

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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Kubota North America Corporation,

Petitioner

v.

Vermeer Manufacturing Company,

Patent Owner

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IPR2025-00381

U.S. Patent No. 11,465,891

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**PETITIONER'S INITIAL BRIEF ON CLAIM CONSTRUCTION  
AUTHORIZED BY ORDER**

Per the Board's order requesting briefing regarding the term "mainframe," Petitioner provides the following construction: "mainframe" should be given its plain and ordinary meaning, as the written descriptions of the Challenged Patents (above) do not present a lexicographical definition for "mainframe." And neither the term itself nor the claims in general require that a "mainframe" consist of a "single weldment," preclude detachability, or otherwise require non-separable part(s).<sup>1</sup>

**I. The Specification's Mainframe Sentence Is Merely an Embodiment**

Challenged Patents state: "As used herein, the term 'mainframe' **generally** refers to a single weldment to which the loader 8 is attached, optionally through one or more pivotal linkages." *See, e.g.*, EX1001, 4:5-8.<sup>2</sup> The Board seeks briefing as to "whether this sentence is (1) a lexicographical definition of 'mainframe' or, in the alternative, (2) merely a description of a preferred embodiment." Order (Paper 7), 3. It is the latter—merely a description of a preferred embodiment.

"A patentee may act as its own lexicographer and assign to a term a unique definition that is different from its ordinary and customary meaning; however, a

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<sup>1</sup> This is also true for the other terms used by PO to describe the feature including a "body" (167IPR POPR, 22, 27); "loader support," "rigid frame" (171IPR POPR, 8), "rigid supporting structure" (EX2007).

<sup>2</sup> Emphasis in quotations are added unless specifically indicated. Citations are to '386 Patent and 2015-00167 (167IPR) unless noted, but apply to each patent/proceeding.

patentee must **clearly express that intent in the written description.**” *Helmsderfer v. Bobrick Washroom Equip.*, 527 F.3d 1379, 1381 (Fed. Cir. 2008). The written description here does not clearly express that a mainframe be defined as a “single weldment,” and in fact, clearly expresses an intention to not so limit the term.

The inclusion of “generally” within the identified sentence demands that it is not a lexicographical definition. “[G]enerally” means that there are necessarily instances where the property—here a resultant “single weldment” from a construction choice—is not present. *See* EX1041 (defining “generally” as disregarding the exceptions). Having considered this same sentence, a district court and PO in a prior proceeding agreed. EX1020, 4; EX1040, 6.

Lexicographical definitions in *Parkervision* and *Sinorgchem* are unlike the present case as they turn on language leaving no doubt as to a clear correspondence between the claim term and a definitional phrase.<sup>3</sup> *See Sinorgchem* (finding definitional: “A ‘controlled amount’ of protic material is an amount up to that which inhibits the reaction of aniline with nitrobenzene, e.g., up to about 4%...”), *Parkervision* (finding definitional: “Storage modules and storage capacitances, on the other hand, refer to systems that store non-negligible amounts of energy from

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<sup>3</sup> *Sinorgchem Co., Shandong v. Int’l Trade Comm’n*, 511 F.3d 1132, 1136 (Fed. Cir. 2007); *Parkervision, Inc. v Vidal*, 88 F.4<sup>th</sup> 969, 976-77 (Fed. Cir. 2023).

an input EM signal.”)<sup>4</sup> In contrast, by including the term “generally” in a statement, the feature (*i.e.*, single weldment) is expressly identified as merely included in some, but not all embodiments. **The PO agrees this is not a definition.** EX1040, 6 (PO agreeing the sentence “fails to meet the stringent lexicography standard”).

## **II. Dependent Claims Clearly Illustrate A “Mainframe” (Or Like Term) Is Not Limited to A Single Weldment**

A proper “dependent claim” provides additional limitations to the claim from which it depends. *See* 35 U.S.C. §112(d). The “presence of a dependent claim that adds a particular limitation raises a presumption that the limitation in question is not found in the independent claim.” *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 910. “That presumption is especially strong when the limitation in dispute is the only meaningful difference between an independent and dependent claim...” *SunRace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1303 (Fed. Cir. 2003).

As illustrated by '386 Patent's original claims 1-2, claim 2 adds, as its only recitation and thus only meaningful difference, the “mainframe incorporates a single weldment.” Similar dependent claims exist in all Challenged Patents. *See, e.g.*, '266 (claims 16 and 26), '750 (claim 2). The dependent claim also uses an open-ended

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<sup>4</sup> Having comparative (“on the other hand”) or exemplary embodiment (“e.g.,”) phrases adds to the established lexicographic definition. In contrast, the qualifier “generally” removes any requirement of the feature.

phrase (“incorporates”), which means the mainframe may include other features/portions and “a single weldment.” Thus, construing *mainframe* as being or including a “single weldment” would violate the cannon of claim differentiation.<sup>5</sup>

The written description elsewhere uses the term “generally” to describe features that are included in some, but not all embodiments. For example: “As used herein, ‘compact tool carrier’ refers to machines that **are self-propelled** and **are capable** of carrying interchangeable equipment and that **generally have a mass** of less than about 1500 kg”). EX1001, 6:34-36. But the independent claim also recites a “compact tool carrier...having...a mass of less than about 1500 kg.” *Id.*, 2:59-63. Thus, the patentee understood that the word “generally” would not limit “compact tool carrier,” and accordingly added the additional claim terms about the mass.

### III. Patent Owner's Explicit and Implicit Construction Is Incorrect

POPR facially contends that “mainframe” should be given its plain and ordinary meaning, which it concludes is “the body of the compact tool carrier that supports the loader.” POPR, 22. While we agree that the plain and ordinary meaning applies, the additional requirement that the mainframe is “for supporting a loader” is incorrect. The “mainframe” isn’t limited to supporting only the loader, and this

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<sup>5</sup> The PTO in original prosecution/*ex parte* reexaminations separately analyzed the claims as having an additional limitation. *See, e.g.*, EX1002, 53.

feature is separately claimed; it is a “well-established rule that ‘claims are interpreted with an eye toward giving effect to all terms in the claim.’” *Digital-Vending Servs. Int’l, LLC v. Univ. of Phoenix, Inc.*, 672 F.3d 1270, 1275 (Fed. Cir. 2012).

POPR errs in implicitly importing limitations into “mainframe” construction, attempting to distinguish KR996’s mainframe because it includes separate portions attached together.<sup>6</sup> PO’s implied construction should be rejected because there is no requirement for unitary construction. PO’s annotated prior art figures do not discuss, much less require, unitary construction or lack of separability for a mainframe or body.<sup>7</sup> And the ’386 itself suggests a mainframe of different portions. EX1001, 4:8-10 (“bracket portions”); FIGS. 6-7; claims 1-2. This is also inconsistent with PO’s previous assertion that its claims covered mainframes of separable portions. EX1039, 11 (arguing “certain portions that are bolted-rather than welded together” are still part of *mainframe*).

#### IV. “Mainframe” Construction

Petitioner submits that “mainframe” should be construed according to its plain and ordinary meaning, and not require a “single weldment.” To the extent the PTAB wants a specific construction, a “mainframe” is a supporting structure of a vehicle.

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<sup>6</sup> KR996’s portion of its *mainframe* (fixture 41) that is attached with another portion (body 11) when operating the loader. EX1005, FIGS. 8-10 [0042]-[0043].

<sup>7</sup> At least KR996’s FIG. 21 can be annotated to visually appear just like as in POPR.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies, under 37 C.F.R. § 42.6, that service was made on the Patent Owner as detailed below.

*Date of service* May 7, 2025

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*Documents served* **Petitioner's Initial Brief on Claim Construction  
Authorized by Order**

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