

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Starbucks Corporation

Petitioner

v.

PI-DESIGN AG

Patent Owner

U.S. Patent No. 8,695,486

Issued: April 15, 2014

Named Inventors: Jørgen Bodum

Title: PLUNGER-FILTER BEVERAGE-MAKING MACHINE WITH A
CLOSABLE POURING OPENING

Case No. IPR2025-01178

**PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 8,695,486**

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
EX1001	U.S. Patent No. 8,695,486 (“‘486 Patent”)
EX1002	File History of ‘486 Patent
EX1003	Curriculum vitae of Michael Jobin
EX1004	Declaration of Michael Jobin
EX1005	Complaint (Case No. 1:24-cv-05319 (N.D. Ill.)(June 25, 2025)
EX1006	U.S. Patent No. 6,295,920 (“Barden”)
EX1007	U.S. Patent No. 6,755,120 (“Lin”)
EX1008	U.S. Patent No. 7,578,231 (“Liu”)
EX1009	<i>Reserved</i>
EX1010	<i>Reserved</i>
EX1011	Merriam-Webster Dictionary Definition of “Lever”
EX1012	Cambridge Dictionary Definition of “Lever”
EX1013	U.S. Patent Application Publication No. 2003/0185949 (“Brady”)
EX1014	U.S. Patent Application Publication No. 2009/0057349 (“US349”)
EX1015	U.S. Patent Application Publication No. 2007/0295760 (“Geroult”)
EX1016	U.S. Patent No. 5,570,623 (“US623”)
EX1017	U.S. Patent No. 3,113,706 (“Wickman”)
EX1018	U.S. Patent No. 2,162,348 (“Hacmac”)
EX1019	U.S. Patent Application Publication No. 2005/0115977 (“Dibdin”)
EX1020	U.S. Patent No. 7,194,951 (“Porter”)
EX1021	Excerpts of: Graybill, G. (2007). <i>Simple machines</i> . Classroom Complete Press.
EX1022	Scheduling Order (ECF 47) (1:24-cv-05319 (N.D. Ill.))
EX1023	Kumstova, K. (2018, March 22). <i>The history of French Press</i> . European Coffee Trip. https://europeancoffeetrip.com/the-history-of-french-press/
EX1024	Snyder, T. (2018, August 3). <i>How to French Press like a Pro — Illuminate Coffee Bar</i> . Illuminate Coffee Bar. https://www.illuminatecoffeebar.com/journal/2018/7/22/how-to-french-press-like-a-pro...)
EX1025	What does French Press coffee taste like? (Flavor profile & texture). (2025, April 9). Nowhere Coffee Club. https://nowherecoffeeclub.com/blogs/french-press-101/what-does-french-press-coffee-taste-like...)
EX1026	PCT Publication No. WO2009137915

<u>Exhibit No.</u>	<u>Description</u>
EX1027	U.S. Patent No. 7,737,004

I. INTRODUCTION

In accordance with 35 U.S.C. §§ 311–319 and 37 C.F.R. § 42.100 *et seq.*, Starbucks Corporation (“Starbucks” or “Petitioner”) respectfully requests that the Board institute *inter partes* review and cancel claims 1–22 of U.S. Patent No. 8,695,486 (“‘486 Patent,” EX1001).

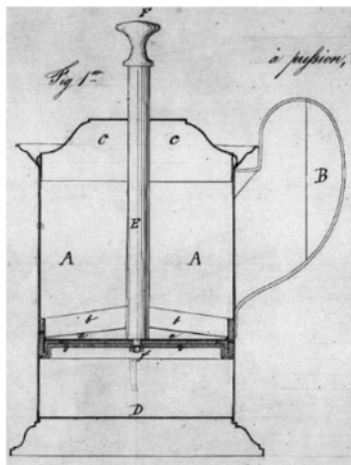
The challenged claims relate to a French Press with a closable pouring opening. The ‘486 Patent teaches: “‘French Press’ coffee makers have long been known from the prior art.” (EX1001, 1:17-18.) The ‘486 Patent acknowledges that claim limitations of the ‘486 Patent are found in these prior art French Press devices. (*Id.*, 1:18-23) (noting a piston rod with a filter piston passed through a lid disposed in a cylindrical vessel).) Although, Patent Owner contends that it “applied for and received a patent – the ‘486 Patent – on the lid[.]” (EX1005, ¶ 18.), Patent Owner is being imprecise. It is the closure mechanism of the lid that Patent Owner has asserted in the specification and file history to be the patentable feature of the claim. However, the claimed closure mechanism simply closes a hole of a container that houses fluid via a lever. Clearly, a need existed to keep fluid in the appropriate container and prior art closure mechanisms both (a) solved that need and (b) read on the challenged claims. Claim 14 and select dependent claims are invalid as anticipated because Patent Owner claimed an existing beverage container with a lever closure mechanism. All claims of the ‘486 Patent are invalid as obvious as the

claims recite features of a French Press design with features of an existing lid design including a closure mechanism and one skilled in the art would be motivated to combine such designs with a reasonable expectation of success.

II. THE '486 PATENT

A. Technical Background

The “World Atlas of Coffee” from 1852 depicts a one of the first documented French Presses.



(EX2023, p. 4.) The first patent applications followed in the late 1920s. (*Id.*)

The French Press coffee maker employs a simple, yet effective brewing technology based on immersion and mechanical filtration principles. Other push presses using the same principles were similarly used to brew tea. (EX1026.)

The device consists of a cylindrical container (typically glass, stainless steel, or plastic) with a Piston Assembly that includes a piston, a knob, and a metal mesh filter. The Piston Assembly moves vertically through the container via operation of the knob and piston.

The technology relies on full immersion brewing, where coarsely ground coffee steeps in hot water for about 4 minutes. This extended contact time allows for complete extraction of oils, acids, and flavor compounds from the coffee grounds. (EX1024.)

A key technological component is the multi-layered non-adsorptive mesh filter, usually made of stainless steel. This filter has openings fine enough to separate liquid coffee from grounds while allowing oils and fine particles to pass through, creating the characteristic full-bodied texture. Unlike paper filters, the metal mesh does not absorb coffee oils.

The user creates downward pressure via operation of the Piston Assembly to separate the brewed coffee from the spent grounds. This mechanical separation is achieved through the user's manual force rather than external pressure systems.

This technology produces coffee with more oils and sediment than filtered methods, resulting in a richer, more robust flavor profile. (EX1025.) However, the prior art also recognized issues with heat retention, oxidation, and safety associated with the French Press devices themselves.

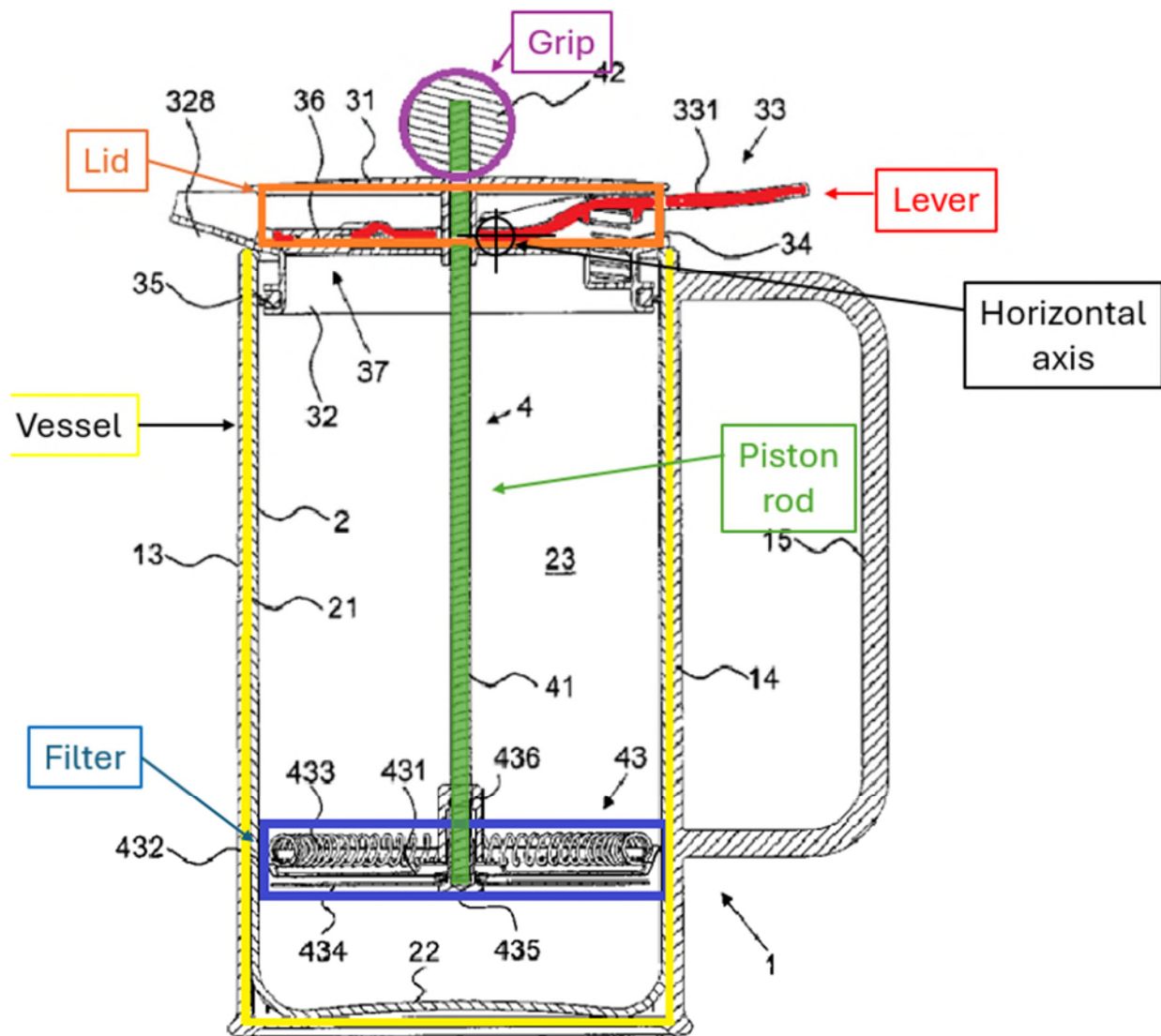
B. Summary of the '486 Patent

The '486 Patent describes a "beverage-maker" with the following features:

1. an upwardly-open, substantially cylindrical vessel (shown in yellow in below annotated figure);

2. a filter piston (green) with a knob (purple) on one end and a plunger-filter (blue) on the other end;
3. a lid (orange) covering the vessel with two holes: one for the filter piston and one for liquid to escape (area designated 37); and
4. a finger-actuated transverse lever (red) attached to the lid above a wall covering the vessel that closes the liquid-escape hole.

(EX1001, Abstract, 2: 4-33.)



(*Id.*, Fig. 3 (annotated).) The ‘486 Patent teaches that the finger-actuated lever is “very simply constructed” (*id.*, 2:55-56) and ensures no operator error or heat loss. (*Id.*, 2:34-41.)

The ‘486 Patent admits elements 1-3 (the vessel, piston rod assembly, and lid) are aspects of prior art French Press designs. (*Id.*, 1:17-23.) Element 4 (the lever disposed in the lid, shown in red above) is allegedly the patentable feature.

C. Claims of the ‘486 Patent

The ‘486 Patent contains three independent claims and a total of twenty-two claims. Claim 1 is representative and recites:

1. A beverage-maker, comprising

an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall;

a filter piston vertically displaceable in the vessel, having a piston rod to whose upper end a grip element is attached, and to whose lower end a plunger-filter is attached, which plunger-filter is suitable for allowing the passage of liquid and, at the same time, for retaining solids; and

a lid, which is passed through by the piston rod and has a top wall which at least partially covers the vessel in an upward direction and which, jointly with the vessel, delimits a vessel interior, wherein the top wall has a first opening and a second opening, the first opening being a through opening, through which the piston rod extends, and the second opening being a pouring opening,

wherein, on the lid or on the vessel, outside the vessel interior, a spout is configured, wherein the pouring opening is disposed between the through opening and the spout and forms a connection between the vessel interior and the spout in order to pour liquid out of the vessel through the pouring opening by means of the spout, and

wherein an elongated lever, extending transversely to the piston rod, is attached to the lid above the top wall pivotably about a horizontal axis, the elongated lever having a closure body in a region of its front end for closing the pouring opening, and the elongated lever having an actuating surface in a region of its rear end, facing away from the pouring opening, in order to pivot the elongated lever, by virtue of pressure exerted by a finger of a user, from a first position, in which the closure body closes the pouring opening, into a second position, in which the closure body frees the pouring opening.

(EX1001, Claim 1.) Claims 2-4 and 6-13 depend, directly or indirectly, from claim 1. Independent claim 5 is substantially the same as claim 1. Independent claim 14 is broader than claims 1 and 5 and do not require a piston rod, plunger-filter, a grip, or a hole in the wall of the lid to allow for the piston rod (the “Piston Assembly”). Claims 15-22 depend, directly or indirectly, from claim 14. All claims are product claims. (See, Claims Appendix.)

D. Prosecution History of the ‘486 Patent

U.S. Patent Application No. 12/997,202 was filed on December 9, 2010 as a national stage (§ 371) entry of PCT Application No. PCT/CH2009/000152, which was filed on May 8, 2009 and claims priority to CH 00874/08, which was filed on June 10, 2008. (EX1002, p. 31.) In the first office action, the Examiner rejected all pending claims as indefinite for reciting the term “actuating region” and obvious over Barden (EX1006) in view of Lin (EX1007) alone or in further view of Liu (EX1008). (EX1002, pp. 183-187.)

The Examiner reasoned that Barden disclosed all of the limitations of the independent claims except for “wherein, on the lid or on the vessel, outside the vessel interior, a spout is configured wherein the lid has a pouring opening, which is disposed between the piston rod and the spout in the top wall and which forms a connection between the vessel interior and the spout in order to pour liquid out of the vessel through the pouring opening by means of the spout, and wherein an elongated lever, extending transversely to the piston rod, is attached to the lid above the top wall pivotably about a horizontal axis, the lever in the region of its front end for closing the pouring opening, and the lever having an actuating region in the region of its rear end, facing away from the pouring opening in order to pivot the lever, by virtue of pressure exerted by a finger of the user, from a first position, in which the closure body closes the pouring opening into a second position, in which the closure body frees the pouring opening.” (*Id.*, pp. 184-185.) However, the Examiner found these deficiencies were remedied by Lin. (*Id.*, pp. 185-186.)

In response, Patent Owner amended claim 1 to cancel “actuating region” and insert “actuating surface” to address the indefiniteness rejection. (*Id.*, p. 198.) In addressing the obviousness rejection, Patent Owner asserted that Barden lacked “a spout configured wherein the lid has a pouring opening, which is disposed between a piston rod and the spout” and “an elongated lever”; and Lin lacked a “lever having closure body in the region of its front end for closing the pouring opening.” (*Id.*, pp.

203-205.) Regarding Lin, Applicant stated: “The construction of the beverage maker according to Lin, with the push member 7 and the discharge control assembly 4 representing separate parts, is obviously more complicated than the beverage maker according to the present application. (*Id.*, pp. 204-205) (emphasis in original).)

In light of Patent Owner’s amendment, the Examiner withdrew the indefiniteness rejection. The obviousness rejection was maintained in a final rejection for all independent claims. However, the Examiner indicated that claims 4-7, 9, 11-13, 17-19 and 19 were allowable if rewritten in independent form.

Patent Owner submitted an after-final response adding “wherein the top wall has a first opening and a second opening, the first opening being a through opening, through which the piston rod extends, and the second opening being a pouring opening” to claim 1. (*Id.*, p. 322.) In its remarks, Patent Owner again attempted to distinguish Lin based on the “elongated lever” limitation, stating the “Disc shaped base 42 [of Lin], which is used for opening and closing passageway 31, is not part of lever 7, but is part of the discharge control assembly 4.” (EX1002, p. 331 (emphasis in original).)

In the Notice of Allowance, mailed November 26, 2013, the Examiner stated:

- “[Independent] Claim 1 is allowable because of the limitation ‘the top wall has a first opening and a second opening the first opening being a through

opening, through which the piston rod extends, and the second opening being a pouring opening.’”;

- “[Independent] Claim 5 is allowable because of the limitation ‘wherein an elongated lever, extending transversely to the piston rod, is attached to the lid above the top wall pivotably about a horizontal axis, the elongated lever having a closure body in a region of its front end for closing the pouring opening, and the elongated lever having an actuating surface in a region of its rear end, facing away from the pouring opening, in order to pivot the elongated lever, by virtue of pressure exerted by a finger of a user, from a first position’.”; and
- “[Independent] Claim 14 is allowable because of the limitation ‘the horizontal axis being arranged between the closure body and the actuating surface of the elongated lever’.”

(*Id.*, p. 347.) Patent Owner submitted the issue fee on February 25, 2014 without comment and the ‘486 Patent issued on April 15, 2014. (*Id.*, pp. 357, 362.)

III. MANDATORY NOTICES

A. Notice of Real Party-in-Interest (37 C.F.R. § 42.8(b)(1))

The real party-in-interest is Starbucks Corporation. Pacific Marketing International LLC is also a real-party-in-interest as an indemnitor to and in privity with Starbucks Corporation.

B. Notice of Related Matters (37 CFR § 42.8(b)(2))

Bodum USA Inc. and Pi-Design AG filed Case No. 124-cv-05319 on June 25, 2024 in federal district court in the Northern District of Illinois alleging that Starbucks infringes more than one claim of the '486 Patent and breached a contract. Per the most recent scheduling order, dated June 4, 2025 (EX2022), final invalidity contentions are due August 4, 2025 and fact discovery closes October 27, 2025. No trial date has been set and any final written decision issued in this trial is expected to be before any district court trial.

The parties are also engaged in another active litigation regarding a breach of contract claim. (Case No. 1:23-cv-02946 (N.D. Ill.)).

C. Designation of Lead and Back-up Counsel (37 CFR § 42.8(b)(3))

Lead Counsel: Thomas J. Campbell, Jr. (Reg. No. 70,094). Email: tcampbell@nge.com.

Back-up Counsel: Bradley F. Rademaker (Reg. No. 35,331). Email: brademaker@nge.com.

Address: Neal, Gerber & Eisenberg LLP, 225 W. Randolph, Suite 2800, Chicago, IL 60606; Tel: (312)-269-8000; Fax: (312)-980-0867.

A power of attorney under 37 C.F.R. § 42.10(b) accompanies this Petition.

D. Service Information (37 C.F.R. § 42.8(b)(4))

Petitioner consents to electronic service at Starbucks486IPR@nge.com.

E. Payment of Fees (37 C.F.R. § 42.15(a))

The Office is authorized to charge the required fee under 37 C.F.R. § 42.15(a) and any additional fees to Deposit Account No. 502261.

F. Certification of Grounds for Standing (37 C.F.R. § 42.104(a))

Petitioner certifies that the ‘486 Patent is eligible for *inter partes* review and that Petitioner is neither barred nor estopped from requesting a review of the challenged claims on the grounds identified herein.

IV. PERSON OF ORDINARY SKILL IN THE ART

A person of ordinary skill in the art (“POSA”) is a hypothetical person who is presumed to have known the relevant art at the time of the invention. *See* MPEP § 2141.03. A POSA has ordinary creativity, is not an automaton, and is capable of combining the teachings of the prior art. *See, e.g., KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 420–21 (2007).

Petitioner submits that a POSA would have been an individual with a bachelor’s degree in mechanical engineering or the equivalent coursework and approximately one year of experience with liquid-dispensing devices, with more work experience substituting for less education and vice versa. (EX1004, ¶¶ [0048]-[0052].)

V. CLAIM CONSTRUCTION

In accordance with 37 C.F.R. § 42.100(b), the challenged claims are construed according to the ordinary and customary meaning of such claims 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). Petitioner requests construction of two (2) terms that are clarified by the prosecution history (EX1002). Petitioner also contends that Patent Owner based on the statements in the file history, highlighted in Section II(D), that Patent Owner disclaimed any lever assembly with respect to claims [1.5], [4.5] and [14.5]. *Biogen Idec, Inc. v. GlaxoSmithKline LLC*, 713 F.3d 1090, 1095 (Fed. Cir. 2013) (“when the patentee unequivocally and unambiguously disavows a certain meaning to obtain a patent, the doctrine of prosecution history disclaimer narrows the meaning of the claim consistent with the scope of the claim surrendered.”).

A. “Elongated Lever”

The term “elongated lever” appears twice in the ‘486 Patent (*id.*, 2:24-25, 5:33-34) and no definition is provided. The term “lever” is used throughout the ‘486 Patent specification and is depicted as a single unitary structure. (*See, e.g.*, Section II(B), Fig. 3 (annotated) (red element).) Merriam-Webster provides that a “lever” is “a rigid piece that transmits and modifies force or motion when forces are applied at two points and it turns about a third.” (EX1011.) Cambridge teaches that a “lever” is “a bar or handle that moves around a fixed point[.]” (EX1012.) The intrinsic record showing that Patent Owner distinguished the claimed “elongated lever” to the structure in Lin based on the interpretation that the multi-component structure of Lin (i.e., a lever assembly) was not an “elongated lever” is instructive. (Section II(D),

supra.) Also, the ‘486 Patent teaches that the “lever has a closure body in the region of its front end for closing the pouring opening” (EX1001, 2:27-28), so the lever must span from the user’s intended finger to the end of the pouring opening to allow for “closing the pouring opening.” Taken together, Petitioner submits that “elongated lever” should be construed to mean “a unitary bar that (a) spans from the handle region across the pouring opening; and (b) is capable of moving around a fixed point.” (EX1004, ¶¶ [0074].) This proposed construction is in agreement with the customary usage of the term, the specification, the prosecution history, and extrinsic dictionary definitions. (EX1004, ¶¶ [0062]-[0074].)

B. “Closure Body”

The specification makes it clear that the closure body is connected to and part of the lever body. (*E.g.*, EX1001, abstract (“The lever has, in the region of its front end, a closure body (36) in order to close the pouring opening and, in the region of its rear end, an operating region (331) in order to pivot the lever by virtue of pressure exerted by a finger of a user.”); *see also, id.*, 2:27-28 (“lever has a closure body in the region of its front end for closing the pouring opening[.]”)) The lever comprises a closure body, that may in some instances be made of a softer material, but this is not required. (*Id.*, 3:48-59.)

During prosecution, Patent Owner distinguished Lin (EX1007) on the basis that Lin’s closure body “was not part of [the] lever.” (Section II(D), *supra.*)

Petitioner submits that a “closure body” within the context of the ‘486 Patent means “the area of the elongated lever than contacts and releasably seals the pouring opening.” (EX1004, ¶¶ [0080].) This proposed construction is in agreement with the customary usage of the term, the specification, and the prosecution history. (EX1004, ¶¶ [0075]-[0080].)

VI. PRIOR ART

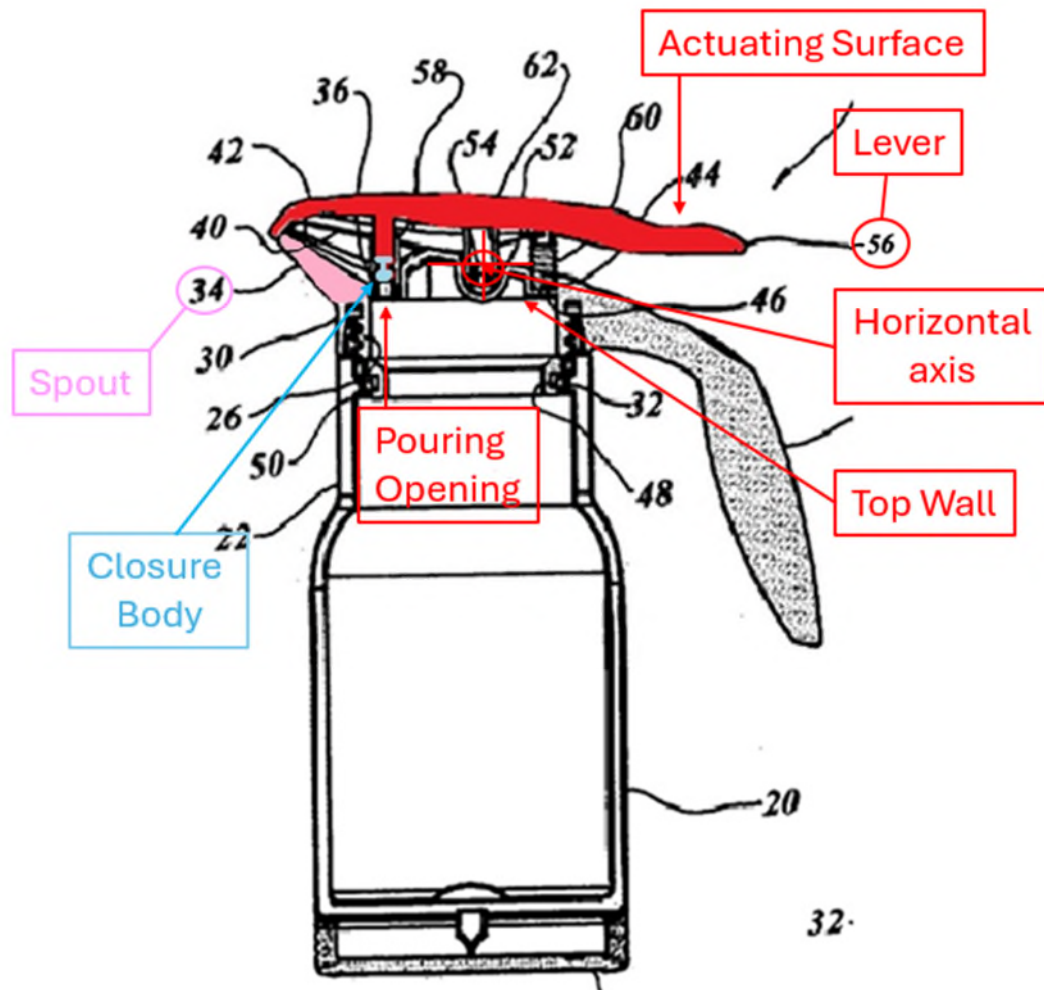
The ‘486 Patent claims priority to a Swiss Patent Application No. 00874/08, filed on June 10, 2008. For purposes of this Petition only, Starbucks assumes that Patent Owner is entitled to the June 10, 2008 priority date.

A. U.S. Patent Application Publication No. 2009/0057349 (“US349”)

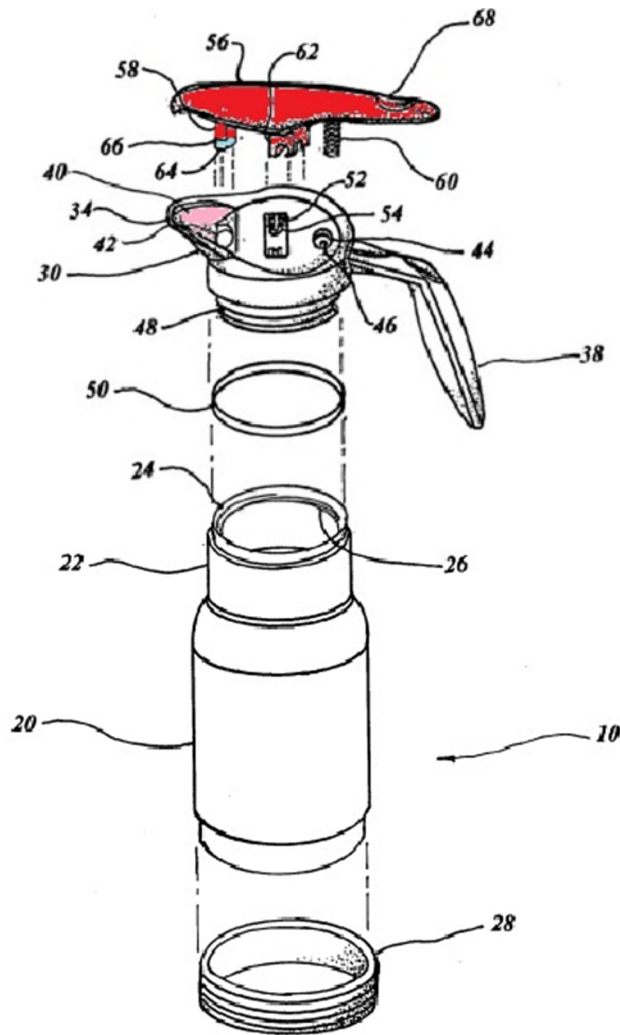
U.S. Patent Application Publication No. 2009/0057349 (“US349”) (EX1014) published on March 5, 2009 from an application that was filed on August 31, 2007 by a different inventive entity from the ‘486 Patent¹ and, thus, qualifies as prior art pursuant to §§ 102(a) and 102(e).

¹ US349 was invented and filed by Shin-Shuoh Lin of Laguna Hills, California (EX1014); and resulted in U.S. Patent No. 7,735,698. In contrast, EX1007 (Lin), which was considered during prosecution, was invented by Yu-Yuan Lin of Tainan, Taiwan. Thus, Exhibits 1007 and 1014, although having an inventor with the same surname, are unrelated disclosures.

US349 discloses an elongated lever with a plug finger to obstruct a pouring opening in a vessel as shown by annotated Figure 7 below.



(EX1014, Fig. 7 (annotated).) An expanded view of the lid, including the elongated lever, is shown in Figure 9.

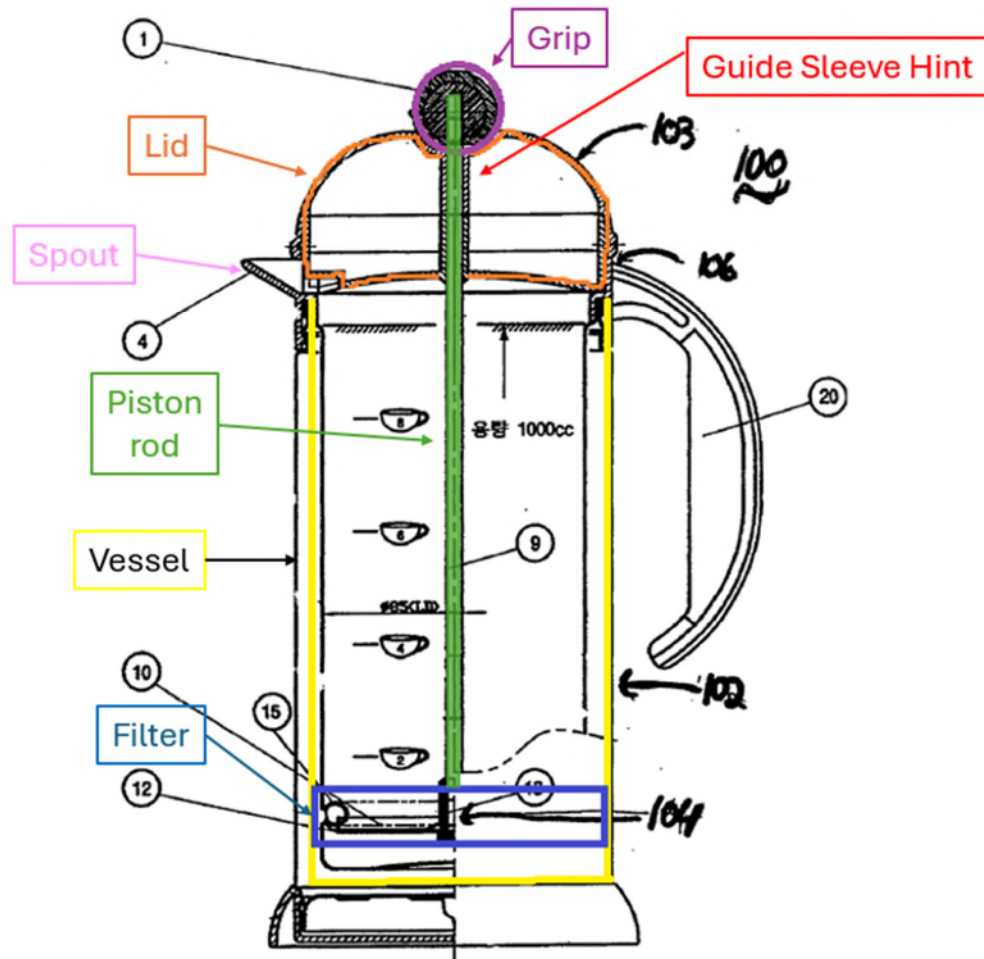


(EX1014, Fig. 9.) US349 describes “a carafe for storing and serving hot or cold beverages that include a combination of elements eliminating dripping after use.” (EX1014, ¶ [0001].) “When the lever 56 is depressed by an operator’s thumb, the plug finger 58 is pivoted away from the liquid cavity 36 permitting the beverage to flow freely and when released the plug finger 58 returns automatically to the cavity 36 by spring pressure thereby preventing dripping.” (*Id.*, ¶ [0031].)

B. U.S. Patent Application Publication No. 2003/0185949 (“Brady”)

U.S. Patent Application Publication No. 2003/0185949 (“Brady”) (EX1013)

published on October 2, 2003 from an application that was filed on March 27, 2002, and thus, qualifies as prior art pursuant to § 102(b). Brady discloses a classic French Press, including a grip, a lid, a piston rod, filter, and vessel, with an additional screen to catch additional solids.



(EX1013, Fig. 1 (annotated).)

C. U.S. Patent Application Publication No. 2007/0295760 (“Geroult”)

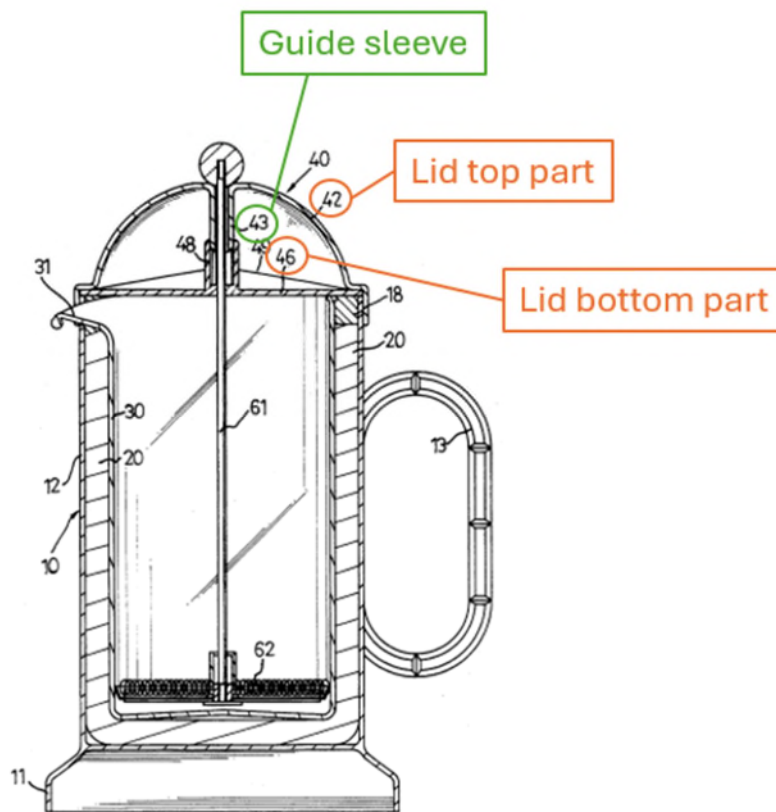
U.S. Patent Application Publication No. 2007/0295760 (“Geroult”) (EX1015)
published on December 20, 2007 from an application that was filed on June 15, 2006

(EX1015, Fig. 2 (annotated).)



D. U.S. Patent No. 5,570,623 (“US623”)

U.S. Patent No. 5,570,623 (“US623”) (EX1016)² issued on November 5, 1996 and, thus, qualifies as prior art pursuant to § 102(b). US623 discloses a heat retaining coffee pot comprising “a housing 10...a lid unit 40, and a filter unit 60.” (EX1016, 1:57-60.) The lid of US623 is a two-part lid with a guide sleeve disposed in between the two lid parts. (*Id.*, 2:30-44).

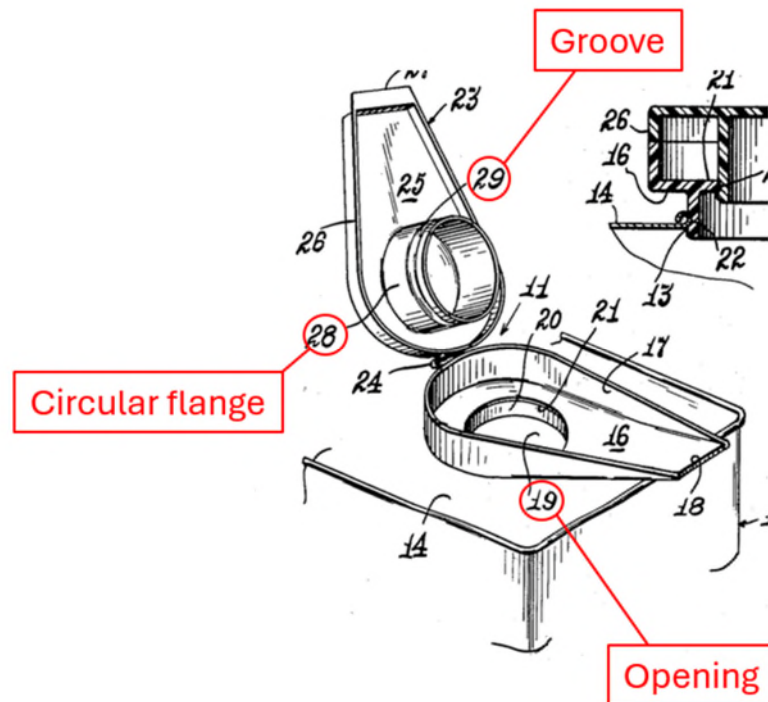


(EX1016, Fig. 3 (annotated).)

² US623 was invented by Henry Lin of Paipei, Taiwan and is a different inventor from the Lin inventor of the art considered during prosecution. *See*, fn. 1.

E. U.S. Patent No. 3,113,706 (“Wickman”)

U.S. Patent No. 3,113,706 (“Wickman”) (EX1017) issued on November 8, 1961 and thus, qualifies as prior art pursuant to §102(b). Wickman discloses a “pouring dispenser” (EX1016, title) with a cover 23. (EX1016, 3:1-5.) The cover has a circular opening 19 sized to snap-fit a flange. (*Id.*, 3:15-26.)



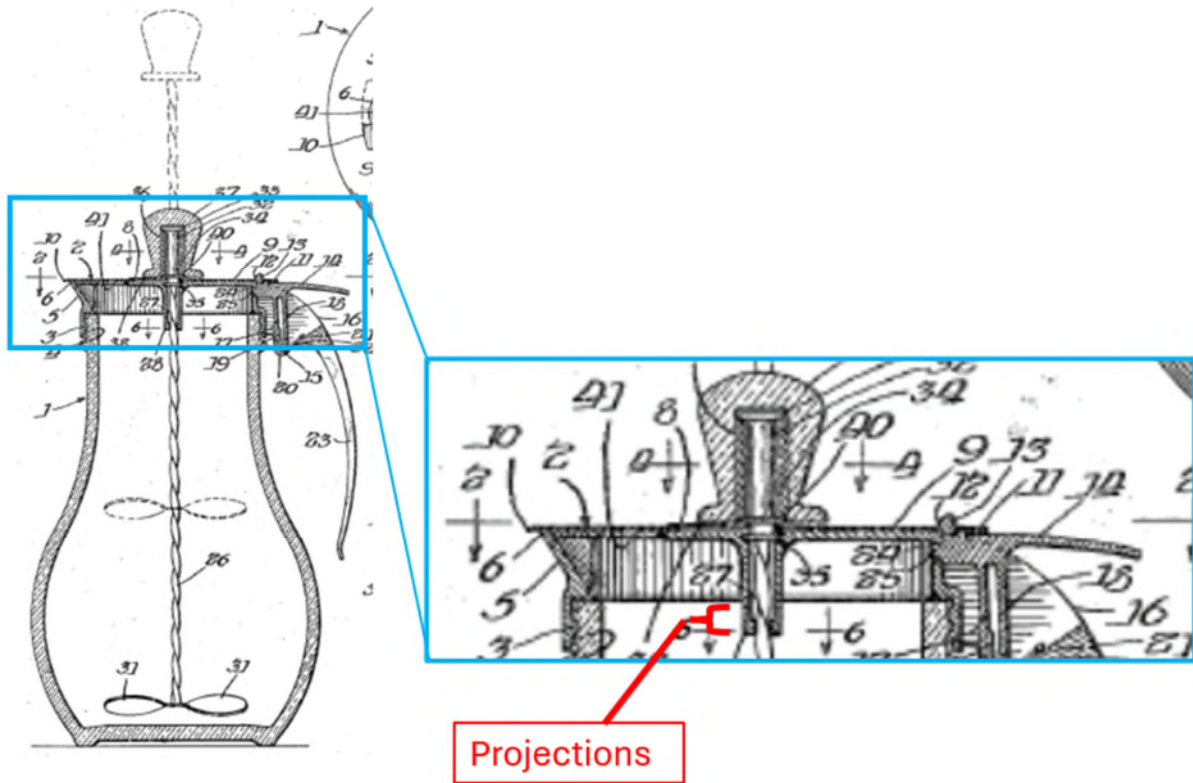
(EX1016, Fig. 1 (annotated).)

F. U.S. Patent No. 2,162,348 (“Hacmac”)

U.S. Patent No. 2,162,348 (“Hacmac”) (EX1018) issued on June 13, 1939 and, thus qualifies as prior art pursuant to § 102(b). Hacmac discloses a liquid dispenser and mixer, which has a vessel, a lid with a central channel, a grip, and a plunger rod. (*See, e.g., id.*, Fig. 1). Much like a French Press, the central rod is

intended to move up and down to mix components in the vessel. (*Id.*, 4:51-59.)

Hacmac teaches “inwardly extending projections 28” that extend into the vessel interior. (EX1017, 3:51-55).



(EX1017, Fig. 1 (annotated).)

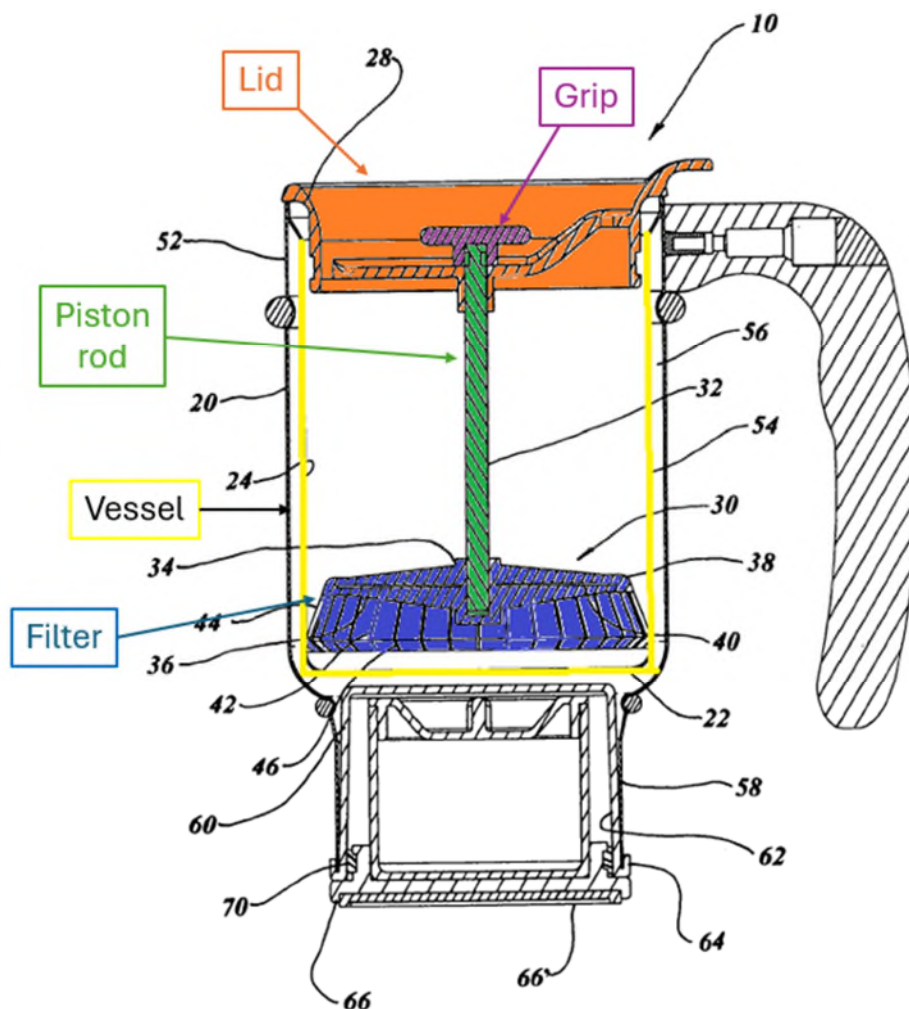
G. U.S. Patent Application Publication No. 2005/0115977 (“Dibdin”)

U.S. Patent Application Publication No. 2005/0115977 (“Dibdin”) (EX1019) published on June 2, 2005, and, thus, qualifies as prior art under § 102(b). Claim 11 of Dibdin recites “beverage container” with a vessel, a cover with a liquid passage, a valve assembly, and “a relatively soft flexible and resilient gasket” that “yieldably deforms” to provide “a fluid-tight seal.” (EX1019, claim 11.) Dibdin teaches that

this elastomeric gasket 84 engages with the sharp edge of valve seat 52 to open/close the passage. (*Id.*, Fig. 6, ¶¶ [0032], [0035], [0039]-[0042].)

H. U.S. Patent No. 7,194,195 (“Porter”)

U.S. Patent No. 7,194,951 (“Porter”) (EX1020) issued on March 27, 2007 and, thus, qualifies as prior art under § 102(b). Porter discloses a French Press in the form of a commuter mug with a storage container. (EX1020, 1:6-9, 2:9-31.) Like Brady, Porter discloses a vessel, a piston rod attached to a grip and a filter, a lid and a handle.



(EX1020, Fig. 5 (annotated).)

VII. SUMMARY OF GROUNDS OF UNPATENTABILITY

Challenged Claims	Prior Art	Basis
14-17, 19-21	US349	§ 102
1-9, 14-21	US349, Brady	§ 103
1-9, 14-22	US349, Brady, Geroult	§ 103
1-9, 14-22	Brady, US349, Geroult	§ 103
10-11	Brady, US349, Geroult, US623	§ 103
11	Brady, US349, Geroult, US623, Wickman	§ 103
12-13	Brady, US349, Geroult, US623, Hacmac, +/- Wickman	§ 103
7, 19	Brady, US349, Geroult, Dibdin	§ 103
1-9, 14-21	Porter, US349	§ 103
1-9, 14-22	Porter, US349, Geroult	§ 103

VIII. STATEMENT OF THE PRECISE RELIEF REQUESTED AND THE REASONS THEREFORE (37 C.F.R. §§ 42.22(A) AND 42.104(B))

In Ground 1, Petitioner requests *inter partes* review and cancellation of claims 14-17 and 19-21 as unpatentable under 35 U.S.C. § 102 over US349 (EX1014).

In Ground 2, Petitioner requests *inter partes* review and cancellation of claims 1-9 and 14-21 as unpatentable under 35 U.S.C. § 103 over US349 (EX1014) in view of Brady (EX1013).

In Ground 3, Petitioner requests *inter partes* review and cancellation of claims 1-9 and 14-22 as unpatentable under 35 U.S.C. § 103 over US349 (EX1014) in view of Brady (EX1013) and/or Geroult (EX1015).

In Ground 4, Petitioner requests *inter partes* review and cancellation of claims 1-9 and 14-22 as unpatentable under 35 U.S.C. § 103 over Brady (EX1013) in view of US349 (EX1014) and/or Geroult (EX1015).

In Ground 5, Petitioner requests *inter partes* review and cancellation of claim 10-11 as unpatentable under 35 U.S.C. § 103 over Brady (EX1013) in view of US349 (EX1014), Geroult (EX1015), and US623 (EX1016).

In Ground 6, Petitioner requests *inter partes* review and cancellation of claim 11 as unpatentable under 35 U.S.C. § 103 over Brady (EX1013) in view of US349 (EX1014), Geroult (EX1015), US623 (EX1016), and Wickman (EX1017).

In Ground 7, Petitioner requests *inter partes* review and cancellation of claim 12-13 as unpatentable under 35 U.S.C. § 103 Brady (EX1013) in view of US349 (EX1014), Geroult (EX1015), US623 (EX1016), and Hacmac (EX1018) or in further view of Wickman (EX1017).

In Ground 8, Petitioner requests *inter partes* review and cancellation of claims 7 and 19 as unpatentable under 35 U.S.C. § 103 over Brady (EX1013) in view of US349 (EX1014), Geroult (EX1015), and Dibdin (EX1019).

In Ground 9, Petitioner requests *inter partes* review and cancellation of claims 1-9, 14-21 as unpatentable under 35 U.S.C. § 103 over Porter (EX1020) in view of US349 (EX1014).

In Ground 10, Petitioner requests *inter partes* review and cancellation of claims 1-9 and 14-22 as unpatentable under 35 U.S.C. § 103 over Porter (EX1020) in view of US349 (EX1014) and/or Geroult (EX1015).

Petitioner provides the declaration of Michael Jobin in support of the aforementioned grounds and pursuant to 37 C.F.R. § 42.65(b) (EX1004) who has a technical background to opine from a perspective of a POSA. (EX1003.)

IX. CLAIMS 1–22 ARE INVALID IN VIEW OF THE PRIOR ART

At bottom, in the ‘486 Patent, the Patent Owner claimed in claims 14-17 and 19-21 an existing design; made minor obvious modifications to that design in claims 18 and 22; and substituted a classic French Press lid for an existing lid or a minor and obvious variant of an existing lid in claims 1-13. “[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).)

In Ground 1, Petitioner demonstrates that each and every limitation of claims 14-17 and 19-21 are disclosed in a single anticipatory reference. In Grounds 2-10, Petitioner demonstrates that what POSA learns from the cited art, taken individually and as a whole, is that Patent Owner has used known elements in the French Press art and lid art for their intended purpose all while achieving an expected result. As

such, the purported invention of the ‘486 Patent recited in the claims of Ground 2-10 is nothing more than the combination of well-known technologies and techniques yielding a predictable outcome. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007).

All of the references cited herein are analogous as they disclose beverage containing- and serving-devices, most of which have lids with closure mechanisms for closing a pouring opening. *See, Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 36 (1966) (finding “closing devices in such closely related art as pouring spouts for liquid containers are at the very least pertinent references.”)

Petitioner further contends that claims 1, 3, 5-6, 9-11, 14, 16, 18, and 21 recite an apparatus with limitations of intended use, which should not be afforded any patentable weight. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Schreiber*, 128 F.3d 1477-78 (Fed. Cir. 1997); *see also, Ex parte Masham*, 2 U.S.P.Q2d 1647 (BPAI 1987).

A. Ground 1 – Claims 14-17, 19-21 Are Anticipated by US349

Each and every limitation of claims 14-17 and 19-21 is disclosed in US349. Notably, claims 14-17 and 19-21 do not require a piston rod, plunger, grip, or through opening, which are recited in independent claims 1 and 5. Just like claim

14, US349 discloses “only three separate parts, the bottle, the lid, and the lever.” (EX1014, ¶ [0016].)

1. Independent Claim 14

a. [14.0] (*the Preamble*)

A beverage-maker,

Petitioner submits that the preamble “A beverage-maker,” recited in [14.0] is not limiting. “Generally, a preamble is not limiting.” *Summit 6, LLC v. Samsung Elecs. Co.*, 802 F.3d 1283, 1292 (Fed. Cir. 2015). A preamble is not limiting if the patentee “defines a structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention.” *Catalina Mktg. Int’l, Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 808 (Fed. Cir. 2002). Here, a “beverage-maker” is simply an intended use and no additional structural features are recited that are “essential to understand limitations or terms in the claim body[.]” (*Id.*, at 808-809.) (EX1004, ¶¶ [0083]-[0084])

b. [14.1] (*the Vessel Limitation*)

an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall

US349 discloses bottle 20, which is substantially cylindrical, open at the top and has a circumferential side wall. (EX1014, ¶ [0027], Figs. 7 & 9; EX1004, ¶¶ [0143]-[0144])

c. [14.2] (*the Lid Limitation*)

a lid, which has a top wall which at least partially covers the vessel in an upward direction and which, jointly with the vessel, delimits a vessel interior

US349 discloses a “lid 30”, which covers the vessel and has a top wall that, with the vessel, delimits the vessel interior. (EX1014, ¶ [0028]; Figs. 7 & 9; EX1004, ¶ [0145]-[0146].)

d. [14.3] (*the Spout Limitation*)

wherein, on the lid or on the vessel, outside the vessel interior, a spout is configured

US349 discloses a spout on the lid. (EX1014, ¶¶ [0028]-[0030] (“The lid 30 has a pouring spout 34, illustrated best in FIG. 9, with a liquid cavity 36 continuing completely therethrough permitting the beverage to flow from the bottle 20 onto the pouring spout. The pouring spout 34 of the lid 30 preferably has a dish shaped portion 40 with a smooth distal end 42 for directing the beverage in a convenient path from the carafe 10.”); EX1004, ¶¶ [0147]-[0148]; see also, Section VI(A), annotated Figs. 7 & 9.)

e. [14.4] (*the Pouring Limitation*)

wherein the lid has a pouring opening, which is disposed in the top wall and which forms a connection between the vessel interior and the spout in order to pour liquid out of the vessel through the pouring opening by means of the spout

Petitioner submits that “in order to pour liquid out of the vessel through the pouring opening by means of the spout” is simply intended use language that should be afforded no patentable weight.

If the Board disagrees, US349 still discloses [14.4].

Within the lid of US349 is a liquid cavity 36 in the top wall of lid 30 that forms a passage from the vessel interior to the spout. (EX1014, ¶ [0028], Figs. 7 & 9; EX1004, ¶¶ [0149]-[0150]; *see also*, Section VI(A), annotated Figs. 7 & 9.)

f. [14.5] (*the Lever Limitation*)

wherein an elongated lever, is attached to the lid above the top wall pivotably about a horizontal axis, the elongated lever having, in the region of its front end, a closure body for closing the pouring opening, and the elongated lever having, in the region of its rear end, facing away from the pouring opening, an actuating surface in order to pivot the elongated lever, by virtue of pressure exerted by a finger of the user, from a first position, in which the closure body closes the pouring opening, into a second position, in which the closure body frees the pouring opening

In addition to the Lever Limitation, [14.5] requires “the horizontal axis being arranged between the closure body and the actuating surface of the elongated lever.”

Petitioner contends that “in order to pivot the elongated lever, by virtue of pressure exerted by a finger of the user, from a first position, in which the closure body closes the pouring opening, into a second position, in which the closure body frees the pouring opening” is simply intended use language and should be afforded no patentable weight. However, if patentable weight is provided, US349 still discloses [14.5].

US349 discloses a lever 56, which a POSA would recognize is the claimed elongated lever recited in [14.5]. (EX1004, ¶¶ [0151]-[0155]) “The lever 56 includes an integral downwardly projecting plug finger 58 which is used to obstruct the

pouring spout liquid cavity 36 when the lever 56 is urged by a compression spring 60 to an at rest position. When the lever 56 is depressed by an operator's thumb, the plug finger 58 is pivoted away from the liquid cavity 36 permitting the beverage to flow freely and when released the plug finger 58 returns automatically to the cavity 36 by spring pressure thereby preventing dripping.” (EX1014, ¶¶ [0031]-[0032]; see also, Section VI(A), annotated Figs. 7 & 9.) The horizontal axis where the leg of the lever attaches to the lid above the top wall of US349 is in between the actuating surface of the lever and the closure body. (*Id.*)

2. Claims 15-17 (*the Spring Limitations*)

15. The beverage-maker as claimed in claim 14, wherein the elongated lever is spring-loaded in the direction of its first position.

16. The beverage-maker as claimed in claim 15, having a compression spring which is disposed in a region of the lid, facing away from the spout, between the elongated lever and the top wall in order to subject the elongated lever to a spring force in the direction of its first position.

17. The beverage-maker as claimed in claim 16, wherein a cup-shaped depression, extending towards the vessel interior, is configured in the top wall, into which depression the compression spring extends.

Petitioner submits that “in order to subject the elongated lever to a spring force in the direction of its first position” in [16] and “in surmounting an elastic spring force” in [18] is merely intended use language that should be afforded no patentable weight. Nonetheless, as shown below, [16]-[18] are disclosed by US349.

US349 discloses compression spring 60 “disposed between the lid 30 and the lever 56 forcing the lever 56 to be tightly closed against the lid 30 when not in use

and at rest.” (EX1014, ¶ [0034]; Figs. 2, 7, & 9.) The spring 60 is orthogonally facing the spout and sits in the “spring retaining cavity 44” [a cup-shaped depression] located adjacent to the handle 38, as shown in FIGS. 7 and 9[.]” (EX1014, ¶ [0029]; EX1004, ¶¶ [0157]-[0168].)

3. Claim 19 (*the Softer Material Limitation*)

wherein the closure body is made of a material which is softer than the material of the rest of the elongated lever

US349 discloses that its lever can be made from “polypropylene, acrylic, allyl diglycol carbonate, polycarbonate, polystyrene, polysulfone, polyester sulfone or polyester” (EX1014, ¶ [0035]), which are relatively hard plastics. (EX1004, ¶¶ [0170].) US349 also discloses that the chevrons 66 of the plug cover 64 “resistibly collapse when urged by lever 56 into the liquid cavity 36 creating the desired drip-proof seal.” (EX1014, ¶ [0033].) The fact that the chevrons “resistibly collapse” would inform a skilled artisan that the chevrons of the plug cover are of a softer material than that of the lever. (EX1004, ¶ [0171].) Further, US349 refers to these elements that plug the pouring opening as a “stopper” (EX1014, ¶ [0013]), which a POSA would understand to be rubber or other deformable material. (EX1004, ¶¶ [0172].)

4. Claim 20 (*the Skirt Limitation*)

wherein the lid has a circumferential skirt, which extends vertically downward and extends into the vessel interior, and on whose outer side there is disposed a circumferential sealing element, which bears sealingly against the inner side of the side wall of the vessel

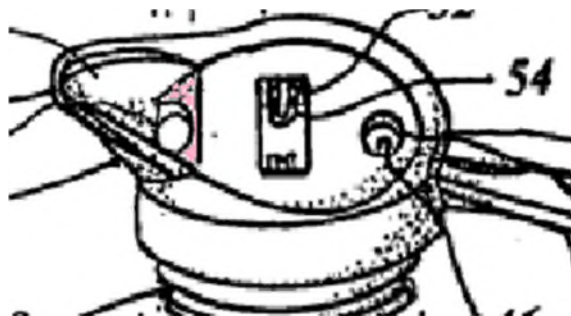
US349 discloses a vertically downward element 48 that extends into the bottle (a/k/a, a skirt) with a “resilient lip seal 50” “for sealing the lid 30 to the vacuum insulated bottle 20 when attached together.” (EX1014, ¶ [0030]; EX1004, ¶¶ [0174]-[0176].)

5. Claim 21 (*the Retaining Web Limitation*)

wherein the top wall of the lid is configured substantially flat, and in a region surrounding the pouring opening there is configured an upwardly protruding retaining web, which, starting from the spout, extends partially around the pouring opening in order to retain in the region of the pouring opening liquid running back from the spout

Petitioner submits that “in order to retain in the region of the pouring opening liquid running back from the spout” is merely intended use language and should not be afforded any patentable weight. However, if the Board disagrees, [21] is still disclosed by US349.

US349 discloses a substantially flat top wall and an angular surface (shown in pink below) around the pouring opening to prevent fluid originating from the spout from escaping the pouring opening and infiltrating the other areas of the lid. (EX1004, ¶¶ [0177]-[0178].)



(EX1014, Fig. 9 (annotated).)

B. Ground 2 – Claims 1-9, 14-21 Are Obvious Over US349 in View of Brady

Ground 1 sets forth how US349 discloses all elements of independent claim 14. Independent claims 1 and 5 of the ‘486 Patent further require a piston rod, plunger, grip, and through opening (i.e., the Piston Assembly), which are absent from US349. In Ground 2, Petitioner demonstrates that Brady teaches these missing limitations, which the ‘486 Patent admits to be prior art (EX1001, 1:17-23).

1. Independent Claim 1

a. [1.0] (*the Preamble*)

The preamble is not limiting. (*See*, Section IX(A)(1)(a).) To the extent the Board finds otherwise, Brady discloses a “beverage-maker” (i.e., a French press coffee maker 100). (EX1013, ¶ [0011].)

b. [1.1] (*the Vessel Limitation*)

US349 discloses [1.1], which is identical to [14.1] and is discussed in the context of US349 in Section IX(A)(1)(b). Alternatively, “container 102” of Brady discloses an open cylindrical vessel with a bottom wall and circumferential side wall. (EX1013, ¶¶ [0013]-[0014]; EX1004, ¶ [0188].)

c. [1.2] (*the Piston Assembly Limitation*)

a filter piston vertically displaceable in the vessel, having a piston rod to whose upper end a grip element is attached, and to whose lower end a plunger-filter is attached, which plunger-filter is suitable for allowing the passage of liquid and, at the same time, for retaining solids

Annotated Figure 1 of Brady in Section VI(B) of this Petition shows the presence of a grip, piston rod, and plunger. (EX1004, ¶¶ [0186]-[0187].) In explaining Figure 1, Brady teaches:

The coffee maker 100 also includes a plunger assembly 104, including a screen 10 held in place over a perforated “spring disk” 12 by a spring 15. The plunger assembly 104 is illustrated in greater detail in the remaining figures. The plunger assembly 104 is attached to a shaft 9 that protrudes through the lid 103. The upper end of the shaft 9 terminates at a knob 1.

(EX1013, ¶ [0012].) Brady also discloses the same historical French Press coffee-making function as the ‘486 Patent to describe the vertical displacement and allowing liquid to pass and retaining solids. (*Id.*, ¶ [0013].)

d. [1.3] (*the Lid Limitation*)

[1.3] recites [14.2] and further requires “wherein the top wall has a first opening and a second opening, the first opening being a through opening, through which the piston rod extends, and the second opening being a pouring opening[.]”

US349 describes a “first opening” or “pouring opening” in the lid (EX1014, liquid cavity 36; see, Section VI(A), annotated Fig. 7.), but lacks a “second opening” or “through opening” in the lid.

Petitioner contends that it would have been obvious to make a central aperture in the lid (and lever) of US349 to accommodate the piston rod of Brady without an

express teaching. (EX1004, ¶ [0195].) To the extent the Board disagrees, Brady discloses a “second opening” or “through opening” in the lid. (*Id.*, EX1013, ¶ [0014] (“The shaft 9 (FIG. 1) protrudes through a hole 212 formed in the lid 103[.]”)) (emphasis added).)

e. [1.4] (*the Spout Limitation*)

[1.4] recites [14.3], which is discussed in Section XI(A)(1)(d).

[1.4] further requires “wherein the pouring opening is disposed between the through opening and the spout and forms a connection between the vessel interior and the spout in order to pour liquid out of the vessel through the pouring opening by means of the spout.” Petitioner contends “in order to pour liquid out of the vessel through the pouring opening by means of the spout” is simply intended use language and should be afforded no patentable weight.

A POSA would recognize that US349 discloses a fluid connection between the vessel interior and the spout through the liquid cavity 36 of US349 when the lever is in a disengaged position (*i.e.*, open configuration³). (See, Section VI(A), Fig. 7 (annotated); EX1004, ¶ [0150].) US349 further discloses that the pouring opening

³ Petitioner refers to an “open configuration” as a configuration where the user intends to pour the liquid contents of the vessel out and “closed configuration” as a configuration where the user intends to keep the liquid contents in the vessel.

is in between the spout and the central axis where the through opening of Brady's piston would be located. (See, Section VI(A), annotated Fig. 7, showing location of spout and pouring opening, and Section VI(B) showing central location of piston rod / through opening.) (EX1004, ¶¶ [0195]-[0196].)

f. [1.5] (*the Lever Limitation*)

[1.5] recites [14.5] and further requires an elongated lever, “extending transversely to the piston rod[.]” When the centrally-located piston rod of Brady is inserted into the device of US349, the elongated lever is modified to receive such a rod and “extend transversely to the piston rod” as required by [14.5]. (See, Section XI(A)(1)(d) for US349's teaching of [14.5]; EX1004, ¶¶ [0192], [0195], [0197].)

2. Independent Claim 5

a. [5.0] (*the Preamble*)

The identical preamble was addressed in Section IX(A)(1)(a).

b. [5.1] (*the Vessel Limitation*)

The identical limitation was addressed in Sections IX(A)(1)(b) and IX(B)(1)(b).

c. [5.2] (*the Piston Assembly Limitation*)

The identical limitation was addressed in Section IX(B)(1)(c).

d. [5.3] (*the Lid Limitation*)

This limitation was addressed in Section IX(A)(1)(c).

e. [5.4] (*the Spout Limitation*)

The difference between [5.4] and [1.4] is that [5.4] further requires that “the lid has” a pouring opening. Liquid cavity 36 of US349 is in the lid. (EX1014, ¶¶ [0028]-[0031]; EX1004, ¶ [0109].) This limitation was discussed in Sections IX(A)(1)(d) and IX(B)(1)(d)(e).

f. [5.5] and [5.6] (*Lever Limitations*)

Section XI(A)(1)(d) discusses how US349 teaches the Lever Limitation [5.5]. [5.6] further requires “wherein the elongated lever has a through opening, through which the piston rod extends.” This feature is taught by US349 in combination with Brady. Once the Piston Assembly of Brady is installed in the container of US349, the modified elongated lever of US349 satisfies [5.6]. (EX1004, ¶¶ [0194]-[0195].)

3. Independent Claim 14

All limitations are disclosed in US349 and discussed in Section A(1). Alternatively, “container 102” of Brady discloses an open cylindrical vessel with a bottom wall and circumferential side wall (EX1013, ¶¶ [0013]-[0014]; EX1004, ¶ [0188]) to satisfy [14.1] (the Vessel Limitation).

4. Claims 2-4 and 15-17 (*the Spring limitations*)

[2]-[4] are identical to [15]-[17] and are discussed in Section IX(A)(2).

5. Claims 6 and 18 (*the Lever Attachment Limitation*)

the lever has a bearing shaft extending transversely to the longitudinal direction of the elongated lever, or two coaxially arranged bearing journals extending transversely to the longitudinal direction of the elongated lever, wherein the lid

has two mutually opposing, jaw-shaped bearing elements for the reception of the bearing shaft or bearing journals, and wherein the bearing shaft or bearing journals, in surmounting an elastic spring force, can be clicked into the bearing elements

US349 teaches: “A lever receiving cavity 52, is formed within the lid 30 and contains at least two inwardly facing opposed spindles 54, illustrated best in the cross section of FIG. 7.” (EX1014, ¶ [0030].) “The lever incorporates at least one downwardly depending leg 62 that pivotally interfaces by snapping over the spindles 54 that are located within the lever receiving cavity 52 of the lid 30, as shown in FIGS. 7 and 9.” (EX1014, ¶ [0032].) Thus, US349 teaches the lid has a bearing shaft and the lever has the bearing elements, which is the reverse of what is recited in [6] and [18]. (EX1004, ¶ [0202].) But as explained below, it would have been obvious to have the bearing elements on the lid and the bearing shaft on the lever to arrive at the claimed invention.

6. Claims 7 and 19 (*the Softer Material limitations*)

[7] is identical to [19] and was discussed in Section IX(A)(3). Alternatively, it would have been obvious to select a “softer” material for the plug cover of US349 given its function to close a pouring opening. (EX1004, ¶ [0198].)

7. Claims 8 and 20 (*the Skirt Limitations*)

[8] is identical to [20] and is discussed in Section IX(A)(4). Alternatively, Brady discloses a skirt that remedies any deficiency in US349.

The '486 Patent discloses: “[t]he lid preferably has a circumferential skirt, which extends vertically downward and extends into the vessel interior, as is already present generally the case with the lids of commercially available plunger-filter coffee pots.” (EX1001, 3:60-63 (emphasis added)). Brady discloses such a plunger-filter coffee pot. Indeed, Figure 2 of Brady shows an “underportion 204 of the lid 103” that extends vertically into the vessel interior, which would be interpreted by a POSA to be a skirt. (EX1013, ¶ [0014], Figs. 2A and 2; EX1004, ¶¶ [0199]-[0200].)

8. Claims 9 and 21 (*the Retaining Web limitations*)

[9] is identical to [21] and was discussed in Section IX(A)(5).

9. A POSA Would Be Motivated to Combine US349 and Brady

a. Brady and US349 Are Analogous Art to US349

Brady and US349 are analogous art because both discloses a beverage containers within the inventor’s field of endeavor and are at least pertinent references. (EX1004, ¶ [0181].)

b. Modifying Vessel

Petitioner contends that [1.1], [5.1] and [14.1] are disclosed by US349. To the extent that the Board disagrees, a POSA would have been motivated to modify the shape of the bottle of US349 to an entirely cylindrical shape as described in Brady because Brady’s shape more closely aligns with the plunger-filter and ensures uniform forces are applied to the filter at the wall interface, and, consequently, minimizes solids penetrating into the drinking liquid. (EX1004, ¶ [0191].)

c. Piston/Lid/Lever Modifications

(i) *Including Piston Assembly*

A POSA would have incorporated the Piston Assembly comprising a piston rod, plunger-filter, grip and through opening into the design of US349 to avoid the need for a separate coffee maker (EX1004, ¶ [0189]) as US349 specifically references its intention that the carafe house “newly brewed coffee.” (EX1014, ¶ [0014].) Such designs were desirable as evidenced by Porter. (EX1020.)

(ii) *Modifying Lid and Lever*

Once the Piston Assembly is added, POSA would have been motivated to modify the lid and lever to accommodate the Piston Assembly; otherwise, the lid could not close to form the desired water-tight seal. Petitioner contends no additional teaching is required to motivate a POSA to make the required modifications to the lid and lever of US349. (EX1004, ¶ [0195].)

To the extent the Board disagrees and believes an express teaching is required, Brady discloses a through opening in the lid, which a POSA would carry through the lever to allow for the piston to pass through the lever and the lever to operate. (*Id.*)

d. Modifying Lever Attachment Means

It would have been obvious to reverse the mating parts of the lid and lever of US349 as, from an engineering point of view, it is no consequence whether the

(fe)male part is on the lid or the lever. As long as the attachment is made, the device components will operate as intended. (EX1004, ¶¶ [0202]-[0203].)

e. Substituting Skirts

Petitioner contends that US349 discloses [8] and [20]. To the extent the Board disagrees, a POSA would have been motivated to substitute one attachment means for another. (EX1004, ¶ [0201]].)

US349 discloses a threaded mechanism to attach the lid and the vessel. Brady discloses a circumferential skirt that sealably contacts the vessel. The attachment means of Brady have the added benefit of being easier to clean with the lack of associated grooves. (*Id.*) If the skirt of Brady is adopted, a POSA would be motivated to retain “resilient lip seal 50” of US349 to increase the seal of the skirt to the vessel. (*Id.*)

10. A POSA Would Have a Reasonable Expectation of Success

a. Modifying Vessel

To modify the shape of the bottle 20 into an entirely cylindrical shape would have been routine to a skilled artisan and utilization of standard manufacturing methods. (EX1004, ¶ [0191].)

b. Piston/Lid/Lever Modifications

To incorporate the Piston Assembly of Brady into the design of US349, a POSA would have to (1) correctly size the plunger-filter; (2) select the appropriate diameter and length of a piston rod; (3) make an appropriately-sized, centrally-

located hole in the top wall of the lid (i.e., the through opening) and lever; and (4) select the appropriate seal in the top wall hole. (*Id.*) All of these activities are routine and well within the skill of a POSA and a POSA would enjoy a reasonable expectation of success. (*Id.*)

c. Modifying Lever Attachment Means

It would be rudimentary for a POSA to swap the location of the male and female parts on the lid and the lever to achieve the same attachment of these components, which would function in the same way. (EX1004, ¶¶ [0202]-[0203].) A POSA would enjoy a reasonable expectation of success. (*Id.*)

d. Substituting Skirts

To incorporate the skirt of Brady into the bottle of US349, a POSA would have to modify the top of the bottle to be a smooth surface to sealably engage the bottle. To retain the “resilient lip seal 50” of US349, a POSA would manufacture a groove in the “underportion 204” to accommodate the ring to increase the seal between the bottle and the skirt. All of these tasks could easily be accomplished by a POSA using known predictable methods. (EX1004, ¶ [0201].)

C. Ground 3 – Claims 1-9 and 14-22 Are Rendered Obvious over US349 in View of Brady and Geroult

In Ground 2, Petitioner contends that it would have been within the skill of a POSA to include the Piston Assembly of Brady into the design of US349. In Ground 3, Petitioner brings forward Geroult to show (a) an alternate lid design and (b) an

alternate elongated lever design, both of which would not have to be modified to accommodate a piston rod.

1. Independent Claim 1

Petitioner relies on the teachings of US349 and Brady as set forth in Ground 2 unless specified in this ground. (*See*, Section IX(B)(1)). A POSA would modify the lid, lever, or both the lid and lever of US349 in view of Geroult and arrive at the claimed invention. Alternatively, if Petitioner’s proposed constructions of “elongated lever” and “closure body” are not adopted by the Board, a POSA would substitute the lever of US349 for the lever assembly of Geroult and arrive at the claimed invention.

a. [1.3] (*the Lid Limitation*)

Petitioner discussed how US349 teaches this limitation in Section IX(A)(1)(a).

Alternatively, Geroult discloses a “delimiting” lid. (EX1015, cover 5 (¶¶ [0027], [0029], [0034]-0037], Figs. 1-5.) Geroult discloses “the bottom 17b of the cover” forms “a continuous wall delimiting the chamber 3, thereby avoiding loss of heat through the cover 5.” (EX1015, ¶ [0038]; EX1004, ¶ [0211].)

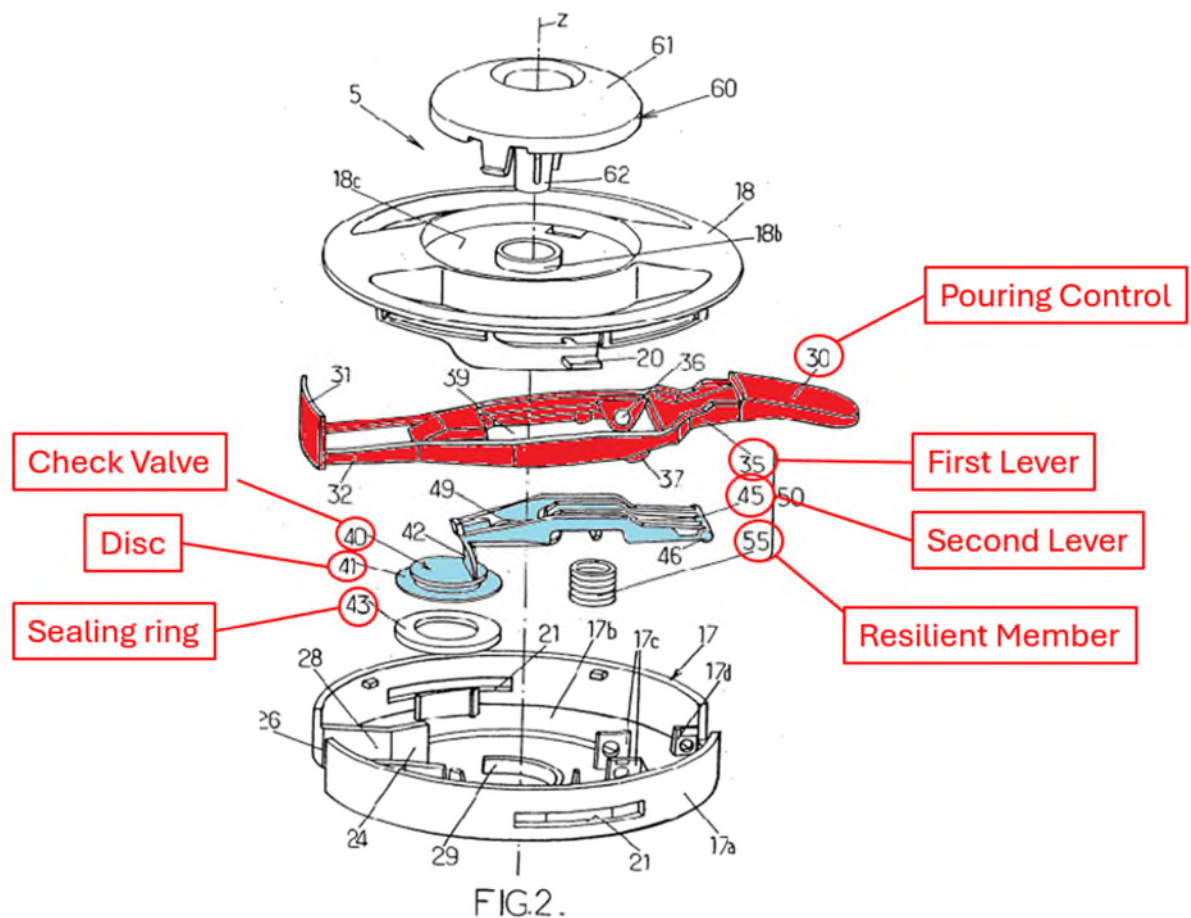
b. [1.4] (*the Spout limitation*)

Petitioner discussed how US349 teaches this limitation in Sections IX(A)(1)(d) and IX(B)(1)(e).

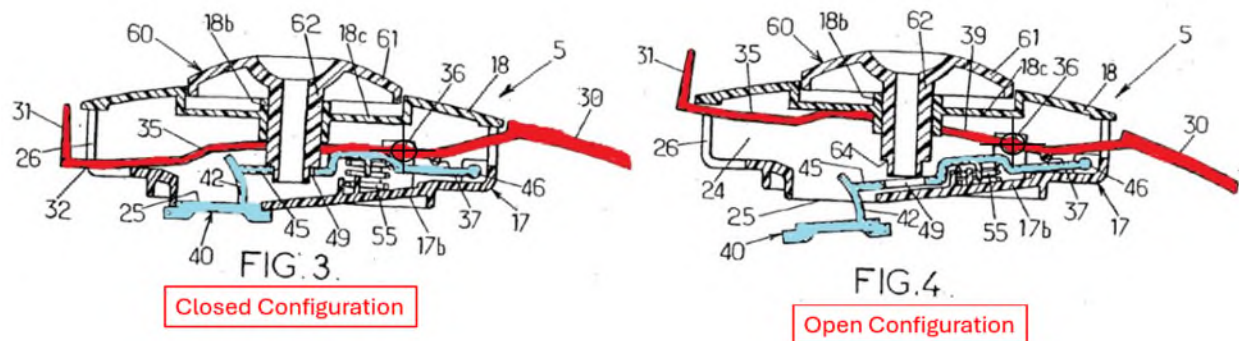
c. [1.5] (*the Lever limitation*)

Petitioner discussed how US349 teaches this limitation, except for the central aperture to allow the lever to “extend[] transversely to the piston rod,” in Section XI(A)(1)(d) and how a central aperture would be added to accommodate the Piston Assembly of Brady in Section XI(B)(1)(f).

Alternatively, in contrast to the single solid lever of US349, Geroult discloses a lever with a central aperture, which could receive the piston rod of Brady or provide an explicit teaching to modify the lever of US349. (EX1004, ¶ [0205]-[0208].) First lever 35 is depicted in Figure 2 in an exploded view.



(EX1015, Fig. 2 (annotated).) And Figures 3 and 4 show closed and open configurations, respectively



(EX1015, Figs. 3 & 4 (annotated).) Geroult also provides an explanation of how the first lever 35 and second lever 45 of the pouring control 30 operates. (EX1015, ¶ [0049].)

2. Independent Claim 5

This limitation was discussed in Section IX(B)(2). The teachings of Geroult discussed in Section IX(C)(1)(c) provides an express teaching for a lever with a central aperture, which is relevant to [5.5] and the Geroult discussion in Section IX(C)(1)(a) provides an express “delimit” disclosure relevant to [5.3]. The horizontal axis described in Section IX(B)(2) would not be modified by altering the lever of US349 in view of Geroult in this ground. (EX1004, ¶ [0209].)

3. Independent Claim 14

This limitation was discussed in Section A(1). The teachings of Geroult discussed in Section IX(C)(1)(a) provides an express “delimit” disclosure relevant

to [14.2]. Petitioner does not contend that modifications set forth in [1.5] would be applicable because [14] lacks a recitation to a Piston Assembly.

4. Claims 2-4 and 15-17 (*the Spring limitations*)

These limitations were discussed in Sections IX(A)(2) and IX(B)(4). Alternatively, Gerould also discloses a spring contacting the upper surface of the top wall in the rear of the elongated member to bias the closure member to a closed position. (EX1015, resilient member 55 (¶ [0043], [0048], [0055]-[0056]), Fig. 1; EX1004, ¶ [0213].)

5. Claims 6 and 18 (*the Lever Attachment Limitation*)

These limitations were discussed in Sections IX(B)(5) and (B)(9)(d).

6. Claims 7 and 19 (*the Softer Material Limitation*)

These limitations were discussed in Section IX(A)(3).

Alternatively, a POSA would appreciate that the components of the pouring control 30 of Gerould are made of durable hard plastic, such as polypropylene (EX1004, ¶ [0214].) The sealing element 43 in combination with disc 41 of Gerould is intended to make a water-tight seal with the wall of the lid enclosing the liquid chamber. (*Id.*; EX1015, ¶ [0037].) Given the structure and function of sealing element 43 or disc 41, a POSA would recognize that sealing element 43 is certainly a softer material than the periphery of the outlet in which it engages. (*Id.*)

7. Claims 8 and 20 (*the Skirt Limitation*)

These limitations were discussed in Sections IX(A)(4) and IX(B)(7).

8. Claims 9 and 21 (*the Retaining Web Limitation*)

These limitations were discussed in Section IX(A)(5).

9. Claim 22 (*the Two-Part Lid Limitation*)

the lid comprises a lid bottom part, which forms the top wall delimiting the vessel interior, and wherein the lid comprises a separately configured lid top part, which at least partially covers the lid bottom part and the elongated lever

Geroult's two part lid construction with an elongated lever (first lever 35 or pouring control 30 (i.e. lever assembly)) disposed between the two parts is shown in Section VI(C).

10. A POSA Would Be Motivated to Combine US349 with Brady and Geroult

a. US349, Brady and Geroult Are Analogous Art

All of the references are analogous art because they disclose beverage containers within the inventor's field of endeavor and are at least pertinent references. (EX1004, ¶ [0181].)

b. Modifying Lid to "Delimit"

To the extent that the Board finds that the lid of US349 or the modified lid of Section IX(B)(9)(e) does not "delimit" the vessel, Geroult expressly discloses that the top wall of its lid "delimits" the vessel. A POSA would be motivated to include this feature for the express reasons stated in Geroult – to avoid heat loss through the lid. (EX1015, ¶ [0038].) (EX1004, ¶ [0212].)

c. Modifying Lid and Lever to Have Central Aperture

To the extent that the Board finds that a POSA would not be motivated to

modify the lever of US349 to accommodate the Piston Assembly of Brady (and enjoy a reasonable expectation that a POSA could achieve that modification) without an express teaching, Petitioner submits that a POSA would be motivated to incorporate the design of the first lever of Geroult comprising a central aperture and pouring indicator because doing so would (a) avoid the need to redesign a lever with a central aperture; and (b) allow the carafe of US349 to function as intended once the Piston Assembly of Brady is incorporated. (EX1004, ¶ [210].)

d. Modifying Lid to Have Two Part Lid

A POSA would be motivated to house the elongated lever of US349 within a two part lid as disclosed in Geroult to protect the lever from damage and environmental debris as well as avoid any potential interference from the knob disposed above. (EX1004, ¶ [0216].)

11. A POSA Would Enjoy a Reasonable Expectation of Success

a. Modifying Lid to “Delimit”

To ensure the top wall delimits the vessel implicates the simple activity of measurement and designing the lid wall to fit, which are predictable and well understood concepts to a POSA. (EX1004, ¶ [0212].)

b. Modifying Lid and Lever to Have Central Aperture

From a technical standpoint, a POSA would start with the first lever 35 of Geroult and then add the plug finger with the plug cover to the first lever of Geroult of obtain a functioning lever within the context of the lid in US349. Again, achieving

this design is easily attainable by a POSA utilizing known techniques and techniques. (EX1004, ¶ [0208].)

c. Modifying Lid to Have Two Part Lid

Including a top lid part to the lid of US349 as taught by Geroult would require no special equipment and only standard manufacturing methods. A POSA would enjoy a reasonable expectation of success. (EX1004, ¶ [0216].)

D. Ground 4 – Claims 1-9 and 14-22 Are Rendered Obvious Over Brady in View of US349 and/or Geroult

Ground 3 uses a lever-containing container as the primary reference and a container with a Piston-Assembly as the secondary reference. Ground 4 is the reverse with Brady as the primary reference and US349 and Geroult as the secondary references.

As explained above and admitted by the ‘486 Patent (EX1001, 1:17-23), the Vessel, Piston Assembly and Spout Limitations are found in traditional French Press coffee presses, such as the one described by Brady. (See, Sections IX(B)(1)(b)-(c) and VI(B).)

Petitioner has already described how US349 teaches the Lid, Pouring, and Lever Limitations. (See, Sections IX(A)(1)(c), (e)-(f).) Petitioner has already described how the US349 lever would be modified by a POSA (Section IX(B)(1)(f)) or in view of Geroult (Section IX(C)(1)(c)) to accommodate the Piston Assembly of Brady. But starting with a traditional French Press changes the motivation for a

POSA. Petitioner relies on the teachings noted in Section IX(C)(1)-(9) unless otherwise indicated. Brady, US349, and Geroult are analogous art. (See, Section IX(C)(10)(a).)

The Spout Limitation of [1.4], [5.4], and [14.3] is provided by Brady in this ground. Brady discloses spout 4 on the vessel. (EX1013, ¶¶ [0011]-[0013]; *see also*, VI(B), Fig. 1 (annotated).)

Ground 4 also presents an alternative teaching of the Lid, Pouring and Lever Limitations should the Board not adopt Petitioner's proposed constructions.

1. A POSA Would Be Motivated to Combine Brady, US349 and Geroult

A POSA would appreciate that, to open/close the French Press of Brady, the user must use two hands, which can be cumbersome and inconvenient. Thus, a POSA would be motivated to seek out solutions where the user can open/close the lid using one hand, such as the design of US349. A POSA would be motivated to include the elongated lever of US349 with a central aperture to allow for single-hand operation. (EX1004, ¶ [0221].)

2. A POSA Would Enjoy a Reasonable Expectation of Success

Standard predictable manufacturing methods would be employed to incorporate the modified lever of US349 with a reasonable expectation of success. (EX1004, ¶ [0222].)

3. Alternate Construction – Geroult Remedies Defects of Brady

Under Petitioner’s proposed constructions, [1.5] is disclosed in US349 as modified by a POSA or US349 as modified by Geroult. If the Board determines that [1.5] encompasses a lever assembly, despite Patent Owner’s statements in the prosecution history to the contrary, the following limitations are disclosed in Geroult:

a. [1.3]/[1.3]/[14.2] Lid Limitation

Geroult’s lid is described in Section IX(C)(1)(a).

b. [1.4]/[5.4]/[14.3+14.4] Spout/Pouring Limitations

Geroult discloses a spout on the vessel. (EX1015, Fig. 1, spout 9.) Geroult teaches a “second opening” or “pouring opening” in the lid. (EX1015, conduit 24 or first outlet 25.) Geroult also teaches a “first opening” or “through opening” in the lid. (EX1015, Fig. 2 passageway defined by central axis Z (through openings 39, 49).) A fluid connection exists between the spout 9 and the vessel interior via conduit 24. (EX1004, ¶¶ [0224]-[0225].)

c. [1.5]/[5.5]/[14.5] Lever Limitation

Geroult’s lever assembly is described in Section IX(C)(1)(c). Geroult further discloses a “closure body” in the front end of the pouring control in the disc 41, the sealing ring 43, or a combination of the disc and sealing ring. (EX1004, ¶ [0226].) The “disc 41” is “adapted to cover the outlet of the conduit 24” and sealing ring 43 increases the seal between the disc 41 and the periphery of the outlet 25. (EX1015,

¶ [0037].).

d. A POSA Would Be Motivated to Include Geroult's Lever Assembly

A POSA would adopt the lever assembly into the lid of Brady because to avoid heat loss and Geroult's close-from-the-bottom closure body is advantageous if the container was ever dropped or unintentionally tipped. (EX1004, ¶¶ [0228]-[0230].) Alternatively, a POSA would be motivated substitute the lid of Brady for the lid of Geroult because inclusion of the pouring indicator 31 of Geroult in an elongated member would provide the benefit of informing the user when the elongated member is in an open configuration, which lacking in Brady's closed dome design. (*Id.*; see also, Section IX(10(C)(10)(d) for two-part lid motivation)

e. A POSA Would Enjoy a Reasonable Expectation of Success

Including the lever assembly or substituting lids is well within the skill of a POSA using standard methods with predictable results. (EX1004, ¶¶ [0231]-[0232].)

E. Ground 5 - Claims 10-11 Are Rendered Obvious Over Brady in View of US349, Geroult, and US623

The combination of Brady, Geroult, and US349 lack an express teaching of a guide sleeve as recited in claim 10. That deficiency is remedied in US623.

1. Claim 10 (*the Guide Sleeve Limitation*)

the lid comprises a lid bottom part, which forms the top wall delimiting the vessel interior, and wherein the lid comprises a separately configured lid top part, which at least partially covers the lid bottom part and the elongated lever, and wherein on one of the lid parts, selected from lid bottom part and lid top part,

there is configured a cylindrical guide sleeve for the piston rod, which is held in the other lid part such that the guide sleeve is secured against a lateral tilting motion

Petitioner submits that “the guide sleeve is secured against a lateral tilting motion” is merely intended use language that should not be afforded any patentable weight. Even if patentable weight is assigned, claim 10 is disclosed in US623.

Geroult discloses [10.1] in its two-part lid with a pivotable elongated member disposed between the two parts. (See, Section VI(C).)

US623 also discloses [10.1] except for the elongated lever, which is provided by US349 as modified by a POSA or in view of Geroult; or the lever assembly of Geroult.

US623 teaches: “The lid unit 40 includes an outer cover 42 and an inner cover 46.” (EX1016, 2:30-31.) The lid top part 42 covers the bottom part 46. (*Id.*, Fig. 3.) As for [10.2], US623 states that the lid top part has “a flange 44 extending outwardly and downwardly at the bottom thereof, and has a tubular boss 43 extending downwardly from an internal upper center thereof.” (*Id.*, 2:31-34.) “The tubular boss 43 has a diameter and length such that the distal tip thereof can be received in the tubular stud 48 when the inner cover 46 is in received in the flange of the outer cover 42.” (*Id.*, 2:39-42.) Thus, US623 discloses [10.2] and [10.1] in view of US349 and/or Geroult. (EX1004, ¶¶ [0234]-[0238].)

Claim 11 is similarly invalid for reciting no additional limitations other than intended use language that should be afforded no patentable weight as discussed below in Ground 6.

2. A POSA Would be Motivated to Combine US623 with the Art of Ground 4

US623 is analogous art as it discloses a French Press design with a vessel, lid, plunger-filter, grip, and handle. (EX1016, Figs. 1-3; (EX1004, ¶ [0181].) US623 depicts structure within the lid of a French Press that is not depicted in Brady even though Brady hints at the presence of a guide sleeve. (EX1004, ¶ [0236].) A POSA would be motivated to incorporate the two-part lid with a guide sleeve as taught by US623 to (a) allow access to the lever for repair or replacement; and (b) provide structural support for the piston to ensure the device operates as intended. A POSA would be motivated to include the guide sleeve of US6223 into the two-part lid of Geroult to provide the aforementioned structural support. (EX1004, ¶¶ [0240]-[0242].)

3. A POSA Would Enjoy a Reasonable Expectation of Success

Adding a guide sleeve disposed between a top lid part and a bottom lid part and making Brady's lid two parts is elementary . (EX1004, ¶¶ [0243]-[0244].) US623, with its 1995 filing date, evidences this. A POSA would have the ability modify Brady's lid to have a top part and bottom part and add a guide sleeve to Brady's modified lid or Geroult's lid with a reasonable expectation of success. (*Id.*)

F. Ground 6 – Claim 11 is Rendered Obvious Over Brady in View of Geroult, US349, US623 and Wickman

Petitioner contends “can be latched to the other lid part” should be assigned no patentable weight as a recitation of intended use. If no patentable weight is assigned, [10] and [11] are of the same scope and claim 11 is obvious over Ground 5. To the extent patentable weight is assigned, this feature is disclosed in Wickman.

1. Claim 11 (*the Latched Guide Sleeve Limitation*)
the guide sleeve can be latched to the other lid part

US623 discloses securing the guide sleeve originating from the lid top part to the lid bottom part. A POSA would appreciate that “latching” is simply a type of “securing” and could easily modify US623 to provide a latching mechanism.

Wickman discloses a tubular member that latches into a hole in a pouring dispenser. More specifically, Wickman discloses “The cover 23 also includes a circular flange 28 integral with and depending from the bottom face of its top wall 25 and which is of sufficient length and of a diameter to fit snugly into the circular opening 19. This flange is thin-walled so as to have sufficient resilient distortability radially to permit it to be snap-fitted into said opening 19, a circumferential groove 29 being provided on its outside circumferential surface to receive the free inner peripheral edge of flange 21. Obviously, when the cap is in closed position it is resiliently held by the inter-engagement of groove 25 and flange 21, which engagement affords a leak-proof closure for opening 19.” (EX1017, 3:15-26, Fig. 1

(emphasis added).) A POSA would appreciate that “latched” and “snap-fitted” are synonymous. (EX1004, ¶¶ [0249]-[0251].) Thus, Wickman discloses [11]. (*Id.*)

2. A POSA Would be Motivated to Combine Wickman with the Art of Ground 3

Wickman is analogous art as it discloses a “pouring dispenser” with a pouring opening and a closure mechanism and it is within the inventor’s field of endeavor and is at least a pertinent reference. (EX1017, title, 1:9-16; (EX1004, ¶ [0181].) A POSA would recognize that snap-fit attachment of Wickman is preferable to the boss/stud attachment in US623 because the user will receive a physical or audible confirmation that the two parts are connected. (EX1004, ¶ [0253].) Accordingly, a POSA would be motivated to change the attachment mechanism of the guide sleeve of US623 to a snap-fit as taught by Wickman. (*Id.*)

3. A POSA Would Enjoy a Reasonable Expectation of Success

Adding a groove to the tubular boss of US623 to allow for a snap-fit connection is well within the skill of a POSA. (EX1004, ¶ [0254].) Ensuring the proper sizing of the mating parts is also within the skill of a POSA. (*Id.*) Accordingly, a POSA would enjoy a reasonable expectation of success in adding a snap-fit connection as taught in Wickman to the guide sleeve as taught by US623. (*Id.*)

G. Ground 7 – Claims 12-13 Are Rendered Obvious over Brady in View of Geroult, US349, US623, and Hacmac or in further view of Wickman

1. Claims 12 and 13 (*the Extended Guide Sleeve Limitations*)

wherein the guide sleeve is configured integrally with the lid top part and extends vertically downward into the vessel interior through the top wall delimiting the vessel interior, and wherein a releasable latching connection is configured between the guide sleeve and the top wall

[12] and [13] recite the same subject matter, but depend from different claims.

Hacmac discloses a sleeve extending into a vessel interior. (EX1018, Fig. 1; EX1004, ¶ [0258].) More specifically, the inwardly extending projections 28 extend from the boss or hearing into the vessel. (EX1018, 3:46-65, Fig. 1; Section VI(F), *supra*). Claim 12-13 are disclosed in the combination of US623 and Hacmac if no patentable weight is assigned to claim 11. Claim 13, if patentable weight is assigned to claim 11, is disclosed by the combination of US623, Wickman, and Hacmac. (EX1004, ¶ [0262].)

2. A POSA Would be Motivated to Combine Hacmac with the Art of Ground 4

Hacmac is analogous art as it discloses a liquid dispenser with a vessel, lid with a central hole designed to house a piston rod, spout, and a handle with a finger-actuated lever disposed above the handle and Hacmac is within the inventor's field of endeavor. (EX1018, Fig. 1; EX1004, ¶ [0181].)

One skilled in the art would be motivated to include an extended guide sleeve as disclosed in Hamac as the extended sleeve would provide additional structural

support to avoid tilting and ensure the device operated as intended. (EX1004, ¶ [0259]).

3. A POSA Would Enjoy a Reasonable Expectation of Success

Simply adding additional length in the guide sleeve is a simple change well within the skill level of a skilled artisan. (EX1004, ¶ [0260].) Furthermore, adding a snap-fit connection to a more central region of the guide sleeve would be easily accomplished. (*Id.*) These changes are routine and use existing, predictable technologies. (*Id.*)

H. Ground 8 – Claims 7 and 19 Are Rendered Obvious over Brady in view of US349, Geroult and Dibdin

1. Claims 7 and 19 (*the Softer Material limitations*)

In Grounds 2-4, this Petition shows how this limitation is disclosed by US349 and Geroult and that a POSA would understand the sealing elements of Geroult and US349 are of a “softer material.” (*See*, Sections IX(A)(3) and IX(C)(6).) In Ground 8, Petitioner provides additional prior art (Dibdin) to remedy any potential deficiency associated with the lack of express disclosure relating to the softness of the sealing element 43 of Geroult and the plug cover 64 and/or chevrons 66 of US349.

Dibdin claims a “beverage container” comprising a vessel, a lid, a valve assembly (i.e., actuator assembly) for opening/closing a pouring opening, and “a relatively soft flexible and resilient gasket” that “yieldably deforms” to provide “a

fluid-tight seal.” (EX1019, claim 11; ¶¶ [0010], [0040].) Thus, Dibdin discloses the use of a soft material to deform against a rigid material to form a fluid-tight seal. (EX1004, ¶ [0264].)

2. A POSA Would be Motivated to Combine Dibdin with the Art of Ground 4

Dibdin is analogous art because it discloses a beverage container with a lid comprising a closure mechanism for a pouring opening and it is within the inventor’s field of endeavor and is at least a pertinent reference. (EX1004, ¶ [0181].) A POSA would be motivated to use the material of the “relatively soft flexible and resilient gasket” as the material of the “closure body” of Geroult (sealing element 43) or US349 (plug cover 64 and/or chevrons 66) because doing so would provide a fluid-tight seal of the pouring opening and prevent undesirable heat loss and dripping. (EX1004, ¶ [0265].)

3. A POSA Would Enjoy a Reasonable Expectation of Success

A POSA would enjoy a reasonable expectation of success as including a deformable material to close a fluid passage is routine in the field and within the skill of a POSA. (*Id.*)

I. Ground 9 – Claims 1-9, 14-21 Are Rendered Obvious Over Porter in View of US349

Ground 9 presents a new primary reference in combination with US349. The primary reference of Ground 9 (Porter), while also disclosing the essential elements

of a French Press, hints at a thumb-actuated surface and provides additional motivation to a POSA to include a closure mechanism.

1. Independent Claim 1

a. [1.0] (*The Preamble*)

Petitioner contends that the preamble is not limiting. (See, Section IX(A)(1)(a).) To the extent the Board disagrees, Porter discloses a “beverage press mug with storage container,” (EX1020, title, claim 1), which a POSA would understand to be a travel French Press (i.e., a “beverage-maker”) in view of Porter’s specification. (EX1004, ¶ [0267].)

b. [1.1] (*the Vessel Limitation*)

Porter discloses a “vessel 20 that has a bottom end 22, a straight [circumferential] side wall 24 and a top-opening 26 with a cover 28.” (EX1020, 3:57-58; *see also*, Section VI(H), *supra*, Fig. 5 (annotated) (yellow vessel).). (EX1004, ¶¶ [0270]-[0271].)

c. [1.2] (*the Piston Assembly Limitation*)

Porter discloses a “plunger assembly 30 with a rod 32 [that] slideably penetrates through the cover 28 and is connected to a hub 34 with spokes 36 that extend outwardly connected to a peripheral base member 38 with a plunger filter 40 located therebetween.” (EX1020, 3:60-64; *see also*, Section VI(H), *supra*, Fig. 5 (annotated) (purple grip, green piston rod, blue plunger-filter).) The plunger-filter 40 of Porter “preclude[s] any leakage of particles into the completed brew.”

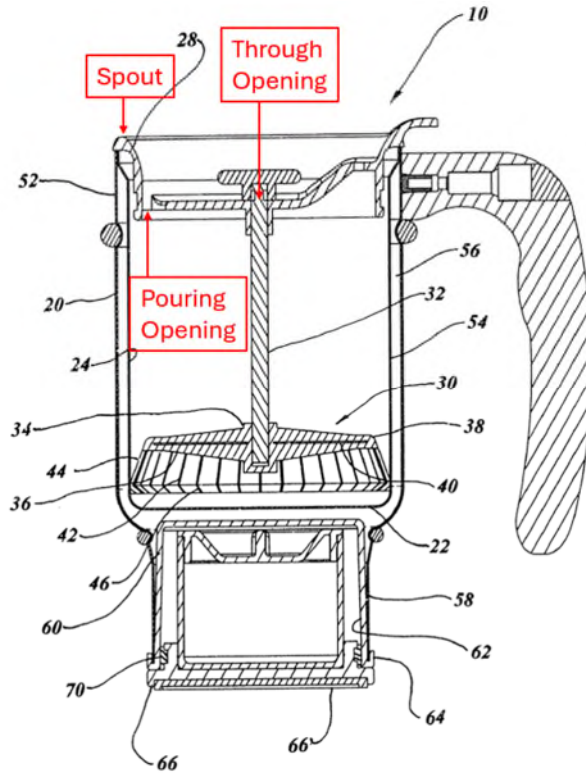
(EX1020; 2:34-35.) (EX1004, ¶¶ [0278]-[0279].)

d. [1.3] (*the Lid Limitation*)

Both Porter and US349 disclose a lid. (See, Section IX(A)(1)(c) for US349's teachings.) Porter's lid delimits the vessel interior, is identified as "cover 28," and best illustrated in Figure 6. Porter's "rod 32 slideably penetrates through the cover 28" (EX1020, 3:57-58; Figs. 5 &6) in the "first opening" or "through opening." A cover filter 50 is disposed over the "second opening" or "pouring opening" of Porter. (EX1020, Fig. 2; 4:21-27.) (EX1004, ¶¶ [0272]]-[0275].)

e. [1.4] (*the Spout limitation*)

Both Porter and US349 disclose a spout. (See, Section IX(A)(1)(d for US349's teaching.) Porter discloses a spout formed by the lid outside of the vessel and the pouring opening within the top wall of the lid is between the spout and the through opening. (EX1020, Fig. 5; EX1004, ¶¶ [0276]-[0277].)



(EX1020, Fig. 5 (annotated).)

f. [1.5] (*the Lever limitation*)

While Porter lacks an elongated lever, it hints at use of a thumb-actuated surface in the figures. (EX1004, ¶¶ [0286]-[0287].) As shown below, for example, Figure 4 depicts a surface intended to engage a user's thumb (shown in red circle). In fact, a POSA might believe the indicated surface is an elongated lever without closer inspection. (*Id.*)

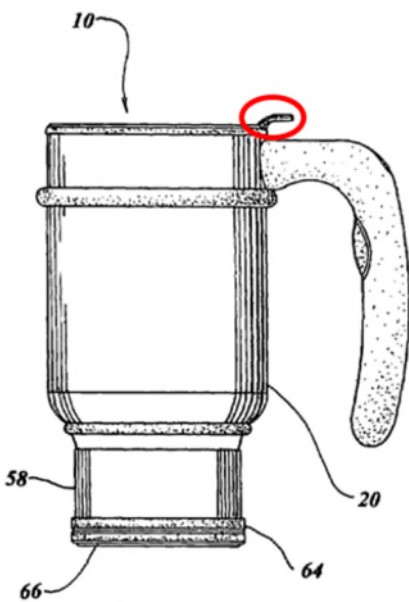


FIG. 4

This surface is also shown in Figures 1-3, 5-6 and 18.

US349 discloses [1.5] under Petitioner’s constructions or broader constructions of “elongated lever” and “closure body.” (See, Sections XI(A)(1)(d) and IX(B)(1)(f); EX1004, ¶¶ [0280]-0282].) The piston rod is provided by Porter instead of Brady in Section XI(B)(1)(f). Geroult discloses [1.5] if the constructions of elongated lever” and/or “closure body” encompass a lever assembly. (See, Section IX(A)(1)(e).)

2. Independent Claim 5

a. [5.0] (*the Preamble*)

The identical preamble was addressed in Section IX(I)(1)(a).

b. [5.1] (*the Vessel limitation*)

The identical limitation was addressed in Section IX(I)(1)(b).

c. [5.2] (*the Piston Assembly limitation*)

The identical limitation was addressed in Section IX(I)(1)(c).

d. [5.3] (*the Lid limitation*)

This limitation was addressed in Section IX(I)(1)(d).

e. [5.4] (*the Spout limitation*)

The difference between [5.4] and [1.4] is that [5.4] further requires that “the lid has” a pouring opening. Section IX(I)(1)(e) shows that this limitation is taught by Porter and annotated Figure 5 in that section shows the pouring opening is in the lid. Sections IX(A)(1)(d) and IX(B)(1)(f) discusses how US349 teaches this limitation.

f. [5.5] and [5.6] (*Lever limitations*)

Section IX(B)(1)(f) discusses how US349 discloses these limitations. Section IX(I)(1)(f) discusses how Porter discloses [5.5]. [5.6] provides that the “elongated lever has a through opening through which the piston rod extends.” This feature is taught by US349 in combination with Brady. Once the Piston Assembly of Brady is installed in the container of US349, a POSA would modify the elongated lever of US349 to accommodate the piston rod of Brady. (EX1004, ¶¶ [0282]-[0285].)

3. Independent Claim 14

a. [14.0] (the Preamble)

The identical preamble was addressed in Section IX(I)(1)(a).

b. [14.1] (*the Vessel Limitation*)

The identical limitation was addressed in Section IX(I)(1)(b).

c. [14.2] (*the Lid Limitation*)

This limitation was discussed in Section IX(I)(1)(c).

d. [14.3] (*the Spout Limitation*)

This limitation was discussed in Section IX(I)(1)(d).

e. [14.4] (*the Pouring Limitation*)

This limitation was discussed in Section IX(I)(1)(d).

f. [14.5] (*the Lever limitation*)

This limitation was discussed in Section IX(I)(1)(f). [14.5] further requires “the horizontal axis being arranged between the closure body and the actuating surface of the elongated lever,” which is present in US349. (See, Section VI(A) for annotated Figs. 7 & 9) (EX1004, ¶¶ [0154]-[0155].)

4. Claims 2-4 and 15-17 (*the Spring limitations*)

[2]-[4] are identical to [15]-[17] and was discussed in Section IX(A)(2).

5. Claims 6 and 18 (*the Lever Attachment limitation*)

This limitation was discussed in Section IX(B)(5).

6. Claims 7 and 19 (*the Softer Material limitations*)

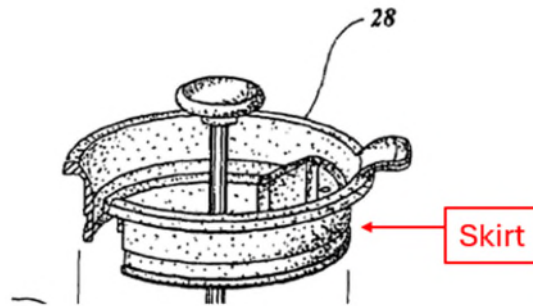
[7] is identical to [19] and was discussed in Section IX(A)(3).

7. Claims 9 and 21 (*the Retaining Web limitations*)

[9] is identical to [21] and was discussed in Section IX(A)(5).

8. Claims 8 and 20 (*the Skirt limitations*)

Porter's lid has a circumferential skirt as shown in Figure 6 that would be modified by US349 to including a sealing element. (EX1004, ¶¶ [0290]-[0291].)



(EX1020, Fig. 6 (annotated).) Alternatively, US349's skirt was discussed in Section IX(A)(4).

4. **A POSA Would Be Motivated to Combine Porter with US349**

a. Porter and US349 Are Analogous Art

Porter and US349 are analogous art because both disclose beverage containers within the inventor's field of endeavor and are at least pertinent references. (EX1004, ¶ [0181].)

b. Piston/Lid/Lever Modifications

A POSA would be motivated to incorporate the elongated lever of US349 given Porter's suggestion to include a thumb-actuated surface. Further, a POSA would be motivated to include a closure mechanism, such as taught by US349, because Porter discloses a "commuter mug" (EX1020, 2:50-62; 4:35-41), which a POSA would recognize to be designed to fit in a cup holder and moved from place

to place. Such a device would be more susceptible to spilling as the device is moved around. Inclusion of a closure mechanism would solve that foreseeable problem. (EX1004, ¶¶ [0285]-[0288].)

A POSA would have to modify the lever of US349 to accommodate the piston rod of Porter as required by claims 1 and 5 and would have been motivated to do so in order to construct a water-tight device. (*Id.*, ¶ [0285]; *see*, Section IX(D)(2)(d)(i).)

c. Modifying Skirt

A POSA would be motivated to add the sealing ring of US349 to the skirt of Porter same reasons set forth in Section IX(B)(9)(e). (EX1004, ¶ [0291].)

d. Modifying Lever Attachment

The same motivations of Section IX(B)(9)(d) would also apply here.

5. A POSA Would Enjoy a Reasonable Expectation of Success

a. Piston/Lid/Lever Modifications

Modifying Porter implicates the same steps as modifying Brady as set forth in Section XI(B)(10)(b) and potentially modifying the location/size the pouring opening of Porter to accommodate the plug finger/cover of US349. A POSA would enjoy a reasonable expectation of success. (EX1004, ¶ [0285].)

b. Substituting Skirts

The lack of technical challenges associated with this substitution was discussed in Section IX(B)(10)(d). (*See also*, EX1004, ¶ [0291].)

c. Modifying Lever Attachment Means

This modification was discussed in Section IX(B)(10)(c). A POSA would enjoy a reasonable expectation of success.

J. Ground 10 – Claims 1-9, 14-22 Are Rendered Obvious over Porter in view of US349 and/or Geroult

Ground 10 is similar to Ground 4 except Porter is advanced as the primary reference instead of Brady. Porter discloses the Piston Assembly elements of a classic French Press in a travel mug design, which includes a suggestion to include a finger-actuating lever and provides additional motivation to a POSA to include a closure mechanism.

1. Independent Claim 1

Petitioner relies on the teachings of Porter and US349 and Geroult as set forth in Ground 9 unless specified in this ground. (*See*, Section IX(I)(1)). A POSA would modify the lever or both the lid and lever of US349 in view of Geroult and arrive at the claimed invention. Alternatively, if Petitioner’s proposed constructions of “elongated lever” and “closure body” are not adopted by the Board, a POSA could substitute the lever of US349 for the lever of Geroult and arrive at the claimed invention.

a. [1.3] (*the Lid Limitation*)

The lids of US349 and Geroult are discussed in Sections IX(A)(1)(c) IX(C)(1)(a), respectively.

b. [1.4] (*the Spout Limitation*)

The spout of US349 was discussed in Sections IX(A)(1)(d).

c. [1.5] (*the Lever Limitation*)

The levers of US349 and Geroult are discussed in Sections IX(A)(1)(d)/IX(B)(1)(f) and IX(C)(1)(c), respectively.

2. Independent Claim 5

(See, Section IX(I)(2); *see also*, Section IX(J)(1) for relevant Geroult teachings where [1.3] applies to [5.3], [1.4] applies to [5.4], and [1.5] applies to [5.5].)

3. Independent Claim 14

All limitations are disclosed in US349 and discussed in Section A(1). Alternatively, Geroult teaches the “delimiting” aspect of [14.2] as discussed in Section IX(C)(1)(a). Petitioner does not contend that modifications set forth in [1.4] and [1.5] would be applicable because [14] lacks a recitation to a Piston Assembly.

4. Claims 2-4 and 15-17 (*the Spring Limitations*)

[2]-[4] are identical to [15]-[17] and was discussed in Section IX(A)(2).

5. Claims 6 and 18 (*the Lever Attachment Limitation*)

This limitation was discussed in Section IX(B)(5).

6. Claims 7 and 19 (*the Softer Material limitations*)

[7] is identical to [19] and was discussed in Section IX(A)(3).

7. Claims 8 and 20 (*the Skirt Limitations*)

This limitation was discussed in Section IX(I)(7).

8. Claims 9 and 21 (*the Retaining Web limitations*)

[9] is identical to [21] and was discussed in Section IX(A)(5).

9. Claim 22 (*Two-Part Lid limitation*)

Geroult's two part lid construction with an elongated lever (first lever 35 or pouring control 30 (i.e. lever assembly)) disposed between the two parts is shown in Section VI(C).

10. A POSA Would Be Motivated to Combine Porter, US349, and Geroult

a. Porter, US349, and Geroult Are Analogous Art

All of the references are analogous art because they disclose beverage containers within the inventor's field of endeavor and are at least pertinent references. (EX1004, ¶ [0181].)

b. *Including + Modifying a Lever*

The motivations set forth in Section IX(I)(5)(b) for including a lever and modifying the lever of US349 are equally applicable here as well as the motivation to modify the lever of US349 in view of Geroult set forth in Section IX(C)(10(c)-(d). (EX1004, ¶ [0293].)

c. [8], [20] Modification (*Substitution of Skirts*)

Petitioner contends US349 discloses [8] and [20]. To the extent the Board disagrees, a POSA would be motivated to substitute the skirt of US349 for the skirt

of Porter for the same reasons set forth in Section IX(B)(9)(e). (*Id.*)

d. [6], [18] Modification (*the Lever Attachment limitation*)

The same motivations of Section IX(B)(9)(d) would also apply here. (*Id.*)

11. A POSA Would Enjoy a Reasonable Expectation of Success

The techniques used to accomplish the proposed modifications are discussed elsewhere in this petition and require the use of well-developed technologies that produce consistent and predictable results. Thus, a POSA would enjoy a reasonable expectation of success. (*Id.*)

K. Secondary Considerations

A patentee bears the burden of producing evidence of secondary considerations of non-obviousness and showing a legally and factually sufficient connection between this evidence and the claims of the patents, *i.e.*, a nexus. *See Novo Nordisk A/S v. Caraco Pharms. Labs., Ltd.*, 719 F.3d 1346, 1352–54 (Fed. Cir. 2013); *Fox Factory, Inc. v. SRAM, LLC*, 944 F.3d 1366, 1373 (Fed. Cir. 2019).

Starbucks is unaware of any evidence of secondary considerations of non-obviousness and Patent Owner never asserted any during prosecution of the ‘486 Patent. To the extent Patent Owner raises such evidence in its response, Starbucks reserves the right to respond.

X. DISCRETIONARY DENIAL IS INAPPROPRIATE

Petitioner presents substantially different prior art, prior art combinations and arguments than those presented to the Office during the prosecution of the '486 Patent. 35 U.S.C. § 325(d).

Pursuant to Acting Director Coke Stewart's March 26, 2025, Interim Processes for PTAB Workload Management Memorandum, the Office will consider discretionary denial only upon the filing of a brief by the Patent Owner requesting discretionary denial. Petitioner submits that discretionary denial is inappropriate and will fully brief the issue if Patent Owner requests the Board exercise its discretion under 35 U.S.C. § 325(d) or any other basis.

XI. CONCLUSION

Petitioner requests the Board institute *inter partes* review of all claims pursuant to Grounds 1-10 and cancel claims 1-22 of the '486 Patent.

Dated: June 23, 2025

Respectfully submitted,

By: /s/Thomas J. Campbell, Jr._____

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CLAIMS LISTING APPENDIX

U.S. Patent No. 8,695,486, Claims 1-22

Claim Designation	Claim Language
[1.0]	A beverage-maker, comprising
[1.1]	an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall;
[1.2]	a filter piston vertically displaceable in the vessel, having a piston rod to whose upper end a grip element is attached, and to whose lower end a plunger-filter is attached, which plunger-filter is suitable for allowing the passage of liquid and, at the same time, for retaining solids; and
[1.3]	a lid, which is passed through by the piston rod and has a top wall which at least partially covers the vessel in an upward direction and which, jointly with the vessel, delimits a vessel interior, wherein the top wall has a first opening and a second opening, the first opening being a through opening, through which the piston rod extends, and the second opening being a pouring opening,
[1.4]	wherein, on the lid or on the vessel, outside the vessel interior, a spout is configured, wherein the pouring opening is disposed between the through opening and the spout and forms a connection between the vessel interior and the spout in order to pour liquid out of the vessel through the pouring opening by means of the spout, and
[1.5]	wherein an elongated lever, extending transversely to the piston rod, is attached to the lid above the top wall pivotably about a horizontal axis, the elongated lever having a closure body in a region of its front end for closing the pouring opening, and the elongated lever having an actuating surface in a region of its rear end, facing away from the pouring opening, in order to pivot the elongated lever, by virtue of pressure exerted by a finger of a user, from a first position, in which the closure body closes the pouring

	opening, into a second position, in which the closure body frees the pouring opening.
[2]	The beverage-maker as claimed in claim 1, wherein the elongated lever is spring-loaded in the direction of its first position.
[3]	The beverage-maker as claimed in claim 2, having a compression spring which is disposed in a region of the lid, facing away from the spout, between the elongated lever and the top wall in order to subject the elongated lever to a spring force in the direction of its first position.
[4]	The beverage-maker as claimed in claim 3, wherein a cup-shaped depression, extending towards the vessel interior, is configured in the top wall, into which depression the compression spring extends.
[5.0]	A beverage-maker, comprising
[5.1]	an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall;
[5.2]	a filter piston vertically displaceable in the vessel, having a piston rod to whose upper end a grip element is attached, and to whose lower end a plunger-filter is attached, which plunger-filter is suitable for allowing the passage of liquid and, at the same time, for retaining solids; and
[5.3]	a lid, which is passed through by the piston rod and has a top wall which at least partially covers the vessel in an upward direction and which, jointly with the vessel, delimits a vessel interior,
[5.4]	wherein, on the lid or on the vessel, outside the vessel interior, a spout is configured, wherein the lid has a pouring opening, which is disposed between the piston rod and the spout in the top wall and which forms a connection between the vessel interior and the spout in order to pour liquid out of the vessel through the pouring opening by means of the spout, and
[5.5]	wherein an elongated lever, extending transversely to the piston rod, is attached to the lid above the top wall pivotably about a

	horizontal axis, the elongated lever having a closure body in a region of its front end for closing the pouring opening, and the elongated lever having an actuating surface in a region of its rear end, facing away from the pouring opening, in order to pivot the elongated lever, by virtue of pressure exerted by a finger of a user, from a first position, in which the closure body closes the pouring opening, into a second position, in which the closure body frees the pouring opening,
[5.6]	wherein the elongated lever has a through opening, through which the piston rod extends.
[6]	The beverage-maker as claimed in claim 1, wherein the lever has a bearing shaft extending transversely to the longitudinal direction of the elongated lever, or two coaxially arranged bearing journals extending transversely to the longitudinal direction of the elongated lever, wherein the lid has two mutually opposing, jaw-shaped bearing elements for the reception of the bearing shaft or bearing journals, and wherein the bearing shaft or bearing journals, in surmounting an elastic spring force, can be clicked into the bearing elements.
[7]	The beverage-maker as claimed in claim 1, wherein the closure body is made of a material which is softer than the material of the rest of the elongated lever.
[8]	The beverage-maker as claimed in claim 1, wherein the lid has a circumferential skirt, which extends vertically downward and extends into the vessel interior, and on whose outer side there is disposed a circumferential sealing element, which bears sealingly against the inner side of the side wall of the vessel.
[9]	The beverage-maker as claimed in claim 1, wherein the top wall of the lid is configured substantially flat, and in a region surrounding the pouring opening there is configured an upwardly protruding retaining web, which, starting from the spout, extends partially around the pouring opening in order to retain in the region of the pouring opening liquid running back from the spout.

[10.1]	The beverage-maker as claimed in claim 1, wherein the lid comprises a lid bottom part, which forms the top wall delimiting the vessel interior, and wherein the lid comprises a separately configured lid top part, which at least partially covers the lid bottom part and the elongated lever, and
[10.2]	wherein on one of the lid parts, selected from lid bottom part and lid top part, there is configured a cylindrical guide sleeve for the piston rod, which is held in the other lid part such that the guide sleeve is secured against a lateral tilting motion.
[11]	The beverage-maker as claimed in claim 10, wherein the guide sleeve can be latched to the other lid part.
[12]	The beverage-maker as claimed in claim 10, wherein the guide sleeve is configured integrally with the lid top part and extends vertically downward into the vessel interior through the top wall delimiting the vessel interior, and wherein a releasable latching connection is configured between the guide sleeve and the top wall.
[13]	The beverage-maker as claimed in claim 11, wherein the guide sleeve is configured integrally with the lid top part and extends vertically downward into the vessel interior through the top wall delimiting the vessel interior, and wherein a releasable latching connection is configured between the guide sleeve and the top wall.
[14.0]	A beverage-maker, comprising
[14.1]	an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall; and
[14.2]	a lid, which has a top wall which at least partially covers the vessel in an upward direction and which, jointly with the vessel, delimits a vessel interior,
[14.3]	wherein, on the lid or on the vessel, outside the vessel interior, a spout is configured,

[14.4]	wherein the lid has a pouring opening, which is disposed in the top wall and which forms a connection between the vessel interior and the spout in order to pour liquid out of the vessel through the pouring opening by means of the spout, and
[14.5]	wherein an elongated lever, is attached to the lid above the top wall pivotably about a horizontal axis, the elongated lever having, in the region of its front end, a closure body for closing the pouring opening, and the elongated lever having, in the region of its rear end, facing away from the pouring opening, an actuating surface in order to pivot the elongated lever, by virtue of pressure exerted by a finger of the user, from a first position, in which the closure body closes the pouring opening, into a second position, in which the closure body frees the pouring opening, the horizontal axis being arranged between the closure body and the actuating surface of the elongated lever.
[15]	The beverage-maker as claimed in claim 14, wherein the elongated lever is spring-loaded in the direction of its first position.
[16]	The beverage-maker as claimed in claim 15, having a compression spring which is disposed in a region of the lid, facing away from the spout, between the elongated lever and the top wall in order to subject the elongated lever to a spring force in the direction of its first position.
[17]	The beverage-maker as claimed in claim 16, wherein a cup-shaped depression, extending towards the vessel interior, is configured in the top wall, into which depression the compression spring extends.
[18]	The beverage-maker as claimed in claim 14, wherein the lever has a bearing shaft extending transversely to the longitudinal direction of the elongated lever, or two coaxially arranged bearing journals extending transversely to the longitudinal direction of the elongated lever, wherein the lid has two mutually opposing, jaw-shaped bearing elements for the reception of the bearing shaft or bearing journals, and wherein the bearing shaft or bearing

	journals, in surmounting an elastic spring force, can be clicked into the bearing elements.
[19]	The beverage-maker as claimed in claim 14, wherein the closure body is made of a material which is softer than the material of the rest of the elongated lever.
[20]	The beverage-maker as claimed in claim 14, wherein the lid has a circumferential skirt, which extends vertically downward and extends into the vessel interior, and on whose outer side there is disposed a circumferential sealing element, which bears sealingly against the inner side of the side wall of the vessel.
[21]	The beverage-maker as claimed in claim 14, wherein the top wall of the lid is configured substantially flat, and in a region surrounding the pouring opening there is configured an upwardly protruding retaining web, which, starting from the spout, extends partially around the pouring opening in order to retain in the region of the pouring opening liquid running back from the spout.
[22]	The beverage-maker as claimed in claim 14, wherein the lid comprises a lid bottom part, which forms the top wall delimiting the vessel interior, and wherein the lid comprises a separately configured lid top part, which at least partially covers the lid bottom part and the elongated lever.

CERTIFICATE OF COMPLIANCE WITH 37 C.F.R. § 42.24

Pursuant to 37 C.F.R. § 42.24(d), I certify that the present paper contains 13,865 words as counted by the word-processing program used to generate the brief. This total does not include the tables of contents and authorities, the caption page, claim listing, table of exhibits, mandatory notices, certificate of service, or this certificate of word count.

Date: June 23, 2025

By: /s/Thomas J. Campbell, Jr.

(Reg. No. 70,094)

NEAL, GERBER & EISENBERG LLP

Lead Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Petition for *inter partes* review of U.S. Patent No. 8,695,486 and supporting Exhibits 1001 to 1027 were served on June 23, 2025 by FedEx on the Patent Owner at the correspondence address of record for the subject patent as listed on PAIR:

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A courtesy copy is also being served by electronic mail on counsel for the patent holder in the pending litigation:

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Date: June 23, 2025

By: /s/Thomas J. Campbell, Jr.

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