Decision on Opposition

Opposition No. 2019-700852

Patentee	The Procter & Gamble Company
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Opponent	KUSUNOKI, Kazuya
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A case of opposition against the invention "flexible container" in Japanese Patent No. 6514102 is decided as follows.

Conclusion

The specification and the scope of claims of Japanese Patent No. 6514102 are recognized to be corrected to Claims [1] and [2] after correction as in the specification after correction and the scope of claims after correction attached to the written correction request.

The patent according to Claims 1 and 2 of Japanese Patent No. 6514102 is maintained.

Reasons

No. 1 History of procedures

The application of the patent according to Claims 1 and 2 of Japanese Patent No. 6514102 was filed on May 7, 2013 (Heisei 25) as an international filing date (Priority claim under the Paris Convention May 7, 2012 United States; May 7, 2012 United States; July 26, 2012 United States; August 6, 2012 United States; November 19, 2012 United States; March 13, 2013 United States; March 14, 2013 United States; March 14, 2013 United States; March 14, 2013 United States; March 14, 2013 United States; and March 15, 2013 United States). The establishment of patent right was registered on April 19,

2019, and the Gazette containing the Patent was published on May 15, 2019. The history relating to the present opposition to the granted patent for this patent is as follows.

October 25, 2019: the opposition to the granted patent filed by the opponent, KAZUYA Kusunoki (hereinafter, referred to as "the opponent")
February 14, 2020: the notification of reasons for revocation
June 17, 2020: Submission of the written correction request and the written opinion by the patentee
July 27, 2020: Submission of the written opinion by the opponent

September 18, 2020: the notification of reasons for revocation (advance notice of decision)
December 23, 2020: Submission of the written correction request and the written opinion by the patentee
(The written correction request is called the “present written correction request”, and the correction itself is called the "present correction".)
February 26, 2021: Submission of the written opinion by the opponent

Due to the request for the present correction, the request for correction according to the written correction request submitted on June 17, 2020 shall be deemed to have been withdrawn pursuant to the provisions of Article 120-5(7) of the Patent Act.

No. 2 Judgment on suitability of the present correction
1. Contents of the present correction

The contents of the present correction are as follows. The underlines indicate corrected parts.
(1) Correction matter 1-1

The recitation of "an upper portion or a top portion, a bottom portion, and the upper portion or the top portion" in Claim 1 of the scope of claims is corrected to the recitation of "an upper portion, a bottom portion, and the upper portion", and the recitation of "the upper portion or the top portion on the side portion" is corrected to the recitation of "the upper portion on the side portion".
(2) Correction matter 1-2

The recitation of "constituted by a plurality of structural support members

extending between the bottom portion and extending along the end portions of the bottom portion and the upper portion" in Claim 1 of the scope of claims is corrected to the recitation of "constituted by a plurality of structural support members extending between the bottom portion and a plurality of structural support members extending along the end portions of the bottom portion and the upper portion".

(3) Correction matter 2-1

The recitation that "the structural support frame is formed into a planar shape" in claim 2 of the scope of claims is corrected to the recitation that "the structural support frame is formed into a planar shape in which the structural support frame is oriented along a plane surface".

(4) Correction matter 2-2

The description of "showing an embodiment of a self-supporting flexible container (not the container in the standing state)" in paragraph [0131] of the present patent specification is corrected to the description of "showing an embodiment of a self-supporting flexible container".

The description of "showing a top view of an embodiment of a self-supporting flexible container 1000 (not a stand-upright flexible container)" in paragraph [0132] of the present patent specification is corrected to the description of "showing a top view of an embodiment of a self-supporting flexible container 1000".

The description of "showing a top view of an embodiment of a self-supporting flexible container 1100 (not a stand-upright flexible container)" in paragraph [0133] of the present patent specification is corrected to the description of "showing a top view of an embodiment of a self-supporting flexible container 1100".

2. A group of claims

Each of Claims 1 and 2 of the present patent does not have a relation in which one claim is dependent on the recitation of another claim or any other relation specified by the Ordinance of the Ministry of Economy, Trade and Industry, and therefore the claims of the present patent do not include a group of claims defined in Article 120-5(4) of the Patent Act.

3. Suitability of the purpose of the present correction, presence or absence of addition of new matters, and presence or absence of expansion/change of the scope of claims

(1) Regarding correction matter 1-1 and correction matter 1-2

A. Regarding the purpose of correction

The correction matter 1-1 and the correction matter 1-2 are intended to clarify the invention by correcting the recitation of "an upper portion or a top portion, a bottom portion, and the upper portion or the top portion" and "the upper portion or the top portion on the side portion" regarding the "flexible container" in Claim 1 before correction in which a difference between an "upper portion" and a "top portion" cannot be clearly grasped to the recitation of "an upper portion, a bottom portion, and the upper portion" and "the upper portion on the side portion" in Claim 1 after correction, since the configuration of "constituted by a plurality of structural support members extending along the end portions of the bottom portion and the upper portion", and the configuration in which "the plurality of panels include an upper panel provided on the upper portion" are unclear when the flexible container has a "top portion", and thus the correction matter 1-1 and the correction matter 1-2 are intended to explain the unclear recitation listed in item (iii) of the proviso to Article 120-5(2) of the Patent Act.

B. The correction within the scope of the matters described in the specification, the scope of claims, or the drawings attached to the application (hereinafter referred to as "the present patent specification, etc.")

The description that a "flexible container" has an "upper portion" is derived based on the description or the like that "in the present specification, when referring to a flexible container, the term 'upper portion' refers to the uppermost 20% of the overall height of the container, that is, the portion of the container located at 80 to 100% of the overall height of the container" in paragraph [0084] of the present patent specification, etc., and thus the correction matter is a correction within the scope of the matters described in the present patent specification, etc., and complies with Article 126(5) of the Patent Act, which is applied mutatis mutandis in the provisions of Article 120-5(9) of the Patent Act.

C. Correction does not substantially extend or change the scope of claims

As described in the above A., the correction matter 1-1 and the correction matter 1-2 are intended to clarify the invention by deleting "a top portion" and "the top portion" from the recitation of "an upper portion or a top portion" and "the upper portion or the top portion" specified in Claim 1 before correction, and do not change the category, the object, and the purpose, and thus the correction matter 1-1 and the correction matter 1-2 do not substantially extend or change the scope of claims, and comply with Article 126(6) of the Patent Act, which is applied mutatis mutandis in the provisions of Article 120-5(9) of the Patent Act.

(2) Regarding correction matter 2-1

A. Regarding the purpose of correction

The correction matter 2-1 is intended to clarify the invention by correcting the description that it was not possible to clearly grasp what kind of shape of which part the "planar shape" specifically specified in the "structural support frame" in the recitation of Claim 2 before correction that "the structural support frame is formed into a planar shape" to the description that "the structural support frame is formed into a planar shape in which the structural support frame is oriented along a plane surface" in Claim 2 after correction, and thus the correction matter 2-1 is intended to explain the ambiguous description listed in item (iii) of the proviso to Article 120-5(2) of the Patent Act.

B. Correction within the scope of the matters described in the present patent specification, etc.

In general, the term "plane surface" means the "shape of an object viewed perpendicularly from directly above" (Koujien, 6th edition of Iwanami Shoten), and thus the term "planar shape" means the shape of an object viewed perpendicularly from directly above.

The term "oriented along a plane surface" can be understood to explain that the planar shape as described in [FIG. 10A], [FIG. 11A], and the like in the present patent specification, etc., is substantially flat without any undulation when viewed from a side direction, and thus the above correction matter is a correction within the scope of the matters described in the present patent specification, etc., and complies with Article 126(5) of the Patent Act, which is applied mutatis mutandis in the provisions of Article 120-5(9) of the Patent Act.

C. Correction does not substantially extend or change the scope of claims

As described in the above A., the correction matter 2-1 is intended to clarify the invention by correcting the description that "the structural support frame is formed into a planar shape" specified in Claim 2 before correction to the description that "the structural support frame is formed into a planar shape in which the structural support frame is oriented along a plane surface", and does not change the category, the object, and the purpose, and thus the correction matter 2-1 does not substantially extend or change the scope of claims, and complies with Article 126(6) of the Patent Act, which is applied mutatis mutandis in the provisions of Article 120-5(9) of the Patent Act.

(3) Regarding correction matter 2-2

A. Regarding the purpose of correction

The correction matter 2-2 is a correction to delete "(not the container in the standing state)" from the description of "showing an embodiment of a self-supporting flexible container (not the container in the standing state)" in paragraph [0131] of the specification before correction, similarly, is a correction to delete "(not a stand-upright flexible container)" from the description of "showing a top view of an embodiment of a self-supporting flexible container 1000 (not a stand-upright flexible container)" in paragraph [0132], and to delete "(not a-stand upright flexible container)" from the description of "showing a top view of an embodiment of a self-supporting flexible container 1100 (not a stand-upright flexible container)" in paragraph [0133], and the correction matter 2-2 eliminates the discrepancy with a content of a determination test described in paragraph [0071] of the specification (a test in which any orientation is always determined to be "stand-upright orientation"), and thus the correction matter 2-2 is intended to explain the ambiguous description listed in item (iii) of the proviso to Article 120-5(2) of the Patent Act.

B. Correction within the scope of the matters described in the present patent specification, etc.

Regarding "stand upright" and "stand up", paragraph [0071] in the present patent description or the like discloses that "In the present specification, when a flexible container is referred to, the terms 'stand up, stands up, standing up' and the terms 'stand upright, stands upright, standing upright' mean a specific orientation of a self-supporting flexible container when the container is placed on a surface of a horizontal support". The description is generally consistent with the fact that "stand upright" means "standing straight" (Koujien, 6th edition of Iwanami Shoten) and the use of "stand up" to indicate a standing state, and thus the "flexible container" being "stand upright" or "stand up" is understood to mean that the "flexible container" is in a "standing straight" state or a "standing" state.

It can be seen that the flexible container in [FIG. 9A] to [FIG. 11B] described in the present patent specification, etc. is in a "standing straight" state on a support surface with at least a certain height, and thus the correction matter for deleting "(not a stand-upright flexible container)" or "(not the container in the standing state)" is a correction within the scope of the matters described in the present patent specification, etc., and complies with Article 126(5) of the Patent Act, which is applied mutatis mutandis in the provisions of Article 120-5(9) of the Patent Act.

C. Correction does not substantially extend or change the scope of claims

As described in the above B., the description of paragraphs [0131] to [0133] in the specification before correction is unclear due to being unreasonable in relation with the description of Claims 2, paragraph [0071], and [FIG. 9A] to [FIG. 11] before correction, and in the correction matter 2-2, the deficiency in the description as described above is corrected by deleting the description of "(not the container in the standing state)" or "(not a stand-upright flexible container)" in paragraphs [0131] to [0133] in the specification before correction, and the correction matter 2-2 merely makes clear the original meaning, and thus the correction matter 2-2 does not substantially extend or change the scope of claims, and complies with Article 126(6) of the Patent Act, which is applied mutatis mutandis in the provisions of Article 120-5(9) of the Patent Act.

D. Regarding the claim related to the correction of the specification (correction matter 2-2)

The embodiment corresponding to Claim 2 is described in paragraphs [0131] to [0133] of the specification, and the correction of the specification by the correction matter 2-2 relates to Claim 2, and thus the correction complies with Article 126(4) of the Patent Act, which is applied mutatis mutandis pursuant to Article 120-5(9) of the Patent Act.

4. Summary

As described above, the present correction is intended to explain the ambiguous description stipulated in item (iii) of the proviso to Article 120-5(2) of the Patent Act, and complies with the provisions of Article 126(4), (5), and (6) of the Patent Act as applied mutatis mutandis under Article 126(9) of the Patent Act, and thus the present correction is recognized as described in the conclusion.

No. 3 The present invention after correction

As described in the No. 2, since the present correction is approved, the inventions according to Claims 1 and 2 of the present patent are respectively as follows recited in Claims 1 and 2 of the scope of claims after correction attached to the present written correction request.

The inventions according to Claims 1 and 2 of the scope of claims after correction are hereinafter referred to as "present invention 1" or the like.

"[Claim 1]

A stand-upright flexible container having an upper portion, a bottom portion, and a side portion extending between the upper portion and the bottom portion, the flexible

container comprising:

a product volume that directly accommodates a fluid product and that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space being defined by a plurality of panels constituting a barrier that prevents the fluid products from leaking out of the product volume;

a dispenser for the fluid product, the dispenser being in fluid communication with the product volume; and

a structural support frame that is configured to support the product volume and that is constituted by a plurality of structural support members extending between the upper portion and the bottom portion on the side portion and a plurality of structural support members extending along the end portions of the bottom portion and the upper portion, each of the structural support members including an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases at a pressure above ambient atmospheric pressure, and the one or more gases creating tension in the one or more flexible materials, wherein

the plurality of panels include an upper panel provided on the upper portion, a side panel provided on the side portion, and a bottom panel provided on the bottom portion, and

the end portions of the structural support members are connected to each other.

[Claim 2]

A stand-upright flexible container having an upper portion and a bottom portion that is placed on a surface of a support, the flexible container comprising:

a product volume that directly accommodates a fluid product and that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space being defined by a plurality of panels constituting a barrier that prevents the fluid product from leaking out of the product volume;

a dispenser for the fluid product, the dispenser being in fluid communication with the product volume; and

a structural support frame that is configured to support the product volume and that is constituted by structural support members, the upper structural support frame and the bottom structural support frame being formed into a planar shape in which the structural support frames are oriented along a plane surface, each of the structural support members including an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases at a pressure above ambient atmospheric pressure, and the one or more gases creating

tension in the one or more flexible materials, wherein

the plurality of panels include an upper panel surrounded by the upper structural support member and a bottom panel surrounded by the bottom structural support member, and the upper panel and the bottom panel have flat surfaces, and

the end portions of the structural support members are connected to each other."

No. 4 Summary of the reasons for revocation (advance notice of decision)

With respect to the present inventions 1 and 2, the gist of the reasons for revocation (advance notice of decision) dated September 18, 2020 issued by the body to the patentee is as follows.

1. The present patent is granted to a patent application that does not satisfy the requirements stipulated in Article 36(6)(ii) of the Patent Act, and should be revoked for the reason that the inventions according to Claims 1 and 2 are unclear.

2. The present patent is granted to a patent application that does not satisfy the requirements stipulated in Article 17-2(3) of the Patent Act, and should be revoked for the reason that the amendment (hereinafter referred to as "the present amendment") based on the written amendment submitted on December 20, 2018 does not fall within the scope of the matters described in the specification, the scope of claims, or the drawings initially attached to the application.

3. The present patent violates the provisions of Article 29(2) of the Patent Act and should be revoked for the reason that the inventions according to Claims 1 and 2 of the present patent could have been easily made by a person skilled in the art, on the basis of the inventions described in the distributed Cited Document 1 in Japan or other countries prior to the filing of the application.

<The list of cited documents>

Cited Document 1: United States Patent Application Publication No. 2010/0308062 Specification (Evidence A No. 1 submitted by the opponent)

No. 5 Judgment by the body regarding reasons for revocation (advance notice of decision)

1. Reasons relating to Article 36(6)(ii) of the Patent Act

(1) Regarding "top portion" in the present invention 1

According to the correction matters 1-1 and 1-2 in the present correction request, the "flexible container" in the present invention 1 does not have a "top portion", and thus the configuration of "constituted by a plurality of structural support members extending along the end portions of the bottom portion and the upper portion" in the present invention 1 and a configuration in which "the plurality of panels include an upper panel provided on the upper portion" are clear.

(2) Regarding "stand upright" in the present inventions 1 and 2

A. According to the present correction, a contradiction occurring with respect to "stand upright" described in the specification, etc., has been eliminated by deleting the description "(not the container in the standing state)" described in paragraph [0131] and the description "(not a stand-upright flexible container)" described in paragraph [0132] in the specification before correction, and thus the inventions according to the present inventions 1 and 2 are clear.

B. The opponent asserts, in the written opinion submitted on February 26, 2021 (hereinafter, referred to as "written opinion".), that "in the present patent specification, etc., the description on the premise of the normal meaning of the term 'stand upright' and the meaning of 'stand upright' defined in paragraph [0071] of the present patent specification, etc., are mixed, and the meaning of 'stand upright' defined in Claims 1 and 2 is still unclear" (see lines 1 to 5 on page 10 in the written opinion), but as described in the above A., the meaning of "stand upright" defined in paragraph [0071] of the present patent specification, etc., is understood to be a normal meaning of the term "stand upright", and therefore, the assertion of the opponent cannot be adopted.

(3) Regarding "planar shape" in Claim 2

A. As examined in "3. (2) Regarding correction matter 2-1", the term "plane surface" generally means the "shape of an object viewed perpendicularly from directly above" (Koujien, 6th edition of Iwanami Shoten), and the term "planar shape" means the shape of an object viewed perpendicularly from directly above, and it is understood that the shape of an object is defined as a "planar shape" even if the shape of the object is an annular shape when viewed from directly above, and thus the present invention 2 is clear.

B. The opponent asserts, in the written opinion, that "This is caused by a technical contradiction that a 'structural support frame' constituted by a 'structural support member' that surrounds an 'upper panel' or a 'bottom panel' and that includes an 'inflated structural support volume' does not constitute a 'flat surface' in a portion in which no 'upper panel' and 'bottom panel' are present, and is not caused by the term 'planar shape' itself." (see

lines 2 to 6 on page 11 in the written opinion), but as described in the above A., even the structural support frame that supports the portion in which no "upper panel" and "bottom panel" are present can be referred to as the "planar shape" as long as the structural support frame has a certain shape when an object is viewed perpendicularly from directly above, and thus the assertion of the opponent cannot be adopted.

(4) Summary

As described in the above (1) to (3), since the present inventions 1 and 2 are clear, it cannot be said that the present inventions 1 and 2 do not satisfy the requirements stipulated in Article 36(6)(ii) of the Patent Act.

2. Regarding the reasons relating to Article 17-2(3) of the Patent Act

(1) Regarding "planar shape"

A. According to the present amendment, the present invention 2 specifies that "the upper structural support frame and the bottom structural support frame are formed into a planar shape" (hereinafter, referred to as "specific matter 1").

On the other hand, the term "planar shape" is not directly described in the specification, the scope of claims, or the drawings originally attached to the application (hereinafter, referred to as "original specification, etc."), but as examined in "3. (2) Regarding correction matter 2-1", since it is apparent that the term "planar shape" specifies the shape of a "structural support frame" viewed perpendicularly from directly above, the specific matter 1 does not introduce a new technical matter in a relation with the technical matters derived by combining all the description of the original specification, etc.

Therefore, the amendment for specifying the specific matter 1 in the present amendments is made within the scope of the matters described in the original specification, etc.

B. The opponent asserts, in the written opinion, that "each of the structural support frames shown in FIGS. 9A and 9B is constituted by structural support members arranged in an annular shape, has a plane surface formed by the 'structural support members', and does not have a 'shape extending along an XY plane surface' " (see lines 14 to 17 on page 13 in the written opinion), but as examined in "1. (3) Regarding 'planar shape' in Claim 2", it can be said that even the structural support members arranged in the annular shape have a shape viewed perpendicularly from directly above, in other words, the shape extending along the XY plane surface, and thus the assertion of the opponent cannot be

adopted.

(2) Regarding "stand-upright flexible container"

According to the present amendment, Claim 2 specifies that a flexible container is "a stand-upright flexible container" "having an upper portion and a bottom portion that is placed on a surface of a support", "the flexible container comprising: a product volume that directly accommodates a fluid product and that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space being defined by a plurality of panels constituting a barrier that prevents the fluid products from leaking out of the product volume; a dispenser for the fluid product, the dispenser being in fluid communication with the product volume; and a structural support frame that is configured to support the product volume and that is constituted by structural support members, the upper structural support frame and the bottom structural support frame are formed into a planar shape, each of the structural support members including an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases at a pressure above ambient atmospheric pressure, and the one or more gases creating tension in the one or more flexible materials, wherein the plurality of panels include an upper panel surrounded by the upper structural support member and a bottom panel surrounded by the bottom structural support member, and the upper panel and the bottom panel have flat surfaces, and the end portions of the structural support members are connected to each other." (Hereinafter, referred to as "specific matter 2".)

Here, the embodiments shown in FIGS. 9A, 10A, and 11A are not "not stand-upright flexible containers" but "stand-upright flexible containers" as examined in "1. (2) regarding 'stand upright' in the present inventions 1 and 2", and the specific matter 2 does not introduce a new technical matter in relation with the technical matters derived by combining all the description of the original specification, etc.

Therefore, the amendment for specifying the specific matter 2 in the present amendments is made within the scope of the matters described in the original specification, etc.

(3) Summary

As described in the above (1) and (2), since the present amendment was made within the scope of the matters described in the original specification, etc., the present amendment satisfies the requirements stipulated in Article 17-2(3) of the Patent Act.

3. Regarding the reasons relating to Article 29(2) of the Patent Act

(1) Regarding the present invention 1

A. Regarding the inventive step mainly of the invention based on the embodiments shown in FIGS. 3 and 4 in Cited Document 1

(A) Regarding Cited Document 1

When Cited Document 1 is described in Japanese, the following matters are described.

a. "[0011] In some embodiments, the flexible packaging system has an opening that allows for filling or pouring the contents to be held within. The opening may be associated with an integrated closure assembly, wherein the integrated closure assembly may be selected from a resealable peel top, a screw top, a snap top, a flip top, or a cork or plug-type system. Another embodiment is directed to a packaging system comprising a semi-flexible container and an associated scaffolding component, wherein the container includes fiber materials to provide additional stiffness and tension to help define the desired shape, and the associated scaffolding component provides support for the fiber container". (The same applies to the following.)

b. "[0063] In one embodiment, a flexible packaging system is provided. Such a packaging system may be used as a source-reducing packaging alternative. The flexible packaging system comprises a flexible container and an associated inflatable scaffold or scaffolding (such as a structural support or grid) component. The scaffolding component may be hollow or not, and when inflated or pressurized, provides the rigidity necessary to turn the flexible packaging system into a rigid or semi-rigid packaging container. Pressurization of the scaffolding may be accomplished, for example, by inflating with gas, filling with foam or any other suitable means to pressurize without adding excess weight to the packaging system."

c. "[0064] In some embodiments, the hollow scaffolding component may be independent from the flexible container. In some aspects, the scaffolding component is internally associated and the flexible container may act as a cover to the hollow scaffolding component. The flexible container may be removably or permanently attached to the hollow scaffolding by an appropriate attaching means, for example, Velcro®, glue, snaps, zipper, or welding."

d. "[0066] FIG. 3 shows a top view, a side view, and a three-dimensional view of a flexible packaging system 100, FIG. 4 shows an exploded view of a flexible packaging system 100, and FIGS. 5A and 5B show alternate views of a three-dimensional view of a

flexible packaging system 100 according to some embodiments. In such embodiments, the flexible packaging system 100 has an internally associated scaffolding component 105 and an outer flexible container 110. The flexible packaging system 100 has a top that has a closure assembly 115, and a bottom 120 that contains a separator 125 creating two compartments that may contain components that, when mixed, will create gas or foam to pressurize the internally associated scaffolding component 105."

e. "[0071] The flexible packaging system may take the form of any shape beneficial to efficient storage, trademark design, or other marketing strategies. In some aspects, the flexible packaging system is in the shape of a bottle, cup, tray, cylinder, tapered cylinder, or bag to be used for holding food and drink products, personal hygiene products, detergents and soap, and any other suitable household or commercial products, or consumer, industrial, or military products that require rigid or semi-rigid storage, for example, for liquids, gels, powders, fragile contents, and food products."

f. "[0094] In another aspect of any of the previous embodiments, the flexible packaging system including a scaffolding component and a flexible container or shell can be formed from two or more bonded sheets wherein one or more of the sheets includes weak areas, for example, areas with reduced or no bonding between the sheets, at which the scaffolding would expand upon inflation. The weak areas can be designed into the one or more sheets prior to manufacture or modified, after the two or more sheets are bonded, by a secondary process wherein when the scaffolding is pressurized, the expansion occurs at the weakest areas in the one or more sheets. The weak areas can be of any configuration, for example, a configuration to form any container system set forth herein."

g. FIG. 3 in Cited Document 1 shows a top view (A), a three-dimensional view (B), and a side view (C) of a "flexible packaging system 100", and FIG. 4 in Cited Document 1 shows an exploded view of the "flexible packaging system 100". From FIGS. 3 and 4, it can be seen that (a) the "outer flexible container 110" has a "bottom 120", an area extending between the "bottom 120" and the top that has a "closure assembly 115", and the top that has a "closure assembly 115"; (b) The "internally associated scaffolding component 105" has a portion extending between the top that has a "closure assembly 115" and the "bottom 120" on the area extending between the "bottom 120" of the "outer flexible container 110" and the top that has the "closure assembly 115", and a portion extending in a ring shape along the ends of the "bottom 120" and the top that has a "closure assembly 115"; and (c) the ends of those "internally associated scaffolding components

105" are connected to each other.

h. "FIG. 3

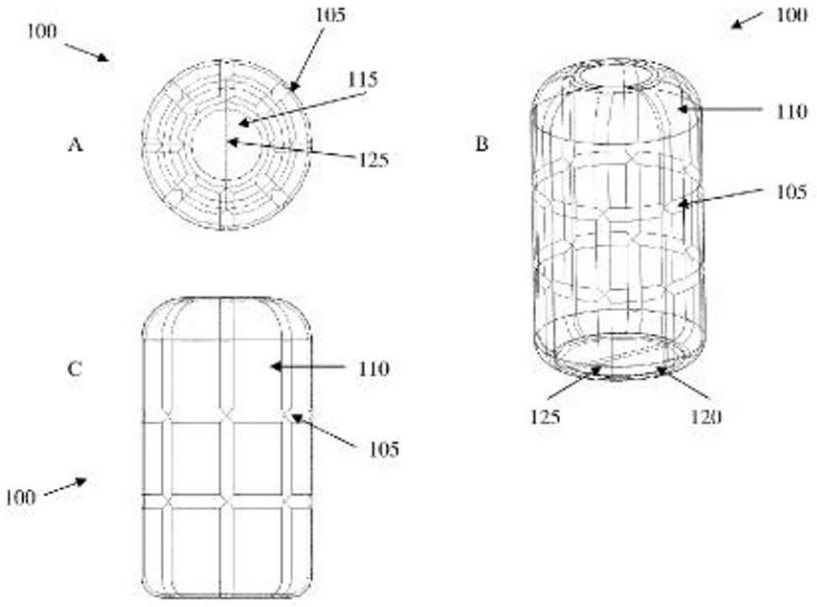

FIG. 4"

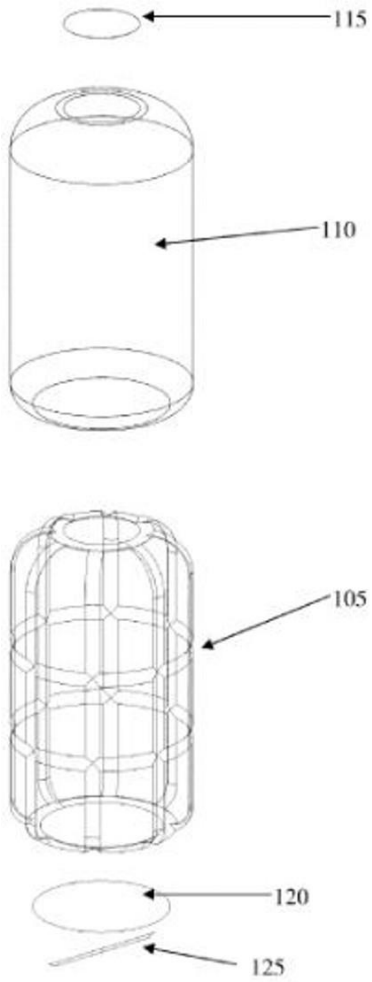

図4	FIG. 4

From the above description, Cited Document 1 describes an invention based on the following embodiments shown in FIGS. 3 and 4 (hereinafter referred to as "cited invention 1").

"A flexible packaging system comprising: a top that has a closure assembly; a bottom; and an area extending between the bottom and the top that has a closure assembly, wherein

rigidity is provided by an internally associated scaffolding component,

a liquid is held inside an outer flexible container including the top that has a closure assembly, the bottom, and the area extending between the bottom and the top that has a closure assembly,

the closure assembly is associated with an opening allowing a liquid to be held therein, and

the scaffolding component provides rigidity to the flexible packaging system and has a portion extending between the top that has a closure assembly and the bottom on the area extending between the bottom of the outer flexible container and the top that has a closure assembly, and a plurality of portions each having a portion extending in a ring shape along the ends of the bottom and the top that has a closure assembly, the ends of those portions are connected to each other, and a separator creates two compartments that may contain components that, when mixed, will create gas or foam to pressurize the internally associated scaffolding component."

(B) Comparison between the present invention 1 and the cited invention 1

a. The present invention 1 and the cited invention 1 are compared with each other.

(a) The "top that has the closure assembly" of the cited invention 1 can be said to be a part of the top surface of the flexible packaging system, and thus corresponds to the "upper portion" of the present invention 1.

(b) The "bottom" of the cited invention 1 corresponds to the "bottom portion" of the present invention 1.

(c) The "area extending between the bottom and the top that has a closure assembly" of the cited invention 1 corresponds to the "side portion extending between the upper portion and the bottom portion" of the present invention 1.

(d) The "flexible packaging system in which rigidity is provided by the scaffolding component" of the cited invention 1 can be said to be a container oriented so as to be placed on a surface of a horizontal support because the self-supporting property of a rigid container is imparted by providing rigidity with the scaffolding component, and corresponds to the "stand-upright flexible container" of the present invention 1.

(e) The aspect that "a liquid is held inside an outer flexible container including the top that has a closure assembly, the bottom, and the area extending between the bottom and the top that has a closure assembly" in the cited invention 1 corresponds to the aspect of "including a product volume that directly accommodates a fluid product" in the present invention 1 since the liquid is a fluid product.

(f) The aspect that "a liquid is held inside an outer flexible container including the top that has a closure assembly, the bottom, and the area extending between the bottom and the top that has a closure assembly" in the cited invention 1 is consistent with "a product volume" "that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space constituting a barrier that prevents the fluid products from leaking out of the product volume" in the present invention 1 since

it is clear that a liquid is held inside, a three-dimensional space that can be sealed inside is formed, and a barrier for preventing the liquid from leaking out of the space is constituted in the top that has a closure assembly defining the space, the bottom, and the area extending between the bottom and the top that has a closure assembly.

(g) The "scaffolding component that provides rigidity to the flexible packaging system" in the cited invention 1 can be said to support the inside of the flexible packaging system by providing rigidity to the flexible packaging system, and thus corresponds to the "structural support frame configured to support the product volume" in the present invention 1.

(h) The aspect of "having a portion extending between the top that has a closure assembly and the bottom on the area extending between the bottom of the outer flexible container and the top that has a closure assembly, and a plurality of portions extending in a ring shape along the ends of the bottom and the top that has a closure assembly" in the cited invention 1 corresponds to the aspect of "constituted by a plurality of structural support members extending between the upper portion or the top portion and the bottom portion on the side portion and extending along the end portions of the bottom portion and the upper portion" in the present invention 1.

(i) The aspect of "having a plurality of portions" and "providing rigidity to the flexible packaging system by pressurizing the scaffolding component by inflating with gas" in the cited invention 1 is consistent with the present invention 1 with the limitation of the aspect of "constituted by a plurality of structural support members, each of which includes an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases", "and the one or more gases creating tension in the one or more flexible materials" in the present invention 1 since it is clear that the scaffolding component is inflated with gas, and thus has a gas-fillable space that made of a flexible material and that is filled with gas and inflated, thereby creating tension.

(j) The aspect of including "the outer flexible container including the top that has a closure assembly, the bottom, and the area extending between the bottom and the top that has a closure assembly" in the cited invention 1 is consistent with the aspect that "the plurality of panels include an upper panel provided on the upper portion, a side panel provided on the side portion, and a bottom panel provided on the bottom portion" in the present invention 1 with the limitation of including "a portion provided on the upper portion, a portion provided on the side portion, and a portion provided on the bottom

portion".

(k) The aspect that "the scaffolding component has a portion extending between the top that has a closure assembly and the bottom on the area extending between the bottom of the outer flexible container and the top that has a closure assembly, and a plurality of portions each having a portion extending in a ring shape along the ends of the bottom and the top that has the closure assembly, and the ends of those portions are connected to each other" in the cited invention 1 corresponds to the aspect that "the end portions of the structural support members are connected to each other" in the present invention 1.

b. From the above, the corresponding features and the different features between the present invention 1 and the cited invention 1 are as follows.

[Corresponding features]

"A stand-upright flexible container having an upper portion, a bottom portion, and a side portion extending between the upper portion and the bottom portion, the flexible container comprising:

a product volume that directly accommodates a fluid product and that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space being defined by a plurality of members constituting a barrier that prevents the fluid products from leaking out of the product volume; and

a structural support frame that is configured to support the product volume and that is constituted by a plurality of structural support members extending between the upper portion and the bottom portion on the side portion and a plurality of structural support members extending along the end portions of the bottom portion and the upper portion, each of the structural support members including an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases, and the one or more gases creating tension in the one or more flexible materials,

the plurality of members include a portion provided on the upper portion, a portion provided on the side portion, and a portion provided on the bottom portion, and

the end portions of the structural support members are connected to each other."

[Different feature 1-1]

Regarding the "product volume", in the present invention 1, "being defined by a plurality of panels" including "an upper panel provided on the upper portion, a side panel provided on the side portion, and a bottom panel provided on the bottom portion", whereas in the cited invention 1, being defined by "an outer flexible container including

a top that has a closure assembly, a bottom, and an area extending between the bottom and the top that has a closure assembly" and "an internally associated scaffolding component".

[Different feature 1-2]

In the present invention 1, including "a dispenser for the fluid product, the dispenser being in fluid communication with the product volume", whereas in the cited invention 1, including "the closure assembly associated with an opening allowing a liquid to be held therein".

[Different feature 1-3]

Regarding the "structural support member", in the present invention 1, "being filled with one or more gases at a pressure above ambient atmospheric pressure", whereas in the cited invention 1, it is unclear how the "scaffolding component" is filled.

(C) Judgment

The different feature 1-1 will be examined.

In the "flexible packaging system" in the cited invention 1, the inner surface of the "bottom including the separator" that creates "two compartments that contain components that will create gas or foam to pressurize the internally associated scaffolding component", is one of surfaces constituting the internal space of the "flexible container", and the "internally associated scaffolding component" that is present in the internal space of the "flexible container" is pressurized by gas or foam created from the "bottom including the separator". In other words, it should be said that a disincentive exists in merely "internally associated scaffolding component" combine to "the flexibility container", because constitution to pressurize " internally associated scaffolding component" ends in the internal space of "the flexible container".

Therefore, it cannot be said that the present invention 1 could have been easily made by a person skilled in the art based on the cited invention 1 without examining other different features.

(D) Conclusion

As described above, it cannot be said that the present invention 1 could have been easily made by a person skilled in the art based on the cited invention 1.

B. Regarding the inventive step based on the embodiments shown in FIGS. 43 to 46 in Cited Document 1

(A) Regarding the invention described in Cited Document 1

Cited Document 1 describes the following matters in addition to the matters described in the "(1) A. (A) Regarding the invention described in Cited Document 1".

a. "[0065] In other embodiments, the scaffolding component is externally associated and the flexible container is held open by the externally associated scaffolding component. Such packaging systems may compete with current cylindrical items, because round bottles placed next to each other leave a space between them that can accommodate corner-shaped scaffolding components. An externally associated hollow scaffolding component may comprise a flexible container that has attached corners or other external components that form the hollow scaffolding component. The hollow scaffolding component may comprise of one or more compartments that may be interconnected by way of one or more apertures between the compartments, or may be inflated independently."

b. "[0093] Referring to FIGS. 43 to 46, a flexible packaging system 1000 according to some embodiments is shown. When the flexible container 1010 is filled, it may tend to form a bowed or substantially rounded bottom 1040, which may affect the flexible packaging system's ability to rest upright on a flat surface. Therefore, the flexible container 1010 may be associated with the scaffolding component 1020 that includes a substantially ring-shaped base 1030 to assure that the flexible container has a substantially flat bottom. The substantially ring-shaped base 1030 may be added as part of the scaffolding component 1010. In an alternative embodiment, the scaffolding may include a plurality of legs that extend therefrom such that they provide support for the flexible container to stand upright (not shown). In one aspect, the scaffolding includes at least three legs for support."

c. FIG. 45 in Cited Document 1 is a side view (A), a top view (B), a three-dimensional view (C), and a cross-sectional view (D) of the "flexible packaging system 1000", and FIG. 46 is an exploded view of the "flexible packaging system 1000". From FIGS. 45 and 46, it can be seen that (a) the "flexible container 1010" has an area surrounded by a "substantially ring-shaped base 1030", an area extending between the "substantially ring-shaped base 1030" and a top ring-shaped portion of the "scaffolding component 1020", and an area surrounded by the top ring-shaped portion of the "scaffolding component 1020"; (b) the "scaffolding component 1020" has a portion extending between the area surrounded by the "substantially ring-shaped base 1030" of the "flexible container 1010" and the area surrounded by the top ring-shaped portion of the "scaffolding component 1020" of the "flexible container 1010" on the area extending

between the "substantially ring-shaped base 1030" of the "flexible container 1010" and the top ring-shaped portion of the "scaffolding component 1020"; and (c) the ends of the top ring-shaped portion of the "scaffolding component 1020" and the portion extending between the area surrounded by the "substantially ring-shaped base 1030" of the "flexible container 1010" and the area surrounded by the top ring-shaped portion of the "scaffolding component 1020" of the "flexible container 1010" are connected to each other.

From the above description, Cited Document 1 also describes the following invention (hereinafter, referred to as "cited invention 2").

"A flexible packaging system standing upright on a flat surface, the flexible packaging system having an area surrounded by the top ring-shaped portion of the scaffolding component, an area surrounded by the substantially ring-shaped base, and an area extending between the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component, wherein

a liquid is held inside a flexible container constituted by the area surrounded by the top ring-shaped portion of the scaffolding component, the area surrounded by the substantially ring-shaped base, and the area extending between the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component, and

the flexible packaging system includes a closure assembly associated with an opening allowing a liquid to be held therein, and

the scaffolding component and the substantially ring-shaped base that provide rigidity for the flexible packaging system, that include a portion extending between the area surrounded by the substantially ring-shaped base of the flexible container and the area surrounded by the top ring-shaped portion of the scaffolding component of the flexible container on the area extending between the substantially ring-shaped base of the flexible container and the top ring-shaped portion of the scaffolding component, and a plurality of portions each having a portion having the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component, and that provide rigidity to the flexible packaging system by pressurizing the scaffolding component and the substantially ring-shaped base by inflating with gas."

(B) Comparison between the present invention 1 and the cited invention 2

a. The present invention 1 and the cited invention 2 are compared with each other.

(a) The "area surrounded by the top ring-shaped portion of the scaffolding

component" in the cited invention 2 can be said to be a part of the top of the flexible packaging system, and therefore corresponds to the "upper portion" in the present invention 1.

(b) The "area surrounded by the substantially ring-shaped base" in the cited invention 2 corresponds to the "bottom portion" in the present invention 1.

(c) The "area extending between the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component" in the cited invention 2 corresponds to the "side portion extending between the upper portion and the bottom portion" in the present invention 1.

(d) The "flexible packaging system standing upright on the flat surface" in the cited invention 2 can be said to be a container oriented so as to be placed on the surface of a horizontal support, and therefore corresponds to the "stand-upright flexible container" in the present invention 1.

(e) The aspect that "a liquid is held inside a flexible container constituted by the area surrounded by the top ring-shaped portion of the scaffolding component, the area surrounded by the substantially ring-shaped base, and the area extending between the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component" in the cited invention 2 corresponds to the aspect of including "a product volume that directly accommodates a fluid product" in the present invention 1 since the liquid is a fluid product.

(f) The aspect that "a liquid is held inside a flexible container constituted by the area surrounded by the top ring-shaped portion of the scaffolding component, the area surrounded by the substantially ring-shaped base, and the area extending between the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component" in the cited invention 2 is consistent with "a product volume that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space being defined by a plurality of panels constituting a barrier that prevents the fluid products from leaking out of the product volume" in the present invention 1 with the limitation of "a product volume that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space being defined by a plurality of members constituting a barrier that prevents the fluid products from leaking out of the product volume" since it is clear that a liquid is held inside, a three-dimensional space that can be sealed inside is formed, and the area surrounded by the top ring-shaped portion of the scaffolding component defining the

space, the area surrounded by the substantially ring-shaped base, and the area extending between the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component constitute a barrier that prevents the fluid from leaking out of the space.

(g) The "scaffolding component and the substantially ring-shaped base that provide rigidity to the flexible packaging system" in the cited invention 2 can be said to support the inside of the flexible packaging system by providing rigidity to the flexible packaging system, and thus correspond to the "structural support frame configured to support the product volume" in the present invention 1.

(h) The aspect of "having a plurality of portions and providing rigidity to the flexible packaging system by pressurizing the scaffolding component and the substantially ring-shaped base by inflating with gas" in the cited invention 2 is consistent with the aspect of "constituted by a plurality of structural support members, each of which includes an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases at a pressure above ambient atmospheric pressure, and the one or more gases creating tension in the one or more flexible materials" in the present invention 1 with the limitation of the aspect of "constituted by a plurality of structural support members, each of which includes an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases", and "the one or more gases creating tension in the one or more flexible materials" since it is clear that the scaffolding component and the substantially ring-shaped base are inflated with gas, and have a gas-fillable space that is made of a flexible material and that is filled with gas and inflated, thereby creating tension.

(i) The aspect of including "a flexible container constituted by an area surrounded by the top ring-shaped portion of the scaffolding component, an area surrounded by the substantially ring-shaped base, and an area extending between the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component" in the cited invention 2 is consistent with the aspect that "the plurality of panels include an upper panel provided on the upper portion, a side panel provided on the side portion, and a bottom panel provided on the bottom portion" in the present invention 1 with the limitation that "the plurality of members include a portion provided on the upper portion, a portion provided on the side portion, and a portion provided on the bottom portion".

b. From the above, the corresponding features and the different features between the

present invention 1 and the cited invention 2 are as follows.

[Corresponding features]

"A stand-upright flexible container having an upper portion, a bottom portion, and a side portion extending between the upper portion and the bottom portion, the flexible container comprising:

a product volume that directly accommodates a fluid product and that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space being defined by a plurality of members constituting a barrier that prevents the fluid products from leaking out of the product volume; and

a structural support frame that is configured to support the product volume and that is constituted by a plurality of structural support members extending between the upper portion and the bottom portion on the side portion and extending along the end portions of the bottom portion and the upper portion, each of the structural support members including an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases, and the one or more gases creating tension in the one or more flexible materials, and

the plurality of members include a portion provided on the upper portion, a portion provided on the side portion, and a portion provided on the bottom portion."

[Different feature 2-1]

In the present invention 1, "constituted by a plurality of structural support members extending between the upper portion and the bottom portion on the side portion and a plurality of structural support members extending along the end portions of the bottom portion and the upper portion", whereas in the cited invention 2, "including a portion extending between the area surrounded by the substantially ring-shaped base of the flexible container and the area surrounded by the top ring-shaped portion of the scaffolding component of the flexible container on the area extending between the substantially ring-shaped base of the flexible container and the top ring-shaped portion of the scaffolding component, and a plurality of portions each having a portion having the substantially ring-shaped base and the top ring-shaped portion of the scaffolding component".

[Different feature 2-2]

In the present invention 1, "the plurality of panels include an upper panel provided on the upper portion, a side panel provided on the side portion, and a bottom panel provided on the bottom portion", whereas in the cited invention 2, it is unclear whether a

panel is provided.

[Different feature 2-3]

In the present invention 1, including "a dispenser for the fluid product, the dispenser being in fluid communication with the product volume", whereas in the cited invention 2, including "the closure assembly associated with an opening allowing a liquid to be held therein".

[Different feature 2-4]

Regarding the "structural support member", in the present invention 1, "being filled with one or more gases at a pressure above ambient atmospheric pressure", whereas in the cited invention 2, it is unclear how the "scaffolding component" is filled.

[Different feature 2-5]

Regarding the "structural support member", in the present invention 1, "the end portions are connected to each other", whereas in the cited invention 2, it is unclear whether the "scaffolding component" and the "the substantially ring-shaped base" are connected to each other.

(C) Judgment

The different feature 2-1 will be examined.

The flexible packaging system in the cited invention 2 is provided with a substantially ring-shaped base to impart a self-supporting property to the flexible container having a curved bottom, and thus no rationality can be found in extending the plurality of structural support members along the end of the bottom.

Therefore, it cannot be said that the present invention 1 could have been easily made by a person skilled in the art based on the cited invention 2 without examining other different features.

(D) Conclusion

As described above, it cannot be said that the present invention 1 could have been easily made by a person skilled in the art based on the cited invention 2.

(2) Regarding the present invention 2

A. Regarding the invention described in Cited Document 1

Cited Document 1 describes the following matters in addition to the matters described in the "(1) A. (A) and the (1) B. (A)".

(A) "[0091] Referring to FIGS. 36 to 39, a flexible packaging system 800 including a scaffolding component 810 and a shell 805 for using as a mail container is shown. The

system includes a top cover 815 that can be closed by a zipper, glue tabs, adhesives, or other means (not shown) after the inside contents have been filled with the item to be mailed. In one aspect of this embodiment, the scaffolding 805 may keep the package rigid or semi-rigid, protect the contents of the container system 800, or both.

Further, the system may include additional or less scaffolding 805 to provide more or less protection as required. In another aspect, the container system 800 may be provided uninflated, such that the container is flat or substantially flat, and then the scaffolding may be inflated immediately prior to use, deflated after use, or both."

(B) From FIGS. 38 and 39 in Cited Document 1, it can be seen that (a) the "shell 805" is constituted by a top having a flat surface, a bottom having a flat surface, and a side; (b) the top of the "shell 805" is surrounded by the top of the "scaffolding component 810" oriented horizontally, and the bottom of the "shell 805" is surrounded by the bottom of the "scaffolding component 810" oriented horizontally; and (c) ends of the top and the bottom of the "scaffolding component 810" are connected to each other.

From the above description, Cited Document 1 describes the following invention (hereinafter, referred to as "cited invention 3").

"A flexible packaging system that has a top having a flat surface and a bottom having a flat surface and that keeps rigid or semi-rigid by a scaffolding component, wherein

a mail container is held inside a shell that has a top having a flat surface, a bottom having a flat surface, and a side,

the flexible packaging system includes a top cover that can be closed inside, and

the scaffolding component configured to keep package rigid or semi-rigid and configured to protect the contents of the flexible packaging system, wherein the top scaffolding component and the bottom scaffolding component are horizontally oriented, and the scaffolding components are pressurized by inflating with gas, thereby providing rigidity to the flexible packaging system,

the top having a flat surface is surrounded by the top of the scaffolding component, and the bottom having a flat surface is surrounded by the bottom of the scaffolding component, and

the ends of the top and the bottom of the scaffolding components are connected to each other."

B. Comparison between the present invention 2 and the cited invention 3

(A) The present invention 2 and the cited invention 3 are compared with each other.

a. The "top having a flat surface" in the cited invention 3 corresponds to the "upper portion" in the present invention 2.

b. The "bottom having a flat surface" in the cited invention 3 corresponds to the "bottom portion" in the present invention 2.

c. "A flexible packaging system that has a bottom having a flat surface and that keeps rigid or semi-rigid by a scaffolding component" in the cited invention 3 corresponds to "a stand-upright flexible container configured such that the bottom portion is placed on the surface of the support" in the present invention 2 since the bottom has a flat surface, it is clear that the bottom is placed on the surface of the support, and the flexible packaging system is a container oriented so as to be placed on the surface of the horizontal support.

d. The aspect that "the mail container is held inside a shell that has a top having a flat surface, a bottom having a flat surface, and a side" in the cited invention 3 is consistent with the aspect of including "a product volume that directly accommodates a fluid product" in the present invention 2 with the limitation of including "a product volume that directly accommodates a product".

e. The aspect that "the mail container is held inside a shell that has a top having a flat surface, a bottom having a flat surface, and a side" in cited invention 3 is consistent with the aspect of "a product volume that is a sealable three-dimensional space configured to receive and directly accommodate one or more fluid products, the space being defined by a plurality of panels constituting a barrier that prevents the fluid products from leaking out of the product volume" in the present invention 2 with the limitation of including "a product volume that is a sealable three-dimensional space configured to receive and directly accommodate one or more products, the space being defined by a plurality of members constituting a barrier that prevents the products from leaking out of the product volume" since the mail container is held inside, it is clear that a three-dimensional space that can be sealed inside is formed, and a barrier for preventing the mail container from leaking out of the space is constituted on the top including a flat surface defining the space, the bottom including a flat surface, and the side.

f. The aspect of "the scaffolding component configured to keep the package rigid or semi-rigid and configured to protect the contents of the flexible packaging system, the top of the scaffolding component, the bottom of the scaffolding component" in the cited invention 3 corresponds to "a structural support frame that is configured to support the product volume and that is constituted by structural support members" in the present invention 2 since the scaffolding component protects the contents of the flexible

packaging system by keeping the package rigid or semi-rigid; and the scaffolding component has the top scaffolding component and the bottom scaffolding component.

g. The aspect that "the top scaffolding component and the bottom scaffolding component are horizontally oriented" in the cited invention 3 corresponds to the aspect that "the upper structural support frame and the bottom structural support frame are formed into a planar shape" in the present invention 2.

h. The aspect of "providing rigidity to the flexible packaging system by pressurizing the scaffolding component by inflating with gas" in the cited invention 3 is consistent with the present invention 2 with the limitation of the aspect of "each of the structural support members including the inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases", "and the one or more gases creating tension in the one or more flexible materials" in the present invention 2 since it is clear that the scaffolding component is inflated with gas, and thus has a gas-fillable space that is made of a flexible material and that is filled with gas and inflated, thereby creating tension.

i. The aspect that "the top having a flat surface is surrounded by the top of the scaffolding component, and the bottom having a flat surface is surrounded by the bottom of the scaffolding component" in the cited invention 3 is consistent with the aspect that "the plurality of panels include an upper panel surrounded by the upper structural support member and a bottom panel surrounded by the bottom structural support member, and the upper panel and the bottom panel have flat surfaces" in the present invention 2 with the limitation that "the plurality of members include a portion surrounded by the upper structural support member and a portion surrounded by the bottom structural support member, and these portions have flat surfaces".

j. The aspect that "the ends of the top scaffolding component and the bottom scaffolding component are connected to each other" in the cited invention 3 corresponds to the aspect that "the end portions of the structural support members are connected to each other" in the present invention 2.

(B) From the above, the corresponding features and the different features between the present invention 2 and the cited invention 3 are as follows.

[Corresponding features]

"A stand-upright flexible container having an upper portion and a bottom portion that is placed on a surface of a support, the flexible container comprising:

a product volume that directly accommodates a fluid product and that is a sealable

three-dimensional space configured to receive and directly accommodate one or more products, the space being defined by a plurality of members constituting a barrier that prevents the products from leaking out of the product volume; and

a structural support frame that is configured to support the product volume and that is constituted by structural support members, the upper structural support frame and the bottom structural support frame are formed into a planar shape, each of the structural support members including an inflated structural support volume, the volume being a fillable space made of one or more flexible materials and being filled with one or more gases, and the one or more gases creating tension in the one or more flexible materials, wherein

the plurality of members include a portion surrounded by the upper structural support member and a portion surrounded by the bottom structural support member, and these portions have a flat surface, and

the end portions of the structural support members are connected to each other."

[Different feature 3-1]

In the present invention 2, including "a dispenser for the fluid product, the dispenser being in fluid communication with the product volume", whereas in the cited invention 3, the "mail container" "is held inside the shell" and "the top cover that can be closed inside" is included.

[Different feature 3-2]

In the present invention 2, including "an upper panel surrounded by the upper structural support member and a bottom panel surrounded by the bottom structural support member", whereas in the cited invention 3, it is unclear whether a panel is provided.

[Different feature 3-3]

Regarding the "structural support member", in the present invention 2, "being filled with one or more gases at a pressure above ambient atmospheric pressure", whereas in the cited invention 3, it is unclear how the "scaffolding component" is filled.

C. Judgment

The different feature 3-1 will be examined.

Since the flexible packaging system according to the cited invention 3 is to be closed with a fastener or an adhesive on the premise of a mail container, no rationality can be found in making the stored product a fluid product and providing a dispenser for the fluid product that is in fluid communication with the product volume.

Therefore, it cannot be said that the present invention 2 could have been easily made by a person skilled in the art based on the cited invention 3 without examining other different features.

D. Conclusion

As described above, it cannot be said that the present invention 2 could have been easily made by a person skilled in the art based on the cited invention 3.

No. 6 Opposition which was not adopted as reasons for revocation

1. Opposition asserted by the opponent which was not adopted as reasons for revocation (advance notice)

(1) Reasons relating to Article 36(6)(i) of the Patent Act asserted by the opponent

A. Regarding "operational panel that can be squeezed"

The detailed description of the invention in the present patent specification only specifies a configuration in which the "product volume" is defined by an "operational panel that can be squeezed", and the present inventions 1 and 2 include a configuration in which the panel is made of a rigid material, and the problem according to the present invention cannot be solved depending on the configuration.

B. Regarding "product volume" and "structural support frame"

The detailed description of the invention in the present patent specification only discloses that a flexible outer sheet is laminated on the outer side of a flexible inner sheet forming the product volume, the flexible inner sheet and the flexible outer sheet are joined to each other by an inner seam and an outer seam to form a fillable space of the structural support frame between the inner seam and the outer seam, and the product volume and the structural support frame are integrally formed.

However, the present inventions 1 and 2 include a configuration in which the product volume and the structural support frame are formed separately from each other, and the problem according to the present invention cannot be solved depending on the configuration.

(2) Reasons relating to Article 36(6)(ii) of the Patent Act asserted by the opponent

A. Regarding "operational panel that can be squeezed"

In the recitation of Claims 1 and 2 of the present patent, it is unclear whether the "panel" defining the "product volume" is the "operational panel that can be squeezed".

B. Regarding "product volume" and "structural support frame"

The recitation of Claims 1 and 2 of the present patent does not specify the relation

between the “structural support frame” and the “product volume”, and it is not possible to grasp the specific configuration of the “flexible container”.

(3) Reasons relating to Article 36(4)(i) of the Patent Act asserted by the opponent

A configuration other than the "operational panel that can be squeezed", the structural relation between the "product volume" and the "structural support frame", and the like are not described in the detailed description of the invention of the present patent specification, and are not clearly and sufficiently described to the extent that a person skilled in the art can implement the present inventions 1 and 2.

2. Examination of the assertion

(1) Reasons relating to Article 36(6)(i) of the Patent Act asserted by the opponent

A. Regarding the "operational panel that can be squeezed"

Since the present inventions 1 and 2 are the "stand-upright flexible containers" and can be said to have flexibility as a whole container, the present inventions 1 and 2 do not include a configuration in which a panel defining the product volume is made of a rigid material.

Accordingly, the assertion of the opponent cannot be adopted.

B. For example, referring to paragraph [0114] and [FIG. 3A] to [FIG. 3D] in the detailed description of the invention of the present patent application, the configuration in which the support frame 340 is constituted by the structural support members that are disposed along the edge of a pyramid shape and that are joined together at the ends thereof, and the product volume and the structural support frame are formed separately from each other is disclosed.

Accordingly, the assertion of the opponent cannot be adopted.

(2) Reasons relating to Article 36(6)(ii) of the Patent Act asserted by the opponent

A. Regarding the "operational panel that can be squeezed"

Since the present invention 1 and 2 are the "stand-upright flexible containers" and have flexibility as a whole, the "panel" defining the "product volume" can be said to be the "operational panel that can be squeezed", and thus the recitation of Claims 1 and 2 of the present patent is clear.

Accordingly, the assertion of the opponent cannot be adopted.

B. Regarding "product volume" and "structural support frame"

The present inventions 1 and 2 recite "a product volume defined by a plurality of panels" and "a structural support frame configured to support the product volume", and it can be said that the relation between the “structural support frame” and the “product

volume” is specified.

Accordingly, the assertion of the opponent cannot be adopted.

(3) Summary

As examined in the above (1) and (2), the present invention does not include the configuration other than the "operational panel that can be squeezed", and the structural relation between the "product volume" and the "structural support frame" is clear, and thus the present invention is clearly and sufficiently described to the extent that a person skilled in the art can implement the present inventions 1 and 2.

Accordingly, the assertion of the opponent cannot be adopted.

No. 7 Closing

As described above, the patent according to the present inventions 1 and 2 cannot be revoked according to the reasons for opposition asserted by the opponent, the notice of grounds for revocation, and the grounds for revocation (advance notice).

Also, no other reason for revoking the patent according to the present inventions 1 and 2 is found.

Therefore, the decision shall be made as described in the conclusion.

June 29, 2021

Chief administrative judge: ISHII, Takaaki

Administrative judge: MURAYAMA, Tatsuya

Administrative judge: KUBO, Katsuhiko