UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NESPRESSO USA, INC.,
Petitioner,

v.

K-FEE SYSTEM GMBH,
Patent Owner.

Case IPR2024-00257
U.S. Patent No. 11,548,722

**DECLARATION OF IAN B. BROOKS
IN SUPPORT OF THE PATENT OWNER'S
PRELIMINARY RESPONSE UNDER 37 C.F.R. § 42.107**

I, Ian B. Brooks, make the following Declaration pursuant to 28 U.S.C. § 1746:

1. I am a partner at the law firm of McDermott Will & Emery LLP and counsel in this proceeding, representing Patent Owner K-fee System GMBH ("K-fee" or "Patent Owner").

2. I provide this Declaration in connection with the above-identified *Inter Partes* Review proceeding that was requested at the United States Patent and Trademark Office ("USPTO") by Nespresso USA, Inc. ("Nespresso" or "Petitioner"). Unless otherwise stated, the facts stated in this Declaration are based on my personal knowledge.

3. Exhibit 2001 is a true and correct copy of the European Patent Office Patent Application No. EP 08171069, filed on September 12, 2008 and listing Nestec S.A. as the applicant, which was downloaded on March 18, 2024 at my direction from the European Patent Office Espace.net Patent Search and which is a record of the European Patent Office to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

4. Exhibit 2002 is a true and correct copy of the United States Patent No. 9,545,121 to Alexandre Perentes, Christian Jarisch, Alfred Yoakim, Jean-Paul

Denisart, and Antoine Ryser, which was downloaded on March 18, 2024 at my direction from the USPTO Patent Center website and which is a record of the USPTO to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

5. Exhibit 2003 is a true and correct copy of the Response to a June 6, 2016 Office Action, dated September 7, 2016, for United States Patent Application No. 14/254,574 to Alexandre Perentes, Christian Jarisch, Alfred Yoakim, and Jean-Paul Denisart, which was downloaded on March 18, 2024 at my direction from the USPTO Patent Center website and which is a record of the USPTO to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

6. Exhibit 2004 is a true and correct copy of the World Intellectual Property Organization WO2008148646A1 to Alfred Yoakim, Jean-Paul Denisart, and Antoine Ryser, which was downloaded on March 18, 2024 at my direction from the WIPO PATENTSCOPE website and which is a record of WIPO to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

7. Exhibit 2005 is a true and correct copy of excerpts from file history of the United States Patent No. 10,800,600 to Christian Jarisch, Alexandre Perentes, Stefan Kaeser, Carlo Magri, Arnaud Gerbaulet, Thomas Kaeser, and Daniel Abegglen, which was downloaded on March 18, 2024 at my direction from the USPTO Patent Center website and which is a record of the USPTO to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

8. Exhibit 2006 is a true and correct copy of the World Intellectual Property Organization WO2008148601A1 to Alfred Yoakim, Jean-Paul Denisart, and Antoine Ryser, which was downloaded on March 18, 2024 at my direction from the WIPO PATENTSCOPE website and which is a record of WIPO to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

9. Exhibit 2007 is a true and correct copy of the webpage "The Nespresso History: From A Simple Idea To A Unique Brand Experience," dated May 2016, which was printed on March 18, 2024 at my direction from https://nestle-nespresso.com/sites/site.prod.nestle-nespresso.com/files/Nespresso%20-%20History%20Factsheet(1).pdf to which all parties have access. This document

has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

10. Exhibit 2008 is a true and correct copy of the webpage "Nespresso Pixie Instruction Manual," which was printed on March 18, 2024 at my direction from https://www.nespresso.com/shared_res/manuals/pixie/2010/www_Pixie_Z2_NESPRESSO(EN_HE).pdf to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

11. Exhibit 2009 is a true and correct copy of the webpage "CPC – Cooperative Patent Classification A 47J," dated January 2024, which was printed on March 18, 2024 at my direction from https://www.uspto.gov/web/patents/classification/cpc/html/cpc-A47J.html#A47J31/44 to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

12. Exhibit 2010 is a true and correct copy of the webpage "CPC – Cooperative Patent Classification A 23F, dated January 2024, which was printed on

March 18, 2024 at my direction from https://www.uspto.gov/web/patents/classification/cpc/html/cpc-A23F.html#A23F5/26 to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

13. Exhibit 2011 is a true and correct copy of the transcript of the November 28, 2023 deposition of Michael J. Jobin, taken in *Nespresso USA, Inc. v. K-fee System GmbH*, IPR2023-00485 regarding U.S. Patent No. 11,230,430. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

14. Exhibit 2012 is a true and correct copy of the United States Patent Application Publication No. 2009/0007792 to Dov Z. Glucksman, Laura J. Nickerson, and Gary P. McGonagle, which was downloaded on March 18, 2024 at my direction from the USPTO Patent Center website and which is a record of the USPTO to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

15. Exhibit 2013 is a true and correct copy of the United States Patent Application Publication No. 2008/0302252 to Stephen James O'Brien, Carmel Ish-Shalom, and David Richard Stevens, which was downloaded on March 18, 2024 at my direction from the USPTO Patent Center website and which is a record of the USPTO to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

16. Exhibit 2014 is a true and correct copy of the World Intellectual Property Organization WO2008100597A1 to James P. Shrader and Soren G. Brockdorf, which was downloaded on March 18, 2024 at my direction from the WIPO PATENTSCOPE website and which is a record of WIPO to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

17. Exhibit 2015 is a true and correct copy of the webpage "Moka Express - Bialetti," which was printed on March 17, 2024 at my direction from https://www.bialetti.com/it_en/moka-express.html to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

18. Exhibit 2016 is a true and correct copy of the transcript of the June 22, 2023 deposition of Michael J. Jobin, taken in *Nespresso USA, Inc. v. K-fee System GmbH*, IPR2022-01574 regarding U.S. Patent No. 11,254,491. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

19. Exhibit 2017 is a true and correct copy of the European Patent Office Patent Application No. EP 08102147, filed on February 29, 2008 and listing Nestec S.A. as the applicant, which was downloaded on March 18, 2024 at my direction from the European Patent Office Espace.net Patent Search and which is a record of the European Patent Office to which all parties have access. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

20. Exhibit 2018 is a true and correct copy of the Record of Oral Hearing held on January 12, 2024 [Paper 82] in *Nespresso USA, Inc. v. K-fee System GmbH*, IPR2022-01574 regarding U.S. Patent No. 11,254,491. This document has been marked with an exhibit label and page numbers on each page at the bottom right corner. However, no alterations, other than these noted markings, have been made to this document.

21. I make this declaration of my own personal knowledge. If called to testify as to the truth of the matters stated herein, I could and would testify competently.

22. I declare under penalty of perjury that the foregoing is true and correct. Executed this 28th day of March, 2024, at Washington, D.C.

/Ian B. Brooks/
Ian B. Brooks