

Case No. IPR2025-00805  
U.S. Patent No. 10,393,034

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CHAMPION POWER EQUIPMENT, INC.,  
Patent Owner.

Case No. IPR2025-00805  
U.S. Patent No. 10,393,034

**PATENT OWNER CHAMPION POWER EQUIPMENT, INC.'S  
SUR-REPLY IN SUPPORT OF ITS PRELIMINARY RESPONSE**

Patent Owner's Preliminary Response ("POPR," Paper 12) highlights significant deficiencies in the Petition that preclude institution. Now, in a belated effort to salvage the Petition, Petitioner attempts to read out distinct claim limitations—namely, “a gaseous fuel source” and “a gaseous fuel supplied from a pressurized fuel source.” This is improper and must be rejected by the Board.

Patent Owner separately and expressly claims the state of the fuel both (1) when entering the engine (*i.e.*, an engine operable on a gaseous fuel), and (2) when leaving the fuel source (*i.e.*, a gaseous fuel source or gaseous fuel supplied from a pressurized fuel source). Ignoring these distinct limitations, Petitioner cites a single sentence in the '034 Patent that states “LPG is a gaseous fuel” to draw the incorrect conclusion that any LPG fuel source is necessarily the claimed “gaseous fuel source.” Pet., 27 (citing EX1001, 3:45-47); Reply, 3. This is incorrect. LPG-based systems are often designed to use either gaseous or liquid LPG, and every reference to LPG does not necessarily disclose a “gaseous fuel source.” POPR, §§ II, V.

Moreover, the POPR does not attempt to construe terms or add limitations unsupported by the intrinsic record, but instead faithfully applies the plain and ordinary meaning of the express claim elements: “a gaseous fuel source” and “a gaseous fuel supplied from a pressurized fuel source.” *See, e.g., Warner-Jenkinson Co. v. Hilton Davis Chem. Co.*, 520 U.S. 17, 29, 117 S. Ct. 1040, 1049 (1997) (“Each element contained in a patent claim is deemed material.”). Because the art Petitioner

relies on does not disclose at least (1) a gaseous fuel *source*, or (2) a gaseous fuel *supplied from* a pressurized fuel source, institution should be denied.

**A. Nakafushi and Kubota disclose liquid fuel drawn from the fuel source.**

Petitioner’s Reply rests on a fundamental misunderstanding. The alleged gaseous fuel source in both Nakafushi and Kubota actually supplies LPG *as a liquid* and then a downstream vaporizer converts it to a gas. POPR, 21-22 (citing Pet., 78, 94, 103); *id.*, 24 (citing Pet., 34-35, 45, 55). Petitioner now claims that “[j]ust like in ... the ’034 Patent, the LPG in Nakafushi and Kubota is stored under pressure as a liquid and is vaporized into gaseous form **before** being delivered to the engine’s carburetor.” Reply, 3. However, the state of fuel when “delivered to the engine’s carburetor” is irrelevant when addressing limitations directed to the fuel *source*.

The ’034 Patent discloses (and claims) a system where the fuel source supplies gaseous LPG. POPR, 5-6 (citing EX2078, ¶¶80-81); Claim 1 (“a gaseous fuel source”). Petitioner now argues that “[w]here the LPG gaseous fuel comes from is the *de facto* gaseous fuel ‘source.’” Reply, 3. However, Petitioner’s argument is unsupported, and the mere fact that a downstream vaporizer converts liquid fuel to gaseous fuel does not mean the fuel source supplying liquid fuel is a “gaseous fuel source,” any more than a downstream freezer makes a water faucet an ice source.

This distinction is further emphasized in Claims 11 and 18, which recite “a gaseous fuel supplied from a pressurized fuel source.” The POPR does not challenge

whether Nakafushi and Kubota disclose a “pressurized fuel source”—which Petitioner contends is all the claims require. Reply, 3. Rather, the POPR correctly points out that Nakafushi and Kubota do not disclose “a gaseous fuel supplied from” the fuel source—because these sources actually *supply liquid fuel*. POPR, 28, 31.

**B. Patent Owner’s Preliminary Response is consistent with the specification.**

Petitioner incorrectly argues Patent Owner is “fabricating limitations” because the specification does not “indicate[] what form the LPG leaves the pressurized tank.” Reply, 3-4. Not so. The specification explains “gaseous fuel” is “supplied from a gaseous fuel source 82, or a pressurized fuel source.” *See e.g.*, EX1001, 5:35-41. And, Figure 1 depicts a fuel source (46) which draws *gaseous* LPG from the *top* of the tank. *Id.*, Fig. 1; POPR, §§ II, V. Tellingly, the specification does not support Petitioner’s apparent argument that the claimed *gaseous* fuel source actually supplies *liquid* fuel that is subsequently vaporized—in fact, the specification does not reference a “vaporizer” or comparable structure *at all*.

**C. Petitioner’s reliance on the prosecution of the ’398 Patent is misplaced.**

During prosecution of the parent ’398 Patent, Patent Owner distinguished the Sugimoto reference, which disclosed two fuels “provided in a gaseous form to the carburetor.” EX1038, 217-218. Now, Petitioner argues it was “irrelevant to Patent Owner that Sugimoto’s fuel was stored under pressure in liquid form, left the storage tank as a liquid, and was vaporized en route to the engine.” Reply, 2. Petitioner is

correct. Unlike the '034 Patent (which claims a gaseous fuel source), the claims of the '398 Patent at issue referred to the state of the fuel *at the engine* (“engine operable on a gaseous fuel and a liquid fuel”), not the *source* of the fuel. EX1038, 204, 208. Once again, Petitioner conflates limitations directed to the state of the fuel leaving the *source*, and the state of the fuel entering the *engine*.

Petitioner’s reliance on Tsuda’s reference “to tank 31 as the ‘gaseous fuel supply source’” is similarly unavailing. Reply, 5 (citing EX1018, 3:20-27, Fig. 3). Although Tsuda uses inconsistent terminology, the Kubota Workshop Manual explicitly discloses that “the *liquid* fuel stored in the LPG tank (14) is sent [i.e., supplied] to vaporizer (10)” and “sent to the DF carburetor (8) as a gaseous fuel.” EX1012, 65. The Workshop Manual (1) is the reference relied on by Petitioner (EX1012), (2) discloses the same fuel system as Tsuda (POPR, 33-34), and (3) unequivocally supplies *liquid* fuel.

Petitioner also misrepresents the prosecution history. Tsuda requires a vaporizer to gasify liquid fuel—a fundamental distinction that disqualifies Tsuda as an anticipatory reference—which caused the Examiner to instead apply Tsuda as a secondary reference. Because Tsuda was fully considered in the parent application, Patent Owner reasonably concluded the Examiner considered Tsuda with respect to the '034 Patent and, again, recognized its shortcomings and the fundamental difference of requiring a vaporizer to convert liquid fuel. Petitioner’s reference to

the respective NOAs involves limitations not implicated by the POPR, and is therefore not a proper subject of Reply. Reply, 4-5.<sup>1</sup>

Petitioner concludes: “Just because LPG is pressurized and stored as a liquid for convenience does not convert it to a ‘liquid fuel.’” Reply, 5.<sup>2</sup> To be clear, the POPR *does not* argue against invalidity on the basis that LPG is *stored* as a liquid. Rather, Petitioner wrongly infers all LPG tanks are gaseous fuel sources. Nakafushi and Kubota disclose systems where the tank supplies *liquid* LPG. As such, the Petition fails to allege either reference discloses either a “gaseous fuel source” or gaseous fuel “supplied from” a pressurized fuel source, and should be denied.

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<sup>1</sup> Specifically, Petitioner misrepresents the parent NOA. There, the Examiner used shorthand to refer to the element “the claimed liquid fuel cut-off incorporated into the carburetor to interrupt liquid fuel upon actuation of the switch from liquid fuel to gaseous fuel,” but *did not* address whether Tsuda’s liquid fuel valve 14 was “a liquid cut-off incorporated into the carburetor.” *Compare* EX2082, 13, 96, 144 *with id.*, 34-38, 110, 166.

<sup>2</sup> Petitioner’s new argument that liquid LPG is “a ‘gaseous fuel’ because it exists as a gas at normal temperature and pressure” (Reply, 1, 5) is not present in the Petition and is therefore waived. *Intelligent Bio-Systems, Inc. v. Illumina Cambridge, Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016).

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**CERTIFICATE OF SERVICE**

In accordance with 37 C.F.R. § 42.6(e), the undersigned certifies that on September 29, 2025, a complete and entire copy of the foregoing document was served on counsel of record for Petitioner, as follows:

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