

PATENTS EXAMINATION BOARD

PRACTICAL LEGAL PROBLEMS

SUPPLEMENTARY EXAMINATION PAPER: OCTOBER 2025

EXAMINERS: T BALL  
A LEWIS  
MODERATOR J WHITTAKER

DURATION: READING TIME: 1 HOUR  
EXAMINATION TIME: 4 HOURS  
TOTAL: 5 HOURS

NOTES TO CANDIDATES:

1. Attached to the paper are copies of the following documents:
  - (i) A copy of the Patents Act No. 57 of 1978;
  - (ii) A copy of the Patent Regulations 1978; and
  - (iii) A copy of the Uniform Rules of the High Court under the Superior Courts Act 10 of 2013 (Rules 6, 14, 17, 18, 19, 21, 22, 23, 24, 25, 30, 35, 36 and 37).
2. Each candidate is also allowed access to one dictionary during the Exam.
3. This paper consists of 19 pages in total and includes the following documents:

- (i) Factual Background for Questions 1 and 2 – (Pages 2 to 5);
  - (ii) Questions 1 to 5 (100 marks) – (Pages 6 and 7);
  - (iii) Document A (ZA 2009/01234) — (Pages 8 to 15); and
  - (iv) Document B (US 2,647,595) — (Pages 16 to 19).
4. Prior to the handing out of the answer papers, candidates will have the opportunity to read the above documents and make notes for 60 minutes.
5. Where appropriate, reference should be made to case law, and conclusions should be supported by reasons and arguments.

## **FACTUAL BACKGROUND FOR QUESTIONS 1 AND 2**

A new client writes to you as follows:

*"Dear Sirs,*

*I own a company called 'Luggage King' which has, for more than 20 years, manufactured and sold suitcases and various accessories for suitcases.*

*For the past year, we have been manufacturing and selling protective covers for luggage. In this regard, we saw some luggage protectors in Australia some time back, and we decided to make our own products and to market these products in South Africa.*

*Our most successful product is a luggage protector which we market as a 'Luggage Glove'. Below are drawings of our Luggage Glove and a conventional suitcase.*

*As can be seen in Drawings 1 and 2, the suitcase 10 has two handles 11 and 12, and two pairs of wheels 13 which assist in the handling of the suitcase. Our glove 1, which is shown above the suitcase 10 in Drawing 1, includes a first side wall 1a, an opposed second side wall 1b (see Drawing 3), a first edge wall 1c (which extends along a first edge and onto the top of the glove 1), and a second edge wall 1d. The edge walls 1c and 1d terminate at lower ends 3, as shown in Drawings 1 and 3, and these lower ends are reinforced to form bottom edges 6 (see Drawing 4). The glove 1 also includes two handle*

*openings 2a and 2b in the edge wall 1c for allowing the handles 11 and 12 to project through the glove, in use.*

*A pair of flaps 4 extends from lower edges of the side walls 1a and 1b, and hook-and-loop fasteners 5 are provided at the free ends of the pair of flaps for attaching these flaps to one another. The glove 1 further includes a zip fastener 7 on the side edge 1d for assisting with the insertion of the suitcase 10 into the glove 1.*

*The glove 1 is formed from an elastic material and includes creases 8 at rounded edge portions. The elastic design allows the glove 1 to accommodate differently sized suitcases.*

*To fit the glove 1 over a suitcase 10, the flaps 4 are released from one another (as shown in Drawing 1), the zip fastener 7 is slid at least partially open, and the suitcase 10 is inserted into the glove. As the suitcase is inserted, the handles 11 and 12 exit the handle openings 2a and 2b in the manner illustrated in Drawing 2. Thereafter, the zip fastener 7 is slid closed and the flaps 4 are joined together, between the wheels 13 on the suitcase 10, by means of the hook-and-loop fasteners 5 (see Drawing 4). In this condition, the glove 1 serves to protect the suitcase from damage during handling and transport, and may be used to prolong the life of the suitcase. If the glove becomes damaged, it is relatively easy and inexpensive to replace.*

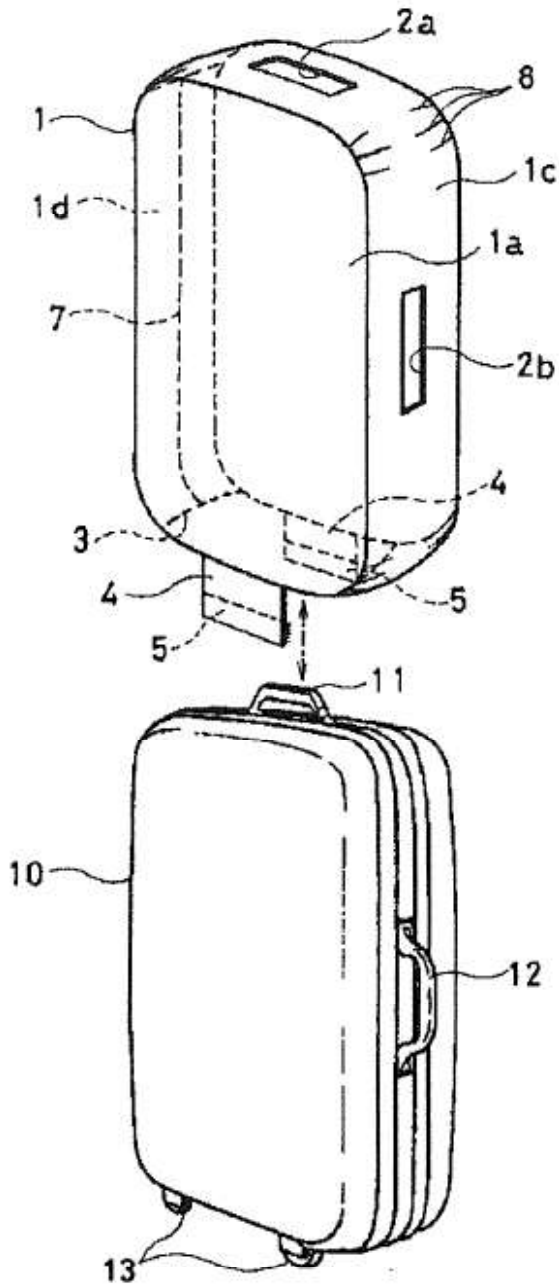
*Yesterday, I received a letter from a law firm acting on behalf of one of our competitors, "Luggage Solutions". The letter states that we are infringing South African patent 2009/01234 [Document A], and demands that we cease with the manufacture and sale of our Luggage Glove with immediate effect. The letter also states that, if we do not cease with the manufacture and sale of our Luggage Glove within 10 days, Luggage Solutions will proceed with infringement proceedings against us.*

*One of our employees found an old US patent, namely US 2,647,595 [Document B], which also describes a luggage protector.*

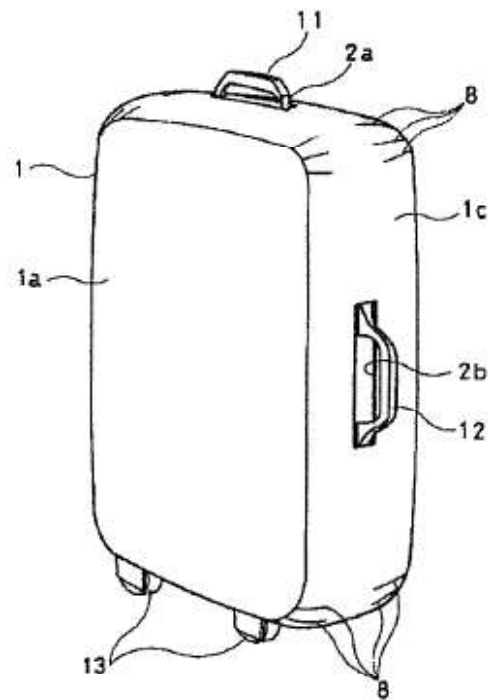
*Please advise us as to our position and how we should respond to the letter from Luggage Solutions' lawyers.*

*Yours faithfully,  
Brian King*

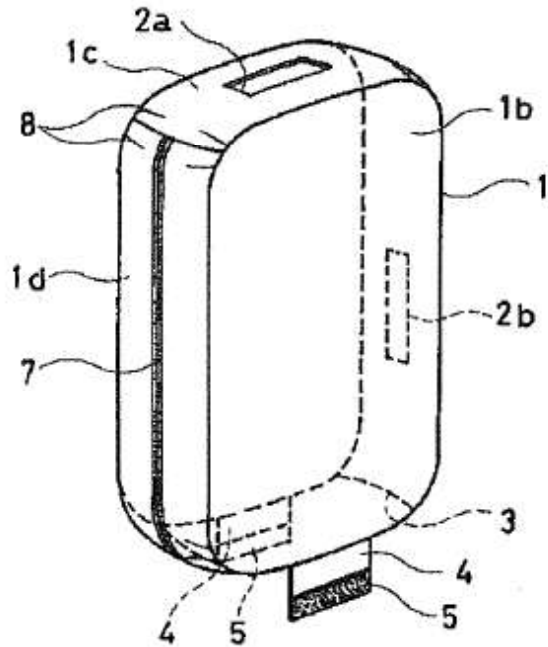
## LUGGAGE GLOVE DRAWINGS



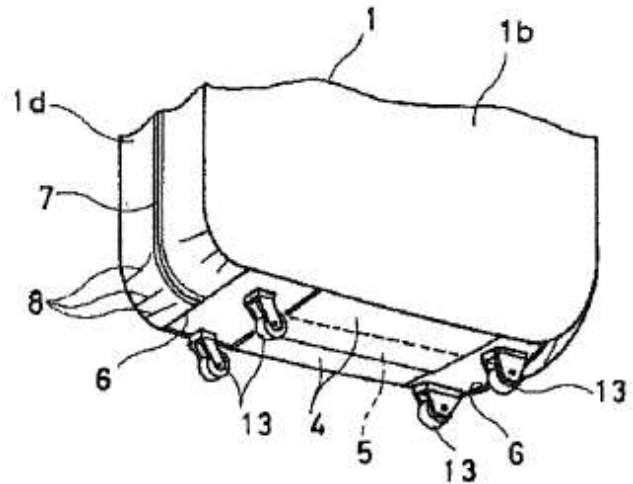
DRAWING 1



DRAWING 2



DRAWING 3



DRAWING 4

Your background checks establish that:

- (a) ZA 2009/01234 [Document A] was filed on 16 February 2009 claiming priority from an earlier South African patent application which was filed on 6 June 2008;
- (b) All formalities in respect of ZA 2009/01234 were correctly complied with; and
- (c) ZA 2009/01234 is currently in force.

## **QUESTIONS**

### **QUESTION 1**

**(30 marks)**

Please provide your client with detailed advice on whether or not the manufacture and sale of your client's Luggage Glove infringes the claims of ZA 2009/01234.

### **QUESTION 2**

**(30 marks)**

Please provide your client with detailed advice on the validity of ZA 2009/01234 in light of US 2,647,595

### **QUESTION 3**

**(20 marks)**

3.1 What are the basic requirements for amending a provisional and complete specification and what amendments are permissible in respect of provisional and complete specifications? (11 marks)

3.2 Discuss how you would amend a specification if there are pending legal proceedings, depending on the nature of the proceedings. (7 marks)

3.3 Can an allowed amendment be set aside? (2 marks)

### **QUESTION 4**

**(10 marks)**

Your client develops a hull for a speedboat and arranges a consultation with you in order to discuss the possibility of obtaining protection for its idea. Your client emphasizes that an important feature of the idea relates to the specific shape and configuration of the hull profile. During the consultation your client also advises you that the hull was tested during a series of runs that were conducted on a prototype on Kariba Dam in Zimbabwe. The tests were conducted very early in the morning before anyone was present at or near the test site, other than the employees who carried out the tests. Your client conducted the tests approximately two months ago. Arising out of the tests your client

has designed a small modification to the hull, which your client is confident will improve the speedboat although they have not tested it yet. Your client envisages selling two models, a cheaper version without the modification, and a more upmarket version that includes the modification. Please advise your client fully on what options are available to it in order to obtain protection in South Africa and the likelihood of it obtaining protection.

**QUESTION 5**

**(10 marks)**

Your client informs you that it received a letter of demand from its main competitor (ABC Lights) regarding the sale of one of your client's new light fittings for use in coal mines. The light fitting was developed by your client in house over the last 18 months and has only been on the market for the last 2 months. ABC claims that your client copied one of their products and that your client's light fitting is an infringement of ABC's patent rights. You are further informed that ABC also sent a similar letter to your client's major customers who have threatened to cancel orders from your client. This is a major concern for your client as it has significant pending orders and would like to protect its market and sales.

You investigate and all that you can find is one patent application filed by ABC Lights about 7 months ago, entitled "A mining light fitting", accompanied by a provisional specification.

Advise your client what it may do.

**TOTAL: 100 marks**

## **A COVER FOR A LUGGAGE CONTAINER**

### **BACKGROUND OF THE INVENTION**

This invention relates to a cover for a luggage container such as, for example, a suitcase. This type of luggage container generally has a body defining a compartment for receiving luggage, and at least one handle projecting from, or movable to project from, the body. Where the handle is movable to project from the body, the handle may be movable in a telescopic fashion between an operative, extended condition to facilitate handling of the container, and an inoperative, retracted condition for easy stowage or transport of the container. Such a luggage container may also include wheels for improved mobility, in use.

Luggage containers of the type described above are often damaged during handling. For example, luggage containers are not always handled with proper care when transported through an airport, especially when loaded onto, or offloaded from, an aeroplane. This can result in the scuffing, scratching, staining, or even breaking of the luggage container. In addition, luggage containers transported through airports are sometimes subject to unauthorised tampering, and this can result in theft of luggage from these containers.

It is an object of the present invention to provide a cover for a luggage container which protects the container from damage, in use, and which serves to restrict unauthorised tampering with the contents of the luggage container.

### **SUMMARY OF THE INVENTION**

The subject cover for a luggage container is as defined in the claims. A preferred embodiment of the invention is described in detail below and illustrated in the accompanying drawings.

### **BRIEF DESCRIPTION OF THE DRAWINGS**

FIG. 1 is a perspective view of a cover for a luggage container in accordance with a preferred embodiment of the invention;



FIG. 2 is a perspective view of a luggage container; and

FIG. 3 is a perspective view of the cover illustrated in FIG. 1 on the luggage container illustrated in FIG. 2.

#### DETAILED DESCRIPTION OF A PREFERRED EMBODIMENT

FIG. 1 of the drawings illustrates a cover 10 for protecting a luggage container (not shown). The cover 10 includes a cover body 30 for covering at least a portion of a luggage container.

FIG. 2 of the drawings illustrates a luggage container in the form of a suitcase 12 which may be protected by the cover 10 in accordance with the invention. The suitcase 12 is conventional in nature and includes a body 14 which defines an internal compartment (not shown) for containing luggage. The body 14 has an upper wall 16, an opposed lower wall 56, a first pair of opposed side walls 17 and 18, and a second pair of opposed side walls 19 and 20. The suitcase 12 also has a pair of wheels 22 (only one of which is visible in FIG. 2) mounted to the body 14 for improved mobility, in use. As can be seen in FIG. 2, the suitcase 12 includes a first handle 24 and a second handle 26. With reference also to FIG. 3 of the drawings, the first handle 24 projects from the upper wall 16 of the body 14, and the second handle 26 is movable, in a telescopic fashion in the directions of the arrows 28, between an operative, extended condition to facilitate handling of the container (as shown in FIG.3), and an inoperative, retracted condition for easy stowage or transport of the container (as shown in FIG. 2).

Referring now to FIG. 1 and FIG. 3, the cover body 30 has an upper wall portion 32 for covering the upper wall 16 of the suitcase 12, in use, and a side wall portion 34 for covering the side walls 17, 18, 19 and 20 of the suitcase 12. In the illustrated embodiment, the side wall portion 34 has a pair of opposed side walls 38 and 40 and a pair of opposed side walls 42 and 44. The upper wall portion 32 and the side wall portion 34 together define an interior space 45 for receiving at least a portion of the suitcase 12, in use. As can be seen in FIG. 1, the cover body 30 defines a handle opening 46 in the upper wall portion 32 and the side wall portion 34 for allowing the handles 24 and 26 on the suitcase 12 to extend from the interior space 45 through the cover body 30. An operatively lower end 48 of the cover body 30 defines an entrance

opening (not visible) for allowing at least a portion of the suitcase 12 to enter the interior space 45 in the cover body 30.

The cover body 30 is typically constructed from a relatively rigid material. For example, the cover body 30 may be formed from a suitable plastics material, such as a polypropylene (PP) or a high density polyethylene (HDPE). In a preferred embodiment of the invention, the cover 10 is provided with a transparent pocket (not shown) on the cover body 30 for receiving a personal identifier carrying contact details of an owner of the suitcase 12 container within the cover.

The cover 10 also includes a securing arrangement for securing the cover 10 to the suitcase 12. The securing arrangement comprises a strap 52 connected to the side wall 38 of the cover body 30 (see FIG. 1), a male connector 58 at the free end of the strap 52, an adjustable strap 54 connected to the side wall 40 of the cover body 30 (see FIG. 3), and a female connector 56 at the free end of the adjustable strap 54. The male connector 58 and the female connector 56 are connectable to one another, and a combination lock (see FIG. 3) on the female connector 56 allows the male connector to be locked to the female connector, in use.

The cover 10 also includes a flap 50 which extends from the side wall 38 of the cover body 30 (see FIG. 1), and a flap 51 which extends from the side wall 40 of the cover body 30 (see FIG. 3). The flaps 50 and 51 provide a protective layer between the suitcase 12 and the strap 52, in use.

The cover 10 may be fitted over the suitcase 12 by releasing the male connector 58 from the female connector 56, displacing the strap 52 away from the entrance opening 48, and inserting the upper portion of the suitcase 12 into the interior space 45 of the cover body 30, as shown in FIG. 3. Once the cover 10 has been fitted over the suitcase 12, it may be secured to the suitcase by extending the strap 52 over the lower wall 56 of the suitcase, inserting the male connector 58 into the female connector 56, and locking the combination lock on the female connector 56. In this operative condition of the cover 10, which is illustrated in FIG. 3 of the drawings, the handles 24 and 26 on the suitcase 12 are accessible.

The size of the securing arrangement may be adjusted by increasing or decreasing the length of the adjustable strap 54, thereby to accommodate suitcases of different sizes within the cover 10.

To remove the cover 10 from the suitcase 12, the combination lock is unlocked, the male connector 58 is withdrawn from the female connector 56, the strap 52 is displaced away from the entrance opening 48, and the suitcase 12 is withdrawn from the interior space 45.

When the cover 10 is secured to the suitcase 12, as shown in FIG. 3, the cover serves to protect the suitcase from damage such as scuffing, scratching, staining, and the like. Also, since the cover 10 is formed from a relatively rigid material, it may serve to protect the suitcase 12 from impact loads. In this way, the cover may be used to extend the life of the suitcase. When the cover 10 has been significantly damaged, it may be removed from the suitcase 12 and replaced.

In addition, when the securing arrangement is locked, the cover 10 serves to restrict unauthorised tampering with the contents of the suitcase 12.

**CLAIMS:**

1. A cover for a luggage container, the cover including:
  - (a) a cover body for receiving a luggage container, the cover body including:
    - (i) an upper wall portion for covering an operatively upper wall of a luggage container, a side wall portion for covering side walls of the luggage container, the upper wall portion and the side wall portion defining an interior space for receiving at least a portion of the luggage container, in use; and
    - (ii) at least one handle opening in the upper wall portion and/or the side wall portion for allowing a handle on the luggage container to extend from the interior space through the cover body; and
  - (b) a securing arrangement for operatively securing the cover body to the luggage container, thereby to resist removal of the luggage container from the cover body.

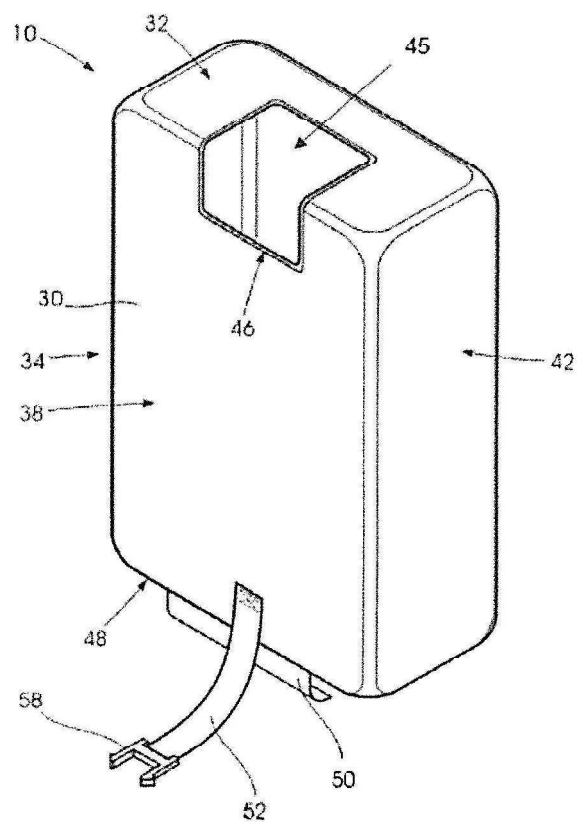


FIG. 1

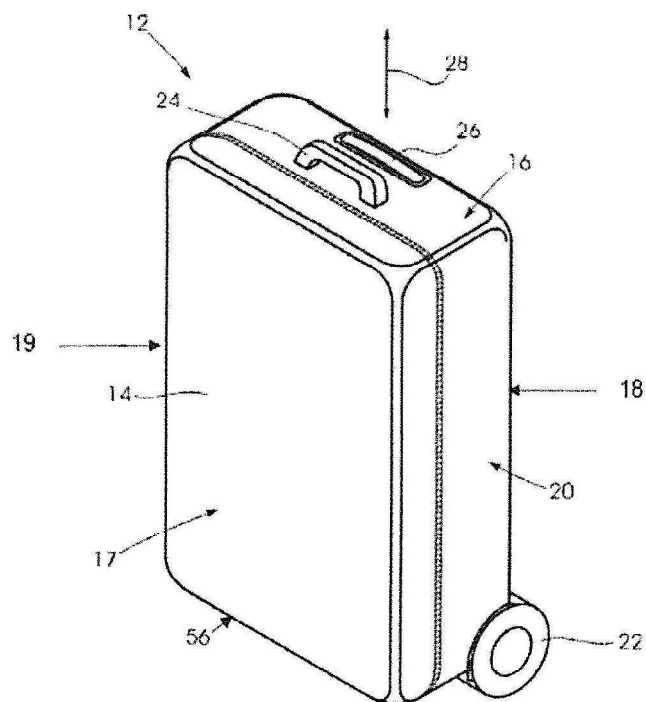


FIG. 2

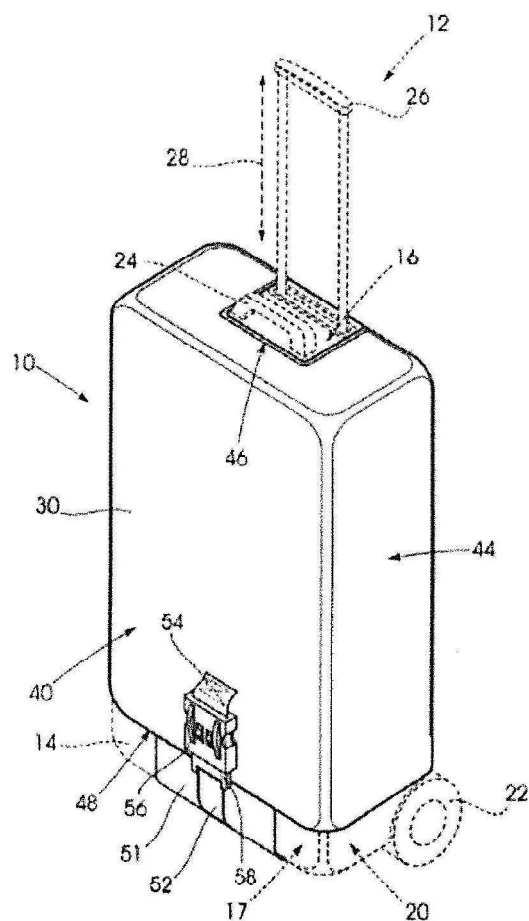


FIG. 3

Aug. 4, 1953

I. J. MEYERS

2,647,595

SUPPLEMENTARY COVER TO PROTECT LUGGAGE

Filed Feb. 26, 1951

2 Sheets-Sheet 1

FIG. 1

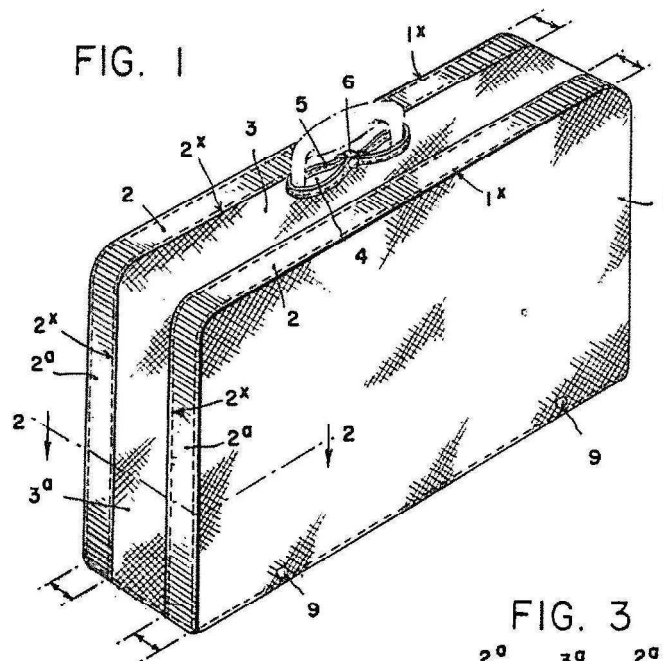


FIG. 2

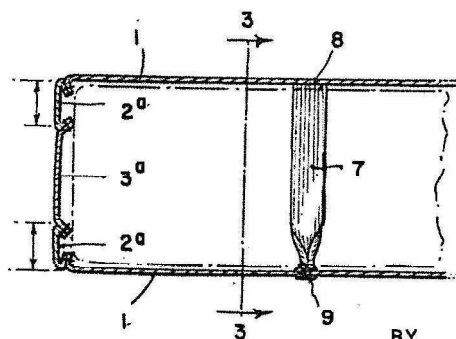
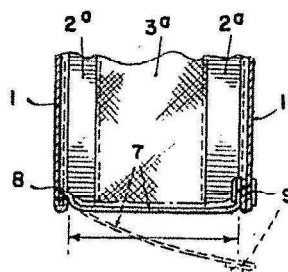


FIG. 3



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2,647,595

SUPPLEMENTARY COVER TO PROTECT LUGGAGE

Filed Feb. 26, 1951

2 Sheets-Sheet 2

FIG. 4

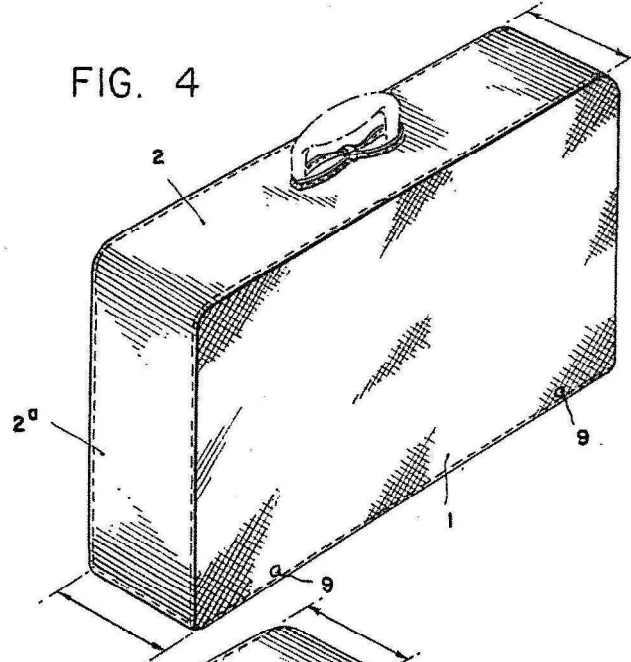
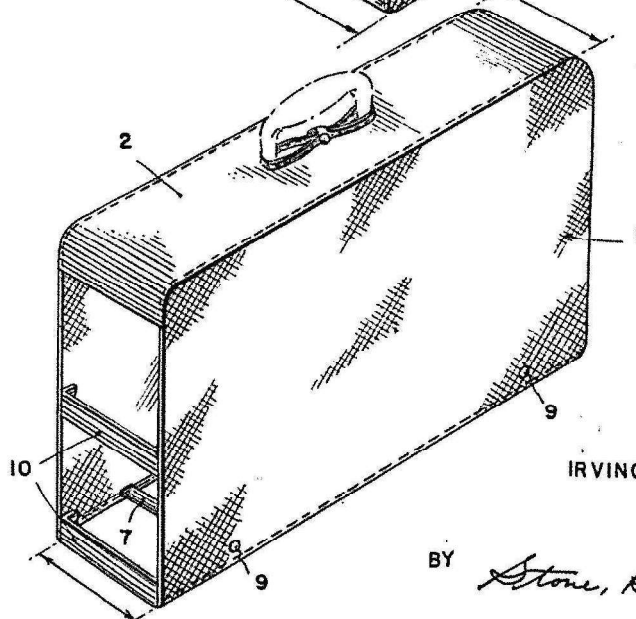


FIG. 5

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ATTORNEYS

Patented Aug. 4, 1953

2,647,595

## UNITED STATES PATENT OFFICE

2,647,595

SUPPLEMENTARY COVER TO PROTECT  
LUGGAGE

Irving J. Meyers, Richmond, Va.

Application February 26, 1951, Serial No. 212,798

4 Claims. (Cl. 190-26)

**1**  
This invention relates to luggage covers and pertains particularly to improved covers of the type which may be called quick detachable or conversely those which may be quickly applied.

More specifically, the type of cover is that having four sides and a top but no bottom, whereby it may be applied downwardly over the top of a suitcase. For convenience hereinafter, this type of cover is termed a "sack" type cover, by reason of its side walls and one closed end.

Damage to luggage during travel or otherwise in the course of handling has created a demand for protective luggage covers. Some of these are custom made and tailored quite exactly and are correspondingly expensive. Unless so tailored, luggage covers have often proved to be either too tight or too loose even for specified sizes. Improvements tending to obviate this latter fault embody the use of elastically stretchable material used in combination with a sliding fastener whereby the respective parts of the cover snugly fit to and embrace the opposite hinged parts of a suitcase.

Such improvements are described in Patent No. 2,520,250 and in the application Serial No. 3780 filed January 22, 1948, copending herewith (now Patent No. 2,617,504).

The present invention includes the use of elastically stretchable material but dispenses with fasteners, and is of unitary construction in that the top and sides are permanently secured together.

The foregoing and additional features and advantages of the cover of the present invention will be understood from the following specification and claims when considered in conjunction with the accompanying drawings and in which:

Fig. 1 is a perspective view looking downward toward one corner of the luggage cover of this invention as applied to a conventional suitcase, the cover being provided with spaced strips of elastically stretchable material;

Fig. 2 is a fragmentary sectional view on the line 2-2 of Fig. 1;

Fig. 3 is a fragmentary sectional view on the line 3-3 of Fig. 2 showing an underneath fastening strap in open position in broken lines;

Fig. 4 is a perspective view similar to that of Fig. 1 but of a modification in which the elastic material covers the entire width of the top and ends; and

Fig. 5 is a modification of the cover according to which the opposite ends are open except for cross straps of elastically stretchable material.

Referring in detail to the several figures of the drawings, it will be understood that the article of this present invention is a suitcase cover adapted for quick detachable use and which is

**2**  
applied at the top of the suitcase and is adapted to be lowered so as to enclose the top sides and ends and to be secured beneath the suitcase so as to prevent accidental displacement. The cover includes side panels indicated at 1 which are shown in the several figures as extending the full area of the suitcase sides. To provide for ready adaptability to slightly different contours and dimensions for suitcases which are intended to have identical dimensions, the cover of this invention is provided with one or more strips of elastic extending from one lower corner upward over the end and lengthwise of the top and thence downwardly to the opposite lower corner. This elastic strip is stretchable transversely of the width of the suitcase, as indicated by the arrows in the several figures.

In the arrangement shown in Figures 1, 2 and 3, two such elastically stretchable strips 2 are provided. They are relatively narrow and are secured to the adjacent marginal edge of each of the side panels 1 by the usual stitching, as indicated at 1\*. The portions of the strips 2 extending downwardly at the end portions of the cover are indicated at 2\*.

Intermediate the strips 2 is a strip of covering having a portion 3 extending lengthwise of the suitcase and which has end portions 3\*. This intermediate strip 3 and 3\* is preferably of the same material as that of the panel portions 1, and the intermediate strip is secured to the adjacent edges of the elastic strips by stitching indicated at 2\*.

Centrally located at the upper middle portion of the central strip is an opening 4 through which the handle of a suitcase may project, the opening having side walls 5 which are preferably provided with a suitable binding. A strap with a suitable snap fastener is indicated at 6, whereby the opposite side walls 5 may be brought together and the cover thus secured beneath the suitcase handle.

Means for securing the lower edges of the cover beneath the bottom of a suitcase are provided by straps 7 which have one end secured to one side panel at the lower edge thereof, as indicated at 8, and the opposite end releasably secured to the lower edge of the opposite panel, as indicated at 9 by means of a snap fastener. The straps 7 may be of any suitable material such as tape, elastically stretchable material, or a waterproof plastic.

In Figure 4, there is illustrated a modification of the cover shown in Figure 1. According to Figure 4, the elastically stretchable material extends the full width of the suitcase from side panel to side panel, and completely from one lower corner upwardly over the ends and across the top.

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In Figure 5, there is illustrated a further modification in which the upper face of the cover is provided with a full width of elastic material, as illustrated in Figure 4, but the ends thereof terminate just below the upper surface. The end portions are open except for a plurality of strips 10 which are connected to the opposite panels 1, and extend transversely of the width of the cover as shown in Figure 5. These strips 10 are also preferably of elastically stretchable material. The space between the upper cover portion 2 and the next adjacent strip 10, and between the strips 10, is open, so that the suitcase enclosed by the cover may be visible. The cross strips 10 do afford some protection for the material of the suitcase. The suitcase cover of this modification has an advantage in that less elastic material is used than in the modification shown in Figure 4.

The fragmentary view shown in Figure 2 is taken on the line 2-2 of Figure 1, looking in the direction of the arrows. This view shows in section the positioning of the stitching between the portions 1, 2\* and 3\* at one end of the cover. It also shows in dot and dash lines the position which would be occupied by a suitcase when the cover is in use. The strap 7 in Figure 2 is shown with its snap fastener 9 in its attached position.

The fragmentary view shown in Figure 3 is taken on the line 3-3 of Figure 2 looking in the direction of the arrows and this view illustrates the position of the strap 7 in solid lines and in broken lines shows the location of the male portion of the snap fastener with respect to the strap when the latter is in its released position.

The panels 1, and the intermediate strip 3 of Figure 1, are preferably formed of wear resistant and scuff proof material which may be either a textile fabric, or a plastic coated textile, or a transparent or translucent plastic sheet. The stitched seam is preferably located on the side next to the suitcase although the location and type of seams may be varied as desired. The elastically stretchable material of the portions 2 and 2\* is preferably of textile goods having rubber threads extending in at least one direction of the weave whereby the cover is definitely equipped to stretch transversely of the width of a suitcase on which the cover is to be used.

#### I claim:

1. A luggage cover for protecting the top and sides of an article of luggage, comprising two panel portions each matching in size and shape the opposite respective sides of a piece of luggage, top cover means to protect the top of the piece of luggage extending between and joining upper edges of said panel portions, and including elastically stretchable material, said top cover means having an opening through which a luggage handle may extend, said top cover means being entirely of sheet material and permanently secured to said panel portions, and bottom securing means comprising a plurality of spaced straps, one end of each of which is secured to a panel adjacent a lower edge thereof and which straps are releasably attachable to the opposite panel.

2. A luggage cover for protecting the top and sides of an article of luggage, comprising two panel portions each matching in size and shape the opposite respective sides of a piece of luggage, top cover means to protect the top of the piece of luggage extending between and joining upper edges of said panel portions and including elastically stretchable material, said top cover means having an opening through which a luggage handle may extend, said top cover means being

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entirely of sheet material and permanently secured to said panel portions, the opposite ends of said elastically stretchable top covering material terminating adjacent the ends of said panel portions and above and spaced from the bottom edge of said panel portions, a connecting strip at each end of said cover of elastically stretchable material extending horizontally and joined to adjacent ends of said two panel portions at a distance from and spaced below the adjacent end of said top covering elastically stretchable material, and bottom securing means comprising a plurality of spaced straps, one end of each of which is secured to a panel adjacent a lower edge thereof and which straps are releasably attachable to the opposite panel.

3. A luggage cover for protecting the top and sides of an article of luggage, comprising two panel portions each matching in size and shape the opposite respective sides of a piece of luggage, top cover means to protect the top of the piece of luggage extending between and joining upper edges of said panel portions and including elastically stretchable material, said top cover means having an opening through which a luggage handle may extend, said top cover means being entirely of sheet material and permanently secured to said panel portions, the opposite ends of said elastically stretchable top covering material terminating adjacent the ends of said panel portions, a connecting strip at each end of said cover of elastically stretchable material extending horizontally and joined to adjacent ends of said two panel portions at a distance from and spaced below the adjacent end of said top covering elastically stretchable material, the area between each of said connecting strips and the adjacent end of said elastically stretchable material being open, and bottom securing means comprising a plurality of spaced straps, one end of each of which is secured to a panel adjacent a lower edge thereof and which straps are releasably attachable to the opposite panel.

4. A suitcase cover for quick detachable use and of the type having material for the protection of the top of the suitcase, both ends and both sides, said cover being characterized by a first strip of elastically stretchable material extending lengthwise of the case along the top and between the material of the sides to which it is permanently connected, the opposite ends of said cover having secondary strips of elastically stretchable material extending transversely of the width of the cover spaced from the adjacent end of said first strip and connected to the material of the sides of the cover, and bottom securing means comprising a plurality of spaced straps, one end of each of which is secured to a lower edge portion of the material for the protection of one of the sides, and which straps are releasably attachable to the lower edge portion of the material for protecting the opposite side.

IRVING J. MEYERS.

#### References Cited in the file of this patent UNITED STATES PATENTS

Number	Name	Date
2,167,587	Rowe	July 25, 1939
2,487,596	Sackstein	Nov. 8, 1949

#### FOREIGN PATENTS

Number	Country	Date
607,133	Great Britain	Aug. 26, 1948