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NATIONAL BROOM COMPANY OF
CALIFORNIA, INC. dba JLR GEAR

JS-6

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MAG INSTRUMENT, INC.,

Plaintiff,

v.

NATIONAL BROOM COMPANY OF CALIFORNIA, INC. dba JLR GEAR and DOES 1-10,

Defendants.

Case No. CV 08-2780 VAP (OPx)

CONSENT JUDGMENT AND PERMANENT INJUNCTION

Hon. Virginia A. Phillips

WHEREAS, plaintiff Mag Instrument, Inc. ("Mag Instrument") and defendant National Broom Company of California, Inc. dba JLR Gear ("JLR Gear") have agreed in a separate agreement to settlement of the matters in issue between them and to entry of this Consent Judgment and Permanent Injunction, it is hereby ORDERED, ADJUDGED, AND DECREED THAT:

1. This is an action for: (1) patent infringement under the patent laws of the United States, 35 U.S.C. §271, et seq.; (2) federal trademark infringement, federal false designation of origin, and federal trademark dilution under the Trademark (Lanham) Act of 1946, as amended, 15 U.S.C. §1051, et seq.; (3) state trademark infringement under California Civil Code §3294; (4) statutory unfair competition under California Business and Professions Code §17200, et seq.; (5) trademark dilution under California Business and Professions Code §14247; (6) common law trademark infringement; and (7) common law unfair competition.

2. This Court has jurisdiction over all of the parties in this action and over the subject matter in issue based on 28 U.S.C. §§1331, 1338(a), 1338(b), and 1367(a), as well as 15 U.S.C. §1121(a). This Court further has continuing jurisdiction to enforce the terms and provisions of this Consent Judgment and Permanent Injunction. Venue is also proper in this Court pursuant to 28 U.S.C. §§1391(b) and 1391(c), as well as 28 U.S.C. §1400(b).

3. Mag Instrument is a corporation incorporated under the laws of the State of California and has its principal place of business at 2001 South Hellman Avenue, Ontario, California 91761.

4. JLR Gear is a corporation incorporated under the laws of the State of California and has its principal place of business at 1451 Doolittle Drive, San Leandro, California 94577.

5. JLR Gear has manufactured, used, marketed, distributed, advertised, promoted, imported, offered for sale, and/or sold, commercially in interstate commerce a certain flashlight, which is shown in **Exhibit 1** (the "Katahdin

flashlight"). The Katahdin flashlight was neither manufactured nor authorized by Mag Instrument.

6. Mag Instrument is, by assignment, the owner of all right, title, and interest in United States Patent No. 5,143,441 ("the '441 patent"), United States Patent No. D530,438 ("the '438 patent"), and United States Patent No. D530,439 ("the '439 patent"). Copies of these patents are attached hereto as **Exhibits 2-4**, respectively.

7. The '441 patent, issued on September 1, 1992, is valid and enforceable and has been infringed by JLR Gear's manufacture, use, importation, offer for sale, and/or sale of the Katahdin flashlight.

8. The '438 patent, issued on October 17, 2006, is valid and enforceable and has been infringed by JLR Gear's manufacture, use, importation, offer for sale, and/or sale of the Katahdin flashlight.

9. The '439 patent, issued on October 17, 2006, is valid and enforceable and has been infringed by JLR Gear's manufacture, use, importation, offer for sale, and/or sale of the Katahdin flashlight.

10. JLR Gear will not directly or indirectly aid, assign, or participate in any action contesting the validity and/or enforceability of the '441 patent, the '438 patent, and/or the '439 patent.

11. For many years, and prior to the acts of JLR Gear discussed herein, Mag Instrument has continuously manufactured, used, marketed, distributed, advertised, promoted, marketed, offered for sale, and sold, in interstate commerce, lines of flashlights, including, but not limited to, a line of flashlights under the distinctive trademark MINI MAGLITE®. These flashlights are also characterized by their distinctive shape, style, and overall appearance ("SSOA").

12. The SSOA of the MINI MAGLITE® flashlight is non-functional and has acquired secondary meaning in that it has come to be associated by the trade and consuming public exclusively with Mag Instrument and, as a result, has come

to signify Mag Instrument as the source of flashlights bearing the same or similar characteristics.

13. Mag Instrument has obtained, and is the owner of, a federal registration on the SSOA of the MINI MAGLITE® flashlight (the "SSOA Trademark"), which is valid and enforceable throughout the United States. A copy of the SSOA Trademark (United States Trademark Registration Number 2,074,795) is attached hereto as **Exhibit 5**. This registration remains in full force and effect and is incontestable.

14. The Katahdin flashlight has a shape, style, and overall appearance that is the same as, or confusingly similar to, the SSOA Trademark.

15. JLR Gear's manufacture, use, marketing, distribution, advertising, promotion, importation, offer for sale, and/or sale of the Katahdin flashlight is likely to cause, and has caused, confusion, mistake, and deception among the consuming public in that its shape, style, and overall appearance colorably imitates Mag Instrument's SSOA Trademark.

16. JLR Gear's use of the SSOA Trademark constitutes trademark infringement of Mag Instrument's federally registered SSOA Trademark in violation of the Lanham Act, 15 U.S.C. §1051, et seq., to the substantial and irreparable injury of the public and of Mag Instrument's business reputation and goodwill.

17. By manufacturing, using, marketing, distributing, advertising, promoting, importing, offering for sale, and/or selling the Katahdin flashlight, JLR Gear has infringed on Mag Instrument's federal and common law trademark rights in the SSOA Trademark in violation of Section 43(a) of the Landham Act, 15 U.S.C. §1125(a), as such acts are likely to deceive, and have deceived, customers and prospective customers into believing that JLR Gear's flashlights are from, sponsored by, or affiliated with Mag Instrument.

18. The SSOA Trademark is a distinctive and famous mark.

19. JLR Gear began manufacturing, using, marketing, distributing, advertising, promoting, importing, offering for sale, and/or selling the Katahdin flashlight subsequent to Mag Instrument's SSOA Trademark becoming distinctive and famous.

20. JLR Gear's commercial use in commerce of the SSOA Trademark in connection with flashlights has caused the dilution of the distinctive quality of the SSOA Trademark in violation of 15 U.S.C. §1125(c) and California Business and Professions Code §14247.

21. JLR Gear's manufacture, use, marketing, distributing, advertising, promoting, importing, offering for sale, and/or sale of flashlights with the SSOA Trademark constitutes statutory unfair competition in violation of California Business & Professions Code §17200, et seq., common law trademark infringement, and common law unfair competition.

22. JLR Gear, its officers, directors, agents, servants, employees, attorneys, confederates, and all persons and/or entities acting for, with, by, through, and/or in concert and participation with them, or any of them, are hereby permanently enjoined from engaging in any of the following activities:

(a) manufacturing, using, marketing, distributing, advertising, promoting, importing, offering for sale, and/or selling the Katahdin flashlight;

(b) manufacturing, using, importing, offering for sale, and/or selling any flashlight that infringes the '441 patent, the '438 patent, and/or the '439 patent;

(c) inducing or enabling each other or others to manufacture, use, import, offer for sale, and/or sell any flashlight that infringes the '441 patent, the '438 patent, and/or the '439 patent;

(d) using Mag Instrument's SSOA Trademark, or any other mark, design, reproduction, copy, or symbol that is a colorable imitation thereof, or confusingly similar thereto, in connection with the manufacturing, marketing, distribution, advertisement, promotion, importation, offer for sale, and/or sale of

flashlights or any goods or services not originating from or authorized by Mag Instrument;

(e) using Mag Instrument's SSOA Trademark, or any other mark, design, reproduction, copy, or symbol that is a colorable imitation thereof, in any manner likely to cause confusion, to cause mistake, or to deceive the consuming public;

(f) representing in any manner, or by any method whatsoever, that goods, services, or other products provided by JLR Gear are sponsored, approved, authorized by, or originate from Mag Instrument or otherwise taking any action likely to cause confusion, mistake, or deception as to the origin, approval, sponsorship, or certification of such goods or services;

(g) committing any acts calculated or likely to cause consumers to believe that JLR Gear's products are Mag Instrument's products or are authorized by Mag Instrument, unless they are such;

(h) infringing or diluting the distinctive quality of Mag Instrument's SSOA Trademark; and

(i) unfairly competing with Mag Instrument in any manner.

23. Service by mail upon JLR Gear, addressed to John S. Claassen, Law Office of John Claassen, 2201 Broadway, Suite 803, Oakland, California 94612 and John Claassen, President, National Broom Company of California, Inc. dba JLR Gear, 1451 Doolittle Drive, San Leandro, California 94577, of a copy of this Consent Judgment and Permanent Injunction entered by the Court is deemed sufficient notice under Federal Rule of Civil Procedure 65. It shall not be necessary for JLR Gear to sign any form of acknowledgement of service.

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24. The parties shall bear their own attorneys' fees and costs.

IT IS SO ORDERED:

Dated: March 22, 2009

By: _____
Hon. Virginia A. Phillips
United States District Court Judge

Approved as to form and content:

Dated: March 13, 2009

JONES DAY

By: _____
Robert C. Weiss

Attorneys for Plaintiff
MAG INSTRUMENT, INC.

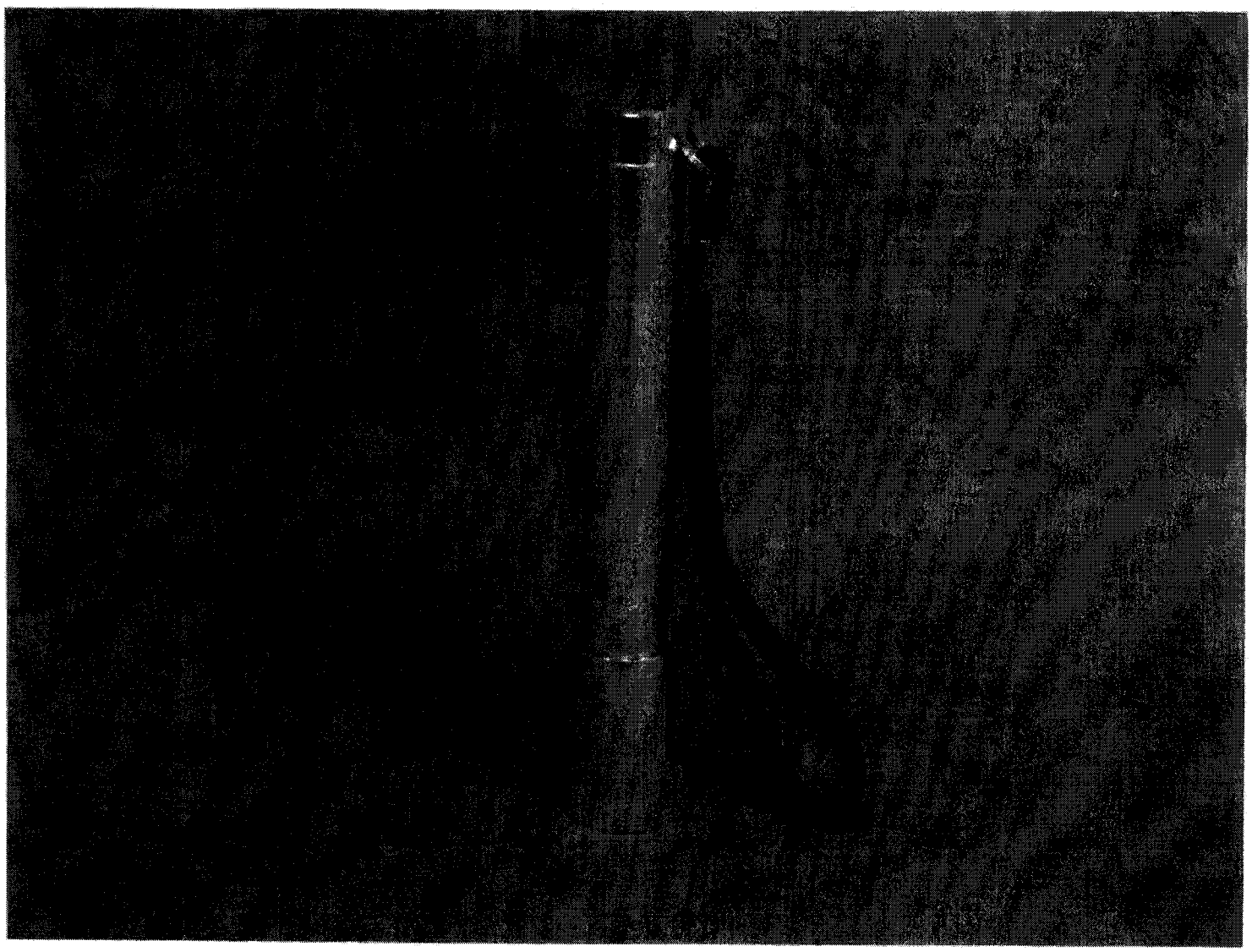
Dated: March 13, 2009

LAW OFFICE OF JOHN CLAASSEN

By: _____
John S. Claassen

Attorney for Defendant
NATIONAL BROOM COMPANY OF CALIFORNIA, INC. dba JLR GEAR, INC.

EXHIBIT 1



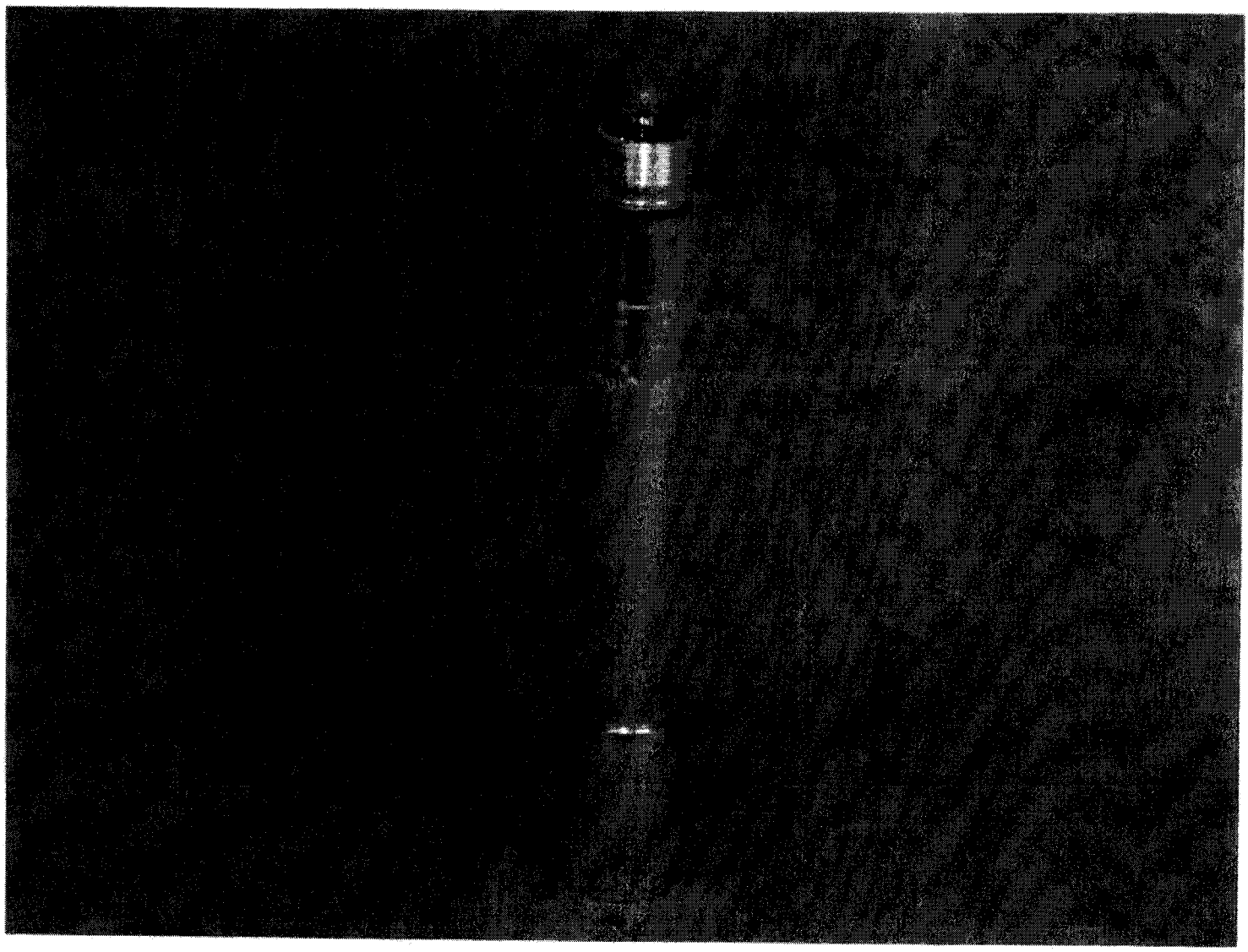


EXHIBIT 2

US005143441A

United States Patent [19]

Maglica

[11] Patent Number: 5,143,441

[45] Date of Patent: Sep. 1, 1992

[54] MINIATURE FLASHLIGHT

[75] Inventor: Anthony Maglica, Ontario, Calif.

[73] Assignee: Mag Instrument, Inc, Ontario, Calif.

[21] Appl. No.: 809,846

[22] Filed: Dec. 18, 1991

Related U.S. Application Data

[63] Continuation of Ser. No. 553,977, Jul. 16, 1990, abandoned, which is a continuation of Ser. No. 356,361, May 23, 1989, Pat. No. 4,942,505, which is a continuation of Ser. No. 222,378, Jul. 19, 1988, Pat. No. 4,899,265, which is a continuation of Ser. No. 34,918, Apr. 6, 1987, abandoned, which is a continuation of Ser. No. 828,729, Feb. 11, 1986, Pat. No. 4,658,336, which is a continuation of Ser. No. 648,032, Sep. 6, 1984, Pat. No. 4,577,263.

[51] Int. Cl.[5] F21L 7/00

[52] U.S. Cl. 362/263; 362/187; 362/197; 362/205; 200/60

[58] Field of Search 362/187, 194, 197, 203, 362/205; 200/60

[56] References Cited

U.S. PATENT DOCUMENTS

4,577,263	3/1986	Maglica	362/205 X
4,658,336	4/1987	Maglica	362/203 X
4,899,265	2/1990	Maglica	362/203 X
4,942,505	7/1990	Maglica	362/203 X

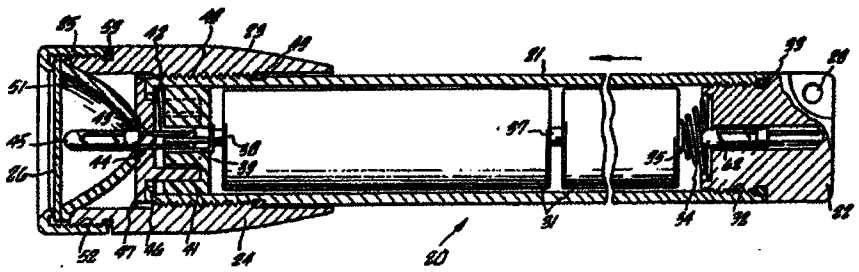
Primary Examiner—Stephen F. Husar

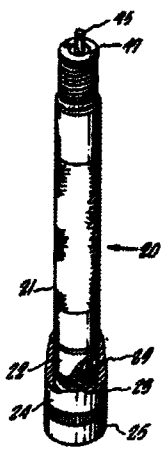
Attorney, Agent, or Firm—Lyon & Lyon

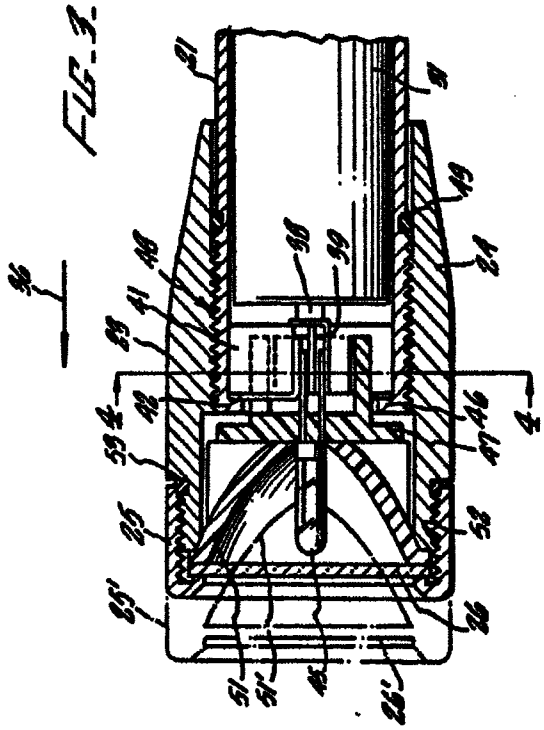
[57] ABSTRACT

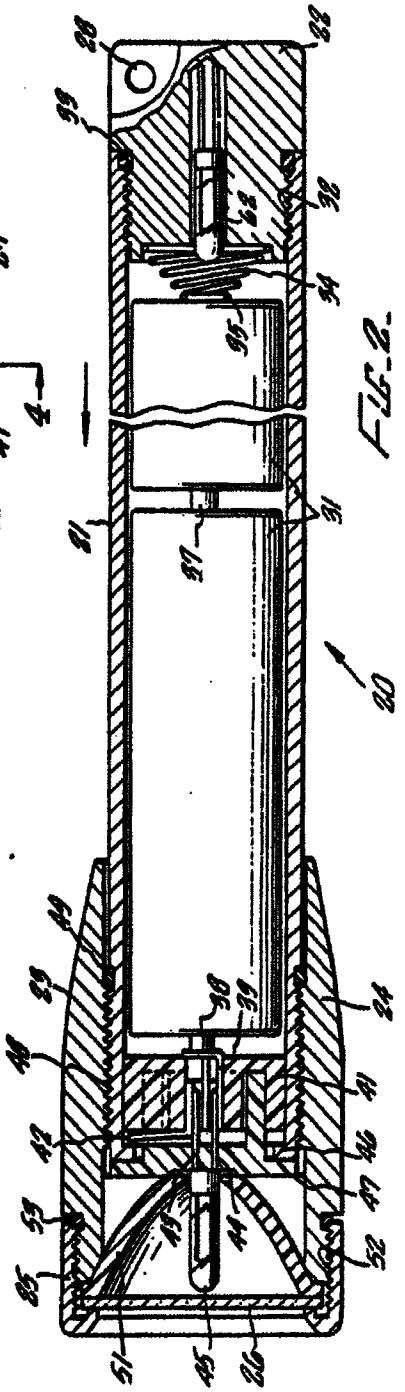
A miniature flashlight comprising a barrel, tail cap, head, bulb holder, bulb and an electrical circuit. The bulb holder is positioned at one end of the barrel such that the bulb extends into the head. The head includes a parabolic reflector surrounding the bulb such that the rotation of the head relative to the barrel changes the focus of the flashlight beam. A rotary switch associates the bulb holder with the barrel to control opening and closing of the electrical circuit. Rotation of the head away from the barrel closes the electrical circuit. The head is not a part of the electrical circuit and its removal exposes the bulb for substantially spherical illumination. The head assembly is removable from the barrel for use as a base into which the tail cap and barrel is inserted to stand the miniature flashlight in its "on" condition, as a lamp.

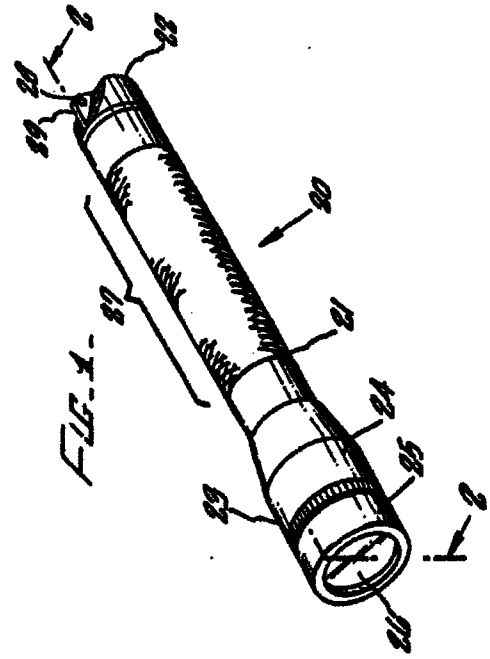
1 Claim, 2 Drawing Sheets

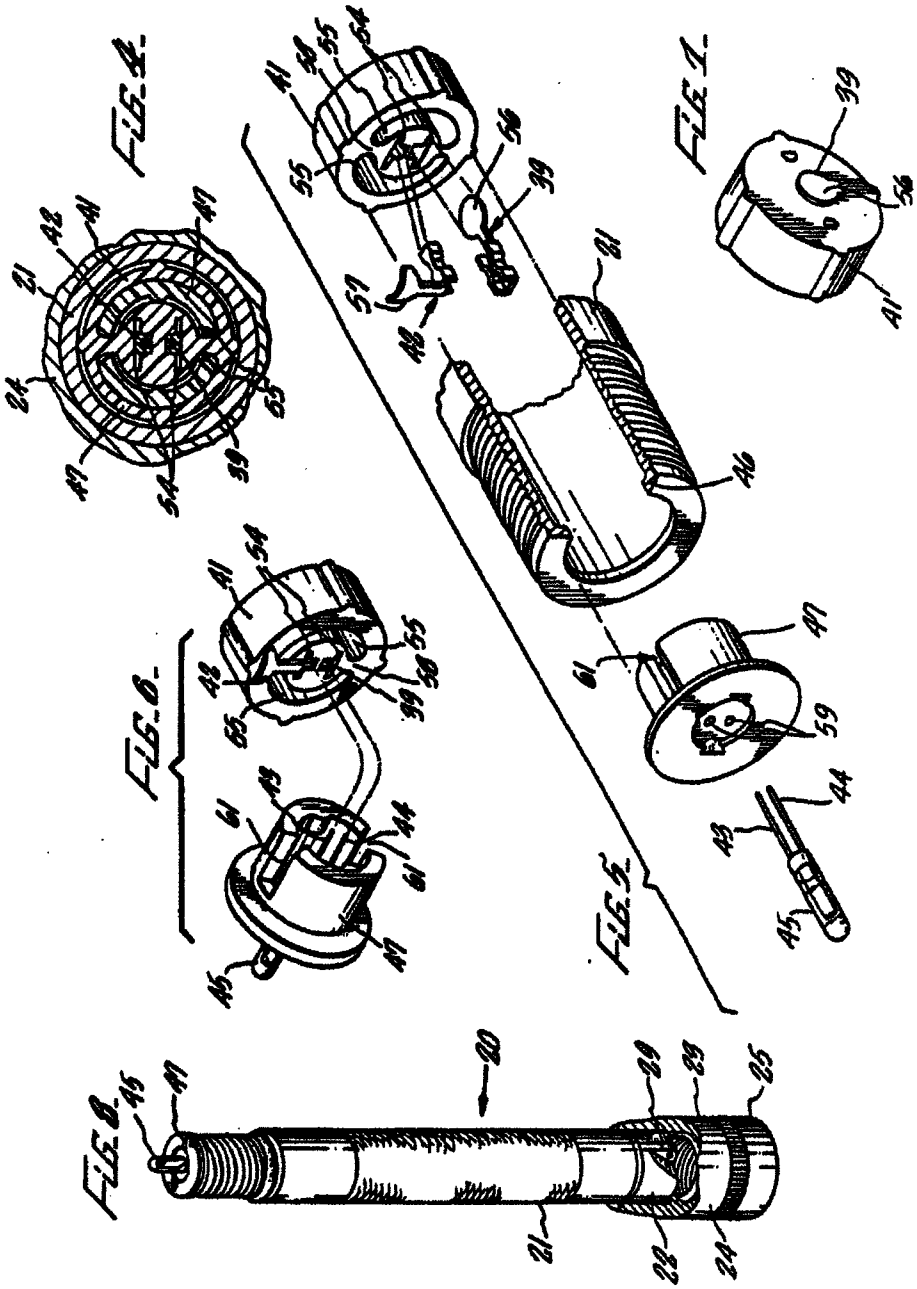












MINIATURE FLASHLIGHT

This application is a continuation of application Ser. No. 553,977, filed Jul. 16, 1990, now abandoned; which is a continuation of application Ser. No. 356,361, filed May 23, 1989, now U.S. Pat. No. 4,942,505; which is a continuation of application Ser. No. 222,378, filed Jul. 19, 1988, now U.S. Pat. No. 4,899,265; which is a continuation of application Ser. No. 034,918, filed Apr. 6, 1987, now abandoned; which is a continuation of application Ser. No. 828,729, filed Feb. 11, 1986, now U.S. Pat. No. 4,658,336, which is a continuation of application Ser. No. 648,032, filed Sept. 6, 1984, now U.S. Pat. No. 4,577,263.

BACKGROUND OF THE INVENTION

1. Field of the Invention

The present invention relates primarily to flashlights, and in particular, to a miniature hand-held flashlight.

2. Discussion of the Prior Art

Flashlights of varying sizes and shapes are well-known in the art. In particular, certain of such known flashlights utilize two or more dry cell batteries, carried in series in a cylindrical tube serving as a handle for the flashlight, as their source of electrical energy. Typically, an electrical circuit is established from one electrode of the battery through a conductor to a switch, then through a conductor to one electrode of the lamp bulb. After passing through the filament of the lamp bulb, the electrical circuit emerges through a second electrode of the lamp bulb in electrical contact with a conductor, which in turn is in electrical contact with the flashlight housing. The flashlight housing provides an electrical conduction path to an electrical conductor, generally a spring element, in contact with the other electrode of the battery. Actuation of the switch to complete the electrical circuit enables electrical current to pass through the filament, thereby generating light which is typically focused by a reflector to form a beam of light.

The production of light from such flashlights has often been degraded by the quality of the reflector utilized and the optical characteristics of any lens interposed in the beam path. Moreover, intense light beams have often required the incorporation of as many as seven dry cell batteries in series, thus resulting in a flashlight having significant size and weight.

Efforts at improving such flashlights have primarily addressed the quality of the optical characteristics. The production of more highly reflective, well-defined reflectors, which may be incorporated within such flashlights, have been found to provide a more well-defined focus thereby enhancing the quality of the light beam produced. Additionally, several advances have been achieved in the light admitting characteristics of flashlight lamp bulbs.

Since there exists a wide variety of uses for hand-held flashlights, the development of the flashlight having a variable focus, which produces a beam of light having a variable dispersion, has been accomplished. However, such advances have heretofore been directed at "full-sized" flashlights.

SUMMARY OF THE INVENTION

It is a primary object of the present invention to provide a miniature hand-held flashlight having improved optical characteristics.

It is another object of the present invention to provide a miniature hand-held flashlight which is capable of producing a beam of light having a variable dispersion.

It is a further object of the present invention to provide a miniature hand-held flashlight which is capable of supporting itself vertically on a horizon surface to serve as an "ambient" unfocused light source.

It is another object of the present invention to provide a miniature hand-held flashlight wherein relative motions of components that produce the variation and the dispersion of the light beam provide an electrical switch function to open and complete the electrical circuit of the flashlight.

These and other objects of the present invention, which may become obvious to those skilled in the art through the hereinafter detailed description of the invention are achieved by a miniature flashlight comprising: a cylindrical tube containing at least two miniature dry cell batteries disposed in a series arrangement, a lamp bulb holder assembly including electrical conductors for making electrical contact between terminals of a miniature lamp held therein and the cylindrical tube and an electrode of the battery, respectively, retained in one end of the cylindrical tube adjacent the batteries, a tail cap and spring member enclosing the other end of the cylindrical tube and providing an electrical contact to the other electrode of the batteries, and a head assembly including a reflector, a lens, and a face cap, which head assembly is rotatably mounted to the cylindrical tube such that the lamp bulb extends through a hole in the center of the reflector within the lens. In the principle embodiment of the present invention, the batteries are of the size commonly referred to as "pen light" batteries.

The head assembly engages threads formed on the exterior of the cylindrical tube such that rotation of a head assembly about the axis of the cylindrical tube will change the relative displacement between the lens and the lamp bulb. When the head assembly is fully rotated onto the cylindrical tube, the reflector pushes against the forward end of the lamp holder assembly causing it to shift rearward within the cylindrical tube against the urging of the spring contact at the tail cap. In this position, the electrical conductor within the lamp holder assembly which completes the electrical circuit from the lamp bulb to the cylindrical tube is not in contact with the tube. Upon rotation of the head assembly in a direction causing the head assembly to move forward with respect to the cylindrical tube, pressure on the forward surface of the lamp holder assembly from the reflector is relaxed enabling the spring contact in the tail cap to urge the batteries and the lamp holder assembly in a forward direction, which brings the electrical conductor into contact with the cylindrical tube, thereby completing the electrical circuit and causing the lamp bulb to illuminate. At this point, the lamp holder assembly engages a stop which prevents further forward motion of the lamp holder assembly with respect to the cylindrical tube. Continued rotation of the head assembly in a direction causing the head assembly to move forward relative to the cylindrical tube causes the reflector to move forward relative to the lamp bulb, thereby changing the focus of the reflector with respect to the lamp bulb, which results in varying the dispersion of the light beam admitted through the lens.

By rotating the head assembly until it disengages from the cylindrical tube, the head assembly may be

placed, lens down, on a substantially horizontal surface and the tail cap and cylindrical tube may be vertically inserted therein to provide a miniature "table lamp."

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a perspective view of a miniature flashlight in accordance with the present invention;

FIG. 2 is a partially foreshortened cross-sectional view of the miniature flashlight of FIG. 1 as taken through the plane indicated by 2—2;

FIG. 3 is a partial cross-sectional view of a forward end of the miniature flashlight, illustrating, in ghost image, a translation of the forward end of the flashlight;

FIG. 4 is a partial cross-sectional view of a lamp bulb holder assembly used in accordance with the present invention, taken along the plane indicated by 4—4 of FIG. 3;

FIG. 5 is an exploded perspective view illustrating the assembly of the lamp bulb holder assembly with respect to a barrel of the miniature flashlight;

FIG. 6 is an isolated partial perspective view illustrating the electro mechanical interface between electrical terminals of the lamp bulb and electrical conductors within the lamp bulb holder;

FIG. 7 presents a perspective view of a rearward surface of the lamp bulb holder of FIG. 5, illustrating a battery electrode contact terminal; and

FIG. 8 illustrates an alternate utilization of the miniature flashlight in accordance with the present invention.

DETAILED DESCRIPTION OF A PREFERRED EMBODIMENT

Referring first to FIG. 1, a miniature flashlight in accordance with the present invention is illustrated in perspective generally at 20. The miniature flashlight 20 is comprised of a generally right circular cylinder, or barrel 21, enclosed at a first end by a tail cap 22 and having a head assembly 23 enclosing a second end thereof. The head assembly comprises a head 24 to which is affixed a face cap 25 which retains a lens 26. The head assembly 23 has a diameter greater than that of the barrel 21 and is adapted to pass externally over the exterior of the barrel 21. The barrel 21 may provide a machined handle surface 27 along its axial extent. The tail cap 22 may be configured to include provision for attaching a handling lanyard through a hole 28 in a tab 29 formed therein.

Referring next to FIG. 2, the barrel 21 is seen to have an extent sufficient to enclose at least two miniature dry cell batteries 31 disposed in a series arrangement. The tail cap 22 has a region of external threading 32 which engages matching threads formed on the interior surface of the barrel 21. A sealing element 33, typically in the form of an O-ring, is provided at the interface between the tail cap 22 and the barrel 21 to provide a watertight seal. A spring member 34 is disposed within the barrel 21 so as to make electrical contact with the tail cap 22 and a case electrode 35 of an adjacent battery 31. The spring member 34 also urges the batteries 31 in a direction indicated by an arrow 36. A center electrode 37 of the rearmost battery 31 is in contact with the case electrode of the forward battery 31. The center electrode 38 of the forward battery is urged into contact with a first conductor 39 mounted within a lower insulator receptacle 41. The lower insulator receptacle 41 also has affixed therein a side contact conductor 42. Both the center conductor 39 and the side contact conductor 42 pass through holes formed in the lower insulator receptacle in an axial direction, and both are adapted to frictionally receive and retain the terminal electrodes 43 and 44 of a miniature bi-pin lamp bulb 45. Absent further assembly, the lower insulator receptacle is urged in the direction indicated by the arrow 36, by the action of the spring 34, to move until it comes into contact with a lip 46 formed on the end of the barrel 21. At that point electrical contact is made between the side contact conductor 42 and the lip 46 of the barrel 21.

An upper insulator receptacle 47 is disposed external to the end of the barrel 21 whereat the lower insulator receptacle 41 is installed. The upper insulator receptacle 47 has extensions that are configured to mate with the lower insulator receptacle 41 to maintain an appropriate spacing between opposing surfaces of the upper insulator receptacle 47 and the lower insulator receptacle 41. The lamp electrodes 43 and 44 of the lamp bulb 45 pass through the upper insulator receptacle 47 and into electrical contact with the center conductor 39 and the side contact conductor 42, respectively, while the casing of the lamp bulb 45 rests against an outer surface of the upper insulator receptacle 47.

The head assembly 23 is installed external to the barrel 21 by engaging threads 48 formed on an interior surface of the head 24 engaging with matching threads formed on the exterior surface of the barrel 21. A sealing O-ring 49 is installed around the circumference of the barrel 21 adjacent the threads to provide a watertight seal between the head assembly 23 and the barrel 21. A substantially parabolic reflector 51 is configured to be disposed within the outermost end of the head 24, whereat it is rigidly held in place by the lens 26 which is in turn retained by the face cap 25 which is threadably engaged with threads 52 formed on the forward portion of the outer diameter of the head 24. An O-ring 53 may be incorporated at the interface between the face cap 25 and the head 24 to provide a water-tight seal.

When the head 24 is fully screwed onto the barrel 21 by means of the threads 48, the central portion of the reflector 51 surrounding a hole formed therein for passage of the lamp bulb 45, is forced against the outermost surface of the upper insulator receptacle 47, urging it in a direction counter to that indicated by the arrow 36. The upper insulator receptacle 47 then pushes the lower insulator receptacle 41 in the same direction, thereby providing a space between the forwardmost surface of the lower insulator receptacle 41 and the lip 46 on the forward end of the barrel 21. The side contact conductor 42 is thus separated from contact with the lip 46 on the barrel 21 as is shown in FIG. 2.

Referring next to FIG. 3, appropriate rotation of the head 24 about the axis of the barrel 21 causes the head assembly 23 to move in the direction indicated by the arrow 36 through the engagement of the threads 48. Upon reaching the relative positions indicated in FIG. 3 by the solid lines, the head assembly 23 has progressed a sufficient distance in the direction of the arrow 36 such that the reflector 51 has also moved a like distance, enabling the upper insulator receptacle 47 and the lower insulator receptacle 41 to be moved, by the urging of the spring 34 (FIG. 2) translating the batteries 31 in the direction of the arrow 36, to the illustrated position. In this position, the side contact conductor 42 has been brought into contact with the lip 46 on the forward end of the barrel 21, which closes the electrical circuit.

Further rotation of the head assembly 23 so as to cause further translation of the head assembly 23 in the direction indicated by the arrow 36 will result in the

head assembly 23 reaching a position indicated by the ghost image of FIG. 3, placing the face cap at the position 25' and the lens at the position indicated by 26', which in turn carries the reflector 51 to a position 51'. During this operation, the upper insulator receptacle 47 remains in a fixed position relative to the barrel 21. Thus the lamp bulb 45 also remains in a fixed position. The shifting of the reflector 51 relative to the lamp bulb 45 during this additional rotation of the head assembly 23 produces a relative shift in the position of the filament of the lamp bulb 45 with respect to a focus of the parabola of the reflector 51, thereby varying the dispersion of the light beam emanating from the lamp bulb 45 through the lens 26.

Referring next to FIG. 4, a partial cross-sectional view illustrates the interface between the lower insulator receptacle 41 and the upper insulator receptacle 47. The lower insulator receptacle 41 has a pair of parallel slots 54 formed therethrough which are enlarged in their center portion to receive the center conductor 39 and the side contact conductor 42, respectively. A pair of arcuate recesses 55 are formed in the lower insulator receptacle 41 and receive matching arcuate extensions of the upper insulator receptacle 47. The lower insulator receptacle 41 is movably contained within the inner diameter of the barrel 21 which is in turn, at the location of the illustrated cross-section, enclosed within the head 24.

Referring next to FIGS. 5 through 7, a preferred procedure for the assembly of the lower insulator receptacle 41, the center conductor 39, the side contact conductor 42, the upper insulator receptacle 47 and the miniature lamp bulb 45 may be described. Placing the lower insulator receptacle 41 in a position such that the arcuate recesses 55 are directionally oriented towards the forward end of the barrel 21 and the lip 46, the center conductor 39 is inserted through one of the slots 54 such that a substantially circular end section 56 extends outwardly from the rear surface of the lower insulator receptacle 41. The circular end section 56 is then bent, as shown in FIG. 7, to be parallel with the rearmost surface of the lower insulator receptacle 41 in a position centered to match the center electrode of the forwardmost one of the batteries 31 of FIG. 2. The side contact conductor 42 is then inserted into the other slot 54 such that a radial projection 57 extends outwardly from the axial center of the lower insulator receptacle 41. It is to be noted that the radial projection 57 aligns with a web 58 between the two arcuate recesses 55.

The lower insulator receptacle 41, with its assembled conductors, is then inserted in the rearward end of the barrel 21 and is slidably translated to a forward position immediately adjacent the lip 46. The lamp electrodes 43 and 44 are then passed through a pair of holes 59 formed through the forward surface of the upper insulator receptacle 47 so that they project outwardly from the rear surface thereof as illustrated in FIG. 6. The upper insulator receptacle 47, containing the lamp bulb 45, is then translated such that the lamp electrodes 43 and 44 align with receiving portions of the side contact conductor 42 and the center conductor 39, respectively. A pair of notches 61, formed in the upper insulator receptacle 47, are thus aligned with the webs 58 of the lower insulator receptacle 41. The upper insulator receptacle 47 is then inserted into the arcuate recesses 55 in the lower insulator receptacle 41 through the forward end of the barrel 21.

Referring again to FIGS. 2 and 3, the electrical circuit of the miniature flashlight in accordance with the present invention will now be described. Electrical energy is conducted from the rearmost battery 31 through its center contact 37 which is in contact with the case electrode of the forward battery 31. Electrical energy is then conducted from the forward battery 31 through its center electrode 38 to the center contact 39 which is coupled to the lamp electrode 44. After passing through the lamp bulb 45, the electrical energy emerges through the lamp electrode 43 which is coupled to the side contact conductor 42. When the head assembly 23 has been rotated about the threads 48 to the position illustrated in FIG. 2, the side contact conductor 42 does not contact the lip 46 of the barrel 21, thereby resulting in an open electrical circuit. However, when the head assembly 23 has been rotated about the threads 48 to the position illustrated by the solid lines of FIG. 3, the side contact conductor 42 is pressed against the lip 46 by the lower insulator receptacle 41 being urged in the direction of the arrow 36 by the spring 34 of FIG. 2. In this configuration, electrical energy may then flow from the side contact conductor 42 into the lip 46, through the barrel 21 and into the tail cap 22 of FIG. 2. The spring 34 electrically couples the tail cap 22 to the case electrode 35 of the rearmost battery 31. By rotating the head assembly 23 about the threads 48 such that the head assembly 23 moves in a direction counter to that indicated by the arrow 36, the head assembly 23 may be restored to the position illustrated in FIG. 2, thereby opening the electrical circuit and turning off the flashlight.

Referring next to FIG. 8, an additional utilization of the miniature flashlight 20 in accordance with the present invention is illustrated. By rotating the head assembly 23 about the threads 48 in a direction causing the head assembly 23 to translate relative to the barrel 21 in the direction of the arrow 36 of FIG. 3, the electrical circuit will be closed as previously described, and the lamp bulb 45 will be illuminated. Continued rotation of the head assembly 23 in that direction enables the head assembly 23 to be completely removed from the forward end of the miniature flashlight 20. By placing the head assembly 23 upon a substantially horizontal surface (not illustrated) such that the face cap 25 rests on the surface, the tail cap 22 of the miniature flashlight 20 may be inserted into the head 24 to hold the barrel 21 in a substantially vertical alignment. Since the reflector 51 (FIG. 2) is located within the head assembly 23, the lamp bulb 45 will omit a substantially spherical illumination, thereby providing a "ambient" light level.

In a preferred embodiment, the barrel 21, the tail cap 22, the head 24, and the face cap 25, forming all of the exterior metal surfaces of the miniature flashlight 20 are manufactured from aircraft quality, heat-treated aluminum, which is annodized for corrosion resistance. The sealing O-rings 33, 49, and 53 provide atmospheric sealing of the interior of the miniature flashlight 20 to a depth of 200 feet. All interior electrical contact surfaces are appropriately machined to provide efficient electrical conduction. The reflector 51 is a computer generated parabola which is vacuum aluminum metallized to ensure high precision optics. The threads 48 between the head 24 and the barrel 31 are machined such that revolution of the head assembly 23 through less than ¼ turn will close the electrical circuit, turning the flashlight on, and an additional ¼ turn will adjust the light beam from a "spot" to a "soft flood". A spare lamp bulb

62 may be provided in a cavity machined in the tail cap 22.

While I have described a preferred embodiment of the herein invention, numerous modifications, alterations, alternate embodiments, and alternate materials may be contemplated by those skilled in the art and may be utilized in accomplishing the present invention. It is envisioned that all such alternate embodiments are considered to be within the scope of the present invention as defined by the appended claims.

I claim:

1. A flashlight powered by at least one battery, comprising

a barrel for retaining the at least one battery, said barrel having first and second ends;

a lamp bulb having two contacts and a filament;

a socket for holding said lamp bulb, said socket being retained at least partially within said barrel adjacent said first end thereof and being adapted to locate said bulb filament axially beyond said first end;

a substantially parabolic reflector having a central opening therein adapted to receive said lamp bulb;

a substantially planar lens;

a head assembly for retaining said reflector and said lens in a mutually fixed relationship and being rotatably disposed at said first end to be controllably axially translatable along said barrel such that the relative positional relationship between said reflector and said lamp bulb may be varied, thereby varying a reflection dispersion of a light beam emanating through said lens from said lamp bulb;

a tail cap being engageable with said barrel at said second end;

an electrical circuit for coupling said two contacts of said lamp bulb with first and second electrodes of at least one battery positioned in said barrel, said electrical circuit not including conduction through said head assembly wherein relative motion of said head assembly in the axial direction away from said barrel separates said head assembly from said barrel to expose said lamp bulb and allow for a dispersion of substantially spherical illumination with said head assembly removed from said first end of said barrel;

a rotary switch in said electrical circuit, said rotary switch selectively opening and closing said electrical circuit with the at least one battery retained within said barrel, said switch including one of said first and second ends of said barrel as a first switch contact.

* * * * *

EXHIBIT 3

US00D530438S

(12) United States Design Patent

Maglica

(10) Patent No.: US D530,438 S
(45) Date of Patent: ** Oct. 17, 2006

(54) **MINIATURE FLASHLIGHT**

(75) Inventor: **Anthony Maglica**, Anaheim, CA (US)

(73) Assignee: **Mag Instrument, Inc.**, Ontario, CA (US)

(**) Term: **14 Years**

(21) Appl. No.: **07/411,576**

(22) Filed: **Sep. 22, 1989**

Related U.S. Application Data

(62) Division of application No. 07/356,361, filed on May 23, 1989, now Pat. No. 4,942,505, which is a continuation of application No. 07/222,378, filed on Jul. 19, 1988, now Pat. No. 4,899,265, which is a continuation of application No. 07/034,918, filed on Apr. 6, 1987, now abandoned, which is a continuation of application No. 06/828,729, filed on Feb. 11, 1986, now Pat. No. 4,658,336, which is a continuation of application No. 06/648,032, filed on Sep. 6, 1984, now Pat. No. 4,577,263.

(51) **LOC (8) Cl.** **26-02**

(52) **U.S. Cl.** **D26/49**

(58) **Field of Classification Search** D26/37-50; 362/157-8, 183-208

See application file for complete search history.

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Primary Examiner—Alan P. Douglas
(74) *Attorney, Agent, or Firm*—Jones Day

(57) **CLAIM**

The ornamental design for a miniature flashlight, as shown and described.

DESCRIPTION

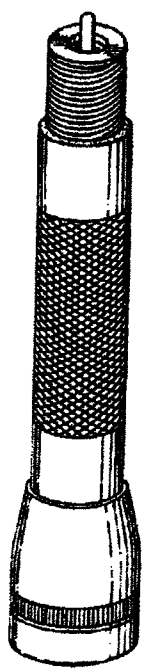
FIG. **1** is a front top perspective view of a miniature flashlight showing my new design;

FIG. **2** is a side elevational view thereof, the other side being identical

FIG. **3** is a top plan view thereof; and,

FIG. **4** is a bottom plan view thereof.

1 Claim, 1 Drawing Sheet



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View of flashlight, Ex. DX 5626.
View of flashlight, Ex. DX 5628.
View of flashlight, Ex. DX 5629.
View of flashlight, Ex. DX 5640.

View of flashlight, Ex. DX 5641.
View of flashlight, Ex. DX 5642.
View of flashlight, Ex. DX 5643.
View of flashlight, (Ptf's Ex. 92).
View of flashlight, (Ptf's Ex. 93).
View of flashlight, (Ptf's Ex. 95).
View of flashlight, (Ptf's Ex. 96).
View of flashlight, (Ptf's Ex. 98).
View of flashlight, (Ptf's Ex. 100).
View of flashlight, (Ptf's Ex. 103).
View of flashlight, (Ptf's Ex. 104).
View of flashlight, (Ptf's Ex. 106).
View of flashlight, (Ptf's Ex. 108).
View of flashlight, (Ptf's Ex. 247).
View of flashlights, (6) (Ptf's Ex. 415).
View of flashlight, (Ptf's Ex. 699).
View of flashlight, (Ptf's Ex. 701).
View of flashlight, (Ptf's Ex. 702).
View of flashlight, (Ptf's Ex. 704).
View of flashlight, (Ptf's Ex. 709).
View of flashlight, (Ptf's Ex. 713).
View of flashlight, (Ptf's Ex. 714).
View of flashlight, (Ptf's Ex. 724).
View of flashlight, (Ptf's Ex. 728).
View of flashlight, (Ptf's Ex. 748 or 743?) (has carrying strap).
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View of flashlight, (Ptf's Ex. 744).
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View of flashlight with Coca Cola can and ruler, marked "5001".
View of flashlight with Coca Cola can and ruler, marked "5002".
View of flashlight with Coca Cola can and ruler, marked "5003".
View of flashlight with Coca Cola can and ruler, marked "5004".
View of flashlight with Coca Cola can and ruler, marked "5005".
View of flashlight with Coca Cola can and ruler, marked "5006".
View of flashlight with Coca Cola can and ruler, marked "5007".
View of flashlight with Coca Cola can and ruler, marked "5008".
View of flashlight with Coca Cola can and ruler, marked "5009".
View of flashlight with Coca Cola can and ruler, marked "5023".
View of flashlight with Coca Cola can and ruler, marked "5024".
View of flashlight with Coca Cola can and ruler, marked "5025".
View of flashlight with Coca Cola can and ruler, marked "5032".
View of flashlight with Coca Cola can and ruler, marked "5033".
View of flashlight with Coca Cola can and ruler, marked "5034".
View of flashlight with Coca Cola can and ruler, marked "5035".
View of flashlight with Coca Cola can and ruler, marked "5036".
View of flashlight with Coca Cola can and ruler, marked "5045".
View of flashlight with Coca Cola can and ruler, marked "5048".
View of flashlight with Coca Cola can and ruler, marked "5049".
View of flashlight with Coca Cola can and ruler, marked "5050".
View of flashlight with Coca Cola can and ruler, marked "5051".
View of flashlight with Coca Cola can and ruler, marked "5052".
View of flashlight with Coca Cola can and ruler, marked "5056".
View of flashlight with Coca Cola can and ruler, marked "5057".
View of flashlight with Coca Cola can and ruler, marked "5060".
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View of flashlight with Coca Cola can and ruler, marked "5063".
View of flashlight with Coca Cola can and ruler, marked "5064".
View of flashlight with Coca Cola can and ruler, marked "5065".
View of flashlight with Coca Cola can and ruler, marked "5067".
View of flashlight with Coca Cola can and ruler, marked "5074A".
View of flashlight with Coca Cola can and ruler, marked "5075A".
View of flashlight with Coca Cola can and ruler, marked "5076".
View of flashlight with Coca Cola can and ruler, marked "5078".
View of flashlight with Coca Cola can and ruler, marked "5079".
View of flashlight with Coca Cola can and ruler, marked "5080".
View of flashlight with Coca Cola can and ruler, marked "5081".
View of flashlight with Coca Cola can and ruler, marked "5082".
View of flashlight with Coca Cola can and ruler, marked "5083".
View of flashlight with Coca Cola can and ruler, marked "5084".
View of flashlight with Coca Cola can, "Maxlite 5-3-2" box and ruler, marked "5111".
View of flashlight with Coca Cola can and ruler, marked "5112".

View of flashlight with Coca Cola can and ruler, marked "5115".
View of flashlight with Coca Cola can and ruler, marked "5118".
View of flashlight with Coca Cola can and ruler, marked "5118A".
View of flashlight with Coca Cola can and ruler, marked "5126".
View of flashlight with Coca Cola can and ruler, marked "5127".
View of flashlight with Coca Cola can and ruler, marked "5129".
View of flashlight with Coca Cola can and ruler, marked "5130".
View of flashlight with Coca Cola can and ruler, marked "5131".
View of flashlight with Coca Cola can and ruler, marked "5132".
View of flashlight with Coca Cola can and ruler, marked "5133".
View of flashlight with Coca Cola can and ruler, marked "5137A".
View of flashlight with Coca Cola can and ruler, marked "5145".
View of flashlight with Coca Cola can and ruler, marked "5147".
View of flashlight with Coca Cola can and ruler, marked "5149".
View of flashlight with Coca Cola can and ruler, marked "5154".
View of flashlight with Coca Cola can and ruler, marked "5279".
View of flashlight with Coca Cola can and ruler, marked "5300".
View of flashlight with Coca Cola can, "Fulton" box and ruler, marked "5301".
View of flashlight with Coca Cola can, "Fulton" box and ruler, marked "5302".
View of flashlight with Coca Cola can, "Rayovac Police Flashlight" box and ruler, marked "5303".
View of flashlight with Coca Cola can and ruler, marked "5304".
View of flashlight with Coca Cola can and ruler, marked "5305".
View of flashlight with Coca Cola can and ruler, marked "5306".
View of flashlight with Coca Cola can and ruler, marked "5307".
View of flashlight with Coca Cola can and ruler, marked "5308".
View of flashlight with Coca Cola can and ruler, marked "5309".
View of flashlight with Coca Cola can and ruler, marked "5310".
View of flashlight with Coca Cola can and ruler, marked "5311".
View of flashlight with Coca Cola can and ruler, marked "5312".
View of flashlight with Coca Cola can and ruler, marked "5313".
View of flashlight with Coca Cola can and ruler, marked "5314".
View of flashlight with Coca Cola can and ruler, marked "5315".
View of flashlight with Coca Cola can and ruler, marked "5317".
View of flashlight with Coca Cola can and ruler, marked "5318".
View of flashlight with Coca Cola can and ruler, marked "5319".
View of flashlight with Coca Cola can and ruler, marked "5320".
View of flashlight with Coca Cola can and ruler, marked "5321".
View of flashlight with Coca Cola can and ruler, marked "5322".
View of flashlight with Coca Cola can and ruler, marked "5841".
View of flashlight with Coca Cola can and ruler, marked "5845".
View of flashlight with Coca Cola can and ruler, marked "5846".
View of flashlight with Coca Cola can and ruler, marked "5971".
View of flashlight with Coca Cola can and ruler, marked "5972".
View of flashlight with Coca Cola can and ruler, marked "5973".
View of flashlight with Coca Cola can and ruler, marked "5974".
View of flashlight with Coca Cola can, "Bianci" box and ruler, marked "6005A".
View of flashlight with Coca Cola can and ruler, marked "6005A".
View of flashlight with Coca Cola can and ruler, marked "6112".
View of flashlight with Coca Cola can and ruler, marked "6118".
View of flashlight with Coca Cola can and ruler, marked "6119".
View of flashlight with Coca Cola can and ruler, marked "6120".
View of flashlight with Coca Cola can and ruler, marked "6121".
View of flashlight with Coca Cola can and ruler, marked "6124".
View of flashlight with Coca Cola can, container, and ruler, marked "12A".
View of flashlight with Coca Cola can, "Little Commander Pocketlight" packaging and ruler, marked "468".
View of flashlight with Coca Cola can and ruler, marked "2577".
View of flashlight with Coca Cola can and ruler, marked "2578".
View of flashlight with Coca Cola can and ruler, marked "2579".
View of flashlight with Coca Cola can and ruler, marked "2580".
View of flashlight with Coca Cola can and ruler, marked "2581".
View of flashlight with Coca Cola can and ruler, marked "2582".
View of flashlight with Coca Cola can and ruler, marked "2584".
View of flashlight with Coca Cola can and ruler, marked "2570".
View of flashlight with Coca Cola can and ruler, marked "2571".

View of flashlight with Coca Cola can and ruler, marked "2572".
View of flashlight with Coca Cola can and ruler, marked "2574".
View of flashlight with Coca Cola can and ruler, marked "2577".
View of flashlight with Coca Cola can and ruler, marked "2677".
View of flashlight with Coca Cola can and ruler, marked "2742".
View of flashlight with Coca Cola can and ruler, marked "2749".
View of flashlight with Coca Cola can and ruler, marked "2753".
View of flashlight with Coca Cola can and ruler, marked "2755".
View of flashlight with Coca Cola can and ruler, marked "2874".
View of flashlight with Coca Cola can and ruler, marked "3717".
View of flashlight marked "2678".
View of flashlight marked "2679".
View of flashlight, with two additional parts, marked "2580".
View of flashlight with ruler.
View of flashlight with Coca Cola can and ruler, marked "464 (CPX-55)".
View of flashlight with Coca Cola can and ruler, marked "CPX-422".
View of flashlight with Coca Cola can and ruler, marked "CPX-393".
View of flashlight with Coca Cola can and ruler, marked "CPX-385".
View of flashlight with Coca Cola can and ruler, marked "CPX-264".
View of flashlight with Coca Cola can and ruler, marked "349".
View of flashlight with Coca Cola can and ruler, marked "SL575".
View of flashlight with Coca Cola can and ruler, marked "SL351".
View of flashlight with Coca Cola can and ruler, marked "SL699".
View of flashlight with Coca Cola can and ruler, marked "SL102".
View of flashlight, marked Deposition Exhibiit 45 (?).
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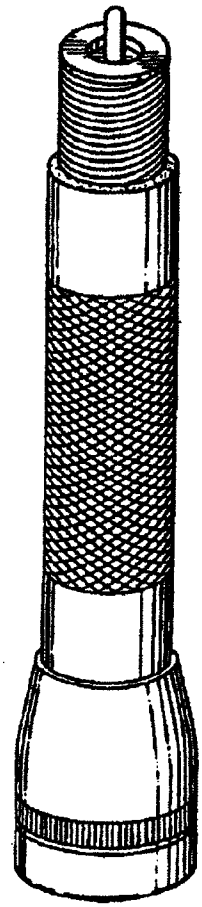

Fig. 1

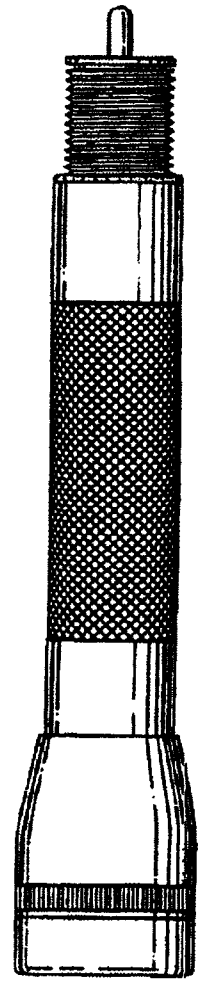

Fig. 2

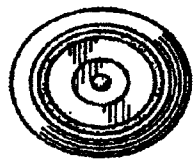

Fig. 3

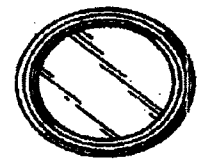

Fig. 4

EXHIBIT 4

US00D530439S

(12) **United States Design Patent** (10) **Patent No.: US D530,439 S**
Maglica (45) **Date of Patent: ** Oct. 17, 2006**

(54) **FLASHLIGHT**

(75) Inventor: **Anthony Maglica**, Anaheim, CA (US)

(73) Assignee: **Mag Instrument, Inc.**, Ontario, CA (US)

(**) Term: **14 Years**

(21) Appl. No.: **09/385,129**

(22) Filed: **Aug. 27, 1999**

Related U.S. Application Data

(63) Continuation of application No. 07/410,965, filed on Sep. 22, 1989, now abandoned, which is a division of application No. 07/356,361, filed on May 23, 1989, now Pat. No. 4,942,505, which is a continuation of application No. 07/222,378, filed on Jul. 19, 1988, now Pat. No. 4,899,265, which is a continuation of application No. 07/034,918, filed on Apr. 6, 1987, now abandoned, which is a continuation of application No. 06/828,729, filed on Feb. 11, 1986, now Pat. No. 4,658,336, which is a continuation of application No. 06/648,032, filed on Sep. 6, 1984, now Pat. No. 4,577,263.

(51) **LOC (8) Cl.** **26-02**

(52) **U.S. Cl.** **D26/49**

(58) **Field of Classification Search** D26/37–50; 362/157–158, 183–208

See application file for complete search history.

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Primary Examiner—Alan P. Douglas
(74) *Attorney, Agent, or Firm*—Jones Day

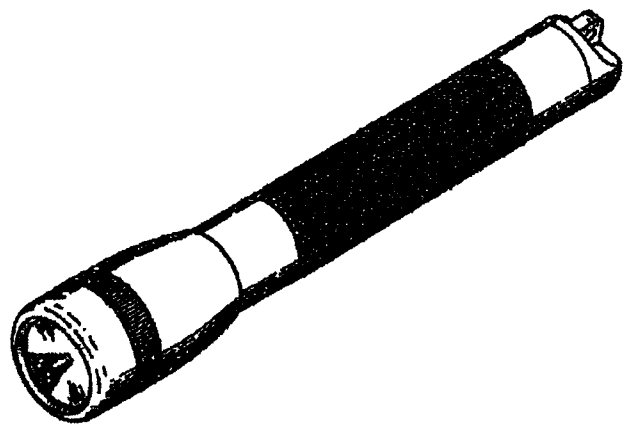
(57) **CLAIM**

The ornamental design for a flashlight, as shown and described.

DESCRIPTION

FIG. **1** is a front perspective view of a flashlight showing my new design;
FIG. **2** is a side elevational view thereof; and,
FIG. **3** is a front elevational view thereof.

1 Claim, 1 Drawing Sheet



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The Sunday Oregonian, Dec. 1982 "From: GI Joe's", 1 pg. ad re Mag–Lite (Ptf's Ex. 3055).
Mag–Lite, 1 pg. ad by The 63rd CSGA Annual National Convention and Exhibition, Feb. 3–6, 1980 (Ex. BRX 219).
Mag Instrument ad, 1 pg. (Ex. BRX 211).
Mag–Lite add, 1 pg. by Nationwide Sports Distributor, (Ex. BRX 220).
"Mag–Lite™, The right light . . . for the job." 4 pg. brochure, (Ptf's Ex. 425).
"A precision tool . . . " by Mag–lite, 1 pg. (Ptf's Ex. 422–A).
"Pick up the lighters", by Mag Instrument, 1 pg. ad (Ptf's Ex. 422–B).
Mag–lite®, 1 pg. ad re C–Cell & D–Cell, (Ptf's Ex. 483).
View of flashlight, Ex. DX 5625.
View of flashlight, Ex. DX 5626.
View of flashlight Ex. DX 5628.
View of flashlight, Ex. DX 5629.
View of flashlight, Ex. DX 5640.
View of flashlight, Ex. DX 5641.
View of flashlight, Ex. DX 5462.
View of flashlight, Ex. DX 5643.
View of flashlight, (Ptf's Ex. 92).
View of flashlight, (Ptf's Ex. 93).
View of flashlight, (Ptf's Ex. 95).
View of flashlight, (Ptf's Ex. 96).
View of flashlight, (Ptf's Ex. 98).
View of flashlight, (Ptf's Ex. 100).
View of flashlight, (Ptf's Ex. 103).
View of flashlight, (Ptf's Ex. 104).
View of flashlight, (Ptf's Ex. 106).
View of flashlight, (Ptf's Ex. 108).
View of flashlight, (Ptf's Ex. 247).
View of flashlights, (6) (Ptf's Ex. 415).
View of flashlight, (Ptf's Ex. 699).
View of flashlight, (Ptf's Ex. 701).
View of flashlight, (Ptf's Ex. 702).
View of flashlight, (Ptf's Ex. 704).
View of flashlight, (Ptf's Ex. 709).
View of flashlight, (Ptf's Ex. 713).
View of flashlight, (Ptf's Ex. 714).

View of flashlight, (Ptf's Ex. 724).
View of flashlight, (Ptf's Ex. 728).
View of flashlight, (Ptf's Ex. 748 or 743?) (has carrying strap).
View of flashlight, (Ptf's Ex. 740).
View of flashlight, (Ptf's Ex. 744).
View of flashlight, (Ptf's Ex. 747).
Eveready Masterlites, The Light of a New Age, 11 pg. catalog, marked Ex. DX 5326.
Eveready Daylo, Dealer's Edition Catalog No. 736, (1918), 8 pgs. (Ex. DX 5327).
"The History of Portable Light in America", 24 pg. by Eveready (Ex. DX 5325).
"Eveready Automatic Spotlights", 15 pg. brochure (Ex. DX 5324).
50-pg. booklet, 1st legible page reads "To the founders and past presidents of the Bridgeport Metal Goods Manufacturing Company . . . ", (Ex. No. not legible).
View of flashlight with Coca Cola can and ruler, marked "5001".
View of flashlight with Coca Cola can and ruler, marked "5002".
View of flashlight with Coca Cola can and ruler, marked "5003".
View of flashlight with Coca Cola can and ruler, marked "5004".
View of flashlight with Coca Cola can and ruler, marked "5005".
View of flashlight with Coca Cola can and ruler, marked "5006".
View of flashlight with Coca Cola can and ruler, marked "5007".
View of flashlight with Coca Cola can and ruler, marked "5008".
View of flashlight with Coca Cola can and ruler, marked "5009".
View of flashlight with Coca Cola can and ruler, marked "5023".
View of flashlight with Coca Cola can and ruler, marked "5024".
View of flashlight with Coca Cola can and ruler, marked "5025".
View of flashlight with Coca Cola can and ruler, marked "5032".
View of flashlight with Coca Cola can and ruler, marked "5033".
View of flashlight with Coca Cola can and ruler, marked "5034".
View of flashlight with Coca Cola can and ruler, marked "5035".
View of flashlight with Coca Cola can and ruler, marked "5036".
View of flashlight with Coca Cola can and ruler, marked "5045".
View of flashlight with Coca Cola can and ruler, marked "5048".
View of flashlight with Coca Cola can and ruler, marked "5049".
View of flashlight with Coca Cola can and ruler, marked "5050".
View of flashlight with Coca Cola can and ruler, marked "5051".
View of flashlight with Coca Cola can and ruler, marked "5052".
View of flashlight with Coca Cola can and ruler, marked "5056".
View of flashlight with Coca Cola can and ruler, marked "5057".
View of flashlight with Coca Cola can and ruler, marked "5060".
View of flashlight with Coca Cola can and ruler, marked "5061".
View of flashlight with Coca Cola can and ruler, marked "5062".
View of flashlight with Coca Cola can and ruler, marked "5063".
View of flashlight with Coca Cola can and ruler, marked "5064".
View of flashlight with Coca Cola can and ruler, marked "5065".
View of flashlight with Coca Cola can and ruler, marked "5067".
View of flashlight with Coca Cola can and ruler, marked "5074A".
View of flashlight with Coca Cola can and ruler, marked "5075A".
View of flashlight with Coca Cola can and ruler, marked "5076".
View of flashlight with Coca Cola can and ruler, marked "5078".
View of flashlight with Coca Cola can and ruler, marked "5079".
View of flashlight with Coca Cola can and ruler, marked "5080".
View of flashlight with Coca Cola can and ruler, marked "5081".
View of flashlight with Coca Cola can and ruler, marked "5082".
View of flashlight with Coca Cola can and ruler, marked "5083".
View of flashlight with Coca Cola can and ruler, marked "5084".
View of flashlight with Coca Cola can, "Maxlite 5-3-2" box and ruler, marked "5111".
View of flashlight with Coca Cola can and ruler, marked "5112".
View of flashlight with Coca Cola can and ruler, marked "5115".
View of flashlight with Coca Cola can and ruler, marked "5118".
View of flashlight with Coca Cola can and ruler, marked "5118A".
View of flashlight with Coca Cola can and ruler, marked "5126".
View of flashlight with Coca Cola can and ruler, marked "5127".
View of flashlight with Coca Cola can and ruler, marked "5129".
View of flashlight with Coca Cola can and ruler, marked "5130".
View of flashlight with Coca Cola can and ruler, marked "5131".
View of flashlight with Coca Cola can and ruler, marked "5132".
View of flashlight with Coca Cola can and ruler, marked "5133".
View of flashlight with Coca Cola can and ruler, marked "5137A".

View of flashlight with Coca Cola can and ruler, marked "5145".
View of flashlight with Coca Cola can and ruler, marked "5147".
View of flashlight with Coca Cola can and ruler, marked "5149".
View of flashlight with Coca Cola can and ruler, marked "5154".
View of flashlight with Coca Cola can and ruler, marked "5279".
View of flashlight with Coca Cola can and ruler, marked "5300".
View of flashlight with Coca Cola can, "Fulton" box and ruler, marked "5301".
View of flashlight with Coca Cola can, "Fulton" box and ruler, marked "5302".
View of flashlight with Coca Cola can, "Rayovac Police Flashlight" box and ruler, marked "5303".
View of flashlight with Coca Cola can and ruler, marked "5304".
View of flashlight with Coca Cola can and ruler, marked "5305".
View of flashlight with Coca Cola can and ruler, marked "5306".
View of flashlight with Coca Cola can and ruler, marked "5307".
View of flashlight with Coca Cola can and ruler, marked "5308".
View of flashlight with Coca Cola can and ruler, marked "5309".
View of flashlight with Coca Cola can and ruler, marked "5310".
View of flashlight with Coca Cola can and ruler, marked "5311".
View of flashlight with Coca Cola can and ruler, marked "5312".
View of flashlight with Coca Cola can and ruler, marked "5313".
View of flashlight with Coca Cola can and ruler, marked "5314".
View of flashlight with Coca Cola can and ruler, marked "5315".
View of flashlight with Coca Cola can and ruler, marked "5315".
View of flashlight with Coca Cola can and ruler, marked "5317".
View of flashlight with Coca Cola can and ruler, marked "5318".
View of flashlight with Coca Cola can and ruler, marked "5319".
View of flashlight with Coca Cola can and ruler, marked "5320".
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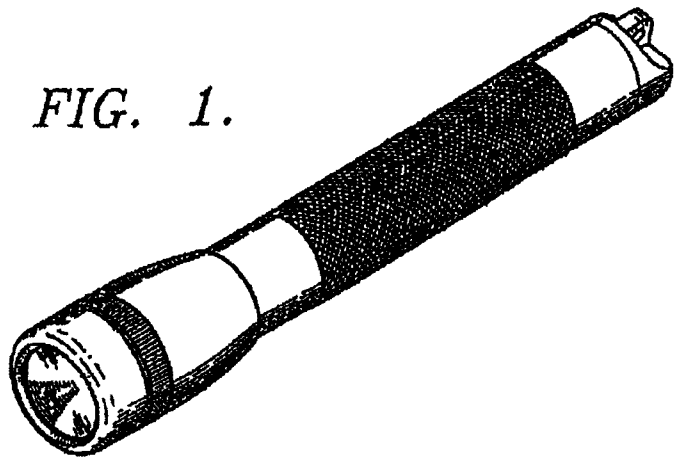
View of flashlight with Coca Cola can and ruler, marked "5322".
View of flashlight with Coca Cola can and ruler, marked "5841".
View of flashlight with Coca Cola can and ruler, marked "5845".
View of flashlight with Coca Cola can and ruler, marked "5846".
View of flashlight with Coca Cola can and ruler, marked "5971".
View of flashlight with Coca Cola can and ruler, marked "5972".
View of flashlight with Coca Cola can and ruler, marked "5973".
View of flashlight with Coca Cola can and ruler, marked "5974".
View of flashlight with Coca Cola can, "Bianchi" box and ruler, marked "6005A".
View of flashlight with Coca Cola can and ruler, marked "6005A".
View of flashlight with Coca Cola can and ruler, marked "6112".
View of flashlight with Coca Cola can and ruler, marked "6118".
View of flashlight with Coca Cola can and ruler, marked "6119".
View of flashlight with Coca Cola can and ruler, marked "6120".
View of flashlight with Coca Cola can and ruler, marked "6121".
View of flashlight with Coca Cola can and ruler, marked "6124".
View of flashlight with Coca Cola can, container, and ruler, marked "12A".
View of flashlight with Coca Cola can, "Little Commander Pocketlight" packaging and ruler, marked "468".
View of flashlight with Coca Cola can and ruler, marked "2577".
View of flashlight with Coca Cola can and ruler, marked "2578".
View of flashlight with Coca Cola can and ruler, marked "2579".
View of flashlight with Coca Cola can and ruler, marked "2580".
View of flashlight with Coca Cola can and ruler, marked "2581".
View of flashlight with Coca Cola can and ruler, marked "2582".
View of flashlight with Coca Cola can and ruler, marked "2584".
View of flashlight with Coca Cola can and ruler, marked "2570".
View of flashlight with Coca Cola can and ruler, marked "2571".
View of flashlight with Coca Cola can and ruler, marked "2572".
View of flashlight with Coca Cola can and ruler, marked "2574".
View of flashlight with Coca Cola can and ruler, marked "2677".
View of flashlight with Coca Cola can and ruler, marked "2742".
View of flashlight with Coca Cola can and ruler, marked "2749".
View of flashlight with Coca Cola can and ruler, marked "2753".
View of flashlight with Coca Cola can and ruler, marked "2755".
View of flashlight with Coca Cola can and ruler, marked "2874".
View of flashlight with Coca Cola can and ruler, marked "3717".
View of flashlight marked "2678".
View of flashlight marked "2679".

View of flashlight, with two additionoal parts, marked "2580".
View of flashlight with ruler.
View of flashlight with Coca Cola can and ruler, marked "464 (CPX-55)".
View of flashlight with Coca Cola can and ruler, marked "CPX-422".
View of flashlight with Coca Cola can and ruler, marked "CPX-393".
View of flashlight with Coca Cola can and ruler, marked "CPX-385".
View of flashlight with Coca Cola can and ruler, marked "CPX-264".
View of flashlight with Coca Cola can and ruler, marked "349".
View of flashlight with Coca Cola can and ruler, marked "SL575".
View of flashlight with Coca Cola can and ruler, marked "SL351".
View of flashlight with Coca Cola can and ruler, marked "SL699".
View of flashlight with Coca Cola can and ruler, marked "SL102".
View of flashlight, marked Deposition Exhibit 45 (?).
Consent Judgment and Permanent Injunction in *Mag Instrument, Inc. v. Central Purchasing, Inc.*, No. 89-4668 ER (JRx), filed Apr. 1990.
Consent Judgment and Injunction in *Mag Instrument. Inc. v. Dayton Hudson Corporation*, No. 89-0529 ER (JRx), filed Feb. 1990.
Consent Judgment and Permanent Injunction in *Mag Instrument. Inc. v. Gila Products Limited*, No. 89-CV-7802, filed Nov. 1988.
Consent Judgment and Injunction in *Mag Instrument. Inc. v. Jadico Limited, Inc.*, No. 89-4259-CV-C-9, filed Jun. 1989.
Consent Judgment and Permanent Injunction in *Mag Instrument. Inc. v. Jadico Limited, Inc.*, No. 89-4260-CV-C-5, filed Jul. 1989.
Consent Judgment and Permanent Injunction in *Mag Instrument. Inc. v. Jomira/Advance, Inc.*, No. 89-20286 RPA, filed Aug. 1989.
Consent Judgment and Permanent Injunction in *Mag Instrument. Inc. v. Jomira/Advance, Inc.*, No. 89-20447 RFP, filed Aug. 1989.
Initial Determination, in the matter of Certain Small Aluminum Flashlights and Components Thereof, Investigation No. 337-TA-254.
Views of the Commission, in the matter of Certain Small Aluminum Flashlights and Components Thereof, Investigation No. 337-TA-254.
Decision in Mag v. The U.S. Int'l Trade Commission (Kassner Imports, Inc.; Brinkmann Corporation; Brinkmann International (Hong Kong), Ltd.; and J. Baxter Brinkmann International Corporation, Intervenors, — 88-1313 decided Feb. 15, 1989.
Notice of Issuance of General Exclusion Order, in the matter of Certain Small Aluminum Flashlights and Components Thereof, Investigation No. 337-TA-254.
General Exclusion Order, in the matter of Certain Small Aluminum Flashlights and Components Thereof, Investigation No. 337-TA-254.
Opinion; Findings of Fact and Conclusions of Law, in *Kassnar Imports, Inc. v. Mag Instrument & Mag Instrument, Inc. v. Kassnar Imports, Inc.*— CV 86-802 FFF, filed Jan. 6, 1989.
Judgment in *Kassnar Imports, Inc. v. Mag Instrument & Mag Instrument, Inc. v. Kassnar Imports, Inc.* — CV 86-802 FFF, filed Jan. 6, 1989.
Xscribe Computer-Aided Trasncription—George Price Testimony Nov. 4, 1988 "Price—Direct", pp. DA-77 through DA-81.
Xscribe Computer-Aided Trasncription—Gerald Ford Testimony Nov. 2, 1988, pp. 4, 23 & '24.
Injunction and Partial Consent Judgment re *Mag Instrument, Inc. v. K Mart Corporation*, No. 89-1203-ER (JRx), filed Aug. 31, 1989.
Consent Judgment and Permanent Injunction in *Mag Instrument, Inc. v. Longs Drug Stores Californai, Inc.*, No. C 619212, filed Jan. 22, 1990.
Consent Judgment and Permanent Injunction in *Mag Instrument, Inc. v. Outdoor Sports Headquarters, Inc.*, No. C-3-89-411, filed Oct. 13, 1989.
Consent Judgment and Permanent Injunction in *Mag Instrument, Inc. v. Outdoor Sports Headquarters, Inc.*, No. C-3-89-410, filed Oct. 13, 1989.
Injunction and Consent Judgment in *Mag Instrument, Inc. v. Sears, Roebuck & Company*, No. 89-0972 ER (JRx), filed Dec. 13, 1989.
Injunction and Consent Judgment, in *Mag Instrument, Inc., v. Sears, Roebuck and Co.*, No. 89-0972 ER (JRx), filed Jan. 17, 1990.
Consent Judgment and Permanent Injunction, in *Mag Instrument, Inc. v. Streamlight, Inc.*, No. 85-6104 SVW(Kx), filed Jan. 16, 1986.
Final Judgment by Consent and Permanent Injunction, in *Mag Instrument, Inc. v. Streamlight, Inc.*, No. CV-87-02530 ER (JRx), filed Sep. 10, 1990.
Weston, "Mini Flash Lite", advertisement received in U.S. Patent & Trademark Office, Jul. 11, 1949.
Brinkmann, Micro-Max 1 package Insert, Copyright 1987, (Photocopies of flashlight Included in Package and Pictures of Disassembled Flashlight Enclosed).

FIG. 1.



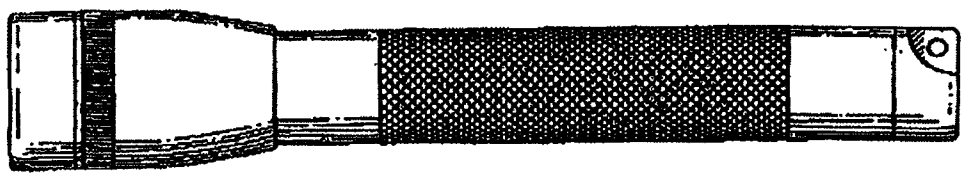


FIG. 2.

FIG. 3.

EXHIBIT 5

Int. Cl.: 11

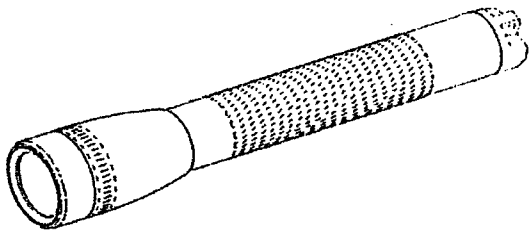
Prior U.S. Cl.: 21

Reg. No. 2,074,795

United States Patent and Trademark Office

Registered July 1, 1997

TRADEMARK
PRINCIPAL REGISTER



MAG INSTRUMENT, INC. (CALIFORNIA CORPORATION)
1635 SOUTH SACRAMENTO AVENUE
ONTARIO, CA 91776

FOR: FLASHLIGHTS, IN CLASS 11 (U.S. CL. 21).

FIRST USE 1-0-1984; IN COMMERCE 1-0-1984.

THE MARK IS THE SHAPE, STYLE AND OVERALL APPEARANCE OF THE FLASHLIGHT ITSELF WHICH IS CHARACTERIZED BY THE RATIO OF THE LENGTH OF THE HEAD TO THE OVERALL LENGTH OF THE FLASHLIGHT, THE RATIO OF THE OUTER DIAMETER OF THE HEAD TO THE OUTER DIAMETER OF THE BARREL, AND THE PROFILE OF THE TRANSITION FROM THE GREATEST OUTER DIAMETER OF THE HEAD TO THE OUTER DIAMETER OF THE BARREL.

SEC. 2(F).

SER. NO. 74-403,053, FILED 6-14-1993.

RANDY RICARDO, EXAMINING ATTORNEY