

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ONE WORLD TECHNOLOGIES, INC., D/B/A/ TECHTRONIC
INDUSTRIES POWER EQUIPMENT,
Petitioner,

v.

CHERVON (HK) LIMITED,
Patent Owner.

IPR2020-00886
Patent 9,826,686 B2

Before BARRY L. GROSSMAN, JAMES J. MAYBERRY, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

GROSSMAN, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining No Challenged Claims Unpatentable
35 U.S.C. § 318(a)

ORDER
Granting Petitioner's Motion to Add Real Parties-in-Interest
37 C.F.R. § 42.8

ORDER
Dismissing Patent Owner's Motion to Strike
37 C.F.R. § 42.23(b)

ORDER
Granting Petitioner's Motion to Seal
37 C.F.R. § 42.14

I. INTRODUCTION

A. Background and Summary

One World Technologies, Inc., doing business as Techtronic Industries Power Equipment (“Petitioner”), filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 1–20 (the “Challenged Claims”) of U.S. Patent No. 9,826,686 B2 (Ex. 1001, “the ’686 patent”). Pet 1. Chervon (HK) Ltd. (“Patent Owner”), filed a Preliminary Response to the Petition. Paper 11.

We concluded that Petitioner satisfied the burden, under 35 U.S.C. § 314(a), to show that there was a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. Accordingly, on behalf of the Director (37 C.F.R. § 42.4(a)), we instituted an *inter partes* review of all the challenged claims, on all the asserted grounds. Paper 21 (“Dec. Inst.”).

After institution, Patent Owner filed a Response. Paper 26 (“PO Resp.”). Petitioner filed a Reply. Paper 40 (“Reply”). Patent Owner filed a Sur-reply. Paper 45 (“Sur-reply”).

Petitioner submitted 24 exhibits (Exs. 1001–1042) (some exhibit numbers omitted, *e.g.*, numbers 1021–1029 were not used). Petitioner relies, in part, on the Declaration testimony of E. Smith Reed (Ex. 1003).

Patent Owner submitted 31 exhibits (Exs. 2001–2035) (some exhibit numbers omitted). Patent Owner relies, in part, on the Declaration testimony of Fred P. Smith (Ex. 2027).

There are three outstanding motions before us. One pending motion is Petitioner's Motion to Update Mandatory Notice to Add Real Parties-in-Interest. Paper 13 ("RPI Mot."). Petitioner seeks to add Techtronic Industries Co. Ltd., Techtronic Industries North America, Inc., and Homelite Consumer Products, Inc. as real parties-in-interest without changing the filing date of the Petition. RPI Mot. 1. Patent Owner opposes the Motion. Paper 16 ("RPI Opp."). Petitioner filed a Reply to the Opposition (Paper 18, "RPI Reply"). We reserved judgment on the RPI Motion until the parties developed a complete record at trial. Paper 21, 33 (citing *SharkNinja Operating LLC v. iRobot Corp.*, IPR2020-00734, Paper 11 at 18 (PTAB Oct. 6, 2020) (precedential)). As we explain below, we *grant* Petitioner's Motion to add real parties-in-interest.

The second pending motion is Patent Owner's Motion to Strike alleged improper arguments from Petitioner's Reply. Paper 44 ("Mot. Strike"). Petitioner opposes this Motion. Paper 48. As we explain below, we *dismiss* Patent Owner's Motion to Strike.

The third pending motion is a Motion to Seal, supported by both parties. Papers 27 (PO Mot. Seal), 29 (Pet. Mot. Seal). We *grant* this Motion.

A joint hearing was held August 5, 2021, for this proceeding and for three related proceedings, IPR2020-00884; 00887; and 00888. Paper 54 ("Tr.").

We have jurisdiction under 35 U.S.C. § 6. We enter this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

Petitioner has the burden of proving unpatentability of a claim by a preponderance of the evidence. 35 U.S.C. § 316(e).

Based on the arguments and evidence before us, we determine that Petitioner has *not* established by a preponderance of the evidence that the challenged claims are not patentable.

B. Real Parties-in-Interest

Petitioner identifies itself, Techtronic Industries Co. Ltd., Techtronic Industries North America, Inc., and Homelite Consumer Products, Inc. as the real parties-in-interest. Pet. 1; RPI Mot.¹

Patent Owner identifies itself and Chervon North America Inc., an exclusive licensee of the '686 patent, as real parties-in-interest. Paper 5, 1.

C. Related Matters

The parties identify *Chervon (HK) Limited v. One World Technologies, Inc.*, No. 1:19-cv-01293-LPS (D. Del. filed July 11, 2019), as a matter related to the '686 patent. Pet. 1; Paper 5, 1.

The following eight Board proceedings are also related matters:

- (1) *One World Technologies, Inc. v. Chervon (HK) Ltd.*,
IPR2020-00883 (challenging U.S. Patent No. 9,060,463
B2; PTAB denied institution Nov. 6, 2020);
- (2) *One World Technologies, Inc. v. Chervon (HK) Ltd.*,
IPR2020-00884 (PTAB filed May 1, 2020) (challenging
U.S. Patent No. 9,596,806 B2; final decision due
November 5, 2021);

¹ In its RPI Motion, Petitioner seeks authorization to update its mandatory notices to add three companies as real parties-in-interest without changing the filing date of the Petition. RPI Mot., 1 (seeking “to identify Techtronic Industries Co. Ltd., Techtronic Industries North America, Inc., and Homelite Consumer Products, Inc., as real parties-in-interest). For reasons explained in Section II.F of this Decision, we grant Petitioner’s RPI Motion. Thus, we include here Petitioner’s updated identification of the real parties-in-interest.

- (3) *One World Technologies, Inc. v. Chervon (HK) Ltd.*,
IPR2020-00885 (challenging U.S. Patent No. 9,648,805
B2; PTAB denied institution Nov. 6, 2020);
- (4) *One World Technologies, Inc. v. Chervon (HK) Ltd.*,
IPR2020-00887 (challenging U.S. Patent No. 9,986,686
B2; final decision due November 5, 2021);
- (5) *One World Technologies, Inc. v. Chervon (HK) Ltd.*,
IPR2020-00888 (challenging U.S. Patent No. 10,070,588
B2; final decision due November 5, 2021);
- (6) *One World Technologies, Inc. v. Chervon (HK) Ltd.*,
PGR2020-00059 (challenging U.S. Patent
No. 10,477,772 B2; PTAB denied institution Dec. 7,
2020);
- (7) *One World Technologies, Inc. v. Chervon (HK) Ltd.*,
PGR2020-00060 (challenging U.S. Patent
No. 10,485,176 B2; PTAB denied institution
Dec. 7, 2020); and
- (8) *One World Technologies, Inc. v. Chervon (HK) Ltd.*,
PGR2020-00061 (challenging U.S. Patent
No. 10,524,420 B2; PTAB denied institution
Dec. 7, 2020).

Pet. 1; Paper 5, 1.

The case before us, the '886 IPR, is most closely related to the '884, '887, and '888 IPRs in the context of claim scope, asserted references, and issues to be decided. As noted above, a joint hearing was held for these four cases. *See* Tr. 1.

D. The '686 Patent

We make the following findings concerning the '686 patent.

The '686 patent, titled “Gardening Tool,” relates to a gardening tool, such as an electric power lawnmower. Ex. 1001, 1:51–53 (“Particularly, the gardening tool is a mower, wherein the motor is an electric motor and the functional accessory is a mowing blade.”).

The disclosed and claimed invention involves some combination of control devices. One control device, which is usually referred to as the first control device, is controlled by the user when using the gardening tool or mower. Ex. 1001, 5:58–59. This first control may be, for example, a trigger or a “dead man’s switch,”² or other forms of switches. *Id.* at 6:1–16.

Another control device, referred to as the second control device, controls operation of the motor based on rotation of the handle. *Id.* at 6:38–41. The final control device, usually called the third control device, controls operation of the motor based on the length of the handle which varies with the telescoping position of the tubes making up the handle. *Id.* at 7:19–23.

The disclosed mower includes an adjustable handle that allows a comfortable “operation posture” and also allows folding or collapsing the handle to facilitate storage by “reducing [the] space occupied” when the mower is not being used. Ex. 1001, 2:38–42. The adjustable handle also includes safety features that ensure the motor will not operate unless the

² A dead man’s switch is a safety feature integrated into many machines that works to turn the machine off if the operator experiences a problem. *See, e.g.,* <http://www.hydrauliccranetruck.com/dead-mans-switch/> (accessed on Oct. 24, 2021). “In a classic version, the switch is located on a lever or bar that the operator must maintain constant contact with. On a lawnmower, for example, users must hold the handle of the lawnmower in position to keep the engine on.” *Id.*

handle is properly secured in an operating position. *Id.* at 5:30–40. The handle includes switches or control units that will not engage unless the handle’s *rotational* position and/or the handle’s *sliding* position are properly secured, thus allowing the related switches, or control devices, to complete the circuit needed to run the mower’s motor. *See, e.g., id.* at 2:60–64 (disclosing trigger B), 5:24–40, 6:38–7:18, Figs. 2, 7–10 (disclosing rotational switch SW1), 7:19–34, Figs. 5, 6 (disclosing sliding switch SW2).

Figure 1 from the ’686 patent is shown below.

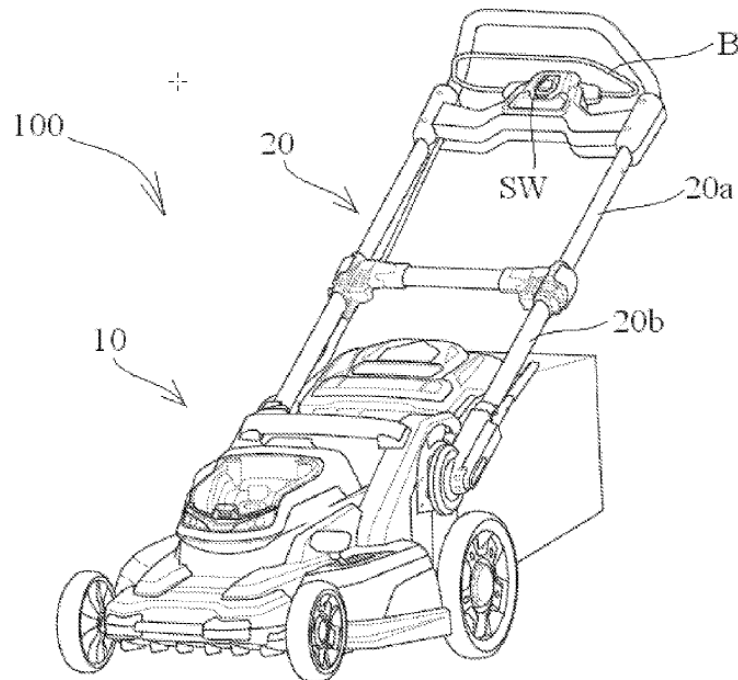


FIG.1

Figure 1 is a schematic view of an exemplary lawn mower according to a preferred embodiment of the disclosed invention. Ex. 1001, 2:3–5. Mower 100 includes main body 10 and handle 20, which is rotatably connected to main body 10. *Id.* at 2:38–40. As shown in Figure 1, handle 20 also includes two telescopic tubes 20a, 20b, wherein telescopic tube 20b forms a sleeve into which telescopic tube 20a is inserted. *Id.* at 2:65–3:2. The end of handle 20 closest to the user includes an “operation assembly,”

which has a trigger B, which allows the user “to start or stop the motor.” *Id.* at 2:59–64. The “control system” of mower 100 includes a series of switches. Switch SW is a contact switch controlled by trigger B. *Id.* at 6:29–33.

The control system includes two other switches, SW1 and SW2. Switch SW1 prevents the motor from operating if the *rotational* position of the handle is not properly secured. Switch SW1 is a contact switch located on main body 10 near where handle 20 connects to main body 10. Ex. 1001, 6:59–62, Fig. 2. When handle 20 is rotated into a designated operational position, the handle rotates shaft 21, causing trigger member 22 to trigger SW1. *Id.* at 6:65–7:2. When handle 20 rotates out of the designated position, SW1, connected in series to the power supply circuit, locks out operation of trigger B and switch SW from starting the motor. *Id.* at 6:44–48.

SW2 operates to prevent the motor from operating if the *sliding* position of the handle is not properly secured. The control system of mower 100 includes a control device that monitors the telescopic position of handle 20. Ex. 1001, 7:19–23. When handle 20 is telescoped into a designated position, switch SW2, disposed on tube 20*b*, is contacted by trigger member 20*a*' on tube 20*a*, operating SW2. *Id.* at 7:41–51. SW2 is connected to the power supply circuit in series. *Id.* at 7:52–54. When handle 20 is not telescoped in the designated position, such as when it is at least partially collapsed, then SW2 is disengaged, locking operation of trigger B and switch SW. *See id.* at 7:26–29.

“When one of the contact switch SW1 and the contact switch SW2 switches off, no matter whether the contact switch SW is triggered by the trigger B to be in an off or on state, the power supply circuit cannot . . .

provide electrical energy to the motor.” Ex. 1001, 7:54–60. In this way, trigger B and switch SW are locked by SW1 or SW2. *Id.*

Mower 100 also includes a brake system that physically contacts the rotating blade of mower 100 to stop its rotation. Ex. 1001, 7:63–65. The brake is triggered when mower 100’s control system stops the mower’s engine. *Id.* at 7:65–67.

E. Illustrative Claims

Of the Challenged Claims, claims 1 and 11 are independent. Claim 1 is representative, and we reproduce it, below.

1. A gardening tool, comprising:
 - a main body having at least a functional accessory and a motor for driving the functional accessory;
 - a handle rotatably connected to the main body, having at least one operation assembly for being operated by a user to control the motor when the handle is located in a secure position;
 - a locking mechanism for locking the rotating position of the handle;
 - a locking member configured to engage with the locking mechanism and providing at least a locking structure to cause the locking mechanism to keep the handle at an accommodating position relative to the main body when the gardening tool is not being used; and
 - a control system capable of preventing the motor from being controlled by the operation assembly and halting the motor when the handle is out of the secure position, the control system comprising:
 - a first control device configured to be controlled by the operation assembly; and
 - a second control device configured to be controlled according to the rotating position of the handle wherein, when the handle rotates to a designated position relative to the main body, the second control device unlocks the first control device

so that the first control device allows starting of the motor, and, when the handle rotates to the accommodating position relative to the main body, the second control device locks the first control device so that the first control device is not allowed to start the motor; and

wherein the second control device comprises at least one of a switch connected to the power supply circuit and a signal source device for sending a control signal to control the motor.

Ex. 1001, 8:19–52.

Independent claim 11 is identical to independent claim 1 except that claim 11 refers to a “mower” rather than a “gardening tool” in the preamble and in the body of the claim. In the context of the ’686 patent and the patentability issues before us, this is a distinction without a substantive difference. Similarly, claims 2–10, dependent directly or indirectly from claim 1, are substantively identical to claims 12–20, respectively, dependent directly or indirectly from claim 11.

F. Prior Art and Asserted Grounds

Petitioner asserts that the Challenged Claims are unpatentable under 35 U.S.C. § 103³ based on two grounds, summarized in the chart below:

³ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 296–07 (2011), took effect on September 16, 2011. The changes to 35 U.S.C. §§ 102 and 103 in the AIA do not apply to any patent application filed before March 16, 2013. The application for the patent at issue in this proceeding was filed on August 29, 2016, and has a claimed effective filing date of October 10, 2013, based on a continuation U.S. application and foreign applications filed after either of these dates (*see* Ex. 1001, codes (23), (63), (30)). Accordingly, we refer to the AIA version of the statute. Petitioner asserts this same conclusion. Pet. 4. Patent Owner does not comment on Petitioner’s assertion.

Claims Challenged	35 U.S.C. §	References/Basis
1–7, 11–17	103	Outils, ⁴ Roelle, ⁵ Matsunaga ⁶
8–10, 18–20	103	Outils, Roelle, Matsunaga, Langdon, ⁷ Nakano ⁸

Petitioner relies on declaration testimony of Mr. E. Smith Reed (Ex. 1003) in support of these grounds. Patent Owner deposed and cross-examined Mr. Reed and submits a transcript of Mr. Reed’s deposition (Ex. 2028).

Patent Owner relies on a Declaration of Fred P. Smith (Ex. 2027). Petitioner deposed and cross-examined Mr. Smith and submits a transcript of Mr. Smith’s deposition (Ex. 1040).

The following subsections provide a brief description of the asserted prior art references.

1. Outils

We make the following findings concerning Outils.

Outils, titled “Lawnmower Comprising a Safety Device for Preventing Access to the Rotating Cutting Blade,” published March 19, 1999. Ex. 1014, codes (54), (43). Outils is primarily directed to a safety device that prevents access to a lawnmower’s rotating blade when removing a receptacle that receives cut grass. *Id.* at 2:3–37. Relevant to this Decision, Outils discloses an embodiment that includes a safety device that stops the

⁴ Outils Wolf Societe Anonyme, FR 2 768 300 A1, published Mar. 19, 1999 (Ex. 1014, “Outils”). Ex. 1014 is a certified English translation of Ex. 1013. *See* Ex. 1013; Ex. 1014, 26 (providing certification).

⁵ Roelle, US 4,753,062, issued June 28, 1988 (Ex. 1011, “Roelle”).

⁶ Matsunaga et al., US 8,098,036 B2, issued Jan. 17, 2012 (Ex. 1006, “Matsunaga”).

⁷ Langdon, US 5,209,051, issued May 11, 1993 (Ex. 1012, “Langdon”).

⁸ Nakano et al., WO 2013/122266 A2, published Aug. 22, 2013 (Ex. 1015, “Nakano”).

motor and/or decouples and brakes the cutting blade if the handlebar of the lawnmower is tilted forward. *Id.* at 8:22–29.

We reproduce Outils’s Figures 1 and 10, below.

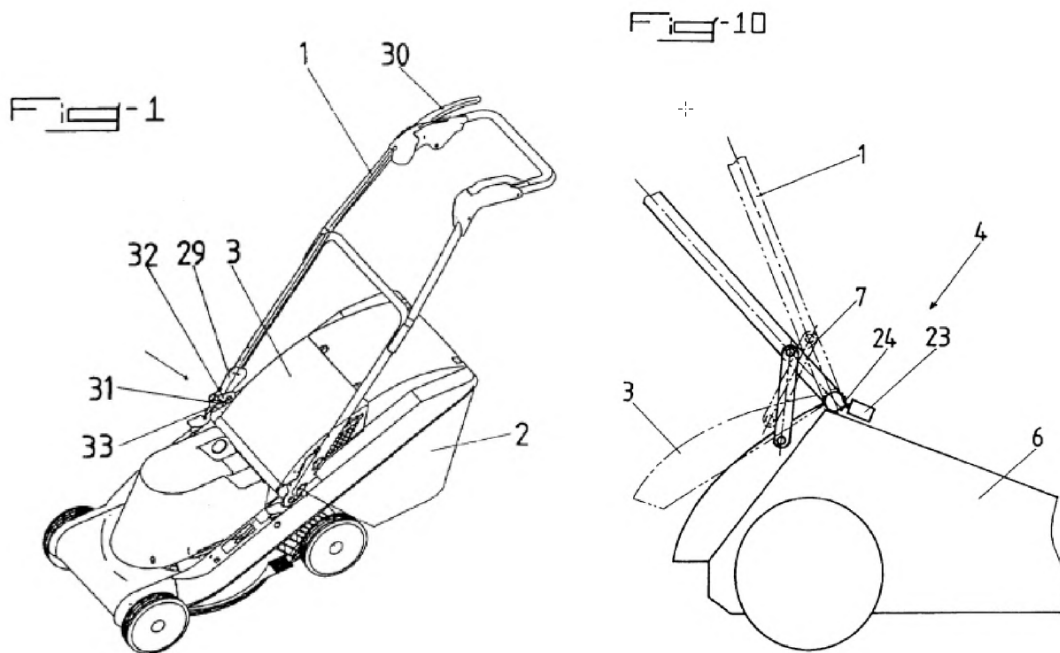


Figure 1 depicts “a perspective view of a mower,” and Figure 10 depicts a “partial schematic view[] showing [an] embodiment[] of the cutting-blade activation means” for a mower. Ex. 1014, 3:5–6, 3:22–23. Outils’s lawnmower includes handlebar 1, cut-grass receiving receptacle 2, and safety cover 3. *Id.* at 3:35–4:3. In the embodiment of Figure 10, link 7 connects handlebar 1 with cover 3. *Id.* at 5:33–36.

Remote control cable 29 acts on a motor brake, a brake coupling, or an electrical supply contactor, and is actuated by hold-to-run control component 30, such as a handle, a lever, a bow, or the like, provided on handlebar 1. Ex. 1014, 4:5–8. In this way, cable 29, in conjunction with other components, controls the mower’s cutting blade. *Id.* at 4:5–12.

Thus, when the control is not actuated, for example when the user is getting ready to empty the cut-grass receiving receptacle 2, cable 29 is

released and the driving of the blade is interrupted, either by cutting the power to the motor or by interrupting the drive of the spindle of the blade by acting on a brake and/or a coupling. *Id.* at 4:14–17.

In the embodiment of Figure 10, actuator 23 is acted upon by cam 24 when handlebar 1 is tilted forward, and operates independent of cover 3. Ex. 1014, 8:25–27. This action stops the motor or brakes or decouples the cutting blade. *Id.* at 8:27–29. Actuator 23 is “similar to actuator 20 and [is] preferably of the all-or-nothing type, that is to say that [it] allow[s] the controlled element to be restarted only after [it has] been interlocked again as a result of [its] control component returning to the in-use position.” *Id.* at 9:10–13; *see also id.* at 7:25–29 (“[A]ctivation actuator 20 can be an electrical supply cut-off switch for an electric motor In the case of mowers equipped with a decouplable blade, the activation actuator 20 can be in the form of a mechanical device that acts on the blade-driving coupling.”).

2. *Roelle*

We make the following findings concerning Roelle.

Roelle, titled “Lawn Mower and Safety Control Therefor,” issued June 28, 1988. Ex. 1011, codes (54), (45). Roelle is directed primarily to a lawn mower having a cuttings bag closed with a pivotal cover and an engine shut off control that ensures that the blade does not continue to rotate when the cuttings bag cover is opened. *Id.* at 1:65–2:1. Relevant to this Decision, Roelle discloses a handle pivotally connected to the mower deck having means for securing alternatively the position of the handle in the rearward, cutting position or in the vertical position, when the handle is moved out of the way to empty the cuttings bag. *Id.* at 2:10–14.

We reproduce Roelle’s Figures 1, 1A, and 2 below.

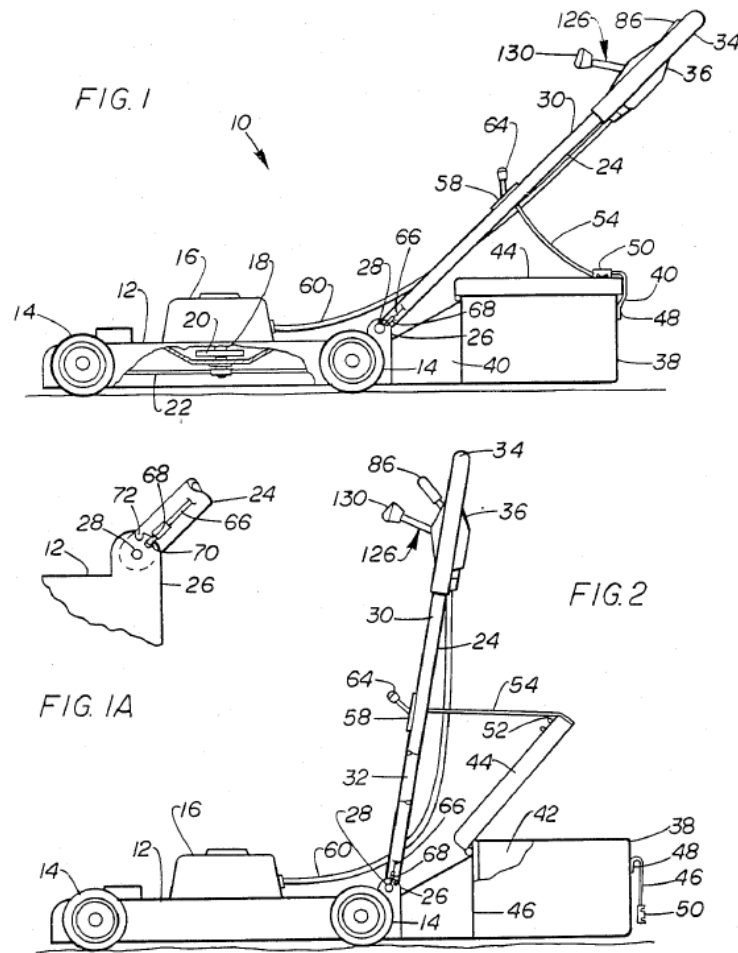


Figure 1 depicts “a side elevation” of a mower with the handle in the rearward, cutting position and the cuttings bag cover closed, and Figure 2 depicts “a side elevation” of the mower with the handle moved to the vertical position and the cuttings bag cover open. Ex. 1011, 3:1–3, 3:5–8. Figure 1A is a partial view of the handle securing mechanism. *Id.* at 3:3–4.

Roelle’s mower 10 includes deck 12 and U-shaped handle 24 having legs 30 and 32 pivotally mounted to lugs 26 extending upwardly at each side of deck 12 by pins 28. Ex. 1011, 3:30–43. Roelle’s mower 10 also includes lever 64, which is pivotally mounted on brace 58 and operates cable 66, which extends to handle latching pin 68. *Id.* at 3:67–4:1. Pin 68 is biased toward lug 26 to engage within one of recesses 70 or 72 in lug 26 to retain

handle 24 in its rearward, cutting position, as shown in Figure 1, or its vertical position, as shown in Figure 2. *Id.* at 4:1–5.

3. *Matsunaga*

We make the following findings concerning Matsunaga.

Matsunaga, titled “Electric Power Tool,” issued January 17, 2012. Ex. 1006, codes (54), (45). Matsunaga is directed to “a rechargeable grass mower,” that includes a contact switch that can interrupt the current path to the mower’s engine in the case of a short circuit fault in a semiconductor switch. *Id.* at 1:38–41, 4:53–55, 6:34.

We reproduce Matsunaga’s Figures 1 and 2, below.

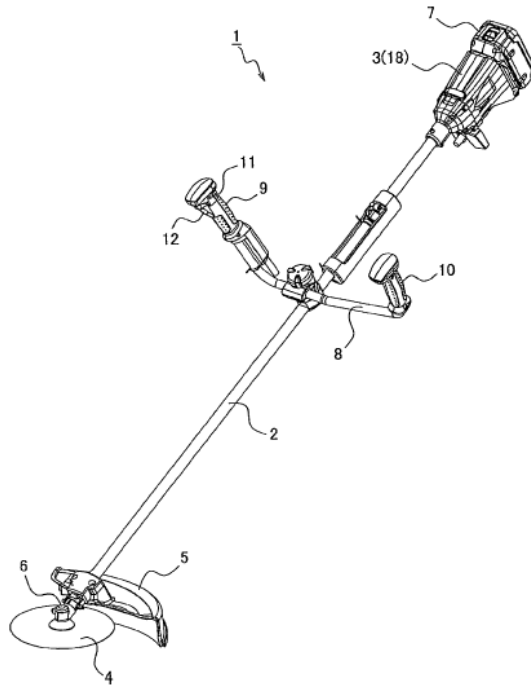


FIG. 2

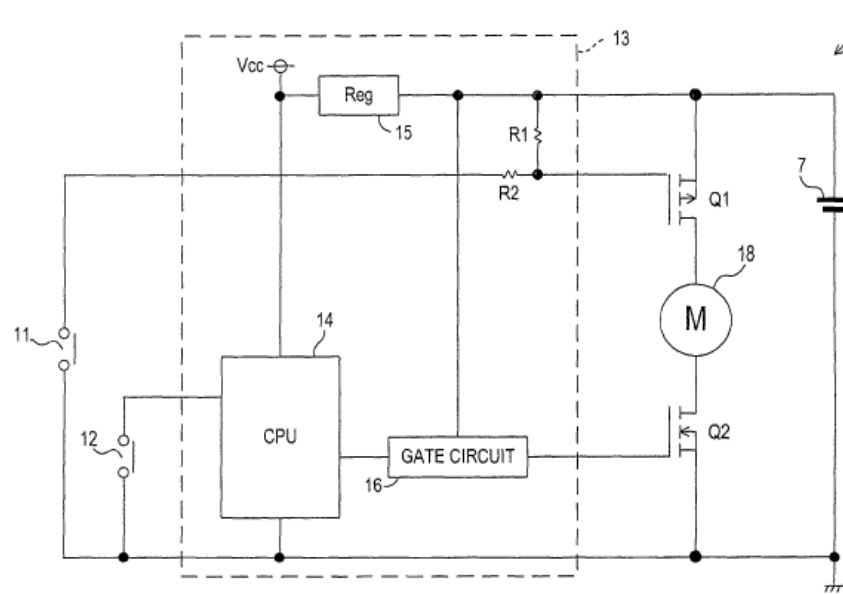


Figure 1 depicts “a perspective view showing an overall appearance of a rechargeable grass mower,” and Figure 2 depicts “an electrical circuit diagram showing a configuration of the rechargeable grass mower” of Figure 1. Ex. 1006, 6:6–10. Motor unit 3 of rechargeable grass mower 1 includes motor 18 and control circuit 13, which controls the application of current to the motor. *Id.* at 6:40–44. Handgrip 9 includes two user controlled switches—contact lock-off switch 11 and trigger switch 12. *Id.* at 6:64–66. “The user can turn ON the respective switches 11, 12, for example, by depressing the lock-off switch 11 with a thumb and drawing the trigger switch 12 with an index finger.” *Id.* at 6:66–7:2.

As seen in Figure 2, switches 11 and 12 control semiconductor switches Q1 and Q2, respectively. Ex. 1006, 9:3–17, Fig. 2. Semiconductor switches Q1 and Q2 are located in the main current path between battery 7 and motor 18. *Id.* at 9:27–29, Fig. 2. Switches 11 and 12 are not in the main current path, allowing the switches to have small contact capacity and the associated wiring to be thin and light. *Id.* at 9:56–64.

attached to the deck 10.” *Id.* at 4:16–18. Means 69, such as a spring biased pin, locks the handles in an extended, operating position. *Id.* at 4:6–8.

5. Nakano

We make the following findings concerning Nakano.

Nakano, titled “Electric Working Machine,” published August 22, 2013. Ex. 1015, codes (54), (43). “An object of [Nakano’s invention] is to realize an electric working machine, [such as an electric bush cutter], which is provided with an electronic brake to quickly stop a motor.” *Id.* at 4.⁹ We reproduce Nakano’s Figures 1 and 2, below.

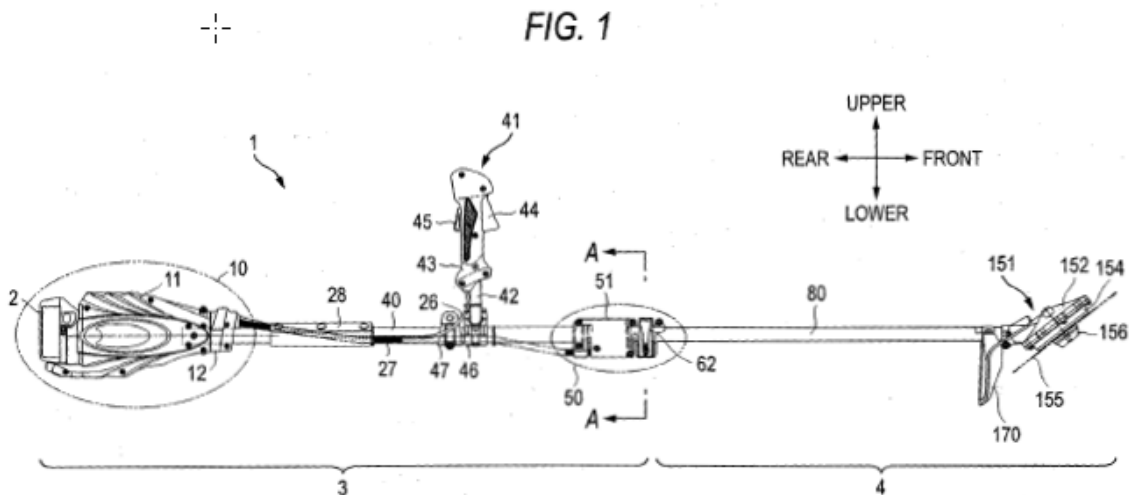


FIG. 2

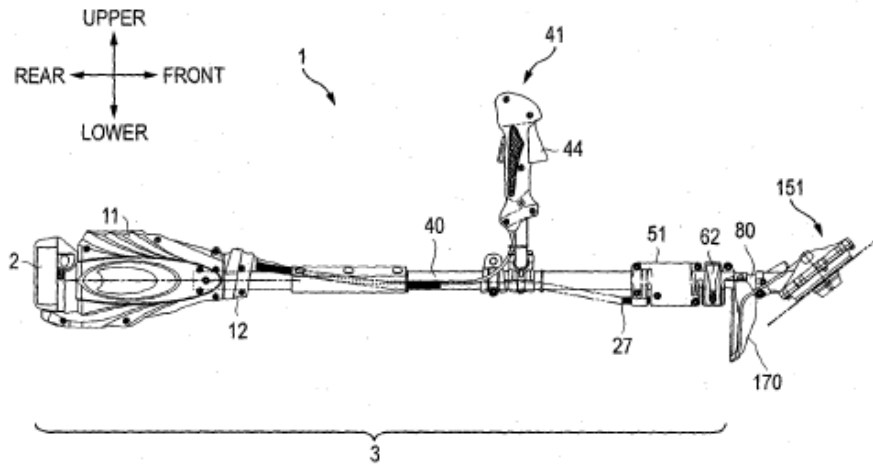


Figure 1 depicts “a side view showing the whole of an electric bush cutter . . . , in which a rod is in an extended state,” and Figure 2 depicts the same cutter, with the rod retracted. Ex. 1015, 6–7. Relevant to this Decision, Nakano discloses that its cutter includes a retractable rod to allow for a more compact size to store and transport the cutter. *Id.* at 13. Cutter 1 includes operation unit 10 with a contracting rod attached. *Id.* at 8. The contracting rod includes fixed pipe 40 and movable pipe 80, which extends into and out of pipe 40. *Id.* The position of pipe 80 is fixed relative to pipe 40 with holder 51, such that pipe 80 can extend to different positions, but is intended to operate when in the fully extended position. *Id.* at 10. Driving unit 151 includes a motor that drives cutting blade 155. *Id.* at 11.

“[H]older 51 is provided with an extending detection unit . . . , and thus the driving unit 151 is configured not to be operated when the movable pipe 80 is not fully extended (e.g., a non-extended state).” Ex. 1015, 10. “The extending detection unit detects positions or states of the movable pipe 80 by any detecting methods, such as electrical, mechanical, or optical method and output the corresponding electric signals to a control unit

(controller).” *Id.* at 19; *see also id.* at Figs. 4, 5 (depicting holder 51 with microswitch 55 used to detect the extension of pipe 80), Fig. 8 (depicting flow chart for controlling the cutter).

II. ANALYSIS

A. Applicable Law

In *inter partes* reviews, a petitioner bears the burden of proving unpatentability of the challenged claims, and the burden of persuasion never shifts to the patent owner. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). To prevail in this proceeding, Petitioner must support its challenge by a preponderance of the evidence. 35 U.S.C. § 316(e); 37 C.F.R. § 42.1(d). Accordingly, all of our findings and conclusions are based on a preponderance of the evidence standard.

Petitioner’s asserted grounds of unpatentability are based on obviousness under 35 U.S.C. § 103.

Section 103(a) forbids issuance of a patent when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”

KSR Int’l Co. v. Teleflex Inc., 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) when available, objective evidence, such as commercial success, long felt but unsolved needs, and failure of others.¹⁰ *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966); *see KSR*, 550 U.S.

¹⁰ The Patent Owner does not direct us to any objective evidence of non-obviousness.

at 407 (“While the sequence of these questions might be reordered in any particular case, the [Graham] factors continue to define the inquiry that controls.”). The Court in *Graham* explained that these factual inquiries promote “uniformity and definiteness,” for “[w]hat is obvious is not a question upon which there is likely to be uniformity of thought in every given factual context.” 383 U.S. at 18.

The Supreme Court made clear that we apply “an expansive and flexible approach” to the question of obviousness. *KSR*, 550 U.S. at 415. Whether a patent claiming the combination of prior art elements would have been obvious is determined by whether the improvement is more than the predictable use of prior art elements according to their established functions. *Id.* at 417. To reach this conclusion, however, it is not enough to show merely that the prior art includes separate references covering each separate limitation in a challenged claim. *Unigene Labs., Inc. v. Apotex, Inc.*, 655 F.3d 1352, 1360 (Fed. Cir. 2011). Rather, obviousness additionally requires that a person of ordinary skill at the time of the invention “would have selected and combined those prior art elements in the normal course of research and development to yield the claimed invention.” *Id.*; *see also Orexo AB v. Actavis Elizabeth LLC*, 903 F.3d 1265, 1273 (Fed. Cir. 2018) (“The question is not whether the various references separately taught components of the ’330 Patent formulation, but whether the prior art suggested the selection and combination achieved by the ’330 inventors.”).

Moreover, in determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Litton Indus. Prods., Inc. v. Solid State Sys. Corp.*, 755 F. 2d 158, 164 (Fed. Cir. 1985) (“It is elementary that the

claimed invention must be considered as a whole in deciding the question of obviousness.” (citation omitted)); *see also Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1537 (Fed. Cir. 1983) (“[T]he question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious. Consideration of differences, like each of the findings set forth in *Graham*, is but an aid in reaching the ultimate determination of whether the claimed invention as a whole would have been obvious.” (citation omitted)).

“A reference must be considered for everything it teaches by way of technology and is not limited to the particular invention it is describing and attempting to protect.” *EWP Corp. v. Reliance Universal Inc.*, 755 F.2d 898, 907 (Fed. Cir. 1985).

As a factfinder, we also must be aware “of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning.” *KSR*, 550 U.S. at 421. This does not deny us, however, “recourse to common sense” or to that which the prior art teaches. *Id.*

“[O]bviousness must be determined in light of *all the facts*, and . . . a given course of action often has simultaneous advantages and disadvantages, and this does not necessarily obviate motivation to combine” teachings from multiple references. *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1165 (Fed. Cir. 2006) (emphasis added); *see also PAR Pharm., Inc. v. TWI Pharms., Inc.*, 773 F.3d 1186, 1196 (Fed. Cir. 2014) (“The presence or absence of a motivation to combine references in an obviousness determination is a pure question of fact.”).

Against this general background, we consider the references, other evidence, and arguments on which the parties rely.

B. Level of Ordinary Skill in the Art

The level of skill in the art is “a prism or lens” through which we view the prior art and the claimed invention. *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001). “This reference point prevents . . . factfinders from using their own insight or, worse yet, hindsight, to gauge obviousness.” *Id.*

Factors pertinent to a determination of the level of ordinary skill in the art include: (1) educational level of the inventor; (2) type of problems encountered in the art; (3) prior art solutions to those problems; (4) rapidity with which innovations are made; (5) sophistication of the technology; and (6) educational level of workers active in the field. *Env’t Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 696–697 (Fed. Cir. 1983) (citing *Orthopedic Equip. Co. v. All Orthopedic Appliances, Inc.*, 707 F.2d 1376, 1381–82 (Fed. Cir. 1983)). Not all such factors may be present in every case, and one or more of these or other factors may predominate in a particular case. *Id.* Moreover, these factors are not exhaustive but are merely a guide to determining the level of ordinary skill in the art. *Daiichi Sankyo Co. Ltd, Inc. v. Apotex, Inc.*, 501 F.3d 1254, 1256 (Fed. Cir. 2007).

In determining a level of ordinary skill, we also may look to the prior art, which may reflect an appropriate skill level. *Okajima*, 261 F.3d at 1355.

Additionally, the Supreme Court informs us that “[a] person of ordinary skill is also a person of ordinary creativity, not an automaton.” *KSR*, 550 U.S. at 421.

Petitioner contends that a person having ordinary skill in the art of the ’686 patent “would have had at least a bachelor’s degree in mechanical engineering, electrical engineering, or similar technical field, with at least three years of relevant product design experience [and] [a]n increase in

experience could compensate for less education.” Pet. 12 (citing Ex. 1003 ¶ 44). Mr. Reed’s opinion testimony merely repeats Petitioner’s conclusion without any analysis and without disclosing the underlying facts or data on which his opinion is based. Accordingly, his testimony on this issue is entitled to no probative weight. *See* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”).

In our Decision to Institute, we adopted Petitioner’s proposed level of skill. Dec. Inst. 36.

Patent Owner states that “[f]or purposes of these proceedings only, Patent Owner adopts Petitioner’s proposed level of ordinary skill in the art.” PO Resp. 4.

Neither party provides any evidence of the factors listed above that normally inform our determination of the level of ordinary skill.

For the purposes of this Decision, based on the prior art, we maintain our initial determination of the level of ordinary skill. A person having ordinary skill in the art of the ’686 patent would have had at least a bachelor’s degree in mechanical engineering, electrical engineering, or similar technical field, with at least three years of relevant product design experience. An increase in experience could compensate for less education; an increase in education could compensate for less experience. We determine that this definition is consistent with the prior art of record and the skill reflected in the Specification of the ’686 patent.

C. Claim Construction

In *inter partes* reviews, we interpret a claim “using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. 282(b).” 37 C.F.R. § 42.100(b) (2019). Under this

standard, we construe the claim “in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” *Id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (*en banc*). “[W]e need only construe terms ‘that are in controversy, and only to the extent necessary to resolve the controversy.’” *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

Petitioner contends that “the terms of the [’686 patent] should be given their plain and ordinary meaning as understood by a person of ordinary skill in the art at the time of the alleged invention . . . because the elements of the prior art read squarely on the Challenged Claims’ limitations.” Pet. 12. Petitioner offers express constructions for three claim terms—“power supply circuit” and the related terms “locks” and “unlocks.” *Id.* at 13–18.

In our Decision to Institute, we construed only the terms “locks” and “unlocks.” Dec. Inst. 36–39.

1. “Power Supply Circuit”

Patent Owner believes that no construction is required for the term “power supply circuit” because “the construction of this term is not relevant to the issues raised herein.” PO Resp. 10. Patent Owner also asserts that the “District Court in the parties’ related district court litigation rejected Petitioner’s proposed construction.” *Id.* (citing Ex. 2025, 8). Petitioner disputes Patent Owner’s characterization of the District Court’s claim construction. Reply 5. Moreover, Petitioner asserts that the District Court’s construction of “power supply circuit” “would not impact the Petition’s demonstration of the challenged claims’ unpatentability.” *Id.*

We maintain that the determination in our Decision to Institute that we need not construe this term to resolve the dispute before us.

2. *“Locks” and “Unlocks”*

Regarding the terms “locks” and “unlocks,” Patent Owner states “[f]or the purposes of these proceedings only, Patent Owner does not dispute Petitioner’s proposed constructions of “locks” and “unlocks.” PO Resp. 10. Accordingly, we maintain the constructions from our Decision to Institute. As stated in that Decision, we construe “the term ‘locks’ to encompass electrically disabling the first control device.” Dec. Inst. 39. We construe “the term ‘unlocks’ to encompass electrically enabling the first control device.” *Id.*

3. *“Accommodating Position Relative to the Main Body”*

Patent Owner also asserts a specific construction for the phrase “accommodating position relative to the main body” (the “accommodating position” phrase). PO Resp. 10–13. Patent Owner asserts we “should construe this phrase to mean a ‘horizontal position over the main body.’” *Id.* at 13. According to Patent Owner, “[t]he intrinsic evidence, however, is clear that the claimed ‘accommodating position’ is a horizontal position.” Sur-reply 3 (citing Ex. 2027 ¶¶ 77–78; Ex. 1001, 2:39–42, 3:8–14, 5:9–20, Figs. 3–4).

Petitioner opposes Patent Owner’s proposed construction. Reply 5–6. Petitioner asserts the “accommodating position” phrase “should be given its plain and ordinary meaning as ‘a position relative to the main body for when the gardening tool (mower) is not being used.’” *Id.* at 6.

“[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention.” *Phillips*, 415 F.3d at 1313.

“Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.” *Id.* Although claim terms are interpreted in the context of the entire patent, it is improper to import limitations from the specification into the claims. *Id.* at 1323 (acknowledging “the danger of reading limitations from the specification into the claim”). “[T]he line between construing terms and importing limitations can be discerned with reasonable certainty and predictability if the court’s focus remains on understanding how a person of ordinary skill in the art would understand the claim terms.” *Id.* Usually, the specification “is dispositive; it is the single best guide to the meaning of a disputed term.” *Continental Circuits LLC v. Intel Corp.*, 915 F.3d 788, 796 (Fed. Cir. 2019) (citing *Phillips*, 415 F.3d at 1315).

In construing the claims, we may also look to available “extrinsic evidence concerning relevant scientific principles, the meaning of technical terms, and the state of the art.” *Phillips*, 415 F.3d at 1314 (quoting *Innova/Pure Water, Inc. v. Safari Water Filtration Sys., Inc.*, 381 F.3d 1111, 1116 (Fed. Cir. 2004)).

We determine that the construction of the “accommodating position” phrase clearly is disputed and that a specific construction will be necessary and helpful to the resolution of this proceeding. Accordingly, we construe this phrase below.

a) The Claims

In general, the claim construction inquiry “begins and ends in all cases with the actual words of the claim.” *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1248 (Fed. Cir. 1998). “[T]he resulting claim interpretation must, in the end, accord with the words chosen by the patentee

to stake out the boundary of the claimed property.” *Id.* Thus, usually, claim construction begins with the words of the claims, which is where we begin.

We make the following findings regarding the claims.

The “accommodating position” phrase appears twice in independent claims 1 and 11. We cite only to claim 1, and quote below the use of this phrase in its context:

a locking member configured to engage with the locking mechanism and providing at least a locking structure to cause the locking mechanism to keep the handle at an *accommodating position relative to the main body when the gardening tool is not being used . . .*

(Ex. 1001, 8:28–32 (emphasis added)); and

when the handle rotates to the *accommodating position relative to the main body*, the second control device locks the first device so that the first control device is not allowed to start the motor

(*id.* at 8:45–48 (emphasis added)).

As is clear from the first use of the phrase at issue, quoted above, the “accommodating position” is stated in the claim to be a position of the claimed “handle” “when the gardening tool is *not* being used.” Ex. 1001, 8:31–32. This is consistent with the second use of the phrase at issue, quoted above, which is that when the handle rotates to the “accommodating position,” a position when the gardening tool is *not* being used, the motor is “*not* allowed to start.” *Id.* at 8:45–48 (emphasis added).

The “accommodating position” is an alternative to the “secure position,” also stated in claims 1 and 11. *E.g.*, Ex. 1001, 8:22–25. As stated in the claims, the “secure position” is a position of the handle where the “operation assembly” (trigger B, *id.* at 2:60–64) allows the user to control the motor. *Id.* at 8:22–25. Neither the word “horizontal” nor the phrase

“horizontal position” appears in independent claims 1 and 11 or in any of the dependent claims.

Thus, considering the claim language, the “accommodating position” of the handle is any position when the gardening tool is *not* being used and the motor is *not* allowed to start. Stated another way, the “accommodating position” is a position where the gardening tool is not capable of being used.

b) The Specification

We make the following findings regarding the Abstract, written description disclosure, and figures in the Specification.

The written description states that handle 20 is rotatably connected to main body 10. Ex. 1001, 2:39–40. The user may achieve “accommodation” by rotating handle 20 “to adjust an operation posture or reducing space occupied by the mower 100.” *Id.* at 2:40–42. Handle 20 can be adjusted to different heights to meet the needs of different users. A first height level hole 235a and a second height level hole 235b (*see id.* at Fig. 4) are used to adjust the height of the operation handle upon normal use of the mower to meet the needs of different user groups with different heights. *Id.* at 5:13–16. Here, the word “accommodation” is being used in the sense of adapting or adjusting to users of different heights “upon normal *use* of the mower.” Ex. 1001, 5:15 (emphasis added).

The written description then describes a third hole, 235c (*see id.* at Fig. 4), that is “used as an accommodating level for folding the handle upon accommodating the mower.” *Id.* at 5:17–19. Here, the word “accommodating” suggests a storage position, as explained further below. This storage or accommodating position is fully consistent with the claim language, which states clearly that the claimed “accommodating position” is

a position when the gardening tool or mower is not being used and the motor is prevented from starting.

The written description also describes a “secure position” for the handle, which is a position that allows the user to operate and control the motor, such as by engaging trigger B. *See, e.g.*, Ex. 1001, 1:42–50, 2:60–64. Thus, the written description and the claims are consistent in identifying two distinct positions for handle 20. The first position is a “secure position,” where the user can control the operation of the motor by engaging the trigger or “operation assembly.” Ex. 1001, 1:44–47 (“a handle rotatably connected to the main body and at least having one operation assembly for being operated by a user to control the motor when the handle is in a secure position”). The second position is the “accommodating position,” where, as stated in the claims, the user cannot operate the motor.

As explained in the written description, the advantage of these two distinct positions is safety:

The advantage of this [accommodating position] configuration is that when the handle 20 does not rotate to the designated position [the secure position] (generally a working position of the handle 20, the position of the handle 20 in FIG. 1), it can be ensured that even though the user misoperates the operation assembly, e.g., inadvertently pulls the trigger B, the motor is locked and cannot be started, thereby preventing accidental movement from causing injury to the user’s body.

Ex. 1001, 5:30–37.

Patent Owner asserts that hole 235c shown in Figure 4 “is used to lock the handle at a *horizontal* ‘accommodating level for folding the handle upon accommodating the mower.’” PO Resp. 11 (emphasis added) (citing Ex. 1001, 5:9–20, Fig. 4).

Patent Owner misstates and overstates what is disclosed in the written description. The written description does not use the word “horizontal” or any other word or words suggesting that the claimed “accommodating position” is horizontal over the main body. Neither the word “horizontal” nor the phrase “horizontal position” appears in the Abstract or written description.

Patent Owner also asserts that a “POSITA^[11] would understand that the horizontal ‘accommodating level’ is the claimed ‘accommodating position relative to the main body.’” PO Resp. 11 (citing Ex. 2027 ¶ 77).

Mr. Smith, Patent Owner’s proffered expert witness, testifies that, according to the claims, a “non-use” position is a “horizontal storage position.” Mr. Smith cites no persuasive facts or data to support his opinion testimony. As we found and stated above, the word “horizontal” does not appear in the claims or written description. Mr. Smith also mischaracterizes the Specification by testifying that hole 235c “is used to lock the handle at a *horizontal* ‘accommodating level for folding the handle upon accommodating the mower.’” Ex. 2027 ¶ 77 (emphasis added) (citing Ex. 1001, 5:9–20, Fig. 4). As stated above, the word “horizontal” does not appear in the Specification.

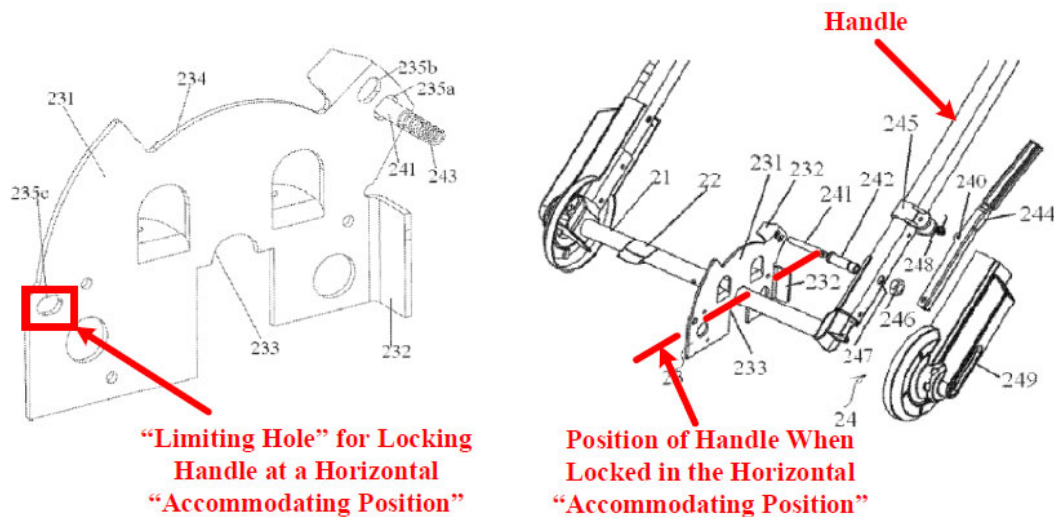
We agree that the claims clearly state that the “accommodating position” is a “non-use” position. Ex. 1001, 8:30–32 (“the locking mechanism to keep the handle at an accommodating position relative to the main body when the gardening tool is not being used”). We disagree that the accommodating position must be horizontal to the mower’s main body.

¹¹ POSITA is an acronym commonly used in patent law jargon to mean a person of ordinary skill in the art.

Mr. Smith opines that “[t]he horizontal ‘accommodating level’ is the claimed ‘accommodating position relative to the main body.’” *Id.* Mr. Smith fails to explain with facts or data why a person of ordinary skill would understand that a non-use position must be horizontal over the main body, as asserted by Patent Owner. Accordingly, we give his opinion testimony on this issue no probative weight. *See* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”).

Patent Owner also asserts that “Petitioner’s expert, Mr. Reed, confirmed during his deposition that Patent Owner’s proposed construction is correct.” PO Resp. 12–13. Patent Owner mischaracterizes this testimony. Mr. Reed testified that, in the context of the ’686 patent, the claimed “accommodating position” is “a position that the consumer or the user would want it to be when it’s not being used.” Ex. 2028, 136:13–17. When specifically asked “whether it is a “horizontal position,” Mr. Reed testified, “[w]ell, in context with all that’s being *displayed* and *disclosed* in this patent, yes, it would be a horizontal position over -- over the mower.” *Id.* at 136:18–22 (emphasis added). His answer was specifically limited to what was “displayed and disclosed.” He was not asked about the scope of the claims or the construction of any specific claim term. There is no persuasive evidence to which we have been directed that shows the claims require a horizontal storage position of the handle. Moreover, there is no persuasive evidence that the position of hole 235c in Figure 4 is required for a non-use position.

Patent Owner provides the following annotated Figures 3 and 4 from the '686 patent to illustrate its argument that the *disclosed* accommodating position is “horizontal”:



Patent Owner’s annotated Figs. 3 (right) and 4 (left) showing the asserted horizontal “accommodating position.” PO Resp. 12.

Patent Owner’s asserted claim construction requires that we assume that the position of hole 235c in Figure 4 creates a horizontal non-use position, and that the claims are limited to this precise position. There is no persuasive evidence to support this assumption. And, there is no persuasive argument or evidence to require that we incorporate into the claimed invention every structural or functional feature shown in the drawings or described in the written description. Indeed, the law is to the contrary.

As the Federal Circuit has held repeatedly, “the fact that embodiments (or even every embodiment) in the specification depict a particular arrangement or structure does not require reading that arrangement or structure into the claims.” *Ethicon LLC v. Intuitive Surgical, Inc.*, No. 2020-1528, 2021 WL 3716397, at *4 (Fed. Cir. Aug. 23, 2021) (citing *Aventis Pharma S.A. v. Hospira, Inc.*, 675 F.3d 1324, 1330 (Fed. Cir. 2012); *see also*

Liebel-Flarsheim Co. v. Medrad, Inc., 358 F.3d 898, 906 (Fed. Cir. 2004) (“[T]his court has expressly rejected the contention that if a patent describes only a single embodiment, the claims of the patent must be construed as being limited to that embodiment.” (collecting cases)).

c) Prosecution History

We have not been directed to any persuasive evidence in the prosecution history of the ’686 patent that relates to the construction of the “accommodating position” phrase.

d) Extrinsic Evidence

We have discussed above the extrinsic evidence of the Declaration testimony of Mr. Smith (Ex. 2027) and the Deposition testimony of Mr. Reed (Ex. 2028). These testimonies do not provide persuasive evidence on the proper construction of the “accommodating position” phrase.

e) Conclusion Regarding the “Accommodating Position” Phrase

Ultimately, the interpretation to be given a term can only be determined and confirmed with a full understanding of what the inventors actually invented and intended to envelop with the claim. The construction that stays true to the claim language and most naturally aligns with the patent’s description of the invention will be, in the end, the correct construction.

Renishaw, 158 F.3d at 1250 (Fed. Cir. 1998) (citations omitted).

Based on the evidence and analysis in Sections II.C.3a–d above, we determine that Patent Owner’s proposed construction of the “accommodating position” phrase, which is a “horizontal position over the main body” (PO Resp. 13) is *not* supported by the evidence. We agree with Petitioner’s proposed construction that the “accommodating position” phrase is a position relative to the main body for when the gardening tool or mower is not being used (Reply, 6), with a minor clarification. As Patent Owner

argues, Petitioner’s proposed construction “is incorrect because it encompasses *any* handle position when the mower is turned off, and thus reads out the claimed “accommodating position.” Sur-reply 3. Our proposed construction modifies Petitioner’s construction to recognize Patent Owner’s argument.

For purposes of this Decision, the phrase “accommodating position relative to the main body” in claims 1 and 11 is given its ordinary and customary meaning as would have been understood by a person of ordinary skill in the art at the time of the invention and in the context of the entire patent disclosure. This meaning is any position of the handle, other than the “secure position,” that prevents the motor from being started by the operation assembly and stops the motor if it is running. This is the construction that stays true to the claim language and most naturally aligns with the patent’s description of the invention.

“‘A patent owner in [an IPR] is undoubtedly entitled to notice of and a fair opportunity to meet the grounds of rejection,’ based on due process and Administrative Procedure Act (APA) guarantees.” *Qualcomm Inc. v. Intel Corp.*, 6 F.4th 1256, 1262 (Fed. Cir. 2021) (quoting *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1080 (Fed. Cir. 2015)). Section 554(b)(3) has been applied to mean that “an agency may not change theories in midstream without giving respondents reasonable notice of the change” and “the opportunity to present argument under the new theory.” *Belden Inc. v. Berk-Tek*, 805 F. 3d at 1080 (quoting *Rodale Press, Inc. v. FTC*, 407 F.2d 1252, 1256–57 (D.C. Cir. 1968)). Our construction of the “accommodating position” phrase is not a situation in which we have changed theories in midstream. We, and the parties, have been consistent throughout this proceeding in stating that the claims are construed based on their ordinary

and customary meaning. Patent Owner first proposed a specific construction for the “accommodating position” phrase in its Response. PO Resp. 10–13. Petitioner addressed Patent Owner’s proposed construction in its Reply. Reply 5–6. Patent Owner had the last word on construction of the “accommodating position” phrase in its Sur-reply. *See* Sur-reply 3.

Thus, the parties each have briefed and argued a specific claim construction. We state expressly in this Decision our determination of the ordinary and customary meaning of disputed terms, necessary to this Decision, based on the parties’ arguments and evidence.

The Board may adopt a claim construction of a disputed term that neither party proposes without running afoul of the APA. *Qualcomm*, 6 F.4th at 1262–63. In *Praxair Distrib., Inc. v. Mallinckrodt Hosp. Prods. IP Ltd.*, 890 F.3d 1024, 1034 (Fed. Cir. 2018), the Federal Circuit rejected an argument that the Board violated a patent owner’s procedural rights by adopting a claim construction that neither party proposed. The Board is not bound to adopt either party’s preferred articulated construction of a disputed claim term. *WesternGeco LLC v. ION Geophysical Corp.*, 889 F.3d 1308, 1328 (Fed. Cir. 2018). Here, as in *WesternGeco*, having put the proper construction of the “accommodating position” phrase at issue, Patent Owner was well aware that the Board could alter Patent Owner’s proposed construction in the final written decision.

D. Ground 1: Claims 1–7 and 11–17 as Obvious Over Outils, Roelle, and Matsunaga

Petitioner contends that the combination of Outils, Roelle, and Matsunaga renders obvious independent claims 1 and 11, and claims 2–7 and 12–17, which depend from claim 1 or claim 11. Petitioner provides a clause-by-clause analysis of the claims stating where, in Petitioner’s view,

each element or limitation in the claims is disclosed or suggested in the references. *E.g.*, for claim 1 and corresponding claim 11, *see* Pet. 28–44.

Patent Owner asserts: (1) that Matsunaga is not an analogous reference (PO Resp. 13–16); (2) that Roelle does not disclose or suggest the “accommodating position” of the handle (*id.* at 17–19); (3) that Outils does not disclose or suggest a “second control device,” as claimed (*id.* at 19–23); (4) that Petitioner has not shown why a person of ordinary skill would have selectively gleaned disparate elements from the references to combine them as stated in the claims (*id.* at 23–33); and (5) Petitioner does not assert a person of ordinary skill would have had a reasonable expectation of success in the proposed combination of references (*id.* at 33–34). We discuss below the issues we find dispositive of this proceeding.

*1. Locking Member to Maintain the Handle
in an Accommodating Position*

Claim 1 recites “a handle, rotatably connected to the main body, having at least having one operation assembly for being operated by a user to control the motor when the handle is located in a secure position.” Ex. 1001, 8:22–25. Petitioner contends that Outils’s handle 1 is rotatably connected to casing 6, the alleged main body. Pet. 30 (referencing Ex. 1014, Figs. 1, 4–7, 10, 11; Ex. 1003 ¶ 70).

Petitioner contends that a user operates Outils’s hold-to-run control component 30, essentially a dead man’s switch, which resides on handle 1, to control the motor. Pet. 31 (referencing Ex. 1014, 4:8). Petitioner explains that “operation assembly 30 uses ‘a remote control cable 29 [Figure 1], which acts on a motor brake, a brake coupling or an electrical supply contactor[.]’” *Id.* (alterations in original) (referencing Ex. 1014, 4:6–7). Petitioner further explains that during use, Outils’s handle 1 is in a

predetermined secure (in-use) position, as it is locked in place. *Id.* at 32 (referencing Ex. 1014, 6:20–7:13, Figs. 6, 7; Ex. 1003 ¶ 73).

Claim 1 also recites “a locking mechanism for locking the rotating position of the handle.” Ex. 1001, 8:26–27. Petitioner contends that “Outils expects rotatable handle 1 to be secure at its use position using the locking structure of Figures 6 and 7 [because] pivoting lock 12 with extension piece 16[] locks the rotating handle in place.” Pet. 33–34. But, Petitioner contends that a person having ordinary skill in the art “would have recognized that Outils’[s] lock 12 could inadvertently *and dangerously* allow handle 1 to rotate from its accommodating position of Figure 7, *i.e.*, a position when the mower is not in use and/or the user is emptying the cut-grass receptacle, to its in-use position of Figure 6 (or at least closer to that position).” Pet. 34 (referencing Ex. 1003 ¶ 75). Petitioner contends that a person having ordinary skill in the art “would thus have been motivated by safety to lock handle 1 in its non-use, accommodating position of Figure 7.” *Id.*

Petitioner contends that “Roelle teaches a walk-behind mower similar to Outils[] with a rotating handle 24 that permits a user to empty a rear-located cut-grass receptacle” and that Roelle teaches securing rotating handle 24 both in its in-use position, as shown in Figures 1, 1A, and in its accommodating, vertical position when the mower is not in use, as shown in Figure 2. Pet. 34 (referencing Ex. 1011, 3:67–4:5). Specifically, Petitioner explains that Roelle includes a spring-biased latching pin 68, which corresponds to the claimed “locking mechanism,” which fits in recesses 70, 72 of plate 26, to keep the handle locked in both the in-use position and in the non-use “accommodating position.” *Id.* at 34–35 (referencing Ex. 1003 ¶ 78). Petitioner contends that a person having ordinary skill in the art

“would have found it obvious to provide Outils with the locking mechanism of Roelle to keep the handle in its accommodating position when not in use.” *Id.* at 35 (referencing Ex. 1003 ¶ 77).

Claim 1 also recites “a locking member configured to engage with the locking mechanism and providing at least a locking structure to cause the locking mechanism to keep the handle at an accommodating position relative to the main body when the gardening tool is not being used.” Ex. 1001, 8:28–32. Petitioner contends that Roelle’s pin 68 corresponds to the claimed “locking mechanism” and Roelle’s vertical plate 26 corresponds to the claimed “locking member.” Pet. 36 (referencing Ex. 1003 ¶ 79). Petitioner contends that, as explained above for the “locking mechanism,” a person having ordinary skill in the art “would have found it obvious to provide Roelle’s locking structure in Outils’[s] mower so that handle 1 can be locked at the non-use, accommodating position of Figure 2.” *Id.*

Patent Owner asserts Petitioner has failed to show that Roelle discloses, teaches, or suggests the Locking Member Limitation of claims 1 and 11. PO Resp. 17. According to Patent Owner, the claimed “locking member” and the claimed “locking mechanism” must engage with each other to cause the locking mechanism to keep the handle at an “accommodating position” relative to the main body when the lawnmower is not in use. *Id.* Patent Owner’s argument is premised on a construction of “accommodating position” to mean “a horizontal position over the main body.” *Id.* As discussed in our Claim Construction section, Section II.C, above, we have *not* adopted Patent Owner’s proposed construction for the phrase “accommodating position.” We determined that the phrase “accommodating position” means “any position of the handle, other than the

‘secure position, that prevents the motor from being started by the operation assembly and stops the motor if it is running.’”

Applying our construction of the phrase “accommodating position,” we determine Petitioner has established by a preponderance of the evidence that Roelle discloses the subject matter of this limitation, and that it would have been obvious to a person having ordinary skill in the art, a degreed engineer with at least three years of relevant product design experience, to modify the locking mechanism of Outils, as taught by Roelle, to include a locking member configured to engage with the locking mechanism and providing a locking structure to cause the locking mechanism to keep the handle at an accommodating position relative to the main body when the gardening tool is not in use. The reason why this modification would have been obvious to a degreed engineer with three years of product design experience is that it provides improved safety by protecting against inadvertent movement from the locked, non-use position.

2. Control system limitations

Claim 1 recites “a control system capable of preventing the motor from being controlled by the “operation assembly” and halting the motor when the handle is located out of the secure position.” Ex. 1001, 8:33–35. The “operation assembly” includes trigger B, which allows the user to start or stop the motor. Ex. 1001, 2:60–62. This is also referred to as the “first switch,” or “SW” in the written description of the ’686 patent. *Id.* at 6:29–33. The “secure position” of the handle is the in-use, or operating position. *Id.* at 1:44–50. Claim 1 continues:

the control system comprising:
a first control device configured to be controlled by the
operation assembly, and

a second control device disposed at a position proximate to a shaft of the handle and configured to be controlled according to the rotating position of the handle wherein when the handle rotates to a designated position relative to the main body, the second control device unlocks the first control device so that the first control device allows starting of the motor, and when the handle rotates to the accommodating position relative to the main body, the second control device locks the first control device so that the first control device is not allowed to start the motor.

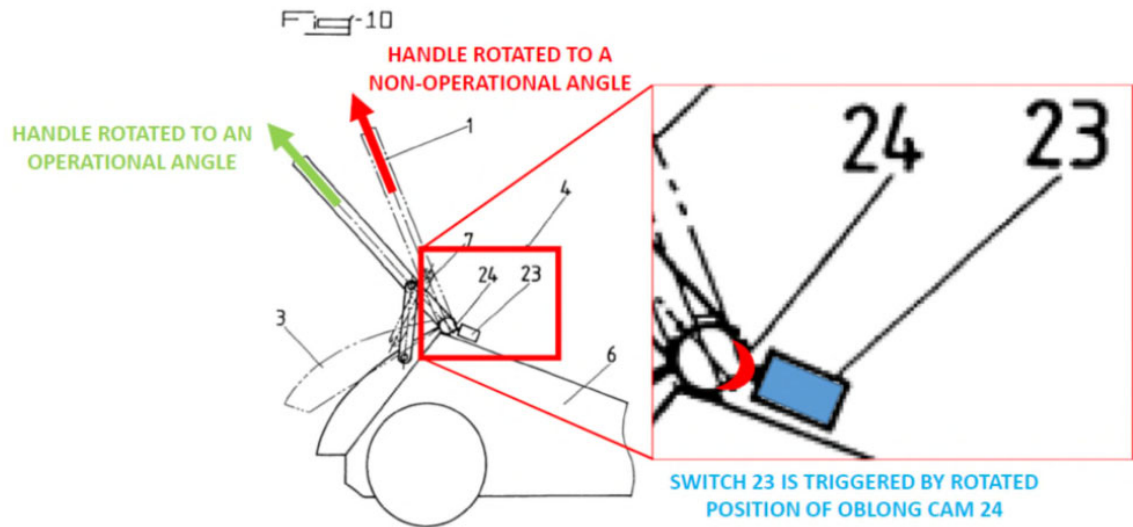
Ex. 1001, 8:36–48 (the “control system” limitation of claim 1).

As stated in claim 1, the “first control device” is controlled by the “operation assembly.” The “second control device” is controlled by the rotating position of the handle, to either the “designated position” that allows the motor to run, or the “accommodating position” that locks the first control device. In order for the motor to start, the first control device, the handle, and the second control device must all be configured properly.

Petitioner asserts that Outils discloses several types of control systems capable of preventing the motor from being controlled by the operation assembly, and halting Outils’s motor when handle 1 is out of the predetermined, secure, in-use position. Pet. 38.

Petitioner explains that Outils discloses that its actuator 23 is similar to actuator 20, which may be an electrical supply cut-off switch for an electric motor and is, preferably, an all-or-nothing switch, which “allow[s] the controlled element to be restarted only after they have been interlocked again as a result of their control component returning to the in-use position.” Pet. 38–39 (referencing Ex. 1014, 7:25–26, 9:10–13). Petitioner contends that a person having ordinary skill in the art “would have interpreted [Outils] as indicating that the ‘stoppage of the motor’ and ‘braking [halting] of the cutting blade’ . . . continue until the handle 1 returns to its in-use position

with cam 24 properly tripping activation actuator 23.” *Id.* at 39 (referencing Ex. 1014, 8:28; Ex. 1003 ¶ 83) (last alteration in original). To illustrate this disclosure, Petitioner provides an annotated version of Outils’s Figure 10, including an enlarged section, which we reproduce below.



Petitioner’s annotated Fig. 10 from Outils. Pet. 39.

The annotated version of Figure 10 illustrates handle 1 in operational and non-operational (accommodating) positions, and illustrates how cam 24 interacts with actuator 23 based on the handle position.

a) First control device limitation

Claim 1 recites “the control system comprising: a first control device configured to be controlled by the operation assembly.” Ex. 1001, 8:36–38. Petitioner contends that Outils discloses that its operation assembly, including hold-to-run control component 30, controls an electrical supply contactor and that this contactor is the recited first control device. Pet. 40 (referencing Ex. 1014, 4:5–12; Ex. 1003 ¶ 85).

Outils discloses that hold-to-run control component 30 acts on cable 29, which acts on the electrical supply contactor. *See* Ex. 1014, 4:5–8 (“The

means 28 for controlling the activation or rotation of the cutting blade is advantageously provided in the form of a remote control cable 29, which acts on . . . an electrical supply contactor and is actuated by means of a hold-to-run control component 30, such as a handle, a lever, a bow or the like, provided on the handlebar 1.”). That is, component 30 controls the contactor through cable 29. “[M]eans 28” is associated with “a first embodiment of the invention, specifically shown in Fig[ures] 1 to 4.” *Id.* at 3:35–4:12.

b) Second control device limitation

Petitioner contends that Outils’s actuator 23 is the recited second control device. Pet. 40. Petitioner contends that Outils’s Figure 10 depicts actuator 23 disposed proximate to handle 1, with cam 24 located on handle 1. *Id.* (referencing Ex. 1014, 8:24). Petitioner contends that when handle 1 is in a predetermined, “in-use,” position, that actuator 23 unlocks the electrical supply contactor (the alleged first control device) so that the first control device allows starting of the motor. *Id.* at 40–41. When handle 1 and cam 24 rotate to the accommodating (non-use) position relative to casing 6 (main body), actuator 23 locks the electrical supply contactor, so that motor cannot start. Pet. 41 (referencing Ex. 1003 ¶ 86); *see also id.* at 38–39 (describing the control system and how actuator 23, like actuator 20, may be an all-or-nothing cut-off switch for the motor, that allows the motor to be restarted only after the actuator has been interlocked again).

Patent Owner asserts that “Petitioner has failed to show that Outils discloses, teaches, or suggests the Second Control Device Limitation.” PO Resp. 19. Patent Owner asserts, correctly, that the challenged claims require that the “second control device” of the control system “must be configured to ‘unlock’ (*i.e.*, electrically enable) the claimed ‘first control device’ so that the first control device allows starting of the motor.” *Id.* We note that the

claims also require the handle be rotated to a “designated” position [also referred to as a “secure position”]¹² to enable the claimed unlocking so that the motor is allowed to start. *See* Ex. 1001, 8:39–44. Additionally, Patent Owner asserts, correctly, that the second control device limitation also “must be configured to ‘lock’ (*i.e.*, electrically disable) the first control device so that the first control device is not allowed to start the motor.” PO Resp. 19. Again, we note that the claims also require the handle be rotated to the “accommodating” position to enable the claimed “locking” so that the motor is not allowed to start. *See* Ex. 1001, 8:45–48.

Specifically, Patent Owner argues that Petitioner fails to demonstrate that Outils’s actuator 23, the alleged “second control device,” interacts with Outils’s electrical supply contactor, the alleged “first control device.” PO Resp. 20. Patent Owner explains that “actuator 23 and the electrical supply contactor are components of *separate, distinct embodiments* of Outils’[s] disclosed . . . ‘safety device.’” *Id.* (referencing Ex. 2027 ¶¶ 58–61, 153; Ex. 2028, 89:2–10). Patent Owner adds that, because these components are from distinct embodiments, “actuator 23 and the electrical supply contactor do not interact with each other.” *Id.* In other words, Patent Owner argues that actuator 23 cannot lock or unlock the electrical supply contactor because the contactor is not part of the same mower. *Id.*

Patent Owner also argues that Petitioner does not propose that it would have been obvious to combine components from distinct embodiments, nor does Petitioner provide any reason why a person having ordinary skill in the art would have combined these components. PO

¹² *See* Ex. 1001, 8:33–35 (“a control system capable of preventing the motor from being controlled by the operation assembly and halting the motor when the handle is out of the *secure position*” (emphasis added)).

Resp. 21. Patent Owner adds that there would be no reason to combine the components, as remote cable 29 and actuator 23 serve the same purpose—to stop the motor when the handle rotates out of a predetermined position. *Id.*

Patent Owner also argues that even if actuator 23 and the electrical supply contactor were in the same embodiment, Petitioner fails to demonstrate that actuator 23 locks or unlocks the electrical supply contactor, or that the electrical supply contactor “functions to *start* the motor.” PO Resp. 22–23; *see e.g.*, Ex. 1001, 8:37–40 (reciting “the second control device locks the first control device so that the first control device is not allowed to start the motor”).

Petitioner’s reply and Patent Owner’s sur-reply

Petitioner replies that, in the embodiment of Outils’s Figure 1, the disclosed device employs a Bowden cable¹³ (cable 29) to turn off the electrical supply contactor when the handle rotates out of its in-use position, stopping the motor. Reply 8. Petitioner adds that the embodiments of Figures 5–10, including actuator 23, disclosed in Figure 10, are alternatives to the Bowden cable. *Id.* at 8–9.

Petitioner argues that although “the *Bowden cable* of Figure 1 is replaced in Figure 10, [a person having ordinary skill in the art] would understand Figure 10 must still include a user’s on/off component even

¹³ A Bowden cable is “a coaxial small flexible cable that . . . is able to maintain its length and tension and an outer sleeve that is able to maintain its length and tension and compression, and when you pull the inner cable relative to the outer cable a certain distance at one end, the same distance is moved at the other end of . . . the inner cable. . . . It’s a . . . remote control cable.” Ex. 2028, 140:7–141:7 (Deposition transcript of E. Smith Reed); *see also* Ex. 2027 (Smith Declaration) ¶ 125 (“I agree with Mr. Reed that a [person having ordinary skill in the art] would have understood Outils’[s] remote control cable 29 to be a Bowden cable.”).

though none is illustrated.” Reply 9. Petitioner adds that a person having ordinary skill in the art would have known “that Outils **must** have a manual on/off component, and it must be atop Outils’[s] handle 1 just like component 30 (Figure 1) with its own associated contactor because 16 CFR 1205.5(c) mandates it.” *Id.* Petitioner argues that safety regulations require a mower to “have their normal starting means located within the operating control zone,” and “[t]he user’s on/off control must ‘[r]equire continuous contact with the control in order for the blade to continue to be driven.’” *Id.* at 9–10 (quoting Ex. 1008, which provides 16 C.F.R. Part 1205, “Safety Standard for Walk-Behind Power Lawn Mowers” (Jan. 1. 2012)).

Petitioner also replies that an artisan of ordinary skill “would have understood Outils’[s] Figure 10 to include hold-run-lever 30 (or comparable regulation compliant component) and its electric[al] supply contactor from Figure 1 but without cable 29 acting as a Bowden cable.” Reply 10–11 (relying, in part, on Ex. 1014, 2:24–27). Petitioner adds that Patent Owner does not rebut the assertion that it would have been obvious to add an operational assembly to the embodiment of Figure 10. *Id.*; *see* Pet. 33 (providing obviousness argument as to the operational assembly); Ex. 1003 ¶ 74 (same).

Finally, Petitioner replies that “no [person having ordinary skill in the art] would interpret Outils’[s] mower as **not** having a user’s on/off contactor associated with lever 30” because of the requirements of 16 C.F.R. Part 1205. Reply 11.

In its Sur-reply, Patent Owner asserts that neither Outils’s Figure 10 nor the text describing the figure identifies hold-to-run control component 30 or the electrical contactor. Sur-reply 7–8. Patent Owner again argues

that Petitioner does not propose combining structures from different embodiments in its obviousness position. *Id.*

Patent Owner argues that Petitioner’s reply arguments represent a new theory—that a person having ordinary skill in the art would have understood Figure 10 to have a hold-to-run component and electrical contactor. Sur-reply 8–9. Patent Owner adds that Petitioner’s reliance on 16 C.F.R. Part 1205 is a new obviousness combination relying on the regulation as a new reference. *Id.* at 9. Patent Owner also argues that Petitioner’s reliance on Outils’s disclosure at page 2, lines 24–27 is misplaced, as it represents general background, and is not directed to the embodiment of Figure 10. *Id.* at 9–10.

Upon review of the information in the Petition and corresponding evidence, and the parties’ arguments and counterarguments, we find that Petitioner fails to demonstrate, by a preponderance of the evidence, that Outils discloses or suggests the subject matter of the control system limitation, including both a first control device and a second control device. We find Petitioner fails to support with persuasive evidence its position that a person having ordinary skill in the art would have understood that the embodiment depicted in Outils’s Figure 10 includes a hold-to-run control *connected to an electrical supply contactor*.

At the outset, we agree with Patent Owner that Petitioner does not argue that it would have been obvious to combine Outils’s disclosure of hold-to-run control component 30 controlling an electrical supply contactor from the embodiment of Figure 1 to the embodiment of Figure 10. *See* Reply 10 (“Thus, [a person having ordinary skill in the art] would have understood Outils’ Figure 10 to include hold-to-run lever 30 . . . and its electric supply contactor from Figure 1”). That is, we understand that

Petitioner contends that a person having ordinary skill in the art would have understood that the embodiment of Outils’s Figure 10 had a specific type of control device—the hold-to-run control component 30 controlling *an electrical supply contactor* from the embodiment of Figure 1. *See* Pet. 40 (“Outils’ ‘electrical supply contactor’ is the claimed ‘first control device.’”); Reply 9 (“But while the *Bowden cable* of Figure 1 is replaced in Figure 10, [a person having ordinary skill in the art] would understand Figure 10 must still include a user’s on/off component even though none is illustrated.”).¹⁴

With this understanding, we turn to our analysis of Petitioner’s contentions. Specifically, we address (1) whether Outils discloses expressly a hold-to-run control component connected to an electrical supply contactor; (2) Petitioner’s contention that a person having ordinary skill in the art would have understood the embodiment of Outils’s Figure 10 to include a hold-to-run control component connected to an electrical supply contactor in

¹⁴ A petitioner must explain why a person having ordinary skill in the art would have combined the elements, including those disclosed in separate embodiments described in a single reference. *See KSR*, 550 U.S. at 418 (“[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.”); *In re Stepan Co.*, 868 F.3d 1342, 1345–46 n.1 (Fed. Cir. 2017) (“Whether a rejection is based on combining disclosures from multiple references, combining multiple embodiments from a single reference, or selecting from large lists of elements in a single reference, there must be a motivation to make the combination and a reasonable expectation that such a combination would be successful, otherwise a skilled artisan would not arrive at the claimed combination.”). Petitioner does not provide any such explanation, reinforcing our understanding that Petitioner relies on the position that a person having ordinary skill in the art would have understood the embodiment of Figure 10 to include, *without modification*, hold-to-run control component 30 controlling an electrical supply contactor from Figure 1.

light of Outils's disclosure of control components other than an electrical supply contactor connected to hold-to-run control component 30 in the embodiment of Figure 1; (3) Petitioner's reliance on 16 C.F.R. Part 1205 to support the understanding of a person having ordinary skill in the art; (4) Petitioner's reliance on Outils's disclosure at page 2, lines 24–27, to support the understanding of a person having ordinary skill in the art; and (5) Petitioner's contention that it would have been obvious to add *an operation assembly* to the embodiment of Outils's Figure 10.

First, it is undisputed that the text describing Figure 10 does not mention a hold-to-run control component connected to an electrical supply contactor. *See* Ex. 1014, 8:22–9:13.¹⁵ Similarly, Petitioner does not direct us to, nor do we discern, any depiction *associated with Outils's Figure 10* of a hold-to-run control component connected to an electrical supply contactor.

Second, in describing the embodiment *of Figure 1*, Outils discloses that hold-to-run control component 30 can function in one of three different ways. Control 30, through remote control cable 29, can act on (1) a motor brake, (2) a brake coupling, or (3) an electrical supply contactor. *See* Ex. 1014, 4:5–8; *see also* Pet. 31 (acknowledging that Outils's hold-to-run control component 30 “acts on a motor brake, a brake coupling *or* an electrical supply contactor” (emphasis added)). Neither Petitioner nor Mr. Reed persuasively explains why a person having ordinary skill in the art would have understood the embodiment *of Figure 10* to have hold-to-run control component 30 connected to *an electrical supply contactor*, rather

¹⁵ Outils references Figures 9 and 10 at page 7, line 15. This reference is a typographical error. The reference should be to Figures 8 and 9, which include means 4 and actuator 20. *See* Ex. 1014, 7:15–8:20, Figs. 8, 9; Dec. Inst. 30; Reply 9 n.5.

than a motor brake or brake coupling. That is, Petitioner does not provide persuasive evidence supporting the contention that, out of the three *possible* control devices disclosed as connected to hold-to-run control component 30—a motor brake, a brake coupling, *or* an electrical supply contactor—a person having ordinary skill in the art would have understood from Outils’s disclosure that the embodiment of Figure 10 specifically includes an electrical supply contactor. There is no persuasive evidence that the embodiment of Figure 10 in Outils, which includes actuator 23 and cam 24, also includes hold-to-run control component 30 and only the electrical contactor to the exclusion of the other two control components. There also is no persuasive evidence, in this embodiment, actuator 23 and cam 24 enable, i.e. unlocks, or disables, i.e., locks, hold-to-run control component 30 and the associated electrical supply contactor from starting the motor, as required by the control system limitation.

To the extent Mr. Reed’s testimony provides any support for Petitioner’s position, we give little weight to the testimony. Mr. Reed declares that a person having ordinary skill in the art would have interpreted Outils as disclosing that “Outils’[s] user-operated operation assembly 30 which would otherwise activate the motor does not work until that happens, and likewise the halted motor would remain halted until the mower components were reset.” Ex. 1003 ¶ 83; *see also id.* ¶ 85 (declaring “Outils’[s] ‘electrical supply contactor’ is the claimed ‘first control device’” without providing additional explanation, including why the embodiment of Figure 10 includes the contactor). This testimony is conclusory, as it provides no supporting analysis or evidence that hold-to-run control component 30 is part of the embodiment of Figure 10, nor does it provide additional explanation of how actuator 23 acts on hold-to-run control

component 30 and not a different start control element. *See* 37 C.F.R. § 42.65(a) (“Expert testimony that does not disclose the underlying facts or data on which the opinion is based is entitled to little or no weight.”). That is, Mr. Reed presumes that hold-to-run control component 30, connected to an electrical supply contactor, is present in the embodiment of Figure 10, and that this structure interacts with actuator 23, without providing any underlying analysis to support these presumptions.

Mr. Reed, for example, provides no explanation as to why “operation assembly 30” is part of the embodiment of Figure 10 or how it “activate[s] the motor.” As another example, Mr. Reed does not describe, in his declaration, the role played in Outils’s mower by the electrical supply contactor, how that role may differ from a motor brake or brake coupling, or why a person having ordinary skill in the art would have understood that the embodiment of Figure 10 must have an electrical supply contactor over a motor brake or brake coupling. In yet another example, Mr. Reed does not explain in his declaration how the working of cable 29 in the embodiment of Figure 1 relates to actuator 23 and cam 24 in the embodiment of Figure 10, nor that a person having ordinary skill in the art would have understood that the configuration of Figure 10 would still include hold-to-run control component 30 and an electrical supply contactor, but without cable 29 (and, presumably, with a different cable). *See* Reply 9 (arguing that the Bowden cable (cable 29) of the embodiment of Figure 10 would have been replaced and citing to no evidence in support).¹⁶

¹⁶ We also do not discern where the Petition describes replacing cable 29 when the electrical supply contactor and hold-to-run control component 30 is employed in the embodiment of Figure 10. As Patent Owner argues, without such a modification, the control system of Figure 1 would be

Indeed, Mr. Reed’s testimony merely parrots language from the Petition. *Compare, e.g.,* Ex. 1003 ¶ 86, *with* Pet. 40–41. Such testimony, without more, provides little help to a fact finder, here the Board, because the expert fails to fill his or her role to help the fact finder “understand the evidence or . . . determine a fact in issue.” *See* Fed. R. Evid. 702(a). Instead, we are left with conclusory testimony with little or no supporting evidence.

Third, Petitioner’s reliance on 16 C.F.R. Part 1205 is unpersuasive. Section 1205.5(a) of the regulation requires “[a] walk-behind rotary power mower [to] have a blade control system that will perform the following functions: (1) [p]revent the blade from operating unless the operator actuates the control[, and] (ii) [r]equire continuous contact with the control in order for the blade to continue to be driven.” These requirements would be satisfied with any of the three control systems described in connection with Outils’s Figure 1—a hold-to-run control controlling an electrical supply contactor, a motor brake, *or* a brake coupling. Again, Petitioner does not persuasively explain why these regulations require a hold-to-run control controlling *an electrical supply contactor*, to the exclusion of the other two possible system components, such that a person having ordinary skill in the art would have understood the embodiment of Outils’s Figure 10 to have a hold-to-run control that controls an electrical supply contactor, nor how these regulations support a finding that actuator 23 locks and unlocks a first control device.

redundant with actuator 23 and cam 24, as the Bowden cable performs the same function as actuator 23 and cam 24. *See* PO Resp. 21.

Petitioner characterizes these regulations as directed to a “manual on/off component.” Reply 9. As is evident from the language of the regulations, Section 1205.5(a) is directed to a blade control system, with the “continuous contact” requirement associated with that system. *See* Ex. 1008, 8. Section 1205.5(c) independently requires “[w]alk-behind mowers with blades that begin operation when the power source starts [to] have their normal starting means located within the operating control zone.” *Id.* That is, the requirement for a starting means located in the operation control zone may be independent of any blade control associated with the “continuous contact” requirement.

Fourth, Petitioner’s reliance on Outils’s disclosure that, “[a]lthough the rotation of the cutting blade is subordinated to a hold-to-run safety control, the risk of injury due to projections or the accidental entry of a digit into the cutting zone cannot be entirely prevented, for the very reason that the actuation of this control is left up to the user,” is equally unavailing. *See* Reply 10 (quoting Ex. 1014, 2:24–27). We find that this statement provides support for additional safety measures, including the safety systems associated with cover 3. *See* Ex. 1014, 5:14–31, 6:5–18 (describing safety features associated with cover 3); *see also id.* at Abstract (“The mower is characterized in that it includes a safety device preventing access to the rotating cutting blade, while making it possible for the hooking and unhooking operations for the cut-grass receiving receptacle (2) to be carried out only when the blade is stationary.”), 2:29–34 (disclosing that “[t]he aim of the present invention” is to “ensure[] that the cut-grass receiving receptacle can be hooked and unhooked in a simple manner and protects the user against any risk of injury during or in between these operations”). Petitioner does not explain adequately, nor do we discern, how this

statement would inform a person having ordinary skill in the art that the mower includes hold-to-run control 30 *and the electrical supply contactor*, rather than a motor brake or a brake coupling, or why this statement is not directed to the safety systems for cover 3.

In relying on this disclosure in Outils, Petitioner characterizes the control relied on for the first control device” as the user’s on/off control. Reply 10–11; *see also id.* at 9 (“But while the *Bowden cable* of Figure 1 is replaced in Figure 10, [a person having ordinary skill in the art] would understand Figure 10 must still include *a user’s on/off component* even though none is illustrated.” (emphasis added)). Indeed, at oral hearing, Petitioner’s counsel stated that “we’re talking about the user operable on/off switch of a mower. I mean, it almost goes without saying that these devices have them.” Tr. 73:18–20. We understand Outils’s hold-to-run control component 30 to operate as a type of dead-man’s switch. As the name suggests, when a user holds the control, the blade will turn when the motor is energized, and, when the user releases the control, the blade will stop. Such a control does turn the rotation of the blade (and, perhaps, the motor) on or off. *See, e.g.*, Ex. 1014, 4:5–8 (describing means 28 for controlling the activation or rotation of the cutting blade), 4:14–17 (describing that cable 29 of means 28 interrupts the drive of the spindle of the blade *or* cuts the power).

Such a control, however, is not necessarily the only on/off control for a mower. For example, the mower may have a separate start/stop control. *See, e.g.*, Ex. 2027 ¶ 100 (“Notably, Outils does not disclose how the mower is started. Outils’[s] lawnmower could start in many different ways. For example, Outils’[s] lawnmower could have a pull cord, a separate start switch, a relay, etc.”); Ex. 1014, 3:28–30 (indicating that the engine may be

electric or thermal, which suggests different starting mechanisms). Although we agree with Petitioner that a mower will have some user-controlled mechanism to start and stop the mower, there is no persuasive evidence that a hold-to-run control and electrical supply contactor is necessarily that mechanism. Indeed, as we discussed above in addressing Petitioner's contention that 16 C.F.R. § 1205.5(c) requires a structure such as hold-to-run control component 30 connected to a electrical supply contactor, 16 C.F.R. § 1205.5(c) requires a "normal starting means" within the operating control zone, but we do not read the regulation to require that starting means to be the same control specified in section 1205.5(a), requiring continuous contact. *See* Ex. 1008, 7–8. So, for these reasons, on the complete trial record, we find that Petitioner fails to persuasively demonstrate that Outils's hold-to-run control component 30 and electrical supply contactor is necessarily the mower's user operable on/off control.

Fifth, Petitioner's contention that it would have been obvious to add *an operation assembly* to the embodiment of Outils's Figure 10 does not remedy the deficiency in Petitioner's position, relative to the claimed invention. Even if we agree with Petitioner that it would have been obvious to add an operation assembly to the embodiment of Figure 10, such a modification does not necessarily mean that the assembly would include hold-to-run control component 30 controlling an electrical supply contactor. Again, Petitioner does not adequately explain why the operations assembly could not include, for example, hold-to-run control component 30 controlling a motor brake or brake coupling as disclosed in Outils.

In summary, upon review of the information in the Petition and corresponding evidence, and the parties' arguments and counterarguments, we find that Petitioner fails to demonstrate, by a preponderance of the

evidence, that Outils discloses or suggests the subject matter of the control system limitation, *including both* a first control device and a second control device, wherein the alleged second control device locks (and unlocks) the alleged first control device to prevent (or allow) the engine to start based on whether the handle is in a “designated” or “secure” position, or in an “accommodating” position.

c) Conclusion

For the reasons discussed above, we conclude, on the complete trial record, that Petitioner fails to demonstrate, by a preponderance of the evidence, that claim 1 is unpatentable under 35 U.S.C. § 103 over Outils, Roelle, and Matsunaga.

3. Independent claim 11

Petitioner combines its analysis for independent claims 1 and 11. *See* Pet. 27–44. Patent Owner does not argue any limitation of claim 11 separately. As stated above, independent claim 1 and independent claim 11 are substantive duplicates. Our analysis of claim 1 applies equally to claim 11. For the reasons discussed above in connection with our analysis of independent claim 1, we conclude that Petitioner fails to demonstrate, by a preponderance of the evidence, that claim 11 is unpatentable under 35 U.S.C. § 103 over Outils, Roelle, and Matsunaga.

4. Dependent claims 2–7 and 12–17

Dependent claims 2–7 depend, directly or indirectly, from claim 1, and dependent claims 12–17 depend, directly or indirectly, from claim 11. For the reasons discussed above in connection with our analysis of independent claim 1 and 11, we conclude that Petitioner fails to demonstrate, by a preponderance of the evidence, that claims 2–7, and 12–17 are unpatentable under 35 U.S.C. § 103 over Outils, Roelle, and Matsunaga.

E. Ground 2: Claims 8–10 and 18–20 as Obvious Over Outils, Roelle, Matsunaga, Langdon, and Nakano

Claims 8–10 depend from claim 1, and claims 18–20 depend from claim 11. Petitioner does not contend that Langdon or Nakano remedies the deficiencies we identified above, in connection with our analysis of independent claims 1 and 11. Accordingly, for the reasons discussed in our analysis of Ground 1, Petitioner fails to demonstrate, by a preponderance of the evidence, that claims 8–10, and 18–20 are unpatentable under 35 U.S.C. § 103 over Outils, Roelle, Matsunaga, Langdon, and Nakano.

F. Petitioner’s Motion to Update Mandatory Notice to Add Real Parties-In-Interest

Prior to the Decision granting institution of *inter partes* review, Petitioner filed a Motion to Update Mandatory Notice to Add Real Parties-In-Interest, in which Petitioner seeks to update its mandatory notice to identify Techtronic Industries Co. Ltd., Techtronic Industries North America, Inc., and Homelite Consumer Products, Inc. (“the Disputed Entities”) as real parties in interest (“RPIs”), without changing the filing date of the Petition. Mot. RPI 1.

In the Decision granting institution, we reserved judgment on Petitioner’s Motion to Update Mandatory Notice to Add Real Parties-In-Interest to allow the parties to further develop the record with respect to the RPI issue. Dec. Inst. 33. The parties address the RPI issue during trial in their post-institution briefs.

By statute, “[a] petition . . . may be considered only if . . . the petition identifies all real parties in interest.” 35 U.S.C. § 312(a) (2018); *see also* 37 C.F.R. § 42.8 (requiring a petition to include mandatory notices, including an identification of each real party in interest).

[T]he “two related purposes” of the real party in interest (“RPI”) requirement . . . to preclude parties from getting “two bites at the apple” [are]: (1) ensuring that third parties who have sufficiently close relationships with IPR petitioners are bound by the outcome of instituted IPRs in final written decisions under 35 U.S.C. § 315(e), the IPR estoppel provision; and (2) safeguarding patent owners from having to defend their patents against belated administrative attacks by related parties via 35 U.S.C. § 315(b).

RPX Corp. v. Applications in Internet Time, LLC, IPR2015-01750, Paper 128, 2 (PTAB Oct. 2, 2020) (precedential). A “core function[] of the ‘real party-in-interest’ . . . requirement[] [is] to assist members of the Board in identifying potential conflicts, and to assure proper application of the statutory estoppel provisions.” CTPG 12. Whether a non-party is a RPI is a “highly fact-dependent question” and must be considered on a case-by-case basis. *Ventex Co. v. Columbia Sportswear N. Am., Inc.*, IPR2017-00651, Paper 148, 6 (PTAB Jan. 24, 2019) (precedential) (citing Office Trial Practice Guide, 77 Fed. Reg. 48,756, 48,759 (Aug. 14, 2012)).

Under the Board’s precedential decision in *Lumentum Holdings, Inc. v. Capella Photonics, Inc.*, our jurisdiction to consider a petition does not require a “correct” identification of all RPIs in a petition. IPR2015-00739, Paper 38, 6 (PTAB Mar. 4, 2016) (precedential); *see also Blue Coat Sys., Inc. v. Finjan, Inc.*, IPR2016-01444, Paper 11, 10 (PTAB July 18, 2017) (“Evidence [of failure to identify all real parties in interest] is, at best, suggestive of an issue that is not jurisdictional.”). The Federal Circuit agrees that § 312(a)(2) is not jurisdictional. *See Mayne Pharma Int’l Pty. Ltd. v. Merck Sharp & Dohme Corp.*, 927 F.3d 1232, 1240 (Fed. Cir. 2019) (“[I]f a petition fails to identify all real parties in interest under § 312(a)(2), the Director can, and does, allow the petitioner to add a real party in

interest.” (quoting *Wi-Fi One, LLC v. Broadcom Corp.*, 878 F.3d 1364, 1374 n.9 (Fed. Cir. 2018) (en banc))). Accordingly, a petitioner may amend its mandatory notices to add a RPI and still maintain its original filing date. *See, e.g., Adello Biologics LLC v. Amgen Inc.*, PGR2019-00001, Paper 11, 5 (PTAB Feb. 14, 2019) (precedential) (authorizing pre-institution update to Mandatory Notices to add a RPI); *Proppant Express Investments, LLC v. Oren Techs., LLC*, IPR2017-01917, Paper 86, 7 (PTAB Feb. 13, 2019) (precedential) (authorizing post-institution update to Mandatory Notices to add a RPI). In determining whether to permit a petitioner to amend its mandatory notices to add a RPI while maintaining the original filing date, we consider “whether there have been (1) attempts to circumvent the § 315(b) bar or estoppel rules, (2) bad faith by the petitioner, (3) prejudice to the patent owner caused by the delay, or (4) gamesmanship by the petitioner.” *Proppant*, Paper 86 at 6–7.

With respect to the § 315(b) bar, Petitioner states that “if the three new entities are added as real parties in interest without changing the present petition’s filing date, no time bar under 35 U.S.C. [§] 315(b) would result.” RPI Mot. 7; *see also* RPI Reply (asserting “no RPI in this proceeding is subject to that bar”). Patent Owner does not dispute this contention. *See* RPI Opp.

Petitioner asserts that Techtronic Industries Co. Ltd. and Techtronic Industries North America, Inc. are Petitioner’s grandparent and parent investment holding companies, respectively, with no control over the filing of a petition in this proceeding. RPI Mot. 4–5 (citing Exs. 2005, 2006). Petitioner also asserts that these “holding companies exercise no control over the daily operations of Petitioner, and Petitioner had no obligation to

consult with them or obtain their permission to file the present Petition.”
Id. at 5 (citing Ex. 1036 ¶ 4).

Petitioner also asserts that Homelite Consumer Products, Inc., is a “sister company of Petitioner and wholly owned by Techtronic Industries North America, Inc.” RPI Mot. 5; *see* Ex. 1036 ¶ 3. Homelite Consumer Products, Inc., exercises no control over the daily operations of Petitioner, and Petitioner had no obligation to consult with Homelite or obtain its permission to file the present Petition. *Id.* (citing Ex. 1036 ¶ 4).

Moreover, Petitioner acknowledges that parties and individuals involved in proceedings before the Office have a “duty of candor and good faith” in post-grant proceedings before the Board. RPI Mot. 3 (citing 37. C.F.R. § 42.11(a)). Petitioner represents that “there was no intentional concealment, gamesmanship, or bad faith in its decision to identify only ‘One World Technologies, Inc., d/b/a Techtronic Industries Power Equipment’ as the Petitioner.” RPI Mot. 3–4. Given the severe penalties imposed on one who knowingly and willfully falsifies or conceals a material fact (*see* 37 C.F.R. § 11.18(b)(1)), Petitioner’s representation that it did not act in bad faith, or engage in gamesmanship is a probative statement. *See Adello Biologics*, PGR2019-00001, Paper 11, 5.

With respect to any bad faith or gamesmanship on Petitioner’s part, Patent Owner argues that Petitioner’s failure to name the Disputed Entities as RPIs when it filed its Petition was in bad faith given the circumstances of Petitioner’s omission, or at the very least constitutes “gamesmanship.” RPI Opp. 5–7; PO Resp. 59–61. Patent Owner argues that Petitioner was aware of these entities and consciously omitted them as real parties in interest, to the benefit of these entities. RPI Opp. 6 (“Petitioner knew of the close relationship between itself and the unnamed RPIs as they related to

the products accused of infringement by Patent Owner in the Litigation.”). Being aware of a “close relationship” between a petitioner and others is not enough to make the others a real party-in-interest to a post-grant proceeding.

Patent Owner adds that Petitioner does not take the position that the omission of the Disputed Entities was an error, but instead Petitioner maintains its position that the Disputed Entities are not actually real parties in interest. RPI Opp. 6 (“Petitioner does not offer a *mea culpa* to the Board and claim that its failure to include the unnamed RPIs was mere inadvertence or mistake. Rather, Petitioner sticks to its guns that the unnamed RPIs are not RPIs at all as a basis for its good faith.”). Naming parties as real parties-in-interest “without admitting they are in fact real parties in-interest” is not evidence of gamesmanship. *See Proppant*, IPR2017-01917, Paper 86, 14–16 (noting that the Board has “approved this type of disclosure a number of times,” stating [the Board] sees “nothing wrong with this approach” because it “fulfills the key purposes of identifying the real parties in interest,” and concluding that this type of statement was *not* “evidence of gamesmanship”).

We determine that the evidence before us establishes a sufficient basis for Petitioner to update its mandatory notice of the real parties-in-interest and does not establish that Petitioner acted in bad faith or is gaming the *inter partes* review system. Also, we determine there is no prejudice to Patent Owner from allowing Petitioner to amend its mandatory notices.

A “core function[] of the ‘real party-in-interest’ . . . requirement[] [is] to assist members of the Board in identifying potential conflicts, and to assure proper application of the statutory estoppel provisions.” CTPG 12. The panel does not have any conflicts of interest with the Disputed Entities.

And Patent Owner does not argue that the Disputed Entities were left unidentified in order to avoid the statutory estoppel provisions.

Based on these considerations and the evidence discussed above, we conclude that Petitioner has met its burden for the Motion and may amend its mandatory notices to add Techtronic Industries Co. Ltd., Techtronic Industries North America, Inc., and Homelite Consumer Products, Inc. as real parties in interest without changing the filing date of the Petition. We, therefore, grant Petitioner's Motion. Because we grant this motion, we need not determine if Techtronic Industries Co. Ltd., Techtronic Industries North America, Inc., and Homelite Consumer Products, Inc. are actually real parties in interest.

G. Patent Owner's Motion to Strike

Patent Owner moves to strike portions of Petitioner's Reply as "include[ing] numerous new improper arguments, rationales, and theories." Mot. Strike 1. Because, even when considering Petitioner's Reply as a whole, we conclude that Petitioner fails to demonstrate, by a preponderance of the evidence, that any of the Challenged Claims are unpatentable, we dismiss Patent Owner's motion as moot.

H. Patent Owner's Constitutional Challenge

In a single paragraph, containing two sentences, Patent Owner argues that "[t]his proceeding should be dismissed because the assigned Administrative Patent Judges are principal officers of the United States and yet were not appointed by the President and confirmed by the Senate" in violation of the Appointments Clause. PO Resp. 61. We decline to address Patent Owner's constitutional challenge except to note that the constitutionality of the appointments of the Administrative Patent Judges

was resolved by the U.S. Supreme Court in *United States v. Arthrex, Inc.*, 141 S. Ct. 1970, 1986–87, 1997 (2021).

I. Motion to Seal

Petitioner and Patent Owner filed complimentary motions to seal certain portions of the transcript for the deposition of Lee Sowell (Ex. 2029). Paper 27 (“PO Mot. Seal”); Paper 29 (Pet. Mot. Seal).

Patent Owner moved to seal Exhibit 2029. PO Mot. Seal. Exhibit 2029 is the transcript of the January 19, 2021, deposition of Lee Sowell. Petitioner did not oppose this Motion. We denied Patent Owner’s Motion. Paper 39. In doing so, we acknowledged that Patent Owner might not be in a position to show the information it sought to seal is confidential because the information is the testimony of Petitioner’s witness. *Id.* at 4–6. We, therefore, authorized Petitioner to file a renewed motion to seal Exhibit 2029. *Id.* at 7.

In its Motion, Petitioner states that “[b]y previous agreement of the parties, Patent Owner filed a Motion to Seal the confidential deposition transcript of Petitioner’s Group President, Mr. Lee Sowell [Ex. 2029]” Pet. Mot. Seal 1. Petitioner, as the producing party of Mr. Sowell’s testimony, “moves to seal only those portions of his [Mr. Sowell’s] transcript that contain confidential information directed to non-public corporate structure and business operations constituting ‘confidential research, development, or commercial information’ consistent with Federal Rule of Civil Procedure 26(c)(1)(G) and 37 C.F.R. 42.54.” Pet. Mot. Seal 2. Petitioner also filed Exhibit 1039, which is a redacted version of the Sowell deposition, Exhibit 2029. In effect, the two motions seek the same result, which is that Exhibit 2029 will be confidential and Exhibit 1039 will be the public, redacted version of Exhibit 2029. Patent Owner has not opposed Petitioner’s Motion.

The parties also have agreed that our default protective order will apply to this proceeding. PO Mot. Seal 3 (“the parties have agreed to adopt the Default Protective Order set forth in the Board’s Trial Practice Guide”); Pet. Mot. Seal 3 (“Petitioner and Patent Owner previously agreed to adopt, and requested entry of, the PTAB’s Default Protective Order”). We previously entered the default protective order in this proceeding. *See* Paper 39, 6.

All papers filed in an *inter partes* review are open and available for access by the public, except that a party seeking to seal a document or thing may file a motion to seal concurrent with the filing of the document or thing to be sealed. 35 U.S.C. § 316(a)(1); 37 C.F.R. § 42.14. The document or thing shall be provisionally sealed from receipt of the motion to seal until a decision on the motion. 37 C.F.R. § 42.14.

The moving party has the burden of proof in showing it is entitled to the requested relief. 37 C.F.R. § 42.20(c). The standard for granting a motion to seal is “good cause.” 37 C.F.R. § 42.54. “The ‘good cause’ standard for granting a motion to seal reflects the strong public policy for making all information in an *inter partes* review open to the public.” *Argentum Pharm. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3 (PTAB Jan. 19, 2018) (informative).

We appreciate that a party in an *inter partes* review proceeding may file confidential information of the other party. In anticipation of this possibility, we explain in the Scheduling Order (Paper 22) that “[i]t is the responsibility of the party whose confidential information is at issue, not necessarily the proffering party, to file the motion to seal.” Paper 22, 3.

Petitioner argues good cause exists for granting the Motion because the information it seeks to seal is confidential testimony of Petitioner’s Group President, which is governed by the Board’s default Protective Order

that we entered on May 13, 2021. Paper 39, 6 (ordering entry of the default Protective Order). In particular, Petitioner argues the testimony it seeks to seal regards settlement-type communications under Federal Rule of Evidence 408, internal corporate operations, non-public internal corporate financials, third-party contracts and relationships, and internal personnel and reporting duties. Pet. Mot. Seal 5–7.

We have reviewed the information in the redacted portions of the Exhibit 1039 that Petitioner seeks to seal, and we find Petitioner has shown sufficiently that it contains confidential information. We also determine that the redacted version of the deposition transcript allows the public to understand the nature of the testimony. Petitioner has shown good cause for granting its Motion to Seal.

In view of the foregoing, we grant Petitioner’s Motion to Seal Exhibit 2029. Exhibit 1039, the redacted version of Exhibit 2029, will be available to the public, and the non-redacted version of Mr. Sowell’s deposition transcript, Exhibit 2029, shall remain under seal.

As set forth in the Consolidated Trial Practice Guide, confidential information that is subject to a protective order ordinarily becomes public forty-five (45) days after final judgment in a trial. CTPG 21–22. There is an expectation that information will be made public where the existence of the information is identified in a final written decision following a trial. *Id.* at 22. After final judgment in a trial, a party may file a motion to expunge confidential information from the record prior to the information becoming public in accordance with 37 C.F.R. § 42.56.

III. CONCLUSION

For the reasons above, Petitioner has not proven, by a preponderance of the evidence, the unpatentability of claims 1–20 of the ’686 patent.

In summary:

Claims	35 U.S.C. §	References	Claims Shown Unpatentable	Claims Not shown Unpatentable
1–7, 11–17	103	Outils, Roelle, Matsunaga		1–7, 11–17
8–10, 18–20	103	Outils, Roelle, Matsunaga, Langdon, Nakano		8–10, 18–20
Overall Outcome				1–20

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, claims 1–7, 11–17 of U.S. Patent No. 9,826,686 B2 are not shown to be unpatentable under 35 U.S.C. § 103 over Outils, Roelle, and Matsunaga;

FURTHER ORDERED that, claims 8–10, 18–20 of U.S. Patent No. 9,826,686 B2 are not shown to be unpatentable under 35 U.S.C. § 103 over Outils, Roelle, Matsunaga, Langdon, and Nakano;

FURTHER ORDERED that Petitioner’s Motion to Amend its Mandatory Notices to add real parties-in-interest without changing the filing date of the Petition is *granted*;

FURTHER ORDERED that Patent Owner’s Motion to Strike is *dismissed* as moot;

FURTHER ORDERED that Petitioner’s Motion to Seal is *granted*, so that Exhibit 2029 will be confidential, and Exhibit 1039, the redacted version of Exhibit 2029, will be available to the public; and

FURTHER ORDERED that because this is a Final Written Decision, parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

IPR2020-00886
Patent 9,826,686 B2

For PETITIONER:

Edward Sikorski
James Heintz
Tiffany Miller
DLA PIPER LLP (US)
Ed.Sikorski@dlapiper.com
James.Heintz@dlapiper.com
Tiffany.Miller@dlapiper.com

For PATENT OWNER:

James Lukas
Keith Jarosik
Callie Sand
Benjamin Gilford
Gary Jarosik
GREENBERG TRAURIG, LLP
LukasJ@gtlaw.com
JarosikK@gtlaw.com
SandC@gtlaw.com
GilfordB@gtlaw.com
JarosikG@gtlaw.com