

# Exhibit 26

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MUNCHKIN, INC.,  
Petitioner,

v.

INTERNATIONAL REFILLS COMPANY LIMITED,  
Patent Owner

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Case IPR2016-01154  
Patent 8,899,420 B2

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Before JOSIAH C. COCKS, BARRY L. GROSSMAN, and  
MICHAEL L. WOODS, *Administrative Patent Judges*.

COCKS, *Administrative Patent Judge*.

DECISION  
Denying Institution of *Inter Partes* Review  
*37 C.F.R. § 42.108(a)*

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Patent 8,899,420 B2

## I. INTRODUCTION

### A. Summary

On June 3, 2016, Petitioner, Munchkin, Inc. (“Munchkin”), filed a Petition (Paper 2, “Pet.”) to institute *inter partes* review of claims 1–17 of US Patent No. 8,899,420 (Ex. 1002, “the ’420 patent”). Patent Owner, International Refills Company Limited (“Int’l Refills”), filed a Preliminary Response (Paper 9, “Prelim. Resp.”) on September 13, 2016.

An *inter partes* review may not be instituted unless the information presented in the Petition shows “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). For the reasons set forth below, we conclude that the information presented in the Petition does not establish a reasonable likelihood of success with respect to claims 1–17 of the ’420 patent. We do not institute an *inter partes* review.

### B. Related Matters

Munchkin and Int’l Refills identify the following court proceedings concerning the ’420 patent: *Int’l Refills Co. v. Munchkin, Inc.*, No. 3:16-cv-00094-VLB (Conn.); and *In the Matter of Certain Diaper Disposal Systems and Components Thereof, including Diaper Pail Refill Cassettes* (Inv. No. 337-TA-986) pending in the United States International Trade Commission. Pet. 2;<sup>1</sup> Paper 7, 1.

### C. The ’420 patent

The ’420 patent is titled “Cassette and Apparatus for Packing Disposable Objects into an Elongated Tube of Flexible Material.” Ex. 1002,

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<sup>1</sup> Int’l Refills styles the noted court proceeding in the District of Connecticut as *Edgewell Personal Care Brands, LLC et al. v. Munchkin, Inc.*

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Title. Figure 1 of the '420 patent is reproduced below.

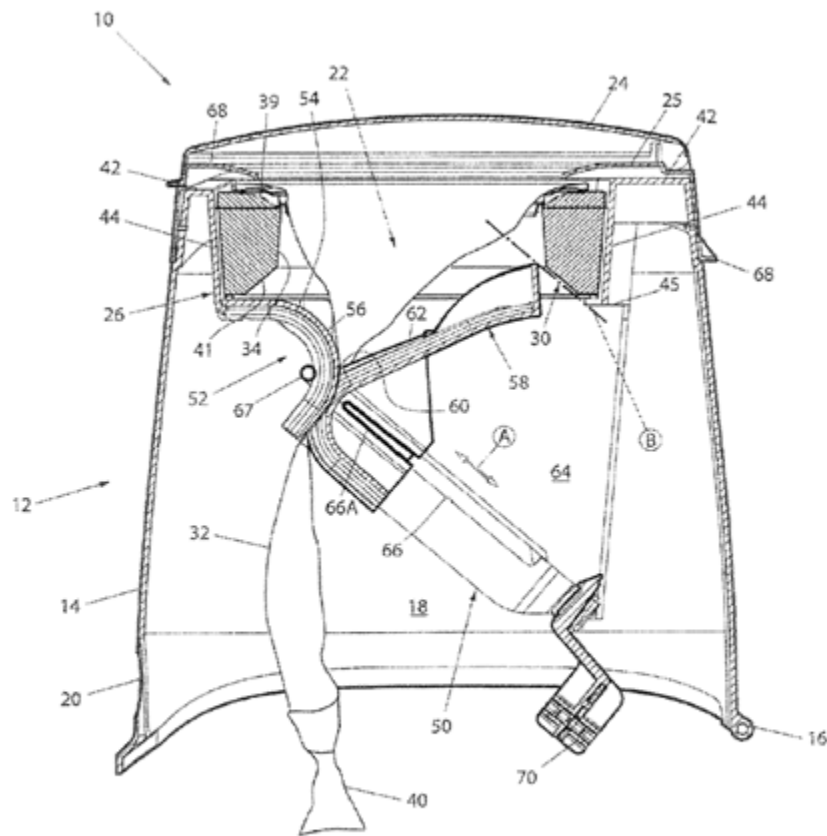


Fig. 1

Figure 1 depicts a cross-sectional view of an apparatus according to an embodiment of the invention. *Id.* at 3:66–67. Apparatus 10 includes bin 12 with top portion 14. *Id.* at 4:28–34. Top portion 14 includes holder 26 that receives cassette 30 containing flexible plastic film tubing 32. *Id.* at 4:54–60. Top portion 14 also includes an opening for receiving disposable objects therethrough. *Id.* at 4:42–43. The '420 patent describes the following as to the use of apparatus 10:

In order to prepare the apparatus 10 for use, and with reference to FIG. 1, a user person removes the lid 24 and funnel 25 assembly and inserts the cassette 30 in the correct orientation (i.e., with the chamfer clearance 41 facing downward.[.]) The

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user person withdraws a free end of the tubing 32 from the cassette 30, takes a leading edge of flexible tubing 32, ties it into the knot 40 and pushes the knot 40 through the openings 22, 34 and beyond the closing mechanism. It is pointed out that the knot 40 may be made prior to the cassette 30 being installed. The movable portion 58 opens as a result of the downward pressure, whereby the knot 40 reaches the enclosure 18 below the closing mechanism 50.

*Id.* at 7:3–14.

Claims 1, 6, and 11 are independent. Claims 2–5, ultimately depend from claim 1, claims 7–10 ultimately depend from claim 6, and claims 12–17 ultimately depend from claim 11. Claim 1 is illustrative of the subject matter at issue, and is reproduced below.

1. A cassette for packing at least one disposable object, comprising:

an annular receptacle including an annular wall delimiting a central opening of the annular receptacle, and a volume configured to receive an elongated tube of flexible material radially outward of the annular wall;

a length of the elongated tube of flexible material disposed in an accumulated condition in the volume of the annular receptacle; and

an annular opening at an upper end of the cassette for dispensing the elongated tube such that the elongated tube extends through the central opening of the annular receptacle to receive disposable objects in an end of the elongated tube,

wherein the annular receptacle includes a clearance in a bottom portion of the central opening, the clearance extending continuously from the annular wall and radially outward of a downward projection of the annular wall, the clearance delimiting a portion of the volume having a reduced width relative to a portion of the volume above the clearance.

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