

Topic 8: Claim Drafting: Methodologies and Techniques

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Overview

- Multiple approaches
 - There is no “right way”
- Most critical – identify the invention(s)
 - Where multiple inventions identify the most important one
- Take into account the prior art
- Try “bust” your claim
 - Constantly switch hats between drafter and infringer



Useful Techniques

- Table of features
- Problem-solution approach
- Picture claim

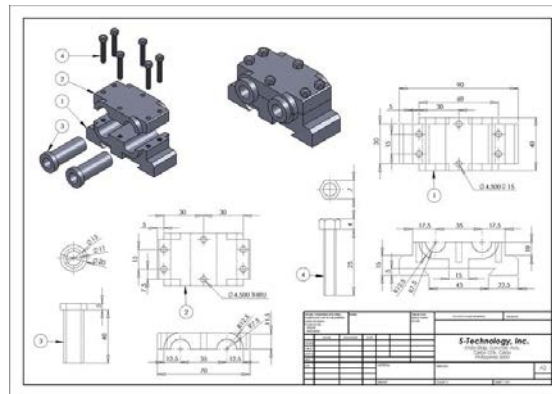


Table of Features

- Everything about its structure, movement and function that's "new"
- Any "advantages, solutions to problems, alternatives" you can see
- Essentially any features of the device
- Keep refining

Problem-Solution Approach

- Focus on:
 - Technical effects
 - Advantages
 - Alternative ways of doing things

- The “problem” is to provide one of these

- Which is the most commercially relevant?

- Then focus on which features are required for that

Picture Claim

- Write a claim that describes all the features of the embodiment

- Work through your claim and remove features or broaden features that are too narrow
 - Are all features necessary to achieve your effect (“minimum essential features”)?
 - Do all features interact (floating features)?
 - Can a more general/broader feature be employed instead?

While Drafting

- Constantly think of variations or different embodiments of the invention
 - How can the same result be achieved in a different way?
- Keep changing hats
 - Imagine you are a competitor who wishes to get around the claims

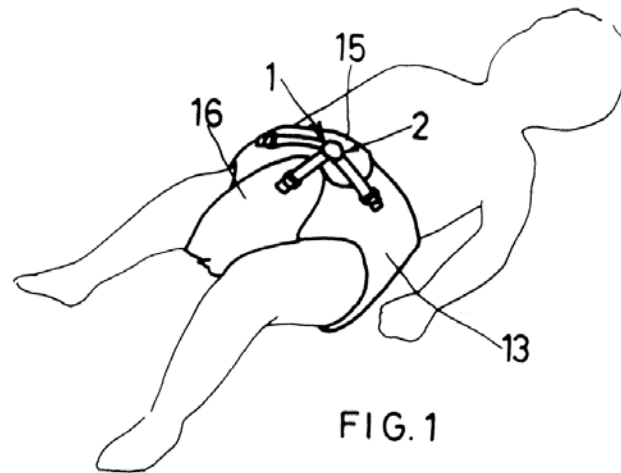
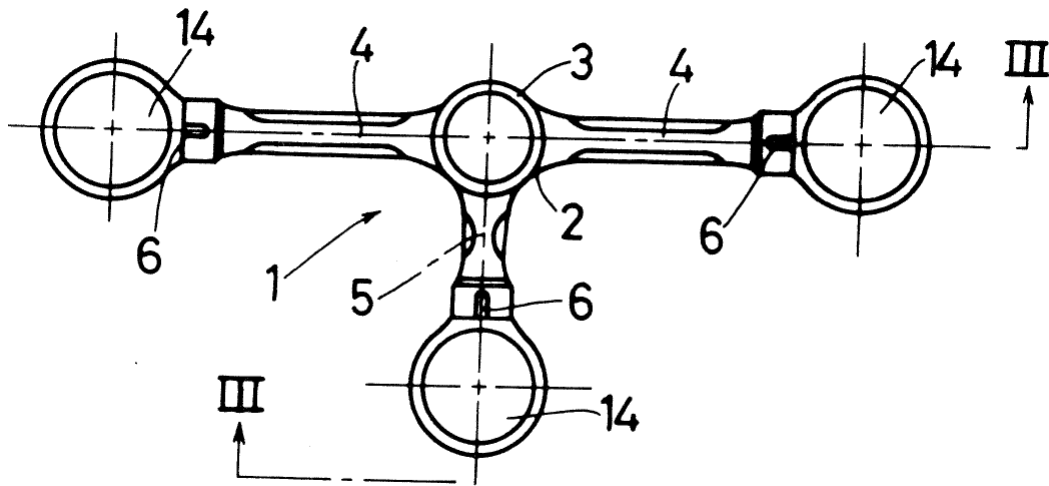


Word choice

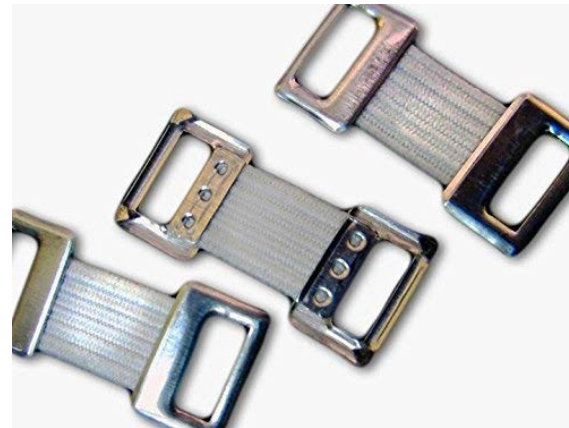
- Keep checking your dictionary to ensure the word you use has the meaning you think it has

- Avoid relative terms
 - Fast/slow
 - Long/short
 - Up/down

Example



Prior Art



What is the Invention?

- Holding a diaper on a child?
 - Safety pin

- Holding a diaper on a child with elastically connected hooks (so that diaper is drawn together)?
 - Possibly

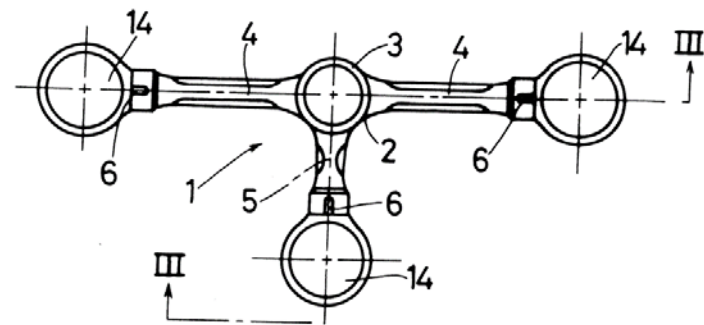
What is the Invention?

- But what about bandage clip? – Pair of hooks held together by elastic
 - Could it be used on a diaper? – maybe/probably
 - Our hooks potentially bigger – inventive?

- What about 3 hooks elastically held together?
 - New
 - Inventive? – probably as it allows three flaps of diaper to be drawn together with a single fastener

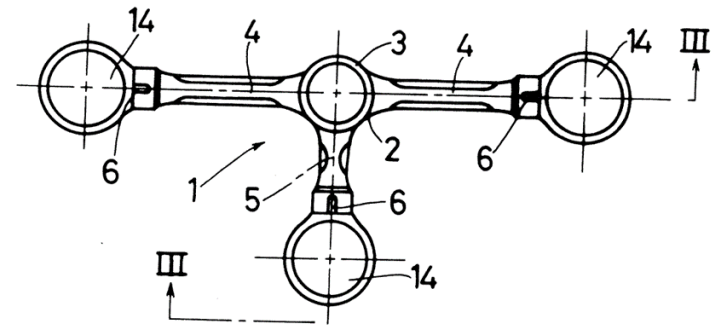
List of features

- Diaper/nappy fastener
- 3 Hooks or holders
- Rings / grips
- Arms
- Stretchy
- Centre
- Plastic
- Colourful
- T-shaped



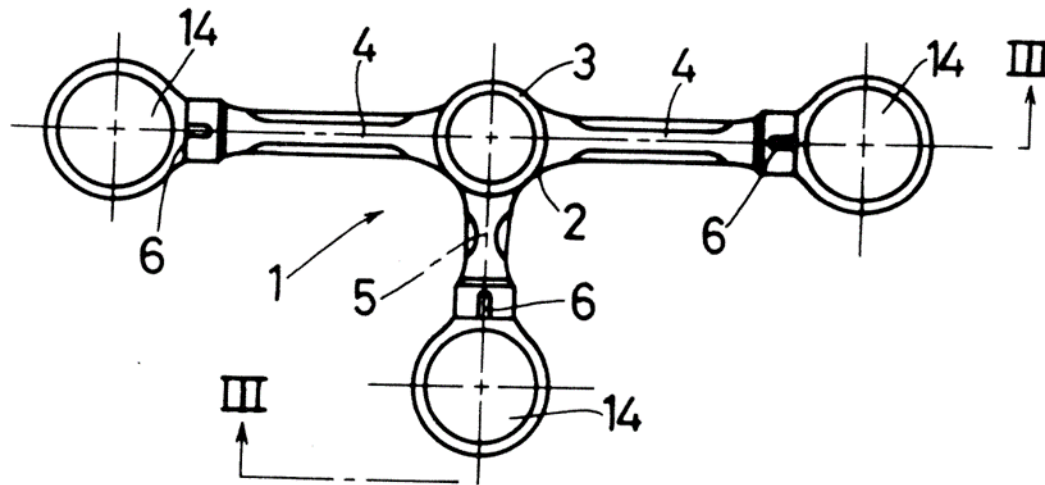
List of features

- Diaper/nappy fastener
- 3 Hooks or holders
- ~~Rings / grips~~
- Arms
- Stretchy – “elastically extendable”
- Centre – “central portion/area”
- ~~Plastic~~
- ~~Colourful~~
- ~~T-shaped~~

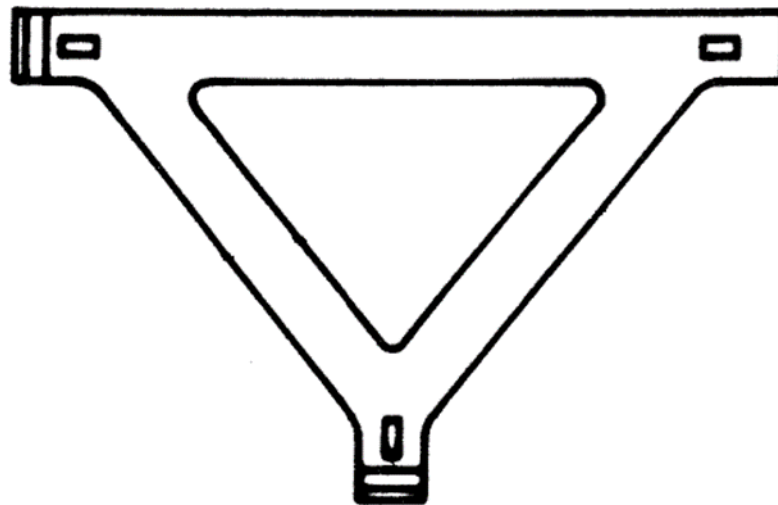


Attempt 1

- A diaper fastener comprising three elastically extensible arms radiating from a central area, the arms having hooks close to their ends for engaging the fabric of a diaper to hold the diaper in its functional position

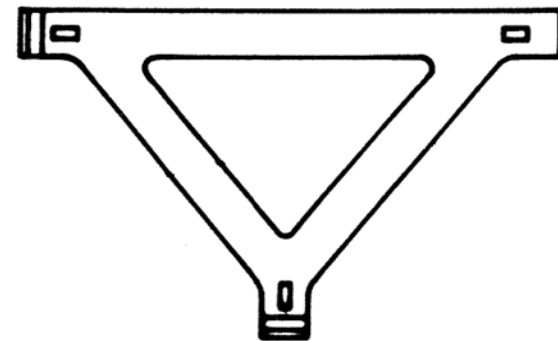
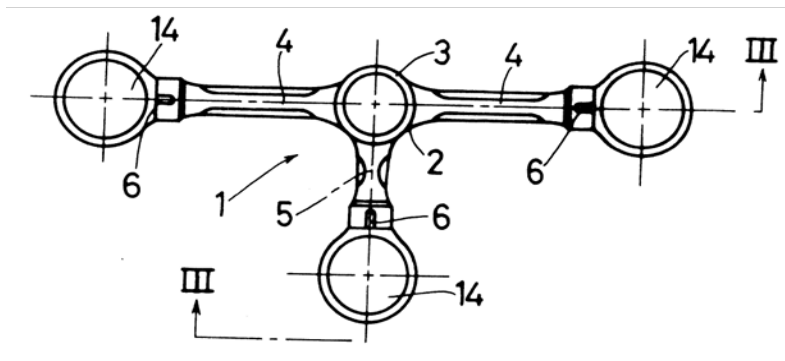


What if?

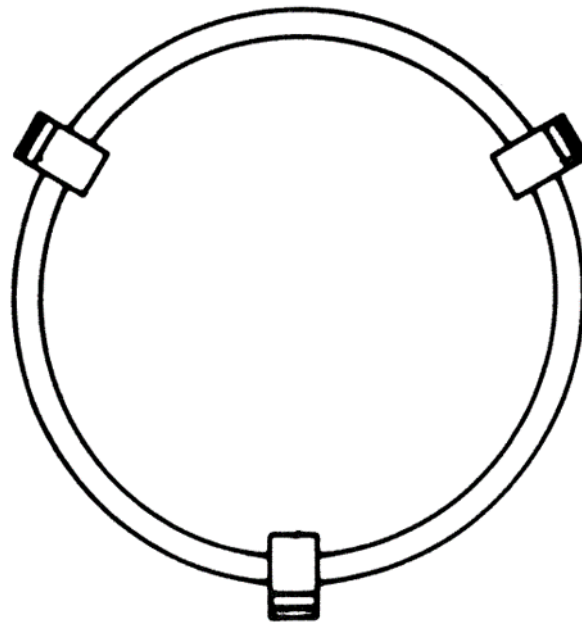


Attempt 2

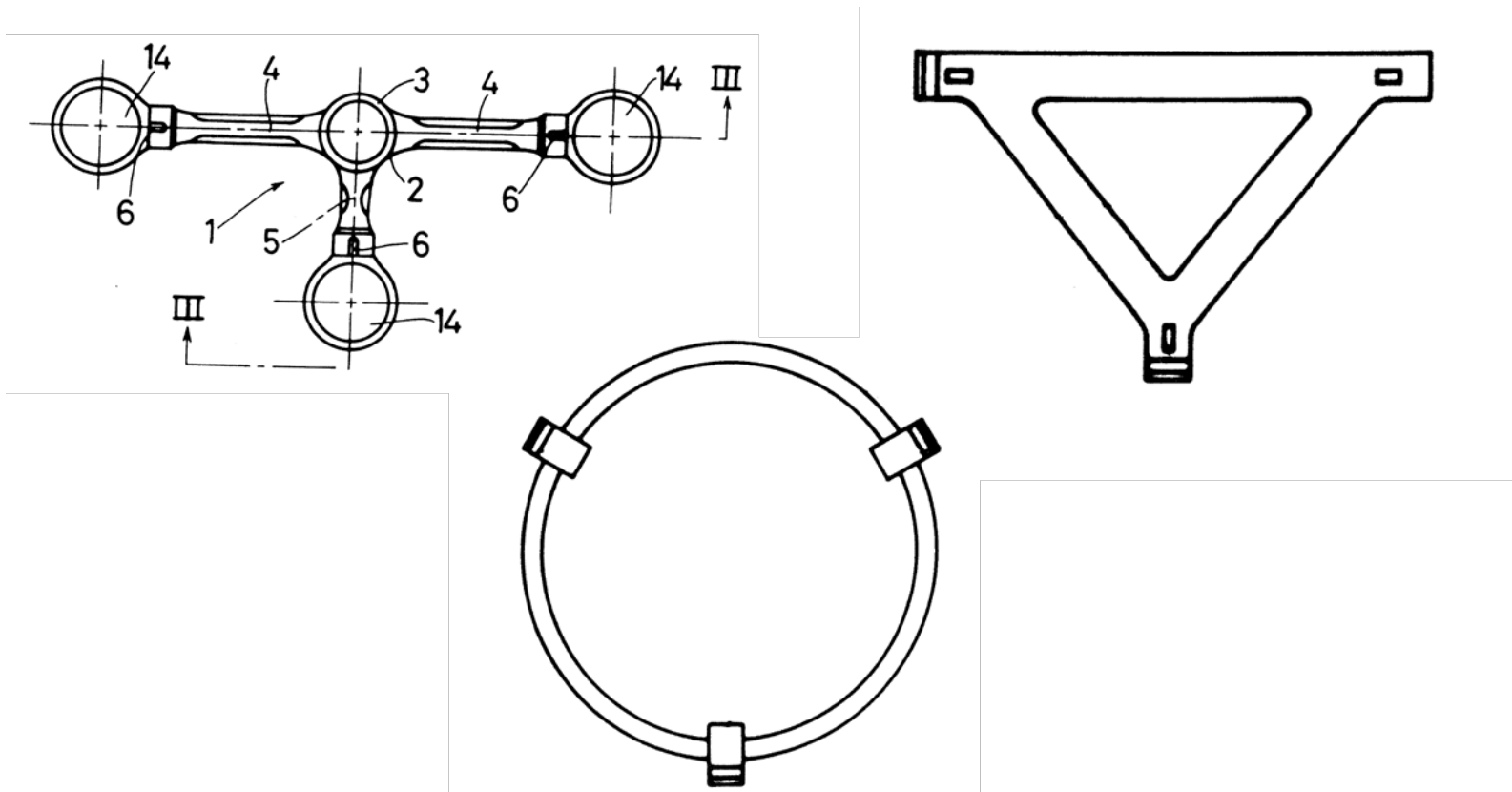
- A diaper fastener comprising a base member formed by three elastically extensible arms that carry hooks at their ends, the hooks thereby being spaced apart on the base member so as to engaging the fabric of a diaper to hold the diaper in its functional position



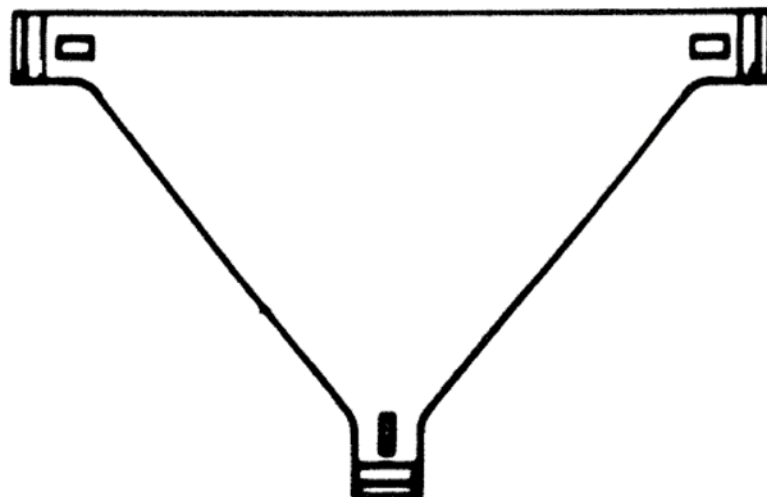
What if?



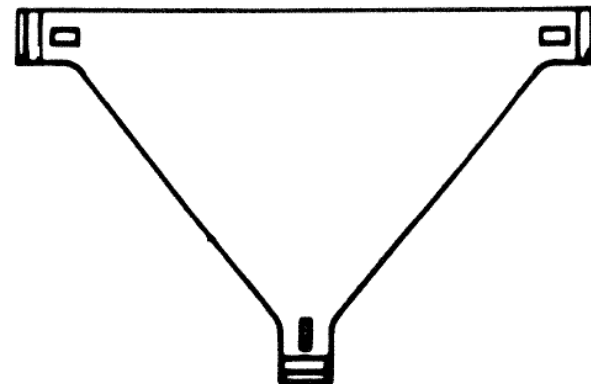
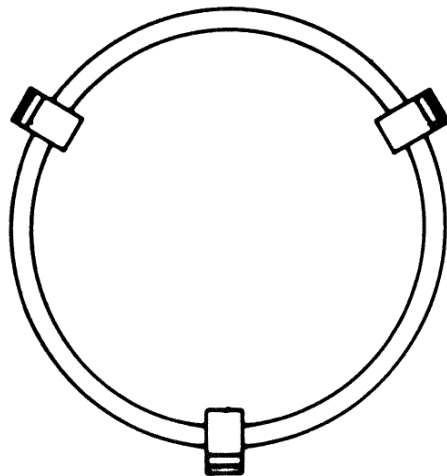
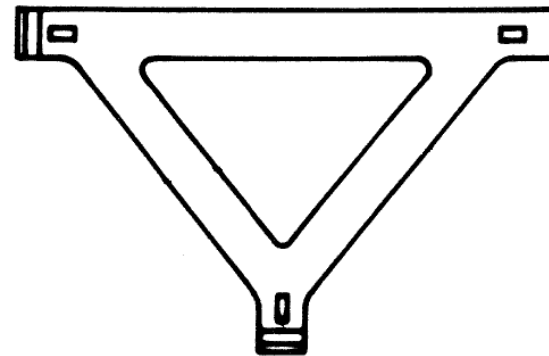
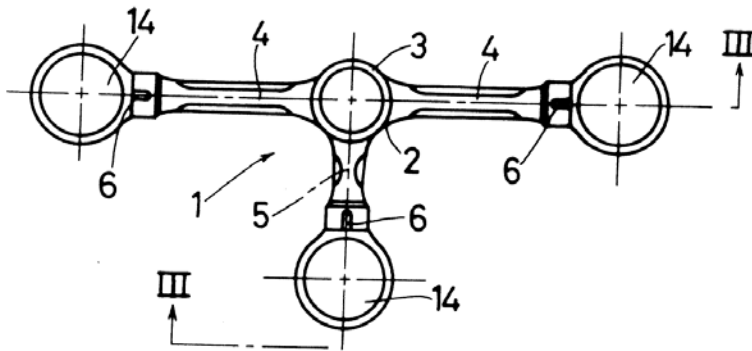
All realistic? Commercially viable?



What if?

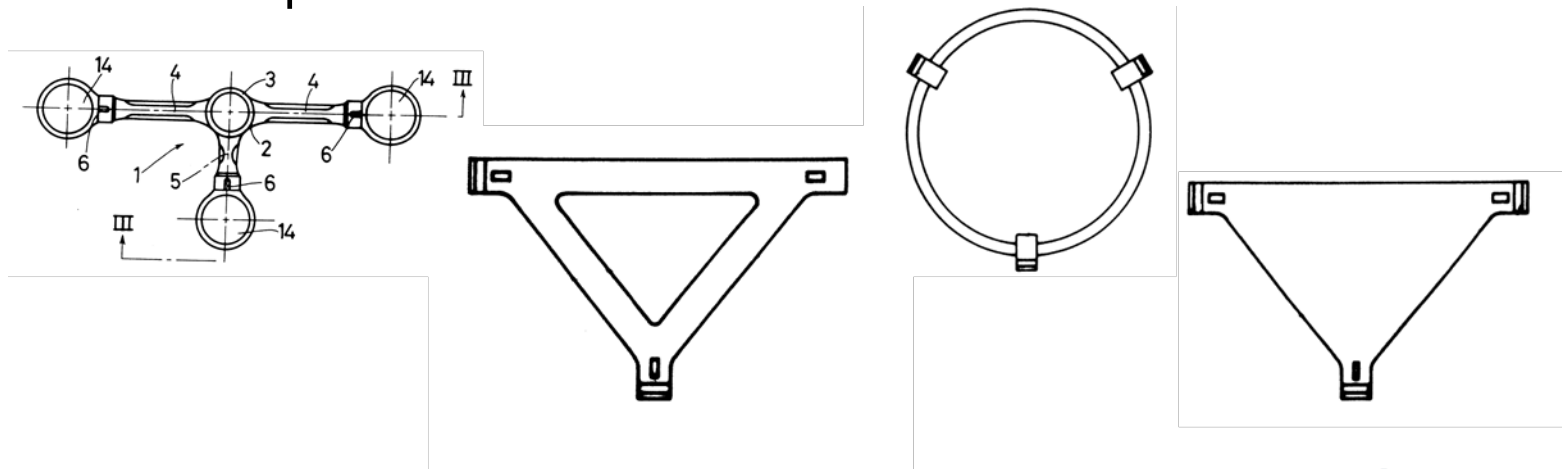


All realistic? Commercially viable?



Attempt 3

- A diaper fastener comprising a substantially planar base member, at least a part of which is elastically extensible, and three spaced hook or tooth formations associated with the base member with said elastically extensible part interposed between at least two of such formations, such hook or tooth formations being operable to engage the fabric of a diaper in relevant zones thereof with the elastically extensible part extended and operative to maintain the hook or tooth formations in engagement with the diaper fabric to hold the diaper in its functional position



Check

- What is the invention?
 - Have I captured the invention?
- Are the words and structure clear?
- Does the claim read onto the prior art?
- Does the claim protect what we have?
- Does the claim cover other embodiments?
- Are there other work-arounds?
 - If I was advising a potential infringer what would I think of the claim/advise?

Finally

- Take a break then come back and think about it all once more
- Repeat this step as frequently as possible



Thank you very much!