

This Opinion is a
Precedent of the TTAB

Hearing: January 24, 2017

Mailed: December 20, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Kohler Co.

v.

Honda Giken Kogyo K.K.

Opposition No. 91200146

Kenneth R. Nowakowski and Melinda Giftos, of Husch Blackwell LLP for Kohler Co.

Vinita Ferrera of Wilmer Cutler Pickering Hale and Dorr LLP for Honda Giken Kogyo K.K.

Notice of Correction

By the Board:

On December 13, 2017, the Board mailed a final decision in this proceeding. It has come to the Board's attention that the photograph of the Mantis Control on the left-hand side of page 105 duplicated the photograph of the Poret Control on the right-hand side of the page, and did not show the actual Mantis Control, which also appears on the right-hand side of page 96. A corrected form of the December 13, 2017 opinion showing the Mantis Control photograph on page 105 is attached hereto.

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Before Adlin, Heasley, and Larkin,
Administrative Trademark Judges.

Opinion by Larkin, Administrative Trademark Judge:

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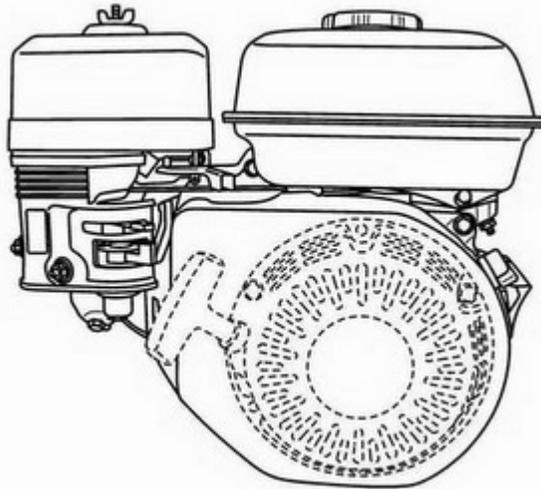
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Introduction

Honda Giken Kogyo K.K. (“Applicant” or “Honda”) seeks registration on the Principal Register under Section 2(f) of the Trademark Act, 15 U.S.C. § 1052(f), of the product configuration mark shown below for “engines for use in construction, maintenance and power equipment,” in International Class 7:¹



The mark is described in the application as follows:

The mark consists of the configuration of an engine with an overall cubic design, with a slanted fan cover, the fuel tank located above the fan cover on the right, and the air cleaner located to the left of the fuel tank. The air cleaner cover features a cube shape with beveled top outside edges, and a belt-like area on the lower portion of the cover encompassing the entire circumference and the top of the belt-like area is aligned with a rib of the fuel tank. The carburetor cover features four ribs along its outside edge and a recessed area where control levers are located. The

¹ Application Serial No. 78924545 was filed on July 7, 2006 under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), on the basis of Applicant’s claim of first use in October 1983 and first use in commerce in December 1984.

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