

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

APPLICANT: BHRS Group, LLC

MARK: Design – Configuration of Paddle and Spout for Water Cooler

SERIAL NO.: TBD

FILING DATE: September 3, 2020

Declaration of Jonathan Rubin Pursuant to Section 2(f)

I, Jonathan Rubin, hereby declare and state as follows:

1. I am the chairman and chief executive officer of Applicant BHRS Group, LLC (“BHRS Group”). I have held this position for 12 years.

2. I submit this declaration in support of Applicant’s Section 2(f) claim of acquired distinctiveness of the trade dress design that is the subject of the of the instant application (the “Mark”) in connection with water coolers.

Applicant’s Lengthy and Exclusive Use of the Mark

3. Applicant has engaged in substantially exclusive and continuous use of the Mark in commerce that the U.S. Congress may lawfully regulate since at least as early as July 21, 2015.

4. Since that time, the Mark has been used, advertised, and promoted by Applicant in connection with water coolers, including at its website at avalongh2o.com.

5. Applicant’s water coolers bearing the Mark that have been sold advertised, and promoted by Applicant have become increasingly popular throughout the United States.

Applicant's Extensive Advertising and Promotion of the Mark

6. Applicant has extensively used, advertised, and promoted the Mark in connection with its business and goods to ensure that consumers recognize the Mark as identifying of source.

7. Applicant has spent over \$3 million in advertising and marketing over the last five years, with advertising expenditures steadily growing each year: 2015, \$500,000; 2016, \$700,000; 2017, \$1 million; 2018, \$1.1 million; 2019, \$1.2 million; 2020, projected \$1.5 million.

8. Applicant advertises online and at trade shows.

9. Applicant's goods bearing the Mark are available extensively online and at retail stores, including Amazon, Home Depot, Lowe's, Walmart, Target, Bestbuy, Wayfair, HD Supply, Costco, Sam's Club, Office Depot, and Quill.

Commercial Success of Applicant's Mark

10. As a result of Applicant's substantial advertising efforts, consumers have come to recognize the Mark as identifying of source to great commercial success for Applicant.

11. Applicant has made over \$26 million in sales of goods bearing the Mark over the last five years, with sales steadily growing each year: 2015, \$1.5 million; 2016, \$3 million; 2017 million, \$4 million; 2018, \$7 million; 2019, \$8 million; 2020, projected \$10 million.

12. Through Amazon alone, \$1.6 million in advertising yielded \$10 million in sales of over the last 5 years.

Extensive Unsolicited Media Coverage Referencing Applicant's Mark

13. Applicant has received extensive unsolicited and unpaid for editorial commentary and media coverage with respect to the products bearing the Mark.

14. Bustle named Applicant's Avalon Top-Loading Countertop Water Cooler Dispenser, which bears the Mark, as the "The Best Countertop Dispenser." Bustle praised it, saying "the large hot and cold paddles on the front are easy to press." *See* Ex. A (Bustle, "4 Water Cooler Dispensers That Deliver Clean, Filtered Water — & They're All On Amazon," Feb. 2, 2020, available at <https://www.bustle.com/p/the-4-best-water-cooler-dispensers-19639390>).

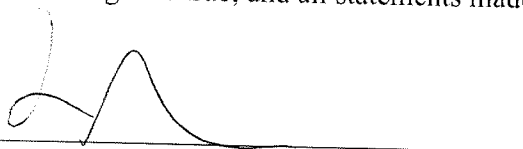
15. A review on Amazon praised Applicant's Avalon A1 Watercooler bearing the Mark as "a silent workhorse. You know that a product is good when it fades into the background of your environment and just works. This cooler silently works away to give you piping hot water on demand as well as some of the coldest water I've had." *See* Ex. B (Amazon, "Avalon A1 WATERCOOLER A1 Top Loading Cooler Dispenser," available at https://www.amazon.com/Avalon-A1WATERCOOLER-Dispenser-Innovative-Bottles-UL/dp/B0125S2K0M/ref=sr_1_7?crd=LK24TD3IWB4K&dchild=1&keywords=avalon+water+dispenser&qid=1597099754&sprefix=avalon+wa%2Caps%2C143&sr=8-7#customerReviews).

16. All of the foregoing demonstrates that the Mark has become distinctive of water coolers through Applicant's substantially exclusive and continuous use in commerce since at least as early as July 21, 2015.

17. In view of the foregoing, Applicant believes that the Mark has come to be recognized and relied upon by the public as indicating water coolers originating exclusively with Applicant and that the Mark is entitled to registration on the Principal Register.

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such

willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth above are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.



Jonathan Rubin, Chairman and CEO
BHRS Group, LLC

9/3/2020

Date

Exhibit A

Life

4 Water Cooler Dispensers That Deliver Clean, Filtered Water – & They're All On Amazon



By Vanessa Spilios
Feb. 2, 2020

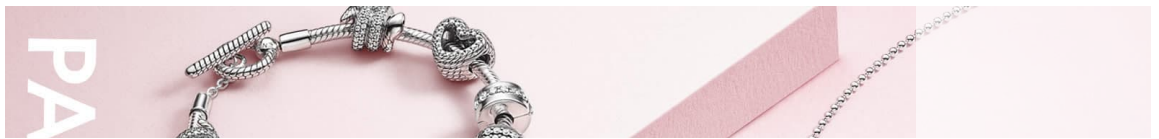


Whether you've committed to using a refillable water bottle instead of single-use plastic, or are looking for a safer source of water than your tap, the best water cooler dispensers give you access to clean, filtered water on demand. But when it comes to finding the best dispenser, there are a few things to keep in mind.

First decide if you want a top-loading or bottom-loading water dispenser. For background, typical water jugs hold 3 or 5 gallons, the latter of which weighs about 40 pounds. Bottom-loading dispensers offer an easy way to load your water jug because they don't need to be lifted and inverted. Instead, the opening faces up and water is pulled from the jug using a probe and tube. And, because the jug is stored in a cabinet, bottom-loading dispensers are discrete and tend to

blend in with furnishings. However, if a 5-gallon jug is no match for you, or if you have someone helping you, a top-loading dispenser lets you easily view how much water you have left in your jug, and they tend to be a bit more affordable than bottom-loading dispensers.

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For the most versatility, look for a dispenser that offers cold, room temperature, and hot water for beverages and items like soup and hot cereal. You'll also find machines that dispense water with a paddle, lever, and button, so decide which operation you prefer.

Fresh, filtered water at home doesn't need to be a luxury. Keep scrolling to see the best water cooler dispensers below.

1

The Overall Best Water Cooler Dispenser: hOmeLabs Bottom-Loading Water Dispenser



hOmeLabs Bottom-Loading Water Dispenser

Amazon

\$156.99

[See on Amazon](#)



This bottom-loading water cooler dispenser from hOmeLabs offers a back-friendly design and simple operation for cold, room temperature, or hot water. Compatible with either a 3- or 5-gallon jug, water is hidden behind a sleek, stainless steel door, and is pumped via a probe that fastens to the mouth of the jug. The overall design is subtle, with an unfussy control panel and dispensing buttons situated at the top, versus the front of the unit. Bonus features like an LED night light and child safety lock (to prevent small hands from dispensing hot water), make it the overall best water cooler dispenser.

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2

The Best
Top-Loading
Dispenser:
AQUAWELL
Hot & Cold
Water
Dispenser



AQUAWELL Water Dispenser Hot & Cold Water Dispenser

Amazon

\$139.99

[See on Amazon](#)



If you're set on getting on a top-loading water dispenser, this one from Aquawell is a great choice. It can instantly dispense cold or hot water. It has a built-in cabinet for keeping cups, tea bags, oatmeal, and other related items out of sight but within reach. And, as is the case with most water dispensers, this model is compatible you use a 3- or 5-gallon jug. And as far as safety features go, rest assured this water dispenser also comes with a safety lock that will prevent any young children from accidentally dispensing hot water.

3

**The Best
Countertop
Dispenser:
Avalon Top-
Loading
Countertop
Water Cooler
Dispenser**



Avalon Top Loading Countertop Water Cooler Dispenser

Amazon

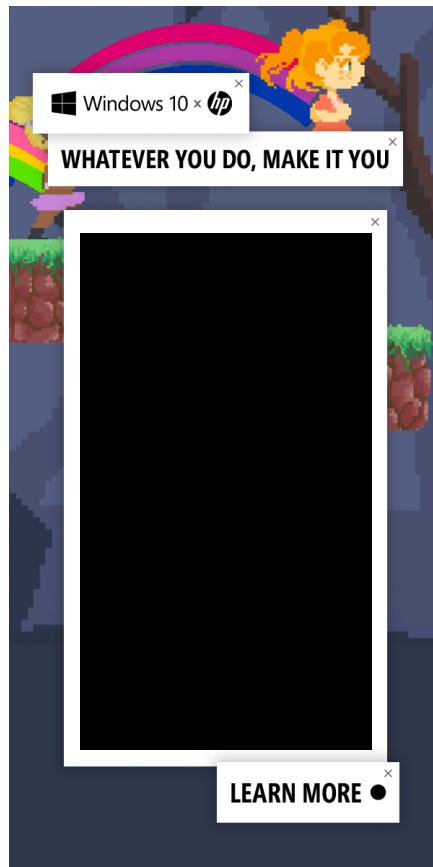
\$149.50

[See on Amazon](#)

If you have an abundance of counter space or just have limited floor space, this countertop water cooler dispenser from Avalon delivers clean, filtered water at a convenient height. Though the base is compact, it's sturdy enough to hold a 3- or 5-gallon jug. And unlike full-sized water dispensers, the Avalon can go wherever

you go, whether that's an office, garage, or playroom. Handles on the sides of the base make it a breeze to transport, and the large hot and cold paddles on the front are easy to press. Like others on this list, this water cooler dispenser also has a safety lock for peace of mind. One note, this unit does not dispense room temperature water, so you should consider one of the other models featured here if that is a must-have feature for you.

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4

The Most Hygienic



Brio Self Cleaning Bottom Loading Water Cooler Water

Hygiene:
Brio Self-
Cleaning
Bottom-
Loading
Water Cooler
Water
Dispenser



Dispenser

MENU

Amazon

\$299.99

See on Amazon

Combining the ergonomics of a bottom-loading design, three individual dispenser spouts, as well as self-cleaning capabilities, this dispenser from Brio is a worthy investment. The self-cleaning ozone feature works by sanitizing the dispenser and eliminating bacteria that can sometimes be found in water dispenser tanks and pipes. The splash guard in the dispensing area is also antibacterial, a welcome feature if your dispenser is in a high-traffic area or used by multiple people. Like others on this list, this dispenser has a generous 3- to 5-gallon capacity. The Brio comes with a child safety lock for peace of mind, a night light, and the ability to turn the hot and cold functions off to save energy when not in use.

5

Also, Great:
Myvision
Water Bottle
Pump



Myvision Water Bottle Pump

Amazon

\$11.88

See On Amazon

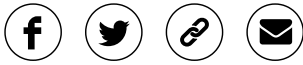
If you'd rather save your money and save the space, this [water bottle pump](#) can take the place of your water dispenser. While this won't allow you to dispense hot or cold water, it does attach to your water jug and dispenses water directly into your glass or pitcher at the push of a button. Even better, it's compatible with most water jug sizes, is BPA-free, and will only set you back \$12. This may not be the right pick for someone looking for all the features of a classic water dispenser, but it's certainly a handy attachment for anyone who regularly uses water jugs. More than 1,000 Amazon reviewers agree.

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Life

The 8 Best Shower Heads For Low Water Pressure

We only recommend products we love and that we think you will, too. We may receive a portion of sales from products purchased from this article, which was written by our Commerce team.



Low water pressure is the absolute worst — especially when you're taking a shower and the stream of water above your head is so weak that it takes 20 minutes to rinse out shampoo and conditioner. The best shower heads for low water pressure often boast pressure-increasing massage heads or technology designed to help draw water away from any pipe source (even those with low pressure) to bring them up to speed and standard.

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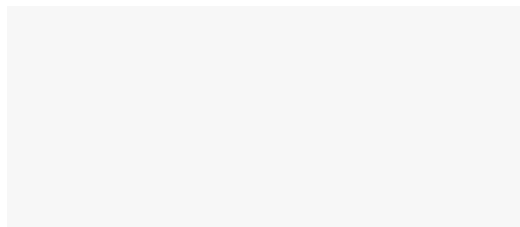
Whether your shower head is clogged with hard water minerals like calcium deposits or your water comes from a well, there are plenty of shower heads that can amplify your low-pressure water. Since all of the shower heads below will get the job done, consider your budget and needs when shopping. You'll find shower heads with a variety of spray settings, self-cleaning nozzles, or rainfall-style designs, below. But, if you're not looking to spend a lot, there's a great option on this list for just \$8.

If you have less flexibility in your installation, look for a shower head that can be attached to your existing shower head arm. Consider, also, if you want a handheld shower head. These will give you a greater range of motion when you shower.

Whether your plumbing is delivering low pressure or you suspect your current shower head keeps getting clogged, these eight shower heads take care of the problem. The cherry on top: You won't find a single one here that costs more than \$40. Keep scrolling, these are the best shower heads for low water pressure.

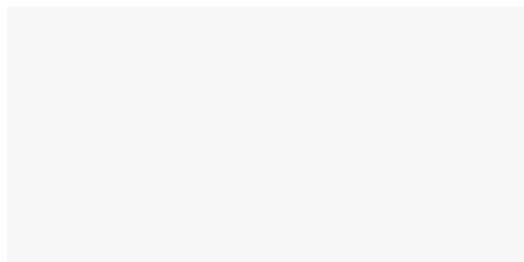
1. The Original Fire Hydrant Spa Plaza Massager Shower Head

ADVERTISEMENT



The Original Fire Hydrant Spa Plaza Massager Shower Head

Amazon



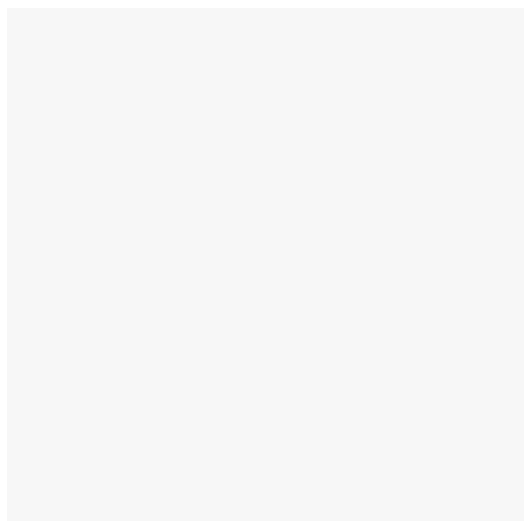
\$39.99

See On Amazon MENU

This high-pressure shower head features a pressure-increasing massage head and delivers water at a higher velocity to make up for low water pressure situations. It's made from quality chrome and can be adjusted to suit different spray angles. It boasts outstanding Amazon reviews, many of which address how it saved them from the fate of a weak, low-pressure shower.

According to one reviewer: "I'm in a townhome where the water pressure is not great with the original shower head. I couldn't really wash my hair in the shower due to the low pressure. I decided to give this product a try after reading the comments. [Oh my gosh] what an amazing difference. It was so easy to put on."

2. HO2ME High Pressure Handheld Shower Head



HO2ME High Pressure Handheld Shower Head

Amazon

\$20.43

See On Amazon

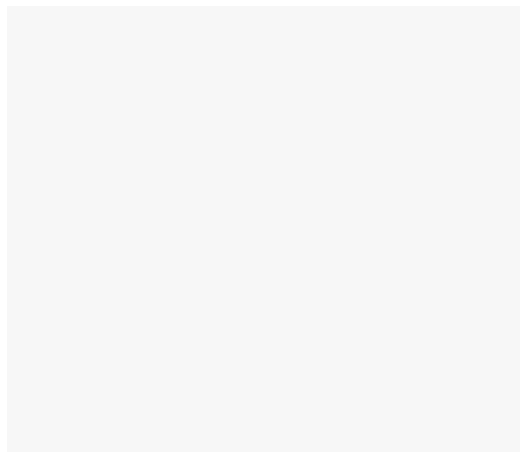
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If your water pressure is low, you probably can't remember the last time a good hot shower relieved muscle aches and pains. This handheld shower head brings back that sweet feeling of relaxation with upgraded 2XP turbo charging that delivers super strong spray action. It has a multifunction option that allows you to choose between various spray strengths and comes with a luxury hose, bracket, and teflon tape. This shower head even has over 7,000 Amazon reviews

saying it's worth every penny.

According to one reviewer: "This shower head is simple, reliable, and great water pressure just like advertised. Much more affordable than the first two I bought as well! I highly recommend this product [if] you have a shower head that has low pressure."

3. WASSA High-Pressure Shower Head



WASSA High Pressure Shower Head

Amazon

\$19.97

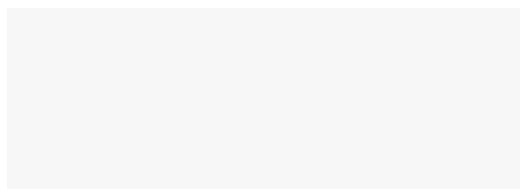
See On Amazon

This shower head is compact and provides an excellent, strong spray no matter your water pressure. But it's also great for anyone who doesn't want to spend hours installing it — it connects to a standard shower arm without tools. Its self-cleaning silicone nozzles prevent clogs and hard water buildup and it has a removable water restrictor.

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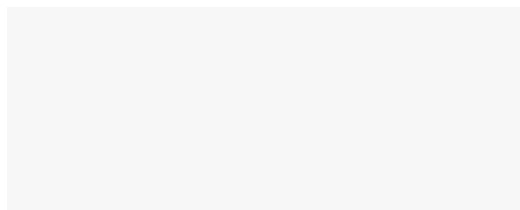
According to one reviewer: "As far as I am concerned, the reviews that I read were right on. This is the best shower head on the market for homes with low water pressure. I have mine paired up with the hand held unit from a previous purchase and the combination is working perfectly for me."

4. Delta Faucet 2-Spray H2Okinetic Shower Head



Delta Faucet 2-Spray H2Okinetic Shower Head

Amazon



\$23.20

See On Amazon

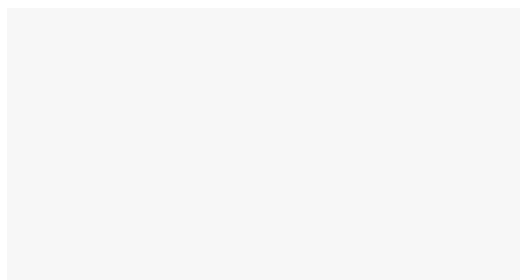
MENU

Install this amplifying adjustable shower head in just minutes and begin to experience the intense, relaxing sensations of its H2O kinetic setting. It can actually make you feel like you're showering with more water, but it won't waste any in the process. Choose between a more powerful version of the setting or a gentle one.

ADVERTISEMENT

According to one reviewer: "I have well water with lowpressure. I tried other shower heads to no avail. This is by far the best. I don't need 15 settings, just pressure. If you're like me I recommend this shower head"

5. Wantba High Pressure Rainfall Massage Shower Head



Wantba High Pressure Rainfall Massage Shower Head

Amazon

\$26.83

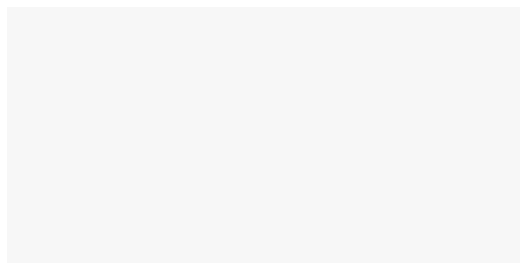
See On Amazon

It's the ultimate shower luxury: a rainfall massage shower head with a stream so wide and powerful that it covers your entire body and makes rinsing your hair a breeze instead of a chore. It boasts 57 jets and is fully adjustable to suit any angle. To avoid hard water buildup, it can be disassembled in a flash for a quick cleaning.

According to one reviewer: "If you have low water pressure in your home then you need this shower head!!! The water pressure in my condo is pretty decent so I had to get device that controls the flow otherwise the pressure was too hard (no joke!). Now it's great because guests can change the water pressure if need be. I also gave this shower head to my parents as a gift and they love it!"

ADVERTISEMENT

6. Aqua Elegante High Pressure Shower Head



Aqua Elegante High Pressure Shower Head

Amazon

\$19.95

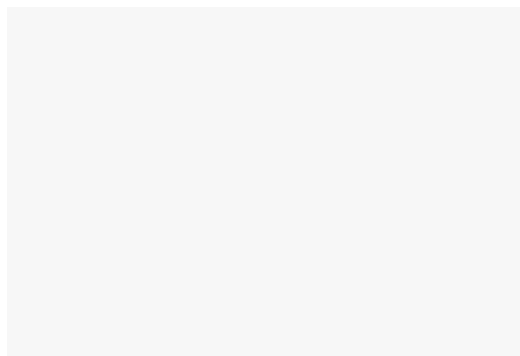
[See On Amazon](#)

Solve both your low pressure and hard water problem with this one twist-on shower head, which features 42 nozzles that blast out water at an impressive force. This one has a removable flow limiter, self-cleaning nozzles to keep hard water and calcium deposits from building up, and it comes with a five-year warranty.

According to one reviewer: "We have very low water pressure in our old house, so much that a normal shower head causes the water to fall limply to the stall floor after 3 to 4 inches out from base. Just like taking a shower from a drizzly well pump. This 1.8 gpm shower head changed all that. We now get pressure all the way to the back of the stall and to have a nice feeling shower instead of a wet frustrating experience. Such a luxury!"

7. Niagara Earth Massage Shower Head

ADVERTISEMENT



Niagara Earth Massage Shower Head

Amazon

\$8

[See On Amazon](#)

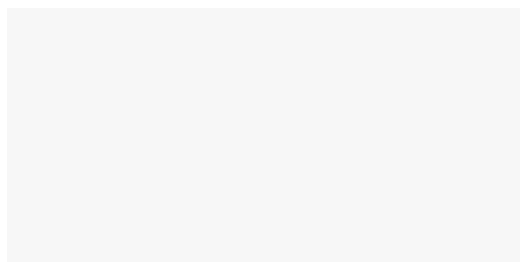
It won't be easy to find a shower head this affordable that delivers a nine-jet turbo massage with a consistent flow rate — even if you have low water pressure. This is a self-cleaning shower head

that's resistant to corrosion and actually uses up to 75 percent less water. Not only are you saving money on the actual tool, but you might get a nice surprise the next time you open up your water bill, too.

According to one reviewer: "I am on a well so my water pressure is low. I had purchased another shower head, but the water flow was terrible. I purchased this shower head since it was advertised to work regardless of water pressure. It works beautifully!"

ADVERTISEMENT

8. AquaDance Antimicrobial Shower Head



AquaDance Antimicrobial Shower Head

Amazon

\$19.98[See On Amazon](#)

One of the reasons some shower heads fail to deliver a powerful spray is because they can get easily clogged, especially if you have hard water. This antimicrobial version inhibits the growth of mildew, and bacteria and has a flexible rubber design that can be easily cleaned so calcium and mineral deposits don't accumulate. The 6-inch face covers a larger area for more effective rinsing and you can choose between six spray settings.

According to one reviewer: "This is the best shower head I have ever used. I have low water pressure and this shower head comes through with the most pressure I have ever had anywhere!! It is larger around than any other I have had. Maybe that is the reason, but it looks good and feels GREAT!!"

This post was originally published on December 22nd, 2017. It was updated and republished on June 18th, 2019. Additional reporting by Amy Biggart.

Exhibit B

Customer Review

Shane Knies

★★★★★ **Quietly doing it's job**

Reviewed in the United States on April 26, 2017

Verified Purchase

This thing is a silent workhorse. You know that a product is good when it fades into the background of your environment and just works. This cooler silently works away to give you piping hot water on demand as well as some of the coldest water I've had. The minimal footprint makes it a great addition to a small space while still giving you all the convenience of a larger machine. The safety switch on the hot water prevents little hands from getting scalded if used in a home or daycare. While the unit provides an anchor bracket on the back to fasten it to the floor, I found that the unit is solid enough to place on low pile carpet and still be quite sturdy. If you are looking for the most bang for your buck, this is the unit for you. And no...I was not paid or given a discount for this review. I just like giving a product the accolades it deserves if it earns it.



116 people found this helpful

| | |

Product Details



Avalon A1 WATERCOOLER A1 Top Lo...
by Avalon

★★★★★ 4.4 out of 5

1,252 global ratings



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