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INTERNATIONAL REGISTRATION NO.	APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
DM/213526	35/511,708		Fabian Großklaus		8995

World Intellectual Property Organization  
34, chemin des Colombettes, P.O. Box 18  
1211 Geneva 20, Switzerland

DATE MAILED : 02/09/2022

## NOTIFICATION OF REFUSAL

(Rule 18 of the Common Regulations under the Hague Agreement/ 37 CFR 1.1063)

Applicant must file any reply to this communication directly with the United States Patent and Trademark Office. Applicant may **NOT** file such reply through the International Bureau.

This refusal relates to all the industrial designs that are the subject of the international registration

**Office Action Summary****Application No.**

35/511,708

**Applicant(s)**

Großklaus, Fabian

**Examiner**

JOSEPH J KUKELLA

**Art Unit**

2913

**AIA (FITF) Status**

Yes

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.  
 A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on \_\_\_\_\_.
- 2a)  This action is **FINAL**.    2b)  This action is non-final.
- 3)  An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4)  Since this application is 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.

**Disposition of Claims\***

- 5)  Claim(s) 1 is/are pending in the application.  
5a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 6)  Claim(s) \_\_\_\_\_ is/are allowed.
- 7)  Claim(s) \_\_\_\_\_ is/are rejected.
- 8)  Claim(s) \_\_\_\_\_ is/are objected to.
- 9)  Claim(s) 1 are subject to restriction and/or election requirement

\* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/pph/index.jsp](http://www.uspto.gov/patents/init_events/pph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

**Application Papers**

- 10)  The specification is objected to by the Examiner.
- 11)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

**Certified copies:**

- a)  All      b)  Some\*\*      c)  None of the:
1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 3)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4)  Other: \_\_\_\_\_.

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

## Examiner's Amendment/Comment

### Restriction Under 35 U.S.C. 121

The application discloses the following embodiments:

Embodiment 1, Figs. 1.1-1.3 - depicting a kettlebell style dumbbell simulative of a viking head

Embodiment 2, Figs. 2.1-2.3 - depicting a kettlebell style dumbbell simulative of a tiki head

Embodiment 3, Figs. 3.1-3.3 - depicting a kettlebell style dumbbell simulative of a buddah head

Embodiment 4, Figs. 4.1-4.3 - depicting a kettlebell style dumbbell simulative of a tiger head

Embodiment 5, Figs. 5.1-5.3 - depicting a kettlebell style dumbbell simulative of a cat head

Multiple embodiments of a single inventive concept may be included in the same design application only if they are patentably indistinct. See *In re Rubinfeld*, 270 F.2d 391, 123 USPQ 210 (CCPA 1959).

Embodiments that are patentably distinct from one another do not constitute a single inventive concept and thus may not be included in the same design application. See *In re Platner*, 155 USPQ 222 (Comm'r Pat. 1967). The differences amongst the embodiments, as noted above, create patentably distinct designs.

Because of the differences identified, the embodiments are considered to either have overall appearances that are **not** basically the same, or if they are basically the same, the differences are **not** minor and patentably indistinct or are **not** shown to be obvious in view of analogous prior art.

**Restriction is required under 35 U.S.C. 121 to one of the patentably distinct embodiments.**

A reply to this requirement must include an election of a single embodiment for prosecution on the merits, even if this requirement is traversed, 37 CFR 1.143. Any reply that does not include election of a single embodiment will be held nonresponsive.

**Applicant is also requested to direct cancellation of all drawing figures and the corresponding descriptions which are directed to nonelected embodiments.**

Should applicant traverse this requirement on the grounds that the embodiments are not patentably distinct, applicant should present evidence or identify such evidence now of record showing the embodiments to be obvious variations of one another. If the embodiments are determined not to be patentably distinct and they remain in this application, any rejection of one embodiment over prior art will apply equally to all other embodiments. See *Ex parte Appeal* No. 315-40, 152 USPQ 71 (Bd. App. 1965). No argument asserting patentability based on the differences between the embodiments will be considered once the embodiments have been determined to comprise a single inventive concept.

In view of the above requirement, action on the merits is deferred pending compliance with the requirement in accordance with *Ex parte Heckman*, 135 USPQ 229 (P.O. Super. Exam. 1960).

*Renumbering of the drawing figures in any elected Group is not required. For ease of comparison with the International Registration, and for compliance with 37 CFR 1.1026 and Section 405 of the Administrative Instructions, the numbering of the drawing figures included in the elected Group should not be changed.*

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### **Discussion of the Merits of the Application**

All discussions between the applicant and the examiner regarding the merits of a pending application will be considered an interview and are to be made of record. See MPEP 713. The examiner will not discuss the merits of the application with applicant's representative if the representative is not registered to practice before the USPTO. Appointment as applicant's representative before the International Bureau pursuant to Rule 3 of the Common Regulations under the Hague Agreement does NOT entitle such representative to represent the applicant before the USPTO. Furthermore, an applicant that is a juristic entity must be represented by a patent attorney or agent registered to practice before the USPTO. Additional information regarding interviews is set forth below.

### **Telephonic or in person interviews**

A telephonic or in person interview may only be conducted with an attorney or agent registered to practice before the USPTO ("registered practitioner") or with a *pro se* applicant (an applicant who is the inventor and who is not represented by a registered practitioner).

The registered practitioner may either be of record or not of record. To become "of record", a power of attorney (POA) in accordance with 37 CFR 1.32 must be filed in the application. Form PTO/AIA/80 "Power of Attorney to Prosecute Applications Before the USPTO", available at <https://www.uspto.gov/patent/forms/forms-patent-applications-filed-or-after-september-16-2012>, may be used for this purpose. See MPEP 402.02(a) for further information. Interviews may also be conducted with a registered practitioner not of record provided the registered practitioner can show authorization to conduct an interview by completing, signing, and filing an "Applicant Initiated Interview Request Form" (PTOL-413A) (available at the USPTO web page indicated above). See MPEP 405. For acceptable ways to submit forms to the USPTO, see "When Responding to Official USPTO Correspondence" below.

If a *pro se* applicant or registered practitioner located outside of the United States wishes to communicate by telephone, it is suggested that such person email the examiner at [joseph.kukella@uspto.gov](mailto:joseph.kukella@uspto.gov) to arrange a time and date for the telephone interview. Please include suggested days and times for the proposed call. When proposing a day and time for the interview, please take into account the examiner's work schedule indicated in the last paragraph of this communication. The email should also be used to determine who will initiate the telephone call.

### **Email Communications**

The merits of the application will not be discussed via email (or other electronic medium) unless appropriate authorization for internet communication is filed in the application. Form PTO/SB/439 "Authorization for Internet Communications in a Patent Application or Request to Withdraw Authorization for Internet Communications" may be used to provide such authorization and is available at the USPTO web page indicated above. The authorization may not be sent by email to the USPTO. For acceptable ways to submit the authorization form to the USPTO, see "When Responding to Official USPTO Correspondence" below. See MPEP 502.03 II for further information.

### **When Responding to Official USPTO Correspondence**

When responding to an official correspondence issued by the USPTO, including refusals, Ex Parte Quayle, Notice of Allowances, or Notice of Abandonments, please note the following:

The USPTO transacts business in writing. Applicants may submit replies to Office actions only by:

- Online via the USPTO's Electronic Filing System-Web (EFS-Web) (Registered eFilers only)  
<https://www.uspto.gov/patents-application-process/applying-online/efs-web-guidance-and-resources>
- Mail: Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450
- Facsimile to the USPTO's Official Fax Number (571-273-8300)
- Hand-carry to USPTO's Alexandria, Virginia Customer Service Window

<https://www.uspto.gov/patents-maintaining-patent/responding-office-actions>

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### **Conclusion**

A restriction requirement is in effect. Election is required to avoid abandonment.

A shortened statutory period for reply to this action is set to expire TWO MONTHS from the mailing date of this letter.

Applicant is reminded that any reply to this Refusal must be signed either by a patent practitioner (i.e., a patent attorney or agent registered to practice before the United States Patent and Trademark Office) or by the applicant. If the applicant is a juristic entity, the reply must be signed by a patent practitioner. See 37 CFR 1.33(b).

The references are cited as pertinent to the claimed design, but no determination as to patentability has been made pending a response to this restriction requirement.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Kukella whose telephone number is 571-272-4679. The examiner can normally be reached on Monday-Friday, 8:30AM-5:00PM EST. Examiner interviews are available via telephone, in

person, and via video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at <http://www.uspto.gov/interviewpractice>. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shannon Morgan, can be reached at 571-272-7979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of published or unpublished applications may be obtained from Patent Center. Unpublished application information in Patent Center is available to registered users. To file and manage patent submissions in Patent Center, visit: <https://patentcenter.uspto.gov>. Visit <https://www.uspto.gov/patents/apply/patent-center> for more information about Patent Center and <https://www.uspto.gov/patents/docx> for information about filing in DOCX format. For additional questions, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). For assistance from a USPTO Customer Service Representative, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOSEPH KUKELLA/  
Primary Examiner, Art Unit 2913

**Notice of References Cited**Application/Control No.  
35/511,708Applicant(s)/Patent Under  
Reexamination  
Großklaus, FabianExaminer  
JOSEPH J KUKELLAArt Unit  
2913

Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	CPC Classification	US Classification
*	A	US-D936763-S	11-2021	Tran; Long Nguyen Hoang		D21/682
*	B	US-D656206-S	03-2012	Lutz; Braden		D21/681
*	C	US-D728040-S	04-2015	Peterson; Cyrus		D21/680
*	D	US-D692509-S	10-2013	Kessler; George M.		D21/682
	E					
	F					
	G					
	H					
	I					
	J					
	K					
	L					
	M					

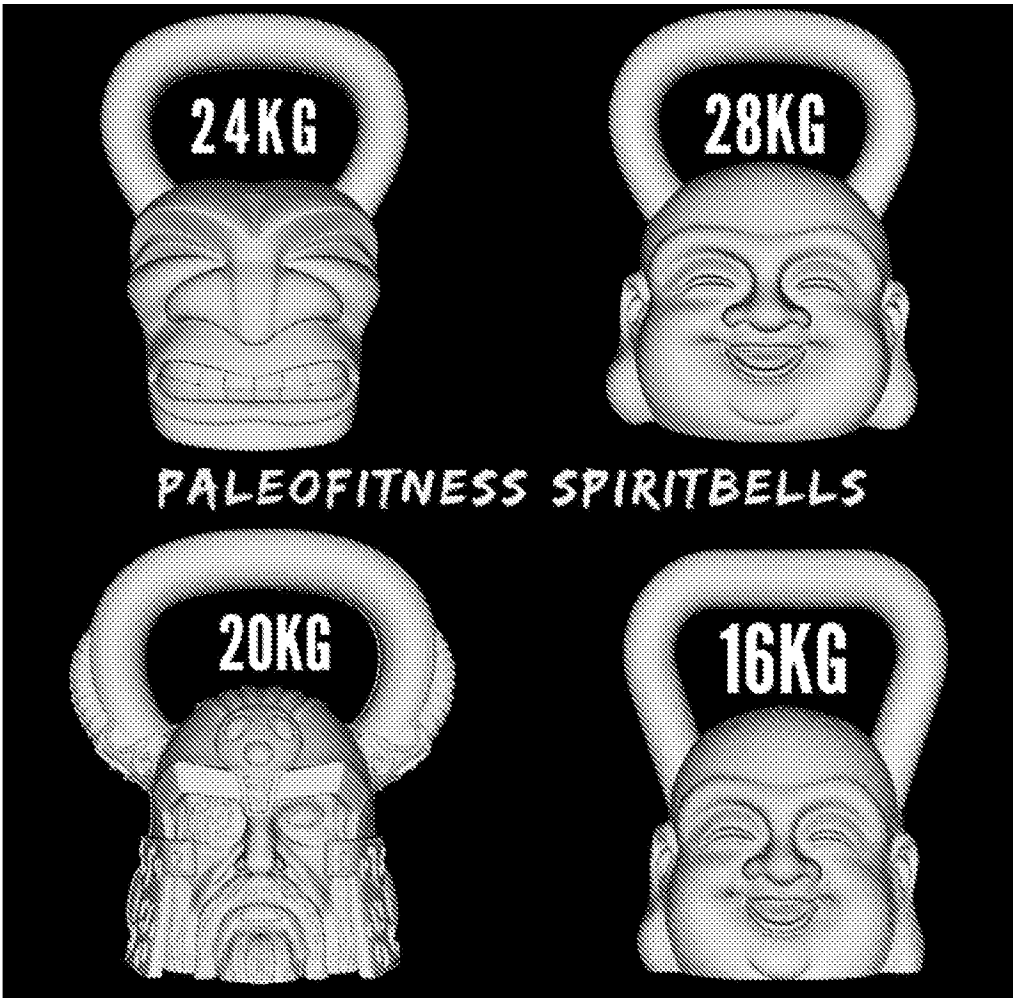
**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	CPC Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Spiritbells, paleofitness.germany, published 09/06/2020 on Instagram.com. Retrieved from the internet on 02/08/2022 <URL: <a href="https://www.instagram.com/p/CEyJs66DWCr">https://www.instagram.com/p/CEyJs66DWCr</a> > (Year: 2020)
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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paleofitness.germany Our "Spiritbells" 🏋️‍♀️👤  
 The first four models are ready and will soon be ready for you. We have the weight levels 16kg, 20kg, 24kg and 28kg on offer. 8kg, 12kg and 32kg will soon follow.

Our Spiritbells are simply brilliant. It doesn't matter whether it's swinging, snatching, pressing or whatever else you can do - the training is just a lot of fun and gets a new style factor 🏋️‍♀️👤  
 Kettlebells

Made in Germany  
 Made from recycled iron!

- Buddhabell 28kg
  - Tikibell 24kg
  - Vikingbell 20kg
  - Buddhabell 16kg
- #buddhabell #tikibell #vikingbell #kettlebell

Stay tuned in and follow us!  
 #paleofitnesskettlebells #spiritbells #kettlebell

Our "Spiritbells" 🏋️‍♀️👤  
 The first four models are in the making and will be ready for you soon. We have the weight levels 16kg, 20kg, 24kg and 28kg on offer. 8kg, 12kg and 32kg will follow.

Our spirit bells are novel!  
 Swinging, snatching, pressing or anything you want to do - the training is awesome and great fun with a new style factor 🏋️‍♀️👤  
 Kettlebells

Made in Germany  
 Made from recycled iron!

- Buddhabell 28kg
  - Tikibell 24kg
  - Vikingbell 20kg
  - Buddhabell 16kg
- #buddhabell #tikibell #vikingbell #kettlebell

Stay tuned and follow us!  
 #paleofitnesskettlebells #spiritbells


#kettlebelltrainer #kettlebellswing #kettlebellfitness  
 #kettlebelltraining #kettlebelllove #fitness #training #workout  
 #muscle #fitness #fitness #fitness #fitness #fitness #fitness #fitness

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<b>Search Notes</b> 	<b>Application/Control No.</b> 35/511,708	<b>Applicant(s)/Patent Under Reexamination</b> Großklaus, Fabian
	<b>Examiner</b> JOSEPH J KUKELLA	<b>Art Unit</b> 2913

CPC - Searched*		
Symbol	Date	Examiner
A63B21/072, 0722, 0724, 0726, 0728, 075	02/08/2022	/J.K./

CPC Combination Sets - Searched*		
Symbol	Date	Examiner

US Classification - Searched*			
Class	Subclass	Date	Examiner
D21	662, 680-683	02/08/2022	/J.K./

\* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

Search Notes		
Search Notes	Date	Examiner
Inventor and title search completed (PE2ESearch/PALM/Google/Orbit)	02/08/2022	/J.K./
PE2ESearch completed (see search history)		
Backward/Forward search on all cited references		
Assignee search complete (PE2ESearch/PALM/Google/Orbit)		

Interference Search			
US Class/CPC Symbol	US Subclass/CPC Group	Date	Examiner

/JOSEPH KUKELLA/ Primary Examiner, Art Unit 2913	
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## PE2E SEARCH - Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	British Equivalents	Time Stamp
L1	3504	A63B21/072,0722,0724,0726,0728,075.cpc.	(US-PGPUB; USPAT)	OR	ON	ON	2022/02/08 04:05 PM
L2	1197	D21/662,680-683.ccls.	(US-PGPUB; USPAT)	OR	ON	ON	2022/02/08 04:07 PM
L3	40	kettlebell AND S.AT.	(US-PGPUB; USPAT)	OR	ON	ON	2022/02/08 05:18 PM
L4	0	((("GROSSKLAUS") near3 ("Fabian"))).AS,AANM.	(USPAT)	OR	ON	ON	2022/02/08 05:19 PM
L5	0	((("GROSSKLAUS") near3 ("Fabian"))).INV.	(US-PGPUB; USPAT; USOCR; EPO; JPO; DERWENT)	OR	ON	ON	2022/02/08 05:20 PM

## PE2E SEARCH - Search History (Interference)

There are no Interference searches to show.

# Bibliographic Data

Application No: 35/511,708

Foreign Priority claimed:  Yes  No

35 USC 119 (a-d) conditions met:  Yes  No

Met After Allowance

Verified and Acknowledged: /JOSEPH KUKELLA/

Examiner's Signature

Initials

Title: Dumbbell

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FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
02/15/2021	D21	2913	
<b>RULE</b>			

## APPLICANTS

Fabian Großklaus, Wardenburg, GERMANY

## INVENTORS

Fabian Großklaus, Wardenburg, GERMANY

## CONTINUING DATA

## FOREIGN APPLICATIONS

GERMANY DE402020202813 08/16/2020

GERMANY DE402020203399 09/28/2020

## IF REQUIRED, FOREIGN LICENSE GRANTED\*\*

04/20/2021

## STATE OR COUNTRY

GERMANY

## ADDRESS

Jabbusch Siekmann & Wasiljeff

Hauptstraße 85

Oldenburg, 26131

GERMANY

## FILING FEE RECEIVED

\$1,067.55

## WIPO Int'l Reg. Allowed Design#s: