

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Jarisch et al.  
Appl. No.: 14/358,404  
Conf. No.: 6801  
Filed: May 15, 2014  
Title: SUPPORT AND CAPSULE FOR PREPARING A BEVERAGE BY  
CENTRIFUGATION, SYSTEM AND METHOD FOR PREPARING A  
BEVERAGE BY CENTRIFUGATION  
Art Unit: 1792  
Examiner: Ericson M. Lachica  
Docket No.: 3712036-02134

DECLARATION UNDER 37 C.F.R. § 1.132

Sir:

The undersigned hereby states as follows:

1. My experience, qualifications, and current employment are as follows:  
Packaging Engineer. 8 years in Nestlé , Nestlé STC Orbe

---

---

---

---

---

---

2. I am a co-inventor on the above-identified application and thus familiar with the inventions disclosed therein.

3. I reviewed the final Office Action dated December 3, 2015 pending against the above-identified patent application. In addition to considering the Office Action, I reviewed the pending claims, as well as the references applied in the obviousness rejections. I believe the

obviousness rejections are based on a misunderstanding of these references and the pending claims. The basis for my opinion is set forth below.

4. In this regard, I note that the Patent Office admits that U.S. Patent App. Pub. No. 2010/0239734 to Yoakim et al. ("*Yoakim*") fails to disclose symbols that are sequentially readable while the capsule is driven in rotation along an axis of rotation and at least partly formed of surfaces arranged to reflect mainly diffusively, as required by the present claims. Office Action, pages 2-3.

5. In an attempt to remedy these deficiencies of *Yoakim*, the Patent Office cites U.S. Patent No. 5,103,081 to Fisher et al. ("*Fisher*") and alleges that the skilled artisan would have modified *Yoakim* with *Fisher* "to identify and authenticate an object." Office Action, page 4.

6. However, *Yoakim* already teaches an optically readable code (*Yoakim*, paragraph 192). Therefore, the capsule of *Yoakim* already is used to identify and authenticate an object, and thus modifying the capsule of *Yoakim* to have features of the secondary reference *Fisher* solves a problem that is already solved without the modification.

7. Moreover, I and my co-inventors recognized the problem that the geometrical configuration of the rotating brewing units in centrifugation-based extraction systems prevents the barcode reader from reading a code spread on a large section of the capsule, and as a consequence the dimensions of the barcode are strictly limited, leading to a very low quantity of coded information for a given level of reliability of the readings, typically around 20 bits only. None of the cited references demonstrate that the skilled artisan recognized this problem with centrifugation-based extraction systems such as *Yoakim*. Therefore, one of skill in this art would not have modified the beverage preparation capsule of *Yoakim* to have features of the gaming chip of *Fisher*.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true.

Date: 25/02/2016

  
Arnaud Gerbaulet