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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91200832
Party	Defendant Honda Giken Kogyo Kabushiki Kaisha (Honda Motor Co., Ltd.)
Correspondence Address	SARAH R FRAZIER WILMER CUTLER PICKERING HALE AND DORR LLP 60 STATE ST BOSTON, MA 02109 UNITED STATES michael.bevilacqua@wilmerhale.com, john.regan@wilmerhale.com, shira.hoffman@wilmerhale.com, sarah.frazier@wilmerhale.com, si- lena.paik@wilmerhale.com,
Submission	Defendant's Notice of Reliance
Filer's Name	Silena Paik
Filer's e-mail	silena.paik@wilmerhale.com
Signature	/s/ Silena Paik
Date	09/14/2015
Attachments	NOR 4 (Public Version).pdf(493485 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

BRIGGS & STRATTON CORPORATION and KOHLER CO.,)	
)	
Opposers,)	Opposition No. 91200832 (parent)
)	
v.)	Opposition No. 91200146
)	
HONDA GIKEN KOGYO KABUSHIKI KAISHA,)	Application Serial No. 78924545
)	
Applicant.)	
)	
)	

APPLICANT’S FOURTH NOTICE OF RELIANCE

Pursuant to 37 C.F.R. § 2.120(j), Applicant Honda Giken Kogyo Kabushiki Kaisha (“Honda”) submits, and gives notice of its reliance on, Opposer Kohler Co.’s (“Kohler”) responses to certain of Honda’s interrogatories served in this proceeding.

Attached hereto are the responses to interrogatories identified below at the specified Trial Exhibit Numbers.

<u>Description</u>	<u>Specific Response No.</u>	<u>Applicant Trial Exhibit No.</u>
Opposer Kohler’s Second Supplemental Responses to Applicant’s First Set of Interrogatories	1, 10	E
Opposer Kohler’s Responses to Applicant’s Second Set of Interrogatories	20	F

Honda intends to rely upon and hereby make of record the attached exhibits.

Respectfully submitted,

Dated: September 14, 2015

/s/ Silena Paik

John Regan
Vinita Ferrera
Silena Paik
Sarah Frazier
Shira Hoffman
Wilmer Cutler Pickering Hale
and Dorr LLP
Boston, MA 02109
(617) 536-6000

Attorneys for Honda Giken Kogyo
Kabushiki Kaisha

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Fourth Notice of Reliance was served by FedEx
this 14th day of September, 2015 upon:

Kenneth Nowakowski
Melinda Giftos
Whyte Hirschboeck Dudek S.C.
555 E. Wells Street, Suite 1900
Milwaukee, Wisconsin 53202

And

Robert N. Phillips
Seth B. Herring
Reed Smith LLP
101 Second Street
Suite 1800
San Francisco, California 94105

/s/ Silena Paik
Silena Paik

Applicant Exhibit E

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KOHLER CO.,

Opposer,

Opposition No. 91/200146

vs.

HONDA GIKEN KOGYO KABUSHIKI
KAISHA (HONDA MOTOR CO., LTD.),

Applicant.

**OPPOSER KOHLER CO.'S SECOND SUPPLEMENTAL RESPONSES TO
APPLICANT'S FIRST SET OF INTERROGATORIES**

Opposer Kohler Co. ("Opposer") hereby provides the following second supplemental responses to the First Set of Interrogatories of Applicant Honda Giken Kogyo Kabushiki ("Applicant") as follows:

GENERAL OBJECTIONS

1. Opposer objects to Applicant's definition of "Applicant's Mark" as vague and ambiguous to the extent it includes the phrase "any other mark used by Applicant that is a colorable imitation of the mark."

2. Opposer objects to the Applicant's definition of "Opposer's Products" as argumentative and inaccurate to the extent it infers that any of the Opposer's engines referred to in these responses, or any other engines manufactured or sold by Opposer, as having a design that is "substantially similar" to "Applicant's Mark."

3. Opposer objects to the extent these interrogatories seek documents or information protected by the attorney-client privilege, that is protected by the work product doctrine, or

which constitutes or discloses the mental impressions, conclusions, opinions, or legal theories of any attorney or the representative of Opposer concerning this opposition (hereinafter "Privileged Information"). Such information shall not be provided in response hereto, and inadvertent disclosure of them shall not be deemed a waiver of any privilege or of protection of attorney work product.

4. Opposer objects to the Interrogatories to the extent they seek to impose obligations beyond those provided in the Federal Rules of Civil Procedure.

5. Consistent with Fed. R. Civ. P. 33(d), Opposer objects to providing responses to Interrogatories where the information can be derived from documents which are being produced in response to related document requests propounded by Applicant.

6. Opposer generally objects to the interrogatories to the extent they seek information that is wholly unrelated to the issues in this opposition and not reasonably calculated to lead to the discovery of admissible evidence.

7. Opposer generally objects to the interrogatories to the extent they seek information for an unreasonable period of time.

8. Opposer generally objects to the interrogatories to the extent they are vague and ambiguous, and thus not susceptible to a reasoned interpretation or response.

9. Opposer generally objects to the interrogatories to the extent they are overly broad, unnecessarily burdensome, or oppressive.

10. Opposer objects to all introductory instructions and definitions to Applicant's First Set of Interrogatories to the extent the instructions or definitions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific Interrogatory on the ground that such enlargement, expansion, or alteration renders said Interrogatory vague, ambiguous,

unintelligible, unduly broad, and/or uncertain.

11. Opposer objects to each Interrogatory to the extent it purports to require Opposer to obtain information outside of its possession, custody, and control from other persons or entities.

12. Opposer objects to each Interrogatory to the extent it calls for information that is publicly-available and/or seeks information already within Applicant's knowledge, possession, custody or control.

13. Opposer objects to each Interrogatory to the extent it seeks confidential, proprietary information.

14. Opposer objects to each Interrogatory to the extent that it improperly contains multiple subparts. Accordingly, Opposer reserves the right to treat each Interrogatory as multiple interrogatories for purposes of the applicable interrogatory limits.

15. The answers provided below are based upon information currently available to Opposer through due inquiry and Opposer reserves the right to supplement these responses during the course of discovery as additional information is ascertained.

16. Opposer reserves the right to modify, amend or supplement its General Objections, any additional specific objections, and the answers provided below.

17. Opposer's answers are made without waiver of, and with preservation of, all objections as to competency, relevancy, materiality, privilege and admissibility of the answers and the subject matter thereof as evidence for any purposes in any further proceeding in this action and any other action or proceeding.

18. Each and every one of these General Objections is incorporated by this reference into each and every one of the Responses set forth below.

INTERROGATORIES

INTERROGATORY NO. 1: Please state the date on which you first sold or offered each and every different engine of Opposer's Products, specifying the product for each date.

RESPONSE TO INTERROGATORY NO. 1: Subject to and without waiving its General Objections, as well as those set forth in its response to Interrogatory No. 4, Opposer states that it first shipped at least the following engines with horizontal shaft designs that share certain aspects with the design set forth in Applicant's Mark on the following dates:

Model	First year of shipment
CH5	1988
CH6	1993
CH11	1990
CH12.5	1989
CH13	1995
CH14	1989
CH15	1995
CH16	1999
CS4	1999
CS6	1999
CS8.5	1999
CS10	1999
CS12	1999
CH270	2009
CH395	2009
CH440	2010

INTERROGATORY NO. 2: Please identify each person involved in the origination, design, development, addition or selection of each of Opposer's Products and for each person, identify the nature and extent of such involvement and identify documents concerning such involvement.

RESPONSE TO INTERROGATORY NO. 2: Opposer objects to Interrogatory No. 2 as being vague, ambiguous, burdensome, overbroad, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence. Opposer further objects to the interrogatory to the extent it seeks Privileged Information. Opposer further objects to the interrogatory to the extent it requests documents concerning "such involvement" as vague, ambiguous, overbroad, burdensome and oppressive, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections and General Objections, at the present time, Cameron Litt, Manager-Marketing, Kohler Engines, is the most knowledgeable person regarding the design and development of the Command Pro and Courage horizontal shaft products.

INTERROGATORY NO. 3: Please describe the circumstances under which you first learned of Applicant's use of Applicant's Mark.

RESPONSE TO INTERROGATORY NO. 3: Opposer objects to Interrogatory No. 3 as being vague, ambiguous, burdensome, overbroad, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence. Opposer further objects to the interrogatory to the extent it seeks Privileged Information. Subject to and without waiving the foregoing objections and General Objections, Opposer states that it likely first learned about Applicant's GX engine at or about the time the engine was introduced into the market.

INTERROGATORY NO. 4: Please specify each and every different version of Opposer's Products ever sold or offered by you, and for each, please indicate if the product is currently being sold or offered.

INTERROGATORY NO. 10: Please:

- (a) identify the principal competitors in the business in which Opposer provides Opposer's Products;
- (b) describe the market position, including customer identity and product type, to which Opposer targets or intends to target its business in which Opposer provides Opposer's Products; and
- (c) describe any plans Opposer currently has for expansion or contraction of its business in which Opposer provides Opposer's Products.

RESPONSE TO INTERROGATORY NO. 10: Opposer objects to Interrogatory No. 10 as being vague, ambiguous, compound, overbroad, burdensome and oppressive, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence. Opposer further objects to the interrogatory to the extent it seeks Privileged Information.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10: Opposer objects to Interrogatory No. 10 as being vague, ambiguous, compound, overbroad, burdensome and oppressive, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence. Opposer further objects to the interrogatory to the extent it seeks Privileged Information. Subject to and without waiving the foregoing objections and General Objections, Opposer states that its principal competitors in the horizontal shaft engine market are Briggs & Stratton, Honda, Subaru, Kawasaki, Yamaha, Zongshen, Generac, Rato, Loncin and LTC.

INTERROGATORY NO. 11: If anyone acting on Opposer's behalf has ever contacted anyone who was a customer or prospective customer of Applicant or Opposer relating to this Opposition or Applicant's Mark or describe the circumstances surrounding that contact.

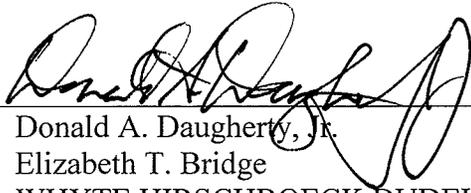
RESPONSE TO INTERROGATORY NO. 11: Opposer objects to Interrogatory No. 11 as vague and ambiguous, overbroad, burdensome and oppressive, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence. Opposer

Dated this 26th day of June, 2012.

WHYTE HIRSCHBOECK DUDEK S.C.
Attorneys for Opposer Kohler Co.

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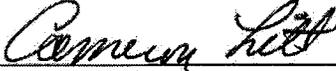
Counsel for Opposer Kohler Co.

VERIFICATION

I, Cameron Litt, am Marketing Manager for Kohler Engines, and am authorized to make this Verification on its behalf. I have read the foregoing OPPOSER KOHLER CO.'S SECOND SUPPLEMENTAL RESPONSE TO APPLICANT'S FIRST SET OF INTERROGATORIES, and know its contents. I am informed and believe that the matters stated therein are true.

I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Executed at Kohler, Wisconsin on this 26 day of June, 2012.



Cameron Litt

Applicant Exhibit F

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BRIGGS & STRATTON CORPORATION
AND KOHLER CO.,

Opposer,

Opposition No. 91200832 (parent)

vs.

Opposition No. 91200146

HONDA GIKEN KOGYO KABUSHIKI
KAISHA,

Application Serial No. 78924545

Applicant.

**OPPOSER KOHLER CO.'S RESPONSES TO
APPLICANT'S SECOND SET OF INTERROGATORIES**

Opposer, Kohler Co. ("Kohler"), hereby provides the following responses to Applicant's ("Honda Giken Kogyo Kabushiki") Second Set of Interrogatories as follows:

GENERAL OBJECTIONS

1. Opposer objects to the Applicant's definition of "Opposer's Products" as vague and ambiguous to the extent it includes engines that are "substantially similar" to "Applicant's Mark."
2. Opposer objects to the extent the Interrogatories seek documents or information protected by the attorney-client privilege, that is protected by the work product doctrine, or which constitutes or discloses the mental impressions, conclusions, opinions, or legal theories of any attorney or the representative of Opposer concerning this opposition (hereinafter "Privileged Information"). Such information shall not be provided in response hereto, and inadvertent disclosure of them shall not be deemed a waiver of any privilege or of protection of attorney work product.

3. Opposer objects to the Interrogatories to the extent they seek to impose obligations beyond those provided in the Federal Rules of Civil Procedure.

4. Consistent with Fed. R. Civ. P. 33(d), Opposer objects to providing responses to Interrogatories where the information can be derived from documents which have been or are being produced in response to related document requests propounded by Applicant.

5. Opposer generally objects to the interrogatories to the extent they seek information that is wholly unrelated to the issues in this opposition and/or are not reasonably calculated to lead to the discovery of admissible evidence.

6. Opposer generally objects to the interrogatories to the extent they seek information for an unreasonable period of time.

7. Opposer generally objects to the interrogatories to the extent they are vague and ambiguous, and thus not susceptible to a reasoned interpretation or response.

8. Opposer generally objects to the interrogatories to the extent they are overly broad, unnecessarily burdensome, or oppressive.

9. Opposer objects to all introductory instructions and definitions to Applicant's Second Set of Interrogatories to the extent the instructions or definitions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific Interrogatory on the ground that such enlargement, expansion, or alteration renders said Interrogatory vague, ambiguous, unintelligible, unduly broad, and/or uncertain.

10. Opposer objects to each Interrogatory to the extent it purports to require Opposer to obtain information outside of its possession, custody, and control from other persons or entities.

11. Opposer objects to each Interrogatory to the extent it calls for information that is publicly available and/or seeks information already within Applicant's knowledge, possession, custody or control.

12. Opposer objects to each Interrogatory to the extent it seeks confidential, proprietary information.

INTERROGATORIES

INTERROGATORY NO. 20: Please identify all instances in which any Person, in any manner, expressed confusion or mistake as to the affiliation, connection, or association of Opposer's Products with Applicant or the GX engine.

RESPONSE TO INTERROGATORY NO. 20: Opposer objects to Interrogatory No. 20 as being overbroad, burdensome and oppressive, compound, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing general and specific objections, Kohler is not aware of any such instances.

INTERROGATORY NO. 21: Please identify any design patents or design patent applications concerning Opposer's Products.

RESPONSE TO INTERROGATORY NO. 21: Opposer objects to Interrogatory No. 21 as being overbroad, burdensome and oppressive, seeking publicly-available information, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence.

INTERROGATORY NO. 22: Please identify (a) any changes made to the external appearance of the air cleaner cover on your SH265 engine since it was first offered for sale in the United States; (b) the date for each change; (c) the reasons for each change; (d) other changes to the external appearance on the air cleaner cover of your SH265 engine considered since, it was first offered for sale in the United States; and (e) the reasons why such changes were not selected.

RESPONSE TO INTERROGATORY NO. 22: Opposer objects to Interrogatory No. 22 as being vague, ambiguous, overbroad, burdensome and oppressive, compound, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence.

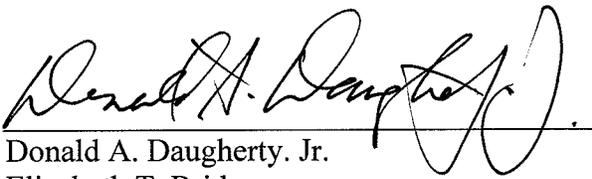
the interrogatory to the extent it seeks Privileged Information. Subject to and without waiving the foregoing general and specific objections, Cameron Litt.

INTERROGATORY NO. 28: Please state the names and addresses of all natural persons who participated in any way in locating or providing documents or information in response to Applicant's Second Set of Requests for Production of Documents, and for each such person list the specific Request numbers for which he or she supplied documents or information used in preparing a response.

RESPONSE TO INTERROGATORY NO. 28: Opposer objects to Interrogatory No. 28 as being vague, ambiguous, overbroad, compound, irrelevant to the subject matter of this action, and not likely to lead to the discovery of admissible evidence. Opposer further objects to the interrogatory to the extent it seeks Privileged Information. Subject to and without waiving the foregoing general and specific objections, Cameron Litt.

Dated this 14th day of September, 2012.

WHYTE HIRSCHBOECK DUDEK S.C.
Attorneys for Opposer Kohler Co.

By: 
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Elizabeth T. Bridge

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