

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BAZOOKA-FARMSTAR, LLC

Petitioner,

- vs. -

NUHN INDUSTRIES LTD.,

Patent Owner.

OBJECTIONS TO PATENT OWNER'S DEMONSTRATIVE EXHIBITS

Case No.: IPR2023-01161
U.S. Patent No. 11,358,425

Pursuant to the Order Regarding Oral Argument (Paper 56 at 3), Bazooka files its objections to Nuhn’s demonstrative exhibits (EX2104-EX2105). The Parties met and conferred, seeking to resolve these objections on October 8, 2024. The Parties were unable to resolve the objections during the meet and confer.

I. Slides 34-37 of Nuhn’s Hearing Demonstratives (EX2104)

Bazooka objects to the inclusion of slides 34-37 (Exhibit A) of Nuhn’s Hearing Demonstratives (EX2104) because these slides discuss the “Motivation to Combine Truxor[EX1006]/SenwaTec[EX1012] with Yoon [EX1011] or Carrier [EX1005] with a Reasonable Expectation of Success,” which is a new argument that Nuhn did not make in its Corrected Patent Owner’s Response (Paper 27) and therefore is not permitted to address in the Oral Hearing. *See* November 2019 Trial Practice Guide at 52 (citing *In re Nuvasive, Inc.*, 842 F.3d 1376, 1381 (Fed. Cir. 2016) (explaining that a patent owner waives an issue presented in its preliminary response if it fails to renew the issue in its response after trial is instituted)); Paper 13 at 9; *Netflix, Inc. v. Avago Techs. Int’l Sales PTE. Ltd.*, IPR2021-01298, Paper 44 at 9-10 (PTAB Feb. 6, 2023).

II. Slides 15 and 21 of Nuhn’s Motion to Amend Demonstratives (EX2105)

Bazooka objects to the inclusion of slides 15 and 21 (Exhibit B) of Nuhn’s Motion to Amend Demonstratives (EX2105) because these slides were added after the parties exchanged demonstrative exhibits “in view of [Bazooka’s] hearing

demonstratives on the Motion to Amend,” which is in violation of the Order Regarding Oral Argument. Paper 56 at 2.

Respectfully submitted,

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Date: October 9, 2024

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CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), that service was made on Counsel for Patent Owner as detailed below.

<i>Date of service</i>	October 9, 2024
<i>Manner of service</i>	Electronic mail addressed to: bluchsinger@harnessip.com syackey@harnessip.com mcutler@harnessip.com
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EXHIBIT A

GROUND 2 and 3 - No Motivation to Combine Truxor [EX1006]/SenwaTec [EX1012] with Yoon [EX1011] or Carrier [EX1005] with A Reasonable Expectation of Success

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Truxor:



make it the ideal choice for working in and around water. Driven with care and with its minimal ground pressure, damage to river banks and sensitive areas can be minimised making the Truxor ideal for working on golf courses, nature reserves and public parks where larger, heavier machines have difficulty operating.

EX1006, 2.

Reed cutting & Gathering - Excavation - Dredging

EX1006, 1.

GROUND 2 and 3 - No Motivation to Combine Truxor [EX1006]/SenwaTec [EX1012] with Yoon [EX1011] or Carrier [EX1005] with A Reasonable Expectation of Success

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SenwaTec:

Low ground pressure and good clearance on terrain, **marches and swamps** during on-land drives

EX1012, 1.



40 YEARS OF EXPERIENCE IN THE DEVELOPMENT OF:

- *DITCH CLEANER AND SLOPE MOWERS*
- *MOWING AND CLEARING BOATS*
- *WEED HARVESTERS*
- *AMPHIBIOUS VEHICLES*
- *CUTTER SUCTION AND EXCAVATING DREDGES*

EX1012, 1.

EX1012, 1.

DEMONSTRATIVE EXHIBIT - NOT EVIDENCE

GROUND 2 and 3 - No Motivation to Combine Truxor [EX1006]/SenwaTec [EX1012] with Yoon [EX1011] or Carrier [EX1005] with A Reasonable Expectation of Success

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Patent Owner's Expert on adding remote control:

208. Manure lagoons typically have steep embankments that can be covered in manure, mud, sand, and/or ice and are therefore extremely slippery. EX1004, Winkel Decl., ¶¶334, 336. A POSITA would recognize that Truxor's known instability issues would be exacerbated by remote control. As a result, a POSITA would not have had a reasonable expectation that adding remote control functionality to Truxor would be successful in producing an amphibious remote-controlled vehicle that could operate in a manure lagoon environment without tipping.

EX2029, ¶208.



The digging arm may only be moved laterally when the outriggers touch the bottom. The lateral scope of the digging arm with a mounted Doro pump is 4 metres but for safety reasons only a 2-metre range can be used. This means that the permissible working width from the centre is 2 metres in each direction.

Warning! There is a tilting risk if the maximum range is used.

EX1007, 128.

Potential Rollover Risk

EX1006, 5; *see also* EX1021-EX1022, 1; EX1023, 8.



EX1004, 142.

GROUND 2 and 3 - No Motivation to Combine Truxor [EX1006]/SenwaTec [EX1012] with Yoon [EX1011] or Carrier [EX1005] with A Reasonable Expectation of Success

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Patent Owner's Expert on adding remote control:

263. It is also my opinion, that a POSITA would not reasonably expect success in operating the SenwaTec vehicle from a remote location where the positioning and operation of the submerged pump would be difficult to observe.

EX2029, ¶263.



EX1012, 2.

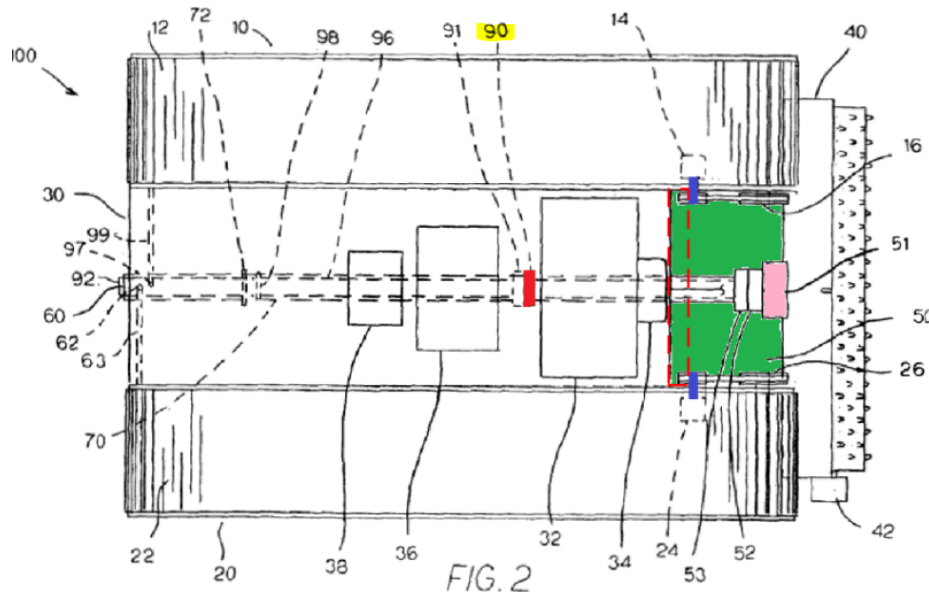
EXHIBIT B

GROUND 1 - Claims 22-25, 27-28, and 33-40 Are Not
Rendered Obvious by Cheramie [EX1087] in
Combination with Yoon [EX1011] or Carrier [EX1005]

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Petitioner's Expert:

sustained and powerful flows of fluid. POSAs would have understood that such water pumps are capable of pumping liquid manure. See Section VII.B.



Cheramie:

In the third path, the hydraulic circuit 137 provides power to a water-pump-driving means in the form of a hydraulic drive motor 91 that drives water pump 90. Water pump 90 may be used to pump water from water intake 94 through water discharge 92 to move the amphibious dredging vehicle 100. By controlling the aim or orientation of water discharge 92, the operator may control the direction of the amphibious dredging 100 vehicle when the water pump 90 is being used to move the amphibious dredging vehicle 100 through water. The claimed water-pump-driving means does not have to be a hydraulic drive motor. Instead, the claimed water-pump-driving means may take the form of any device capable of providing sufficient motive power, including electric motors and mechanical transmissions driven either by a central powerplant or a powerplant dedicated to driving the water pump 90.

EX1087, 5:44-59.

EX1109, ¶78.

GROUND 4 - Claims 22-42 Are Not Obvious based on Puck [EX1014] in view of Bryham [EX1015] and Manure Manager [EX1088]

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Evidence showing what others in the industry did:



Equipment demonstrations: Manure agitation boats



Sundstrom Pit Pumping stir boat

EX1115, ¶¶ 35, 39.