

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.

IPR2025-00805
Patent 10,393,034

**PATENT OWNER CHAMPION POWER EQUIPMENT, INC.'S
BRIEFING ON IMPACT OF *REVVO* AND *TESLA* DECISIONS**

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Under the controlling standard articulated in *Revvo Techs.* and *Tesla*, institution should be denied because Petitioner has not (and cannot) explain its inconsistent claim construction positions and indefiniteness arguments in co-pending district court litigation. Specifically, Harbor Freight Tools USA, Inc. (“HFT”) argued for construction of the terms “pressure regulator” and “switch ... to [enable changing/change] operation of the engine between gaseous fuel and liquid fuel” in district court, but applied the plain and ordinary meaning before the Board. EX2095, 23; EX2110, 21-22, 24-25; Pet., 12. HFT also argued the terms “gaseous cutoff” and “‘coupled to’ followed by a verb but not by any other structure” were indefinite (EX2110, 26-30), which Generac Power Systems, Inc. (“Generac”) “incorporate[d] by reference.” EX2113, 51; *see also id.* (incorporating non-petitioner Firman’s indefiniteness arguments); EX2114, 84-85 (alleging “coupled to” is indefinite). In related proceedings, Petitioner has repeatedly explained that Generac and MWE Investments, LLC (“MWE”) “expect to take the same claim construction positions [as HFT] at the time such disclosures are due.” IPR2025-01185, Paper 20; *see also* IPR2025-01099, Paper 20; IPR2025-01228, Paper 23.

I. INSTITUTION SHOULD BE DENIED BASED ON *REVVO TECHS., INC. V. CEREBRUM SENSOR TECHS., INC.*

“The 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.*” *Revvo Techs., Inc., v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 4 (P.T.A.B. Nov. 3, 2025) (precedential) (emphasis added). Nevertheless, that is precisely Petitioner’s approach here.

In district court, HFT argued “pressure regulator” should be construed as “a device that reduces and controls the pressure of gaseous fuel” (EX2110, 24-25), while simultaneously applying the plain and ordinary meaning before the Board. Pet., 12. 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.’” IPR2025-00632, Paper 20 at 4.

Petitioner’s contradictory positions are particularly egregious here, where the Petition asserts that the “Primary Chamber” of the Kubota Workshop Manual’s vaporizer is the claimed primary “pressure regulator.” Pet., 97. But, both the Petition and the Workshop Manual are clear: “in the Primary Chamber, ‘*liquid fuel* is decompressed (the first decompression) and it is evaporated.’” *Id.* (emphasis added). Because the Workshop Manual’s vaporizer acts on *liquid* fuel, it *cannot* be a “pressure regulator” under Petitioner’s district court construction. Petitioner did not

provide an explanation for its inconsistent positions, which merits denial. IPR2025-00632, Paper 20 at 5 (“Ordinarily, that would mean a denial of institution.”).

Petitioner’s district court construction also contradicts its position in related IPR proceedings. *See* IPR2025-01121, Paper 19, 3 (arguing that “[t]he art expressly recognizes that vaporizers can simultaneously function as regulators.”). Petitioner’s district court construction, however, limited the term “regulator” to structures that reduce and control the pressure of *gaseous* fuel. EX2110, 24-25; EX2111, 23-24. This necessarily *excludes* vaporizers, which operate on liquid fuel.

HFT also argued the term “switch ... to [enable changing/change] operation of the engine between gaseous fuel and liquid fuel” should be construed as “a device for making, breaking, or changing the connections in an *electrical circuit* that causes a change in operation.” EX2110, 21 (emphasis added). However, despite limiting the claimed “switch” to *electrical* switches in district court, Petitioner applied the plain and ordinary meaning of the term both here (Pet., 12) and in related IPR2025-01271, where Petitioner argued the claimed “switch” was disclosed by a *mechanical* “rod or wire” that could be used to actuate two valves simultaneously. IPR2025-01271, Paper 4, 94-95. Once again, Petitioner did not offer any explanation for the discrepancy among and between its various IPR petitions. Pet., 12. This gamesmanship (predicated on contradictory constructions) is precisely the outcome *Revvo Techs.* counsels against. Institution should be denied.

II. INSTITUTION SHOULD BE DENIED BASED ON *TESLA, INC., V. INTELL. VENTURES II LLC*

Tesla is clear: “Allowing 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.’” *Tesla, Inc. v. Intell. Ventures II LLC*, IPR2025-00340, Paper 18 at 4 (P.T.A.B. Nov. 5, 2025) (citing *Revvo Techs.*, IPR2025-00632, Paper 20 at 4-5). Here, Petitioner’s district court indefiniteness positions are directly contradictory to its IPR arguments, and the *only* explanation for Petitioner’s contradictory positions among and between the various proceedings is unabashed gamesmanship.

For example, Petitioner argued the terms “gaseous cutoff” and “coupled to [verb]” were indefinite in district court. EX2110, 26-30; EX2113, 51; EX2114, 84-85. Specifically, HFT argued “[t]he term ‘gaseous cutoff’ has no commonly accepted meaning to a POSITA” and “provides no structural guidance whatsoever.” EX2110, 27-28. Here, conversely, Petitioner argued these “terms should be given their plain and ordinary meaning” and identified (for example) Nakafushi’s “LPG cut valve 18” as the claimed “gaseous cutoff.” *See e.g.*, Pet., 34. Despite allegedly having “no commonly accepted meaning,” both Petitioner and Petitioner’s expert claimed to be able to identify the “gaseous cutoff” within the prior art. *See also* Pet.,

34 (purporting to identify the alleged “gaseous cutoff coupled to open and close a gaseous fuel source to the engine” despite previously arguing that POSITAs are “without guidance about the coupling relationship”); EX2110, 29.

“[W]hen a petitioner advances different positions before the Board and a district court, that petitioner is *required* to explain why those different positions are warranted.” *Tesla*, IPR2025-00340, Paper 18 at 3. Here, no explanation was provided, and institution should be denied.

III. CONCLUSION

Allowing the instant Petition to proceed highlights the very policy issues *Revvo Techs.* and *Tesla* were designed to prevent. Petitioner has raised inconsistent claim construction positions and indefiniteness arguments among and between the Harbor Freight and Generac district court case, and the instant IPR proceeding. Moreover, review of Petitioner’s treatment of the same claim terms in related IPR proceedings suggests inconsistencies even among Petitioner’s various challenges before the Board. If instituted, Patent Owner will be forced to defend against invalidity challenges relying on constructions directly counter to those advanced in at least two parallel proceedings. There can be no reasonable explanation (other than rampant gamesmanship) for Petitioner’s inconsistent arguments. Thus, like in *Revvo Techs.*, Petitioner’s reliance on inconsistent claim construction positions “[sh]ould mean a denial of institution.” *Revvo Techs.*, Paper 20 at 5.

Dated: December 22, 2025

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CERTIFICATE OF COMPLIANCE

This paper complies with the requirements set forth in the Board's December 15, 2025 Order Authorizing Additional Briefing. Paper 31.

Dated: December 22, 2025

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CERTIFICATE OF SERVICE

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