

ESTTA Tracking number: **ESTTA415929**

Filing date: **06/22/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92051757
Party	Plaintiff Phoenix Trading Inc. dba Amercare Products, Inc.
Correspondence Address	RICK KLINGBEIL RICK KLINGBEIL PC 520 SW 6TH AVE STE 590 PORTLAND, OR 97204 UNITED STATES rick@klingbeil-law.com, saraw@klingbeil-law.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Rick Klingbeil
Filer's e-mail	rick@klingbeil-law.com, saraw@klingbeil-law.com
Signature	/s/ Rick Klingbeil
Date	06/22/2011
Attachments	NoticeReliance.Petition.Cancel.pdf (12 pages)(626801 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PHOENIX TRADING, INC., dba
AMERCARE PRODUCTS, INC., a
Washington corporation;

Petitioners,

v.

LOOPS LLC., a Delaware limited liability
corporation,

Respondent.

Cancellation No. 92051757

**NOTICE OF RELIANCE ON
MATERIAL BEING OFFERED**

Mark: "Designed for Prison Safety"

Reg. No: 3,424,838

Reg. Date: May 6, 2008

Mark: Trade Dress - Flexbrush Toothbrush

Reg. No: 3,430,304

Reg. Date: May 20, 2008

Mark: Trade Dress - Flexbrush Toothbrush

Reg. No: 3,430,305

Reg. Date: May 20, 2008

NOTICE OF RELIANCE ON MATERIAL BEING OFFERED

Phoenix Trading, Inc. dba Amercare Products, Inc. ("Amercare") hereby provides notice to the
Loops LLC and the Board that it intends to rely upon the following documents in this matter, and
submits the same into the record as evidence during its trial period.

MATERIAL OFFERED AT TRIAL

1. All U.S.P.T.O. file documents, including the published application and registration for

1 the trademark "Designed for Prison Safety", registration number 3,424,838, registration date May 6,
2 2008. (Subject of this proceeding, and not attached per TBMP 704.03(a)).

3 2. All U.S.P.T.O. file documents, including the published application and registration for
4 the trade dress, registration number 3,430,304, registration date May 20, 2008. (Subject of this
5 proceeding, and not attached per TBMP 704.03(a)).

6 3. United States Patent Number 7,334,286 B2, Toothbrush and Methods of Making and
7 Using Same, issued February 26, 2008 (Attached as Exhibit "A").

8 **DATED: June 22, 2011.**

9 **RICK KLINGBEIL, PC**



10
11 Rick Klingbeil, OSB #933326
12 of Attorneys for Petitioner



US007334286B2

(12) **United States Patent**
Kayser

(10) **Patent No.:** **US 7,334,286 B2**
(45) **Date of Patent:** **Feb. 26, 2008**

(54) **TOOTHBRUSH AND METHODS OF MAKING AND USING SAME**

(75) Inventor: **Steven L. Kayser**, San Diego, CA (US)

(73) Assignee: **Loops, LLC**, Ferndale, WA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 318 days.

(21) Appl. No.: **10/920,822**

(22) Filed: **Aug. 18, 2004**

(65) **Prior Publication Data**

US 2006/0037160 A1 Feb. 23, 2006

(51) **Int. Cl.**
A46B 9/04 (2006.01)
A46B 5/02 (2006.01)

(52) **U.S. Cl.** 15/167.1; 15/143.1; 15/172

(58) **Field of Classification Search** 15/167.1, 15/143.1, 172; 401/49

See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

5,291,878 A * 3/1994 Lombardo et al. 601/139

5,630,244 A * 5/1997 Chang 15/167.1
5,778,478 A 7/1998 Coleman
6,295,686 B1 * 10/2001 Phillips 15/167.1
6,298,516 B1 * 10/2001 Beals et al. 15/143.1
6,546,583 B1 * 4/2003 Rohrig 15/110
6,668,416 B1 * 12/2003 Georgi et al. 15/167.1
2003/0208870 A1 * 11/2003 Jimenez 15/167.1

FOREIGN PATENT DOCUMENTS

EP 336641 A2 * 10/1989
WO WO 0129128 A1 * 4/2001

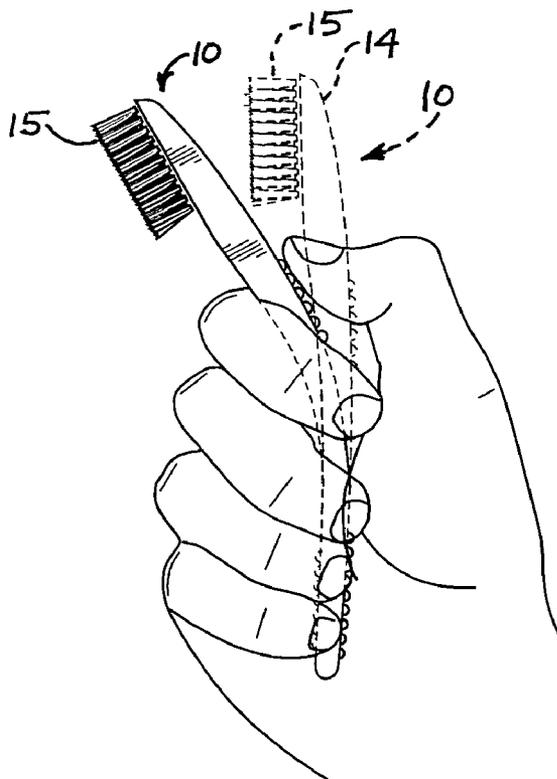
* cited by examiner

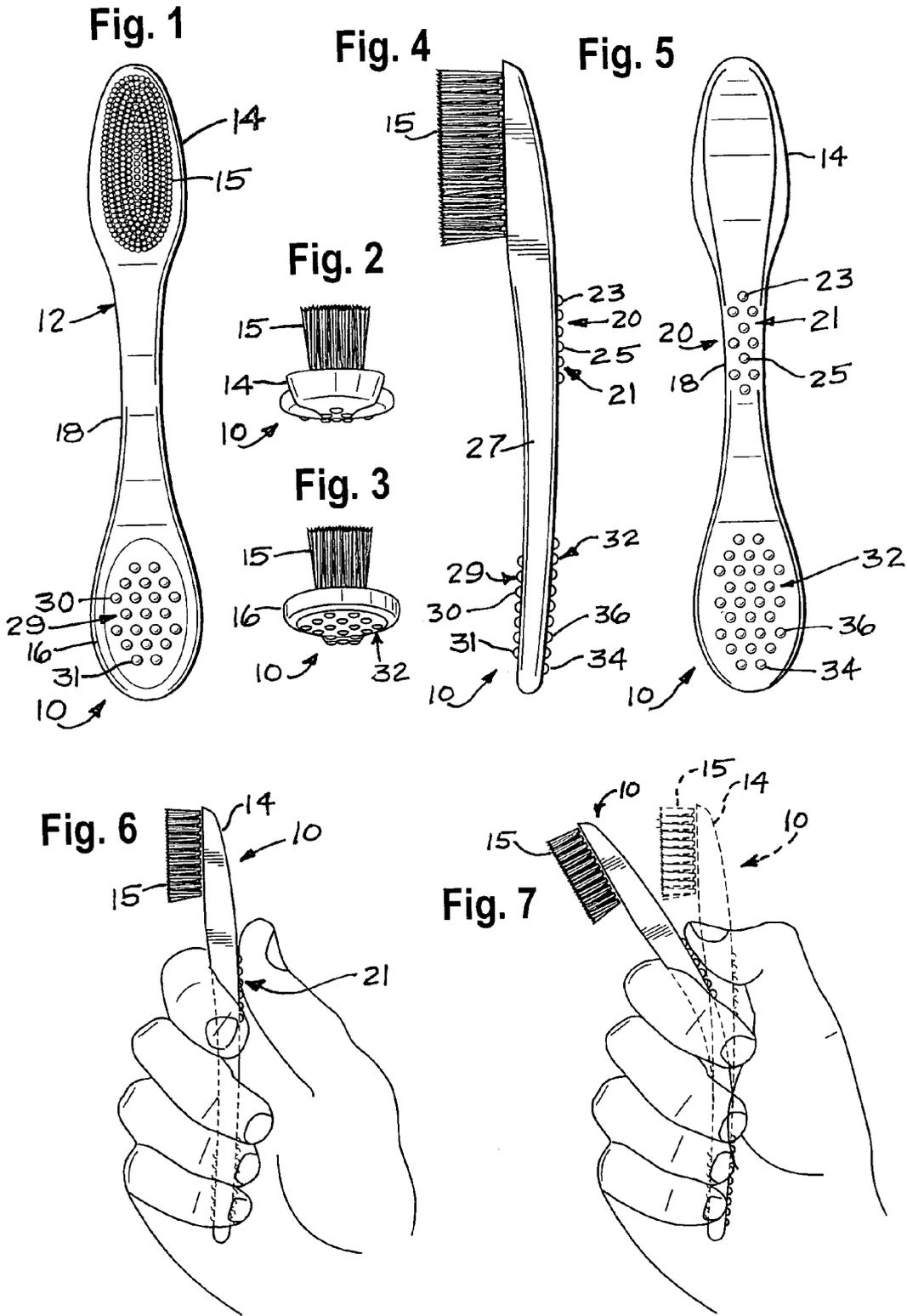
Primary Examiner—Shay L Karls
(74) *Attorney, Agent, or Firm*—Bernard L. Kleinke; Duckor Spradling Metzger & Wynne

(57) **ABSTRACT**

The disclosed embodiments relate to a toothbrush and methods of making and using it, wherein an elongated body has a bristle brush head portion and a handle portion. The body is composed of flexible material so that the handle portion can be grasped in the hand of the user, and the user can flex the elongated body into a substantially rigid position for teeth brushing purposes.

32 Claims, 1 Drawing Sheet





1

TOOTHBRUSH AND METHODS OF MAKING AND USING SAME

FIELD OF THE INVENTION

The present invention related in general to a toothbrush and methods of making and using it. It more particularly relates to such a toothbrush, which is compact in size and may be safely used by prison inmates.

BACKGROUND ART

There is no admission that the background art described in this section legally constitutes prior art.

Prison and other detention systems monitor devices permitted to be used by inmates to prevent the use of otherwise safe device as a weapon. For example, conventional toothbrushes are not permitted to be used by many prison systems because they may be fashioned into a pointed shaft or rod or otherwise used as a shank for a sharp object such as a razor blade, which could be used to endanger other inmates as well as security personnel.

In an attempt to provide a safe alternative toothbrush for use by inmates for dental hygiene purposes, a toothbrush is currently being used which includes a brush head and a very short handle. The handle is so short that it must be grasped by only the thumb and forefinger of the user. However, such a toothbrush is awkward to use. The fingers of the user may be required to enter the mouth to reach all of the teeth. Such a difficult to use toothbrush may result in inadequate teeth cleaning, and be awkward and uncomfortable to use. Such ineffectual cleaning procedures may cause, or at the least contribute to, poor dental hygiene, thereby leading to costly dental procedures in some instances.

BRIEF DESCRIPTION OF THE DRAWINGS

The following is a brief description of the drawings:

FIG. 1 is a plan view of the underside of a toothbrush, which is constructed according to an embodiment of the invention;

FIG. 2 is a front end view of the toothbrush of FIG. 1;

FIG. 3 is a rear end view of the toothbrush of FIG. 1;

FIG. 4 is a side end view of the toothbrush of FIG. 1;

FIG. 5 is a plan view of the top side of the toothbrush of FIG. 1; and

FIGS. 6 and 7 are reduced scale views similar to FIG. 4, illustrating it in the process of being used.

DETAILED DESCRIPTION OF CERTAIN EMBODIMENTS OF THE INVENTION

The disclosed embodiments relate to a toothbrush and methods of making and using it, wherein an elongated body has a bristle brush head portion and a handle portion. The body is composed of flexible material so that the handle portion can be grasped in the hand of the user, and the user can flex the elongated body into a substantially rigid position for teeth brushing purposes.

According to other embodiments, the length of the body is up to about 4.5 inches.

According to still other embodiments of the invention, the material of the body may be composed of an extrudable elastomer selected from the group consisting of silicone, neoprene, EPDM, nitrile, fluoroelastomers, natural rubber, styrene-butadiene rubber, thermoplastic elastomers, polyvinyl alcohol, PMMA, polyamide, polyester terephthalate,

2

polycarbonate, polyetherimide, polyethylene (LDPE, HDPE, LLDPE, and blends), polypropylene and copolymers, polysulfone, polyvinyl chloride, viton, PUNA nitrile, carboxylated nitrile, polysulfides, alpha olefin elastomers, conjugated diene elastomers, hydrogenated diene elastomers, ethylene carboxylate, ethylene-propylene-diene elastomers, functionalized ethylene-vinyl acetate, SB-diblock copolymers, SBS and SIBS-triblock copolymers, and acrylic rubber.

According to further embodiments of the invention, there is provided a method of using a toothbrush by grasping a handle portion in the hand of the user, and pressing on a portion of the elongated body of the toothbrush with a digit of the user to flex the elongated body into a substantially rigid flexed position. The teeth may then be brushed for cleaning purposes. According to the disclosed embodiments, the pressing on the body may include moving the digit of the user into contact with a digit engageable portion of the body, and the flexed position may include the brush head portion of the toothbrush disposed at an angle of about 45 degrees relative to the handle portion.

Referring now to the drawings, and more particularly to FIGS. 1, 2, 3, 4, and 5 thereof, there is shown a toothbrush 10, which may be constructed in accordance with an embodiment of the invention. The toothbrush 10 includes an elongated body 12 having a bristle brush head portion 14 having a bristle brush 15 extending therefrom. The elongated body 12 includes a handle portion 16 and a narrowed intermediate portion 18 integrally connecting the head portion 14 and the handle portion 16.

A digit engageable irregular surface 20 on the upper surface of the intermediate portion 18 is adapted to be engaged by a digit of the user to help flex it into a substantially rigid position for brushing the teeth. The digit engageable irregular surface 20 includes a rigidized surface 21 formed of projections or ridges such as the ridges 23 and 25 to facilitate grasping the body 12 with a digit of the user. While it is shown and described that the thumb of the user may engage the surface 20, it is contemplated that a finger such as an index finger may also be preferably be used to press on the surface 20, instead of the thumb.

As best seen in FIG. 4, the body 12 has a slightly curved side edge or curved aspect 27 between the head portion 14 and the handle portion 16, to help facilitate the flexing of the body 12 by the hand of the user. An irregular surface 29 on the underside of the handle portion 16 includes a group of projections or ridges such as ridges 30 and 31. Similarly, an irregular surface 32 on the top side of the handle portion 16 includes projections or ridges such as ridges 34 and 36. Thus, the irregular surfaces on the handle portion 16 facilitate the grasping of the handle portion when the hands are wet to help grasp the toothbrush 10 during use.

According to an embodiment of the invention, as shown in FIGS. 6 and 7, there is shown the placement of the combined thumb and index finger, or other convenient manner of holding the toothbrush 10 in the hand of the user to perform a tooth brushing operation. The top half or head portion 14 of the toothbrush 10 is positioned by flexing the body 12 to cause the head portion 14 to assume a position in about a 45 degree angle relative to the handle portion 16 to facilitate the cleaning process. The use of the toothbrush 10 may require the combined use of an index finger and a thumb of the same hand. The head portion 14 and remaining portion, such as the intermediate portion 18, may be flexible or otherwise deformable or breakable or other, to prevent or limit the possibility of using or converting the toothbrush 10 to a shank/stabbing weapon device in an environment

requiring safety such as prisons—and also to contribute to less abrasion and trauma to the teeth and gums while brushing.

In use, the digit such as the thumb, index finger or other may act as a guide to place the brush head portion **14** in an approximate 45 degree angle relative to the handle portion **16**, to steady the head portion **14**, to help direct the head portion **14** into the mouth and place the head portion **14** into engagement with the teeth, and to steady the flexible intermediate portion **18** and head portion **14**, while using the brush **15** in the act of brushing the teeth.

The placement of the digit such as the thumb, index finger or other on or near the ridges of the irregular surface **20** helps to alleviate slippage if the body **12** becomes wet. The ridges such as ridge **23** and **25** may be increased or decreased in number and arrangement or the irregular area expanded in area or length.

For the purposes of safety (i.e. prison market) the length of the body **12** of the toothbrush **10** should be up to approximately 4½ inches in length. More preferably, the length of the body **12** is between about 3.0 inches and 4.5 inches. Still more preferably, the length of the body **12** is between about 3.5 inches and about 4.5 inches. The most preferred length of the body **12** is about 4.5 inches.

The head portion **14** may have a slightly wider head portion **14** as shown in FIG. 1. Also, the intermediate portion **18** may vary in width, and may be wider than the portion **18** shown in FIG. 1. Additionally, the hardness of the material of the body **12** may vary, depending on the degree of safety desired and the selection of the material. A harder material may affect the need for more pressure exertion by the digit of the user. The preferred hardness is a durometer hardness of between about 75 and about 95.

It should be understood that the toothbrush **10** may be used for a variety of purposes. It may be used for cleaning the teeth of animals such as pets. The toothbrush **10** may be used in travel kits due to its compact size. For such applications, a harder material may be used, and result in less reliance on the digit pressing on the irregular surface **20** to guide the head portion **14** and the length of the brush **15** may vary. For example, a longer handle portion **16** and less flexible material may be employed for a larger pet.

The more flexible the materials, the less safety risk (for the prison environment). The hardness of the material directly affects the flexibility. Different hardness of the material or different materials used, may tailor the toothbrush **10** to meet a range of safety concerns needed from maximum security prisons (the highest) down to minimum security prisons.

The bristles may be the same type or quality as are found in conventional toothbrushes, and may be soft, medium or firm. Oval shaped bristles may be employed, but other shapes such as square may be employed as well.

The toothbrush **10** when used in correctional facilities may lessen the risk to inmates and correctional officers from an inmate using the toothbrush **10** or modifying it as a slashing weapon device. Inmates can fashion such a weapon from a conventional hard plastic toothbrush by cutting a notch in the head or bottom of the handle to insert a razor blade, and either melt the material around the razor blade (or glass or similar sharp material) to hold the sharp object in place. After the melted area cools, such a device becomes a dangerous weapon for the use described. The embodiment of the invention may substantially lessen or eliminate the fashioning of such a device, because the material may not have the strength and rigidity of a conventional stiff handled toothbrush.

The toothbrush **10** may be constructed of a clear material, in part or all. The correctional market desires products that are either constructed of clear material to lessen the possibility of contraband being hidden. For the retail or pet markets, solid colored material may be employed.

Many conventional toothbrushes are designed with a lengthy handle, usually with some ergonomic design, but usually with an overall design to condition the user to grasp the handle with the entire hand and bring the entire stiff handled device to bear force and pressure on the teeth and gums. Such operation may cause pain and excessive wear and abrasion to teeth and gums.

The disclosed embodiment invention eliminates or lessens much of those negative characteristics. The user of the flexible handled toothbrush **10** can use much less force and pressure on teeth and gums with a small amount of pressure using the digit such as the thumb or index finger, to guide the head portion **14**. Such construction tends to eliminate the use of the entire hand to manipulate a long, stiff conventional handle that is designed to be used with the entire hand and requiring ergonomic design to lessen the negative features of having to grasp with the entire hand a handle and twisting the wrist. A conventional long handled toothbrush requires twisting or manipulation of the hand and wrist. Whereas, the toothbrush **10** uses more manipulation of the digits and less wrist action to place the flexible head portion **14** onto the teeth to be cleaned.

The elongated body **12** may have added ridges positioned further up the inside of the handle, about an inch from the thumb area to prevent possible slippage in case the user places their thumb outside the intended area.

The different materials to construct the handle will also have some features to lessen slippage when the device is wet. Conventional toothbrushes use similar materials, such as the tactile feel of rubber.

There are areas left for product identification on the underside of the toothbrush **10** as well as the top area of the head **14**, for incorporating into the mold or tooling for molding indicia (not shown) thereon.

Although the toothbrush **10** is currently preferred to accommodate the prison environment, the pet market could use a larger size body **12** to provide a longer handle. A possible application could also include the retail market and the travel kit market (space requirements for travel kits necessitates downsized articles—i.e., a short handle toothbrush) or a device with a handle extension.

The head portion **14** may be a separate part and molded to the shaft during the manufacturing process. The bristles (number of cavities, and tufts or strands per cavity) should be similar to any conventional toothbrush. The head portion may vary in size, and may be sized to the mouth of an average user. Also, there may be different angles for the bristles **15**. The bristles **15** may be inserted after the material of the body **12** partially or completely cools.

There may be different methods being used to insert the bristles. It should be noted that only a portion of the body **12** may be flexible or otherwise deformable.

A variety of material hardness of the body **12** may be employed to adjust the flexibility thereof to adjust the softness portion **14** to limit twisting thereof relative to the handle portion on **16**.

Various modifications and changes may be made with respect to the foregoing detailed description certain embodiments of the invention as will become apparent to those skilled in the art without departing from the spirit of the present invention.

5

What is claimed is:

1. A toothbrush, comprising:

an elongated body having an enlarged smoothly rounded
bristle brush head portion and a handle portion the
elongated body has a top side and a bottom side; the
elongated body has a length along the longitudinal axis,
a width along the top and bottom side extending
perpendicular to the longitudinal axis and a thickness
extending perpendicular to the longitudinal axis
between the top and bottom side of the body;

the brush head portion including a group of bristles
located only on the bottom side of the body;

the bristles each having a length substantially the same as
the width of the group of bristles on the bottom side;
the body being integral and composed of a sufficiently
pliable flexible material throughout its length; and
the handle portion being pliable and flexible along its
entire length and including

an enlarged smoothly rounded bulbous handle end
portion to facilitate handling of the toothbrush and
a narrowed elongated intermediate smooth continuous
portion being composed of the pliable flexible material
to be limber in its unstressed condition, and
integrally connecting the enlarged head portion and
the enlarged handle end portion substantially mid-
way therebetween to facilitate flexing of the tooth-
brush with one hand of an adult user for stressing the
pliable flexible material to rigidify the body for teeth
brushing purposes;

the head portion, the intermediate portion, and the end
portion each having substantially the same length;
the intermediate portion is narrower than the width of the
head portion and the end portion on the top and bottom
side;

the thickness of the elongated body at the head portion
being tapered and increasing toward the intermediate
portion, and at the intermediate and end portions being
smoothly continuously tapered and smoothly contin-
uously decreasing toward a narrowed tip of the end
portion wherein the thickness of the elongated body is
greatest at the intermediate portion;

the intermediate portion including a digit engageable
portion on the top side the elongated body for engage-
ment by a digit of the user's hand, the digit engageable
portion being spaced by a sufficient distance from the
bristle brush head portion when flexed to avoid the digit
entering the user's mouth during brushing; and
the handle portion extending between the brush head
portion and the distal end of the bulbous handle end
portion,

wherein the flexibility of the material requires a manually
applied external force by the digit of the hand of the
user holding the toothbrush to flex the handle portion
substantially along its entire length to make the body
sufficiently rigid to facilitate use of the toothbrush for
teeth brushing purposes,

wherein the material of the body is sufficiently flexible to
enable the manually applied external force to flex the
handle portion into a smoothly rounded shape.

2. A toothbrush according to claim 1, wherein the material
is durable and has a durometer hardness of between about 75
and about 95 on the Shore A scale.

3. A toothbrush according to claim 2, wherein the material
is an extrudable elastomer.

4. A toothbrush according to claim 3, wherein the material
is one selected from the group consisting of polyurethane,
silicone, neoprene, EPDM, nitrile, fluoroelastomers, natural

6

rubber, styrene-butadiene rubber, thermoplastic elastomers,
polyvinyl alcohol, PMMA, polyamide, polyester terephtha-
late, polycarbonate, polyetherimide, polyethylene (LDPE,
HDPE, LLDPE, and blends), polypropylene and copoly-
mers, polysulfone, polyvinyl chloride, viton, PUNA nitrile,
carboxylated nitrile, polysulfides, alpha olefin elastomers,
conjugated diene elastomers, hydrogenated diene elas-
tomers, ethylene carboxylate, ethylene-propylene-diene
elastomers, functionalized ethylene-vinyl acetate,
SB-diblock copolymers, SBS and SIBS-triblock copoly-
mers, and acrylic rubber.

5. A toothbrush according to claim 4, wherein the length
of the body is between about 3.0 inches and about 4.5 inches.

6. A toothbrush according to claim 5, wherein the length
of the body is about 3.5 inches.

7. A toothbrush according to claim 6, wherein the handle
portion is wider than the brush head portion with the
narrowed intermediate portion therebetween.

8. A toothbrush according to claim 7, wherein the digit
engageable portion includes an irregular surface on the
upper portion of the intermediate portion.

9. A toothbrush according to claim 8, further including
irregular surfaces on the upper and lower portions of the
handle portion.

10. A toothbrush according to claim 9, wherein each one
of the irregular surfaces includes a group of projections.

11. A toothbrush according to claim 1, wherein the length
of the body is between about 3.0 inches and about 4.5 inches.

12. A toothbrush according to claim 11, wherein the
length of the body is between about 3.5 inches and about 4.5
inches.

13. A toothbrush according to claim 1, wherein the handle
portion is wider than the brush head portion with the
narrowed intermediate portion therebetween.

14. A toothbrush according to claim 13, wherein the digit
engageable portion includes an irregular surface on the
upper portion of the intermediate portion.

15. A toothbrush according to claim 14, further including
irregular surfaces on the upper and lower portions of the
handle portion.

16. A toothbrush according to claim 15, wherein each one
of the irregular surfaces includes a group of projections.

17. A toothbrush according to claim 1, wherein the body
has a curved edge extending between the brush head and the
handle portion.

18. A toothbrush, comprising:

an elongated body having a bristle brush head portion and
a handle portion the elongated body has a top side and
a bottom side; the elongated body has a length along the
longitudinal axis, a width along the top and bottom side
extending perpendicular to the longitudinal axis and a
thickness extending perpendicular to the longitudinal
axis between the top and bottom side of the body;

the brush head portion including a group of bristles
located only on the bottom side of the body;

the bristles each having a length substantially the same as
the width of the group of bristles on the bottom side;
the handle portion being pliable and flexible along its
entire length and including

an enlarged smoothly rounded bulbous handle end
portion to facilitate handling of the toothbrush and
a narrowed elongated intermediate smooth continuous
portion being limber in its unstressed condition, and
integrally connecting the enlarged head portion and
the enlarged handle end portion substantially mid-
way therebetween to facilitate flexing of the tooth-

7

brush with one hand of an adult user to rigidify the body for teeth brushing purposes;

the head portion, the intermediate portion, and the end portion each having substantially the same length;

the width of the intermediate portion is narrower than the width of the head portion and the end portion on the top and bottom side;

the thickness of the elongated body at the head portion being tapered and increasing toward the intermediate portion, and at the intermediate and end portions being smoothly continuously tapered and smoothly continuously decreasing toward a narrowed tip of the end portion wherein the thickness of the elongated body is greatest at the intermediate portion;

the intermediate portion including a digit engageable portion on the top side of the elongated body for engagement by a digit of the user's hand, the digit engageable portion being spaced by a sufficient distance from the bristle brush head portion when flexed to avoid the digit entering the user's mouth during brushing;

the handle portion extending between the brush head portion and the distal end of the bulbous handle end portion; and

the body being integral and composed of a flexible material selected from the group consisting of silicone, neoprene, EPDM, nitrile, fluoroelastomers, natural rubber, styrene-butadiene rubber, thermoplastic elastomers, polyvinyl alcohol, PMMA, polyamide, polyester terephthalate, polycarbonate, polyetherimide, polyethylene (LDPE, HDPE, LLDPE, and blends), polypropylene and copolymers, polysulfone, polyvinyl chloride, viton, PUNA nitrile, carboxylated nitrile, polysulfides, alpha olefin elastomers, conjugated diene elastomers, hydrogenated diene elastomers, ethylene carboxylate, ethylene-propylene-diene elastomers, functionalized ethylene-vinyl acetate, SB-diblock copolymers, SBS and SIBS-triblock copolymers, and acrylic rubber,

wherein the flexibility of the material requires a manually applied external force by the digit of the hand of the user holding the toothbrush to flex the handle portion substantially along its entire length to make the body sufficiently rigid to facilitate use of the toothbrush for teeth brushing purposes,

wherein the material of the body is sufficiently flexible to enable the manually applied external force to flex the handle portion into a smoothly rounded shape.

19. A toothbrush according to claim 18, wherein the length of the body is between about 3.0 inches and about 4.5 inches.

20. A toothbrush comprising:

an elongated body having a bristle brush head portion and a handle portion the elongated body has a top side and a bottom side; the elongated body has a length along the longitudinal axis, a width along the top and bottom side extending perpendicular to the longitudinal axis and a thickness extending perpendicular to the longitudinal axis between the top and bottom side of the body;

the handle portion extending from the brush head portion;

the brush head portion including a group of bristles located only on the bottom side of the body;

the bristles each having a length substantially the same as a length of the width of the group of bristles on the bottom side; and

the body being integral and composed of pliable flexible material,

8

wherein the handle portion is wider than the brush head portion and has a narrowed elongated intermediate smooth continuous portion being composed of the pliable flexible material to be limber in its unstressed condition therebetween, and the flexibility of the material requires a manually applied external force by a digit of the hand of an adult user holding the toothbrush to flex the handle portion substantially along its entire length to make the body sufficiently rigid to facilitate use of the toothbrush for teeth brushing purposes,

wherein the width of the intermediate portion is narrower than the width of the head portion and a remaining end portion of the handle portion on the top and bottom side;

wherein the head portion, the intermediate portion, and the end portion each having substantially the same length,

wherein the thickness of the elongated body at the head portion being tapered and increasing toward the intermediate portion, and at the handle portion being smoothly continuously tapered and smoothly continuously decreasing toward a narrowed tip of the handle portion wherein the thickness of the elongated body is greatest at the intermediate portion;

wherein the material of the body is sufficiently flexible to enable the manually applied external force to flex the handle portion into a smoothly rounded shape.

21. A toothbrush according to claim 20, further including a finger engageable irregular surface on the upper portion of the intermediate portion.

22. A toothbrush according to claim 21, further including irregular surfaces on the upper and lower portions of the handle portion.

23. A toothbrush according to claim 22, wherein each one of the irregular surfaces includes a group of projections.

24. A toothbrush according to claim 23, wherein the body has a curved edge extending between the brush head and the handle portion.

25. A method of making a toothbrush, comprising:

molding a body of a pliable flexible material, and molding the body to include a brush head portion and a handle portion, the elongated body has a top side and a bottom side; the elongated body has a length along the longitudinal axis, a width along the top and bottom side extending perpendicular to the longitudinal axis and a thickness extending perpendicular to the longitudinal axis between the top and bottom side of the body;

the brush head portion including a group of bristles located only on the bottom side of the body, the bristles each having a length substantially the same as the width of the group of bristles on the bottom side; and

molding the handle portion to be pliable and flexible along its entire length and include an enlarged smoothly rounded bulbous handle end portion to facilitate handling of the toothbrush and a narrowed elongated intermediate smooth continuous portion being composed of the pliable flexible material to be limber in its unstressed condition and integrally connecting the enlarged head portion and the enlarged handle end portion substantially midway therebetween to facilitate flexing of the toothbrush with one hand of an adult user for stressing the pliable flexible material to rigidify the body for teeth brushing purposes, the intermediate portion including a digit engageable portion on the top side of the elongated body for engagement by a digit of the user's hand, the digit engageable portion being spaced by a sufficient distance from the bristle brush

9

head portion when flexed to avoid the digit entering the user's mouth during brushing,
 wherein the body has a length of up to about 4.5 inches, wherein the head portion, the intermediate portion, and the end portion each have substantially the same length,
 wherein the width of the intermediate portion is narrower than the width of the head portion and the end portion on the top and bottom side;
 wherein the thickness of the elongated body at the head portion being tapered and increasing toward the intermediate portion, and at the intermediate and end portions being smoothly continuously tapered and smoothly continuously decreasing toward a narrowed tip of the end portion wherein the thickness of the elongated body is greatest at the intermediate portion;
 wherein the material is one selected from the group consisting of polyurethane, silicone, neoprene, EPDM, nitrile, fluoroelastomers, natural rubber, styrene-butadiene rubber, thermoplastic elastomers, polyvinyl alcohol, PMMA, polyamide, polyester terephthalate, polycarbonate, polyetherimide, polyethylene (LDPE, HDPE, LLDPE, and blends), polypropylene and copolymers, polysulfone, polyvinyl chloride, viton, PUNA nitrile, carboxylated nitrile, polysulfides, alpha olefin elastomers, conjugated diene elastomers, hydrogenated diene elastomers, ethylene carboxylate, ethylene-propylene-diene elastomers, functionalized ethylene-vinyl acetate, SB-diblock copolymers, SBS and SIBS-triblock copolymers, and acrylic rubber,

10

wherein the flexibility of the material requires a manually applied external force by the digit of the hand of the user holding the toothbrush to flex the handle portion substantially along its entire length to make the body sufficiently rigid to facilitate use of the toothbrush for teeth brushing purposes,
 wherein the material of the body is sufficiently flexible to enable the manually applied external force to flex the handle portion into a smoothly rounded shape.
26. A method according to claim **25**, wherein the length of the body is between about 3.0 inches and about 4.5 inches.
27. A method according to claim **26**, wherein the length of the body is about 3.5 inches.
28. A method according to claim **27**, wherein the handle portion is wider than the brush head portion with the narrowed intermediate portion therebetween.
29. A method according to claim **28**, wherein the digit engageable includes an irregular surface on the upper portion of the intermediate portion.
30. A method according to claim **29**, further including irregular surfaces on the upper and lower portions of the handle portion.
31. A method according to claim **30**, wherein each one of the irregular surfaces includes a group of projections.
32. A method according to claim **31**, wherein the body has a curved edge extending between the brush head and the handle portion.

* * * * *

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,334,286 B2
APPLICATION NO. : 10/920822
DATED : August 18, 2004
INVENTOR(S) : Steven L. Kayser

Page 1 of 1

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 1, column 5, line 32, before "intermediate" insert -- width of the --
Claim 1, column 5, line 43, after "side" insert -- of --
Claim 20, column 7, line 64, delete "a length of"

Signed and Sealed this

Twenty-seventh Day of May, 2008



JON W. DUDAS
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,334,286 B2
APPLICATION NO. : 10/920822
DATED : February 26, 2008
INVENTOR(S) : Steven L. Kayser

Page 1 of 1

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 1, column 5, line 32, before "intermediate" insert -- width of the --
Claim 1, column 5, line 43, after "side" insert -- of --
Claim 20, column 7, line 64, delete "a length of"

This certificate supersedes the Certificate of Correction issued May 27, 2008.

Signed and Sealed this

Twenty-fourth Day of June, 2008



JON W. DUDAS
Director of the United States Patent and Trademark Office

1 **CERTIFICATE OF MAILING AND SERVICE**

2 I hereby certify that on June 22, 2011, the foregoing **NOTICE OF RELIANCE ON**
3 **MATERIAL BEING OFFERED** and **EXHIBIT "A"** was electronically transmitted to:

4 United States Trademark Trial and Appeal Board
5 Commissioner for Trademarks
6 P.O. Box 1451
7 Alexandria, VA 22313-1451.

8 I further certify that a true and correct copy of the foregoing document was served on the
9 following attorneys, known to me to be counsel of record for Loops, Inc., by first class United States
10 Mail, in a sealed envelope, and by email to the email addresses shown below:

11 TIMOTHY W. FITZWILLIAM
12 LEWIS KOHN & FITZWILLIAM
13 10935 VISTA SORRENTO PKWY STE 370
14 SAN DIEGO, CA 92130
15 tfitzwilliam@lewiskohn.com, kmoyerhenry@lewiskohn.com

16 **DATED:** June 22, 2011.

17 **RICK KLINGBEIL, PC**

18 

19 _____
20 Rick Klingbeil, OSB #933326
21 of Attorneys for Petitioner