

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ONE WORLD TECHNOLOGIES, INC., D/B/A/ TECHTRONIC
INDUSTRIES POWER EQUIPMENT,
Petitioner,

v.

CHERVON (HK) LIMITED,
Patent Owner.

IPR2020-00885
Patent 9,648,805 B2

Before BARRY L. GROSSMAN, JAMES J. MAYBERRY, and
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

Opinion for the Board filed by Administrative Patent Judge GROSSMAN

Opinion Concurring filed by Administrative Patent Judge GROSSMAN

GROSSMAN, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review
35 U.S.C. § 314, 37 C.F.R. § 42.4

I. INTRODUCTION

One World Technologies, Inc., doing business as Techtronic Industries Power Equipment (“Petitioner”), filed a Petition (“Pet.”) requesting *inter partes* review of claim 1 of U.S. Patent No. 9,648,805 B2 (Ex. 1001, “the ’805 patent”). Paper 2. Chervon (HK) Ltd. (“Patent Owner”), filed a Preliminary Response (“Prelim. Resp.”) to the Petition. Paper 11. After receiving our authorization to do so (*see* Paper 12), Petitioner filed a Motion to Update Mandatory Notices to Add Real Parties-in-Interest (Paper 13, “RPI Motion”). Patent Owner filed an Opposition to that Motion (Paper 16, “RPI Opposition”), and Petitioner filed a Reply to the Opposition (Paper 18, “RPI Reply”).

We have jurisdiction under 35 U.S.C. § 314. Under § 314, an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). The Board determines whether to institute a trial on behalf of the Director. 37 C.F.R. § 42.4(a).

For the reasons set forth below, upon considering the arguments and evidence of record, we determine that Petitioner has not established a reasonable likelihood that Petitioner would prevail against the challenged claim. Accordingly, we do not institute an *inter partes* review.

A. *Real Parties-in-Interest*

Petitioner identifies “One World Technologies, Inc. D/B/A Techtronic Industries Power Equipment” as the sole real party-in-interest. Pet. 1.

Patent Owner identifies “Chervon (HK) Limited,” which Patent Owner states “is the owner of the entire interest” in the ’805 patent, and “Chervon North America Inc.,” which Patent Owner states “is an exclusive

licensee of the '805 patent with a right to enforce the patent," as the real parties-in-interest. Paper 5, 1.

Patent Owner asserts that the "Board should deny institution of review because Petitioner has failed to identify Techtronic Industries Co. Ltd. ('Techtronic') and Homelite Consumer Products, Inc. ('Homelite') as real parties in interest." Prelim. Resp. 43. As stated above, we authorized Petitioner to file a motion to update Petitioner's identified real parties-in-interest without a change in the filing date of its Petition. Because we deny institution on the merits of the Petition, we need not reach the real party-in-interest issue.

B. Related Matters

The parties identify *Chervon (HK) Limited v. One World Technologies, Inc.*, No. 1:19-cv-01293-LPS (D. Del. filed July 11, 2019), as a matter in which the '805 patent is involved. Pet. 1; Paper 5, 1.

Petitioner states that this same lawsuit also involves the following eight other patents, which Petitioner also states are "unrelated" to the '805 patent: U.S. Patent Nos. 9,060,463 B2; 9,596,806 B2; 9,826,686 B2; 9,986,686 B2; 10,070,588 B2; 10,477,772 B2; 10,485,176 B2; and 10,524,420 B2. Pet. 1. Petitioner indicates that it filed *inter partes* review and post-grant review petitions challenging these eight patents.¹ *Id.* Patent Owner does not mention these other patents or the petitions filed challenging these patents.

¹ The petitions filed for these eight patents are IPR2020-00883, IPR2020-00884, IPR2020-00886, IPR2020-00887, IPR2020-00888, PGR2020-00059, PGR2020-00060, and PGR2020-00061.

C. The '805 Patent

The disclosed invention relates broadly to the field of garden tools, and more specifically, to a device that locks telescoping rods forming a handle of a mower. Ex. 1001, 1:13–15². The objective of the disclosed invention is to provide a locking device that indicates to the user if the locking device is not engaged properly. *Id.* at 1:38–43. As shown in Figure 9 from the '805 patent, reproduced below, one preferred embodiment of locking device 100 is on a lawn mower.

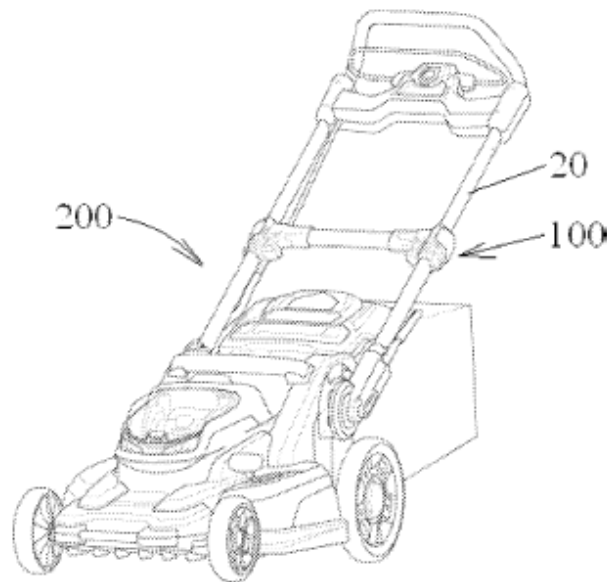


FIG9

Fig. 9 is a schematic view of a mower including locking device 100 for telescopic rod 20 of Fig. 2.

² Citations are to the column:line(s) of the patent.

Figure 2 from the '805 patent is reproduced below.

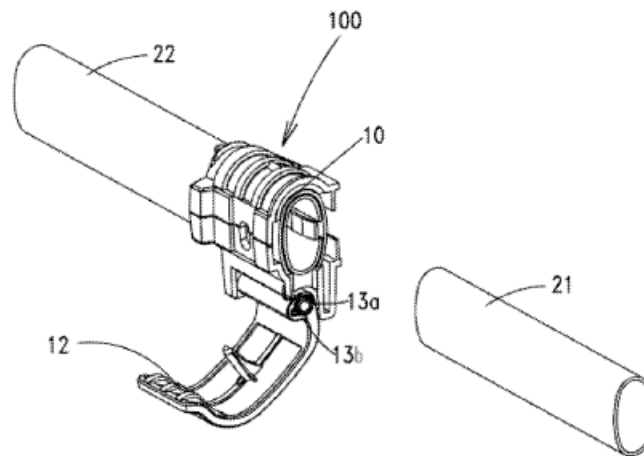


FIG. 2

Fig. 2 is a schematic view of locking device 100 for inner tube 21 and outer tube 22 of tube 20.

As shown in the figures of the '805 patent, locking device 100 includes base 10, operating lever 12 and “repulsion generating member” 13. Ex. 1001, 2:64–66. In the illustrated device, “repulsion generating member” 13 is a torsion spring with one end, 13a, connected to base 10 and the other end, 13b, connected to operating lever 12. *Id.* at 3:5–7. When operating lever 12 is in a “releasing position,” torsion spring 13 is in a “natural condition,” and when operating lever 12 is in a “locking position,” torsion spring 13 is in a “compressed condition.” *Id.* at 3:8–11; *see also* Fig. 4 (showing lever 12 in the open or “releasing position”), Fig. 5 (showing lever 12 in the closed or “locking position”)³. In the “releasing position,” a “relatively small pretension force” may be applied to torsion spring 13. *Id.* at 3:11–13.

³ Petitioner’s descriptions of Figures 4 and 5 is in error. *See* Pet. 4.

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