

IPR2025-01228
U.S. Patent No. 11,905,896

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CHAMPION POWER EQUIPMENT, INC.,
Patent Owner.

Patent No. 11,905,896

Issued: February 20, 2024

Title: DUAL FUEL SELECTOR SWITCH

Inter Partes Review No. IPR2025-01228

**PETITIONERS' PRELIMINARY REPLY TO THE PATENT OWNER
PRELIMINARY RESPONSE**

As authorized by the Board, Petitioners file this Preliminary Reply to the Patent Owner Preliminary Response (“POPR”; Paper 16).

The DuroMax-De Vries combination is structurally and functionally equivalent to the preferred—and only—embodiments described in the specification, presenting a strong case for invalidity. The DuroMax-De Vries combination teaches the claimed “at least one valve handle mechanically coupled to the first fuel valve and the second fuel valve” because the combination includes two valve handles mechanically coupled to two respective valves. Paper 4 at 46.

Such a construction is proper because the phrase “at least one valve handle” with the open-ended transitional phrase “comprising” broadly covers “a first valve handle and a second valve handle,” with the first valve handle being coupled to the first fuel valve and the second valve handle being coupled to the second fuel valve, as disclosed in the ’896 Patent and Petitioners’ DuroMax-De Vries combination. *See, e.g.*, EX1001, Claim 17 (further describing this configuration).

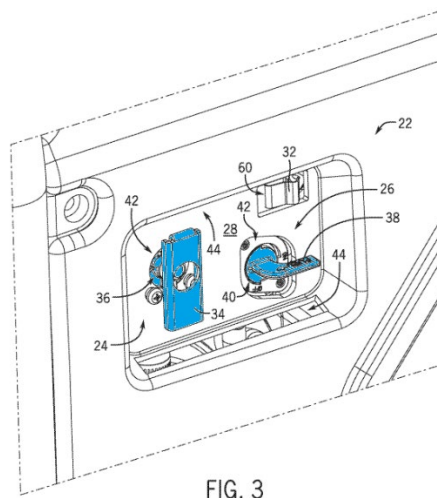
Patent Owner argued in its POPR and its briefing with respect to the nearly identical claim element in the ’101 Patent IPR that this claim element should not be construed to cover “two valve handles *respectively* coupled to the first and second fuel valves[.]” IPR2025-00951, Paper 20 at 1-2. Instead, according to Patent Owner, the claim element requires that each “handle (or handles) must be coupled to ***both*** the first and second fuel valves.” *Id.* at 1 (emphasis added).

In attempting to rewrite its claims to now require *a single valve handle* that is connected to *both* the first fuel valve and the second fuel valves, Patent Owner does exactly what it accuses Petitioners of doing. *Id.* at 1 (“Petitioner’s proposed construction reads in the term ‘respective’ despite its clear absence in Claim 10.”)

Patent Owner concedes that its restrictive construction excludes the configuration shown in FIGS. 3-5 of its application and attempts to justify its construction by relying on cases construing claim terms to exclude certain embodiments in the specification. *Id.* at 2-3. But Patent Owner fails to consider that all of its cited cases *do* construe the disputed terms to cover *at least one* disclosed embodiment in the application. None of these cases stand for the proposition that ambiguous claim terms should be construed to exclude *all disclosed embodiments*.

Such a proposition is contrary to Federal Circuit law, as a construction causing “a preferred (*and indeed only*) embodiment in the specification [to] not fall within the scope of the patent claim” is “rarely, if ever, correct and would require highly persuasive evidentiary support, which is wholly absent in this case.” *Vitronics Corp. v. Conceptoronic*, 90 F.3d 1576, 1583 (Fed. Cir. 1996) (emphasis added); *Kaufman v. Microsoft Corp.*, 34 F.4th 1360, 1372 (Fed. Cir. 2022) (same) (“A fortiori as to excluding a sole embodiment.”). Here, *every embodiment* of Patent Owner’s fuel selector described in its patent application is described as having a “[f]irst valve assembly 24 include[ing] a first fuel valve handle 34 that is operatively connected to

a first fuel valve 36 [and a] second valve assembly 26 include[ing] a second fuel valve handle 38 that is operatively connected to a second fuel valve 40” EX1001, 4:33-38. Thus, every embodiment includes “two valve handles [34, 38] respectively coupled to [a] first and second fuel valve,” as shown in FIG. 3. IPR2025-00951, Paper 20 at 1-2.



Patent Owner’s new position that its restrictive claim construction excludes “respectively coupled” embodiments also contradicts the representations it made to the USPTO while prosecuting the ’101 Patent. There, in amending claim 10 to include a nearly identical limitation, Patent Owner argued support for its amendment is found in Paragraphs [0022]-[0024] of the specification (describing the “fuel valves 36, 40” with “respective fuel valve handles”) and in FIG. 3 (shown above). EX1028, 128. Patent Owner cannot now contradict its representations to the USPTO in proposing its new restrictive constructions that exclude these same embodiments.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 10, 2025, a true and correct copy of the foregoing **PETITIONERS' PRELIMINARY REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE** was filed through the PTACTs system along with service to the email addresses listed below:

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