

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MWE INVESTMENTS, LLC,
HARBOR FREIGHT TOOLS USA, INC., and
GENERAC POWER SYSTEMS, INC.,

Petitioners,

v.

CHAMPION POWER EQUIPMENT, INC.,

Patent Owner.

Patent No. 10,221,780

Issued: March 5, 2019

Title: DUAL FUEL SELECTOR SWITCH

Inter Partes Review No. IPR2025-01185

**PETITIONERS' BRIEF REGARDING *REVVO* AND *TESLA* IN VIEW OF
PETITIONERS' CLAIM CONSTRUCTION POSITIONS**

UPDATED EXHIBIT LIST

Exhibit No.	Description
Ex.1001	U.S. Patent No. 10,221,780 (“the ’780 Patent”)
Ex.1002	File History of the ’780 Patent (“the ’780 File History”)
Ex.1003	Declaration of Dr. Mahdi Shahbakhti (“Decl.”)
Ex.1004	DuroMax XP4400EH Operator’s Manual (“DuroMax”)
Ex.1005	U.S. Patent No. 5,718,265 to Elsdon (“Elsdon”)
Ex.1006	U.S. Patent No. 4,492,207 to Hallberg (“Hallberg”)
Ex.1007	U.S. Patent No. 10,337,399 to Rumao (“Rumao”)
Ex.1008	U.S. Patent No 1,931,698 to Holzapfel (“Holzapfel”)
Ex.1009	<i>Cambridge Dictionary</i> , https://dictionary.cambridge.org/dictionary/english/couple (last visited July 8, 2025).
Ex.1010	U.S. Patent Publication No. 2011/0100335 A1 to Parlatore (“Parlatore”)
Ex.1011	Champion’s Claim Construction Brief CV-23-2371-PHX-DWL
Ex.1012	Declaration of David Raskin (dated May 7, 2025)
Ex.1013	https://www.youtube.com/watch?v=Ip7ckWAZ3xQ
Ex.1014	<i>American Heritage Dictionary of the English Language</i> (3d ed. 1996).
Ex.1015– Ex.1037	Reserved.
Ex.1038	Champion’s Infringement Contentions for U.S. Patent No. 10,221,780 as Asserted Against Generac Model DF3500E et al. (served Apr. 15, 2025)
Ex.1039– Ex.1054	Reserved.
Ex.1055	Order on Defendant/Counter-Claimant’s Motion for Partial Stay, <i>FaceTec, Inc. v. iProov, Ltd.</i> , No. 21-cv-2252, Dkt. 188 (D. Nev., order dated June 18, 2025)
Ex.1056	Docket Navigator Statistics Regarding Judge Adelman’s Grant

	Rate for Motions to Stay
Ex.1057	Docket Navigator Statistics Regarding Grant Rate for Motions to Stay in Eastern District of Wisconsin
Ex.1058	Docket Navigator Statistics Regarding Motions to Stay in District of Nevada
Ex.1059	Declaration of Eric Huang (dated Sept. 12, 2025)
Ex.1060	Order, <i>Parsons Xtreme Golf LLC v. Taylor Made Golf Co.</i> , No. 17-cv-3125, Dkt. 187 (D. Ariz., order dated Nov. 29, 2018)
Ex.1061	Email from Taylor R. Stemler to Jennifer Hoekel et al. (Aug. 13, 2025)
Ex.1062	Docket Navigator Statistics Regarding Grant Rate for Uncontested Motions to Stay in Eastern District of Wisconsin
Ex.1063	Docket Navigator Statistics Regarding Grant Rate for Uncontested Motions to Stay in District of Nevada
Ex.1064	Docket Navigator Time to Trial Statistics for District of Nevada
Ex.1065	Docket Navigator Time to Milestone Statistics for Judge Adelman
Ex.1066	Docket Navigator Time to Milestone Statistics for Eastern District of Wisconsin
Ex.1067	Docket Navigator Time to Milestone Statistics for Central District of California
Ex.1068– Ex.1069	Reserved.
Ex.1070	Memorandum in Support of Plaintiff’s Motion to Sever Defendant’s Counterclaims for Infringement or in the Alternative for Leave to File an Amended Answer and Counter-Counterclaim, <i>Champion Power Equipment, Inc. v. Generac Power Systems, Inc.</i> , No. 24-cv-1281, Dkt. 38 (E.D. Wis. July 3, 2025)
Ex.1071– Ex.1079	Reserved.
Ex.1080	Champion Dual Fuel Generator Model 100153 Operator’s Manual

Ex.1081– Ex.1082	Reserved.
Ex.1083	Amended Scheduling Order, <i>Champion Power Equipment, Inc. v. Generac Power Systems, Inc.</i> , No. 24-cv-01281, Dkt. 59 (E.D. Wis. Sept. 17, 2025)
Ex.1084	Harbor Freight’s Opening Claim Construction Brief, <i>Harbor Freight Tools USA, Inc. v. Champion Power Equipment, Inc.</i> , No. 24-cv-8722, Dkt. 84 (C.D. Cal., Sept. 9, 2025)
Ex.1085	Excerpts from Generac’s Supplemental Preliminary Invalidity Contentions (Sept. 25, 2025)
Ex.1086	Order Giving Leave for Parties to File Supplemental Briefing on Tentative Claim Constructions, <i>Harbor Freight Tools USA, Inc. v. Champion Power Equipment, Inc.</i> , No. 24-cv-8722, Dkt. 98 (C.D. Cal., October 15, 2025)

As ordered by the Board, Petitioners submit this brief to address the impact of the *Revvo* and *Tesla* decisions on this proceeding in view of Petitioners' claim construction positions.¹ The Petition complies with 37 C.F.R. § 42.104 and is consistent with Petitioners' litigation claim construction positions.

The Petition's Alternative Constructions Satisfy 37 C.F.R. § 42.104 And *Revvo*

The Petition complies with 37 C.F.R. § 42.104 because it identifies “[h]ow the challenged claim[s are] to be construed.” *See* Pet., §V. Harbor Freight proposed substantially the same constructions in its litigation. Ex.1084, 12–16. Generac and MWE expect to take the same claim construction positions at the time such disclosures are due.

This case is distinguishable from *Revvo*, where the Petitioner “did not propose its own constructions for claim terms in the Petition but instead accepted [Patent Owner]’s proposed constructions” and “did not explain why it was taking a different position” in the litigation. *Revvo* at 2. Here, Petitioners propose their own constructions (in compliance with 37 C.F.R. § 42.104) consistent with their litigation positions. Petitioners also explain why Patent Owner’s constructions of certain claim

¹ *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 (Nov. 3, 2025) (precedential) [hereinafter *Revvo*]; *Tesla, Inc. v. Intell. Ventures II LLC*, IPR2025-00340, Paper 18 (Nov. 5, 2025) (informative) [hereinafter *Tesla*].

terms that were advanced by Patent Owner in litigation are wrong (Pet., §V.C.), yet also present alternative grounds of invalidity specific to Patent Owner’s litigation constructions. Pet., §VII.B–D. Alternative invalidity grounds dependent on later claim construction findings are routine in litigation and are likewise permissible before the Board. *smaXtec Inc. v. ST Reproductive Techs. LLC*, IPR2024-00875, Paper 18 at 21 & n.7 (PTAB Nov. 22, 2024) (stating “[i]t is common for Petitioners to present alternative claim constructions” and holding that arguing invalidity under both constructions satisfies 37 C.F.R. § 42.104).

Champion faults Petitioners because Harbor Freight proposed a construction of “a mechanical fuel valve” and “communicate”/“communicating.” However, “[t]he Board is required to construe ‘only those terms ... necessary to resolve the controversy.’” *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019). The Petition’s invalidity grounds that cite combinations of DuroMax, Elsdon, Rumao, and Parlatore are sufficient to show invalidity under any of Petitioners’ constructions, Champion’s constructions, and the Harbor Freight Court’s tentative constructions. *See* Ex.1086, 3–5. Any claim construction differences that may exist are immaterial to the Petition’s invalidity grounds.

Generac’s Indefiniteness Contentions Do Not Contradict The Petition

Under *Tesla*, alternative indefiniteness positions are permitted when “notwithstanding the alleged indefiniteness of the claim term, an ordinarily skilled

artisan would understand that the asserted art satisfies the claim limitation.” *Tesla* at 3–4. This is consistent with Federal Circuit precedent. *See, e.g., Intel Corp. v. Qualcomm Inc.*, 21 F.4th 801, 813 (Fed. Cir. 2021) (“The indefiniteness of a limitation ... precludes a patentability determination **only** when indefiniteness renders it **logically impossible** for the Board to reach such a decision.” (emphasis added)).

Generac served contentions asserting that the “claims, specification, and prosecution history of the patent fail to inform a person of ordinary skill in the art with reasonable certainty about the **full scope** of the definitions of either ‘actuatable’ or ‘selectively control fuel flow.’” Ex.1085, 25 (emphasis added). The DuroMax/Elsdon combination cited in the Petition is structurally identical to the only embodiment disclosed by the ’780 Patent. In compliance with the written description requirement, the only disclosed embodiment is covered by the claim language. *See Johns Hopkins Univ. v. CellPro, Inc.*, 152 F.3d 1342, 1355 (Fed. Cir. 1998) (“A patent claim should be construed to encompass at least one disclosed embodiment in the written description portion of the patent specification.”). Therefore, any ambiguity in the boundary of the claim language is irrelevant to assessing the validity of the claims over structurally identical DuroMax/Elsdon combination, as this combination falls squarely within the scope of the claims.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 10, 2025, a true and correct copy of the foregoing **PETITIONERS' BRIEF REGARDING *REVVO* AND *TESLA* IN VIEW OF PETITIONERS' CLAIM CONSTRUCTION POSITIONS** was filed through the P-TACTS system along with service to the email addresses listed below:

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