

College of Patent Agents & Trademark Agents

*Patent Agent Skills Examination
Part 2 Component A Sample Key*

Purpose statement: The sample exam and sample answers are for informational and preparatory purposes only. They are intended to offer prospective test-takers a general understanding of the type and format of questions that may appear on the skills examination, as well as to demonstrate the level of detail expected in responses. For more information, refer to: <https://cpata-cabamc.ca/en/become-an-agent/information-patent-agent-qualifying-examinations/>

Representation: The sample exam does not represent the full range of topics, difficulty levels, or types of questions that may be encountered on the actual exam. The actual exam may contain questions that differ significantly in form and content. Please note that while this sample exam contains multiple devices in different technology areas, the actual exam is targeted at one general technology area.

Predictive value: Performance on this sample exam should not be taken as an indicator of future performance on the corresponding skills examination. This sample is not intended to predict exam outcomes and should not be used as a test-taker's sole preparation material.

Answer key: The sample answers provided are for illustrative purposes only. They represent one of several possible approaches to answering these sample questions. Actual exam responses may vary, and there may be multiple valid ways to address a question.

Updates and changes: Exam content and policies are subject to change. While we aim to keep our preparation materials up-to-date, the sample exam and answers may not reflect the most current version of the actual examination.

No guarantee: Using these sample materials does not guarantee success in the actual skills examination. Examinees are encouraged to engage in comprehensive study and preparation to enhance their understanding of the subject matter.

Confidentiality: The actual examination content is confidential.

Feedback: Feedback on these sample materials is welcome. However, please be aware that individual responses or specific guidance on exam preparation cannot be provided.

Examination information

The *Patent Agent Skills Examination Part 2* takes place over two (2) days. Test-takers have three (3) hours on one day to complete Component A, which focuses on prosecution as well as some aspects of validity and infringement. Test-takers have three (3) hours on a subsequent day to complete Component B, which focuses on validity and infringement. Each component is worth 75 marks; the two (2) components are scored together as a single examination worth 150 marks.

This is Component A. It consists of 9 questions worth a total of 75 marks.

Component A will be scored together with Component B.

During the examination, test-takers have electronic access to the *Patent Act*, RSC 1985, c P-4 (“Patent Act”) and *Patent Rules*, SOR/2019-251 (“Patent Rules”), in addition to other background information or resources necessary to respond to the examination questions.

Instructions for test-takers

Review any background information provided. Answer the questions.

Avoid extraneous commentary not directly relevant to the question. Do not assume facts that are not provided.

When asked to support an answer, include relevant discussion or reasoning. While relevant source references (e.g., to case law, statutory provisions, or regulatory provisions) may be helpful to include, separate marks are not provided for such references.

Point-form answers are acceptable.

Component A (3 hours, 75 marks)

Question 1 [5 marks in total]

Your Client, Company A, has just purchased a patent family from Company B but did not do their due diligence. As their business is evolving, they want to keep the patent family open in Canada. They have asked you for information about the following Canadian Patent Application and ideas of next steps for the patent family. A search produced the following results:

Based on the information provided, identify:

- (a) the claim of priority for the Canadian patent application; **[1 mark]**
- (b) the related Australian patent family members; **[1 mark]**
- (c) those patent family members with granted patents; **[1 mark]** and
- (d) what use should be made of this information, given the context. **[2 marks]**

Patent 3207390 Summary

› Third-party information liability

› Claims and Abstract availability

(12) Patent Application

(11) CA 3207390

(54) English Title:

(54) French Title:

Status:

Compliant

↓ Bibliographic Data

(51) International Patent Classification

(IPC):

N/A

(72) Inventors:

(73) Owners:

Company B (Canada)

(71) Applications:

Company B (Canada)

(74) Agent:

Agent, P.

(74) Associate agent:

(45) Issued:

(22) Filed Date: 2012-01-06

(41) Open to Public Inspection: 2012-07-12

Availability of licence: N/A

(25) Language of filing: English

Patent Cooperation Treaty (PCT): No

(30) Application Priority Data:

Application No.	Country/Territory	Date
61/430,836	United States of America	2011-01-07
61/430,810	United States of America	2011-01-07
61/471,964	United States of America	2011-04-05
61/498,899	United States of America	2011-06-20
13/165,423	United States of America	2011-06-21
61/532,330	United States of America	2011-09-08

Publication ^	Application number ^	Publication date ^
AU2012205031A8	AU2012205031A	2013-08-01
AU2017203989A1	AU2017203989A	2017-07-06
AU2017203989B2	AU2017203989A	2019-08-22
CA 30551737A1	CA3055137A	2012-07-12
CA3055137C	CA3055137A	2023-09-12
CA3207390A1	CA3207390A	2012-07-12
US2022237246A1	US202217713096A	2022-07-28
WO2012092669A1	CA2012000009W	2012-07-12

Sample Response

The following sample response would receive full marks.

(a) CA3207390 claims priority to US Application No. 61/430,836

(b) Australian pending application 20212205031A8, Australian granted patent AU2017203989B2

(c) Australian granted patent AU2017203989B2, and CA granted patent 3055137C

(d) Because the client wants to keep the family open in Canada, do a comparison of all the claims in the granted patents as well as the pending Canadian and US patents. If the claims are different from the CA claims there could be more subject matter to claim in Canada.

Proceed to either file a new set of claims in continuations of the pending CA patent immediately or when the pending application is found allowable.

Question 2 [6 marks in total]

Refer to the content provided in Question 1, noting the following additional details:

Company A's product is a juicer which they currently sell in Canada, and the US. The claims of CA3055137 were specifically written with the purpose of stopping the sale of a specific juicer sold in Canada by Company C. Company C has means to prevent rotation of juicing material within the juicer. Now Company C is expanding to sell their product in Australia.

Based on granted claim 1 of CA3055137,

- (a) show how you would amend the pending Australian claim 1 (Note: Use strikethrough to identify text that is being redacted and use underline to identify text that is being added. For easy editing, select the text you want to amend, and drag and drop it into the top left corner of the response box.) [3 marks] and
- (b) explain how this change addresses the applicant's business needs [3 marks].

CA3055137 Claim 1

A juicer comprising:

- a) a lower portion housing a motor assembly;
- b) an upper portion mounted above the lower portion and comprising a spout;
- c) an extraction assembly housed in the upper portion and rotatably coupled to the motor assembly, the extraction assembly comprising a concave grating disk and a frustoconically-shaped filter;

d) a top cover mounted on the upper portion and integrated with an enlarged food chute for receiving food, the food chute configured at a bottom end with an anti-rotation member partially along an axial direction;

e) a pusher configured for insertion into the food chute for forcing the food towards the extraction assembly, the pusher comprising a slot configured to receive the anti-rotation member; and

f) a pulp bin proximate to the lower portion;

wherein activation of the motor assembly rotates the extraction assembly to extract juice from the food.

Pending Australian Claim 1

1. A juicer comprising:

a) a lower portion housing a motor assembly;

b) an upper portion mounted above the lower portion and comprising a spout;

c) an extraction assembly housed in the upper portion and rotatably coupled to the motor assembly, the extraction assembly comprising a concave grating disk and a frustoconically-shaped filter, wherein the concave grating disk comprises grating members arranged in rows along an inclined surface of the concave grating disk;

d) a top cover mounted on the upper portion and integrated with a food chute for receiving food;

e) a pusher configured for insertion into the food chute for forcing the food towards the extraction assembly; and

f) a pulp bin proximate to the lower portion;

wherein activation of the motor assembly rotates the extraction assembly to extract juice from the food.

Sample Response

The following sample response would receive full marks.

(a) A juicer comprising:

- a) a lower portion housing a motor assembly;
- b) an upper portion mounted above the lower portion and comprising a spout;
- c) an extraction assembly housed in the upper portion and rotatably coupled to the motor assembly, the extraction assembly comprising a concave grating disk and a frustoconically-shaped filter, ~~wherein the concave grating disk comprises grating members arranged in rows along an inclined surface of the concave grating disk;~~
- d) a top cover mounted on the upper portion and integrated with a food chute for receiving food, the food chute configured at a bottom end with an anti-rotation member partially along an axial direction;
- e) a pusher configured for insertion into the food chute for forcing the food towards the extraction assembly, the pusher comprising a slot configured to receive the anti-rotation member; and
- f) a pulp bin proximate to the lower portion;

wherein activation of the motor assembly rotates the extraction assembly to extract juice from the food.

Note: strikethrough text denotes redaction, underline text denotes addition.

(b) The claim has been amended to include the anti-rotation member which Company's C juicer includes. The claim has been amended to describe how the anti-rotation member works with the other elements of the claim (preventing an indefiniteness rejection). The claim has been amended to remove the grating members as this was not included in the granted CA claim, which means that it was not necessary in view of Company C's juicer and made the claim too narrow.

Question 3 [4 marks in total]

Information about the following five documents is provided:

1. Canadian Patent Application No. 2,xxx,400
2. D1: United States Patent No. 8,xxx,435
3. D2: United States Patent No. 9,xxx,916
4. D3: Canadian Patent No. 2,xxx,631
5. D4: European Patent Application

For CA Patent Application No. 2,XXX,400, indicate whether D1 is citable for novelty and whether D2-D4 are citable for obviousness. **[1 mark per reference for a total of 4 marks]**

1. Canadian Patent No. 2,xxx,400

Issue Date: March 13, 2018
Filing Date: May 30, 2016
Publication Date: January 14, 2017
Priority Data: US 62/xxx,261 filed July 14, 2015
Inventors: Pat Jones and Sam Smith
Owner: Plant Innovations, Inc.

2. DOCUMENT D1

United States Patent No. 8,xxx,435
Issue Date: June 14, 2011
Filing Date: April 24, 2008
Publication Date: August 21, 2008
Priority Data: Continuation of application no. 10/xxx,281 filed on Nov. 13, 10 2004, now Pat. No. 7,xxx,957, which is a continuation of application no. 10/xxx,757 filed on Aug. 26, 2003, now Pat. No. 6,xxx,750.
Inventors: Taylor Gates and Chris Fitzgerald
Owner: Garden Solutions, Inc.

3. DOCUMENT D2

United States Patent No. 9,xxx,916
Issued Date: November 19, 2019
Filing Date: March 20, 2017
Publication Date: July 5, 2018
Priority Data: CN 2016 2,xxx,830 U filed on December 30, 2016;
CN 2017 2,xxx,174 U filed on February 27, 2017
Inventors: Sukhjot Sidhu and Surinder Singh
Assignee: Healthy Kitchen, Inc.

4. DOCUMENT D3

Canadian Patent No. 2,xxx,631
Issue Date: June 23, 2015

National Entry: January 25, 2013
PCT Filing Date: July 28, 2011
Publication Date: February 2, 2012
PCT: PCT/CN2011/xxx,710
Priority Data: CN 2010xx,xxx,xxx.3 filed on July 28, 2010
Inventor: Hui Kwok
Assignee: HK Technologies, Inc.

5. DOCUMENT D4

Non-patent literature of an abstract published on a Plant Conference website on June 1, 2015, for a presentation given on June 30, 2015, in Oxford, UK by Pat Jones and Sam Smith.

Sample Response

The following sample response would receive full marks.

- D1 – Not citable for anticipation given 28.2(1)(b)
- D2 – Not citable for obviousness given 28.3
- D3 – Citable for obviousness given 28.3
- D4 – Not citable for obviousness given 28.3

Note: Marks are only given if both citability answer and section number references are correct.

Question 4 [20 marks in total]

You have received an Office Action for Canadian Patent Application CA1,234,567. The Examiner has rejected claim 1 as anticipated by reference D1. The Examiner has rejected claim 2 as obvious in view of D1 and further in view of D2. The Examiner has rejected claim 3 as dependent on claim 1. The Examiner has rejected claim 4 as indefinite. The Applicant does not think that D1 and D2 are similar to their product and wants you to amend the claims. Amend the claims of CA '567, in light of references D1 and D2, as follows:

- (a) amend the claims to address the novelty of claim 1 in view of reference D1;
[14 marks]
- (b) amend claim 2 to address obviousness of claim 2 in view of references D1 and D2;
[4 marks]
- (c) amend claim 4 to address indefiniteness/clarity. **[2 marks]**

Note: Use strikethrough to identify text that is being redacted and use underline to identify text that is being added. For easy editing, select the text you want to amend, and drag and drop it into the top left corner of the response box.)

CA 1,234,567

BACKGROUND OF THE INVENTION

[01] Vehicles left outdoors in cold climates often accumulate winter elements on the vehicles' windshields and windows. To address this problem, various scrapers have been proposed in the art and implemented for scraping ice, frost, and snow off a vehicle's windshield and windows prior to operation, however, they are not ergonomic and can lead to wrist injuries. Further, the scrapers do not effectively transfer the applied pressure to a surface to be cleaned. Conventional ice scrapers are typically inflexible. Their body and blade are designed to be rigid in order to apply a concentrated force to a surface, however, this rigidity also prevents the blade and blade edge from conforming to curved or multi-planar surfaces. Consequently, such ice scrapers are unable to remove ice, frost, or snow effectively from curved or multi-planar surfaces, such as windshields, windows, headlights, and surrounding frames of vehicles.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

[02] FIG 1 shows a first exemplary embodiment of the ice scraper generally comprising two components: a cap 12 and a conical body 14. The cap 12 and conical body 14 are shown unassembled and in FIG. 1.

[03] The cap 12 generally comprises an upper portion 16 and a lower portion 18. The upper portion 16 comprises a disk 20 and a plurality of cones 22 projecting upwardly from the disk 20. The disk 20 is flat and circular-shaped, and has an upper surface 24 and a lower surface 26. In one embodiment, the cones 22 are serrated and arranged in rows on the upper surface 24 of the disk 20, towards the center area of the disk 20, and project upwardly from the upper surface 24 of the disk 20.

[04] The lower portion 18 comprises a neck 28 extending downwardly from the lower surface 26 of the disk 20. In one embodiment, the neck 28 is cylindrical-shaped and includes a sidewall 30 defining an inner cavity 32 and an opening 34. In one embodiment, the neck 28 is integral with the lower surface 26 of the disk 20. The neck 28 has a diameter smaller than the diameter of the disk 20.

[05] The conical body 14 comprises an open top portion 36 and an open bottom portion 38, which is a frusto-conical shape. In one embodiment, the open top portion 36 is integral with the open bottom portion 38 to define a unitary hollow cavity 40 extending therethrough. The open top portion 36 is cylindrical-shaped and includes a sidewall 42 defining the unitary hollow cavity 40. The open top portion 36 has a diameter which is smaller than the diameter of the open bottom portion 38.

[06] The neck 28 and open top portion 36 are sized to be releasably secured to each other. The neck 28 is sized to fit within the open top portion 36, and the open top portion 36 is sized to accommodate and receive the neck 28.

[07] A flared or outwardly extending portion 44 is positioned between the open top portion 36 and the open bottom portion 38, and comprises a sloped wall 46 defining the unitary hollow cavity 40. The sloped wall 46 has a textured surface or a surface having a plurality of raised stiffeners 48 provided thereon to add strength and act as grips. The reduced thicknesses of the sidewall 42 and sloped wall 46 which together define the unitary hollow cavity 40 ensure that the ice scraper 10 is as lightweight and portable as possible for easy handling by the user.

[08] The open bottom portion 38 has a sharp ridge 50 about the circumference of the open bottom portion 38. Ridge 50 includes an outwardly facing surface 52a and an inwardly facing surface 52b converging at two equal opposing angles with respect to a longitudinal axis of the scraper resulting in a scraping edge 52.

[09] The ice scraper 10 may be formed of resilient or pliable plastic including, but not limited to, polyethylene, polypropylene, vinyl, nylon, polystyrene, or formed of a laminated fibrous material. Any suitable material may be used that can withstand elastic deformation without deforming plastically. In one embodiment, the ice scraper 10 is formed of a pliable material capable of deforming to conform to a curved or multi-planar surface, allowing its entire scraping edge 52 to contact the surface to be thoroughly cleaned.

[10] In operation, the user can comfortably grasp the conical body 14, while the cap 12 acts as a handle. The ice scraper 10 is ergonomic due to its configuration and pliable material and reduces stress to joints, tendons, and tissues compared to conventional scrapers.

[11] The user conveniently has the option of using the ice scraper 10 in two different positions to clean a surface which may be flat, curved, or multi-planar (e.g., a windshield, window, headlight, or frame of a vehicle). In the first position, the user places the open bottom portion 38 against the surface to be cleaned, applies pressure directly to the surface, and drives the ice scraper 10 in any direction on the surface to remove debris, ice, frost, or snow. The ice scraper 10 provides a dual cleaning action with each pass of the user's hand. In the second position, the user can reverse the ice scraper 10 by placing the cones 22 of the cap 12 against the surface to be cleaned, applying pressure directly to the surface, and moving the ice scraper 10 in a circular manner on the surface to loosen coarse frost/ice.

[12] FIG. 2 shows a second exemplary embodiment of the ice scraper 100 generally comprising a cap 54 and a conical body 56. The cap 54 and conical body 56 are shown assembled and ready for use in FIG. 2. The conical body 56 comprises an open top portion 58 and an open bottom portion 60. In one embodiment, the open top portion 58 is integral with the open bottom portion 60 to define a unitary hollow cavity 62 extending therethrough. A flared portion 66 is positioned between the open top portion 58 and the open bottom portion 60, and comprises a sloped wall 68 defining the unitary hollow cavity 62.

[13] The cap 54 is a similar but smaller version of the conical body 56 in sharing the same conical configuration and scraping components 80. However, the cap 54 of the second embodiment is sized smaller than the conical body 56 so to be portable in a pocket such as that of a coat or trouser for use alone as a mini-scraper when necessary. For such purpose, the cap 54 comprises a domed handle 82 and a conical body 84. In one embodiment, the domed handle 82 is integral with the conical body 84 to define a unitary hollow cavity 86 extending therethrough. The domed handle 82 comprises a neck piece 88 and a dome portion 90 which

together define the unitary hollow cavity 86. The domed handle 82 is sized to fit within the open top portion 58 of the conical body 56.

[14] The conical body 84 comprises an open bottom portion 92. A flared portion 94 is positioned between the domed handle 82 and the open bottom portion 92, and comprises a sloped wall 96 defining the unitary hollow cavity 86. The sloped wall 96 is narrow where it merges with the domed handle 82, and progressively widens to the open bottom portion 92. A circular-shaped stiffener 70 encircles the flared portion 94 proximate to the base of the conical body 84. Below the stiffener 70, a scraping surface is defined at the intersection of an outwardly facing vertical surface and an inwardly facing sloped surface.

[15] The second embodiment of the ice scraper 100 conveniently provides the user with two options for cleaning a surface. With the first option, the user can press fit the cap 54 into the conical body 56, place the open bottom portion 60 against the surface to be cleaned, apply pressure directly to the surface, and drive the ice scraper 100 in any direction on the surface to remove debris, ice, frost, or snow. With the second option, the user can remove the cap 54 from the conical body 56 in order to use the cap 54 alone to clean a surface. The user can easily grasp the domed handle 90 of the cap 54 in the palm of the user's hand, place the scraping surface 80 against the surface to be cleaned, apply pressure directly to the surface, and drive the cap 54 in any direction on the surface to remove debris, ice, frost, or snow.

CLAIMS:

1. An ice scraper for a windshield comprising:

a hollow conical body having an open top portion and an open bottom portion, the open top portion being of a smaller diameter than the open bottom portion, the open bottom portion having a scraping edge formed thereon extending around the periphery thereof; and

a cap having an upper portion and a lower portion, a neck extending from the upper portion of the cap, the neck being releasably secured to the open top portion of the hollow conical body.

2. The ice scraper of claim 1, wherein the scraping edge is formed by an outwardly facing surface and an inwardly facing surface converging to define a sharp scraping surface.

3. The ice scraper of claim 1, wherein the upper portion of the cap is of a larger diameter than that of the open top portion of the hollow conical body, and the cap acts as a handle.

4. An ice scraper for a windshield comprising:

a first hollow conical body having an open top portion and an open bottom portion, the open top portion being of a smaller diameter than the open bottom portion, the open bottom portion having a scraping edge formed thereon extending around the periphery thereof, and the first hollow conical body further being constructed of a pliable material so that the scraping edge readily conforms to curvatures in the windshield; and

a cap shaped as a second hollow conical body, the cap having a top portion and a bottom portion, and a neck extending from the top portion of the cap, the neck being releasably secured to the open top portion of the hollow conical body, the top portion of the cap being of a larger diameter than that of the open top portion of the hollow conical body, the bottom portion of the cap being dome-shaped.

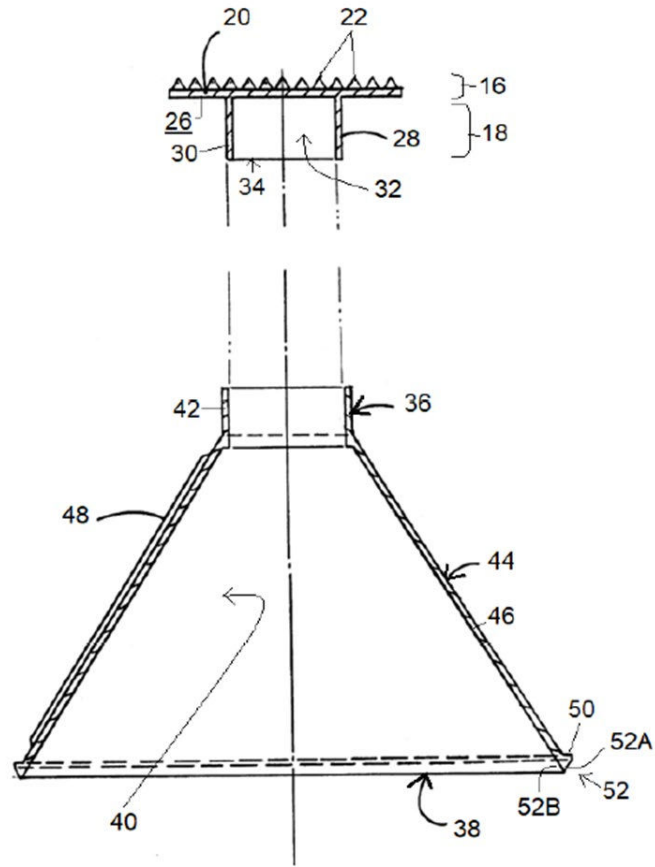


FIG. 1

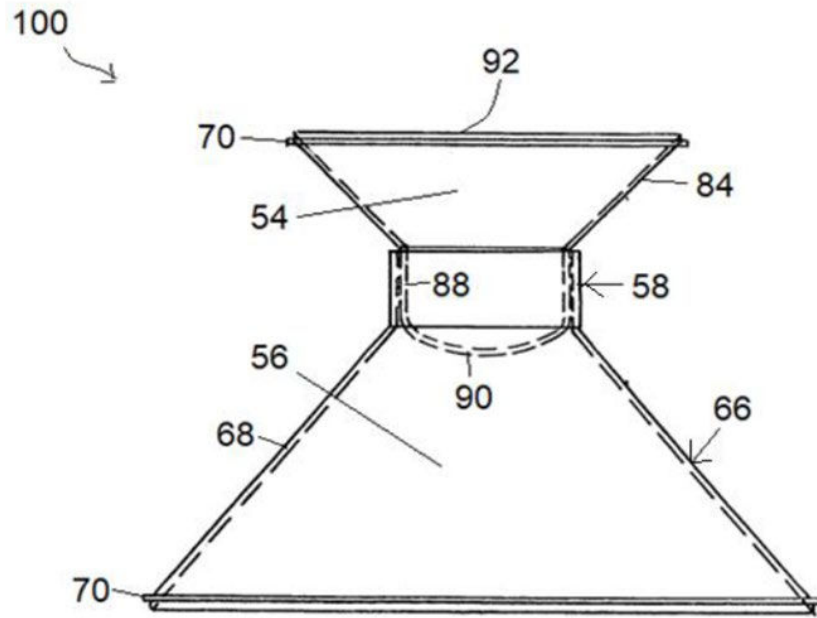


FIG. 2

REFERENCE D1

SUMMARY OF THE INVENTION

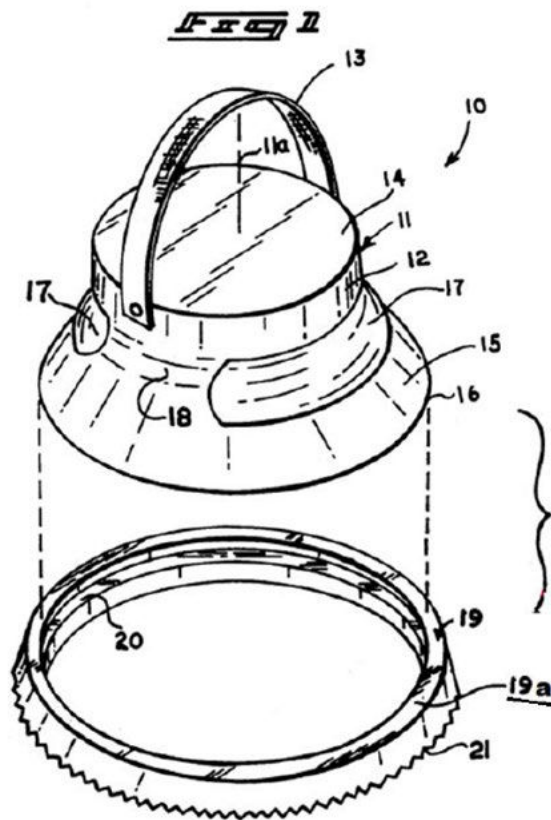
[01] It is an object of the present invention to provide a new and improved windshield scraper apparatus which is of a durable and reliable construction. Still another object of the present invention is to provide a new and improved windshield scraper apparatus which utilizes circular blades for more efficient removal of ice and snow from a windshield, permitting the continuous use of the scraper apparatus without having to lift the scraper blade from the windshield.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

[02] As shown in Fig. 1 the windshield scraper apparatus 10 of the present invention comprises a unitary housing 11 formed with an upper portion 12, including a strap 13 diametrically and pivotally mounted to opposed sides of the upper portion 12. The windshield scraper apparatus 10 includes a planar housing top surface 14 orthogonally oriented relative to a central axis 11a defined by the unitary housing 11. A conical lower wall portion 15 is mounted coextensively to a lower end of the upper portion 12 at a junction 18, with a plurality of recesses 17 diametrically directed within the unitary housing 20 11 at the junction 18. An annular continuous rigid scraping edge 16 is defined as a lower terminal end edge of the conical lower wall portion 15, and is orthogonally oriented relative to the axis 11a for scraping of snow and the like. For enhanced scraping capacity, a conical scraping ring 19 is provided, wherein the conical scraping ring 19 includes an opening and a conical configuration with a cylindrical mounting ledge 20 formed interiorly of the scraping ring 19 and arranged parallel to a torroidal top surface 19a of the

scraping ring 19. The scraping ring 19 includes a lower annular edge in the form of serrated scraping ring 21 that is also orthogonally aligned relative to the axis 11a.

[03] It should be noted that the recesses 17 permit enhanced manual grasping of the unitary housing 11 where an individual positions a palm overlying the top surface 14 and grasps the unitary housing 11 by projecting an individual's fingers within one of the 5 plurality of recesses 17. When the individual places the serrated scraping ring 21 onto an associated windshield, the tips of the teeth of the serrated scraping ring 21 cut into the ice and snow. The scraper apparatus 10 is designed to be rigid in order to apply a concentrated force to the windshield in order to dislodge ice and snow, preferably from the flat portions of the windshield. Circulatory motion of the scraper apparatus 10 provides enhanced removal of ice and snow from the windshield.



REFERENCE D2

SUMMARY OF THE INVENTION

[01] With the invention herein, the ice is very quickly and expeditiously removed without risking abrading the glass surface. The invention has two different forms that may be readily connected together to deal with the two different types of conditions.

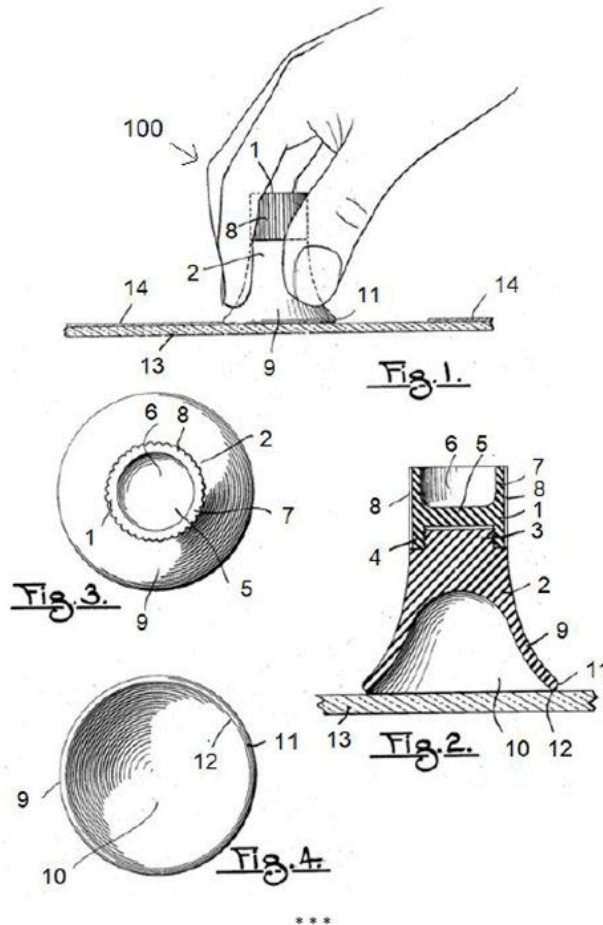
DETAILED DESCRIPTION OF THE INVENTION

[02] In a preferred construction of the ice removing implement 100, upper member 1 and lower member 2, preferably of hard rubber, are connected together. The upper end 3 of the lower member 2 has a reduced diameter and is exteriorly threaded. The upper member 1 comprises a cylindrical sleeve 7 of the same material which has a downwardly extending section 4 below an integral cross-web 5 extending across the interior of the sleeve 7. The downwardly extending section 4 is interiorly threaded and may be threadably secured upon the upper end 3 to connect the upper member 1 and the lower member 2.

[03] Above the cross-web 5, the upper member 1 defines a recess 6 surrounded by the cylindrical sleeve 7. The exterior surface of the upper member 1 is corrugated by provision of a continuous series of vertically extending ribs 8 separated by vertical grooves between the ribs 8.

[15] The lower portion of the lower member 2 is flared outwardly and downwardly, providing a continuous annular bell-like wall 9 around an interior recess 10. The lower edges 11 of the wall 9 are curved downwardly and inwardly, meeting with the lower parts of the sides of the interior recess 10 to provide a relatively sharp continuous annular edge 12. As shown in Fig. 1, the windshield glass 13 has a thin layer of ice 14 deposited at a side 25 thereof. Where the ice coating is relatively thin, the lower member 2 is brought against the ice 14 and the sharp continuous annular edge 12 will pass therethrough and then by moving the implement laterally over the surface of the windshield glass 13, the ice 14 will be scraped ahead of the sharp continuous annular edge 12 and forced outwardly between the sharp continuous annular edge 12 and the lower edges 11. When the ice 14 is relatively 30 thick, the implement is reversed in position and the corrugated outer edges (vertically extending ribs 8) of the cylindrical sleeve 7 of the upper member 1 are forced into the ice 14 and will cut therethrough more readily than the sharp continuous annular edge 12, and will scrape and remove the ice 14 from the windshield glass 13.

[04] The implement may be formed of a material such as hard rubber or plastic or a similar material which does not scratch or abrade the windshield glass 13, but cuts the ice 14 and scrapes and removes it from the windshield glass 13 rapidly and cleanly.



Sample Response (Claims 1 and 3)

The following sample response would receive full marks.

(a) Claim 1 - An ice scraper for a windshield comprising:

a hollow conical body having an open top portion and an open bottom portion, the open top portion being of a smaller diameter than the open bottom portion, the open bottom portion having a scraping edge formed thereon extending around the periphery thereof, the hollow conical body further being constructed of a pliable material so that the scraping edge conforms readily to curvatures in the windshield; and

a cap having an upper portion and a lower portion, a neck extending from the upper portion of the cap, the neck being releasably secured to the open top portion of the hollow conical body, wherein the upper portion of the cap is of a larger diameter than that of the open top portion of the hollow conical body, and the cap acts as a handle.

Claim 3 is cancelled.

Sample Response (Claim 2)

The following sample response would receive full marks.

(b) Claim 2 - The ice scraper of claim 1, wherein the scraping edge is formed by an outwardly facing surface and an inwardly facing surface converging at equal opposing angles with respect to a longitudinal axis of the scraper to define a sharp scraping surface.

Sample Response (Claim 4)

The following sample response would receive full marks.

(c) Claim 4 - An ice scraper for a windshield comprising:
a first hollow conical body having an open top portion and an open bottom portion, the open top portion being of a smaller diameter than the open bottom portion, the open bottom portion having a scraping edge formed thereon extending around the periphery thereof, and the first hollow conical body further being constructed of a pliable material so that the scraping edge readily conforms to curvatures in the windshield; and
a cap shaped as a second hollow conical body, the cap having a [[top]]upper portion and a [[bottom]]lower portion, a neck extending from the [[top]]upper portion of the cap, the neck being releasably secured to the open top portion of the first hollow conical body, the [[top]]upper portion of the cap being of a larger diameter than that of the open top portion of the first hollow conical body, the [[bottom]]lower portion of the cap being dome-shaped.

Question 5 [17 marks in total]

Using the materials provided in Question 4, prepare a response to the office action that explains the following:

- (a) why amended claim 1 is novel in view of reference D1; **[5 marks]**
- (b) why amended claim 2 is not obvious in view of references D1 and D2; **[10 marks]**
and
- (c) why amended claim 4 overcomes indefiniteness/clarity. **[2 marks]**

Salutations, signatures, and other formalities of correspondence are not required.

Sample Response

The following sample response would receive full marks.

- (a) D1 does not teach pliable material – Paragraph 20 indicates that the optimum materials for the parts are obvious for the POSITA. However, the serrated nature of the scraping edge due to its shape inherently does not conform to the curvature of the windshield since it is mentioned that the scraping edge 16 of housing 11 is rigid and works best for flat portions of the windshield.

D1 does not teach “the upper portion of the cap being of a larger diameter than that of the open top portion of the hollow conical body, wherein the cap acts as a handle.” In D1 an upper portion 12 or top surface 14 is smaller in diameter than top portion of scraping ring 19, and strap 13 or recesses 17 operate as handles but are not related to the relative size between the cap and the conical body. Amended claim 1 adds the following elements: pliable material, conformation of the scraping edge to the curvature of the windshield, the upper portion of the cap having a larger diameter than the top of the hollow conical body, and the cap acting as a handle.

- (b) Neither D1 nor D2 teach “the scraping edge is formed by an outwardly facing surface and an inwardly facing surface converging at equal opposing angles with respect to a longitudinal axis of the scraper to define a sharp scraping surface”.

In D1, the serrated shape of edge 21 is not formed with outwardly and inwardly facing surfaces.

In D2, there is an annular scraping edge, the sides of which are located in angular relation to each other (see paragraph 4). Nothing in the description indicates that the angles are equal opposing angles.

Amended claim 2 is not obvious in light of D1 because it requires “the scraping edge is formed by an outwardly facing surface and an inwardly facing surface”. Amended claim 2 is not obvious in light of D2 because it requires that the outwardly facing surface and the inwardly facing surface converge “at equal opposing angles with respect to a longitudinal axis of the scraper”.

- (c) The indefiniteness was due to a lack of clarifying terms for “hollow conical body” in some circumstances, as well as the use of top portion and bottom portion for the portions of the cap and the portions of the first hollow conical body, when top and bottom were not used for the portions of the cap in the description. Adding the

qualifier "first" to the instances of hollow conical body, and changing top to upper and bottom to lower addresses the indefiniteness issue.

Question 6 [8 marks in total]

Prepare a substantive submission to CIPO for Canadian national phase entry. Use strikethrough to identify text that is being redacted and use underline to identify text that is being added. The Applicant instructions are to amend claims to align with allowable subject matter in a US counterpart. The Applicant does not want to pay excess claim fees and has told you that the specifics of the two parts of the system are more important than the specifics of the resin. The claims as originally filed in a PCT are provided as well as allowable Claim 1 of the US Patent Application. Salutations, signatures, and other formalities of correspondence are not required. **[8 marks]**

PCT CLAIMS

1. A drawer sliding system (100, 200, 300, 400, 500, 600) for a drawer (5a-c), comprising at least two parts being moveable relative each other and adapted for together forming a connection between the drawer (5a-c) and an associated cabinet (3), wherein one of said at least two parts comprises at least one sliding surface being coated with a lacquer comprising a resin, wherein said lacquer in turn is at least partly coated with a lipophilic composition coating to provide a slide layer with a lowered friction.
2. The sliding system according to claim 1, wherein the sliding surface is formed on a guiding rail, said guiding rail forming one of said at least two parts.
3. The sliding system according to claim 2, wherein one end of said guiding rail is tilted downwards for providing a self-closing functionality.
4. The sliding system according to claim 3, wherein said guiding rail is provided with at least two opposite sliding surfaces located at a vertical distance therebetween.
5. The sliding system according to any one of the preceding claims, wherein the sliding surface is formed by an intermediate slide bar providing a sliding movement in relation to at least one guiding rail, said guiding rail forming one of said at least two parts.
6. The sliding system according to any one of the preceding claims, wherein the sliding surface is formed in a C-shaped groove in one of said at least two parts.
7. The sliding system according to any one of the preceding claims, wherein the sliding surface is formed on a protruding member having at least one of an upper sliding surface, a lower sliding surface, and a distal sliding surface.
8. The sliding system according to any one of the preceding claims, wherein the other one of said parts is provided with at least one sliding member, and wherein the interface

between the sliding surface and the at least one sliding member forms a linear plain bearing to allow for linear movement of the sliding member along the longitudinal axis of the sliding surface.

9. The sliding system according to claim 8, wherein at least the part of said at least one sliding member being in contact with the sliding surface is made of a plastic, preferably a plastic comprising a polymer with polar groups, more preferably the polar groups are selected from the group consisting of hydroxyl groups, carboxylic acid groups, amide groups, halide groups, sulfide groups, cyano groups (nitrile groups), carbamate groups, aldehyde groups, and/or ketone groups.

10. The sliding system according to any one of the claims 8 and 9, wherein at least the part of said at least one sliding member in contact with the sliding surface is made of a plastic comprising a polymer selected from the group of polymers consisting of polyoxymethylenes (POM), polyesters (e.g. thermoplastic polyesters, such as polyethylene terephthalate (PET), polytrimethylene terephthalate (PTT), polybutylene terephthalate (PBT), and polylactic acid (PLA), as well as bio-based thermoplastic polyesters, such as polyhydroxyalkanoates (PHA), polyhydroxybutyrate (PHB), and polyethylene furanoate (PEF)), polyamides (PA), polyvinyl chloride (PVC), polyphenylene sulfide (PPS), polyaryletherketone (PAEK; e.g. Polyether ether ketone (PEEK)), and Polytetrafluoroethylene (PTFE).

11. The sliding system according to any one of the claims 8 to 10, wherein said at least one sliding member is in its entirety made from a plastic.

12. The sliding system according to any of the claims 8 to 11, wherein the part of said at least one sliding member to slide over the sliding surface is configured as a blade extending in the sliding direction and wherein the sliding surface is present on a guiding rail forming one of the at least two parts of the frame structure, preferably the length (LI) of the blade, as seen along the sliding direction of the guiding rail, being 2- 50 mm, more preferably 5-30 mm.

13. The sliding system according to any one of the claims 8 to 12, wherein the at least one sliding member comprises at least one individual contact point in contact with the sliding surface, the contact area of each individual contact point being less than 3 mm², more preferably less than 1.5 mm², and most preferably less than 0.75 mm².

14. The sliding system according to any one of the claims 8 to 13, wherein the at least one sliding member comprises at least one contact point at which contact is made between the sliding member and the sliding surface, wherein the contact pressure in said at least one contact point is at least 4 N/mm², preferably at least 8 N/mm², and more preferably at least 12 N/mm², and wherein preferably the contact pressure is lower than the strain at yield of the material of the sliding member at the contact point.

15. The sliding system according to any one of claims 8 to 14, wherein the at least two parts being moveable relative each other comprises a first guiding rail being attached to an inner wall of a cabinet (3), and a second guiding rail being attached to the drawer.

16. The sliding system according to claim 15, further comprising an intermediate slide bar being movable relative to the first and second guiding rails.

17. The sliding system according to claim 16, wherein the intermediate slide bar is provided with a first sliding surface being in sliding contact with a first slide member on the first guide rail and a second sliding surface being in sliding contact with a second slide member on the second guide rail, and/or is provided with a first slide member being in sliding contact with a first sliding surface on the first guide rail and a second sliding member being in sliding contact with a second sliding surface on the second guiding rail.

18. The sliding system according to any one of claims 8 to 14, wherein one of said at least two parts is a guiding rail being provided with the sliding surface, the other of said at least two parts being the slide member, wherein the guiding rail is provided with a groove receiving the slide member, the sliding surface being provided inside said groove, preferably both the upper and lower edges of the groove (315) being provided with respective sliding surfaces being in sliding contact with upper and lower parts of the slide member.

19. The sliding system according to any one of the preceding claims, wherein the sliding surface is made from a material having a Vickers hardness of at least 50 MPa, more preferably at least 100 MPa, and most preferably 150 MPa, such as metal or glass, preferably the material is a metal.

20. The sliding system according to any one of the preceding claims, wherein the sliding surface is made of aluminum and/or steel.

21. The sliding system according to any one of the preceding claims, wherein the sliding surface is made of aluminum, e.g. a linear aluminum profile, preferably having an anodized oxide surface layer, onto which the lacquer is applied, preferably the thickness of anodized oxide surface layer is at least 5 micrometers, more preferably at least 10 micrometers.

22. The sliding system according to any one of the preceding claims, wherein the resin of the lacquer comprises polar groups, such as hydroxyl groups, carboxylic acid groups, amide groups, cyano groups (nitrile groups), halide groups, sulfide groups, carbamate groups, aldehyde groups, and/or ketone groups.

23. The sliding system according to any one of the preceding claims, wherein the resin of the lacquer is a thermosetting resin.

24. The sliding system according to any one of the preceding claims, wherein the resin of the lacquer is selected from the group consisting of: acrylic resins, acrylate resins, acrylamide resins, methacrylate resins, methyl methacrylate resins, acrylonitrile resins, styrene-acrylonitrile resins, acrylonitrile styrene acrylate resins, reaction products or a mechanical mixture of alkyd resin and water-soluble melamine resin, reaction products or a mechanical mixture of a vinyl-modified unsaturated alkyd resin and a water-soluble melamine resin, and polymers and mixtures of one or several of these resins.

25. The sliding system according to claim 24, wherein the resin of the lacquer is an acrylic resin, such as an acrylate resin, an acrylamide resin, a methacrylate resin, or a methyl methacrylate resin and mixtures thereof.

US PATENT APPLICATION CLAIM 1

1. A drawer sliding system for a drawer, comprising at least two parts being moveable relative each other and adapted for together forming a connection between the drawer and an associated cabinet, wherein one of said at least two parts comprises at least one sliding surface being coated with a lacquer comprising a resin, wherein said lacquer in turn is at least partly coated with a lipophilic composition coating to provide a slide layer with a lowered friction, and wherein the sliding surface is formed on a guiding rail, said guiding rail forming one of said at least two parts, said guiding rail is tilted downwards for providing a self-closing functionality, and said guiding rail is provided with at least two opposite sliding surfaces located at a vertical distance therebetween.

Sample Response

The following sample response would receive full marks.

Add the subject matter of claims 2-4 to claim 1, delete EP style references:

1. A drawer sliding system (~~100, 200, 300, 400, 500, 600~~) for a drawer (~~5a-e~~), comprising at least two parts being moveable relative each other and adapted for together forming a connection between the drawer (~~5a-e~~) and an associated cabinet (~~3~~), wherein one of said at least two parts comprises at least one sliding surface being coated with a lacquer comprising a resin, wherein said lacquer in turn is at least partly coated with a lipophilic composition coating to provide a slide layer with a lowered friction, and wherein the sliding surface is formed on a guiding rail, said guiding rail forming one of said at least two parts, said guiding rail is tilted downwards for providing a self-closing functionality, and said guiding rail is provided with at least two opposite sliding surfaces located at a vertical distance therebetween.

Delete claims 2-4. Delete two of the last four claims, for example, claims 23 and 25.

Note: strikethrough text denotes redaction, underline text denotes addition.

Question 7 [5 marks in total]

A litigator from your office asks you to look at the following claims rejected in separate Office Actions. Claim 1 was rejected as non-patentable subject matter. Claim 2 was rejected for a lack of utility.

A. In a patent application for a computer-aided video processing:

Claim 2 - A computer program for optimising allocation of memory during video processing according to the method of claim 1.

B. In a patent application for a recombinant protein for use in a Neisserial vaccine.
(Assume there is sound prediction).

Claim 1 - A recombinant polypeptide comprising a Neisserial antigenic epitope and having at least 95% sequence identity to SEQ ID NO: 11076, wherein SEQ ID NO: 11076 and said recombinant polypeptide comprise a Neisserial antigenic determinant.

Amend the claim from part A to overcome the patentable subject matter issue **[3 marks]**

Amend the claim from part B to overcome the utility issue. **[2 marks]**

Note: Use strikethrough to identify text that is being redacted and use underline to identify text that is being added.

Sample Response

The following sample response would receive full marks.

Part A: Amend Claim 2 to overcome the patentable subject matter issue

Claim 2 - A computer program ~~product comprising a computer readable memory storing computer executable instructions thereon that when executed by a computer perform the method steps of claim 1~~ product comprising a computer readable memory storing computer executable instructions thereon that when executed by a computer perform the method steps of claim 1 for optimising allocation of memory during video processing.

Part B: Amend Claim 1 to overcome the utility issue

Claim 1 - A recombinant polypeptide, ~~for use in a Neisserial vaccine,~~ comprising a Neisserial antigenic epitope and having at least 95% sequence identity to SEQ ID NO: 11076, wherein SEQ ID NO: 11076 and said recombinant polypeptide comprise a Neisserial antigenic determinant.

Question 8 [6 marks in total]

Your client is Pat who is a yoga instructor at their own studio and who employs another yoga instructor, Alex. Alex works only part-time due to having a second job as a chef. To promote a

healthy lifestyle among Pat's students, Pat replaced the pop machine with a juicer on June 1, 2015. The juicer was invented by her friend Sam, an engineer working at Cuisine Appliances, Inc., where Sam designed and built the juicer in the company's machine shop during lunch breaks. The juicer is met with rave reviews by the students who enjoy complimentary juice after class.

Based on ideas for improvements to the juicer by Alex and the positive feedback from the students, Pat and Sam started a company "Yoga Innovations, Inc." and filed a United States provisional patent application on July 14, 2015, and a subsequent Canadian patent application on May 30, 2016 to cover the juicer, and obtained Canadian Patent No. 2,xxx,400 on March 13, 2018.

Pat is meeting with you because Pat found an announcement which was published on the Internet last week. A former student, Avery, is opening a gym. This announcement states that for its grand opening, "Spartan Fitness, Inc." is offering a discounted juicer with every new gym membership. Pat is suspicious that Avery's juicer might fall within the scope of Canadian Patent No. 2,xxx,400.

Before approaching Avery regarding the potential issue of patent infringement, Pat asks you to assess the validity of Canadian Patent No. 2,xxx,400. Pat provides you with Canadian Patent No. 2,xxx,400 and the results of a prior art search which revealed documents D1-D3, which do not appear to have been considered by the Canadian Examiner.

Canadian Patent No. 2,xxx,400

Issue Date: March 13, 2018

JUICER

Filing Date: May 30, 2016

Publication Date: January 14, 2017

Priority Data: US 62/xxx,261 filed July 14, 2015

Inventors: Pat Jones and Sam Smith

Owner: Yoga Innovations, Inc.

Given the background above, identify and briefly explain 2 potential issues, other than claim validity issues, that may affect the validity of Canadian Patent No. 2,xxx,400. **[6 marks]**

Sample Response

The following sample response would receive full marks.

Issue of whether proper inventors have been named – Alex provided “ideas” for improvements. If Alex knew and advised how to reduce Alex’s idea to a “practical shape” and the improvement was claimed in the patent, then Alex’s contribution to the invention would justify adding Alex’s name as a co-inventor. Pat is not an inventor and should not be named as an inventor.

Issue of ownership – Although Sam worked on the idea on lunch breaks, Sam invented the invention using company resources (i.e., company’s machine shop) while Sam was employed as an engineer at Cuisine Appliances, Inc.

Question 9 [4 marks in total]

This morning, you began your employment as a patent agent at Bike-About-Town (BAT), a bike sharing system in a major Canadian city. BAT has been looking for new revenue streams.

BAT provides vending machines, collocated with bicycle kiosks, for example for the sale of helmets, water bottles, sunscreen and MagClips as will be discussed below. In this regard, BAT accepted an offer to provide vending machines from Vend-a-Matic. Initially, Vend-a-Matic retained ownership of the vending machines and the products chosen by BAT, and for which BAT received a royalty on sales. As of September 30, 2016, BAT has purchased the vending machines outright from Vend-a-Matic, including all the remaining MagClips, and is now maintaining the vending machines and providing the various products, including the MagClips. The MagClips are purchased by BAT and shipped weekly to Vend-a-Matic and BAT direct from MAG Brands’ US warehouse.

This morning, BAT received a letter from Cycle Products Ltd. (Cycle) alleging that the MagClip infringes the exclusive rights afforded by Canadian Patent No. 2,XXX,963 (the ‘963 Patent) of which Cycle is the licensee. Cycle is demanding compensation for past infringement and has also demanded that BAT immediately cease all sales of the MagClip and remove the MagPedals from all the bicycles. You note from your files that BAT was aware of the Application of the ‘963 Patent, as a notice had been received from NOVO Design (the patent assignee) together with a copy of the Application on March 3, 2016. You also note that BAT never revealed the Application to Vend-a-Matic. BAT wants your advice.

Based on the fact pattern, identify a) which party or parties can or must act as plaintiff to assert a claim for infringement of the patent **[2 marks]**, and b) which party or parties may be sued for infringement. Provide a brief explanation supporting your answer **[2 marks]**.

Sample Response

The following sample response would receive full marks.

- (a) The following parties can or must assert a claim for infringement of the patent: Cycle as licensee of '963 Patent from NOVO Design, NOVO Design as the patentee. All persons claiming under the patentee may sue for infringement, Cycle, as licensee to patentee NOVO Design, has standing to sue and must act as plaintiff
- (b) The following parties may be sued for infringement of the patent: Users, Vend-a-Matic, MAGBrands, BAT