

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BAZOOKA-FARMSTAR, LLC,

Petitioner,

v.

NUHN INDUSTRIES LTD.,

Patent Owner.

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

PATENT OWNER'S NOTICE OF APPEAL

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
efileSO@uspto.gov

Pursuant to 35 U.S.C. §§ 141, 142, and 319, and in accordance with 37 C.F.R. §§ 90.2-90.3, Patent Owner Nuhn Industries Ltd. (“Nuhn”) appeals to the United States Court of Appeals for the Federal Circuit from the April 16, 2024 Decision Granting Institution of *Inter Partes* Review (Paper 12) (the “Institution Decision”), attached as Exhibit A, and the April 14, 2025 Final Written Decision (Paper 71) (the “Final Written Decision”), attached as Exhibit B, entered by the Patent Trial and Appeal Board (“PTAB” or “Board”) in *inter partes* review No. IPR2024-00004 (“this IPR Proceeding”) of U.S. Patent No. 11,491,835 (“the ‘835 Patent”), the July 17, 2025 Order Denying Director Review (Paper 75), attached as Exhibit C, entered by the Director of the United States Patent and Trademark Office (“USPTO”), and from all underlying orders, decisions, rulings, opinions, findings, and determinations in this IPR Proceeding.

In accordance with 37 C.F.R. § 90.2(a)(3)(ii), Patent Owner Nuhn states that the issues on appeal include, but are not limited to: 1) the Board’s failure to deny institution under 35 U.S.C. §§ 314(a) and 325(d); 2) the Board’s claim construction determinations, including the Board’s construction of the claim terms “liquid manure mover,” “liquid manure pump,” and “directly rearward”; 3) the Board’s determination that Claims 1-40 of the ‘835 Patent are unpatentable as obvious in view of the combination of US 2014/0112093 (Puck – EX1014) and US 7,314,395 (Bryham – EX1015) under 35 U.S.C. §103, including without limitation, the Board’s

application of its 35 U.S.C. § 112(f) construction of the term “liquid manure mover,” hindsight bias, the Board’s determinations regarding motivation to combine and reasonable expectation of success, and the Board’s failure to address evidence teaching away from the claimed subject matter; 4) the Board’s denial of Nuhn’s revised motion to amend the claims of the ‘835 Patent (Paper 42), including without limitation, the Board’s determination that Substitute Claims 41-80 of Nuhn’s revised motion to amend: (i) did not meet the requirements of 35 U.S.C. § 112(a), 35 U.S.C. § 316(d), and 37 C.F.R. § 42.121 for reciting subject matter not supported in the original disclosure, (ii) are unpatentable as obvious in view of the combination of US 2014/0112093 (Puck – EX1014), the Puck Boat (as described in EX1121–1126, EX1158, EX1160–1161, and EX1163–1168), US 7,314,395 (Bryham – EX1015), and the Manure-Manager publication (EX1112) under 35 U.S.C. §103, and (iii) the Board’s determination that its analysis of Substitute Claim 41 applied equally to Substitute Claims 42-80; 5) the Board’s determinations regarding the adequacy of Nuhn’s secondary considerations evidence of non-obviousness; 6) the Board’s refusal to consider arguments and citations to earlier-submitted evidence set forth in Patent Owner’s Sur-Reply (Paper 40); 7) compliance with the Administrative Procedure Act (“APA”), including whether the Institution Decision, Final Written Decision, and/or Order denying Director Review were arbitrary, capricious, an abuse of discretion, not in accordance with the law, or in excess of the USPTO’s

jurisdiction and whether a patent owner's inability to supplement its evidence of secondary considerations in response to a petitioner's reply violates the APA and/or Due Process; 8) the Board's failure to rule on Patent Owner's Motion to Exclude the testimony of Petitioner's alleged expert as outside the scope of his qualifications, experience, and expertise (Paper 54) and the Board's reliance on that testimony; 9) procedural irregularities associated with this IPR Proceeding; 10) the Board's determinations regarding the adequacy and application of expert testimony, prior art, and other evidence in the record, including without limitation, evidence related to the state of the art and general knowledge of persons having ordinary skill in the art; 11) the failure of the Final Written Decision to qualify Petitioner's alleged expert as a person of ordinary skill in the art; and 12) all other issues decided adversely to Nuhn in any orders, decisions, rulings, and opinions, including without limitation, issues related to the burden of proof and the Board's factual findings, conclusions of law, evidentiary rulings, and other determinations related thereto.

This notice of Appeal is being e-filed with the Clerk's Office for the United States Court of Appeals for the Federal Circuit, along with payment of the required docketing fees. In addition, a copy of this Notice of Appeal is being filed simultaneously with the PTAB.

Dated: September 18, 2025

Respectfully submitted,

By: /James B. Luchsinger/

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CERTIFICATE OF FILING

Pursuant to 37 C.F.R. § 90.2, I hereby certify that, in addition to being filed electronically through the Patent Trial and Appeal Board's Case Tracking System (P-TACTS), the foregoing, **PATENT OWNER'S NOTICE OF APPEAL**, was filed on this 18th day of September, 2025 with the Director of the United States Patent and Trademark Office, by email at efileSO@uspto.gov.

/James B. Luchsinger/
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing, **PATENT OWNER'S NOTICE OF APPEAL**, was filed electronically via the CM/ECF Filing System on this 18th day of September, 2025, with the Clerk's Office of the United States Court of Appeals for the Federal Circuit:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. 42.6(e), I certify that on this 18th day of September, 2025, a true and correct copy of the foregoing **PATENT OWNER'S NOTICE OF APPEAL** was served by electronic mail on Petitioner's lead and backup counsel at the following addresses:

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