

IPR2025-00805

U.S. Patent No. 10,393,034

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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

Petitioners

v.

CHAMPION POWER EQUIPMENT, INC.,

Patent Owner.

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Patent No. 10,393,034

Issued: August 27, 2019

Title: FUEL SYSTEM FOR A MULTI-FUEL INTERNAL COMBUSTION  
ENGINE

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*Inter Partes* Review No. IPR2025-00805

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**PETITIONERS' BRIEF REGARDING *REVVO* AND *TESLA* IN VIEW OF  
PETITIONERS' CLAIM CONSTRUCTION POSITIONS**

As authorized by the Board, Petitioner submits this brief to address “the impact of the *Revvo* and *Tesla* decisions on th[is] proceeding[] in view of Petitioner’s claim construction positions.”<sup>1</sup> Paper 31 at 2. Specifically, Petitioners address the following issues: (1) the Petition adopts plain and ordinary meaning constructions for terms addressed in *Markman* briefing in Harbor Freight’s *now-settled litigation*, and (2) Generac’s disclosed indefiniteness positions relating to different patents in its litigation do not contradict the Petition under *Tesla*. The Petition should remain instituted.

Harbor Freight and MWE have settled their litigations and are expected to withdraw from the IPR proceedings. The Petition complies with 37 C.F.R. § 42.104 and is consistent with Generac’s litigation positions. While Patent Owner faults Generac for incorporating other party’s infringement contentions by reference into its infringement contentions, Patent Owner overlooks that the ’034 Patent is not asserted against Generac and that Generac has not asserted any counterclaims of invalidity against the ’034 Patent. Any such incorporation by reference is immaterial.

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<sup>1</sup> *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 (PTAB Nov. 3, 2025) (precedential) [hereinafter *Revvo*]; *Tesla, Inc. v. Intell. Ventures II LLC*, IPR2025-00340, Paper 18 (PTAB Nov. 5, 2025) (informative) [hereinafter *Tesla*].

**I. HARBOR FREIGHT'S CLAIM CONSTRUCTION POSITIONS SHOULD NOT BE HELD AGAINST THE REMAINING PETITIONER**

The Petition complies with 37 C.F.R. § 42.104 because it identifies “[h]ow the challenged claim[s are] to be construed.” *See* Pet., §VII. Specifically, the Petition states that all claim terms are to be construed according to their plain and ordinary meaning. *See* Pet., §VII.

Harbor Freight proposed a construction of the term “pressure regulator” in litigation. EX2110, 24–25. Patent Owner alleges that Harbor Freight’s construction is inconsistent with the arguments taken by Petitioners in this proceeding. Generac does not accede to Champion’s characterizations of arguments made by Petitioners in the IPRs or Harbor Freight’s claim construction positions. However, the positions taken by Harbor Freight in its litigation are no longer relevant to this proceeding, as that litigation has settled and Harbor Freight already emailed the Board requesting permission to file its motion to withdraw from the IPRs. The Harbor Freight court has not and will not issue a final claim construction order, thereby eliminating any opportunity for “inconsistency in claim construction between [the Central District of California and PTAB] forums.” *Revvo* at 4.

The ’034 Patent is not asserted against Generac. Therefore, Generac does not expect to take any claim construction positions in connection with the ’034 Patent. Nor does it intend to take any claim construction positions on any related patents in

its litigation that are inconsistent with the positions Petitioners have proposed in the IPR. Harbor Freight's withdrawal from the IPRs and settlement of its litigation will obviate any alleged inconsistency identified by Patent Owner this IPR. Thus, any claim construction positions taken by Harbor Freight should not be held against Generac in this proceeding.

## II. GENERAC'S INDEFINITENESS CONTENTIONS DO NOT CONTRADICT THE PETITION UNDER *TESLA*

As noted above, '034 Patent is not asserted against the remaining Petitioner, Generac. Thus, *Generac has not taken any indefiniteness positions on any claims of the '034 Patent in its litigation.* Generac has made indefiniteness arguments for the terms "switch" and "desired pressure" which are present in patents that are asserted against Generac in litigation and the '034 Patent. However, as explained below, Generac's indefiniteness positions for those patents do not contradict any of the positions taken on the '034 Patent in the petition and are compliant with *Tesla*.

*Tesla* explains that one adequate explanation for an alternative indefiniteness position is when "notwithstanding the alleged indefiniteness of the claim term, an ordinarily skilled artisan would understand that the asserted art satisfies the claim limitation." *Tesla* at 3–4. This is consistent with Federal Circuit precedent. *See, e.g., Intel Corp. v. Qualcomm Inc.*, 21 F.4th 801, 813 (Fed. Cir. 2021) ("The indefiniteness of a limitation . . . precludes a patentability determination only when indefiniteness renders it *logically impossible* for the Board to reach such a decision." (emphasis

IPR2025-00805

U.S. Patent No. 10,393,034

added)); *Cochlear Bone Anchored Sols. AB v. Oticon Med. AB*, 958 F.3d 1348, 1360 (Fed. Cir. 2020) (“[E]ven if claim 10 is indefinite, such a conclusion would not imply that it is incapable of being compared to prior art to determine if one of its alternatives is anticipated or would have been obvious on the grounds asserted.”).

**“Switch:”** Petitioner contends that “switch,” as used in its claims 1 and 57 of the ’398 Patent and claim 1 of the ’145 Patent is indefinite to the extent it is understood to cover a non-electrical component.

The *Tesla* exception applies. A POSA would “understand that the asserted art satisfies the claim limitation” because the “switch” in the Kubota Manual and Nakafushi includes an electrical component. In contrast, the switch in at least Generac’s GP7500E, PM4500DF, and PM7500DF generators does not include any electrical component. Thus, any reading of this term that would cause it to cover Generac’s GP7500E, PM4500DF, and PM7500DF generators would render the claim term indefinite. Generac’s alternative argument that an overly broad construction may raise §112 issues is not inconsistent with its IPR positions.

**“Desired Pressure:”** Petitioner contends that “desired pressure” as used in claim 6 of the ’654 Patent, claims 1 and 20 of the ’970 Patent, claim 12 of the ’120 Patent, and claim 14 of the ’895 Patent is indefinite because it fails to inform a POSA with reasonable certainty about the scope of the term.

The *Tesla* exception applies. Generac contends that this claim term is

indefinite because in many circumstances a POSA would not be able to ascertain *for purposes of infringement* whether the gaseous fuel is regulated to a “desired pressure” by the secondary pressure regulator. While it is clear that a “desired pressure” would be the pressure that is used to operate an engine of the dual fuel generator, it is not clear whether the term “desired pressure” would cover a pressure other than the pressure of a gaseous fuel used to operate the engine.

The difference here matters because all of the asserted prior art combinations include a secondary pressure regulator that regulates the pressure of the gaseous fuel down to a pressure that is used to operate the engine. In contrast, Generac’s accused products are provided with an LPG hose having a dual-stage off-board pressure regulator (including first and second pressure regulators); and another pressure regulator (a tertiary pressure regulator) mounted on-board the generator. The second stage of Generac’s off-board pressure regulator—i.e., the off board secondary pressure regulator—regulates the gaseous fuel to an intermediate pressure. The onboard regulator—i.e., a tertiary pressure regulator—further reduces the LPG fuel pressure to a pressure level that is used to operate the engine. Accordingly, for the purposes of infringement, it is unclear whether the secondary pressure regulator is configured to regulate the gaseous fuel supplied from the primary pressure regulator to a desired pressure, as recited in the claims of the ’645 Patent, the ’970 Patent, the ’120 Patent, and the ’895 Patent.

IPR2025-00805  
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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on December 22, 2025, a true and correct copy of the foregoing **PETITIONERS' BRIEF REGARDING *REVVO* AND *TESLA* IN VIEW OF PETITONERS' CLAIM CONSTRUCTION POSITIONS** was filed through the P-TACTS system along with service to the email addresses listed below:

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