue, hereby declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made knowing that willful false statements and the like are punishable by fine or imprisonment, or both under § 1001 of Title 18 of United States Code, and such willful or false statements may jeopardize the validity of the Patent Application or any patent issuing therefrom.

Respectfully submitted,

Date: 4-7-05

Barbara E. McCue
Barbara E. McCue

FIRST CLASS CERTIFICATE OF MAILING
(37 C.F.R. § 1.8(a))

I HEREBY CERTIFY THAT this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage via first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

on 4/26/2005
Date of Deposit

Michelle L. Wyss
Name of Person Mailing Correspondence

[Signature]
Signature

4/26/2005
Date

DNVR1:60298333.09

**Barbara E. McCue
145 S. Cody Court
Lakewood, Co. 80226
Ph. (303) 506-1192**

I have worked in the pet industry for more than 37 years. I have extensive experience in pet grooming, grooming instruction, dog training, handling, show grooming, and grooming competition. I also have extensive management experience in scheduling, personnel management, client records, phone skills, payroll and computer skills. I have excellent sales ability and a record of good public relations. I have excellent oral and written communication skills. I have core computer competence in most office software, including Microsoft Office, Photoshop and Quicken.

Education

**Graduate; Kofa High School (1966)
Yuma, Arizona**

I also took a course in sign language at Arizona Western Community College.

I was instructed in pet grooming as an apprentice to a Master Groomer/Handler in Paradise Valley, Arizona. I was schooled in all phases of pet grooming including show grooming for many breeds. Eventually I earned the titles of Master Groomer and Instructor.

I earned my certification as a dog trainer at the Greater Phoenix Dog Training Academy in Phoenix, AZ.

Once I started in the pet industry, I could not stop learning. I went to every dog show, trade show and seminar I could to continue my education. I have had various courses in all phases of the pet industry and have earned certificates from some of the biggest names in the grooming industry including Pam Lauritzen, John Stazko, and Shannon Lynnes. I continue to attend every event I can in the pet industry and have kept my grooming skills up to date along with testing every new grooming tool I can get my hands on. I was taught pet handling and restraint by several veterinarians and veterinary technicians. I am certified by the American Red Cross in pet CPR and first aid. I have also served as an emergency veterinarian assistant.

My management skills were learned on the job as the need presented itself. I have owned two successful grooming salons.

My computer skills were learned from my husband and are ongoing.

I have attended many business and sales seminars depending on the needs of my employers. I never tire of learning.

Accreditations

High School Diploma, college course in sign language, various courses of study in business and business management, completed course in real estate, various courses in the pet care and grooming profession, dog training certificate, pet grooming certificates, pet first aid and CPR, certification and grooming instruction.

Professional clubs and memberships

NDGAA (National Dog Groomers Association of America) Member; CPPGA (Colorado Professional Pet Groomers' Association) Member, Board Member, Secretary, News Letter Editor; and Member of local breed clubs.

Volunteer Service

Volunteer grooming for Humane Societies and local pet shelters
Volunteer instruction in Show Handling for 4H junior showmanship
Volunteer instruction for 4H in pet care and nutrition
Volunteer work for the CPPGA
Volunteer aid for local hospital (Candy Striper at Yuma Regional Medical Center).
Volunteer coach for little league cheerleaders

Languages Besides English

I have studied and excelled in Spanish and Sign Language, but would need refresher courses to become fluent again.

Awards Received

Grooming awards for national grooming competitions
Awards and ribbons from dog shows
Certificates and awards for volunteer work
Sales awards

Work History

I am presently in transition from employment at Clean Critter in Lakewood, Colorado to my new position of instructor at the International Academy of Pet Design in Marietta, Georgia. I begin full-time work at the Academy on April 12, 2005.

Clean Critter
550 Garrison St.
Lakewood, CO 89226
July 2001-March 2005

My position at Clean Critter was groomer but included instructing new employees and managing the salon while the owner was out of town on business. Also responsible for daily record keeping and customer relations.

PETCO

Lakewood Commons
475 S. Wadsworth
Lakewood, CO 80226
April 2000-July 2001

My position at PETCO was Grooming Salon Manager. My duties included supervising grooming department employees, grooming, scheduling, instructing, timekeeping, customer relations, daily, weekly and monthly reports, cleaning, scheduling, quality control, inventory control, and liaison between my department and the store managers. I was also tasked by corporate headquarters to test and evaluate a new animal bathing system for potential application in all PETCO store grooming departments.

PETCO

1540 West Southern
Mesa, AZ 85202
Nov. 1998-April 2000

My position was Grooming Salon Manager. This was a brand new store, requiring me to build clientele, in addition to my duties of supervising grooming department employees, grooming, scheduling, instructing, timekeeping, customer relations, daily, weekly and monthly reports, cleaning, scheduling, quality control, inventory control, and liaison between my department and the store managers.

Moonbrook Pet Grooming

3201 N Main Street Ext
Jamestown, NY 14701
1995-1998

I opened and ran this grooming salon, which was collocated in a veterinary hospital. My responsibilities involved all salon operations. I also conducted obedience classes there.

Temporary Lapse in Employment

Part of 1994 and 1995 was a time I did not work in the grooming industry as I was caring for my husband's mother who had cancer.

Alpine Pet Grooming

8631 Washington
Denver, CO 80229
1990-1994

My position at Alpine was groomer/manager. My responsibilities included opening and closing, personnel management and instruction, inventory, scheduling, customer relations, record keeping, troubleshooting, grooming, morale, and all management phases.

Bone Voyage Kennel

Arvada, CO
1989-1990

At Bone Voyage Kennel I had total control of the grooming salon, and was also in charge of all personnel. I also worked in the retail store and was responsible for overall kennel operations when the owners were absent.

PETsMart

Denver, CO (this store now closed)
1988-1989

Groomer and interim grooming department manager. All management duties including personnel management, grooming, teaching, scheduling, daily, weekly and monthly reports, and liaison between the grooming department and the store managers.

Sofia's Dog House (now closed)

860 E 24th St.
Yuma, AZ
1984-1988

I was a groomer/ manager. Additional to grooming, I was responsible for all management duties.

Sun Valley Kennel

Yuma, AZ (now closed)
1983-1984

Groomer. My duties were pet grooming, reception, and scheduling.

Fluff-N-Stuff Pet Grooming

Yuma, AZ
1981-1983

Owner/ Groomer. This was the first grooming salon that I owned and my duties included everything about the business.

Continental Groomers

Phoenix, AZ
1978-1981

Groomer. Bathing and grooming dogs.

The Pet Palace

Paradise Valley, AZ
1975-1978

Apprenticed under a master groomer, Mr. Wayne. I learned advanced and "all breed" grooming, ultimately becoming a master groomer.

Micki's Pet Grooming

Phoenix, AZ

1972-1975

First employment as a professional pet groomer. This job gave me exposure to a broad variety of dog breeds and professional breed styling.

Grooming at home

Phoenix, AZ

1967-1972

I was teaching myself to groom dogs and I groomed for neighbors, relatives and friends.

References

Heather Myers: former owner of Alpine Pet Grooming. 15941 Dale Av., Fort Lupton, CO 80621 (residence)

Barb Hall: current owner of Alpine Pet Grooming. 8631 Washington St., Thornton, CO 80229

Virginia Adams: owner of Sofia's Dog House. 860 E. 24th St. Yuma, AZ 85365

Cathy Cox: co-owner of For Paws Pet Grooming. 10201 Monterey Circle, Northglenn, CO 80260. Ph. (303) 427-8946

Peggy Kramer: co-owner, For Paws Pet Grooming. 10201 Monterey Circle, Northglenn, CO 80260. Ph. (303) 427-8946

IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: James E. Freidell : Examiner: Monica L. Williams
Title: VACUUM GROOMING TOOL : Group Art Unit: 3644
Serial No.: 11/338, 221 :
Filed: January 23, 2006 :

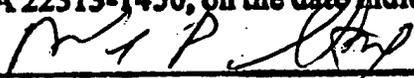
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop: Appeal Brief - Patents

REPLY BRIEF

Applicant hereby replies to the Examiner's Answer, mailed on June 19, 2009, in connection with the appeal of the above patent application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

 8/19/09

MARK P. STONE (Date of Deposit)
Reg. No. 27,954

Applicant's Amended Appeal Brief, filed on April 13, 2009, is discussed in Section 10, starting at page 5 of the Examiner's Answer and continuing onto page 6 of the Examiner's Answer.

At page 5 of the Examiner's Answer, the Examiner states: "In response to applicant's argument that Suter does not disclose air flow around both sides of the grooming blades resulting in a negative airflow to lift the topcoat of hair, This argument is not persuasive because Suter discloses triangularly shaped agitators (17), considered to be a grooming blade, which are clearly shown with two sides that come together to form the tip of the agitator (17). The air flows on both sides of the agitator (17) and the suction of the vacuum causes a negative airflow which lifts the topcoat of hair."

The Examiner's Answer completely misconstrues the nature of the airflow as disclosed by Applicant, and claimed in appealed independent claims 25, 30, 35 and 45, and misinterprets the express disclosure of the Suter patent. The airflow referred to in the Examiner's Answer with respect to the Suter patent, namely, airflow from the tip of a triangularly shaped agitator (17) over the two edges of the triangle converging to form the tip, is a different airflow than that disclosed and claimed by Applicant in which air flows laterally over two opposed substantially parallel side surfaces of a grooming blade. For purposes of illustration, enclosed as Exhibit 1 is a copy of sheet 1 of the drawing of the present patent application. Airflow disclosed by Applicant and specifically claimed in appealed independent claims 25, 30, 35, and 45 is a lateral airflow around (over) the opposed substantially parallel side surfaces (marked as

A and B on Fig. 1 H of Exhibit 1) of the grooming blade 110. It is not an airflow from the tip of the grooming blade over the converging triangular edges of the grooming blade forming the tip. In fact, as will be discussed below, lateral airflow around opposed side surfaces of the agitator (17) of the Suter patent is physically impossible since each of the two agitators (17) disclosed by the Suter patent is directly affixed to an opposed lateral side or margin of an opening or slot 16 by a bolt 18, thereby enabling airflow only over one edge of each agitator. (Page 1, lines 56-59 of the Suter Specification, and Figure 1 of the Suter drawings).

Thus, the agitators 17 of Suter are mounted at the margins or lateral edges of a slot 16 through which air flows, and this structural arrangement precludes flow of air around both side surfaces of one or more agitators, as more fully addressed by Applicant at Section VIII(a), pages 5-7 of the Amended Appeal Brief. There is simply no teaching (or suggestion) in the Suter patent that air is intended to, or capable of, flowing over the two opposed substantially parallel side surfaces of a grooming blade, as disclosed and claimed by Applicant. On the contrary, Suter describes agitators (Page 1, lines 57-58) with triangular scorings resembling 2-dimensional triangular teeth (Page 1, lines 61-62) patterned or engraved into a surface of each agitator, which the Examiner's Answer incorrectly interprets as being "triangularly shaped agitators." Since the ordinary dictionary definition of the term "score" includes a notch or line cut or scratched into a surface, Suter's scored triangular teeth are, at most, lines scratched into the surface of the agitator that create the appearance of triangular form. Any 3-dimensional structure of such triangular teeth must be limited to agitator surface material deformation resulting from such scoring. No 3-dimensional triangular tooth possessing two parallel sides

and two edges converging into a tip or point can possibly result from Suter's scoring. The conclusion at page 5 of the Examiner's Answer that "The air flows on both sides of the agitator..." is clearly in error: Air may flow across the edge of an agitator but not the edge or side of a triangular tooth that is scored into an agitator (except the apparent base of such triangular scorings adjacent to the air inlet), and certainly not across both roughly parallel side surfaces of an agitator which may be "turned inwardly" (page 1, lines 60-61) (i.e., bent approximately 90 degrees) at reference numeral (20) (page 1, lines 60-61) in order to be simultaneously "held in place by bolts or the like 18" (page 1, lines 57-59) and orient surface sides of an agitator (17) adjacent to the air inlet (16) to be roughly perpendicular to airflow across the longitudinal edge of an agitator (17), pursuant to Suter's clear description. This is apparent from closely inspecting Figures 2 and 3 of the drawings in conjunction with the specification (Page 1, lines 56-63) of the Suter patent. Suter clearly distinguishes agitators (17) from the triangular teeth (21) scored into an agitator (17). Based upon Suter's geometry, there is no possibility of Suter's agitator having "two sides that come together to form the tip of the agitator," as stated at page 5 of the Examiner's Answer because there is no 3-dimensional triangular tooth form which would require literal edges of material converging into a tip. At best, Suter describes scoring lines that converge into points that give the appearance of triangular teeth engraved on one surface of each of two agitators. Each agitator has just four edges and two parallel surfaces, bent longitudinally into approximately a right angle.

Notwithstanding the argument advanced above, and assuming arguendo that the device disclosed by Suter does include 3-dimensional triangular teeth (a proposition with which

Applicant disagrees), such device would still not be physically capable of meeting or achieving the express limitations recited in independent Claims 25, 30, 35 (“... to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade, ...”) and in independent claim 45 (“... to allow airflow created by the vacuum source to flow over the two sides of the grooming device, ...”). Figure 2 of Suter illustrates that airflow is through a central slot 16 defined between a right agitator 17 and a left agitator 17. The structural arrangement in which the agitators are bolted to the lateral sides of the central slot 16 requires air to flow around only the left edge of the right agitator, and around only the right edge of the left agitator, but precludes airflow over either of the two roughly parallel side surfaces of either the right or left agitators 17. The statement in the Examiner’s Answer that “...air flows on both sides of the agitator (17)...” is incorrect since the airflow referred to in the Examiner’s Answer is from a (what Applicant submits to be a non-existent 3-dimensional physical triangular) tip of the agitator (17) and around (what Applicant submits to be non-existent 3-dimensional physical triangular) converging edges of the agitator (17) forming a (what Applicant submits to be a non-existent 3-dimensional physical triangular) tip, and not the lateral air flow around the opposed substantially parallel side surfaces of a grooming blade, as disclosed and illustrated by Applicant, and as expressly recited in appealed independent claims 25, 30, 35 and 45.

At page 5 of the Examiner’s Answer, the Examiner states:

"In response to applicant's arguments that Suter does not disclose a plurality of teeth having sharp edges formed on the sides of the teeth, this argument is not persuasive because the teeth are sharp enough to perform the claimed function of removing the undercoat of hair, (col. 2 lines 85-95), the teeth (17) meet the scope of the claim. The teeth are sharp within the scope of the claim, because sharp is a relative term."

Applicant initially emphasizes that the portion of the disclosure of the Suter patent relied upon by the Examiner, namely, page 1, column 2, lines 85-95, does not support the Examiner's position. This portion of the Suter Specification clearly does not teach or suggest grooming blades having opposed sides with sharpened edges (and not sharpened peaks or tips), as disclosed and claimed by Applicant, and as more fully discussed at Section VIII(b), pages 7-8, of the Amended Appeal Brief. In fact, there is no disclosure in the Suter patent that either the tip or the side edges of the teeth 17 exist in 3-dimensional form, let alone are sharp, nor does the Suter patent even use or refer to the term "sharp". Although the Examiner's Answer suggests that the tip of the teeth 17 of Suter are sharp, this is contrary to common knowledge within the pet grooming art – namely, a sharpened tip or point is never to be placed in direct contact with the skin of an animal to avoid injuring the animal. Thus, it is clear from the knowledge within the art that if the triangular tips of agitators actually existed in 3-dimensional form, instead of 2-dimensional lines, were to be placed directly against the skin of an animal in accordance with the portion of the Suter patent as proposed in the Examiner's Answer, the tip of the tooth cannot be sharpened. Assuming arguendo that Suter discloses placing the tip of the triangular shaped scoring, whether sharpened or unsharpened, against the skin of an

animal to be groomed, there is nonetheless no disclosure whatsoever in the Suter patent itself teaching or suggesting a grooming blade having opposed sides with sharpened edges, and not sharpened peaks or tips.

Thus, assuming arguendo that Suter discloses that the agitators 17 include 3-dimensional triangular teeth, instead of the appearance of triangular teeth (21) scored (20) 2-dimensionally into an agitator surface, with sharp tips which are brought into contact with the animal's skin (See Figure 1 of the Suter drawing, and column 2, lines 55-62 and lines 89-91 of the Suter Specification), this is exactly opposite to the device disclosed and claimed by Applicant in which it is the physical converging edges of 3-dimensional physical, roughly triangular teeth cut or stamped into the grooming blade which are sharp, but not the tip, to avoid placing a sharp tip in direct contact with the animal's skin. The Suter patent is completely silent with regard to sharpened edges, and any position in the Examiner's Answer to the contrary is mere speculation by the Examiner.

Enclosed as Exhibit 2 is a true copy of Declaration Of Barbara E. McCue Pursuant to 37 C.F.R. § 1.132, filed on April 28, 2005, in connection with parent application Serial No. 10/147, 802, now US Patent No. 7, 159, 274. The Declaration emphasizes the significance of both airflow around two opposed substantially parallel side surfaces of a grooming blade of an animal vacuum tool, and providing the opposed sides of the grooming blade with sharpened edges. The advantages resulting directly from the airflow over two opposed sides of a grooming blade are specifically discussed at paragraphs 20-21 and 29-40 of the Declaration,

while the advantages resulting from providing a grooming blade with sharpened edges on opposed sides thereof is discussed at paragraphs 23-40 of the Declaration.

As addressed in the Declaration, it is the interaction between the lateral airflow over the opposed substantially parallel side surfaces of the grooming blade, and the sharpened converging triangular edges of the opposed sides of the grooming blade, which cooperate to result in the improved efficiency of the claimed grooming device. The prior art applied to reject the appealed claims does not suggest or recognize either of those features of the invention, let alone a combination thereof.

With regard to the Examiner's position that the Zaidan patent discloses a handle which is angularly adjustable relative to the grooming blades, Applicant submits that the only "adjustment" disclosed by this patent is the alternating of the comb or brush between two positions: 1). A combing or brushing position, and 2). A non-combing or non-brushing position (see column 2, lines 48-63 of the Zaidan Specification). As more fully discussed at Section VIII. (c), pages 9-10 of the Amended Appeal Brief, Zaidan does not teach or suggest the feature of Applicant's claimed invention in which one or more grooming blades can be set to one or more of a plurality of angular orientations relative the handle. On the contrary, Zaidan discloses a device in which no structure or structural arrangement is provided for setting one or more of

the grooming blades to one or more of a plurality of angular orientations relative to the handle of the device.

Applicant also disagrees with the Examiner's position that the Zaidan carpet cleaning device is analogous to an animal grooming device because a carpet cleaning device is reasonable pertinent to the particular problem with which Applicant was concerned "because it is a rigid comb having sharpened teeth attached to the nozzle of a vacuum for combing through an object having long hairs." Applicant respectfully disagrees with this conclusion. On the contrary, as argued throughout the prosecution of this patent application, unlike a carpet cleaning device having teeth with sharpened points or tips, it is imperative that an animal grooming device have teeth without sharpened peaks or tips to avoid injury to the skin of the animal being groomed. Therefore, problems to which carpet cleaning devices are directed, and the solutions to these problems, are significantly different from those addressed by animal grooming devices.

Applicant respectfully submits that the Examiner's Answer has misconstrued the specific recitations in the appealed independent claims with regard to 1). the lateral airflow around the opposed substantially parallel side surfaces of the grooming blade (the Examiner's Answer addresses only airflow from the tip of the toothed shaped element around the converging edges defining the tip, despite the impossibility of a 2-dimensional scored etching to possess

physical edges converging into a physical tip); 2). the multiple converging triangular edges of a grooming blade having sharpened edges (the Examiner's Answer addresses only the tip of a toothed shaped element, and furthermore speculates as to the sharpness of any component disclosed by Suter since Suter fails to address the issue of "sharpness" or the existence of physical toothed shaped elements having 3-dimensional tips or edges); and 3). the angular adjustability of the angle of the grooming device as expressly recited in appealed independent claim 44 (The Zaiden patent does not teach or suggest angular adjustment of one or more grooming blades relative to a handle).

For the reasons discussed herein, in the Amended Appeal Brief, and throughout the prosecution of this patent application, Applicant respectfully submits that the appealed claims are allowable over the prior art applied in the Final Action, and respectfully requests that the final rejection of these claims be reversed.

Respectfully submitted,



Mark P. Stone
Registration No. 27, 954
Attorney for Applicant
50 Broadway
Hawthorne, NY 10532
914-769-1106

Exhibit 1

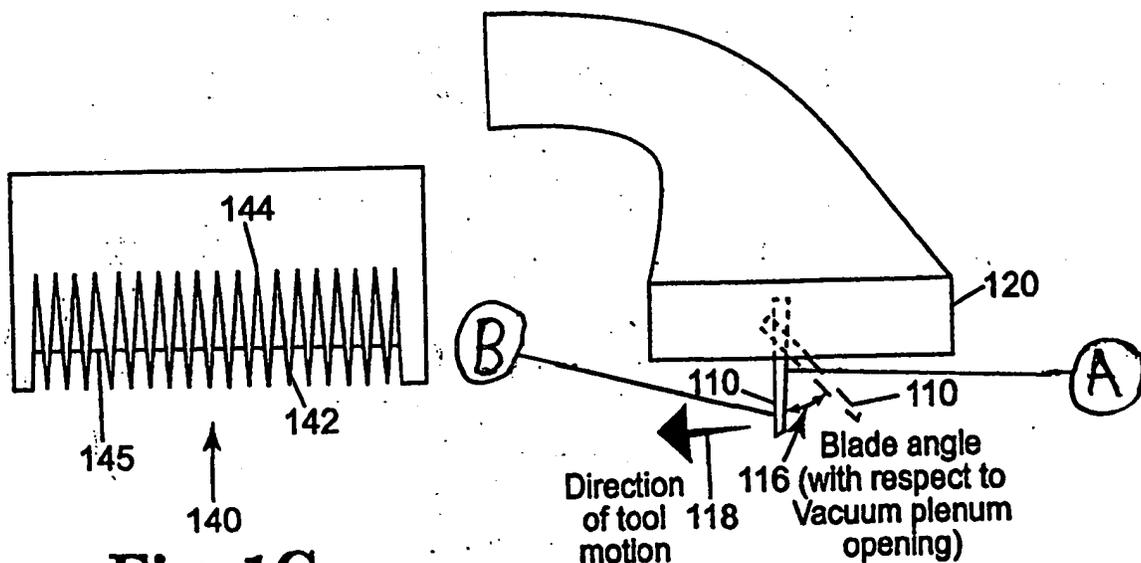
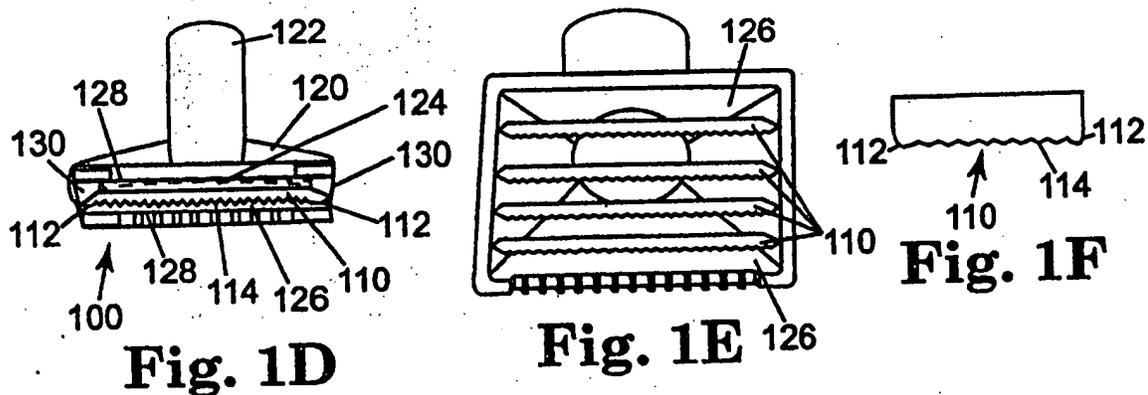
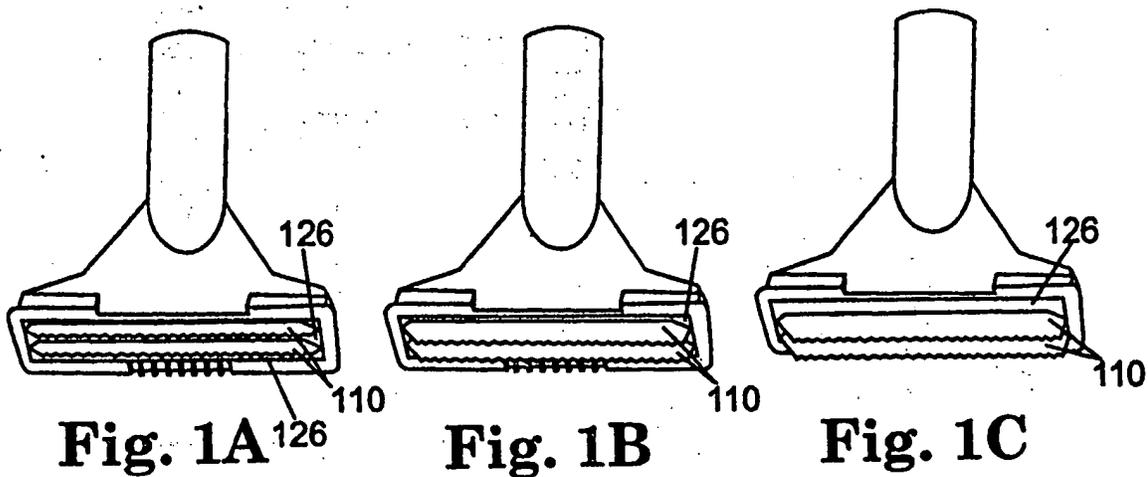


Exhibit 2

COPY

Our Docket No: 56630-247064

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)

James E. Freidell)

Examiner: Snider, Theresa

Application No: 10/147,802)

Art Unit: 1744

Filed: May 17, 2002)

Confirmation Number: 3155

For: VACUUM GROOMING TOOL)

Commissioner for Patents
Alexandria, VA 22313-1450

DECLARATION OF BARBARA E. MCCUE
Pursuant to 37 C.F.R. § 1.132

Sir:

I, Barbara E. McCue hereby declare that:

1. I have reviewed the above-identified patent application ("**Patent Application**"), including the figures, and participated in a telephonic interview with the Examiner on March 17, 2005.
2. I am currently a professional pet groomer and instructor of pet grooming. I am presently transitioning from the employ of Clean Critter to a full-time teaching position, as an independent contractor, for the International Academy of Pet Design. I have been a pet groomer for over 37 years and have taught pet grooming for over 24 years.
3. I was self-trained, starting in 1967, with the help of a poodle breeder. My formal training began in 1972 with Ms. Micki, who was the head groomer at a pet shop in Phoenix, AZ,

after which I apprenticed under Mr. Wayne, a Master Groomer, dog handler, breeder and owner of the Pet Palace Pet shop in Paradise Valley, AZ.

4. I began teaching pet grooming when I opened my first salon in Yuma, AZ. I discovered that there were few groomers in the area and the ones I did find could not groom to my high standards, so I had to teach them. I am very patient and soon became very good at teaching new groomers. I have since taught in almost every salon where I have worked plus some of the top grooming schools in the nation. Examples include the Paragon School of Pet Grooming (outside Grand Rapids, MI) and the International Academy of Pet Design (outside Atlanta, GA), where I have taught school instructors, in addition to teaching students.
5. I have taught in Colorado, New York, Arizona, Texas, Michigan and Georgia. I have also taught at grooming seminars and for Colorado Professional Pet Groomers' Association (CPPGA) meetings and workshops. I have many awards for grooming competitions and for volunteer work I have done.
6. I have taught all aspects of pet grooming, proper use of all pet grooming tools and equipment, pet grooming salon management, animal care and nutrition, every phase of obedience dog training, show grooming and handling, and creative grooming (including coloring). I have taught novices and experts, ranging from 4-H childrens groups (pet care and obedience) up to and including pet grooming instructors (advanced clipper vacuuming techniques), the latter at some of the largest and most recognized pet grooming schools in the country.
7. The job description for every job I have had since 1978 has included, in addition to grooming, the teaching of other employees and improving salon standards. By way of example, my new position, at the International Academy of Pet Design, one of the largest pet grooming schools in the country, requires me to help build the management team to

completely update the school's curriculum to world-class standards, while I am also instructing students.

8. I have served on the board of directors of the CPPGA, have been editor of two industry newsletters, and am often invited to speak at pet industry conferences on the subjects of grooming, motivation and time management.
9. I would be considered an expert on the subject of animal grooming and proper use and selection of grooming tools.
10. My current curriculum vitae is attached in Appendix A.
11. I first became introduced to Hair Patrol and Mr. Jim Freidell in early 2001 when my employer, PETCO, selected me to conduct initial testing and evaluation of some of Hair Patrol's equipment for suitability and effectiveness for prospective application in all of PETCO's 500+ pet grooming salons. Although not the subject of this testing and evaluation exercise, I became familiar with other equipment offered by Hair Patrol. This led to my exposure to Mr. Freidell's invention, which, to satisfy my own curiosity, I offered to test and evaluate outside the auspices of my official capacity at PETCO.
12. I have no formal relationship with Hair Patrol, except that I once marketed some of Hair Patrol's products and taught groomers in the use of Hair Patrol equipment on a commission basis/flat fee basis, which is something I do for other pet grooming industry manufacturers as well.
13. There are several different styles of shedding blades on the market ("**Existing Shedding Blades**"), examples of which are depicted in Appendix B.
14. In my opinion, the Existing Shedding Blades are clumsy and difficult to use.
15. In my opinion, while the Existing Shedding Blades do clear or rid the coat of some dead hair, they are very inefficient at doing so, and not at all effective at facilitating the removal of ready to be shed hair.

16. None of the pet groomers I know currently use any of the Existing Shedding Blades. Today, they are all but obsolete, except for use in connection with large animals, such as horses and cattle.
17. Shedding blades were initially designed for horses and not for smaller animals. In my experience, one must be extremely careful of joints, the spine and other boney areas when using the Existing Shedding Blades on smaller animals.
18. Since I would not consider using one of the Existing Shedding Blades, I certainly would not have contemplated modifying one and combining it with a vacuum source.
19. Mr. Freidell has invented an improved animal grooming tool that includes one or more grooming blades having formed thereon sharp edges or "burrs" which, during grooming operations, remove ready to be shed hair by snagging the ready to be shed hair (the **"Improved Tool"**).
20. When the Improved Tool is coupled with a vacuum source by way of a vacuum nozzle mouth opening, the grooming blade(s) are positioned with respect to the mouth opening to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade(s) (the **"Vacuum-Assisted Improved Tool"**).
21. During grooming operations with the Vacuum-Assisted Improved Tool, the negative airflow lifts top coat hair of the dog's coat up and out of the way, so to expose undercoat hair to the sharp edges (burrs) of the grooming blade(s), thereby increasing efficiency of de-shedding operations, as compared to conventional de-shedding operations, by (i) eliminating operational strokes, (ii) eliminating the need for the groomer to use a hand or comb to lift the top coat hair up and out of the way, and (iii) reducing time associated with the de-shedding operations.
22. I have used prototypes of the Improved Tool (**"non-vacuum-assisted Prototype"**) and the Vacuum-Assisted Improved Tool (**"vacuum-assisted Prototype"**) that include one or

more substantially parallel, toothed grooming blades similar to that illustrated in Figures 1A-H, 2A-C and 3A-C of the Patent Application (collectively, the "Prototypes").

23. In the Prototypes, only the edges adjacent to each "point" or "peak" are sharp; the points are purposefully not sharp. One can feel these sharp edges, or burrs, by dragging ones finger across the blade.
24. When I first saw the Prototypes Mr. Freidell provided for my testing and evaluation, I was extremely skeptical regarding their usefulness. This is because I have seen over the years many, many new animal grooming tools offered for sale, all aiming to facilitate the removal of shedding and ready to shed hair, but none being much if any more effective than existing tools. On first appearance, the impression of similarity to Existing Shedding Blade structure deepened my skepticism.
25. Groomers are often tempted to purchase and try new tools that may ease this portion of their grooming jobs, which all too often leads to disappointment. Most of these new tools don't remain on the market for long, due to user dissatisfaction. Those that do prevail typically provide only incremental improvement.
26. Mr. Freidell explained to me that at least one difference between the Prototypes and animal grooming tools currently on the market was the presence of sharp edges ("burrs"). In some Prototypes, the sharp edges ("burrs") are formed as a result of a metal stamping process and are located on the slanted areas that form the peaks of the toothed grooming blades.
27. I believe that the presence of the sharp edges ("burrs") on the Prototypes, Improved Tool and the Vacuum-Assisted Improved Tool aid in the snagging and removal of ready to be shed hair during animal grooming operations. I believe these new tools effectively give rise to a whole new class of carding tools that unexpectedly perform much more efficiently than any other.

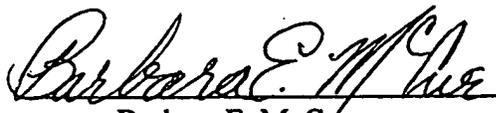
28. I have tested early prototypes developed by Mr. Freidell that did not have sharp edges or "burrs" and found them comparatively useless.
29. When Mr. Freidell initially provided the Prototypes for me to test and evaluate, I expected the vacuum to perform its typical function (e.g., create suction to eliminate hair removed by the grooming blades) and the grooming blades to perform their typical function (e.g., remove loose, already shed hair). I did not expect the vacuum to aid in the removal of ready to be shed hair. Nor did I expect the grooming blades to work particularly well in view of my past experience with Existing Shedding Blades.
30. Based on my observations and past experience, the non-vacuum-assisted Prototype removed significantly more hair than grooming tools currently on the market.
31. Recently, during a carding experiment conducted on the same dog separately using (i) a hand-held #40 clipper blade; (ii) a FURminator® grooming tool (U.S. Patent No. 6,782,846), the newest tool on the market for carding, which merely attaches a handle to a traditional #40 blade, making it easier to hold, thus reducing hand cramping; and (iii) the non-vacuum-assisted Prototype, in a fixed carding period of 10 minutes, the non-vacuum-assisted Prototype removed 2 to 4 times more loose and ready to be shed hair than the #40 blade or the FURminator grooming tool.
32. Furthermore, during the same recent carding experiment, more hair was removed by the vacuum-assisted Prototype when used to perform carding on the areas of the dog's coat that were previously treated by the #40 blade and the FURminator tool; thus, suggesting the vacuum-assisted Prototype extracted ready to be shed hair that carding with the #40 blade and the FURminator tool left behind.
33. Based on my observations, the vacuum-assisted Prototype removed noticeably more hair than the non-vacuum-assisted Prototype in approximately half the time and half the number of operational strokes; thus, suggesting an unexpected synergistic effect of combining the Improved Tool with a vacuum source.

34. Using the vacuum-assisted Prototype, grooming time was reduced by at least 75% as compared to carding with a hand-held #40 clipper blade or a FURminator grooming tool.
35. For example, using the vacuum-assisted Prototype on a Labrador Retriever, the carding time required only approximately 5 minutes as compared to 20 minutes with a hand-held #40 blade or FURminator grooming tool.
36. Using the vacuum-assisted Prototype, I estimate at least 3 times more hair is removed as compared to carding with a hand-held #40 blade and at least 2 times more hair is removed as compared to carding with a FURminator grooming tool.
37. Using the vacuum-assisted Prototype, the amount of time before the pets resumed dropping hair increased dramatically from 1 to 2 weeks to 3 to 4 weeks. This has been demonstrated to me by actual client satisfaction.
38. In view of the fact that carding strokes may cause irritation of a dog's skin, it is my opinion that carding using the vacuum-assisted Prototype will result in less irritation to dogs' skin than carding involving the use of a #40 blade or FURminator grooming tool alone.
39. In my opinion, based on the unexpected and exceptional results I observed in connection with using the Prototypes with various breeds of dogs, similar improvements are likely to be observed when grooming other domesticated pets.
40. I have not been compensated, nor do I expect to be compensated, for the testing and evaluation of the Prototypes, Improved Tool, or Vacuum-Assisted Improved Tool. Moreover, I have not been compensated for, nor do I expect to be compensated for preparing this declaration. My sole objective in engaging in such testing and evaluation, and extending support to Mr. Freidell's patent objectives, is to see these new tools come to market so that I can personally use them and teach their use to my students. I believe these tools will become highly valuable to the grooming profession, once groomers, like myself, overcome their skepticism in using them.

I, Barbara E. McCue, hereby declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made knowing that willful false statements and the like are punishable by fine or imprisonment, or both under § 1001 of Title 18 of United States Code, and such willful or false statements may jeopardize the validity of the Patent Application or any patent issuing therefrom.

Respectfully submitted,

Date: 4-7-05

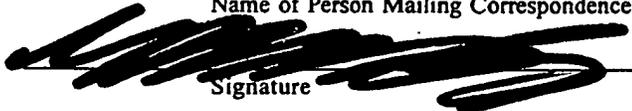

Barbara E. McCue

FIRST CLASS CERTIFICATE OF MAILING
(37 C.F.R. § 1.8(a))

I HEREBY CERTIFY THAT this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage via first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: 4/26/2005

on 4/26/2005
Date of Deposit

Michelle L. Wyss
Name of Person Mailing Correspondence


Signature

4/26/2005
Date

**Barbara E. McCue
145 S. Cody Court
Lakewood, Co. 80226
Ph. (303) 506-1192**

I have worked in the pet industry for more than 37 years. I have extensive experience in pet grooming, grooming instruction, dog training, handling, show grooming, and grooming competition. I also have extensive management experience in scheduling, personnel management, client records, phone skills, payroll and computer skills. I have excellent sales ability and a record of good public relations. I have excellent oral and written communication skills. I have core computer competence in most office software, including Microsoft Office, Photoshop and Quicken.

Education

**Graduate; Kofa High School (1966)
Yuma, Arizona**

I also took a course in sign language at Arizona Western Community College.

I was instructed in pet grooming as an apprentice to a Master Groomer/Handler in Paradise Valley, Arizona. I was schooled in all phases of pet grooming including show grooming for many breeds. Eventually I earned the titles of Master Groomer and Instructor.

I earned my certification as a dog trainer at the Greater Phoenix Dog Training Academy in Phoenix, AZ.

Once I started in the pet industry, I could not stop learning. I went to every dog show, trade show and seminar I could to continue my education. I have had various courses in all phases of the pet industry and have earned certificates from some of the biggest names in the grooming industry including Pam Lauritzen, John Stazko, and Shannon Lynnes. I continue to attend every event I can in the pet industry and have kept my grooming skills up to date along with testing every new grooming tool I can get my hands on. I was taught pet handling and restraint by several veterinarians and veterinary technicians. I am certified by the American Red Cross in pet CPR and first aid. I have also served as an emergency veterinarian assistant.

My management skills were learned on the job as the need presented itself. I have owned two successful grooming salons.

My computer skills were learned from my husband and are ongoing.

I have attended many business and sales seminars depending on the needs of my employers. I never tire of learning.

Accreditations

High School Diploma, college course in sign language, various courses of study in business and business management, completed course in real estate, various courses in the pet care and grooming profession, dog training certificate, pet grooming certificates, pet first aid and CPR, certification and grooming instruction.

Professional clubs and memberships

NDGAA (National Dog Groomers Association of America) Member; CPPGA (Colorado Professional Pet Groomers' Association) Member, Board Member, Secretary, News Letter Editor; and Member of local breed clubs.

Volunteer Service

Volunteer grooming for Humane Societies and local pet shelters
Volunteer instruction in Show Handling for 4H junior showmanship
Volunteer instruction for 4H in pet care and nutrition
Volunteer work for the CPPGA
Volunteer aid for local hospital (Candy Striper at Yuma Regional Medical Center).
Volunteer coach for little league cheerleaders

Languages Besides English

I have studied and excelled in Spanish and Sign Language, but would need refresher courses to become fluent again.

Awards Received

Grooming awards for national grooming competitions
Awards and ribbons from dog shows
Certificates and awards for volunteer work
Sales awards

Work History

I am presently in transition from employment at Clean Critter in Lakewood, Colorado to my new position of instructor at the International Academy of Pet Design in Marietta, Georgia. I begin full-time work at the Academy on April 12, 2005.

Clean Critter
550 Garrison St.
Lakewood, CO 89226
July 2001-March 2005

My position at Clean Critter was groomer but included instructing new employees and managing the salon while the owner was out of town on business. Also responsible for daily record keeping and customer relations.

PETCO

Lakewood Commons
475 S. Wadsworth
Lakewood, CO 80226
April 2000-July 2001

My position at PETCO was Grooming Salon Manager. My duties included supervising grooming department employees, grooming, scheduling, instructing, timekeeping, customer relations, daily, weekly and monthly reports, cleaning, scheduling, quality control, inventory control, and liaison between my department and the store managers. I was also tasked by corporate headquarters to test and evaluate a new animal bathing system for potential application in all PETCO store grooming departments.

PETCO

1540 West Southern
Mesa, AZ 85202
Nov. 1998-April 2000

My position was Grooming Salon Manager. This was a brand new store, requiring me to build clientele, in addition to my duties of supervising grooming department employees, grooming, scheduling, instructing, timekeeping, customer relations, daily, weekly and monthly reports, cleaning, scheduling, quality control, inventory control, and liaison between my department and the store managers.

Moonbrook Pet Grooming

3201 N Main Street Ext
Jamestown, NY 14701
1995-1998

I opened and ran this grooming salon, which was collocated in a veterinary hospital. My responsibilities involved all salon operations. I also conducted obedience classes there.

Temporary Lapse in Employment

Part of 1994 and 1995 was a time I did not work in the grooming industry as I was caring for my husband's mother who had cancer.

Alpine Pet Grooming

8631 Washington
Denver, CO 80229
1990-1994

My position at Alpine was groomer/manager. My responsibilities included opening and closing, personnel management and instruction, inventory, scheduling, customer relations, record keeping, troubleshooting, grooming, morale, and all management phases.

Bone Voyage Kennel

Arvada, CO
1989-1990

At Bone Voyage Kennel I had total control of the grooming salon, and was also in charge of all personnel. I also worked in the retail store and was responsible for overall kennel operations when the owners were absent.

PETsMart

Denver, CO (this store now closed)
1988-1989

Groomer and interim grooming department manager. All management duties including personnel management, grooming, teaching, scheduling, daily, weekly and monthly reports, and liaison between the grooming department and the store managers.

Sofia's Dog House (now closed)

860 E 24th St.
Yuma, AZ
1984-1988

I was a groomer/ manager. Additional to grooming, I was responsible for all management duties.

Sun Valley Kennel

Yuma, AZ (now closed)
1983-1984

Groomer. My duties were pet grooming, reception, and scheduling.

Fluff-N-Stuff Pet Grooming

Yuma, AZ
1981-1983

Owner/ Groomer. This was the first grooming salon that I owned and my duties included everything about the business.

Continental Groomers

Phoenix, AZ
1978-1981

Groomer. Bathing and grooming dogs.

The Pet Palace

Paradise Valley, AZ
1975-1978

Apprenticed under a master groomer, Mr. Wayne. I learned advanced and "all breed" grooming, ultimately becoming a master groomer.

Micki's Pet Grooming

Phoenix, AZ

1972-1975

First employment as a professional pet groomer. This job gave me exposure to a broad variety of dog breeds and professional breed styling.

Grooming at home

Phoenix, AZ

1967-1972

I was teaching myself to groom dogs and I groomed for neighbors, relatives and friends.

References

Heather Myers: former owner of Alpine Pet Grooming. 15941 Dale Av., Fort Lupton, CO 80621 (residence)

Barb Hall: current owner of Alpine Pet Grooming. 8631 Washington St., Thornton, CO 80229

Virginia Adams: owner of Sofia's Dog House. 860 E. 24th St. Yuma, AZ 85365

Cathy Cox: co-owner of For Paws Pet Grooming. 10201 Monterey Circle, Northglenn, CO 80260. Ph. (303) 427-8946

Peggy Kramer: co-owner, For Paws Pet Grooming. 10201 Monterey Circle, Northglenn, CO 80260. Ph. (303) 427-8946

ifw AF

402-085



IN THE UNITED STATES PATENT & TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: James E. Freidell : Examiner: Monica L. Williams
Title: VACUUM GROOMING TOOL : Group Art Unit: 3644
Serial No.: 11/338, 221 :
Filed: January 23, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Mark P. Stone 8/19/09
MARK P. STONE (Date of Deposit)
Reg. No. 27,954

Mail Stop: Appeal Brief - Patents

TRANSMITTAL OF REPLY BRIEF

Enclosed for filing, please find a Reply Brief (in triplicate), in response to the Examiner's Answer mailed on June 19, 2009, in connection with the appeal of the above identified patent application.

Respectfully submitted,

Mark P. Stone
Registration No. 27, 954
Attorney for Applicant
50 Broadway
Hawthorne, NY 10532
914-769-1106



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/338,221	01/23/2006	James E. Freidell	402-085	6464
	7590	06/19/2009	EXAMINER	
Mark P. Stone 50 Broadway Hawthorne, NY 10532			WILLIAMS, MONICA L	
			ART UNIT	PAPER NUMBER
			3644	
			MAIL DATE	DELIVERY MODE
			06/19/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11338221	1/23/2006	FREIDELL, JAMES E.	402-085

Mark P. Stone
50 Broadway
Hawthorne, NY 10532

EXAMINER

MONICA L. WILLIAMS

ART UNIT	PAPER
3644	20090609

3644 20090609

DATE MAILED:

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Commissioner for Patents

/Michael R Mansen/
Supervisory Patent Examiner, Art Unit 3644



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 11/338,221
Filing Date: January 23, 2006
Appellant(s): FREIDELL, JAMES E.

Freidell, James
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/13/2009 appealing from the Office action mailed 05/14/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

1,878,345	SUTER	9-1932
3,797,066	ZAIDAN	3-1974

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 25, 28, 30, 33, 35, 37, 39, 45-48 and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by patent no. 1,878,345 to Suter. In reference to applicant's claimed grooming operations, the examiner has taken the position that the grooming operations is functional language which is met by Suter since Suter discloses all of applicant's claimed structural limitations in the aforementioned claims.

Suter discloses an apparatus comprising: a vacuum nozzle/handle (10) having a hollow body terminating in a mouth opening (13); a grooming blade/grooming device (17) having a plurality of teeth/peaks (21) with sharp edges (p. 1, lines 55-64); the grooming blade positioned with respect to the mouth opening to allow negative airflow created by the vacuum source to flow over the two sides of the grooming blade (16 and p. 1, lines 64-73); and a fastener (18).

Claims 26, 27, 31, 32, 36, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suter.

Suter discloses as discussed above.

Suter does not disclose the specific material, stainless steel or plastic, or process, metal stamping or molded, used to create the blade and its burrs.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the blade of stainless steel or plastic from a specific

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process, since it has been held to be within the general skill of a worker in the art to select a known material and process on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. With respect to the specific processes used to make the blades, it is set forth that these limitations are considered product by process limitations. “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985) (citations omitted) MPEP 2113.

Claims 29, 34, 38 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suter in view of patent no. 3,797,066 to Zaidan

Suter discloses as discussed above.

Suter does not disclose setting the grooming blade at a plurality of orientations. Even though, the grooming blade of Suter could be set at a plurality of orientations during a design phase of construction and constructed in accordance with the design

Zaidan teaches it is known to set a blade at a plurality of orientations
(ABSTRACT).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Suter with the teachings of Zaidan for the purpose of having the combing done in a single direction as stated by Zaidan in his ABSTRACT.

(10) Response to Argument

In response to applicant's arguments that Suter does not disclose air flow around both sides of the grooming blades resulting in a negative airflow to lift the topcoat of hair, This argument is not persuasive because Suter discloses triangularly shaped agitators (17), considered to be a grooming blade, which are clearly shown with two sides that come together to form the tip of the agitator (17). The air flows on both sides of the agitator (17) and the suction of the vacuum causes a negative airflow which lifts the topcoat of hair.

In response to applicant's arguments that Suter does not disclose having a plurality of teeth having sharp edges formed on the sides of the teeth, this argument is not persuasive because the teeth are sharp enough to perform the claimed function of removing the undercoat of hair (col.2 lines 85-95), the teeth (17) meet the scope of the claim. The teeth are sharp within the scope of the claim, because sharp is a relative term.

In response to applicant's arguments to claim 44 that Zaidan does not disclose that the handle is angularly adjustable relative to the grooming blades, this argument is not persuasive because it is not commensurate with the scope of the claim. The claim only requires that "an angle (is) formed between the handle and the one or more

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grooming blades to be set to one of a plurality of orientations." Zaidan clearly discloses in the abstract and in Figure 4 that the grooming blade can be set at a plurality of orientations which would result in an angle formed between the handle and the grooming blade which meets the broad limitation of the claim.

In response to applicant's arguments that Zaidan is directed toward a carpet cleaning device and not an animal grooming apparatus, this argument is not persuasive because while the device of Zaidan might be directed toward carpet cleaning, the device is reasonably pertinent to the particular problem with which the applicant was concerned because it is a rigid comb having sharpened teeth attached to the nozzle of a vacuum for combing through an object having long hairs.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/MW/

Conferees:

Marc Jimenez /MJ/

/Michael R Mansen/

Supervisory Patent Examiner, Art Unit 3644