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Conair Corporation - Grogan, Tuccillo & Vanderleeden, LLP 1350 Main Street, 5th Floor Springfield, MA 01103			WHATLEY, KATELYN B	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* LEANDRO P. RIZZUTO and JOSEPH J. LASKOWSKI<sup>1</sup>

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Appeal 2018-007774  
Application 13/551,007  
Technology Center 1700

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Before BRADLEY R. GARRIS, CHRISTOPHER C. KENNEDY, and  
MICHAEL G. McMANUS, *Administrative Patent Judges*.

KENNEDY, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's decision rejecting claims 8, 13–17, 19, and 20. We have jurisdiction under 35 U.S.C. § 6(b). We AFFIRM.

BACKGROUND

The subject matter on appeal relates to methods of cleaning a brewed beverage (e.g., cappuccino) appliance. *E.g.*, Spec. ¶¶ 2, 4; Claim 8. Claim 8 is reproduced below from page 21 (Claims Appendix) of the Appeal Brief:

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. The Appellant identifies the real party in interest as Conair Corporation. *See* App. Br. 2.

8. A method of cleaning a brewed beverage appliance having a milk frothing unit including a frothed milk dispensing spout in fluid communication with a venturi, said venturi having a steam inlet for receiving steam from a steam source and a milk inlet for receiving milk from a milk reservoir, said method comprising the steps of:

in an automatic mode of operation, initiating a flow of milk from said milk reservoir and a flow of steam from said steam source through said venturi and out of said frothed milk dispensing spout, ceasing said flow of milk through said venturi, maintaining said flow of steam through said venturi for a predetermined period of time after said flow of milk through said venturi is ceased, and ceasing said flow of steam through said venturi, wherein a milk valve controls an ingress of milk to said venturi, a steam valve controls an ingress of steam to said venturi, and said steps of initiating said flows of milk and steam, ceasing said flow of milk, maintaining said flow of steam through said venturi, and ultimately ceasing said flow of steam through said venturi are carried out automatically by a processor electrically coupled to said milk valve and said steam valve to automatically purge milk contacting surfaces of said brewed beverage appliance; and

in a manual mode of operation, manually activating a switch to manually initiate a burst of steam only through said venturi and out of said frothed milk dispensing spout to further purge said milk contacting surfaces of said brewed beverage appliance, and manually deactivating said switch to cease said burst of steam only through said venturi, said burst of steam having a variable duration.

#### REJECTIONS ON APPEAL

The claims stand rejected under 35 U.S.C. § 103(a) as follows:

1. Claims 8, 13, 14, 16, and 17 over Anderson (US 5,207,148, issued May 4, 1993), Reyhanloo (US 2011/0005407 A1, published Jan. 13, 2011),

and Eckenhausen (US 2003/0232115 A1, published Dec. 18, 2003). Final Act. 3.

2. Claims 8, 13–16, and 19 over Rizzuto (US 5,473,972, issued Dec. 12, 1995), Anderson, Reyhanloo, and Eckenhausen. Final Act. 9.

3. Claim 20 over Anderson, Reyhanloo, Eckenhausen, and Rizzuto. Final Act. 18.

### ANALYSIS

The Appellant argues the claims as a group. We select claim 8 as representative, and the remaining claims on appeal will stand or fall with claim 8.

After review of the cited evidence in the appeal record and the opposing positions of the Appellant and the Examiner, we determine that the Appellant has not identified reversible error in the Examiner’s rejections. Accordingly, we affirm the rejections for reasons set forth below, in the Final Office Action, and in the Examiner’s Answer. *See generally* Final Act. 2–33; Ans. 3–9.

The Examiner finds that Anderson teaches a method of cleaning a brewed beverage appliance comprising each element of claim 8 except for the “in a manual mode of operation” step. Final Act. 3–4. The Examiner finds that Reyhanloo teaches that it is known in the art “to activate a switch manually to initiate a burst of steam only through a milk frothing venturi and out a frothed milk dispensing spout to purge the milk contacting surfaces of the brewed beverage appliance and to manually deactivate the switch to cease said burst of steam.” *Id.* at 4–5. The Examiner finds that Eckenhausen teaches a system “that operates in both an automatic mode of operating and a manual mode of operation,” and that such “is known in the

art to be beneficial to allow for the operator to further purge and flush the milk contacting surfaces as desired and on demand, after the appliance automatically purges and flushes the milk contacting surfaces.” *Id.* at 5. The Examiner determines that it would have been obvious to add a manual mode switch to Anderson in view of Reyhanloo and Eckenhausen “to allow the operator to purge and flush the milk contacting surfaces as desired.” *Id.* at 5.

The Appellant argues that none of the references teach both manually activating *and deactivating* a switch to yield a “variable duration” cleaning cycle, as required by claim 8. App. Br. 9–15.

That argument is not persuasive. Reyhanloo teaches manual operation of a steam cleaning cycle. *See* Reyhanloo ¶¶ 23, 24, 34–39, 50, 57. Reyhanloo teaches that an affirmative step of its process is “ending the passage of steam.” *Id.* ¶¶ 34–35; *see also id.* ¶¶ 36–39, ¶ 57 (“Following the flushing process the switching valve 8 can again be switched manually . . .”). Those disclosures teach or suggest to a person of ordinary skill in the art a cleaning process that is both manually started and manually stopped.

Even if Reyhanloo did not directly indicate a process that is both manually started and manually stopped, Reyhanloo expressly describes a “manual” process, *e.g., id.*, and, as the Examiner explains in both the Final Action and the Answer, *see* Final Act. 22; Ans. 3–4, during examination of the application involved in this appeal, the Appellant overcame a rejection under 35 U.S.C. § 112, ¶ 1, by arguing the following:

As is readily known to one of ordinary skill, if a switch is described as being ‘manual’, it requires some type of action on the part of the user to start and stop, or turn on and off, the switch.

Indeed, unless it is disclosed that a manual switch, once triggered ‘on’, will automatically go off or go to another state after a predetermined period of time, one of ordinary skill in the art would certainly assume that the manual switch must be manually turned ‘off’, as well as ‘on’. And since every user will turn a switch ‘on’ and ‘off’ at differing times, the duration of the ‘on’ period is ‘variable’, whether this word is utilized in the specification as originally filed, or not.

Final Act. 22 (quoting Office Action Response dated Aug. 19, 2016, at 6); Ans. 3–4 (same). By the Appellant’s own admission, Reyhanloo’s disclosure of a manual process that does not require automatic stopping necessarily indicates “that the manual switch must be manually turned ‘off.’” Office Action Response dated Aug. 19, 2016, at 6

Finally, apart from Reyhanloo, Eckenhausen discloses a manual process (although not specifically a cleaning process) in which a switch is activated and “continues for as long as the button 82 is depressed.” Eckenhausen ¶ 48; *see also* Eckenhausen ¶ 54 (“Depending upon which of the buttons . . . is actuated, the solenoid 41 will maintain the valve gate 38 in a withdrawn condition either until the button is released, or for a predetermined time interval . . .”). Thus, beyond the disclosures of Reyhanloo described above, it was well known in the art of coffee beverage appliances to allow for processes that can be manually started and stopped to achieve desired results.

On this record, we are not persuaded of reversible error on the basis of the Appellant’s argument that the prior art does not teach or suggest a manual mode that involves both manually starting and manually stopping the cleaning cycle to yield a variable duration cycle. *In re Jung*, 637 F.3d 1356, 1365 (Fed. Cir. 2011) (“[I]t has long been the Board’s practice to

require an applicant to identify the alleged error in the examiner's rejections . . . .”).

### CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
8, 13, 14, 16, 17	§ 103(a) Anderson, Reyhanloo, Eckenhausen	8, 13, 14, 16, 17	
8, 13–16, 19	§ 103(a) Rizzuto, Anderson, Reyhanloo, Eckenhausen	8, 13–16, 19	
20	§ 103(a) Anderson, Reyhanloo, Eckenhausen, Rizzuto	20	
<b>Overall Outcome</b>		8, 13–17, 19, 20	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED