

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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LOCO CRAZY GOOD COOKERS, INC.,  
Petitioner,

v.

NORTH ATLANTIC IMPORTS, LLC,  
Patent Owner,

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Case IPR2024-00642  
U.S. Patent No. 10,660,473

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**PATENT OWNER PRELIMINARY RESPONSE**

## TABLE OF CONTENTS

|      |                                                                                                                                                                                                                                                                                          |    |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| I.   | INTRODUCTION .....                                                                                                                                                                                                                                                                       | 5  |
| II.  | THE INNOVATIONS OF THE '473 PATENT .....                                                                                                                                                                                                                                                 | 7  |
| III. | LEVEL OF ORDINARY SKILL IN THE ART .....                                                                                                                                                                                                                                                 | 12 |
| IV.  | CLAIM CONSTRUCTION – “RIB” .....                                                                                                                                                                                                                                                         | 12 |
| V.   | PETITIONER’S EXPERT IS NOT A POSITA UNDER<br>PETITIONER’S PROPOSED LEVEL OF SKILL IN THE ART.....                                                                                                                                                                                        | 16 |
| VI.  | PETITIONER HAS NOT SHOWN A REASONABLE LIKLIHOOD<br>THAT IT WILL PREVAIL IN PROVING UNPATENTABILITY AS<br>TO ANY OF THE CHALLENGED CLAIMS.....                                                                                                                                            | 20 |
| A.   | None of the applied references in any of the asserted Grounds<br>discloses a “rib.” .....                                                                                                                                                                                                | 21 |
| B.   | Williams alone or in combination with the other references in<br>Grounds 1–6 does not render the Challenged Claims obvious as<br>because there is insufficient motivation to modify separate thin<br>walls or baffles below the griddle into the claimed integrally<br>formed ribs. .... | 28 |
| C.   | The Petition fails to establish a reasonable expectation of<br>success for modifying Williams’ separate thin walls below the<br>griddle into the claimed integrally formed ribs.....                                                                                                     | 34 |
| D.   | None of the proposed combinations of art in the Grounds teach<br>a “ <i>front</i> rib ... integrally formed with the underside surface of<br>the griddle.” .....                                                                                                                         | 36 |
| VII. | CONCLUSION.....                                                                                                                                                                                                                                                                          | 40 |

## TABLE OF AUTHORITIES

### Cases

|                                                                                                                                       |    |
|---------------------------------------------------------------------------------------------------------------------------------------|----|
| <i>Adaptics Ltd. v. Perfect Co.</i> ,<br>IPR2018-01596, Paper 20 (PTAB Mar. 6, 2019).....                                             | 5  |
| <i>Avail Medsystems, Inc. v. Teladoc Health, Inc.</i> ,<br>No. IPR2022-00444, Paper 10, 2022 WL 2903454 (P.T.A.B. July 21, 2022)..... | 15 |
| <i>Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.</i> ,<br>800 F.3d 1375 (Fed. Cir. 2015) .....                                       | 33 |
| <i>Endo Pharm., Inc. v. Actavis LLC</i> ,<br>922 F.3d 1365 (Fed. Cir. 2019) .....                                                     | 32 |
| <i>Incyte Corp. v. Concert Pharms., Inc.</i> ,<br>No. PGR2021-00006, 2022 WL 1613509 (P.T.A.B. May 11, 2022).....                     | 17 |
| <i>Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n</i> ,<br>22 F.4th 1369 (Fed. Cir. 2022).....                                 | 15 |
| <i>Nespresso Usa, Inc. v. K-Fee Sys. Gmhb</i> ,<br>No. IPR2022-01574, Paper 29 2024 WL 1558400 (P.T.A.B. Apr. 10, 2024).....          | 16 |
| <i>Regents of Univ. of Cal. v. Broad Inst., Inc.</i> ,<br>903 F.3d 1286 (Fed. Cir. 2018) .....                                        | 32 |
| <i>Unified Patents, LLC v. AK Meeting IP LLC</i> ,<br>No. IPR2022-01142, Paper 28, 2024 WL 66060 (P.T.A.B. Jan. 5, 2024) .....        | 17 |

**EXHIBIT LIST**

| <b>Ex. #</b> | <b>Exhibit</b>                                           |
|--------------|----------------------------------------------------------|
| 2001         | Reserved                                                 |
| 2002         | Reserved                                                 |
| 2003         | <i>Rib</i> , New Oxford Dictionary (2010)                |
| 2004         | <i>Rib</i> , Dictionary of Mechanical Engineering (2011) |
| 2005         | <i>Rib</i> , Collins English Dictionary (2014)           |

Patent Owner North Atlantic Imports, LLC (“NAI” or “Patent Owner”) provides this preliminary response to the petition for *inter partes* review (“Petition”) of claims 1–4, 6–7, 10–13, 15–18, and 20 (the “Challenged Claims”) of U.S. Patent No. 10,660,473 (the “’473 Patent”), filed by LoCo Crazy Good Cookers, Inc. (“LoCo” or “Petitioner”).

## **I. INTRODUCTION**

The Petition presents six separate grounds, each one challenging the above-identified claims as obvious under 35 U.S.C. § 103. But because the Petition fails to establish a reasonable likelihood that any challenged claim is obvious over the cited art, the Board should deny institution.

All of Petitioner’s proposed grounds suffer from the same fundamental deficiencies. First, none of the applied references in any of the asserted Grounds discloses a “rib”—yet alone both a front rib and lateral ribs—integrally formed with the griddle. Rather, the references relied on in the Grounds disclose only thin walls or baffles. Second, the Petition’s asserted obviousness rationales are deficient in several ways. For example, the Petition fails to identify sufficient motivation to modify the thin walls or baffles disclosed in the applied references to arrive at the claimed integrally formed ribs. The Petition also fails to establish a reasonable expectation of success for this same proposed modification. Lastly, none of the

proposed combinations of art in the Grounds teach a “*front* rib ... integrally formed with the underside surface of the griddle.”

These deficiencies are only exacerbated by the fact that the Petition also relies on a declaration from a declarant that is not a personal of ordinary skill in the art as defined by the Petition itself. Because the declarant has not been established as a person of ordinary skill in the art, the declarant’s testimony is not entitled to weight and cannot be used to support the Grounds asserted in the Petition.

The Board should not treat these deficiencies as curable. *Adaptics Ltd. v. Perfect Co.*, IPR2018-01596, Paper 20 at 15–16 (PTAB Mar. 6, 2019) (informative) (“In an IPR, the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.... It is of the utmost importance that petitioners in the IPR proceedings adhere to the requirement that the initial petition identify with particularity the evidence that supports the grounds for the challenge to each claim.”) (internal quotations and citations omitted).

As demonstrated by these deficiencies, the asserted art and proposed combinations all fail to teach at least one element common to all of the Challenged Claims, and Petitioner fails to address and support all the factors that an obviousness determination requires. The Petition thus fails to establish a reasonable likelihood that at least one of the claims challenged in the Petition is unpatentable. The Board should deny institution of the Petition accordingly.

## II. THE INNOVATIONS OF THE '473 PATENT

The '473 Patent addresses griddles, which present challenges for controlling cooking heat, heat-flow around the griddle, and the effects of heat on the griddle itself. Grills, unlike griddles, use spaced metal bars (i.e., grills) to hold food and allow a heat source below the metal bars to cook the food thereon. (*See, e.g.*, EX1001 at 1:22–32.) Griddles, on the other hand, comprise a broad flat surface that is heated to cook food thereon. (*Id.* at 1:33–43.)

The inventors of the '473 Patent addressed several problems associated with griddle use, namely, temperature control of certain areas of a griddle to have different temperature portions of the griddle surface; control of conductive heat around the periphery of a griddle; and prevention of griddle warping due to being overheated. (*Id.* at 1:44–55; 7:41–8:28.) The inventors of the '473 Patent solved these problems with a ribbing structure under and integrally formed with the griddle surface, and example of which is illustrated in Figure 4.

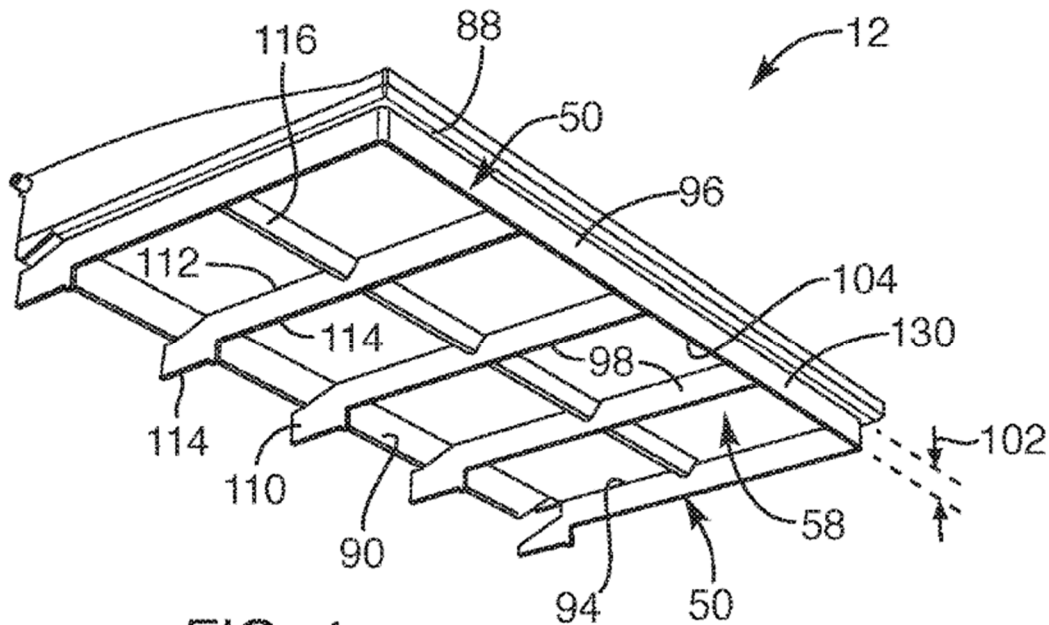


FIG. 4

First, one problem with griddles is that convective heat may move around the entire periphery of the griddle making it difficult to cook or perhaps dangerous around the griddle due to the escape of heated air around the griddle. (*Id.* at 1:44-55.) The inventors of the '473 Patent taught the use of a “ribbing structure” (50), including a front “rib” (96) and multiple lateral “ribs” (98) for venting or channeling convection heat from below the griddle to the rear. (*Id.* at 5:63-6:2, 7:3-15.) The integrated front rib, for example, cooperates with the frame of the cooking station to block and prevent convection heat from escaping from the front side of the frame and griddle. (*Id.* at 8:9-28.)

Second, use of a griddle over burners may not allow for temperature control of the griddle surface if only a portion of the griddle surface is being used or if a

user wants to have different portions of the griddle surface at different temperatures. (*Id.* at 1:44–55.) The inventors of the '473 Patent taught that integrally formed lateral ribs could be spaced to define multiple heating regions. (*Id.* at 7:54–57.) Due to the height of the ribbing structure with the multiple lateral ribs, a space or volume between the lateral ribs fills with convection heat. As this space fills, the convection heat is drawn toward the rear side of the griddle before bellowing over the lower edge (114) of the lateral ribs. In this manner, the lateral ribs also extend so that convection heat heats particular portions of the griddle surface and aids in temperature control of the griddle surface. (*Id.* at 9:4–29.)

Third, the flat surface of a griddle may warp due to overheating. (*Id.* at 7:41–48.) The inventors of the '473 Patent taught that integrally formed front rib and lateral ribs may also serve as structural stabilizers to prevent a griddle from warping or partially warping. (*Id.* at 7:48–53.)

Accordingly, the inventions of the '473 Patent provided an integrated solution to multiple problems. And, while the examiner initially rejected the claims based on prior art “baffles” placed below the surface and used to reflect heat, the prior art did not show the claimed “ribs” that were “integrally formed” with the underside of the griddle surface. (EX1004 at 127, 135.)

This inventive design is captured in the claims. For example, claim 1 recites the following.<sup>1</sup>

[1.0] A cooking system, comprising:

[1.1] a frame extending with a front side, a rear side, a left side, and a right side each extending between a lower portion and an upper portion;

[1.2] multiple burners coupled to and extending between the front side and the rear side of the frame; and

[1.3] a griddle sized to be suspended by the frame to be positioned on the upper portion of the frame, the griddle having a cooking surface and an underside surface, the underside surface extending to define a rectangular shape with a front end, a rear end, a left end, and a right end,

[1.4] the griddle including a front rib and multiple lateral ribs, the front rib extending along the front end of the underside surface, and the multiple lateral ribs extending along the underside surface from the front rib to the rear end of the underside surface, the multiple lateral ribs being spaced from each other so as to define multiple heating regions such that each heating region is defined between adjacently extending lateral ribs,

[1.5] each of the heating regions includes one of the multiple burners positioned below one of the multiple heating regions,

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<sup>1</sup> The bracketed numbers are designations assigned by Petitioner.

[1.6] each of the lateral ribs extend downward from the underside surface a height so as to funnel convection heat from any one of the multiple burners toward the rear end of the underside surface of the griddle and from the rear side of the frame;

[1.7] wherein the front rib and the multiple lateral ribs are integrally formed with the underside surface of the griddle;

[1.8] and wherein the multiple lateral ribs directly extend from the underside surface of the griddle such that each lateral rib is spaced and separate from an adjacent lateral rib.

The language of claim 1 requires each of (1) “a front rib extending along the front end of the underside surface”; (2) “multiple lateral ribs being spaced from each other so as to define multiple heating regions”; and (3) “wherein the front rib and the multiple lateral ribs are integrally formed with the underside surface of the griddle.” Independent claim 10 includes almost identical limitations. And independent claim 17 includes elements corresponding to these requirements as well.

In summary, the inventions of the '473 Patent address shortcomings of the prior art by simultaneously solving multiple problems through the use of structural, integrally formed ribs that provide temperature control of certain areas of a griddle to have different temperature portions of the griddle surface; control of conductive

heat around the periphery of a griddle; and prevent griddle warping—which were not all addressed by the use of baffles in prior art griddles.

### **III. LEVEL OF ORDINARY SKILL IN THE ART**

According to Petitioner, a POSITA for the '473 Patent would have either:

(1) a bachelor's degree in mechanical engineering or a closely related field and at least 2 years of experience in product design and development in the field of griddle cooking stations and/or outdoor cooking grills; or (2) no college degree, but at least 5 years of experience in product design and development in the field of griddle cooking stations and/or outdoor cooking grills. (Pet. at 15 (citing EX1002 at ¶¶24-29).) For the purposes of this Preliminary Response, Patent Owner is adopting Petitioner's proposed level of skill in the art. Patent Owner reserves the right to further address the level of ordinary skill in the art and/or propose a different level of ordinary skill should the Board institute trial.

### **IV. CLAIM CONSTRUCTION – “RIB”**

Petitioner states that it “does not currently believe that any claim terms require construction for purposes of deciding this Petition.” (Pet. 24.) Yet in light of Petitioner's mischaracterization of the Challenged Claims and prior art as explained herein, Patent Owner disagrees and believes that the term “rib” from the '473 Patent claims warrants construction.

Specifically, as dictated by both the specification of the '473 Patent and lexicography, the term “rib” should be construed as “an elongated raised piece of strong or thick material across a surface or through a structure, serving to support or strengthen the structure.” (*See* EX2003 (defining “rib” as “a long raised portion of stronger or thicker material across a surface or through a structure, and typically serving to support or strengthen it . . .”).) Other dictionary definitions provide similar definitions for “rib,” expressly denoting their structural and strengthening aspects. (*See, e.g.,* EX2004 (defining “rib” as a “flange or fillet carried around the edges of or across a casting or piece of plated work, in order to strengthen and support an otherwise weak web”); EX2005 (defining “rib” as “a part or element similar in function or appearance to a rib, esp a structural or supporting member or a raised strip or ridge” and “a structural member . . .”).)

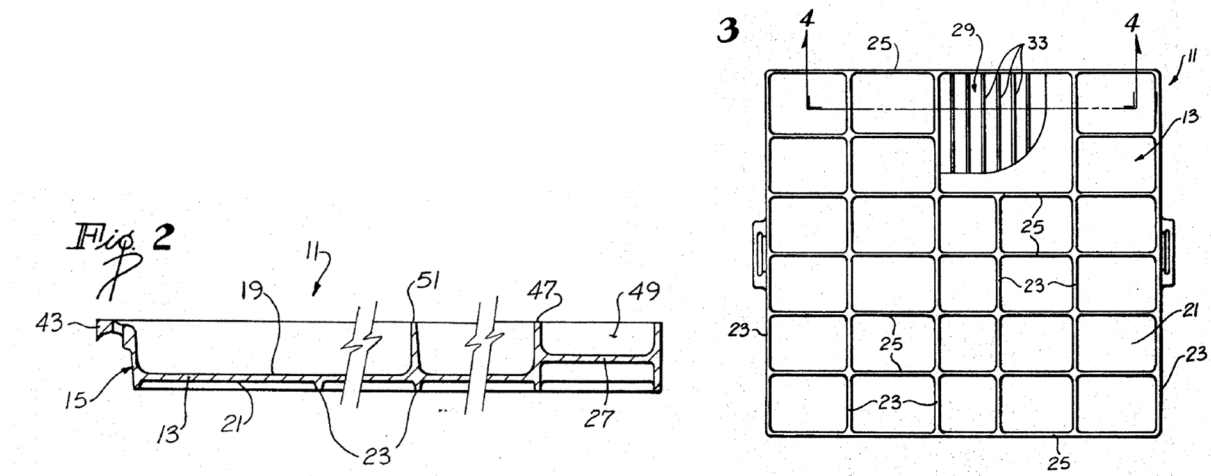
Patent Owner’s proposed construction is also consistent with the specification of the '473 Patent. For example, as shown in Fig. 4 of the '473 Patent, both the “front rib 96” as well as the “lateral ribs 98” constitute elongated raised pieces of strong or thick material across an underside surface 58 of griddle 12:



14

Patent Owner's proposed construction of "rib" is further consistent with art referenced by Petitioner, i.e., U.S. Patent No. 3,747,509 to Hinkle (EX1013)<sup>2</sup>.

Hinkle describes a thin griddle plate with a rectangular grid of "ribs" (23) on its underside:



(EX1013 at Figs. 2–3, 2:60–3:18). Hinkle further states that its “ribs impart strength to the griddle to prevent warping.” (*Id.* at 1:46–47.) As demonstrated by its figures and specification, Hinkle’s “ribs” may perform a structural function, serving to support and strengthen its griddle plate, consistent with Patent Owner’s proposed construction for “rib.”

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<sup>2</sup> While Petitioner referenced Hinkle, it did so only to assert that “griddle designers” used “ribs [to] impart strength to the griddle to prevent warping.” (*See* Pet. at 9-10, 29.) Petitioner did not include Hinkle as an asserted reference in any Ground.

Accordingly, it is apparent from both the '473 Patent as well as lexicography and prior art that “rib” should be construed as “an elongated raised piece of strong or thick material across a surface or through a structure, serving to support or strengthen the structure.”

**V. PETITIONER’S EXPERT IS NOT A POSITA UNDER  
PETITIONER’S PROPOSED LEVEL OF SKILL IN THE ART**

Petitioner proposes the following level of skill in the art:

a person of ordinary skill in the art (“POSITA”) would have either: (1) a bachelor’s degree in mechanical engineering or a closely related field and at least 2 years of experience in product design and development in the field of griddle cooking stations and/or outdoor cooking grills; or (2) no college degree, but at least 5 years of experience in product design and development in the field of griddle cooking stations and/or outdoor cooking grills. EX1002 at ¶¶24-29.

(Pet. at 15; emphasis added.) However, Petitioner has not demonstrated that its expert, Dr. Vallee, meets this level of skill and thus may be considered a POSITA for purposes of this proceeding. Specifically, Petitioner has failed to provide any explanation for how Dr. Vallee has the requisite multiple years of experience “in product design and development *in the field of griddle cooking stations and/or outdoor cooking grills*.” Dr. Vallee testifies that he has educational and teaching

experience in the “areas of mechanical engineering, design, product development, and quality assurance.” (EX1002, ¶3.) Dr. Vallee further discusses various product design and development experience in the areas of “consumer products, including electric shavers, beard trimmers, curling irons, hair setters and hair dryers” as well as “a variety of mechanical, pneumatic and electromechanical products, including pneumatic fastening tools, electric trackers and staplers, electric pencil sharpeners and propane/MAPP gas actuated nailers.” (*Id.*, ¶¶4-5.) However, neither Petitioner nor Dr. Vallee provide any examples or indication of experience that would meet Petitioner’s requirement that a POSITA have experience in the design and development of “*griddle cooking stations and/or outdoor cooking stations.*”

A technical expert must at least meet the level of ordinary skill in the art of the relevant patent to testify from the perspective of a person of ordinary skill in the art (POSITA), whether for claim construction, validity, or infringement.

*Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1376-77 (Fed. Cir. 2022) (“To offer expert testimony from the perspective of a skilled artisan in a patent case—like for claim construction, validity, or infringement—a witness must at least have ordinary skill in the art. Without that skill, the witness’ opinions are neither relevant nor reliable.”).

Accordingly, because Petitioner has not demonstrated that Dr. Vallee satisfies its definition of a POSITA, Petitioner cannot rely on Dr. Vallee’s

testimony to support the grounds asserted in the present Petition. *Avail Medsystems, Inc. v. Teladoc Health, Inc.*, No. IPR2022-00444, Paper 10 (Institution Decision), at 25-26, 2022 WL 2903454, at \*9 (P.T.A.B. July 21, 2022) (“In particular, the definition of a skilled artisan we have adopted for this Decision, which was proposed by Petitioner and Dr. Stone, requires at least two years of research or work experience in designing or engineering teleconferencing systems, such as those used in telemedicine. Although Dr. Stone has advanced degrees in electrical engineering and extensive experience with medical devices, he lacks specific experience researching or engineering teleconferencing systems, such as those used in telemedicine. We agree with Patent Owner that Dr. Stone's vague reference to ‘numerous experiences with teleconferencing’ and to having performed ‘design reviews of telemedicine devices’ falls short of establishing two years of research or work experience in designing or engineering teleconferencing systems. ***Therefore, it would be inappropriate for us to consider any testimony by Dr. Stone on any issue that is analyzed through the lens of an ordinarily skilled artisan.***”) (emph. added); *see also Nespresso Usa, Inc. v. K-Fee Sys. Gmhb*, No. IPR2022-01574, Paper 29, at 22-23, 2024 WL 1558400, at \*9 (P.T.A.B. Apr. 10, 2024) (“Our level of ordinary skill in the art requires a bachelor's degree in engineering plus five years of experience in design of mechanical beverage systems, or similar products, as well as experience with sensors for recognizing an

identifier. Patent Owner does not persuasively account for how Dr. Howle's experience, extensive as it may be, includes five years of experience in design of mechanical beverage systems, or similar products . . . . Accordingly, consistent with the requirement in *Kyocera*, we do not credit any of Dr. Howle's testimony offered from the perspective of a person having ordinary skill in the art, including testimony regarding claim construction."); *Unified Patents, LLC v. AK Meeting IP LLC*, No. IPR2022-01142, Paper 28, at 19-20, 2024 WL 66060, at \*8–9 (P.T.A.B. Jan. 5, 2024) ("We conclude . . . that Mr. Landers is not evidenced to have ordinary skill in the art . . . because he appears to have neither the requisite education (he is not evidenced to have a degree in computer science or a closely related field) nor experience (he is not evidenced to have experience in multi-user collaboration software). . . . For the reasons above, we give no weight to the testimony presented in the Declaration[] of . . . Mr. Landers as to the claim construction, anticipation, and obviousness issues discussed below."); *Incyte Corp. v. Concert Pharms., Inc.*, No. PGR2021-00006, 2022 WL 1613509 (P.T.A.B. May 11, 2022) (admitting expert testimony as to drug design and administration but not the treatment of hair loss based on the definition of a POSITA).

As discussed further below, each of Grounds 1-6 rely heavily on the testimony of Dr. Vallee (including its various obviousness rationales, which rely almost entirely on Dr. Vallee's testimony). Thus, in the absence of supporting

testimony from an expert having ordinary skill in the art, Petitioner has failed to provide sufficient evidence to support each of the Grounds presented in the Petition, and thus Petitioner has failed to satisfy its burden to demonstrate a reasonable likelihood of prevailing with respect to any claim in any of the asserted Grounds.

**VI. PETITIONER HAS NOT SHOWN A REASONABLE LIKLIHOOD THAT IT WILL PREVAIL IN PROVING UNPATENTABILITY AS TO ANY OF THE CHALLENGED CLAIMS.**

The Petition presents six grounds for the alleged unpatentability of the Challenged Claims, each supported by declaration testimony from Petitioner's retained expert witness, Dr. Glenn Vallee. Ground 1 is based on Williams alone, (Pet. at 17–44; EX1002, ¶¶ 64–161), Ground 2 adds Best to Williams, (Pet. at 45–54; EX1002, ¶¶ 162–276), Ground 3 adds Farnsworth to Williams, (Pet. at 54–61; EX1002, ¶¶ 277–377), Ground 4 adds May to Williams (Pet. at 61–79; EX1002, ¶¶ 378–457), Ground 5 adds May and Best to Williams (Pet. at 79–82; EX1002, ¶¶ 458–540), and Ground 6 adds May and Farnsworth to Williams (Pet. at 83–84; EX1002, ¶¶ 541–619).

According to Petitioner, the three independent claims at issue (claims 1, 10, and 17) are all substantially similar in scope. (Pet. at 38–39, 61; EX1002, ¶ 110.)

**A. None of the applied references in any of the asserted Grounds discloses a “rib.”**

The Challenged Claims each require a front “rib” and lateral/parallel “ribs” that are “integrally formed with the underside surface of the griddle.” As discussed above, the term “rib” should be construed as “an elongated raised piece of strong or thick material across a surface or through a structure, serving to support or strengthen the structure.” (*Supra*, §IV.) Such ribs serve a structural function to “prevent[] the griddle from warping or partially warping.” (*See* EX1001 at 7:48–53.) However, none of the art relied upon in Grounds 1-6 (i.e., Williams, Best, Farnsworth, and May) discloses such a “rib.”

Rather, all of the asserted art instead describes thin metal (e.g., sheet metal) or “baffles” for impeding or directing air flow—not “ribs” or any other substantial structural component. None of the asserted art in the Grounds describes these thin metal portions or baffles as including “an elongated raised piece of strong or thick material across a surface” or of providing structural support or any stabilization against warping.

The Petition ignores these differences stating that it derives the meaning of “ribs” from Patent Owner’s infringement allegations. (*See* Pet., at 4-5.) However, contrary to Petitioner’s implication, those infringement allegations depict a griddle with thick structural ribs integrally formed on the underside of a griddle consistent

with Patent Owner’s proposed construction for “rib” (as opposed to Petitioner’s analogy of thin metal baffles to the claimed “ribs”):



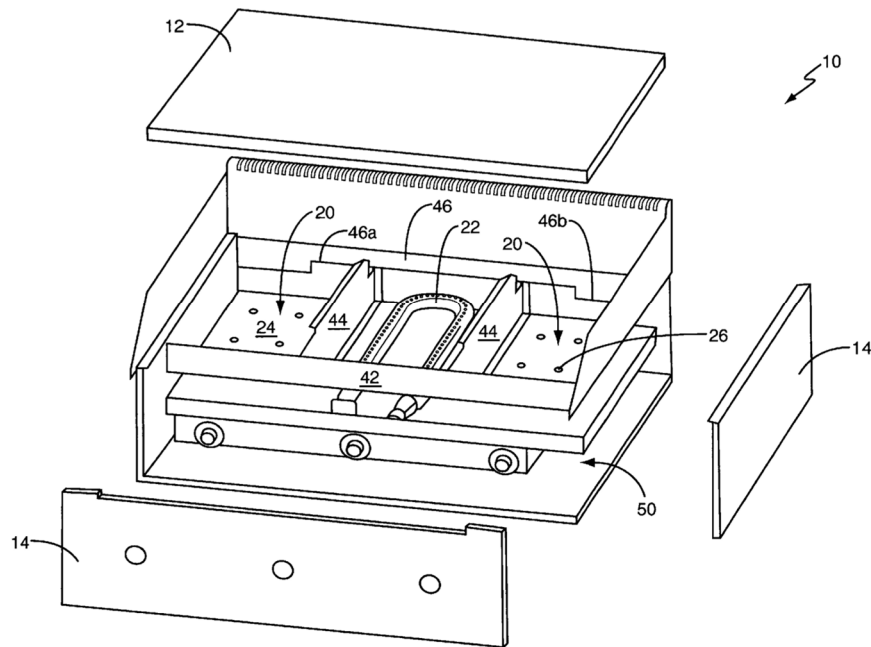
**EX1025, page 1**

(*See Pet.*, at 5 (citing “EX1025, page 1”).)

Indeed, as discussed previously in the claim construction section, the only art mentioned by Petitioner that discusses a “rib” is Hinkle, which was not included as an asserted reference in any Ground. *See supra*, §IV. In contrast, the art actually relied on in the Grounds of the Petition does not disclose structural “ribs” at all but rather thin “baffles”—e.g., sheet metal for directing air flow. None of the cited art in the Grounds describes such baffles as structural or providing any stabilization against warping.

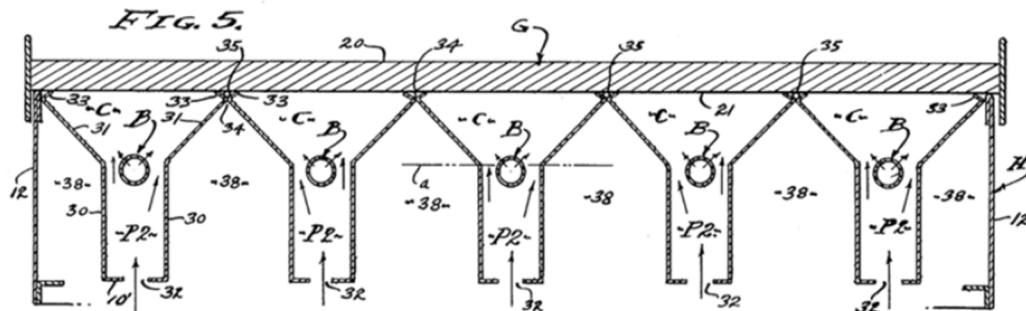
Each of the asserted references from Grounds 1-6 is discussed in turn below. First, Williams—relied on for all six Grounds—discloses “side walls” (44) that are

not part of the cooking surface (12) but are separate devices below the cooking surface to temporarily trap combustion gasses from the burner (22).



(EX1005 at Fig. 2, 3:52–4:2.) The Petition itself recognizes that “the sidewall (44) is a relatively thin vertical structure ....” (Pet. at 30.) These sidewalls are not described by Williams as having or being capable of any structural stabilization function for the cooking surface nor is potential warping mentioned by Williams, nor are such sidewalls described as including or being an elongated raised piece of strong or thick material across a surface. Rather, the sidewalls of Williams together with “front dam wall 42” and “rear dam wall 46” are merely utilized as baffles to “temporarily trap[]” combustion gases. (EX1005 at 3:57-4:13.)

Accordingly, Williams is substantially similar to the prior art of record, Reynolds, U.S. Pat. No. 4,715,356, over which the Challenged Claims of the '473 Patent were allowed. (EX1004 at 127, 135.) Specifically, Reynolds identifies “baffles 30” underneath a cooktop for trapping air.



(EX1009 at Fig. 5.) Specifically, Reynolds describes “baffles” as “thin sheet metal” that “deflect and depress when the griddle plate G is applied”—i.e., the opposite of providing structural stability like “ribs” would. And, similar to Williams, Reynolds’ baffles are not integrally formed with the griddle surface.

The other art relied on in the Petition for the six Grounds similarly discloses “baffles” or thin metal shields—not structural “ribs” (i.e., “elongated raised pieces of strong or thick material across a surface or through a structure, serving to support or strengthen the structure”). Specifically, the Petition relies on Best’s and Farnsworth’s disclosure of “baffles.” (EX1007 at Fig. 5, 9:18–22; EX1008 at Fig. 1, 3:17–19.) None of those references though provides any indication that its thin baffles provide any structural stabilization, which is unsurprising because that

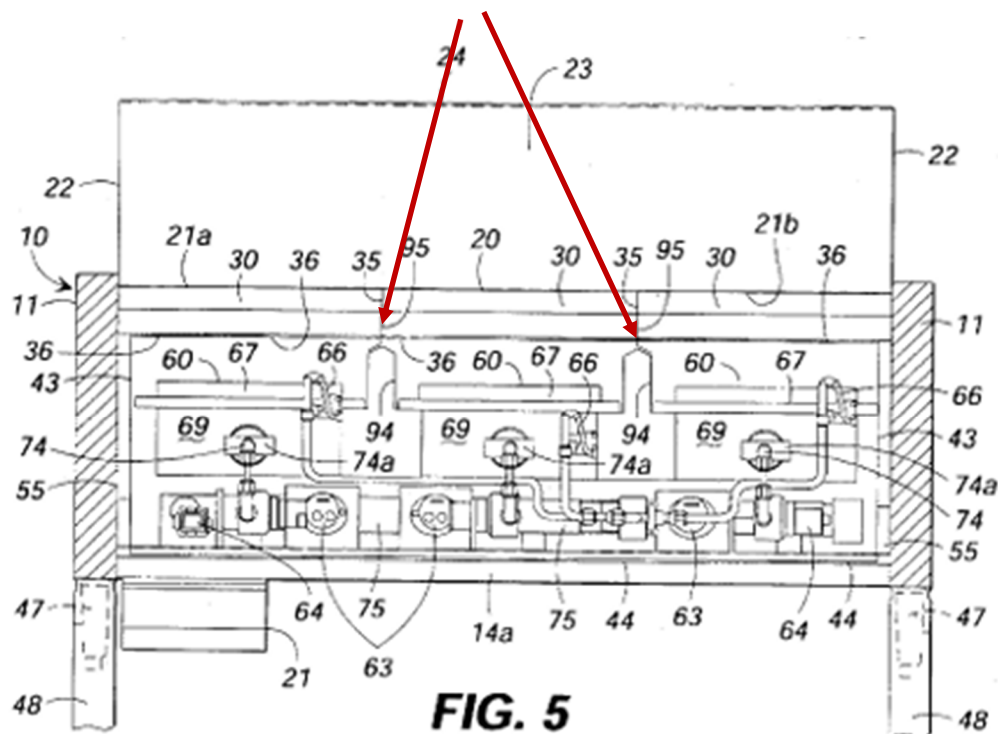
is not what baffles do. Additionally, none of the references refer at all to potential warping of a griddle surface.

Best provides only a very brief description of the use of various “insulating baffles 94” and “baffles 95” to trap heat:

For further isolating the heat from burners 60, a pair of inverted U-shaped, insulating baffles 94, as seen in FIG. 5, are interposed between each pair of burner groups, while other baffles 95 extend downwardly from plate 20 to terminate in overlapping relationship, as shown in FIG. 5.

(EX1006 at 9:18-22.) These thin baffles 94 and 95 are shown in Fig. 5 of Best below.

Baffles 94, 95



Farnsworth provides an even sparser disclosure regarding its baffles, stating merely that a “laterally extending baffle 30 is attached to the bottom surface 26 of upper plate 18 and is positioned between each pair of burners 14.” (EX1007 at 3:17-19.) This thin baffle is depicted in Fig. 1:

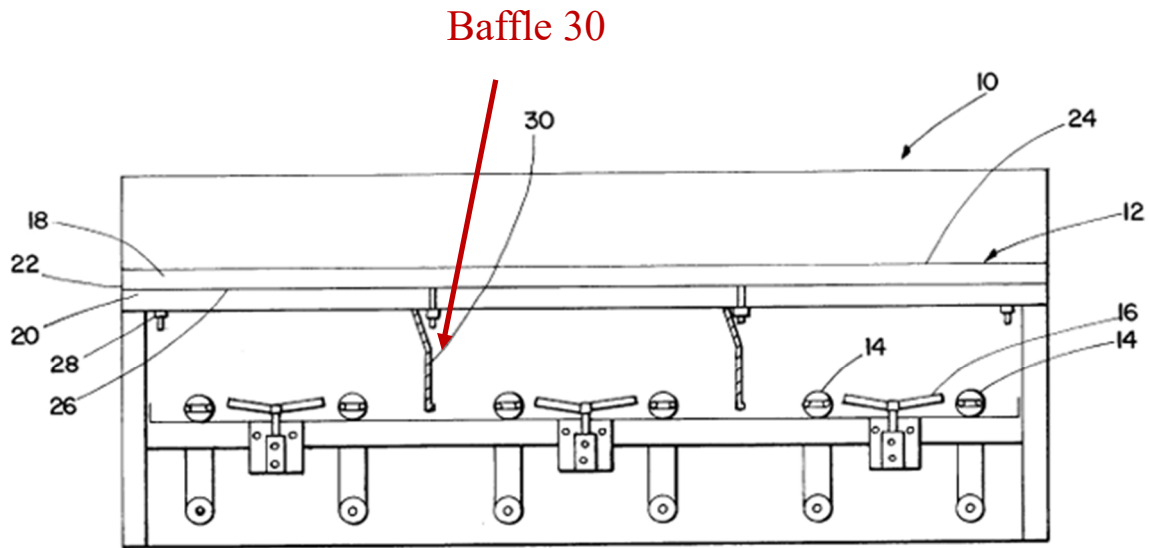


*Fig. 1*

As shown above, neither the baffles of Best nor the baffles of Farnsworth are “ribs” as properly construed, i.e., “elongated raised pieces of strong or thick material across a surface or through a structure, serving to support or strengthen the structure.” Moreover, the only additional evidence provided by Petitioner beyond the express disclosures of Williams, Best, and Farnsworth is the testimony of Dr. Vallee. However, as discussed above, the Petition has not established that Dr. Vallee is a POSITA, and thus Dr. Vallee’s testimony is not admissible for the purposes of opining on claim construction or validity.

The Petition further includes May (EX1008) in Grounds 4-6. However, the Petition does not assert that May discloses any of the claimed “ribs,” and indeed it does not appear to provide any such disclosure.

Accordingly, none of the applied art in the proposed Grounds discloses a griddle having a “rib” whatsoever, much less both a “front rib and . . . multiple lateral ribs [that] are integrally formed with the underside surface of the griddle,” as claimed. While the Petition does make mention of a reference that uses “ribs” for structural stability (i.e., Hinkle), the Petition does not include that reference as an asserted reference in its proposed Grounds, which only serves to highlight the omission in those Grounds.

**B. Williams alone or in combination with the other references in Grounds 1–6 does not render the Challenged Claims obvious as because there is insufficient motivation to modify separate thin walls or baffles below the griddle into the claimed integrally formed ribs.**

The Petition argues that “Williams’s disclosure of a front dam (42) rear dam (46) or sidewalls (44) as ‘downwardly extending’ indicates that these structures are ‘fixed’ or ‘integral’ to the underside surface of the griddle.” (Pet. at 26–27.) Because Williams does not describe any of those components as integrally formed with the griddle plate, Petitioner relies on Dr. Valle’s declaration as alleged support for that missing “indication.” (*Id.*) As set forth above though, Dr. Valle is not a POSITA and his declaration should not be considered to modify missing disclosure from the prior art. Yet, the Petition’s larger omission is its

failure to provide any reason whatsoever to modify the relatively thin side walls taught by Williams to be the claimed “ribs.”

Petitioner recognizes that Williams fails to actually disclose that the front dam (42) or sidewalls (44) are “integrally formed” with griddle. Were it otherwise, the Petition presumably would have presented Williams as an anticipatory reference under §102 as opposed to a single-reference obviousness ground under § 103 (Ground 1).

Thus, the Petition heavily relies on Dr. Valle to argue that a POSITA would have been motivated to modify Williams’ side walls to integrally form them with the underside of the griddle. (Pet. at 27–32 (Ground 1); *id.* at 73 (same reasons under Ground 5).) Notwithstanding the fact that Dr. Valle is not a POSITA and his declaration should not be considered, Petitioner’s argument fails to describe or even address the multiple modifications of Williams teachings that this would require.

Petitioner argues, without support, that Williams’ disclosure of front and rear dams as “downwardly extending” from the griddle plate means that Williams’ “side walls” would also be considered “downwardly extending. But the Petition recognizes that Williams does not, in fact, describe the sidewalls as “downwardly extending” from the griddle. (Pet. at 51, 54, 58 (“While Williams only explicitly provides the front (42) and rear dams (46) are ‘downwardly extending’ ...”).) Thus,

even if “downwardly extending” from the griddle provided a basis to modify Williams to integrally form components with the griddle, Williams does not describe the relatively thin side walls as “downwardly extending” from the griddle.

The Petition also recognizes that the “side walls” disclosed by Williams are “relatively thin.” (Pet. 30.) But Petitioner is completely silent with respect to any reasons why a POSITA would modify the relatively thin side walls to be the claimed “ribs.” The Petition and declaration of Dr. Valle address only whether a POSITA would modify Williams to integrally form the side walls with the griddle plate—not whether a POSITA would substitute structural ribs in place of the thin side walls. Because thin side walls are not ribs, the Petition’s proposed modification of Williams to integrally form the side walls with the griddle plate are both unsupported, make little sense, and contradict Williams’ disclosure.

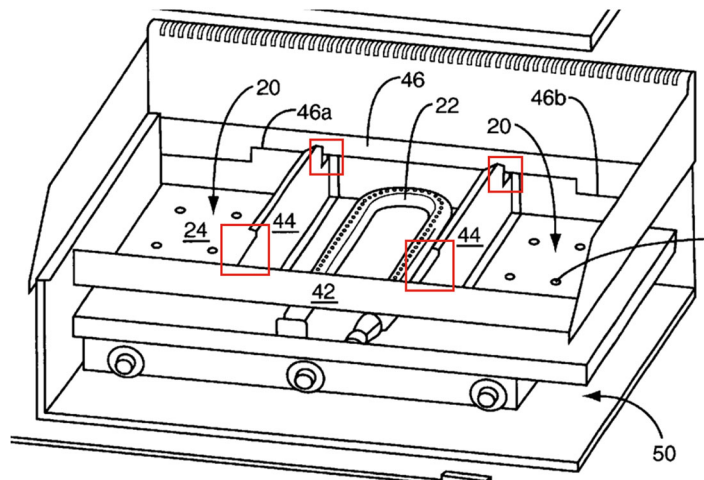
First, the Petition argues that a POSITA would modify the teachings of Williams to integrally form its front dam and side walls into the griddle plate because they would allegedly “not add significant weight.” (Pet. at 28.) This is not a reason to modify Williams but rather an argument about the effects of modifying Williams. Indeed, arguing that a proposed modification would not exacerbate a problem is not a reason to actually perform the modification. The cited Valle declaration similarly does not provide any reason to modify Williams based on weight. (*Id.*; EX1002 at ¶¶87, 95.) Fact is, Williams makes no mention of griddle

weight, integration of the front dam or side walls with the griddle or suggest any reason for such modification of the griddle. Additionally, this argument shows the Petition’s failure to address modification of Williams’ side walls to arrive at the claimed ribs. Modification of the relatively thin side walls taught by Williams to be “ribs” would *add* weight in opposition to this alleged reason to modify. Ribs by their very nature are stronger and thicker to provide support—the Petition simply ignores this.

Second, the Petition argues that a POSITA would modify Williams to integrally form its front dam and side walls into the griddle plate because it would allegedly “greatly strengthen” the griddle. (Pet. at 28.) Despite the fact that Williams is silent about griddle warping or any need for structural support, neither the Petition nor the cited Valle declaration provide a reason to modify Williams to provide increased structural support by integrally forming the “relatively thin” front dam or side walls with the griddle plate. (Pet. at 28, 30; EX1002 ¶¶88–90.) Instead of explaining why one would integrate the thin “side walls” and “front dam” disclosed by Williams into the underside of the griddle plate, the Valle declaration simply points to Hinkle and its alleged teaching that structural ribs prevent warping as the solution to a potential warping problem. But Hinkle is not part of Petitioner’s single-reference Ground 1—or any of the six Grounds for that matter—nor are Hinkle’s ribs, which provide a uniform temperature across the

griddle, similar to the ribs of the '473 Patent, which aid temperature control for heating regions. Even if a POSITA would modify Williams to integrally form the side walls with the underside of the griddle plate, the Petition fails to explain how such relatively thin side walls (which are not equivalent to Hinkle's "ribs") would provide extra strength to the griddle plate.

Third, the Petition argues that a POSITA would modify Williams to integrally form its front dam and side walls into the griddle plate because integrally forming the components would ensure no gap between the components and the underside of the griddle. (Pet. at 30.) But, contrary to the Petition's argument, Williams explicitly shows that the side walls have purposeful gaps:



(EX1005 at Fig. 2.) Thus, Williams' teaching of such purposeful gaps undermines any alleged motivation to construct the side walls so as to eliminate these gaps. (See also EX1002 ¶91.)

Fourth, the Petition argues that a POSITA would modify Williams to integrally form its front dam and side walls into the griddle plate because such integration would provide rigidity to the sidewalls themselves (as opposed to rigidity of the griddle). (Pet. at 30.) The Petition's argument again highlights its failure to address modification of Williams' thin side walls to arrive at the claimed ribs. The only reason that Williams' "side walls" would need more rigidity is because they are so thin as to not provide adequate structural support for themselves as opposed to "ribs," whose very purpose is to provide structural support to attached structures. Again, Williams is silent about griddle warping or any need for structural support for its sidewalls. Neither the Petition nor the cited Valle declaration provide a reason to modify Williams to provide increased structural support to the side walls, which are disclosed as providing only a baffle effect to control airflow. (EX1005 at 3:52–4:2.)

Finally, the Petition argues that a POSITA would modify Williams to integrally form its front dam and side walls into the griddle plate to reduce assembly time and errors. (Pet. at 32.) Again, there is no mention in Williams about any need to reduce assembly time or there being errors in assembly. The Petition's only support for this argument is the declaration of Dr. Valle, who as noted above is not a POSITA and lacks the relevant skill in the art to opine on whether

modification of Williams to integrally form the side walls would reduce assembly time or reduce errors.

With respect to the proposed Grounds for Williams in combination with other art (Grounds 2–6), none address why a POSITA would modify the relative thin side walls or baffles of Williams, Best or Farnsworth to arrive at the claimed structural ribs. (Pet. at 45–51, 55–58, 73, 80, 84.) Thus, even if the proposed combination of Williams with Best or Farnsworth to arrive at baffles attaches to the griddle, the Petition still failed to address why a POSITA would further modify the combination to change the thin baffles to structural ribs.

Accordingly, the Petition fails to present a persuasive obviousness rationale that adequately explains why it would have been obvious to a POSITA to modify Williams’ griddle—whether alone or in combination with other art—to include the claimed “integrally formed” “front rib” and “multiple lateral ribs.”

**C. The Petition fails to establish a reasonable expectation of success for modifying Williams’ separate thin walls below the griddle into the claimed integrally formed ribs.**

As discussed in the preceding section, the Petition presents various alleged motivations to “integrally form the ribs with the underside of the griddle.” (*See also* Pet. at 27-32.) Petitioner essentially repeats these motivations for each of Grounds 1-6. However, despite espousing these various alleged motivations, the Petition never explains why a POSITA would understand these proposed

modifications to Williams’ griddle to have had a reasonable expectation of success. Indeed, the Petition is entirely silent on this point. This omission is made all the more glaring by the fact that the Petition did attempt to address reasonable expectation of success when arguing that it was obvious to “substitute the multiple U-shaped burners from Williams with multiple straight-tube burners . . . as taught by May.” (See Pet. at 63, 69 (“As such, a POSITA would have a reasonable expectation of success without undue experimentation in substituting Williams’ U-shaped burner with the straight-tube burner from May.”) No such argument or explanation was presented though for integrally forming ribs with Williams’ griddle surface.

“An obviousness determination requires finding that a [POSITA] would have been motivated to combine or modify the teachings in the prior art *and would have had a reasonable expectation of success in doing so.*” *Endo Pharm., Inc. v. Actavis LLC*, 922 F.3d 1365, 1373 (Fed. Cir. 2019) (citing *Regents of Univ. of Cal. v. Broad Inst., Inc.*, 903 F.3d 1286, 1291 (Fed. Cir. 2018)) (emphasis added). It is the Petitioner’s burden to explain in the Petition why a POSITA would have had a reasonable expectation of success in achieving the claimed invention by modifying William’s griddle. Because Petitioner has not addressed reasonable expectation of success in this instance, it has not satisfied its burden. “Failure to prove the matter as required . . . means that the party with the burden of persuasion loses on that

point—thus, if the fact trier of the issue is left uncertain, the party with the burden [i.e., the petitioner] loses.” *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378-79 (Fed. Cir. 2015).

Because this failure to establish a reasonable expectation of success for modifying Williams to incorporate the various claimed “integrally formed” “ribs” applies to each of Grounds 1-6, the Petitioner has failed to demonstrate that it has a reasonable likelihood of prevailing with respect to any Challenged Claim.

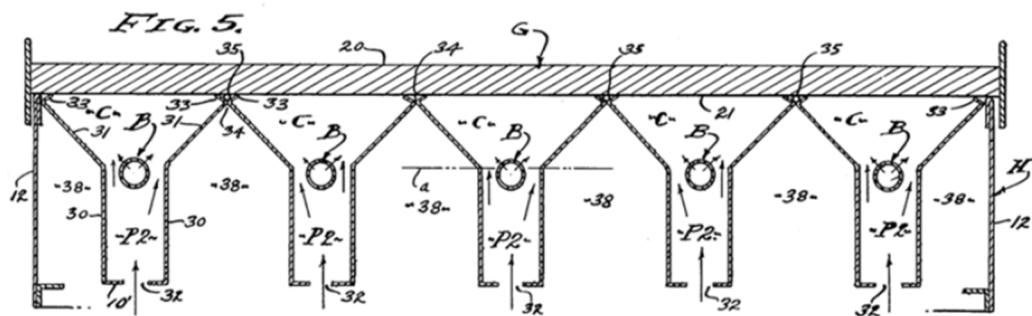
Accordingly, institution should be denied.

**D. None of the proposed combinations of art in the Grounds teach a “*front rib ... integrally formed with the underside surface of the griddle.*”**

As discussed above, the Challenged Claims each require a “*front rib . . . integrally formed with the underside surface of the griddle.*” (*See* EX1001, at independent Claims 1, 10, 17.) Regardless of the construction of “rib,” none of the proposed Grounds of the Petition persuasively demonstrate that such a claim element was disclosed or obvious. As discussed above, the Petition’s argument in Ground 1 (and likewise Ground 4 which merely reiterates this argument) that integrally forming the front dam (42) and sidewalls (44) of Williams would have been obvious because a POSITA would have been motivated to do so (*see* Pet. at 27-32) is both incorrect and supported only by inadmissible expert testimony.

Aside from its obviousness argument, Petitioner asserts that “Williams’s disclosure of a front dam (42) rear dam (46) or sidewalls (44) as ‘downwardly extending’ indicates that these structures are ‘fixed’ or ‘integral’ to the underside surface of the griddle.” (Pet. at 26-27.) This argument though is without merit.

Simply stating that a first part “extends” from a second part does not necessarily mean that the two parts are “integrally formed.” Rather, the first part could merely be positioned adjacent to or very near the second part and still “extend” away or “downwardly” from that first part. This would be no different than the prior art of record, Reynolds, U.S. Pat. No. 4,715,356, over which the Challenged Claims of the ’473 patent were allowed. (EX1004 at 127, 135.) Specifically, Reynolds discloses “baffles 30” that are positioned adjacent to the underside of a cooktop for the purposes of trapping air.



(EX1009, at Fig. 5.) As demonstrated in Fig. 5 above and as found by the Examiner, although these baffles extend downwardly away from the underside of the cooktop, the baffles are not “integrally formed” with the cooktop. Thus,

similar to Reynolds, Williams' front dam 42 is not integrally formed with the griddle surface. Accordingly, Grounds 1 and 4 cannot stand.

Because Williams does not disclose or suggest integrally forming its sidewalls with the griddle, Grounds 2–3 and 5–6 further combine Best or Farnsworth with Williams. However, in these Grounds, the Petition introduces both Best and Farnsworth *solely* for the purpose of their alleged disclosure of “**lateral** ribs” that “would be integral to the underside surface of the griddle.” (*See* Pet. at 45, 54.) Specifically, Petitioner analogizes Best’s and Farnsworth’s baffles (which are allegedly connected to the underside of a griddle) to the claimed “lateral ribs” and asserts that, therefore, combination with Williams would teach the “lateral ribs” (including being “integrally formed with the underside surface of the griddle”) of the Challenged Claims. For example, with respect to the combination of Williams and Best, the Petition states that “since limitation [10.7] or [17.3] for integrating a **lateral** rib with the underside of a griddle was the apparent reason for allowance during prosecution, Petitioner also relies on Best that explicitly discloses a **lateral** rib integral with the underside of a griddle.” (Pet. at 45; *emph. added.*) Similarly, for the combination of Williams and Farnsworth, the Petition states that “since limitation [10.7] or [17.3] for integrating a **lateral** rib with the underside of a griddle was the apparent reason for allowance during prosecution, Petitioner also relies on Farnsworth that explicitly discloses a **lateral** rib integral with the

underside of a griddle.” (Pet. at 54; *emph. added.*) However, the Petition does not assert or in any way argue that combining Best or Farnsworth with Williams suggests or teaches modifying Williams to create a “***front*** rib ... integrally formed with the underside surface of the griddle.” Thus, additional Grounds 2-3 and 5-6 cannot cure Williams’ failure to disclose or render obvious such a “front rib” as discussed above. *Supra*, §VI.A–B.

Furthermore, even if Petitioner did present such an argument and regardless of whether there is sufficient evidence of any reason to combine Williams with Best or Farnsworth (and Patent Owner does not concede that there is), the combination of Best and Farnsworth fails to disclose a “***front rib*** ... integrally formed with the underside surface of the griddle.”<sup>3</sup>

At best, Best describes lateral “baffles” connected to the underside of a griddle—there is no disclosure or argument that Best discloses or suggests a front rib (or any similar structure) “integrally formed” with the underside of a griddle. (Pet. at 45–52.)

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<sup>3</sup> Patent Owner also does not concede that there is sufficient evidence of a motivation to combine the teachings of Williams with May as proposed in Grounds 4–6.

Similarly, at best, Farnsworth describes “laterally extending baffle[s] (3) attached to the bottom surface (26) of the upper plate ....” (EX1007 at 3:15–19.) Again, there is no disclosure or argument that Farnsworth discloses or suggests a *front* rib (or any similar structure “integrally formed” with the underside of a griddle. (Pet. at 55–58.)

Thus, with Williams, Best, and Farnsworth all failing to disclose or suggest a “*front* rib ... integrally formed with the underside surface of the griddle,” (and no argument that May does either), the proposed six Grounds each fail to disclose an element of the Challenge Claims regardless of whether Petitioner attempts to argue the combination of such references and regardless of whether such combinations are proper.

## VII. CONCLUSION

In light of the foregoing, Patent Owner respectfully submits that Petitioner has failed to establish a reasonable likelihood of prevailing as to any of the Challenged Claims. The Board should deny institution of the Petition, accordingly.

Dated: July 11, 2024

Respectfully submitted,

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PRELIMINARY RESPONSE

IPR2024-00624  
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**CERTIFICATE UNDER 37 C.F.R. §42.24(d)**

The undersigned certifies that the foregoing **Patent Owner Preliminary Response**, excluding any table of contents, mandatory notices under 37 C.F.R. § 42.8, certificates of service or word count, or appendix of exhibits, contains 7,112 words according to the word-processing program used to prepare this document (Microsoft Word), which is less than the 14,000 allowed under 37 C.F.R. § 42.24(a)(1)(i).

Dated: July 11, 2024

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **Patent Owner Preliminary Response** together with all exhibits and other papers filed therewith was served on July 11, 2024 to counsel of record by e-mail to:

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