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Señora

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SUPERINTENDENCIA DE INDUSTRIA Y COME

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SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO



Nº. 07-034601- -00004-0000

Fecha: 2007-11-28 17:00:34 Dep: 2020 NUECREACION
Tra: 11 PATENTE IYI Eje: 379 FASE NACIONAL II
Act: 329 CTOINFORMACION Folios: 7

Referencia: Expediente No. 07.034.601

Solicitud de Patente de Invención titulada: "Aparato y método para mezclar pintura dispuesta en un recipiente"

Solicitante: The Sherwin Williams Company

MEMORIAL DE ALCANCE

ÁLVARO CORREA ORDÓÑEZ, mayor de edad y vecino de Bogotá D.C., identificado según aparece al pie de mi firma, en mi condición de apoderado de la sociedad en referencia, manifiesto lo siguiente:

El día 9 de abril de 2007, bajo el número de radicación 07.034.601, presenté la solicitud de patente de invención de la referencia, para la cual adjunto informe preliminar internacional sobre patentabilidad, capítulo II del tratado de cooperación en materia de patentes.

Atentamente,


ÁLVARO CORREA ORDÓÑEZ
C.C.No.79.143.366 de Usaquén
T.P.20.281

Anexo: Informe preliminar internacional sobre patentabilidad, capítulo II

BOGLMS/BOGDMS-96278-VI-DOC

PATENT COOPERATION TREATY

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From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
ARTHI K. TIREY
C/O THE SHERWIN-WILLIAMS COMPANY
101 PROSPECT AVENUE, NW
CLEVELAND, OH 44115

PCT

NOTIFICATION OF TRANSMITTAL OF
INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Rule 71.1)

Date of mailing
(day/month/year) 08 NOV 2007

Applicant's or agent's file reference

7591PCT

IMPORTANT NOTIFICATION

International application No.

PCT/US05/36213

International filing date (day/month/year)

07 October 2005 (07.10.2005)

Priority date (day/month/year)

08 October 2004 (08.10.2004)

Applicant

THE SHERWIN-WILLIAMS COMPANY

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the *PCT Applicant's Guide*.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed invention is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the IPEA/ US

Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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Authorized officer

David L. Sorkin

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DEBORAH A. SOROKIN
PARALEGAL SPECIALIST

Form PCT/IPEA/416 (January 2004)

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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 7591PCT		FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US05/36213		International filing date (day/month/year) 07 October 2005 (07.10.2005)	Priority date (day/month/year) 08 October 2004 (08.10.2004)	
International Patent Classification (IPC) or national classification and IPC IPC: B01F 9/00 (2006.01) USPC: 366/217				
Applicant THE SHERWIN-WILLIAMS COMPANY				
1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. 3. This report is also accompanied by ANNEXES, comprising: a. ☐ (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows: ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).				
4. This report contains indications relating to the following items: ☒ Box No. I Basis of the report ☐ Box No. II Priority ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability ☐ Box No. IV Lack of unity of invention ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement ☐ Box No. VI Certain documents cited ☐ Box No. VII Certain defects in the international application ☐ Box No. VIII Certain observations on the international application				
Date of submission of the demand 02 May 2006 (02.05.2006)		Date of completion of this report 26 October 2007 (26.10.2007)		
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201		Authorized officer David L. Sorkin Telephone No. 571-272-1700		

DEBORAH T. JONES
SARAH J. S. JONES
[Signature]

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US05/36213

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Box No. 1 Basis of the report

1. With regard to the language, this report is based on:

- ☒ the international application in the language in which it was filed.
- ☐ a translation of the international application into English, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

- ☒ the international application as originally filed/furnished
- ☒ the description:
- pages 1-20 as originally filed/furnished
- pages* NONE received by this Authority on _____
- pages* NONE received by this Authority on _____
- ☒ the claims:
- pages 21-28 as originally filed/furnished
- pages* NONE as amended (together with any statement) under Article 19
- pages* NONE received by this Authority on _____
- pages* NONE received by this Authority on _____
- ☒ the drawings:
- pages 1/9-9/9 as originally filed/furnished
- pages* NONE received by this Authority on _____
- pages* NONE received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to the sequence listing (specify): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to the sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US05/36213

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>NONE</u>	YES
	Claims <u>1-27</u>	NO
Inventive Step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-27</u>	NO
Industrial Applicability (IA)	Claims <u>1-27</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and Explanations (Rule 70.7)
Please See Continuation Sheet

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.
Continuation of:

V. 2. Citations and Explanations:

Claims 1-27 lack novelty under PCT Article 33(2) as being anticipated by US 2004/0085855 A. Regarding claims 1-10, the reference discloses a device for mixing paint disposed in a container having a width substantially equal to the diameter of a conventional one gallon paint container (22, see [0015]), said device comprising: a bucket (28) for holding the container during the mixing of the paint, said bucket having a central axis and comprising: a retainer (78) having a plurality of side walls, said side walls being joined together at first, second, third and fourth rounded corners so as to define an interior holding space with a substantially square cross-section within which the container is disposed when the device is mixing the paint in the container, wherein the first corner and the third corner oppose each other diagonally across the holding space; a base secured to the bottom of the retainer, said base (80) having a floor with a plurality of support structures (83) extending upwardly therefrom, said support structures at least partially defining the periphery of a cylinder-receiving region of the floor, said cylinder-receiving region having a center that is offset from the central axis of the bucket in the direction of the third corner of the retainer; wherein when the container is cylindrical and is disposed in the bucket, a bottom end of the container is supported on the cylinder-receiving region of the floor and is disposed inwardly of the support structures, and the vertical axis of the container is offset from the central axis of the bucket in the direction of the third corner of the retainer; wherein when the container has a substantially square cross-section, the container is supported on top of the support structures so as to be elevated above the floor, and the vertical axis of the container is collinear with the central axis of the bucket; and an electric motor (44) connected to the base for rotating the bucket about the central axis. Regarding claims 11-15, the reference discloses a device for mixing paint disposed in a container (22) having a predetermined width, said device comprising: a bucket (28) for holding the container during the mixing of the paint, said bucket having a central axis and comprising: a base (80) having a floor with a plurality of support structures extending upwardly therefrom, said support structures (83) at least partially defining the periphery of a cylinder-receiving region of the floor; a retainer (78) secured to the base and comprising: a plurality of side walls, said side walls being joined together at first, second, third and fourth rounded corners so as to define an interior holding space with a substantially square cross-section within which the container is disposed when the device is mixing the paint in the container, wherein a first one of the side walls has first and second openings formed therein; and a rocker (94) pivotally mounted to said first one of the side walls and having a body joined between first and second heads,

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Supplemental Box

said rocker being movable between a first position, a second position and a third position, wherein when the rocker is in the first position, the first head is disposed in an innermost position and the second head is disposed in an outermost position, wherein when the rocker is the second position, the second head is disposed in an innermost position and the first head is disposed in an outermost position, and wherein when the rocker is in the third position, the first head is disposed between its innermost and outermost positions, and the second head is disposed between its innermost and outermost positions; wherein when the container is cylindrical and is disposed in the bucket, a bottom end of the container is supported on the cylinder-receiving region of the floor and is disposed inwardly of the support structures, and the rocker is in the third position and both the first head and the second head are disposed against the container; wherein when the container has a body with a substantially square cross-section, the container is supported on top of the support structures so as to be elevated above the floor; and an electric motor (44) connected to the base for rotating the bucket about the central axis. Regarding claims 16-22, the reference discloses an apparatus for mixing paint comprising a mixing device (20) comprising: a bucket (28) having a central axis and comprising: a retainer (78) comprising: a plurality of side walls, said side walls being joined together at first, second, third and fourth rounded corners so as to define an interior holding space with a substantially square cross-section within which the container is disposed when the apparatus is mixing the paint in the container, wherein a first one and a second one of the side walls forms the first corner, and wherein the second one of the side walls has first and second openings formed therein; and a rocker (94) pivotally mounted to said second one of the side walls and having a body joined between first and second heads, said rocker being movable between a first position, a second position and a third position, wherein when the rocker is in the first position, the first head is disposed in an innermost position and the second head is disposed in an outermost position, wherein when the rocker is the second position, the second head is disposed in an innermost position and the first head is disposed in an outermost position, and wherein when the rocker is in the third position, the first head is disposed between its innermost and outermost positions, and the second head is disposed between its innermost and outermost positions; a weight structure secured to the first one of the side walls, toward the first corner; and a base (80) secured to the bottom of the retainer, said base having a floor with a plurality of support structures (83) extending upwardly therefrom, said support structures at least partially defining the periphery of a cylinder-receiving region of the floor, said cylinder-receiving region having a center that is offset from the central axis of the bucket in the direction of the third corner of the retainer; an electric motor connected to the base for rotating the bucket about the central axis; and a container (22) removably disposed in the interior holding space of the bucket and defining an interior volume for holding the paint. Regarding claims 23-27, the reference discloses a method of mixing paint comprising providing a cylindrical container (22) filled with a first paint disposing the cylindrical container between at least one pair of opposing walls (those of 78); rotating the at least one pair of opposing walls and the cylindrical container about an axis that is parallel to and spaced from the vertical axis of the cylindrical container; and removing the cylindrical container from between the at least one pair of opposing walls (see [0017] and [0030]).

Claims 1-27 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.