

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

Declaration of Michael Jobin in Support of Starbucks Petition

Filed Pursuant to 37 C.F.R. § 1.68

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I. INTRODUCTION

[0001] I have prepared this Declaration in connection with the Petition of Starbucks Corporation for *Inter Partes* Review of U.S. Patent No. 8,695,486 (the “‘486 Patent”) (EX1001). I am over 18 years of age and I am willing to testify as to the matters set forth herein if I am called upon to do so at deposition or by the Board.

[0002] In the course of preparing this Declaration, I reviewed the ‘486 Patent and its prosecution file history (EX1002) as well as the other documents listed in Section III and/or discussed in this Declaration.

[0003] I have been retained by Starbucks Corporation (“Starbucks” or “Petitioner”) as an expert in the field of mechanical engineering and design

specifically applied to drinkware products. I am being compensated at my normal consulting rate for my time. My compensation is not dependent on, and in no way affects, the substance of my statements in this Declaration. I have no financial interest in Starbucks, the '486 Patent, Bodum USA, Inc., Pi-Design AG, or the holding company of Bodum USA, Inc. and Pi-Design AG.

II. BACKGROUND AND QUALIFICATIONS

[0004] I am currently the Director of Product Development at 908 Devices, Inc. in Boston, Massachusetts. I have more than 33 years of experience in product and technology development as a mechanical engineer, consultant and entrepreneur. I have worked in various product development companies throughout my 33-year career, and have I developed many products that demonstrate knowledge and experience relevant to the subject matter at issue in this case, including numerous fluid-containing and dispensing devices, such as those for beverages and other liquids. I have summarized below this relevant work experience, as well as some relevant project examples.

[0005] After my undergraduate degrees, I was hired as a program manager by Design 4 Plastics, Inc. I leveraged my industrial design and engineering education to develop a wide range of products. My projects included a heavy emphasis on plastic part design (including injection molding, rotational molding, vacuum and pressure forming) and sheet metal fabrication (stamping, forming). While there, I

designed fluid pumps for laboratory and industrial fluid dispensing applications and a custom impeller pump for insufflation of the abdomen during laparoscopic surgery. I also developed garden hose accessories such as hose reels and sprayers that used quick disconnect fittings and valves.

[0006] For Coca-Cola, I developed a disposable valve for a bag-in-box syrup dispensing system.

[0007] Next, in 1996, I joined Proteus, Inc. as Senior Mechanical Engineer. There, I focused on product design and engineering of products for consumer, medical, and laboratory applications. For example, I developed a disposable cartridge for laboratory analysis of blood samples.

[0008] For PUR, I developed a faucet-mounted water filter with a replaceable cartridge and a rotary actuated valve, as well as filtered water pitchers.

[0009] I founded Boston Innovation in 1998, focusing on developing precision fluidic dispensing instruments for pharmaceutical research applications that leveraged a novel pressure activated valve technology that I invented. In these instruments, sample fluid was stored in small sealed reservoirs, and precision low volumes dispensed by the translation of a needle and application of a rinse fluid and/or air pressure. *See, e.g.*, U.S. Pat. Nos. 6,085,773 and 6,706,538.

[0010] During this time, I developed and licensed novel valve technology to Delta Faucet. This project was focused on a high flow tub fill valve for residential plumbing use.

[0011] For Gillette, I designed a disposable shaving cream dispenser.

[0012] In 2000, I joined Arthur D. Little, where I led mechanical engineering of a next-generation network storage product, integrating contributions of mechanical, software, hardware and industrial designers.

[0013] I founded MicroBioSciences in 2001. There, I invented and developed novel disposable fluid handling cartridges for high throughput screening in pharmaceutical research.

[0014] Later in 2001, I joined Altitude, Inc., a product development consulting firm, first as Engineering Manager, and then I was promoted to Director of Engineering in 2005. I performed design and engineering activities, and I led a team of designers and engineers to develop a wide range of consumer products, medical devices and instrumentation.

[0015] I developed coffee makers for Sunbeam and Mr. Coffee, as well as a coffee carafe with a refined pour spout to minimize drips.

[0016] I also developed a wide range of home humidifiers for Honeywell, Kaz, and Vicks. These included water reservoirs with removable caps and elastomer valves.

[0017] In addition, I developed a bottled water dispenser for PUR with chilled and heated water and dispensing valves. This included a refillable water reservoir with a wide mouth threaded cap and valve for easy cleaning.

[0018] For Exact Sciences, I designed a custom cylindrical sample collection and shipping vessel with a large diameter threaded lid and gaskets.

[0019] I developed the first integrated ice shaving and blending frozen drink appliances designed for home use for Margaritaville. These products included a reservoir for ice, a robust motor and rotary ice shaving blade, a blender, and electronic controls.

[0020] I also developed a wine preservation and dispensing system for home use. The product stored multiple wine bottles at the user-selected optimum temperature using thermoelectric chiller technology and used valves and air pressure for dispensing, and vacuum for preservation.

[0021] I developed a handheld eye medication dispenser for Optimyst. This product included a custom disposable fluid reservoir and ultrasonic dispensing technology. *See, e.g.*, U.S. Patent Nos. D597,206; 8,545,463; 8,012,136.

[0022] I developed commercial carpet cleaning extraction technology for Tennant Company. This included fluid reservoirs, valves and plumbing connections.

[0023] I also developed pressure washers for Briggs and Stratton and a range of safety eyewear for UVEX. These included adjustable features leveraging advanced injection molding techniques, such as in-mold assembly. *See, e.g.*, U.S. Patent Nos. 7,758,789; 7,246,901; 7,237,892; 7,210,777; 7,175,270.

[0024] In 2008, I founded Aston Technology Advisors and continued with product development and consulting activities. There, I developed an instrument that uses sound to measure wind. This included a novel hydronic heating system for melting snow. *See* U.S. Patent Nos. 8,958,269 and 9,279,821.

[0025] I worked with a major beer company on a home keg dispenser, including work on a plastic recyclable vessel for beer.

[0026] I developed a custom, portable container and dispenser for hand sanitizer.

[0027] In 2012, I co-founded 908 Devices Inc. to develop portable chemical detection instrumentation based on mass spectroscopy. Here, I have developed various instruments with applications in pharmaceutical research, forensics and hazardous material identification at the point of need. These instruments include complex fluid handling, fluidic and pneumatic connectors, custom vacuum pumps, pressure regulators and pressure sensors. *See*, U.S. Patent Nos. D703,074; D703,075; 9,093,253; 9,502,226; 9,698,000; 9,978,574; 10,438,787.

[0028] At 908 Devices, I have also developed various customized fluid vials, bottles, caps, gaskets and packaging for shipping chemical reagents.

[0029] Throughout my professional career, I have designed products that have won various awards, including: Industrial Designers Society of America (IDSA) IDEA Awards, R&D 100, The Scientist Top 10 Innovations, and The Instrument Business Outlook Industrial Design Gold Award.

[0030] I have served as an expert witness in numerous patent cases, including cases relating to fluid-containing and fluid-dispensing devices, such as single-serve coffee makers, liquid dispensing valves, and elastomeric dispensing valves for water bottles, among others. For example, I was hired on behalf of the United States Patent & Trademark Office as a technical expert witness in a case related to a USPTO Examiner's rejection of patent claims relating to single-serve coffee pods for single-serve coffee systems. My work in that case involved technical analysis of relevant prior art. Key issues in that matter included high volume manufacturing of thermoformed plastic pods, forming and assembly of filter baskets, and fluidics technology for fluid flow through the system under high pressure. Ultimately, the USPTO Examiner's rejection was affirmed on appeal.

[0031] For further details regarding my qualifications, including by employment and academic history, please refer to my curriculum vitae, which accompanies this declaration as EX1003.

III. MATERIALS CONSIDERED

[0032] In addition to any other documents cited or referenced herein, I have reviewed the following materials in preparing this Declaration:

<u>Exhibit No.</u>	<u>Description</u>
EX1001	U.S. Patent No. 8,695,486 (“‘486 Patent”)
EX1002	File History of ‘486 Patent
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”)
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

IV. RELEVANT LAW

[0033] I am not an attorney. For the purposes of this Declaration, I have been informed about certain aspects of the law that are relevant to my opinions. My understanding of the relevant law is summarized below.

[0034] I have been informed and understand that determining whether a patent claim is valid requires (a) the claim to be construed and (b) the construed claim must be compared to the prior art.

[0035] I have been informed and understand that claim construction is a matter of law and that the final claim construction for this trial will be determined by the Patent Trial and Appeal Board.

[0036] I have been informed and understand that in the context of an inter partes review, claims are construed from the perspective of a person of ordinary skill in the art (“POSA”) at the time of the purported invention (which is approximated based on the earliest priority date of the patent). I understand that absent disclaimer or express definition, claim terms are given their plain and ordinary meaning to a POSA in view of the specification, file history, and knowledge of a POSA.

[0037] I have been informed and understand that claim terms that state an “intended use” of a product or element recited in a product claim should not be

entitled to patentable weight. In other words, these terms are disregarded when comparing the claimed invention to the prior art. I further understand that this concept of intended use applies to the body of the claim and the preamble of the claim.

[0038] I have been informed and understand that a patent claim is invalid if it is anticipated by the prior art (i.e., lacks novelty). I understand that anticipation requires the disclosure in a single prior art reference of every limitation of the claim, expressly or inherently, with the limitations arranged as specified in the claim.

[0039] I have been informed and understand that, although not expressly disclosed, subject matter may be inherently disclosed in a prior art reference where that subject matter is necessarily present in the expressly disclosed subject matter and would be understood to be so by those of ordinary skill in the art. I understand that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.

[0040] I have been informed and understand that a patent claim is obvious and therefore invalid if the claimed subject matter as a whole would have been obvious to a POSA as of the priority date of the patent based on one or more prior art references and/or the knowledge of a POSA.

[0041] I understand that an obviousness analysis must consider (1) the scope and content of the prior art, (2) the differences between the claims and the prior art,

(3) the level of ordinary skill in the pertinent art, and (4) secondary considerations, if any, of non-obviousness (such as unexpected results, industry praise, commercial success, long-felt but unmet need, failure of others, copying by others, and skepticism of experts).

[0042] I understand that a prior art reference may be combined with other references to disclose each element of the invention under 35 U.S.C. § 103. I understand that a reference may also be combined with the knowledge of a POSA, and that this knowledge may be used to combine multiple references. I further understand that a POSA is presumed to know the relevant prior art. I understand that the obviousness analysis may take into account the inferences and creative steps that a POSA would employ.

[0043] In determining whether a prior art reference would have been combined with other prior art or other information known to POSA, I understand that the following principles may be considered:

- a. A combination of familiar elements according to known methods is likely to be obvious if it yields predictable results;
- b. The substitution of one known element for another is likely to be obvious if it yields predictable results;
- c. The use of a known technique to improve similar items or methods in the same way is likely to be obvious if it yields predictable results;

d. The application of a known technique to a prior art reference that is ready for improvement to yield predictable results;

e. Any need or problem known in the field and addressed by the reference can provide a reason for combining the elements in the manner claimed; and

f. The proper analysis of obviousness requires a determination of whether a person of ordinary skill in the art would have a “reasonable expectation of success”—not an “absolute predictability” of success—in achieving the claimed invention by combining prior art references.

[0044] I am informed that whether a prior art reference invalidates a patent claim as obvious is determined from the perspective of a POSA. While there is no requirement that the prior art contain an express suggestion to combine known elements to achieve the claimed invention, a suggestion to combine known elements to achieve the claimed invention may come from the prior art as a whole or individually, as filtered through the knowledge of a POSA. In addition, the inferences and creative steps a POSA would employ are also relevant to the determination of obviousness.

[0045] When a work is available in one field, design alternatives and other market forces can prompt variations of it, either in the same field or in another. If a POSA can implement a predictable variation and would see the benefit of doing so,

that variation is likely to be obvious. In many fields, there may be little discussion of obvious combinations, and in these fields market demand – not technical literature – may drive design trends. When there is a design need or market pressure and there are a finite number of predictable solutions, a POSA has good reason to pursue those known options.

[0046] It is my understanding that there is no rigid rule that a reference or combination of references must contain a “teaching, suggestion, or motivation” to combine references. But, I understand that the “teaching, suggestion, or motivation” test can be a useful guide in establishing a rationale for combining elements of the prior art. This test poses the question as to whether there is an express or implied teaching, suggestion, or motivation to combine prior art elements in a way that arrives the claimed invention, and it seeks to counter impermissible hindsight analysis.

V. PRIORITY DATE

[0047] I have been asked to assume that June 10, 2008 is the priority date for the ‘486 Patent and thus the relevant date for determining the level of ordinary skill in the art. Throughout this Declaration, when I refer to one of ordinary skill, I am referring to one of ordinary skill in the art as of 2008 unless otherwise specified. My opinions would be the same if the ‘486 Patent priority date was in 2009 (at the time the PCT application was filed) or 2010 (when the application that resulted in the

'486 Patent was filed). As noted herein, the technology evolution in this field between 2007-2010 was not significant.

VI. LEVEL OF ORDINARY SKILL IN THE ART

[0048] In my opinion, a POSA in the field of the '486 patent, as of June 10, 2008 would have had 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.

[0049] In considering the definition of a POSA, I considered several factors, including: (1) the levels of education and experience of persons working in the field at the time of the invention; (2) the sophistication of the technology; (3) the types of problems encountered in the field; and (4) the prior art solutions to those problems.

[0050] The sophistication of the technology is quite low. Coffee presses and carafes are simple devices that have existed in substantially similar form for over 100 years, with small, incremental advances, especially in more recent years. The subject matter of the patent is directed toward a plunger filter beverage-making machine with a closable pouring opening. Claim elements include simple mechanical features like a cylindrical vessel, lid, lever, pivot, plunger, spout and closure.

[0051] People that I recall designing similar products in that timeframe would typically have had a bachelor's degree in mechanical engineering or similar coursework and some work experience. In my opinion, one with more work experience would learn relevant information that would substitute for education. One would be familiar with food safe materials such as glass vessels, plastic injection molded parts, and stainless steel or chromed metals and manufacturing process associated with these. Because these are products that have been made for a long time, one would have leveraged existing products and techniques.

[0052] As of June 10, 2008, I was a person who had more than ordinary skill in the art. Nevertheless, the opinions I express in this Declaration are from the perspective of a person of ordinary skill in the art as I have defined it above. Although I believe my definition is accurate, my opinions would not change if a different POSA definition was adopted by the Board that required more education and/or experience.

VII. TECHNOLOGY BACKGROUND

[0053] French Press coffee makers utilize an uncomplicated but highly efficient brewing mechanism that operates through immersion techniques combined with mechanical filtration processes. This technology has been extended into plunger-operated tea brewing systems. (EX1026.)

[0054] These brewing devices feature a cylindrical vessel constructed from materials such as glass, stainless steel, or plastic, containing a Piston Assembly equipped with a piston mechanism, control knob or grip, and metallic mesh filtering component. Vertical movement of the Piston Assembly through the vessel is accomplished by manipulating the knob and piston components.

[0055] This brewing methodology depends on complete submersion techniques, allowing coarse coffee grounds to remain immersed in heated water for approximately 4 minutes. Such prolonged contact duration ensures thorough extraction of essential oils, acidic compounds, and aromatic elements from the coffee particles. (EX1024.)

[0056] This filtering mechanism incorporates precisely sized apertures that effectively isolate liquid coffee from solid grounds while simultaneously permitting oils and microscopic particles to pass through, thereby producing the distinctive rich-bodied consistency. The non-absorptive filtering system, typically metallic, is a

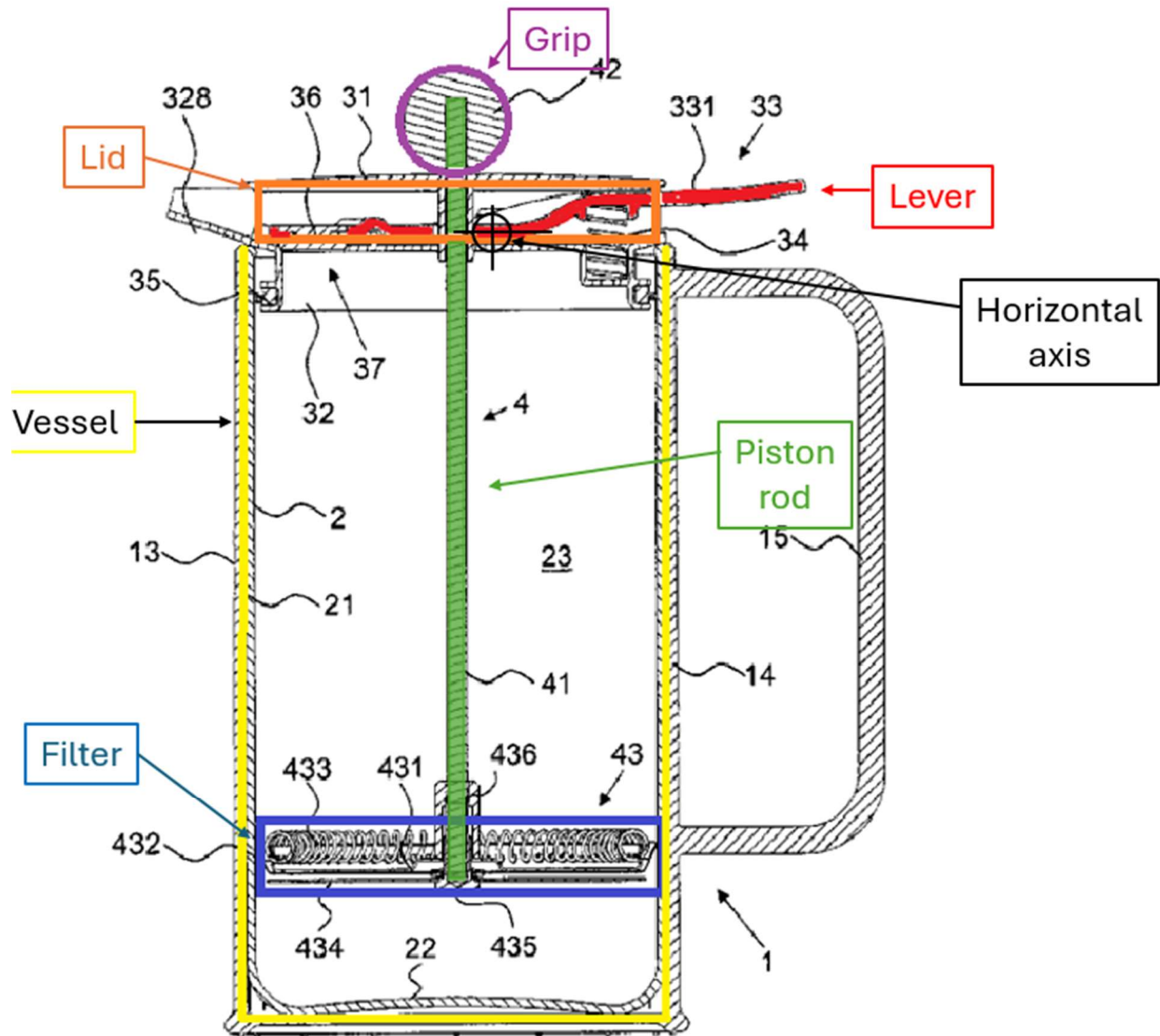
differentiating factor from other brewing methods. In contrast to paper-based filters, metallic mesh systems preserve coffee oils rather than absorbing them.

[0057] The Piston Assembly applies measured downward force to achieve separation between the finished brew and exhausted coffee grounds. This mechanical isolation process operates through user-applied manual pressure instead of relying on external pressurization mechanisms.

[0058] Such brewing methodology generates coffee containing higher concentrations of oils and particulate matter compared to conventional filtering techniques, thereby delivering enhanced richness and more pronounced flavor intensity. (EX1025.) Nonetheless, existing prior art has acknowledged various challenges including thermal retention difficulties, oxidation concerns, and safety considerations related to French Press brewing systems.

VIII. OVERVIEW OF THE ‘486 PATENT

[0059] The ‘486 Patent describes a French Press with a lid that contains a lever to open and close a pouring opening. The ‘486 Patent does not describe a complicated lever system or assembly. Instead, the lever is a simple second class lever that is preferably held in an engagement position by a spring and is brought out of engagement by a user depressing the end of the lever with a thumb or finger. (*See, e.g.,* EX1001, Figs. 1-3.)



[0060] The ‘486 Patent is primarily concerned with the potential that the user will be scalded from hot coffee/water when operating the vertical press. (EX1001, 1:36-48.) To provide “spray protection” and reduce “the risk of subsequent dripping” and “heat loss, (EX1001, 1:61-67), the ‘486 Patent teaches a lid with a lever. Specifically, the ‘486 Patent teaches:

An elongated lever, extending above the top wall transversely to the piston rod, is attached to the lid pivotably about a horizontal axis. The

lever has a closure body in the region of its front end for closing the pouring opening, and the lever has an actuating region in the region of its rear end for pivoting 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.

(EX1001, 2:24-33.)

IX. CLAIM CONSTRUCTION

[0061] I understand that claim terms are given customary meaning as understood by one of ordinary skill in the art and the prosecution history. 37 C.F.R. § 42.100(b). I believe two (2) claim terms should be construed for the reasons stated below.

A. *Elongated Lever*

[0062] A lever is a well-known structure dating back to the third century BC when Archimedes famously (and allegedly) said: “Give me a lever long enough and a fulcrum on which to place it, and I shall move the world.” As this declaration is based on my personal knowledge, I can attest that the term “lever” has had a consistent and well-understood meaning at least for the duration of my professional career, which began in 1992. A POSA would immediately appreciate that a lever is a simple machine made of a rigid beam and a fulcrum based on the customary usage of the term over the centuries. The fulcrum is the point on which the beam pivots.

[0063] Merriam-Webster defines “lever” as “a rigid piece that transmits and modifies force or motion when forces are applied at two points and it turns about a

third.” (EX1011, p. 2.) I agree that this is the customary usage of the term – even in a mechanical engineering context even though this is a general dictionary.

[0064] Similarly, Cambridge Dictionary provides a “lever” is “a bar or handle that moves around a fixed point.” (EX1012, p. 2.) Again, this is in alignment with the Merriam-Webster dictionary and the customary usage of the term in 2008.

[0065] Although the Merriam-Webster and Cambridge dictionaries are contemporary dictionaries, these definitions have not changed since 2008 when the priority application was filed. As I previously noted, the term “lever” has had a consistent meaning since at least 1992 when I began my professional career.

[0066] In context of the ‘486 Patent, a user’s finger applies an effort (i.e., load) to the lever near the handle, which overcomes the load applied in the opposite direction by the spring causing the lever to pivot around a central point, and raise the end of the lever closing the pouring opening. (*See, e.g.*, EX1001, Abstract (“the lever is mounted on the lid such that it can pivot about a horizontal axis.”; 2:27-33 (“The lever has a closure body in the region of its front end for closing the pouring opening, and the lever has an actuating region in the region of its rear end for pivoting 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.”)). This is known to

be a second class lever in mechanical engineering terms and is taught in middle school science classes in the United States. (EX1021.)

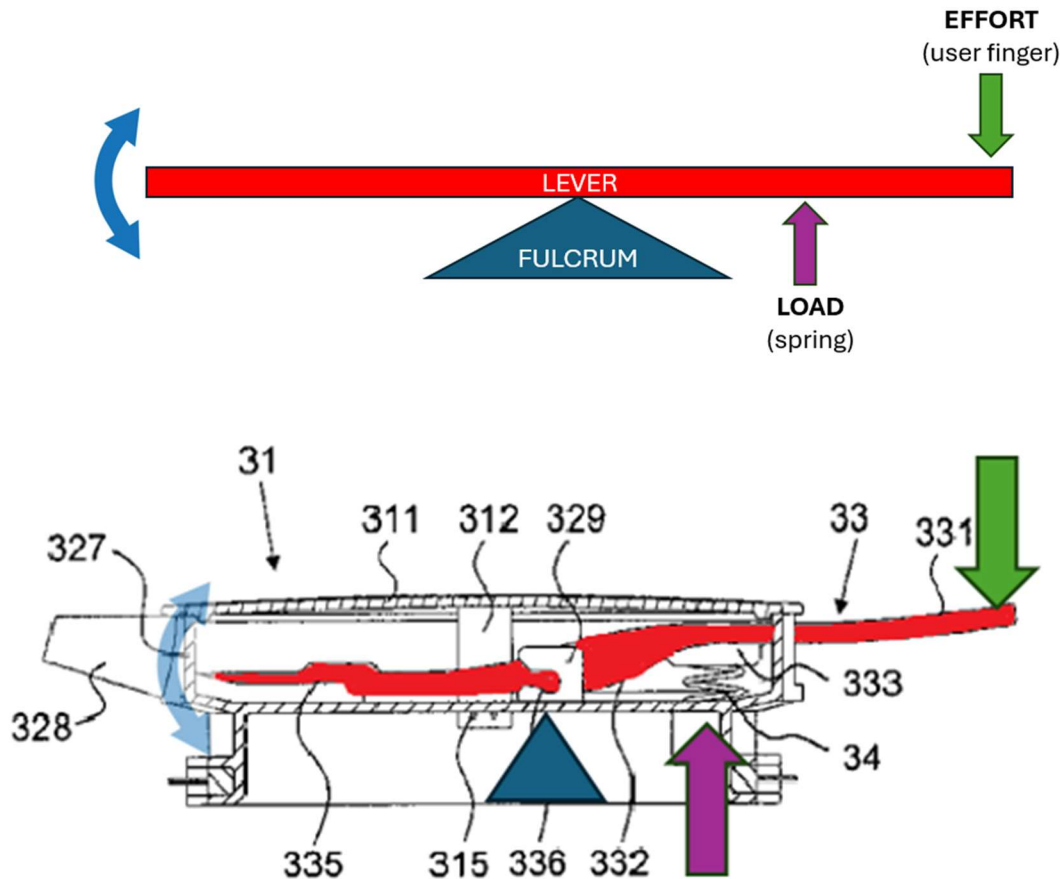


FIG. 5

EX1001, Fig. 5 (annotated).

[0067] Levers can come in various shapes. The qualifier “elongated” would inform a POSA that the lever has a length greater than the width and that understanding would be reinforced by the figures of the ‘486 Patent. (*E.g.*, EX1001, Fig. 2.) In my proposed construction, I include “bar,” which a POSA would interpret to be a member with a length greater than its width.

[0068] The ‘486 Patent refers to element 33 as the “elongate lever” (EX1001, abstract), “elongated lever” (*id.*, 5:33), the “lever” (*id.*, 5:23, 5:43, 5:48, 5:53, 5:67), and the “closing lever.” (*Id.*, 7:18.) The specification teaches: “The vessel interior is completely closed, as long as the user does not deliberately actuate the lever in order to open the valve.” (*Id.*, 2:35-37.) Here, the ‘486 Patent uses “valve” and “pouring opening” interchangeably. (*See, id.*, 4:4-6 (“pouring opening is closed as long as the lever is not deliberately actuated”))

[0069] During prosecution of the application that issued as the ‘486 Patent, the Examiner contended that Lin disclosed the claimed “elongated lever” in its “push member 7.” (EX1002, pp. 185-186, 292-293.)

[0070] Lin discloses a coffeepot comprising a body, a handle assembly, a lid connecting assembly, a discharge control assembly, a check valve, a disc-shaped abutment assembly, a push member, and a disc-shaped lid. EX1007, Abstract. Figure 2 shows an exploded view of the coffeepot elements, including the “push member 7” and the “disc-shaped base 42”, which I have circled for reference.

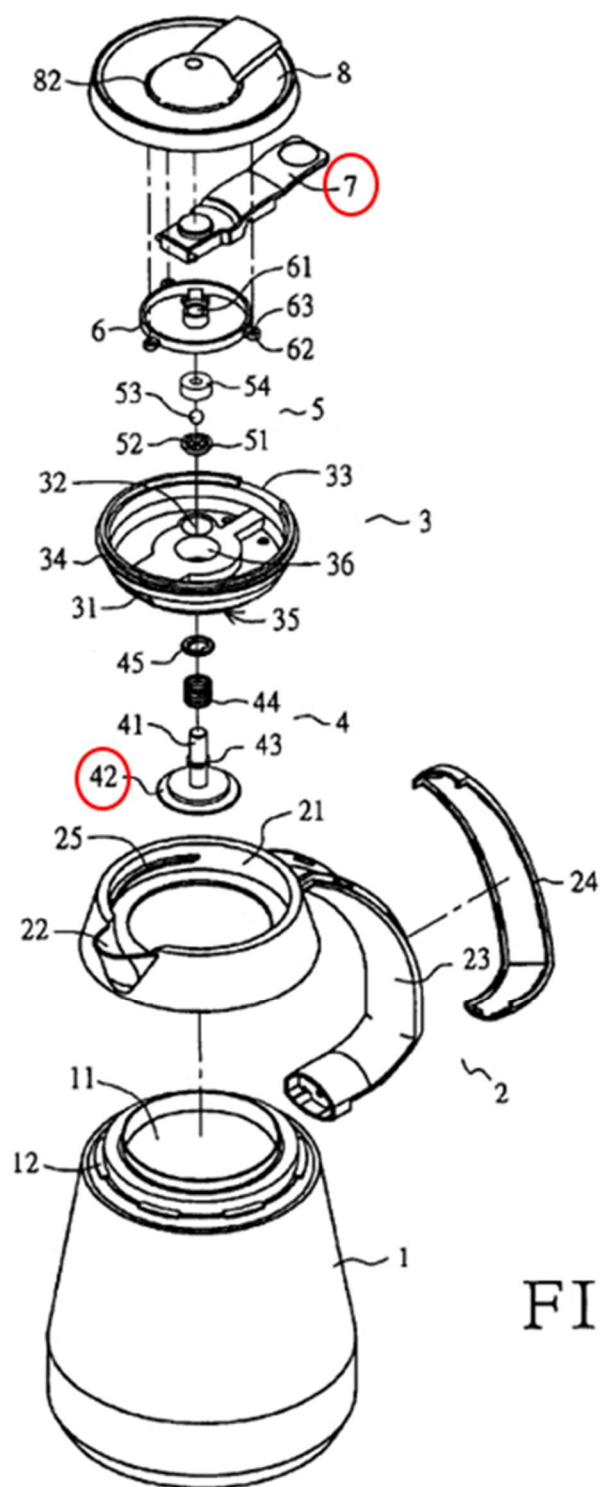


FIG. 2

[0071] Figure 5 of Lin (EX1007) provides an image of these components assembled in a pouring state (i.e., an orientation where fluid can be poured from the

vessel through the spout 22), where again I have indicated the location of the “push member 7” and the “disc-shaped base 42”:

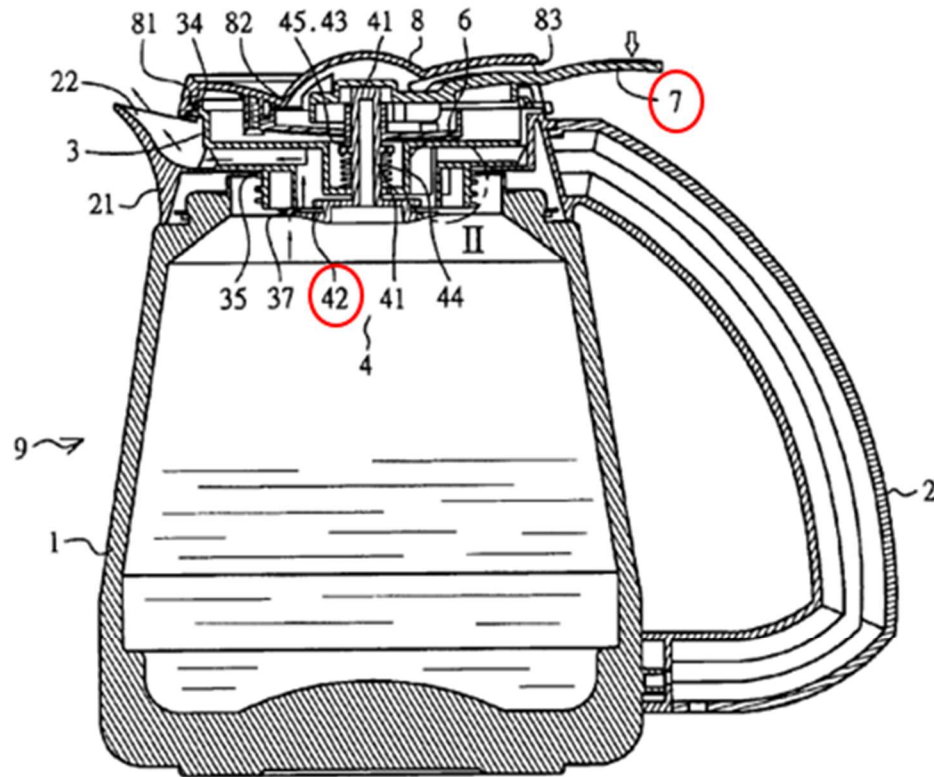


FIG. 5

[0072] Regarding Figure 5, Lin teaches:

For pouring coffeepot in a closed state of the check valve 5 (i.e., coffee is prevented from dripping into the body 1) as shown in FIG. 5, press the push member 7 to lower the discharge control assembly 4 a distance with the spring 44 being compressed. At the moment, a gap 37 is formed between the base 42 and the top of the lid connecting assembly 3 and thus a coffee discharge passageway (as indicated by arrows) from the gap 37 to the spout 22 through the passageway 31 is formed. As an end, coffee is able to flow out of the spout 22 via the coffee discharge passageway by tilting the coffeepot.

(EX1007, 3:36-46.) Thus, Lin teaches a lever that forces another element to move and open a fluid passageway. Applicant distinguished this structure from the claimed invention stating: “the lever 7 as disclosed by Lin does not comprise a *closure body*. The passageway 31 of the beverage maker disclosed by Lin is opened and closed by the discharge control assembly 4, namely by the disc shaped base 42, which is obviously not part of an elongated lever. 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.” (EX1002, pp. 203-204 (emphasis in original).)

[0073] Here, to convince the examiner of the patentability of the claims, the applicant argues that the structure of Lin’s lever does not meet the limitations of the claimed invention because the structure that opens and closes the passageway is not “part of an elongated lever.” Applicant concedes that Lin discloses a lever when it referred to “push member 7” as “lever 7.” But Lin’s lever is not the claimed lever because the structure that closed the passageway in Lin was not part of the lever as instantly claimed.

[0074] This argument is reiterated by applicant in response to the final rejection, where it states:

Lever 7 as disclosed by Lin does not have a closure body. Disc shaped base 42, which is used for opening and closing passageway 31, is not

part of the lever 7, but is part of the discharge control assembly 4.
Clearly the express claim conditions is not met.

(EX1002, p. 312 (emphasis in original).) Again, while Applicant admits Lin (EX1007) teaches a lever, the structure that closed the passageway in Lin was not part of the lever as instantly claimed.

[0075] Based on these statements and the customary usage of the term “lever,” the term “elongated lever,” as that term is used in the ‘486 Patent, is a unitary member and not a “lever assembly” where the lever causes a separate, but connected, structure to move.

[0076] In my opinion, in view of the specification and the prosecution history, the term “elongated lever” should be construed to be “a unitary bar that (a) spans from the handle region across the pouring opening; and (b) is capable of moving around a fixed point.” This definition is also in agreement with the customary usage of the term and dictionary definition.

B. Closure Body

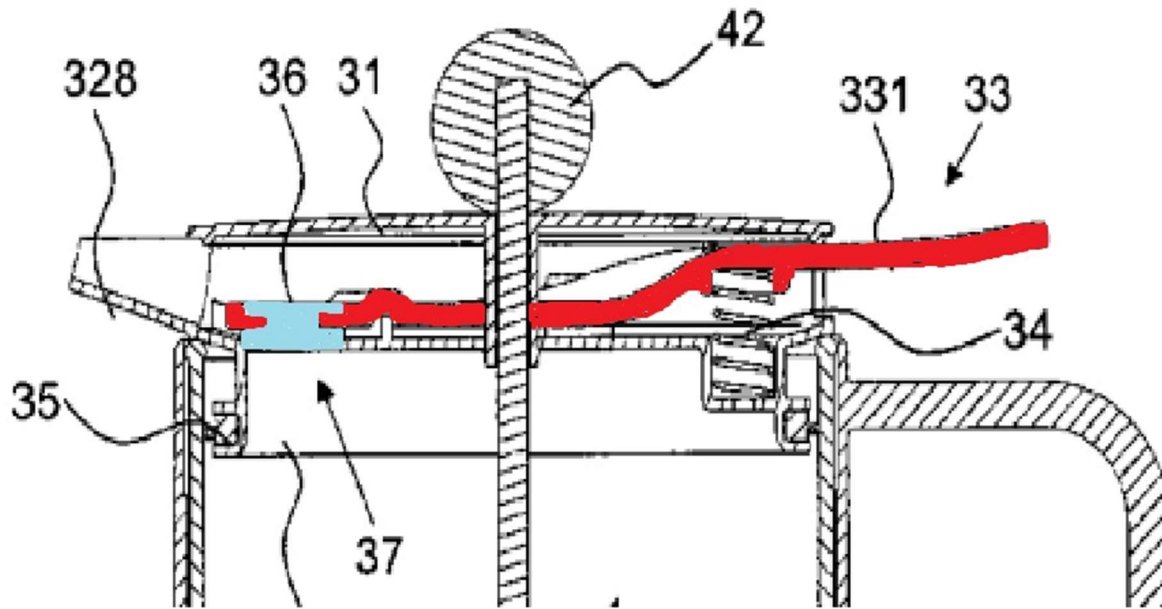
[0077] I refer to my discussion of the prosecution history relating to “elongated lever” where “closure body” was also discussed.

[0078] Claim limitations [1.5], [5.5] and [14.5] each essentially recite an “elongated lever having a closure body in a region of its front end for closing the pouring opening.” (See, Section XIX below, and EX1001.) Limitation [14.5] varies

the punctuation, but states the same. This recitation aligns with the ‘486 Patent specification. (EX1001, 2:27-28.)

[0079] Structurally, the closure body can be made of the same or different material from other areas of the lever. (EX1001, 3:48-59.)

[0080] The ‘486 Patent refers to element 36 as a “closure body” (EX1001, 5:14, 5:57) and a “stopper.” (*Id.*, 7:27.) There also appears to be an error in the ‘486 Patent specification where “closure body” is also identified as element 37. (*Id.*, 5:47-50.) Element 37 is also identified as a “pouring opening” elsewhere. (*Id.*, abstract, 5:15, 5:57-58, 7:28.) Assuming that the “closure body” is element 36, which I believe a POSA would do, a closure body is shown in Figures 3 and 4 of the ‘486 Patent. Based on the difference of the dashed lines, Figures 3 and 4 appear to have a lever with a closure body of another material. A POSA would recognize Figures 3 and 4 to depict a stopper embedded into the lever as described in the specification. I have annotated the top part of Figure 3 to show the first material of the lever in red and the second material of the lever (the closure body) in light blue.



[0081] I believe that the ‘486 Patent’s reference to element 33 as the “closing lever” and element 36 as the “closure body” is instructive to show that the lever is a unitary structure with an area for closing the pouring opening.

[0082] In my opinion, in view of the specification and the prosecution history, the term “closure body” should be construed to be “the area of the elongated lever than contacts and releasably seals the pouring opening.” This definition is in agreement with the customary usage as well.

X. INTENDED USE LIMITATIONS

[0083] I observe that many of the claims of the ‘486 Patent contain intended use functional language, including:

- [1.0], [5.0], [14.0] – “A beverage-maker”

- [1.4], [5.4], [14.4] – “in order to pour liquid out of the vessel through the pouring opening by means of the spout”
- [1.5], [5.5], [14.5] – “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”
- [3], [16] – “in order to subject the elongated lever to a spring force in the direction of its first position”
- [6], [18] – “in surmounting an elastic spring force”
- [9], [21] – “in order to retain in the region of the pouring opening liquid running back from the spout”
- [10] – “the guide sleeve is secured against a lateral tilting motion”
- [11] – “can be latched to the other lid part”

[0084] These claim limitations are functional and they describe what an element does or can do rather than any structure defining what the element is. Nevertheless, with the exception of the preamble which has no structure, these functional limitations simply recite what the structure claimed commonly does and I highlight these functions in the assessment of the prior art below.

XI. PRIOR ART TO THE ‘486 PATENT

[0085] I have been asked to assume the following printed publications are prior art to the '486 Patent. I offer no opinion as to whether any particular reference is prior art. I understand that some of the references are only asserted in the petition for a narrow purpose (e.g., a guide sleeve, a longer guide sleeve, and a snap-fit connection) so, in the interest of brevity, I will focus on the narrow purpose for those references in my summary.

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

[0086] US349 (EX1014) discloses a “no-drip carafe” “that is used for storing and serving a hot or cold beverage[.]” (EX1014, abstract.) The carafe of US349 includes a “spring loaded lever (56) [that] pivotably snaps into the lid with the lever having an integral downwardly projecting plug finger (58) that engages and completely obstructs the liquid cavity when at rest. When the lever is manually depressed the plug finger is pivoted away from the liquid cavity permitting the beverage to flow freely and when released the integral downwardly projecting plug finger seals the cavity in a no-drip manner.” (*Id.*)

[0087] Similar to the '486 Patent, US349 indicates that the lever with a plug to occupy a liquid passageway in the lid prevents undesirable dripping. (EX1014, ¶ [0012].)

[0088] US349 discloses a bottle 20 that is a substantially cylindrical vessel with parallel sides and a circular cross section as seen throughout the figures. Figure

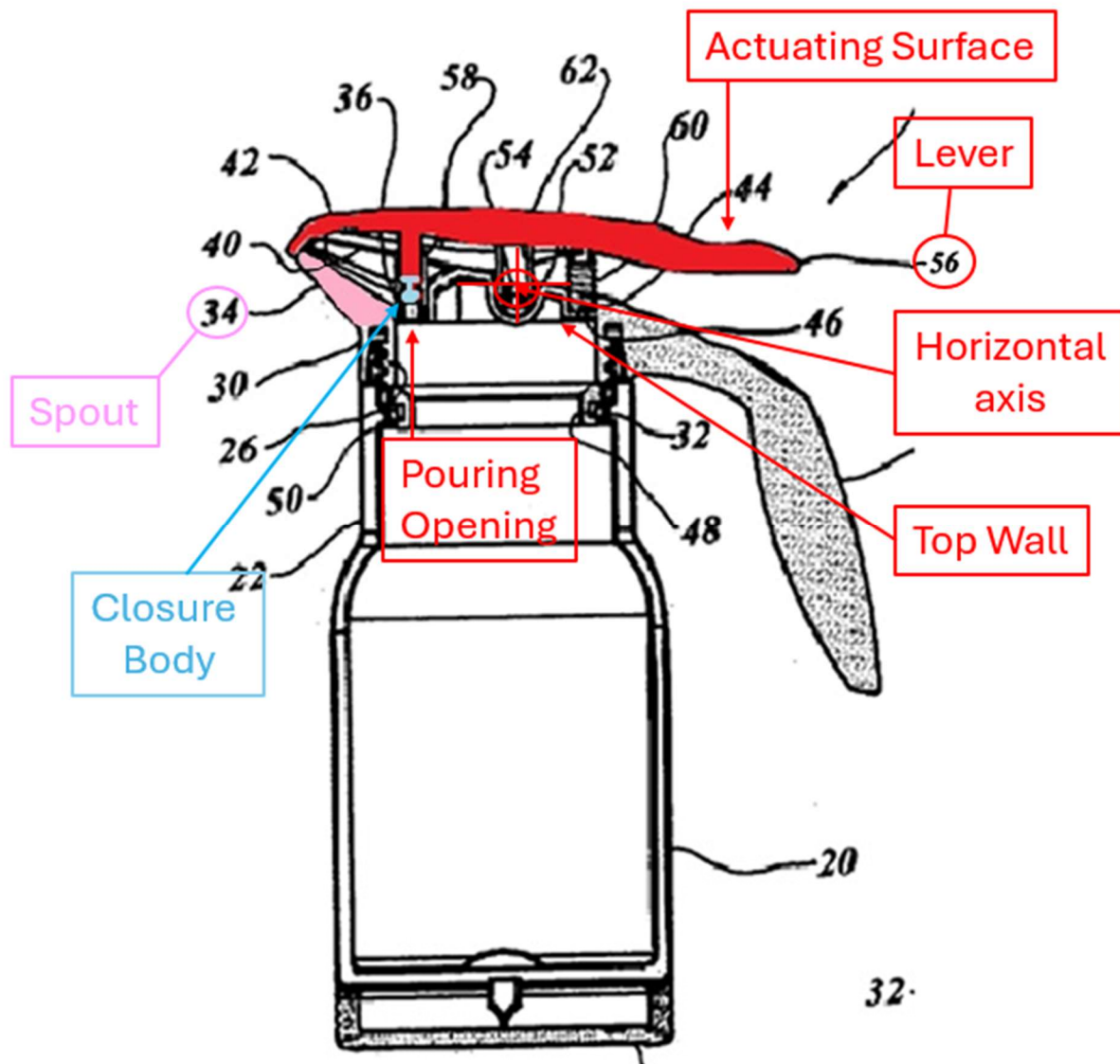
9 shows that the vessel is upwardly open (“open top 24” (EX1014, ¶ [0037]) and has circumferential side wall and bottom wall. Although the bottom wall is not associated with a particular number in Figure 9, such a wall must necessarily be present. Furthermore, a POSA would readily appreciate that a “bottle” has a bottom wall.

[0089] US349 discloses a “lid 30” with a “pouring spout 34” that is in fluid communication with an opening in the lid (i.e., the “liquid cavity 36”). Within the context of the ‘486 Patent, the “liquid cavity” of US349 is the “second opening” or “pouring opening.” The pouring spout is on the lid. The pouring spout can have a “dish shaped portion 40 with a smooth distal end 42” to assist in directing fluid from the lid opening to the spout. (EX1014, ¶ [0028].)

[0090] The lid 30 has a horizontal wall that, along with the walls of the bottle, delimits the interior of the bottle and defines the maximum volume of liquid the carafe can house. (*See, e.g.*, EX1014., Fig. 7.)

[0091] The lever 56 of US349 is attached to the lid by “at least two inwardly facing opposed spindles 54” above the horizontal wall delimiting the bottle interior. Lever 56 has a plug finger 58 that is a closure body to open and close the liquid cavity 36 via the user depressing the end of the lever near the handle. Moving the lever towards the handle makes the plug finger disengage from the liquid cavity and allow the user to pour the liquid. Once the user ceases applying pressure to the lever

end, the compression spring 60 returns the lever to its rest position and the plug finger re-engages and closes the pouring opening (liquid cavity 36). (EX1014, ¶¶ [0030]-[0031].)

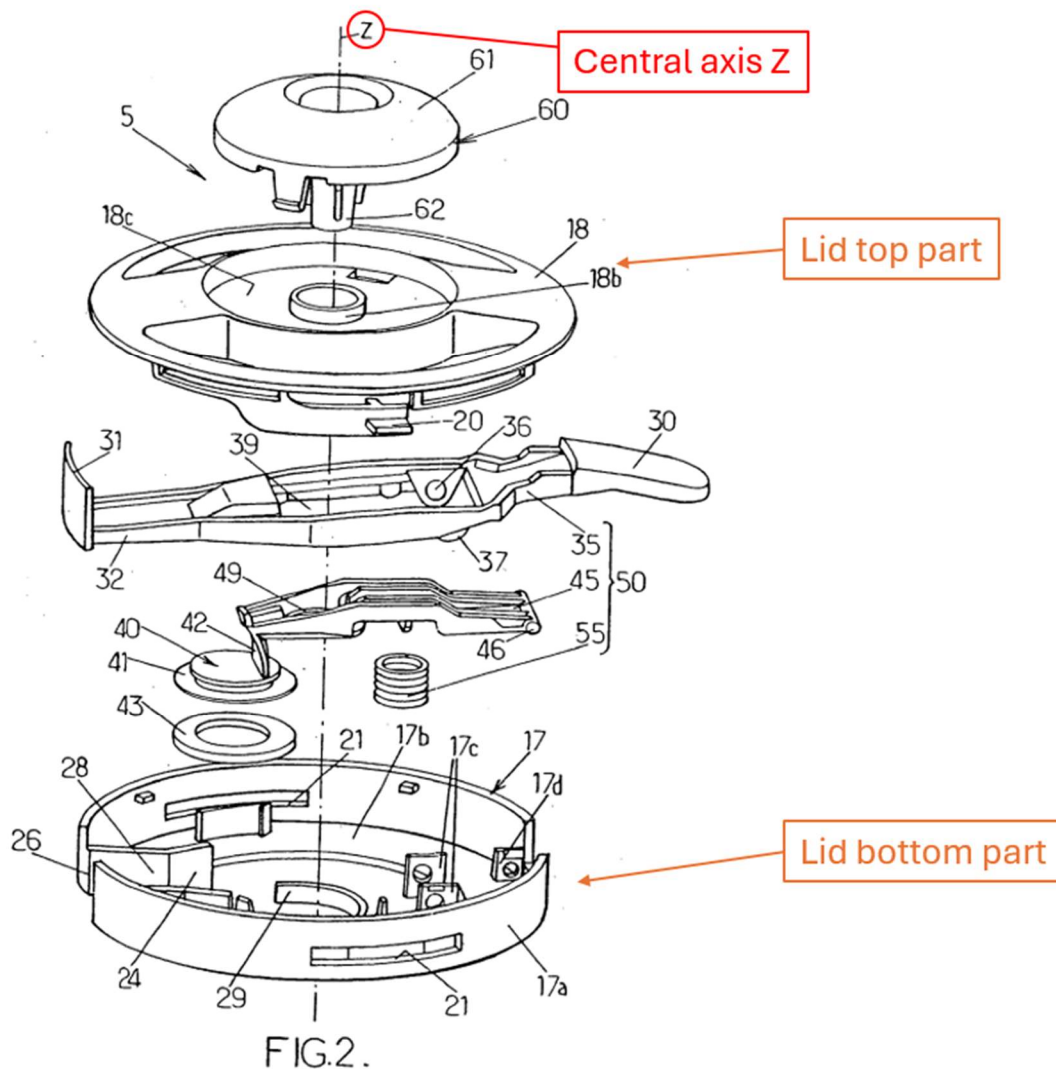


B. U.S. Patent Application Publication No. 2007/0295760 (“Geroult”)

[0092] Geroult discloses a pourer container designed to be used with a brewing appliance. (EX1015, abstract.) The container has a cylindrical body that is upwardly open and designed to be closed with removable cover 5. (EX1015, ¶ [0027].)

[0093] The bottom wall of the cover 5 along with the walls of the container delimit the container interior. (*Id.*, ¶¶ [0028]-[0029].) A “pouring member 9” is a spout. (*Id.*, ¶ 0029].)

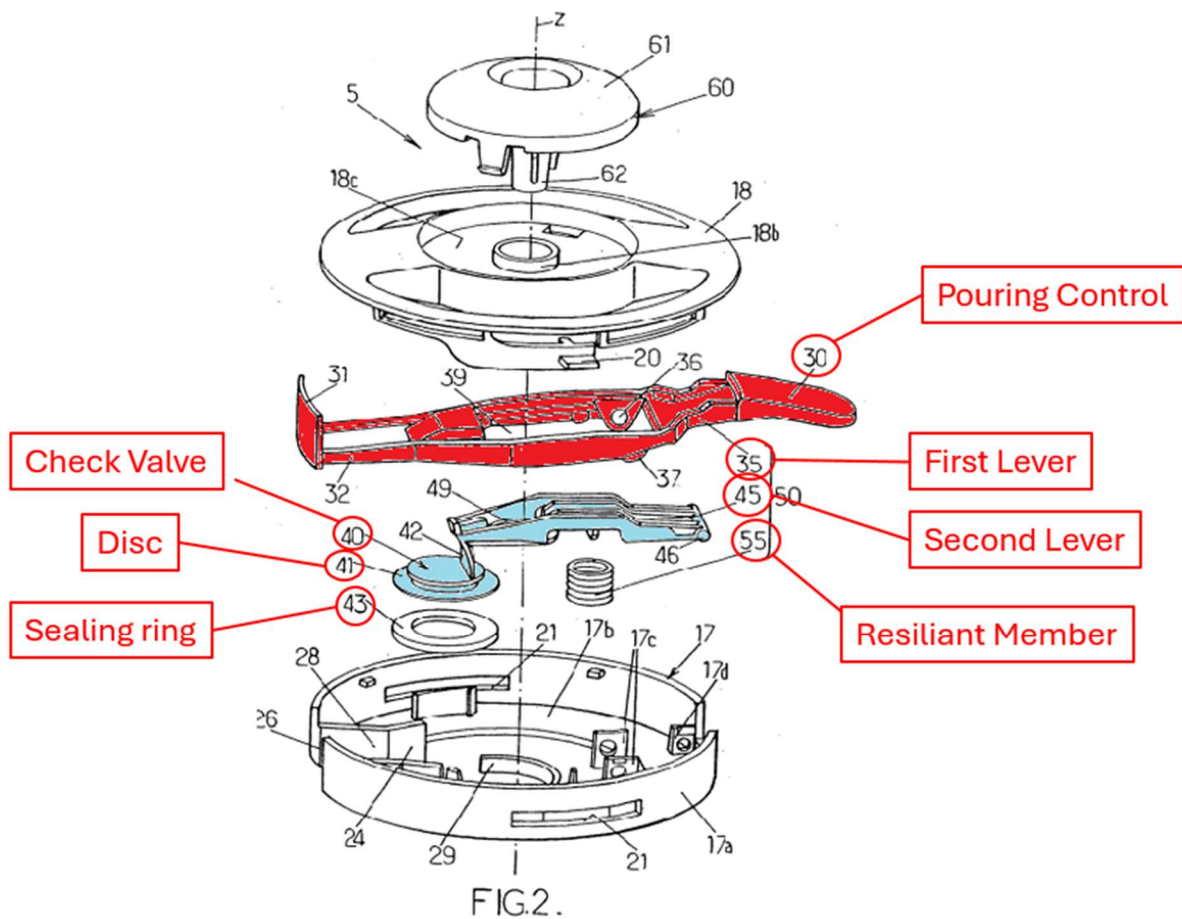
[0094] As best illustrated in Figure 2, the cover 5 has a top lid 18 and a bottom lid 17, which Geroult identifies as “upper surface 18” and “cup 17.” (*See, e.g., id.*, ¶ [0034].) Within the top lid and bottom lid is a “pouring control 30,” which “comprises a first lever 35, a second lever 45 and a resilient member 55,” (*Id.*, ¶¶ [0036], [0043], [0049].)

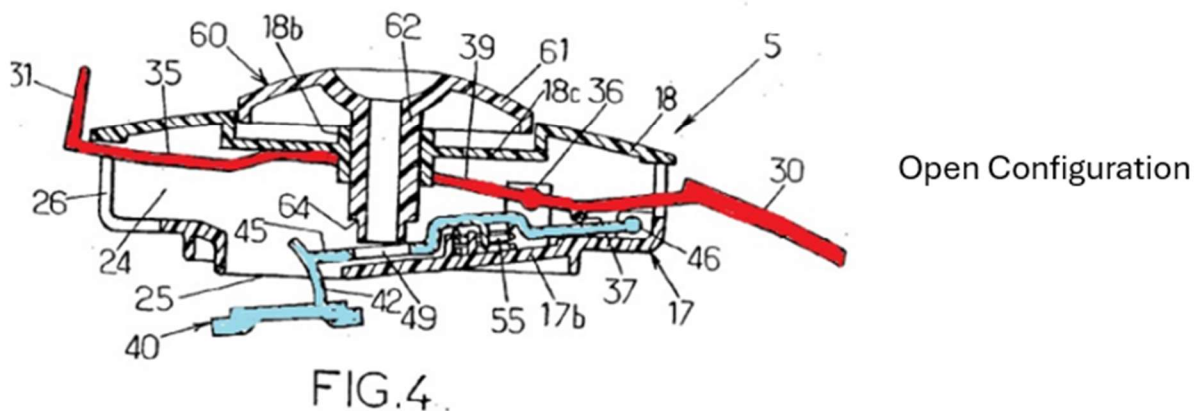
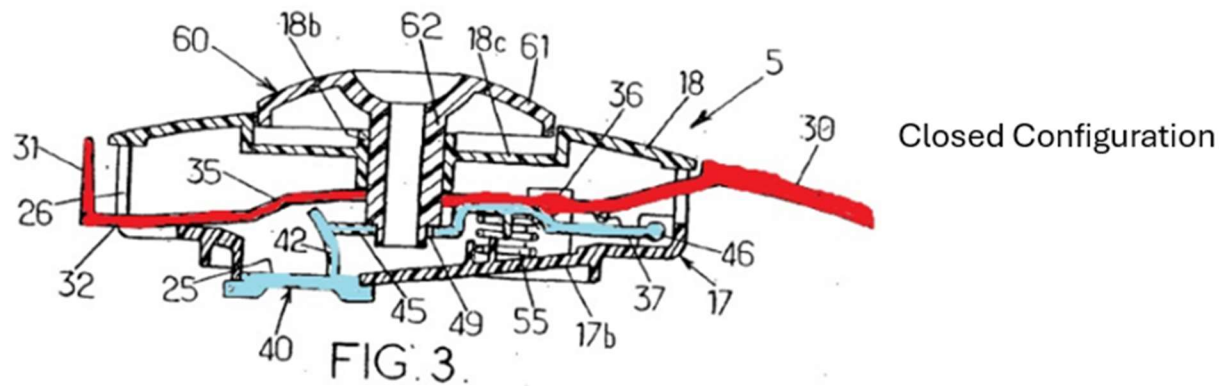


[0095] The pouring control 30 is connected to a check valve 40 that “is moveable between the closed position in which it closes the outlet 25 and an open position in which it permits flow of fluid between the first and second outlets (25, 26) of the conduit 24, particularly when the pouring control 30 is actuated.” (*Id.*)

[0096] The actuating mechanism 50 is described in more detail in paragraphs [0042] – [0048]. In response to pressure from the user’s finger the pouring control moves towards the handle, which pivots the first lever 35 and the terminal pouring

indicator 31. A protuberance (finger 37) in the lower surface in the first lever 35 contacts the second lever 45 causing the closure assembly (disc 41 and sealing ring 43) to disengage from the pouring opening (first outlet 25) thereby opening the passageway (conduit 24) to allow liquid to flow. Annotated figures 3 and 4 of Geroult below show the open and closed configurations.

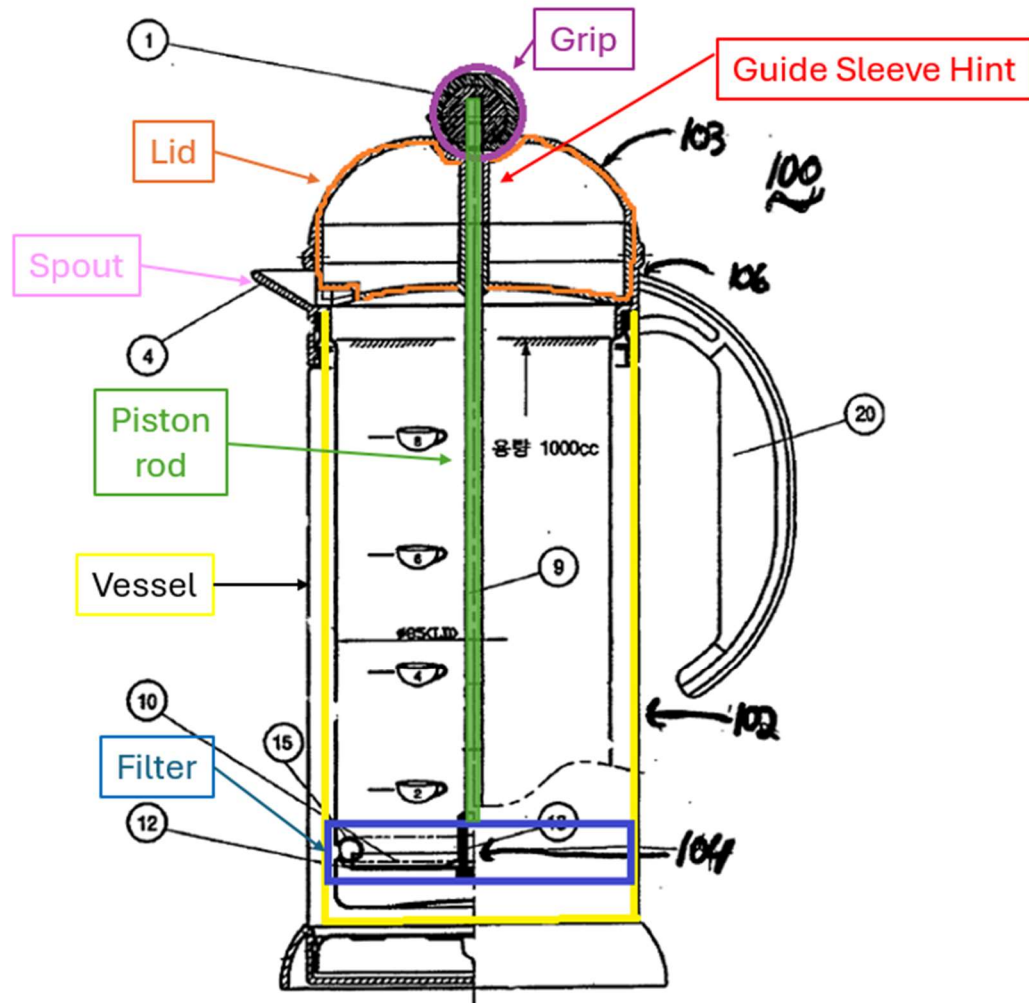




[0097] However, as discussed below, if the Board adopts a more expansive construction of “elongated lever” to include a lever assembly, Geroult discloses an elongated member with a closure body for closing the pouring opening.

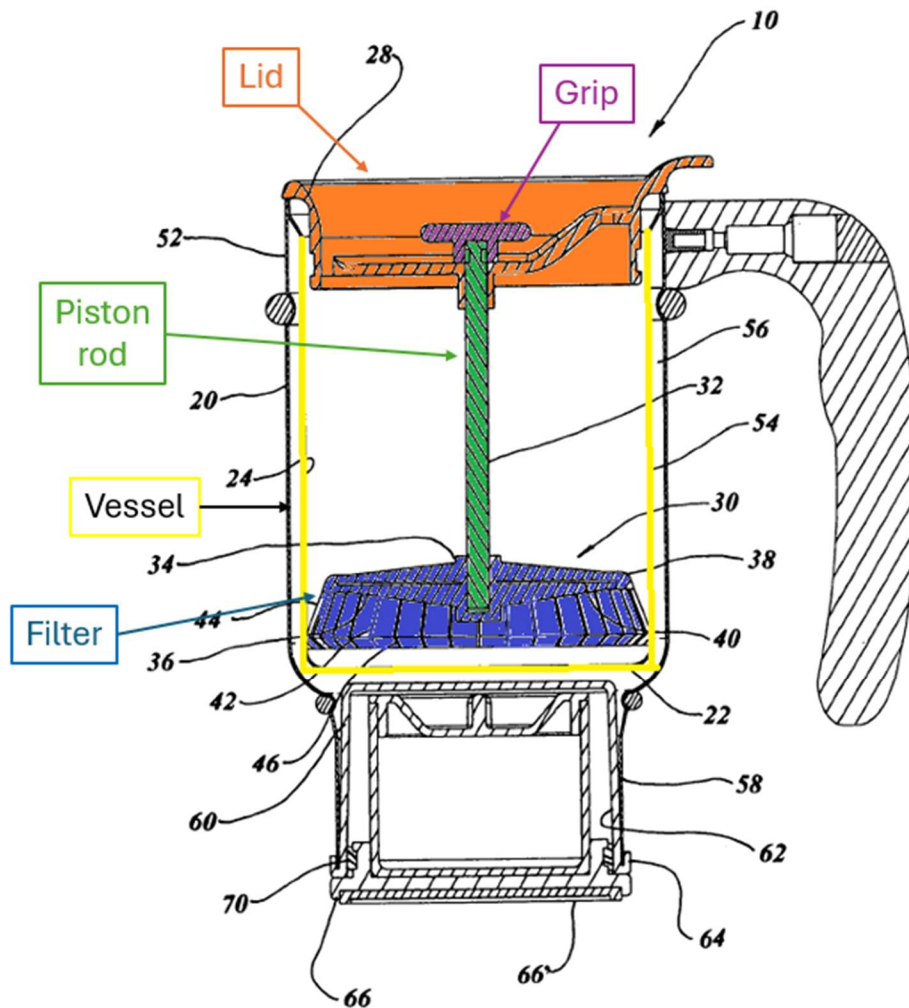
C. U.S. Patent Application Publication No. 2003/0185949 (“Brady”)

[0098] Brady (EX1013) discloses a classic French Press, including a grip, a lid, a piston rod, filter, and vessel. The lid further includes a secondary filter element located over the spout to catch additional solids (EX1013, ¶ [0006]). The lid may be rotated relative to the vessel in order to cover the spout to prevent liquid from splashing out of the container (*Id.*, [0015]).



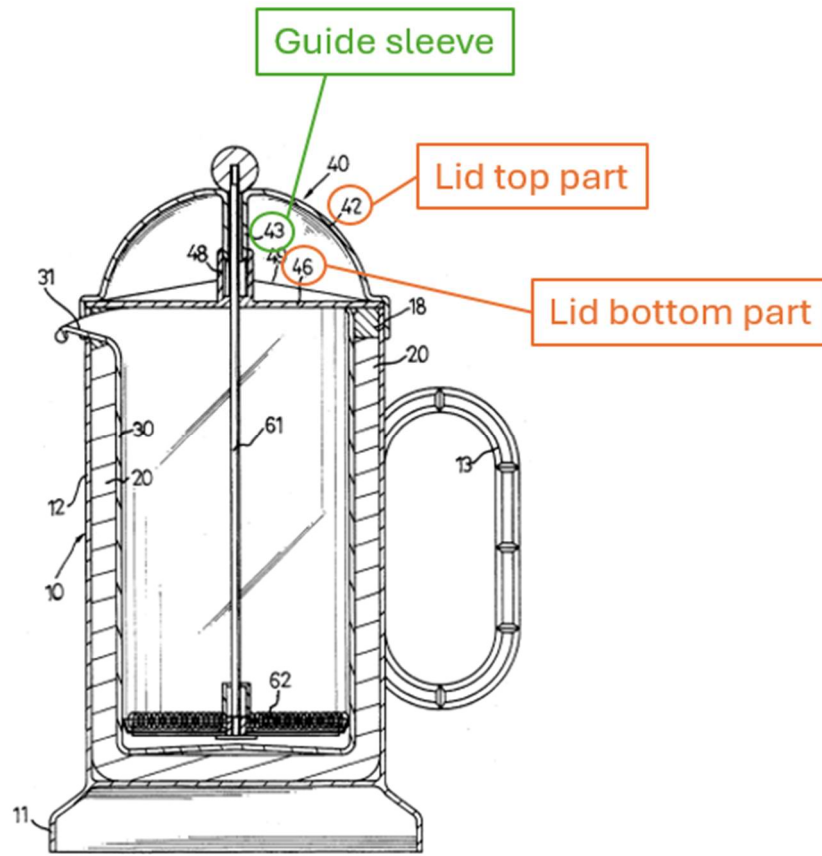
D. U.S. Patent No. 7,194,951 (“Porter”)

[0099] Porter (EX1020) 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.



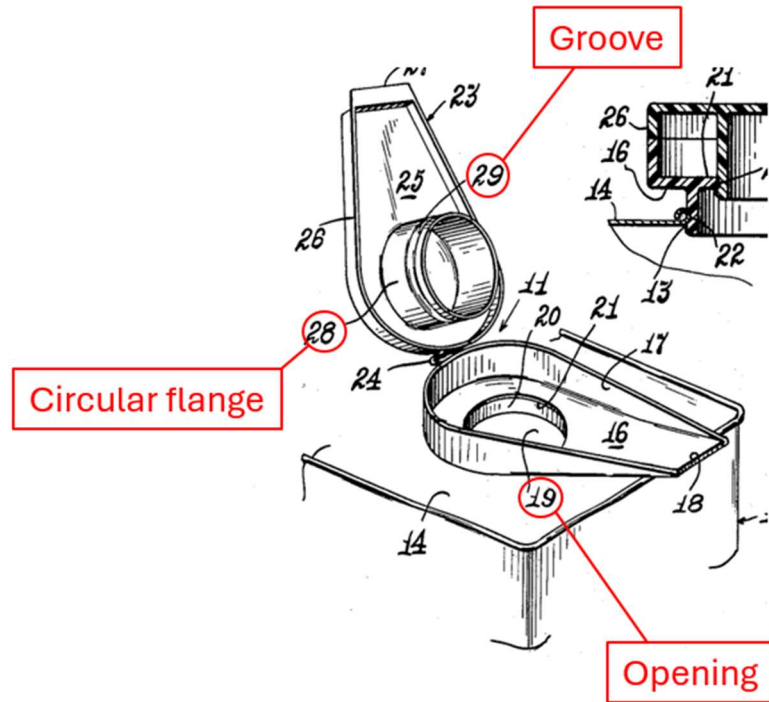
E. U.S. Patent No. 5,570,623 (“US623”)

[0100] US623 (EX1016) 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).



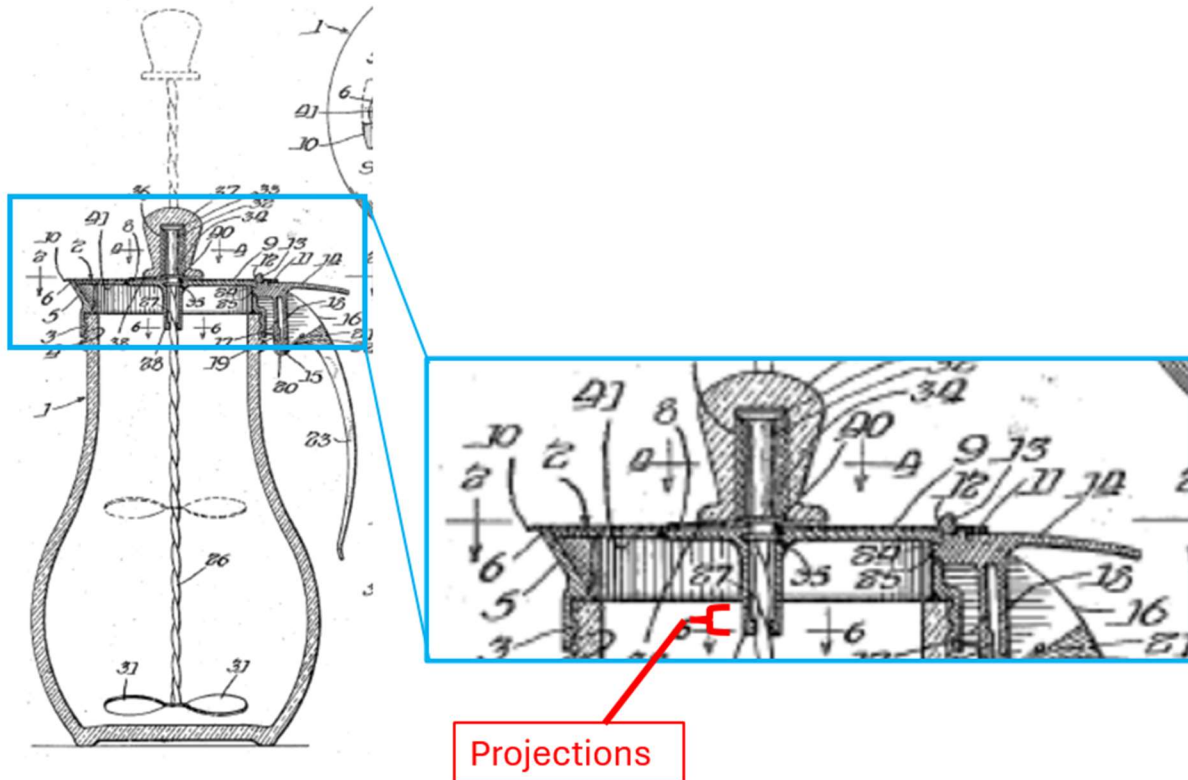
F. U.S. Patent No. 3,113,706 (“Wickman”)

[0101] Wickman (EX1017) discloses a “pouring dispenser” (EX1017, title) with a cover 23. (*Id.* 3:1-5.) The cover has a circular opening 19 sized to snap-fit a flange. (*Id.*, 3:15-26.)



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

[0102] Hacmac (EX1018) 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).



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

[0103] Dibdin (EX1019) 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].)

XII. INDEPENDENT CLAIM KEY

[0104] I observe that there is substantial overlap between the content of the independent claims, and dependent claims for that matter. The color key

immediately following the Claims Appendix A is helpful to illustrate the degree of overlap between the independent claims as well as show what is different.

XIII. CLAIM LIMITATION SHORTHAND

[0105] I understand and appreciate that the claims state what they state. But given the significant overlap of the claim language across different claims, I have adopted a shorthand that will avoid unnecessarily repeating the same language over-and-over again.

[0106] The “**Vessel Limitation**” refers to “an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall,” which is recited in claims 1, 5, and 14, or more specifically, [1.1], [5.1], and [14.1].

[0107] The “**Piston Assembly Limitation**” refers to “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,” which is recited in claims 1 and 5, more specifically, [1.2] and [5.2].

[0108] The “**Lid Limitation**” refers to “a lid, ... 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,” which is recited in claims 1, 5, and 14, more specifically, [1.3], [5.3], and [14.2].

[0109] The “**Pouring Limitation**” refers to “[the lid has] a pouring opening, which is disposed between the [piston rod or through opening] 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,” which is recited in claims 1, 5, and 14, more specifically, [1.4], [5.4], and [14.4]. As the piston rod and through opening have the same location (centrally located in the lid/vessel), the difference in language between [1.4] and [5.4] is inconsequential. The same can be said for the difference between [1.4] compared to [5.4] and [14.5]. In all of the prior art the lid has a pouring opening so there is no distinction between these elements for purposes of comparing the claim limitations to the prior art.

[0110] The “**Spout Limitation**” refers to “on the lid or on the vessel, outside the vessel interior, a spout is configured,” which is recited in claims 1, 5 and 14, more specifically, [1.4], [5.4], and [14.3].

[0111] The “**Lever Limitation**” refers to “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,” which is recited in claims 1, 5, and 14, more specifically, [1.5], [5.5] and [14.5].

[0112] The claim language of the independent claims that is not highlighted in Section XII is not an aspect of this shorthand and will be addressed more specifically.

[0113] I observe that claims 2-4 and 15-17 recite identical subject matter:

- “the elongated lever is spring-loaded in the direction of its first position” ([2] and [15])
- “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” [3], [16]; and
- “a cup-shaped depression, extending towards the vessel interior, is configured in the top wall, into which depression the compression spring extends” [4], [17],

which I collectively refer to in this declaration as the “**Spring Limitations.**”

[0114] Claims 6 and 18 recite the identical subject matter: “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,” which I will refer to as the “**Lever Attachment Limitation**” in this declaration.

[0115] Claims 7 and 20 recite the identical subject matter: “the closure body is made of a material which is softer than the material of the rest of the elongated lever,” which I will refer to as the “**Softer Material Limitation**” in this declaration.

[0116] Claims 8 and 20 recite the same subject matter: “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,” which I refer to as the “**Skirt Limitation**” in this declaration.

[0117] Claims 9 and 21 recite the same subject matter: “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,” which I refer to as the “**Retaining Web Limitation**” in this declaration.

[0118] My aim in using this shorthand is to assist the reader.

XIV. SUMMARY OF OPINIONS OFFERED

[0119] US349 teaches all of the limitations, and arranged as specified, in claims 14-17 and 19-21. Consequently, in my opinion, Claims 14-17 and 19-21 are invalid as anticipated under 35 U.S.C. § 102. (Ground 1)

[0120] US349 in combination with Brady disclose all of the limitations of claims 1-9 and 14-21. The features claimed in claims 1-9 and 14-21 and missing from US349 are found in Brady. A POSA would be motivated to provide those features of Brady in the design of US349 and would have had a reasonable expectation of success. (Ground 2)

[0121] US349 in combination with Brady and Geroult disclose all of the limitations of claims 1-9, 14-22. The features claimed in claims 1-9, 14-22 and missing from US349 are found in Brady and/or Geroult. A POSA would be motivated to provide those features of Brady and/or Geroult in the design of US349 and would have had a reasonable expectation of success. (Ground 3)

[0122] Brady in combination with US349 and Geroult disclose all of the limitations of claims 1-9, 14-22. The features claimed in claims 1-9, 14-22 and missing from Brady are found in US349 and/or Geroult. A POSA would be motivated to provide those features of US349 and/or Geroult in the design of Brady and would have had a reasonable expectation of success. (Ground 4)

[0123] Brady in combination with US349, Geroult and US623 disclose all of the limitations of claim 10-11. The features claimed in claim 10 and missing from the combination of Brady, US349, and Geroult are found in US623. A POSA would be motivated to provide those features of US623 in the design of Brady as modified by US349 and Geroult and would have had a reasonable expectation of success. Claim 11 only recites intended use language that has no patentable weight based on my understanding (Ground 5)

[0124] Brady in combination with US349, Geroult, US623, and Wickman disclose all of the limitations of claim 11. If patentable weight is afforded to claim 11, the features claimed in claim 11 and missing from the combination of Brady, US349, and Geroult are found in Wickman. A POSA would be motivated to provide those features of Wickman in the design of Brady as modified by US349, Geroult, and US623 and would have had a reasonable expectation of success. (Ground 6)

[0125] Brady in combination with US349, Geroult, US623, and Hacmac disclose all of the limitations of claims 12-13 if no patentable weight is afforded to claim 11. If patentable weight is applied, Brady in combination with US349, Geroult, US623, Wickman, and Hacmac disclose all of the limitations of claim 13. The feature claimed in claim 12-13 and missing from the combination of Brady, US349, Geroult, US623 (and Wickman) are found in Hacmac. A POSA would be motivated to provide the feature of Hacmac in the design of Brady as modified by US349,

Geroult, and US623 or in further view of Wickman and would have had a reasonable expectation of success. (Ground 7)

[0126] Brady in combination with US349, Geroult, and Dibdin disclose all of the limitations of claims 7 and 19. The feature claimed in claims 12-13 and allegedly missing from the combination of Brady, US349, and Geroult are found in Dibdin. A POSA would be motivated to provide the feature of Wickman in the design of Brady as modified by US349, Geroult, and US623 and would have had a reasonable expectation of success. (Ground 8)

[0127] Porter in combination with US349 disclose all of the limitations of claims 1-9, 14-21. The features claimed in claims 1-9, 14-21 and missing from Porter are found in US349. A POSA would be motivated to provide the features of US349 in the design of Porter and would have had a reasonable expectation of success. (Ground 9)

[0128] Porter in combination with US349 and Geroult disclose all of the limitations of claims 1-9, 14-22. The features claimed in claims 1-9, 14-22 and missing from Porter are found in US349 and/or Geroult. A POSA would be motivated to provide the features of US349 and/or Geroult in the design of Porter and would have had a reasonable expectation of success. (Ground 10)

XV. SUMMARY OF GROUNDS

[0129] In this section, I aim to orient the reader as to what each ground relies on and asserts.

[0130] **Ground 1:** anticipation analysis needs no explanation

[0131] **Ground 2:** US349 provides teachings of the Vessel Limitation, the Lid Limitation, the Spout Limitation, the Pouring Limitation and the Lever Limitation. Brady supplies the Piston Assembly limitation for claims 1 and 5 and an alternative Vessel Limitation teaching. US349 is modified based on a POSA's knowledge and motivation to provide a central aperture. The vessel of US349 is alternatively modified based on Brady. US349 supplies the teachings for the dependent claims of the ground.

[0132] **Ground 3:** US349 provides teachings of the Vessel Limitation, the Lid Limitation, the Spout Limitation, the Pouring Limitation and the Lever Limitation. Brady supplies the Piston Assembly limitation for claims 1 and 5 and an alternative Vessel Limitation teaching. Geroult provides an alternate teaching of the Lid Limitation and the Lever Limitation; the latter of which provides an explicit teaching to modify the lever of US349 to have a central aperture. Geroult further provides teaching of the Two-Part Lid Limitation of claim 22 and an alternate teaching of the Softer Material Limitation. US349 supplies the teachings for the dependent claims of the ground.

[0133] **Ground 4:** Brady provides the teaching of the Vessel Limitation, the Piston Assembly Limitation, and the Spout Limitation. US349 supplies the teaching of the Lid Limitation, the Pouring Limitation, and the Lever Limitation. The lever of US349 is modified based on a POSA's knowledge and motivation (as was asserted in Ground 2) or based on Geroult (as was asserted in Ground 3). Geroult is also used in the case of an alternate construction to supply the Lever Limitation (in the case of just supply the lever assembly) or the Lid Limitation, the Pouring Limitation, and the Lever Limitation (in the case the lid of Brady was substituted for the lid of Geroult). The dependent claims are addressed as in Ground 3.

[0134] **Ground 5:** Builds off of Ground 4 and adds US623. Using US623's two-part lid or Geroult's two-part lid, US623 teaches including a guide sleeve in a two-part lid.

[0135] **Ground 6:** Builds off of Ground 5 and adds Wickman, which discloses a latched guide sleeve.

[0136] **Ground 7:** Builds off Ground 6 and adds Hacmac, which discloses the guide sleeve extends into the vessel interior.

[0137] **Ground 8:** Builds off of Ground 4 and adds Dibdin for an explicit teaching of the Softer Material Limitation.

[0138] **Ground 9:** Porter supplies the teachings of the Vessel Limitation and the Piston Assembly Limitation. US349 provides the Lever Limitation. And both

Porter and US349 provide teachings of the Lid Limitation and the Spout Limitation. The lever of US349 is modified based on a POSA's knowledge and motivation like Ground 2. US349 supplies the teachings for the dependent claims of the ground.

[0139] **Ground 10:** Porter supplies the Vessel Limitation and the Piston Assembly Limitation. Both Porter and US349 provide the Lid Limitation and the Spout Limitation. US349 provides the Lever Limitation as modified by Geroult, which provides an explicit teaching of a lever with a central aperture. US349 supplies the teachings for the dependent claims of the ground with the exception of claim 22, which is disclosed by Geroult.

XVI. INVALIDITY ANALYSIS

A. Anticipation Analysis

[0140] Claim 14 recites a very broad invention – essentially covering any cylindrical vessel with a lever to directly close a pouring opening. Claims 1 and 5, in comparison, are narrower by virtue of including the Piston Assembly of a classic French Press. Because of the breadth of claim 14, US349 anticipates claim 14 and dependent claims 15-17 and 19-21.

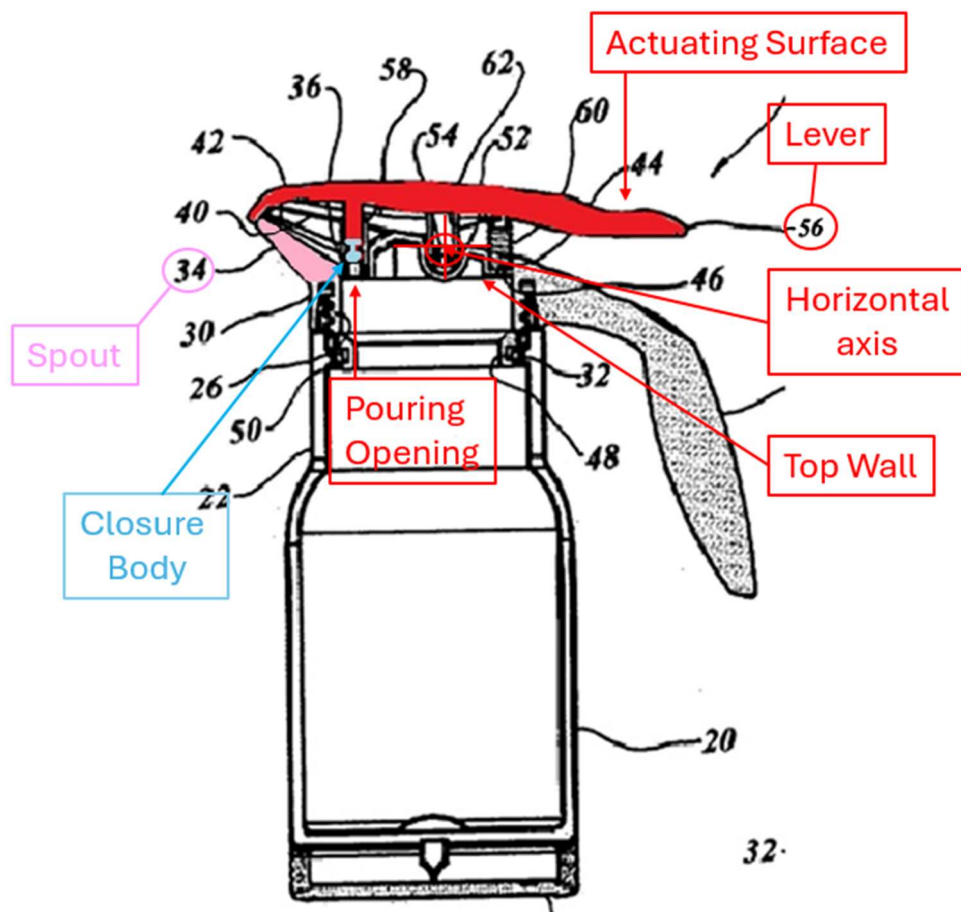
1. Claim 14

[0141] As noted above, I believe the preamble [14.0] simply states an intended use so I ignored the preamble in my anticipation analysis.

[0142] I analyzed the following limitations of claim 14: the **Vessel Limitation**, the **Lid Limitation**, the **Pouring Limitation**, the **Spout Limitation**, the **Lever**

Limitation, and “the horizontal axis being arranged between the closure body and the actuating surface of the elongated lever.”

[0143] The **Vessel Limitation** is expressly disclosed in US349.



[0144] US349 discloses “a carafe for storing and serving hot or cold beverages that include a combination of elements eliminating dripping after use.” (EX1014, ¶ [0001]). The carafe or vessel is substantially cylindrical in shape, open at the top, with a bottom wall and a circumferential side wall. (*Id.*, Figs. 7, 9.)

[0145] The **Lid Limitation** is expressly disclosed in US349.

[0146] Lid 30 engages and covers the open top of the bottle 20. The inside surface of the top wall of lid 30 and the inside wall of bottle 20 jointly delimit the vessel interior. (EX1014, ¶ [0028], Fig. 7.)

[0147] The **Spout Limitation** is expressly disclosed in US349.

[0148] As disclosed above “The lid 30 has a pouring spout 34” on the lid. (*Id.*, ¶ [0028], Fig. 9).

[0149] The **Pouring Limitation** is expressly disclosed in US349.

[0150] 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 34.” (EX1014, ¶ [0028], Fig. 9). The liquid cavity 36 in the top wall of lid 30 is the claimed pouring opening that forms a connection between the vessel interior and exterior. The intended use language “in order to pour liquid...” is also disclosed (EX1014, ¶¶ [0013], claim 19 (referencing “pour[ing] the beverage” and the “pouring spout”)) and would be readily apparent to be taught by a POSA even without an express teaching by reviewing the figures of US349.

[0151] The **Lever Limitation** is expressly disclosed in US349.

[0152] “A spring loaded thumb actuated lever 56 pivotally engages the lid 30 to complete the assembly of the carafe 10. 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], Fig. 7). Further, “The integral downwardly projecting plug finger 58 has a resilient plug cover 64 that slips over the finger 58 and incorporates a number of outwardly extending peripheral chevrons 66 that resistibly collapse when urged by the lever 56 into the liquid cavity 36 creating the desired drip-proof seal.” (*Id.*, ¶ [0031], Fig. 7). The lever 56 is snapped to the lid 30 above the top wall. (*Id.*, ¶ [0032], Figs. 7, 9)

[0153] Lever 56 in combination with plug finger 58 is the claimed “elongated lever”. (*Id.* ¶¶ [0013], [031] (“A spring loaded thumb actuated lever 56 pivotally engaged the lid to complete the assembly of the carafe 10. The lever 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 to a rest position.”) The “closure body” is the plug cover 64, or the plug cover and the chevrons 66 in combination. (*Id.*, ¶¶ [0013], [0033], Figs. 7, 9) I view the chevrons to be a geometrical feature of the plug cover in US349. The lever further includes a region meant to be depressed by the user’s thumb, which is the “actuating surface” used to pivot the elongated lever. (*Id.*, ¶ [0031], Figs. 7, 9)

[0154] Finally, US349 expressly disclosed that the horizontal axis referred to in [14.5] is “arranged between the closure body and the actuating surface of the elongated lever”

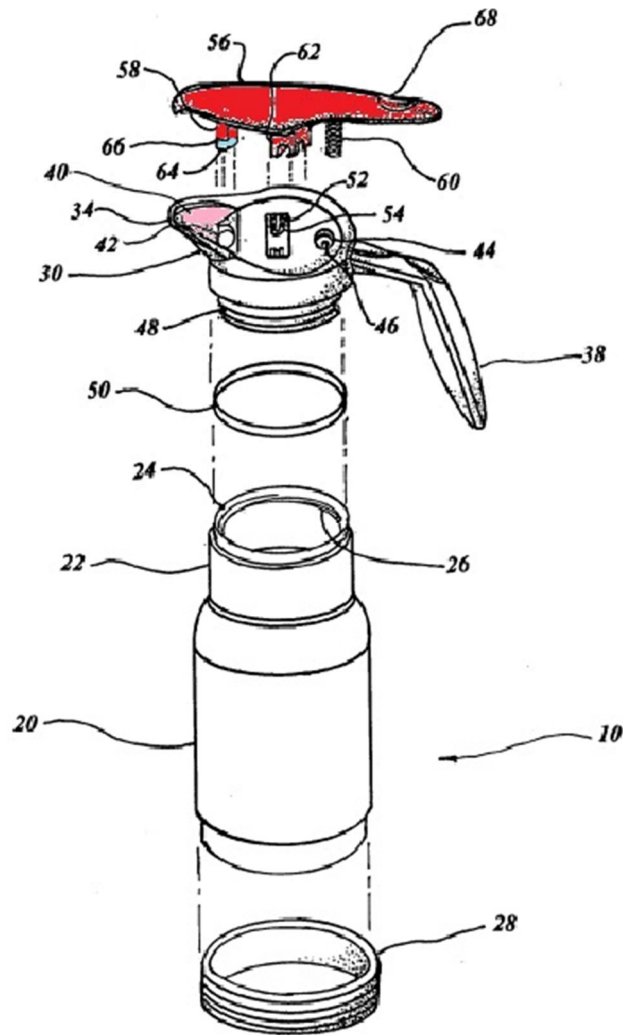
[0155] The claimed horizontal axis is the pivot axis for the lever, defined by the spindles 54. (EX1014, ¶ [0032], Figs, 7, 9). This axis located between the closure body and the actuating surface of the elongated lever. (*See*, Section XI(A), *supra*, Fig. 7 (annotated).)

[0156] As each claim limitation is expressly disclosed and arranged as recited in claim 14, in my opinion, claim 14 is anticipated by US349.

2. Claim 15

[0157] Claim 15 requires that the “the elongated lever is spring-loaded in the direction of its first position.” The ‘486 Patent teaches that the “first position” is the “closed configuration,” where the closure body of the elongated lever is contacting the pouring opening and preventing liquid from escaping the vessel. (*E.g.*, EX1001, 2:30-32 (“a first position, in which the closure body closes the pouring opening[.]”))

[0158] US349 expressly discloses the limitations of Claim 15. US346 even identifies its lever as a “spring loaded lever (56).” (EX1014, abstract.) Figure 9 of US349 shows an exploded view of the carafe and compression spring 60 is clearly visible. Compression spring is also visible in Figure 7 of the assembled carafe.



[0159] While the function of spring in relation to the lever would require no additional disclosure to demonstrate to a POSA that this limitation is taught by US349, paragraph [0031] of US349 states “the lever 56 is urged by a compression spring 60 to an at rest position” (EX1014, ¶ [0031]), where a “rest position” is clearly a “closed configuration.” This understanding is also confirmed by paragraph [0034] of US349, which states: “The compression spring 60, shown best in FIGS. 2, 7 and 9, is preferably formed of stainless steel and is 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].)

[0160] As each claim limitation is expressly disclosed and arranged as recited in claim 15, in my opinion, claim 15 is anticipated by US349.

3. Claim 16

[0161] Claim 16 recites: “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.”

[0162] US349 expressly discloses the limitations of Claim 16. Figure 7 shows that the compression spring 60 is in the “region of the lid.” Figure 7 also shows that the spring is facing orthogonal to the spout, which a POSA would understand to be “facing away from the spout.” Figure 7 also shows that compression spring 60 is contacting lever 56 and the horizontal wall of the lid that covers the vessel. Therefore, the compression spring 60 of US349 is “between the elongated lever and the top wall.”

[0163] The claim limitation “in order to subject the elongated lever to a spring force in the direction of its first position” is functional and should be disregarded as language reciting an intended use. However, to the extent the Board would find it helpful, this limitation is also disclosed in US349 and is simply what a spring does.

It applies a load. In the context of US349, it applies a load to the second class lever. US349 teaches: “The compression spring 60, shown best in FIGS. 2, 7 and 9, is preferably formed of stainless steel and is 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]; *see also*, ¶ [0159], *supra*, where “rest position” in US349 and “first position” of the ‘486 Patent are equivalent to a “closed configuration”) Thus, the compression spring 60 functions to “subject the elongated lever to a spring force in the direction of its first position” as recited in claim 16.

[0164] As each claim limitation is expressly disclosed and arranged as recited in claim 16, in my opinion, claim 16 is anticipated by US349.

4. Claim 17

[0165] Claim 17 recites: “a cup-shaped depression, extending towards the vessel interior, is configured in the top wall, into which depression the compression spring extends.”

[0166] US349 expressly discloses the limitations of Claim 17. As best seen in Figure 9, compression spring 60 sits in a “spring retaining cavity 44,” which “is located adjacent to the handle 38.” (EX1014, ¶ [0029].) A POSA would recognize the cylindrical shape of spring retaining cavity 44 in Figure 9, recognizing that the shape is optimal for retaining a cylindrical compression spring, and determine that this cavity is “cup-shaped” as required by claim 11. Figure 9 also shows that spring

retaining cavity 44 (a) extends towards the vessel interior and (b) is configured in the top wall.

[0167] As each claim limitation is expressly disclosed and arranged as recited in claim 17, in my opinion, claim 17 is anticipated by US349.

[0168] Accordingly, the **Spring Limitations** are expressly disclosed in US349.

5. Claim 19

[0169] The **Softer Material Limitation** is expressly disclosed in US349.

[0170] Based on my experience, lids for beverage containers are typically constructed out of hard durable plastics. I observe that US349 teaches that the “ lid 30 and lever 56 may be manufactured from a material consisting of polypropylene, acrylic, allyl diglycol carbonate, polycarbonate, polystyrene, polysulfone, polyester sulfone or polyester.” (EX1014, ¶ [0035].) These materials are commonly used in construction of beverage container lids and are durable hard plastics.

[0171] US349 discloses “The integral downwardly projecting plug finger 58 has a resilient plug cover 64 that slips over the finger 58 and incorporates a number of outwardly extending peripheral chevrons 66 that resistibly collapse when urged by the lever 56 into the liquid cavity 36 creating the desired drip-proof seal.” (EX1014, ¶ [0033]). A POSA would understand this disclosure to mean that “resilient plug cover 64 with chevrons 66” is made from a softer material than the

projecting plug finger 58, as it is designed to “resistably collapse” under the force created by the spring to effect a seal.

[0172] Further confirming this view is the US349’s reference to the “closure body” as a “stopper.” (EX1014, ¶ [0013].) Terms like “stopper” and “plug” in this context would tell a POSA that the component is made of a deformable material. This configuration of a hard plastic material for an opening and a deformable closure member for closing the opening is nothing new. For example, U.S. Patent No. 7,737,004 discloses a travel mug and teaches the “drinking cap 12 is preferably formed of a high strength, lightweight material, such as polymeric material” and “the plug 12 b is preferably formed of a rubber-like material and sized and shaped to be removable from within the drinking hole.” (EX1027, 3:38-40, 4:5-8.) A POSA would recognize that US349 similarly discloses a closure body (plug cover or plug cover with chevrons) to be a softer material than the lever as required by this limitation.

[0173] As each claim limitation is expressly disclosed and arranged as recited in claim 19, in my opinion, claim 19 is anticipated by US349.

6. Claim 20

[0174] The **Skirt Limitation** is expressly disclosed in US349.

[0175] US349 discloses “The lid 30 also incorporates a recessed groove 48 adjacent to the male threads 32 with a resilient lip seal 50 disposed within this

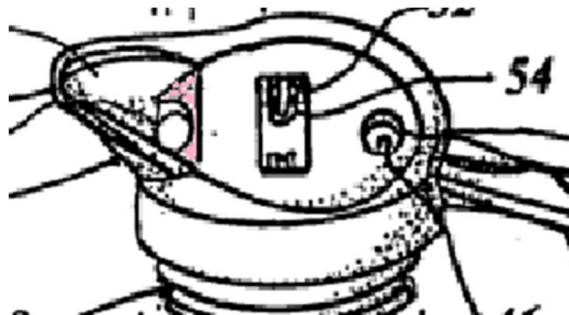
recessed groove 48 for sealing the lid 30 to the vacuum insulated bottle 20 when attached together.” (EX1014, ¶ [0030], Fig. 9). The recessed groove 48 is formed in a circumferential skirt which extends vertically downward from the lid into the vessel.

[0176] As each claim limitation is expressly disclosed and arranged as recited in claim 20, in my opinion, claim 20 is anticipated by US349.

7. Claim 21

[0177] The **Retaining Web Limitation** is expressly disclosed in US349.

[0178] Adjacent to the pouring opening (liquid cavity 36) is a wall which extends partially around the pouring opening (highlighted in pink below). This wall or “web” serves to retain in the region of the pouring opening liquid running back from the spout into the substantially flat part of the lid. (EX1014, Fig. 9.)



[0179] As each claim limitation is expressly disclosed and arranged as recited in claim 21, in my opinion, claim 21 is anticipated by US349.

B. Obviousness Analysis

[0180] Here I am comparing the claimed invention to the prior art from the perspective of a POSA. To do so, I am analyzing whether the claim limitations are taught or suggested in the prior art and then assessing whether the claimed invention, as a whole, is obvious over the prior art analyzed.

[0181] All of the references cited in this section are at least pertinent to the '486 Patent. All of the references disclose beverage containers and, thus, are within the '486 Patent's field of endeavor. Porter and Brady are French Press designs. US349 and Geroult disclose lever mechanisms that are operated by a finger of a user to open/close a hole in a horizontal wall of a lid. In my opinion, all of the references advanced in the Grounds mentioned in this declaration are analogous.

[0182] In this declaration, I highlight specific reasons why a POSA would be motivated to take certain action. Of course, there may be additional motivations that are not specifically listed in this declaration and I would be happy to consider additional motivations if they were presented to me.

[0183] Also, I have attempted to highlight the primary or notable changes a POSA would have to accomplish in assessing a reasonable expectation of success. Ancillary changes that do not impact my opinion have not been fully set forth in this declaration for brevity. I appreciate that additional changes not enumerated here may be required to arrive at a functioning product. I have considered all of the

changes a POSA would have to make in the modifications proposed below in my assessment of whether a POSA would have a reasonable expectation of success.

[0184] For the reasons set forth below, in my opinion, all claims of the ‘486 Patent are obvious.

1. US349 in View of Brady (Ground 2)

[0185] Focusing on the independent claims first, as I have previously stated, the **Vessel Limitation**, the **Lid Limitation**, the **Pouring Limitation**, the **Spout Limitation**, the **Retaining Web Limitation**, and the **Lever Limitation** are expressly disclosed in US349 (*Supra*, Section XI(A), ¶¶ [0141]-[0156].) and I incorporate that analysis into this section. However, US349 lacks the **Piston Assembly Limitation**.

[0186] Brady expressly discloses the **Piston Assembly Limitation**.

[0187] Brady discloses a “French Press Coffee Maker with Secondary Filter.” (EX1013, title). The coffee maker “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. The shaft 9 is shown in FIG. 1 as a cylindrical rod, but the shaft is not limited to having any particular shape.” (EX1013, ¶ [0012], Fig. 1.) A POSA would recognize that the through opening in Brady is

present at least based on the figures and the disclosure that the “shaft 9 that protrudes through the lid 103” (EX1013, ¶ [0012]) and the “shaft 9 (FIG. 1) protrudes through a hole 212 formed in the lid 103[.]” (*Id.*, ¶ [0014].)

[0188] While I believe a POSA would appreciate that the vessel in US349 is cylindrical, any shortcoming of US349 in this regard are remedied by Brady, which teaches that its vessel (“container 102”) is entirely cylindrical. (*See*, Section XI(C), Fig. 1 (annotated).)

[0189] A POSA would be motivated to improve the carafe with spring loaded lever closure of US349 with the coffee brewing and primary and secondary filtering features of Brady. Adding a Piston Assembly of Brady would avoid the need for a separate coffee maker to provide the coffee for the no-drip carafe of US349. US349 clearly teaches that its carafe requires a separate machine to brew coffee housed within its vessel. (EX1014, ¶ [0014]) Including the mechanism of Brady would allow the carafe to brew coffee without the need for a separate coffee machine.

[0190] It would be a routine matter for a POSA to incorporate the Piston Assembly of Brady into the design of US349. The POSA would (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.

[0191] The substantially cylindrical shape of Brady would be attractive to a POSA as a simpler shape to form. This shape would not interfere with the double wall vacuum insulation function of US349, and it facilitates the function of the plunger filter of Brady. Further, a POSA would know that operation of the plunger filter should ensure that the fit between the side wall is snug so solids do not penetrate the drinking fluid and would be motivated to select an all cylindrical vessel for a carafe with a Piston Assembly. Forming the substantially cylindrical shape of Brady in US349 would be a routine matter to a POSA utilizing standard equipment that produces predictable results, and one with a reasonable expectation of success.

[0192] In addition to the **Lever Limitation**, claims 1 and 5 also specify that the elongated lever is “extending transversely to the piston rod.” This element is disclosed in the combination of US349 and Brady. Once the Piston Assembly of Brady is added to the carafe of US349 (including the lever), the lever would “extend transversely to the rod.”

[0193] Claim 1 also requires: 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.” This feature is disclosed in the combination of US349 with Brady.

[0194] Claim 5 also requires “the elongated lever has a through opening, through which the piston rod extends.” This feature is disclosed in the combination of US349 with Brady.

[0195] The combination of US349 and Brady includes Brady’s through opening and piston; and US349’s the elongated lever extending transversely to the location of Brady’s piston rod. When these two elements are brought together, the elements mentioned in ¶¶ [0190]-[0192] necessarily must be present in order for the lid of US349 to close and the lever to operate as intended. Thus, a POSA would make the necessary minor changes in the lid of US349 and/or Piston Assembly of Brady to ensure the components fit and the device operated as intended without an express teaching or motivation. Brady’s teaching of a central through opening would be used by a POSA as a roadmap to extend that line through the lever to achieve a lever that could pivot without interference by the piston rod or knob. A POSA would have more than a reasonable expectation of success in simply adding a hole through the lid and lever of US359 as this is a simple and routine matter.

[0196] Claim 1 in [1.4] also recites “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.” But this is the exact orientation of the pouring opening of US349 when the Piston Assembly of Brady is installed into the

carafe of US349 – the pouring opening is between the spout and the through opening housing the piston rod.

[0197] The same is true for claim 5 in [1.5], which requires “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.” The lid of US349 clearly has a pouring opening and that pouring opening is in between the spout and where Brady’s piston rod would be located once installed.

[0198] As for the dependent claims, I have already analyzed the **Softer Material Limitation**, the **Spring Limitations**, the **Skirt Limitation**, and the **Retaining Web Limitation** and found US349 discloses these elements of claims 2-4, 7-9, 15-17 and 19-21. I incorporate that analysis (*supra*, ¶¶ [0157]-[0179]) into this section. In an alternative to US349 expressly disclosing that plug cover is of a softer material, at least it would have been obvious to select such a material given the function discussed above in ¶¶ [0170]-[0172], which I incorporate here.

[0199] Regarding the Skirt Limitation and Brady, I observe that in paragraph [0014], Brady teaches:

Referring now to FIGS. 2A and 2B, an embodiment of the lid 103 is described that includes a secondary filter 206 to prevent such escaped grounds from leaving the container 102 as the coffee is poured via the spout 4. While the lid 103 is installed onto the container 102, a rim 202 of the lid rests on the top opening of the container 102. An underportion 204 of the lid 103 includes a stabilizer tab 208 and the secondary filter 206 opposite the stabilizer tab 208. At its top, the lid

103 forms a socket 210 into which the knob 1 (FIG. 1) of the coffee maker 100 rests when the plunger assembly 104 is at its lowered position. The shaft 9 (FIG. 1) protrudes through a hole 212 formed in the lid 103 and is terminated with the knob 1.

[0200] Figure 2 of Brady depicts that the “underportion 204 of the lid 203” is a downwardly projecting annular rib that extends vertically into the vessel interior, which would be interpreted by a POSA to be a skirt. (EX1013, ¶ [0014], Figs. 2A and 2B)

[0201] I discussed how US349 discloses a threaded mechanism to attach the lid and the vessel in ¶¶ [0174]-[0176], *supra*. Brady discloses a different circumferential skirt that sealably contacts the vessel, using close fitment (friction) to retain the lid, while still enabling the lid to rotate relative to the vessel. (EX1013, abstract, ¶[0015], Figs. 1, 2A, 2B) The attachment means of Brady has the added benefit of being easier to clean with the lack of associated grooves. If the skirt of Brady is adopted, a POSA would be motivated to retain “resilient lip seal 50” of US349 to because POSA would know that the lid of Brady would not seal especially well, since it comprises just a sliding friction fit of the skirt at the bottom of the lid and US349’s resilient lip seal would improve the seal of Brady. Substituting one skirt for another is routine and potentially adding a groove to receive a sealing member is even more elementary. In my opinion, a POSA would enjoy a reasonable expectation of success.

[0202] US349 teaches the reverse of the **Lever Attachment Limitation** of claims 6 and 18. In US349, the male part (the spindles) is located on the lid and the female part (the snap-in leg) is on the lever. The **Lever Attachment Limitation** requires that the male part is located on the lever and the female part is located on the lid. However, it would have been obvious to a POSA and well within a POSA's skill to simply swap this arrangement in US349.

[0203] A POSA would understand that both the spindles and the mating snap feature are formed as features in injection molded plastic parts. A POSA would select either option according to their design needs, and there would be no functional difference if they were reversed.

[0204] For these reasons, in my opinion, claims 1-9 and 14-21 are obvious over US346 in view of Brady.

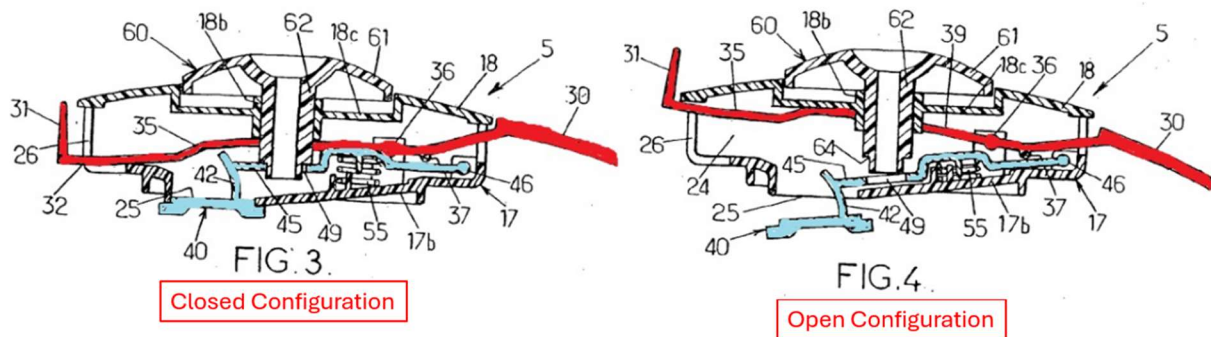
2. US349 in View of Brady and Geroult (Ground 3)

[0205] I incorporate my analysis of US349 and Brady in Ground 2 (*supra*, Section XI(A), Section XI(C), ¶¶ [0141]-[0179], [0186]-[202].) in this section. My previous analysis showed that US349 disclosed all of the limitations except the Piston Assembly Limitation. This ground further introduces Geroult, which does not remedy this defect, but discloses and suggests several features of the claimed invention. Thus, this combination still relies on Brady to supply the missing Piston Assembly Limitation and requires the same modifications to US349 to arrive at the

claimed invention. However, Geroult supplies a specific explicit teaching of one of the modifications.

[0206] Geroult provides a two-part lid with a lever assembly disposed therein. The lever assembly includes a first lever 35, a second lever 45, and a closure body for closing a pouring opening. Geroult calls this assembly “pouring control 30.” (EX1015, ¶¶ [0043]-[0049], Fig. 2.)

[0207] A few aspects of Geroult’s design jump out to me as particularly compatible with prior art references US349 and Brady. First, the first lever 35 has similar orientation and pivot construction as the lever in US349, with the addition of a central aperture 39. Second, the pouring control is spring-loaded with spring 55. Third, the same finger-actuating surface is presented at the same location relative to the other parts (e.g., handle, pouring opening, spout).



[0208] I have already stated that US349 discloses the **Lever Limitation** and I contend that a POSA would not need an express teaching to provide a through opening through the lid and/or lever of US359. However, Geroult provides an

express teaching of a lever, in the same position and the same general elongated shape of the lever in US349, having a central aperture that would accommodate the piston rod of Brady. If a POSA did not know what to do to make the lever of US349 accommodate the piston rod of Brady (with which I disagree), then Geroult provides the requisite teaching of how to construct an elongated lever with a central aperture to accommodate a piston rod. Again, adding a central aperture in the lever of US349 in view of Geroult would be routine and a POSA would enjoy a reasonable expectation of success.

[0209] I note that modifying the lever of US349 to include a central aperture as taught by Geroult would not change the horizontal axis location recited in [5.5]. It would simply involve removing material from the central part of the lever in US349 and would not change the overall shape or function.

[0210] A POSA would find this approach attractive because the POSA would not have to try to come up with an original design. In practice, constructing such an elongated lever would be routine, leveraging common plastic materials such as disclosed in US349 and common manufacturing techniques like injection molding. (EX1014, ¶ [0035].) Furthermore, as I have discussed in ¶ [0195], adding a central aperture in the lid and lever is critical to achieving the desired function as a water-tight beverage serving container.

[0211] I also previously found that the lid in combination with the vessel of US349 delimits the vessel interior. I stand by that view. However, to the extent the Board requires an express teaching of the word “delimit,” Geroult supplies this teaching. Geroult discloses a lid (EX1015, cover 5 (¶¶ [0027], [0029], [0034]-0037], Figs. 1-5) where “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] (emphasis added).) Geroult further teaches a “second opening” or “pouring opening” in the lid. (EX1015, conduit 24 or first outlet 25.) Geroult still further teaches a “first opening” or “through opening” in the lid. (EX1015, Fig. 2 aligned openings 39 and 49 along the z axis forms a passageway.)

[0212] A POSA would be motivated to design a lid that “delimits” the vessel interior because otherwise the liquid intended to be housed in the vessel could escape through undesirable passageways. Simply, the device would not function as intended. Additionally, Geroult provides an express teaching that the lid is delimiting so that heat loss through the lid is avoided. (EX1015, ¶ [0038].)

[0213] Turning to the dependent claims, as noted above, Geroult also discloses a spring-loaded lever with spring 55, which it identifies as “resilient member 55.” This spring biases the lever assembly by directly acting on the first lever 35 to a closed configuration. Thus, Geroult expressly discloses claims 2-3 and 15-17 of the

Spring Limitation claims if the Board adopts a more expansive view of “elongated lever” and “closure body” that reads on a lever assembly.

[0214] I have already discussed how I believe that a POSA would recognize that the plug cover and chevrons of US349 are of a softer material and discloses the elements of the Softer Material Limitation. Geroult provides a similar teaching for the area of its lever assembly that closes the pouring opening in the lid. I reiterate a POSA’s understanding that lids like those of US349 and Geroult are typically made of hard durable plastics like polypropylene. I believe a POSA would interpret pouring control 30 to be made of such a material. As for the area that closes the pouring opening of Geroult, Geroult teaches that “sealing ring 43 permit[s] increasing the sealing between the disc 41 and the periphery of the outlet 25.” (EX1015, ¶ [0037].) This reference to “increasing” the seal would inform a POSA that sealing ring 43 is of a softer material than the “periphery of the outlet 25.” It is known in the field that to make a water-tight seal, a POSA would know it is advantageous to use resilient materials that deform when subjected to an external physical force. Such materials are softer than hard plastic as would be understood by a POSA. Thus, a POSA would view sealing ring 43 as certainly made of softer material than the material of the first lever 35 and that it would be advantageous to use softer material for disc 41 given its form and function.

[0215] As previously mentioned, Geroult discloses a two-part lid with a lever disposed therein. (*See*, Section XI(B).)

[0216] A POSA would be motivated to adopt this two-part lid for the benefit of the lever of US349. The lever of US349 is prominently located on the top of its lid, a location prone to damage if the vessel is dropped. Geroult discloses a cover assembly comprising a bottom cup 17 and a top circular surface 18 that lock together to enclose the pouring control 30 and check valve 40. (EX1015, ¶¶ [0034]-[0037], Fig. 2) A POSA would understand that this construction would protect the enclosed components from damage and contamination. Constructing a two-part lid is elementary and primarily concerns figuring out sizing to ensure proper mating and adequate clearance for the lever. A POSA would use known methods and standard equipment associated with predictable results to achieve this modification to provide a two-part lid for the benefit of US349's lever.

[0217] For these reasons, in my opinion, claims 1-9 and 14-22 are obvious over US359 in view of Brady and Geroult.

3. Brady in View of US349 and/or Geroult (Ground 4)

[0218] Ground 4 uses the same prior art references as Ground 3, however in this analysis, US349 is replaced by Brady as the primary reference that is modified by of US349 and/or Geroult. I incorporate my analysis of Brady, US349 and Geroult

(*supra*, Section XI(A)-(C), ¶¶ [0141]-[0179], [0186]-[202], [206]-[217].) in this section.

[0219] As explained above, Brady discloses the **Vessel Limitation** and the **Piston Assembly Limitation**. Brady also discloses the **Spout Limitation** as Brady discloses a spout 4 on the vessel. (EX1013, ¶¶ [0011]-[0013].) In fact, it is my understanding that all of these limitations are found in traditional French Press coffee presses, such as the one described by Brady. Brady meets the **Pouring Limitation**, but that is not relied upon here because US349 supplies the **Lever Limitation** and the lever interacts with the element of the **Pouring Limitation**.

[0220] Brady lacks the **Lever Limitation**. But US349 alone with the knowledge of a POSA, or US349 in combination with Geroult supplying the central aperture teaching, or, in the event of a broad construction Geroult alone, remedies this defect of Brady and supplies the missing **Lever Limitation**.

[0221] The Brady French Press discloses that the user may “turn the lid 103 so that the stabilizing tab 208 covers the spout 4, to prevent liquid from splashing out of the container while lowering the shaft 9 or when carrying the coffee maker 100 when it is full. To dispense the liquid from the coffee maker 100, the lid 103 is turned So that the spout 4 is uncovered and liquid can be dispensed. (EX1013, ¶ [0015]). A POSA would understand that two hands are required to open or close the Brady spout. US349 discloses “An important object of the invention is that its operation

requires only one hand.” (EX1014, ¶ [0013]). Geroult discloses that the user can operate the pouring control with just a thumb. (EX1015, ¶ [0055].) A POSA would be motivated to improve Brady with the one-handed operation of US349 by providing the modified lever of US349 based on a POSA’s knowledge and motivation or in view of Geroult’s lever with a central aperture.

[0222] A POSA would have a reasonable expectation of successfully incorporating the modified lever of US349 into the lid of Brady. Again, most of the challenges with this modification relate to sizing and fitting parts together, which could easily be addressed by a POSA using standard methods and equipment with a high degree of confidence.

[0223] In the event that the Board provides more expansive constructions of “elongated lever” and “closure body,” then alternatively, Geroult alone could supply the Lever Limitation (by incorporating the pouring control 30 into Brady), or, alternatively, the Lid Limitation, Pouring Limitation, and Lever Limitation (by substituting lids).

[0224] Geroult expressly discloses the Lid Limitation. Geroult discloses a lid (EX1015, cover 5 (¶¶ [0027], [0029], [0034]-0037], Figs. 1-5) where “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] (emphasis added).) Geroult further teaches a “second opening” or “pouring opening” in the lid.

(EX1015, conduit 24 or first outlet 25.) Geroult still further teaches a “first opening” or “through opening” in the lid. (EX1015, Fig. 2 aligned openings 39 and 49 along the z axis forms a passageway.)

[0225] Geroult expressly discloses the Pouring Limitation. When combined, the conduit 24 or first outlet 25 would be in fluid communication with the spout 4 of Brady. Geroult provides the through opening (openings 39, 49) in which to receive the piston rod of Brady.

[0226] And Geroult expressly discloses the Lever Limitation under a construction where the claimed “elongated body” can be a lever assembly. Under such a construction, pouring control 30 would be the claimed “elongated body” and claimed “closure body” is the disc 41, the sealing ring 43, or a combination of the disc and sealing ring as those are the areas/surfaces that contact first outlet 25 that forms conduit 24 to close the pouring opening of Geroult. (*See*, EX1015, ¶ [0037]; *see also*, Section VI(B), Figs. 2-4 (annotated).)

[0227] As I have previously explained, once the modified lever of US349 is installed in Brady comprising a Piston Assembly, the lever would extend transversely to the location of Brady’s piston rod. The same is true for the lever assembly of Geroult as would be appreciated by a POSA.

[0228] A POSA would have motivation to just (1) include Geroult's lever assembly making the necessary modifications to Brady's lid; or (2) adopt Geroult's lid wholesale for the functional benefit of Geroult's pouring indicator 31.

[0229] As for the motivation to include Geroult's lever assembly, a POSA would acknowledge that Geroult's design prevents heat loss (EX1015, ¶ [0038].) Moreover, the design of Geroult's lever assembly would be advantageous in the foreseeable circumstance where the container was tipped over or inverted. In those instances, the water pressure would act to compress and improve the seal when needed most.

[0230] As for the motivation to substitute the lid of Brady with the lid of Geroult, Geroult teaches that users of certain existing pouring receptacles may "not understand intuitively the function of the pouring control. Moreover, said users not knowing in which position the check valve is, hesitate to carry out the pouring movement or on the contrary carry out a too abrupt pouring movement." (EX1015, ¶ [0006]) Geroult solves this problem with a visual pouring indicator that appears upon actuation of the lever, improving usability. (Id., ¶¶ [0009], [0039]) A POSA would be motivated to improve Brady by incorporating the lever of Geroult with integrated pouring indicator.

[0231] To modify the lid of Brady to receive the lever assembly of Geroult is more complicated than modifying to receive the modified lever of US349, but still

well within the skill of a POSA. To achieve this modification, the pouring opening of Brady would have to be relocated and then the same sizing and fit exercises would be completed to make a functioning device. In my opinion, a POSA would overcome any engineering hurdles associated with this modification using standard methods with predictable results and enjoy a reasonable expectation of success.

[0232] To substitute the lid of Brady for the lid of Geroult would be routine. Again, the lid and vessel would need to be sized and shaped such that they mated properly. The through opening provided by 39 and 49 of Geroult may potentially be extended through the top wall. However, a POSA again would use standard methods with predictable results and enjoy a reasonable expectation of success.

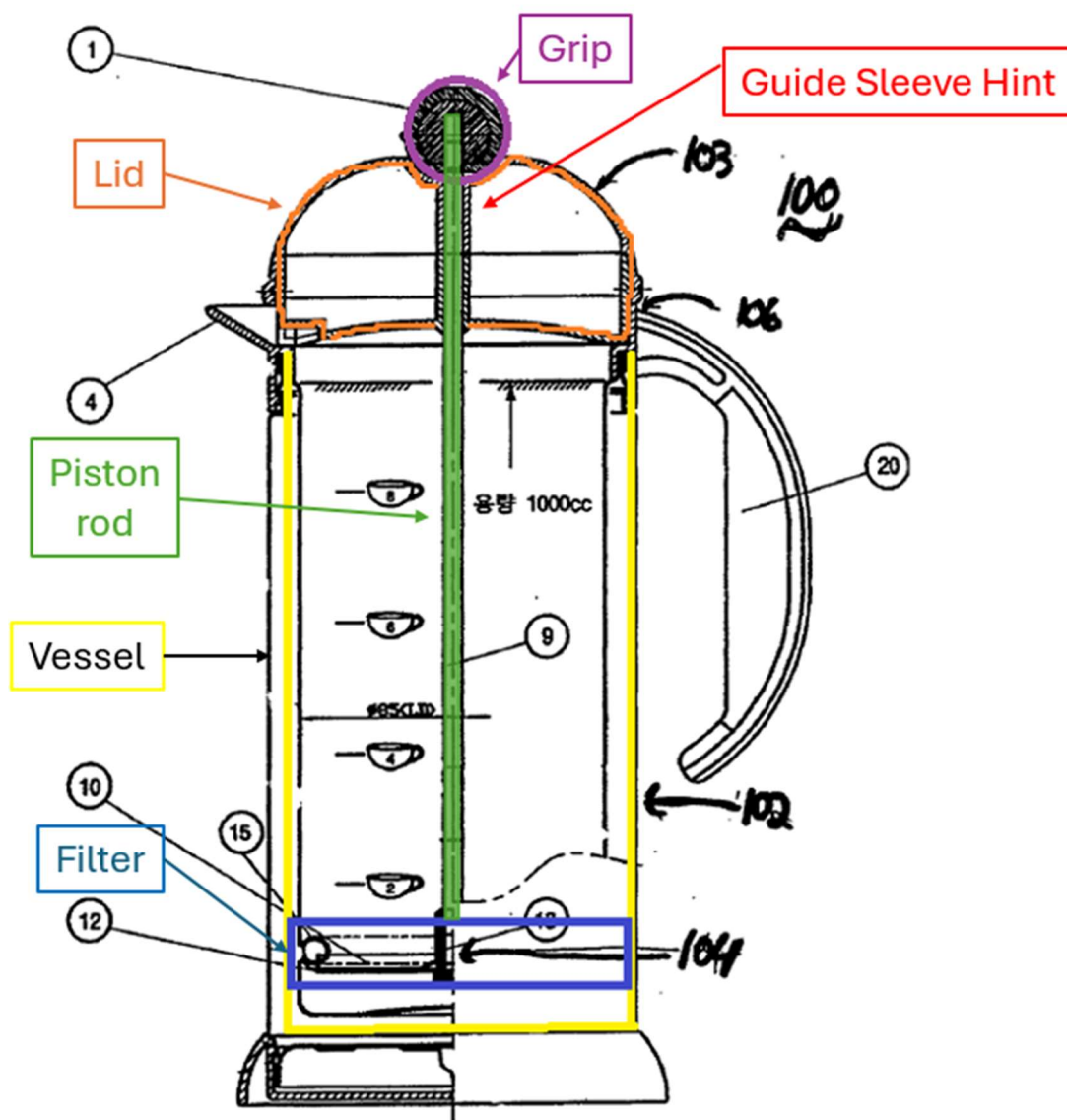
4. Brady in View of US349, Geroult and US623 (Ground 5)

[0233] I incorporate my previous discussion of Brady, US349, and Geroult (*supra*, Sections XI(A)-(C), ¶¶ [0141]-[0179], [0186]-[202], [206]-[217], [219]-[0233].) where I found these references taught all of the limitations of claim 5, on which claim 10 depends. The combination of Brady, US349, and Geroult lacks an express teaching of “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.” However, this deficiency is remedied by US623.

[0234] I provided my summary of US623 in Section XI(E), which I incorporate in this section. In brief, US623 discloses a French Press with a two-part lid and some additional visibility into the lid with the cross-section view of Figure 3.

[0235] Claim 10 really has two parts, which are identified as [10.1] and [10.2]. (See, Section, XVIII for the claim listing.) The [10.1] limitation requires a two-part lid. As evident by the figures, the top part of Geroult's lid unquestionably covers the bottom part when assembled. (See, Section VI(B), Figs. 2-4 (annotated).) US623 also discloses a two-part lid ("outer cover 42 and an inner cover 46"). (EX1016, 2:30-31.) Figure 3 of US623 shows how the outer cover 42 covers inner cover 46.

[0236] The [10.2] limitation requires the presence of a guide sleeve to prevent lateral tilting motion. The guide sleeve has to originate from one of the lid parts and needs to be held in the opposing lid part. Brady hints at the presence of a guide sleeve encompassing the piston rod where there is a solid material immediately adjacent the both sides of the piston rod as indicated below.



[0237] However, Brady alone or in combination with US349 and Geroult do not expressly teach a guide sleeve.

[0238] US623 expressly teaches a guide sleeve in element 43 in a French Press. US623 discloses that originating from the top lid part “a flange 44” extends “outwardly and downwardly” towards the bottom lid part. The flange “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.) A POSA would recognize that the tubular boss 43 of US623 is a guide sleeve that originates from the top lid part and is held to the lid bottom part by the tubular stud 48. Accordingly, US623 teaches both [10.1] and [10.2].

[0239] A POSA would arrive at the invention recited in claim 10 by (1) providing the modified lever of US349 (based on POSA’s knowledge or in further view of Geroult), or the lever assembly of Geroult and (2) modifying the lid of Brady to be a two-part lid (as taught by US623 or Geroult) containing a guide sleeve containing a boss and stud as taught by US623.

[0240] I have already opined on the motivation and expectation of success regarding the former (*supra*, ¶¶ [0195], [0208]) which I incorporate here. As to the latter, a POSA would be motivated to add a guide sleeve to ensure the device is being used as intended. The presence of the guide sleeve means that the device will operate as intended such that the piston rod of Brady will move vertically even when a non-axial force is applied to the grip by the user. The piston rod would be likely to tip during use in the absence of a guide sleeve, potentially causing jamming or disruption of the seal which would allow coffee grounds past the filter.

[0241] This structural support benefit would be known to a POSA to apply to addition of a guide sleeve into the modified two-part lid of Brady (as taught by US623) and the two-part lid of Geroult.

[0242] Moreover, the solid structure I identified above seems to hint at the presence of a guide sleeve in Brady. A POSA would also be motivated to make Brady's modified lid (which contains a lever) to be removable so that the lever can be inspected, repaired, and/or replaced if the lever is malfunctioning.

[0243] A POSA would have a reasonable expectation that s/he could successfully incorporate a guide sleeve with a boss and stud into the lid of Brady or the lid of Geroult because mating bosses of this type would be known to a POSA and in common use in plastic part assemblies. Furthermore, this type of guide sleeve would be commonly used as a bushing or bearing for a reciprocating shaft like the piston rod.

[0244] Additionally, modifying Brady's lid to be of a two-part construction with a top lid part and bottom lid part is straightforward to a POSA. Again, standard methods would be employed by a POSA with a reasonable expectation of success.

[0245] For these reasons, in my opinion, claim 10 is obvious over Brady in view of Geroult, US349, and US623.

[0246] If no patentable weight is assigned to claim 11, then it is also obvious for the same reasons stated in this section.

5. Brady in View of US349, Geroult, US623 and Wickman (Ground 6)

[0247] I incorporate my previous discussion of Brady, US349, and Geroult (*supra*, Sections XI(A)-(C) and (E), ¶¶ [0143]-[0156], [0187]-[0198], [206]-[212].) where I found these references taught all of the limitations of claim 5, on which claim 10 depends; and my discussion of US623 (*supra*, ¶¶ [0238]-[0245].) where I found US623 discloses the limitations of claim 10.

[0248] I observe that claim 11 simply recites intention to use language, which I understand to have no patentable weight. If the Board agrees and assigns no patentable weight, then the scope of claim 11 is the same as claim 10, which is obvious over Brady in view of US623, Geroult and US623 as discussed in the previous section.

[0249] To the extent the “latching” feature recited in claim 11 is afforded patentable weight, this feature, while lacking in the combination of Brady, US349, Geroult and US623, is disclosed in Wickman.

[0250] 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).)

[0251] As would be understood by a POSA, “snap-fit” is another term for “latch” in this context of mating two parts. A POSA would recognize the limitations of claim 11 are expressly disclosed in Wickman.

[0252] To arrive at the claimed invention recited in claim 11, a POSA would have to make the modifications I discussed in context of claim 10 (*supra*, ¶¶ [0233]-[0246], incorporated here) and further change the boss/stud attachment of US623 to a snap-fit attachment of Wickman.

[0253] A POSA would be motivated to make this change because a snap-fit connection is preferable due to the fact that the user attempting to mate the two parts will receive a physical and/or audible confirmation that the mating has occurred in a snap-fit connection and no such confirmation is provided in a boss/stud attachment. Further, the snap fitment will hold the two parts together more securely.

[0254] The changes in structure to make this modification are minor and routine. A hole or recess would have to be appropriately sized and provided in the top wall of the lid. The boss would have to be extended such that the end would engage with the hole or recess, and a groove would have to be added at the distal tip or end of the tube to allow for the tube to releasably engage and seal the hole or

recess. A POSA would readily be able to accomplish these tasks with a reasonable expectation of success.

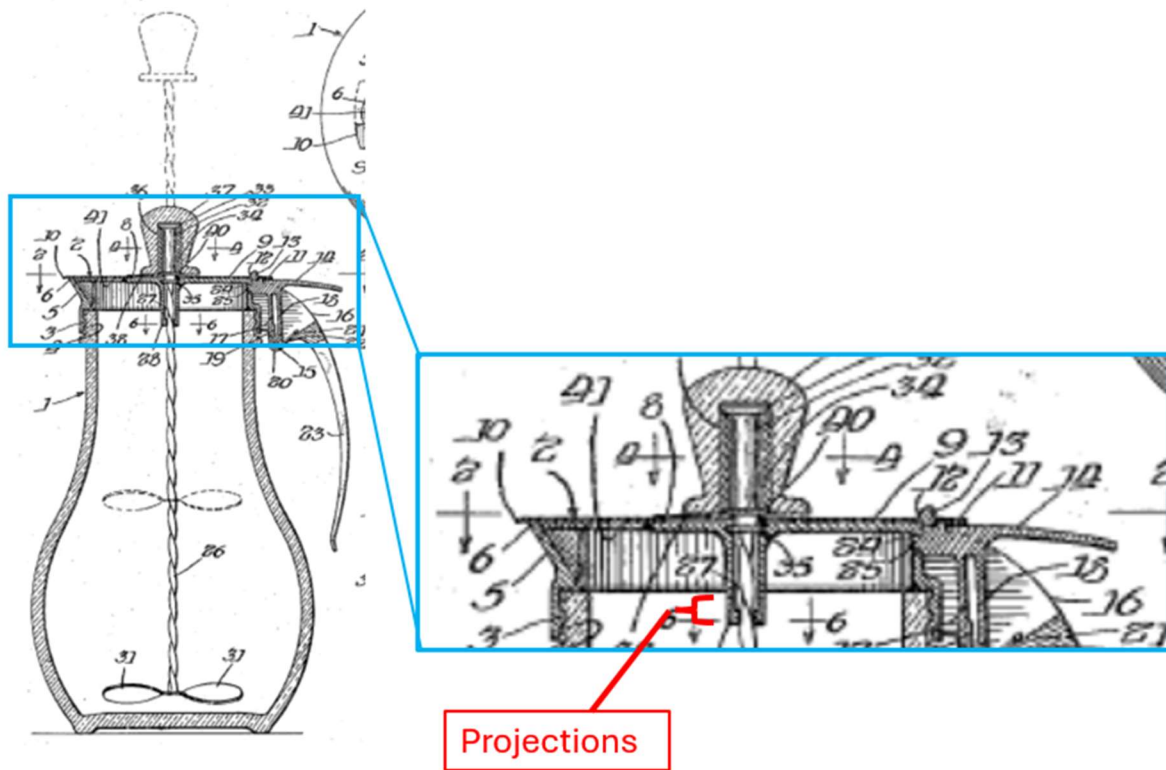
[0255] For these reasons, in my opinion, claim 11 is obvious over Brady in view of US349, Geroult, US623 and Wickman.

6. Brady in View of US349, Geroult, US623 and Hacmac or in further view of Wickman (Ground 7)

[0256] Claims 12 and 13 recite the same subject matter – they just depend from different claims. Claim 12 depends from claim 10 and claim 13 depends from claim 11. Claims 12-13 recite a very simple concept – that the guide sleeve extends into the vessel interior.

[0257] I incorporate my discussion of claim 10 (*supra*, ¶¶ [0233]-[0246].) and claim 11 (*supra*, ¶¶ [0247]-[0255]) in this section. In this discussion, I have shown how a POSA would add a guide sleeve (claim 10 discussion) or a “latching” guide sleeve (claim 11 discussion). All that claims 12-13 require is that guide sleeve or latching guide sleeve is extended below the top wall and into the vessel interior. Claims 12-13 also require that the guide sleeve is integral with the lid top part, but that aspect is already a feature of US623 and discussed previously.

[0258] Hacmac discloses a guide sleeve that extends into the vessel interior. A POSA would observe “the inwardly extending projections 28” in Figure 1 and find a guide sleeve that extends into the vessel interior.



[0259] A POSA would be motivated to include these projections to provide additional support to ensure the guide sleeve keeps the piston moving only in a vertical direction and resist any non-axial force applied by the user.

[0260] The engineering challenges associated with this change are nominal at best. For claim 12, one would just have to extend the boss through a hole in the lid. For claim 13, one would have the same extension and add a groove to allow for the snap-fit connection. A POSA would certainly enjoy a reasonable expectation that standard mechanical engineering methods could be used in a traditional manner

would result in a structure with a guide sleeve that extended into the vessel interior as shown in Hacmac.

[0261] For these reasons, in my opinion, claims 12-13 are obvious over Brady in view of Geroult, US349, US623 and Hacmac.

[0262] If the Board decides that patentable weight should be afforded to claim 11, then, in my opinion, claim 13 is obvious over Brady in view of Geroult, US349, US623 Wickman and Hacmac.

7. Brady in View of US349, Geroult and Dibdin (Ground 8)

[0263] I incorporate my previous discussion of Brady, US349, and Geroult (*supra*, Sections XI(A)-(C), ¶¶ [0141]-[0179], [0186]-[202], [206]-[217]) where I found these references taught all of the limitations of claims 1-9, 14-22. Above, I expressed the view that a POSA would recognize that US349 and Geroult disclosed the **Softer Material Limitation** recited in claims 7 and 19. (*Supra*, ¶¶ [0169]-[0173], [0214].) To the extent the Board disagrees with that assessment, Dibdin remedies any deficiency with US349 or Geroult.

[0264] I provided my summary of Dibdin in Section XI(H), which I incorporate in this section. In brief, Dibin discloses a “beverage container” with a fluid passageway that is “closeable by a valve assembly” “actuatable by a push button.” (EX1019, abstract.) “The valve assembly includes a gasketed movable

valve member engageable with a rigid sharp edge on a valve seat in the closed condition so that the gasket yieldably deforms around the sharp edge to provide a fluid-tight seal.” (*Id.*) More information on “gasket 84” is provided in ¶ [0040] and illustrated in Figure 6 of Dibdin. A POSA, by virtue of a reference to “deforming,” would understand that gasket 84 is made of a material “softer” than those specified in US349 for the lever. But that is made explicit in Dibdin when it teaches that the gasket is a “relatively soft flexible and resilient gasket.” (EX1019, ¶ [0010].)

[0265] A POSA would be motivated to construct the plug cover or chevrons of US349 as “softer material” than the material of the pouring opening because doing so would allow for a “fluid-tight seal” as taught by Dibdin. (*Id.*) A POSA would have a reasonable expectation of success as such materials are readily available and commonly used for this purpose. In fact, using a deformable member for sealing is very common in beverage containers and elastomeric gaskets and o-rings are ubiquitous in the field.

[0266] In my opinion, claims 7 and 19 are obvious over Brady in view of Geroult, US349, and Dibdin.

8. Porter in view of US349 (Ground 9)

[0267] Like Brady, Porter discloses a French Press, but in a different form factor. Historically, French Presses are a kitchen staple and typically stay in the kitchen. Brady discloses such a device. Porter, on the other hand, discloses a

“commuter press mug with a storage container.” (EX1020, 1:8-9.) A POSA would interpret “commuter press mug” to be a portable French press, intended to be moved about. Porter confirms this understanding where the lower storage container is sized to be able to fit into a car cup holder. (*Id.*, 2:55-58, Figs. 7, 18) Porter also confirms the intended mobility of this device when it teaches: “Yet another object of the invention is the convenience that has been added to a coffee mug where the commuter may take a cup of coffee when he or she departs and make one or two cups upon arrival.” (*Id.*, 2:59-62.)

[0268] Turning to the independent claims, I have already explained that the preamble states an intended use without structure. However, to the extent the Board assigns patentable weight to the preamble, Porter undisputably discloses a “beverage-maker” with a French Press design. (*See, e.g.*, 8-10, Fig. 5.)

[0269] I have already discussed US349 extensively above. But in this ground, I focus on the teachings of Porter and then look to US349 to see if any deficiencies of Porter are remedied by US349.

[0270] The **Vessel Limitation** is expressly disclosed in Porter.

[0271] Porter discloses an upwardly open, substantially cylindrical vessel with a bottom and circumferential side walls. (EX1020, Figs. 1, 5; Section XI(D), *supra*). The smaller diameter portion at the bottom is the storage compartment and not the vessel of Porter.

[0272] The **Lid Limitation** is expressly disclosed in Porter.

[0273] Vessel cover 28 covers the open top of the vessel. The horizontal wall of this cover, together with the vessel inside wall delimits the vessel interior. (EX1020, 4:21-27, Figs. 1, 5, 6; Section XI(D), *supra*)

[0274] The **Pouring Limitation** is expressly disclosed in Porter.

[0275] The vessel cover 28 comprises an opening located between the piston rod/through opening and the tapered, radiused side wall or spout. When the vessel is tilted during drinking or pouring into a secondary vessel, liquid passes through this hole. A through opening in lid is shown in Figure 6 where piston rod is located.

[0276] The **Spout Limitation** is expressly disclosed in Porter.

[0277] A POSA would understand that the tapered, radiused side wall of vessel cover 28, together with the inside radius of that wall functions as a spout to direct liquid during drinking or pouring. (EX1020, Figs. 1, 2, 5)

[0278] The **Piston Assembly Limitation** is expressly disclosed in Porter.

[0279] Porter discloses plunger assembly 30. “A plunger assembly 30 with rod 32 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 there between. The base member 38 includes a plurality of fingers 42 each having a first phalange 44 and a second phalange 46 extending outwardly at

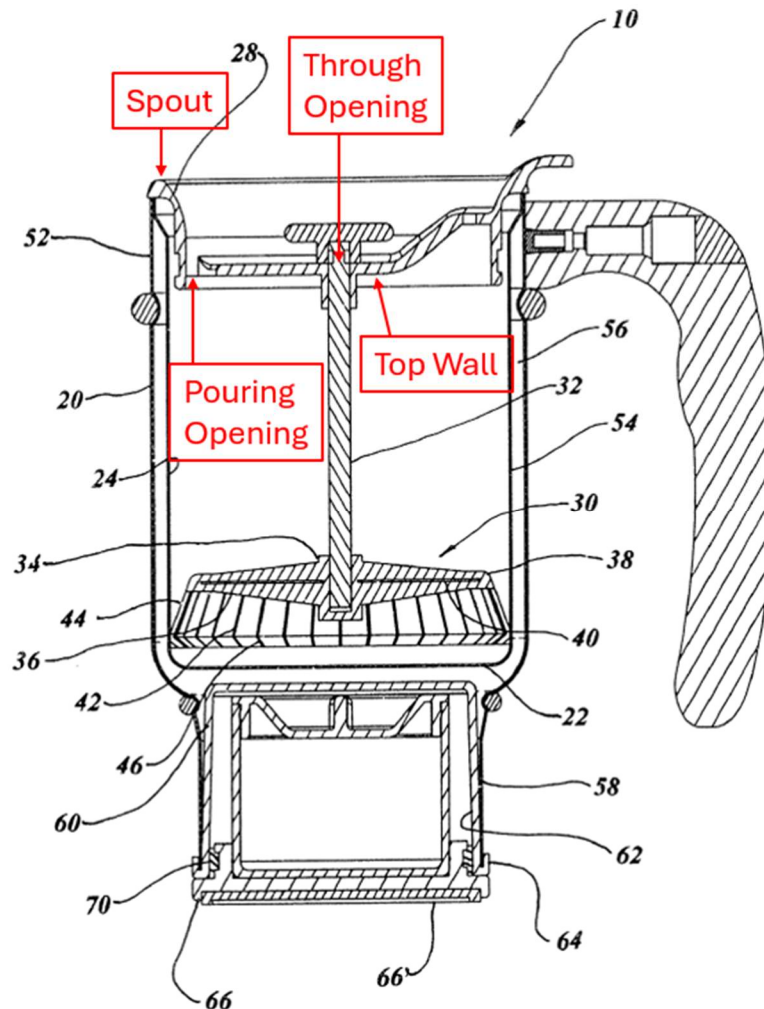
an angle creating intimate contact with the side wall 24.” (EX1020, 3:60-67, Figs. 5, 6; Section XI(D), *supra*)

[0280] Porter lacks the **Lever Limitation**. But as I have already discussed, US349 discloses the **Lever Limitation** and how a POSA would modify the US349 lever to accommodate a Piston Assembly, such as the one described in Porter. I incorporate that discussion (*supra*, Section XI(A), ¶¶ [0151]-[0155], [0190]) here. The primary change to Porter’s design to be able to accommodate the modified lever of US359 is potentially relocating the pouring opening closer to the center of the mug’s lid and sizing the pouring opening to sealably and releasably engage the plug cover of the plug finger. These are rudimentary changes and would readily be accomplished by a POSA using standard methods and equipment. In my opinion, a POSA would have a reasonable expectation of successfully executing these changes to the lid of Porter to accommodate the modified lever of US349.

[0281] In addition to the **Lever Limitation**, claims 1 and 3 also specify that the elongated lever is “extending transversely to the piston rod.” This element is disclosed in the combination of Porter and US349. Just like in Brady, once the lever of US349 is installed into the travel mug of Porter, the lever would be “extending transversely to the piston rod.”

[0282] Claim 1 also requires: 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.” This feature is disclosed in Porter as shown in annotated Figure 5 below.



[0283] Claim 5 also requires “the elongated lever has a through opening, through which the piston rod extends.” This feature is disclosed in the combination of Porter and US349. Once the lever of US349 is installed, a POSA would modify it to include a central aperture to receive the piston rod so that the grip sits above the lever (*see, supra*, ¶ [0195], incorporated here) and this modification would not impact the fact that “the horizontal axis [is] arranged between the closure body and

the actuating surface of the elongated lever” as required by [14.5] (*see, supra*, ¶ [0154]-[0155], incorporated here).

[0284] A POSA would arrive at the invention claimed in independent claims by adding the lever of US349 as modified by a POSA to the commuter mug of Porter.

[0285] Porter discloses the through opening and piston; US349 discloses the elongated lever extending transversely to the location of Porter’s piston rod. A POSA would modify the lever to accommodate the piston using established methods and arrive at the claimed invention. A POSA would be motivated to make such a change because, without doing so the commuter mug would not close and would not serve its intended purpose. The addition of a lever of US349 to Porter may require a small adjustment to the length of the piston rod. The POSA would make this type of change easily with a predictable outcome and an expectation of success.

[0286] In my opinion, Porter provides even more motivation to add a lever such as the one disclosed in US349 because of two factors not implicated in Brady. First is the presence of this thumb surface indicated below.

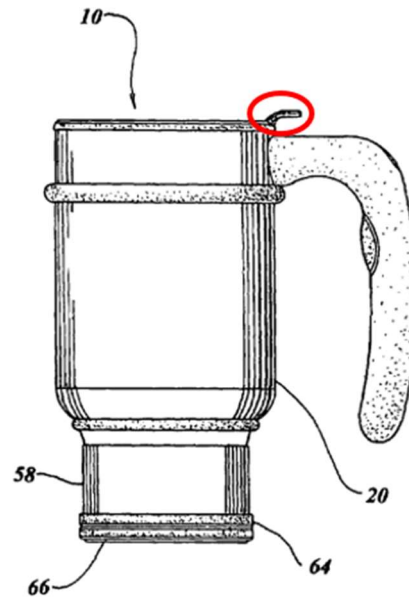


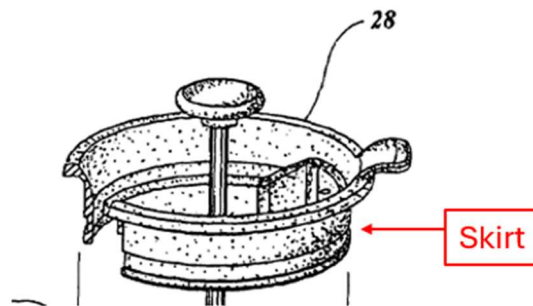
FIG. 4

[0287] Without looking at any other information of Porter, a POSA would likely believe that this feature is either that the end of a lever or an element to pry the lid off the vessel. Consequently, I believe this feature suggests inclusion of a thumb-actuated lever.

[0288] Second is the intended use of Porter's travel mug. (*See, e.g.*, EX1020, 53-58 (referencing placing the mug in a "motor vehicle cup holder".) A POSA would understand that a travel mug will be subjected to more movement and the user possibly dropping the mug, for example, by trying to insert the mug into the vehicle cup holder without looking. A POSA would attempt to address these foreseeable issues by incorporating a closure mechanism, such as use of an elongated lever to plug the pouring opening and prevent spillage when the mug is dropped or tipped unintentionally.

[0289] As for the dependent claims, I have already analyzed the **Softer Material Limitation**, the **Spring Limitations**, the **Skirt Limitation**, and the **Retaining Web Limitation** and found US349 discloses these elements of claims 2-4, 7-9, 15-17 and 19-21. I have also found that it would have been obvious to reverse the attachment/anchor orientation of US349 to arrive at the **Lever Attachment Limitation** to render claims 6 and 18 obvious. I incorporate that analysis (*supra*, ¶¶ [0157]-[0179], [0201]-[0203]) into this section.

[0290] However, a POSA would not have to modify Porter much to arrive at the **Skirt Limitation** as Figure 6 expressly discloses a skirt on a lid.



[0291] But simply the presence of a skirt is not sufficient to teach the **Skirt Limitation**, which further requires a “circumferential sealing element” on the “outer side” of the skirt, “which bears sealingly against the inner side of the side wall of the vessel.” I see no express teaching of a “circumferential sealing element” in Porter, although I do observe a groove above the bottom lip of the skirt that could easily receive such a sealing element. A POSA would also recognize this groove in Porter

and insert the “resilient lip seal 50” of US349 in this groove to advantageously increase the seal between Porter’s skirt and vessel. This type of lip seal seated in a groove would have been familiar to a POSA, and there is even an example of such a seal used in the lid of the storage container on the bottom of the vessel. (EX1020, 4:62-67, Figs. 5, 11, 13) Even if there was not a groove in Porter, a POSA would have easily made one and then applied the “resilient lip seal 50” to the groove. Thus, Porter in combination with US349 teach the **Skirt Limitation**.

[0292] For these reasons, in my opinion, claims 1-9 and 14-21 are obvious over Porter in view of US349 and Geroult.

9. Porter in View of US349 and Geroult (Ground 10)

[0293] I incorporate my previous discussions of US349 and Porter here. (*Supra*, ¶¶ [0267]-[0292].) Geroult provides an additional teaching of a lever with a central aperture and a two-part lid that is absent from the combination of Porter and US349 (*supra*, Section XI(B), ¶¶ [0207]-[0208], incorporated here). I have already discussed how a POSA would be motivated to include these features (*supra*, ¶¶ [0210].), which I incorporate in this section. Although my previous comments were in the context of a motivation to modify Brady instead of Porter, the same motivations apply. I also have already discussed how a POSA would enjoy a reasonable expectation of success (*supra*, ¶¶ [0189]-[0190]), which I incorporate in

this section. Again, although my previous comments were in the context of an expectation regarding modifications to Brady instead of Porter, the same expectations apply as the modifications required (providing a central hole in the lever of US349 and correctly sizing parts) would require a POSA to use well established techniques with predictable outcomes.

[0294] For these reasons, in my opinion, claims 1-9 and 14-22 are obvious over Porter in view of US349.

[0295] To the extent that the Patent Owner disagrees with the foregoing assessment, I welcome an opportunity to review and consider its position and reply.

XVII.SECONDARY INDICIA OF NONOBVIOUSNESS

[0296] I am not aware of any indication that the claimed invention is associated with any secondary indicia of nonobviousness based on my review of the materials considered, including the prosecution history (EX1002).

[0297] The claimed invention essentially closes a fluid passageway through a thumb-actuated lever. I cannot imagine that such an invention would enjoy skepticism of experts, industry praise, or solves a long-felt need. In fact, I disagree that the claimed invention solves any long-felt need. As I have explained above, any need to plug a fluid hole in a beverage container had been solved prior to the alleged invention recited in the claims of the '486 Patent.

[0298] I do not have sufficient information to render an opinion on other secondary indicia of nonobviousness, but I would happy to share my opinion if the Patent Owner advances any evidence of secondary indicia during the course of this trial and my opinion would be helpful to the Board.

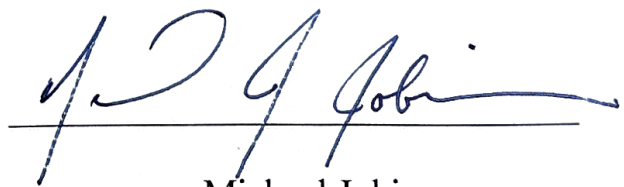
XVIII. CONCLUSION

[0299] For the reasons set forth above, I believe claims 14-17 and 19-21 of the '486 Patent are anticipated by US359.

[0300] For the reasons set forth above, I believe all claims of the '486 are rendered obvious in view of the art discussed herein

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true and that such statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: June 23, 2025



Michael Jobin

XIX. APPENDIX: LIST OF PATENT CLAIMS

1. [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. [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]. The beverage-maker as claimed in claim 1,

[10.1] 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. [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.

CLAIM 1	CLAIM 5	CLAIM 14
an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall;	an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall;	an upwardly open, substantially cylindrical vessel having a vessel bottom and a circumferential side wall; and
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 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 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,
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,	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, on the lid or on the vessel, outside the vessel interior, a spout is configured
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, 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 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
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.	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,	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.
	wherein the elongated lever has a through opening, through which the piston rod extends	

Chart Key	Yellow = Vessel Limitation	Gray = Piston Assembly Limitation	Purple = Pouring Limitation
	Green = Lid Limitation	Blue = Spout Limitation	Red = Lever Limitation