

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TROVE BRANDS, LLC,
Petitioner,

v.

CAMELBAK PRODUCTS, LLC,
Patent Owner.

IPR2025-00140
Patent 11,851,250 B2

Before LINDA E. HORNER, CARL M. DeFRANCO, and
JAMES A. WORTH, *Administrative Patent Judges*.

WORTH, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. *Background and Summary*

Trove Brands, LLC (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 1–18 of U.S. Patent No. 11,851,250 B2 (Ex. 1001, “the ’250 patent”). CambelBak Products, LLC (“Patent Owner”) filed a Preliminary Response (Paper 8, “Prelim. Resp.”).

In support of its challenges, Petitioner relies, *inter alia*, on the declaration of Glenn E. Vallee, Ph.D. Ex. 1002. Patent Owner relies on the declaration of Michael Jobin. Ex. 2001.

Institution of an *inter partes* review is authorized by statute when “the information presented in the petition filed under [35 U.S.C. §] 311 and any response filed under [35 U.S.C. §] 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a) (2018).

For the reasons set forth below, we determine that Petitioner has demonstrated that there is a reasonable likelihood that at least one of claims 1–18 of the ’250 patent is unpatentable, and we institute an *inter partes* review of claims 1–18 based on the grounds set forth in the Petition.

B. *Real Parties-in-Interest*

Petitioner identifies Trove Brands, LLC as the real party-in-interest. Pet. 1.

Patent Owner identifies CamelBak Products, LLC and Vista Outdoor Inc. as real parties-in-interest. Paper 3, 2.

C. *Related Matters*

The parties indicate that Petitioner filed suit against Patent Owner seeking a declaratory judgment of noninfringement in district court litigation, and Patent Owner has asserted the ’250 patent in the same

proceeding: *Trove Brands, LLC d/b/a The BlenderBottle Company v. CamelBak Products, LLC et al.*, No. 5:23-cv-04267 (N.D. Cal.). Pet. 1; Paper 3, 2.

The application which led to the '250 patent relates back through a chain of continuity to U.S. Patent Application No. 16/035,418, now U.S. Patent No. 10,676,255, which is the subject of IPR2024-01137. *See* Ex. 1001, code (63).

D. The '250 Patent

The '250 patent is titled “Drink Bottles” and “relates generally to drink bottles, and more particularly to drink bottles with bite-actuated mouthpieces.” Ex. 1001, code (54), 1:25–27.

Figure 2 depicts an embodiment of the '250 patent:

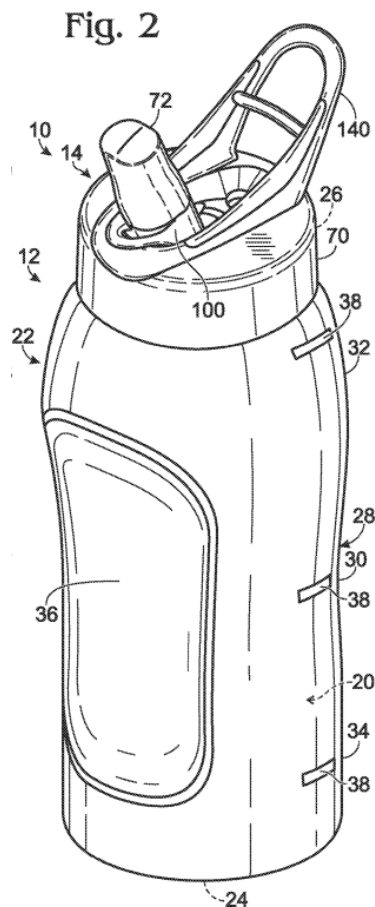
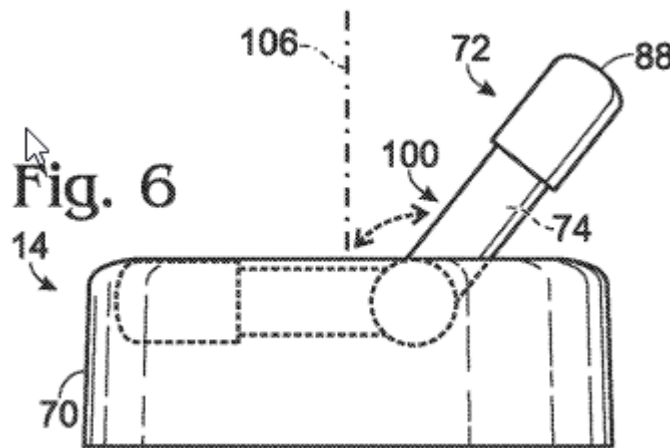


Figure 2 is a perspective view of a bite-actuated drink bottle. Ex. 1001, 1:50–51.

Figure 6 depicts the movement of a drink spout (also referred to as a mount) and mouthpiece (*see* Ex. 1001, 7:2–5, 7:27–30):



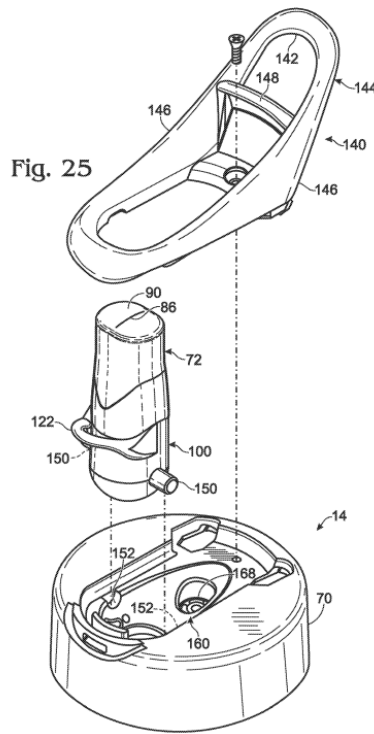


Figure 25 is an exploded isometric view of a cap assembly, which illustrates a non-exclusive example for a suitable pivotal mounting mechanism for mount 100. Ex. 1001, 2:41–42, 16:50–51. The mount has lateral projections 150 that are received in sockets 152 defined by portions of base 70 and handle 140 of the cap assembly. *See id.* at 16:52–54. The projections are rotatable within the sockets, and thereby function as rotatable supports, or axles, upon which the mount and any attached mouthpiece may be pivotally moved relative to the base of the cap assembly, such as between stowed and dispensing configurations (or otherwise within a range of positions). *See id.* at 16:54–60.

E. Illustrative Claim

Claims 1, 7, and 13 are independent claims. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. [preamble] A drink container, comprising:
 - [1[a]] a fluid container having a neck with an opening and having an internal compartment sized to hold a volume of potable drink fluid;
 - [1[b]] a cap assembly removably coupled to the fluid container to cover the opening, wherein the cap assembly defines a fluid conduit for drink fluid to flow from the fluid container and through the cap assembly to a user, wherein the fluid conduit includes an inlet through which drink fluid from the fluid container may enter the fluid conduit, and a dispensing outlet through which drink fluid in the fluid conduit may be dispensed from the cap assembly to a user, and further wherein the cap assembly comprises:
 - [1[b][1]] a cap assembly base removably coupled to the neck of the fluid container, wherein the cap assembly base is configured to be selectively and repeatedly decoupled from and re-coupled to the neck of the fluid container;
 - [1[b][2]] *a pivotal mount coupled to the cap assembly base at two joints that define a pivotal axis for pivotal movement of the pivotal mount relative to the cap assembly base, the pivotal mount defining a hollow passage, the hollow passage having a mount outlet on a distal end of the pivotal mount;*
 - [1[b][3]] *a mouthpiece coupled to the mount outlet of the pivotal mount for pivotal movement with the pivotal mount relative to the cap assembly base;*
 - [1[b][3][i]] wherein the mouthpiece defines a portion of the fluid conduit, including the dispensing outlet;
 - [1[b][3][ii]] wherein the mouthpiece and the pivotal mount are configured to be selectively pivoted between a stowed position and a dispensing position,
 - [1[b][3][iii]] wherein the mouthpiece is at least partially covered by a dust cover when the mouthpiece and pivotal mount are in the stowed position,
 - [1[b][3][iv]] and wherein the dispensing outlet is positioned further away from the cap assembly base when the mouthpiece and the pivotal mount are in the dispensing position than when

the mouthpiece and the pivotal mount are in the stowed position; and

[1[b][4]] an on/off valve having a closed configuration, in which the on/off valve obstructs the fluid conduit to restrict drink fluid from flowing between the inlet and the dispensing outlet, and an open configuration, in which the on/off valve permits drink fluid to flow through the fluid conduit from the inlet to the dispensing outlet;

[1[b][4][i]] wherein the on/off valve includes a flexible tube that defines a portion of the fluid conduit;

[1[b][4][ii]] wherein when the on/off valve is in the closed configuration, the tube is crimped to obstruct the flow of drink fluid through the fluid conduit; and

[1[b][4][iii]] wherein when the on/off valve is in the open configuration, the tube is not crimped and does not obstruct the flow of drink fluid through the fluid conduit.

Ex. 1001, 19:2–57 (paragraphing, numbering, and emphasis added).¹

F. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–18 of the '250 patent are unpatentable on the following grounds (Pet. 1, 14):

Claim(s) Challenged	35 U.S.C. § ²	Reference(s)/Basis
1, 2, 4–6	103	Nakajima ³ in view of the knowledge of a person of ordinary skill in the art

¹ The paragraph numbering tracks the numbering assigned to limitations in the Petition. *See* Pet. 10–11.

² The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 285–88 (2011), revised 35 U.S.C. §§ 102, 103 effective March 16, 2013. Because the challenged patent has an effective filing date before March 16, 2013, we refer to the pre-AIA version of § 103.

³ Nakajima, Japanese Patent Application Publication P2002-211613A, published July 31, 2002 (Ex. 1004, translation of Ex. 1003) (“Nakajima”).

Claim(s) Challenged	35 U.S.C. § ²	Reference(s)/Basis
1, 2, 4–8, 10–14, 16–18	103	Ribarits ⁴ in view of Panicci ⁵ and/or the knowledge of a person of ordinary skill in the art
3, 9, 15	103	Ribarits, in view of Panicci and/or the knowledge of a person of ordinary skill in the art and in further view of Hughes ⁶

II. ANALYSIS

A. Legal Standards

A patent claim is unpatentable under 35 U.S.C. § 103 if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. 35 U.S.C. § 103; *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). “[W]hen a patent claims a structure already known in the prior art that is altered by the mere substitution of one element for another known in the field, the combination must do more than yield a predictable result.” *KSR*, 550 U.S. at 416 (citing *United States v. Adams*, 383 U.S. 39, 50–51 (1966)). The question of obviousness is resolved based on underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the

⁴ International Patent Application Publication No. WO 2004/063042 A2, published July 29, 2004 (Ex. 1006, translation of Ex. 1005) (“Ribarits”).

⁵ Panicci, U.S. Patent No. 4,485,963, issued Dec. 4, 1984 (Ex. 1007) (“Panicci”).

⁶ Hughes, U.S. Patent No. 6,523,711 B1, issued Feb. 25, 2003 (Ex. 1008) (“Hughes”).

prior art; (3) the level of ordinary skill in the art; and (4) objective evidence of non-obviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

In an *inter partes* review, a petition must identify “with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim.” 35 U.S.C. § 312(a)(3) (2018); *see also* 37 C.F.R. § 42.104(b) (2024) (requiring a petition for *inter partes* review to identify how the challenged claim is to be construed and where each element of the claim is found in the prior art patents or printed publications relied upon).

B. Level of Ordinary Skill in the Art

In determining the level of ordinary skill in the art, various factors may be considered, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *In re GPAC, Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995) (quoting *Custom Accessories, Inc. v. Jeffrey-Allan Indus., Inc.*, 807 F.2d 955, 962 (Fed. Cir. 1986)). Furthermore, the prior art itself can reflect the appropriate level of ordinary skill in the art. *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

Petitioner asserts that a person of ordinary skill in the art (“POSITA”) would have had an undergraduate degree in mechanical engineering or equivalent coursework, and a year or more of experience in designing, prototyping, and/or manufacturing fluid containers or similar products. Pet. 15 (citing Ex. 1002 ¶ 25). Petitioner asserts that more work experience may substitute for a lower level of education, and vice versa. *Id.*

Patent Owner admittedly sets forth “a similar, though slightly different, level of ordinary skill”: a bachelor’s degree in mechanical

engineering or the equivalent coursework and approximately one year of experience with liquid-containing devices, with more work experience substituting for less education and vice versa. Prelim. Resp. 28 (citing Ex. 2001 ¶ 50). Patent Owner discerns no material difference between the definitions provided by the parties for purposes of the Board’s decision on whether to institute this proceeding. *Id.*

For purposes of this decision, we adopt Petitioner’s proposed level of skill as being consistent with the prior art, although our conclusion on whether to institute would be unchanged under either definition.

C. Claim Construction

We construe each claim “in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” 37 C.F.R. § 42.100(b) (2024). Under this standard, claim terms are generally given their plain and ordinary meaning as would have been understood by a person of ordinary skill in the art at the time of the invention and in the context of the entire patent disclosure. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (*en banc*).

We generally construe claims only to the extent necessary to resolve a dispute. *See Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999). All constructions herein are preliminary, and the parties may continue to brief claim construction as necessary after institution.

Petitioner argues that no claim terms require construction to resolve the challenges in this proceeding. Pet. 15 (citing *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co. Ltd.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017)).

Patent Owner proposes constructions of the terms (1) “mouthpiece” (claims 1, 7, 13); (2) “two joints that define a pivotal axis for pivotal movement of the pivotal mount” (claims 1, 7, 13); and (3) “a mouthpiece [coupled to the mount outlet of]/[disposed on] the pivotal mount for pivotal movement with the pivotal mount” (claims 1, 7, 13). Prelim. Resp. 28–46.

We construe the first two terms below. The parties may continue to brief all three terms after institution.

1. “mouthpiece”

Patent Owner argues that “mouthpiece” should be construed as “a part designed for a user to put his or her mouth on to draw liquid from the container.” Prelim. Resp. 29. Patent Owner argues that the plain language of the claims supports this construction because the word is a compound of “mouth” and “piece” and is therefore a piece or part that goes in the mouth. *Id.* Patent Owner asserts that, as recited by the independent claims, “mouthpiece” “defines a portion of the fluid conduit, including the dispensing outlet.” *Id.* (citing, e.g., Ex. 1001, 19:30–31, 20:43–44, 21:58–59). Patent Owner asserts that the dispensing outlet, in turn, is the outlet “through which drink fluid in the fluid conduit may be dispensed from the cap assembly to the user.” *Id.* (citing Ex. 1001, 19:12–14, 20:27–29, 21:42–44). Patent Owner also points to various passages and figures in the Specification that describe or depict a mouthpiece. *Id.* at 30–31 (citing Ex. 1001, 3:4–10, 3:14–20, 5:17–24, 6:59–62, 7:23–26, 8:45–53, Figs. 2, 6–8, 24, 25).

Patent Owner also provides a Merriam-Webster dictionary definition of “mouthpiece” as “a part (as of an instrument) that goes in the mouth or to which the mouth is applied.” *Id.* at 32 (citing Ex. 2005).⁷

For purposes of this decision on institution, we adopt the proffered dictionary definition of “mouthpiece” as “a part (as of an instrument) that goes in the mouth or to which the mouth is applied” (*see* Ex. 2005), and we construe this as an intended use of this component of the apparatus, because this definition is consistent with the plain and ordinary meaning of the term which is a compound of “mouth” and “piece” and also because this definition is consistent with the Specification. For example, the Specification describes the use of the mouthpiece as follows: “In use, the mouthpiece is adapted to be configured to the dispensing configuration by a user placing the mouthpiece in the user’s mouth and biting upon or otherwise compressing the appropriate portions of sidewalls 92 of the mouthpiece.” Ex. 1001, 8:45–49. We note that, although the Specification refers to bite-actuation of the mouthpiece, for example in the field of the disclosure and certain embodiments (e.g., Ex. 1001, 1:25–27), the independent claims do not require bite-actuation. The Specification identifies the mouthpiece as item 72 (which is depicted, for example, in Figure 25, reproduced *supra*). Ex. 1001, 3:7–8.

⁷ Exhibit 2005 appears to be from an online Merriam-Webster dictionary accessed March 13, 2025. Ex. 2005, 4. At this time, there is no argument in the preliminary record that this definition would have been different before the critical date of the patent.

2. “two joints that define a pivotal axis for pivotal movement of the pivotal mount”

Patent Owner argues that “two joints that define a pivotal axis for pivotal movement of the pivotal mount” should be construed as “two joints that define an axis of rotation for rotational motion of the pivotal mount about the axis.” Prelim. Resp. 32. Patent Owner argues, among other things, that the Specification confirms that a pivotal axis for pivotal movement provides for rotational motion about an axis of rotation. *Id.* at 32–35 (citing Ex. 2001 ¶¶ 64–68; Ex. 1001, 5:9–17, 7:47–53, 12:13–21, 16:50–60, Figs. 1, 2, 25, 29). Patent Owner also argues that according to common and technical dictionaries, a “pivot” is a point about which something rotates or turns. *Id.* at 35–36 (citing Exs. 2007–2011).

Patent Owner makes some further arguments that where there is a “rigid body,” it would maintain a constant distance from an imaginary axis when it rotates, but does not explain whether a “rigid body” is required here. *See id.* at 36–37.

For purposes of this decision on institution, we adopt Patent Owner’s proposed construction of “two joints that define a pivotal axis for pivotal movement of the pivotal mount” as “two joints that define an axis of rotation for rotational motion of the pivotal mount about the axis.” This construction is consistent with the Specification, which describes pivoting in the context of rotating. For example, in discussing lateral projections 150 that are received into sockets 152, the Specification explains that “[t]he projections are rotatable within the sockets, and thereby function as rotatable supports, or axles, upon which the mount and any attached mouthpiece may be pivotally moved relative to the base of the cap assembly, such as between

stowed and dispensing configurations and/or otherwise within the previously discussed range of positions.” *See* Ex. 1001, 16:54–60.

3. “*a mouthpiece [coupled to the mount outlet of]/[disposed on] the pivotal mount for pivotal movement with the pivotal mount*”

Patent Owner requests that this term be construed to mean “a mouthpiece [coupled to the mount outlet of]/[disposed on] the pivotal mount that moves with rotational motion about the same axis of rotation defined by the two joints as the pivotal mount in the same direction as the pivotal mount.” Prelim. Resp. 37.

Patent Owner reasons that because the “pivotal axis for pivotal movement of the pivotal mount” means “an axis of rotation about which the pivotal mount engages in rotational motion,” the mouthpiece also must move with rotational motion about the same axis of rotation as the pivotal mount in order to engage in “pivotal movement *with* the pivotal mount.” *Id.* at 38. Patent Owner also points to various passages in the Specification relating to pivotal movement of the mount and the mouthpiece. *See id.* at 39–42 (citing, e.g., Ex. 1001, 3:11–13, 7:18–23, 7:47–53, 7:59–62, 9:30–33, 16:54–60, Figs. 1, 2, 6, 7, 21–29).

Although the construction of this limitation may be helpful in deciding the issues of unpatentability, we determine that the construction of this term would benefit from further briefing during the trial phase of this proceeding, and we invite the parties to continue to brief this issue.

Therefore, we do not provide a preliminary construction of the term at this time.

We note that Patent Owner makes some arguments with reference to the prosecution history of the parent ’255 patent, and in particular a reexamination in which claims were allowed after Patent Owner made

arguments to distinguish the pivotal movement in the claims over the translational movement in McDonough.⁸ *See id.* at 42–46. We determine that, on this record, it is difficult to draw definitive conclusions from this prosecution history because Patent Owner does not argue for a prosecution history disclaimer. Further, although the Examiner’s reasons for patentability and/or confirmation express agreement with the reasons argued by the Patent Owner at pages 11–17 of its Response during reexamination (*see* Ex. 2002, 845–46), those pages of the Response encompass multiple arguments and are not limited to the argument highlighted at this time by the Patent Owner, i.e., that McDonough did not possess the claimed pivotal movement (*see* Ex. 2002, 635–641). The Board may nonetheless consider the prosecution history as part of the totality of the intrinsic record.

D. Alleged Obviousness of Claims 1, 2, and 4–6 over Nakajima in View of the Knowledge of a Person of Ordinary Skill

Petitioner contends that claims 1, 2, and 4–6 would have been obvious over Nakajima in view of the knowledge of a person of ordinary skill. Pet. 16–38. Patent Owner disagrees. *See* Prelim. Resp. 46–66.

1. Nakajima

Nakajima is an English translation of a Japanese Patent Application Publication, titled “Stopper With Mouthpiece For Liquid Container” (Ex. 1004, code (54), and relates to the subject matter of its title. *See id.* ¶ 1. Petitioner provides an annotated version of Nakajima’s Figure 1 with color added (Pet. 16):

⁸ McDonough, U.S. Patent Application Publication No. 2005/0029271 A1 (Feb. 10, 2005) (Ex. 1010, “McDonough”).

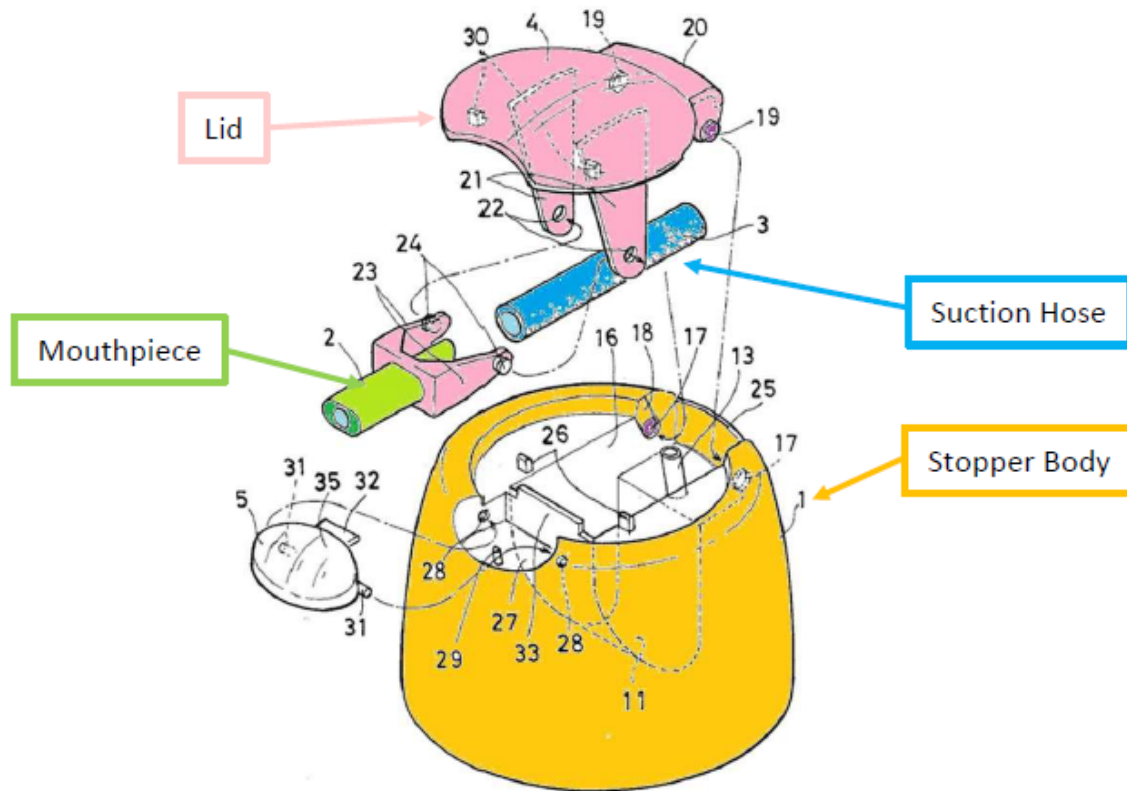


Figure 1 is an exploded perspective view of an embodiment of Nakajima's device. Ex. 1004, Fig. 1 [description]. As shown in Figure 1, the stopper with a mouthpiece is composed of a combination of stopper body 1, mouthpiece 2, suction hose 3, lid 4, and button 5 serving as a disengaging means. Ex. 1004 ¶ 12. A pair of hinge shafts 19, 19 is provided on the left and right sides of hinge portion 20 in the rear end portion of lid 4, and each hinge shaft 19 is rotatably fitted into each shaft receiving recess 17. *Id.* ¶ 16.

Petitioner also provides annotated versions of Nakajima's Figures 2 and 3 with color added (Pet. 17):

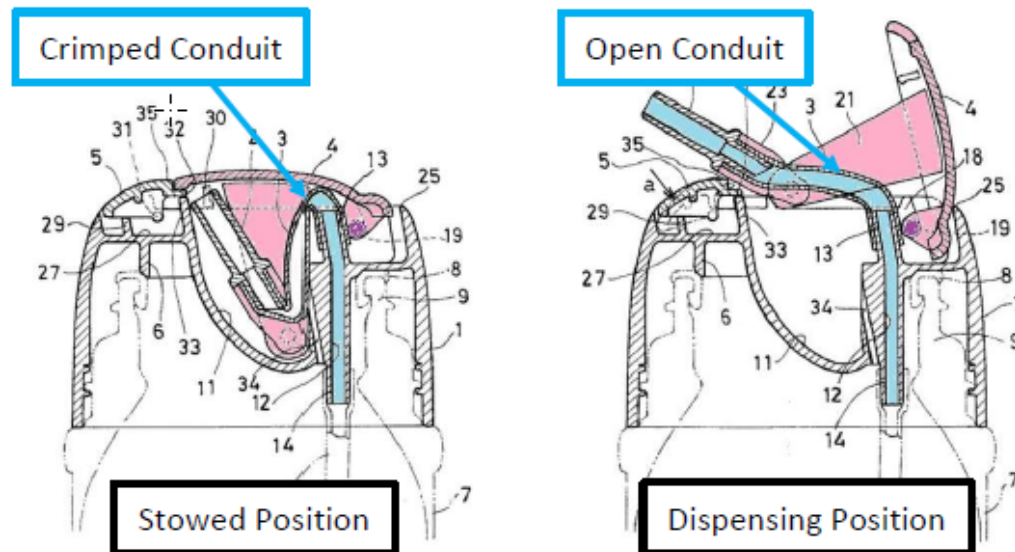


Figure 2 (left) is a cross-sectional view of Nakajima's device with the lid closed, and Figure 3 (right) is a cross-sectional view with the lid opened. Ex. 1004, Figs. 2, 3 [description]. In the normal state, as shown in Figure 2, mouthpiece 2 and suction hose 3 are folded into storage recess 11, and lid 4 is engaged with stopper body 1 to cover and close storage recess 11. *Id.* ¶ 22. In this state, a portion of bent suction hose 3 seals air hole 34, preventing leakage of liquid inside container 7. *Id.* When button 5 is pushed in as shown by arrow a in Figure 3, projecting piece 32 springs open lid 4 and disengages it from stopper body 1. *Id.* ¶ 23. Lid 4 is then pushed up and released by the restoring elasticity of suction hose 3. *Id.* As lid 4 opens, mouthpiece 2 protrudes above button 5. *Id.*

2. *Analysis of Independent Claim 1*

- a) *[preamble] “A drink container, comprising:”*
[1[a]] “a fluid container having a neck with an opening and having an internal compartment sized to hold a volume of potable drink fluid;”

Petitioner asserts that Nakajima discloses “a stopper with a mouthpiece for a water bottle or other liquid container,” and that Nakajima’s Figure 2 depicts a cap assembly on the neck of the water bottle. Pet. 17–18 (citing Ex. 1004 ¶¶ 1, 13, Figs. 2, 3). Petitioner asserts that a person of ordinary skill would have understood Nakajima’s mouth 9 to constitute a neck with an opening. *See id.* at 18 (citing Ex. 1002 ¶ 66).

Patent Owner does not present arguments in the Preliminary Response addressing the specific merits of Petitioner’s contention. *See* Prelim. Resp. 46–66.⁹

On the record at this stage of the proceeding, we determine that Petitioner has made an adequate showing for claim 1’s preamble language and limitation 1[a]. In particular, Nakajima discloses that “stopper body 1 has an annular rib 6 (see Fig. 2) on the underside, which is used to seal the mouth 9 of the container 7.” Ex. 1004 ¶ 13.

⁹ We recognize that the burden remains with Petitioner to prove unpatentability of the challenged claims. *See* 35 U.S.C. § 316(e).

b) [1[b]] “a cap assembly removably coupled to the fluid container to cover the opening, wherein the cap assembly defines a fluid conduit for drink fluid to flow from the fluid container and through the cap assembly to a user, wherein the fluid conduit includes an inlet through which drink fluid from the fluid container may enter the fluid conduit, and a dispensing outlet through which drink fluid in the fluid conduit may be dispensed from the cap assembly to a user, and further wherein the cap assembly comprises”

[1[b][i]] “a cap assembly base removably coupled to the neck of the fluid container, wherein the cap assembly base is configured to be selectively and repeatedly decoupled from and re-coupled to the neck of the fluid container”

Petitioner asserts that Nakajima’s cap assembly is removably coupled to the mouth of the fluid container via “an annular rib 6” that “is used to seal the mouth⁹ of the container 7” Pet. 18–19 (citing Ex. 1004 ¶¶ 12–14; Ex. 1002 ¶ 68). Petitioner asserts that Figure 3 shows that Nakajima’s cap assembly includes a fluid conduit. *Id.* at 19. Petitioner asserts that fluid enters the fluid conduit from the container, flows through “suction hose 3,” and is dispensed from a dispensing outlet at the end of “mouthpiece 2.” *Id.* at 19–20 (citing Ex. 1004 ¶¶ 12–14; Ex. 1002 ¶ 69). Petitioner argues that Nakajima discloses that its cap is removably coupled to the container. *See id.* at 18–20 (citing Ex. 1004, Fig. 1; Ex. 1002 ¶¶ 67–70).

Patent Owner does not present arguments in the Preliminary Response addressing the specific merits of Petitioner’s contention. *See* Prelim. Resp. 46–66.

On the record at this stage of the proceeding, we determine that Petitioner has made an adequate showing for limitations 1[b] and 1[b][1]. In particular, Nakajima discloses that stopper body 1 has annular rib 6 which is

used to seal mouth 9 (Ex. 1004 ¶ 13) and that stopper body 1 includes suction hose 3 (*id.* ¶ 12). Nakajima discloses that connection ports 13 and 14 are provided in the upper and lower end portions (of storage recess 11 inside rib 6 of stopper body 1). *See id.* ¶ 13. Nakajima discloses that suction hose 3 is connected to connection port 13, and lower suction hose 15 (which is long enough to reach the bottom of container 7) is connected to connection port 14. *Id.* ¶ 14. Dr. Vallee opines that a person of ordinary skill would have understood that stopper body 1 was capable of engagement and disengagement from the neck of the underlying container. *See* Ex. 1002 ¶ 71.

c) [1[b][2]] “a pivotal mount coupled to the cap assembly base at two joints that define a pivotal axis for pivotal movement of the pivotal mount relative to the cap assembly base, the pivotal mount defining a hollow passage, the hollow passage having a mount outlet on a distal end of the pivotal mount”

Petitioner argues that Nakajima has a pivotal mount comprising the combination of lid 4 (having leg pieces 21) together with the arms 23 (the mouthpiece bracket) of mouthpiece 2. Pet. 21 (citing Ex. 1002 ¶ 73). These items are colored pink in Petitioner’s annotated version of Figure 1, *supra*. Petitioner asserts that a pair of hinge shafts 19 project laterally from hinge portion 20 (of lid 4) and are rotatably fitted into a corresponding pair of shaft receiving recesses 17 in the cap assembly base. Pet. 22 (citing Ex. 1004 ¶¶ 15–16).

Petitioner argues that a person of ordinary skill would have understood that the hinge shafts interact with the recesses to comprise two joints that couple the pivotal mount to the cap assembly and define a pivotal

axis for pivotal movement of the pivotal mount relative to the cap assembly base. Pet. 23 (citing Ex. 1002 ¶ 76).

Petitioner argues that there is a mount outlet on the distal end of the pivotal mount in the bracket formed by arms 23, which comprises a hollow passage and outlet through which fluid flows from suction hose 3 to the dispensing end of the mouthpiece. Pet. 23–24 (citing Ex. 1004, Figs. 1, 3; Ex. 1002 ¶ 75).

Patent Owner does not present arguments in the Preliminary Response addressing the specific merits of Petitioner’s contention. *See* Prelim. Resp. 46–66.

On the record at this stage of the proceeding, and for purposes of this decision on institution, we accept Petitioner’s proposed mapping of Nakajima’s components to the elements of this claim limitation. Nakajima discloses that a pair of hinge shafts 19, 19 is provided on the left and right sides of the hinge portion 20 in the rear end portion of lid 4, and that each hinge shaft 19 is rotatably fitted into each shaft receiving recess 17. Ex. 1004 ¶ 16. Nakajima discloses that mouthpiece 2 is connected to the tip of suction hose 3. *See id.* ¶ 14. Dr. Vallee opines that a person of ordinary skill would have understood the hollow passage in the bracket formed by arms 23 to constitute a mount outlet, at the distal end of the pivotal mount. Ex. 1002 ¶ 75.¹⁰

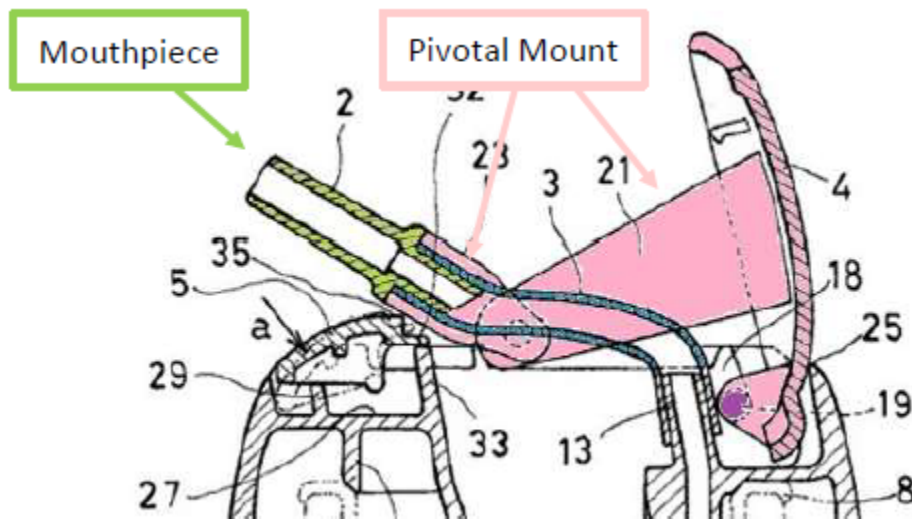
¹⁰ In the following section, we analyze Petitioner’s contention that it would have been obvious to a person of ordinary skill to form the mouthpiece and mouthpiece bracket out of two pieces as a matter of design choice. *See* Pet. 25.

d) [[1[b][3]] “a mouthpiece coupled to the mount outlet of the pivotal mount for pivotal movement with the pivotal mount relative to the cap assembly base”

Petitioner asserts Nakajima describes “mouthpiece 2” and “arms 23” as two portions of a single component. Pet. 25 (citing Ex. 1004 ¶ 16).
Petitioner argues that:

If the mouthpiece and pivotal mount must be formed of two separable parts, it would have been obvious for a POSITA to form the component in two parts removably coupled to each other, namely (1) a tubular portion configured to provide a fluid conduit and engage a user’s mouth (the “mouthpiece”), which would be removably coupled to (2) a bracket portion with arms 23 configured to pivot when the cap assembly is opened (the “pivotal mount”).

Id. (citing Ex. 1002 ¶ 78). Petitioner argues that a POSITA would have recognized such a change to be a routine design choice that would not have altered the overall design or functionality of the Nakajima mouthpiece or pivotal mount. *Id.* (citing Ex. 1002 ¶ 79). Petitioner proffers a version of Nakajima’s Figure 3 which has been colored and annotated by its expert to show how a proposed modification of Nakajima’s mouthpiece 2 and arms 23 into a two-component configuration would have been apparent to a person of ordinary skill (*see* Pet. 25–26 (citing Ex. 1002 ¶ 79); Ex. 1002 ¶ 79):



The annotated version of Nakajima’s Figure 3 shows a portion of mouthpiece 2 in green, and arms 23 and lid 4 in pink, with annotations of “mouthpiece” and “pivot mount” in green and pink boxes.

Patent Owner does not present arguments in the Preliminary Response disputing Petitioner’s contention that it would have been obvious to form the mouthpiece and pivotal mount of two parts. *See* Prelim. Resp. 46–66.

Paragraph 16 of Nakajima, cited by Petitioner, describes “arms 23 of the mouthpiece 2.” Ex. 1004 ¶ 16. We therefore agree with Petitioner, on this record, that Nakajima describes mouthpiece 2 as a single component that includes arms 23 (i.e., the two parts are not disclosed to be removably coupled each other).

Dr. Vallee opines that Petitioner’s proposed modification of Nakajima, i.e., to construct a mouthpiece as a separate component removably coupled to the pivotal mount at the bracket formed by arms 23, would not require any significant alteration, and “would have constituted nothing more than a routine choice between two alternative design choices.” Ex. 1002 ¶¶ 78–79. Dr. Vallee reasons that this would have been desirable

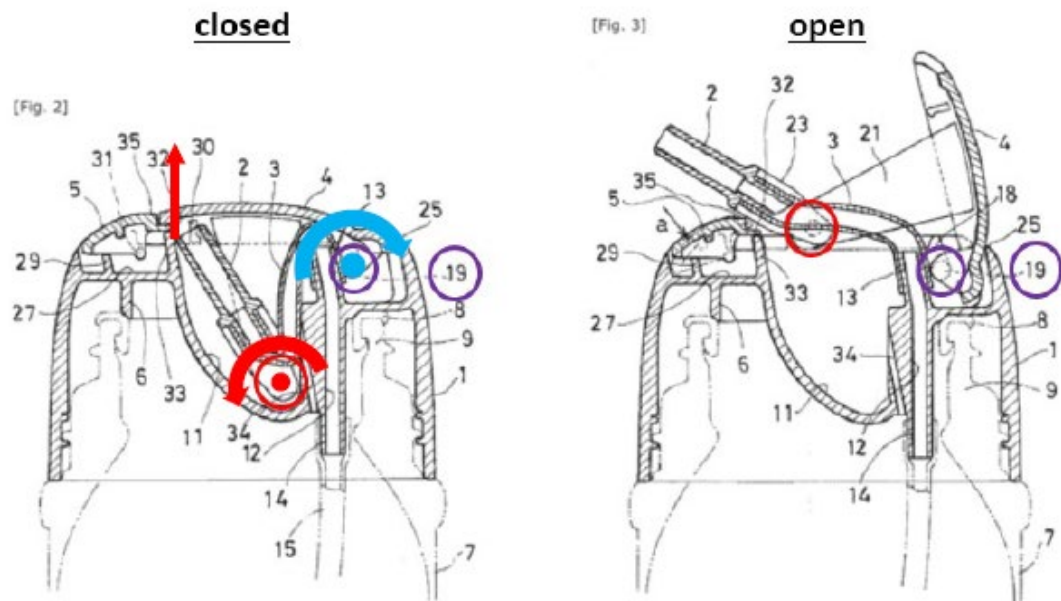
so that the two components could be made of different materials, such as a hard plastic for the arms and a more resilient, flexible material like latex or silicone for the mouthpiece, and this also would have been desirable to enable replacing the mouthpiece when it gets worn out from, for example, multiple bite marks, without having to also replace the arms. *Id.* ¶ 78.

In assessing a declaration, the Board analyzes whether a declaration is supported by additional evidence or reasoning. *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 (PTAB August 24, 2022) (precedential) (a declaration is entitled to little weight when it contains an exact restatement of a petition’s unsupported, conclusory assertions without any additional supporting evidence or reasoning). On the record at this stage of the proceeding, based on the testimony of Dr. Vallee and the supporting reasoning provided therein, we determine that Petitioner has made an adequate showing for purposes of institution that a person of ordinary skill would have confronted a routine design choice in determining whether to manufacture mouthpiece 2 with arms 23 so that they are removably coupled to each other. Nevertheless, we observe that neither Petitioner nor Dr. Vallee provides documentary support for the proposition that it would have been desirable to have the two components removably coupled. The parties may continue to brief this issue after institution.

As to the remaining aspect of the limitation, Petitioner asserts that, due to its engagement with the pivotal mount, Nakajima’s mouthpiece “moves up and down in conjunction with the opening and closing of the lid.” Pet. 26 (citing Ex. 1004 ¶ 3; Ex. 1002 ¶ 81).

Patent Owner argues that Nakajima’s mouthpiece never pivotally moves with the pivotal mount, as recited by claim 1, because, according to Patent Owner, (a) Nakajima’s alleged mouthpiece freely pivots

independently from the rest of the alleged pivotal mount, (2) consequently pivots about a different axis, and (3) consequently never pivots about the same pivotal axis as the pivotal mount. *See* Prelim. Resp. 47. Patent Owner also argues that Nakajima's mouthpiece moves in a different direction from the pivotal mount. *Id.* at 47, 59–60. Patent Owner provides the following annotated versions of Figures 2 and 3 to illustrate its argument:



Patent Owner's annotated versions of Figures 2 and 3 of Nakajima show red and blue arrows to show the direction of movement of various components, uses a red circle around what may be inferred to be the hinge where arms 23 join lid 4 (which Patent Owner refers to as the red axis defined by protrusions 24), and uses a purple circle around what may be inferred to be the hinge where lid 4 joins stopper body 1 (which Patent Owner refers to as the axis defined by hinge shafts 19). *See* Prelim. Resp. 53. In particular, the blue arrow shows clockwise movement around what may be inferred to be the hinge where lid 4 joins stopper body 1, and a red arrow shows a

counterclockwise movement around what may be inferred to be the hinge where arms 23 join lid 4.

Patent Owner argues that Nakajima's mouthpiece freely pivots under operation of gravity in the opposite direction about an entirely different axis (from the axis on which the lid pivots) and nothing ever holds the mouthpiece in alignment with the lid. *See* Prelim. Resp. 53–54.

Patent Owner also refers back to its claim construction arguments, and argues that like McDonough, Nakajima's "mouthpiece" merely moves translationally "up and down" relative to the hinge shafts 19 (alleged pivotal axis) when the lid (mapped by Petitioner to the pivotal mount) opens and closes. Prelim. Resp. 54 (citing Ex. 1004 ¶ 3; Ex. 2001 ¶ 92). Patent Owner states that Petitioner quotes Nakajima for the proposition that "Nakajima's mouthpiece 'moves up and down in conjunction with the opening and closing of the lid.'" *Id.* (quoting Pet. 26 (quoting Ex. 1004 ¶ 3)). Patent Owner argues that neither Petitioner nor its declarant, Dr. Vallee, offers any support or explanation for their conclusion that the up-and-down translational movement expressly described by Nakajima constitutes the pivotal movement required by the claim. *Id.* at 54–55.

Patent Owner further refers to its claim construction arguments in arguing that a person of ordinary skill would have understood that rotational motion about a rotational axis requires that all points of a rigid body maintain a constant distance from an imaginary axis (i.e. an axis of rotation) and rotate in circular paths about a common axis with a common velocity. *Id.* at 57. However, as discussed above with respect to the claim construction of "two joints that define a pivotal axis for pivotal movement of the pivotal mount," Patent Owner has not explained why a rigid body would be required.

For similar reasons as for IPR2024-01137, we determine that Petitioner has made an adequate showing at this stage of the proceeding that Nakajima’s mouthpiece has “pivotal movement with the pivotal mount relative to the cap assembly base,” as recited in claim 1. *See Trove Brands, LLC v. CamelBak Prods., LLC*, IPR2024-01137, Paper 9 at 15 (PTAB Jan. 28, 2025) (Decision on Institution). On the preliminary record, it appears that Nakajima’s mouthpiece 2 moves clockwise with lid 4 relative to stopper body 1, and additionally moves counterclockwise relative to lid 4.¹¹

Patent Owner argues here that the Decision on Institution in IPR2024-01137 “may have been merely referring to the fact that the very center of the protrusions 24 appears to potentially rotate in a clockwise direction about hinge shafts 19 when moved from the closed position,” and Patent Owner argues that Petitioner is instead relying on the green colored portion of Nakajima’s mouthpiece as being the claimed mouthpiece and Petitioner is relying on protrusions 24 as part of the pivotal mount (in its annotated version of Figure 3). *See Prelim. Resp.* 62–64. On the preliminary record, Patent Owner’s argument that the center of protrusion 24 appears to potentially rotate clockwise about hinge shaft 19 does not negate our preliminary finding that the mouthpiece connected to protrusion 24 also moves about hinge shaft 19 and additionally moves counterclockwise relative to lid 4.

¹¹ The movement that Patent Owner illustrates might be analogous to the movement of sun, the earth, and the moon, where the earth revolves around the sun, and the moon additionally revolves around the earth. In this analogy, the question would be whether the moon pivots “with” the earth “relative” to the sun.

We, therefore, determine that Petitioner has made an adequate showing for this limitation based on the record at this stage of the proceeding. The parties are encouraged to continue to brief this issue at trial, along with the construction of the term “with” in “pivotal movement with the pivotal mount relative to the cap assembly base.”

e) [1[b][3][i]] “wherein the mouthpiece defines a portion of the fluid conduit, including the dispensing outlet”

Petitioner asserts, with reference to Nakajima’s Figures 1 and 3, that Nakajima’s cap assembly includes a fluid conduit from an inlet and ending with a dispensing outlet, and Nakajima’s mouthpiece defines the portion of the fluid conduit that includes the dispensing outlet. Pet. 26–27 (citing Ex. 1004, Figs. 1, 3; Ex. 1002 ¶ 83).

Patent Owner does not present arguments in the Preliminary Response addressing the specific merits of Petitioner’s contention. See Prelim. Resp. 46–66.

On the record at this stage of the proceeding, we determine that Petitioner has made an adequate showing for limitation 1[b][3][i]. In particular, Nakajima’s Figures 1 and 3 depict that mouthpiece 2 contains a fluid conduit and a dispensing outlet. See Ex. 1004, Figs. 1, 3; Ex. 1002 ¶ 83.

f) [1[b][3][ii]] “wherein the mouthpiece and the pivotal mount are configured to be selectively pivoted between a stowed position and a dispensing position”
[1[b][3][iv]] “wherein the dispensing outlet is positioned further away from the cap assembly base when the mouthpiece and the pivotal mount are in the dispensing position than when the mouthpiece and the pivotal mount are in the stowed position”

Petitioner argues that Nakajima’s Figures 2 and 3 show that Nakajima’s mouthpiece and pivotal mount pivot between a stowed and open position. Pet. 27. Petitioner also argues that these figures show that the dispensing outlet is further away from the cap assembly base, in the dispensing position than in the stowed position. See Pet. 29–30.

Patent Owner does not present arguments in the Preliminary Response addressing the specific merits of Petitioner’s contentions. See Prelim. Resp. 46–66.

On the record at this stage of the proceeding, we determine that Petitioner has made an adequate showing for limitations 1[b][3][ii] and 1[b][3][iv]. In particular, Nakajima’s Figures 2 and 3 depict that the distal tip of mouthpiece 2 is further away from the base of stopper body 1 in the dispensing position than in the stowed position. Compare Ex. 1004, Fig. 2, with *id.* at Fig. 3.

g) [1[b][3][iii]] “wherein the mouthpiece is at least partially covered by a dust cover when the mouthpiece and pivotal mount are in the stowed position”

Petitioner argues that Nakajima’s lid is a dust cover protecting the dispensing outlet and mouthpiece, and at least partially covering the mouthpiece. See Pet. 28–29 (citing Ex. 1004 ¶¶ 4, 13, 16, Figs. 1, 2; Ex. 1002 ¶¶ 86–88).

Patent Owner does not present arguments in the Preliminary Response addressing the specific merits of Petitioner's contention. *See* Prelim. Resp. 46–66.

On the record at this stage of the proceeding, we determine that Petitioner has made an adequate showing for limitation 1[b][3][iii]. In particular, Nakajima's Figure 2 shows lid 4 covering mouthpiece 2. Further, Nakajima states that lid 4 covers storage recess 11 and the top surface of the stopper body 1 surrounding the recess. Ex. 1004 ¶ 16.

h) [1[b][4]] “an on/off valve having a closed configuration, in which the on/off valve obstructs the fluid conduit to restrict drink fluid from flowing between the inlet and the dispensing outlet, and an open configuration, in which the on/off valve permits drink fluid to flow through the fluid conduit from the inlet to the dispensing outlet”

[1[b][4][i]] “wherein the on/off valve includes a flexible tube that defines a portion of the fluid conduit”;

[1[b][4][ii]] “wherein when the on/off valve is in the closed configuration, the tube is crimped to obstruct the flow of drink fluid through the fluid conduit”;

[1[b][4][iii]] “wherein when the on/off valve is in the open configuration, the tube is not crimped and does not obstruct the flow of drink fluid through the fluid conduit”

Petitioner argues that the on/off valve of Nakajima comprises the crimping functionality of the fluid conduit that occurs when the lid and mouthpiece pivot, thereby switching between the stowed position and dispensing position, which Petitioner asserts is shown in Figures 2 and 3. *See* Pet. 30–33 (citing, e.g., Ex. 1004 ¶¶ 14, 18, 22–23, Figs. 2, 3; Ex. 1002 ¶¶ 92–96).

Patent Owner does not present arguments in the Preliminary Response addressing the specific merits of Petitioner’s contentions. *See* Prelim. Resp. 46–66.

On the record at this stage of the proceeding, we determine that Petitioner has made an adequate showing for limitations 1[b][4] and 1[b][4][i]–[iii]. In particular, Nakajima discloses that when lid 4 is closed, suction hose 3 is bent at two upper and lower points and folded into the storage recess 11 together with the mouthpiece 2. Ex. 1004 ¶ 18. A portion of bent suction hose 3 seals air hole 34, preventing leakage of liquid inside container 7. *Id.* ¶ 22. Nakajima discloses that suction hose 3 “has the required elasticity” such that if bent into a “U” shape with the fingers and then released, it becomes straight again due to its intrinsic elasticity. *Id.* ¶ 14. As the lid 4 opens, mouthpiece 2 protrudes above button 5 and the air hole 34 is unsealed to prevent depressurization of the interior of container 7. *Id.* ¶ 23.

i) Summary of Claim 1

On the record at this stage of the proceeding, Petitioner has demonstrated a reasonable likelihood that claim 1 of the ’250 patent would have been obvious over Nakajima in view of the knowledge of a person of ordinary skill. Because we find a reasonable likelihood that Petitioner would prevail at trial as to at least one asserted claim, we institute on all grounds asserted in the Petition. *See* 35 U.S.C. § 314(a); *SAS Institute, Inc. v. Iancu*, 584 U.S. 357, 362 (2018).

3. Analysis of Dependent Claims 2 and 4–6

As discussed above in Section II.D.2., we determine that Petitioner has shown a reasonable likelihood of proving that claim 1 is unpatentable under 35 U.S.C. § 103 over Nakajima in view of the knowledge of a person

of ordinary skill. As a result, institution of an *inter partes* review is warranted as to all challenged claims on all grounds asserted in the Petition, and the parties will have additional opportunities to address the dependent claims after institution.

E. Alleged Obviousness of Claims 1, 2, 4–8, 10–14, and 16–18 over Ribarits in View of Panicci and/or the Knowledge of a Person of Ordinary Skill

Petitioner contends that claims 1, 2, 4–8, 10–14, and 16–18 would have been obvious over Ribarits in view of Panicci and/or the knowledge of a person of ordinary skill (hereinafter, “Ribarits and Panicci”). Pet. 38–63. Patent Owner disagrees. Prelim. Resp. 66–72.

1. Ribarits

Ribarits is a Patent Cooperation Treaty publication of an international application titled “Drinking Device.” Ex. 1006, code (54). Ribarits “relates to a device for comfortably drinking and portioning from one of the bottles common today” and “relates to a drinking device which enables a drink to be drunk in a pleasant, hygienic manner, and can be both opened and closed with one hand.” *Id.* at 1, code (57). Ribarits discloses, among other things, “a drinking spout being pivoted at the top in a common closing cap provided with a thread.” *Id.* at 2.

Ribarits explains that its device works as follows:

In the lateral parts placed at the top of the closing cap, the drinking spout is movably mounted by means of both axles. When the drinking spout is pivoted open, the elastic tube inserted therein is straightened and the opening is thus released. The liquid located in the bottle can now be withdrawn via the tube guided in the drinking spout, wherein the tightness is given by screwing the neck of the bottle onto the sealing part of this element.

If now the device is to be closed, by folding down the drinking spout, the tube is bent between the outlet opening of the closing cap and the accommodation in the drinking spout by means of the two webs

Id. at 2.

Figure 2 of Ribarits is reproduced below:

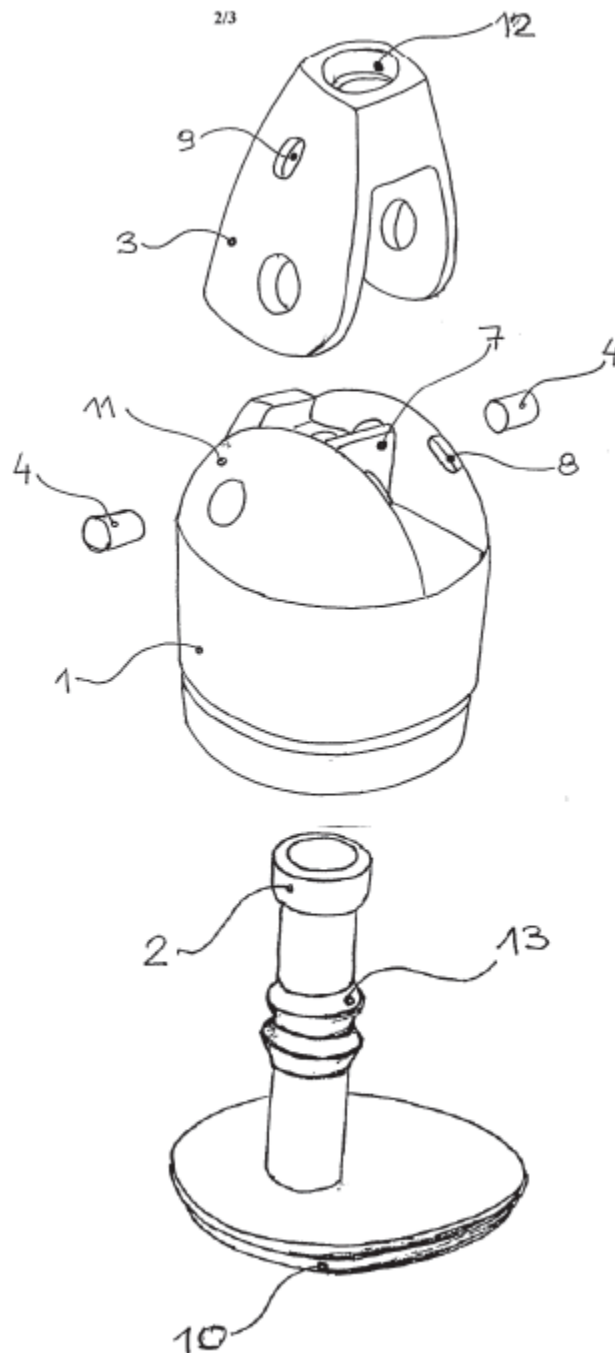


Figure 2 of Ribarits is a perspective view that shows the individual components of Ribarits's device. *Id.* at 2. We discuss the components further in the analysis below.

2. *Panicci*

Panicci is a U.S. patent, titled "Cup with Pivoting Straw." Ex. 1007, code (54). Panicci relates to a covered drinking cup (e.g., for a child), which includes a straw assembly. *Id.* at 1:5–6. Panicci discloses a cover adapted to sealingly close the top of the cup, and has upper and lower tubular straw members. *Id.* at 1:39–41. Figure 1 of Panicci is reproduced below:

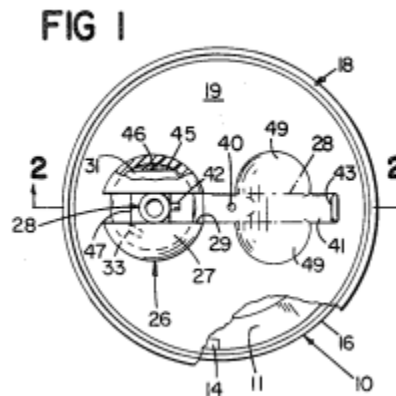


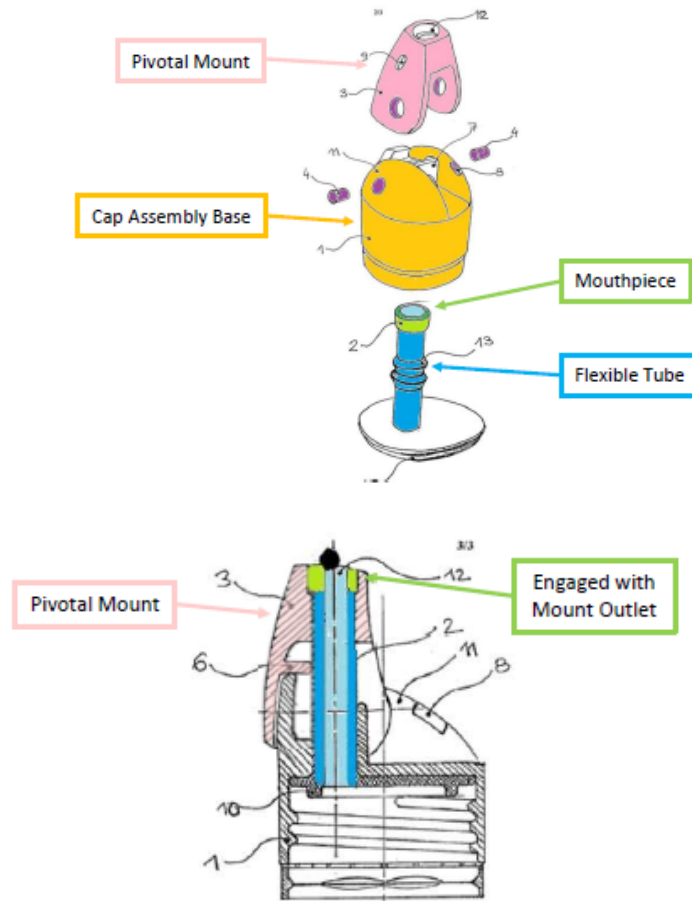
Figure 1 is a top view of the cup and straw assembly showing the straw in the vertical position and showing in broken lines the straw in the storage position. *Id.* at 2:26–28. Air hole 40 in recess 41 allows air into the cup to equalize the pressure inside and outside the cup and thus enhance the pressure differential during use of the straw. *Id.* at 3:37–40. When segment 28 is pivoted into recess 41, pin 42 on straw member 28 plugs hole 40 to prevent spilling and contamination of the cup's contents. *Id.* at 3:40–43. Tab 43 at the end of recess 41 is positioned to cover the upper end of straw segment 26 to avoid contamination of the straw. *Id.* at 3:45–47.

3. *Analysis of Independent Claim 1*

Petitioner asserts that limitations of claim 1 would have been obvious over Ribarits and Panicci. Pet. 38–55. Patent Owner argues that Ribarits does not disclose a mouthpiece as claimed, and in particular that Ribarits does not disclose a mouthpiece that defines a dispensing outlet. Prelim. Resp. 66–71. Having found that institution of an *inter partes* review is warranted as to all challenged claims on all grounds asserted in the Petition based on the ground of obviousness over Nakajima in view of the knowledge of a person of ordinary skill in the art, we focus our analysis on the disputed limitation for claim 1, for the ground of obviousness over Ribarits and Panicci.

a) [1[b][3][i]] “*wherein the mouthpiece defines a portion of the fluid conduit, including the dispensing outlet*”

Petitioner provides its assertions with respect to Ribarits’s Figures 2 (top) and 3 (bottom), reproduced below, and as annotated by Petitioner (*see* Pet. 46–47):



Ribarits states that “sealed tubular element (2) [is] inserted into the drinking spout (3).” Ex. 1006, 3 (“wherein” clause of claim 1). As annotated and colored by Petitioner, Ribarits’s spout 3 is pink, its closing cap 1 is yellow, and its sealed tubular element 2 is blue with an end portion colored green. *Compare* Pet. 46–47, *with* Ex. 1006, 3. Petitioner asserts that the green colored end portion of sealed tubular element 2 is a “mouthpiece” and spout 3 is a “pivotal mount.” *See* Pet. 46–47. Petitioner asserts that “Ribarits’ mouthpiece defines the portion of the fluid conduit, that includes the dispensing outlet.” Pet. 48.

Patent Owner argues based on its proposed claim construction that a “mouthpiece” is a part designed for a user to put his or her mouth on to draw liquid from the container, and the identified end portion of Ribarits’s tube

element 2 is not designed for a user to put his or her mouth on to draw liquid from the container. Prelim. Resp. 67–68 (citing Ex. 2001 ¶ 111). Patent Owner argues that the argued “mouthpiece” (shown in green) is entirely surrounded by Ribarits’s drinking spout 3 and does not extend beyond it, which prevents the user from putting their mouth on it. *Id.* at 68.

Based on our claim construction of “mouthpiece” as “a part (as of an instrument) that goes in the mouth or to which the mouth is applied,” and on this preliminary record, we preliminarily determine that Petitioner does not adequately explain how the end portion of item 2 functions as a mouthpiece where it does not contact the mouth.

Patent Owner also argues that Petitioner does not map Ribarits’s drinking spout 3 to the mouthpiece and argues that mapping drinking spout 3 to the mouthpiece would not meet the limitation requiring that the “mouthpiece defines a portion of the fluid conduit including the dispensing outlet,” as recited in claim 1. *See* Prelim. Resp. 70. We need not analyze this argument because Petitioner has not argued this mapping.

4. Analysis of Independent Claims 7 and 13

Having found that institution of an *inter partes* review is warranted as to all challenged claims on all grounds asserted in the Petition based on the ground of obviousness over Nakajima in view of the knowledge of a person of ordinary skill in the art, we focus our analysis on the disputed limitations for claims 7 and 13, for the ground of obviousness over Ribarits and Panicci.

a) “wherein the mouthpiece defines a portion of the fluid conduit, including the dispensing outlet”

As it relates to independent claims 7 and 13, for the same reasons as for independent claim 1, we determine that Petitioner does not adequately

explain how the end portion of Ribarits's item 2 functions as a mouthpiece where it does not contact the mouth. *See* Section II.E.3.a., *supra*.

b) “a mouthpiece disposed on the pivotal mount”

Patent Owner argues that Ribarits does not disclose the required relationships between the mouthpiece and the pivotal mount, and in particular does not disclose the mouthpiece being “disposed on” the pivotal mount, as recited in claims 7 and 13. Prelim. Resp. 71–72. The annotated version of Figure 3, reproduced above in Section II.E.3.a., shows the relationship between the alleged mouthpiece (the distal end of item 2) and the alleged pivotal mount (spout 3) in Ribarits. Patent Owner argues that tubular element 2 “is disposed *in* not *on* the drinking spout (3).” Prelim. Resp. 71 (emphasis in original).

We encourage the parties to continue to brief this issue after institution, and in particular, to brief the Board on any relevant caselaw on the distinction between “in” and “on” and its applicability to this case.

5. *Analysis of Dependent Claims 2, 4–6, 8, 10–12, 14, and 16–18*

Petitioner asserts that dependent claims 2, 4–6, 8, 10–12, 14, and 16–18 would have been obvious over Ribarits and Panicci. Pet. 55–63.

Patent Owner argues that for every one of the dependent claims under Grounds 2 and 3, Petitioner relies on and incorporates the same deficient arguments it makes regarding Ribarits for claim 1 and that Petitioner does not rely on an obviousness combination that would cure the argued deficiencies in independent claim 1. Prelim. Resp. 72.

Above, we preliminarily determine that Petitioner does not adequately explain how the end portion of Ribarits's item 2 functions as a mouthpiece, as recited by independent claims 1, 7, and 13. *See* Sections II.E.3.a., II.E.4.a., *supra*. The parties will have an opportunity to continue to brief the

patentability of independent claims 1, 7, and 13 and their dependent claims after institution.

F. Alleged Obviousness of Claims 3, 9, and 15 over Ribarits in View of Panicci and/or the Knowledge of a Person of Ordinary Skill and in Further View of Hughes

Petitioner contends that claims 3, 9, and 15 would have been obvious over Ribarits in view of Panicci and/or the knowledge of a person of ordinary skill and in further view of Hughes (hereinafter, “Ribarits, Panicci, and Hughes”). Pet. 63–67. Patent Owner disagrees. Prelim. Resp. 66–72.

1. Hughes

Hughes is a U.S. patent titled “Automatic Valved Bottle Cap for Use with Liquid Containers.” Ex. 1008, code (54). Hughes “relates generally to a dual purpose dispensing cap for liquid containers,” and more specifically, “to a sports bottle cap having a pressure differential valve which allows water to flow out through the bottle cap only when the bottle is inverted and squeezed.” *Id.* at 1:7–11. Alternatively, “a straw may be threaded through the pressure differential valve, thereby deactivating it, and attached to the bottle cap allowing the user to draw liquid from the bottle through the straw.” *Id.* at 1:12–15.

Figure 2 of Hughes’s bottle cap is reproduced below:

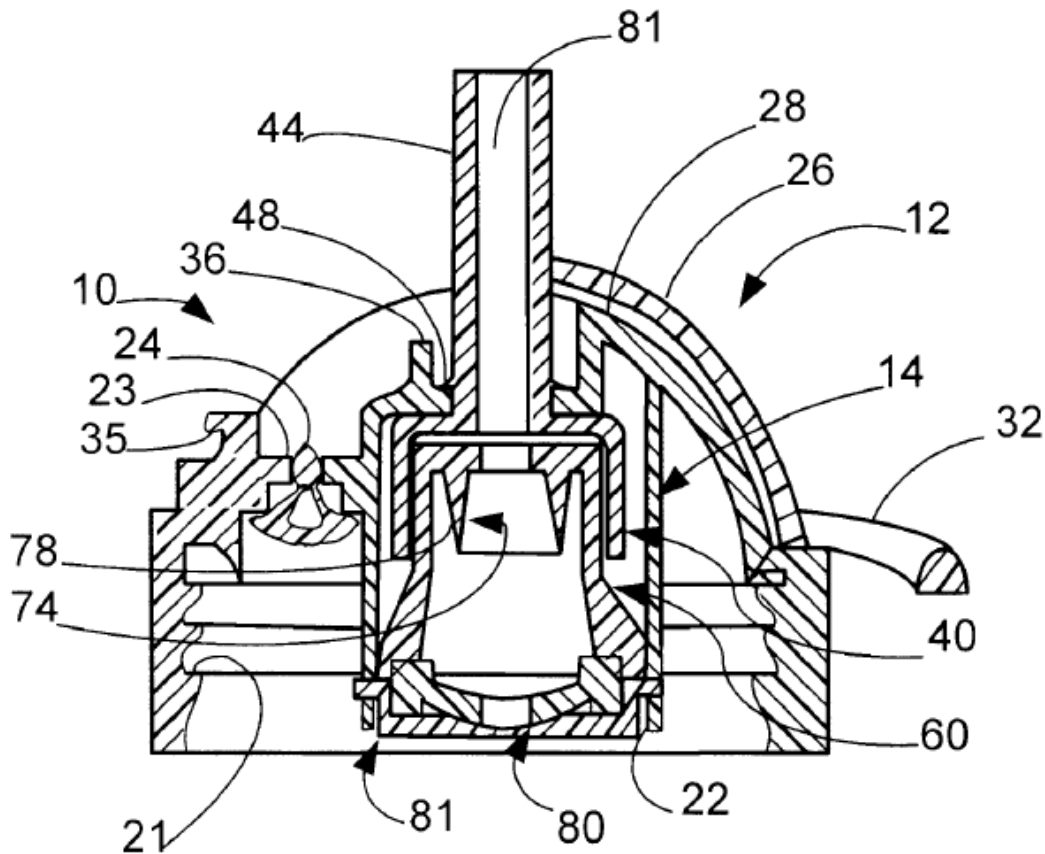


Figure 2 is a side elevation view of Hughes's bottle cap 10. *Id.* at 3:15–16, 4:14. Bottle cap 10 comprises domed cover 12 which irreversibly engages straw housing 40 which in turn irreversibly engages straw receptor 60 and pressure differential valve 80 thereby forming bottle cap 10 which fastens to and seals bottle 100 (not shown). *Id.* at 4:14–19.

2. Analysis of Dependent Claims 3, 9, and 15

Claims 3, 9, and 15 respectively depend from claims 1, 7, and 13. Petitioner asserts that claims 3, 9, and 15 would have been obvious over Ribarits, Panicci, and Hughes. Pet. 64–67. Patent Owner argues that for every one of the dependent claims under Grounds 2 and 3, Petitioner relies on and incorporates the same deficient arguments it makes regarding Ribarits for claim 1 and that Petitioner does not rely on an obviousness

combination that would cure the argued deficiencies in independent claim 1. Prelim. Resp. 72.

Above, we preliminarily determine that Petitioner does not adequately explain how the end portion of Ribarits's item 2 functions as a mouthpiece, as recited by independent claims 1, 7, and 13. *See* Sections II.E.3.a., II.E.4.a., *supra*. The parties will have an opportunity to continue to brief the patentability of independent claims 1, 7, and 13 and their dependent claims after institution.

III. CONCLUSION

We conclude, on the present record, that Petitioner has demonstrated a reasonable likelihood of prevailing on its assertion that at least one of claims 1–18 of the '250 patent is unpatentable.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–18 of the '250 patent is instituted on all challenges included in the Petition;

FURTHER ORDERED that, according to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial that commences on the entry date of this Decision.

IPR2025-00140
Patent 11,851,250 B2

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