

DECLARATION OF ROBERT M. KIMMEL
UNDER 37 C.F.R. § 42.100 REGARDING U.S. PATENT NOS. 7,798,319;
8,458,996; AND 8,556,070

Declaration

I declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date: January 28, 2021

By: 

Robert M. Kimmel

Table of Contents

I.	Professional Background.....	4
II.	Relevant Legal Standards	7
III.	Person Of Ordinary Skill In The Art.....	10
IV.	Technology Background.....	11
A.	The '319 Patent.....	11
B.	The '996 Patent.....	13
C.	The '070 Patent.....	13
V.	Overview Of The Prosecution Histories	13
A.	The '319 Patent.....	13
B.	The '996 Patent.....	14
C.	The '070 Patent.....	15
VI.	Claim Construction.....	17
A.	Tobacco Product	17
B.	Connection Rim	18
C.	Non-Hermetic Seal.....	18
D.	Bead	19
E.	Continuous Bead.....	19
VII.	Overview Of The Prior Art.....	19
A.	Overview Of Brucker.....	19
B.	Overview Of Welk.....	23
C.	Overview Of Rosson.....	27
D.	Overview Of Boyd.....	31
E.	Overview Of Bried 928.....	33
F.	Overview Of Budd.....	35
G.	Overview Of Szalay.....	36
H.	Overview Of Winterson.....	37
VIII.	The Claims Of The '319 Patent Are Unpatentable.....	38
A.	Ground 1: Claims 17-20, 23 And 25-26 Are Obvious Over Brucker In View Of Welk	38
1.	Independent Claim 17	38
2.	Dependent Claim 18	49

3.	Dependent Claim 19	51
4.	Dependent Claim 20	52
5.	Dependent Claim 23	55
6.	Dependent Claim 25	56
7.	Dependent Claim 26	58
B.	Ground 2a: Claims 17-20 And 25-26 Are Obvious Over Brucker In View Of Rosson.....	59
1.	Independent Claim 17	59
2.	Dependent Claim 18	70
3.	Dependent Claim 19	72
4.	Dependent Claim 20	73
5.	Dependent Claim 25	75
6.	Dependent Claim 26	77
C.	Ground 2b: Claim 23 Is Obvious Over Brucker In View Of Rosson And Further In View Of Boyd.....	78
1.	Dependent Claim 23	78
IX.	The Claims Of The '996 Patent Are Unpatentable.....	79
A.	Ground 1a: Claims 1 and 4 Are Obvious Over Brucker In View Of Welk	79
1.	Independent Claim 1	79
2.	Dependent Claim 4	93
B.	Ground 1b: Claim 5 Is Obvious Over Brucker In View Of Welk And Further In View Of Szalay	95
1.	Dependent Claim 5	95
C.	Ground 2a: Claims 1 and 4 Are Obvious Over Brucker In View Of Rosson.....	97
1.	Independent Claim 1	97
2.	Dependent Claim 4	112
D.	Ground 2b: Claim 5 Is Obvious Over Brucker In View Of Rosson And Further In View Of Szalay	114
1.	Dependent Claim 5	114
X.	The Claims Of The '070 Patent Are Unpatentable.....	116
A.	Ground 1a: Claims 1-6, 8, 11-22 And 25-28 Are Obvious Over Brucker In View Of Welk	116

1.	Independent Claim 1	116
2.	Dependent Claim 2	129
3.	Dependent Claim 3	129
4.	Independent Claim 4	131
5.	Dependent Claim 5	144
6.	Dependent Claim 6	147
7.	Dependent Claim 8	148
8.	Dependent Claim 11	149
9.	Dependent Claim 12	150
10.	Dependent Claim 13	151
11.	Dependent Claim 14	155
12.	Dependent Claim 15	156
13.	Dependent Claim 16	157
14.	Dependent Claim 17	158
15.	Dependent Claim 18	160
16.	Independent Claim 19	161
17.	Dependent Claim 20	172
18.	Dependent Claim 21	174
19.	Dependent Claim 22	175
20.	Dependent Claim 25	178
21.	Dependent Claim 26	178
22.	Dependent Claim 27	183
23.	Dependent Claim 28	184
B.	Ground 1b: Claim 10 Is Obvious Over Brucker In View Of Welk And Further In View Of Winterson.....	186
1.	Dependent Claim 10	186
C.	Ground 2a: Claims 1-6, 8, 11-13, 15-22, 25 And 27-28 Are Obvious Over Brucker In View Of Rosson.....	187
1.	Independent Claim 1	187
2.	Dependent Claim 2	200

3.	Dependent Claim 3	200
4.	Independent Claim 4	202
5.	Dependent Claim 5	215
6.	Dependent Claim 6	217
7.	Dependent Claim 8	219
8.	Dependent Claim 11	219
9.	Dependent Claim 12	220
10.	Dependent Claim 13	222
11.	Dependent Claim 15	224
12.	Dependent Claim 16	226
13.	Dependent Claim 17	226
14.	Dependent Claim 18	228
15.	Independent Claim 19	229
16.	Dependent Claim 20	241
17.	Dependent Claim 21	243
18.	Dependent Claim 22	244
19.	Dependent Claim 25	246
20.	Dependent Claim 27	247
21.	Dependent Claim 28	248
D.	Ground 2b: Claim 10 Is Obvious Over Brucker In View Of Rosson And Further In View Of Winterson.....	249
	1. Dependent Claim 10	249
E.	Ground 2c: Claim 14 Is Obvious Over Brucker In View Of Rosson And Further In View Of Boyd.....	251
	1. Dependent Claim 14	251
F.	Ground 2d: Claim 26 Is Obvious Over Brucker In View Of Rosson And Further In View Of Budd.....	252
	1. Dependent Claim 26	252

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.