

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,
Petitioner,

v.

CHAMPION POWER EQUIPMENT, INC.,
Patent Owner.

IPR2025-01272
Patent 11,492,985

**PATENT OWNER CHAMPION POWER EQUIPMENT, INC.'S
PRELIMINARY RESPONSE**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	OVERVIEW OF THE '985 PATENT	3
A.	The Specification of the '985 Patent	4
B.	The Independent Claims of the '985 Patent.....	4
1.	Claim 1.....	4
2.	Claim 11.....	5
3.	Claim 16.....	6
III.	LEVEL OF ORDINARY SKILL IN THE ART.....	7
IV.	CLAIM CONSTRUCTION	7
V.	ARGUMENT.....	9
A.	Petitioner's inconsistent litigation positions support denial.	10
B.	Petitioner's reliance on "apparent" constructions that it contends are "wrong" supports denial.....	14
1.	The Petition does not support the Petitioner's "apparent" constructions.	17
2.	Petitioner's allegation that the Challenged Claims are invalid based on Petitioner's reliance on Patent Owner's "apparent" construction of "fuel lockout apparatus," "prevent ... coupling" and "permit ... to couple" is improper.....	18
C.	Petitioner's extensive reliance on system art in corresponding district court litigation supports denial.....	20
D.	Petitioner's inequitable conduct allegations in corresponding district court litigation support denial.	22

VI. CONCLUSION.....	24
---------------------	----

TABLE OF AUTHORITIES

CASES

<i>Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH,</i> IPR2019-01469, Paper 6 (P.T.A.B. Feb. 13, 2020).....	1
<i>Apple Inc. v. Fintiv, Inc.,</i> IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020).....	1
<i>Cambridge Mobile Telematics, Inc. v. Sfara, Inc.,</i> IPR2024-00952, Paper 12 (P.T.A.B. Dec. 13, 2024)	16
<i>Facebook, Inc. v. Sound View Innovations, LLC,</i> IPR2017-01005, Paper No. 13 (P.T.A.B. Sept. 1, 2017).....	8
<i>Microchip Tech. Inc. v. Aptive Technologies AG,</i> IPR2024-00494, Paper 12 (P.T.A.B. October 7, 2024).....	16
<i>Motorola Sols., Inc. v. Stellar, LLC,</i> IPR2024-01205, Paper 19 (P.T.A.B. Mar. 28, 2025).....	21
<i>Phillips v. AWH Corp.,</i> 415 F.3d 1303 (Fed. Cir. 2005)	7
<i>Revvo Techs., Inc., v. Cerebrum Sensor Techs., Inc.</i> IPR2025-00632, Paper 20 (P.T.A.B. November 3, 2025).....	passim
<i>Symantec Corp., v. Finjan, Inc.,</i> IPR2015-01897, Paper 7 (P.T.A.B. February 26, 2016)	23
<i>Tesla, Inc. v. Intell. Ventures II LLC,</i> IPR2025-00340, Paper 18 (P.T.A.B. November 5, 2025).....	21, 22, 23, 24
<i>Vicor Corp. v. Delta Elec., Inc.,</i> IPR2024-00704, Paper 11 (P.T.A.B. October 2, 2024).....	15, 16, 19
<i>Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.,</i> 200 F.3d 795 (Fed. Cir. 1999)	8

<i>Xerox Corp. v. Bytemark, Inc.</i> , IPR2022-00624, Paper 9 (P.T.A.B. August 24, 2022)	13
---	----

OTHER AUTHORITIES

Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board, 83 Fed. Reg. 51,340 (Oct. 11, 2018)	11
John A. Squires, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, Director Institution of AIA Trial Proceedings (October 17, 2025), https://www.uspto.gov/sites/default/files/documents/Director_Institution_of_AI A_Trial_Proceedings.pdf	9

REGULATIONS

37 C.F.R. § 42.104(b)	15, 18
37 C.F.R. § 42.107	1

STATUTES

35 U.S.C. § 311(b)	23
35 U.S.C. § 312(a)	15, 18
35 U.S.C. § 314(a)	1
35 U.S.C. § 325(d)	1

TABLE OF EXHIBITS

Exhibit #	Description
EX2001	Docket for Champion Power Equipment, Inc. v. Firman Power Equipment Inc., Case No. 2:23-cv-02371 (D. Az.) (“Firman Case”)
EX2002	Firman Case, Case Management Order, ECF No. 33
EX2003	Firman Case, First Amended Complaint, ECF No. 24
EX2004	<i>Reserved</i>
EX2005	Firman Case, Firman’s Motion to Amend Invalidity Contentions, ECF No. 115
EX2006	Firman Case, Declaration and Exhibit, ECF No. 116
EX2007	Firman Case, Order Granting Leave to Amend, ECF No. 124
EX2008	<i>Reserved</i>
EX2009	Firman’s Nov. 2024 Subpoena to third-party Generac (Firman Case)
EX2010	<i>Reserved</i>
EX2011	Generac Case, Generac’s First Amended Answer and Counterclaims, ECF No. 30
EX2012	<i>Reserved</i>
EX2013	Defendant Generac’s Feb. 14, 2025 Subpoena to third-party Firman
EX2014	<i>Reserved</i>
EX2015	
EX2016	Docket for Harbor Freight Case (C.D. Cal.)
EX2017	Harbor Freight Case, Complaint for Declaratory Judgment, ECF No. 1
EX2018	Harbor Freight Case, Champion’s Answer and Counterclaims, ECF No. 47
EX2019	Harbor Freight Case, Harbor Freight’s Answer to Counterclaims, ECF No. 55
EX2020	Harbor Freight Case, Joint R26 Report, ECF No. 38
EX2021	<i>Reserved</i>
EX2022	
EX2023	Harbor Freight’s Mar. 10, 2025 Subpoena on third-party Firman
EX2024	<i>Reserved</i>
EX2025	
EX2026	
EX2027	
EX2028	
EX2029	Generac Case, Complaint, ECF No. 1

Exhibit #	Description
EX2030	<i>Reserved</i>
EX2031	Sept. 9, 2019 Letter from Champion to Firman
EX2032	<i>Reserved</i>
EX2033	June 23, 2020 Letter from Champion to MWE
EX2034	July 31, 2020 MWE Response Letter
EX2035	Oct. 17, 2020 MWE Responsive Letter
EX2036	July 7, 2020 Letter from Champion to Generac
EX2037	July 31, 2020 Generac Response Letter
EX2038	March 27, 2024 Letter from Champion to Harbor Freight
EX2039	June 28, 2024 Letter from Champion to Harbor Freight
EX2040	<i>Reserved</i>
EX2041	
EX2042	
EX2043	
EX2044	
EX2045	
EX2046	
EX2047	Docket Navigator - Time to Milestones for D. Az. (Trial)
EX2048	Docket Navigator - Time to Milestones for E.D. Wis. (Trial)
EX2049	<i>Reserved</i>
EX2050	
EX2051	MWE Case, Complaint, ECF No. 1
EX2052	<i>Reserved</i>
EX2053	
EX2054	Champion's Patent Statement and Licensing Declaration Form, July 1, 2021
EX2055	Firman's August 30, 2024 Invalidity Contentions
EX2056	<i>Reserved</i>
EX2057	
EX2058	
EX2059	
EX2060	US Pub No. 2002/0134362 ("Deutsch")
EX2061	<i>Reserved</i>
EX2062	
EX2063	
EX2064	Champion September 26, 2014 Internal Email

Exhibit #	Description
EX2065	Firman Case, Champion's Motion to Amend Infringement Contentions, ECF No. 198
EX2066	<i>Reserved</i>
EX2067	
EX2068	
EX2069	August 15, 2025 Stipulation from MWE
EX2070	Generac Case, Exhibit 3 – webpage, ECF No. 30-03
EX2071	Wayback Machine, http://pgmaonline.com/members.asp , dated July 29, 2013
EX2072	<i>Reserved</i>
EX2073	Firman Case, Order, ECF No. 141
EX2074	Generac's April 23, 2025 Responses to Plaintiff's First Set of Interrogatories
EX2075	Screenshots from Honda EU20i LPG video, https://www.youtube.com/watch?v=yBpq33aJmR0
EX2076	YouTube Video, HONDA EU20i LPG, https://www.youtube.com/watch?v=yBpq33aJmR0
EX2077	<i>Reserved</i>
EX2078	
EX2079	
EX2080	
EX2081	
EX2082	
EX2083	August 29, 2025 Stipulation from MWE
EX2084	August 29, 2025 Stipulation from Harbor Freight
EX2085	September 2, 2025 Stipulation from Generac
EX2086	US10221780 ("the '780 Patent")
EX2087	Declaration of Scott P. Amy in Support of Patent Owner's Notice of Intent to Designate a Provisionally Recognized PTAB Attorney as Backup Counsel
EX2088	US9435273 ("the '273 Patent")
EX2089	August 13, 2025 Stipulation from Generac
EX2090	August 7, 2025 Stipulation from Harbor Freight
EX2091	<i>Reserved</i>
EX2092	
EX2093	File History of U.S. Patent No. 10,221,780
EX2094	Generac Case, Affidavit of Service, ECF No. 4

Exhibit #	Description
EX2095	Harbor Freight Case, Preliminary Proposed Claim Constructions
EX2096	US2007/0137591 (“Sugimoto”)
EX2097	US2722208 (“Conroy”)
EX2098	<i>Reserved</i>
EX2099	Generac Case, Amended Scheduling Order, ECF No. 59
EX2100	<i>Reserved</i>
EX2101	
EX2102	
EX2103	Screenshots from Yamaha EF2000iS Tri Fuel Conversion video, https://www.youtube.com/watch?v=caZawwDaRQg
EX2104	Youtube Video, Yamaha EF2000iS Tri Fuel Conversion, https://www.youtube.com/watch?v=caZawwDaRQg
EX2105	US7954479 ("Kojima")
EX2106	Wayback Machine, http://gashosesandregulators.com/ , dated May 17, 2014
EX2107	Wayback Machine, http://gashosesandregulators.com/lowpressureregulators.html , dated September 27, 2014
EX2108	<i>Reserved</i>
EX2109	
EX2110	Harbor Freight Case, HFT's Opening Claim Construction Brief
EX2111	Harbor Freight Case, HFT's Responsive Claim Construction Brief

GLOSSARY

Abbreviation	Term
2015 Family	U.S. Patent Nos.: 10,393,034; 11,143,120; 10,221,780; 11,492,985; 10,697,398; 11,530,654; 11,840,970; 11,905,895; and 11,143,145 (collectively)
'985 Patent	U.S. Patent No. 11,492,985
Board	Patent Trial and Appeal Board
Challenged Claims	Claims 1-19 of the '985 Patent
Firman	Firman Power Equipment, Inc.
Generac	Generac Power Systems, Inc.
HFT	Harbor Freight Tools USA, Inc.
MWE	MWE Investments, LLC
Patent Owner	Champion Power Equipment, Inc.
Petition	Petition for Inter Partes Review of U.S. Patent No. 11,492,985 (Paper 4)
Petitioner	HFT, Generac, and MWE, collectively
POSITA	Person of Ordinary Skill in the Art
USPTO	United States Patent & Trademark Office

Pursuant to 37 C.F.R. § 42.107, Patent Owner Champion Power Equipment, Inc. hereby submits its Preliminary Response to the Petition filed by Harbor Freight Tools USA, Inc., Generac Power Systems, Inc., and MWE Investments, LLC (collectively, “Petitioner”), challenging Claims 1-19 of U.S. Patent No. 11,492,985.

I. INTRODUCTION

Petitioner’s proposed grounds are identified below:

Ground	Claims	Basis	Primary Reference	Secondary Reference(s)
1	1-3,11-13	102/103	Parlatore	-
2	7-10	103	Parlatore	LP-Gas Handbook
3	1, 4, 7, 11, 14, 16, 18	102	Tri-Fuel Video	-
4	2-3, 8-10, 12-13, 17, 19	103	Tri-Fuel Video	Parlatore, LP-Gas Handbook
5	1, 4, 11, 14, 16	102	Chaudhari	-
6	4, 14, 16-19	103	Parlatore	Chaudhari, LP-Gas Handbook
7	4-6, 14-15	103	Parlatore	DuroMax, Elsdon
8	4-6, 14-15	103	Parlatore	Hallberg

Discretionary denial pursuant to 35 U.S.C. § 314(a), 35 U.S.C. § 325(d), and the *Fintiv* and *Advanced Bionics* factors¹ is warranted for the reasons set forth in

¹ *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020) (precedential); *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 (P.T.A.B. Feb. 13, 2020) (precedential).

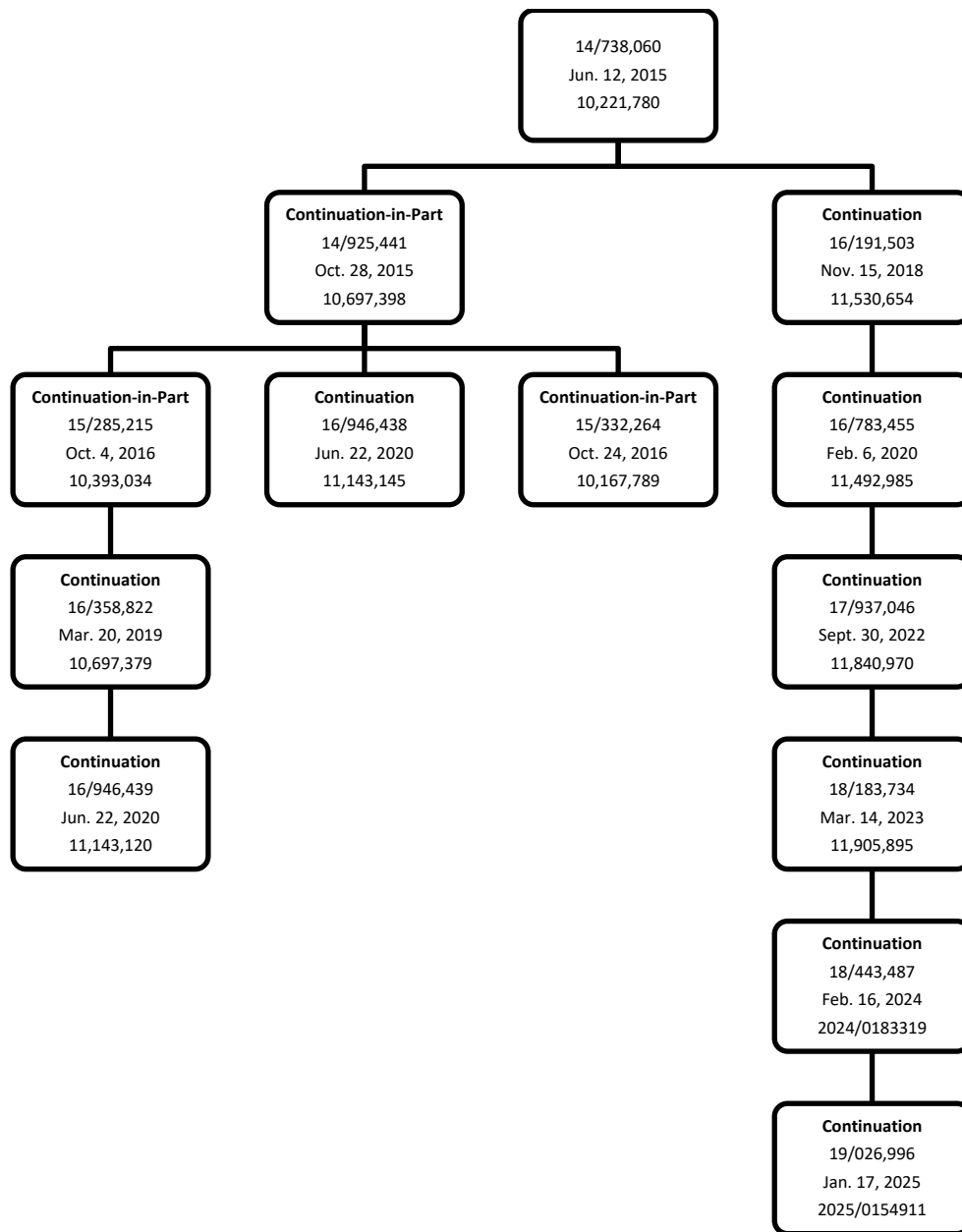
Patent Owner's Brief in Support of its Request for Discretionary Denial of Institution
(Paper 8).

Moreover, denial is appropriate because (1) the Petition relies on constructions that are not consistent with Patent Owner's litigation positions, (2) the Petition improperly relies on unsupported "apparent" constructions allegedly (and incorrectly) grounded in Patent Owner's litigation positions, (3) Petitioner has repeatedly advanced invalidity arguments in co-pending district court litigation based on a plethora of system art, which must be adjudicated regardless of the Board's decision in this IPR or in any of the 12 related IPRs, and (4) Petitioner has asserted the '985 Patent (and other asserted patents) are unenforceable due to alleged inequitable conduct, which, like Petitioner's invalidity arguments based on system art, the Board cannot resolve.² Each argument is discussed in turn, below, and presents an independent basis for denial.

² Petitioners Generac and HFT, as well as non-Petitioner Firman, have alleged U.S. Patent Nos. 10,221,780; 10,393,034; 11,143,120; 10,697,398; 11,530,654; 11,840,970; 11,905,895; and 11,143,145 and the '985 Patent are unenforceable due to inequitable conduct resulting from allegedly failing to disclose system art in an IDS.

II. OVERVIEW OF THE '985 PATENT

The '985 Patent was filed as U.S. Patent Application No. 16/783,455 on February 6, 2020. EX1001, (21), (22). The '985 Patent is one of thirteen members of a patent family directed to multi-fuel engine technology, which are collectively referred to as the "2015 Family." The 2015 Family is depicted below:



A. The Specification of the '985 Patent

The '985 Patent, titled “Off-Board Fuel Regulator for Generator Engine,” is directed to a generator and off-board fuel delivery system. *Id.*, Abstract. The '985 Patent explains that:

The dual fuel generator and fuel delivery system also includes a fuel regulator system located off board the dual fuel generator to control the pressure of fuel from the pressurized fuel source and deliver the fuel at a desired pressure for operation of the generator. The fuel regulator system includes a primary pressure regulator coupled to a service valve of the pressurized fuel source and configured to regulate the fuel supplied from the pressurized fuel source to a reduced pressure. The fuel regulator system also includes a secondary pressure regulator coupled to the primary pressure regulator and configured to regulate the gaseous fuel supplied from the primary pressure regulator to a desired pressure for delivery through the gaseous fuel line to operate the dual fuel generator.

Id., 2:32-45.

B. The Independent Claims of the '985 Patent

Claims 1, 11, and 16 are reproduced below:

1. Claim 1.

1. A generator and fuel delivery system comprising:

a generator free of any pressure regulator and configured to operate on a gaseous fuel supplied from a pressurized fuel source through a gaseous fuel line;

- a fuel regulator system located off-board the generator and comprising a first stage and a second stage, the fuel regulator system configured to:
 - regulate the gaseous fuel supplied from the pressurized fuel source in the first stage, the gaseous fuel regulated down to a reduced pressure in the first stage; and
 - regulate the reduced pressure gaseous fuel in the second stage, the reduced pressure gaseous fuel from the first stage regulated down to a desired pressure in the second stage for delivery through the gaseous fuel line to operate the generator.

2. Claim 11.

11. A generator and fuel delivery system comprising:
- a generator comprising an engine configured to operate on a gaseous fuel supplied from a pressurized fuel source through a gaseous fuel line;
 - a fuel regulator system located off-board the generator and comprising a first stage and a second stage, the fuel regulator system configured to:
 - regulate the gaseous fuel supplied from the pressurized fuel source in the first stage, the gaseous fuel regulated down to a first reduced pressure in the first stage; and
 - regulate the gaseous fuel output from the first stage in the second stage, the first reduced pressure gaseous fuel from the first stage being regulated down to a second reduced pressure in

the second stage for delivery through the gaseous fuel line to
operate the generator;

wherein the fuel regulator system outputs gaseous fuel to the
generator for operation of the engine at the second reduced
pressure.

3. Claim 16.

16. A dual fuel generator and fuel delivery system comprising:

a dual fuel generator 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;

a fuel regulator system located off board the dual fuel generator, the
fuel regulator system comprising:

a primary pressure regulator coupled to a service valve of the
pressurized fuel source and configured to regulate the fuel
supplied from the pressurized fuel source to a first reduced
pressure; and

a secondary pressure regulator coupled to the primary pressure
regulator and configured to regulate the gaseous fuel supplied
from the primary pressure regulator down from the first
reduced pressure to a second reduced pressure for delivery
through the gaseous fuel line to operate the dual fuel
generator;

wherein the fuel regulator system outputs gaseous fuel to the dual
fuel generator for operation thereof at the second reduced
pressure.

III. LEVEL OF ORDINARY SKILL IN THE ART

A POSITA pertinent to the Challenged Claims would have a four-year degree in mechanical engineering or a closely related field and at least one year of experience designing, developing, servicing, or operating fuel-powered machinery. Additional education could substitute for professional experience and significant work experience—such as working with, servicing, or operating such machinery in the field—could substitute for formal education.

Petitioner alleged that a POSITA:

[W]ould have a degree in mechanical engineering, physics, materials science, or related fields, and three years of work experience in combustion engines. Additional higher graduate education could substitute for work experience, and additional work experience/training could substitute for formal education.

Petition, 11 (citing EX. 1003, ¶34). Petitioner’s proposed definition is deficient. Specifically, Petitioner has failed to support its contention that an undergraduate physics degree is pertinent to the Challenged Claims, or that three years of work experience in combustion engines is necessary. Regardless, the arguments advanced herein are not impacted based on which definition is applied.

IV. CLAIM CONSTRUCTION

Claim terms are to be construed in accordance with the standard set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (*en banc*). But “[o]nly

terms which are in controversy need to be construed, and then only to the extent necessary to resolve the controversy and material to the decision.” *Facebook, Inc. v. Sound View Innovations, LLC*, IPR2017-01005, Paper 13 at 6 (P.T.A.B. Sept. 1, 2017) (citing *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)). For purposes of the arguments set forth in this Preliminary Response, Patent Owner applies the plain and ordinary meaning of each claim limitation which is addressed.

Petitioner, meanwhile, spends seven pages arguing for specific constructions of the terms “fuel lockout apparatus,” “prevent ... coupling” and “permit ... to couple.” Pet., 12-18. Petitioner’s proposed constructions of these terms are applied for Petitioner’s Ground 7 (Claim 6). Patent Owner reserves the right to address the substance of Petitioner’s arguments regarding claim construction if this Petition is instituted.

After spending vast swathes of its Petition detailing what Petitioner deems the correct construction of “fuel lockout apparatus,” “prevent ... coupling” and “permit ... to couple,” Petitioner spends a single paragraph purportedly identifying alternative “apparent” constructions (Pet., 18) that allegedly control Ground 8 (Cl. 6).

With the exception of the terms, “fuel lockout apparatus,” “prevent ... coupling” and “permit ... to couple,” Petitioner states that it “has not identified any

other claim terms that need construction in order to address the issues raised by this petition.” Pet., 12. As such, Petitioner alleges that it applies the “plain and ordinary meaning as understood by a person of ordinary skill in the art and the prosecution history.” *Id.*

However, despite asserting that the plain and ordinary meaning applies here, HFT proposed and argued for narrow constructions of two terms in co-pending district court litigation. Specifically, HFT argued that (1) the term “a mechanical fuel valve” should be construed as “a single mechanical fuel valve” (EX2095, 32; *see also* EX2110, 15-16), and (2) the term “pressure regulator” should be construed as “a device that reduces and controls the pressure of gaseous fuel.” EX2095, 32; *see also* EX2110, 24-25.

V. ARGUMENT

The USPTO’s institution process considers both “the merits, [and] other non-discretionary considerations” and is designed “[t]o improve efficiency, consistency, and adherence to the statutory requirements for institution.” *See, e.g.*, October 17, 2025 Memorandum from J. Squires at 1-2. Here, the Petition engages in rampant gamesmanship. Denial is appropriate without the need to reach the merits.

First, the Petition relies on claim constructions that are not consistent with Patent Owner’s litigation positions. Second, the Petition improperly relies on unsupported “apparent” constructions allegedly (and incorrectly) grounded in Patent

Owner's litigation positions.³ Third, the Petitioner has repeatedly advanced invalidity arguments in co-pending district court litigation based on a plethora of system art, which (1) must be adjudicated regardless of the Boards decision in this IPR or in any of the 12 related IPRs, and (2) creates a significant risk of inconsistent results among and between the various proceedings. Fourth, Petitioner has asserted that the 2015 Family is unenforceable due to Petitioner's alleged inequitable conduct, which, like Petitioner's system art-based arguments, the Board cannot resolve. Each deficiency independently supports denial and is addressed below.

A. Petitioner's inconsistent litigation positions support denial.

Despite arguing for constructions of "a mechanical fuel valve" and "pressure regulator" in the HFT district court proceeding, Petitioner applies the plain and ordinary meaning of each term here. Notably, Petitioner does not provide *any basis* for its inconsistent positions.

On November 3, 2025, the Director's Order in *Revvo Techs., Inc., v. Cerebrum Sensor Techs., Inc.*, was designated precedential. IPR2025-00632, Paper 20 (P.T.A.B. November 3, 2025) (precedential). There, the Director explicitly stated

³ Patent Owner's Preliminary Response does not reach the merits of Petitioner's proposed constructions. Patent Owner reserves the right to address claim construction on the merits if the instant Petition is instituted.

that “[t]he Board’s claim construction rules are designed to ensure that the Board correctly construes claim terms and to minimize inconsistency in claim construction between forums. To that end, the rules *discourage petitioners from seeking broader constructions at the Board to support a patentability challenge while seeking narrower constructions in litigation to avoid infringement liability.*” *Id.* at 4 (citing Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board, 83 Fed. Reg. 51,340 at 51,349-51,350 (Oct. 11, 2018)) (emphasis added). Nevertheless, that is precisely Petitioner’s approach here.

As explained in *Revvo Technologies*, “[a]llowing petitioners to continue this practice [i.e., proposing different claim constructions in the two forums] does not further the Office’s goal of ‘providing greater predictability and certainty in the patent system.’” *Id.* at 4. Here, Petitioner provided no explanation whatsoever for its inconsistent positions, which alone merits denial. *Id.* at 5 (“Ordinarily, that would mean a denial of institution.”).

Moreover, Petitioner’s gamesmanship here is particularly egregious in light of the constructions in question. In related district court proceedings, HFT argued the term “pressure regulator” should be construed as “a device that reduces and controls the pressure of gaseous fuel.” EX2110, 24-25. Importantly, Champion’s proposed construction was the plain and ordinary meaning, which it explained was

“a device that controls pressure.” *Id.* HFT, however, repeatedly emphasized its opinion *reducing* pressure was a key component of the claimed “pressure regulator.” *Id.*; *see also* EX2111, 23-24. According to HFT, the broader construction proposed by Champion—which did not contain the requirement of “reducing” pressure—was nothing more than Patent Owner’s alleged attempt to “manufacture infringement by disregarding the specification’s plain teachings.” EX2111, 23-24.

Conversely, the Petition relies on alleged regulators that *do not disclose* “reducing” pressure. For example, the Chaudhari reference’s *only disclosure* of its alleged secondary regulator is a single sentence: “The second stage regulator (5) meters exact quantity of gas as per engine load and speed.” EX1008, 7. Chaudhari’s claim 1 similarly calls for “a second stage metering regulator.” *Id.*, 11. However, neither Chaudhari itself—nor Petitioner’s discussion of Chaudhari—contain any evidentiary support that said regulator “reduces” pressure.⁴ Neither Chaudhari

⁴ Patent Owner’s Discretionary Denial Brief (Paper 8) summarizes Petitioner’s description of the Chaudhari reference in two sentences. Paper 8 at 17. To avoid any confusion, Patent Owner does not concede that Chaudhari discloses “a primary regulator and a second stage regulator to reduce the pressure of the LPG in two stages before delivery to the generator”—merely that Petitioner alleged as such. *Id.*; *see*

itself—nor Petitioner’s discussion of Chaudhari—contain any evidentiary support that said regulator “reduces” pressure. Instead, both the Petition and corresponding expert declaration merely repeat the claim language in conclusory fashion without explanation. *See, e.g.*, Pet., 83 (“Chaudhari discloses the second stage regulator 5 regulates LPG from the first stage regulator 3 down to a desired pressure for supply through the gaseous fuel line”); 85-86; *see also Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper 9 at 15 (P.T.A.B. August 24, 2022) (precedential) (expert testimony that “merely repeats, *verbatim*, the conclusory assertion for which it is offered to support ... is conclusory and unsupported, adds little to the conclusory assertion for which it is offered to support, and is entitled to little weight.”). Simply put, the Petition ostensibly relies on the plain and ordinary meaning of the term “pressure regulator” to hand-wave over additional requirements it proposed in district court; namely, that the claimed regulator “reduces” and “controls” the

also Pet., 25-26 (Petitioner’s allegation that “Chaudhari discloses a LPG delivery system connected to a generator that operates on gasoline or kerosene” and that “[t]he LPG delivery system includes a primary regulator 3 and a second stage regulator 5 to reduce the pressure of the LPG in two stages before delivery to the generator.”). Patent Owner’s citation (“EX1008, 4, 25-26”) contained an inadvertent typographical error, and was intended to state “EX1008, 4; Pet., 25-26.”

pressure of gaseous fuel. Petitioner's gamesmanship attempts to mask substantial deficiencies in the prior art.

Moreover, Petitioner's proposed district court construction is inherently contradictory with its position in related IPR proceedings. For example, in IPR2025-01121 (involving the related U.S. Patent No. 11,143,120), Petitioner argued that "[t]he art expressly recognizes that vaporizers can simultaneously function as regulators." IPR2025-01121, Paper 19 at 3. Petitioner's district court construction, however, limited the term "regulator" to structures which "reduce[] and control[] the pressure of gaseous fuel." EX2110, 24-25; EX2111, 23-24. This necessarily *excludes* vaporizers, which transform liquid fuel to gaseous fuel. Not only does Petitioner rely on inconsistent constructions between the instant proceeding and co-pending district court litigation—it also makes inconsistent arguments based on the same construction(s) among and between the various IPRs. Petitioner's gamesmanship is clear and warrants denial.

B. Petitioner's reliance on "apparent" constructions that it contends are "wrong" supports denial.

Despite refusing to apply its own proposed constructions from co-pending district court litigation, Petitioner improperly relies on *Patent Owner's* "apparent" constructions. An IPR petition must "[p]rovide a statement of the precise relief requested for each claim challenged. The statement must identify the following:

- 1) The claim;
- 2) The specific statutory grounds under 35 U.S.C. 102 or 103 on which the challenge to the claim is based and the patents or printed publications relied upon for each ground; [and]
- 3) How the challenged claim is to be construed. . . .”

37 C.F.R. § 42.104(b).

Importantly, the petition must identify “in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim.” 35 U.S.C. § 312(a)(3).

The Board’s Decision Denying Institution of *Inter Partes* Review in *Vicor Corp. v. Delta Elecs., Inc.* is instructive. IPR2024-00704, Paper 11 (P.T.A.B. October 2, 2024). There, the patent at issue “describe[d] a DC-DC conversion system that include[d] a buck converter and a resonant converter.” *Id.*, 3. Petitioner’s Ground 1 did “not purport to correctly construe the ‘over-current’ limitations” but rather applied what Petitioner deemed “Patent Owner’s Apparent Construction” or “Patent Owner’s Assumed Construction.” *Id.*, 7. The “apparent” constructions were purportedly based on the “specific arrangement” of certain accused products in parallel district court litigation. *Id.*, 7 n.6.

However, “Petitioner [did] not establish that such interpretations [were] appropriate,” which the Board found “[f]atal to Petitioner’s Ground 1.” *Id.*, 8.

Fundamental to the Board’s finding was that “Petitioner acknowledges that its Ground 1 does not apply a ‘proper’ claim construction.” *Id.* The Board found “Petitioner has not supported the claim interpretations on which its Ground 1 relies, and Petitioner therefore has not shown a reasonable likelihood that it would prevail in its challenge asserted as Ground 1.” *Id.*, 9; *see also Microchip Tech. Inc. v. Aptive Technologies AG*, IPR2024-00494, Paper 12 at 10 (P.T.A.B. October 7, 2024) (denying institution where “the proposed construction on which the Petition is based is contingent upon adopting a claim construction that Petitioner opposes in the district court litigation and that Petitioner believes is incorrect”); *Cambridge Mobile Telematics, Inc. v. Sfara, Inc.*, IPR2024-00952, Paper 12 (P.T.A.B. Dec. 13, 2024) (informative); *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 3-5 (P.T.A.B. November 3, 2025) (“[W]hen a petitioner takes alternative positions before the Board and a district court, that petitioner should, at a minimum, explain why alternative positions are warranted... Simply noting that the petitioner is adopting a patent owner’s claim construction proposals from district court, however, is not a sufficient reason for advancing different positions in the two forums.”) (precedential).

1. The Petition does not support the Petitioner’s “apparent” constructions.

After spending vast swathes of its Petition detailing and debating the purported construction of “fuel lockout apparatus,” “prevent ... coupling” and “permit ... to couple” (Pet., 12-18), Petitioner spends a single paragraph discussing alternative “apparent” constructions (*id.*, 18), which allegedly control Ground 8. *Id.*, 18. The purported “apparent constructions” are allegedly based on positions taken by Patent Owner in parallel litigation. *Id.* However, Petitioner does not identify—much less with particularity—the “apparent construction” of each term. Rather, Petitioner’s *entire analysis* consists of a single sentence:

Patent Owner appears to adopt a claim construction wherein (1) the “fuel lockout apparatus” can be any apparatus that prevents selection of more than one fuel source; (2) “prevent ... coupling” can be any means to prevent fuel flow without necessarily preventing physical attachment of a fuel source to a fuel line; and (3) “permit ... to couple” can be any means to permit fuel flow without necessarily permitting physical attachment of a fuel source to a fuel line.”

Id. Notably, Petitioner does not include *any analysis* explaining how it arrived at its proposed “apparent constructions” or any evidence asserting that these constructions are in fact correct. Moreover, Petitioner does not provide any authority that (1) listing proposed “apparent constructions” and (2) citing Patent Owner’s district court claim construction brief (which merely advocated for the plain and ordinary meaning of

each term), constitutes identifying “in writing and with particularity” “how the challenged claim is to be construed.” 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.104(b).

Based on these disparate statements, Petitioner “include[s] an alternative position for claim 6 in Ground 8,” which allegedly show invalidity “under Patent Owner’s [alleged] proposed constructions.” Pet., 18.⁵ Petitioner emphatically concludes that it does “not admit or concede that Patent Owner’s apparent constructions are correct.” *Id.* In fact, Petitioner explicitly asserts that “Patent Owner’s proposed constructions are wrong.” *Id.* Yet, Petitioner expressly includes arguments based on claim construction positions it explicitly disputes as yet another “alternative” invalidity challenge.

2. Petitioner’s allegation that the Challenged Claims are invalid based on Petitioner’s reliance on Patent Owner’s “apparent” construction of “fuel lockout apparatus,” “prevent ... coupling” and “permit ... to couple” is improper.

Petitioner relies on Patent Owner’s “apparent” constructions in Ground 8. Pet., 18. However, Petitioner explicitly acknowledges that (in its view) “Patent Owner’s apparent constructions are wrong.” *Id.* Moreover, Petitioner does not define

⁵ Tellingly, Petitioner does not identify any evidence that the alleged “constructions” were actually “proposed” by Patent Owner.

or support the purported “apparent” constructions that it is relying on as the basis of Ground 8. §V.B.1, *supra*.

Like in *Vicor Corporation*, institution is improper because Petitioner’s Grounds 2A and 2B “do[] not purport to correctly construe the [disputed] limitations” but rather applied what Petitioner deemed Patent Owner’s “apparent” construction. *Vicor Corp.*, Paper 11 at 7. And, like in *Vicor Corporation*, “Petitioner [did] not establish that such interpretations [were] appropriate,” which is “fatal.” *Id.* at 8; *see also* §V.B.1, *supra*. “Petitioner acknowledges that its [Ground 8 does] not apply a ‘proper’ claim construction.” *Id.* at 8. As such, like the Board concluded in *Vicor Corporation*, “Petitioner has not supported the claim interpretations on which its [Ground 8 relies], and Petitioner therefore has not shown a reasonable likelihood that it would prevail in its challenge.” *Id.* at 9.

Petitioner’s gamesmanship is clear. Petitioner advanced narrow constructions of “fuel lockout apparatus,” “prevent ... coupling” and “permit ... to couple” in parallel district court litigation to manufacture non-infringement positions. EX2110, 16-20. Further, in related proceedings, Petitioner has indicated its intent to move to stay the district court litigation if institution is granted. IPR2025-00805, Paper 14 at 7-10. In stark contrast, Petitioner now attempts to rely on broad and amorphous “apparent” constructions of those same terms—without actually defining or supporting the constructions—in the hopes of convincing the Board to institute.

Petitioner has advanced broad constructions before the Board, while at the same time maintaining narrower district court constructions (and corresponding non-infringement positions) if its IPR challenge proves unsuccessful. Institution should be denied.

C. Petitioner’s extensive reliance on system art in corresponding district court litigation supports denial.

Petitioner’s gamesmanship is further exacerbated by Petitioner’s extensive reliance on system art not covered by Petitioner’s *Sotera* stipulations or 35 U.S.C. § 315(e). The Petition explicitly relies on a YouTube video depicting conversion of a gasoline generator into a multi fuel generator operable on both gasoline and propane. *See, e.g.*, EX1007 (the “Tri-Fuel Video”). Meanwhile, Generac’s district court invalidity contentions allege the same generator that was the subject of the Tri-Fuel Video (post-conversion) is allegedly invalidating system art. Although Petitioner’s *Sotera* stipulation allegedly covers system art “that directly corresponds to” the Tri-Fuel Video, Generac has also alleged invalidity in the district court based on system art comprising *different generators* modified by *different conversion systems* that are not covered by its *Sotera* stipulation. EX2069; EX2089; EX2090 (“To be clear, this stipulation does not cover other system prior art ... even if similar.”). In other words, the scope of Petitioner’s *Sotera* stipulations is substantially diminished.

Petitioner's improper reliance on inconsistent claim construction positions allows it to maintain both broad invalidity challenges before the Board, and narrow non-infringement positions in co-pending district court litigation. *See* §V.A, *supra*. And, Petitioner's reliance on duplicative system art allows it to maintain robust prior art-based invalidity positions in district court despite its *Sotera* stipulations and §315(e) estoppel. Simply put, in light of Petitioner's gamesmanship, the IPR process has been converted into a supplemental invalidity challenge, rather than a "true alternative" to district court proceedings. *Motorola Sols., Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3–4 (P.T.A.B. Mar. 28, 2025) (Director Review) (denying institution despite Petitioner's *Sotera* stipulation, in part, because "Petitioner's stipulation does not ensure that the[] IPR proceedings would be a 'true alternative' to the district court proceeding").

Petitioner has failed to explain why the Board should institute the instant Petition despite the need for resolution of its system art-based claims (applying differing claim construction) in district court. In the recent decision in *Tesla, Inc. v. Intell. Ventures II LLC*, the Director addressed how "[a]llowing a petitioner to advance a claim construction before the Board when that petitioner has made inconsistent indefiniteness arguments in district court fails to further, but instead detracts from, the Office's goal of 'providing greater predictability and certainty in the patent system.'" IPR2025-00340, Paper 18 at 4 (P.T.A.B. November 5, 2025)

(informative) (quoting *Revvo Techs.* at 4-5). The same reasoning applies to inconsistent system art-based allegations. Petitioner’s current strategy creates the distinct possibility that (1) the Board reaches one outcome considering “printed publications” consisting of *videos depicting system art generators* under a first set of constructions, while (2) the district court (or courts) reach contradictory outcomes considering *actual system art generators* under a second set of constructions. That is, since the Board cannot wholly resolve Petitioner’s invalidity challenges—and a significant risk of inconsistent outcomes exists—institution of this Petition would not provide “greater predictability and certainty in the patent system.” *See id.* Denial is appropriate for at least this reason.

D. Petitioner’s inequitable conduct allegations in corresponding district court litigation support denial.

Champion filed suit against non-petitioner Firman on November 10, 2023. *See, e.g., Champion Power Equipment, Inc. v. Firman Power Equipment Inc.*, Case No. 2:23-cv-02371. Firman challenged to the 2015 Family (including the ’985 Patent) based on (1) system art (*see* §V.C, *supra*), and (2) Petitioner’s purported inequitable conduct. EX2004, 154-95.

Generac and HFT adopted Firman’s inequitable conduct allegations wholesale. EX2011, 101-113, 129-130; EX2019, 22-35. However, much like Petitioner’s system art-based challenge, the Board has no authority to resolve the

inequitable conduct claim because “[t]he Board is not a court of general jurisdiction, but an administrative tribunal whose jurisdiction is limited.” *Symantec Corp., v. Finjan, Inc.*, IPR2015-01897, Paper 7 at 15 (P.T.A.B. February 26, 2016) (citing 35 U.S.C. § 311(b) as “providing inter partes review ‘only on a ground that could be raised under section 102 or 103 and only on the basis of prior art consisting of patents or printed publications’”). “Thus, [the Board does] not make any determination with respect to Petitioner’s allegations regarding the veracity of Patent Owner’s statements to the Office in prior proceedings.” *Id.* Both Petitioner’s system art and inequitable conduct allegations must be adjudicated regardless of the outcome of this IPR (or any of the 12 related IPRs).

Petitioner *did not address* the impact of its inequitable conduct claim on its Petition. In the recently designated decision in *Tesla, Inc. v. Intell. Ventures II LLC*, the Director explained how co-pending indefiniteness arguments (which likewise cannot be adjudicated by the Board) “detract[] from, the Office’s goal of ‘providing greater predictability and certainty in the patent system.’” IPR2025-00340, Paper 18 at 4 (P.T.A.B. November 5, 2025) (informative) (quoting *Revvo Techs.* at 4-5). Here, likewise, the Board cannot address Petitioner’s inequitable conduct claims, and Petitioner has failed to explain how simultaneous adjudication of both its prior art-based invalidity arguments (before the Board) and its inequitable conduct challenge (in district court) provides “greater predictability and certainty in the patent system.”

See id. Rather, any uncertainty regarding the validity of the 2015 Family due Peititoner's inequitable conduct allegations will remain until addressed in district court, requiring parallel proceedings to continue. Accordingly, this uncertainty merits denying institution.

VI. CONCLUSION

For at least the reasons discussed above, the Petition fails to establish that the Challenged Claims are invalid.

Dated: November 12, 2025

Respectfully submitted,

By: /Joseph W. Staley/

Joseph W. Staley, Reg. No. 60,732

Scott P. Amy (*pro hac vice* filed)

Thomas F. Finch, Reg. No. 82,341

PERILLA KNOX & HILDEBRANDT LLP

5871 Glenridge Dr.

Suite 350

Atlanta, Georgia 30328

Tel: (770) 927-7802

Fax: (877) 389-6779

Email:

j.staley@pkhip.com

s.amy@pkhip.com

t.finch@pkhip.com

Timothy J. Ziolkowski, Reg. No. 38,368

Jacob M. Fritz, Reg. No. 71,459

**ZIOLKOWSKI PATENT SOLUTIONS
GROUP, SC**

136 South Wisconsin Street

Port Washington, WI 53074

(262) 268-8100 Tel

(262) 268-8185 Fax

Email:

tjz@zpatents.com

jmf@zpatents.com

Counsel for Patent Owner

CERTIFICATE OF SERVICE

In accordance with 37 C.F.R. § 42.6(e), the undersigned certifies that on November 12, 2025, a complete and entire copy of the foregoing Patent Owner's Preliminary Response, including the exhibits relied upon, was served on counsel of record for Petitioner, as follows:

Kimberly K. Dodd, Reg. No. 54,646
Jeffrey S. Gundersen, Reg. No. 47,619
FOLEY & LARDNER LLP
777 E Wisconsin Ave
Milwaukee, WI 53202-5306
Tel: 414-271-2400
kdodd@foley.com
jgundersen@foley.com
HarborFreight-Champion-
IPRs@foley.com

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

Thomas J. Leach, Reg. No. 53,188
Taylor R. Stemler, Reg. No. 79,777
MERCHANT & GOULD P.C.
150 South Fifth Street, Suite 2200
Minneapolis, MN 55402
Tel: 612-336-4665
Tel: 612-371-5215
TLeach@merchantgould.com
TStemler@MerchantGould.com

Thomas A. Walsh, Reg. No. 45,196
ICE MILLER LLP
One American Square, Suite 2900
Indianapolis, IN 46282
Tel: 317-236-5946
thomas.walsh@icemiller.com

Thomas A. Rammer, Reg. No. 62,591
Alexas D. Siliunas, Reg. No. 79,826
ICE MILLER LLP
200 W. Madison Street, Suite 3500
Chicago, IL 60606
Tel: 312-705-6016
Tel: 312-726-8174
tom.rammer@icemiller.com
alek.siliunas@icemiller.com

Case No. IPR2025-01272
U.S. Patent No. 11,492,985

Dated: November 12, 2025

Respectfully submitted,

By: /Joseph W. Staley/
Joseph W. Staley, Reg. No. 60,732
Counsel for Patent Owner

CERTIFICATE OF WORD COUNT

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that the foregoing Patent Owner's Preliminary Response, excluding the portions exempted under 37 C.F.R. § 42.24(b), contains 4,709 words according to Microsoft Word's word count feature.

Dated: November 12, 2025

Respectfully submitted,

By: /Joseph W. Staley/

Joseph W. Staley, Reg. No. 60,732

Counsel for Patent Owner