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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

20 HARBOR FREIGHT TOOLS USA,
21 INC.,

22 Plaintiff,

23 vs.

24 CHAMPION POWER EQUIPMENT,
25 INC.,

26 Defendant.

CASE NO.:

**COMPLAINT FOR
DECLARATORY JUDGMENT OF
NON-INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 1. Plaintiff Harbor Freight Tools USA, Inc. (“Harbor Freight” or “Plaintiff”)
2 hereby alleges as follows for this declaratory judgment of non-infringement against
3 Defendant Champion Power Equipment, Inc. (“Champion”):

4 **NATURE OF THE ACTION**

5 2. This is an action for declaratory judgment of non-infringement arising
6 under the patent laws of the United States, Title 35 of the United States Code. Harbor
7 Freight requests this relief because Champion claims that Harbor Freight infringes
8 United States Patent Nos. 10,393,034 (“the ’034 Patent”); 11,143,120 (“the ’120
9 Patent”); 11,492,985 (“the ’985 Patent”); 11,530,654 (“the ’654 Patent”); 11,840,970
10 (“the ’970 Patent”); 10,221,780 (“the ’780 Patent”); 11,905,895 (“the ’895 Patent”);
11 10,697,398 (“the ’398 Patent”); 11,143,145 (“the ’145 Patent”); 10,598,101 (“the
12 ’101 Patent”); 11,306,667 (“the ’667 Patent”); 11,761,390 (“the ’390 Patent”); and
13 11,905,896 (“the ’896 Patent”)(collectively, the “Asserted Patents”) by making,
14 using, selling, offering for sale, and/or importing the following Harbor Freight
15 products: Model 70476 13kW Tri-Fuel and Model 70143 5kW Dual-Fuel generators
16 (collectively, the “Accused Products”).

17 3. On March 27, 2024, Champion’s counsel at Ziolkowski Patent Solutions
18 Group, sent a letter to Harbor Freight’s CEO asserting that Champion is
19 “aggressively” enforcing its intellectual property rights, while attaching a list of the
20 Asserted Patents, and a copy of an amended complaint filed in United States District
21 Court for the District of Arizona in *Champion Power Equipment, Inc. v. Firman*
22 *Power Equipment Inc.*, Case No. 2:23-cv-02371. Champion’s counsel stated that it
23 was “investigating HF’s entry into the multi-fuel generator market” and threatened
24 litigation if Harbor Freight did not take a license to the Asserted Patents.

25 4. On May 17, 2024, Champion’s counsel again contacted Harbor Freight
26 this time, *inter alia*, claiming that Champion had “acquired, disassembled, and
27 inspected” the Accused Products, and alleging that the products infringed Champion’s
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1 patents for multi-fuel generators. Champion's counsel "demand[ed] that HF
2 immediately cease and desist from all further sales of the [Accused Products] and
3 provide [Champion] the data of all sales for each cited model, including date of sale,
4 sale price, and the state the sale was made in, as of May 15, 2024, as well as all
5 inventory in stock, ordered, an in transit after May 15, 2024." Champion's counsel
6 further demanded that Harbor Freight "cease and desist of the manufacture, sale,
7 importation, and/or offer to sell" the Accused Products. In closing, Champion's
8 counsel "required a complete response no later than **June 14, 2024,**" and if Harbor
9 Freight did not comply, stating in no uncertain terms that Champion "will file suit."
10 (emphasis in original).

11 5. The parties held a phone call on June 19, 2024, but were unable to resolve
12 the dispute. On June 28, 2024, Champion's counsel followed up with another letter
13 again threatening litigation, but this time escalating its aggression by proclaiming that
14 "HF's [alleged] wonton disregard of Champion's patents" "is tantamount to continued
15 willful infringement" and that Champion "will seek and be entitled to treble damages
16 and attorneys' fees." In that letter, Champion's counsel asked a member of Harbor
17 Freight's legal team if he was "authorized and willing to accept Service of a
18 Complaint on behalf of Harbor Freight."

19 6. Champion's hostile litigation campaign will harm the reputation of
20 Harbor Freight; and Champion's affirmative allegations of infringement of the
21 Asserted Patents by Harbor Freight's Accused Products has created a justiciable
22 controversy between Harbor Freight and Champion.

23 7. As a result of Champion's communication with Harbor Freight of its
24 intention to pursue claims of infringement of the Asserted Patents against Harbor
25 Freight, Harbor Freight is under reasonable apprehension of suit by Champion.
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1 **THE PARTIES**

2 8. Plaintiff Harbor Freight is a corporation organized under the laws of the
3 State of Delaware with a place of business at 26677 Agoura Rd., Calabasas, CA
4 91302.

5 9. On information and belief, Champion is a corporation organized under
6 the laws of Nevada, whose principal place of business in California is located at 12039
7 Smith Avenue, Santa Fe Springs, California 90670.

8 **JURISDICTION AND VENUE**

9 10. This action is based on the patent laws of the United States, Title 35 of
10 the United States Code, § 1 *et. seq.*, with a specific remedy sought under the Federal
11 Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202. An actual, substantial, and
12 continuing justiciable controversy exists between Harbor Freight and Champion that
13 requires a declaration of rights by this Court.

14 11. This Court has subject-matter jurisdiction over this action pursuant to 28
15 U.S.C. §§ 1331 and 1338(a).

16 12. This Court has personal jurisdiction over Champion. On information and
17 belief, Champion has its principal place of business in Santa Fe Springs, California.
18 Champion, at least through agents, also regularly does, solicits, and transacts business
19 in this District and elsewhere in the State of California. On further information and
20 belief, Kendall J. Collie, named inventor of at least the '034 and '120 Patents, resides
21 in Anaheim Hills, California. Hence, Champion's activities in this forum and its
22 actions toward Harbor Freight in this forum in connection with this dispute establish
23 its sufficient minimum contacts with this District such that Champion is also subject
24 to specific personal jurisdiction in this District.

25 13. On information and belief, venue is proper in this Court pursuant to 28
26 U.S.C. § 1391(c) because Champion resides in this District and Champion has
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1 committed acts within this District giving rise to this action and does business in this
2 District.

3 **HARBOR FREIGHT'S BACKGROUND**

4 14. Harbor Freight was founded in 1977 as a small, family-run business that
5 sells tools. It remains family owned, but has grown to over 1,500 retail stores
6 nationwide, serving over 75 million customers with 28,000 employees. 26,000 of
7 those employees—over 92% of Harbor Freight's workforce—are employed in the
8 United States. Harbor Freight has created thousands of jobs in the United States in
9 48 states, including many in California.

10 15. Harbor Freight's innovative business model cuts out "middlemen" in the
11 distribution chain by selling its products directly to consumers through its own U.S.
12 retail stores and website. Harbor Freight sources products directly from international
13 factories following internal development and quality testing. Harbor Freight then
14 sells those tools directly on its website, www.harborfreight.com, and in Harbor
15 Freight owned and branded stores to cut out separate retailer costs and profits. Harbor
16 Freight passes on the savings to consumers. This allows it to sell tools at much lower
17 prices than competing brands to benefit consumers.

18 16. To ensure high quality, Harbor Freight engages in rigorous product
19 development and quality testing. Only products that meet this rigorous quality testing
20 are sold in Harbor Freight stores.

21 17. On information and belief, competitors struggle to compete because their
22 prices are often much higher than Harbor Freight's for products of similar features
23 and quality. On information and belief, competitors typically source products from
24 distributors that manage several overseas factories with little knowledge or
25 involvement from the brand. Unlike Harbor Freight, competitors sell tools in big box
26 stores, such as Home Depot, which requires them to mark up their retail prices to
27 maintain profits at the expense of consumers.

1 **HARBOR FREIGHT DOES NOT INFRINGE THE ASSERTED PATENTS**

2 18. The Accused Products do not directly or indirectly infringe any claim of
3 the Asserted Patents, literally or under the doctrine of equivalents.

4 19. No third party infringes any claim of the Asserted Patents by using Harbor
5 Freight's Accused Products. Harbor Freight has not caused, directed, requested, or
6 facilitated any such infringement, much less with specific intent to do. Harbor
7 Freight's Accused Products are not designed for use in any combination that infringes
8 any claim of the Asserted Patents. To the contrary, each has substantial uses that do
9 not infringe any claim of the Asserted Patent.

10 **FIRST CAUSE OF ACTION**

11 **(Declaratory Judgment of Non-Infringement of the '034 Patent)**

12 20. Harbor Freight restates and incorporates by reference the allegations in
13 paragraphs 1-19 of this Complaint as if fully set forth herein.

14 21. Champion claims to own all rights, title, and interest in and under the '034
15 Patent. A true and correct copy of the '034 Patent is attached hereto as Exhibit A.

16 22. Harbor Freight does not directly or indirectly infringe any claim of the
17 '034 patent, either literally or under the doctrine of equivalents, at least because the
18 Accused Products do not have a multi-fuel generator and fuel delivery system
19 comprising (1) a multi-fuel internal combustion engine configured to operate on a
20 liquid fuel source through a liquid fuel line and a gaseous fuel supplied from a
21 pressurized fuel source through a gaseous fuel line, (2) an alternator driven by the
22 multi-fuel internal combustion engine, (3) a fuel regulator system comprising (a) a
23 primary pressure regulator coupled to a service valve of the pressurized fuel source to
24 regulate fuel supplied from the pressurized fuel source to a reduced pressure and (b)
25 a secondary pressure regulator coupled to the primary pressure regulator to regulate
26 fuel supplied from the primary pressure regulator to a desired pressure for delivery
27 through the gaseous fuel line to operate the engine, and (4) an electro-mechanical
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1 valve system coupled to the engine and operated by an electrical switch powered by
2 one of the alternator, a battery, and a magneto that controls fuel flow to the engine
3 from the liquid fuel source and the pressurized fuel source.

4 23. Moreover, as another non-limiting example, the Accused Products do not
5 practice a secondary pressure regulator coupled to the primary pressure regulator to
6 regulate fuel supplied from the primary pressure regulator to a desired pressure for
7 delivery through the gaseous fuel line to operate the engine.

8 24. No third party infringes any claims of the '034 Patent by using Harbor
9 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
10 any such infringement, much less with specific intent to do so. The Accused Products
11 are not designed for use in any combination that infringes any claims of the '034
12 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
13 '034 Patent.

14 25. A substantial, immediate, and real controversy therefore exists between
15 Harbor Freight and Champion regarding whether Harbor Freight infringes the '034
16 Patent. A judicial declaration is appropriate and necessary to determine the parties'
17 respective rights regarding the '034 Patent.

18 26. Harbor Freight seeks a judgment declaring that Harbor Freight does not
19 directly or indirectly infringe any claim of the '034 Patent.

20 **SECOND CAUSE OF ACTION**

21 **(Declaratory Judgment of Non-Infringement of the '120 Patent)**

22 27. Harbor Freight restates and incorporates by reference the allegations in
23 paragraphs 1-26 of this Complaint as if fully set forth herein.

24 28. Champion claims to own all rights, title, and interest in and under the '120
25 Patent. A true and correct copy of the '120 Patent is attached hereto as Exhibit B.

26 29. Harbor Freight does not directly or indirectly infringe any claim of the
27 '120 patent, either literally or under the doctrine of equivalents, at least because the
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1 Accused Products do not have a multi-fuel generator and fuel delivery system
2 comprising (1) a multi-fuel internal combustion engine configured to operate on a
3 liquid fuel supplied from a liquid fuel source through a liquid fuel line and a gaseous
4 fuel supplied from a pressurized fuel source through a gaseous fuel line, (2) an
5 alternator driven by the multi-fuel internal combustion engine, and (3) a fuel regulator
6 system comprising (a) a primary pressure regulator coupled to a service valve of the
7 pressurized fuel source to regulate fuel supplied from the pressurized fuel source to a
8 reduced pressure and (b) a secondary pressure regulator coupled to the primary
9 pressure regulator to regulate fuel supplied from the primary pressure regulator to a
10 desired pressure for delivery through the gaseous fuel line to operate the engine.

11 30. Moreover, as another non-limiting example, the Accused Products do not
12 practice a secondary pressure regulator coupled to the primary pressure regulator to
13 regulate fuel supplied from the primary pressure regulator to a desired pressure for
14 delivery through the gaseous fuel line to operate the engine.

15 31. No third party infringes any claims of the '120 Patent by using Harbor
16 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
17 any such infringement, much less with specific intent to do so. The Accused Products
18 are not designed for use in any combination that infringes any claims of the '120
19 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
20 '120 Patent.

21 32. A substantial, immediate, and real controversy therefore exists between
22 Harbor Freight and Champion regarding whether Harbor Freight infringes the '120
23 Patent. A judicial declaration is appropriate and necessary to determine the parties'
24 respective rights regarding the '120 Patent.

25 33. Harbor Freight seeks a judgment declaring that Harbor Freight does not
26 directly or indirectly infringe any claim of the '120 Patent.

THIRD CAUSE OF ACTION

(Declaratory Judgment of Non-Infringement of the '985 Patent)

34. Harbor Freight restates and incorporates by reference the allegations in paragraphs 1-33 of this Complaint as if fully set forth herein.

35. Champion claims to own all rights, title, and interest in and under the '985 Patent. A true and correct copy of the '985 Patent is attached hereto as Exhibit C.

36. Harbor Freight does not directly or indirectly infringe any claim of the '985 patent, either literally or under the doctrine of equivalents, at least because the Accused Products do not have a dual-fuel generator and fuel delivery system comprising (1) 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, and (2) a fuel regulator system located off-board the dual-fuel generator, the fuel regulator system comprising (a) 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 (b) 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.

37. Moreover, as another non-limiting example, the Accused Products do not practice 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.

38. No third party infringes any claims of the '985 Patent by using Harbor Freight's products. Harbor Freight has not caused, directed, requested, or facilitated

1 any such infringement, much less with specific intent to do so. The Accused Products
2 are not designed for use in any combination that infringes any claims of the '985
3 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
4 '985 Patent.

5 39. A substantial, immediate, and real controversy therefore exists between
6 Harbor Freight and Champion regarding whether Harbor Freight infringes the '985
7 Patent. A judicial declaration is appropriate and necessary to determine the parties'
8 respective rights regarding the '985 Patent.

9 40. Harbor Freight seeks a judgment declaring that Harbor Freight does not
10 directly or indirectly infringe any claim of the '985 Patent.

11 **FOURTH CAUSE OF ACTION**

12 **(Declaratory Judgment of Non-Infringement of the '654 Patent)**

13 41. Harbor Freight restates and incorporates by reference the allegations in
14 paragraphs 1-40 of this Complaint as if fully set forth herein.

15 42. Champion claims to own all rights, title, and interest in and under the '654
16 Patent. A true and correct copy of the '654 Patent is attached hereto as Exhibit D.

17 43. Harbor Freight does not directly or indirectly infringe any claim of the
18 '654 patent, either literally or under the doctrine of equivalents, at least because the
19 Accused Products do not have a dual fuel generator and fuel delivery system
20 comprising (1) a dual fuel generator configured to operate on a liquid fuel supplied
21 from a liquid fuel source through a liquid fuel line and a gaseous fuel supplied from
22 a pressurized fuel source through a gaseous fuel line, (2) a fuel regulator system
23 located off board the dual fuel generator, the fuel regulator system comprising (a) a
24 primary pressure regulator coupled to a service valve of the pressurized fuel source
25 and configured to regulate the fuel supplied from the pressurized fuel source to a
26 reduced pressure and (b) a secondary pressure regulator coupled to the primary
27 pressure regulator and configured to regulate the gaseous fuel supplied from the
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1 primary pressure regulator to a desired pressure for delivery through the gaseous fuel
2 line to operate the dual fuel generator, (3) a mechanical fuel valve actuatable between
3 a first position and a second position to selectively control fuel flow to the dual fuel
4 generator from the liquid fuel source through the liquid fuel line and the pressurized
5 fuel source through the gaseous fuel line, wherein the mechanical fuel valve opens
6 and closes the liquid fuel line to selectively control fuel flow from the liquid fuel
7 source to the dual fuel generator, and (4) a fuel lockout apparatus coupled to the
8 mechanical fuel valve and configured to prevent the pressurize fuel source from
9 coupling to the gaseous fuel line while the mechanical fuel valve opens the liquid fuel
10 line and permit the pressurized fuel source to couple to the gaseous fuel line while the
11 mechanical fuel valve closes the liquid fuel line.

12 44. Moreover, as another non-limiting example, the Accused Products do not
13 practice a secondary pressure regulator coupled to the primary pressure and
14 configured to regulate the gaseous fuel supplied from the primary pressure regulator
15 to a desired pressure for delivery through the gaseous fuel line to operate the dual fuel
16 generator.

17 45. The Accused Products also do not practice a fuel lockout apparatus
18 coupled to the mechanical fuel valve and configured to prevent the pressurize fuel
19 source from coupling to the gaseous fuel line while the mechanical fuel valve opens
20 the liquid fuel line and permits the pressurized fuel source to couple to the gaseous
21 fuel line while the mechanical fuel valve closes the liquid fuel line.

22 46. No third party infringes any claims of the '654 Patent by using Harbor
23 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
24 any such infringement, much less with specific intent to do so. The Accused Products
25 are not designed for use in any combination that infringes any claims of the '654
26 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
27 '654 Patent.

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1 47. A substantial, immediate, and real controversy therefore exists between
2 Harbor Freight and Champion regarding whether Harbor Freight infringes the '654
3 Patent. A judicial declaration is appropriate and necessary to determine the parties'
4 respective rights regarding the '654 Patent.

5 48. Harbor Freight seeks a judgment declaring that Harbor Freight does not
6 directly or indirectly infringe any claim of the '654 Patent.

7 **FIFTH CAUSE OF ACTION**

8 **(Declaratory Judgment of Non-Infringement of the '970 Patent)**

9 49. Harbor Freight restates and incorporates by reference the allegations in
10 paragraphs 1-48 of this Complaint as if fully set forth herein.

11 50. Champion claims to own all rights, title, and interested in and under the
12 '970 Patent. A true and correct copy of the '970 Patent is attached hereto as Exhibit
13 E.

14 51. Harbor Freight does not directly or indirectly infringe any claim of the
15 '970 patent, either literally or under the doctrine of equivalents, at least because the
16 Accused Products do not have a dual fuel generator and fuel delivery system
17 comprising (1) a dual fuel generator comprising (a) an engine configured to operate
18 on a liquid fuel supplied from a liquid fuel source through a liquid fuel line and a
19 gaseous fuel supplied from a pressurized fuel source through a gaseous fuel line and
20 (b) a carburetor attached to an intake of the engine to mix air and fuel and connect the
21 liquid fuel line to the intake, (2) a fuel regulator system located off board the dual fuel
22 generator, the fuel regulator system comprising (a) a primary pressure regulator
23 coupled to a service valve of the pressurized fuel source and configured to regulate
24 the fuel supplied from the pressurized fuel source to a reduced pressure and (b) a
25 secondary pressure regulator coupled to the primary pressure regulator and configured
26 to regulate the gaseous fuel supplied from the primary pressure regulator to a desired
27 pressure for delivery through the gaseous fuel line to operate the dual fuel generator,
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1 and (3) a mechanical fuel valve actuatable between a first position and a second
2 position to selectively control fuel flow to the engine from the liquid fuel source
3 through the liquid fuel line and the pressurized fuel source through the gaseous fuel
4 line.

5 52. Moreover, as another non-limiting example, the Accused Products do not
6 practice a secondary pressure regulator coupled to the primary pressure and
7 configured to regulate the gaseous fuel supplied from the primary pressure regulator
8 to a desired pressure for delivery through the gaseous fuel line to operate the dual fuel
9 generator.

10 53. No third party infringes any claims of the '970 Patent by using Harbor
11 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
12 any such infringement, much less with specific intent to do so. The Accused Products
13 are not designed for use in any combination that infringes any claims of the '970
14 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
15 '970 Patent.

16 54. A substantial, immediate, and real controversy therefore exists between
17 Harbor Freight and Champion regarding whether Harbor Freight infringes the '970
18 Patent. A judicial declaration is appropriate and necessary to determine the parties'
19 respective rights regarding the '970 Patent.

20 55. Harbor Freight seeks a judgment declaring that Harbor Freight does not
21 directly or indirectly infringe any claim of the '970 Patent.

22 **SIXTH CAUSE OF ACTION**

23 **(Declaratory Judgment of Non-Infringement of the '780 Patent)**

24 56. Harbor Freight restates and incorporates by reference the allegations in
25 paragraphs 1-55 of this Complaint as if fully set forth herein.

26 57. Champion claims to own all rights, title, and interest in and under the '780
27 Patent. A true and correct copy of the '780 Patent is attached hereto as Exhibit F.

1 58. Harbor Freight does not directly or indirectly infringe any claim of the
2 '780 patent, either literally or under the doctrine of equivalents, at least because the
3 Accused Products do not have a mechanical fuel lockout switch for a dual fuel engine
4 comprising (1) a mechanical fuel valve actuatable between a first position and a
5 second position to selectively control fuel flow to the dual fuel engine from a first fuel
6 source through a first fuel line and a second fuel source through a second fuel line,
7 and (2) a fuel lockout apparatus coupled to the mechanical fuel valve, wherein the
8 mechanical fuel lockout switch communicates the first fuel source to the dual fuel
9 engine and prevents communication between the second fuel source and the dual fuel
10 engine when the mechanical fuel valve is in the first position, communicates the
11 second fuel source to the dual fuel engine and interrupts the first fuel source
12 communication with the dual fuel engine when in the second position, and wherein
13 the fuel lockout apparatus is configured to: prevent the second fuel source from
14 coupling to the second fuel line while the mechanical fuel valve is in the first position,
15 and permit the second fuel source to couple to the second fuel line while the
16 mechanical fuel valve is in the second position.

17 59. Moreover, as a non-limiting example, the Accused Products do not
18 practice a fuel lockout apparatus coupled to the mechanical fuel valve, wherein the
19 mechanical fuel lockout switch communicates with the first fuel source to the dual
20 fuel engine when the mechanical fuel valve is in the first position, communicates with
21 the second fuel source to the dual fuel engine and interrupts the first fuel source
22 communication with the dual fuel engine when in the second position, and wherein
23 the fuel lockout apparatus is configured to: prevent the second fuel source from
24 coupling to the second fuel line while the mechanical fuel valve is in the first position,
25 and permit the second fuel source to couple to the second fuel line while the
26 mechanical fuel valve is in the second position.

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1 60. No third party infringes any claims of the '780 Patent by using Harbor
2 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
3 any such infringement, much less with specific intent to do so. The Accused Products
4 are not designed for use in any combination that infringes any claims of the '780
5 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
6 '780 Patent.

7 61. A substantial, immediate, and real controversy therefore exists between
8 Harbor Freight and Champion regarding whether Harbor Freight infringes the '780
9 Patent. A judicial declaration is appropriate and necessary to determine the parties'
10 respective rights regarding the '780 Patent.

11 62. Harbor Freight seeks a judgment declaring that Harbor Freight does not
12 directly or indirectly infringe any claim of the '780 Patent.

13 **SEVENTH CAUSE OF ACTION**

14 **(Declaratory Judgment of Non-Infringement of the '895 Patent)**

15 63. Harbor Freight restates and incorporates by reference the allegations in
16 paragraphs 1-62 of this Complaint as if fully set forth herein.

17 64. Champion claims to own all rights, title, and interest in and under the '895
18 Patent. A true and correct copy of the '895 Patent is attached hereto as Exhibit G.

19 65. Harbor Freight does not directly or indirectly infringe any claim of the
20 '895 patent, either literally or under the doctrine of equivalents, at least because the
21 Accused Products do not have a mechanical fuel lockout switch for a dual fuel engine
22 comprising (1) a mechanical fuel valve actuatable between a first position and a
23 second position to selectively control fuel flow to the dual fuel engine from a first fuel
24 source through a first fuel line and a second fuel source through a second fuel line,
25 the mechanical fuel valve configured to allow communication between the first fuel
26 source and the dual fuel engine and prevent communication between the second fuel
27 source and the dual fuel engine while in the first position and prevent communication
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1 between the first fuel source and the dual fuel engine while in the second position,
2 and (2) a fuel lockout apparatus coupled to the mechanical fuel valve and configured
3 to prevent the second fuel source from coupling to the second fuel line while the
4 mechanical fuel valve is in the first position and to permit the second fuel source to
5 couple to the second fuel line while the mechanical fuel valve is in the second position.

6 66. Moreover, as another non-limiting example, the Accused Products do not
7 practice a fuel lockout apparatus coupled to the mechanical fuel valve and configured
8 to prevent the pressurize fuel source from coupling to the gaseous fuel line while the
9 mechanical fuel valve opens the liquid fuel line and permit the pressurized fuel source
10 to couple to the gaseous fuel line while the mechanical fuel valve closes the liquid
11 fuel line.

12 67. No third party infringes any claims of the '895 Patent by using Harbor
13 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
14 any such infringement, much less with specific intent to do so. The Accused Products
15 are not designed for use in any combination that infringes any claims of the '895
16 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
17 '895 Patent.

18 68. A substantial, immediate, and real controversy therefore exists between
19 Harbor Freight and Champion regarding whether Harbor Freight infringes the '895
20 Patent. A judicial declaration is appropriate and necessary to determine the parties'
21 respective rights regarding the '895 Patent.

22 69. Harbor Freight seeks a judgment declaring that Harbor Freight does not
23 directly or indirectly infringe any claim of the '895 Patent.

24 **EIGHTH CAUSE OF ACTION**

25 **(Declaratory Judgment of Non-Infringement of the '398 Patent)**

26 70. Harbor Freight restates and incorporates by reference the allegations in
27 paragraphs 1-69 of this Complaint as if fully set forth herein.

1 71. Champion claims to own all rights, title, and interest in and under the '398
2 Patent. A true and correct copy of the '398 Patent is attached hereto as Exhibit H.

3 72. Harbor Freight does not directly or indirectly infringe any claim of the
4 '398 Patent, either literally or under the doctrine of equivalents, at least because the
5 Accused Products do not practice a dual fuel engine comprising (1) an engine operable
6 on a gaseous fuel and a liquid fuel, (2) a switch to change operation of the engine
7 between gaseous fuel and liquid fuel, (3) a carburetor attached to an intake of the
8 engine to mix air and fuel and connect to a gaseous fuel source and a liquid fuel
9 source, (4) a liquid fuel valve positioned along a liquid fuel line coupling the liquid
10 fuel source to the carburetor, (5) a gaseous fuel valve positioned along a gaseous fuel
11 line coupling the gaseous fuel source to the carburetor, and (6) a liquid fuel cut-off
12 incorporated into the carburetor to interrupt liquid fuel upon actuation of the switch
13 from liquid fuel to gaseous fuel.

14 73. Moreover, as another non-limiting example, the Accused Products do not
15 practice a liquid fuel cut-off incorporated into the carburetor to interrupt liquid fuel
16 upon actuation of the switch from liquid fuel to gaseous fuel.

17 74. No third party infringes any claims of the '398 Patent by using Harbor
18 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
19 any such infringement, much less with specific intent to do so. The Accused Products
20 are not designed for use in any combination that infringes any claims of the '398
21 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
22 '398 Patent.

23 75. A substantial, immediate, and real controversy therefore exists between
24 Harbor Freight and Champion regarding whether Harbor Freight infringes the '398
25 Patent. A judicial declaration is appropriate and necessary to determine the parties'
26 respective rights regarding the '398 Patent.

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1 76. Harbor Freight seeks a judgment declaring that Harbor Freight does not
2 directly or indirectly infringe any claim of the '398 Patent.

3 **NINTH CAUSE OF ACTION**

4 **(Declaratory Judgment of Non-Infringement of the '145 Patent)**

5 77. Harbor Freight restates and incorporates by reference the allegations in
6 paragraphs 1-76 of this Complaint as if fully set forth herein.

7 78. Champion claims to own all rights, title, and interest in and under the '145
8 Patent. A true and correct copy of the '145 Patent is attached hereto as Exhibit I.

9 79. Harbor Freight does not directly or indirectly infringe any claim of the
10 '145 Patent, either literally or under the doctrine of equivalents, at least because the
11 Accused Products do not practice a dual fuel generator comprising (1) an engine
12 operable on a gaseous fuel and a liquid fuel, (2) an electrical power generator driven
13 by the engine and comprising a charging coil, (3) a switch to change operation of the
14 engine between gaseous fuel and liquid fuel, (4) a carburetor attached to an intake of
15 the engine to mix air and fuel and connect to a gaseous fuel source and a liquid fuel
16 source, (5) a liquid fuel cut-off solenoid to interrupt liquid fuel flow to the engine
17 upon actuation of the switch from liquid fuel to gaseous fuel, and (6) a voltage
18 regulator coupled to the charging coil to receive power therefrom and that operates to
19 provide a regulated voltage to the liquid fuel cut-off solenoid.

20 80. Moreover, as another non-limiting example, the Accused Products do not
21 practice a switch to change operation of the engine between gaseous fuel and liquid
22 fuel.

23 81. No third party infringes any claims of the '145 Patent by using Harbor
24 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
25 any such infringement, much less with specific intent to do so. The Accused Products
26 are not designed for use in any combination that infringes any claims of the '145
27
28

1 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
2 '145 Patent.

3 82. A substantial, immediate, and real controversy therefore exists between
4 Harbor Freight and Champion regarding whether Harbor Freight infringes the '145
5 Patent. A judicial declaration is appropriate and necessary to determine the parties'
6 respective rights regarding the '145 Patent.

7 83. Harbor Freight seeks a judgment declaring that Harbor Freight does not
8 directly or indirectly infringe any claim of the '145 Patent.

9 **TENTH CAUSE OF ACTION**

10 **(Declaratory Judgment of Non-Infringement of the '101 Patent)**

11 84. Harbor Freight restates and incorporates by reference the allegations in
12 paragraphs 1-83 of this Complaint as if fully set forth herein.

13 85. Champion claims to own all rights, title, and interest in and under the '101
14 Patent. A true and correct copy of the '101 Patent is attached hereto as Exhibit J.

15 86. Harbor Freight does not directly or indirectly infringe any claim of the
16 '101 Patent, either literally or under the doctrine of equivalents, at least because the
17 Accused Products do not practice a fuel selector for use with a dual fuel generator,
18 the fuel selector comprising (1) a valve assembly fluidly connected to each of a first
19 fuel source and a second fuel source, the valve assembly being operable to selectively
20 control a first fuel flow and a second fuel flow from the first fuel source and the second
21 fuel source, respectively, to an engine of the dual fuel generator, and (2) a selector
22 switch positioned on the valve assembly to allow a user to manually select one of the
23 first fuel flow and the second fuel flow, wherein the valve assembly comprises (a) a
24 first fuel valve having open and closed positions to selectively control the first fuel
25 flow to the engine, and (b) a second fuel valve having open and closed positions to
26 selectively control the second fuel flow to the engine, and wherein the first fuel valve
27 and the second fuel valve are mechanical valves.

1 87. Moreover, as another non-limiting example, the Accused Products do not
2 practice a selector switch positioned on the valve assembly to allow a user to manually
3 select one of the first fuel flow and the second fuel flow.

4 88. No third party infringes any claims of the '101 Patent by using Harbor
5 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
6 any such infringement, much less with specific intent to do so. The Accused Products
7 are not designed for use in any combination that infringes any claims of the '101
8 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
9 '101 Patent.

10 89. A substantial, immediate, and real controversy therefore exists between
11 Harbor Freight and Champion regarding whether Harbor Freight infringes the '101
12 Patent. A judicial declaration is appropriate and necessary to determine the parties'
13 respective rights regarding the '101 Patent.

14 90. Harbor Freight seeks a judgment declaring that Harbor Freight does not
15 directly or indirectly infringe any claim of the '101 Patent.

16 **ELEVENTH CAUSE OF ACTION**

17 **(Declaratory Judgment of Non-Infringement of the '667 Patent)**

18 91. Harbor Freight restates and incorporates by reference the allegations in
19 paragraphs 1-90 of this Complaint as if fully set forth herein.

20 92. Champion claims to own all rights, title, and interest in and under the '667
21 Patent. A true and correct copy of the '667 Patent is attached hereto as Exhibit K.

22 93. Harbor Freight does not directly or indirectly infringe any claim of the
23 '667 Patent, either literally or under the doctrine of equivalents, at least because the
24 Accused Products do not practice a fuel selector for use with a dual fuel generator,
25 the fuel selector comprising (1) a valve assembly fluidly connected to each of a first
26 fuel source and a second fuel source, (2) the valve assembly being operable to
27 selectively control a first fuel flow and a second fuel flow from the first fuel source
28

1 and the second fuel source, respectively, to an engine of the dual fuel generator, and
2 (3) a selector switch positioned on the valve assembly to allow a user to manually
3 select one of the first fuel flow and the second fuel flow, wherein the valve assembly
4 comprises (a) two fuel inputs, with a first fuel input connected to the first fuel source
5 and a second fuel input connected to the second fuel source, and (b) two fuel outputs
6 for selectively supplying fuel to the engine from the first fuel source or the second
7 fuel source.

8 94. Moreover, as another non-limiting example, the Accused Products do not
9 practice a selector switch positioned on the valve assembly to allow a user to manually
10 select one of the first fuel flow and the second fuel flow.

11 95. No third party infringes any claims of the '667 Patent by using Harbor
12 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
13 any such infringement, much less with specific intent to do so. The Accused Products
14 are not designed for use in any combination that infringes any claims of the '667
15 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
16 '667 Patent.

17 96. A substantial, immediate, and real controversy therefore exists between
18 Harbor Freight and Champion regarding whether Harbor Freight infringes the '667
19 Patent. A judicial declaration is appropriate and necessary to determine the parties'
20 respective rights regarding the '667 Patent.

21 97. Harbor Freight seeks a judgment declaring that Harbor Freight does not
22 directly or indirectly infringe any claim of the '667 Patent.

23 **TWELFTH CAUSE OF ACTION**

24 **(Declaratory Judgment of Non-Infringement of the '390 Patent)**

25 98. Harbor Freight restates and incorporates by reference the allegations in
26 paragraphs 1-97 of this Complaint as if fully set forth herein.

1 99. Champion claims to own all rights, title, and interest in and under the '390
2 Patent. A true and correct copy of the '390 Patent is attached hereto as Exhibit L.

3 100. Harbor Freight does not directly or indirectly infringe any claim of the
4 '390 Patent, either literally or under the doctrine of equivalents, at least because the
5 Accused Products do not practice a fuel selector of a dual fuel generator comprising
6 (1) a selector switch having (a) a first fuel mode configured to enable a first fuel flow
7 from a first fuel source to an engine of the dual fuel generator, and (b) a second fuel
8 mode configured to enable a second fuel flow from a second fuel source to the engine
9 of the dual fuel generator, (2) a fuel solenoid having open and closed positions, and
10 (3) a solenoid switch having a closed position to activate the fuel solenoid and an open
11 position, wherein, when the selector switch is in the first fuel mode, the fuel solenoid
12 is in the closed position and, when the selector switch is in the second fuel mode, the
13 solenoid switch is in the open position and the fuel solenoid is in the open position.

14 101. Moreover, as another non-limiting example, the Accused Products do not
15 practice a selector switch having a first fuel mode configured to enable a first fuel
16 flow from a first fuel source to an engine of the dual fuel generator, and a second fuel
17 mode configured to enable a second fuel flow from a second fuel source to the engine
18 of the dual fuel generator.

19 102. No third party infringes any claims of the '390 Patent by using Harbor
20 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
21 any such infringement, much less with specific intent to do so. The Accused Products
22 are not designed for use in any combination that infringes any claims of the '390
23 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
24 '390 Patent.

25 103. A substantial, immediate, and real controversy therefore exists between
26 Harbor Freight and Champion regarding whether Harbor Freight infringes the '390
27
28

1 Patent. A judicial declaration is appropriate and necessary to determine the parties'
2 respective rights regarding the '390 Patent.

3 104. Harbor Freight seeks a judgment declaring that Harbor Freight does not
4 directly or indirectly infringe any claim of the '390 Patent.

5 **THIRTEENTH CAUSE OF ACTION**

6 **(Declaratory Judgment of Non-Infringement of the '896 Patent)**

7 105. Harbor Freight restates and incorporates by reference the allegations in
8 paragraphs 1-104 of this Complaint as if fully set forth herein.

9 106. Champion claims to own all rights, title, and interest in and under the '896
10 Patent. A true and correct copy of the '896 Patent is attached hereto as Exhibit M.

11 107. Harbor Freight does not directly or indirectly infringe any claim of the
12 '896 Patent, either literally or under the doctrine of equivalents, at least because the
13 Accused Products do not practice a dual fuel generator comprising (1) an internal
14 combustion engine couplable to a first fuel source and a second fuel source to
15 selectively receive fuel therefrom, (2) a fuel selector configured to control a flow of
16 fuel to the internal combustion engine, the fuel selector comprising (a) a selector plate,
17 (b) a first fuel valve assembly positioned adjacent to the selector plate and including
18 a first fuel valve and a first fuel valve handle, the first fuel valve handle being
19 actuatable between an ON position and an OFF position to selectively open and close
20 the first fuel valve, (c) a second fuel valve assembly positioned adjacent to the selector
21 plate and including a second fuel valve and a second fuel valve handle, (3) the second
22 fuel valve handle being actuatable between an ON position and an OFF position to
23 selectively open and close the second fuel valve, (4) a selector switch slidably coupled
24 to the selector plate so as to be movable between (a) a first position in which the
25 selector switch covers the second fuel valve handle so as to prevent actuation of the
26 second valve handle to the ON position, and (b) a second position in which the
27 selector switch covers the first valve handle so as to prevent actuation of the first valve
28

1 handle to the ON position, and (5) a carburetor fuel shutoff solenoid that is activated
2 when the selector switch is in the first position.

3 108. Moreover, as another non-limiting example, the Accused Products do not
4 practice a selector switch slidably coupled to the selector plate so as to be movable
5 between a first position in which the selector switch covers the second fuel valve
6 handle so as to prevent actuation of the second valve handle to the ON position and a
7 second position in which the selector switch covers the first valve handle so as to
8 prevent actuation of the first valve handle to the ON position.

9 109. No third party infringes any claims of the '896 Patent by using Harbor
10 Freight's products. Harbor Freight has not caused, directed, requested, or facilitated
11 any such infringement, much less with specific intent to do so. The Accused Products
12 are not designed for use in any combination that infringes any claims of the '896
13 Patent. To the contrary, each has substantial uses that do not infringe any claim of the
14 '896 Patent.

15 110. A substantial, immediate, and real controversy therefore exists between
16 Harbor Freight and Champion regarding whether Harbor Freight infringes the '896
17 Patent. A judicial declaration is appropriate and necessary to determine the parties'
18 respective rights regarding the '896 Patent.

19 111. Harbor Freight seeks a judgment declaring that Harbor Freight does not
20 directly or indirectly infringe any claim of the '896 Patent.

21
22 **PRAYER FOR RELIEF**

23 WHEREFORE, Harbor Freight prays for judgment as follows:

24 A. Declaring that Harbor Freight's Accused Products do not infringe,
25 directly, or indirectly, the Asserted Patents;

26 B. Declaring that Harbor Freight does not induce infringement of the
27 Asserted Patents;

1 C. Declaring that Harbor Freight does not contributorily infringe on the
2 Asserted Patents;

3 D. Declaring that judgment be entered in favor of Harbor Freight and
4 against Champion on Harbor Freight's claims

5 E. Finding that this is an exceptional case under 35 U.S.C. § 285;

6 F. An award of costs and attorneys' fees to Harbor Freight; and

7 G. Granting Harbor Freight such further and additional relief as the Court
8 deems just and proper.

9 **JURY DEMAND**

10 Harbor Freight demands a jury trial on all issues and claims so triable.
11

12 DATED: October 9, 2024

Respectfully submitted,

13 QUINN EMANUEL URQUHART &
14 SULLIVAN, LLP
15

16
17 By /s/ David M. Grable

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