IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HARBOR FREIGHT TOOLS USA, INC.,

GENERAC POWER SYSTEMS, INC., and

MWE INVESTMENTS, LLC,

Petitioners

v.

CHAMPION POWER EQUIPMENT, INC.,

Patent Owner.

Patent No. 11,143,120

Issued: October 12, 2021

Title: FUEL SYSTEM FOR A MULTI-FUEL INTERNAL COMBUSTION ENGINE

Inter Partes Review No. IPR2025-01121

PETITIONER'S PRELIMINARY REPLY TO THE PATENT OWNER PRELIMINARY RESPONSE

As authorized by email on Oct. 29, 2025, Petitioners file this Preliminary Reply to the Patent Owner ("PO") Preliminary Response ("POPR"; Paper 17).

(1) The '120 Patent expressly discloses LPG as a preferred "gaseous fuel," explaining that it "exists in a gaseous state at normal temperature and pressure but can be conveniently stored under pressure in a liquid state." EX1001, 1:44-60, 3:33-37, Claim 9. Yet, the POPR attempts to construe the claim term "gaseous fuel supplied from a pressurized fuel source" as somehow excluding exactly this configuration, i.e., LPG supplied to the engine in gaseous form sourced from a tank storing the LPG under pressure in a liquid state. POPR, 27-31. Such restrictions appear nowhere in the claims, have no specification support, and are improper.

Notably, PO took the opposite position when prosecuting the related '398 patent (POPR, 52), where the Examiner cited Sugimoto as teaching a "liquid fuel" that was stored under pressure as a liquid and subsequently vaporized en route to the engine. EX1038, 180 (citing EX1041). PO objected, arguing that fuel provided this way still constitutes a "**gaseous fuel**" even though drawn from the tank in liquid form. *Id*., 218. Just like Sugimoto, Kubota and Nakafushi both disclose "pressurized tanks" serving as the LPG "gaseous fuel" source. Pet., 51-53, 78-79.

(2) Petitioners believe claim 12's preamble is not limiting, exactly as PO has stated in two different district court cases: "The preambles of the Asserted Claims of the '120 Patent are not limiting." *See* EX1084, 2 n.1; EX1085, 3, n.1. Yet here,

PO takes a diametrically opposite position, now saying the preamble should be limiting. POPR, 32. PO's position should be viewed skeptically given its failure to explain its inconsistent positions. *Cambridge Mobile Telematics, Inc. v. Sfara, Inc.*, IPR2024-00952, Paper 12, at 8 (Dec. 13, 2024) (informative) (determining that a party should explain why inconsistent claim construction positions are warranted).

PO's argument is also legally flawed. First, even where preamble language is used in the body of one claim, this does not mean that the same preamble is limiting in a claim where the term is absent from the claim body. *Catalina Mktg. Int'l, Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 810-11 (Fed. Cir. 2002) (holding that a preamble term was not limiting in one claim despite being limiting in a later claim). Thus, just because the term "generator" appears in claims 14 and 16, this does not support construing claim 12's preamble as limiting. *Id*.

Second, the term "generator" merely describes the intended use of the engine and alternator already required by claim 12. As such, the term "generator" represents merely an intended use that is not limiting. *Id*. at 809 ("[P]reambles describing the use of an invention generally do not limit the claims.").

Lastly, even if limiting, PO's argument fails because the transitional phrase "comprising" indicates that the engine and alternator are constituent components of the generator. The Petition identifies Kubota's engine and alternator, which operate together as a "generator." Pet., 51-53; *see also* EX1003, ¶¶176-78, 238.

(3) PO argues that Petitioners "attempt to implicitly construe the term 'regulator' to encompass a vaporizer—an entirely different structure" because vaporizers allegedly "do not regulate pressure." POPR, 37-38. PO is wrong. The art expressly recognizes that vaporizers can simultaneously function as regulators. EX2062, 7:36-38. PO itself recognized this multi-functionality when noting that "[Sugimoto's] fuel pressure regulator 62 functions as a vaporizer." EX1038 218.

Moreover, PO ignores the Workshop Manual's disclosure of how its primary chamber (i.e., the "primary regulator") reduces the LPG pressure to a specified level, whereupon it passes to the secondary chamber (the "secondary regulator") that then provides the fuel to the engine at the desired pressure. EX1012, 70-71 ("The fuel adjusted with primary chamber ***to the specified pressure*** enters secondary chamber.") (emphasis added); *see also* Pet., 54-58, 79-82.

PO's attempted constructions of "regulator" and "gaseous fuel"/"pressurized fuel source" are effectively trying to read a negative limitation into the claims to exclude generators having a vaporizer, despite no such limitation appearing in the claims. Indeed, while acknowledging that LPG is stored under pressure as a liquid, the specification nowhere even mentions vaporizers; PO's attempt to now exclude vaporizers from the claims is unsupported and contrary to law. *Novartis Pharms. Corp. v. Accord Healthcare, Inc*., 38 F.4th 1013, 1017 (Fed. Cir. 2022) (explaining that negative limitations are not supported by mere silence in a disclosure).

Date: November 3, 2025

Respectfully submitted,

By: *s/Michael R. Houston/*

Michael R. Houston
Reg. No. 58,486
FOLEY & LARDNER LLP
321 N. Clark St., Suite 3000
Chicago, Illinois 60654
312-832-4500
mhouston@foley.com

Counsel for Petitioner Harbor Freight

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 3, 2025, a true and correct copy of the foregoing **PETITIONER'S PRELIMINARY REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE** was filed through the PTACTs system along with service to the email addresses listed below:

Joseph W. Staley
Email: j.staley@pkhip.com
Scott P. Amy
Email: s.amy@pkhip.com
Thomas F. Finch
Email: t.finch@pkhip.com
Timothy J. Ziolkowski
Email: tjz@zpatents.com
Jacob M. Fritz
Email: jmf@zpatents.com
Email: rlt@zpatents.com
Email: championlit@pkhip.com

Date: November 3, 2025

By: *s/Michael R. Houston/*

Michael R. Houston
Reg. No. 58,486
FOLEY & LARDNER LLP
321 N. Clark St., Suite 3000
Chicago, Illinois 60654
312-832-4500
mhouston@foley.com

Counsel for Petitioner Harbor Freight