

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TROVE BRANDS, LLC,
Petitioner,

v.

CAMELBAK PRODUCTS, LLC,
Patent Owner.

Case No. IPR2025-00140
U.S. Patent No. 11,851,250

PATENT OWNER'S SUR-REPLY

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UPDATED TABLE OF EXHIBITS

Exhibit No.	Description
2001	Declaration of Michael Jobin, dated March 14, 2025 in Support of Patent Owner Preliminary Response (“Jobin POPR Decl.”)
2002	File History from <i>Ex Parte</i> Reexamination Control No. 90/015,192 regarding U.S. Patent No. 10,676,255
2003	Japanese Patent App. Pub. No. 2001-294252 to Toudou
2004	<i>Curriculum Vitae</i> of Michael Jobin
2005	Merriam-Webster Dictionary - “mouthpiece”
2006	Institution Decision in IPR2024-01137 regarding U.S. Patent No. 10,676,255
2007	American Heritage Dictionary – “pivot”
2008	Cambridge Dictionary – “pivot”
2009	Oxford Concise English Dictionary – “pivot”
2010	McGraw-Hill Dictionary of Scientific and Technical Terms – “pivot”
2011	Merriam-Webster Dictionary – “pivot”
2012	Science Facts – “Rotational Motion”
2013	Halliday & Resnick – Fundamentals of Physics Textbook
2014	U.S. Patent No. 10,676,255 (“the ’255 patent”)
2015	U.S. Patent Application Publication No. 2005/0029271 to McDonough (“McDonough”)
2016	Declaration of Michael Jobin, dated September 16, 2025, in Support of Patent Owner’s Response (“Jobin POR Decl.”)
2017	Merriam-Webster Dictionary - “with”
2018	Transcript of Deposition of Dr. Glenn Vallee (IPR2024-01137), dated April 4, 2025
2019	Young & Freedman – University Physics Textbook, 15th Edition (Excerpt)

Exhibit No.	Description
2020	Sciencing – “Rotational Motion (Physics): What Is It & Why It Matters”
2021	Transcript of Deposition of Dr. Glenn Vallee (IPR2025-00140), dated September 12, 2025
2022	Transcript of Second Deposition of Dr. Glenn Vallee (IPR2025-00140), dated January 16, 2026
2023	Final Written Decision, dated January 15, 2026, in IPR2024-01137 regarding U.S. Patent No. 10,676,255

I. INTRODUCTION

Petitioner resorts to: i) overbroad claim constructions and ii) manufactured characterizations of the prior art—both of which lack any evidentiary support other than Petitioner’s uncorroborated, litigation-induced expert testimony. When this testimony is stripped away, as the law requires, Petitioner’s grounds fail.

Ground 1 fails because Nakajima does not disclose a *mouthpiece* that is *coupled to or disposed on the pivotal mount for the required pivotal movement with the pivotal mount* about the *pivotal axis* defined by the two joints. In its recent Final Written Decision (FWD) in IPR2024-01137 regarding the parent ’255 patent, the Board carefully and correctly construed the claimed “pivotal movement” about a “pivotal axis” to require rotational motion about an axis of rotation, where rotational motion is defined in physics to require maintaining a constant distance/radius to the axis of rotation such that a circular path is maintained. Ex.2023, 8-20; Ex.2014, 19:24-35. The Board also correctly determined that the alleged mouthpiece in Nakajima fails to engage in rotational motion about the required axis under this construction. Ex.2023, 25-36. Similar to IPR2024-01137, Nakajima here fails to disclose the ’250 patent’s “mouthpiece [coupled to]/[disposed on] . . . the pivotal mount for pivotal movement with the pivotal mount” where two joints “define a pivotal axis for pivotal movement of the pivotal mount.”

Grounds 2 and 3 fail because the terminal end of Ribarits' fluid conduit is not a *mouthpiece*, when properly construed, because it is not designed for a user to put his or her mouth on it to draw liquid from the container. Petitioner's construction seeks to cover any fluid dispensing outlet by improperly rendering the term "mouth" and, indeed, the claimed "mouthpiece" itself, entirely superfluous. It also renders the term "mouthpiece" indefinite by defining it subjectively based on requiring an undefined degree of "nearness" to the mouth.

II. CLAIM CONSTRUCTION

A. "mouthpiece"

Petitioner contends that a user need not be able to contact their mouth with a dispensing outlet for it to be deemed a "mouthpiece." Reply, 2-6. That begs the question of how the base term "mouth" has any meaning within the term "mouthpiece" under Petitioner's position. Attempting to address that problem, Petitioner and its declarant, Dr. Vallee, contend that a "mouthpiece" need only be a fluid dispensing structure that the user places "near the mouth when consuming fluid" (Reply, 2-3; Ex.1015, ¶¶ 45-46; Ex.2022, 27:12-28:2) or that "approaches the user's mouth" during drinking. Reply, 1, 26; Ex.1015, ¶ 45; Ex.2022, 27:12-28:2. However, when asked how "near," *i.e.*, how close, to the mouth a dispensing component must come to the mouth to be considered a "mouthpiece" under this construction, Dr. Vallee testified that it is not "a distance" or "an exact

measurement” and is instead “a term that’s just understood” and “a perception.” Ex.2022, 28:3-29:17; 29:18-30:3; 31:4-18. And he testified that it would not be “an arm’s length, or anything like that.” *Id.*, 29:1-17. He also testified that you would have to look at products “case by case” to determine “whether it would be a mouthpiece or not.” *Id.*, 30:4-14. Dr. Vallee also explained that a dispensing outlet being “approached by” the mouth means the same thing as “the act of getting it near,” and that “approached by,” therefore, like “near,” is not a defined “distance.” *Id.*, 32:7-33:12.

While he testified that a structure that comes “near” or “approaches” the user’s mouth is not defined by a distance, Dr. Vallee did testify that an “arm’s length is too far to be a mouthpiece.” *Id.*, 45:3-6; *see also id.* at 29:1-17. This admission led to an uncomfortable exchange in which he was unable to clearly answer the question of whether determining if a given bottle’s dispensing outlet is a “mouthpiece” under this “near” construction is dependent on how far the user holds that bottle from his or her mouth. *See id.* at 45:7-48:4. Dr. Vallee was unable to refute that under this construction a bottle having a dispensing outlet that is held at “arm’s length” (such as with an arm extended vertically above a user’s mouth) would not have a “mouthpiece,” but moving that very same bottle to within a centimeter of the user’s mouth would cause it to now have a “mouthpiece.” *See id.* Indeed, his only response

was that a user would not hold a bottle at arm's length above their mouth because they would "get soaking wet." *Id.*

Such a construction based on a "near" requirement that is not a defined distance that can be measured, as Dr. Vallee admits, and that uses a term, "near," which is not used in the '250 patent nor described with any objective guidance as to the distance required to be "near" cannot be correct under the law. *Geneva Pharms., Inc. v. GlaxoSmithKline PLC*, 349 F.3d 1373, 1384 (Fed. Cir. 2003) (rejecting proposed construction that would render claim term indefinite). In *Geneva*, the court rejected a proposed construction because it would result in an embodiment that "would simultaneously infringe and not infringe the claims, depending on the particular bacteria chosen for analysis." *Id.* Like in *Geneva*, Petitioner's "near" construction, which is based on some ill-defined distance that a POSITA would apparently know it when they see it and which does not encompass an "arm's length" distance would improperly result in a drink bottle that "would simultaneously infringe and not infringe the claims" by including or not including a "mouthpiece" depending on how far the user holds it from his or her mouth. *See id.* Such a construction that renders the claims indefinite is contrary to the law and should be rejected.

Further, the claims already recite a "fluid conduit" that "includes . . . a dispensing outlet through which drink fluid in the fluid conduit may be dispensed

from the cap assembly to a user.” *See, e.g.*, Ex.1001, 19:8-14 (claim 1). The claims then recite “a mouthpiece . . . wherein the mouthpiece defines a portion of the fluid conduit, including the dispensing outlet.” *Id.* at 19:27-31. Petitioner and Dr. Vallee’s contention that any fluid conduit having a dispensing outlet for dispensing fluid to a user can be a mouthpiece if it is held sufficiently “near” a mouth improperly reads out the independently claimed “mouthpiece” and renders it superfluous to the “fluid conduit” and “dispensing outlet” already claimed. *Bicon, Inc. v. Straumann Co.*, 441 F.3d 945, 950 (Fed. Cir. 2006) (cannot render claim terms “superfluous”). The “mouthpiece,” therefore, must be construed to have some meaning separate and independent from the “dispensing outlet” and “fluid conduit.” *Bd. of Regents of the Univ. of Tex. Sys. v. BENQ Am. Corp.*, 533 F.3d 1362, 1371 (Fed. Cir. 2008) (“Different claim terms are presumed to have different meanings.”).

Petitioner argues the specification does not support requiring mouth contact because *portions* of the disclosed mouthpieces do not contact the mouth, such as the mouthpiece’s “internal chamber” or dispensing face. Reply, 4-5. But Patent Owner, of course, does not require that a user’s mouth be able to contact all portions of the mouthpiece or to do so at the same time. Further, Gardner (Ex.1014), which is incorporated by reference into the ’250 patent for examples of mouthpieces which may be used (Ex.1001, 9:40-46), supports Patent Owner, not Petitioner. Gardner discloses a waist or back-mounted, bag-like fluid reservoir or bladder having a long

hose with a mouthpiece that is “carried in the user’s mouth,” “sized to be received within the user’s mouth,” and that is a separate component from the hose and hose’s dispensing outlet. Ex.1014, 1:25-32, 3:14-37. The ’250 patent’s incorporation of this disclosure is consistent with its depiction of a mouthpiece being a separate component from the dispensing outlet.¹

Petitioner is incorrect to argue that the Board’s preliminary construction of “mouthpiece” at institution did not require mouth contact. Reply, 5-6 (citing Paper 14, at 12). The reference to a mouthpiece “go[ing] in the mouth” did not allow for a hovering of the mouthpiece in the mouth with no mouth contact, contrary to Petitioner’s suggestion. When applying its preliminary construction, the Board found “that Petitioner does not adequately explain how the [green] end portion of item 2 [in Ribarits] functions as a mouthpiece *where it does not contact the mouth.*” Paper 14, at 37. Thus, the Board determined that mouth contact was required.

Therefore, the Board should maintain its requirement of mouth contact and adopt Patent Owner’s construction of “mouthpiece” as meaning “a part designed for

¹ Though not relied on by Petitioner, Dr. Vallee’s reliance on the ’250 patent’s squeeze-bottle embodiments (Ex.1014, ¶49) is misplaced because even those still have a “bite-actuated mouthpiece,” which is, of course, designed for a user to place his or her mouth on. Ex.1001, 9:59-10:13.

a user to put his or her mouth on to draw liquid from the container” for all the reasons it provided. Paper 19, at 28-31 (citing Ex.2016, ¶¶57-62).

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

Petitioner contends that the claimed “pivotal movement” provided by the claimed “pivotal axis” defined by the two joints at which the “pivotal mount” couples to the cap assembly base “can encompass ‘rotational motion’” but does not require it. Reply, 6. This position is contrary to: i) the Board’s institution decision, ii) the Board’s construction of “pivotal movement” in its recent FWD regarding the related ’255 patent, iii) the admissions of Petitioner’s declarant, Dr. Vallee, and iv) the intrinsic evidence.

At institution, the Board agreed this limitation means “two joints that define an axis of rotation for rotational motion of the pivotal mount about the axis” and agreed that “[t]his construction is consistent with the Specification, which describes *pivoting in the context of rotating.*” Paper 14, at 13 (emphasis added). The requirement of rotational motion about an axis of rotation is consistent with all the intrinsic evidence, as well as dictionaries and the understanding of a POSITA. Paper 19, at 32-52; Ex.2016, ¶¶ 63-88. Further, the ’250 patent is a downstream continuation of and shares an identical written description with and the same figures as U.S. Patent No. 10,676,255 (“the ’255 patent”) (Ex.2014). Ex.1001, at (63)

(Related U.S. Application Data); Ex.2022, 8:12-20. In its recent FWD in IPR2024-01137 regarding the '255 patent, the Board construed the claimed requirement that the mouthpiece be “pivotal about an axis” where the mouthpiece is “coupled to the pivotal mount for pivotal movement.” Ex.2023, 8-20; Ex.2014, 19:24-35. There, like in the institution decision here, the Board held that the recited pivotal movement meant rotational motion about an axis of rotation. Ex.2023, 8-20.

There is no basis for construing “pivotal axis for pivotal movement” here in the '250 patent differently from how “pivotal movement” that is “pivotal about an axis” was construed in the '255 patent FWD. *See In re Katz Interactive Call Processing Pat. Litig.*, 639 F.3d 1303, 1325 (Fed. Cir. 2011) (“[W]e ordinarily interpret claims consistently across patents having the same specification ...”); *Abtox, Inc. v. Exitron Corp.*, 131 F.3d 1009, 1010 (Fed. Cir. 1997) (“Although these claims have since issued in separate patents, it would be improper to construe this term differently in one patent than another, given their common ancestry.”). As the Board found in the '255 FWD, Dr. Vallee admitted that, in the parent '255 patent, the mouthpiece’s claimed “pivotal movement” that is “pivotal about an axis” requires rotational motion. Ex.2023, 10-11; Ex. 2018, 56:19–57:1, 59:3–20; *see also id.* at 38:1–39:2, 104:5-21. Because there is no basis for inconsistent constructions here, the Board should maintain its determination in its institution decision requiring rotational motion about an axis of rotation for the reasons set forth in its institution

decision, in the '255 patent FWD, and in Patent Owner's Response. *See* Paper 14, 8-20; Ex.2023, 8-20; Paper 19, 31-52.

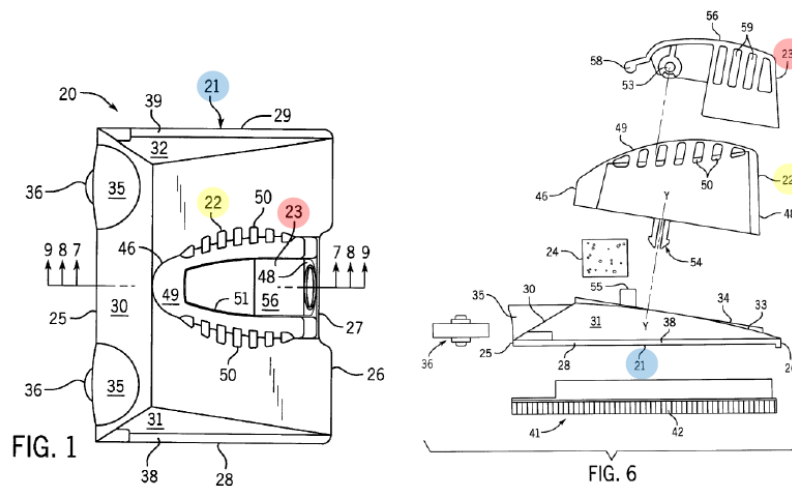
At institution, the Board preliminarily decided to not adopt the portion of Patent Owner's construction defining rotational motion, as defined by physics, to require a rigid body maintaining a constant distance/radius to the axis of rotation, because it found Patent Owner had not explained "whether a 'rigid body' is required here." Paper 14, 13. As Patent Owner explained in its Response, the pivotal mount and mouthpiece in the '250 patent are, indeed, each a "rigid body" because the mount has structural joints that define an axis and because the mouthpiece maintains its shape absent force applied from the user. Paper 19, 36-38. Petitioner does not dispute that these components are rigid bodies, which the Board found in the '255 FWD (Ex.2023, 19-20)—meaning that the definition of rotational motion from physics applies. In the '255 FWD, the Board determined that the related '255 patent's requirement of rotational motion required a circular path of constant distance/radius to the axis of rotation, because Patent Owner's expert testimony and technical treatises credibly established this was the correct technical definition from physics. Ex.2023, 18-20. Patent Owner submitted the same evidence here. Paper 19, at 35; Ex.2016, ¶¶ 69-70. There is no reason why a different construction should apply here, and neither Petitioner nor Dr. Vallee has provided one. *See In re Katz*, 639 F.3d at 1325; *Abtox*, 131 F.3d at 1010. Thus, the Board should adopt a construction here

requiring a circular path of constant distance/radius to the axis of rotation for the reasons set forth in the Patent Owner Response and in the '255 FWD.

Petitioner relies solely on the testimony of its expert, unsupported by any corroborating evidence, intrinsic or extrinsic, to contend that the claimed “pivotal movement of the pivotal mount” provided by the claimed “pivotal axis” does not require rotational motion, *i.e.*, motion of a rigid body that maintains a constant distance/radius to the axis of rotation such that it moves in a circular path about the axis. Paper 24, at 6-7 (citing Ex.1015, ¶¶ 8-12). Specifically, Dr. Vallee opines that the claimed “pivotal movement” would be understood “to refer broadly to” any “motion produced by a hinge or pivot joint.” Paper 24, at 6 (citing Ex.1015, ¶ 8). He reasons that “real-world mechanical linkages often involve multiple joints or compound linkages, where distal components undergo local rotations that differ from those at a proximal joint, yet still *participate in the overall pivot-driven displacement* about that proximal joint.” *Id.* As a result, he opines that “a POSITA would understand ‘for pivotal movement with the pivotal mount’ to mean that the mouthpiece *participates in the pivot-driven movement* of the pivotal mount relative to the cap assembly base—not that it must exhibit any particular local rotational behavior about another joint or axis.” *Id.* at 7 (citing Ex.1015, ¶ 12).

The only support Dr. Vallee offers is extrinsic evidence: Rosnak (Ex.1016), Simon (Ex.1017), and Francart (Ex.1018). *See* Ex.1015, ¶¶ 9-11. Rosnak describes

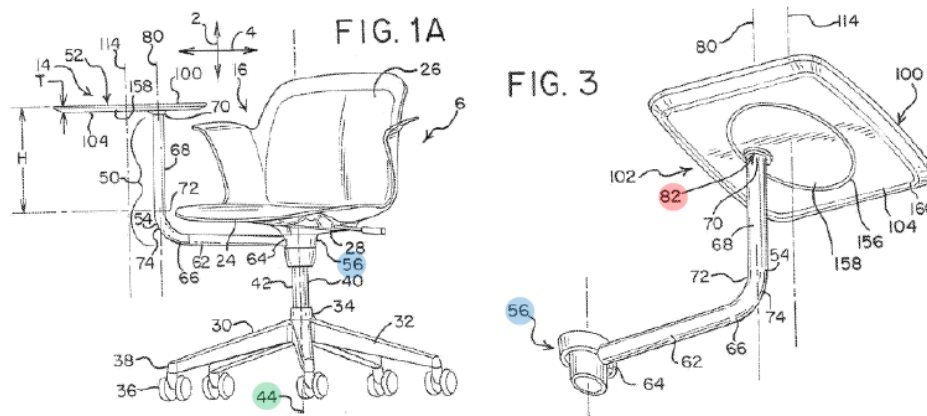
a paint applicator having a handle 22 (yellow) (which Dr. Vallee calls the “proximal component”) that pivots parallel to the surface being painted about a first axis, y-y, as well as an adapter 23 (red) (which Dr. Vallee calls the “distal component”) mounted on the handle where the adapter pivots perpendicular to the paint surface about a second axis, z-z. Ex.1015, ¶ 9; Ex.1016, Abstract, 5:29-34; Ex.2022, 112:14-114:2, 117:5-12.



Ex.1015, ¶ 9 (annotating Ex.1016, Figs. 1 & 6). Dr. Vallee relies on Rosnak as an example of a so-called “compound linkage” where “a proximal component pivots about a defined hinge axis” and a “distal component” connected through a linkage to the proximal component also “undergo[es] pivot-driven displacement” even if the distal component undergoes its own local rotation about a second axis. Ex.1015, ¶ 9; Ex.1022, 117:19-119:11. Critically, as Dr. Vallee concedes, *Rosnak never states that the distal component pivots about the first axis* just because it is connected via

a linkage to the proximal component. Ex.2022, 120:11-121:8; *see also id.* at 117:19-118:20. Rosnak, therefore, provides no support for Dr. Vallee’s construction.

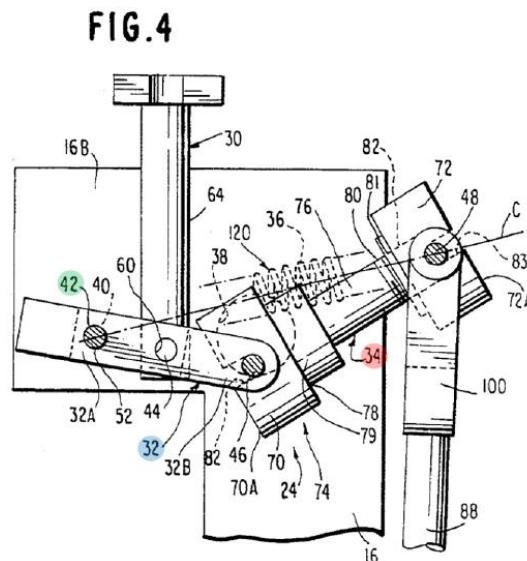
Simon describes a chair having a table connected to it via a support 54 having a first mounting portion 56 (blue) that rotates about a first pivot axis 44 (green) and a second mounting portion 82 (red) that also pivots about the first pivot axis 44. Ex.1015, ¶ 10; Ex.1017, [0008]; Ex.2022, 123:6-20. The table can rotate about a second pivot axis defined by the second mounting portion 82 (red) by pivoting a pivot member of the table about this second pivot axis. Ex.1015, ¶ 10; Ex.1017, [0008]; Ex.2022, 124:7-11.



Ex.1015, ¶ 10 (annotating Ex.1017, Figs. 1A & 3). Notably, Dr. Vallee conceded that Simon uses the terms “rotate” and “pivot” to mean the same thing. Ex.2022, 123:21-124:6; Ex.1017, [0008]. Dr. Vallee merely uses Simon as another “example of a multi-axis arrangement in which rotation about a primary pivot axis drives the displacement of connected components, even though distal portions of the linkage

may undergo their own local rotations about a second, structurally distinct pivot axis.” Ex.1015, ¶ 10. Like Rosnak, Dr. Vallee admits that Simon never uses terminology stating that the table (distal component) engages in pivotal movement or pivots or rotates about the first pivot axis. Ex.2022, 127:14-128:12. Thus, Simon also fails to support Dr. Vallee’s construction.

Francart describes a toggle linkage mechanism in which a first link 32 (blue) is pivotally coupled at its left end to a fixed support via a first pin 42 (green) defining a “second pivot axis” about which it pivots and pivotally coupled at its right end to a second link 34 (red) via a second pin 46 defining a “first pivot axis” about which it pivots. Ex.1015, ¶ 11; Ex.1018, Abstract, 4:18-26; Ex.2022, 129:18-131:20.



Ex.1015, ¶ 11 (annotating Ex.1018, Fig. 4). Like Rosnak and Simon, Dr. Vallee uses Francart as “simply another example of how you can have [a] multiple component linkage where two individual pieces rotate.” Ex.1015, ¶ 11; Ex.2022, 134:2-135:5.

As Dr. Vallee concedes, Francart never uses terminology stating that the second link (distal component) pivots or rotates or engages in pivotal movement about the first pin (green) pivotally coupled to the first link (proximal component). Ex.2022, 135:7-17, 136:9-18. Therefore, Francart also fails to support Dr. Vallee's construction.

The unremarkable fact that so-called "compound linkages" coupling two components that rotate about different axes may be "common" provides no support for Petitioner's argument that "a pivotal axis for pivotal movement of the pivotal mount" does not require rotational motion about an axis of rotation. Further, Petitioner identifies zero intrinsic evidence supporting Petitioner's construction. The Board, therefore, should reject Petitioner's exclusive reliance on Dr. Vallee's unsupported expert testimony. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1318 (Fed. Cir. 2005) ("[C]onclusory, unsupported assertions by experts as to the definition of a claim term are not useful to a court" and expert testimony that is "at odds" with the intrinsic evidence should be discounted). Notably, Dr. Vallee concedes that "there is no embodiment [in the '250 patent] with a linkage." Ex.2022, 111:10-17. Instead, the '250 patent claims and describes only a single axis of rotation for both the pivotal mount and attached/coupled mouthpiece.

Therefore, the Board should construe this limitation to mean "two joints that define an axis of rotation for rotational motion of the pivotal mount about the axis

such that a constant distance/radius from the pivotal mount to the axis is maintained.”

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

This term should 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 such that a constant distance/radius from the mouthpiece to the axis is maintained.” POR, at 40. Petitioner contends again that the claimed “pivotal movement” need not be rotational motion about an axis of rotation but can instead be satisfied if the mouthpiece merely “participates in the pivotal mount’s hinge-driven motion” or, in other words, “moves with [the] pivot-driven movement” “when the pivotal mount pivots.” Paper 24, at 9-10.

If the Board maintains its position at institution and aligns with its ’255 FWD, then the Board should construe “pivotal movement” as used in this limitation to have the same meaning as that term in the preceding limitation discussed in Section II.B, *supra*, and the same meaning as in the claims of the ’255 patent—requiring rotational motion about an axis of rotation. *See Phillips*, 415 F.3d at 1314 (“[C]laim terms are normally used consistently throughout the patent”); *Phonometrics, Inc. v. Northern Telecom Inc.*, 133 F.3d 1459, 1464 (Fed. Cir. 1998) (the same terms in a

claim “should be interpreted consistently.”); *see also In re Katz*, 639 F.3d at 1325 (consistent meanings across related patents); *Abtox*, 131 F.3d at 1010 (same).

Because the “pivotal mount” must engage in rotational motion about the claimed “pivotal axis” as an axis of rotation, as construed in Section II.B, *supra*, and because the mouthpiece must be “coupled to” or “disposed on” “the pivotal mount for pivotal movement **with** the pivotal mount,” the mouthpiece must move pivotally, *i.e.*, rotate, **with** the pivotal mount, meaning that the mouthpiece attached to the pivotal mount must, like the pivotal mount, rotate **about the same claimed “pivotal axis,” and do so in the same direction**. Paper 19, at 39-52. As set forth in Patent Owner’s Response, this construction is supported by all the intrinsic evidence, including the claim language, specification, and prosecution history, including the reexamination history of the ’255 patent. *Id.*; *Elkay Mfg. Co. v. EBCO Manufacturing Co.*, 192 F.3d 973, 980 (Fed. Cir. 1999) (“When multiple patents derive from the same initial application, the prosecution history regarding a claim limitation in any patent that has issued applies with equal force to subsequently issued patents that contain the same claim limitation.”). This construction is also supported by the credible testimony of Mr. Jobin and dictionary definitions, including those defining *with* as meaning “in the direction of” and being “a participant in an action,” *i.e.*, participating in the pivotal mount’s *pivotal movement* about the *pivotal axis* in the direction of that pivotal movement. Paper 19, at 39-52.

Petitioner improperly attempts to read out the “pivotal” requirement from the claimed “pivotal movement” because Petitioner contends this movement need not be rotational and can instead be merely *any* movement that occurs along with the pivotal movement of the pivotal mount. Specifically, Petitioner contends that the mouthpiece need only “participate[] in the pivotal mount’s hinge-driven motion” or, in other words, “move[] with [the] pivot-driven movement” “when the pivotal mount pivots.” Paper 24, at 9-10.

Petitioner’s construction is designed to attempt to make its claims read on Nakajima’s two-axis system in which its alleged mouthpiece does not rotate “with” its alleged pivotal mount about the first axis (hinge shaft 19), as required, but instead rotates freely about a second axis that prevents it from ever rotating about the first axis, like the Board found in the ’255 FWD. Ex.2023, 28-33. But Petitioner’s construction enjoys no support in the intrinsic or extrinsic evidence other than its expert’s unsupported opinion that the mouthpiece need not rotate with the pivotal mount about its axis merely because so-called “compound linkages” having multiple axes were common in the art. Paper 24, at 10 (citing Ex.1015, ¶18).

As discussed above, Dr. Vallee’s compound linkage theory lacks any intrinsic or extrinsic evidentiary support. *See supra* Sec. II.B. As Dr. Vallee conceded, “there is no embodiment [in the ’250 patent] with a linkage,” Ex.2022, 111:10-17, and none of the three references he used in support of his testimony ever use the term pivotal

movement in the way that he is proposing. *See* Ex.2022, 120:11-121:8, 127:14-128:12, 135:7-17, 136:9-18. Consequently, the Board should disregard Dr. Vallee’s unsupported testimony. *See Phillips*, 415 F.3d at 1318.

Accordingly, “a mouthpiece [coupled to the mount outlet of]/[disposed on] the pivotal mount for pivotal movement with the pivotal mount” recited in claims 1, 7, and 13 means “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 such that a constant distance/radius from the mouthpiece to the axis is maintained.”

III. ARGUMENT

A. **Gound 1 Fails Because Nakajima Does Not Disclose the *Mouthpiece’s* Required *Pivotal Movement with the Pivotal Mount* of the Claims**

Petitioner cannot prevail on Ground 1 because Nakajima does not disclose the *mouthpiece’s* required *pivotal movement with the pivotal mount* where the *pivotal mount* engages in *pivotal movement* about a *pivotal axis* that is defined by the *two joints*. Under Patent Owner’s constructions, Nakajima’s alleged *mouthpiece* never i) moves with rotational motion about the same axis of rotation as the pivotal mount because it does not maintain a constant distance/radius to that alleged axis (hinge shaft 19), nor does it ii) move with rotational motion in the same direction as the pivotal mount. *See* Ex.2016, ¶103, *see also supra* Secs. III.B-C. Thus, Nakajima fails

to disclose a mouthpiece “for pivotal movement with the pivotal mount” under the proper constructions set forth in Sections III.B and III.C, *supra*.

This is confirmed by the Board’s findings in the ’255 FWD, which found that Nakajima’s alleged mouthpiece “moves with translational motion, i.e., up-and-down movement, relative to the pivotal axis” (hinge shaft 19), not with pivotal movement, i.e., rotational motion, about the pivotal axis. Ex.2023, 28-29. The Board also found the mouthpiece moves in a “counter-clockwise” direction about “a second, and different, pivot axis” when the lid opens that is opposite the “clockwise” direction that the lid rotates about the pivotal axis defined by hinge shaft 19. *Id.* at 29-31. Finally, the Board concluded that this configuration results in the mouthpiece never maintaining a constant distance or radius from the required axis of rotation. *Id.* at 31-33.

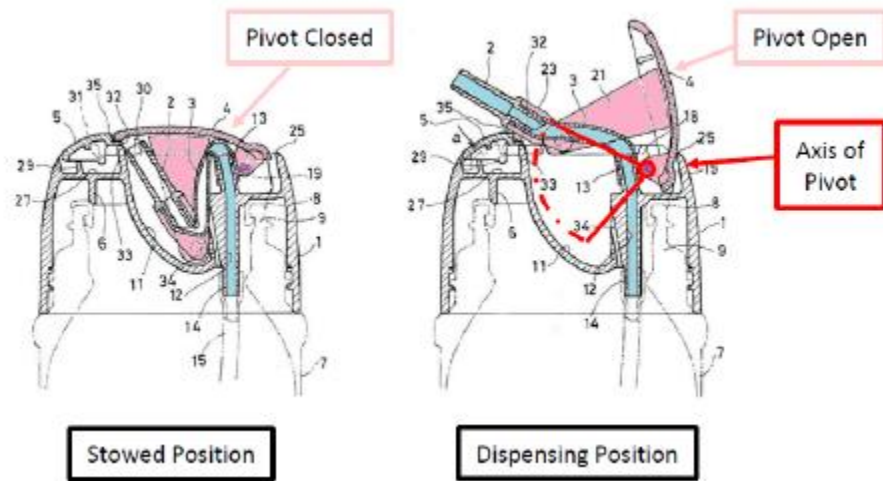
Petitioner argues that this limitation is met under its constructions, which encompass “compound motion with two rotational components” and do not require the mouthpiece to engage in rotational motion about the claimed pivotal axis. Paper 24, at 17-18. This argument fails, because, as discussed, Petitioner’s overbroad constructions are incorrect and, thus, it is insufficient that Nakajima’s mouthpiece merely participates in movement by being coupled via a linkage to the lid. *See supra* Sec. II.B-C.

Petitioner’s only theory for satisfying Patent Owner’s proper constructions is based on a new argument that Nakajima’s mouthpiece rotates together with its pivotal mount in the same clockwise direction about the same axis defined by hinge shafts 19 during “*early stages of opening*” or “*initial opening*” of Nakajima’s lid. Paper 24, at 23-24. Petitioner made this same new argument during the oral hearing in IPR2024-01137. Ex.2023, 33. The Board found this argument both untimely and unsupported by the evidence. *Id.* at 35.

Dr. Vallee attempted to demonstrate this “initial opening” theory by using “image-manipulation” software to manipulate Fig. 2. Paper 24, at 18, 23-24; Ex.1015, ¶¶ 23-25. He defines this “initial opening” phase as between zero and five degrees but admitted this was arbitrary. Ex.2023, 150:8-151:18. He also admits that Nakajima never describes any such “initial opening” or “early stage of opening,” much less defines it as from zero to five degrees. *Id.*, 152:3-15.

Importantly, Dr. Vallee never contends that the mouthpiece actually engages in rotational motion by being rigid with the lid and maintaining a constant distance or radius to the axis defined by the hinge shafts 19. Ex.1015, ¶ 25. Instead, he contends the mouthpiece is “*predominantly*” rotational about this axis and moves “as a *near-rigid* extension of the lid 4” given that it still has “opportunity to rotate independently about the secondary pivotal axis,” *i.e.*, defined by protrusions 24. *Id.* Dr. Vallee admits that during opening the curvature of the arc that the linkage (the

second axis defined by protrusions 24) follows, shown by the red-dashed arc below, does not align with and is not the same as the curvature of the recess wall 11 that the mouthpiece contacts during opening. Ex.2022, 155:3-156:20.



Ex.1015, ¶ 19. This is because, as he admits, the recess wall is not a continuous curvature or arc, as can be seen in Nakajima’s figures. Ex.2022, 156:7-20. For the mouthpiece to move as a rigid component with the lid in a rotational manner that maintains a constant radius to the axis defined by hinge shafts 19, the curvature of the wall 11 would have to be the same as the curvature of the red-dashed arc such that no rotation of the mouthpiece occurs about the secondary axis defined by protrusions 24. *Id.*, 156:21-158:20. But, as Dr. Vallee admits, Nakajima neither describes nor depicts any such equal curvature that would provide for “pure rotation” of its mouthpiece with the lid (i.e., pivotal mount) about the alleged pivotal axis defined by hinge shafts 19. *Id.*, 158:6-20. Petitioner’s “initial opening” theory,

therefore, is unsupported by the evidence and fails to establish rotational motion about the same claimed pivotal axis in the same direction as the pivotal mount.²

Therefore, Nakajima does not satisfy Patent Owner's constructions.

Petitioner, therefore, has failed to show that Nakajima's alleged *mouthpiece* engages in "pivotal movement with the pivotal mount" where the pivotal mount engages in "pivotal movement" about a "pivotal axis" defined by the two joints.

B. Grounds 2 and 3 Fail Because Ribarits Does Not Disclose or Render Obvious a *Mouthpiece* or the Required Relationship Between the *Mouthpiece* and *Pivotal Mount*

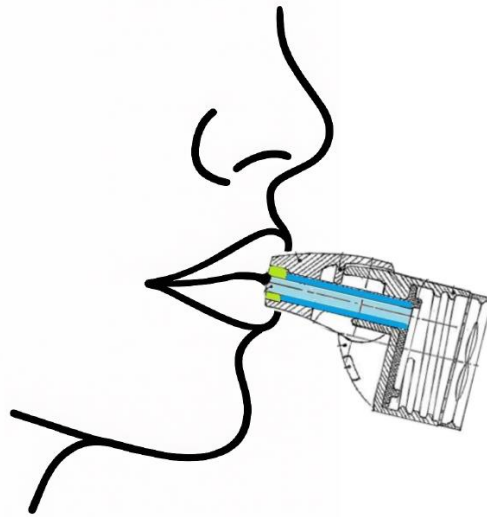
1. Ribarits Does Not Disclose a "Mouthpiece" That Defines the "Dispensing Outlet"

First, Petitioner relies on its proposed construction of "mouthpiece" as not requiring it to be designed for a user to place his or her mouth on it to argue that Ribarits' alleged green "mouthpiece" satisfies the claimed "mouthpiece" that "defines" the "dispensing outlet." Reply, 25-26. This construction is incorrect. When properly construed, the claimed "mouthpiece" must be "a part designed for a user to

² While Dr. Vallee stated in his declaration that "Nakajima's mouthpiece *rotates* approximately 70° clockwise together with the pivotal mount about the primary pivotal axis," he clarified during deposition that he could have phrased it better because he was "not trying to contend that the mouthpiece engages in pure rotation about the primary pivot axis." Ex.2022, 169:2-170:6.

put his or her mouth on to draw liquid from the container.” *See supra* Sec. II.A. Thus, it is not enough that Ribarits’ alleged mouthpiece can be brought “near” or can “approach” the user’s mouth. It is also irrelevant that Ribarits’ alleged mouthpiece can hover inside a user’s mouth without ever contacting it, because the ability of a user to contact the mouthpiece with their mouth is required. As discussed, a mere fluid conduit and dispensing outlet that can be placed near or even within the mouth (i.e., hovering) to dispense fluid into the mouth without having a part designed for the user to put his or her mouth on reads out the separately claimed “mouthpiece” and is insufficient.

Second, Petitioner argues that Ribarits’ green alleged mouthpiece still satisfies Patent Owner’s construction, if adopted, because Petitioner implies it is designed for the user to place his or her mouth on it. Reply, 26-28. Petitioner resorts to a *kissing* hypothetical in which a user presses the front surface of their puckered lips against the green portion, rather than opening their mouth and placing their lips on the uncolored drinking spout 3 that is not part of the alleged “mouthpiece”:



Reply, 28. First, this is an improper new argument not made in the Petition that should be disregarded. 37 C.F.R. § 42.23(b); Trial Practice Guide (Dec. 2025), at Sec. II.I; *Intelligent Bio-Sys., Inc. v. Illumina Cambridge, Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016); *see also* Paper 14, at 37 (noting Petition failed to explain how it is a mouthpiece). Second, even if considered, it is not persuasive and unsupported.

As can be plainly seen in Petitioner's figure, the user's mouth is closed, which would, of course, prevent any fluid from actually being dispensed to the user's mouth. Further, there is no disclosure in Ribarits that a user actually would be able to drink fluid from the green alleged mouthpiece with their lips puckered while maintaining contact of the front surface of the lips against the face of the alleged mouthpiece. Ex.2022, 100:9-14 (agreeing the mouthpiece must allow the user to drink). Dr. Vallee conceded Ribarits failed to disclose this and testified that Ribarits is concerned with one-handed operation and being able to seal to prevent leaks,

rather than describing how a user would apply their mouth. Ex.2022, 106:10-109:4. Finally, even if record evidence existed establishing that a user could drink in the “kissing” configuration shown, contacting the surface of the lips is not the same as the user placing their mouth on the mouthpiece, because the “mouth” is the “opening” through which fluid or liquid passes and not merely the surface of the lips.³ Ribarits, therefore, fails to satisfy Patent Owner’s construction even under Petitioner’s newly manufactured “kissing” theory.

2. Ribarits Does Not Disclose the Required Relationships between the *Mouthpiece* and the *Pivotal Mount*

Patent Owner reiterates its arguments that Petitioner fails to show that Ribarits discloses that its alleged mouthpiece is “coupled to” or “disposed on” the pivotal mount. Paper 19, 77-81. Petitioner’s argument relying on the “snapping” recited in claim 7 of Ribarits is new and should be disregarded. And, in any event, Ribarits provides no explanation of what it means by “snapping.”

IV. CONCLUSION

The patentability of the Challenged Claims should be confirmed.

³ <https://www.merriam-webster.com/dictionary/mouth>; *B.V.D. Licensing Corp. v. Body Action Design, Inc.*, 846 F.2d 727, 728 (Fed. Cir. 1988) (courts may take judicial notice of dictionaries).

Dated: January 23, 2026

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

Pursuant to 37 C.F.R. § 42.24(d), Petitioner hereby certifies, in accordance with and reliance on the word count provided by the word-processing system used to prepare this Sur-reply, that the number of words in this paper is 5,580, which is within the 5,600-word type-volume limit set by § 42.24(d). Pursuant to 37 C.F.R. § 42.24(d), this word count excludes the table of contents, table of authorities, certificate of service, certificate of word count and appendix of exhibits.

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on January 23, 2026, a complete and entire copy of the foregoing Patent Owner's Sur-reply was provided via electronic mail to Petitioner's counsel of record as follows:

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