

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ICI USA LLC, a Washington limited liability
company,

Plaintiff,

v.

PRATICO GOODS LLC, a Nevada limited
liability company, d/b/a PRATICO
KITCHEN,

Defendant.

Case No. _____

COMPLAINT FOR PATENT AND
TRADE DRESS INFRINGEMENT

JURY DEMAND

ICI USA LLC hereby states its complaint against Pratico Goods LLC, d/b/a Pratico
Kitchen, as follows:

I. PARTIES

1. Plaintiff ICI USA LLC (“ICI”) is a Washington company with its principal
place of business in Seattle, Washington. ICI develops unique, innovative products that
solve everyday problems, including sphere ice molds.

2. Upon information and belief, Defendant Pratico Goods LLC (“Pratico
Kitchen”) is a Nevada limited liability company doing business as Pratico Kitchen, with its
principal place of business in Nevada. Upon information and belief, Pratico Kitchen sells a

COMPLAINT FOR PATENT AND TRADE DRESS INFRINGEMENT

– 1

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Seattle, WA 98101-4010
Telephone: 206.622.1711

1 sphere ice mold called “Pratisphere.”

2 3. Upon information and belief, Defendant is a company established under the
3 laws of Nevada.

4 **II. JURISDICTION AND VENUE**

5 4. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and § 1332.

6 5. This Court has personal jurisdiction because Defendant commits intentional
7 acts to sell its products in the stream of commerce in the forum state; it has sufficient
8 minimum contacts with the forum state; it specifically sells its product in the forum state; it
9 sells its product through an Internet site requiring active participation in the forum state; and
10 it maintains a universal presence through Internet sales in the forum state.

11 6. Venue is proper under 28 U.S.C. §§ 1391(b)(2) and 1400(b) because a
12 substantial part of the events giving rise to the claim occurred in this judicial district, and the
13 property that is the subject of this action, namely, the Tovolo sphere ice mold, was created,
14 designed, and sold in this judicial district. In addition, Defendant has sold infringing products
15 in this judicial district.

16 **III. FACTUAL ALLEGATIONS**

17 **A. ICI Has Sold Over One Million of Its Innovative and Well-Known 18 Sphere Ice Molds.**

19 7. ICI designs innovative new products that surprise and delight the user. ICI
20 has built a team of experts dedicated to each phase of product development including
21 marketers, industrial and graphic designers, and packaging experts. ICI’s clients include Bed
22 Bath & Beyond, Crate & Barrel, Pier 1 Imports, Sur La Table, Macy’s, and Williams
23 Sonoma, among others, all of whom sell the ICI products.
24
25
26

1 8. One of ICI's well known product lines is the Tovolo product line. ICI uses
2 the Tovolo brand to market utensils, kitchen gadgets, and beverage devices including tea
3 infusers, ice cube trays, wine bottle holders, crock book holders, spreaders, scoops, pizza
4 wheels, and ice sphere molds, among many other successful products.

5
6 9. The Tovolo products all have a certain look and feel in terms of design. The
7 Tovolo products incorporate bright colors; high-quality, sturdy-looking plastics; professional
8 quality-looking designs; and unique shapes. The designs among products look similar and
9 help customers identify products that are part of the Tovolo line of products.

10 10. The Tovolo product line includes a product called Sphere Ice Molds. The
11 innovative and clever design produces an ice sphere, which melts slowly when added to a
12 drink.

13
14 11. ICI sells the Tovolo sphere ice molds through Amazon.com among other
15 places. The product received 4.6 out of 5 stars on Amazon after being reviewed by over
16 2100 customers. The Tovolo sphere ice mold is a best seller on Amazon.com and among the
17 Top 100 products in Kitchen & Dining. The product is the "#1 Best Seller" out of all the ice
18 cube molds and trays sold on Amazon.com.

19 12. In addition, ICI sells the Tovolo sphere ice mold through Bed Bath & Beyond,
20 Sur La Table, and Williams Sonoma in addition to other fine retailers.

21
22 13. In total, ICI has sold over one million Tovolo sphere ice molds through its
23 various retailers.

24 14. Since its creation, the Tovolo sphere ice mold has featured a unique design
25 and combination of design elements. This design and trade dress includes a clear plastic
26

1 mold base with two swirled-looking lines with the Tovolo trademark in the middle and a
 2 gray plastic mold top with grooves, lines, ridges, and a wagon wheel design. The colors and
 3 design elements help the mold look ready for professional kitchen use. None of these design
 4 elements are functional or necessary to the mold in any manner; rather, they add a unique
 5 touch similar to all of the other Tovolo products. Because these design elements fit in the
 6 family of the other Tovolo products, they help to signify the source of the products.
 7

8 **B. Defendant's "PRATISPHERE" Ice Mold Infringes the Tovolo**
 9 **Product.**

10 15. On or about June 9, 2015, the Defendant's Pratisphere product was purchased
 11 from Amazon.com and delivered to the offices of Schwabe, Williamson, & Wyatt located in
 12 Seattle, Washington. *See Attachment A.*

13 16. Defendants also sell the infringing Pratisphere product through, at a
 14 minimum, its website at www.praticogoods.com. *See Attachment B.*

15 17. Pratico Kitchen's "Pratisphere," as sold on its website and Amazon.com, see
 16 **Attachment C**, copies and infringes the trade dress of the Tovolo sphere ice molds.
 17

18 **Tovolo Product**



Pratico Product



IV. CLAIMS FOR RELIEF

CAUSE OF ACTION – PATENT INFRINGEMENT UNDER 35 U.S.C. § 271

18. ICI repeats, realleges, and incorporates all of the above allegations.

19. On June 9, 2015 US D731,264 (the “264 Patent”), entitled “Sphere Mold,” attached hereto as **Attachment D**, was issued to ICI.

20. The ‘264 Patent is presumed valid.

21. Defendant’s Practisphere is infringing the ‘264 Patent at least Fig. 1, 2, 3, 4, 5, 8, 9 of the ‘264 product.

22. Defendant manufactures, sells, and distributes the infringing product.

23. Defendant’s actions have damaged ICI.

CAUSE OF ACTION – TRADE DRESS INFRINGEMENT UNDER 15 U.S.C. § 1125(a)

24. ICI repeats, realleges, and incorporates all of the above allegations.

25. ICI owns a protectable trade dress in the clearly articulated design elements and combination of elements in the Tovolo sphere ice mold, including a clear plastic mold base that features two swirled-looking lines with the Tovolo trademark in the middle and a gray plastic mold top with grooves, lines, ridges, and a wagon wheel design.

26. None of the trade dress in the Tovolo sphere ice mold is functional. Rather, the design elements and combination thereof were selected to fit in with the other products in Tovolo’s kitchen and beverage lines and to designate Tovolo and ICI as the source. Indeed, the Tovolo trademark is incorporated into the trade dress of the product and packaging as another way to indicate the product source.

27. The trade dress in the Tovolo sphere ice mold is inherently distinctive or has

1 acquired secondary meaning through ICI's sales and marketing efforts of the mold as
2 described above. The product design and features are well known in all of the markets in
3 which ICI sells the products.

4
5 28. Defendant's ice sphere mold design create a likelihood of confusion as to
6 source, sponsorship, affiliation, connection, or association because the Defendant's product
7 copies all of the non-functional trade dress elements of the Tovolo sphere ice mold product.
8 Customers are likely to be confused or deceived as to the origination of the Defendant's
9 product or are likely to think that the Defendant's product is somehow connected to or
10 associated with ICI and Tovolo.

11
12 29. The general impression made by the Defendant's product upon the eye of the
13 ordinary purchaser or user is deceiving given the similarity to the Tovolo trade dress. The
14 multiplicity of similarities between the products constitutes trade dress infringement.

15 30. Defendant's conduct violates 15 U.S.C. § 1125(a) and has damaged ICI.

16 **V. PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff ICI prays for relief as follows:

- 18 1. For a judgment against Defendants;
- 19 2. For an injunction against Defendants that prohibits Defendants from
20 manufacturing, selling, incorporating, or otherwise using ICI's proprietary trade dress.
- 21 3. For damages against Defendants in an amount to be determined at trial;
- 22 4. For reasonable attorneys' fees and the costs of pursuing ICI's claims as may
23 be allowed by law; and;
- 24 5. Such other and further relief as the Court determines is just and proper.
- 25
26

1 Dated this 24th day of June, 2015.

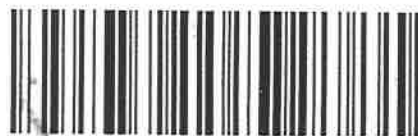
2 SCHWABE, WILLIAMSON & WYATT, P.C.

3
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ATTACHMENT A

amazon.com



SDmdJTDm5k

Your order of June 9, 2015 (Order ID 103-6412454-6381059)

Qty.	Item	Item Price	Total
1	III LAB Sphere Ice Mold - Exquisite White - 100 Recipes - Round Ice Molds - 2.5 Inch - Set of 2 (** P-1-B23D27 **) X000KRNGIH MN-2XUJ-RYTS 820103904551 (Sold by III LAB)	\$8.94	\$8.94
1	Ice Sphere Molds & Ice Ball Maker - Set of 4 Ice Cube Trays - Create Whiskey Ice Balls and Round Ice Cubes That Won't Wa... (** P-1-B53D46 **) X000QZARXF 83-0VZ1-66FO 806802094212 (Sold by Pratico Goods)	\$16.99	\$16.99

We've sent this part of your order to ensure quicker service. The other items will ship separately at no additional shipping cost.

Subtotal	\$25.93
Shipment Total	\$25.93
Paid via credit/debit	\$1.52
Balance due	\$0.00

Have feedback on how we packaged your order? Tell us at www.amazon.com/packaging.

Returns Are Easy! Most items can be refunded, exchanged, or replaced when returned in original and unopened condition. Visit <http://www.amazon.com/returns> to start your return, or <http://www.amazon.com/help> for more information on return policies.



2/DmdJTDm5k/-2 of 2-//UPS-2DAY/second/9374931/0609-23:00/0609-17:35 1A5

ATTACHMENT B

Support and Contact (/pages/support-and-contact)

Newsletter ([http://praticogoods.us10.list-manage.com/subscribe?](http://praticogoods.us10.list-manage.com/subscribe?u=dda0bf2d0281dbfbd91120a9&id=0d3a00dcab)

[u=dda0bf2d0281dbfbd91120a9&id=0d3a00dcab](http://praticogoods.us10.list-manage.com/subscribe?u=dda0bf2d0281dbfbd91120a9&id=0d3a00dcab))

About Us (/pages/about-us) Blog (/blogs/news)

✉ info@praticogoods.com (<mailto:info@praticogoods.com>)

USD ▼



(/)

Home (/)

/ Pratisphere Ice Sphere Molds - Set of 4 - Create Perfectly Round Ice Cubes That Won't Water Down Your Whiskey, Cocktails, & More

Pratisphere Ice Sphere Molds - Set of 4 - Create Perfectly Round Ice Cubes That Won't Water Down Your Whiskey, Cocktails, & More

PRODUCT DESCRIPTION



Pratico Kitchen

([//cdn.shopify.com/s/files/1/0839/1277/products/v=1430371247](http://cdn.shopify.com/s/files/1/0839/1277/products/v=1430371247))



- ✓ GREAT VALUE - Set of 4 individual high quality molds makes 2.5 in (6.35 cm) slow melting Whiskey or cocktail ice balls that keep your drinks from getting waterdowned
- ✓ EASY-TO-FILL DESIGN - Simple to fill: remove the cap, fill with water to the line, and freeze; other ice ball molds require filling through a tiny hole
- ✓ STABLE STACKABLE DESIGN - Unique design lets you stack molds to conserve space; large base prevents tipping and spilling water all over your freezer
- ✓ SIMPLE ICE SPHERE REMOVAL - Easily remove ice spheres from base thanks to easy to use pull tab on silicone cap; no unnecessary prying & prodding needed
- ✓ DURABLE & EASY TO MAINTAIN - Made from high quality FDA approved food grade silicon and BPA free plastic; dishwasher safe

Buy Now on Amazon
([http://www.amazon.com/dp/B00V4E071I?](http://www.amazon.com/dp/B00V4E071I?keywords=ice+molds&tag=bemegl-20)
[keywords=ice+molds&tag=bemegl](http://www.amazon.com/dp/B00V4E071I?keywords=ice+molds&tag=bemegl-20)
-20)

ATTACHMENT C

amazon

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Ice Sphere Molds & Ice Ball Maker - Set of 4 Ice Cube Trays - Create Whiskey Ice Balls and Round Ice Cubes That Won't Water Down Your Scotch, Bourbon, Cocktails, & Other Drinks by Pratico Kitchen

by Pratico Kitchen
★★★★★ 91 customer reviews

Price: \$24.99
Sale: \$16.99 & FREE Shipping on orders over \$35. Details
You Save: \$8.00 (32%)

In Stock.
Sold by Pratico Goods and Fulfilled by Amazon. Gift-wrap available.

Want it tomorrow, June 25? Order within 5 hrs and choose **One-Day Shipping** at checkout. Details

- ✓ **GREAT VALUE** - Set of 4 individual high quality round ice cube trays makes 2.5 in (6.35 cm) slow melting whiskey ice balls, scotch ice balls, bourbon ice balls, and other cocktail ice balls to keep your drinks from getting water-downed
- ✓ **EASY-TO-FILL DESIGNED ICE CUBE TRAY** - Simple to fill: remove the cap, fill with water to the line, and freeze; other sphere ice molds require filling through a tiny hole and gets messy
- ✓ **STABLE STACKABLE DESIGNED ICE MAKER** - Unique design lets you stack sphere ice cube trays to conserve space; large base prevents tipping and spilling water all over your freezer
- ✓ **SIMPLE ICE SPHERE REMOVAL** - Easily remove round ice cubes from base thanks to easy to use pull tab on silicone cap; no unnecessary prying & prodding needed
- ✓ **DURABLE & EASY TO MAINTAIN ICE TRAYS** - Made from high quality FDA approved food grade silicone and BPA free plastic; dishwasher safe

1 used from \$13.92

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Other Sellers on Amazon
2 used & new from \$13.92
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Sponsored by eLuxurySupply
Shredded Latex Pillow

Frequently Bought Together

ATTACHMENT D



US00D731264S

(12) **United States Design Patent**
Frank et al.

(10) **Patent No.:** **US D731,264 S**
(45) **Date of Patent:** **** Jun. 9, 2015**

(54) **SPHERE MOLD**

(71) Applicant: **ICI USA, LLC**, Seattle, WA (US)

(72) Inventors: **Matthew Frank**, Seattle, WA (US);
Ryan H Peloquin, Seattle, WA (US)

(73) Assignee: **ICI USA, LLC**, Seattle, WA (US)

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

(21) Appl. No.: **29/452,215**

(22) Filed: **Apr. 12, 2013**

Related U.S. Application Data

(63) Continuation of application No. 29/417,609, filed on Apr. 5, 2012, now abandoned.

(51) **LOC (10) Cl.** **07-04**

(52) **U.S. Cl.**
USPC **D7/672**

(58) **Field of Classification Search**

USPC D7/368, 603, 672-676, 638, 669, 323,
D7/354, 376, 543-546, 549, 555, 601-602,
D7/677, 681, 701, 705, 708; 249/63, 69,
249/70, 127, 132, 81, 91-92, 118-121,
249/94-97, 126, 173, 175; 62/135, 348,
62/352, 350, 300, 66, 228.2, 250, 312,
62/398, 400, 459; D15/80, 89-90, 82-83;
D1/101-103, 105; D23/200, 202,
D23/204-206; 425/117, 118, 125, 126.1,
425/126.2, 234; 294/87.11; 206/563, 423,
206/822; 220/659, 669, 674-675,
220/FOR. 112, FOR. 115, 800; D6/329, 351
See application file for complete search history.

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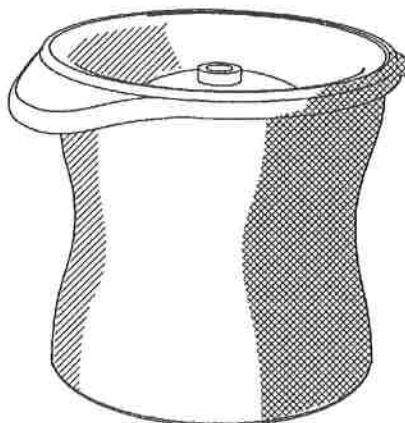
(57) **CLAIM**

I claim as my invention the ornamental design for a sphere
mold, as shown and described.

DESCRIPTION

FIG. 1 shows a perspective view of the sphere mold;
FIG. 2 shows a first, side view of the sphere mold when it is in
a closed position where the opposite side is to the same as the
side shown;
FIG. 3 shows a top of the sphere mold when it is in a closed
position;
FIG. 4 shows a second side view of the sphere mold when it
is in a closed position where the opposite side is the same as
the to the side shown;
FIG. 5 shows a top view of the sphere mold when it is in an
open position;
FIG. 6 is a side view of the sphere mold when it is in a closed
position;
FIG. 7 is a sectional view of the sphere mold taken from line
7-7 of FIG. 6;
FIG. 8 is an exploded view of the sphere mold; and,
FIG. 9 is a bottom view of the sphere mold.

1 Claim, 8 Drawing Sheets



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* cited by examiner

U.S. Patent

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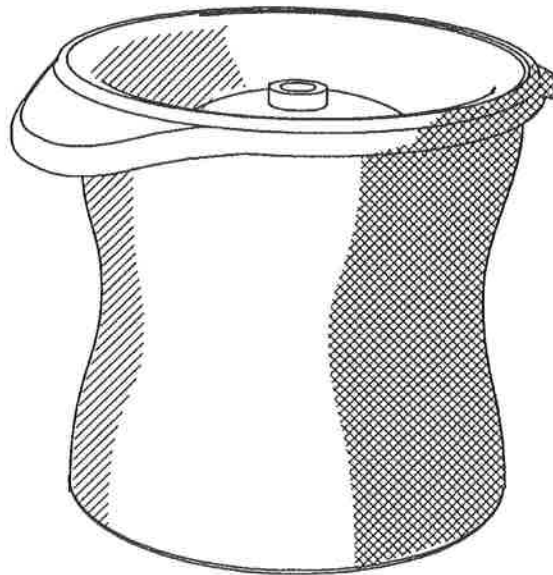


FIG 1

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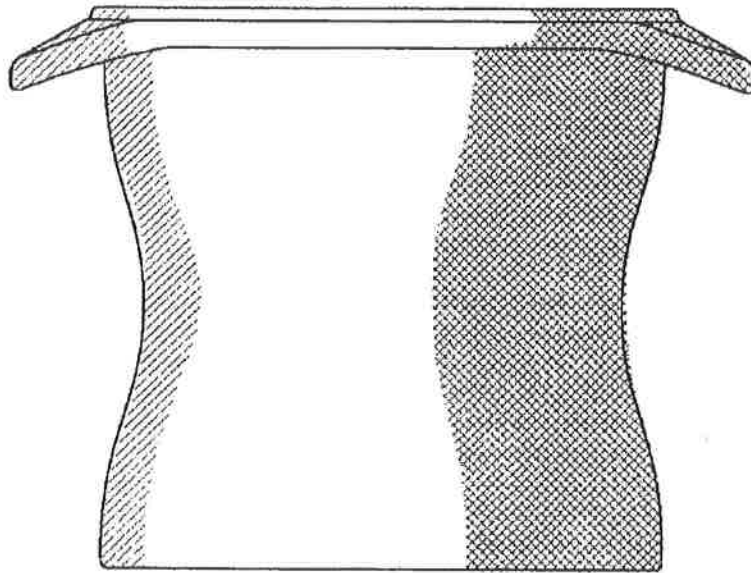


FIG 2

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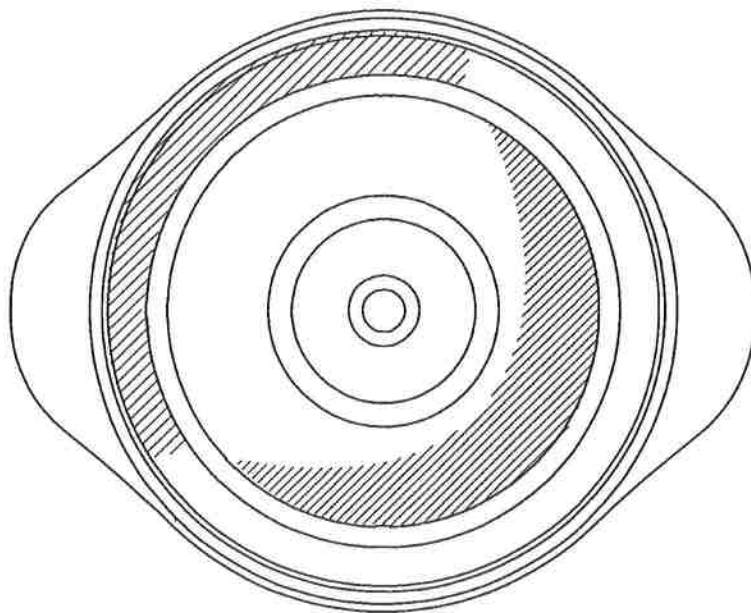


FIG 3

U.S. Patent

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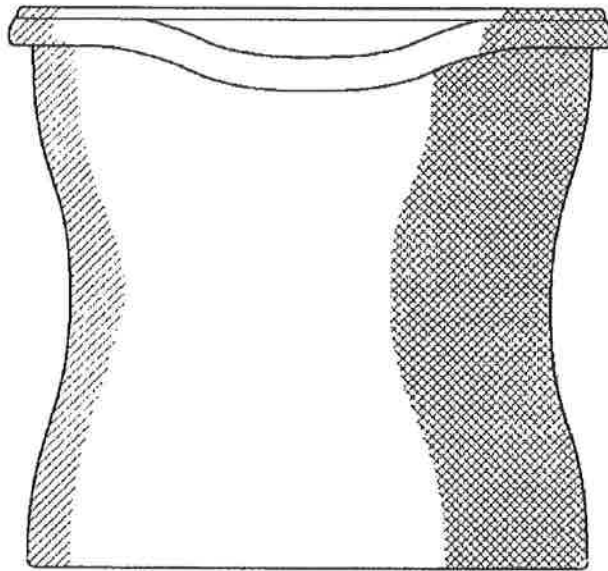


FIG 4

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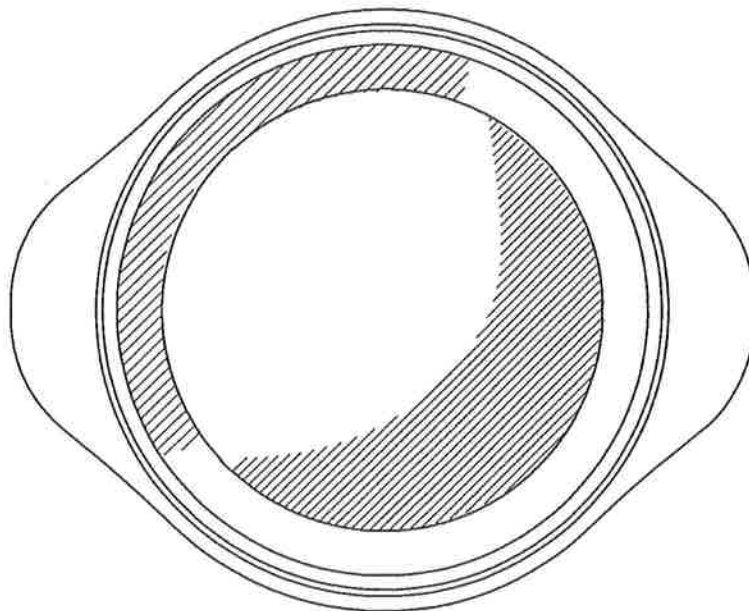


FIG 5

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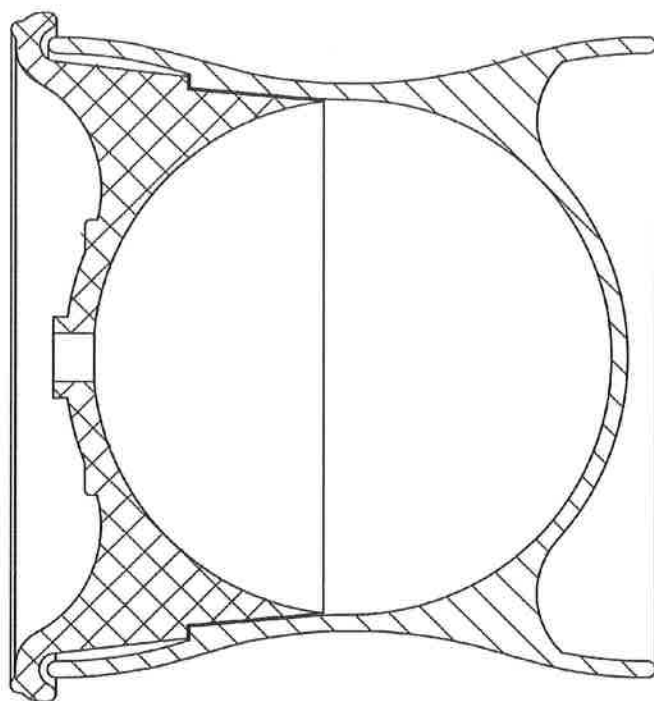


FIG 7

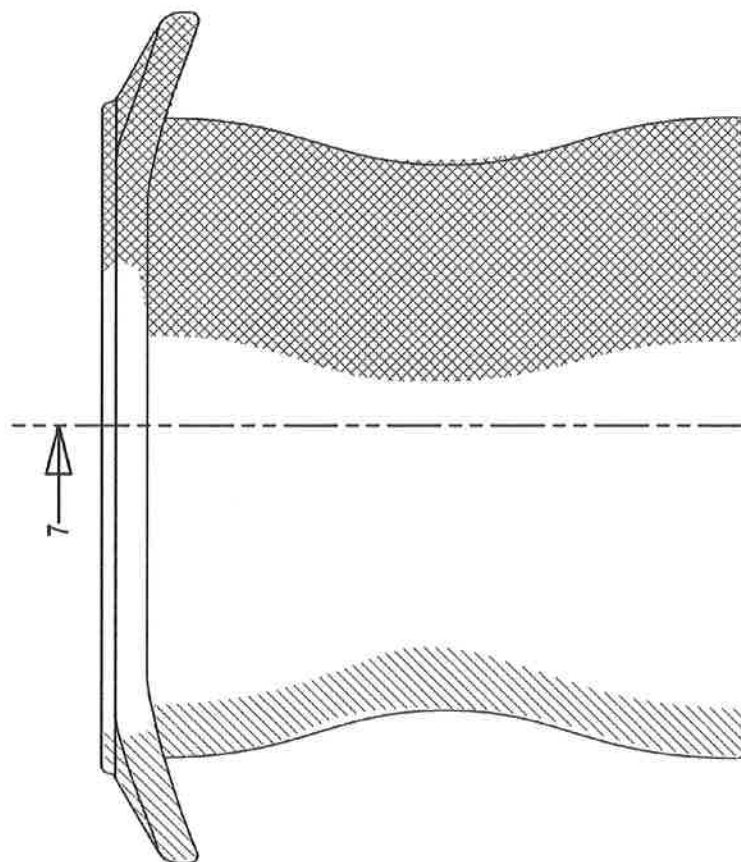


FIG 6

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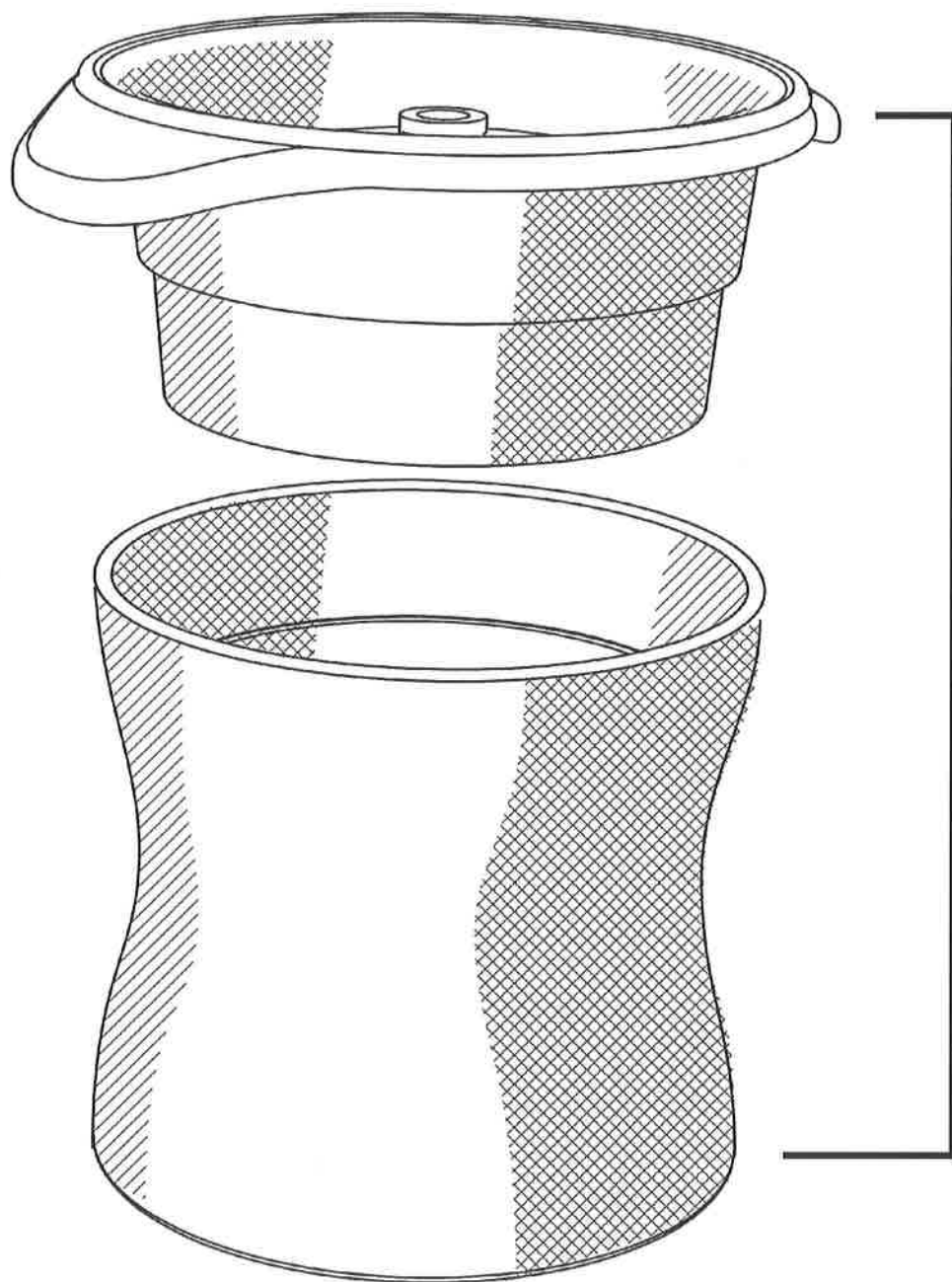


FIG 8

U.S. Patent

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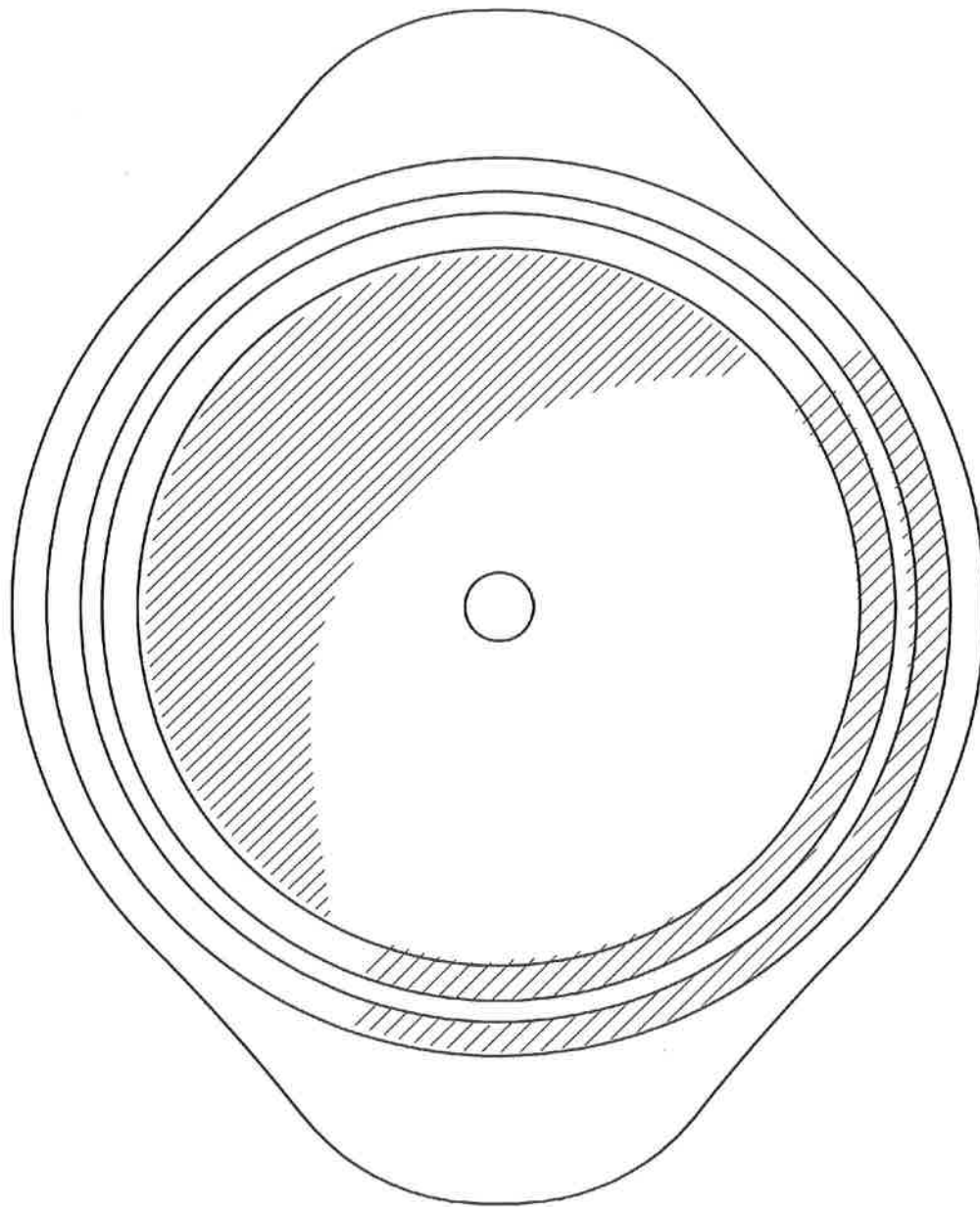


FIG 9