UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MHL CUSTOM, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 21-cv-0091
	)	Judge Richard G. Andrews
WAYDOO USA, INC. and SHENZHEN WAYDOO INTELLIGENCE TECHNOLOGY CO., LTD.,	)	
	)	
Defendant.	)	

DECLARATION OF JAKOB KUTTENKEULER

1. My name is Jakob Kuttenkeuler. I am a professor in the Department of Technical Mechanics at the Kungliga Tekniska högskolan (KTH) in Stockholm, Sweden. "Kungliga Tekniska högskolan" translates to "Royal Institute of Technology" in English.

2. I teach a variety of courses in naval architecture and maritime engineering at KTH's Centre for Naval Architecture. I have taught at KTH since 1998.

3. I am fluent in both Swedish and English.

I. The Evolo Project

4. Evolo is the name we gave to a personal hydrofoil watercraft that we designed and built. Evolo is powered by an electric motor and steered through a combination of shifting the user's weight and controlling the motor's thrust. Evolo is silent, environmentally friendly, and extremely fun to ride.

5. The Evolo project was undertaken by a team of 15 KTH students through a course titled Marine Design or Lightweight Design as part of their studies in naval architecture and lightweight structures. Marine Design and Lightweight Design are jointly run masters-degree

courses.

6. As the coordinator for the Marine Design course, I instructed and supervised the Evolo team for the full duration of the Evolo project. My colleague Stefan Hallström, as the coordinator for the Lightweight Design course, also instructed and supervised the Evolo team.

7. The Marine Design and Lightweight Design courses, during which the Evolo project was completed, started in August 2008 and ended in June 2009. The project idea statement that I drafted for the course is attached to this declaration as Exhibit A. The Evolo team produced a final report and built several prototypes. A commercial version of Evolo has not yet been built.

8. I maintained and maintain a website on which Professor Hallström and I, for a period, published information about projects run through the Marine Design and Lightweight Design courses, including information about the development and progress of the Evolo project. I intended the course website to be used to share information between students and colleagues, but it was and is also available to the public. The course website is hosted on the kth.se domain here: http://flygmac7.flyg.kth.se/cdio.

9. The course page dedicated specifically to the Evolo project is available here: http://flygmac7.flyg.kth.se/cdio/old_projects/evolo.

10. I have the course website's access logs for the years 2011 through 2013. To retrieve the logs, I downloaded them from the course website's web server.

A. Prototypes and Public Testing

11. The earliest Evolo prototype did not have a motor and was instead towed behind a motor boat for propulsion. The team tested the prototype in October 2008 for a few hours on Lilla Värtan. I supervised the design and construction of this first prototype, and I was present

for the October 2008 testing.

12. A second prototype was tested in December 2008. This prototype was also boat-towed and tested for a few hours on Lilla Värtan. I supervised the design and construction of this second prototype as well, and was also present for the December 2008 testing.

13. Lilla Värtan is a strait between Stockholm and the island of Lidingö. It is a well-known body of water and is open to the public. The testing was done on Lilla Värtan near Stocksund, Sweden. People present during testing were readily able to view the Evolo prototypes as they were being tested.

14. Construction of the final prototype began in February 2009. The final Evolo prototype was self-propelled by an integrated electric motor. It was tested near the end of the semester (in or around late May and early June 2009) for a few hours in the waters near the Swedish National Museum in Stockholm. I supervised the design and construction of this final prototype, and was again present for the final prototype's testing in June 2009.

15. The waters near the Swedish National Museum are open to the public, and people present were readily able to view the final Evolo prototype as it was being tested.

16. The Evolo team took photographs and videos of the prototypes during the testing sessions.

B. The Final Report

17. At the end of the semester (in or around June 2009), the Evolo team finalized a written report and submitted a copy to me. The final Evolo report was written in Swedish.

18. In 2009, shortly after receiving the final report, I published a PDF of it on the website for the Marine Design and Lightweight Design courses. The final report is available at this web address: http://flygmac7.flyg.kth.se/cdio/old_projects/evolo/Evolo_slutrapport.pdf; and

is attached as Exhibit B to this declaration.

19. To the best of my knowledge, the final Evolo report has been available for download by people in the United States since I added it to the Marine Design and Lightweight Design course website in 2009, just as it has been available to people in Sweden (and elsewhere in the world) since 2009.

20. The publicly available metadata for both the Evolo project website (http://flygmac7.flyg.kth.se/cdio/old_projects/evolo) and the final Evolo report (http://flygmac7.flyg.kth.se/cdio/old_projects/evolo/Evolo_slutrapport.pdf) state that they have not been modified since 2009. The metadata for both publications are attached as Exhibit C to this declaration.

C. The Evolo.se Website

21. In 2009 or 2010, my students established a website for their work on the Evolo project. The website had the address: http://www.evolo.se.

22. The team posted images of the Evolo to the website, including images from the 2010 Stockholm International Boat Show, along with certain of the Evolo's specifications.

23. My understanding is that the Evolo.se website was active until at least mid-2013, but is no longer active.

D. YouTube Videos

24. On or about June 11, 2009, I uploaded to YouTube.com a video of the final Evolo prototype, taken by me and some of my students during the testing sessions in 2009. When uploading it, I permitted the video to be viewed publicly.

25. The video is about 1 minute and 45 seconds long and is still available using this link: https://www.youtube.com/watch?v=zL9fO8tFl18.

26. The video shows my student, and Evolo team member, Mikael Razola piloting the

Evolo in the waters around the Swedish National Museum. At about 31 seconds into the video, for instance, the Evolo's floating body can be seen rising above the water while Mikael steers it. At about 1 minute and 38 seconds in, the final Evolo prototype can be seen in full.

27. I know that my Evolo students also uploaded videos to YouTube in 2008 and 2009. The videos are of the 2008 and 2009 prototype testing sessions, certain aspects of building the Evolo prototypes, and interviews with team members.

28. Some of the testing videos taken by me and my students were provided to Discovery Channel Canada. I believe parts of the videos were broadcast in May 2009 on a Discovery television program called *Daily Planet*.

E. The Båtnytt Article

29. While testing the final Evolo prototype in June 2009, a reporter from the Swedish-language magazine Båtnytt was present. "Båtnytt" translates to "Boat News" in English. At the time, Båtnytt was a popular boating magazine available by subscription and on newsstands.

30. At the June 2009 prototype testing, the Båtnytt reporter interviewed me and several of my students, and took several photographs of the team and the prototype. Båtnytt published an article dedicated to the Evolo in its August 2009 issue. A copy of the article is attached to this declaration as Exhibit D.

31. In the fall and winter of 2009, I saw the August 2009 issue of Båtnytt available for sale in Stockholm at public newsstands.

F. The 2009 KTH Exhibition

32. In 2009, KTH held an open house at which the Evolo project was one of three student projects featured. The final Evolo prototype was displayed at the event and available for inspection by attendees.

33. The Evolo exhibit was held in KTH's library and was open to the public for several days in late-May and early-June 2009.

34. Also in 2009, KTH published a write up of the event for its staff magazine called Campi. The write up is available on the Campi archive, here: https://campi.kth.se/nyheter/kth-pa-insidan-har-oppnat-dorrarna-1.39275.

G. The 2010 Stockholm Boat Show

35. Stockholm hosts an annual boat show, called Allt för Sjön. "Allt för Sjön" literally means "Everything for the Lake" in English. The show is open to the public for about a week each March. Allt för Sjön's website is here: https://www.alltforsjon.se.

36. For the duration of the 2010 show, the final Evolo prototype was on display in the booth of the Sveriges Yachtkonstruktörers Riksförening (SYR). The "Sveriges Yachtkonstruktörers Riksförening" is the "Swedish Yacht Designers' Association" in English.

37. While on display, the public could walk up to and inspect the Evolo prototype, photograph it, and touch it (including all of its components). I have seen photographs of the Evolo as it was displayed in the SYR booth.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief. I understand that willful false statements and the like are punishable by fine, imprisonment, or both (18 U.S.C. § 1001).

Date: _____ By: _____
Jakob Kuttenkeuler

EXHIBIT A

Naval Architecture

22 august 2008

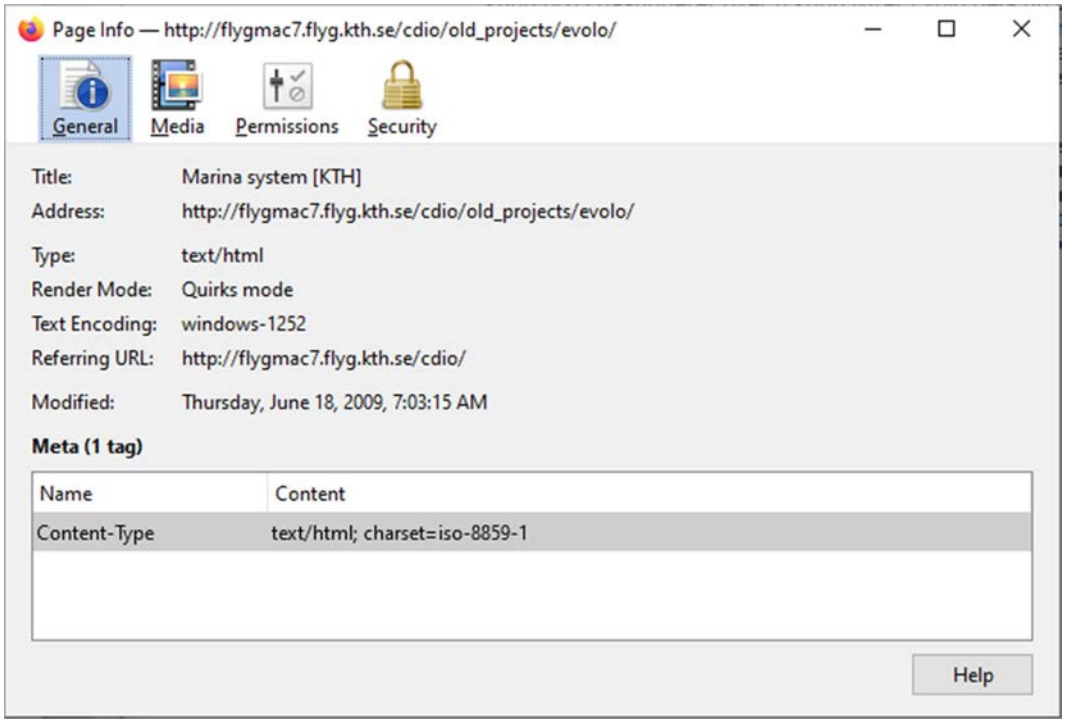
PROJEKTIDÉ

Årets projektidé kretsar kring utmanande klimatsmart och hänsynsfull vattenlek i ny förpackning. Med inspiration från bilderna nedan söker vi ett lekfullt transportmedel (leksak om du vill) för en person. Farkosten skall vara eldriven med ca 3 kW motor och transportera en vuxen person på vatten i ca 15 knop. Miljöprofilen skall vara hög avseende emissioner, ljud och vågbildning. Farkosten, som helst skall ha en kommersiell potential, skall locka den aktiva utövaren som inte har något emot att bli lite blöt.

EXHIBIT B

This Exhibit B is submitted concurrently as Petitioner's Exhibit 1005.

EXHIBIT C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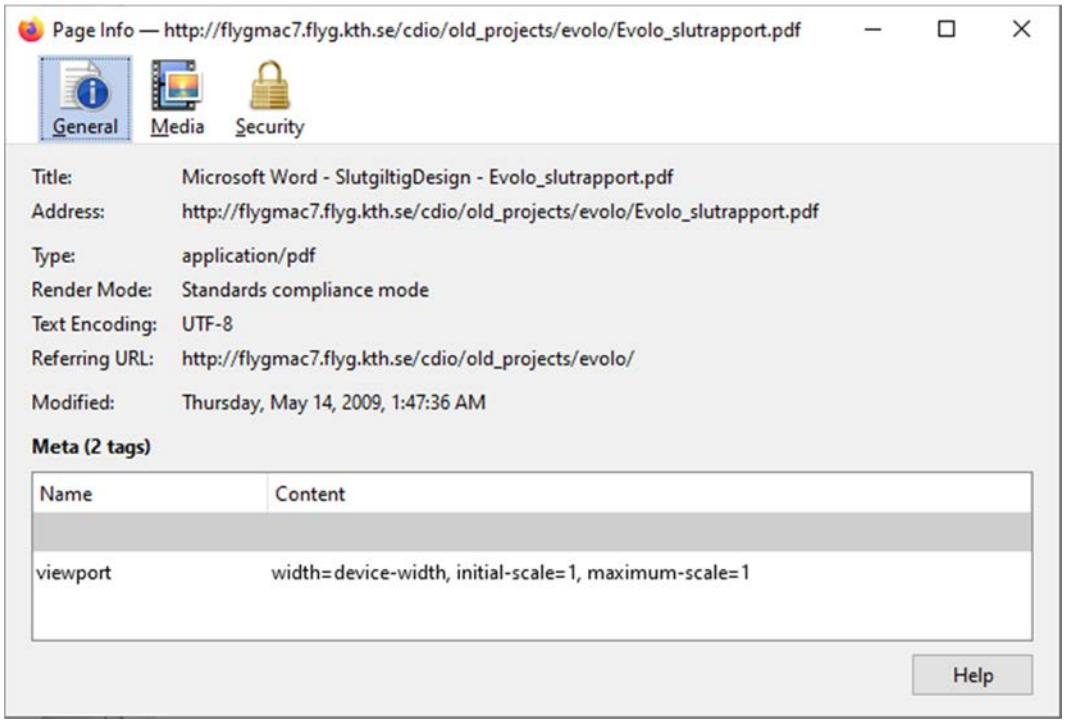
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EXHIBIT D

This Exhibit D is submitted concurrently as Petitioner's Exhibit 1019