NALSAR PROXIMATE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD
P.G.DIPLOMA IN PATENTS LAW

2015-16
Supplementary Exams (November, 2016)

Paper IV - Abuse of Patents (Practical)

Time: 2 ½ hours. **Total Marks: 90**

INSTRUCTIONS TO CANDIDATES

1. The questions to be interpreted as given and no clarification can be sought from the invigilator.

2. All questions carry equal marks (30 marks each)

Answer the questions at the end of this problem statement

Background information

Your client is a large blueberry producer in Manitoba, who frequently seeks your advice on IP matters. Their latest marketing initiative is to place a coupon in each container of blueberries they sell, which can be redeemed for a free blueberry press (plus $4.99 for shipping and handling), which is intended to squeeze the healthful blueberry juice out of the berries. Their blueberry containers include a mixture of blueberry types. The blueberry press was designed for them by a marketing consultant they retained, who told them that he invented the press on behalf of your client. The press will be manufactured in China and shipped to your client's plant in Manitoba, from where they will be shipped to customers. Their customers are located worldwide, and they expect to ship the presses to customers in Canada and a number of other countries. They also have a branch plant in Jamaica. While they could in principle ship products from this plant, it is more convenient for them to ship the presses from their Manitoba operation.

They will call the new press the "Presser."

The contract they signed with the consultant includes a number of terms which attract your attention. For one, the consultant agreed that the product was designed exclusively for your client. For another, he stated that the press he designed did not infringe any intellectual property rights of any other person.

You perform a careful patent search for your client to determine whether there are any in-force patents that might stand in your client's way. You discover that the consultant has applied for a Canadian patent for the Presser, in his own name (it was published early under a "special order"). The examiner has cited prior art, including a patent from 1945 that disclosed a very similar press. However, the consultant successfully argued that his invention had some important differences over this prior art. The examiner has also cited another Canadian patent (No. 2,xxx,xxx), which is still in force. The 'xxx patent is owned by an individual living in California. Your research shows that this individual never commercialized his invention in Canada or elsewhere. The consultant was able to convince the examiner that his invention is novel and non-obvious over this patent as well. As a result, a notice of allowance has recently

issued for the consultant's patent application.

You also determine that presses that are essentially identical to your client's are being sold in Canada by a number of other distributors.

Finally, the consultant has also developed an alternative version of the Presser (the "Easy Presser"), which your client might distribute if you advise that there are insurmountable patent problems with the first version.

Your client is very concerned that the Presser or the Easy Presser might infringe the 'xxx patent. They would like your advice as to whether the owner of this patent could sue them for infringement. They also want your advice on several related issues, listed below.

Your client asks that you be creative in your approach. They are interested in any solution that permits them to proceed with their marketing scheme.

You may make reasonable assumptions in the absence of specific information, but please identify any such assumption.

The Presser ™ blueberry press has several benefits over conventional fruit presses:

- it rests on the rim of a mixing or salad bowl, so as to permit the user to operate it with one hand.
- there are dual fruit pressing chambers, for fast operation
- it has a decorative appearance
- the respective members are wide and shallow, which provides large surfaces to rest on the bowl and for the user to press.
- the floors of the pressing chambers have a wave-like shape, which makes cleaning easier than the conventional flat shape.

Version 1: Presser – developed by the consultant for your client

A first version of the Presser™ blueberry press, seen in Figures 1-3, consists of a lower member 1 which rests on the rim of a mixing bowl. The lower member has a pressing chamber 2 which extends downwardly from the lower face of the member. Pressing chamber 2 is located about one third of the way in from a first end of member 1. The floor of pressing chamber 2 is perforated to discharge the squeezed blueberry juice. The floor of the pressing chamber has a wave-like shape.

The upper member 3 is engaged to the lower member 1. Upper member 3 is somewhat shorter in length than lower member 1. The engagement between the respective members 1 and 3 is formed by opposing square recesses 4 and 5 within the respective members, opening laterally towards each other. Recesses 4 and 5 fit one within the other. A peg 6 protrudes laterally from the base of recess 4 of lower member 1, which fits within a hole 7 within the recess 5 of upper member 3. The members 1 and 3 are easily joined together by fitting peg 6 into hole 7 to permit members 1 and 3 to rotate relative to each other. The members may be disassembled for cleaning.

Upper member 3 has a pressing chamber 8 similar to that of the lower member, but located adjacent to its first end. This pressing chamber also includes a perforated floor to discharge the crushed blueberry juice. Both pressing chambers protrude downwardly into the bowl when the press is positioned on the rim of the bowl.

The upper and lower members both include a plunger 10 and 11 respectively, configured and located so as to fit into the pressing chamber of the opposing member so as to press blueberry or other food which has been placed in the pressing chambers. In configuration, the pressing chambers and plungers are similar to a conventional fruit press, namely substantially rectangular or oval, with the plungers fitting snugly within the pressing chambers so as to squeeze all of the food through the perforations with minimal leakage at the sides. The lower surface of the plungers has a wave-like shape that matches the floor of the corresponding pressing chamber.

Figure 3 is an enlarged view of the pressing chamber and plunger, showing in particular the wave-like shape of these parts. This configuration makes it easier to clean the device.

Version 2: Easy Presser- an alternate developed by the consultant

A second version, called the "Easy Presser™", is seen in Figures 4 and 5. This version consists of upper and lower members 20 and 21. These members are not connected in any manner – they are simply brought together during the pressing operation. However, the members are shaped to permit the user to hold them together at one end to allow the upper member to pivot relative to the lower member for greater leverage. This is assisted by a rounded portion 30 which extends downwardly from the upper member 20, which can rest within a somewhat shallower depression 32 within the lower member.

Lower member 21 is configured to rest on the rim of a salad bowl, as in the first version. Upper member 20 can be somewhat shorter. Lower member 21 includes 2 (or more) pressing chambers 23 and 24 which can be spaced apart as seen in Figure 3, or directly adjacent to each other. Pressing chambers 23 and 24 have a perforated floor. Upper member 21 includes plungers 25 and 26 configured and spaced to enter into pressing chambers 23 and 24, to effectively squeeze blueberry or other food items within the pressing chambers, through the perforations in the respective floors of the pressing chambers. An advantage of the Easy Presser over the Presser is that the respective members of the Easy Presser can be more easily separated from each other for cleaning. As well, the simplified construction makes this version cheaper.

Drawings

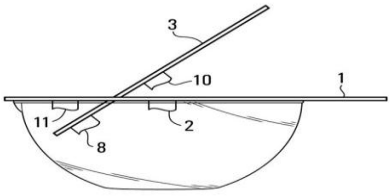


FIG. 1

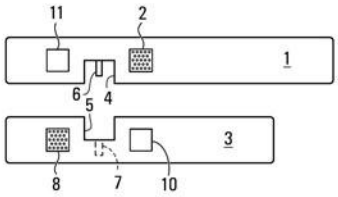


FIG. 2

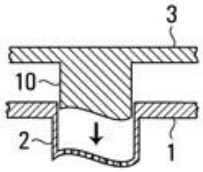


FIG. 3

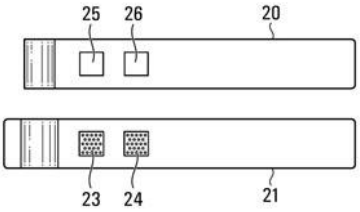


FIG. 4

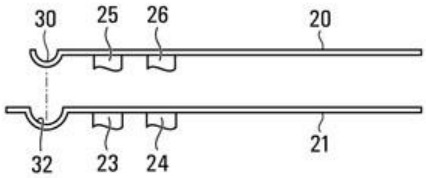


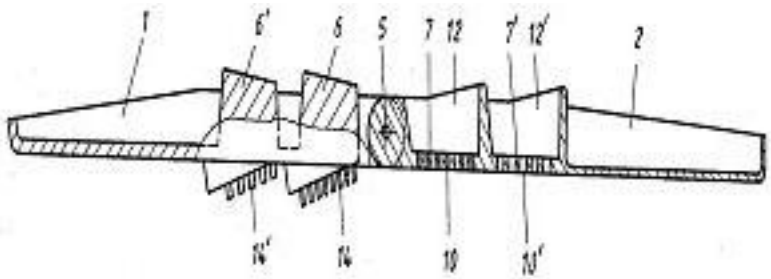
FIG. 5

Copy of the 'xxx patent

Canadian Intellectual Property Office
Patent CA 2,XXX,XXX

Priority date: 11.01.1999
Application Date: 10.01.2000
Issue Date: 20.10.2002
(72) Smith, George (US)
(73) George Smith
RR 1 Petaluma CA USA

Hand-operated press for disintegrating vegetables or fruit into a plurality of particle sizes



A hand-operated press for treating vegetables or fruit comprises two levers, which are connected by an articulated joint and in at least part of their length constitute handles. The material to be treated is forced through at least two holding chambers, which are located on one of the levers. Each holding chamber provided on one lever has associated with it a ram provided on the other lever. As the handles are forced toward each other, each ram enters the associated holding chamber and forces the material to be treated through openings in the bottom defining the holding chamber. An essential feature of the invention is that the holding chambers have different shaped or sized openings, for example in one chamber the openings are square and in the other chamber, the openings are elongated so that the hand-operated press may be used to disintegrate the fruit or vegetables into both disc-shaped and prismatic pieces as the fruit or vegetable is forced through the two sets openings.

Field

The present invention relates to kitchen and cooking implements, in particular a hand-operated press for disintegrating fruits and vegetables.

Summary

In one aspect, the invention relates to a hand-operated press for treating vegetables or fruit which comprises two levers, which may be connected by an articulated joint and are provided with at least two holding chambers and with presses or rams fitting said holding chambers. The bottom defining each holding chamber is provided with through openings, which have different cross-sections in different bottoms. The pressure-applying surfaces of the rams may be formed with elevations, which enter the openings of the bottoms and clean said openings at the end of the pressure-applying operation and when the levers are pivotally moved opposite to the sense in which pressure is applied.

It is an object of the present invention to provide a hand-operated press which avoids the

disadvantages of the known implements and by which material can be disintegrated to a small and/or large particle size at the same time or in any desired sequence.

It is a further object to provide a hand-operated press that provides multiple pressing chambers for processing a food, thereby providing a variety of benefits to the chef.

In order to permit cleaning of the openings provided in the bottoms of the holding chambers, a further feature of the invention resides in that at least one of the levers is provided with cleaning pins, which may be provided in a plurality of sets, each of which corresponds to the openings of one set thereof. In this arrangement a pivotal movement of the levers opposite to the direction in which pressure is applied will cause the pins to enter the openings of the holding chamber which has been used.

Further details of the invention will be explained more fully with reference to the drawing showing a plurality of illustrative embodiments of the hand-operated press in accordance with the invention.

Brief Description of the Drawings

FIG. 1 shows a first embodiment of the hand-operated press in an extended position.

FIG. 2 is a longitudinal sectional view showing the press of FIG. 1.

FIG. 3 shows another embodiment of the hand-operated press.

FIG. 4 is a sectional view taken on lines VII--VII in FIG. 3.

FIG. 5 is a sectional view taken on lines VIII--VIII in FIG. 3.

FIG. 6 is a top plan view showing the hand-operated press of FIGS. 3-5.

FIGS. 7 and 8, respectively, are a longitudinal sectional view and a bottom view showing another embodiment of a hand-operated press having one-armed levers.

FIGS. 9 to 11 show another embodiment of the hand-operated press comprising one-armed levers and juxtaposed holding chambers, FIG. 9 being a sectional view taken on line XII--XII of FIG. 10, FIG. 10 is a top plan view and FIG. 11 is a bottom view of the hand-operated press.

FIG 12 is a sectional view of another embodiment of the press, which is provided with knives, bars or the like within the pressing chambers.

FIG. 13 shows a cross-sectional view of the embodiment shown in Figure 12.

FIG. 14 is an enlarged view of a portion of the press shown in Fig. 12, showing in particular a cross-sectional view of the knives.

Claims

1. A hand-operated press for disintegrating vegetables or fruit comprising two opposing levers, which along at least part of their length serve as arms, wherein one of said levers is provided with a first pressing chamber which serves to receive the material to be treated and is defined at least in part by a bottom wall formed with through openings, and the other of said levers is provided with a first pressing member, which during a pivotal movement of the levers is adapted to enter the first pressing chamber, and wherein a second pressing chamber is provided, said chambers being separated from each other by a wall and being defined at least in part by bottom walls formed with through openings to process a piece of vegetable or fruit into smaller pieces, and wherein a second pressing member is provided for entering said second pressing chamber.

2. The hand-operated press according to claim 1, wherein the bottom walls defining said first and second pressing chambers comprise spaced apart lands, bars or knives extending in at least one direction.

3. The hand-operated press according to claim 2, wherein said first and second pressing members are provided with spaced projecting elevations which match the cross-section of said lands, bars or knives.

4. A hand-operated press for treating vegetables or fruit, comprising two levers which are in pivotal relationship and which in at least part of their length serve as arms, first and second pressing chambers associated with said levers which serve to receive the material to be treated, each chamber being defined at least in part by a bottom wall formed with through openings, and a pressing member which, as said levers are drawn together, enters said pressing chambers, wherein said chambers have different openings for discharging the vegetable or fruit.

5. The hand-operated press according to claim 4, wherein the two levers are pivotally connected to one another by a pivotal connection adjacent an end thereof.

6. The hand-operated press according to claim 1, wherein said pressing members form adjacent integral parts, in spaced relationship to a pivotal connection of the levers to one another, and wherein the pressing members are movable into their respective pressing chambers as a unit.

7. A method for disintegrating fruits or vegetables comprising the steps of:

   a. providing a press comprising two opposing arms, at least two pressing chambers incorporated into said arms, said chambers having through openings, and corresponding pressing members adapted to enter into said pressing chambers,

   b. placing fruit or vegetable matter into said chambers, and

   c. simultaneously pressing said fruit or vegetable matter through said openings with said pressing members, wherein a different fruit or vegetable is placed within respective ones of said chambers to produce a mixture of said fruits or vegetables in disintegrated form.

DRAWINGS

FIG. 1

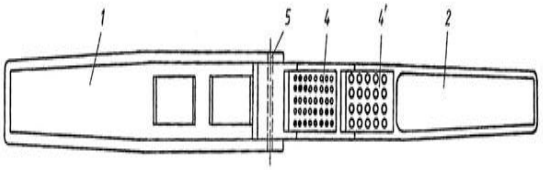


FIG. 2

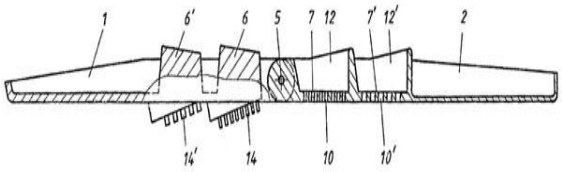


FIG. 3

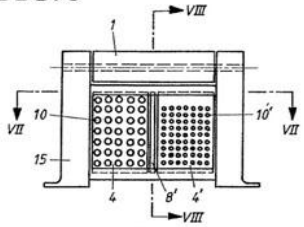


FIG. 4

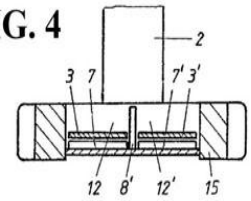


FIG. 5

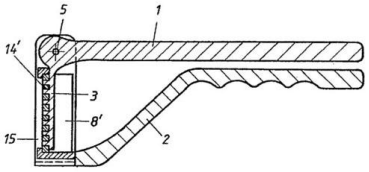


FIG. 6

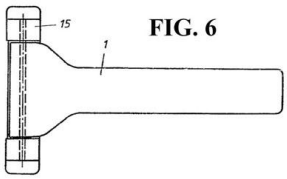


FIG. 7

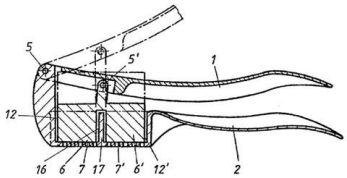


FIG. 8

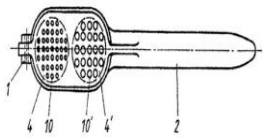


FIG. 9

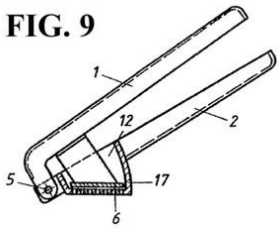


FIG. 10

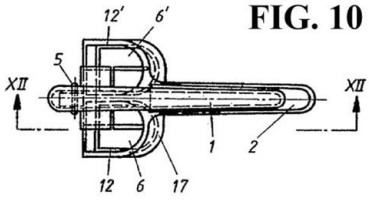


FIG. 11

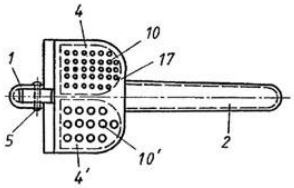


FIG. 12

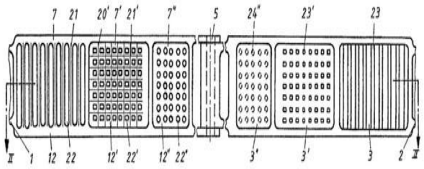
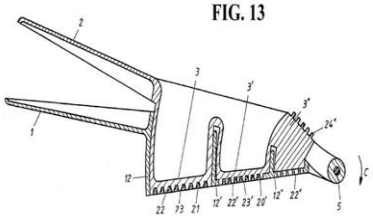


FIG. 13



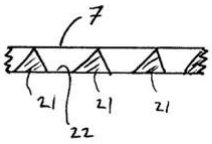


FIG. 14

ANSWER THE FOLLOWING QUESTIONS

1. **Do you think the version 1 -'Presser' is an infringement over the Patent xxx? State your reasons based on the claims of the xxx Patent**

   30 marks

2. **Do you think version 2 -'Easy Presser' will be an infringement by Doctrine of Equivalents over the Patent xxx? State your reasons based on the claims of Patent xxx.**

   30 marks

3. **What is the alternate solution you will give your client to conduct their business without infringing the Canadian Patent xxx?**

   30 marks