

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIKING DRILL & TOOL, INC.

Petitioner

v.

HONGJIA WANG

Patent Owner

IPR2023-00473

IPR2023-00474¹

U.S. Patent No. 11,007,583

**CORRECTED DECLARATION² OF KELLY W. CUNNINGHAM
IN SUPPORT OF
PATENT OWNER'S RESPONSE
TO THE PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. 11,007,583**

¹ A word-for-word identical declaration has been filed in each proceeding.

² This Declaration has been revised to correct formatting only. The content and signature date remain identical to the previously-filed Declaration.

DECLARATION OF KELLY W. CUNNINGHAM

I, Kelly W. Cunningham, declare as follows:

1. I am a Partner at Ervin, Cohen & Jessup, counsel of record for Patent Owner Hongjia Wang. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe that they are true. If called as a witness, I could and would competently testify to the matters stated herein.

2. Viking and Tsteigen are currently engaged in district court litigation concerning the '583 patent, *Tsteigen, Inc. v. Viking Drill & Tool, Inc.*, Case No. 0:21-cv-02759 (D.MN, filed December 28, 2021) (the "Litigation").

3. Submitted with this Declaration as **Exhibit 2055** is a true and correct copy of an April 12, 2019 email with the subject Matco Hyper-Step Drill Bits produced by Viking in the Litigation, bearing Bates number VIKINGVP_00002425.

4. Submitted with this Declaration as **Exhibit 2056** is a true and correct copy of an September 11, 2019 email with the subject Matco Hyper-Step produced by Viking in the Litigation, bearing Bates number VIKINGVP_00002439.

5. Submitted with this Declaration as **Exhibit 2057** is a true and correct copy of an March 6, 2020 email with the subject Hyper Step produced by Viking in the Litigation, bearing Bates number VIKINGVP_00002479.

6. Submitted with this Declaration as **Exhibit 2058** is a true and correct copy of the Kimball Midwest 2022 Cutting Tools Promotion produced by third-party Kimball Midwest in the Litigation, bearing Bates number Kimball00000006.

7. Submitted with this Declaration as **Exhibit 2059** is a true and correct copy of a testing document produced by third-party Kimball Midwest in the Litigation, bearing Bates number Kimball00000116.

8. Submitted with this Declaration as **Exhibit 2060** is a true and correct copy of the Kimball Midwest slide deck for the Product Line January 2020 Business Update Meeting produced by third-party Kimball Midwest in the Litigation, bearing Bates number Kimball00000092.

9. Submitted with this Declaration as **Exhibit 2061** is a true and correct copy of an April 22, 2020 email with the subject Ultra Step Drill Bit – UPDATE produced by third-party Kimball Midwest in the Litigation, bearing Bates number Kimball00000196.

10. Submitted with this Declaration as **Exhibit 2062** is a true and correct copy of an August 28, 2020 email with the subject Hyper drill drawing, along with its attachment, produced by Viking in the Litigation, bearing Bates numbers VIKINGVP_00002497-VIKINGVP_00002498.

11. Submitted with this Declaration as **Exhibit 2063** is a true and correct copy of an June 9, 2021 email with the subject drill drawing, along with its

attachments, produced by Viking in the Litigation, bearing Bates numbers VIKINGVP_00002837-VIKINGVP_00002850.

12. Submitted with this Declaration as **Exhibit 2064** is a true and correct copy of a print out of a Norseman Matco Cross Reference spreadsheet, produced by Viking in the Litigation at Bates number VIKINGVP_00002654.

13. Submitted with this Declaration as **Exhibit 2065** is a true and correct copy of a print out of a Viking Drill Financial Statement spreadsheet for the Vortex Drill products, produced by Viking in the Litigation at Bates number VIKINGVP_00003725.

14. Submitted with this Declaration as **Exhibit 2066** is a true and correct copy of a print out of a Viking Drill Sales spreadsheet for the Vortex Drill products, produced by Viking in the Litigation at Bates number VIKINGVP_00003720.

15. Submitted with this Declaration as **Exhibit 2067** is a true and correct copy of an March 20, 2021 email with the subject FW: *URGENT* Vortex Drill Bits – Private Label produced by Viking in the Litigation, bearing Bates number VIKINGVP_00002717.

16. Submitted with this Declaration as **Exhibit 2068** is a true and correct copy of an December 23, 2020 email with the subject Acme Tools Note Pad Coop Claim, with attachments, produced by Viking in the Litigation, bearing Bates numbers VIKINGVP_00002656-VIKINGVP_00002658.

17. Submitted with this Declaration as **Exhibit 2069** is a true and correct copy of an April 6, 2021 email with the subject Drill Bits, with attachments, produced by Viking in the Litigation, bearing Bates numbers VIKINGVP_00002769-VIKINGVP_00002772.

18. Submitted with this Declaration as **Exhibit 2070** is a true and correct copy of an December 9, 2020 email with the subject Vortex, with attachments, produced by Viking in the Litigation, bearing Bates numbers VIKINGVP_00002625-VIKINGVP_00002628.

19. Submitted with this Declaration as **Exhibit 2071** are true and correct copies of excerpts of the July 10, 2023 Deposition of Scott Roussin, which was taken in connection with the Litigation. We have highlighted the cited portions of Mr. Roussin's testimony.

20. Submitted with this Declaration as **Exhibit 2072** is a true and correct copy of the Transcript of the September 26, 2023 Cross-Examination of Petitioner's declarant, Steven R. Schmid.

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

Executed on this 31st day of October, 2023, at Beverly Hills, California.

/s/ Kelly W. Cunningham

Kelly W. Cunningham