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Filing date: **10/14/2015**

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

Proceeding	91200832
Party	Plaintiff Briggs & Stratton Corporation and Kohler Co.
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Signature	/s/ Robert N. Phillips
Date	10/14/2015
Attachments	Opposers' Ninth Notice of Reliance (Public Version).pdf(1247783 bytes)

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

BRIGGS & STRATTON CORPORATION)	
)	
Opposer,)	Opposition No. 91200832 (Parent)
vs.)	
)	
HONDA GIKEN KOGYO KABUSHIKI KAISHA,)	
)	
Applicant.)	
)	
KOHLER CO.)	
)	
Opposer,)	Opposition No. 91200146
vs.)	
)	
HONDA GIKEN KOGYO KABUSHIKI KAISHA,)	
)	
Applicant.)	
)	
)	

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

OPPOSERS' NINTH NOTICE OF RELIANCE
(REDACTED – PUBLIC VERSION)

Pursuant to 37 C.F.R. § 2.120 and TBMP § 704.09, Opposers Briggs & Stratton Corporation (“Briggs”) and Kohler Co. (“Kohler”) (collectively, “Opposers”), by and through their attorneys, hereby submit their Ninth Notice of Reliance. Opposers’ Ninth Notice of Reliance contains the following attached materials:

1. Excerpts from the March 26, 2014, Deposition of Peter Hotz, included as **Exhibit**

PP as pages:

- 26:6-27:25
- 29:4-45:25
- 46:20-55:16
- 56:3-25
- 60:14-61:7
- 65:7-19
- 66:18-20
- 67:20-23
- 68:6-10
- 69:3-15
- 71:25-72:20
- 78:15-79:2
- 80:18-81:4
- 83:12-21
- 90:24-91:11
- 91:16-92:9
- 93:9-94:3
- 96:19-97:6
- 98:8-99:7
- 99:16-18
- 99:23-100:2
- 101:19-102:14
- 105:13-18;
- 105:24-106:17
- 109:5-8
- 111:11-21
- 113:16-114:10
- 117:4-118:18
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- 161:20-162:3
- 162:24-163:20
- 168:23-169:24
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- 196:24-198:24
- 204:9-20
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- 208:23-209:3
- 227:4-228:6
- 229:6-12
- 237:10-12
- 237:20-25
- 260:1-12
- 265:4-15
- 266:5-19
- 269:24-270:12
- 272:8-11
- 273:7-12

2. Exhibit No. 122 from the March 26, 2014 Deposition of Peter Hotz, included as

Exhibit PP1.

3 Exhibit No. 128 from the March 26, 2014 Deposition of Peter Hotz, included as

Exhibit PP2.

Applicant filed excerpts from the discovery deposition of Mr. Hotz. The deposition excerpts and exhibits designated by Opposers in this Notice of Reliance should in fairness be considered so as to make not misleading the excerpts offered by Applicant. The designations and exhibits are relevant to the issues of functionality and lack of secondary meaning of the Applicant's trademark.

The attached exhibits are marked with sequential page numbers in the upper right corner in the form of [Exhibit Letter – Page Number]. For example, the first page of Exhibit PP is “PP-1” and so forth. Where the upper right corner of a document does not allow for such marking, page numbers will be located along the right hand margin of the document. For briefing purposes, material within this Notice of Reliance will be identified as “O9NOR” (an acronym for Opposers' Ninth Notice of Reliance). For example, a reference to the first page of Exhibit PP in the trial brief would be O9NOR PP-1.

The attached exhibits contain confidential information pursuant to the Stipulated Protective Order entered into by the parties and approved by the Board. Accordingly, Opposers are simultaneously filing and serving an unredacted copy.

Respectfully Submitted,

Dated: October 14, 2015

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Dated: October 14, 2015

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Attorneys for Opposer Kohler Co.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing OPPOSERS' NINTH NOTICE OF RELIANCE (Redacted – Public Version) was served via first class mail, postage prepaid, this 14th day of October, 2015 upon:

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Deborah L. Kalahale

EXHIBIT PP
FILED UNDER SEAL

EXHIBIT PP1

17012
EXHIBIT 122
3-26-14 JJ

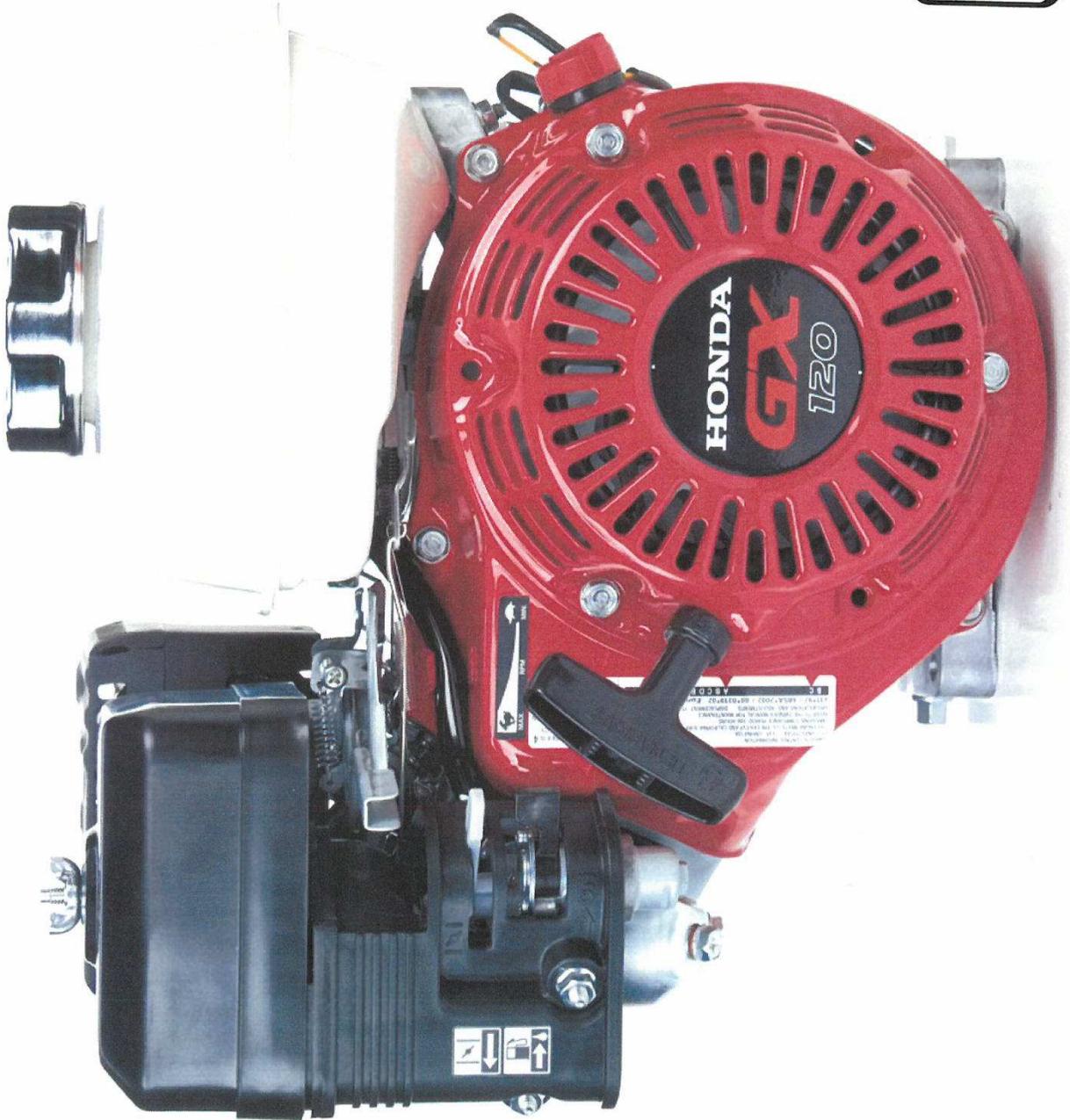


EXHIBIT PP2



Other Engines

4.2 (81)

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Whether it's a garden tiller, a log splitter, pressure washer, water pump, or a portable generator, Briggs & Stratton has the right utility engine to power the equipment you use around your home. Our utility engines provide easy starting, consistent performance, and the durability you can count on when it matters most.

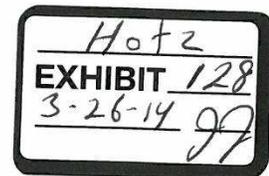
6 Product Series Displaying 1 of 1 Results per page 12



2100 Series™

Heavy duty. Done easy. The 2100 Series™ small engines provide all the power, convenience and durability you're looking for in the toughest jobs. All with lower emissions and less noise, to boot. These small engines for outdoor power equipment also feature Maxi-Clean™ air cleaner and a Super Lo-Tone™ Muffler.

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1150 Series™

Jobs well done. The 1150 Series™ small engine for outdoor power equipment features Overhead Valve (OHV) technology, our DuraLube™ Splash Lubrication System and a host of rugged components to bring you the precise amount of power, performance and durability you need for increasing challenges.

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900 Series™

Delivering for your tougher demands in outdoor power equipment. The 900 Series™ small engines feature Overhead Valve (OHV) technology and our DuraLube™ Splash Lubrication System to bring you the precise amount of power, performance and durability you need for increasing challenges.

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800 Series™

Hard working. Long lasting. The 800 Series™ small engine features Overhead Valve (OHV) technology for cleaner, cooler operation, along with our DuraLube™ Splash Lubrication System for precise performance. So it's ready to tackle your outdoor power equipment jobs again.

and again.

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750 Series™

The right match for your medium-duty outdoor power equipment. The 750 Series™ small engines feature Overhead Valve (OHV) technology and our DuraLube™ Splash Lubrication System to bring you the precise amount of power, performance and durability you need.

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550 Series™

Sturdy and simple to get the job done. The 550 Series™ small engines offer longer life and ease of operation for outdoor power equipment. Overhead Valve (OHV) technology, an automotive-style air filter, cast iron cylinder sleeve and dual ball bearings combine to meet your needs time after time.

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