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September 9, 2019

Greg Montgomery
Firman Power Equipment, Inc.
8716 West Ludlow Dr.
Suite #6
Peoria, AZ 85381

RE: Infringement of U.S. Pat No. 10.393.034
Cease and Desist Infringement

Dear Mr. Montgomery:

I write on behalf of Champion Power Equipment, Inc. ("Champion"). As you know, Champion is a leader in power generation equipment, and one of the many advancements in which Champion has dedicated extensive research and development efforts is the dual fuel technology that allows for fast switching between gasoline and liquid propane gas to fuel portable power generators. Champion has taken extensive steps to protect its investment in these dual fuel generators, including securing patent rights. Various aspects of the Champion dual fuel technology are the subject of several patents and corresponding rights of exclusivity both in the U.S. and internationally. One such utility patent that appears to have particular application here is U.S. Pat. No. 10,393,034 entitled "Fuel System for a Multi-Fuel Internal Combustion Engine," ("the '034 Patent") enclosed herein.

We are aware that Firman Power Equipment, Inc. ("Firman") is making, selling, and offering to sell numerous products that infringe on one or more of Champion's patents. Specifically, at the very least, Firman is selling infringing products categorized on Firman's website under the "Hybrid Series" with model number WH02942, 3200 Watt Dual Fuel Inverter Portable Generator[1], model number WH03041, 3300 Watt Dual Fuel Inverter Portable Generator[2], model number WH03042, 3300 Watt Dual Fuel Inverter Portable Generator[3], model number H03651, 4550/3650 Watt Electric Start Gas or Propane Dual Fuel Portable Generator[4], model

[1] https://www.firmanpowerequipment.com/shop/wh02942-3200-2900-watt-dual-fuel-inverter-portable-generator/
[2] https://www.firmanpowerequipment.com/shop/wh03041-3300-3000w-recoil-start-gas-or-propane-dual-fuel-portable-generator-parallel-ready-carb-and-cetl-certified/
[3] https://www.firmanpowerequipment.com/shop/wh03042-3300-3000w-electric-start-gas-or-propane-dual-fuel-portable-generator-parallel-ready-carb-and-cetl-certified/
[4] https://www.firmanpowerequipment.com/shop/open-fram-generator-h03651/

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number H03652, 3600 Watt Generator[5], model number H05752, 5700 Watt Generator[6], model number H05753, 5700 Watt Generator[7], model number H05754, 5700 Watt Generator[8], model number H07552 Costco Exclusive[9], model number H08051, 10000/8000 Watt 120/240V 30/50A Electric Start Gas or Propane Dual Fuel Portable Generator (CARB Certified)[10], and model number H08053, 8000 Watt Generator[11] ("the Infringing Generators"). In addition to being offered for sale and/or sold on Firman's website, one or more of these Infringing Generators are being sold through various retailers, including, but not limited to, Costco/Costco.com, Homedepot.com, PowerEquipmentDirect.com, Amazon.com, Walmart.com, Target.com, Overstock.com, CPOOutlets.com, Sportsman's Warehouse, West Marine, UnbeatableSale.com, SurvivalGearSystems.com, Fingerhut.com, and Advance Distribution Service. We note the timing of Firman's first entry into the market with its dual fuel generators was six months after Champion's dual fuel generators entered the market, apparently coinciding with the six months after you joined Firman as its president.

As a representative exemplar of Firman's Infringing Generators, model number H07551 is covered by at least independent Claims 1 and 11 of the '034 Patent. That is, this particular product, specifically referred to as the H07551 Generator, has a multi-fuel engine meeting all features of Claim 1 and has a multi-fuel generator, a fuel delivery system meeting all features of Claim 11, and a multi-fuel internal combustion engine meeting all features of Claim 18. The enclosed claim chart shows each of the features recited in these claims as found in the H07551 Generator.

The manufacture, use, importation, sales, or offers for sale of these products constitute patent infringement in violation of Title 35 of United States Code sections 271, *et. seq.* subjecting infringers such as Firman to damages and potential injunctive relief. Individuals personally involved in any of these infringing acts may also be liable for infringement, even if they are officers of a company. Damages for patent infringement include no less than a reasonable royalty, and may include Firman's profits. In exceptional cases, as when the infringement is willful, a court may award attorney's fees against an individual defendant or a corporate defendant or both.

Champion contends that the blatant nature of this infringement constitutes willful infringement. Further, now that Champion has placed Firman on notice of its patent rights and infringement by numerous products, each continued act of infringement will be viewed as willful.

Accordingly, Champion demands that you:

1. Immediately cease and desist from manufacturing, using, marketing, selling, offering for sale, and importing all of the identified generators;
2. Remove and recall all marketing materials of any kind in which Firman has listed, identified, or shown the Infringing Generators, including any product listings on E-commerce retail sites;

[5] https://www.firmanpowerequipment.com/shop/open-frame-generator-h03652/
[6] https://www.firmanpowerequipment.com/shop/open-frame-generator-h05752/
[7] https://www.firmanpowerequipment.com/shop/open-frame-generator-h05753/
[8] https://www.firmanpowerequipment.com/shop/open-frame-generator-h05754/
[9] https://www.firmanpowerequipment.com/shop/h07552-7500-watt-dual-fuel-electric/
[10] https://www.firmanpowerequipment.com/shop/open-frame-generator-h08051/
[11] https://www.firmanpowerequipment.com/shop/open-frame-generator-h08053/

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3. Recall all infringing products previously sold and still in the possession or control of retail outlets or distributors, if Firman wants to avoid individual retailers being sued for patent infringement;
4. Isolate all inventory of the identified infringing products and any others likely to be accused of infringement based on the attached claim chart.
5. Identify the quantity of the identified products and any other infringing products sold or shipped or imported after receipt of this letter, and the quantity of products in inventory, so the parties can amicably resolve the damages issues;
6. Provide access by counsel under suitable confidentiality terms to obtain a full and verified review of Firman's written or electronic accounting records including all sales, orders, and shipments of the Infringing Generators;
7. Once we receive the above information, we can discuss and arrange payment of appropriate damages to compensate Champion for the infringement; and
8. Cooperate with Champion as is otherwise reasonably required to efficiently and effectively implement the measures set forth above.

Additionally, I remind you personally and Firman of your legal obligation to preserve, and not to destroy, conceal, or otherwise alter any documents, tangible items, or electronically stored information or communications that will be relevant to Firman's infringement of Champion's patent rights, including damages. I expect every reasonable effort to preserve all such information and things as required by law.

We expect your response by **September 20, 2019**. If we do not receive a satisfactory response and resolution, we will take appropriate steps to protect Champion's rights, including its entitlement to injunctive relief, damages and attorneys' fees.

This letter is not intended to state all of the facts in the matter and Champion does not expressly or impliedly hereby waive or relinquish any of its current rights, all such rights being hereby expressly reserved.

Very truly yours,

STETINA BRUNDA GARRED & BRUCKER

Sam Sumitani

cc: Champion Power Equipment

Enclosures
U.S. Pat. No. 10,393,034
Claim Chart

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