

XXXIX **2019** **abpi**
INTERNATIONAL CONGRESS ON
INTELLECTUAL PROPERTY | ABPI
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Contemporary Themes on Industrial Designs

Panel 5 – US Perspective

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Industrial Designs

Graphical User Interfaces



- Specifically allowed for “Computer-Generated Icons”
 - 2D surface ornamentation
- Does not have to exist on “something outside itself”
 - *In re Hruby* – spray pattern of water fountain eligible for design patent
- But must be embodied in/on/as an “article of manufacture”
 - Article can be disclaimed (shown in broken lines)
 - Title should also mention “article” (e.g. “screen”, “display panel”, “monitor”)
- Application can include animated icons that change appearance during viewing
- Current issues:
 - Holograms?
 - Fog displays?





Industrial Designs

Graphical User Interfaces



Apple Patent US D604,305



Accused Product Samsung Galaxy S i9000





Industrial Designs

Graphical User Interfaces



Apple Patent US D604,305



Accused Product Samsung Galaxy S5





Industrial Designs

Graphical User Interfaces



Apple Patent
US D627,790



Accused Product
Samsung Galaxy S5





Industrial Designs

Functionality



- Must be “ornamental”
- Ornamental ≠ entirely nonfunctional
 - Ornamentation must be in/on/as an “article of manufacture”, which can be functional
- Design cannot be solely or primarily functional
 - Several designs could achieve the function of the article? Design in question more likely ornamental

United States Patent [19]
Rastovski

[11] **Patent Number:** **Des. 396,402**
[45] **Date of Patent:** ****Jul. 28, 1998**

[54] **ONE PIECE REFRIGERATOR BRACKET**

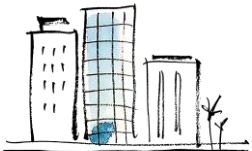
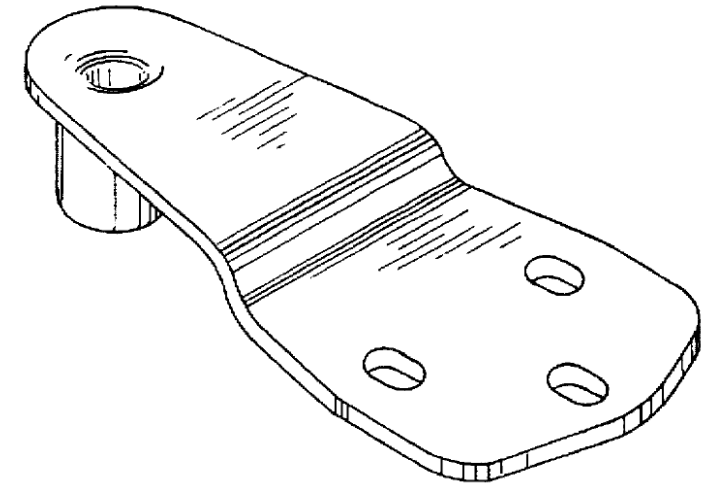
[75] **Inventor:** **David W. Rastovski, Valparaiso, Ind.**

[73] **Assignee:** **Diversified Specialties, Port
Washington, Wis.**

Primary Examiner—Holly Baynham
*Attorney, Agent, or Firm—Bell Seltzer Intellectual Property
Law Group of Alston & Bird, LLP*

[57] **CLAIM**

The ornamental design for a one piece refrigerator bracket,
as shown and described.



Industrial Designs

Functionality

- *Automotive Body Parts Association v. Ford*, Fed. Cir., July 23, 2019
- “Aesthetic functionality” = invalid? - **No.**
 - Ford introduced evidence that other headlamp designs will function
 - Matching factory headlamp ornamentation is a “matter of concern”
- Exhaustion for design patented spare parts? - **No.**
 - Original part exhausted? Yes
- Permissible repair? – **No.**
 - Design patent on ornamental headlamp design, not entire truck

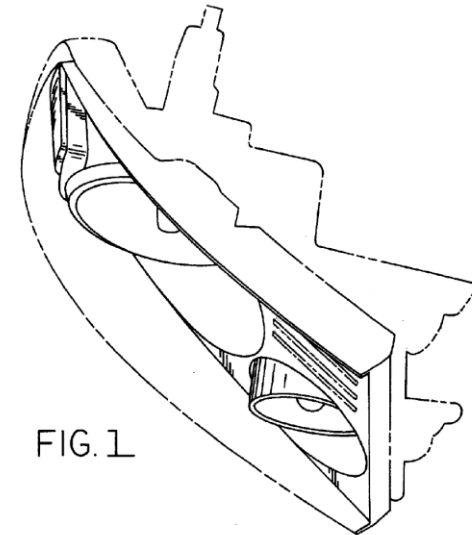
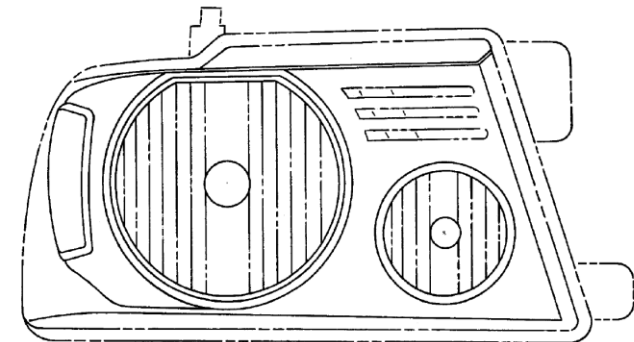


FIG. 1



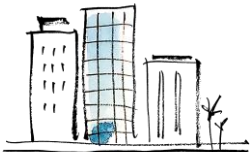


Industrial Designs

Broken Lines



- Used primarily for unclaimed subject matter:
 - Environment showing article of manufacture
 - Boundary of claimed design
- But can also show stitching and fold lines
- New matter considerations
 - If making explicit a natural boundary, not new matter
- Title should match article of manufacture
- State purpose of broken lines in specification
 - “The broken lines shown herein are for illustrative purposes only and form no part of the claimed design.”
 - “The dash-dot-dash broken lines in the drawings define bounds of the claim and form no part thereof.”



Industrial Designs

Broken Lines



(12) **United States Design Patent** (10) **Patent No.:** **US D554,821 S**
Blanchard et al. (45) **Date of Patent:** **** Nov. 6, 2007**

(54) **WASTE CONTAINER**

(75) Inventors: **Wesley J. Blanchard**, Charlotte, NC
 (US); **Gregory A. Pugh**, Wingate, NC
 (US)

(73) Assignee: **Otto Industries of North America, Inc.**, Charlotte, NC (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/250,983**

(22) Filed: **Dec. 7, 2006**

(51) **LOC (8) CL.** **09-09**

(52) **U.S. CL.** **D34/1**

(58) **Field of Classification Search** **D34/1**
 D34/5, 6, 7, 8, 9, 10, 11; 220/908-911, 675,
 220/367.1, 368, 370, 371, 373, 374; 280/47.26
 See application file for complete search history.

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(Continued)

Primary Examiner—Cynthia E. Ramirez

(74) Attorney, Agent, or Firm—Alston & Bird LLP

(57)

CLAIM

The ornamental design for a waste container, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of a waste container according to an embodiment of the present invention;

FIG. 2 is a front view of the waste container shown in FIG. 1;

FIG. 3 is a left side view of the waste container shown in FIG. 1, the right side view being a mirror image thereof;

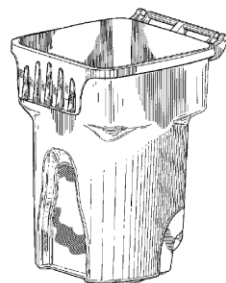
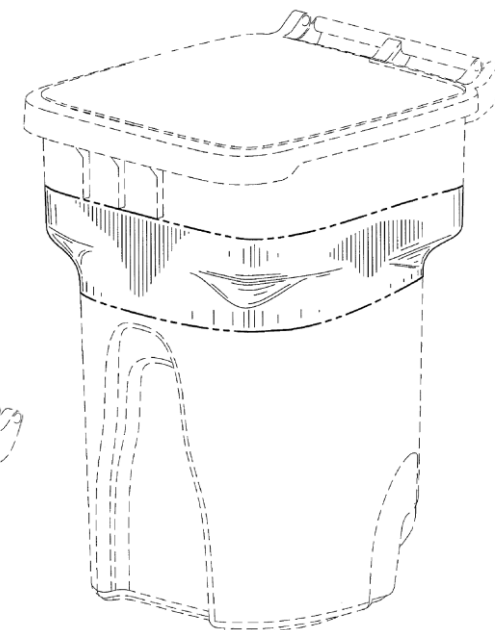
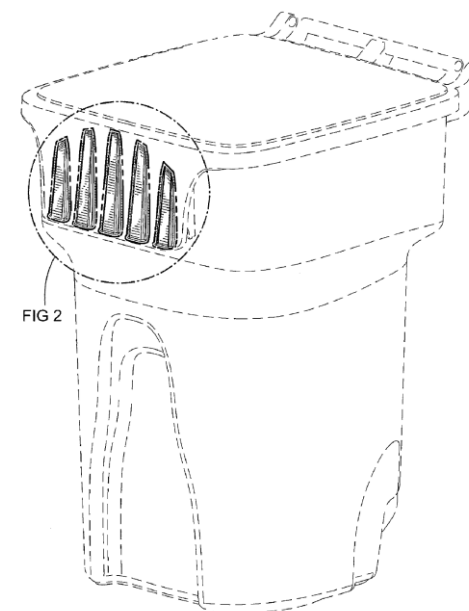
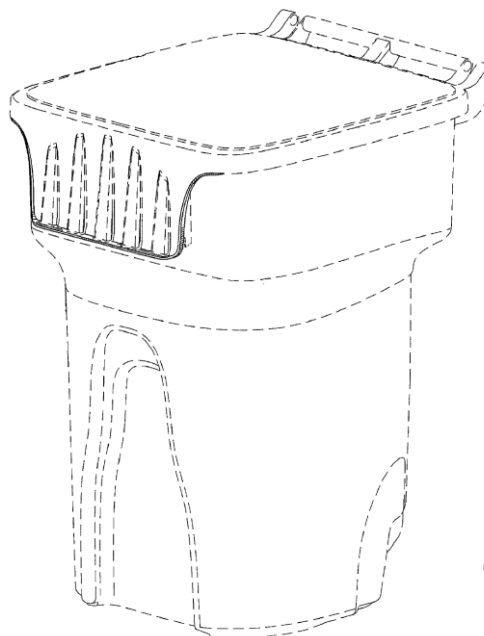
FIG. 4 is a rear view of the waste container shown in FIG. 1;

FIG. 5 is a top view of the waste container shown in FIG. 1 and,

FIG. 6 is a bottom view of the waste container shown in FIG. 1.

The broken lines shown herein are for illustrative purpose only and form no part of the claimed design.

1 Claim, 6 Drawing Sheets



Industrial Designs

Broken Lines



United States Patent [19] Ahearn et al.

[11] Patent Number: Des. 392,282
[45] Date of Patent: **Mar. 17, 1998

[54] CONTOURED HOUSING FOR A HAND HELD TERMINAL

[75] Inventors: Kevin J. Ahearn, Matthews; Lawrence R. Ober, Pineville; Michiel Reineir Auems, Charlotte, all of N.C.

[73] Assignee: Hand Held Products, Inc., Charlotte, N.C.

[**] Term: 14 Years

[21] Appl. No.: 60,284

[22] Filed: Sep. 6, 1996

Related U.S. Application Data

[63] Continuation-in-part of Ser. No. 51,739, Mar. 18, 1996, abandoned.

[51] LOC (6) Cl. 14-02

[52] U.S. Cl. D14/116; D14/100

[58] Field of Search D14/100, 114, D14/116, 218; D18/7; 235/375, 378, 385, 454, 462, 472, 486; 354/80-82; 250/203.1, 216, 566, 568

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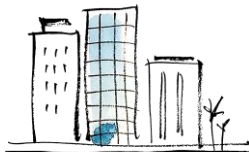
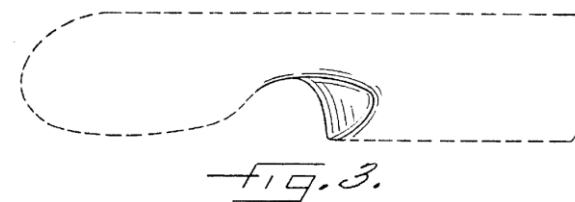
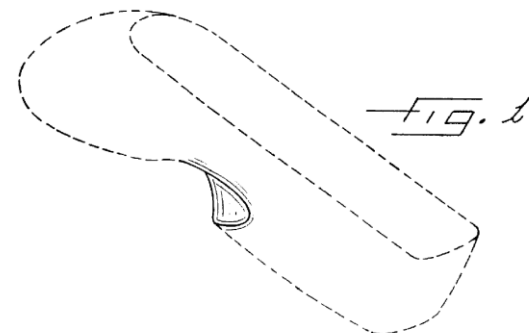
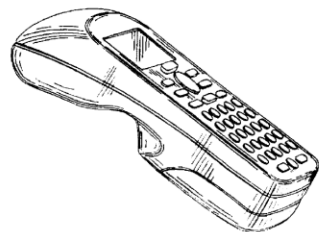
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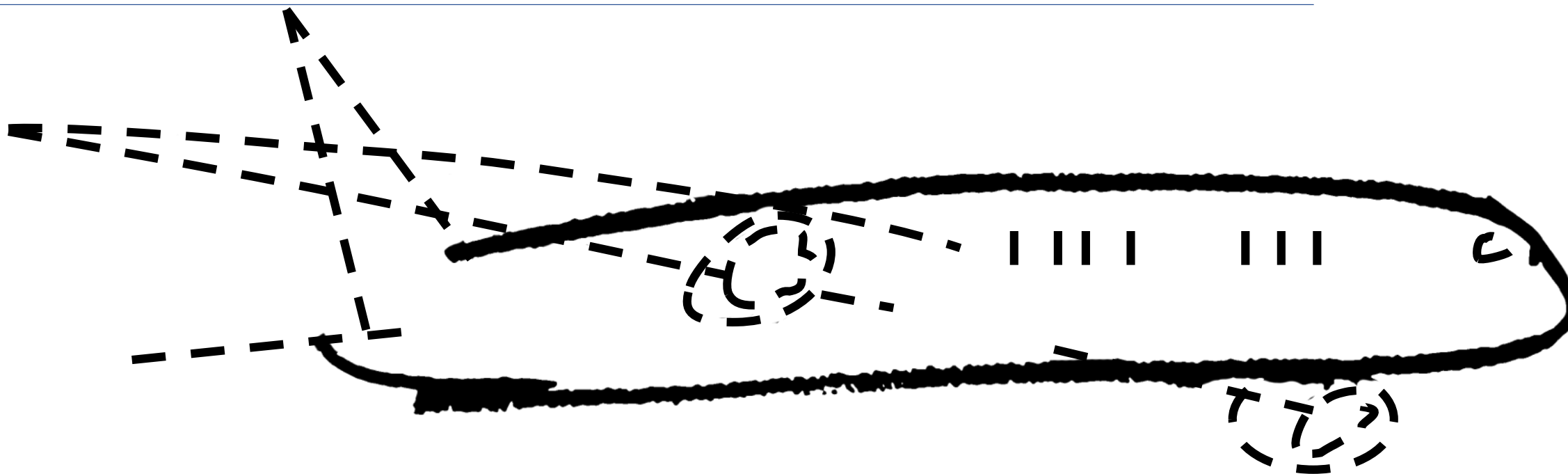
Primary Examiner—Freda Nunn
Attorney, Agent, or Firm—Bell, Seltzer IP Law Group of Alston & Bird LLP





Industrial Designs

Broken Lines



Questions?

