

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HID GLOBAL CORPORATION,	)	
	)	
Plaintiff,	)	C.A. No. 21-1769-(GBW)
	)	(CONSOLIDATED)
v.	)	
	)	PUBLIC VERSION
VECTOR FLOW, INC., et al.	)	
	)	
Defendants.	)	

**ANSWERING BRIEF IN OPPOSITION TO PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT OF ASSIGNOR ESTOPPEL ON THE '704 PATENT**

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I. INTRODUCTION

Assignor estoppel does not apply in this case because there is “no inconsistency” between any prior representations made in assigning the ’704 patent to HID, and the invalidity defenses Vector Flow now raises. *Minerva Surgical, Inc. v. Hologic, Inc.*, 141 S. Ct. 2298, 2301-02 (2021). HID’s motion mischaracterizes *Minerva*, which expressly overruled the Federal Circuit’s overly expansive application of assignor estoppel and held that “[t]he limits of the assignor’s estoppel go only so far as, and not beyond, what [the assignor] represented in assigning” the patent rights. *Id.* at 2301-04, 2310.

Contrary to HID’s misrepresentation, Quantum Secure never warranted that the ’704 patent was in fact valid and enforceable. When HID acquired Quantum Secure in early 2015, the parties negotiated [REDACTED]

[REDACTED] Ex. D.¹ In that agreement, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] fully consistent with Vector Flow’s invalidity defense in this case, and therefore assignor estoppel does not apply. *Minerva*, 141 S. Ct. at 2301-02. [REDACTED]

[REDACTED] Years later,

¹ This brief cites to Exhibits A-M filed with HID’s motion and Exhibits N-O filed herewith.

² All emphasis in quoted text herein is added, unless other noted.

after HID filed this lawsuit in December 2021, Vector Flow retained litigation counsel and determined that the asserted claims of the '704 patent are, in fact, invalid on numerous grounds.

For these reasons, HID's motion is a non-starter. To obtain summary judgment on assignor estoppel, HID's motion needed to assert, and prove with evidence beyond any triable issue of fact, that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

HID has not even alleged, much less shown beyond any triable issue of fact, that [REDACTED]

[REDACTED]

[REDACTED] "Because there is no inconsistency" between the assignor's representations and Vector Flow's invalidity defenses, "there is no estoppel." *Minerva*, 141 S. Ct. at 2301-02.

HID's remaining arguments are meritless and beside the point. The inventors' earlier representations to the Patent Office and to Quantum Secure were explicitly limited to their subjective beliefs at the time those representations were made, and in any event were superseded by the express representations in the Merger Agreement. And although HID repeatedly invokes

[REDACTED]

[REDACTED]

[REDACTED] HID, a multi-billion dollar, fully represented, sophisticated acquirer cannot now have the Court rewrite the bargain it entered seven years ago.

Through the Merger Agreement, HID obtained what it bargained for—nothing less, and nothing more. Vector Flow has every right to defend itself in this action, including by

demonstrating that the '704 patent is invalid based on information, materials, and knowledge that have been developed through this lawsuit defense. HID's motion should be denied.

II. NATURE AND STAGE OF THE PROCEEDINGS

HID filed this action on December 27, 2021. D.I. 1. Trial is set for January 16, 2024. D.I. 127 at 18. HID proposed, and the Court permitted, that any party could optionally file an early motion for summary judgment on the issue of assignor estoppel. D.I. 101 at 13, 16; D.I. 127 at 15.

III. SUMMARY OF ARGUMENT

1. Assignor estoppel does not apply where, as here, there is "no inconsistency" between a prior representation in assigning the patent rights and a present invalidity defense. *Minerva*, 141 S. Ct. at 2301-02. When HID acquired the '704 patent, [REDACTED]

[REDACTED] consistent with Vector Flow's invalidity defense in this case. HID's motion does not assert, let alone establish beyond any triable issue of fact, that at the time of the Merger Agreement, [REDACTED]

2. Nothing else raised in HID's motion presents any basis to apply assignor estoppel.

IV. STATEMENT OF FACTS

A. The Inventors' Submissions to the Patent Office and to Quantum Secure Provided Representations Only Regarding Their Subjective Beliefs.

Although [REDACTED]

[REDACTED] it bears noting that the named

inventors never represented that the claims of the '704 patent were, in fact, valid in view of all potential prior art that might exist in the world. It would have been impossible to support such a sweeping representation, and patent applicants are under no obligation to affirmatively search for prior art.³ Accordingly, in pursuing the patent application, consistent with standard Patent Office practice, each inventor provided only a limited representation regarding his subjective knowledge and belief: “*I believe* I am the original and first inventor of the subject matter which is claimed . . .” (Ex. A at 1) and “*I do not know and do not believe that* the [] invention has ever been known or used in the United States before my invention thereof . . .” *Id.* Likewise, when the inventors assigned their patent rights to Quantum Secure, each provided only a limited representation regarding his subjective belief: “the undersigned Assignor, *believing to be* the original, first and sole or joint inventor of any and all new and useful improvements disclosed in the application . . .” Ex. C at 1.

When the '704 patent issued in July 2012, Quantum Secure issued a press release that said nothing about whether or not the patent was valid over potential prior art and other invalidity bases. Ex. I. It merely indicated that the patent related to the SAFE product line (the patent “encompasses elements fundamental to the company’s SAFE software suite” and “forms the basis of key elements of our SAFE platform”), and proclaimed generally that “[g]ranting of this patent confirms the importance and impact of innovations that are integral to the company.” *Id.*

B. HID Acquired Quantum Secure for the Stated Purpose of Obtaining a Valuable Revenue-Generating Business and Product Line.

HID acquired Quantum Secure in March 2015 for the stated purpose of obtaining a valuable business enterprise and product line, not merely to obtain any patent rights. HID’s press

³ The duty to disclose information material to patentability extends only to “information known to [each] individual to be material to patentability.” 37 C.F.R. § 1.56(a).

release announcing the merger touts only the acquisition of Quantum Secure's SAFE software suite, and says nothing of the '704 patent or any other intellectual property:

Austin, Texas – March 26, 2015 - HID Global, a worldwide leader in secure identity solutions, today announced that it has acquired Quantum Secure, a leading provider of software solutions for managing identities, access compliance and provisioning access within physical security infrastructure. ***With this acquisition, HID Global will enhance its ability to deliver an end-to-end identity management solution.***

Quantum Secure's SAFE software suite provides a single, fully interoperable and integrated physical security policy platform to manage secure identities, compliance and operational analytics across multiple sites and systems. Using this platform, customers are able to reduce operational costs and the risk profile of the organization as well as foster compliance with regulations across disparate security infrastructure.

“With the acquisition of Quantum Secure, ***HID Global is taking a significant step in addressing customer needs*** in managing identity, risk and compliance. The company has been at the forefront in delivering a versatile management tool for all organizations, especially those in highly-regulated industries such as finance and healthcare with demanding compliance requirements,” said Denis Hébert, HID Global president and CEO. ***“Going forward, the combination of Quantum Secure's SAFE software suite with HID's product portfolio will deliver ever better and more comprehensive solutions for our customers.”***

Ex. N. HID's parent company, Swedish conglomerate ASSA ABLOY, issued a similar press release proclaiming that Quantum Secure bookings were expected to reach \$45 million in 2015, with “continued growth in the future,” and noting that Quantum Secure had 175 employees and contractors. ASSA ABLOY's press release likewise does not mention the acquisition of any intellectual property or patents.

ASSA ABLOY has acquired Quantum Secure, Inc, the leading ***provider of solutions to help enterprises manage identities*** and meet compliance requirements in highly-regulated industries.

“I am very happy to welcome Quantum Secure to the ASSA ABLOY Group. This acquisition reinforces our strategy of being the

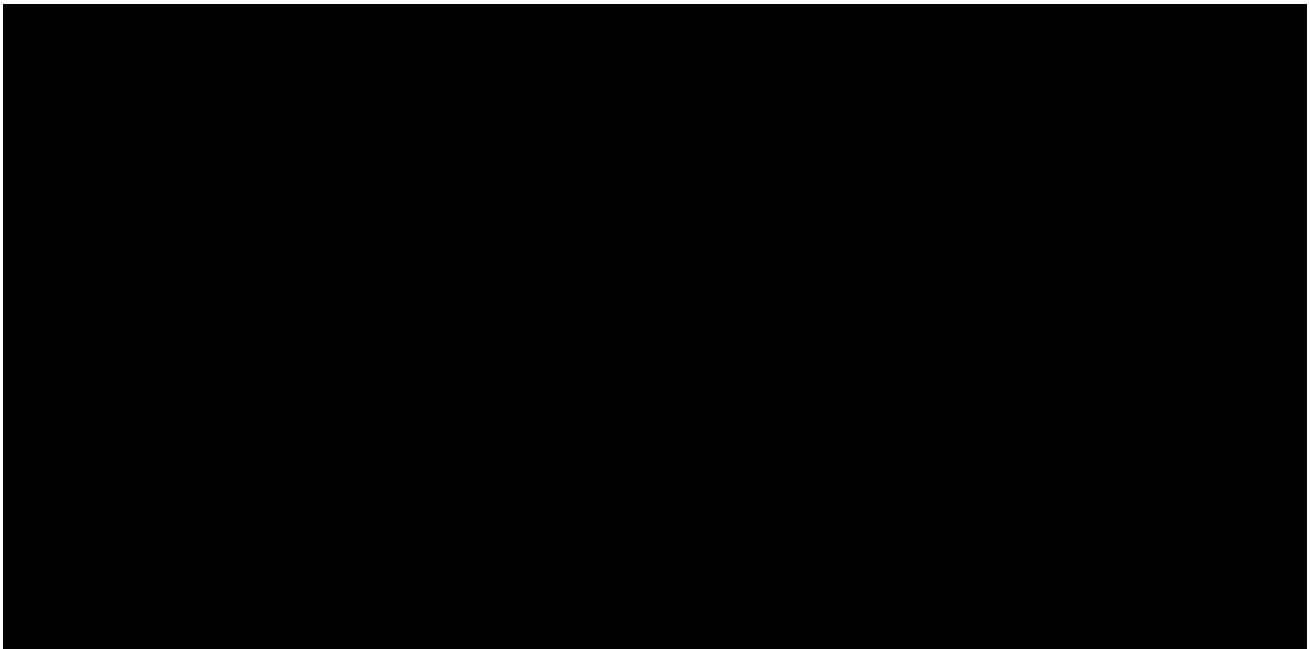
world leader in secure identity solutions. Quantum Secure takes us one step further in being able to *provide our customers with an end to end identity management system. The company has experienced very strong growth since its founding and we look forward to continued growth in the future,*” says Johan Molin, President and CEO of ASSA ABLOY.

“Our acquisition of Quantum Secure gives customers a robust, policy-driven software application that will help them achieve their identity management goals,” says Denis Hébert, Executive Vice President ASSA ABLOY and Head of business unit HID Global. *“The SAFE software suite* allows organizations to manage identities across multiple sites for employees, visitors, vendors, and contractors.”

Quantum Secure was founded in 2004 and the head office is located in San Jose, California. The company has some 175 employees and contractors.

Bookings are expected to reach USD 45 M (approx. SEK 400M) in 2015. The acquisition is expected to be neutral to earnings from start.

Ex. O. Similarly, on the other side of the transaction, Quantum Secure’s Board of Directors presented to shareholders an “Overview” of the proposed acquisition that discussed the companies’ businesses and product offerings, with no mention of any patent. Ex. J at HID-00045745-46.



[REDACTED]

[REDACTED]

C. In the February 2015 Merger Agreement, Quantum Secure Provided [REDACTED]

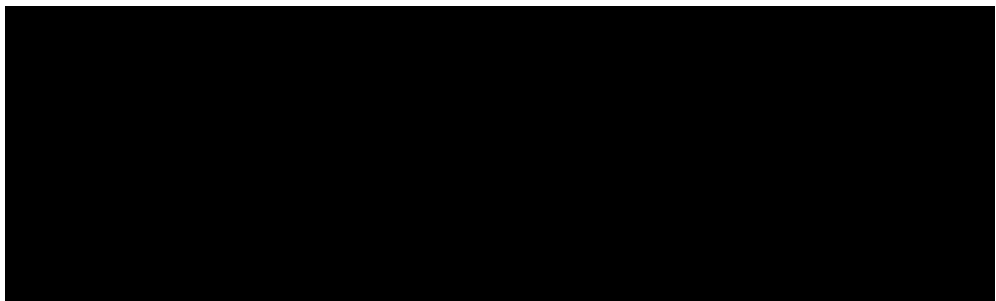
[REDACTED]

[REDACTED]

[REDACTED]

On the contrary,

[REDACTED]



Ex. D at 8.

Notably, in stark contrast with [REDACTED]

[REDACTED]

[REDACTED] For example, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Merger Agreement is thus also significant for what it does *not* contain. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. HID Does Not Assert that Vector Flow Raises Any Invalidity Grounds That Were Within [REDACTED]

After HID filed this action in December 2021, Vector Flow retained litigation counsel to defend the case. On August 31, 2022, Vector Flow served its initial invalidity contentions showing that the '704 patent is invalid on numerous grounds. Ex. H.

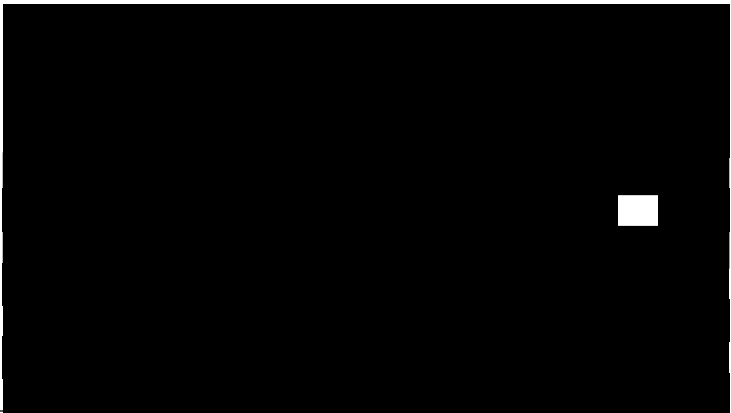
HID's motion does not assert that any of Vector Flow's stated invalidity grounds were within [REDACTED]

[REDACTED]⁴

⁴ HID also notes that Vector Flow has filed at the Patent Office a petition for *inter partes* review ("IPR") of the '704 patent, but that petition is outside the purview of its motion and IPR petitions are not subject to assignor estoppel. *Arista Networks, Inc. v. Cisco Sys., Inc.*, 908 F.3d 792, 803-04 (Fed. Cir. 2018).

E. HID’s Opening Brief Misstates the Dispositive Facts and Evidence.

For reference, the following chart summarizes key facts misstated in HID’s opening brief.

HID’s Misstatement	The Facts
“[T]he Individual Defendants made sworn statements to the Patent Office that they were the ‘original’ and ‘first’ inventors of the patented subject matter.” Open. Br. at 12 (citing Exs. A & B).	Each individual inventor provided only a limited representation regarding his subjective knowledge and belief: “ <i>I believe</i> I am the original and first inventor of the subject matter which is claimed . . .” (Ex. A at 1) and “ <i>I do not know and do not believe that</i> the [] invention has ever been known or used in the United States before my invention thereof . . .” (<i>Id.</i>).
“The Individual Defendants assigned their rights in the applications to Quantum Secure, representing for at least a third time that they were ‘the original, first and sole or joint inventor of any and all new and useful improvements disclosed in the application[s]...’” Open. Br. at 4 (citing Ex. C).	Each individual inventor provided only a limited representation regarding his subjective belief: “the undersigned Assignor, <i>believing to be</i> the original, first and sole or joint inventor of any and all new and useful improvements disclosed in the application . . .” Ex. C at 1.
 Open Br. at 14 (citing Ex. D).	
 Open. Br. at 11.	

Vector Flow’s “invalidity assertions contradict the undisputed facts discussed herein, including the [REDACTED] and sworn statements to the Patent Office that the claims meant [sic] all standards of patentability.” Open. Br. at 6.	[REDACTED] The inventors provided statements to the Patent Office only that they subjectively “believe” the claimed invention is novel. Ex. A at 1; Ex. B at 2.

V. ARGUMENT

A. Under *Minerva*, Assignor Estoppel Does Not Apply Where There Is No Inconsistency Between a Prior Representation and a Current Invalidity Defense.

HID misstates the Supreme Court’s holding in *Minerva* and improperly asks the Court to rely upon overruled Federal Circuit precedent. Contrary to HID’s suggestion, *Minerva* does not presumptively prohibit “an inventor’s ability to assign a patent to another for value and later contend in litigation that the patent is invalid.” Open. Br. at 1 (quoting *Minerva*, 141 S. Ct. at 2302). On the contrary, the core holding of *Minerva* is that an inventor is free to assign a patent for value and later contend in litigation that the patent is invalid, so long as the invalidity claim does not contradict representations made in assigning the patent:

That doctrine, rooted in an idea of fair dealing, limits an inventor’s ability to assign a patent to another for value and later contend in litigation that the patent is invalid. The question presented here is whether to discard this century-old form of estoppel. Continuing to see value in the doctrine, we decline to do so. But in upholding assignor estoppel, *we clarify that it reaches only so far as the equitable principle long understood to lie at its core. The doctrine applies when, but only when, the assignor’s claim of invalidity contradicts explicit or implicit representations he made in assigning the patent.*

Minerva, 141 S. Ct. at 2302.

HID misleadingly presents *Minerva* as if it merely “clarified” existing Federal Circuit precedent with only minor “limitations not applicable here.” Open. Br. at 7-8. In fact, *Minerva* specifically rejects and overrules Federal Circuit precedent, and does so on a point that disposes of HID’s motion. Prior to *Minerva*, “the Federal Circuit ha[d] applied the doctrine too expansively” because the Federal Circuit did not require “a prior inconsistent representation,” causing “inconsistent” positions, to apply assignor estoppel. *Minerva*, 141 S. Ct. at 2307-2311. In *Minerva*, the Supreme Court specifically repudiated the Federal Circuit’s “prior decisions” on assignor estoppel: where “there is no inconsistency in [the assignor’s] positions, there is no estoppel. The limits of the assignor’s estoppel go only so far as, and not beyond, what he represented in assigning the patent application. ***The Federal Circuit, in both its opinion below and prior decisions, has failed to recognize those boundaries.***” *Id.* at 2310.

Minerva thus rejected Federal Circuit precedent that “too expansively” applied assignor estoppel as a presumptive rule every time an inventor assigns a patent—exactly the erroneous approach that HID argues in its motion. HID invites this Court to rely on a Federal Circuit case from a quarter-century ago for the proposition that “an assignor of a patent for value may not later claim the patent is invalid” unless “exceptional circumstances” are present. Open. Br. at 12 (quoting *Mentor Graphics Corp. v. Quickturn Design Sys., Inc.*, 150 F.3d 1374, 1378 (Fed. Cir. 1998)). But that proposition reflects the rejected, overly-expansive approach that the Supreme Court overruled in *Minerva*. After *Minerva*, “[t]he limits of the assignor’s estoppel go only so far as, and not beyond, what he represented in assigning” the patent rights. *Minerva*, 141 S. Ct. at 2310. As the Supreme Court explained:

Assignor estoppel comes with limits: it applies only when its underlying principle of fair dealing comes into play. That principle

demands consistency in representations about a patent's validity. When an assignor warrants that a patent claim is valid, his later denial of validity breaches norms of equitable dealing. *But when the assignor has made neither explicit nor implicit representations in conflict with an invalidity defense, then there is no unfairness in its assertion—and so there is no ground for applying assignor estoppel.*

Id. at 2301.

Minerva thus requires a factual inquiry as to whether “the assignor’s claim of invalidity contradicts explicit or implicit representations he made in assigning the patent.” *Id.* at 2301-02. That inquiry depends on the specific facts and disputes in each case. In *Minerva*, for example, the party opposing assignor estoppel (*Minerva*) “disputed none of the pertinent facts” giving rise to assignor estoppel,⁵ except whether the later-issued patent claims asserted in the litigation were “materially broader” than the proposed application claims that had been assigned. *Minerva*, 141 S. Ct. at 2301-02 (remanding to address only “whether Hologic’s new claim is materially broader than the ones Truckai assigned”). By contrast in this case, as discussed above and further below,

“so there is no ground for applying assignor estoppel.” *Id.* at 2301; Ex. D, [REDACTED]

Furthermore, as demonstrated in the following section, even if “exceptional circumstances” were still required to avoid assignor estoppel, such exceptional circumstances are present here.

⁵ *Hologic, Inc. v. Minerva Surgical, Inc.*, 957 F.3d 1256, 1268 (Fed. Cir. 2020) (on the issue of assignor estoppel, “Minerva disputed none of the pertinent facts below or on appeal.”); *Hologic, Inc. v. Minerva Surgical, Inc.*, 44 F.4th 1358, 1369 (Fed. Cir. 2022) (“As we explained in *Hologic II*, ‘Minerva disputed none of the pertinent facts’ concerning assignor estoppel at the district court or on appeal”).

B. Assignor Estoppel Does Not Apply Because Vector Flow’s Invalidity Defense Is Fully Consistent with the Representations HID Received Regarding the ’704 Patent.

Contrary to HID’s mischaracterization, this is not the “classic case” where assignor estoppel applies under *Minerva*. Open. Br. at 15. The “classic case” involves an employee-inventor “who both applies for and obtains a patent, then assigns it to a company for value,” then leaves that company and is later sued for infringement. *Minerva*, 141 S. Ct. at 2304. By contrast here, HID obtained the ’704 patent only as part of a broader corporate acquisition replete with due diligence and [REDACTED] including [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Assignor estoppel does not bar Vector Flow’s invalidity defenses because they are fully consistent with [REDACTED]

[REDACTED] It was only years after the merger, in response to HID’s lawsuit, that Vector Flow developed a litigation defense and learned that the asserted claims of the ’704 patent are, in fact, invalid for the reasons explained in Vector Flow’s invalidity contentions. Ex. H. “Because there is no inconsistency in [these] positions, there is no estoppel.” *Minerva*, 141 S. Ct. at 2301-04. “The doctrine applies only when an inventor says one thing (explicitly or implicitly) in assigning a patent and the opposite in litigating against the patent’s owner.” *Id.* at 2304. Where, as here, the assignor “has made neither explicit nor implicit representations in conflict with an invalidity defense, then there is no unfairness in its assertion—and so there is no ground for applying assignor estoppel.” *Id.* at 2301.

To obtain summary judgment by demonstrating inconsistency, HID would need to establish that, [REDACTED]

[REDACTED] *See Minerva*, 141 S. Ct. at 2310-11 (“[W]ithout such a prior inconsistent representation, there is no basis for estoppel.”). But HID’s motion does not even attempt to show that any of [REDACTED] [REDACTED] much less establish this proposition beyond any triable issue of fact. The motion fails from the start.

The facts in this case also demonstrate “exceptional circumstances” that preclude the application of assignor estoppel even under the Federal Circuit’s old, overruled “expansive[]” application of assignor estoppel. *Mentor Graphics*, 150 F.3d at 1378; *Minerva*, 141 S. Ct. at 2307-11. Just as “an express reservation by the assignor of the right to challenge the validity of the patent or an express waiver by the assignee of the right to assert assignor estoppel” were deemed sufficient to avoid assignor estoppel, *Mentor Graphics*, 150 F.3d at 1378, so too are the relevant circumstances here. Unlike the “classic case” described in *Minerva* where an employee inventor has assigned a discrete patent in exchange for value, Quantum Secure did not simply assign the ’704 patent to HID in exchange for valuable consideration. Rather, HID acquired an entire operating business, including extensive tangible and intangible assets and an established revenue stream that HID’s parent company anticipated would generate \$45 million in revenue in the first year alone. Ex. O. HID presents no evidence that [REDACTED]

Nor was HID naïve about the terms and conditions in the deal it engineered. HID was a well-resourced, sophisticated party represented by experienced counsel. HID specifically negotiated a [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] yet

HID chose not to. Under such circumstances, it is fair and equitable for Vector Flow to challenge the validity of the '704 patent [REDACTED]

[REDACTED]

C. HID's Motion Fails to Identify Any Other Basis to Apply Assignor Estoppel.

HID's remaining arguments are meritless. First, [REDACTED]

[REDACTED]

[REDACTED] See Open. Br. at 13. The representation that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Quantum Secure was the proper owner of the '704 patent, and that is not contested here. It turns out that the patent is invalid, which is a separate issue from ownership rights. See 35 U.S.C. § 261 (governing patent "ownership" and "assignment" with no mention of validity).

Equally irrelevant is [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Here, [REDACTED]

[REDACTED]

[REDACTED] *See id.*; Ex. E at HID-00002218 (Schedule 3.14(a) listing '704 patent). As such, [REDACTED]

[REDACTED]

Similarly, nothing is changed by [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] the people who conceived of the specific subject matter claimed in each patent. *See* 35 U.S.C. §§ 116, 256. [REDACTED] says nothing about whether the claimed inventions are, for example, invalid as obvious under § 103, invalid due to defects in the patent specification under § 112, or ineligible for patenting under § 101, as Vector Flow contends in its invalidity contentions. Ex. H.⁶

Nor do the inventors' prior submissions to the Patent Office or Quantum Secure raise any issue of assignor estoppel. As set forth previously, the inventors provided only limited representations regarding their subjective knowledge: each subjectively "believe[d]" themselves to be the first inventor of the subject matter. Ex. A at 1; Ex. B at 2; Ex. C at 1. As the Supreme

⁶ Before the America Invents Act ("AIA") of 2011, the pre-AIA version of the Patent Statute included a ground of invalidity for improper inventorship. *See* 35 U.S.C. § 102(f) (pre-AIA) (a person shall not be entitled to a patent where "he did not himself invent the subject matter sought to be patented"). In this case, Vector Flow's invalidity contentions do not assert invalidity based on improper inventorship under pre-AIA § 102(f), so there is no inconsistency between the Merger Agreement and the invalidity contentions. *See* Ex. H (invalidity contentions).

Court observed in *Minerva*, “[a]n inventor presenting an application to the PTO thus states his good-faith *belief* that his claims are patentable,” which is necessarily limited to the inventor’s subjective belief at the time of the statement. *Minerva*, 141 S. Ct. at 2309, n.3. Moreover, when HID acquired the ’704 patent, [REDACTED]

[REDACTED] Similar points apply to Vector Flow’s immaterial July 2012 press release regarding the ’704 patent, which said nothing about patent validity and [REDACTED] Ex. I; Ex. D, [REDACTED]

No “implied” representation of validity was received by HID on the specific facts of this case. *Minerva* observes that an assignor may make “an explicit *or* implicit representation about the patent’s validity.” *Minerva*, 141 S. Ct. at 2308; *id.* at 2311 (there may be “an explicit *or* implicit representation made in assigning patent rights”). In *Minerva*, no argument was raised that any express representation provided in the patent assignment agreement superseded any other explicit or implied representation. By contrast, in the present case, any implied warranty of validity that might have otherwise existed [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] The [REDACTED]
[REDACTED] whose “express terms,” “bargained for and crafted by sophisticated parties, leave no room for the implied covenant” that HID agreed to exclude. *NACCO Indus., Inc. v. Applicia Inc.*, 997 A.2d 1, 20, 35 (Del. Ch. 2009) (“Delaware

upholds the freedom of contract and enforces as a matter of fundamental public policy the voluntary agreements of sophisticated parties.”).⁷ HID cannot now argue that it somehow acquired the ’704 patent in reliance on an implied representation of validity, when HID specifically negotiated for [REDACTED]

[REDACTED] *H-M Wexford LLC v. Encorp, Inc.*, 832 A.2d 129, 142, n.18 (Del. Ch. 2003) (“The Court of Chancery has consistently held that sophisticated parties to negotiated commercial contracts may not reasonably rely on information that they contractually agreed did not form a part of the basis for their decision to contract.”) (citation omitted).

For these reasons, the absence of assignor estoppel here fully comports with the “underlying principle of fair dealing.” *Minerva*, 141 S. Ct. at 2301. If HID wanted [REDACTED]

[REDACTED] It was incumbent on HID to perform any additional diligence it desired to perform regarding that patent’s validity before HID completed the acquisition.

Finally, there is no basis for HID’s insinuation that the individual Defendants inappropriately obtained money from the acquisition. These individuals helped build a successful business that engaged 150 employees and consultants, earned many revenue-paying customers, and was expected by HID to achieve \$45 million in bookings the year of the acquisition. HID made [REDACTED]

⁷ HID agreed that Delaware law governed the Merger Agreement. Ex. D, § 11.1.

[REDACTED] See Ex. D, § 2.8(c), Ex. K. Only now, many years later, does HID wrongly contend that it did not get the benefit of its bargain because Vector Flow discovered, in response to HID's lawsuit, that the '704 patent is invalid. But when acquiring Quantum Secure, HID chose not to obtain [REDACTED]
[REDACTED] HID accordingly chose to bear the risk [REDACTED]
[REDACTED]

VI. CONCLUSION

For the foregoing reasons, HID's motion should be denied. HID fails to demonstrate any inconsistency between Vector Flow's invalidity contentions and [REDACTED]
[REDACTED] *Minerva*, 141 S. Ct. at 2301-02. Accepting as true, for purposes of this motion, all of the factual allegations in HID's Concise Statement of Facts (D.I. 145), there is no basis to grant HID's motion. Although HID's motion did not identify any alleged inconsistency, at a minimum, if HID had asserted [REDACTED]
[REDACTED]
[REDACTED] that would have only raised a factual issue precluding summary judgment.

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CERTIFICATE OF SERVICE

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