

Exhibit D

No 15 P.2  
IN FIG. 1  
blister pack



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/402,195	03/10/95	CLARK	A 1104-002
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LITEL, I EXAMINER

E6M1/1010

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SUITE 500  
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DUBLIN OH 43017

ART UNIT	PAPER NUMBER
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2617

2

DATE MAILED: 10/10/95

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

- This application has been examined  Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- Notice of References Cited by Examiner, PTO-892.
- Notice of Draftsman's Patent Drawing Review, PTO-948.
- Notice of Art Cited by Applicant, PTO-1449.
- Notice of Informal Patent Application, PTO-152.
- Information on How to Effect Drawing Changes, PTO-1474.
- \_\_\_\_\_

Part II SUMMARY OF ACTION

1.  Claims 1-4 \_\_\_\_\_ are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims 1-4 \_\_\_\_\_ are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable;  not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been  approved by the examiner;  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed \_\_\_\_\_, has been  approved;  disapproved (see explanation).

12.  Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other

EXAMINER'S ACTION

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1. Claims 1-11 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, are there different speakers and different electric circuits? If there is only one of each, it is suggested that the later occurrences of the terms should be recited as "said speaker" and "said electric circuits".

In claim 8, are there different electric circuits? If there is only one, it is suggested that the later occurrences of the terms should be recited as "said electric circuits".

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

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3. Claims 1-11 are rejected under 35 U.S.C. § 103 as being unpatentable over Hoshi (US Patent No. 4,934,079).

In considering claim 1:

Referring to figure 10,

- a. the claimed <sup>poster</sup>~~posture~~ is met by 11
- b. the claimed speaker is met by 5
- c. the claimed electric circuit is met by figure 9 except for the claimed blister pack with matching art.

However, as shown in figure 11, Hoshi suggests that the electrical components are housed in a housing on the back of the poster. The claimed blister pack matching the art work of the poster lacks criticality because the housing in Hoshi would still serve the same function as a housing for the electrical components.

In considering claim 2:

- a. the claimed circuit board is inherently met by the electrical circuit
- b. the claimed at least one battery is met by 6
- c. the claimed trigger is met by 2
- d. the claimed speech chip is met by 38.

In considering claims 3, 5, and 6:

As discussed in claim 1, the claimed blister pack that matches the art work lacks criticality. Instead of housing the electric components in the blister pack and matching the blister

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pack with the art work, one skilled in the art would have recognized to enclose the components in a housing and attach the housing to the poster. As a matter of fact, without housing the components in the blister pack with the art work, one would be able to use the device on any poster as desired. Therefore, the claimed blister pack with the matching art work would not be considered an inventive step because the function of the device would not be modified by placing the device in such blister pack.

In considering claim 4:

The housing in Hoshi (fig. 11) has openings 31 for the sound to pass to the outside. The claimed feature would not be considered to be inventive because one skilled in the art would have readily recognized that there must be some way for the sound to go through the housing to the outside so that it would be heard.

In considering claim 7:

The claimed double-sided adhesive does not present novelty because double-sided is well-known and widely used.

In considering claim 8:

- a. the claimed artwork is met by 11
- b. the claimed electric circuit is met by figure 9.

The claimed blister pack with the printing of a portion of the artwork is not met by Hoshi; however, the discussion for this follows what was discussed in claims 1, 5 and 6.

In considering claims 9-11:

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Claims 9-11 recite the rejection in claims 3, 5-7. The claimed vacuum forming does not present novelty because one of ordinary skill in the art would know that if the blister material is used to make a housing, it must be formed to have space to accomodate the electric components.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wilson, US Patent No. 4,299,041, discloses an animated device.

Rose, US Patent No. 3,978,598, discloses an apparatus for simulating an open fire.


Schwartz, US Patent No. 5,359,374, discloses talking picture frames.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is (703) 308-6738 and FAX number is (703) 308-5397. The examiner can be reached from Monday through Thursday, from 8:00 am to 5:00 pm.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-8576.

JLieu

September 29, 1995

  
JOHN K. PENG  
SUPERVISORY PATENT EXAMINER  
GROUP 2600

**NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW**

PTO Draftpersons review all originally filed drawings regardless of whether they are designated as formal or informal. Additionally, patent Examiners will review the drawings for compliance with the regulations. Direct telephone inquiries concerning this review to the Drawing Review Branch, 703-305-8404.

The drawings filed (insert date) 3/16/95 are

A.  not objected to by the Draftsperson under 37 CFR 1.84 or 1.152.

B.  objected to by the Draftsperson under 37 CFR 1.84 or 1.152 as indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawings must be submitted according to the instructions on the back of this Notice.

- DRAWINGS.** 37 CFR 1.84(a): Acceptable categories of drawings: Black ink. Color.
  - Not black solid lines. Fig(s) \_\_\_\_\_
  - Color drawings are not acceptable until petition is granted. Fig(s) \_\_\_\_\_
- PHOTOGRAPHS.** 37 CFR 1.84(b)
  - Photographs are not acceptable until petition is granted. Fig(s) \_\_\_\_\_
  - Photographs not properly mounted (must use bristol board or photographic double-weight paper). Fig(s) \_\_\_\_\_
  - Poor quality (half-tone). Fig(s) \_\_\_\_\_
- GRAPHIC FORMS.** 37 CFR 1.84 (d)
  - Chemical or mathematical formula not labeled as separate figure. Fig(s) \_\_\_\_\_
  - Group of waveforms not presented as a single figure, using common vertical axis with time extending along horizontal axis. Fig(s) \_\_\_\_\_
  - Individuals waveform not identified with a separate letter designation adjacent to the vertical axis. Fig(s) \_\_\_\_\_
- TYPE OF PAPER.** 37 CFR 1.84(c)
  - Paper not flexible, strong, white, smooth, nonshiny, and durable. Sheet(s) \_\_\_\_\_
  - Erasures, alterations, overwritings, interlineations, cracks, creases, and folds copy machine marks not accepted. Fig(s) \_\_\_\_\_
  - Mylar, velum paper is not acceptable (too thin). Fig(s) \_\_\_\_\_
- SIZE OF PAPER.** 37 CFR 1.84(f): Acceptable sizes:
  - 21.6 cm. by 35.6 cm. (8 1/2 by 14 inches)
  - 21.6 cm. by 33.1 cm. (8 1/2 by 13 inches)
  - 21.6 cm. by 27.9 cm. (8 1/2 by 11 inches)
  - 21.0 cm. by 29.7 cm. (DIN size A4)
  - All drawing sheets not the same size. Sheet(s) \_\_\_\_\_
  - Drawing sheet not an acceptable size. Sheet(s) \_\_\_\_\_
- MARGINS.** 37 CFR 1.84(g): Acceptable margins:
 

Paper size			
21.6 cm. X 35.6 cm. (8 1/2 X 14 inches)	21.6 cm. X 33.1 cm. (8 1/2 X 13 inches)	21.6 cm. X 27.9 cm. (8 1/2 X 11 inches)	21.0 cm. X 29.7 cm. (DIN Size A4)
T .51 cm. (2")	.25 cm. (1")	.25 cm. (1")	.25cm.
L .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	.25 cm.
R .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	1.5 cm.
B .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	1.0 cm.

Margins do not conform to chart above. Sheet(s) \_\_\_\_\_

Top (T)  Left (L)  Right (R)  Bottom (B)
- VIEWS.** 37 CFR 1.84(h)
 

REMINDER: Specification may require revision to correspond to drawing changes.

  - All views not grouped together. Fig(s) \_\_\_\_\_
  - Views connected by projection lines or lead lines. Fig(s) \_\_\_\_\_
  - Partial views. 37 CFR 1.84(h) 2
  - View and enlarged view not labeled separately or properly. Fig(s) \_\_\_\_\_
  - Sectional views. 37 CFR 1.84 (h) 3
  - Hatching not indicated for sectional portions of an object. Fig(s) \_\_\_\_\_
  - Cross section not drawn same as view with parts in cross section with regularly spaced parallel oblique strokes. Fig(s) \_\_\_\_\_
- ARRANGEMENT OF VIEWS.** 37 CFR 1.84(i)
  - Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s) \_\_\_\_\_
- SCALE.** 37 CFR 1.84(k)
  - Scale not large enough to show mechanism with crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s) \_\_\_\_\_
  - Indication such as "actual size" or scale 1/2" not permitted. Fig(s) \_\_\_\_\_
- CHARACTER OF LINES, NUMBERS, & LETTERS.** 37 CFR 1.84(l)
  - Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (except for color drawings). Fig(s) 1-4
- SHADING.** 37 CFR 1.84(m)
  - Solid black shading areas not permitted. Fig(s) \_\_\_\_\_
  - Shade lines, pale, rough and blurred. Fig(s) \_\_\_\_\_
- NUMBERS, LETTERS, & REFERENCE CHARACTERS.** 37 CFR 1.84(p)
  - Numbers and reference characters not plain and legible. 37 CFR 1.84(p)(1) Fig(s) 1-4
  - Numbers and reference characters not oriented in same direction as the view. 37 CFR 1.84(p)(1) Fig(s) \_\_\_\_\_
  - English alphabet not used. 37 CFR 1.84(p)(2) Fig(s) \_\_\_\_\_
  - Numbers, letters, and reference characters do not measure at least .32 cm. (1/8 inch) in height. 37 CFR(p)(3) Fig(s) \_\_\_\_\_
- LEAD LINES.** 37 CFR 1.84(q)
  - Lead lines cross each other. Fig(s) \_\_\_\_\_
  - Lead lines missing. Fig(s) \_\_\_\_\_
- NUMBERING OF SHEETS OF DRAWINGS.** 37 CFR 1.84(t)
  - Sheets not numbered consecutively, and in Arabic numerals, beginning with number 1. Sheet(s) \_\_\_\_\_
- NUMBER OF VIEWS.** 37 CFR 1.84(u)
  - Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) \_\_\_\_\_
  - View numbers not preceded by the abbreviation Fig. Fig(s) \_\_\_\_\_
- CORRECTIONS.** 37 CFR 1.84(w)
  - Corrections not made from prior PTO-948. Fig(s) \_\_\_\_\_
- DESIGN DRAWING.** 37 CFR 1.152
  - Surface shading shown not appropriate. Fig(s) \_\_\_\_\_
  - Solid black shading not used for color contrast. Fig(s) \_\_\_\_\_

**COMMENTS:**

201004/20

**REMINDER**

Drawing changes may also require changes in the specification, e.g., if Fig. 1 is changed to Fig. 1A, Fig. 1B, Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed. Please make such changes by 37 CFR 1.312 Amendment at the time of submitting drawing changes.

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities--37 CFR 1.85**

File new drawings with the changes incorporated therein. The application number or the title of the invention, inventor's name, docket number (if any), and the name and telephone number of a person to call if the Office is unable to match the drawings to the proper application, should be placed on the back of each sheet of drawings in accordance with 37 CFR 1.84(c). Applicant may delay filing of the new drawings until receipt of the Notice of Allowability (PTOL-37). Extensions of time may be obtained under the provisions of 37 CFR 1.136. The drawing should be filed as a separate paper with a transmittal letter addressed to the Drawing Review Branch.

**2. Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the three-month shortened statutory period set in the Notice of Allowability (PTOL-37). If a correction is determined to be unacceptable by the Office, applicant must arrange to have acceptable correction resubmitted within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within set (or extended) period will result in **ABANDONMENT** of the Application.

**3. Corrections other than Informalities Noted by the Drawing Review Branch on the Form PTO 948**

All changes to the drawings, other than informalities noted by the Drawing Review Branch, **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.