

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

CHAMPION POWER EQUIPMENT, INC.,  
Patent Owner.

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IPR2025-01384  
Patent 11,905,895

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PATENT OWNER CHAMPION POWER EQUIPMENT, INC.'S  
BRIEF IN SUPPORT OF REQUEST FOR DISCRETIONARY  
DENIAL OF INSTITUTION

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EX2005	Firman Case, Firman’s Motion to Amend Invalidity Contentions, ECF No. 115
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EX2035	Oct. 17, 2020 MWE Responsive Letter
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EX2085	September 2, 2025 Stipulation from Generac
EX2086	US10221780 (“the ’780 Patent”)
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EX2108	File History of U.S. Patent No. 11,492,985

Petitioners MWE Investments, LLC (“MWE”), Harbor Freight Tools USA, Inc. (“HFT”), and Generac Power Systems, Inc. (“Generac”) (collectively, “Petitioners”), request *inter partes* review (“IPR”) of all claims of U.S. Patent No. 11,905,895. Paper 4 (“Pet.”). For the reasons discussed in detail herein, Patent Owner Champion Power Equipment, Inc. (“Patent Owner”) respectfully requests the Director exercise discretion and deny institution of this IPR.

This Petition is part of a coordinated, multi-front campaign to invalidate Patent Owner’s multi fuel generator patents led by its long-time competitors. Patent Owner first filed suit against Firman Power Equipment Inc. (“Firman”) on November 10, 2023—nearly two years ago. EX2001. Firman elected not to petition for IPR and is now time-barred. Almost a year later—on October 9, 2024—Petitioner HFT filed a complaint for *declaratory judgment of non-infringement*, which prompted Patent Owner’s compulsory infringement counterclaims. EX2017; EX2018. While HFT could have challenged the validity of Patent Owner’s patents in its complaint, it elected to commence separate actions against Patent Owner in both the district court and before the Board. Litigation has been pending with Generac since October 2024 (EX2029) and with MWE since May 2025. EX2051.

There can be no legitimate dispute that Petitioners are closely aligned with Firman as they have adopted Firman’s invalidity strategy—both at the district court level (including Firman’s assertions of system art and § 112 argument) and in this

and twelve other IPRs. Notably, the district court cases against Generac and HFT (as well as non-petitioner Firman) contain dozens of invalidity grounds that cannot be adjudicated in this proceeding and are on track to go to trial or make significant progress before a Final Written Decision (“FWD”) in this IPR. *See, e.g.*, EX2006, 40-42. Because granting institution would duplicate substantial efforts already underway in district courts across the country, discretionary denial is appropriate.

Discretionary denial is also appropriate because Champion held long-settled expectations based on years of inaction from Generac (ten years) and MWE (five years). Granting institution undercuts Patent Owner’s reliance on years of inaction, rewards Petitioners’ calculated delay, and benefits Champion’s other competitors, including HFT (who voluntarily initiated district court litigation) and non-Petitioner Firman (who is statutorily time-barred). Champion reasonably relied on Petitioners’ inaction and should not be forced to defend its patent in multiple forums.

Finally, in related proceedings Petitioners represent they are pursuing IPR “in lieu of three separate jury trials on invalidity.” IPR2025-00805, Paper 14 at p. 1; *see also id.* at 26 (“the alternative is having four different jury trials proceed to assess invalidity of the asserted patents in four different district courts”). This argument is demonstrably false. Rather, Petitioners seek to challenge the ’895 Patent on the basis of printed publications before the Board and maintain robust system-art-based challenges before four separate district courts. Institution will only serve to allow a

fifth bite at the invalidity apple for each relevant party, including non-Petitioner Firman and declaratory judgment challenger HFT.

Discretionary denial is warranted under 35 U.S.C. § 314(a), 35 U.S.C. § 325(d), and the *Fintiv* and *Advanced Bionics* factors. *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (P.T.A.B. Mar. 20, 2020) (precedential); *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 (P.T.A.B. Feb. 13, 2020) (precedential).

## **I. FACTUAL BACKGROUND**

### **A. Champion's Two Patent Families**

Champion owns two patent families directed to multi-fuel generators. The first claims priority to a November 1, 2013 application that resulted in 5 patents, including U.S. Patent Nos.: 10,598,101; 11,905,896; 11,761,390; and 11,306,667 (“2013 Family”). EX2088. Champion has asserted infringement of each enumerated patent, and Petitioners have filed corresponding IPRs. EX2083; EX2084; EX2085.

The second claims priority to a June 12, 2015 application that resulted in 11 patents, including U.S. Patent Nos.: 10,221,780; 10,393,034; 11,143,120; 10,697,398; 11,492,985; 11,530,654; 11,840,970; 11,143,145; and the '895 Patent that is the subject of this IPR (“2015 Family”). EX1001, (63). Champion has asserted infringement of each enumerated patent, and Petitioners have filed corresponding IPRs. EX2083; EX2084; EX2085.

**B. Petitioners Asserted the Champion Patent Families were Invalid Years Ago and Did Nothing**

Champion has long settled expectations that the '895 Patent would not be challenged in an IPR. “Although there is no bright-line rule on when expectations become settled, in general, the longer the patent has been in force, the more settled expectations should be.” *Dabico Airport Sols. Inc. v. AXA Power APS*, IPR2025-00408, Paper 21 at 3 (P.T.A.B. June 18, 2025). The senior member of the 2015 Family was granted in 2019 and has been in force for more than six years. EX2086. Indeed, the '895 Patent is ten years into its enforceable term. EX1001, (63); *Amgen Inc. v. Bristol-Myers Squibb Co.*, IPR2025-00601, Paper 9 at 3 (P.T.A.B. July 24, 2025) (“the challenged patents have been in force for seven and six years, respectively, creating strong settled expectations...”).

Petitioners have not been diligent in challenging the '895 Patent, and Patent Owner's expectations have been settled for years. Notably, Champion began enforcing the 2015 Family shortly after the related '034 Patent issued. EX2031. Champion sent cease-and-desist letters to Generac and MWE in 2020, accusing each of infringing Champion's multi-fuel generator patents. EX2033; EX2036.

On July 31, 2020, MWE alleged it was “aware of and/or in possession of prior art that will support invalidation” and was “prepared to present this evidence in litigation or in an Inter Partes Review proceeding if it becomes necessary.” EX2034.

MWE provided a detailed list of prior art and claim charts it asserted would “be fatal to” Champion’s rights in multi-fuel generators. EX2035. Champion promptly submitted IDSs in 2020 in all pending cases (including the parent ’985 Patent) identifying all prior art cited by Petitioners. *See, e.g.*, EX2108, 325-328. Importantly, the art identified by MWE *is not* the basis of the current Petition.

Generac likewise asserted that “the claims of the ’101 patent are invalid.” EX2037. Despite asserting that the Patent Office had erred, Generac did not identify any prior art, explain its invalidity challenges, or provide any evidentiary support for its conclusory assertions. *Id.* In fact, Generac asserted that it had “no plans to continue selling the accused products after the existing inventory [was] depleted.” *Id.* However, despite these early threats, neither MWE nor Generac filed suit or initiated an IPR against any patent in the 2013 or 2015 Families for five years.

Petitioners are sophisticated long-time competitors of Champion, actively monitored Champion’s patents, and were aware of Champion’s products and related patents for over a decade. Generac admits that “Champion and Generac are both members of the Portable Generator Manufacturers’ Association (‘PGMA’), an organization that seeks to develop safety standards for portable generators.” EX2011, 70. Generac concedes it “would have come across” Champion’s patents “during PGMA’s regular monitoring.” *Id.*; *see, e.g.*, EX2054. Generac was aware that Champion obtains patents as early as 2015. EX2070; EX2071.

In 2015, Generac, and subsequently Firman, each hired Champion's former VP (Greg Montgomery) who was employed by Champion for nearly a decade, was aware of Champion's R&D, and knew that Champion was actively seeking patent protection. Mr. Montgomery knew Champion filed patents and knew Champion was actively working on the application for the related '780 Patent when he left Champion in December 2014. EX2064. He joined Generac in early 2015 as a high-level executive (VP and General Manager) and immediately led a team in developing multi-fuel generators based on Champion's designs. EX2065, 14; EX2073, 3; EX2074, 12-13. Thus, Generac had *actual knowledge* of Champion's patent applications in early 2015.

Rather than challenge validity, MWE and Generac waited years for Champion to initiate litigation. However, the timing of the Patent Owner's infringement challenge does not excuse Petitioners' delay. *See Kahoot! AS v. Interstellar Inc.*, IPR2025-00696, Paper 12 at 2 (P.T.A.B. July 31, 2025) ("Petitioner's argument that Patent Owner does not have settled expectations because Patent Owner did not previously assert the challenged patent against Petitioner does not defeat Patent Owner's settled expectations."). HFT also chose not to file an IPR in response to Champion's cease-and-desist letter. EX2038; EX2039. Instead, it filed a declaratory judgment action alleging non-infringement (but not invalidity), further underscoring the strategic delay and reluctance of Petitioners to use the IPR process. EX2017.

Petitioners' delay suggests a tactical decision to hedge litigation risk rather than a genuine interest in timely resolving patentability concerns. This prolonged inaction gave Champion settled expectations that the '895 Patent would not be challenged in an IPR, especially since Generac's knowledge of this Patent Family dates back 10 years. These settled expectations are dispositive and, on their own, far "outweigh . . . the [other] considerations" that would "weigh against discretionary denial." *iRhythm Techs., Inc. v. Welch Allyn, Inc.*, IPR2025-00363, Paper 10 (P.T.A.B. June 6, 2025) (discretionarily denying institution). Allowing a late-stage IPR now would destabilize long-standing patent rights and reward Petitioners' delay at Champion's expense. *Kahoot!*, IPR2025-00696, Paper 12 at 2 ("[T]he challenged patent has been in force for over six years, creating strong settled expectations"); *Cambridge Indus. USA, Inc. v. Applied Optoelectronics, Inc.*, IPR2025-00433, Paper 12 at 3 (P.T.A.B. June 26, 2025) (discretionarily denying institution challenging seven and nine year old patents); *Amgen*, IPR2025-00601, Paper 9 at 3. Ultimately, a "Petitioner's failure to seek early review of the patents favors denial." *Nvidia Corp. v. Neural AI, LLC*, IPR2025-00606, Paper 18 at 3 (P.T.A.B. July 31, 2025).

Champion's settled expectations favor discretionary denial.

### **C. The '895 Patent Is Being Challenged in Four Parallel Cases**

There are four active cases against MWE (EX2051), Generac (EX2029), HFT (EX2017), and non-petitioner Firman (EX2003). In each, the challenger has asserted

invalidity in view of expansive “system” art and §112 grounds. *See, e.g.*, EX2011, 128-129. For example, Firman’s initial invalidity contentions included 39 claim charts comprising 5,000 pages and 69 references. EX2005, 7; EX2006, 3, 12-14. Of the 69 asserted references, 33 constitute system art. *See* EX2006, 8-9, 40-42; *see* EX2055, 6-8. Firman later amended its contentions based on thousands of pages of allegedly invalidating references it received from Generac, including two more “system” products allegedly purchased by Generac in 2015. EX2005, 6; EX2007. Generac’s invalidity contentions mirror those of Firman. *See e.g.*, EX2055; EX2009; EX2013. Generac’s Answer and Counterclaims reference the RD9000E 47 times and “Firman” 32 times and Generac asserts most of the same references mapped by Firman. EX2011. HFT’s invalidity defenses include word-for-word copies of Generac’s Answer and Counterclaims. *Compare* EX2019, ¶219 *with* EX2011, ¶139.

**Firman.** Trial in the Firman case is expected November 10, 2026. EX2002; EX2047. The parties have engaged in significant discovery, including producing over 35,000 pages of documents. Claim construction is complete and the upcoming Markman Order will trigger a 90-day deadline for the close of discovery and subsequent deadlines for expert discovery and dispositive motions. EX2002, 9-12.

**HFT.** Significant progress will be made in the HFT Case before the institution deadline. Champion and HFT have produced thousands of pages of documents. The parties exchanged proposed constructions, filed opening claim construction briefs,

and held a Markman hearing on September 30, 2025, well before the February 25, 2026 institution deadline. EX2016, p. 10. Pursuant to the parties' joint proposed schedule, fact discovery, expert discovery and disclosures, and dispositive motion briefing are scheduled to conclude by August 21, 2026. EX2020, 11. The Final Pretrial Conference is December 10, 2026—more than two months *before* the February 25, 2027, FWD deadline. *Id.* In fact, the trial could begin as early as January 19, 2027. *Id.*

**Generac.** Significant progress will be made in the Generac Case before an institution decision. The parties have exchanged infringement and invalidity contentions, and produced thousands of pages of documents, including third-party production from Firman. Prior to any FWD, the parties will have (1) exchanged their list of claim terms for construction; (2) served their proposed claim constructions; (3) completed all claim construction discovery; (4) filed a Joint Claim Construction Statement; and (5) served Markman briefs. EX2099. The estimated median time to trial in Eastern District of Wisconsin is 33.6 months—July 9, 2027. EX2048.

**MWE.** Champion informed MWE of “Champion’s patents” related to “dual fuel generators” at least as early as June 19, 2020. EX2033. MWE threatened to file for IPR at that time. EX2034; EX2035. The MWE case is in its early stages. EX2051.

#### **D. Petitioners’ Multiple IPR Filings and *Sotera* Stipulations**

Petitioners have filed IPR proceedings challenging each of the 13 Champion

patents asserted across the 4 co-pending cases, the most recent of which was not filed until October 7, 2025, just days before Petitioners' statutory bar deadline. EX2083; EX2084; EX2085. Petitioners' stipulations do not apply to the litany of "system art" asserted by Firman and copied by the Petitioners in each case. EX2083; EX2084; EX2085.

## **II. THE BOARD SHOULD EXERCISE ITS DISCRETION UNDER 35 U.S.C. § 314(a) TO DENY THE PETITION**

### **A. Factor 1 (Presence of a Stay) Weighs in Favor of Denial**

None of the parallel district court proceedings have been stayed, nor have Petitioners submitted any evidence that a stay is likely. Indeed, unless IPR is instituted for all 13 asserted patents—the most recent of which was not challenged until *one week* before Petitioners' statutory deadline—a stay is unlikely. Given the fact that Petitioners' latest IPR challenge was not filed until October 7, 2025 (more than five months *after* Petitioners' first IPR challenge), it is likely that one or more of the parallel cases will have advanced far enough to render a stay improper. EX2094; 35 U.S.C. § 315(b). And, contrary to Petitioners' representations in related proceedings, Patent Owner *has not* agreed to a stay in any of these cases. *See* IPR2025-00805, Paper 14 at pp. 9-10. Finally, it is unlikely the Firman court will grant a stay because Firman is not a petitioner, its statutory deadline to file a petition has long passed, the parties have invested significant time and resources, and the case will likely proceed to trial before a FWD.

**B. Factor 2 (Proximity to Trial) Weighs in Favor of Denial**

Although no trial date has been set in the HFT, Generac, and MWE cases, significant progress will be made in each before FWD. *See* §I.C, above. The presence of “events in other proceedings related to the same patent” (such as the Firman case) may weigh against granting a petition. Consolidated Trial Practice Guide, 58.

Moreover, Generac and HFT have been actively collaborating with Firman throughout discovery in the district court cases, exchanging documents and evidence relating to their respective litigations. EX2013; EX2009; EX2023. Generac’s and HFT’s discovery requests to Champion have also been Firman-focused. Petitioners have co-opted the Firman Case entirely, adopting Firman’s invalidity counterclaims as their own and actively collaborating with Firman throughout discovery. They have incorporated Firman’s arguments, evidence, and statements regarding invalidity and claim construction, and have exchanged thousands of pages of references, contentions, and expert reports with Firman. Given the extent of Petitioners’ reliance on the Firman Case, and the fact that the Firman Case is likely to go to trial before FWD, Factor 2 weighs strongly in favor of discretionary denial.

**C. Factor 3 (Investment in Parallel Proceedings) Weighs in Favor of Denial**

There has been meaningful investment in the co-pending cases. Discretionary denial may be warranted where the parties “have made meaningful investment in the district court proceeding,” for example, when “the parties have exchanged

infringement and invalidity contentions, have already conducted over seven months of fact discovery, and a Markman hearing is scheduled to occur before the due date for an institution decision.” *Advanced Micro Devices, Inc. v. Concurrent Ventures, LLC*, IPR2025-00223, Paper 9 at 2 (P.T.A.B. June 12, 2025) (denying institution).

Substantial discovery has already taken place in the Firman, Generac, and HFT cases. *See* §I.C, above. The MWE Case is in its infancy, and a scheduling order has yet to issue. This, however, should be given little weight because, like HFT and Generac, MWE is Champion’s long-time competitor, has been in the same “technology space involving the challenged patent” for years, and indeed, has long known about Champion’s multi-fuel generator patent families “before filing its Petition challenging Patent Owner’s patent,” even threatening to file an IPR against the ’101 Patent more than five years ago. *Murata Mfg. Co., Ltd. v. Ga. Tech Rsch. Corp.*, IPR2025-00383, Paper 14 (P.T.A.B. July 29, 2025). MWE instead chose inaction until Champion had no choice but to file suit to enforce its patent rights.

In short, over ten thousand pages of infringement, non-infringement, and invalidity contentions, in addition to significant written discovery and document productions, have already been exchanged or will have been exchanged in the Firman, Generac, and HFT Cases before the institution deadline. A claim construction order will issue soon in the Firman Case and a claim construction hearing was held in the HFT Case on September 30, 2025. Accordingly, the third

*Fintiv* factor weighs in favor of denial.

**D. Factor 4 (Overlap in Issues) Weighs in Favor of Denial**

Petitioners' belated and limited stipulations cannot moot their expansive invalidity theories in the co-pending cases, including invalidity based on system art, §112 arguments, and inequitable conduct allegations the Board cannot resolve.

A timely *Sotera* stipulation “will not be dispositive by itself.” Director’s March 24, 2025 Memorandum at 2-3, citing *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 (P.T.A.B. Dec. 1, 2020). HFT, Generac, and MWE served their stipulations on August 29, 2025 and September 2, 2025. EX2083; EX2084; EX2085.

In any event, the stipulations do little to narrow the issues before the district courts. “Where the petitioner is relying on corresponding system art in a co-pending proceeding and/or several other invalidity theories, a stipulation may not be particularly meaningful[.]” Interim Director Discretionary Process, Section I(D). The invalidity theories asserted across the four co-pending cases are not only developed by Firman, but also involve numerous combinations of system art that the stipulations do not moot. *See Motorola Sols., Inc. v. Stellar, LLC*, IPR2024-01205, Paper 19 at 3–4 (P.T.A.B. Mar. 28, 2025) (Director Review) (“Petitioner’s invalidity arguments in the district court are more expansive and include combinations of the prior art asserted in these proceedings with unpublished system prior art, which

Petitioner’s stipulation is not likely to moot”).

Petitioners have parroted Firman’s entire case and have focused discovery on the exact same systems that Firman asserts against both patent families. For example, the RD9000E system art is central to the defenses and counterclaims in the Firman, Generac, and HFT Cases. *See* §I.C, above. As such, district courts will still have to grapple with numerous system art and §112-based invalidity grounds. *See Motorola Sols.*, IPR2024-01205, Paper 19 at 3–4 (denying institution despite Petitioner’s *Sotera* stipulation, in part, because “Petitioner’s stipulation does not ensure that the[] IPR proceedings would be a ‘true alternative’ to the district court proceeding”).

While the stipulations provide that Petitioners will not assert in *their* litigations “system prior art ... that directly corresponds to a printed publication” raised in the Petition, nothing prevents *Firman* from alleging invalidity based on those systems in its far more advanced litigation. Moreover, the stipulations do not prevent Petitioners from relying on corresponding system art (e.g., the DuroMax XP4400EH generator) in other capacities, including as evidence of the state of the art or with respect to other asserted patents. Likewise, Petitioners’ stipulations explicitly allow the use of other “similar” systems. For example, while the stipulations exclude the Kubota DF-972 engine in related proceedings, they simultaneously reserve the right to rely on *that same engine* while contained within a larger system, such as a lawnmower. EX2083; EX2084; EX2085. In light of the

limitations in Petitioners' stipulations, it is unclear which other "systems/engines" Petitioners contemplate are "similar to the [DuroMax] XP4400EH generator" at issue here. *Id.* As such, corresponding system art will likely still be at issue in the parallel district court cases. Perhaps more importantly, Petitioners' stipulations do not apply *in any capacity* to a litany of unrelated system art, including the Firman ECO8990E, as well as numerous Winco, Honda, Northstar, and SCAG Turf Tiger devices. EX2006, 40-42; EX2013.

**E. Factor 5 (Same Party) Weighs in Favor of Discretionary Denial**

The parties to the Petition are the same as those in the Generac, HFT, and MWE Cases. Accordingly, Factor 5 weighs in favor of denial. *See Sotera*, IPR2020-01019, Paper 12 at 19 (precedential as to Section II.A). Petitioners have filed 13 distinct IPRs challenging Patent Owner's patents. This Petition requires the Board's analysis of 5 references asserted across 5 distinct grounds, all of which will need to be fully addressed in the FWD. In total, Petitioners raise 85 grounds involving at least 27 references across the 13 IPR petitions.

**F. Factor 6 (Other Circumstances) Weighs in Favor of Denial**

*First*, the Petition's merits are weak, as Champion will establish in its Preliminary Response. *Second*, Champion has long-settled expectations the '895 Patent would not be challenged in an IPR, in light of Petitioners' prolonged inaction. *See* §I.B, *supra*. *Third*, Petitioners are thwarting a principal goal of IPR: to serve as

an efficient and alternative forum for the promotion of robust and predictable patent rights. *Gen. Plastic Indus. Co., Ltd. v. Kaisha*, IPR2016-01357, Paper 19 at 15–16 (P.T.A.B. Sept. 6, 2017) (precedential). Petitioners have filed 13 IPRs over more than 5 months, resulting in multiple, staggered IPR schedules and a significant drain on the Board’s limited resources, which is unwarranted and wasteful when 4 district courts will nevertheless be tasked with resolving Firman’s and Petitioners’ myriad system art and §112-based invalidity grounds.

Given a holistic view of the *Fintiv* factors and consistent with the Director’s mandate to ensure the PTAB complies with pendency goals for *ex parte* appeals, its statutory deadlines for AIA proceedings, and other workload needs, the Director should exercise discretion and deny institution.

### **III. THE DIRECTOR SHOULD EXERCISE DISCRETION TO DENY INSTITUTION UNDER SECTION 325(D)**

The Board should deny institution under 35 U.S.C. § 325(d) because Petitioner relies solely on art and arguments that are the same or substantially the same as those considered by the Examiner during prosecution, and Petitioner has not and cannot meet its burden to demonstrate material error by the Examiner. *See, e.g., Advanced Bionics*, IPR2019-01469, Paper 6 at 10; *Becton, Dickinson & Co. v. B. Braun Melsungen AG*, IPR2017-01586, Paper 8 (P.T.A.B. Dec. 15, 2017).

#### **A. Petitioners’ Art is Merely Cumulative**

Petitioners cite DuroMax (Grounds 1-2) and Hallberg (Grounds 3A, 3B, and

4) as primary §§ 102 and 103 references. Pet., 12. Each reference is cumulative to art already considered during prosecution. The LP-Gas Handbook, Parlatore, Eldson, and Hallberg are also cited as secondary references, which do not cure the failings of the primary references, do not introduce any new material not previously considered during examination, and are cumulative of the prior art.

**DuroMax** is cited for the alleged disclosure of a generator configured to run on either gasoline (controlled by a manual gasoline fuel valve), or LPG delivered via a hose and two pressure regulators. Pet., 32-34, 43-51. Petitioners also stress the importance of shutting off each of the fuel sources before switching fuels based on a cautionary warning. *Id.*, 46-47.

Every feature relied on by Petitioners or otherwise taught by DuroMax is substantially the same as (1) the YouTube Video of the Honda EU20i generator (“EU20i Video”) (EX2075; EX2076), and (2) U.S. Publication No. 2002/0134362 (“Deutsch”). EX2060, ¶[0010]. Both references were cited during examination of the related ’780 Patent and therefore have already been considered. EX2093, 136, 235; MPEP § 609.02(II)(A)(2). The Petition does not rely on DuroMax for any feature or function apart from those known and considered during examination.

**Hallberg** is cited for disclosure of a dual fuel engine that uses a valve control and a switch that operates a cable to select one of a gasoline or propane fuel source, and is cumulative of U.S. Patent Pub. No. 2007/0137591 (“Sugimoto”), which was

cited during examination of the '895 Patent. *Compare* Pet., 39-43, 86-88 and EX1006, Abstract, Fig. 1, 7:27-44 with EX2096, Fig. 5, ¶[0082]; *see also* EX1002, 50-51.

**Parlatore** is cited by Petitioners for disclosure of a remote propane tank with two pressure regulators and an LPG supply hose, and is cumulative of the EU20i Video cited during examination of the grandparent '780 Patent. *Compare* Pet., 37-38, 62-68 with EX2075; EX2076; *see also* EX2093, 235; MPEP § 609.02(II)(A)(2). Both Parlatore and the EU20i Video disclose an external propane tank that supplies LPG fuel to an engine and two pressure regulators in line with the LPG supply hose. *Compare* EX1010, ¶¶[0016], [0020] with EX2075, EX2076.

**The LP-Gas Handbook** is cited for disclosure of quick connectors and integral two-stage regulators, and is cumulative of webpages cited during the prosecution of the related '985 Patent disclosing “Propane Quick Connect Hose” and a “twin stage regulator.” *Compare* Pet., 38-39, 69-70, with EX2106; EX2107, 2; *see also* EX2108, 232-233, 244; MPEP § 609.02(II)(A)(2).

**Elsdon** is cited for disclosure of “cap 16 and shield 14 assembly of a fluid conduit coupler 12 that is used for ‘flammable or other hazardous fluids, such as fuel.’” Pet., 34-36, 47-51 (citing EX1005, 3:3-14). Elsdon is substantially similar to U.S. Patent No. 2,722,208 (“Conroy”), which was submitted in an October 28, 2015 IDS in the related '780 Patent (EX2093, 232), and discloses a removable fuel cap on

threaded opening 26 on fuel tank 22. EX2097, Fig. 2. Other previously-considered references disclose similar fuel caps. *See, e.g.*, EX2075, EX2076.

In view of the above, the Office has already considered the same or essentially the same art and arguments as now presented in the Petition. Prong 1 of the *Advanced Bionics* framework thus weights in favor of discretionary denial.

**B. Petitioners Have Failed to Demonstrate Material Error**

The Board requires “a showing that the Office erred in evaluating the art....” *Advanced Bionics*, IPR2019-01469, Paper 6 at 8. Petitioners have not alleged any material defect or error of any kind that occurred during examination. Specifically, the Petition does not even attempt to show any of the references cited in the Petition disclose any new material that was not considered during examination. Accordingly, Prong 2 weighs heavily in favor of discretionary denial.

**IV. CONCLUSION**

Patent Owner respectfully requests the Director exercise discretion under 35 U.S.C. §§ 314(a) and 325(d) to deny institution.

Dated: October 27, 2025

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**CERTIFICATE OF PAGE COUNT**

The undersigned hereby certifies that the foregoing document is limited to 20 pages.

Dated: October 27, 2025

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**CERTIFICATE OF SERVICE**

In accordance with 37 C.F.R. § 42.6(e), the undersigned certifies that on October 27, 2025, a complete and entire copy of the foregoing Patent Owner's Brief in Support of Request for Discretionary Denial of Institution, including the exhibits relied upon, was served on counsel of record for Petitioner, as follows:

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Case No. IPR2025-01384  
Patent No. 11,905,895

Paper 11

Dated: October 27, 2025

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