

Amendments to the Drawing

Please replace the drawing sheets including FIGS. 4, 4A and 5 with the attached replacement sheets, in which FIGS. 4 and 4A have been amended to remove the text objected to in the Office Action, and FIG. 5 has been amended to replace reference number 100 with 200.

Amendments to the Specification

Please replace paragraph [0023] of the Specification with the following amended paragraph:

[0023] FIG. 5 shows an alternate embodiment for multi-stream recycling where different recycling streams must be separated. Thus, instead of one chamber 112, the container 200's container portion 220 has separate chambers 212a, 212b, 212c, and 212d--one for each recycling type stream. The chambers 212a, 212b, ~~212c~~, and 212d are in fluid communication with the openings 230a, 230b, and 230d (~~the opening that would be 230c~~ a fourth opening cannot be seen in FIG. 2) in the communication portion 220.

REMARKS

Claims 1-20 are currently pending. This Reply amends FIGS. 4, 4A and 5 of the drawings, the specification at paragraph [0023] and claims 1, 4, 11, 15 and 18. Claims 19 and 20 are new. These amendments introduce no new matter into the application.

Objections to the Drawings

The Office Action objected to the drawings for the inclusion of text in conjunction with elements designated by reference numbers, as well as the inclusion of several reference numbers not appearing in the specification. The drawings have been amended to remove the objected to text from FIGS. 4 and 4A and to replace reference number 100 with 200 in FIG. 5. The specification has been amended to remove reference number 230c, which does not appear in the drawings.

Objections to the Claims

The Office Action objected to claim 4 for informalities. Claim 4 has been amended as suggested in the Office Action to correct these issues.

Claim Rejections - 35 USC § 112

The Office Action rejected claims 4, 11 and 18 under 35 USC § 112(b) or 35 USC § 112 (pre-AIA), second paragraph, as indefinite, for various informalities.

Claim 4 has been amended to recite “the container portion is divided into a plurality of separate chambers,” to provide antecedent basis for the recited “separate chambers.”

Claim 11 has been amended to recite “wherein the opening comprises a removably sealable obstacle,” to mirror the language at paragraph [0016] of the specification and provide additional structure to clarify how the opening is removably sealable.

Claim 18 has been amended to depend from claim 5, as suggested in the Office Action.

Claim Rejections - 35 USC § 102

The Office Action rejected claims 1, 3, 4, 11-14 and 13 under 35 USC § 102(a) as anticipated by Strawder (US 4,905,853).

Claim 1, as amended, recites “a communication portion...comprising... a visible cavity that holds examples of materials that should be recycled.” Emphasis added. The Office Action cites Strawder’s cover 10, which includes doors 12, 14, 16 displaying text indicative of the type of waste products that may be disposed of in each door, and the inclined shelf 18 of Strawder’s cover 10 as the claimed visible cavity containing the claimed examples of materials. Strawder’s text signs are not examples of materials, but merely means of communication. “[E]xamples of materials” as recited in Applicant’s claims, indicates actual, tangible things, rather than language indicative of such things, as Strawder discloses.

Claim 1 has been amended to require that the cavity holds examples of materials. This language further supports the construction of “examples of materials” as things and not text, as text is not a physical object capable of being held.

Claims 3, 4, 11-14 and 13 depend from claim 1 and should be similarly patentable.

Claim Rejections – 35 USC § 103

The Office Action rejected claim 2 under 35 USC § 103(a) as obvious over Strawder in view of Cooper (US D 345,239).

Claim 2 depends from claim 1 and should be patentable for at least the reasons discussed above.

Additionally, claim 2 should be patentable for inclusion of the claim limitation “wherein the communication portion is transparent.” The Office Action cites Cooper as teaching this claim limitation. Cooper merely teaches a bin with an upper portion shown in transparency. Because Cooper is a design patent, it isn’t even clear what the purpose of Cooper’s apparatus is or how it works, though it is clear that the upper, transparent portion of Cooper’s device performs no “communicating what material should be recycled,” nor does it define an “opening” or a “cavity.” The transparent portion of Cooper’s device appears to do the opposite of Applicant’s claimed “communication portion,” effectively closing off the top of the device, whereas Applicant’s claims recite “fluid communication with the container portion.” The transparent portion of Cooper’s device cannot be considered a “communication portion” in accordance with Applicant’s claims.

The Office Action rejected claim 15 under 35 USC § 103(a) as obvious over Strawder in view of Williams (US 6,378,721).

Williams teaches a bagged trash can for sorting recyclables. See Abstract. The Office Action cites Williams's "peripheral flange defining top 42 of liner bag 40," as equivalent to Applicant's claimed "flange that engages an interior surface of the container portion." Claim 15 has been amended to recite "wherein the communication portion comprises the flange, and the flange extends downward from the communication portion into the container portion to engage engages an interior surface of the container portion." Williams's liner bag is not a "communication portion" in accordance with Applicant's claims, nor does Williams's flange 44 extend downward from anything that could be construed as a "communication portion."

The Office Action rejected claim 17 under 35 USC § 103(a) as obvious over Strawder in view of Bastioli (US 20070228046). Claim 17 depends from claim 1 and should be patentable for at least the reasons discussed above. Bastioli is cited merely as teaching a lid having holes and does nothing to remedy Strawder's deficiencies.

The Office Action rejected claims 1-13, 16 and 18 under 35 USC § 103(a) as obvious over Garcia (US 8,555,781) in view of Wilson (US 5,465,841) and Strawder.

As discussed above, Strawder fails to disclose "a communication portion...comprising... a visible cavity that holds examples of materials that should be recycled." Garcia and Wilson fail to remedy Strawder's deficiencies.

The Office Action cites Wilson as teaching a "visible cavity." Wilson teaches a medical waste collection station including a shell portion 411b for housing disposed-of medical waste containers. Col. 15, lines 45-51. The shell portion, which the Office Action

cites as equivalent to Applicant's claimed "visible cavity" may be formed of a transparent material, permitting users to examine the contents thereof. Wilson's shell portion 411 is merely a transparent enclosure, and not a "visible cavity" in accordance with Applicant's claims.

Wilson's disclosure explains that shell portion 411b, cited as a "visible cavity" forms a portion of element 411, which "supports the plurality of medical waste containers 430, 431." Col. 15, lines 24-29. Wilson's shell portion is therefore used to house disposed of material, whereas Applicant's claims require both "a chamber and for storing material to be recycled in the chamber" as well as a "a communication portion for communicating what material should be recycled." Shell portion, if anything, correlates more closely with Applicant's chamber, because it is used for storing waste material. Applicant's visible cavity, in contrast, holds examples of disposed of materials. Wilson teaches the desirability of displaying waste material. Col. 18, lines 13-18. Applicant's receptacle, in contrast, provides a communication portion that is separate from the container portion where material to be recycled is stored, permitting display of the actual waste material to be avoided if desired.

Claims 2-13, 16 and 18 depend from claim 1 and should be similarly patentable.

New Claims

New claims 19 depends from claim 1 and should therefore be patentable for the reasons discussed above.

Additionally, claim 19 recites "wherein the visible cavity is divided into a plurality of visible cells, each of the cells being associated with the opening." None of the cited references teach a plurality of cells associated with an opening. Strawder, cited as

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teaching a communication portion having an opening and a visible chamber, teaches a plurality of openings, each having a separate associated shelf 18, which the Office Action cites as a “communication portion.”

Claim 19 further recites “wherein each of the cells holds an example of a different one of the materials.” Strawder’s shelves do not even hold examples of the materials, as discussed above.

Claim 20 contains the language of claim 1 in that it recites that “visible cavity that holds examples of materials that should be disposed of” and should thus be patentable for the same reasons discussed with respect to claim 1.

All claims are believed to be allowable and if the examiner desires a further discussion about the claims, the undersigned invites a telephone conference to discuss this application further.

Sincerely,

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