UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERUMO BCT, INC.,

Petitioner

v.

HAEMONETICS CORP.,

Patent Owner

Case No. IPR2026-00046

U.S. Patent No. 10,980,926

PATENT OWNER'S PRELIMINARY REPLY

List of Exhibits

Exhibit No.	Description of Document
2019	Joint Disputed Claim Terms Chart, *Haemonetics Corp. v. Terumo BCT, Inc.* (D. Colo. Feb. 3, 2026), D.I. 77

Petitioner's inconsistent claim construction positions warrant denial of institution. The Petition fails to comply with 37 C.F.R. § 42.104(b)(3), which requires a petitioner to state "[h]ow the challenged claim is to be construed" and, where a limitation is governed by 35 U.S.C. § 112(f), to identify the corresponding structure in the specification. This defect goes to Petition sufficiency at the threshold, not to competing merits arguments.

Petitioner argued that the claims "should be construed in accordance with the ordinary and customary meaning" and relied on that plain-and-ordinary-meaning construction to map the prior art to the challenged claims. Pet. at 22. In the district court litigation, however, Petitioner has asked the court to construe 6 separate terms, ***all of which Petitioner argues are indefinite***. EX2019. Regarding the "control system"/"controller" limitations, Petitioner argued these were governed by § 112(f) and indefinite for lack of corresponding structure. *Id.* at 19-42. Petitioner proposed this construction and asserted indefiniteness on that basis.

Petitioner cannot maintain, without explanation, that the same claim language is indefinite in district court yet sufficiently definite and structurally understood to support detailed prior art mappings before the Board. The Board has already held the fact that an indefiniteness challenge cannot be raised in an *inter partes* review "is not a sufficient explanation." *Tesla, Inc. v. Intellectual Ventures II, LLC*, IPR2025-00340, Paper 18 at 3 (Nov. 5, 2025) (informative). The Petition stands on

the premise that a person of ordinary skill would understand each of the limitations under their plain meaning; Petitioner's district court positions repudiate that premise.

The Board and Director have repeatedly held that such unexplained inconsistencies justify denial of institution. In *Revvo Technologies v. Cerebrum Sensor Technologies*, the Director made clear that when a petitioner takes alternative claim construction positions before the Board and a district court, it must, "at a minimum, explain why alternative positions are warranted." IPR2025-00632, Paper 20 at 3–4 (Nov. 3, 2025) (precedential); *see also id*., Paper 36 at 3 (Jan. 26, 2026) ("Simply put, you can't have it both ways and certainly not without a sufficient explanation."). In *Tesla*, the Board denied institution where a petitioner argued plain and ordinary meaning in its petition while asserting indefiniteness in district court, holding that "petitioner is required to explain" the differing positions. IPR2025-00340, Paper 18 at 2–4 (informative). The Director has since applied the same reasoning to vacate or deny institution in similar circumstances. *See Generac Power Sys., Inc. v. Champion Power Equip., Inc.*, IPR2025-00805, IPR2025-00951, Paper 40 at 4 (Feb. 3, 2026); *Revvo Technologies, Inc. v. Tire Stickers LLC*, IPR2025-00631, Paper 34 (Feb. 3, 2026).

This case presents the same defect—and an additional one. Section 42.104(b)(3) requires a petitioner to address § 112(f) constructions in the petition itself. The Board has denied institution where a petitioner advocates plain and

ordinary meaning before the Board but asserts a means-plus-function construction in district court without addressing § 112(f) in the petition. *See Revvo*, IPR2025-00632, Paper 36 at 2; *Cambridge Mobile Telematics, Inc. v. Sfara, Inc.*, IPR2024-00952, Paper 12 at 8 (informative); *10X Genomics, Inc. v. President & Fellows of Harvard College*, IPR2023-01299, Paper 15 at 13; *Orthopediatrics Corp. v. K2M, Inc.*, IPR2018-01546, Paper 10 at 10–12.

Petitioner's attempt to characterize this as an "outer bounds" dispute is misplaced. This is not about whether the Board must construe the 6 separate claim terms to resolve the prior art analysis, but about petition sufficiency. Having affirmatively invoked indefiniteness, including § 112(f) and asserted lack of corresponding structure, in district court, Petitioner was required under § 42.104(b)(3) to address that construction in the Petition itself. *Revvo* and *Tesla* do not hinge on whether a district court position is broader or narrower, or whether a term is "in controversy" for prior art mapping purposes, but on whether materially different positions are advanced without explanation. Here, none was provided.

Petitioner affirmatively invoked indefiniteness and § 112(f) in district court yet omitted any § 112(f) analysis in the Petition, despite the rule's express requirement. The Board should not be required to reconcile mutually exclusive constructions or overlook a petition that fails to comply with the governing regulations. Institution should be denied.

Respectfully submitted,

/Erik B. Milch/ Dated: February 23, 2026

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on February 23, 2026, I caused a complete copy of Patent Owner's Preliminary Reply regarding U.S. Patent No. 10,980,926 and all exhibits, to be served on the Petitioner as follows:

Via and Electronic Mail to Petitioner's attorneys of record:

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