

Bazooka-Farmstar, LLC v. Nuhn Industries Ltd.

Case No.: IPR2024-00004
U.S. Patent No. 11,491,835

**PETITIONER'S DEMONSTRATIVES
OPPOSITION TO PATENT OWNER'S MOTION TO AMEND ORAL ARGUMENT
February 13, 2024**



Nuhn's Motion to Amend

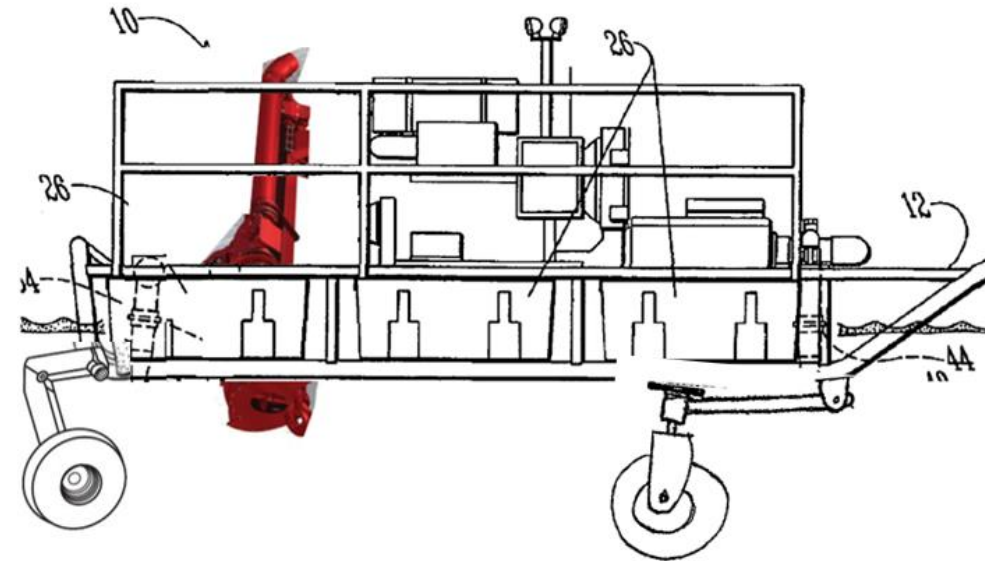


- Nuhn's claims to its pump being "along the underside" and between the wheels were already found unpatentable. IPR2023-01161, Paper 71 at 54-61 (the '425 FWD).
- Nuhn's new amended claims are:
 - (1) obvious over the Puck combination; and
 - (2) unsupported by the specification.

Puck / Puck Boat / Bryham / Manure-Manager



- As found in the '425 FWD, it would have been obvious to combine Puck and Bryham and Manure-Manager.
- Puck Boat teaches that it would have been obvious to shift the rear nozzles rearward.



EX1014, FIG. 4;
EX1015, FIGS. 3, 12;
EX1112, 27;
EX1164, 17

Amended Claim 41



41. (substitute for claim 1, if found unpatentable) An amphibious vehicle,
comprising:

...

a hydraulically powered liquid manure mover separate from the ground engaging propulsion structure, the liquid manure mover including an immersible liquid manure pump that is hydraulically powered, at least one fluid conduit, and at least one fluid nozzle, the immersible liquid manure pump of the liquid manure mover including a substantially vertical drive shaft powering an impeller that is positioned in a pump housing and draws liquid manure in through a bottom fluid opening in the pump housing, the pump housing and the impeller of the immersible liquid manure pump are positioned along the underside of the floatable vehicle body at a location that is rearward of the front of the floatable vehicle body and forward of the rear of the floatable vehicle body such that the immersible liquid manure pump of the liquid manure mover is positioned within liquid manure when the vehicle is floating and has a constant angular orientation relative to the floatable vehicle body;

conduit, and at least one fluid nozzle, the immersible liquid manure pump of the liquid manure mover including a substantially vertical drive shaft powering an

liquid manure when the vehicle is floating and has a constant angular orientation relative to the floatable vehicle body;

Amended Claim 41



wherein components of the vehicle that are submerged when the vehicle is floating are spaced from and positioned to each side of the pump housing and are spaced from and positioned directly forward of and directly rearward of the pump housing along the longitudinal centerline of the floatable vehicle body to keep floating solid material away from the bottom fluid opening in the pump housing of the immersible liquid manure pump.

Amended Claims 79 and 80



a hydraulically powered liquid manure mover separate from the ground engaging propulsion structure, the liquid manure mover including an immersible liquid manure pump that is hydraulically powered, at least one fluid conduit, and at least one fluid nozzle, the immersible liquid manure pump of the liquid manure mover including a pump housing and an impeller that is driven by a substantially vertical drive shaft, the immersible liquid manure pump including a
bottom fluid opening in the pump housing, where the pump housing is mounted to the underside of the floatable vehicle body in a space collectively defined between
the four ground engaging wheels such that the pump housing is rearward of the front of the floatable vehicle body and forward of the rear of the floatable vehicle body and such that the immersible liquid manure pump of the liquid manure mover is positioned within liquid manure when the vehicle is floating and has a constant angular orientation relative to the floatable vehicle body:

bottom fluid opening in the pump housing, where the pump housing is mounted to the underside of the floatable vehicle body in a space collectively defined between

No Description of Pump Housing Mounted to Underside of Vehicle Body



- There is no textual description of the “pump housing” being “mounted to the underside.”
- Nuhn’s expert refused to say if the pictured embodiment did not disclose this structure.

EX1181, 64:11-23.

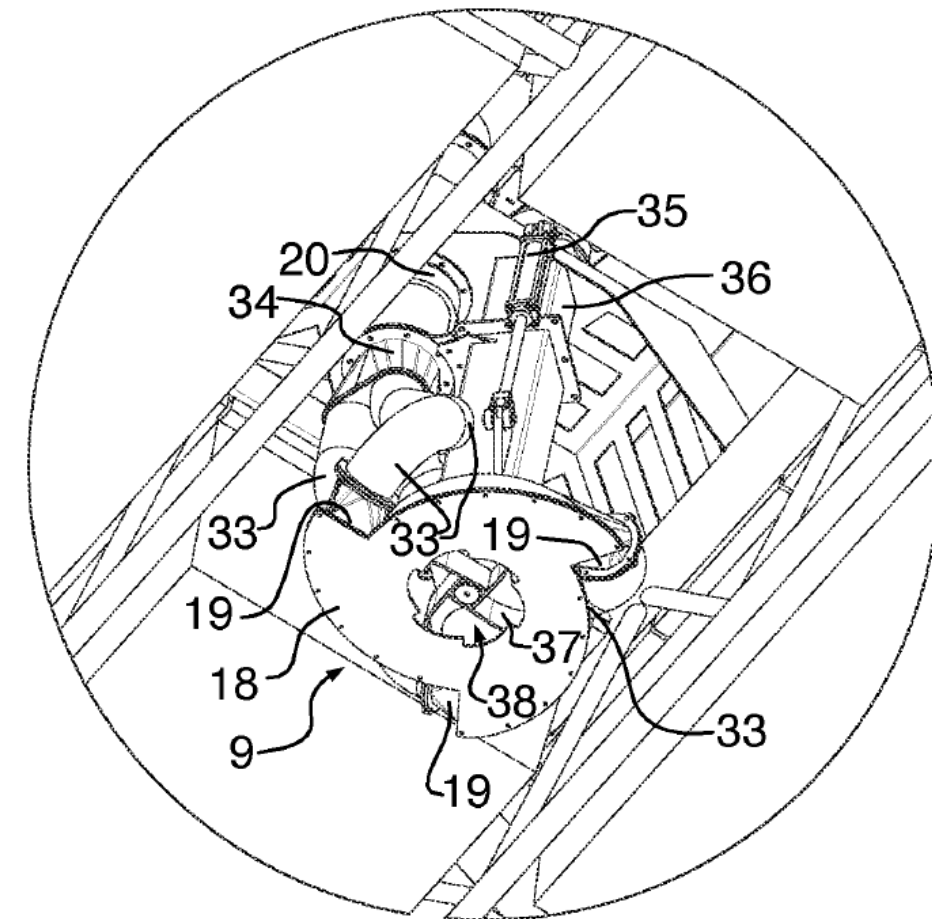


FIG. 8

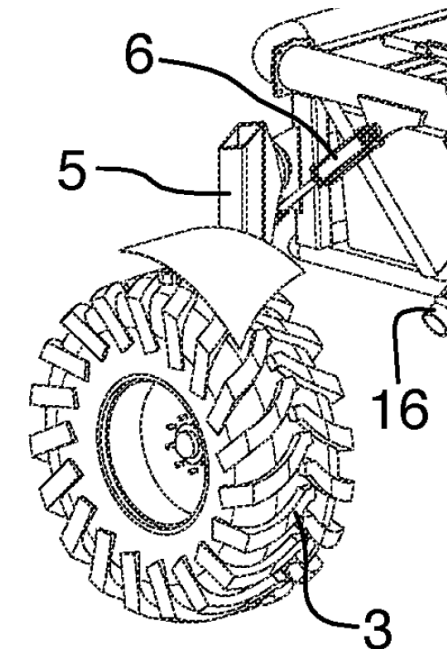
No Description of Pump Housing Mounted to Underside of Vehicle Body



- The '835 Patent says that the "fluid pump" may be raised or lowered using "a lever structure." EX1001, 3:7-11.
- Nuhn's expert says that the "lever structure" would be ***similar to the lever structure for the vehicle wheels***, and that the "lever structure" would "***most likely***" be connected to the vehicle ***underside***. EX1181, 66:3-68-9.

- Nuhn says:

Puck and Sunstrom installed boom mounted pumps to the top deck and did not mount them to the underside of the floatable vehicle body. EX1156, 1; EX1159, 3; EX2106, ¶¶293-294, 349-350.





No Description of Pump Housing Mounted to Underside of Vehicle Body

- “[A] description that merely renders the invention obvious does not satisfy the [written description] requirement[.]” *Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1352 (Fed. Cir. 2010).

Pump Housing Mounted to Underside of Vehicle Body Is Obvious

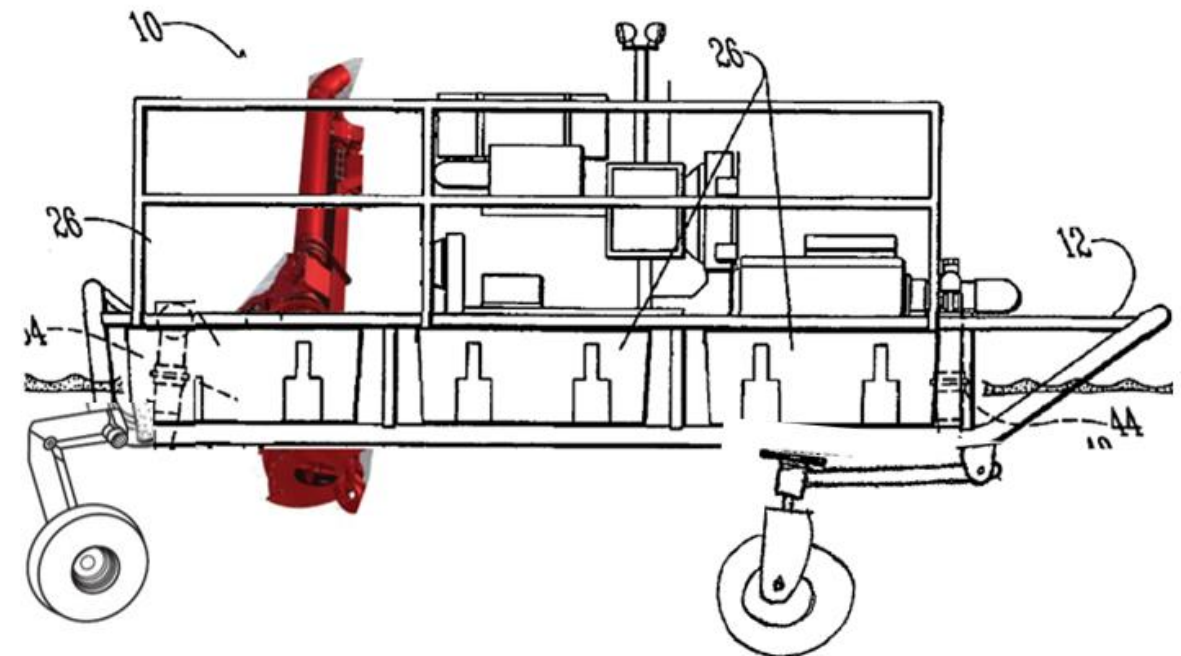


- A POSA would have considered it obvious to have mounted the Nuhn Pump housing to Puck's underside.
 - Dr. Winkel offers extensive reasoned testimony about the stability and longevity benefits of doing so.
- EX1174, ¶108.

A Pump Housing and Impeller “Positioned Along the Underside of the Floatable Vehicle Body”



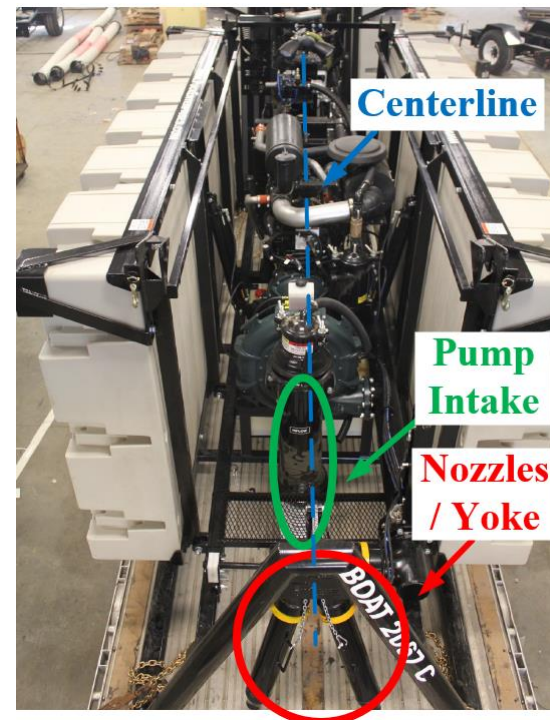
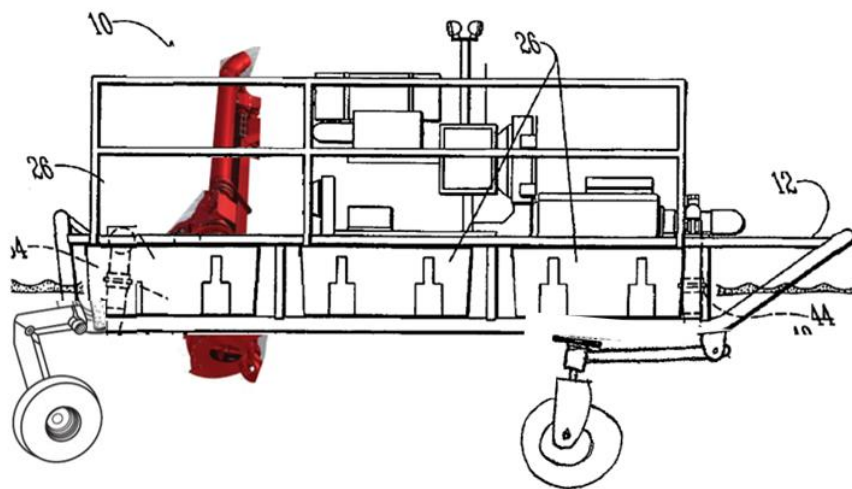
- This was already decided in the '425 FWD.
- Nuhn argues that the pump housing would extend far below.
- Nuhn's arguments are wrong.



"Submerged Components/Portions of the Vehicle to Be Positioned Forward and Rearward of the Pump Housing Along the Longitudinal Centerline"



- The Puck combination discloses submerged components rearward of the pump housing.

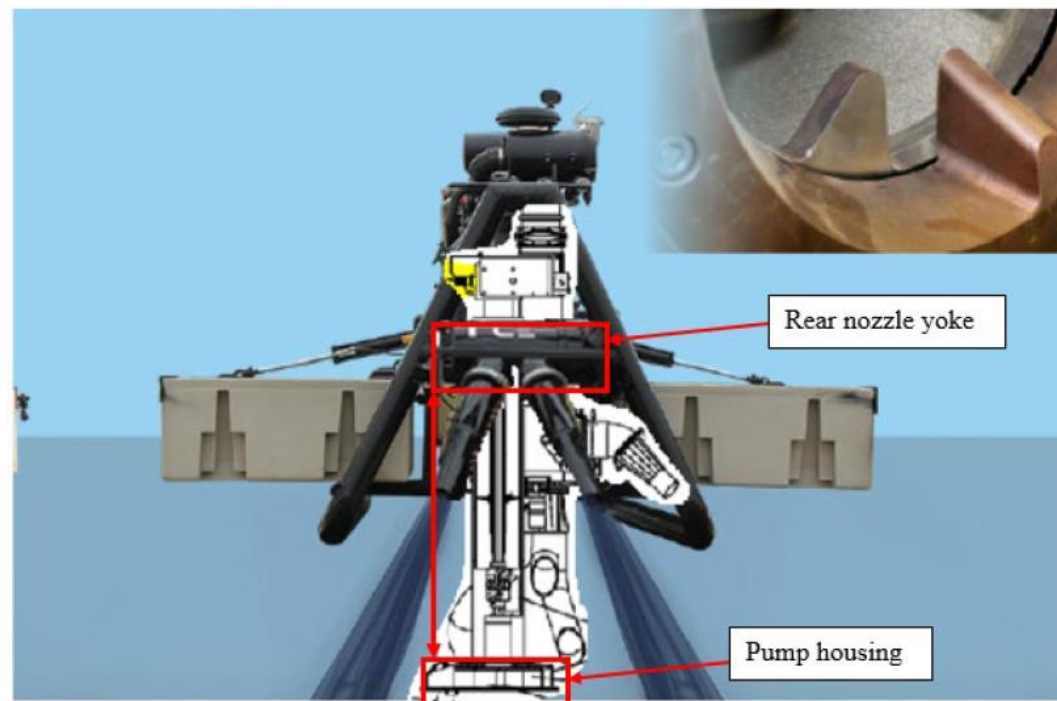


EX1164, 25 (annotated);
EX1165, 0:38 (annotated)

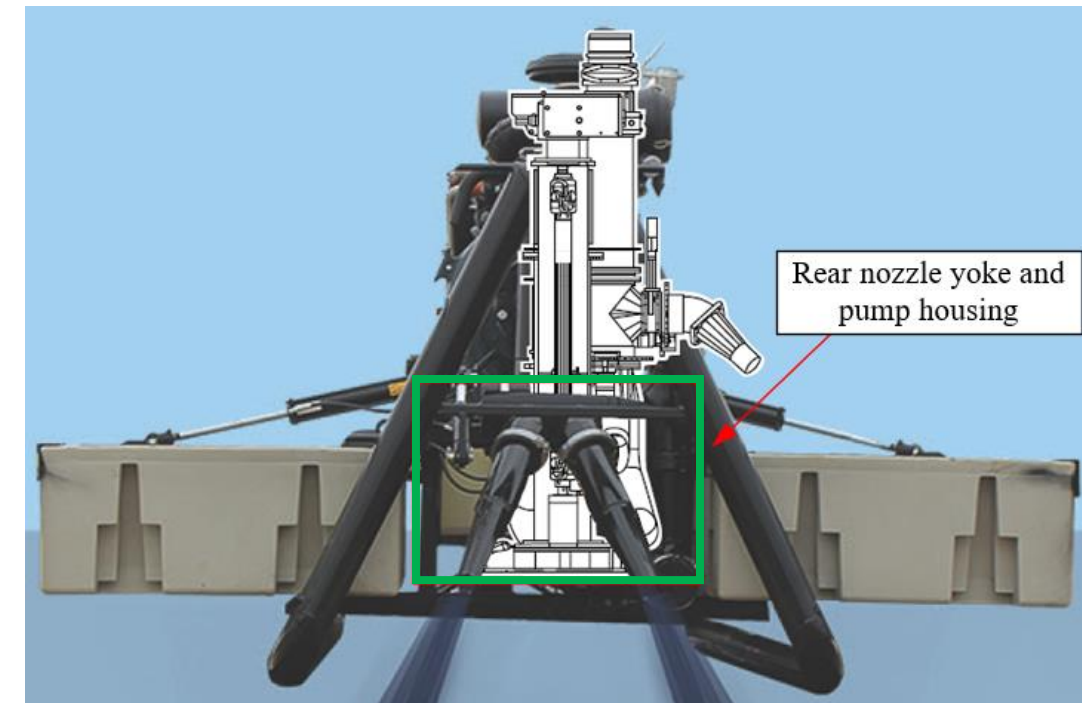


"Submerged Components/Portions of the Vehicle to be Positioned Directly Rearward of the Pump Housing"

- Nuhn's proposed pump arrangement is wrong:



Wrong

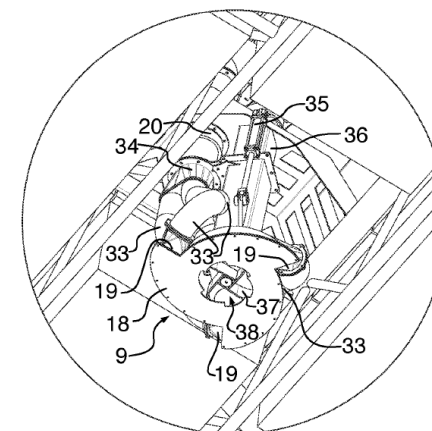
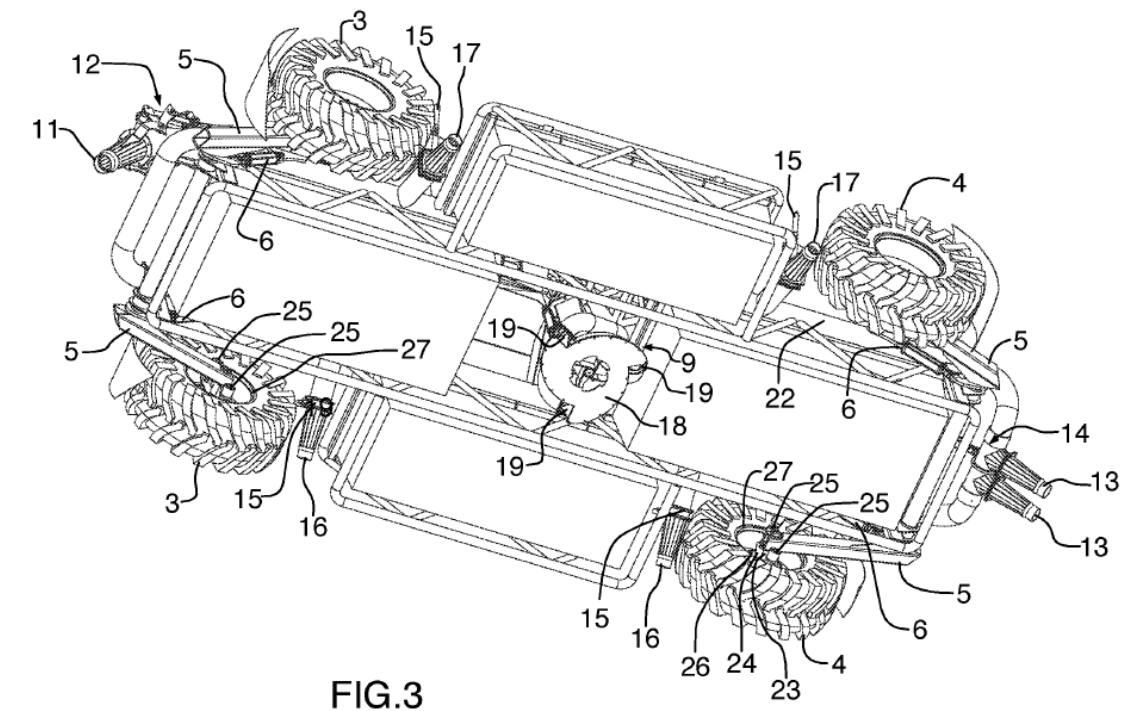


Correct

"Submerged Components/Portions of the Vehicle to be Positioned Directly Rearward of the Pump Housing"



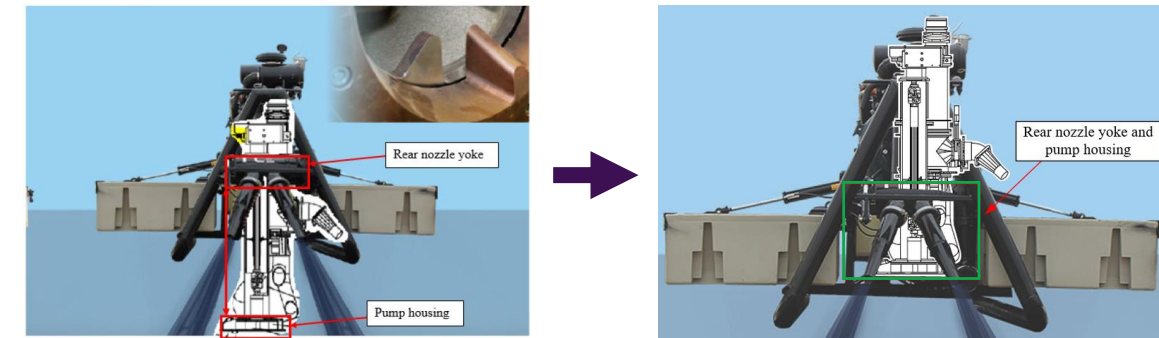
- The '835 Patent lacks any textual description of the buoyant elements being "directly behind" or in the same vertical height as the "pump housing."
- The perspective views in the '835 Patent do not provide any clarification. Nuhn's expert agrees. See Paper 61 at 4.



"Submerged Components/Portions of the Vehicle . . . Keep Floating Solid Material Away from the Bottom Fluid Opening"



- Nuhn also argues that the rear nozzle yoke structure would not perform this function.
- Solid beams at the surface of the lagoon move floating solid material.



"Submerged Components/Portions of the Vehicle to be Positioned Directly Rearward of the Pump Housing"



- POSAs would have considered it obvious to arrange a dock section on Puck behind the Nuhn Pump intake.
- Nuhn does not contest this.





“Vertical Driveshaft” and “a Constant Angular Orientation Relative to the Floatable Vehicle Body.”

- Regardless, Nuhn Pump need not be arranged on Puck in a tiltable orientation. IPR2023-01161, Paper 71 at 58.
- Pivotability not required.
 - Pivotability would further complicate design, produce additional failure mode, and generate stability issues. EX1174, ¶¶45-46, 63.