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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
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Signature	/s/ Silena Paik
Date	09/14/2015
Attachments	NOR 3 (Public Version).pdf(350007 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 THIRD NOTICE OF RELIANCE**  
**(PUBLIC VERSION – REDACTED)**

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 Briggs and Stratton Corporation’s (Briggs) responses to certain of Honda’s interrogatories served in this proceeding.

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

<b>Description</b>	<b>Specific Response No.</b>	<b>Applicant Trial Exhibit No.</b>
Opposer Briggs’ Second Supplemental Responses to Applicant’s First Set of Interrogatories	1, 10	C
Opposer Briggs’ Supplemental Responses to Applicant’s Second Set of Interrogatories	19	D

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

Briggs designated its Supplemental Responses to Honda’s Second Set of Interrogatories as “Confidential” pursuant to the protective order entered into by the parties and approved by the

Board. Accordingly, Honda is simultaneously filing and serving a redacted copy of this Notice of Reliance.

*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 Third 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 C



3. 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.

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 in Opposer's 550 Series of engines, specifying the product for each date.:

**RESPONSE:** Subject to and without waiving the General Objections, Opposer responds that it first offered 550 Series engines for sale in the United States in or about May 2009.

**SUPPLEMENTAL RESPONSE:** Opposer incorporates by reference each of its General Objections and the objections previously made to this interrogatory. Subject to and without waiver of the foregoing objections, Opposer responds that it first offered 550 Series engines for sale in the United States in or about May 2009, and first offered the redesigned 550 Series engine in the United States in or about September 2011.

### **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:** 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, Opposer states that at least Peter Hotz, Jeff Whitmore, and Ron Weber have knowledge about the design and development of the 550 Series engine.

**SECOND SUPPLEMENTAL RESPONSE:** Opposer incorporates by reference each of its General Objections and the objections previously made to this interrogatory. Subject to and without waiver of the foregoing objections, Opposer will produce documents regarding all nonprivileged market research its has conducted regarding Applicant's applied-for mark and/or Applicant's GX engine, as well as reasonably accessible market research related to Opposer's horizontal shaft engines which reference Applicant's GX engine, pursuant to Federal Rule of Civil Procedure 33(d).

**INTERROGATORY NO. 9:**

Identify all of Opposer's past and present trademark registrations or applications (federal, state and foreign) for any engine design.

**RESPONSE:** Opposer objects to Interrogatory No. 9 as being 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 calls for information that is publicly available and would be directly accessible by Applicant.

**SUPPLEMENTAL RESPONSE:** Opposer incorporates by reference each of its General Objections and the objections previously made to this interrogatory. Subject to and without waiver of the foregoing objections, Opposer responds that no such registrations or applications exist.

**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:** 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:** Opposer incorporates by reference each of its General Objections and the objections previously made to this interrogatory. Subject to and without waiver of the foregoing objections, Opposer's principal competitors in the engine business are: Kohler Co., Applicant, Lifan, Mitsubishi Heavy Industries, Subaru, Kawasaki, Yamaha, Zongshen, Generac, Rato, Loncin, and LCT.

**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:** 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 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 there is no nonprivileged responsive information to disclose with respect to contacts regarding this Opposition proceeding.

**SUPPLEMENTAL RESPONSE:** Opposer incorporates by reference each of its General Objections and the objections previously made to this interrogatory. Subject to and without waiver of the foregoing objections, Opposer states that there is no nonprivileged responsive information to disclose with respect to contacts regarding this Opposition proceeding or Honda's application.

- (a) Kenneth Lemke  
Intellectual Property Counsel  
Briggs & Stratton Corporation  
12301 W. Wirth St  
Wauwatosa, WI 53222-2110
- (b) Ron Weber  
Briggs & Stratton Corporation  
12301 W. Wirth St.  
Wauwatosa, WI 53222-2110
- (c) Peter Hotz  
Briggs & Stratton Corporation  
12301 W. Wirth St.  
Wauwatosa, WI 53222-2110

**INTERROGATORY NO. 18:**

Identify each expert that you expect to call as a witness in this proceeding and state the subject matter on which each expert is expected to testify, the substance of the expert's opinion, and the grounds of the opinion.

**RESPONSE:** Opposer objects to Interrogatory No. 18 as premature to the extent it seeks information that will be the subject of expert opinion. Opposer further objects to the interrogatory to the extent it seeks Privileged Information.

June 25, 2012

By:



Robert N. Phillips  
Reed Smith LLP

Seth B. Herring  
Reed Smith LLP

Nina Habib Borders

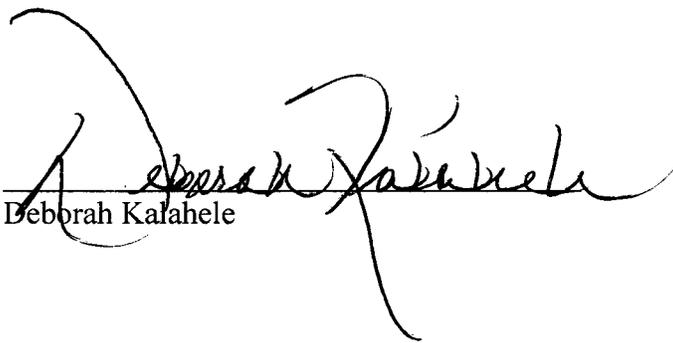
Reed Smith LLP

Attorneys for Opposer  
BRIGGS & STRATTON  
CORPORATION

**CERTIFICATE OF SERVICE**

In accordance with Rule 2.105(a) of the Trademark Rules of Practice, as amended, it is hereby certified that a true copy of the foregoing OPPOSER BRIGGS & STRATTON CORPORATION'S SECOND SUPPLEMENTAL RESPONSES TO APPLICANT'S FIRST SET OF INTERROGATORIES was served on the following counsel of record for Applicant, by electronic mail and depositing same in the U.S. mail, first class postage prepaid, this 25th day of June, 2012:

Michael J. Bevilacqua, Esq.  
Wilmer Cutler Pickering Hale and Dorr LLP  
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Deborah Kalahela

# Applicant Exhibit D

## Confidential