

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

WHIRLPOOL CORPORATION,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,

Defendants.

Civil Action No. 2:25-cv-01042-JRG-RSP

PATENT CASE

JURY TRIAL DEMANDED

**DECLARATION OF EMAD TANBOUR, PH.D., IN REPLY TO THE EXPERT
DECLARATION OF DR. KIMBERLY K. CAMERON REGARDING NON-
INFRINGEMENT AND INVALIDITY OF U.S. PATENT NO. 12,543,922**

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1. My name is Emad Tanbour. I am a Professor of Mechanical Engineering at Gameabove College of Engineering and Technology at Eastern Michigan University in Ypsilanti, Michigan, where I have taught since 2016. I declare, under penalty of perjury, as follows:

2. I have been retained through Susman Godfrey LLP, counsel for Whirlpool Corporation (“Whirlpool” or “Plaintiff”) to assess infringement and validity of the Asserted Patents by Samsung Electronics Co., Ltd. (“SEC”) and Samsung Electronics America, Inc. (“Samsung America”) (collectively, “Samsung” or “Defendants”) in the above-captioned case. This declaration is based on my personal knowledge, education, expertise, and investigation. If called as a witness, I could and would testify competently to the contents herein.

3. I note that I previously submitted three expert declarations: (1) an initial infringement declaration related to United States Patent Nos. 12,232,681 (“the ’681 patent”) and 10,512,385 (“the ’385 patent”), dated October 10, 2025 (“Initial Tanbour Declaration”); (2) a rebuttal declaration related to the same patents addressing both infringement and validity dated January 16, 2026 (“Rebuttal Tanbour Declaration”); and (3) an expert declaration, dated February 17, 2026, relating to the ’922 patent in this matter (hereinafter “’922 Initial Tanbour Declaration”) based on then-available information. Additional information—namely the Expert Declaration of Dr. Kimberly K. Cameron Regarding Non-Infringement and Invalidity of U.S. Patent No. 12,543,922, served on March 3, 2026, and the associated Exhibits N–P (hereinafter the “’922 Cameron Declaration”)—has now become available to me. As directed by the Court in this matter, I have considered the ’922 Cameron Declaration and associated documents and provide my response in this declaration.

4. This declaration incorporates by reference the ’922 Initial Tanbour Declaration. Among other things, my qualifications are described in the Initial Tanbour Declaration at

Paragraphs 3–11 and in the Curriculum Vitae attached to that declaration as Exhibit A. My Curriculum Vitae has not changed in any material respect since the Initial Tanbour Declaration was executed.

5. I am being compensated for my time spent on the present matter at my typical rate of \$595 per hour. My compensation is not in any way contingent on my performance, the substance of my opinions, or the outcome of this proceeding. I am also being reimbursed for expenses incurred as a result of activities performed.

6. This declaration reflects my analysis and opinions to date. If additional data, information, or testimony become available to me, I reserve the right to modify or update my opinions to include additional information received after the date of this declaration.

7. In this declaration, I am not offering an independent opinion regarding each cited reference beyond responding to the opinions and evidence identified by Dr. Cameron. Further, given the limitations of time, I have not responded to each and every assertion made by Dr. Cameron and instead have focused on what I consider to be the clearest faults in her arguments and proofs. My decision not to address an issue or argument should not be understood as an admission that I agree with Dr. Cameron's position.

8. I further note that, except where stated otherwise, I have assumed for purposes of my analysis that each reference actually constitutes prior art. I understand, however, that Plaintiff does not necessarily agree that each reference actually constitutes prior art.

A. Summary of Opinions

9. In addition to the opinions contained in my initial declaration, I make several additional opinions herein in response to the '922 Cameron Declaration.

10. First, in her declaration, Dr. Cameron opined that the Samsung Accused Products do not infringe any of the Asserted Claims of the '922 Asserted Patent. That opinion was based largely on her conclusion that the Accused Products do not satisfy the following limitations in Claim 1. '922 Cameron Decl. ¶¶ 58–75.

- The limitations below are in independent Claim 1 and incorporated in dependent Claims 2–4 and 7–25:
 - [c] an upper dish rack located above the first lower dish rack and the second lower dish rack in the dish treating chamber, the upper dish rack defining a planar portion and a depression, wherein the depression includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion, and wherein the first angled wall defines a first set of cup seats, and wherein the second angled wall defines a second set of cup seats; and
 - [d] wherein the planar portion includes a plurality of utensil holders configured to horizontally support utensils;

11. Dr. Cameron also opined that the Samsung Accused Products separately did not meet the following claim language of dependent Claim 13:

- The dishwasher of claim 7, wherein the utensil caddy includes a diffuser that diffuses the spray of water emitted by the at least one sprayer.

12. Second, in her declaration, Dr. Cameron concluded that various references invalidate prior art to the Asserted Claims of the '922 Patent under 35 U.S.C. §§ 102 (anticipation) and/or 103 (obviousness). '922 Cameron Decl. ¶¶ 76–176.

13. In this declaration, I provide my opinions in response to the various allegations of non-infringement and invalidity made in the '922 Cameron Declaration, as well as the bases for my opinions.

14. Based on my review of the '922 Patent, the relevant products, the '922 Cameron Declaration, and the references addressed in that declaration, it is my opinion that: (1) Dr. Cameron's non-infringement positions are incorrect and that Samsung infringes each and every limitation of Claims 1–4 and 7–25 of the '922 Patent through manufacturing and selling

dishwashers modeled after the KitchenAid design described in the Asserted Patents that include an enhanced top rack that can hold both drinkware as well as utensils and silverware (e.g., the Accused Products); and (2) Dr. Cameron has failed to overcome the presumption of validity for the Asserted Claims. Instead, Dr. Cameron's arguments only further demonstrate that the Asserted Claims of the '922 Patent are valid.

15. My infringement opinions are supported by my analysis of the '922 Patent, the Whirlpool products that practice the '922 Patent, and the Samsung Accused Products.

16. My opinion that the '922 Patent is valid is supported by the fact that purportedly anticipatory references cited by Dr. Cameron did not disclose every limitation of each of the Asserted Claims. *See* '922 Cameron Decl. ¶¶ 76–176. In fact, I have found at least one limitation for each of the Asserted Claims for which Dr. Cameron has failed to show disclosure by each of the cited references. I identify those undisclosed limitations on a claim-by-claim, reference-by-reference basis below.

17. It is also my opinion that Dr. Cameron has failed to show that the Asserted Claims are obvious in view of any reference, combination of reference, or general knowledge of one of ordinary skill in the art.

18. Because the Asserted Claims of the '922 Patent are neither anticipated nor rendered obvious by the purported "prior art" discussed by Dr. Cameron, they are valid.

B. High-Level Description of Materials Studied

19. Before writing this declaration, I studied the '922 Patent and its file history. I also studied the Cameron Declaration and the references cited and linked therein. I further considered any additional material noted in this declaration.

20. As stated in the Initial Tanbour Declaration, I further understand that no claim construction order has issued in this case. As a result, I have used the plain and ordinary meaning that would be ascribed to any given term by a person of ordinary skill in the art (“POSITA”) as of the effective filing date of the application for the Patents at issue.

C. Relevant Legal Principles

21. While I am not an attorney, I have been advised of certain legal principles as they relate to forming opinions as to the issues of validity and infringement of the Asserted Claims. I have applied this law to the facts set forth in this declaration in rendering my opinions. This section of my declaration provides my understanding of the legal principles that I have used in forming my opinions.

1. Presumption of Validity

22. It is my understanding that an issued patent and the claims within it are presumed valid. It is further my understanding that the basis for that presumption of validity is the fact that the allowed claims went through a rigorous examination process at the U.S. Patent Office. I understand that the evidence to overcome the presumption of validity must be clear and convincing. Defendants have the burden in this case of proving invalidity by clear and convincing evidence, and the burden of proof never shifts to Plaintiff to prove the validity of the Asserted Claims. I further understand that the “clear and convincing evidence” standard means evidence which produces in the mind of the Judge or the jury an abiding conviction that the truth of a factual contention is highly probable. It is also my understanding that the United States Supreme Court has confirmed this clear-and-convincing standard of proof in *Microsoft Corp. v. i4i L.P.*, 564 U.S. 91 (2011).

23. I understand that the burden of proving invalidity by clear and convincing evidence based on a prior art reference that was already submitted during prosecution and rejected by the

USPTO Examiner is especially difficult since it is presumed that the USPTO Examiner considered the reference before allowing the claims. The same is true for a combination of references that was before the USPTO Examiner during the prosecution of the relevant application. As Dr. Cameron acknowledges, all four of the references that she cites were disclosed to the Examiner who allowed the '922 Patent. *See* '922 Cameron Decl. ¶¶ 28, 36, 42, 49.

2. Anticipation

24. It is my understanding that “anticipation” under 35 U.S.C. § 102 exists only if a single prior art reference or product discloses or contains, expressly or inherently, each and every limitation of the claim at issue. In other words, every limitation of the claim must identically appear in a single prior art reference for the reference to anticipate that claim.

25. I also understand that all elements of the claim must be disclosed in the reference as they are arranged in the claim. I also understand that, to be considered anticipatory, the prior art reference must be enabling and must describe the patentee’s claimed invention sufficiently to have placed it in the possession of a person of ordinary skill in the field of invention. I further understand that the relevant standards for what constitutes “prior art,” for purposes of anticipation under the relevant paragraphs of §102, which are as follows (emphases added):

(1) the claimed invention was **patented, described in a printed publication, or in public use, on sale, or otherwise available to the public** before the effective filing date of the claimed invention;
or

(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

3. Obviousness

26. I understand that, in order to be considered as “prior art” for purposes of the § 103 obviousness inquiry, a reference must first qualify as “prior art” under one of the definitions stated above in the context of § 102.

27. In order to be considered as “prior art” for purposes of the § 103 obviousness inquiry, a reference must also be “analogous” to the Asserted Patents. I understand that a reference is “analogous” if (1) the reference is from the same field of endeavor as the claimed invention (even if it addresses a different problem); or (2) the reference is reasonably pertinent to the problem faced by the inventor (even if it is not in the same field of endeavor as the claimed invention).

28. I understand that the relevant standard for obviousness is as follows:

A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

35 U.S.C. § 103.

29. Stated another way, to show that a patent is “obvious” based on an alleged prior art reference or a combination of such references, it must be shown that a POSITA would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that such person of ordinary skill in the art would have had a reasonable expectation of success in doing so. To make this showing, Defendants must show how and why a skilled artisan would have had a reason to combine the interrelated teachings of the prior art references.

30. Defendants may show that a claim is invalid for obviousness under 35 U.S.C. § 103 if they demonstrate that two or more prior art references in combination, disclose, expressly or

inherently, every claim limitation so as to render the claim, as a whole, obvious. Alternatively, Defendants may show that a claim is invalid for obviousness under 35 U.S.C. § 103 if a single prior art reference combined with the knowledge of one of ordinary skill in the art discloses every claim limitation so as to render the claim, as a whole, obvious.

31. It is my understanding that in assessing the obviousness of claimed subject matter, one should evaluate obviousness over the prior art from the perspective of one of ordinary skill in the art at the time that invention was made (and not from the perspective of either a layman or a genius in that art). The question of obviousness is to be determined based on:

- The scope and content of the prior art;
- The difference or differences between the subject matter of the claim and the prior art (whereby in assessing the possibility of obviousness one should consider the manner in which a patentee and/or a Court has construed the scope of a claim);
- The level of ordinary skill in the art at the time of the alleged invention of the subject matter of the claim; and
- Any relevant objective factors (the “secondary considerations”) indicating non-obviousness. It is also my understanding that the United States Supreme Court clarified the law of obviousness in *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 419 (2007) (“*KSR*”). Based on *KSR*, it is my understanding that to determine whether it would have been obvious to combine known elements in a manner claimed in a patent, one may consider such things as the interrelated teachings of multiple patents, the effects of demands known to the design community or present in the marketplace, and the background knowledge of one with ordinary skill in the art. The secondary considerations at issue may include commercial success of a product using the invention, if that commercial success is due to the invention; long-felt need for the invention; evidence of copying of the claimed invention; industry acceptance; initial skepticism; failure of others; and praise of the invention.

32. I also understand that while an analysis of any teaching, suggestion, or motivation to combine elements from different prior art references is useful in an obviousness analysis, the overall inquiry must be expansive and flexible.

33. I further understand that it is impermissible to use a hindsight reconstruction of references to reach the claimed invention without any explanation as to how or why the references would be combined to produce the claimed invention.

34. Moreover, I understand that a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. But multiple prior art references or elements may, in some circumstances, be combined to render a patent claim obvious. I understand that I should consider whether there is an “apparent reason” to combine the prior art references or elements in the way the Asserted Claim does. Requiring a reason for the prior art combination protects against distortion caused by hindsight. Along the same lines, one cannot use the Asserted Patents as a blueprint to piece together the prior art in order to combine the right ones in the right way as to create the claimed inventions.

35. To determine whether there is such an “apparent reason” to combine the prior art references or elements in the way that an Asserted Claim does, it may be necessary to look to the interrelated teaching of multiple references, to the effects of demands known to the design community or present in the marketplace, and to the background knowledge possessed by a person having ordinary skill in the art.

36. I also understand that when the prior art teaches away from combining prior art references or certain known elements, discovery of a successful means of combining them is more likely to be non-obvious. A prior art reference may be said to teach away from a claim when a POSITA, upon reading the reference, would be discouraged from following the path set out in the claim or would be led in a direction divergent from the path that was taken by the claim. Additionally, a prior art reference may teach away from a claimed invention when substituting an

element within that prior art reference for a claim element would render the claimed invention inoperable.

37. It is my further understanding that given the presumption that an allowed patent claim is valid, in order to assert that an allowed patent claim is invalidated by one or more prior art references, it is necessary to show that a reference (or an appropriate combination of references):

- Is (are) properly considered as being prior art to the patent containing the claim, and,
- Discloses (disclose) each and every limitation of that claim either expressly or inherently by clear and convincing evidence.

4. Prior Art Considered By the Examiner and Prior Art That is Cumulative to the Prior Art Considered by the Examiner

38. I understand that, when Defendants rely upon a prior art reference that was also before the USPTO Examiner for consideration, a reasonable jury may give weight to the Examiner's view of the reference, as not invalidating the patent, when the jury decides whether invalidity has been proved by clear and convincing evidence. The burden on Defendants—of proving invalidity by clear and convincing evidence—is particularly heavy when the prior art reference at issue was considered by the Examiner.

39. That heavy burden also applies when Defendants rely upon a prior art reference that is “cumulative” to the prior art references that were considered by the examiner. A prior art reference is considered “cumulative” if it teaches no more than what a reasonable Examiner would consider to be taught by the prior art already before the Patent Office.

5. Secondary Considerations of Non-Obviousness

40. As noted above, I understand that certain “secondary considerations” may be relevant in determining whether or not an invention would have been obvious, and that these

secondary considerations may include commercial success of a product using the invention, if that commercial success is due to the invention; long-felt need for the invention; evidence of copying of the claimed invention; industry acceptance; the taking of licenses under the patents by others; initial skepticism; failure of others; or praise of the invention. I understand that Whirlpool believes that “secondary considerations” evidence that the inventions are non-obvious. I acknowledge that such “secondary considerations” may exist to support my opinion that the Asserted Patents are valid; however, my opinion that the invention in the Asserted Patents is non-obvious does not depend on the existence of any secondary considerations.

6. Manner of Rebuttal

41. I also note again that, unlike the standard for proving infringement, to rebut an assertion of invalidity, it is necessary to show only that at least one of the limitations of an allowed claim has not been shown to be found in the prior art, and that is what I have done for each Asserted Claim and for each item of allegedly invalidating prior art, and for each combination of items of allegedly invalidating prior art which is addressed in Defendants’ declaration. In other words, in rebutting the allegations of invalidity made in the ’922 Cameron Declaration, it is not necessary to demonstrate that each and every limitation of an Asserted Claim is missing from the art and/or combinations of art cited in that declaration.

7. The Level of Ordinary Skill in the Art and Person of Ordinary Skill in the Art

42. When interpreting a patent, I understand that it is important to view the disclosure and claims of that patent from the level of a POSITA at the time of the invention. Accordingly, when I am referring to a POSITA, I am referring to one of ordinary skill in the art as of the effective filing dates for the Asserted. Patents at issue.¹

¹ My opinion is that the ’922 Patent claims priority to U.S. Provisional Pat. Appl. No 16/833,984, which was filed on March 30, 2020.

43. I further understand that the Court in this matter has not yet determined the meaning and scope of any potentially disputed claim terms of the '922 Patent. And, given that reality, I have used the plain and ordinary meaning as understood by one skilled in the art in view of the associated specifications and prosecution histories.

44. My opinion of the level of ordinary skill in the art of the '922 Patent is based on my personal experience working in the field of mechanical engineering, manufacturing, and design, including in the appliance industry. In particular, I have extensive knowledge of colleagues and others working in those fields as of and for several years prior to the applicable time frame applicable to each of the Asserted Patents. It is also based on my study of the Asserted Patents in this case and their file histories, and is rooted in my knowledge of:

- The level of education and experience of persons actively working in the above fields at the time the subject matter at issue was developed;
- The types of problems encountered in the art at the time the subject matter was developed;
- The rapidity with which innovations are made in those fields;
- Prior art patents and publications;
- The activities of others working in those fields;
- Prior art solutions to the problems addressed by the relevant art; and
- The sophistication of the technology at issue in this case.

45. I have also been informed that these factors are not exhaustive and are merely a useful guide to determining the level of ordinary skill in the art.

46. I have likewise reviewed the legal standards set forth by Dr. Cameron. In Paragraph 56 of the '922 Cameron Declaration, Dr. Cameron offered her opinion regarding the level of skill of one of ordinary skill in the art of two Asserted Patents:

[I]t is my opinion that one of ordinary skill in the art around the time of the alleged inventions of the Asserted Patents would have had at least a bachelor's degree in mechanical engineering or a related field, and 2 years of experience in the design or development of consumer appliances, including dishwashers or comparable fluid-delivery systems, with additional education substituting for

experience and vice versa. (citing First Cameron Rebuttal Declaration at ¶¶ 76–78).

47. Taking the above factors into account and based on my review of the specifications of the '922 Patent and my knowledge and experience of the field, I continue to believe that a POSITA would be an individual who has an undergraduate degree in mechanical engineering or a related field, or their equivalent, plus at least six years of experience working in appliance design. I disagree with Dr. Cameron's position taken in ¶ 56 of her declaration: While specific experience in the design or development of "dishwashers or comparable fluid-delivery systems" may be helpful, it is not necessary or required. I also note that while Dr. Cameron takes the position that she would "still qualify as a POSITA under my standard," I am not sure that is the case. *See* '922 Cameron Declaration ¶ 57. Although Dr. Cameron has represented that she "ha[s] worked on numerous projects for various consumer products" and "ha[s] experience with dishwashers, refrigerators, washing machines, irons," First Cameron Rebuttal Declaration ¶¶ 4–6, her CV does not list "appliance design" and it is not clear whether or not she has six years of experience in that field.

48. While Cameron's standards are not identical to mine, none of my opinions would be different under her standards. In fact, as her standards generally have a lower total experience and skill level than the standard I set forth, it would be even less plausible that such a POSITA would be able to leap the gap between the prior art and the Asserted Claims that would be necessary as disclosed in Cameron's invalidity theories.

49. It is my further understanding that although the *KSR* decision discussed above has led to the elimination of the "teaching, suggestion or motivation" test as the sole test for judgment whether art can be combined for the purposes of an obviousness assertion, *KSR*, 550 U.S. at 407 (2007), the use of "impermissible hindsight" is still inappropriate when making such an assertion.

Specifically, I note that § 2142 of the Manual of Patent Examining Procedure includes the direction to patent examiners that:

The tendency to resort to “hindsight” based upon applicant’s disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

8. Requirements for Asserting Obviousness

50. It is my further understanding that when assertions of invalidity are based on a combination of references that allegedly disclose a given patent claim, such assertions must include a discussion of the likelihood that the proposed combinations can be made by those of ordinary skill and, if made, will have a likelihood of success. Section 2143.1 of the Manual of Patent Examination Procedure entitled “OBVIOUSNESS REQUIRES A REASONABLE EXPECTATION OF SUCCESS, as an example, states that:

Where there is a reason to modify or combine the prior art to achieve the claimed invention, the claims may be rejected as *prima facie* obvious provided there is also a reasonable expectation of success.

...
Obviousness does not require absolute predictability, however, at least some degree of predictability is required.

...
A person of ordinary skill [must have] good reason to pursue the known options within his or her technical grasp.

D. Technology Background

51. In the Initial Tanbour Declaration, I presented general background knowledge helpful in understanding the Asserted Claims, the operation of certain aspects of the Accused Products, and the evidence of infringement. I incorporate that text by reference here.

E. The References Addressed by Dr. Cameron

52. In her '922 declaration, Dr. Cameron addressed the following references in making her assertions with respect to the '922 Patent. As stated above, Whirlpool disclosed all four references in Information Disclosure Statements to the Examiner:

- Carr (U.S. Patent Publication No. 2018/0220867), published August 9, 2018
- Bosch 800 (a dishwasher product (SHPM88Z75N) and its related brochure)
- Andrew (U.S. Patent No. 2,910,207) issued October 27, 1959
- Mailander (U.S. Patent Publication No. 2008/0169009), published July 17, 2008

F. General Comments on Cameron Declaration

53. Having reviewed the assertions of obviousness made in the '922 Cameron Declaration, it is my opinion that her assertions of obviousness suffer from the evident use of impermissible hindsight. In short, Dr. Cameron appears to have looked at the limitations of the Asserted Claims and then used them to search for unrelated disclosures in order to patch together a combination of references about dishwashers in general without accounting for the disparate parts and technologies at issue more specifically.

54. Aside from offering conclusory statements that a POSITA would have found it obvious to combine references like Andrew and Carr, Dr. Cameron offers little explanation of how her proposed combinations of references would have been able to function—either in theory or, more importantly, in practice. She never explains how the proposed combinations actually could be implemented, or what likelihood of success would have been expected had a POSITA attempted to implement any of her proposed combinations. She also provides very little detail around the motivation that any person would have had to combine references beyond that two references, for example, are “both directed to a top rack of a dishwasher that can hold utensils.” *See* '922 Cameron Decl. ¶ 124.

55. Further, it is my understanding that—when asserting invalidity based on a combination of references that allegedly disclose a given patent claim—such assertions must include a discussion of the likelihood that the proposed combinations can be made by those of ordinary skill and, if made, will have a likelihood of success. Nevertheless, Dr. Cameron engages in no detailed analysis of this nature and provides no explanation as to how such a combination even could operate.

56. In this rebuttal report, I attempt to respond to all key invalidity points asserted by Cameron and will show why her opinion does not satisfy the clear and convincing standard.

G. Rebuttal to Dr. Cameron’s Opinions Regarding Non-Infringement

57. In this section of my rebuttal declaration, I state and explain my opinion that, based on my review of the ’922 Patent, the relevant products, the ’922 Cameron Declaration, and the references addressed in that declaration, Dr. Cameron’s non-infringement positions are incorrect and Samsung infringes each and every limitation of Claims 1–4 and 7–25 of the ’922 Patent through manufacturing and selling dishwashers modeled after the KitchenAid design described in that patent that include an enhanced top rack that can hold both drinkware as well as utensils and silverware (“Accused Products”).

58. Dr. Cameron makes two arguments regarding why Samsung’s Accused Products do not infringe Claim 1 of the ’922 Patent and its dependent claims. *See* ’922 Cameron Decl. ¶¶ 58–62 (addressing Claim 1[d]) & ¶¶ 63–68 (addressing Claim 1[c]). Dr. Cameron then makes an additional argument regarding why Samsung’s Accused Products do not infringe the language of dependent Claim 13 of the ’922 Patent. ’922 Cameron Decl. ¶¶ 69–74 (addressing Claim 13). I address each of Dr. Cameron’s non-infringement arguments regarding the ’922 Patent in turn.

1. Dr. Cameron's Opinion that Samsung Does Not Infringe Claim 1 of the '922 Patent is Wrong.

59. Beginning at Paragraph 58 of the '922 Cameron Declaration, Dr. Cameron opines that the Accused Products do not infringe independent Claim 1 of the '922 Patent, which reads as follows (the Claim language that Dr. Cameron contends is not practiced by the Accused Products appears in red text while the Claim language that she does not dispute is practiced by the Accused Products appears in gray).

- 1. [pre]** A dishwasher, comprising:
- [a] a tub defining a dish treating chamber;
 - [b] a first lower dish rack and a second lower dish rack located in the dish treating chamber;
 - [c] an upper dish rack located above the first lower dish rack and the second lower dish rack in the dish treating chamber, **the upper dish rack defining a planar portion and a depression, wherein the depression includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion, and wherein the first angled wall defines a first set of cup seats, and wherein the second angled wall defines a second set of cup seats;** and
 - [d] **wherein the planar portion includes a plurality of utensil**

60. I agree with Dr. Cameron that Asserted Claims 2–4 and Claims 7–12 of the '922 Patent are dependent on Claim 1. *See* '922 Cameron Decl. ¶ 75. A dependent claim is a claim that incorporates by reference all limitations of its independent claim and of any intervening claim. As a general guideline, the scope of a dependent claim is narrower than that of its independent claim. Thus, if the limitations of Claim 1 are not satisfied as Dr. Cameron contends, the Accused Products do not infringe any of the Asserted Claims of the '922 Patent. *See id.*

61. I disagree, however, with Dr. Cameron that Claim 1 is not infringed by the Samsung Accused Products. I stand by my infringement opinion for this Claim as stated in the '922 Initial Tanbour Declaration at Paragraphs 44–73, which are incorporated here by reference. Below I address the specific criticisms leveled by Dr. Cameron against my initial analysis.

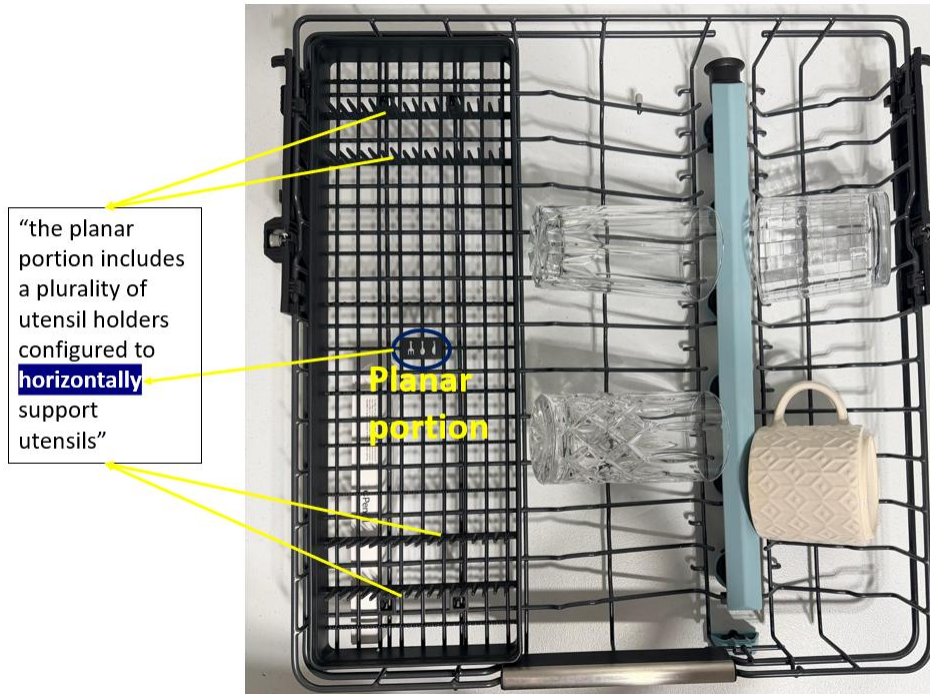
i. The Accused Products do include a “planar portion [that] includes a plurality of utensil holders.”

62. In Paragraphs 58–62, Dr. Cameron opines that the Accused Products do not meet the limitation of Claim 1[d] requiring that the “planar portion [of the upper dish rack] includes a plurality of utensil holders configured to horizontally support utensils.”

63. Specifically, Dr. Cameron reads into the word “includes” a claim limitation that isn’t there: namely, that the “utensil holders [must be] integrated into the planar portion structure,” ’922 Cameron Decl. ¶ 58, such that the utensil holder “form[s] part of the bottom wall,” *id.* ¶ 59. But this interpretation is wrong for several reasons.

64. First, I have been informed that prior case law has held that the term “includes” as contained within patent claim language requires only the specified element listed without mandating anything else. *See Lucent Techs., Inc. v. Gateway, Inc.*, 525 F.3d 1200, 1214 (Fed. Cir. 2008). By reading into Claim 1[d] the additional requirement that the “utensil holder” has to be “integrated into the planar portion structure,” such that it structurally “forms part of the bottom wall,” ’922 Cameron Decl. ¶¶ 58–59, Dr. Cameron is doing precisely what *Lucent* cautioned against—she is mandating additional elements not considered by the Patent and Trademark Office. Dr. Cameron’s reading of “includes” is also inconsistent with the operation of patent law more generally, wherein patent claims are understood to include **only** the limitations contained within the claims. *See, e.g., Johnson Worldwide Associates, Inc. v. Zebco Corp.*, 175 F.3d 985, 989 (Fed. Cir. 1999) (“[A] court must presume that the terms in the claim mean what they say.”).

65. Second, I also understand that the Federal Circuit “has consistently interpreted ‘including’ and ‘comprising’ to have the same meaning.” *Lucent Techs., Inc.*, 525 F.3d 1200 at 1214. Applying that precedent, Claim 1[d] could fairly be read to require “planar portion [that] comprises a plurality of utensil holders,” which the Accused Products certainly do as addressed in the ’922 Initial Tanbour Declaration at Paragraphs 68–70:



Dr. Cameron’s assertion that the “utensil holder” must be “integrated into the planar portion structure” such that it “form[s] part of the bottom wall,” ’922 Cameron Decl. ¶¶ 58–59, was not included as part of the Claim language. If the Examiner had wanted to include a requirement that the “utensil holder” has to be “integrated into the planar portion” such that it structurally “forms part of the bottom wall,” *id.*, that could have been done. It wasn’t. As a result, the plain language of the claim simply requires that the planar portion has or contains a plurality of utensil holders. It does not dictate how those holders are attached, nor does it require them to be permanently integrated into the bottom wall’s structure.

66. Third, Dr. Cameron’s interpretation of Claim 1[d]—that for the planar portion to “include” a plurality of utensil holders configured to horizontally support utensils, the “utensil holders [must be] integrated into the planar portion structure” such that they “form part of the bottom wall,” ’922 Cameron Decl. ¶¶ 58–59—would necessitate that the utensil holder could not be removable since a removable utensil holder would not satisfy the made up “integration” into the bottom wall requirement manufactured by Dr. Cameron. The definition of “integrate,” after all, is “to form, coordinate, or blend into a functioning or unified whole” or to “incorporate into a larger unit.” Integrate, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/integrate> (last visited March 6, 2026). And a removable utensil holder could not, by definition, “form part of the bottom wall.” ’922 Cameron Decl. ¶ 59. Imposition of Dr. Cameron’s limitation would therefore effectively nullify dependent Claim 3,² which reads:

3. The dishwasher of Claim 2, wherein the utensil caddy includes a basket that is removably coupled with a bottom wall of the planar portion.

67. Claim 2 is dependent on Claim 1 such that Claim 3 *also* requires the elements of Claim 1 to be satisfied. Claim 3 additionally requires the “utensil caddy [to] include[] a basket that is *removably coupled* with the bottom wall of the planar portion.” If a utensil caddy must “form part of the bottom wall” to satisfy Claim 1 (and therefore could not be removable) as Dr. Cameron suggests, it seems impossible that it could also “comprise a basket that is removable.” Accordingly, Dr. Cameron’s view of Claim 1 would inappropriately render satisfaction of Claim 3 impossible and therefore cannot be correct. To avoid this contradiction, Dr. Cameron appears to consider the word “includes” to mean different things in Claims 1 and 3 of the ’922 Patent. But I have been

² Depending on the claim construction of Claim 2, which reads as follows, Dr. Cameron’s position may also nullify Claim 2 since, depending on that definition, an “operably coupled” utensil holder might not be something that could be “integrated” structurally into the planar portion such that it “forms part of the bottom wall”: “The dishwasher of claim 1, wherein the plurality of utensil holders is disposed in a utensil caddy operably coupled to the planar portion.

informed that prior case law from the Federal Circuit has held that a claim term “should be construed consistently with its appearance in other places in the same claim or in other claims of the same patent.” *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342 (Fed. Cir. 2001) (citing *Phonometrics, Inc. v. Northern Telecom Inc.*, 133 F.3d 1459, 1465 (Fed. Cir. 1998) (“A word or phrase used consistently throughout a claim should be interpreted consistently.”)).

68. Fourth, the patent language does not support (but rather contradicts) Dr. Cameron’s argument that for the planar portion to “include” a plurality of utensil holders, the utensil holders must be “integrated” into the planar portion and structurally “form part of the bottom wall.” ’922 Cameron Decl. ¶¶ 58–59. In fact, the abstract of the ’922 Patent starts with: “[a] dishwasher **includes** a tub that defines a dish treating chamber. A first lower dish rack and a second lower dish rack are located in the dish treating chamber...” ’922 Patent Abstract (Ex. 1 to ’922 Initial Tanbour Declaration) (emphasis added). A POSITA would understand that the word “**includes**” does not mean that the dishracks are formed as “**integral**” parts of the dishwasher tub. Another similar example occurs where the ’922 Patent specification reads as follows: “**Alternatively**, at least a portion of the utensil caddy 70 can be integrally formed with the planar portion 106 and hence the dish rack 102.” ’922 Patent, 6:8–10 (Ex. 1 to ’922 Initial Tanbour Declaration) (emphasis added). Dr. Cameron cites to this as evidence that the term “includes” requires utensils holders that are “integrally formed” such that they “form part of the bottom wall.” ’922 Cameron Decl. ¶18. But she completely ignores that the specification sentence starts with the word “[a]lternatively” and uses the phrase “**can be** integrally formed.” A POSITA understands that the claim term “includes” should not be limited to one of many alternative embodiments (like the one described by this specification language) utilized in a typical patent. Additionally, the term “can be” in its ordinary

meaning allows a POSITA to understand that this should not limit the claim elements but provides an explanation of one of many possibilities.

69. Fifth, and finally, Dr. Cameron’s reliance on the embodiments (and additional specification language describing them) in the ’922 Patent to support her erroneous addition of non-existent claim elements is misplaced. Contrary to Dr. Cameron’s interpretation, the specification of the ’922 Patent **does not** “distinguish[] between embodiments in which a plurality of utensil holders are separate from the bottom wall of the dish rack, and are configured to ‘rest on,’ ‘be directly coupled to,’ or ‘abut’ the planar portion of the bottom wall . . . and alternative embodiments in which the utensil holders are ‘integrally formed with the planar portion’ of the bottom wall.” ’922 Cameron Decl. ¶ 60. Dr. Cameron is correct that the specification contains exemplary images of various embodiments. However, **nothing** in the specification requires a utensil caddy in the embodiment to be “integrally formed with the planar portion of the bottom wall” to satisfy Claim 1. *Id.* (internal quotation marks omitted). Indeed, **none** of the figures depict a utensil holder that is “integrally formed with the planar portion of the bottom wall.” *See generally* ’922 Patent (Ex. 1 to ’922 Initial Tanbour Declaration); *see also* ’922 Cameron Decl. ¶ 18 (acknowledging that “[a]ll of the embodiments illustrated in the figures depict the utensil caddy as separate from the dish rack and mountable/mounted on top of a portion of the bottom wall of the dish rack.”). Given that all other claims in the ’922 Patent are dependent on Claim 1, if Dr. Cameron’s position were adopted, it would mean that **none** of the depicted embodiments that serve as examples of the ’922 Patent would actually practice it. That result is nonsensical.

70. For example, Figure 3 (the preferred embodiment) shows a removable utensil caddy (labeled with the number 70). But, although Dr. Cameron cites the description of this Figure in Paragraph 60 of her ’922 Cameron Declaration as supportive of her non-infringement opinion, she

does not acknowledge that, under her interpretation, *Figure 3 would NOT practice any claims in the Patent* since the utensil caddy does not “form part of the bottom wall” in a manner that is “integrated into the planar portion structure” of the bottom wall. Figure 3 shows a caddy that is indeed removable. Further, the portion of the specification related to Figure 3 that Dr. Cameron cites (but does not quote) reads as follows: “As used herein, the first position can be defined as a closed configuration of the utensil caddy 70 where at least a portion of the utensil caddy 70 abuts a portion of the bottom wall 104 and does not abut the first angled wall 110.” ’922 Patent at 6:22–25. As Dr. Cameron acknowledges, under her reading of Claim 1, this embodiment would not practice the Claim (and therefore could not practice any claims in the patent at all). ’922 Cameron Decl. ¶ 60. That should be a strike against Dr. Cameron’s interpretation. But the claim specification language relating to the embodiment that Dr. Cameron relies on *also* does not support her position. It contradicts Dr. Cameron’s argument that for the planar portion to “include” a plurality of utensil holders, the utensil holders must be “integrated” into the planar portion and structurally form part of the bottom wall. The description of the embodiment in the specification uses the word “abuts,” which means “to border on: to touch along an edge.” *Abut*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/abut> (last visited March 6, 2026). And it uses that word to show that the utility tray *touches* the bottom wall and *still practices the patent*. That suggests rather strongly that the utility tray *does not need to be integrated into the bottom wall*.

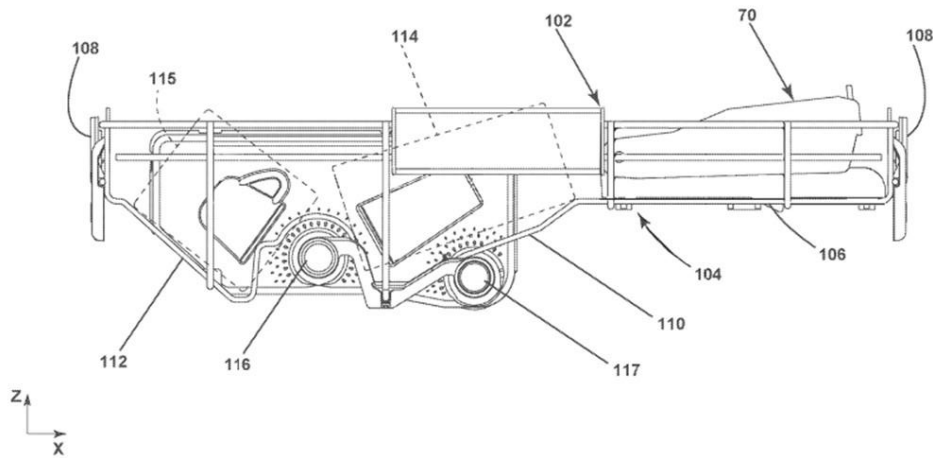
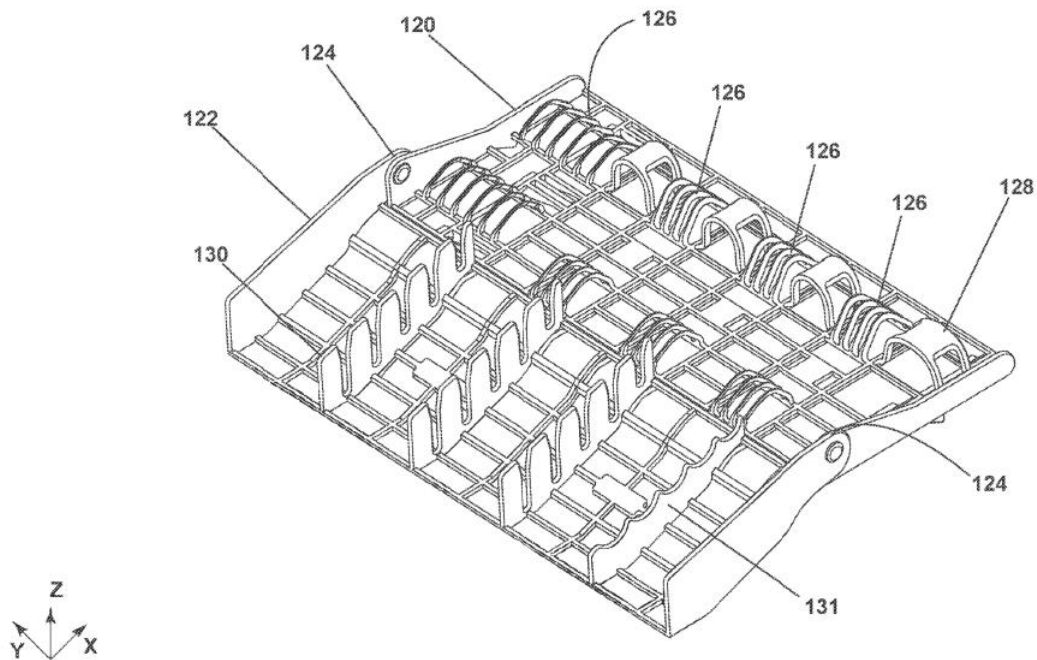
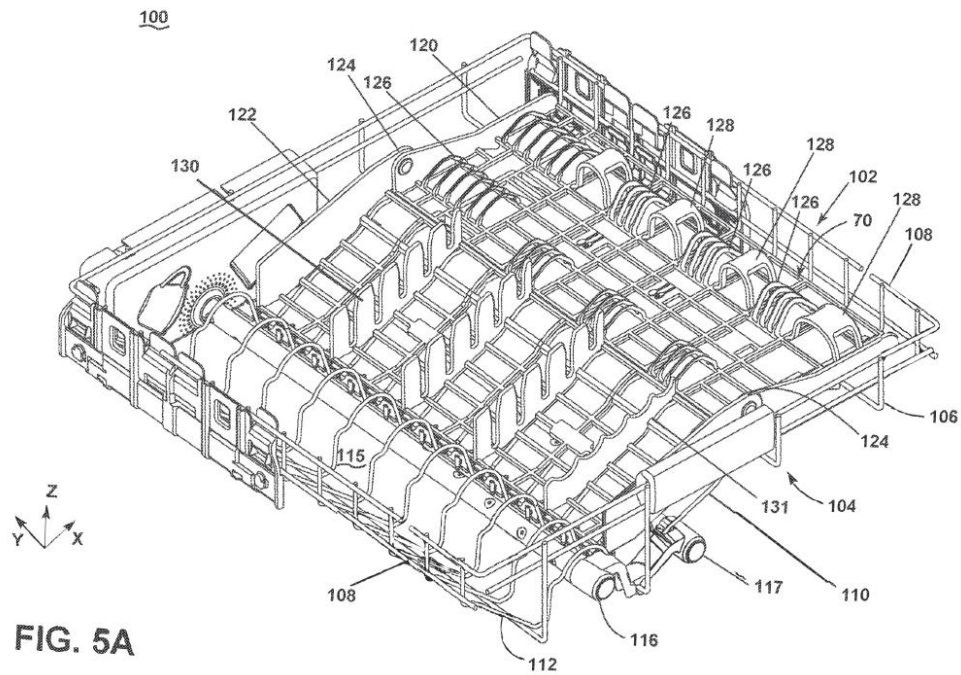


FIG. 3

71. Even more fatal to Dr. Cameron’s argument, Figures 5B and 5A also illustrate a removable utensil tray in a manner that still practice the claims of the patent. The specification section cited by Dr. Cameron, which references the Figures above, importantly reads as follows: “The first side wall [of the utensil caddy] 120 can rest on, be directly coupled to, or form a portion of the bottom wall 104 of the dish rack 102, specifically, the planar portion 106.” ’922 Cameron Decl. ¶ 18 (quoting ’922 Patent at 6:51–52). Accordingly, the very patent specification section relied on by Dr. Cameron explicitly states that her interpretation of the patent is incorrect. That the planar portion “[i]ncludes” the utensil caddy does not require the utensil caddy to form a portion of the bottom wall but instead encompasses “rest[ing] on” it.

72. In the prosecution history, the patent examiner never discussed any issue from the ’681 Patent that is related to the comparison Dr. Cameron is trying to make. *See, e.g.*, ’922 Cameron Decl. ¶ 14. The patent comparison with the ’681 is unpersuasive.



73. Figures 5A and 5B in no way support Dr. Cameron’s argument that “alternative embodiments in which the utensil holders are ‘integrally formed with the planar portion’ of the bottom wall.” ’922 Cameron Decl. ¶ 60. They undercut it. They are embodiments with a utility tray that is not integrally formed within the bottom wall.

74. The Examiners change of the language “a plurality of utensil holders disposed in the planar portion” to “wherein the planar portion includes a plurality of utensil holders” does not affect this analysis. *See* ’922 Cameron Decl. ¶ 61. And neither does the reference to Tuller. As Dr. Cameron states, the Examiner only found that Tuller “discloses a rack having . . . central portions [] which may hold utensils thereon.” *Id.* ¶ 62. The examiner in no way suggested that that Tuller required Claim 1 to include a limitation noting that the utensil holders must be “integrated” into the planar portion and structurally form part of the bottom wall:

Allowable Subject Matter

5. Claims 1-26 are allowed.

The following is an examiner’s statement of reasons for allowance: each of the claimed features of independent claim 1, from which all other claims depend from are not taught or disclosed by the prior art of record. The closest prior art of record, Tuller (USPPN 2015/0245762) at Fig. 8 discloses a rack having inclined portions 67 for holding glassware, for example, and central portions 65 which may hold utensils thereon. Tuller does not disclose the planar portion and depression as claimed in which “wherein the planar portion includes a plurality of utensil holders configured to horizontally support utensils; and wherein the depression extends entirely below a top of the utensil holders in the planar portion” in combination with the other features of claim 1. Upon further search and consideration, the identified claims are allowed.

75. A comparison of the Whirlpool utensil holder that is practicing the ’922 Patent shows a “planar portion [that] includes a plurality of utensil holders” in a manner nearly identical

to the utensil holder of the Samsung Accused Products. See images below showing removability of the utensil holders in both Accused Product and whirlpool product.



Removability of the utensil holder in the accused infringing product

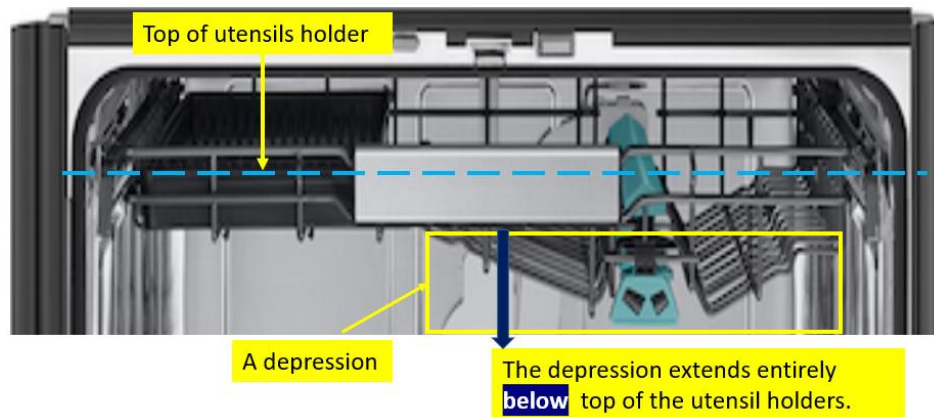


Removability of the utensil holder in the Whirlpool's product

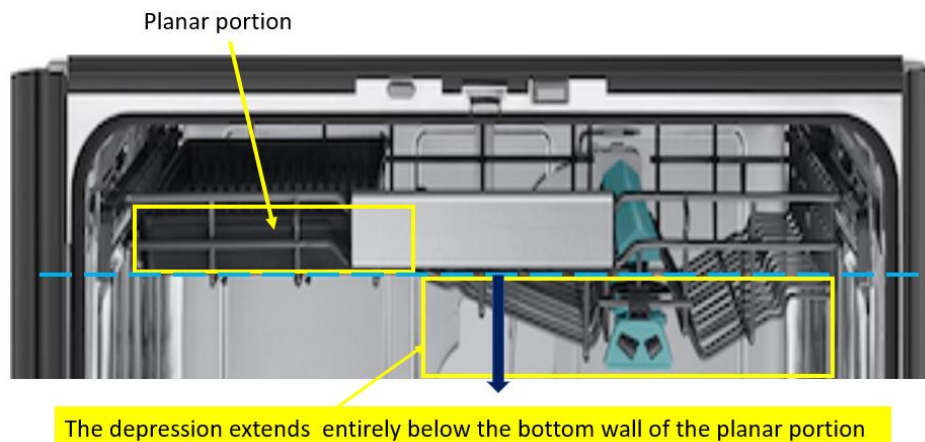
- ii. *The Accused Products do include “an upper dish rack located above the first lower dish rack and the second lower dish rack in the dish treating chamber, the upper dish rack defining a planar portion and a depression, wherein the depression includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion, and wherein the first angled wall defines a first set of cup seats, and wherein the second angled wall defines a second set of cup seats.”*

76. Next, in Paragraphs 63–68, Dr. Cameron opines that the Accused Products do not meet the limitation of Claim 1[c] because she asserts that the Samsung Accused Product “does not include a single depression that defines two sets of cup seats” but rather “includes two separate depressions separated by a planar portion where each depression defines a single set of cup seats.” ’922 Cameron Decl. ¶ 64. But the term “depression” is defined as “a place or part that is lower than the surrounding area.” *Depression*, Merriam-Webster, <https://www.merriam-webster.com/thesaurus/depression> (last visited March 10, 2026). And a POSITA would understand the term “depression” to refer to the entire structure that is lower than the surrounding area (e.g., the area that houses the cup seats *and* the sprayer, as recited in the dependent claims). The fact that there is a raised “bump” that serves as the sprayer mount in the middle of the depression does not change the nature or character of the entire space as a “depression.” Indeed, Claim 1[e] expressly

requires that the “*depression*” extends entirely below the top of the utensil holder (a utensil holder that is located in the planar portion).

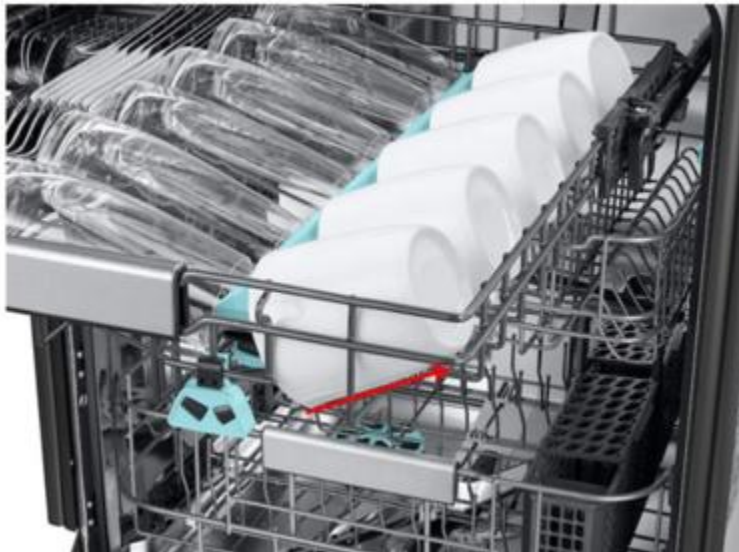


77. A separate image further shows that the entire “depression” (e.g., again comprising the entire area that houses the cup seats *and* the sprayer) even extends below the bottom wall of the planar portion, which is not required by the claims, such that everything to the right of the planar portion in the image below is therefore “depressed”:

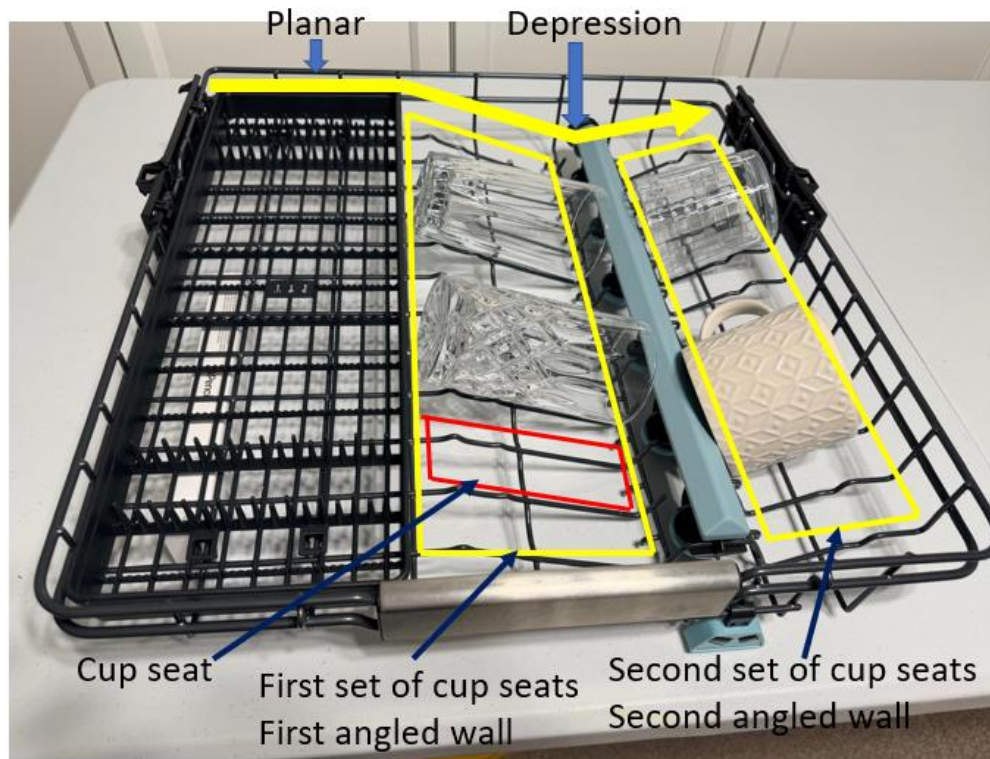


78. Dr. Cameron’s position relies on an irrelevant assertion that a middle “planar portion” exists in a manner that somehow interrupts the depression and transforms it into two depressions rather than one in a manner that she contends results in a lack of literal infringement. ’922 Cameron Decl. ¶¶ 64–68. But a POSITA would understand that the shape of

the sprayer mounter has no bearing on the fact that the “depression” comprises the entire area that houses the cup seats *and* the sprayer since the entire area is lower than even the bottom wall of the planar portion. Dr. Cameron’s assertion is further betrayed by the fact that neither her so-called middle planar portion nor her so-called far right planar portion have any functional utility for storing utensils. The only reason for the upward protrusion that Dr. Cameron claims “interrupts” the depression is to mount the sprayer:



The images below, which show the Accused Product with and without the sprayer removed further illustrate that even the raised “bump” that Dr. Cameron contends “interrupts” the depression is still lower than the positioning of the utility tray:



79. For the reasons stated above, I disagree with any suggestion by Dr. Cameron that a POSITA would view the depression formed by the angled walls into functional cup seats as two separate depressions. The very purpose of the depression is to allow for glassware to be held in the cup seats in a manner that prevents the glassware from sliding down the inclined angle.

80. Dr. Cameron's interpretation would also completely exclude the preferred embodiment depicted in Figure 3 of the Patent, which clearly shows a structure (e.g., a sprayer) between the cup seats that practice Claim 1.

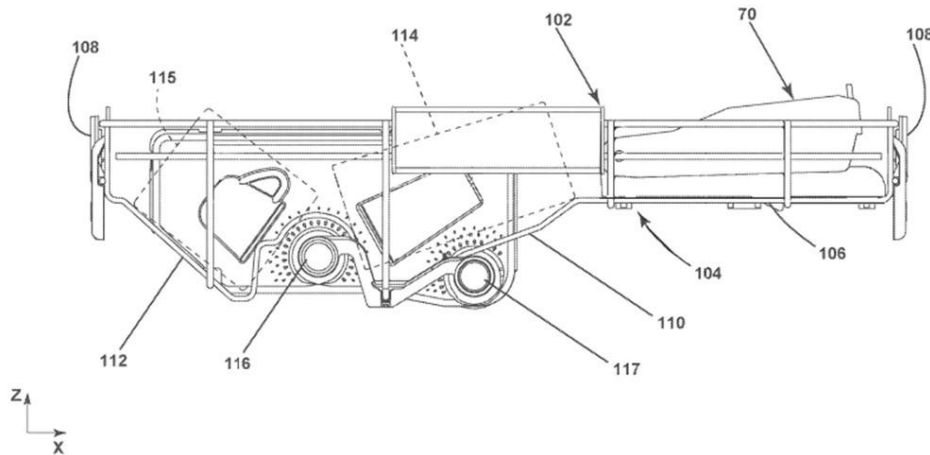
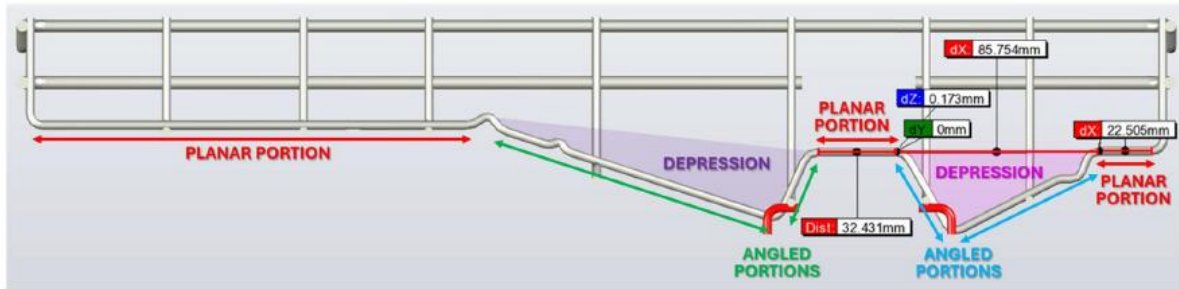


FIG. 3

81. Finally, Dr. Cameron's reliance on the Samsung CAD files in Paragraph 64 is also misleading. At the outset, and despite its irrelevance, the CAD file image incorrectly show "a planar portion" on the far right that is in reality not planar in the Accused Products as manufactured. As addressed at length in the '922 Initial Tanbour Declaration at Paragraphs 56–67, which are incorporated by reference herein, what Dr. Cameron shows as the far-right planar portion is actually angled at 3 degrees relative to the planar portion in the products themselves. As demonstrated by the many measurements provided in my '922 Initial Tanbour Declaration, Dr. Cameron is flat wrong in arguing that in the Accused Product, "the two right-most planar portions . . . are perfectly horizontal and are positioned at approximately the same height." '922 Cameron Decl. ¶ 66. That may be true in the CAD file Dr. Cameron relies on, but it is not true in the Accused Products themselves.



See SAMS404-0000015 (CAD file used to generate the above image).

As discussed above Dr. Cameron's mark-up of the CAD files also purports to show a middle "planar portion" between two alleged depressions that even the CAD file shows is lower than the "planar portion" that has or comprises a utility tray. The entire area thus forms a single depression.

82. I disagree with Dr. Cameron's assessment that the Accused Products do not meet the requirements of Claim 1[c] and disagree that the Accused Products are distinguishable from Figure 3 in the '922 Patent.

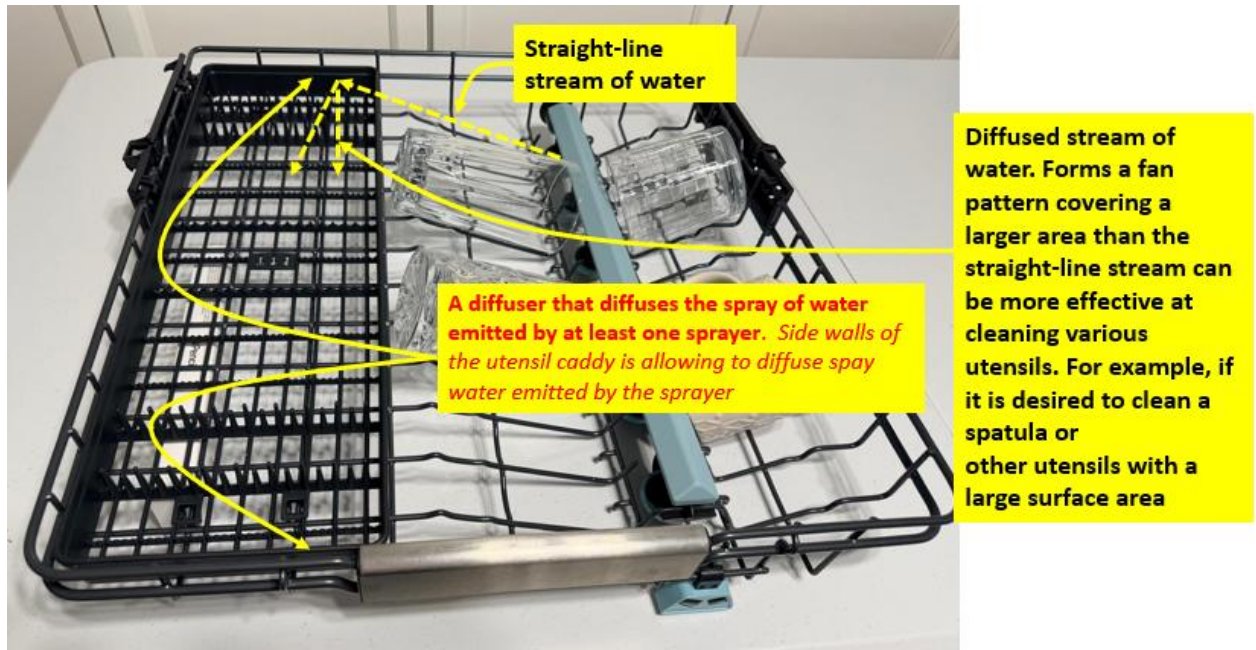
2. Dr. Cameron's Opinion that Samsung Does Not Infringe Claim 13 of the '922 Patent is Wrong.

83. In Paragraph 69 through 74 of the '922 Cameron Declaration, Dr. Cameron opines that the Accused Products do not infringe dependent Claim 13 of the '922 Patent, which reads as follows:

13. The dishwasher of Claim 7, wherein the utensil caddy includes a diffuser that diffuses the spray of water emitted by the at least one sprayer.

84. Apart from her above dependent arguments relating to Claim 1, Dr. Cameron does not refute that each Accused Product comprises a dishwasher configured to satisfy each element of Claim 7. Instead, she opines that the Samsung Accused Products do not infringe this claim

because the utensil caddy does not include “a diffuser.” ’922 Cameron Decl. ¶ 70. As I explained in Paragraphs 98 through 99 of the ’922 Initial Tanbour Declaration, I disagree:



85. As reflected in the image above, the plastic side walls of the utensil caddy operate as a diffuser that diffuses the spray of water emitted by the at least one sprayer. Dr. Cameron does not refute that the side walls operate in this manner. See ’922 Cameron Declaration ¶¶ 71–74. Instead, she asserts that the side walls cannot qualify as a “diffuser” for purposes of the claim language *even though* they functionally operate to diffuse. *Id.* ¶ 71 (criticizing me for “improperly equat[ing] a passive containment wall with a structure specifically configured to diffuse water”). But infringement is determined by the operation of a product. And my testing of the Accused Products show that the side walls deflected water that formed a fan pattern covering a larger area than the straight-line stream, enhancing cleaning. That satisfies the claim limitation, whether the deflection of water off those surfaces is “incidental,” as Dr. Cameron claims, or otherwise.

86. Dr. Cameron next suggests that the diffuser must be a specific “component” with the “intent and effect of diffusing water in a fan pattern.” ’922 Cameron Declaration ¶ 72. But the

claim does not have any requirement that the diffuser must be an individual “component.” And Dr. Cameron’s analysis assumes without any support that the side walls of the Samsung Accused Products were *not* designed as a solid piece of plastic in part to diffuse water into the utensil caddy. The side walls can be “structural boundaries” that *also* serve *both* to “retain utensils or other dishes” *and to* diffuse water. *Id.* ¶ 73.

87. Dr. Cameron’s attempts to support her position with citation to the Patent Specification also fall short. The Patent Specification notes in its description of Figure 6 (depicted below) that “[a] diffuser section can be included within a portion of the utensil caddy 70, specifically a portion of the second side wall 122. The diffuser section can be defined as a portion of the utensil caddy 70 which directly contacts a stream of water from one or more of the first and second sprayers It is contemplated, however, that placing a portion of the utensil caddy 70, specifically the diffuser section on the second side wall 122, in the path of the stream of water can diffuse the stream of water outward to form a fan pattern covering a larger area than the straight-line stream can be more effective at cleaning various utensils.” ’922 Patent at 7:52–67.

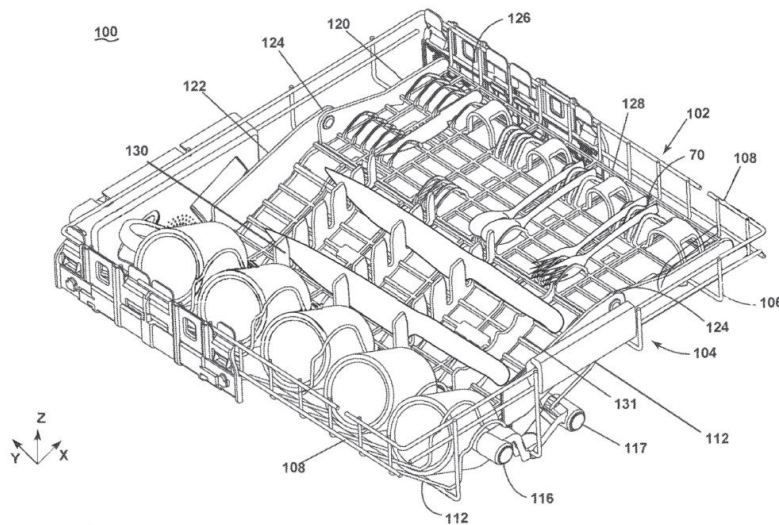


FIG. 6

88. The solid side wall in the above embodiment from the patent serves both as a “structural boundary” to “retain utensils or other dishes” *and to* diffuse water. The Accused Products operate in the same way and therefore infringe. I disagree with Dr. Cameron that “A POSITA would not understand a generic vertical wall . . . to constitute a diffuser.” ’922 Cameron Declaration ¶ 73.

89. Claim 13 is dependent on Claim 1. But, for the reasons stated above, Samsung infringes Claim 1 as well as the additional language of Claim 13.

H. Rebuttal to Dr. Cameron’s Opinion Regarding Invalidity

90. In this section of my rebuttal declaration, I state and explain my opinion that Dr. Cameron failed to show that the prior art addressed in her declaration invalidates any of the Asserted Claims of the ’922 Patent, as well as providing the bases for my opinions. As noted above, and as Dr. Cameron acknowledges, all four of the references that she cites were disclosed to the Examiner who allowed the ’922 Patent. *See* ’922 Cameron Decl. ¶¶ 28, 36, 42, 49.

1. Overview of the Asserted References

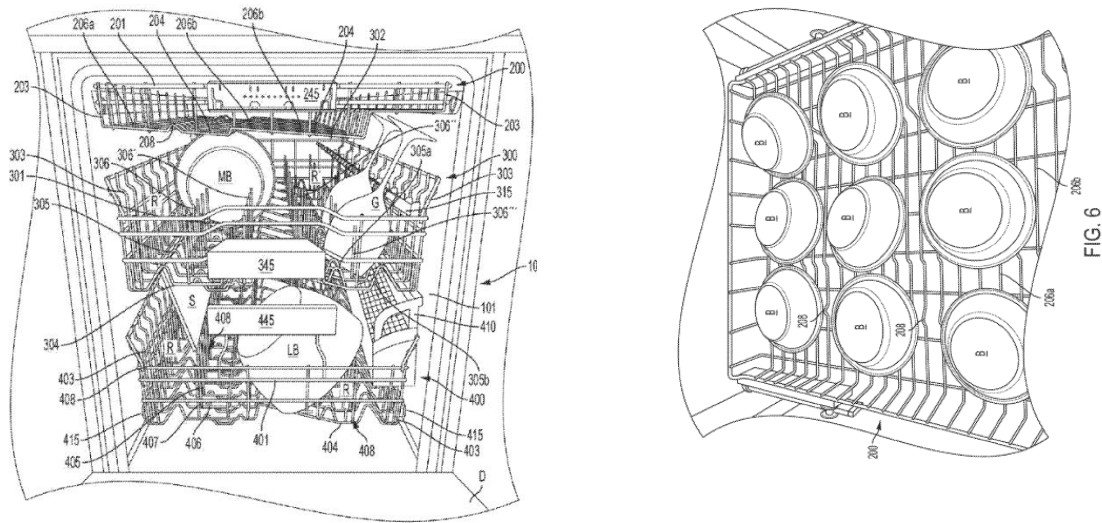
i. U.S. Patent Appl. No. 15/423,617 (“Carr”)

91. Carr discloses a wire dishware and cutlery rack with “at least one angled portion that is configured to hold bowls.” Carr 5:10. Carr teaches this angled portion to assist with draining water from the bowls. *Id.* at [0009]. Unlike the ’922 Patent, Carr does not teach two angled walls defining two separate sets of cup seats in its top rack. Instead, as Dr. Cameron acknowledges, Carr is “configured to hold bowls.” ’922 Cameron Decl. ¶ 32.

92. Carr also teaches a notch section of the “third top washware rack” for utensils, which permits “stemmed wine glasses having a height of approximately 9 inches” to be stored

directly below the third rack. While glasses may fit below Carr’s top rack, unlike the ’922 Patent, Carr does not disclose a top rack with cup seats capable of holding ordinary glasses.

93. The bottom walls of the dish racks disclosed in the ’922 Patent and Carr are also fundamentally different. The ’922 Patent discloses a bottom wall that creates cup seats. Carr does not teach an angled portion of the cutlery rack specifically designed to be a cup seat.



ii. Bosch 800 Series Brochure (“Bosch 800”)

94. Like Carr, Bosch 800’s MyWay rack does not teach an angle that forms a cup seat in its top rack. Instead, Bosch 800 teaches a top rack devoid of cup seats that purports to be able to hold “cereal bowls, whisks, tongs, and large measuring cups.”



Load your way with the MyWay™ rack.

No matter how you like to load the dishes, MyWay™ helps you to do it your way. The largest 3rd rack Bosch offers, the MyWay™ rack easily fits those hard-to-place items like cereal bowls, and large utensils. And for even more versatility, it also features a removable insert that holds up to 18 pieces of flatware. But that's only half the story.

Unlike traditional 3rd racks, the MyWay™ rack offers more room for more kinds of items, such as cereal bowls, whisks, tongs, and large measuring cups, creating more freedom in loading below. It opens up a whole new range of loading possibilities throughout the dishwasher. By putting things like bowls and lids up top instead of in the bottom rack, it frees up more space for your larger pots and pans. With MyWay™, you can load your dishes the way you see fit.

95. Like Carr, Bosch 800 includes a notch section of the MyWay rack for utensils which allows for taller items like glasses to be stored below the rack. Here, too, unlike the '922 Patent, Bosch 800's MyWay rack is not configured with two angled walls defining two separate sets of cup seats to accommodate ordinary cups and glasses being stored in its top rack.



MyWay™ rack

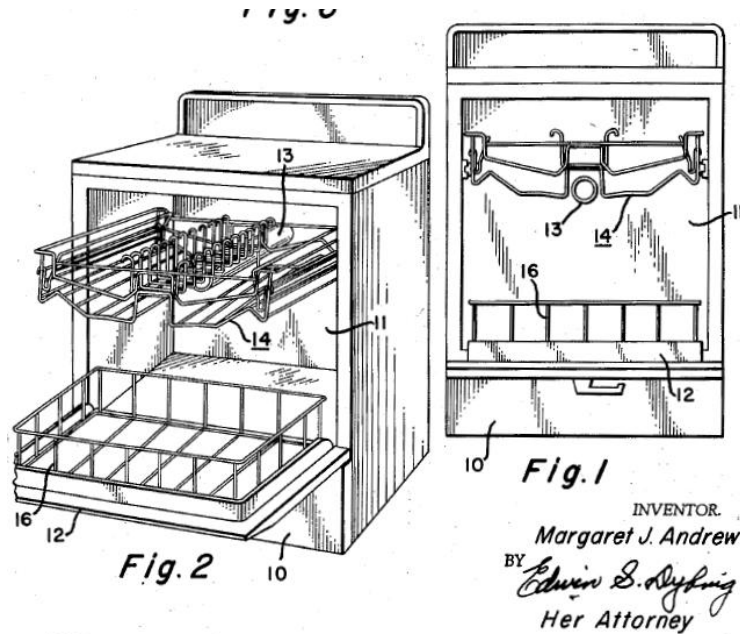
MyWay™ offers more room for more kinds of items in the top rack, such as cereal bowls, whisks, tongs, and large measuring cups, creating more loading freedom below.

96. Further, the bottom walls of the dish racks disclosed in the '922 Patent and Bosch 800 are different. Bosch 800's MyWay rack does not include an angled portion of the rack

specifically designed to be a cup seat which supports glasses and cups of ordinary dimension along their cylindrical edge.

iii. U.S. Patent No. 2,910,207 (“Andrew”)

97. Andrew is a patent from 1959 that teaches a “disk rack for domestic appliance.” Its figures and specifications disclose and contemplate a two-rack dishwasher:



See also '922 Cameron Decl., Ex. P at 2:47-49 (discussing “[u]pper and lower separate and independent racks”).

98. Dr. Cameron’s annotations of Andrew state that it disclosed first and second “angled rails.” This term, however, does not appear anywhere in Andrew. See '922 Cameron Decl. ¶ 45.

99. Dr. Cameron also emphasizes the “flat support” sections disclosed in Andrew. *Id.* These sections, however, do not terminate at the side walls as disclosed by the embodiments of the '922 Patent. Further, this “flat support” section, as shown in Figure 5 of Andrew, is too narrow and cannot include a utensil caddy, as disclosed in certain embodiments of the '922 Patent. See

3:39–43 (noting that “utensil caddy **70** can be included with the third level rack” and that “the utensil caddy **70** can be provided on a lateral side of third level dish rack”). Likewise, the “flat support” section as shown in Figure 7 is even more shallow than the one shown in Figure 5. In fact, Andrew itself discloses that “figure 7 . . . illustrate a long knife” and disclose only such knives as being supported in the section shown in Figure 7. A utensil caddy also could not be included in the Figure 7 “flat support” section.

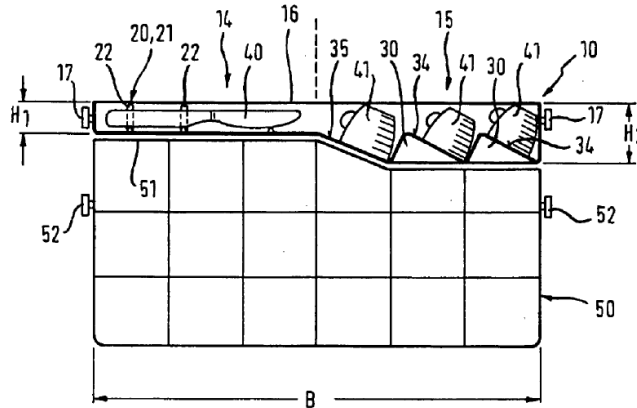
iv. U.S. Patent Appl. No. 11/667,718 (“Mailander”)

100. Unlike the ’922 Patent’s two angled walls defining two separate sets of cup seats, Mailander discloses a region with wedge shaped incline to support surfaces referred to as “washing items holders” which are inclined. Furthermore, “the washing items holders” are wedge or L-shaped add-on components “designed as inserts” and “releasably inserted” and placed on the bottom wall of the dish rack contrary to the acutely “angled wall[s]” that form the “depression” in the dish rack disclosed in the ’922 Patent and practiced by the Accused Products.

101. Unlike the depression disclosed in the ’922 Patent, Mailander’s wedge-shaped “washing items holders” are not formed by angled walls within the Mailander rack. Instead, they sit atop the bottom wall. A POSITA looking at the washing items holders of Mailander would understand that these components are add-on components and not generated by forming the bottom wall. Also, Mailander does not disclose first and second angled cup seats formed in the bottom wall.

102. Because Mailander’s “washing items holders” are not integrated into the bottom wall, there is wasted space within Mailander’s “washing items support” triangular areas trapped under the L-shaped components and the horizontal bottom wall. As a result, unlike the rack

disclosed in the '922 Patent, Mailander cannot accommodate glasses or cups having ordinary dimensions:



2. Dr. Cameron's Opinion that the '922 Patent is Invalid is Wrong.

103. For the reasons stated below, none of the references cited by Dr. Cameron, whether alone or in combination, render invalid the '922 Patent.

i. Carr does not anticipate or render obvious Claim 1 or Claims 2–4

104. Dr. Cameron opines that Carr anticipates or renders obvious Claims 1 and 2–4 of the '922 Patent. I disagree because Carr does not disclose the limitations of those claims alone or in combination.

a. Claim 1[c][ii-iii]: the upper dish rack defining a planar portion and a depression, wherein the depression includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion

105. Carr does not teach a depression which includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion. Dr. Cameron arbitrarily separates Carr's bottom wall into two separate "angled walls." In reality, Carr discloses a "bottom portion" which itself contains "at least one angled *portion*" Carr at 5 (emphasis added). Carr teaches portions, which are "tilted at an angle in a range of 3 to 5 degrees with respect to horizontal," but does not teach the 922 Patent's "angled *walls*."

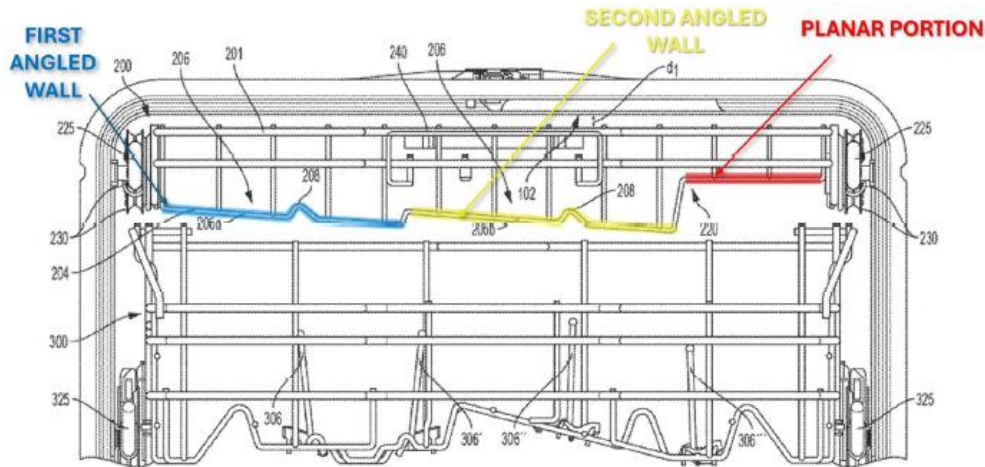


FIG. 4

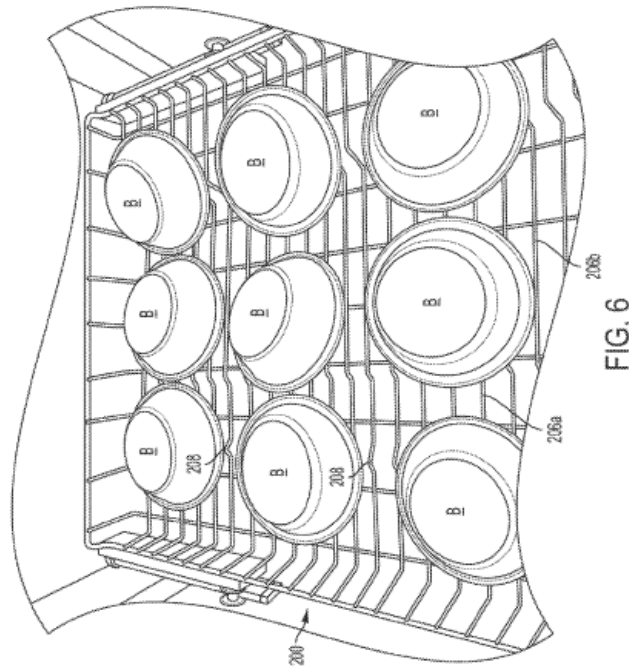
106. A POSITA would not understand Carr to teach the '922 Patent's depression defined by its first and second angled wall. What Dr. Cameron marked as "first angled wall" and "second angled wall" in Carr are simply segments of a single bottom wall declining in one direction from left to right. A POSITA looking at Fig 4 of Carr annotated by Dr. Cameron would not arrive at the depression clearly identified by the '922 Patent.

b. Claim 1[d]: wherein the first angled wall defines a first set of cup seats, and wherein the second angled wall defines a second set of cup seats

107. Carr does not teach a cup seat. Instead, Carr discloses a wire dishware and cutlery rack which includes "an angled portion to hold bowls"—critically distinct from the two "cup seats" defined by two separate angled walls that are disclosed in Claim 1 of the '922 Patent. Indeed, Dr. Cameron and I agree that Carr's dish rack is "configured to hold bowls." '922 Cameron Decl. ¶ 32.

108. Dr. Cameron presses that while Carr uses bowls, its top rack can also hold cups. '922 Cameron Decl. ¶ 86. Dr. Cameron's reliance on Carr's singular mention of "cups" is unavailing. Even if cups could be placed on Carr's third rack, Carr does not teach a third rack

containing “cup seats” as disclosed in Claim 1 of the ’922 Patent. The cup seat disclosed in Claim 1 of the ’922 Patent is capable of securely supporting glasses and cups of ordinary dimension along their cylindrical side. There is nothing analogous in Carr. Indeed, a POSITA would not consider Carr’s bowl-based top rack design to teach a cup seat as disclosed in the ’922 Patent.



c. Dependent Claim 2: The dishwasher of claim 1, wherein the plurality of utensil holders is disposed in a utensil caddy operably coupled to the planar portion.

109. Carr does not teach the dishwasher of Claim 1, wherein the plurality of utensil holders is disposed in a utensil caddy *operably coupled* to the planar portion.

110. As a preliminary matter, because Carr does not teach a cup seat, it fails to meet each limitation of Independent Claim 1 of the ’922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2.

111. Further, Carr does not teach a utensil caddy that is “operably coupled” to the planar portion. Instead, Carr’s specification discloses “[a] cutlery/utensil accessory insert” that is

“disposed above the notch section.” Carr at 0048. Unlike the ’922 patent, Carr does not describe this insert as operably “coupled” or otherwise selectively connected in any way to the dish rack.

112. A POSITA would understand the ordinary meaning of “operably” to mean “fit, possible, or desirable to use.” See <https://www.merriam-webster.com/dictionary/operable>, accessed March 7, 2026 (last visited March 7, 2026).

113. A POSITA would understand the ordinary meaning of “coupled” to mean “fasten[ed] together.” See <https://www.merriam-webster.com/dictionary/coupled>, accessed March 7, 2026 (last visited March 7, 2026).

114. Here, Carr does not teach that it is “possible” to “fasten together” its cutlery/utensil accessory insert to the planar portion of its upper dishrack.

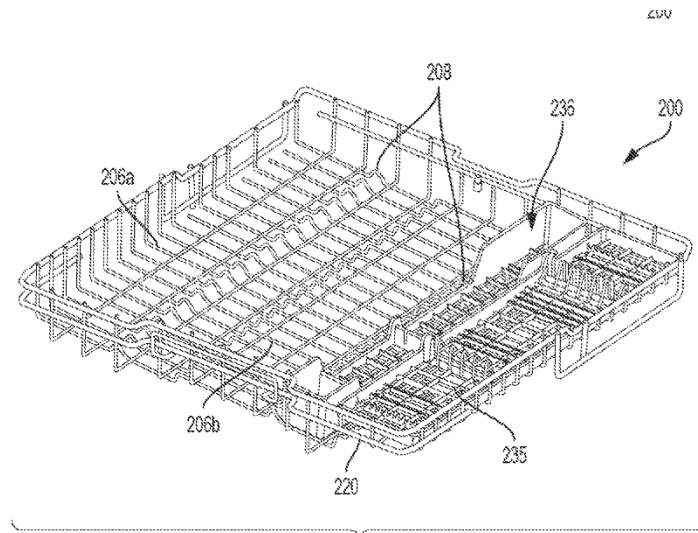


FIG. 3

d. Dependent Claim 3: The dishwasher of Claim 2, wherein the utensil caddy includes a basket that is removably coupled with a bottom wall of the planar portion.

115. Carr does not teach the dishwasher of Claim 2, wherein the utensil caddy includes a basket that is removably coupled with a bottom wall of the planar portion.

116. As a preliminary matter, because Carr does not teach a cup seat, it fails to meet each limitation of Independent Claim 1 of the '922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2 and further cannot meet each limitation of Dependent Claim 3.

117. Further, Carr does not teach a basket that is “removably *coupled*” to the planar portion. Instead, Carr’s specification discloses “[a] cutlery/utensil accessory insert” that is “disposed above the notch section.” Carr at 0048. Unlike the '922 patent, Carr does not describe this insert as removably “coupled” or otherwise selectively connected in any way to the dish rack.

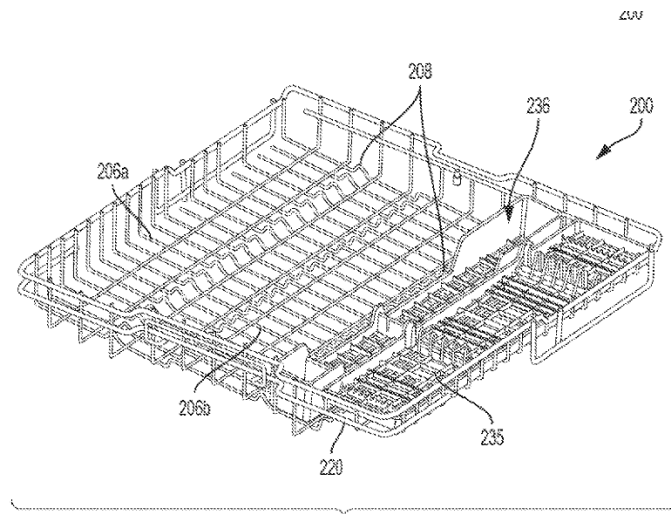


FIG. 3

e. Dependent Claim 4: The dishwasher of claim 2, wherein the utensil caddy defines a periphery defining an interior with an open top.

118. Carr does not teach the dishwasher of Claim 2, wherein the utensil caddy defines a periphery defining an interior with an open top.

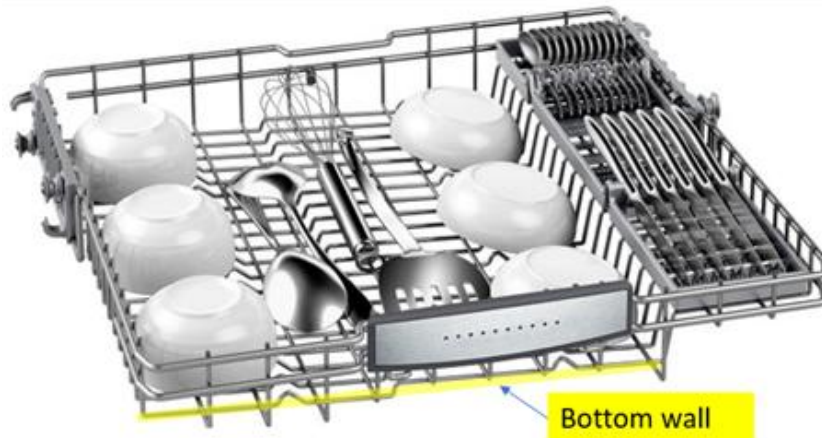
119. Because Carr does not teach a cup seat, it fails to meet each limitation of Independent Claim 1 of the '922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2 and further cannot meet each limitation of Dependent Claim 4.

ii. Bosch 800 Series does not anticipate or render obvious Claims 1 or 2–4

120. The Bosch 800 brochure referenced by Dr. Cameron depicts a third rack called a “MyWay rack” of the same configuration as Carr. Dr. Cameron opines that Bosch 800 anticipates or renders obvious Claims 1 of the ’922 Patent. I disagree because Bosch 800 fails to disclose many of the limitations of those claims alone or in combination.

a. Claim 1[c][iii-iv]: the upper dish rack defining a planar portion and a depression, wherein the depression includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion

121. Bosch 800 does not teach a depression in which includes a first angled wall and a second angled wall. Dr. Cameron arbitrarily separates Bosch 800’s bottom wall into two separate “angled walls.” In reality, like Carr, Bosch 800 teaches a single bottom wall. Bosch 800 does not teach the 922 Patent’s “angled walls” meeting the claimed requirements.



b. Claim 1[d]: wherein the first angled wall defines a first set of cup seats, and wherein the second angled wall defines a second set of cup seats

122. Bosch 800 does not teach a cup seats. Like Carr, the Bosch 800’s MyWay rack teaches a wire dishware and cutlery rack that includes a slightly angled (substantially horizontal) portion which does not have a “cup seat for supporting one or more cups” as disclosed in Claim 1 of the ’922 Patent. Instead, Bosch 800 purports to be able to hold “cereal bowls, whisks, tongs, and large measuring cups.”



123. Dr. Cameron makes much of the fact that Bosch 800 purports to be able to hold *measuring cups*” in its MyWay rack. ’922 Cameron Decl. ¶ 102. But shallow measuring cups are not at the same height and depth as regular cups. Indeed, Bosch 800 shows taller glass cups on a rack below the third rack. Regardless, even if “measuring cups”—fit in the Bosch 800 MyWay rack, Bosch 800 **does not** teach a third rack containing “cup seats” as disclosed in Claims 1 of the ’922 Patent. Bosch 800 discloses an even more remote arrangement to the purpose of the angled portions in the asserted patent. A POSITA looking at all disclosed pictures in Bosch 800 will notice that all bowls are mounted face down on the single slightly angled portion, a contrast to the way the cup seats in Claim 1 of the ’922 Patent are designed to mount glasses and cups on their cylindrical sides with opening facing downward in the angled walls. *See, e.g.*, FIG. 3 and FIG. 7 of the ’922 Patent. Bosch 800 does not contain cup seats which supports glasses and cups along their cylindrical edge.



- c. Dependent Claim 2: The dishwasher of claim 1, wherein the plurality of utensil holders is disposed in a utensil caddy operably coupled to the planar portion.

124. Because Bosch 800 does not teach a cup seat, it fails to meet each limitation of Independent Claim 1 of the '922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2 and does not teach the dishwasher of Claim 1.

- d. Dependent Claim 3: The dishwasher of Claim 2, wherein the utensil caddy includes a basket that is removably coupled with a bottom wall of the planar portion.

125. Because Bosch 800 does not teach a cup seat, it fails to meet each limitation of Independent Claim 1 of the '922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2 and further cannot meet each limitation of Dependent Claim 3.

- e. Dependent Claim 4: The dishwasher of claim 2, wherein the utensil caddy defines a periphery defining an interior with an open top.

126. Because Bosch 800 does not teach a cup seat, it fails to meet each limitation of Independent Claim 1 of the '922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2 and further cannot meet each limitation of Dependent Claim 4.

iii. Mailander does not render obvious Claims 1 or 2-4

127. Dr. Cameron opines that Mailander anticipates or renders obvious Claims 1 and 2-4 of the '922 Patent. I disagree because Mailander does not disclose the limitations of those claims alone or in combination.

- a. Claim 1[c]/[i]: an upper dish rack located above the first lower dish rack and the second lower dish rack in the dish treating chamber

128. Mailander does not teach an upper dish rack located above the first lower dish rack and the second lower dish rack in the dish treated chamber. Indeed, unlike the '922 Patent Mailander does not specifically depict a top third dish rack. Instead, it describes a "washing items support," which is not necessarily positioned at the top of a dishwasher. Dr. Cameron makes much

of the fact that Mailander's specification mentions that its "washing items support" is "arranged above a crockery basket 50 in the washing space of a dishwasher." '922 Cameron Decl. ¶ 110. (citing Mailander, [0025]). She further presses that Mailander's specification further mentions that "[w]ashing items support 10 is preferably arranged above the upper cutlery basket in the dishwasher." '922 Cameron Decl. ¶ 111. A POSITA would not understand either of these statements to necessarily teach an upper dish rack located above the first lower dish rack and the second lower dish rack.

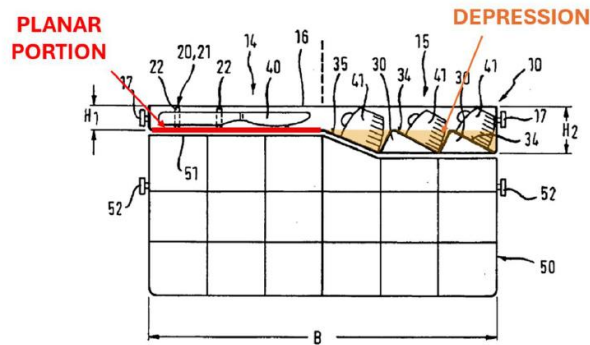
b. Claim 1[c][ii]: the upper dish rack defining a planar portion and a depression

129. Dr. Cameron has not established that Mailander teaches a depression. But Dr. Cameron erroneously concludes that a depression is created by the space above the two wedges—described as "washing items holders"—placed along the bottom wall. That misses the mark. Claim 1 of the '922 Patent discloses that a depression is properly defined by angled walls of the upper dish rack, not structures placed along the bottom wall.

c. Claim 1[c][iii]: wherein the depression includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion, and

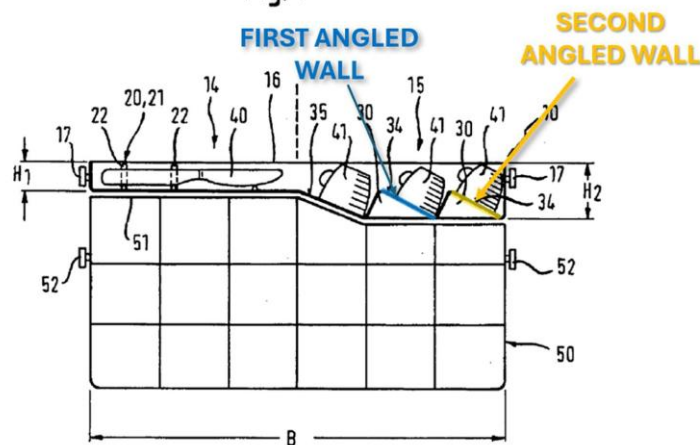
130. Mailander does not teach a depression that includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion. As discussed, Dr. Cameron fails to establish that Mailander teaches the claimed depression. Thus, this claim limitation is not met. To the extent, Mailander does teach depression, that depression is not formed by two angled walls. Indeed, Dr. Cameron's purported depression within Mailander does not depict two angled walls.

Fig. 1



131. Dr. Cameron argues that the two wedges—described as “washing items holders”—placed along the bottom wall serve as Mailander’s angled walls. ’922 Cameron Decl. 116. But those wedge-shaped items are not defined or referred to as “walls” within Mailander’s specification or claims—despite other parts of the overall structure being explicitly referred to as “wall[s].” *See* Mailander at [0002]. Accordingly, a POSITA would not understand Mailander’s wedge shaped supports to be “walls.”

Fig. 1



d. Claim 1[d]: wherein the first angled wall defines a first set of cup seats, and wherein the second angled wall defines a second set of cup seats;

132. Mailander does not teach cup seats. Dr. Cameron erroneously concludes that a cup seat is created by the two wedges—described as “washing items holders”—placed along the bottom wall. But Claim 1 includes a limitation that the “angled walls” must define the cup seat. Mailander’s wedge shaped “washing items holders” are not angled walls. Moreover, even if they were, they do not teach a “cup seat” as understood in Claim 1. The ’922 Patent’s innovative cup seats are not only integrated into the structure of the rack but also oriented to cradle larger cups along their cylindrical side—as opposed to on their top—for security during a wash cycle and to optimize for space. Because Mailander is missing this core innovation of the ’922 Patent, it can hold only small cups due to poor space optimization. Indeed, Mailander’s inserts squander space within a top rack and are not optimized for cups with ordinary dimensions.

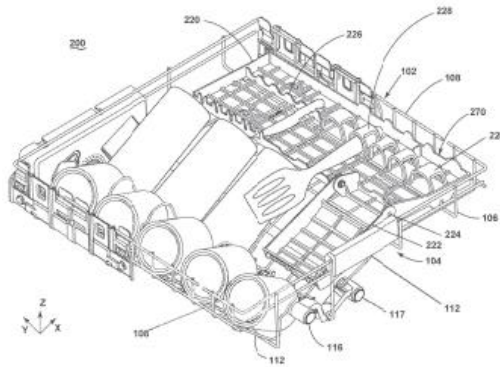


FIG. 7

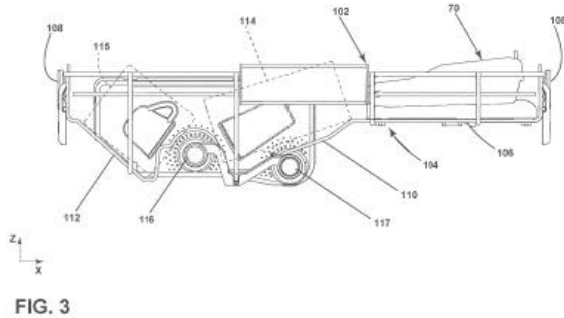


FIG. 3

e. Dependent Claim 1[f]: wherein the depression extends entirely below a top of the utensil holders in the planar portion

133. Mailander does not teach a depression that extends entirely below a top of the utensil holders in the planar portion. As discussed, Dr. Cameron has not established that Mailander teaches the claimed depression at all. Dr. Cameron’s conclusion that a depression is created by Mailander’s “washing items holders” is erroneous. Thus, there is no depression having first and

second angled walls that extends entirely below a top of the utensil holders in the planar portion and this claim limitation is not met.

f. Dependent Claim 2: The dishwasher of claim 1, wherein the plurality of utensil holders is disposed in a utensil caddy operably coupled to the planar portion.

134. Because Mailander does not teach a depression having angled walls or a cup seat defined by angled walls, it fails to meet each limitation of Independent Claim 1 of the '922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2 and does not teach the dishwasher of Claim 1.

g. Dependent Claim 3: The dishwasher of Claim 2, wherein the utensil caddy includes a basket that is removably coupled with a bottom wall of the planar portion.

135. Because Mailander does not teach a depression or a cup seat defined by angled walls, it fails to meet each limitation of Independent Claim 1 of the '922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2 and further cannot meet each limitation of Dependent Claim 3.

h. Dependent Claim 4: The dishwasher of claim 2, wherein the utensil caddy defines a periphery defining an interior with an open top.

136. Because Mailander does not teach a depression or a cup seat defined by angled walls, it fails to meet each limitation of Independent Claim 1 of the '922 Patent. Thus, it cannot meet each limitation of Dependent Claim 2 and further cannot meet each limitation of Dependent Claim 4.

*iv. **Andrew in view of Carr does not render obvious Claims 1, 2-4, 7-26***

a. No Motivation to Combine Andrew and Carr

137. I disagree with Dr. Cameron that a POSITA would have had motivation to combine the teachings of Andrew and Carr. Dr. Cameron writes that a POSITA would have been motivated to combine these two references because they are both “directed to a top rack of a dishwasher that

can hold utensils.” However, Andrew, a patent from 1959, discloses only a two-rack dishwasher and nowhere contemplates a dishwasher with three racks. While Dr. Cameron posits that “[a] POSITA would have been motivated to combine the teachings of Carr’s second (i.e., middle) lower dish rack with the teachings of Andrew,” ’922 Cameron Decl. ¶ 128, but I disagree that a POSITA motivated to learn about three-rack dishwashers would have looked to Andrew at all. To elaborate, a prior art, even one offered in an obviousness combination, must be enabling. Dr. Cameron does not explain how a POSITA would take the top rack of a two-rack dishwasher from a 1959 patent and have it operate as the top rack of a three-rack dishwasher in Carr. Without any explanation of how the combination would render a functional dishwasher, Andrew and Carr constitute a non-operational or inoperable combination that cannot render obvious the ’922 Patent.

138. Further, as noted above, the “flat support” sections disclosed in Andrew are too narrow or shallow to support a utensil caddy as disclosed in the embodiments of the ’922 Patent. Dr. Cameron claims that a POSITA would be able to combine Carr’s utensil caddy into Andrew’s “flat support” by writing: “combine or apply the removable utensil insert of Carr onto the flat support section of Andrew,” ’922 Cameron Decl. ¶ 126. This is not an enabling combination. A POSITA would not be motivated to increase the width of Andrew’s “flat support” to accommodate Carr’s utensils insert because Andrew already has shown a utensil insert seemingly mounted on the notch section. Put differently, a POSITA would not modify Andrew to accommodate Carr’s utensil insert because Andrew already discloses what is effectively a utensil insert. There is no motivation to combine here and no motivation would be clear to a POSITA. The notched section of Carr would not lead to such a motivation; the ’922 Patent creates a clear relationship between the “planar portion” of the ’922 Patent and the first and second angled portions to form a V-shaped depression where both angled portions of the V-shape are useful walls to seat cups and mugs.

b. Claim 1[b]: a first lower dish rack and a second lower dish rack located in the dish treating chamber;

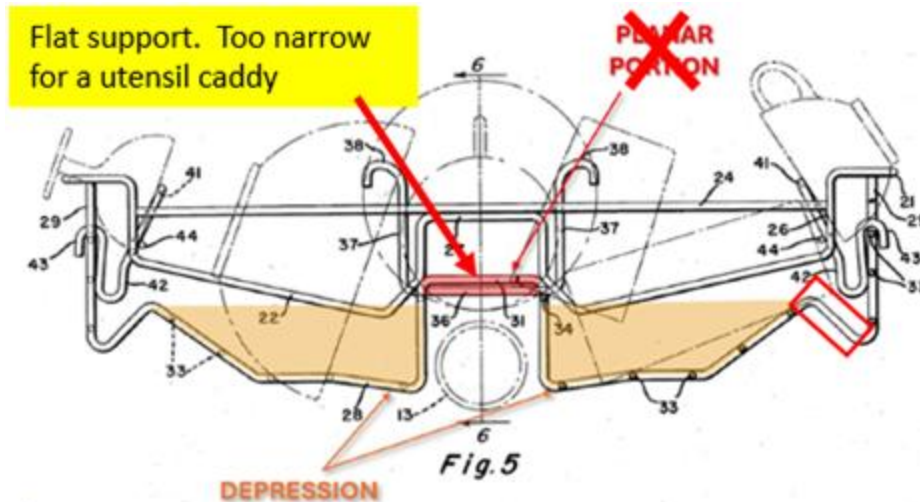
139. I disagree that Andrew in view of Carr renders obvious this element. As I noted above, Andrew, a patent from 1959, discloses only a two-rack dishwasher and nowhere contemplates a dishwasher with three racks. A POSITA motivated to learn about three-rack dishwashers would not have looked to Andrew at all.

c. Claim 1[c][i]: an upper dish rack located above the first lower dish rack and the second lower dish rack in the dish treating chamber,

140. I disagree that Andrew in view of Carr renders obvious this element. As I noted above, Andrew, a patent from 1959, discloses only a two-rack dishwasher and nowhere contemplates a dishwasher with three racks. A POSITA motivated to learn about three-rack dishwashers would not have looked to Andrew at all.

d. Claim 1[c][ii]: the upper dish rack defining a planar portion and a depression,

141. I disagree that Andrew in view of Carr renders obvious this element. The “flat support” in Andrew 36 is narrow and does not terminate by the side wall as disclosed for the “planar portion” in the ’922 Patent. A POSITA would understand that adding a utensil caddy in Andrew’s narrow “flat support” region would conflict with the purpose of mounting cups on the posts 37 also disclosed by Andrew (Andrew 3:50–54). I thus disagree with Dr. Cameron’s attempt to equate the “flat support” disclosed in Andrew with the “planar portion” disclosed in the ’922 Patent as in the misleadingly labeled reproduction of Andrew Figure 5 on page 78 of her report:



- e. Claim 1[c][iii]: wherein the depression includes a first angled wall and a second angled wall that each extend at an acute angle relative to the planar portion, and

142. I disagree that Andrew in view of Carr renders obvious this element. Even assuming that Andrew's rails 33 form "angled walls" as Dr. Cameron asserts, Andrew still does not teach the claim element 1[c][iii] because Andrew's "angled walls" do not define a set of cup seats. Carr likewise does not disclose this element because the depression in Carr is formed of one angled wall 206 and the steep connecting wall that connects to the notch section. That steep connecting wall cannot be combined to create an "angled wall" that defines a set of cup seats as disclosed in the Patent.

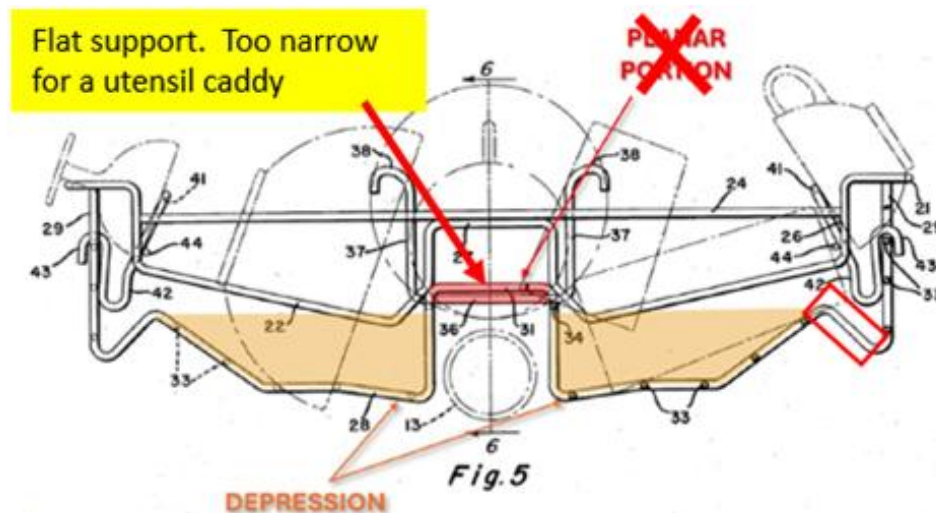
- f. Claim 1[d]: wherein the first angled wall defines a first set of cup seats, and wherein the second angled wall defines a second set of cup seats;

143. I disagree that Andrew in view of Carr renders obvious this element. Specifically, Andrew does not disclose that the "depression" has two cup seats. Andrew discloses only one cup seat located in each one of its "depressions." Carr cannot overcome this deficiency because Carr does not disclose cup seats at all. Further, a POSITA would not be motivated to combine these two references to come up with claim element 1[d] for at least the following two reasons. First, combining the notch section and the flat support would not yield two angled walls that define two

sets of cup seats. In any event, Carr does not explain how a POSITA would combine the “notch section” of Carr with the narrow central “flat support” portion of Andrew without major structural redesigns to both. Second, a POSITA would understand that the spray tube in Andrew is centrally located in the dish rack and moving it off center will require complete reconfiguration of the plumbing system that brings water to the spray tube.

g. Claim 1[f]: wherein the depression extends entirely below a top of the utensil holders in the planar portion.

144. I disagree that Andrew in view of Carr renders obvious this element. As noted above, the “flat support” in Andrew 36 is narrow and does not terminate by the side wall as disclosed for the “planar portion” in the ’922 Patent. I thus disagree with Dr. Cameron’s attempt to equate the “flat support” disclosed in Andrew with the “planar portion” disclosed in the ’922 Patent as in the misleadingly labeled reproduction of Andrew Figure 5 on page 78 of her report:



h. Dependent Claim 2: The dishwasher of claim 1, wherein the plurality of utensil holders is disposed in a utensil caddy operably coupled to the planar portion.

145. In addition to the fact that the references do not render obvious the elements of Independent Claim 1, the cutlery accessory insert disclosed in Carr is described as “[a]n additional

cutlery accessory insert 236 [that] can be included in the space next to the position of the notch section 220 above which the cutlery / utensil accessory insert 235 is disposed, as shown in FIG. 3.” There is no utensils caddy operably coupled to what Dr. Cameron asserts is the “planar portion” in either Andrew and Carr. A POSITA would not be motivated to combine the “cutlery accessory insert” of Carr to reach Claim 2 of the ’922 Patent.

i. Dependent Claim 3: The dishwasher of claim 2, wherein the utensil caddy includes a basket that is removably coupled with a bottom wall of the planar portion.

146. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claim 2 and every element of Independent Claim 1.

j. Dependent Claim 4: The dishwasher of claim 2, wherein the utensil caddy defines a periphery defining an interior with an open top.

147. I disagree that Andrew in view of Carr renders obvious this dependent claim. In addition to the fact that the references do not render obvious the elements of Independent Claim 1 and Dependent Claim 2, neither Andrew nor Carr disclose the claimed “utensil caddy.” A POSITA would not be motivated to combine the non-existing utensil caddy in Andrew or Carr’s cutlery accessory insert to reach Claim 4. Indeed, Carr’s cutlery accessory insert is too narrow and deep to be placed on a wide and shallow flat portion as disclosed in Andrew. A POSITA would not consider placing a deep and narrow insert on Andrew’s shallow flat portion to arrive at the utensil caddy of Claim 4.

k. Dependent Claim 7: The dishwasher of claim 2, further comprising: at least one sprayer adjacent to the first set of cup seats and configured to emit a spray of water into a cup held by the first set of cup seats.

148. I disagree that Andrew in view of Carr renders obvious this dependent claim. In addition to the fact that the references do not render obvious the elements of Independent Claim 1

and Dependent Claim 2, there is no conceivable way to combine Andrew's sprayer with Carr's teachings. As discussed above, Dr. Cameron does not explain how a POSITA would take the sprayer of a top rack from a two-rack dishwasher from a 1959 patent (Andrew) and have it integrated as a sprayer of a top rack from a three-rack dishwasher (Carr).

l. Dependent Claim 8: The dishwasher of claim 7, wherein the at least one sprayer is located between the first set of cup seats and the second set of cup seats.

149. I disagree that Andrew in view of Carr renders obvious this dependent claim. In addition to the fact that the references do not render obvious the elements of Independent Claim 1 and Dependent Claims 2 and 7, there is no conceivable way to combine Andrew's sprayer with Carr's teachings. As discussed above, Dr. Cameron does not explain how a POSITA would take the sprayer of a top rack from a two-rack dishwasher from a 1959 patent (Andrew) and have it integrated as a sprayer of a top rack from a three-rack dishwasher (Carr). To elaborate, according to Dr. Cameron and her annotations of Figure 4 of Carr, '922 Cameron Decl. ¶ 85, Carr's "first angled wall" and the "second angled wall" have no sprayer (and no obvious location for a sprayer without a significant redesign), comprise only one side of the depression, and disclose nothing that would motivate a POSITA to combine Carr with Andrew's sprayer.

m. Dependent Claim 9: The dishwasher of claim 7, wherein the at least one sprayer extends from a front of the upper dish rack to a back of the upper dish rack.

150. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2 and 7 and every element of Independent Claim 1.

- n. Dependent Claim 10: The dishwasher of claim 7, wherein the at least one sprayer is also configured to emit the spray of water into a cup held by the second set of cup seats.*

151. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2 and 7 and every element of Independent Claim 1.

- o. Dependent Claim 11: The dishwasher of claim 7, wherein the at least one sprayer is configured to provide a straight-line stream of water.*

152. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2 and 7 and every element of Independent Claim 1.

- p. Dependent Claim 12: The dishwasher of claim 7, wherein the at least one sprayer includes a plurality of nozzles, and wherein each of the spray nozzles is configured to rotate as the at least one sprayer emits the spray of water into the cup held by the first set of cup seats.*

153. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2 and 7 and every element of Independent Claim 1.

- q. Dependent Claim 13: The dishwasher of claim 7, wherein the utensil caddy includes a diffuser that diffuses the spray of water emitted by the at least one sprayer.*

154. I disagree that Andrew in view of Carr renders obvious this dependent claim. As discussed above, neither Andrew nor Carr disclose the claimed “utensil caddy.” A POSITA would not be motivated to combine the non-existing utensil caddy in Andrew or Carr’s cutlery accessory insert to reach Claim 13. Carr’s cutlery accessory insert is narrow, deep, and disposed above the notch section. That would not provide sufficient modification to Andrew to arrive at Claim 13.

- r. Dependent Claim 14: The dishwasher of claim 7, wherein the at least one sprayer is configured to emit a straight-line stream of water to the planar portion of the upper dish rack.

155. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2 and 7 and every element of Independent Claim 1.

- s. Dependent Claim 15: The dishwasher of claim 7, wherein the at least one sprayer is configured to emit a fan pattern of water.

156. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2 and 7 and every element of Independent Claim 1.

- t. Dependent Claim 16: The dishwasher of claim 1, wherein the first set of cup seats is configured to support a set of cups and the second set of cup seats is configured to support a set of mugs.

157. I disagree that Andrew in view of Carr renders obvious this dependent claim. In addition to the fact that the references do not render obvious every element of Independent Claim 1, the cup seats disclosed in the '922 Patent are not equal in the length of the incline. By contrast, Carr discloses a single inclined wall and Andrew discloses inclines that are equal in length. A POSITA would not be motivated to combine these two references to reach the distinct cup seats and mug seats disclosed in Claim 16. If anything, combining Andrew and Carr would teach away from the disclosure of the '922 Patent, which provides for different-dimensioned inclines to distinguish cup seats configured to support cups from cup seats configured to support mugs.

- u. Dependent Claim 17: The dishwasher of claim 7, wherein the at least one sprayer is located between the first set of cup seats and second set of cup seats.

the at least one sprayer configured to emit a spray of water into drinking vessels held by the first set and second sets of cup seats.

158. I disagree that Andrew in view of Carr renders obvious this dependent claim. In addition to the fact that the references do not render obvious the elements of Independent Claim 1 and Dependent Claims 2 and 7, as discussed above, neither Andrew nor Carr teaches specifically emitting a spray of water into a drinking vessel that is being held by the first set and second set of cup seats. By contrast, a POSITA would understand that Claim 17 discloses emitting a spray of water in the direction generally along the two inclines.

v. Dependent Claim 18: The dishwasher of claim 7, wherein a portion of the spray of water emitted by the at least one sprayer is directed toward the plurality of utensil holders.

159. I disagree that Andrew in view of Carr renders obvious this dependent claim. In addition to the fact that the references do not render obvious the elements of Independent Claim 1 and Dependent Claims 2 and 7, there is no conceivable way to combine Andrew's sprayer with Carr's teachings. As discussed above, Dr. Cameron does not explain how a POSITA would take the sprayer of a top rack from a two-rack dishwasher from a 1959 patent (Andrew) and have it integrated as a sprayer of a top rack from a three-rack dishwasher (Carr).

w. Dependent Claim 19: The dishwasher of claim 7, wherein the upper dish rack includes a wire frame construction that forms the first angled wall and second angled wall.

160. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2 and 7 and every element of Independent Claim 1.

x. Dependent Claim 20: The dishwasher of claim 19, wherein the wire frame construction also forms the planar portion and side walls of the upper dish rack.

161. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2, 7, and 19 and every element of Independent Claim 1.

y. Dependent Claim 21: The dishwasher of claim 19, wherein a plurality of spray nozzles of the at least one sprayer are located beneath the wire frame construction.

162. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2, 7, and 19 and every element of Independent Claim 1.

z. Dependent Claim 22: The dishwasher of claim 21, wherein the plurality of spray nozzles are configured to rotate during said dishwasher operation.

163. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2, 7, 19, and 21 and every element of Independent Claim 1.

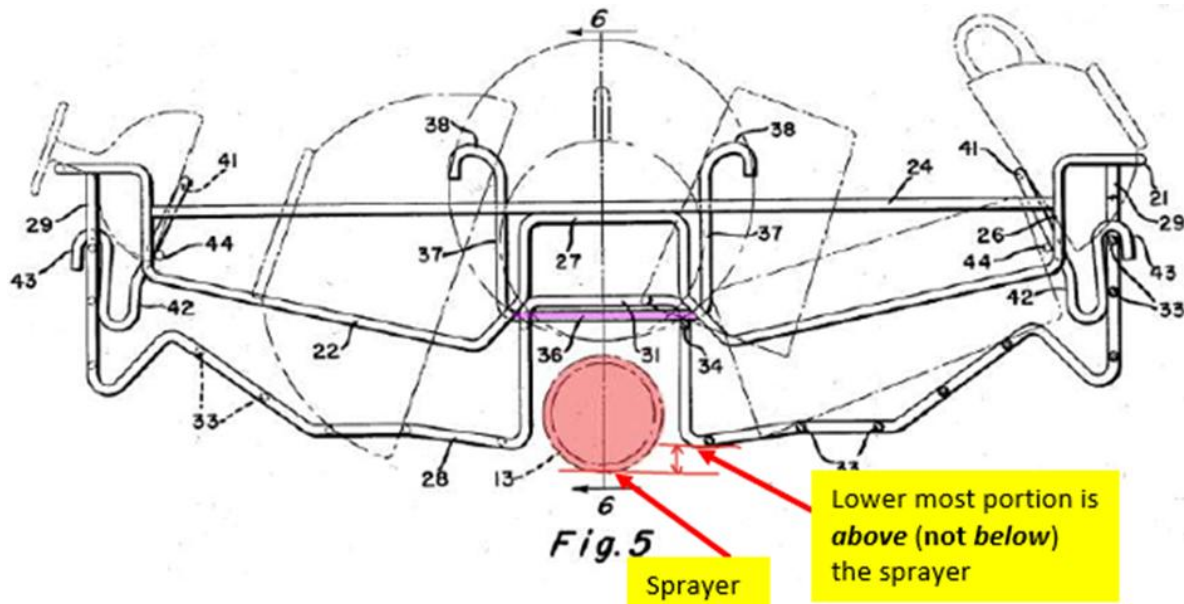
aa. Dependent Claim 23: The dishwasher of claim 21, wherein the wire frame construction includes a raised section disposed between the first set of cup seats and the second set of cup seats.

164. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2, 7, 19, and 21 and every element of Independent Claim 1.

bb. Dependent Claim 24: The dishwasher of claim 23, wherein the plurality of spray nozzles are disposed below a portion of the raised section.

165. Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claims 2, 7, 19, 21, and 23.

cc. Dependent Claim 25: The dishwasher of claim 7, wherein a lowermost portion of the first set of cup seats and a lower most portion of the second set of cup seats is disposed below the at least one sprayer.



166. I disagree that Andrew in view of Carr renders obvious this dependent claim. In addition to the fact that the references do not render obvious the elements of Dependent Claims 2 and 7, the lowermost portion of the so-called “cup seats” in Andrew are above the sprayer, in contrast to Claim 14 which requires them to be below.

dd. Dependent Claim 26: The dishwasher of claim 7, wherein the at least one sprayer is disposed below the planar portion.

167. I disagree that Andrew in view of Carr renders obvious this dependent claim. Dr. Cameron contends that Claim 26 is obvious over Andrew, in view of Carr, but *she does not bother to explain why* anywhere in her report. That argument—or lack thereof—is unavailing. In any event, Andrew in view of Carr does not teach this dependent claim at least because, for the reasons discussed above, they do not teach the elements of Dependent Claim 7.

I declare under penalty of perjury under the laws of the United States of America and the States of Michigan and Texas that the foregoing is true and correct.

Executed on: March 10, 2026

A handwritten signature in black ink, appearing to read "Emad Tanbour", written over a horizontal line.

Emad Tanbour, PhD