

**UNITED STATES PATENT AND TRADEMARK
OFFICE**

**BEFORE THE PATENT TRIAL AND APPEAL
BOARD**

Mission Integrated
Technologies LLC
Petitioners

v.

Joshua Clemente
Patent Owner

Case IPR2023-00000
Patent 11,174,677

DECLARATION OF FAHMI ALUBBAD

Mission Ex. 1004

I, Fahmi Alubbad, declare as follows:

1. From August 5, 2013, to present, I have worked at Mission Integrated Technologies, LLC (“MIT”) (and its predecessor company Assault Rescue Elevated System, LLC) as an Owner Representative. My responsibilities have generally included marketing and sales activities, such as establishing marketing and product development initiatives.

2. From 2015 to present, my responsibilities have included working with development and operational teams to launch the Articulating Rapid Entry System (“ARES”) line of products.

3. MIT began the development of an entirely new generation of an ARES line of products in early 2017 and MIT’s President (“Tim Clemente”) hired Genovese Productions, LLC to take a video shoot of a new generation ARES product in July of 2017 (“the July 2017 video shoot”) for marketing purposes.

4. Exhibit 1005 is a true and correct copy of MIT’s paid Invoice to Genovese Productions, LLC for the July 2017 video shoot of the new generation ARES product.

5. Exhibit 1006 is a true and correct copy of a “Technical Offer” made by MIT to the Kingdom of Saudi Arabia Ministry of Defense dated June 12, 2017, regarding Two Armored Assault Vehicles with ARES System,

with red annotations added.

6. A promotional video of the new generation ARES product created from the July 2017 video shoot was entitled “ARES PROMO 6” (“The ARES 6 video”, Ex. 1007). The ARES 6 video (Ex. 1007) was published on YouTube by Tim Clemente on October 11, 2017, at URL at <https://www.youtube.com/watch?v=9gVnP18I39Q>.

7. Exhibit 1008 is a true and correct depiction of a screenshot showing that the ARES 6 video (Ex. 1007) was continuously accessible to the public by using the YouTube search engine since October 11, 2017.

8. Exhibit 1009 is a true and correct depiction of a screenshot of the current web page taken from YouTube that features the ARES 6 video (Ex. 1007).

9. Exhibit 1010 is a true and correct depiction of screenshots taken from the ARES 6 video (Ex. 1007), with red annotations added.

10. Exhibit 1011 is a true and correct depiction of a screenshot of the Inventor and Patent Owner (“Joshua Clemente”) of the 11,174,677 patent, MIT’s VP of Design and Engineering, being featured in the ARES 6 video (Ex. 1007).

11. MIT operated a first website, which was made available to the public at the URL <http://www.Missionintegratedtech.com> on August 7,

2014. MIT developed a second website to promote the new generation of ARES line of products in early October of 2017 and this website was made available to the public at URL <http://www.Mit.technology>. All traffic from the first website was redirected to the second website from October 22, 2017. This second website <http://www.Mit.technology> featured the YouTube link <https://www.youtube.com/watch?v=9gVnP18I39Q> to the ARES 6 video (Ex. 1007), on its Homepage, demonstrating the use and functionality of the new generation ARES product.

12. Exhibit 1012 and Exhibit 1013 are screenshots of the Internet Archive (<http://web.archive.org>) snapshots, taken on October 22, 2017, and November 30, 2018, respectively, of the Homepage of the first MIT website, which is redirected to the Homepage of the second MIT website. These two exhibits (Exs. 1012, 2013) correctly depict the ARES 6 video on the Homepage of MIT's second website as of these two dates, except that the YouTube link to the ARES 6 video (Ex. 1007) is not active on these archive pages, although the YouTube link was active to launch the linked ARES 6 video during the time that the second website was in operation (from October 22, 2017, to at least November 20, 2018).

13. As corroborated by the Wayback Machine of the Internet Archive, the ARES 6 video (Ex. 1007) was published and made

continuously accessible to the public from October 22, 2017, to at least November 20, 2018, on the Homepage of MIT's second website.

14. The first screenshot of MIT's second website taken by the Internet Archive was on October 22, 2017 (Ex. 1012). This is consistent with my recollection that the ARES 6 video (Ex. 1007) first being made available to the public a few days earlier, on October 11, 2017, on YouTube.

15. Exhibit 1007 is a true and correct copy of the ARES 6 video that has been continuously accessible to the public through YouTube since October 11, 2017, and to the public on the Homepage of MIT's second website from October 19, 2017, to at least November 20, 2018.

16. Exhibit 1014 is a true and correct copy of a MIT's marketing brochure created on October 31, 2017 ("the Oct. 2017 brochure") by Tim Clemente for marketing the new generation ARES product, with pages 6-12 added corresponding to labeled Figures 1-7 shown the Oct. 2017 brochure with red annotations added; the Oct. 2017 brochure being a derivative work of the July 2017 video shoot.

17. Exhibit 1015 is a true and correct copy of the document properties page for the Oct. 2017 brochure confirming that it was created on October 31, 2017.

18. Exhibit 1016 is a true and correct copy of an email sent by Tim Clemente on November 8, 2017, to a potential client Mr. Sammy Beydoun, the Global Marketing manager at The Armored Group, which included the Oct. 2017 brochure (Ex. 1014) and promoted MIT's latest video, the ARES 6 video (Ex. 1007), provided on the Homepage of MIT's second website at URL <http://www.Mit.technology>.

19. Exhibit 1018 is a true and correct depiction of a screenshot of a Milipol Paris 2017 Exhibition webpage showing that MIT was an Exhibitor at Milipol Paris 2017 ("Milipol 2017") trade show that took place between November 21, 2017, through November 24, 2017, which included over 900 Exhibitors and over 24,000 attendees and which was open to the public to attend through a simple registration process by creating an account on the Milipol website.

20. Exhibit 1017 is a true and correct depiction of a screenshot from the webpage at www.armyrecognition.com showing MIT's Exhibit site at Milipol 2017.

21. I attended Milipol 2017 along with Tim Clemente and Joshua Clemente and we along with another attendee collectively managed MIT's Exhibit site.

22. The same new generation ARES product featured in the

ARES 6 video (Ex. 1007) and in the Oct. 2017 brochure (Ex. 1014) was shipped to Milipol 2017 and was exhibited at MIT's Exhibit site.

23. The ARES 6 video (Ex. 1007) was accessible to the public at Milipol 2017, since it was repeatedly played to the attendees on a video monitor at MIT's Exhibit site.

24. At least three dozen hard copies of the Oct. 2017 brochure (Ex. 1014) were distributed to attendees at MIT's Exhibit site at Milipol 2017.

25. I digitally distributed copies of the Oct. 2017 brochure (Ex. 1014) to potential customers via the WhatsApp app in the weeks before Milipol 2017 to generate customer interest in the new generation ARES product at Milipol 2017.

26. I digitally distributed copies of the Oct. 2017 brochure (Ex. 1014) via the WhatsApp app in the weeks following Milipol 2017 to interested attendees who attended MIT's exhibit site but were not able to get a hard copy of the Oct. 2017 brochure (Ex. 1014) since all the hard copies provided had been already taken by other attendees.

27. I digitally distributed copies of the URL at <https://www.youtube.com/watch?v=9gVnP18I39Q> for the ARES 6 video (Ex. 1007) via the WhatsApp app in the weeks before Milipol 2017 to generate customer interest in the new generation ARES product at Milipol

2017.

28. In early November of 2018, a new ARES promotion video was created, which was entitled “ARES Elevated Tactics System” (“the Elevated ARES video”, Ex. 1019). The Elevated ARES video merged footage from the ARES 6 video (Ex. 1007) with new footage of the ARES system being used to enter an upper deck fuselage door of an A380 aircraft. The Elevated ARES video (Ex. 1019) was published on YouTube on November 13, 2018, at URL <https://www.youtube.com/watch?v=oXlIgPlKBAQ4>.

29. Exhibit 1019 is a true and correct copy of the Elevated ARES video that has been continuously available to the public through YouTube since November 13, 2018.

30. Exhibit 1022 is a true and correct depiction of a screenshot showing that the Elevated ARES video (Ex. 1019) was continuously accessible to the public by using the YouTube search engine since November 13, 2018.

31. Exhibit 1023 is a true and correct depiction of a screenshot of the current web page taken from YouTube that features the Elevated ARES video (Ex. 1019).

32. Exhibit 1024 is a true and correct depiction of screenshots

taken from the Elevated ARES video (Ex. 1019), with red annotations added.

33. I digitally distributed copies of the URL at <https://www.youtube.com/watch?v=oXlGPlKBAQ4> for the Elevated ARES video (Ex. 1019) to potential customers via the WhatsApp app in the days immediately after it was posted on YouTube on November 13, 2018.

34. All statements made herein of my own knowledge are true; all statements made on information and belief are believed to be true; and these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment or both under 18 U.S.C. § 1001.

Executed this 6 day of August 2023

Respectfully Submitted,



Digitally Signed

Fahmi Alubbad