

Petitioner Trove Brands' Demonstratives For Oral Argument

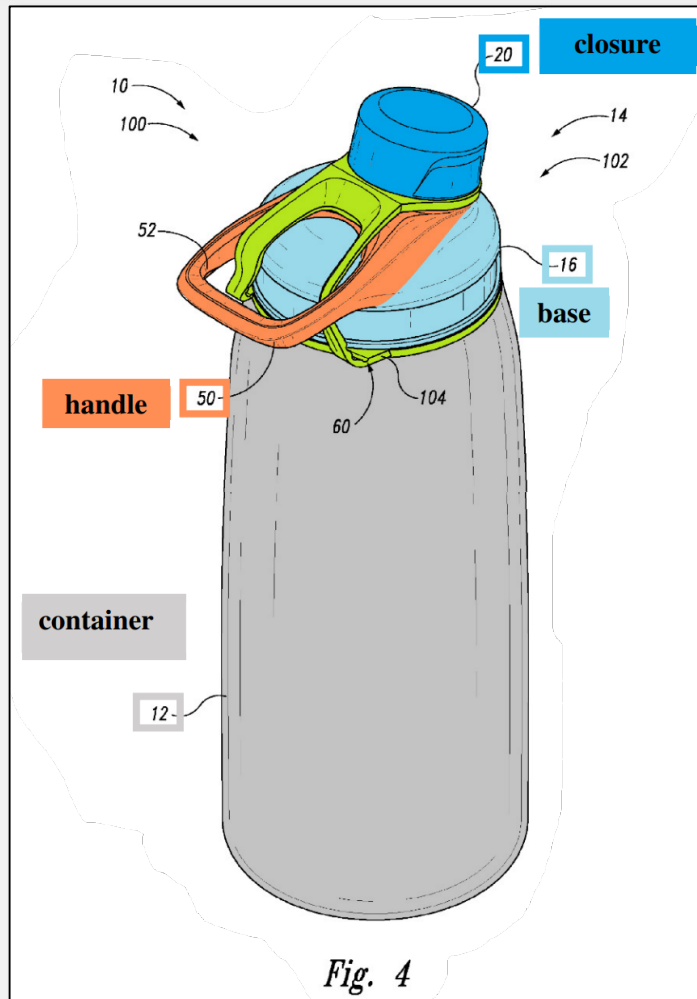
August 12, 2025

Trove Brands, LLC v. CamelBak Products, LLC

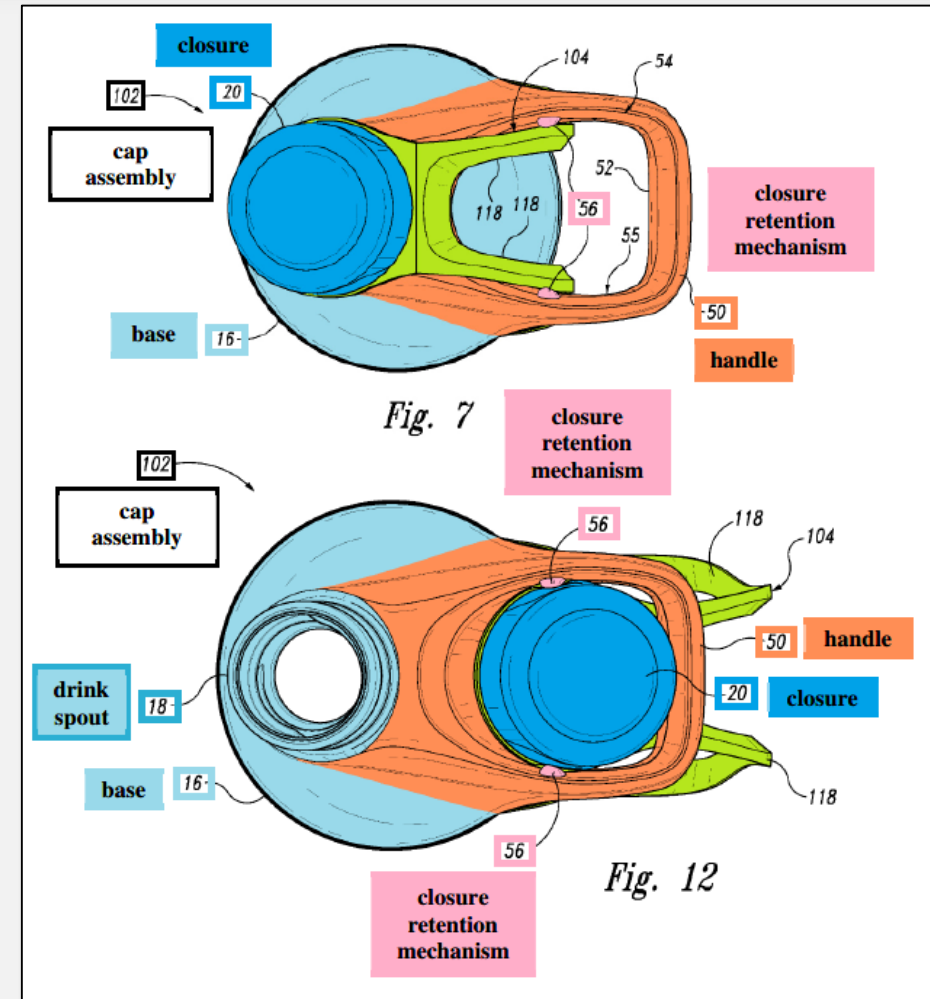
IPR2024-00858 (Patent 8,905,252)

**Trove Brands Ex. 1022
Trove Brands v. CamelBak
IPR2024-00858**

The '252 Patent's Drink Container And Closure Retention



(Ex. 1001, Fig. 4) (annotated)



(Ex. 1001, Figs. 7, 12) (annotated)

Independent Claim 5 Of The '252 Patent

5. A drink container, comprising:
a liquid container having a neck with an opening and having an internal compartment sized to hold a volume of potable drink liquid; and
a cap assembly removably coupled to the liquid container, the cap assembly comprising:
a base removably coupled to the neck of the liquid container;
a drink spout extending from the base and defining a passage through which drink liquid from the internal compartment of the liquid container may be selectively dispensed;
a closure configured to be removably coupled relative to the drink spout in a closed position to selectively restrict dispensing of drink liquid through the passage and to selectively permit dispensing of drink liquid through the passage when removed from the drink spout;
a handle extending from the base, wherein the handle includes a closure retention mechanism configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

(Ex. 1001, claim 5) (highlight added)

Independent Claim 19 Of The '252 Patent

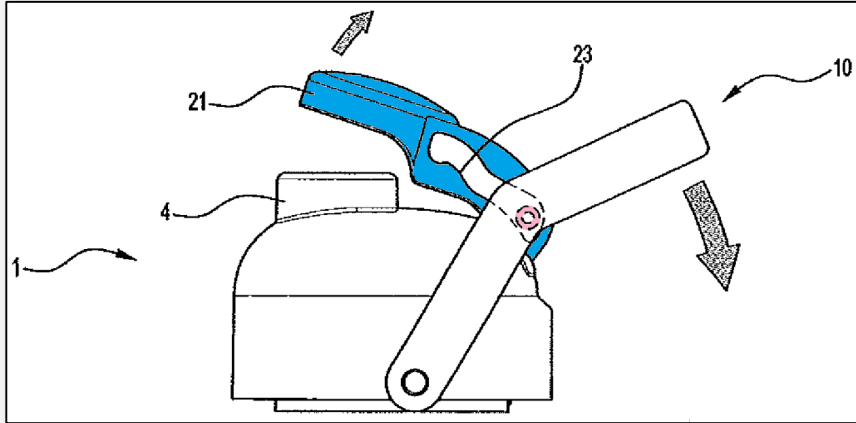
19. A cap assembly for use with a liquid container having a neck with an opening and having an internal compartment sized to hold a volume of potable drink liquid, the cap assembly comprising:

- a base configured to be removably coupled to the neck of the liquid container;
- a drink spout extending from the base and defining a passage through which drink liquid from the internal compartment of the liquid container may be selectively dispensed when the cap assembly is operatively coupled to the liquid container;
- a closure configured to be removably coupled relative to the drink spout in a closed position to selectively restrict dispensing of liquid through the passage and to selectively permit dispensing of liquid through the passage when removed from the drink spout;
- a handle extending from the base, wherein the handle includes a closure retention mechanism configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

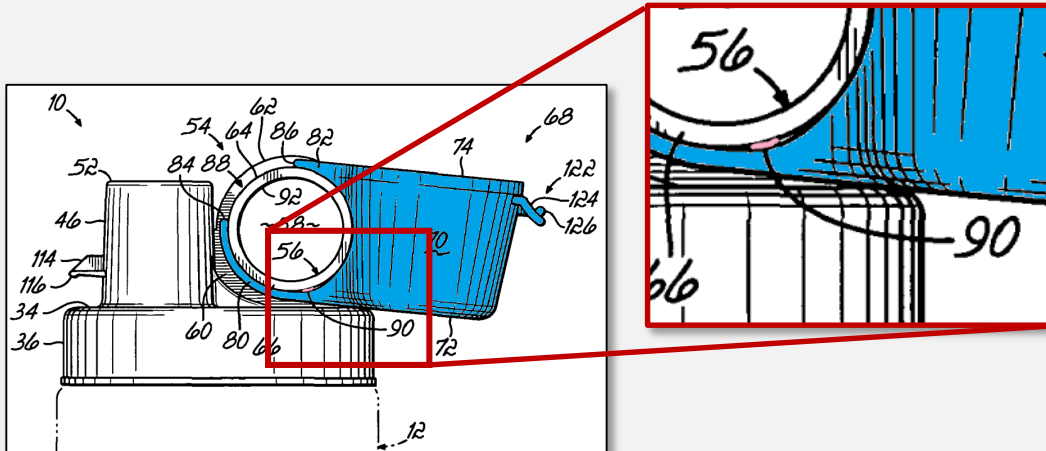
(Ex. 1001, claim 19) (highlight added)

The Prior Art And Trove Brands' Accused Product

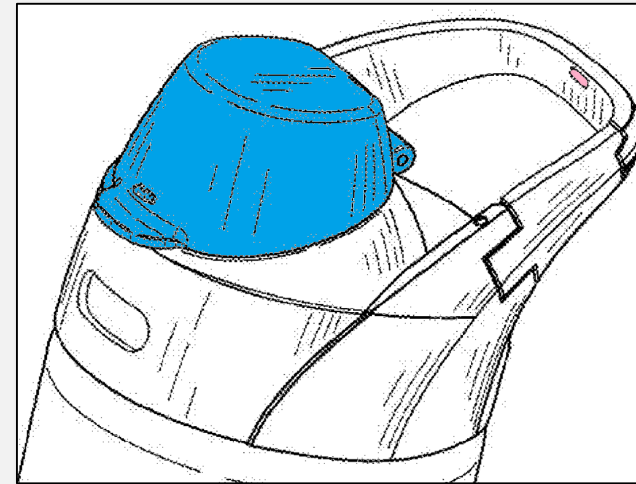
Prior Art



(Ex. 1004, Fig. 9 (excerpt)) (annotated)



(Ex. 1005, Fig. 3 (excerpt)) (annotated)



(Ex. 1006, Fig. 1 (excerpt)) (annotated)

Accused Product



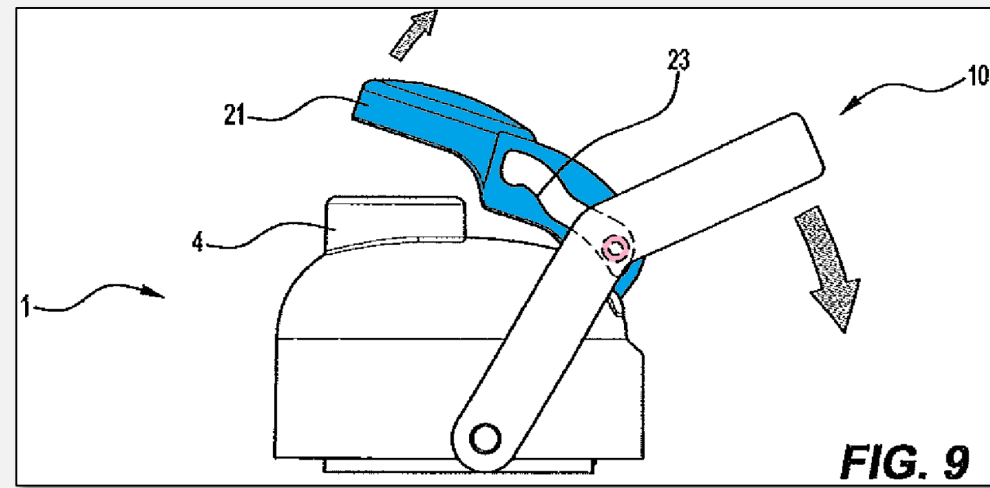
(Ex. 1010, CC. at Appx. A-1, 4)

Grounds 1–2

Grounds 1-2: Samartgis-Based Grounds

a handle extending from the base, wherein the handle includes a closure retention mechanism configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

(Ex. 1001, claim 5)



(Ex. 1004, Fig. 9) (annotated)

Samartgis Discloses A “Closure Retention Mechanism”

a handle extending from the base, wherein the handle includes a **closure retention mechanism** configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

(Ex. 1001, claim 5)

Court’s construction

A means-plus-function governed by 35 U.S.C. § 112(f).

Function: Selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

Structure: Closed Perimeter 52, Closure Retention Structure 55, Tabs 56, Cooperating/Engaging Structure 58.

(Ex. 2010, 6)

CamelBak's "Closure Retention Mechanism" Argument Fails

In addition to failing to disclose the required identical function, Samartigs also fails to disclose an identical or equivalent corresponding structure under 35 U.S.C. § 112(f). *Intellectual Sci. and Tech., Inc. v. Sony Electronics, Inc.*, 589 F.3 d 1179, 1183 (Fed. Cir. 2009) (must perform “*identical function*” and include structure that is “*identical or equivalent*” to the corresponding structure). As noted, the parties

(Sur-Reply, 8)

The Petition Relies On Identical Structures

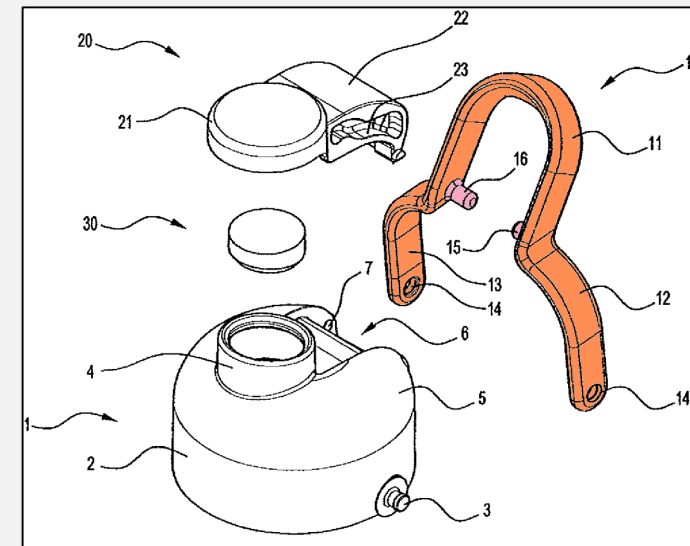
a handle extending from the base, wherein the handle includes a **closure retention mechanism** configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

(Ex. 1001, claim 5)

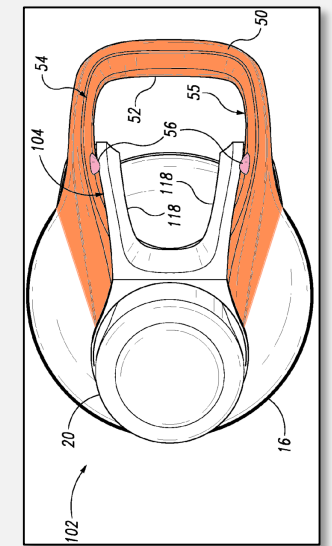
35 U.S.C. § 112(f) limitation

Function: retain the closure (flap member 20) in a stowed position relative to the handle (lever/carry member 10) when the closure is removed from the drink spout

Corresponding Structure: spaced-apart tabs



(Ex. 1004, Fig. 3 (excerpt) (annotated))



(Ex. 1001, Fig. 7) (annotated))

Identical Structures: The “Way” And “Result” Are Irrelevant

U.S. Patent No. 8,905,252
Case No. IPR2024-00858

Sec. II.A. As Patent Owner noted, the Petition only argued that lugs 15 and 16 “are at least equivalent” to the spaced-apart tabs 56 and included no argument they were structurally identical. POR, 32-33; Pet., 35. Patent Owner explained at length, supported by expert testimony, why lugs 15 and 16 are not equivalent to the spaced-apart tabs 56 because Petitioner had failed to show that they performed the identical function “in substantially the same way, with substantially the same result.” POR, 33-37 (citing Ex.2009, ¶¶ 110-117).

Petitioner now argues that lugs 15 and 16 are “structurally identical” to the spaced-apart tabs 56. Reply, 15-17. As an initial matter, this argument must be disregarded because it is a new argument raised for the first time in a reply. 37 C.F.R. § 42.23(b); Consolidated TPG (Nov. 2019), at 73; *see also* *Intelligent Bio-Sys., Inc. v. Illumina Cambridge, Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016). Patent Owner requested authorization to move to strike this argument, but this request was denied based on the Petition’s use of “at least equivalent.” *See* Ex. 2027. The Board, however, invited Patent Owner to argue this point in this sur-reply. *Id.* By arguing the lugs were “at least equivalent,” and not arguing structural identity in the Petition, Petitioner attempted to reserve the right to argue structural identity in a later paper, thereby seeking to circumvent the rule prohibiting new arguments in a reply. Patent Owner has been deprived of the ability to present responsive expert testimony on

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structurally identical. POR, 32-33; Pet., 35. Patent Owner explained at length, supported by expert testimony, why lugs 15 and 16 are not equivalent to the spaced-apart tabs 56 because Petitioner had failed to show that they performed the identical function “in substantially the same way, with substantially the same result.” POR,

(Sur-Reply, 9)

33-37 (citing Ex.2009, ¶¶ 110-117). For example, the lugs do not engage the closure/cap through a friction-fit or snap-fit arrangement that holds the closure/cap by narrowing the width of the handle—unlike the tabs 56. POR, 35-36 (citing Ex.2009, ¶¶ 114-115; Ex.2011 (Vallee Tr.), at 155-157). Instead, the lugs are always engaged with the track 23. *Id.* Thus, the elongated dimensions of the lugs 15 and 16

(Sur-Reply, 11)

U.S. Patent No. 8,905,252
Case No. IPR2024-00858

33-37 (citing Ex.2009, ¶¶ 110-117). For example, the lugs do not engage the closure/cap through a friction-fit or snap-fit arrangement that holds the closure/cap by narrowing the width of the handle—unlike the tabs 56. POR, 35-36 (citing Ex.2009, ¶¶ 114-115; Ex.2011 (Vallee Tr.), at 155-157). Instead, the lugs are always engaged with the track 23. *Id.* Thus, the elongated dimensions of the lugs 15 and 16 relative to the tabs 56 is consistent with their purpose of keeping the lugs within the tracks 23, whereas the flatter dimensions of the tabs 56 facilitate snapping the cap/closure in and out of engagement. The lugs 15 and 16 are not “identical” to the tabs 56.

Finally, Petitioner provides no responsive expert testimony and Petitioner fails to address Patent Owner’s arguments as to why the lugs are not “equivalent” to the tabs. Reply, 17. Instead, Petitioner merely reiterates its contention that the lugs perform the same function of receiving and selectively retaining the closure in a stowed position. *See id.* While they do not perform the identical function, as discussed above, *see supra* Secs. III.A.1-III.A.2, even if they did, that is only the first prong of the three-prong test for equivalence. Petitioner has failed to prove the lugs perform in substantially the same “way” as the tabs 56, because the lugs do not resiliently deflect to provide a snap-fit/friction-fit with the cap that allows it to be engaged and disengaged with the lugs in the way that the tabs 56 do—instead, the lugs move by rotating and sliding within the tracks 23 and never disengage from the

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Identical Structures: The “Way” And “Result” Are Irrelevant

35 U.S. Code § 112(f): An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and ***such claim shall be construed to cover the corresponding structure***, material, or acts ***described in the specification*** and equivalents thereof.
(emphasis added)

the closure in the stowed position. (*Id.*, 9:45-56). In sum, a POSITA would have understood the corresponding structure for the claimed “closure retention mechanism” is two or more spaced-apart tabs extending from the inner surface of the handle. (Ex. 1003 ¶¶47-50).

(Pet., 22–23)

The “Way” And “Result” Only Apply To Equivalent Structures



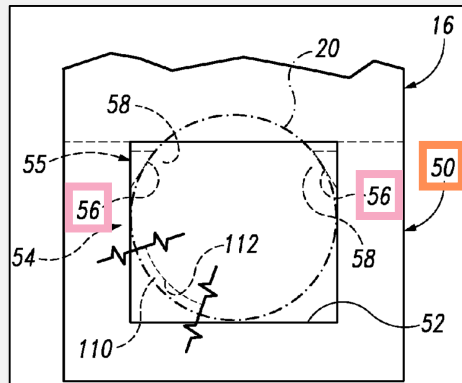
“Literal infringement of a § 112, ¶ 6 limitation requires that the relevant structure in the accused device perform the identical function recited in the claim and be identical **or** equivalent to the corresponding structure in the specification.”

Also holding that only the “statutory equivalence analysis requires” the “way” and “result” analysis.

Odetics, Inc. v. Storage Technology Corp., 185 F.3d 1259, 1267 (Fed. Cir. 1999)

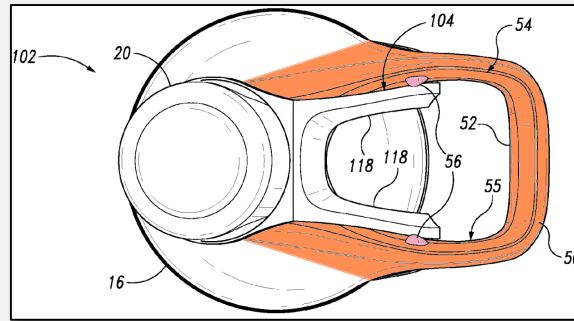
Samartgis Discloses The Claimed Closure Retention Mechanism

'252 Patent



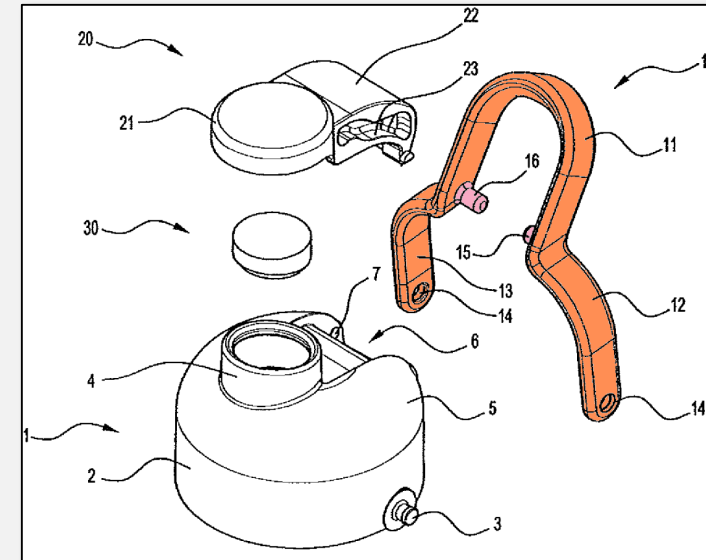
(Ex. 1001, Fig. 2 (excerpt)) (annotated)

Spaced-apart tabs 56 (also called "ribs, projections, stops, fingers, and/or teeth" (Ex. 1001, 10:9–10)) retain the closure 20



(Ex. 1001, Fig. 7) (annotated)

Samartgis



(Ex. 1004, Fig. 3 (excerpt)) (annotated)

Lug members 15, 16 retain the flap 20

CamelBak's Untimeliness Argument Fails

Petitioner now argues that lugs 15 and 16 are “structurally identical” to the spaced-apart tabs 56. Reply, 15-17. As an initial matter, this argument must be disregarded because it is a new argument raised for the first time in a reply. 37 C.F.R.

(Sur-Reply, 9)

⦿ But the Petition explains that:

- “[A] POSITA would have understood ***the corresponding structure for the claimed ‘closure retention mechanism’ is two or more spaced-apart tabs*** extending from the inner surface of the handle.” (Pet., 22–23) (emphasis added)
- “Samartgis discloses that the handle (lever member 10) includes ***a closure retention mechanism (lug members 15 and 16)***.” (Pet., 33) (emphasis added)
- “The lug members 15 and 16 ***are*** a closure retention mechanism[.]” (Pet., 34) (emphasis added)
- “Furthermore, interpreting the ‘closure retention mechanism’ under Section 112(f), the lug members 15 and 16 ***also are at least equivalent*** to the structure identified in the specification (i.e., the two or more spaced-apart tabs on the handle).” (Pet., 34–35) (emphasis added)

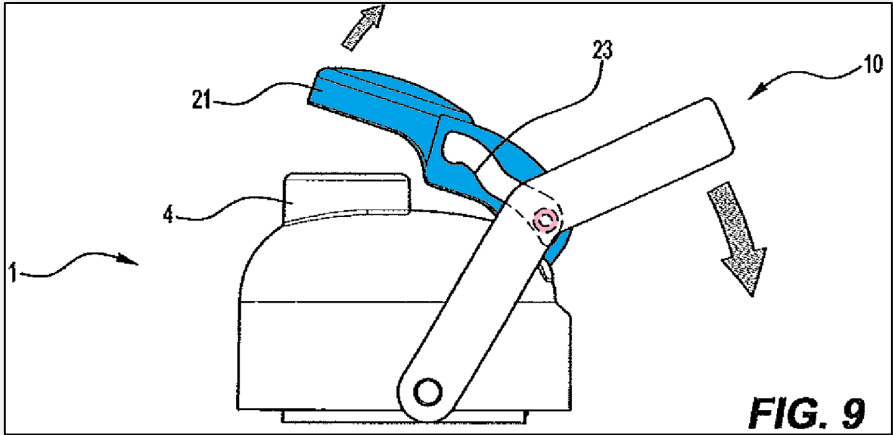
Samartgis Discloses Retaining The Closure In A Stowed Position Relative To The Handle

a handle extending from the base, wherein the handle includes a closure retention mechanism configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

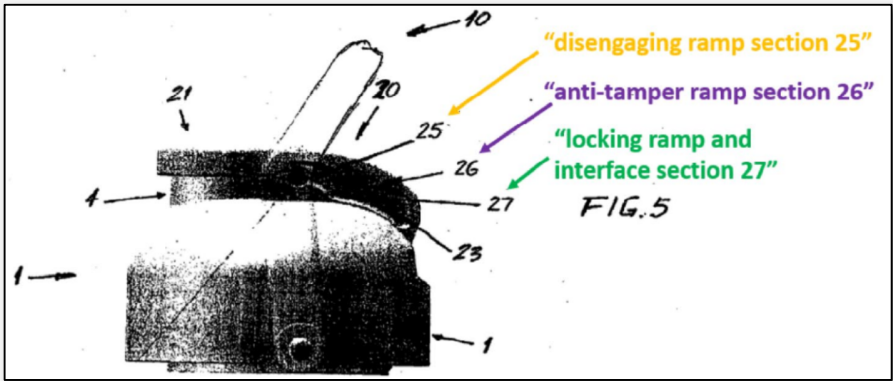
(Ex. 1001, claim 5)

closure. Figure 9 shows the lever 10 in the “locking position,” meaning the closure (flap 20) is retained relative to the handle by the lug members 15 and 16 in the open position. This is a result of the user removing the flap member 20 from the drink spout and stowing it relative to the handle by moving the handle into the locking position. (*Id.*).

(Pet., 34; see also Ex. 1003, ¶100)



(Ex. 1004, Fig. 9) (annotated)



(POR, 20)

“Retain”: CamelBak Seeks To Import A Limitation

the “relative to the handle” portion of the claim language. As such, the “relative to the handle” limitation is still required in addition to the “stowed position” limitation. Patent Owner has simply proposed to construe “stowed position” as requiring “a position removed from the drink spout” and not to replace the “relative to the handle” language. Therefore, being in a “position removed from the drink spout” (stowed

(Sur-Reply, 4)

“wherein the handle includes a closure retention mechanism configured to ***selectively retain the closure in a stowed position relative to the handle in a position removed from the drink spout*** when the closure is selectively removed from the drink spout and received by the closure retention mechanism”

There Is No Justification For Importing An Entire Limitation



"Courts do not rewrite claims; instead, [they] give effect to the terms chosen by the patentee."

K-2 Corp. v. Salomon S.A., 191 F.3d 1356, 1364 (Fed. Cir. 1999)



Claim construction is not an exercise to "redefine claim recitations or to read limitations into the claims to obviate factual questions of infringement and validity but rather to give meaning to the limitations actually contained in the claims"

Am. Piledriving Equip., Inc. v. Geoquip, Inc., 637 F.3d 1324, 1331 (Fed. Cir. 2011)



Courts have characterized importing limitations from the specification into the claims as "one of the cardinal sins of patent law."

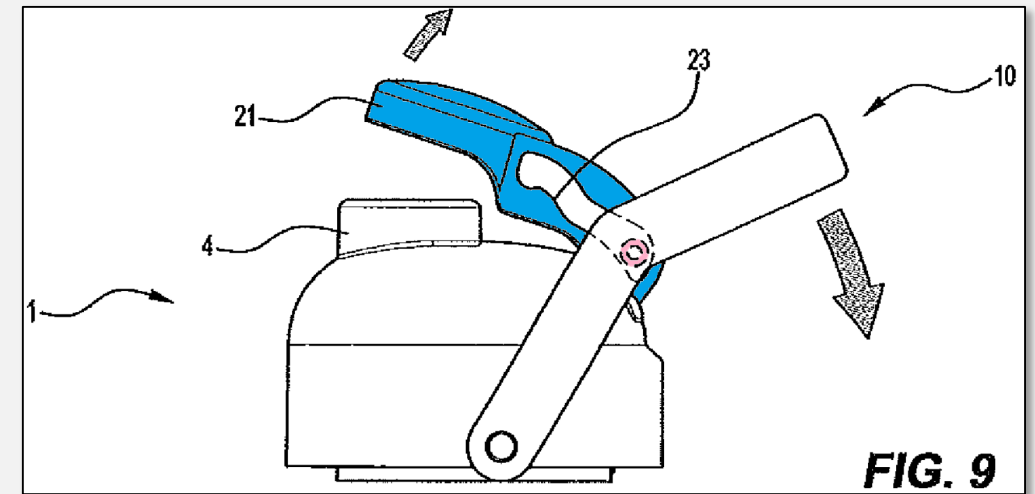
SciMed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc., 242 F.3d 1337, 1340 (Fed. Cir. 2001)

“Retain”: Samartgis Anticipates Under CamelBak’s Construction

“wherein the handle includes a closure retention mechanism configured to ***selectively retain the closure in a stowed position relative to the handle in a position removed from the drink spout*** when the closure is selectively removed from the drink spout and received by the closure retention mechanism”

not have been understood to depict a “locking position.” Ex.2009, ¶97. Thus, there is nothing (other than the user holding the lever in place) to hold or keep the cap/closure in a position removed from the drink spout in the alleged stowed position of Figure 9 argued by Petitioner and Dr. Vallee. *Id.* Petitioner, therefore, has failed

(POR, 21) (underline added)

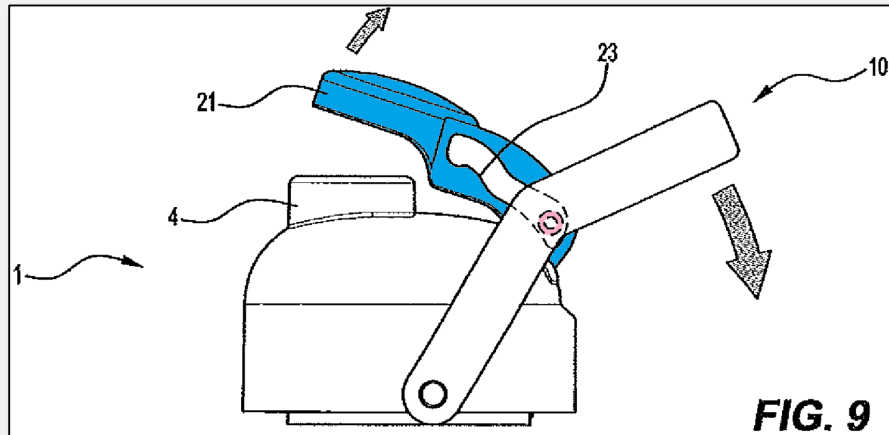


(Ex. 1004, Fig. 9) (annotated)

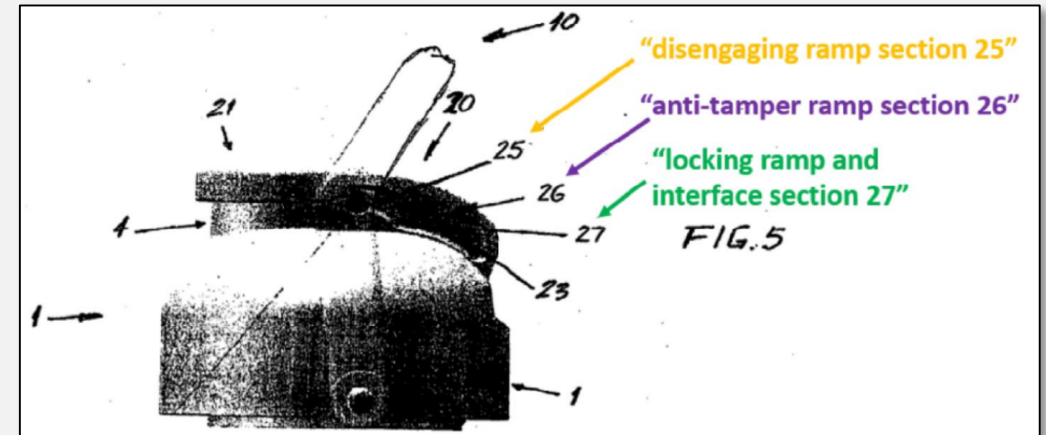
Samartgis' Closure Retention Mechanism Stows The Closure

Petitioner fails to argue or cite any evidence that the closure is held or kept in the position depicted in Figure 9 by the alleged closure retention mechanism (lugs 15 and 16), and Petitioner fails to rebut any of Patent Owner's argument or evidence demonstrating that Samartgis fails to disclose that the closure is held in the position shown in Figure 9. *Id.*, 7-11. Any suggestion by Petitioner to the contrary should be

(Sur-Reply, 5)



(Ex. 1004, Fig. 9) (annotated); see also Ex. 1003, ¶100



(POR, 20)

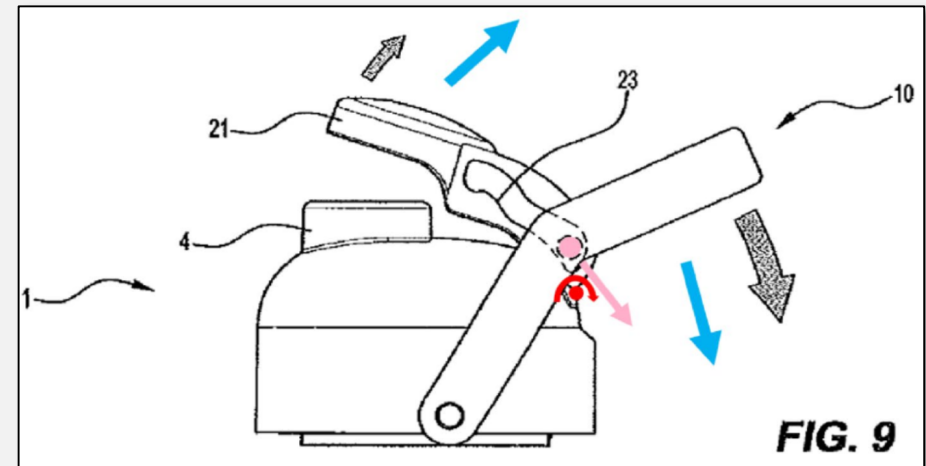
Further Rotation Of Samartgis' Handle

Further, Petitioner does not dispute (and actually adopts) Patent Owner's argument and evidence demonstrating that it is highly likely that Samartgis's cap and handle could continue to move to the right to more fully open as the handle is rotated to the right from the position shown in Figure 9. Reply, 10 (citing POR, 25; (Sur-Reply, 6)

Even if the handle in Samartgis could be rotated further away from the drink spout than illustrated in Figure 9, Samartgis would still meet the limitation. As (Reply, 10)

portion of the tracks 23. CamelBak's own annotations (POR, 25) demonstrate that if the handle (lever 10) were pivoted farther away from the drink spout 4, the closure (flap member) would still remain stowed relative to the handle (lever 10) and move along with it away from the drink spout 4.

(Reply, 10)



(POR, 25)

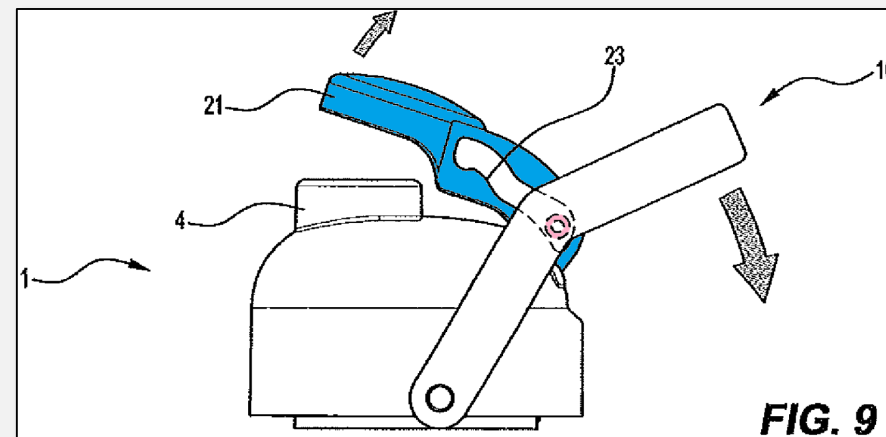
“When The Closure Is...Received By The Closure Retention Mechanism”

a handle extending from the base, wherein the handle includes a closure retention mechanism configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

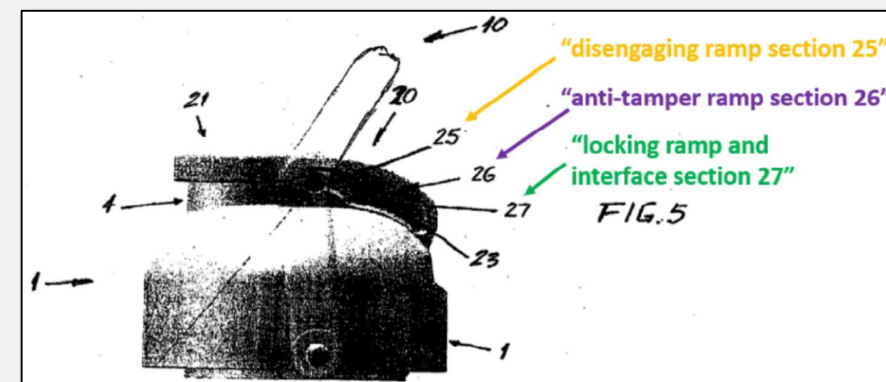
(Ex. 1001, claim 5)

mechanism” as required by the claims. *See id.* at 23–25. In our view, Samartgis clearly describes and shows flap member 20, which includes arm member 22 as a “principal” component, being mounted on, i.e., received by, lug members 15, 16 on handle 10. *See* Ex. 1004, 4:16–17 (disclosing “lug members 15 and 16 being able to move along the tracks 23 of flap member 20”). Thus, on the current record, we find that Samartgis sufficiently

(ID, 13–14; *see also* Pet., 33–35; Ex. 1003, ¶100)



(Ex. 1004, Fig. 9) (annotated)



(POR, 20)

“When The Closure Is...Received By The Closure Retention Mechanism”

U.S. Patent No. 8,905,252
Case No. IPR2024-00858

Petition. Further, it would be impermissible for Petitioner to offer new theories based on alleged equivalences to such additional structures not included in the Petition. Therefore, the Board need not determine whether any additional structures are included, because it is unnecessary to resolve the parties' dispute. *See Realtime Data, LLC v. Iancu*, 912 F.3d 1368 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

B. “when the closure is . . . received by the closure retention mechanism”

First, the Board should construe the base term, “receive” to mean “to accept, to acquire, or to engage.” Second, applying this base interpretation, the phrase “when the closure is . . . received by the closure retention mechanism” should be construed to mean “when the closure is accepted, acquired, or engaged by the closure retention mechanism.” This construction is supported by both the intrinsic and extrinsic evidence.

Claims 5 and 19 recite that the claimed closure is configured to be “removably coupled relative to the drink spout in a closed position” and can be “selectively,”

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First, the Board should construe the base term, “receive” to mean “to accept, to acquire, or to engage.” Second, applying this base interpretation, the phrase

(POR, 9)

¹ To the extent the plain and ordinary meaning of the term “receive” requires elaboration, Trove does not dispute that it can include “to accept, to acquire, or to engage.” But the meaning cannot include the extraneous negative limitation

(Reply, 4)

IPR2024-00858 – Patent 8,905,252
Trove Brands v. CamelBak Products

claims. Claim construction is not an exercise to “redefine claim recitations or to read limitations into the claims to obviate factual questions of infringement and validity but rather to give meaning to the limitations actually contained in the claims . . .” *Am. Piledriving Equip., Inc. v. Geoquip, Inc.*, 637 F.3d 1324, 1331 (Fed. Cir. 2011). The negative limitation proposed by CamelBak lacks support in the claims, written description, or prosecution history, and instead represents an attempt to improperly import limitations. CamelBak’s proposed negative limitation should therefore be rejected.¹ *SciMed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc.*, 242 F.3d 1337, 1340 (Fed. Cir. 2001) (characterizing importing limitations from the specification into the claims as “one of the cardinal sins of patent law”); *DSW, Inc. v. Shoe Pavilion, Inc.*, 537 F.3d 1342, 1347 (Fed. Cir. 2008) (holding that claim construction “cannot alter what the patentee has chosen to claim as his invention, that limitations appearing in the specification will not be read into claims, and that interpreting what is meant by a word in a claim is not to be confused with adding an

¹ To the extent the plain and ordinary meaning of the term “receive” requires elaboration, Trove does not dispute that it can include “to accept, to acquire, or to engage.” But the meaning cannot include the extraneous negative limitation proposed by CamelBak—that “the closure is not always or permanently engaged by or retained by the closure retention mechanism.” POR, 9–10.

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“When The Closure Is...Received By The Closure Retention Mechanism”

the closure in a stowed position.” Thus, the closure must be “received by” the closure retention mechanism “when the closure is selectively removed from the drink spout” to reach the stowed position, and as such, the closure is not always or permanently engaged by or retained by the closure retention mechanism, such as from manufacture. Otherwise, the closure retention mechanism would already always

(POR, 10) (underline added)

CamelBak Again Proposes To Add Limitations

“*when* the closure *is* . . . *received* by the closure retention mechanism.” Use of the words “when . . . received” requires that the closure must have two states: a state when it has not been *received* and a state when it has been *received*, such that this term does not encompass “some time prior to, and independent of” receipt (e.g., always). *Info-Hold, Inc. v. Muzak LLC*, 783 F.3d 1365, 1373-74 (Fed. Cir. 2015) (affirming construction of “when a caller is placed on hold” as “at the moment a caller is placed on hold” and rejecting construction of “at some point prior to, and independent of, when a caller was placed on hold” because intrinsic evidence did not disclose any actions occurring “before or while the caller is on hold” and because such a construction would improperly read the word “placed” out of the claims).

(Sur-Reply, 2–3) (underline added)

“Receive”: No Lexicography Or Disavowal



“Absent a clear disavowal or contrary definition in the specification or the prosecution history, the patentee is entitled to the full scope of its claim language.”

Aug. Tech. Corp. v. Camtek, Ltd., 655 F.3d 1278, 1286 (Fed. Cir. 2011);
see also Thorner v. Sony Comput. Ent. Am. LLC, 669 F.3d 1362, 1366 (Fed. Cir. 2012)

“Receive”: CamelBak Again Seeks To Import Limitations



Claim construction is not an exercise to “redefine claim recitations or to read limitations into the claims to obviate factual questions of infringement and validity but rather to give meaning to the limitations actually contained in the claims”

Am. Piledriving Equip., Inc. v. Geoquip, Inc., 637 F.3d 1324, 1331 (Fed. Cir. 2011)



Courts have characterized importing limitations from the specification into the claims as “one of the cardinal sins of patent law.”

SciMed Life Sys., Inc. v. Advanced Cardiovascular Sys., Inc., 242 F.3d 1337, 1340 (Fed. Cir. 2001)



Claim construction “cannot alter what the patentee has chosen to claim as his invention, that limitations appearing in the specification will not be read into claims, and that interpreting what is meant by a word in a claim is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.”

DSW, Inc. v. Shoe Pavilion, Inc., 537 F.3d 1342, 1347 (Fed. Cir. 2008) (internal quotation marks and emphasis omitted)

Info-Hold Is Inapposite



"[T]he parties sought competing constructions of the term 'when a caller is placed on hold,' as that term influenced whether music or message playback had to begin at the time the caller was placed on hold, or could begin at some time prior to, and independent of, when a caller was placed on hold." (1373)

"During reexamination of the '374 patent, Info-Hold amended the claims by adding the limitation "when a caller is placed on hold" to avoid anticipation by the prior art. ... As claim 7 shows, the generated signals "control" the message playback devices by directing them to access messages and play them back through the output. If the signals themselves are generated "when callers are placed on hold," as Info-Hold argued during reexamination, then the playback resulting from the control signal must also occur at that time, not before the caller is placed on hold." (1374)

Info-Hold, Inc. v. Muzak LLC, 783 F.3d 1365, 1373–74 (Fed. Cir. 2015)

- Ⓢ *Info-Hold* does not stand for the broad proposition that the use of the term "when" requires two states. (See Sur-Reply 2-3)

Ordinary Meaning Of “When” Controls

a handle extending from the base, wherein the handle includes a closure retention mechanism configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

(Ex. 1001, claim 5)



“‘when’ means at or during the time that”

ACCO Brands, Inc. v. Micro Sec. Devices, Inc., 346 F.3d 1075, 1077 (Fed. Cir. 2003)

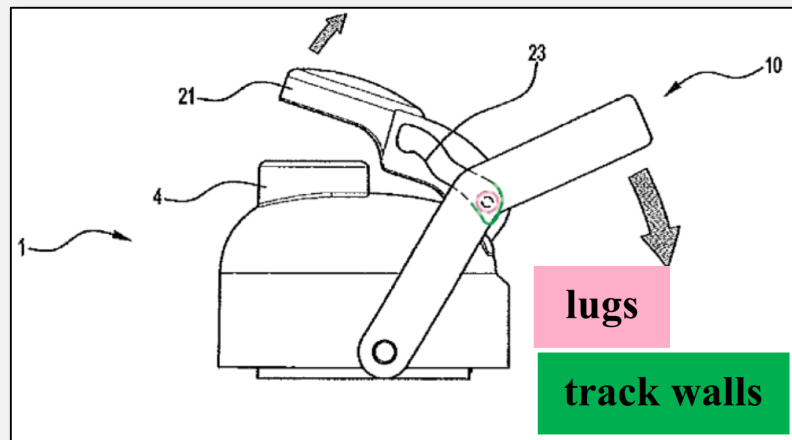


ordinary meanings of “when” include “at, during, or after the time that”

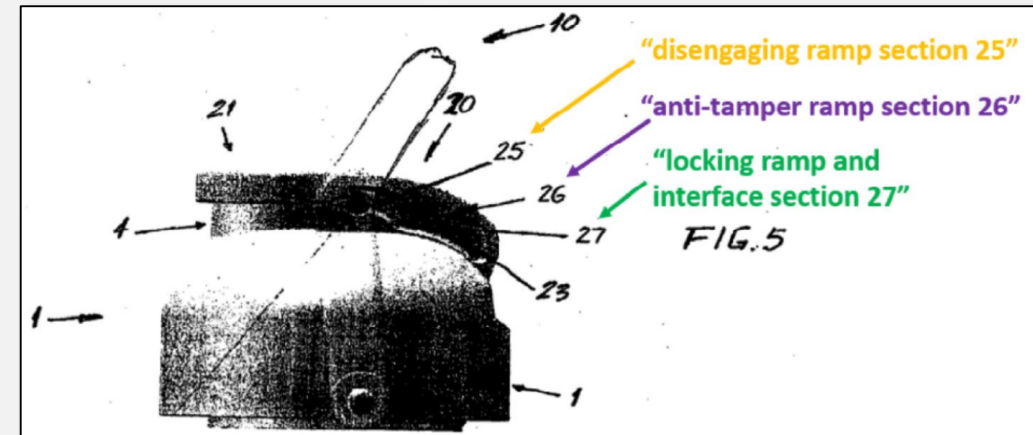
Renishaw PLC v. Marposs Societa' per Azioni, 158 F.3d 1243, 1250–52 (Fed. Cir. 1998)

Samartgis Satisfies The “Receive” Limitation

- ④ Samartgis’ closure—specifically, the distal end of the tracks 23 (“locking ramp and interface section 27”)—is received by the closure retention mechanism (lug members 15, 16)



(Ex. 1004, Fig. 9) (annotated)

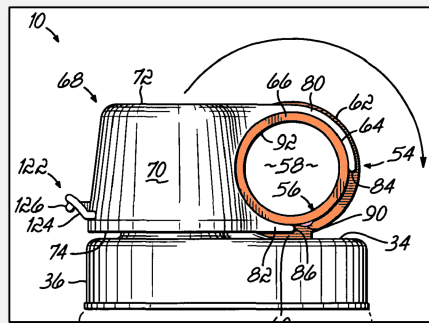


(POR, 20)

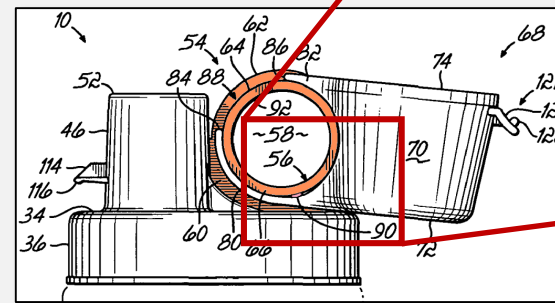
Grounds 3–4

Leoncavallo's Closure Retention Mechanism

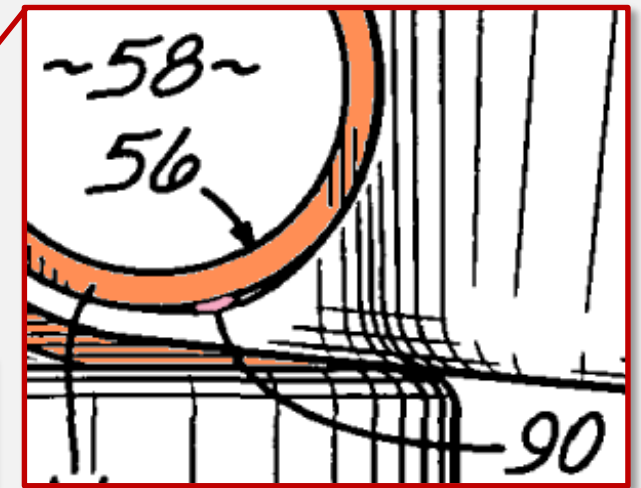
- ⌚ Leoncavallo's closure (cap 68) moves around the handle (loop 54) and frictionally engages a closure retention mechanism (detents 90) on the handle (loop 54) as it travels, retaining the closure (cap 68) in a stowed position (open) relative to the handle (loop 54)
- ⌚ The detents 90 "project outwardly from the outer arcuate surface 64 of the loop 54 on opposite sides of the annular rib 62." (Ex. 1005, 5:33–36)



closed configuration



open configuration

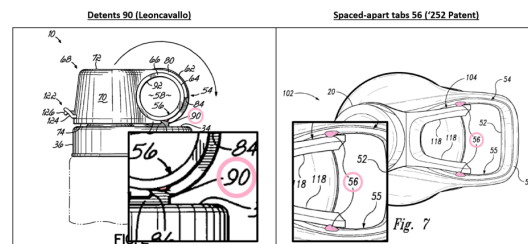


CamelBak's No "Closure Retention Mechanism" Argument Fails

U.S. Patent No. 8,905,252
Case No. IPR2024-00858

90 are structurally identical to the spaced-apart tabs 56." Reply, 20. Petitioner's new argument should be disregarded, as should its attempt to reserve its right with its "at least equivalent" contention, for the same reasons discussed above for Samartgis. See *supra* Sec. III.A.3. While the Board denied Patent Owner's request for authorization to move to strike this new argument, the Board nonetheless invited Patent Owner to brief the issue in this sur-reply. See Ex. 2027.

Even if this argument is considered, Petitioner cannot meet its burden of proving that Leocavallo's detents 90 are "structurally identical" to the spaced-apart tabs 56 of the '252 patent. Petitioner's only argument is that the detents 90 are "projections, ribs, or stops on the handle," which Petitioner argues is "like the spaced-apart tabs 56." Reply, 20. Being "like" the tabs does not, of course, establish that they are identical. A simple side-by-side comparison demonstrates they are not identical:



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that they are identical. A simple side-by-side comparison demonstrates they are not identical:

(Sur-Reply, 13)

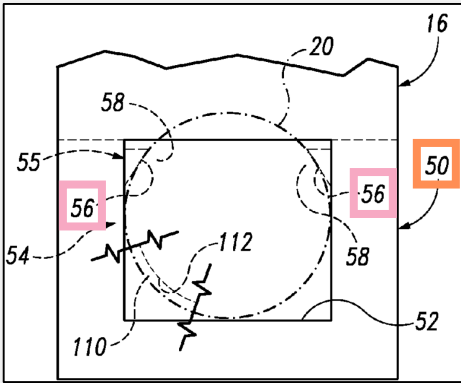
Identical Structures: The “Way” And “Result” Are Irrelevant

35 U.S. Code § 112(f): An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and ***such claim shall be construed to cover the corresponding structure***, material, or acts ***described in the specification*** and equivalents thereof.
(emphasis added)

Corresponding Structure: spaced-apart tabs

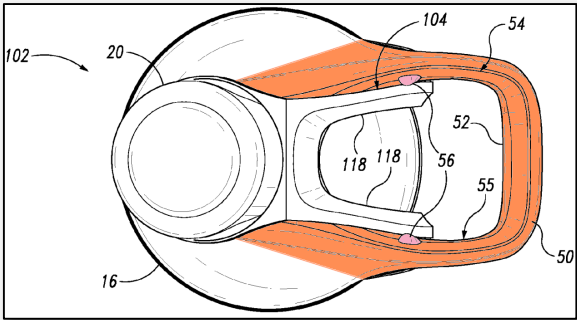
Leoncavallo Discloses The Claimed Closure Retention Mechanism

'252 Patent



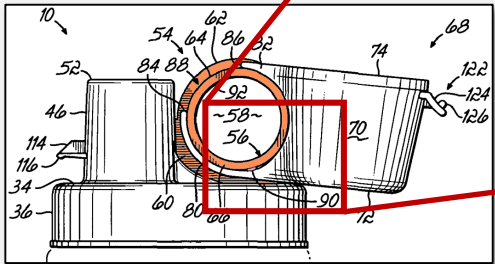
(Ex. 1001, Fig. 2 (excerpt)) (annotated)

Spaced-apart tabs 56 (also called “ribs, projections, stops, fingers, and/or teeth” (Ex. 1001, 10:9–10)) retain the closure 20



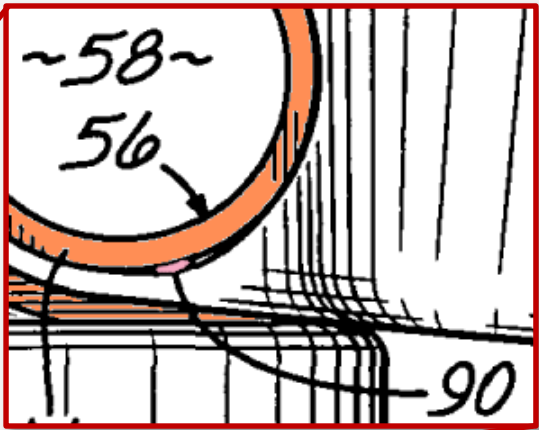
(Ex. 1001, Fig. 7) (annotated)

Leoncavallo



(Ex. 1005, Fig. 3 (excerpt)) (annotated)

Detents 90 (also called “rib[s] or other suitable structure[s] project[ing] outwardly ... on opposite sides” (Ex. 1005, 5:33–36)) retain the flip cap 68



The Petition Argued Structural Identity

least equivalent” to the spaced-apart tabs 56 of the ’252 patent. Pet., 68-69. The Petition contains no contention that the detents 90 are structurally “identical” to the spaced-apart tabs 56. *See id.* After Patent Owner thoroughly rebutted the Petition’s

(Sur-Reply, 12)

☉ But the Petition explains that:

- “[A] POSITA would have understood ***the corresponding structure for the claimed ‘closure retention mechanism’ is two or more spaced-apart tabs*** extending from the inner surface of the handle.” (Pet., 22–23) (emphasis added)
- “Leoncavallo discloses that the handle (loop member 54) includes ***a closure retention mechanism, namely detents 90.***” (Pet., 67) (emphasis added)
- “The detents 90 ***are*** a closure retention mechanism.” (Pet., 68) (emphasis added)
- “Furthermore, interpreting the “closure retention mechanism” under Section 112(f), the detents 90 ***also are at least equivalent to*** the structure identified in the specification (i.e., the two or more spaced-apart tabs on the handle).” (Pet., 69) (emphasis added)

Claim 6: Leoncavallo's Detents "Define At Least Part Of The Closed Perimeter"

6. The drink container of claim 5, wherein the handle defines a closed perimeter, and wherein the closure retention mechanism defines at least a portion of the closed perimeter.

(Ex. 1001, claim 6)

Petitioner's own theory and the '252 patent. As Patent Owner noted, the Petition maps *only* the inner surface of the loop 54 as being the claimed "closed perimeter" defined by the handle and *not* any portion of the outer surface 64 of loop 54 (where the detents 90 are located). This is shown by Petitioner's own yellow annotation

(Sur-Reply, 16)

(*Id.*, Fig. 3; Ex. 1003 ¶179). In the above embodiment, the detents 90 are on the outside of loop 54 and thus form part of the perimeter defined by the loop. (*Id.*).

(Pet., 71)

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2. Leoncavallo does not disclose or render obvious dependent claim 6

Petitioner contends that claim 6's recitation of "wherein the handle defines a closed perimeter, and wherein the closure retention mechanism defines at least a portion of the closed perimeter" can be satisfied by the detents 90 being on the *outer surface* of the loop member 54. Reply, 21-22. This argument is contrary to both Petitioner's own theory and the '252 patent. As Patent Owner noted, the Petition maps *only* the inner surface of the loop 54 as being the claimed "closed perimeter" defined by the handle and *not* any portion of the outer surface 64 of loop 54 (where the detents 90 are located). This is shown by Petitioner's own yellow annotation below:

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Leoncavallo discloses that "the loop 54 is a closed loop in the form of a cylinder and has a generally circular cross-sectional shape." (Ex. 1005, 4:30-32). Loop 54 defines a closed perimeter, as highlighted below:

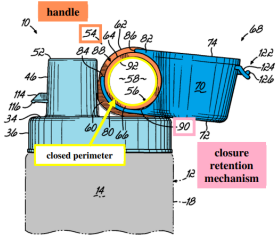


FIG. 3

(*Id.*, Fig. 3; Ex. 1003 ¶179). In the above embodiment, the detents 90 are on the outside of loop 54 and thus form part of the perimeter defined by the loop. (*Id.*).

To the extent PO argues the detents 90 on the outside of the loop do not "define at least a portion of the closed perimeter," Leoncavallo still discloses or at least suggests this limitation. Leoncavallo describes an alternative embodiment with "one or more connector members . . . on the flip cap 68 that engage the inner arcuate surface 92 of the loop 54." (Ex. 1005, 5:50-55). Because Leoncavallo

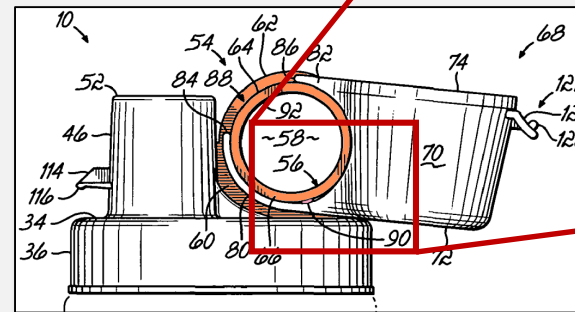
- 71 -

Claim 6: Leoncavallo's Detents "Define At Least Part Of The Closed Perimeter"

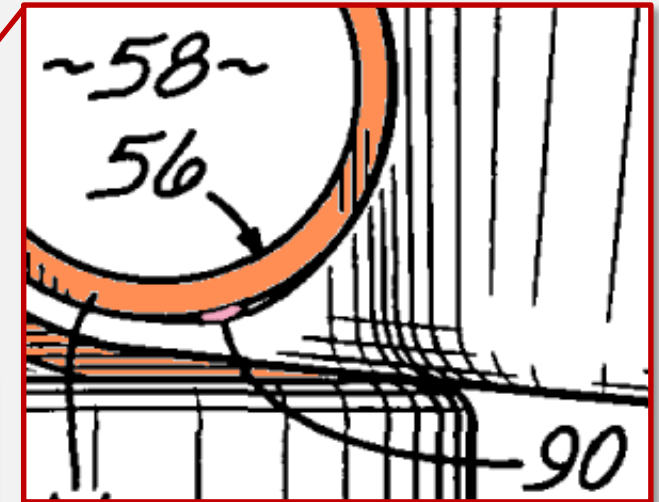
6. The drink container of claim 5, wherein the handle defines a closed perimeter, and wherein the closure retention mechanism defines at least a portion of the closed perimeter.

(Ex. 1001, claim 6)

- ⌚ There is no requirement that the closure retention mechanism is located on an "inner surface" or "outer surface" of the closed perimeter



(Ex. 1005, Fig. 3 (excerpt)) (annotated)



Cap 6 Falls Even Under CamelBak's Narrow View

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edge 72 of the flip cap 68 (FIGS. 1 and 4) to a bottom edge 74 thereof. The flip cap 68 includes an upper opening 76 (FIGS. 1 and 4) defined by the top edge 72 and an opposite lower opening 78 defined by the bottom edge 74. The flip cap 68 further includes a pair of opposing arcuate connector members 80, 82 in the form of fingers or jaws that extend or project outwardly from the sidewall 70 of the flip cap 68 and are configured to releasably engage with the loop 54. The connector members 80, 82 have respective free ends 84, 86 that are spaced apart and define a gap 88 therebetween (FIGS. 1 and 3). The gap 88 is sized so that the flip cap 68 can be snapped onto the loop 54 by passing the loop 54 through the gap 88. At least one of the connector members 80, 82 may be sufficiently resilient so as to flex away from the other connector member when the loop 54 is passed through the gap 88 and thereafter flex back toward the other connector member to secure the flip cap 68 onto the loop 54.

In one embodiment, each of the pair of opposing connector members 80, 82 has a radius of curvature that generally corresponds to the radius of curvature of the loop 54. The connector members 80, 82 may be positioned to engage the outer arcuate surface 64 of the loop 54 so that the flip cap 68 is rotatably supported by the loop 54 for movement between the open and closed positions. In this way, the loop 54 isolates the connector members 80, 82 from a user's finger or attachment hardware passing through the loop 54 so that the user's finger or attachment hardware does not interfere with movement of the flip cap 68 or cause unintentional opening of the flip cap 68. Moreover, the surface contact of the connector members 80, 82 with the loop 54 provides a bearing surface that resists breakage of the pivotal connection formed between the flip cap 68 and the loop 54.

As shown in FIG. 2, one or more detents 90 (one shown) in the form of a rib or other suitable structure project outwardly from the outer arcuate surface 64 of the loop 54 on opposite sides of the annular rib 62. The detents 90 are configured to frictionally engage the connector member 80 as it travels about the loop 54 when the flip cap 68 is moved to the open position as shown in FIG. 3. The frictional engagement of the detents 90 with the connector member 80 and in keeping the flip cap 68 in the open position when the user desires access to the spout 46.

While a pair of opposite arcuate connector members 80, 82 is shown, it is contemplated that only a single connector member may be provided in an alternative embodiment. In an alternative embodiment, the arcuate length of one of the connector members 80 or 82 may be increased so that the loop 54 is passed through a gap formed between a free end of the connector member and the sidewall 70 of the flip cap 68, for example. Also, while the flip cap 68 is shown with the arcuate connector members 80, 82 positioned on the outer surface 64 of the loop 54, it is contemplated that in an alternative embodiment, one or more connector members may be provided on the flip cap 68 that engage the inner arcuate surface 92 of the loop 54 instead. Accordingly, those skilled in the art will appreciate that other pivotal connection structures are possible for releasably supporting the flip cap 68 on the loop 54 without departing from the spirit and scope of the present invention.

In accordance with another aspect of the present invention, a plug seal 94 is positioned in the upper opening 76 of the flip cap 54 adjacent the top edge 72 of the cap sidewall 70. The plug seal 94 includes an outer annular wall 96, a central plug seal body 98 and an annular connecting wall 100 extending between the annular wall 96 and the plug seal body 98 as shown in FIGS. 1 and 4. As shown in FIG. 4, the flip cap 68 includes a radially inwardly directed annular shoulder 102 for

example. Also, while the flip cap 68 is shown with the arcuate connector members 80, 82 positioned on the outer surface 64 of the loop 54, it is contemplated that in an alternative embodiment, one or more connector members may be provided on the flip cap 68 that engage the inner arcuate surface 92 of the loop 54 instead. Accordingly, those skilled in the art (Ex. 1005, 5:50–55) (underline added)

outside of loop 54. However, Leoncavallo describes an alternative embodiment wherein the connector members are located on the inside of the loop 54. (Ex. 1005, 5:50–55 (“one or more connector members ... on the flip cap 68 that engage the inner arcuate surface 92 of the loop 54. . .”) One skilled in the art would have understood that the detents 90 would likewise be located on the inside of loop 54 in order to

frictionally engage the connector members to retain the cap in the open position in this alternative embodiment. Leoncavallo therefore teaches locating the detents 90 on the inner surface of loop 54, where the connector members are located, in this alternative embodiment. (*Id.*) These detents on the inner surface of loop 54 would

(Ex. 1003, ¶1180)

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a portion of the closed perimeter,” Leoncavallo discloses this limitation in an alternative embodiment. In the above depicted embodiment, the connector members are located on the outside of loop 54, and therefore the detents 90 that frictionally engage the connector members to retain the cap in the open position are also on the outside of loop 54. However, Leoncavallo describes an alternative embodiment wherein the connector members are located on the inside of the loop 54. (Ex. 1005, 5:50–55 (“one or more connector members ... on the flip cap 68 that engage the inner arcuate surface 92 of the loop 54. . .”) One skilled in the art would have understood that the detents 90 would likewise be located on the inside of loop 54 in order to frictionally engage the connector members to retain the cap in the open position in this alternative embodiment. Leoncavallo therefore teaches locating the detents 90 on the inner surface of loop 54, where the connector members are located, in this alternative embodiment. (*Id.*) These detents on the inner surface of loop 54 would define at least a portion of the closed perimeter formed by loop 54 if one were to consider only the inner surface of the loop as defining the closed perimeter. (*Id.*)

181. Even if Leoncavallo did not disclose including detents on the inner surface of loop 54 in the alternative embodiment, one skilled in the art would have been motivated to modify Leoncavallo's alternative embodiment to include detents on the inner surface of the loop, and would have had a reasonable expectation of

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Trove Brands Ex. 1003
IPR Petition – USP 8,905,252

Claim 6 Falls Even Under CamelBak's Narrow View

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a portion of the closed perimeter,” Leoncavallo discloses this limitation in an alternative embodiment. In the above depicted embodiment, the connector members are located on the outside of loop 54, and therefore the detents 90 that frictionally engage the connector members to retain the cap in the open position are also on the outside of loop 54. However, Leoncavallo describes an alternative embodiment wherein the connector members are located on the inside of the loop 54. (Ex. 1005, 5:50-55 (“one or more connector members ... on the flip cap 68 that engage the inner arcuate surface 92 of the loop 54. . .”) One skilled in the art would have understood that the detents 90 would likewise be located on the inside of loop 54 in order to frictionally engage the connector members to retain the cap in the open position in this alternative embodiment. Leoncavallo therefore teaches locating the detents 90 on the inner surface of loop 54, where the connector members are located, in this alternative embodiment. (*Id.*) These detents on the inner surface of loop 54 would define at least a portion of the closed perimeter formed by loop 54 if one were to consider only the inner surface of the loop as defining the closed perimeter. (*Id.*)

181. Even if Leoncavallo did not disclose including detents on the inner surface of loop 54 in the alternative embodiment, one skilled in the art would have been motivated to modify Leoncavallo's alternative embodiment to include detents on the inner surface of the loop, and would have had a reasonable expectation of

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Trove Brands Ex. 1003
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181. Even if Leoncavallo did not disclose including detents on the inner surface of loop 54 in the alternative embodiment, one skilled in the art would have been motivated to modify Leoncavallo's alternative embodiment to include detents on the inner surface of the loop, and would have had a reasonable expectation of success in doing so, for several reasons:

(Ex. 1003, ¶181)

Ground 4: Claims 17–18 Are Unpatentable

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19 6. The drink container of claim 5, wherein the handle defines a closed perimeter, and wherein the closure retention mechanism defines at least a portion of the closed perimeter.
7. The drink container of claim 5, wherein the handle defines a closed perimeter, and wherein in the stowed position, the closure is positioned at least partially within the closed perimeter.
8. The drink container of claim 7, wherein the closure retention mechanism includes spaced-apart tabs configured to grip and retain the closure in the stowed position.
9. The drink container of claim 8, wherein the closure has a circumference with a lateral dimension, wherein the spaced-apart tabs are spaced-apart by less than the lateral dimension of the closure.
10. The drink container of claim 7, wherein the closure is constructed of a resilient material, and wherein the closure retention mechanism is configured to selectively compress the closure when the closure is in the stowed position and retain the closure in the stowed position in a friction-fit arrangement.
11. The drink container of claim 5, further comprising: a tether operatively coupling the closure to one of the base of the cap assembly and the liquid container; wherein the handle defines a closed perimeter, and wherein the tether extends through the closed perimeter of the handle.
12. The drink container of claim 11, wherein the tether includes:
a closure collar extending around and rotatably engaged with the closure;
a neck collar extending around and rotatably engaged with the neck of the liquid container; and
a pair of webs that interconnect the closure collar and the neck collar.
13. The drink container of claim 12, wherein the closed perimeter has opposed lateral sides, and wherein the pair of webs extend adjacent to the opposed lateral sides when the closure is in the closed position.
14. The drink container of claim 12, wherein the closure retention mechanism is configured to selectively engage the closure collar when the closure is positioned in the stowed position.
15. The drink container of claim 5, wherein the drink spout defines an outlet, wherein the liquid container defines a longitudinal axis, and wherein the outlet defines a plane that is angled forward relative to the longitudinal axis of the liquid container when the cap assembly is operatively coupled to the liquid container.

20 16. The drink container of claim 5, wherein the drink spout includes an internal coupling structure, wherein the closure includes a plug structure that is configured to extend within the passage when the closure is in the closed position, and wherein the plug structure includes an external coupling structure that is configured to operatively mate with the internal coupling structure of the drink spout when the closure is in the closed position.
17. The drink container of claim 5, wherein the drink spout defines an upper lip, and wherein the upper lip does not engage the closure when the closure is in the closed position.
18. The drink container of claim 17, wherein the closure and the drink spout define a void between the closure and the drink spout above the upper lip when the closure is in the closed position.
19. A cap assembly for use with a liquid container having a neck with an opening and having an internal compartment sized to hold a volume of potable drink liquid, the cap assembly comprising:
a base configured to be removably coupled to the neck of the liquid container;
a drink spout extending from the base and defining a passage through which drink liquid from the internal compartment of the liquid container may be selectively dispensed when the cap assembly is operatively coupled to the liquid container;
a closure configured to be removably coupled relative to the drink spout in a closed position to selectively restrict dispensing of liquid through the passage and to selectively permit dispensing of liquid through the passage when removed from the drink spout;
a handle extending from the base, wherein the handle includes a closure retention mechanism configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.
20. The cap assembly of claim 19, wherein the handle defines a closed perimeter, the cap assembly further comprising:
a tether extending through the closed perimeter and operatively coupled to the closure on one end of the tether and configured to be operatively coupled to the neck of the liquid container on an opposite end of the tether.
to be operatively coupled to the neck of a liquid container on an opposite end of the tether.
* * * * *

Trove Brands Ex. 1001
IPR Petition - USP 8,905,252

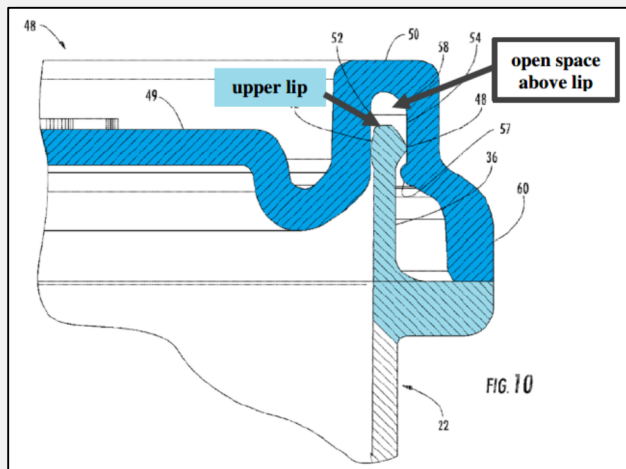
17. The drink container of claim 5, wherein the drink spout defines an upper lip, and wherein the upper lip does not engage the closure when the closure is in the closed position.

18. The drink container of claim 17, wherein the closure and the drink spout define a void between the closure and the drink spout above the upper lip when the closure is in the closed position.

(Ex. 1001, claims 17–18)

Ground 4: Johnson's And Gorskey's Seals

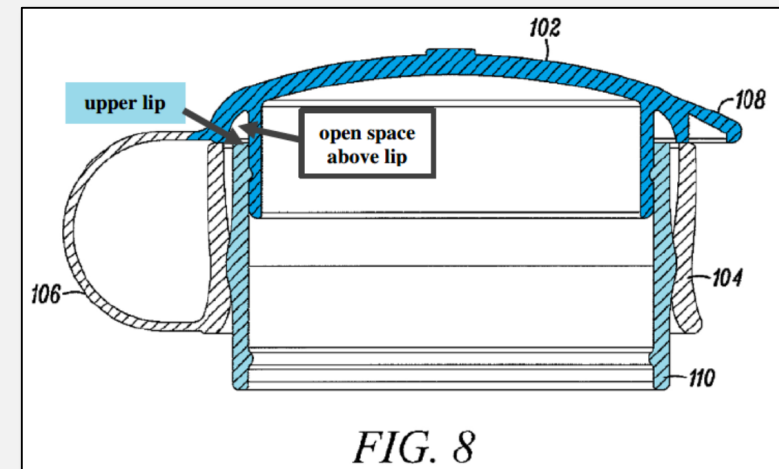
Johnson



(Ex. 1012, Fig. 10) (annotated)

Johnson's "plug seals the spout on both the inside and outside," thereby providing a double seal in contrast to Leoncavallo's design. (Ex. 1003, ¶204)

Gorskey



(Ex. 1011, Fig. 8) (annotated)

Gorskey's "lid includes a locking groove on its outer surface to engage a complementary locking ridge on the inner surface of the collar, making the seal more secure than surface contact alone," as in Leoncavallo. (Ex. 1003, ¶204)

Ground 4: Motivation To Combine Is Clear

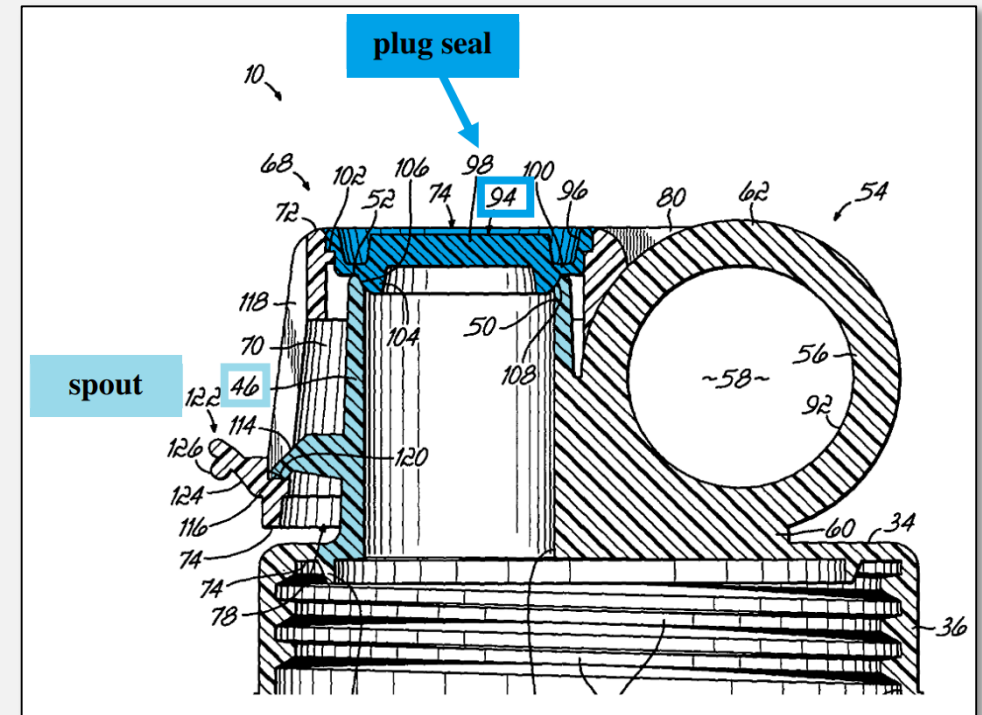
Petitioner fails to meet its burden to show that a POSITA would have been motivated to combine either Johnson or Gorskey with Leoncavallo in order to achieve the invention of claims 17 and 18. *See* Ex.2009, ¶¶150–163. In particular,

(POR, 56)

204. One skilled in the art would have understood that various spout sealing mechanisms could be used with the container of Leoncavallo, including the plug/spout sealing mechanisms of Gorskey (Ex. 1011) and/or Johnson (Ex. 1012). One skilled in the art would have been motivated to make this substitution for several reasons. Adopting the plug/spout configuration of Gorskey and/or Johnson would result in a more secure, robust defense against inadvertent spills or leaking. In

(Ex. 1003, ¶204)

Leoncavallo



(Ex. 1005, Fig. 4 (excerpt)) (annotated)

CamelBak Mischaracterizes The Combination Arguments

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interfere with movement of the cap and could cause unintentional opening. POR, 51-52 (citing Ex.2009, ¶¶139-141).

3. **Leoncavallo does not disclose or render obvious the limitations of dependent claim 7**

Leoncavallo also fails to satisfy claim 7's recitation that "in the stowed position, the closure is positioned at least partially within the closed perimeter" for similar reasons as for claim 6. As discussed, neither Petitioner's own mapping nor the '252 patent's understanding of the "closed perimeter" defined by the handle allows it to be the outer surface of the handle. Further, as also discussed, Leoncavallo does not disclose that the detents 90 are moved to the inside of the loop in the alternate embodiment relied on by Petitioner in the alternative. As such, there is no evidence that this alternate embodiment would even meet the limitations of the base independent claim 5. POR, 55-56. Petitioner fails to respond. Reply, 22.

4. **Petitioner fails to show a reason to combine Johnson and/or Gorskey with Leoncavallo to achieve the invention of claims 17 and 18**

Petitioner, for the first time in reply, cites to expert testimony and makes arguments from its expert's declaration (Ex.1003, ¶204) that were not contained in the Petition as to why Gorskey and Johnson allegedly provide "a more secure, robust defense against inadvertent spills or leaking" than Leoncavallo's plug seal 94. Reply, 22-23; Pet., 77-78. Leoncavallo's plug seal already "automatically sealingly engages

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Petitioner, for the first time in reply, cites to expert testimony and makes arguments from its expert's declaration (Ex.1003, ¶204) that were not contained in the Petition as to why Gorskey and Johnson allegedly provide "a more secure, robust defense against inadvertent spills or leaking" than Leoncavallo's plug seal 94. Reply,

(Sur-Reply, 19)

A POSITA would have understood that other spout sealing mechanisms could be used with the container of Leoncavallo, including the spout sealing mechanisms disclosed in Gorskey and/or Johnson. A POSITA would have been motivated to make this substitution for several reasons. *KSR*, 550 U.S. at 417; (Ex. 1003 ¶203-04).

Adopting the plug/spout configuration of Gorskey and/or Johnson would result in a more secure, robust defense against inadvertent spills or leaking. (Ex. 1003 ¶139). Additionally, the following factors are reasons that one skilled in the art would be motivated to make this modification.

(Pet., 77-78) (underline added)

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Claim 19:	Claim 5:
Claim 19 [preamble]	See claim 5[a] <i>Supra</i> §§X(B)(2)-(3).
Claim 19 [a]	See claim 5[b] [i] <i>Supra</i> §X(B)(4).
Claim 19 [b]	See claim 5[b] [ii] <i>Supra</i> §X(B)(5).
Claim 19 [c]	See claim 5[b] [iii] <i>Supra</i> §X(B)(6).
Claim 19 [d]	See claim 5[b] [iv] <i>Supra</i> §X(B)(7).
Claim 19 [d] [i]	See claim 5[b] [iv] [a] <i>Supra</i> §X(B)(8).

XI. GROUND 4: CLAIMS 17 AND 18 WOULD HAVE BEEN OBVIOUS OVER LEONCAVALLO IN VIEW OF GORSKEY AND/OR JOHNSON.

As described above in Ground 2, claims 17 and 18 each depend from claim 5 (claim 18 depends from claim 17 which in turn depends from claim 5) and recite features of the drink spout/closure engagement. These features were conventional. (Ex. 1003 ¶202). Gorskey (Ex. 1011) and Johnson (Ex. 1012) each disclose closures for spouts that include the features recited in claims 17 and 18. (*Id.* ¶203).

A POSITA would have understood that other spout sealing mechanisms could be used with the container of Leoncavallo, including the spout sealing mechanisms disclosed in Gorskey and/or Johnson. A POSITA would have been motivated to make this substitution for several reasons. *KSR*, 550 U.S. at 417; (Ex. 1003 ¶203-04).

Adopting the plug/spout configuration of Gorskey and/or Johnson would result in a more secure, robust defense against inadvertent spills or leaking. (Ex.

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CamelBak Mischaracterizes The Combination Arguments

139. One skilled in the art would have understood that various spout sealing mechanisms could be used with the container of Samartgis, including the plug/spout sealing mechanisms disclosed in Gorskey (Ex. 1011) and/or Johnson (Ex. 1012). One skilled in the art would have been motivated to make this substitution for several reasons. Adopting the plug/spout configuration of Gorskey and/or Johnson would result in a more secure, robust defense against inadvertent spills or leaking. In Gorskey the lid includes a locking groove on its outer surface to engage a complementary locking ridge on the inner surface of the collar, making the seal more secure than surface contact alone. In adopting the plug/spout configuration of Gorskey, a POSITA would have been motivated to maintain the air gap, or void, above the upper lip of the spout to ensure sufficient room to adjust the lid up or down to properly seat the locking groove into the locking ridge. In Johnson, the plug seals the spout on both the inside and outside. This double seal would provide a backup in the event of failure to either the internal or external seal. In adopting the plug/spout configuration of Johnson a POSITA would have been motivated to maintain the air gap, or void, above the upper lip of the spout to reduce vacuum locking between the plug and spout in the double-sealed arrangement.

(Ex. 1003, ¶139)

204. One skilled in the art would have understood that various spout sealing mechanisms could be used with the container of Leoncavallo, including the plug/spout sealing mechanisms of Gorskey (Ex. 1011) and/or Johnson (Ex. 1012). One skilled in the art would have been motivated to make this substitution for several reasons. Adopting the plug/spout configuration of Gorskey and/or Johnson would result in a more secure, robust defense against inadvertent spills or leaking. In Gorskey the lid includes a locking groove on its outer surface to engage a complementary locking ridge on the inner surface of the collar, making the seal more secure than surface contact alone. In adopting the plug/spout configuration of Gorskey, a POSITA would have been motivated to maintain the air gap, or void, above the upper lip of the spout to ensure sufficient room to adjust the lid up or down to properly seat the locking groove into the locking ridge. In Johnson, the plug seals the spout on both the inside and outside. This double seal would provide a backup in the event of failure to either the internal or external seal. In adopting the plug/spout configuration of Johnson a POSITA would have been motivated to maintain the air gap, or void, above the upper lip of the spout to reduce vacuum locking between the plug and spout in the double-sealed arrangement.

(Ex. 1003, ¶204)

Availability Of Alternate Embodiments Is Irrelevant

Pet., 58. Petitioner has provided no evidence rebutting Patent Owner's expert's conclusion that "[t]here is no evidence that either Johnson or Gorskey provides a stronger seal than Leoncavallo." POR, 58-59 (citing Ex.2009, ¶156. Finally,

(Sur-Reply, 21)

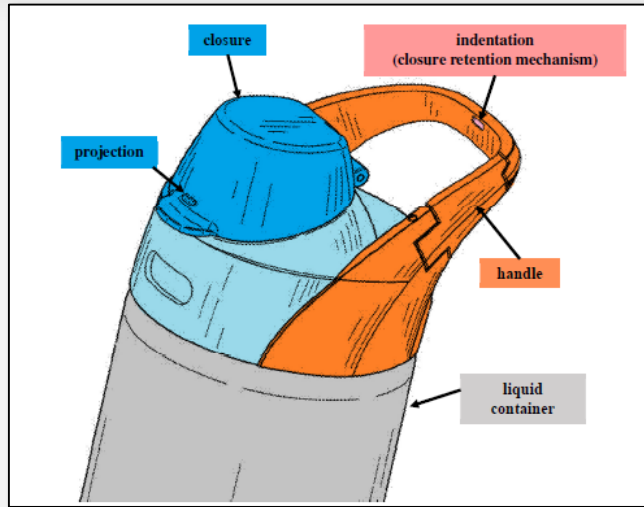


"[O]ur case law does not require that a particular combination must be the preferred, or the most desirable combination described in the prior art in order to provide motivation for the current invention."

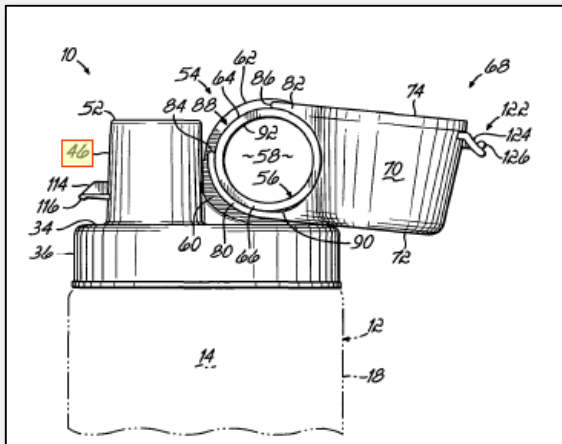
Novartis Pharms. Corp. v. West-Ward Pharms. Int'l Ltd., 923 F.3d 1051, 1059 (Fed. Cir. 2019)
(quoting *In re Fulton*, 391 F.3d 1195, 1200 (Fed. Cir. 2004))

Grounds 5–6

Miller / Miller And Leoncavallo



Miller (Ex. 1006, Fig. 1) (annotated)



Leoncavallo (Ex. 1005, Fig. 3) (annotated)

As Patent Owner explained, the Miller design patent does not disclose (1) “a drink spout extending from the base,” (2) a “closure” that is “configured to be removably coupled relative to the drink spout,” or (3) the “closure retention mechanism.” POR, 60-67. Petitioner’s arguments as to each are unavailing and

(Sur-Reply, 22)

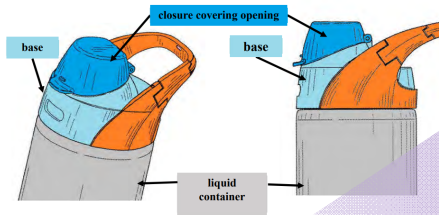
relative to the drink spout.” It is undisputed that Miller does not show what resides under the closure, so there is no evidence of whether or how the closure engages with any spout, if such a spout even exists. Petitioner’s only rebuttal is to repeat the conclusory and unsupported statement of its expert that “coupling would be ‘necessary to allow the user to close the spout and prevent spills or leakage when not in use.’” Reply, 29. Of course, this assumes there is a spout under the closure and ignores other means to prevent spills. Ex. 2009, ¶176. More importantly, Dr.

(Sur-Reply, 23)

Miller Teaches The Claimed Drinking Spout

Trove Brands v. CamelBak Products
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beverage container would include a passageway covered by the depicted closure.



(Ex. 1006, Figs. 1, 5.) The shape of the closure would have communicated to one skilled in the art that Miller includes a spout. Cap assemblies with a flip open closure (like the one depicted in Miller) to cover a spout were conventional at the time of the invention. *See, e.g.,* Ex. 1004, 1005, and 1007.

224. To the extent Miller alone does not disclose or suggest this limitation, it would have been obvious to one skilled in the art to modify Miller to include a drink spout extending from the base and defining a passage through which beverage could be dispensed in view of Leoncavallo. This would have been well known to one skilled in art based upon conventional beverage containers such as discussed herein. (*See, e.g.,* Ex. 1004, 1005, and 1007). To the extent one skilled in the art

- 126 -

Trove Brands Ex. 1003
IPR Petition - USP 8,905,252

(Ex. 1006, Figs. 1, 5.) The shape of the closure would have communicated to one skilled in the art that Miller includes a spout. Cap assemblies with a flip open closure (like the one depicted in Miller) to cover a spout were conventional at the time of the invention. *See, e.g.,* Ex. 1004, 1005, and 1007.

(Ex. 1003, ¶223) (underline added)

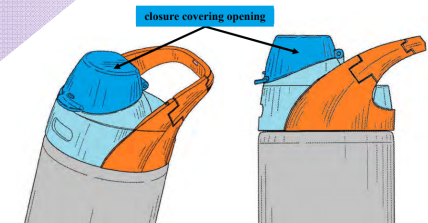
226. One skilled in the art would have understood that any cap assembly including a spout would necessarily need a closure that is removably coupled relative to the spout in a closed position to selectively restrict dispensing of drink liquid through the passage and to selectively permit dispensing of drink liquid through the passage when removed from the drink spout. One skilled in the art would recognize

(Ex. 1003, ¶226) (underline added)

Trove Brands v. CamelBak Products
IPR Petition – U.S. Patent 8,905,252

selectively permit dispensing of drink liquid through the passage when removed from the drink spout.” As I explain below, Miller discloses, or at least suggests, this limitation. To the extent it did not, however, it would have been obvious to incorporate into Miller this conventional feature in view of Leoncavallo.

226. One skilled in the art would have understood that any cap assembly including a spout would necessarily need a closure that is removably coupled relative to the spout in a closed position to selectively restrict dispensing of drink liquid through the passage and to selectively permit dispensing of drink liquid through the passage when removed from the drink spout. One skilled in the art would recognize this as necessary to allow the user to close the spout and prevent spills or leakage when not in use. One skilled in the art would have recognized from the figures that Miller’s beverage container includes the claimed closure:



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Trove Brands Ex. 1003
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Miller Teaches The Claimed Drinking Spout

Transcript of Glenn Vallee, Ph.D.
Conducted on January 20, 2025

195

1 we look at figures 1 through 7 of Miller, which
2 all have what appears to be a cap in a closed
3 position, you can't tell whether there is simply a
4 hole or whether there is a drink spout extending
5 from a base, correct?

6 A Well, I don't agree with that, because if
7 you look at the structure of this -- well, let's
8 look at figure 4. For example, I look at that as,
9 okay, you have the base, and everything under that
10 cap extends from it, right. The base would be the
11 lower part that is kind of described by the
12 horizontal line where it meets the container and a
13 parallel line above that. That would be the base
14 --

15 Q You don't know what the structure --
16 sorry.

17 A That would be the base and the spout
18 begins above the base, so that extends from the
19 base and the cap simply pops over it. I've seen a
20 lot of water bottles that look similar to this.
21 And when I look at this as one in the art, I say,
22 okay, it opens up and there has got to be

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CamelBak - Ex 2011
Page 196 of 261

A That would be the base and the spout
begins above the base, so that extends from the
base and the cap simply pops over it. I've seen a
lot of water bottles that look similar to this.
And when I look at this as one in the art, I say,
okay, it opens up and there has got to be
something, a continuation of what I'm calling the
start of the spout which is just below the cap.

And the cap is, like, on an angle, maybe
45 degrees or so, maybe 30 degrees. So when I
look at this, and I see a hinge I say, okay, the
cap pops up, and there is some kind of structure
underneath that that extends even farther, right?
It wouldn't just -- it wouldn't just end there.
It wouldn't just end at the bottom of the cap.

So I see a spout under there and I mean,
anyone in the art who looks at this is going to
expect to see that.

(Ex. 2011, 195:15–196:12)
(underline added)

A I'm sorry, all I was going to finish
saying was you can see the beginnings of the spout
in that figure and the spout has a reduced
diameter like a little step that fits within the
closure. But either way, whether it is the
portion that is in light -- I think that is a
light blue I will call it just below the cap or it
is just the region within the cap, the spout is
defined in that area. And it does -- and even if
we were to assume the base is everything that is
in light blue, the spout does extend from that
base, because the spout is inside what I will call
the cap.

(Ex. 2011, 199:8–20)
(underline added)

Transcript of Glenn Vallee, Ph.D.
Conducted on January 20, 2025

199

1 okay and it probably has --

2 Q So it is your opinion now that you can see
3 the spout in figure 5; is that correct?

4 MR. JENNINGS: You know, Jason, you are
5 interrupting the witness there, so I would
6 appreciate if you let him finish.

7 Q Sure.

8 A I'm sorry, all I was going to finish
9 saying was you can see the beginnings of the spout
10 in that figure and the spout has a reduced
11 diameter like a little step that fits within the
12 closure. But either way, whether it is the
13 portion that is in light -- I think that is a
14 light blue I will call it just below the cap or it
15 is just the region within the cap, the spout is
16 defined in that area. And it does -- and even if
17 we were to assume the base is everything that is
18 in light blue, the spout does extend from that
19 base, because the spout is inside what I will call
20 the cap.

21 Q That makes -- okay.

22 So let's start here with the premise is

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Design Patents Can—And Do—Teach Utility Features



“There is no question that a person of ordinary skill, reviewing these figures, would understand them to show mounting the lamp adjacent to the side window.”

Krippelz v. Ford Motor Co., 667 F.3d 1261, 1269 (Fed. Cir. 2012)



“Our precedent has held that drawings can be used as prior art, without referring to the surrounding description, only if the prior art features are clearly disclosed by the drawing.”

PlaSmart, Inc. v. Kappos, 482 Fed.Appx. 568, 572–73 (Fed. Cir. 2012) (non-precedential)

Design Patents Can—And Do—Teach Utility Features



Design-patent figures are valid prior art for utility claims, as courts “evaluate and apply the teachings of all relevant references on the basis of what they reasonably disclose and suggest to one skilled in the art.”

In re Aslanian, 590 F.2d 911, 914 (CCPA 1979)



Courts have also confirmed that invalidity can be established through drawings alone—not just written descriptions.

In re Mraz, 455 F.2d 1069, 1072 (CCPA 1972)

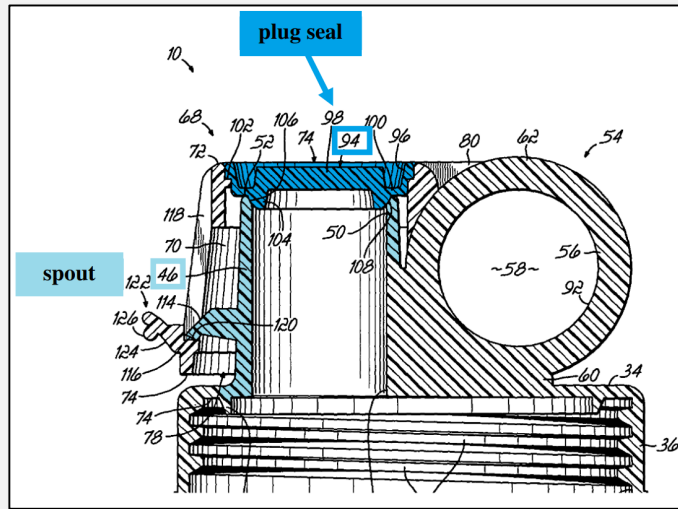


Although design patents protect the ornamental features, their figures invariably reveal underlying structure—including utilitarian and/or functional elements—that can invalidate subsequent utility claims.

In re Mraz, 455 F.2d 1069, 1072 (CCPA 1972); *see also* M.P.E.P. 2125(I)

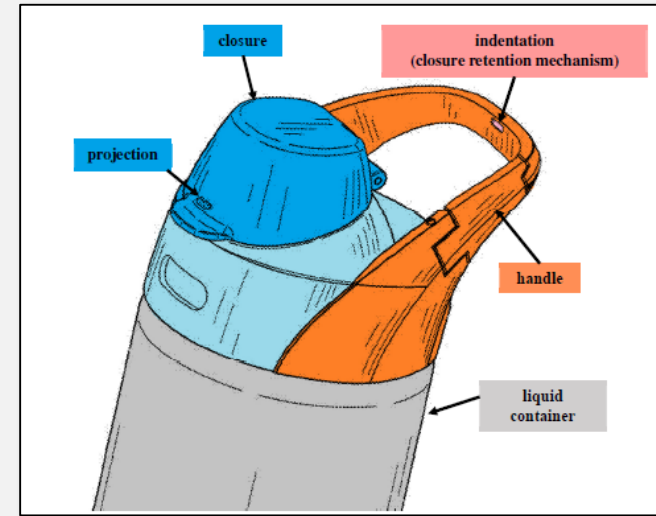
Leoncavallo Teaches The Claimed Drinking Spout

Leoncavallo



(Ex. 1005, Fig. 4 (excerpt)) (annotated)

Miller



(Ex. 1006, Fig. 1) (annotated)

- including a drink spout disclosed in Leoncavallo would provide a convenient way for the user to drink the beverage contained in the liquid container; and
- including a closure and plug disclosed in Leoncavallo would provide the user with a way to securely close the spout to prevent leakage or spills when not in use, and to open the spout to take a drink.

(Pet., 96)

Availability Of Alternate Embodiments Is Irrelevant

First, with respect to the “drink spout” limitation, Petitioner fails to address Leoncavallo’s embodiment that uses a mere opening (rather than a spout), which would have also provided “a convenient way for the user to drink,” Petitioner’s only stated motivation for why a POSITA would have specifically chosen to combine Leoncavallo’s spout embodiment with Miller. Reply, 31; POR, 67-69. Petitioner

(Sur-Reply, 25)

to Patent Owner’s arguments. Specifically, Patent Owner explained why (1) Petitioner’s positions were conclusory and unsupported, and (2) a POSITA would not have been motivated to combine Miller with Leoncavallo’s spout-based closure over simpler and superior options, including Leoncavallo’s alternative “outlet” that also uses a plug seal. POR, 69-70; Ex. 2009, ¶¶ 184, 185. These arguments and supporting opinions are un rebutted.

(Sur-Reply, 26)



“[O]ur case law does not require that a particular combination must be the preferred, or the most desirable combination described in the prior art in order to provide motivation for the current invention.”

Novartis Pharms. Corp. v. West-Ward Pharms. Int'l Ltd., 923 F.3d 1051, 1059 (Fed. Cir. 2019) (quoting *In re Fulton*, 391 F.3d 1195, 1200 (Fed. Cir. 2004))

A POSA Is Not An Automaton

Patent Owner explained why Petitioner's obviousness theories failed to articulate how components relating to Leoncavallo's closure mechanism would have been combined with Miller's unknown and unspecified components or how they would have worked together. POR, 71-73 (citing Ex. 2009, ¶ 188). Petitioner did

(Sur-Reply, 27)



“The motivation-to-combine analysis is a flexible one. Any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed. And a person of ordinary skill is also a person of ordinary creativity, not an automaton. So, in many cases, a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle. That's why the motivation-to-combine analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ. ”

Intel Corp. v. PACT XPP Schweiz AG, 61 F.4th 1373, 1379–80 (Fed. Cir. 2023)
(quoting *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 420 (2007))

CamelBak's Expert: The Technology Is Simple

Transcript of Michael Jobin
Conducted on April 10, 2025

47

1 practice the invention without undue 11:21:20
2 experimentation. 11:21:22
3 I don't have an exact number, because I 11:21:22
4 think it's -- it's dependent upon the technology. 11:21:25
5 But here, we're talking about simple technology. 11:21:31
6 Yeah, I don't have a precise answer for that. 11:21:39
7 Q Yeah. So, how does it change between 11:21:41
8 simple versus complicated technologies? Maybe if 11:21:43
9 there is some sort of sliding scale for undue 11:21:47
10 experimentation, how do you move along that scale 11:21:50
11 between simple or complex technologies? 11:21:54
12 A Well, I've been involved with stuff that's 11:21:56
13 pretty complex, and I've been involved with stuff 11:21:58
14 that's pretty simple. 11:22:00
15 You know, in this particular art, you are 11:22:01
16 talking about relative simple technology. It's 11:22:06
17 being described in a way that assumes that the 11:22:13
18 reader knows -- has basic sort of skill in the 11:22:16
19 art, and it may be that not every detail of how to 11:22:20
20 practice the invention is described, because it's 11:22:27
21 not necessary to do so. 11:22:31
22 Because what's been provided -- the -- the 11:22:32

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But here, we're talking about simple technology.

(Ex. 1014, 47:5)

You know, in this particular art, you are
talking about relative simple technology. It's

(Ex. 1014, 47:15–16)

A That's a pretty broad question. What I
would say is that for a pretty simple technology
like I think we are evaluating here, it's --
it's -- one is able to read and understand the
figures and the specification and practice the
invention in this case without any issues as far
as I can see.

(Ex. 1014, 49:8–14)

Transcript of Michael Jobin
Conducted on April 10, 2025

49

1 not a legal expert. 11:23:45
2 Q And for simple technologies, how does that 11:23:48
3 sort of impact how you look at a -- you know, a 11:23:51
4 descriptive text versus how you look at a 11:23:55
5 descriptive or illustrative figure? Is there any 11:23:58
6 difference between the two? 11:24:02
7 MR. SCHLEITZBAUM: Object to form. 11:24:03
8 A That's a pretty broad question. What I 11:24:04
9 would say is that for a pretty simple technology 11:24:07
10 like I think we are evaluating here, it's -- 11:24:09
11 it's -- one is able to read and understand the 11:24:12
12 figures and the specification and practice the 11:24:18
13 invention in this case without any issues as far 11:24:21
14 as I can see. 11:24:26
15 I'm speaking directly to the '252 spec 11:24:27
16 here. 11:24:31
17 I don't know that I could answer that more 11:24:31
18 generally. 11:24:34
19 Q And is there any middle ground between 11:24:39
20 simple or complex? Like what are -- what are some 11:24:41
21 other areas in the sliding scale of complexity of 11:24:44
22 technologies? Is there anything in the middle? 11:24:48

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CamelBak's Expert: Unnecessary To Describe Every Detail

Transcript of Michael Jobin
Conducted on April 10, 2025

47

1 practice the invention without undue

11:21:20

2 experimentation.

11:21:22

3 I don't have an exact number, because I
4 think it's -- it's dependent upon the technology.

11:21:22

5 But here, we're talking about simple technology.

11:21:25

6 Yeah, I don't have a precise answer for that.

11:21:31

7 Q Yeah. So, how does it change between
8 simple versus complicated technologies? Maybe if
9 there is some sort of sliding scale for undue
10 experimentation, how do you move along that scale
11 between simple or complex technologies?

11:21:39

11:21:41

11:21:43

11:21:47

11:21:50

11:21:54

11:21:56

12 A Well, I've been involved with stuff that's
13 pretty complex, and I've been involved with stuff
14 that's pretty simple.

11:21:58

11:22:00

15 You know, in this particular art, you are
16 talking about relative simple technology. It's
17 being described in a way that assumes that the
18 reader knows -- has basic sort of skill in the
19 art, and it may be that not every detail of how to
20 practice the invention is described, because it's
21 not necessary to do so.

11:22:01

11:22:06

11:22:13

11:22:16

11:22:20

11:22:27

22 Because what's been provided -- the -- the

11:22:31

11:22:32

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talking about relative simple technology. It's
being described in a way that assumes that the
reader knows -- has basic sort of skill in the
art, and it may be that not every detail of how to
practice the invention is described, because it's
not necessary to do so.

(Ex. 1014, 47:16–21) (underline added)

Miller Discloses A “Closure Retention Mechanism”

Court’s construction **A means-plus-function governed by 35 U.S.C. § 112(f).**

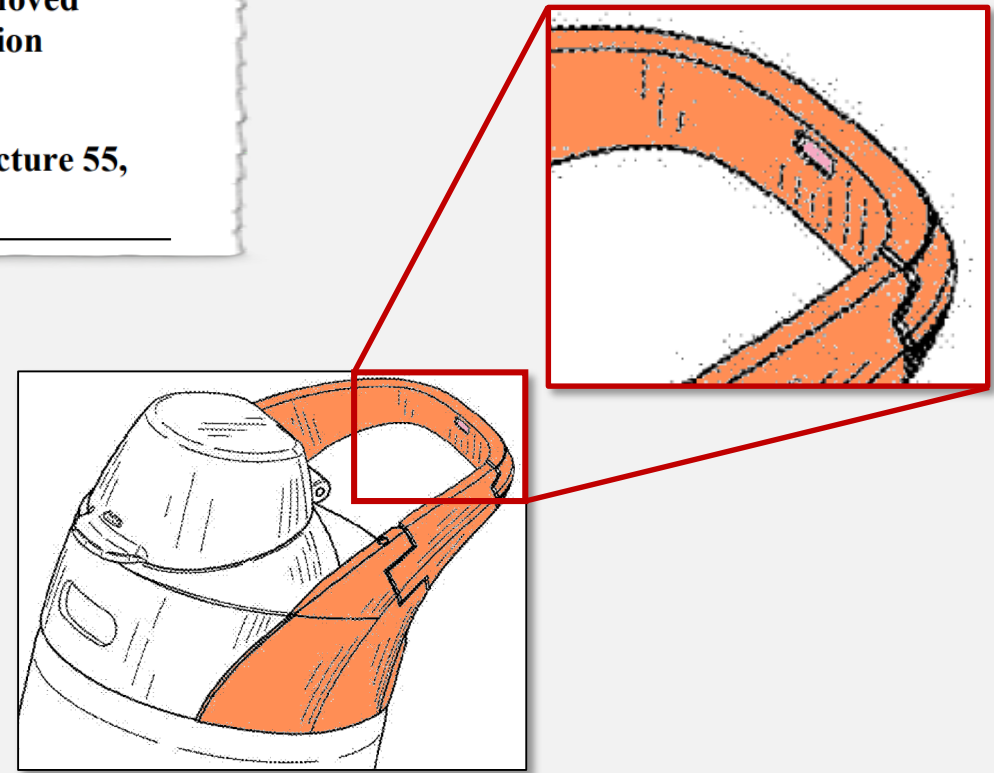
Function: Selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

Structure: Closed Perimeter 52, Closure Retention Structure 55, Tabs 56, Cooperating/Engaging Structure 58.

(Ex. 2010, 6)

(Ex. 1006, Figs. 1, 5; Ex. 1003 ¶230). Miller depicts a projection on the pivotal closure and an indentation on the inside of the handle. A POSITA would recognize that the projection is positioned to align with the indentation on the inside of the handle, and that when mated the projection and indentation would snap together. (*Id.*)

(Pet., 89)

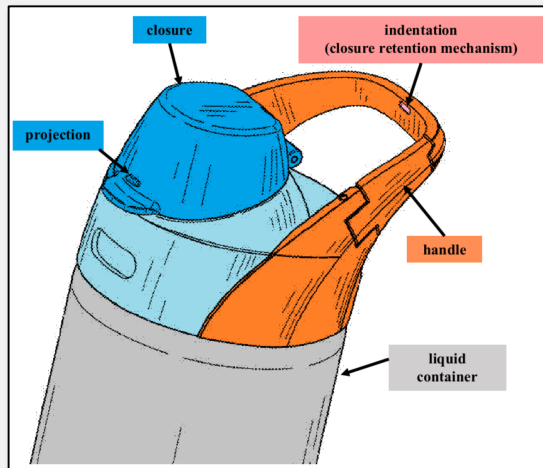


(Ex. 1006., Fig. 1 (excerpt)) (annotated)

Projections And Indentations Were Conventional Ways To Stow

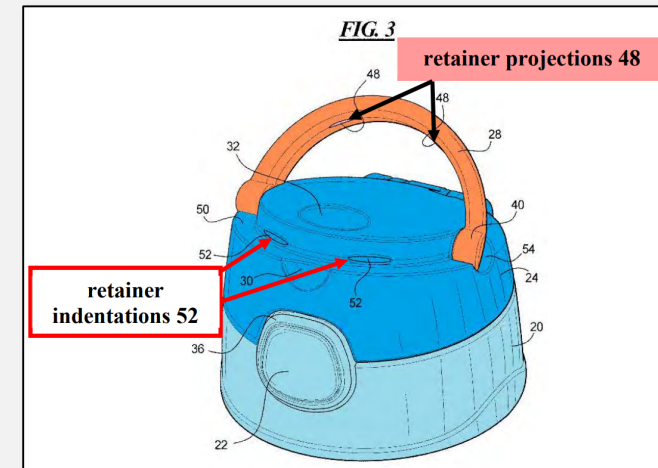
- ③ A POSITA would have understood that Lane's use of a handle with projections and Miller's use of closure with a projection represent conventional configurations employing cooperating projections and indentations in the same manner to achieve secure stowing (Ex. 1003, ¶¶230–231)

Miller



(Ex. 1006, Fig. 1) (annotated)

Lane



(Ex. 1007, Fig. 3) (annotated)

Ground 6: Claims 17–18 Are Unpatentable

US 8,905,252 B2

19

6. The drink container of claim 5, wherein the handle defines a closed perimeter, and wherein the closure retention mechanism defines at least a portion of the closed perimeter.

7. The drink container of claim 5, wherein the handle defines a closed perimeter, and wherein in the stowed position, the closure is positioned at least partially within the closed perimeter.

8. The drink container of claim 7, wherein the closure retention mechanism includes spaced-apart tabs configured to grip and retain the closure in the stowed position.

9. The drink container of claim 8, wherein the closure has a circumference with a lateral dimension, wherein the spaced-apart tabs are spaced-apart by less than the lateral dimension of the closure.

10. The drink container of claim 7, wherein the closure is constructed of a resilient material, and wherein the closure retention mechanism is configured to selectively compress the closure when the closure is in the stowed position and retain the closure in the stowed position in a friction-fit arrangement.

11. The drink container of claim 5, further comprising: a tether operatively coupling the closure to one of the base of the cap assembly and the liquid container; wherein the handle defines a closed perimeter, and wherein the tether extends through the closed perimeter of the handle.

12. The drink container of claim 11, wherein the tether includes:

a closure collar extending around and rotatably engaged with the closure;

a neck collar extending around and rotatably engaged with the neck of the liquid container; and

a pair of webs that interconnect the closure collar and the neck collar.

13. The drink container of claim 12, wherein the closed perimeter has opposed lateral sides, and wherein the pair of webs extend adjacent to the opposed lateral sides when the closure is in the closed position.

14. The drink container of claim 12, wherein the closure retention mechanism is configured to selectively engage the closure collar when the closure is positioned in the stowed position.

15. The drink container of claim 5, wherein the drink spout defines an outlet, wherein the liquid container defines a longitudinal axis, and wherein the outlet defines a plane that is angled forward relative to the longitudinal axis of the liquid container when the cap assembly is operatively coupled to the liquid container.

20

16. The drink container of claim 5, wherein the drink spout includes an internal coupling structure, wherein the closure includes a plug structure that is configured to extend within the passage when the closure is in the closed position, and wherein the plug structure includes an external coupling structure that is configured to operatively mate with the internal coupling structure of the drink spout when the closure is in the closed position.

17. The drink container of claim 5, wherein the drink spout defines an upper lip, and wherein the upper lip does not engage the closure when the closure is in the closed position.

18. The drink container of claim 17, wherein the closure and the drink spout define a void between the closure and the drink spout above the upper lip when the closure is in the closed position.

19. A cap assembly for use with a liquid container having a neck with an opening and having an internal compartment sized to hold a volume of potable drink liquid, the cap assembly comprising:

a base configured to be removably coupled to the neck of the liquid container;

a drink spout extending from the base and defining a passage through which drink liquid from the internal compartment of the liquid container may be selectively dispensed when the cap assembly is operatively coupled to the liquid container;

a closure configured to be removably coupled relative to the drink spout in a closed position to selectively restrict dispensing of liquid through the passage and to selectively permit dispensing of liquid through the passage when removed from the drink spout;

a handle extending from the base, wherein the handle includes a closure retention mechanism configured to selectively retain the closure in a stowed position relative to the handle when the closure is selectively removed from the drink spout and received by the closure retention mechanism.

20. The cap assembly of claim 19, wherein the handle defines a closed perimeter, the cap assembly further comprising:

a tether extending through the closed perimeter and operatively coupled to the closure on one end of the tether and configured to be operatively coupled to the neck of the liquid container on an opposite end of the tether.

to be operatively coupled to the neck of a liquid container on an opposite end of the tether.

* * * * *

17. The drink container of claim 5, wherein the drink spout defines an upper lip, and wherein the upper lip does not engage the closure when the closure is in the closed position.

18. The drink container of claim 17, wherein the closure and the drink spout define a void between the closure and the drink spout above the upper lip when the closure is in the closed position.

(Ex. 1001, claims 17–18)

Trove Brands Ex. 1001
IPR Petition - USP 8,905,252

Ground 6: Motivation To Combine Is Clear

or Johnson. As explained by Patent Owner, the Petition fails to set forth an explicit motivation to combine Miller with either Gorskey or Johnson. POR, 73-74. Indeed, (Sur-Reply, 27)

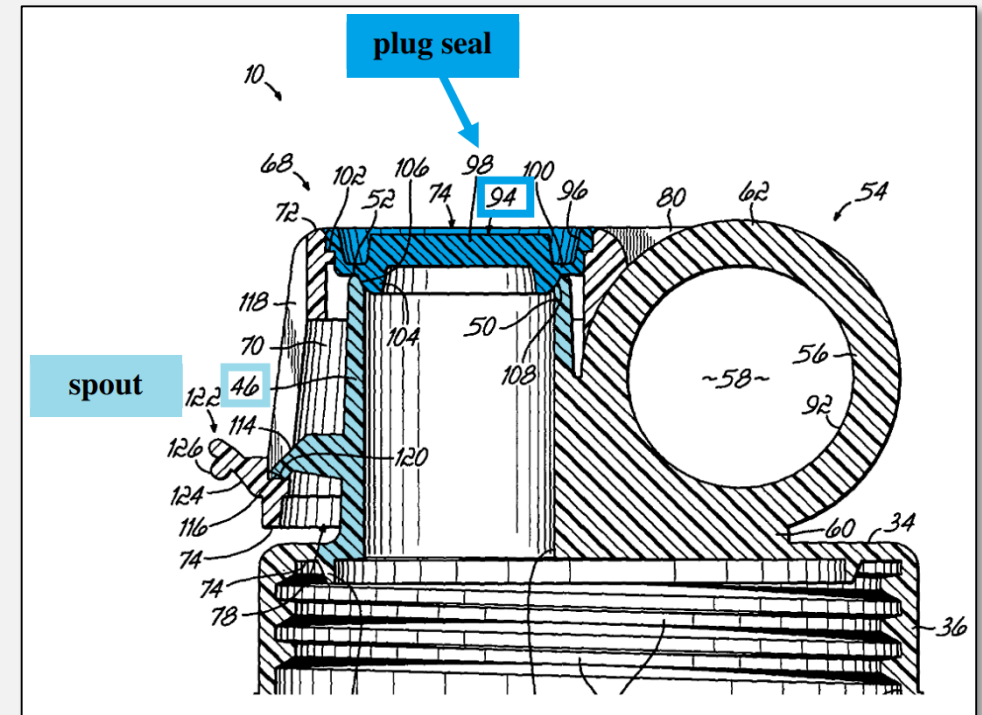
A POSITA would have been motivated to make this combination for several reasons. First, the combination would add necessary features to transform the beverage container design depicted in Miller into a fully functional beverage container. For example,

(Pet., 96)

1003 ¶¶254-55). A POSITA would have been motivated to use the spout and plug seal disclosed in Leoncavallo, as modified by Gorskey and/or Johnson, with Miller for the same reasons discussed above. (*Id.*)

(Pet., 98)

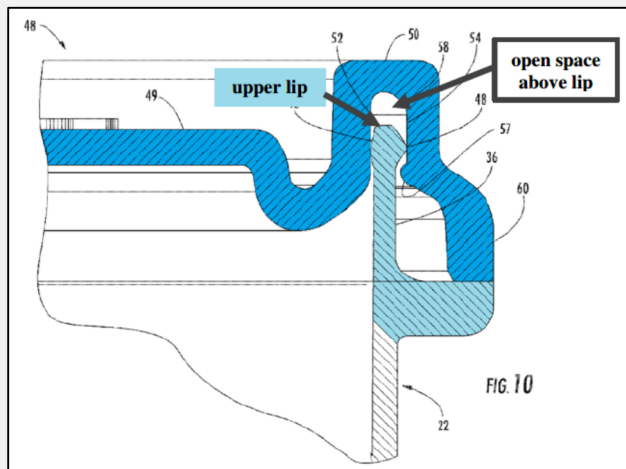
Leoncavallo



(Ex. 1005, Fig. 4 (excerpt)) (annotated)

Ground 6: Johnson's And Gorskey's Seals

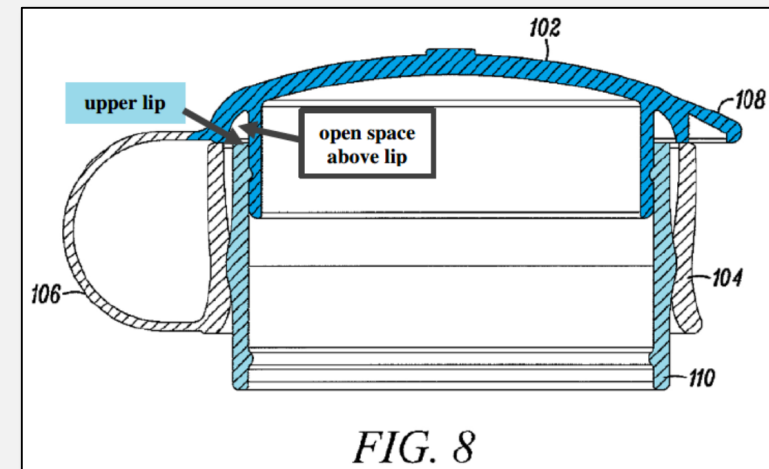
Johnson



(Ex. 1012, Fig. 10) (annotated)

Johnson's "plug seals the spout on both the inside and outside," thereby providing a double seal in contrast to Leoncavallo's design. (Ex. 1003, ¶204)

Gorskey



(Ex. 1011, Fig. 8) (annotated)

Gorskey's "lid includes a locking groove on its outer surface to engage a complementary locking ridge on the inner surface of the collar, making the seal more secure than surface contact alone," as in Leoncavallo. (Ex. 1003, ¶204)