

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MUNCHKIN, INC. AND TOYS “R” US, INC.  
Petitioners

v.

LUV N’ CARE, LTD.  
Patent Owner

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CASE IPR2013-00072  
Patent D617,465

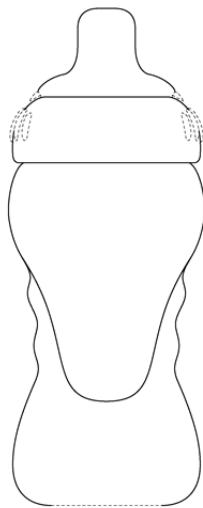
Before SALLY C. MEDLEY, JENNIFER S. BISK, and MICHAEL J. FITZPATRICK, *Administrative Patent Judges*.

**LUV N’ CARE, LTD.’S MOTION TO AMEND ITS PATENT CLAIM**

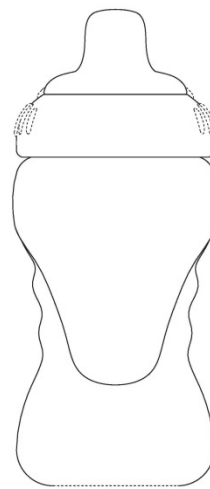
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Patent Owner Luv n' care, Ltd. ("Luv n' care" or "LNC") hereby respectfully moves to amend the claim of U.S. Patent No. D617,465 ("the '465 patent), the patent at issue in these proceedings. Per the Board's Order of June 7, 2013, LNC is authorized to file this motion. (Paper 12.)

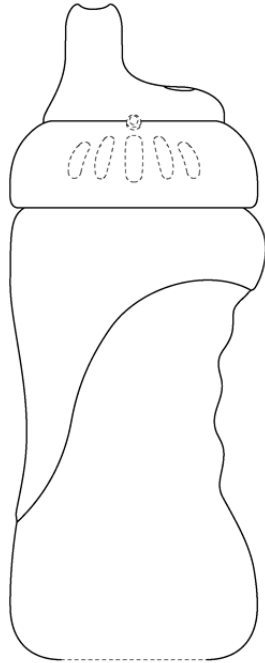
The '465 patent is a design patent, and hence contains one claim: "the ornamental design for a drinking cup, as shown and described" in Figures 1-5 of the '465 patent. *See*, the '465 patent. LNC moves to amend that claim by amending the drawings of the '465 patent. The proposed amended drawings representing the proposed amended claim are attached hereto in Exhibit 1 as "Proposed Replacement Sheets." For ease of reference, each of Figures 1-5 as they currently appear in the '465 patent are reproduced below, side-by-side with the proposed amended drawing:



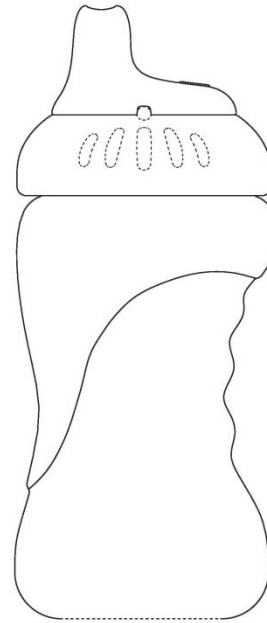
**'465 Patent – Fig. 1**



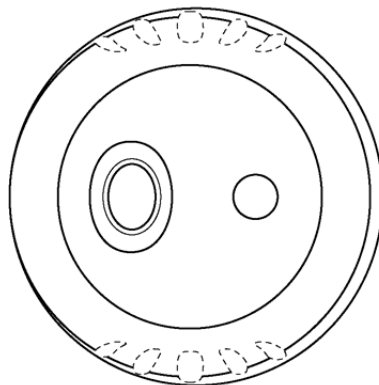
**Fig. 1 Proposed Amendment**



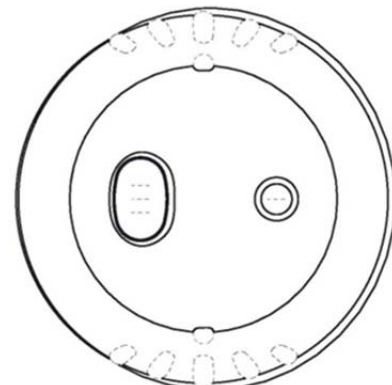
**'465 Patent – Fig. 2**



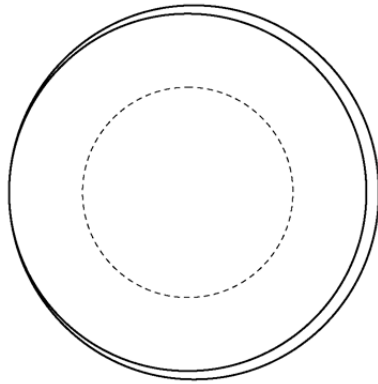
**Fig. 2 Proposed Amendment**



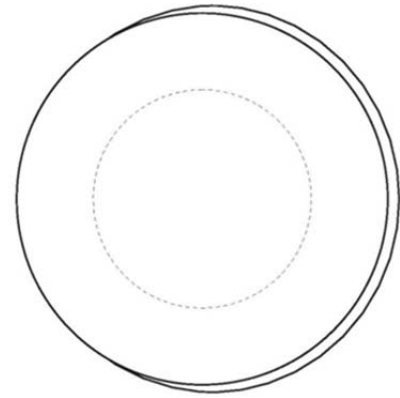
**'465 Patent – Fig. 3**



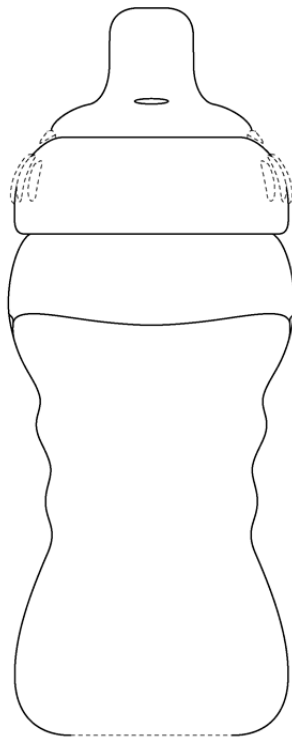
**Fig. 3 Proposed Amendment**



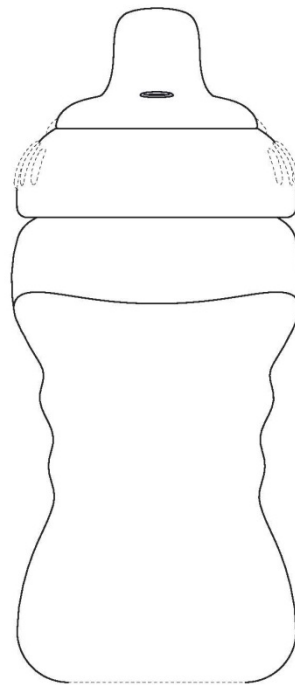
**'465 Patent – Fig. 4**



**Fig. 4 Proposed Amendment**



**'465 Patent – Fig. 5**



**Fig. 5 Proposed Amendment**

As further discussed below, the proposed amendment does not add new matter. Rather, it involves minor modifications to various claimed and unclaimed features of the drinking cup design in order to conform those features to certain figures of the '465 patent's parent – U.S. Patent Application Serial No. 10/536,106 (“the '106 application”). (The '106 application was filed as application No. PCT/US2003/024400 on August 5, 2003 and is currently pending before the United States Patent and Trademark Office.) These changes to the drawings are being made in response to the priority findings in the Board's Decision of April 25, 2013 (“the Board's Decision”), and to slightly narrow the scope of the claim.

In the Board's Decision, findings were made regarding the shape of the spout, and the slits, as they relate to the '465 patent's ability to claim priority to its parent '106 application. *See*, Decision of April 25, 2013 at page 7 (Paper 8). As a result, the claimed shape of the spout as seen from above in Figure 3 has been modified to more closely align with the precise drawing disclosure of the '106 application. Likewise, the unclaimed slits inside the spout and air vent in Figure 3 have been added to the drawings as well.<sup>1</sup>

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<sup>1</sup> Since these slits are unclaimed, they neither broaden nor narrow the scope of the claimed invention.

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