

March 24, 2025

Eric Huang
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Re: Harbor Freight Tools USA, Inc. v. Champion Power Equipment, Inc.
Responses and Objections to Document Subpoena to Firman Power Equipment, Inc.

Dear Mr. Huang:

I write on behalf of Firman Power Equipment, Inc. (“Firman”) in response to the Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of a Premises in a Civil Action (“Subpoena”), served on behalf of Harbor Freight Tools UCA, Inc. (“HFT”) on March 10, 2025.

FIRMAN’S OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

Firman objects to the definition of “**Firman**,” “**You**,” or “**Your**” as unduly burdensome and disproportionate to the needs of the case to the extent that it purports to require Firman to determine what “parents, subsidiaries, affiliates, predecessors and successors thereof, and any employee, officer, or other agent of any of the foregoing during the time periods specified in each request” fall within HFT’s definition. Firman will interpret “Firman,” “You,” and “Your” to mean Firman Power Equipment, Inc.

Firman objects to the definition of “**Document**” or “**documents**” as vague, overbroad, and unduly burdensome, in particular to the extent it includes communications. Firman will interpret this term in accordance with its ordinary meaning, and will not produce communications. Firman also objects to requests for documents that are not reasonably accessible. Firman will interpret this term in accordance with the FRCP.

Firman objects to the definition of the terms “**Refer**,” “**relate**,” and “**concern**” as vague, overbroad and unduly burdensome. Firman will interpret these terms to mean reflecting, discussing or describing.

Firman objects to the definition of “**And,**” and “**or**” as vague, overbroad, and unduly burdensome. They also improperly seek to require production beyond those documents in Firman’s possession, custody and control. Firman will interpret these terms according to their ordinary meaning.

Firman objects to the time and place for production as unduly burdensome and beyond what is required by the applicable rules.

OBJECTIONS AND RESPONSES TO DOCUMENT REQUESTS

Firman incorporates the above objections in their entirety into each specific objection below. Firman’s specific objections are made for purposes of clarity and emphasis. Firman does not waive its above objections with respect to any of the Subpoena’s requests below.

TOPIC NO. 1: All documents exchanged, served, or filed by the parties in the Champion Litigation relating to construction of any claim term of the Patents-in-Suit, including but not limited to correspondence, infringement contentions, invalidity contentions, proposed terms, proposed constructions, joint statements, exhibits, extrinsic evidence, declarations, deposition transcripts, discovery requests and responses, briefs, and court orders or opinions.

RESPONSE:

Firman objects to this request in that it is unduly burdensome and not proportional to the needs of the case and places a disproportionate and undue burden on a nonparty. In particular, Firman objects to this request to the extent it seeks information in the possession, custody or control of Plaintiff.

Firman objects to this request as vague and unduly burdensome to the extent that it purports to require Firman to conduct undue legal analysis as to whether a document is “relating to construction of any claim term of the Patents-in-Suit.” Firman objects to this request as failing to describe the documents sought in sufficient detail for Firman to conduct a reasonable search of its records.

Subject to and without waiving any of these objections, Firman will conduct a reasonable search for the parties’ formal exchange pursuant to the Case Management Order (Dkt. 33, in the Champion Litigation). Firman is willing to meet and confer to discuss any additional reasonable searching.

TOPIC NO. 2: All Prior Art to the Patents-in-Suit, including but not limited to any art identified or produced in the Champion Litigation or otherwise known to You.

RESPONSE:

Firman objects to this request in that it is unduly burdensome and not proportional to the needs of the case and places a disproportionate and undue burden on a nonparty. In particular, Firman objects to this request to the extent it seeks information in the possession, custody or control of Plaintiff.

Firman objects to this request as vague and unduly burdensome to the extent that it purports to require Firman to conduct undue legal and factual analysis as to whether a document is “Prior Art to the Patents-in-Suit.” Firman objects to this request as failing to describe the documents sought in sufficient detail for Firman to conduct a reasonable search of its records.

Subject to and without waiving any of these objections, Firman will produce a copy of its Non-Infringement and Unenforceability Contentions and Invalidity Contentions, as well as its accompanying production of prior art. Firman is willing to meet and confer to discuss any additional reasonable searching.

TOPIC NO. 3: All Documents relating to or evidencing prior art or prior art activity, such as public disclosures, public uses, offers for sale, or sales to the Patents-in-Suit.

RESPONSE:

Firman objects to this request in that it is unduly burdensome and not proportional to the needs of the case and places a disproportionate and undue burden on a nonparty. In particular, Firman objects to this request to the extent it seeks information in the possession, custody or control of Plaintiff.

Firman objects to this request as vague and unduly burdensome to the extent that it purports to require Firman to conduct undue legal and factual analysis as to whether a document is “relating to or evidencing prior art or prior art activity.” Firman objects to this request as failing to describe the documents sought in sufficient detail for Firman to conduct a reasonable search of its records.

Subject to and without waiving any of these objections, Firman will produce a copy of its Non-Infringement and Unenforceability Contentions and Invalidity Contentions, as well as its accompanying production of prior art. Firman is willing to meet and confer to discuss any additional reasonable searching.

TOPIC NO. 4: All documents exchanged, served, or filed by the parties in the Champion Litigation relating to invalidity or unenforceability of any claim of the Patents-in-Suit, including but not limited to correspondence, invalidity contentions, exhibits, declarations, deposition transcripts, discovery requests and responses, briefs, and court orders or opinions.

RESPONSE:

Firman objects to this request in that it is unduly burdensome and not proportional to the needs of the case and places a disproportionate and undue burden on a nonparty. In particular, Firman objects to this request to the extent it seeks information in the possession, custody or control of Plaintiff.

Subject to and without waiving any of these objections, Firman will produce a copy of its Non-Infringement and Unenforceability Contentions and Invalidity Contentions, as well as its accompanying production of prior art. Firman is willing to meet and confer to discuss any additional reasonable searching.

Very truly yours

Davis Wright Tremaine LLP



Benjamin J. Byer