

CHAMPION’S INFRINGEMENT CONTENTIONS FOR
U.S. PATENT NO. 11,143,120
AS ASSERTED AGAINST
GENERAC MODEL DF3500E ET AL.
FILING DATE: JUNE 22, 2020
PRIORITY DATE: JUNE 12, 2015

I. Generac Model DF3500E



II. Brief Description

Generac Model DF3500E is a dual fuel portable generator under Generac’s Powermate brand. Model DF3500E produces 4,375W (starting)/3,500W (running) when using gasoline and 4,000W (starting)/3,200W (running) when using liquified petroleum gas (“LPG”; also known as propane). Model DF3500E can operate at 50% load for up to 10 hours with its 4.5-gallon gasoline tank, up to 7 hours with a 20-pound LPG tank, or up to 10.5 hours with a 30-pound LPG tank. Model DF3500E has a battery-operated, push-button electric start and a recoil starter for its 208cc engine with a low oil shutoff. Model DF3500E also includes an automatic voltage regulator (“AVR”), four receptacles, circuit breaker protection, and a control panel with a digital multi-meter. Model DF3500E also has a fold-down locking handle and never flat wheels.

III. Accused Instrumentalities

Generac Model DF3500E and Generac Model DF7500E, which is also a dual fuel portable generator, are the Accused Instrumentalities that are alleged to infringe claim 12 (the “Asserted Claims”) of U.S. Patent No. 11,143,120 (the “’120 Patent”). An image of Model DF7500E is provided below:

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Generac Model DF7500E

IV. Protocol

For purposes of analyzing the Asserted Claims of the '120 Patent against the Accused Instrumentalities, Model DF3500E is considered representative. Model DF7500E includes the same components for switching between gaseous fuel and liquid fuel that infringe the claims of the '120 Patent in the same manner as discussed herein with respect to Model DF3500E and is thus an Accused Instrumentality. In both Accused Instrumentalities, the gaseous fuel is LPG, and the liquid fuel is gasoline.

Accordingly, while the claim chart provided below in Section VII is illustrated with reference to Model DF3500E, each element in the claim chart is found in Model DF7500E in the same manner as illustrated with reference to Model DF3500E.

V. Priority Dates

The priority dates for the Asserted Claim of the '120 Patent is June 12, 2015.

VI. Statement Regarding Contributory and Induced Infringement

The claimed dual fuel engine operates on different fuels, like a liquid fuel (e.g., gasoline) or a gaseous fuel (e.g., LPG), but a gaseous fuel tank (e.g., an LPG tank), the gaseous fuel in the gaseous fuel tank, and liquid fuel in the liquid fuel tank (e.g., gasoline in a gasoline tank) are not required for infringement unless explicitly claimed in the Asserted Claims. Nonetheless, to the extent the Court construes any claim to require a gaseous fuel tank, gaseous fuel in the gaseous fuel tank, or liquid fuel in a liquid fuel tank, Generac contributes to or induces infringement by instructing its users to use a gaseous fuel tank and gaseous fuel and to fill the liquid fuel tank in order to operate the dual fuel engine.

Generac induces infringement of various Asserted Claims by specifically instructing its customers to attach an LPG tank to the engine and to put liquid fuel in the liquid fuel tank. [See Generac Owner's Manual for Model DF3500E at 9 (listing gasoline quality requirements and instructing to "4. Slowing add recommended

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fuel”) and at 10 (providing instructions to “Connect LPG Tank” using the “LPG regulator connecting hose”).] To the extent the Court construes any Asserted Claim to require an LPG tank, gaseous fuel, or liquid fuel for infringement, when Generac’s customers use the Accused Instrumentalities with a filled LPG tank connected and with fuel in the liquid fuel tank, the infringement of any such Asserted Claims is completed. As such, Generac’s instructions to customers to connect a filled LPG tank and fill the liquid fuel tank before operation of the Accused Instrumentalities constitutes indirect infringement.

For the same reasons, Generac’s conduct also constitutes contributory infringement. To the extent the Court’s claim construction requires an LPG tank, gaseous fuel, or liquid fuel for infringement, Generac supplies its customers every component necessary to infringe the Asserted Claims except the filled LPG tank and the liquid fuel. Because the Owner’s Manual for Model DF3500E instructs customers to connect a filled LPG tank to the generator and to fill the liquid fuel tank with fuel, [*id.*], Generac knew that Model DF3500E would be used to infringe any applicable Asserted Claims. By connecting and using the Accused Instrumentalities with a filled LPG tank connected or with liquid fuel in the liquid fuel tank, Generac’s customers complete the infringement of such Asserted Claims. As such, Generac’s conduct also constitutes contributory infringement of such Asserted Claims.

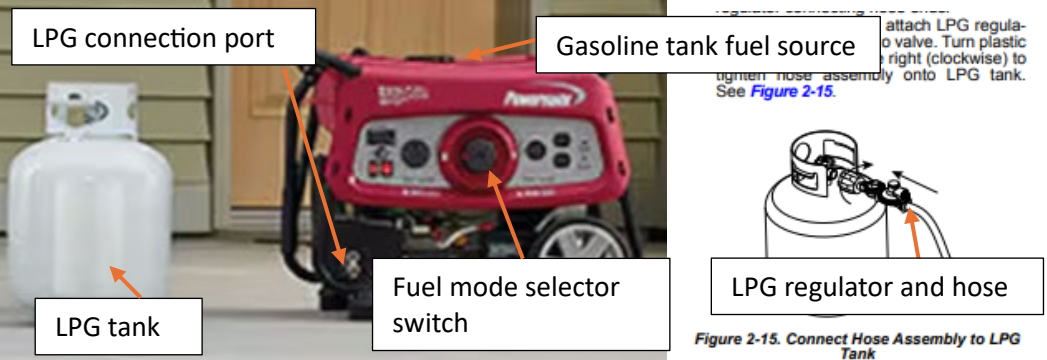
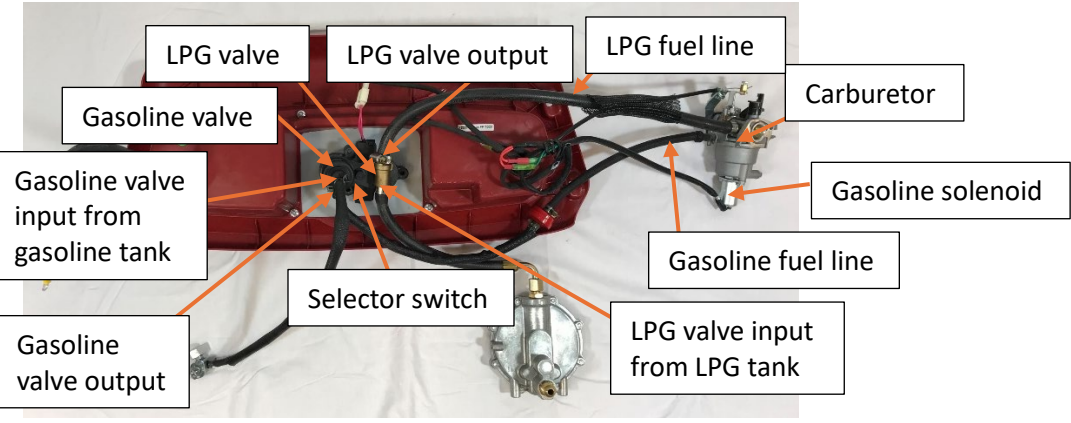
Champion incorporates this Section VI by reference into any element of any asserted claim that is construed to require attachment of a gaseous fuel tank, gaseous fuel, or filling of the liquid fuel tank with fuel.

VII. Claim Chart

’120 Patent Asserted Claims	Accused Instrumentality Components Illustrated with Respect to Model DF3500
12. (Preamble) A multi-fuel generator and fuel delivery system comprising:	Although not necessary for infringement¹, the preamble of claim 12 is found within Model DF3500E (and, thereby, Model DF7500E) as follows: Model DF3500E includes a dual fuel engine that uses either LPG or gasoline. A fuel mode selector switch (“selector switch”) is provided to allow a user to toggle between gasoline from the gasoline tank in a Gasoline Mode and LPG from the pressurized LPG tank in LPG Mode.

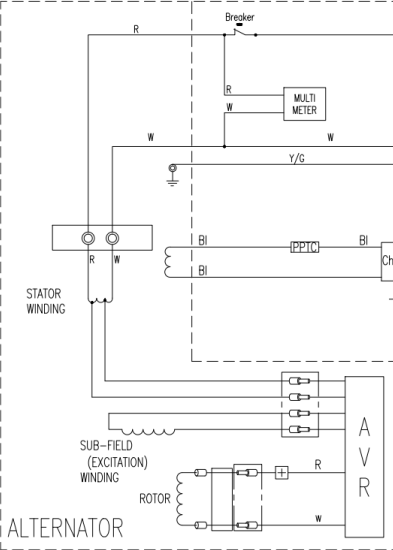
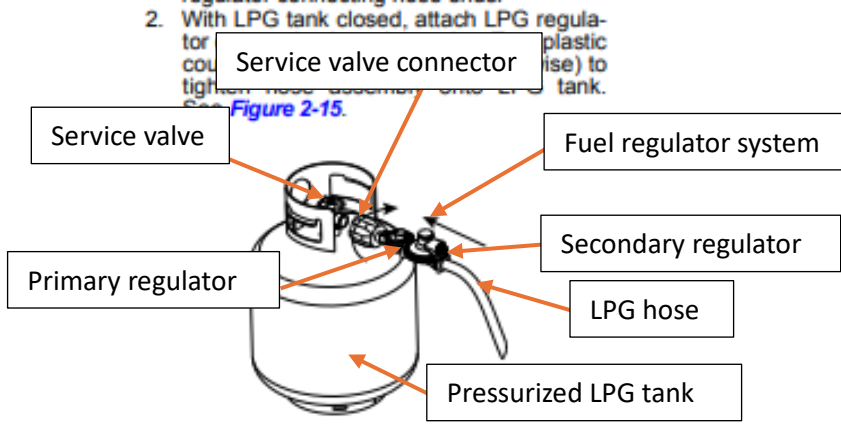
¹ The preambles of the Asserted Claims of the ’120 Patent are not limiting and therefore should not be part of the infringement analysis. *See Artic Cat Inc. v. GEP Power Prods., Inc.*, 919 F.3d 1320, 1328 (Fed. Cir. 2019) (“We have long ruled that ‘a preamble is not limiting where a patentee defines a structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention.’”) (quoting *Cataline Mktg. Int’l, Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 808 (Fed. Cir. 2002)). Nonetheless, Champion provides general description of Model DF3500E next to the preamble to show how it meets the preamble and to assist in the infringement analysis by giving an overview of the Accused Instrumentalities. Champion incorporates this footnote by reference in the preambles of all the Asserted Claims.

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	 <i>Figure 2-15. Connect Hose Assembly to LPG Tank</i>
(a) a multi-fuel internal combustion engine configured to operate on a liquid fuel supplied from a liquid fuel source through a liquid fuel line and a gaseous fuel supplied from a pressurized fuel source through a gaseous fuel line;	Element (a) of claim 12 is found within Model DF3500E (and, thereby, Model DF7500E) directly and literally² as follows: Model DF3500E includes a multi-fuel engine configured to operate on LPG from a pressurized LPG tank that is connected to the generator with an LPG hose and to operate on gasoline from an on-board gasoline tank. Both fuel sources feed fuel to the carburetor and engine through their respective LPG and gasoline fuel lines. 
(b) an alternator driven by the multi-fuel internal combustion engine; and	Element (b) of claim 12 is found within Model DF3500E (and, thereby, Model DF7500E) directly and literally as follows: The alternator is housed within a casing on the engine. It is driven by the engine to generate electrical power. The wiring diagram also shows the alternator.

² To the extent further discovery or claim construction reveals that any of the Accused Instrumentalities do not literally infringe the '120 Patent, Champion reserves the right to argue the Accused Instrumentalities infringe any of the Asserted Claims of the '120 Patent under the doctrine of equivalents. Champion incorporates this footnote by reference into each element of each Asserted Claim that Champion alleges is literally infringed by the Accused Instrumentalities.

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(c) a fuel regulator system comprising:	Element (c) of claim 12 is found within Model DF3500E (and, thereby, Model DF7500E) directly and literally as follows: The off-board fuel regulator system is included with the generator on the LPG hose, as pictured below from the user manual. The fuel regulator system includes a primary pressure regulator and a secondary pressure regulator. A service valve connector couples the LPG hose and fuel regulator system to the service valve of a pressurized LPG tank.  Figure 2-15. Connect Hose Assembly to LPG Tank
(c)(1) a primary pressure regulator coupled to a service valve of the pressurized fuel source to regulate	Element (c)(1) of claim 12 is found within Model DF3500E (and, thereby, Model DF7500E) directly and literally as follows: The primary regulator is coupled to the service valve with the service valve connector and regulates the LPG from the LPG tank to a reduced pressure.

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fuel supplied from the pressurized fuel source to a reduced pressure, and	
(c)(2) a secondary pressure regulator coupled to the primary pressure regulator to regulate fuel supplied from the primary pressure regulator to a desired pressure for delivery through the gaseous fuel line to operate the engine.	Element (c)(2) of claim 12 is found within Model DF3500E (and, thereby, Model DF7500E) directly and literally as follows: The secondary regulator is coupled to the primary regulator and regulates the LPG pressure down from the first reduced pressure to a desired pressure for delivery through the LPG line to operate the engine.