

**DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD**

Post-Graduate Diploma in Patents Law (Batch 2020 – 2021)

**Take Home – Annual Examination (June, 2021)
Paper IV – Abuse / Infringement of Patents (Practical)**

TOTAL MARKS: 100

INSTRUCTIONS TO CANDIDATES

- a) *Read the instructions for Take Home Examination carefully and adhere to the same.*
 - b) *Please mention your name, ID No., subject name and total number of pages on the Answer Sheet.*
 - c) *Clearly indicate the question numbers while answering them.*
 - d) *The question paper to be interpreted as given and no additional clarification can be sought.*
 - e) *You should accept the facts given in the papers and not use any special knowledge you may have.*
 - f) *Assume also that the prior art given is exhaustive.*
 - g) *Marks are awarded more for the points selected for discussion and reasoning displayed than for conclusions reached.*
 - h) *All the candidates are required to submit only word / Pdf files containing the typed answers.*
 - i) *All papers will be uploaded on Turn-it-in for plagiarism check. Any paper with more than 15% similarity will be considered to be plagiarized attracting necessary action by the University.*
 - j) *Since this is a take home exam, we expect your answers to be analytical rather than straight answers.*
 - k) *Copying from any source including from other students is strictly prohibited. Plagiarism is considered as a serious academic mis-conduct and the University will take action as it deems fit*
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You are an Indian registered patent agent. You received a letter on from one Mr. A Rajpal as follows: Please respond to Mr. Rajpal, advising him and explaining in detail addressing all the concerns raised by him highlighting on:

- 1) claim construction,*
- 2) infringement,*
- 3) patent validity / revocation possibilities,*
- 4) other miscellaneous issues and*
- 5) your advice.*

(20 + 20 + 30 + 20 + 10 Marks).

Letter from your Client

Dear Patent Agent,

I need your urgent advice. I own a company which is in business of developing and selling innovative kitchen accessories. My company's products are often featured in popular home decor' magazines and have been selling very well. For the past year or so, we have been selling our latest product "**Dream Board**" – a versatile, folding cutting board for preparing food that has interchangeable cutting surfaces. A press release explaining the design is enclosed *[Document A]*. The product is currently sold in all the major departmental stores and is one of our most popular and profitable products.

As you can imagine, I was rather dismayed to receive a letter yesterday from a well-known manufacturer of kitchen accessories and one of our key competitors, Kitchenware Limited. Kitchenware Limited claims that the "**Dream Board**" infringe one of their patents which is enclosed *[Document B]* and wants me to stop selling the product immediately. They want an undertaking from me within 14 days that I will discontinue my activities, or they will "take action" against me.

Please could you advise me about the risks my company faces from Kitchenware Limited?

Yours faithfully,
A Rajpal
Rajpal Private Ltd.

Additional Information:

You perform some searches and confirm that *[Document B]* (an Indian patent, "IN11") was filed on 16 March 2004 with priority claim to a European patent application that was filed on 21 April 2003 (the "European Patent", "EP10"). The Indian patent was granted on 12 December 2006, relying on the granted EP10, and is currently in force.

You also found that the European Patent was opposed by a third party in 2014 on the basis that it is invalid in view of two prior publications - US Patent No. 5,012,022, published on 16 February 1999 *[Document C]* ("US22") and UK Patent No. GB 112233 ("GB33"), published on 22 March 1983 *[Document D]*. Kitchenware Limited amended the claims of the European Patent during the opposition proceedings. The EPO held that the patent as amended was valid over the prior art. The European opposition proceedings were concluded in 2016. No post-grant amendments were made to the Indian patent.

Document C was deemed withdrawn at the USPTO through failure to respond to an official action.

Document D has expired.

Prepare detailed notes for a memorandum of advice to the client.

Document A (Client's Press Release)

GET ON BOARD WITH "Dream Board"

[0001] The "Dream Board" is a cutting board which provides interchangeable cutting surfaces that can be easily slid on and off a base. This allows the cutting board to be used with different food groups while helping to reduce cross-contamination of food. The cutting board can be folded for easy storage.

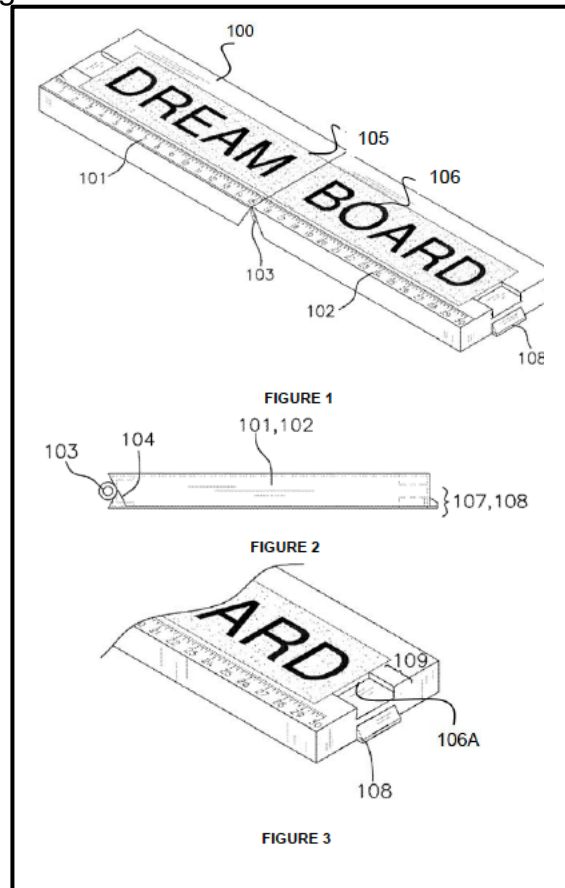
[0002] Details can be seen in the figures below.

[0003] With reference to FIGURE 1, the cutting board comprises a base 100 made up of a first section 101 that is attached to a second section 102 via a hinge 103. The hinge 103 has a rotational range of 180 degrees such that the first section 101 and the second section 102 can be opened to a flattened state alongside each other when in use or folded into a closed state for more compact storage. It shall be further noted that both the first section 101 and the second section 102 have indentations 104 that enable the hinge 103 to rotate the base 100 from the flattened state to the closed state, and vice versa.

[0004] The first section 101 includes a closure lip 107 on a distal end of the first section 101, whereas the second section 102 includes a magnetic closure 108 on a distal end. The magnetic closure 108 works in conjunction with the closure lip 107 to secure the first section 101 and the second section 102 in a closed state (see FIGURE 2).

[0005] Both the first section 101 and the second section 102 are provided with insets 109 (see FIGURE 3) to provide means for securing cutting surfaces 105, 106 to the base 100. The bottom portion of each of the cutting surfaces 105, 106 slide into the insets 109 in order to secure the cutting surfaces 105, 106 to the base 100. The bottom portion 106A of cutting surface 106 is shown in FIGURE 3. This way, the cutting board can be folded for storage even with cutting surfaces 105, 106 installed.

[0006] The bottom of the base 100 is provided with non-skid pads which provide traction when the cutting board is placed on a table or work top.



1 November 2018.

Document B: IN Patent (IN11)

Filed: 16 March 2004; Granted: 12 December 2006
Proprietor: Kitchenware Limited

FOLDABLE TRAY

[0001] The foldable tray of the present invention includes two symmetrical halves joined by a spine that allows the foldable tray to close for portability. The foldable tray can include one or more inserted surfaces overlapping at least a portion of the two symmetrical halves on one side of the foldable tray. The inserted surfaces can be folded into the foldable tray in a folded state. The inserted surfaces can be removable.

DETAILED DESCRIPTION

[0002] The foldable tray according to the present invention may be used in any number of environments to guard against contaminating an item on the tray, or an item on which the tray rests. For example, the foldable tray may be used as a food tray, an alternative eating surface, or to prevent paint drips from staining a table where an article smaller than the foldable tray is being painted or drying.

[0003] FIG. 1 illustrates perspective views of a foldable tray 100 according to embodiments of the invention. Foldable tray 100 is shown folded in FIGS. 1A and 1B. When folded, internal surfaces of foldable tray 100 can be isolated from external contact and/or contamination. Foldable tray 100 can include foldable housing first half 110, foldable housing second half 120, center spine 130, and optional soft discs 111 and 112. The soft discs 111 and 112 prevent the foldable tray 100 from sliding or shifting when placed on a smooth surface. In some embodiments, foldable housing first half 110 and foldable housing second half 120 can be substantially symmetrical.

[0004] Foldable housing first half 110 and foldable housing second half 120 can be offset by the distance of center spine 130. Center spine 130 can allow foldable housing first half 110 and foldable housing second half 120 (as well as materials overlapping, there between, or within) to fold neatly together. Center spine 130 can include two folds capable of permitting foldable housing first half 110 and foldable housing second half 120 to rotate at least 90 degrees each with respect to center spine 130 such that the two halves can meet or touch when foldable tray 100 is folded. In some embodiments, center spine 130 can include one or more hinges, pivots, or other alternatives to facilitate folding of foldable tray 100.

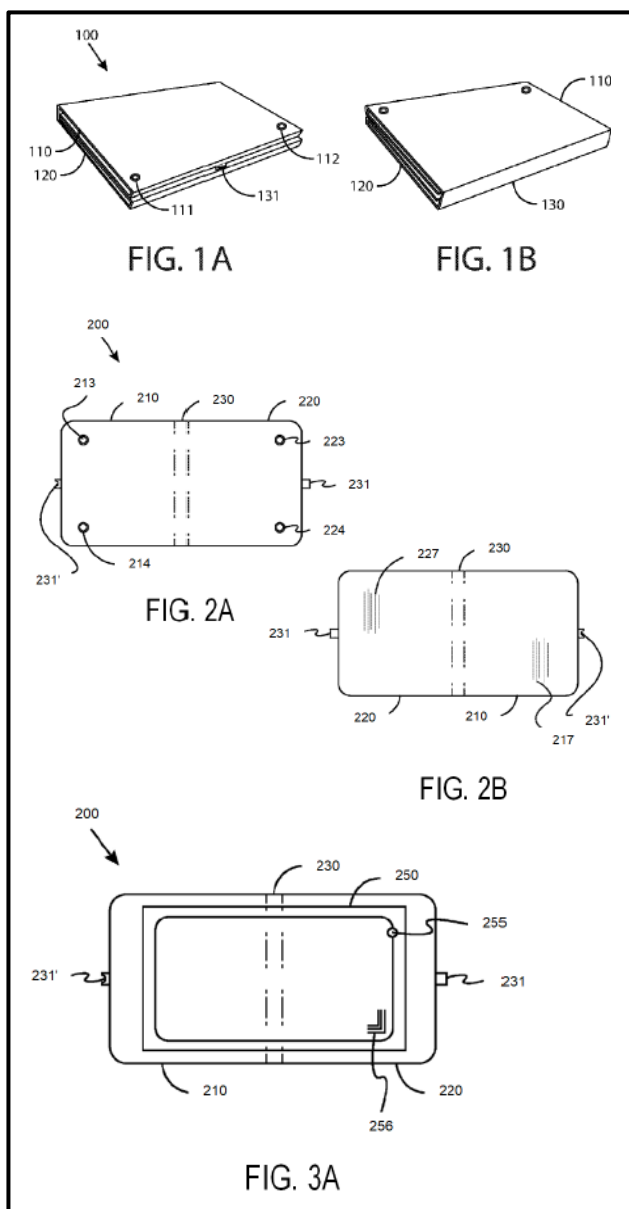
[0005] In some embodiments, foldable tray 100 can include folding lock 131. Folding lock 131 can be a means for maintaining foldable tray 100 in a folded position. In some embodiments, folding lock 131 can be a button, snap, clasp, magnet, hook-and-loop contact point, etc.

[0006] FIGS. 2A and 2B show an alternative embodiment of a foldable tray 200 in an unfolded state. FIG. 2A illustrates the inside/top of unfolded tray 200, and FIG. 2B illustrates the outside/bottom of unfolded tray 200.

[0007] Center spine 230 is visible centered between foldable housing first half 210 and foldable housing second half 220. Folding lock 231 is shown mirrored by folding lock 231'. Foldable tray 200 can include surface 250 (see FIG. 3A) that is isolated from contamination at least while foldable tray 200 is in a folded state. Surface 250 can be a hygienic internal surface and can be impermeable to fluids. Surface 250 can span across foldable housing first half 210, center spine 230, and foldable housing second half 220.

[0008] Foldable tray 200 can further include surface fasteners 213, 214, 223, and 224 which can be used to attach a hygienic surface (e.g., for eating, working, etc.) to an interior (when folded) or top (when unfolded and placed on a flat plane) portion of tray 200, first half 210 and/or second half 220. The surface fasteners 213, 214, 223,

and 224 can be one or more of ball-and-socket fasteners, snapping buttons, hook-and-loop arrangements, buckles, clasps, zippers, etc. A hygienic surface to be attached can include a mating portion that connects with surface fasteners 213, 214, 223, and 224. In alternative or complementary embodiments, surface fasteners 213, 214, 223, and/or 224 can include components that retain the hygienic surface without requiring a mating portion on the hygienic surface. For example, various layers to corners or sides, clips, clamps, slides, and other retainers can be employed. These fasteners can be reconfigurable (e.g., move slide, slide from under clip or fold, open clasp) to allow removal and/or replacement of retained objects.



[0009] FIG. 2B shows the outside/bottom of unfolded tray 200, which may face away from a user when tray 200 is in use (e.g., open and placed). First half 210 and second half 220 can include texturing 217, 227 to prevent movement of tray 200 when opened on smooth surfaces.

[0010] FIG. 3A illustrates tray 200 including surface 250 inserted. Surface 250 is a hygienic internal surface. Means for fastening surface 250 to first half 210 and second half 220 are obscured by overlap of surface 250 with other aspects of tray 200. As shown, surface 250 can cover at least a portion of both first half 210 and second half 220, and can fold in place when tray 200 is folded.

[0011] In some embodiments, surface 250 can include replaceable sheets 256. Replaceable sheets 256 can be a plurality of clean sheets stacked, such that when one is removed, a new clean sheet is available immediately underneath. Surface 250 can be a retaining portion for replaceable sheets 256. In support of using replaceable sheets 256, surface 250 can include cutaway 255 to allow at least a portion of replaceable sheets 256 to be exposed and facilitate removal of a sheet among replaceable sheets 256. In alternative embodiments, surface 250 needs not include replaceable sheets 256, and may be a removable surface that can be cleaned or replaced singly.

[0012] Various alternative configurations to those illustrated can be utilized without departing from the disclosed innovation. For example, multiple surfaces can be included in a single foldable tray, and/or a foldable tray can unfold in multiple

directions for multiple simultaneous uses (e.g., two persons eating from the same foldable tray but on different surfaces, different materials placed atop different surfaces, and others).

Claims:

The invention claimed is:

1. A portable foldable tray, comprising:
 - a foldable housing comprising a first section and a second section;
 - a spine connecting the first section and the second section at a spine width; and
 - a hygienic surface that overlaps at least one portion of a first side of the first section and at least one portion of a first side of the second section, wherein the hygienic surface is removable from the at least one portion of the first side of the first section and the at least one portion of the first side of the second section, the hygienic surface folds along a portion that coincides with the spine, at least the hygienic surface is impermeable to fluids.
2. The portable foldable tray of claim 1, further comprising a fold closure that secures the first section to the second section in a folded configuration.
3. The portable foldable tray of claim 1, further comprising a friction increasing component on at least one external side of at least the first section and the second section.
4. The portable foldable tray of claim 1, wherein the hygienic surface is configured to be isolated from contact with an available surface on which the portable foldable tray is placed.

Document C: US22 (US Patent No. 5,012,022)

Publication date: 16 February 1999.

CUTTING BOARD WITH REPLACEABLE CUTTING SURFACE

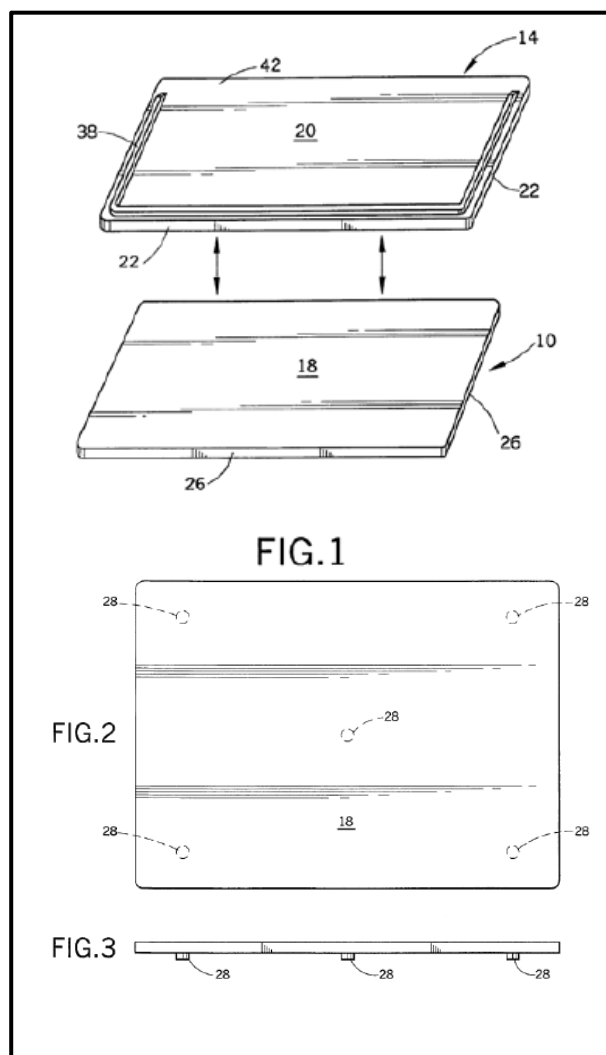
[0001] FIG. 1 shows a perspective view of the cutting board assembly of the present invention.

[0002] As shown in FIG. 1, the cutting board assembly includes a base board 10 having a substantially smooth, continuous top surface 18. A replaceable skin layer 14 is mounted on the top of the base board and includes a smooth continuous bottom surface that meets with the base board top surface 18 in a flat, smooth layered fashion. The replaceable skin layer that includes a cutting surface 20 can be adhered to the base board, for example, by a pressure sensitive adhesive, mechanical locking member, or other means. Preferably, the replaceable skin layer can be placed on the base board without fixing the cutting surface to the board in any manner and the cutting surface will remain in place due to the configuration of the skin layer. In particular, a skirt member 22 extends downward from the skin layer cutting surface 20 to provide a fit over the base board sides 26, much like a box lid fits over a box. The skirt prevents the skin layer from sliding side to side relative to the base board.

[0003] With attention now to FIGS. 2 and 3, the base board 10 is shown to have a smooth top surface 18 as well as a smooth bottom. The base board is formed of a substantially rigid and durable material such as wood or plastic, or any other suitable material that is approved for use in conjunction with food service. Preferably, the base board is formed of a plastic material such as stress relieved high-density polyethylene.

[0004] A continuous curb 38 extends upward from the face of the cutting surface 20 adjacent at least three sides thereof. The curb provides a stop for juices and food particles so that they do not slip or flow from the skin layer. One edge 42 of the cutting surface does not have a curb to allow for ease of transferring food to and from the cutting board.

[0005] A means for providing traction can be included on the base board. Preferably, rubber feet 28 can be attached to a bottom of the base board to provide traction against sliding during cutting board use. Other forms of traction are contemplated, including the use of spaced rubber treads or a rubber grip.



Document D: GB33 (GB Patent No. 112233)

Publication date: 22 March 1983

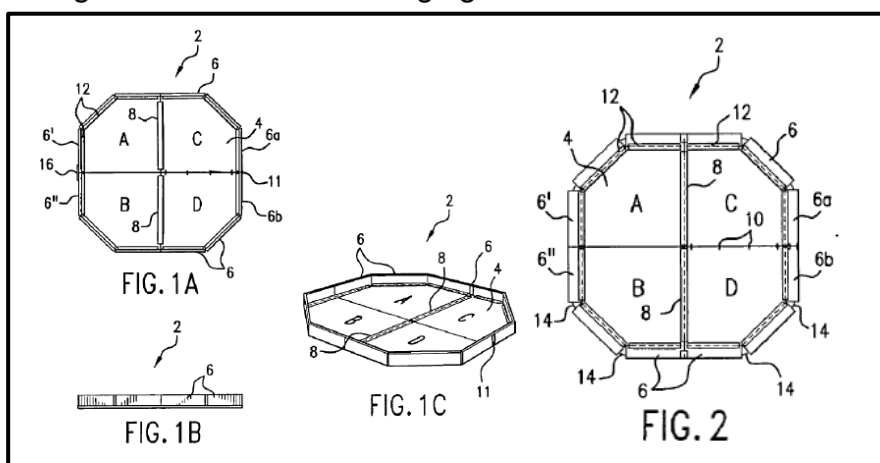
COLLAPSIBLE TRAY

[0001] A collapsible serving tray that is stiff and flat when open and reduced in size and compact when folded. The tray is designed to be folded up into a compact size that is about one-quarter of the fully deployed size of the tray. One embodiment of the tray includes a perimeter edge that is ninety degrees to the flat serving surface when the tray is fully deployed.

[0002] The preferred embodiment of the present invention is a small hand-carried tray of the sort used by servers to carry drinks and the like in restaurants and cocktail lounges. The tray's special feature is that it can be folded when not being used, and it can be carried by the waiter in its folded position. That is, it can be carried, when folded, in a pocket or in a special holster.

[0003] Referring to FIGS. 1A, 1B and 1C, the folding tray 2 according to the present invention is shown in orthogonal top view and side views respectively. FIG. 1C shows the tray 2 in an oblique view. As shown in FIG. 1A, the flat base portion 4 of the octagonal folding tray 2 comprises four quadrants that are labeled A, B, C and D in the figure, a labeling convention that has been chosen as an aid in describing the novel method by which the tray is folded to one quarter of its fully deployed, in-service size. In FIG. 1A, quadrant A of the base portion 4 is joined to the quadrant C by a hinge 8, and the quadrant B is also joined by another hinge, also denoted by 8, to the quadrant D. Quadrants C and D are also joined by a hinge. The edge portions 6 of the tray are visible in both the top and side views. In this embodiment, the edge portions 6 comprise a plurality of components, which are connected by hinges 12 (only representative hinges identified in the figure) to the base portion 4. A latch mechanism 16 is evident connecting the two edge portions 6' and 6'' in FIG. 1A. As will be seen in this embodiment, two pairs of the edge portions 6 are connected to one another by hinges and also by two spring-loaded and tension-bearing fiber or cord elements described below.

[0004] The hinges can be of metal "piano hinge" type made of brass or brass-plated steel. Other hinge types may also be used. In one embodiment, the entire tray (including the quadrants and the perimeter edges) can be made as a single molded plastic unit having thin sections in the hinging locations as described.



[0005] As shown in FIG. 2, the edges 6 of the tray 2 can be folded downward, at the hinges 12 (only representative hinges identified in the figure), into the same plane as the base portion 4. The edges 6 are folded into the position shown in preparation to folding the entire tray. Two separate spring-loaded fibers or cords, both of which are enumerated as 14, are visible in eight places around the perimeter of the flattened edge portions 6. The two fiber or cord segments 14 reside in holes (not shown) inside the edges 6. The fiber or cord segments 14 are made of a high modulus material and are connected to springs (not shown) which maintain the fiber or cord segments 14 in a state of tension and to cause the edges 6 to tend to fold automatically into the fully deployed form shown in FIGS. 1A and 1B.

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