IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

VERMEER MANUFACTURING COMPANY,
Plaintiff, Case No. 4:19-cv-00050
vs.
THE TORO COMPANY,
Defendant.

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* * *

CONFIDENTIAL - ATTORNEYS' EYES ONLY

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VIDEO DEPOSITION TESTIMONY OF
JAMES A. KUEMPER
WEDNESDAY, JUNE 19, 2019
MINNEAPOLIS, MINNESOTA

* * *

Vermeer Manufacturing Company - Exhibit 1018
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3 Video Deposition Transcript of
4 JAMES A. KUEMPER taken at the law offices of
5 Briggs & Morgan, P.A., 2200 IDS Center, 80 South
6 Eighth Street, Minneapolis, Minnesota on
7 Wednesday, June 19, 2019, commencing at 9:00
8 a.m. before Rebecca L. Klanderud, a Certified
9 Shorthand Reporter.
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1 APPEARANCES:
2 ARMSTRONG TEASDALE, LLP
3 BY: RICHARD L. BROPHY, ESQUIRE
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12
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20 Minneapolis, Minnesota 55402
21 612.977.8400
22 Counsel for Defendant
23 ALSO PRESENT (via telephonic communication):
24 WILLIAM BARRON, ESQUIRE, The Toro Company
25 * * *

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1 THE VIDEO TECHNICIAN: We're on the
2 record.
3 This is the videotaped deposition of
4 James A. Kuemper taken on June 19th, 2019. The
5 time is 9:11 a.m. Central. This deposition is
6 being taken in the matter of Vermeer
7 Manufacturing Company versus The Toro Company
8 filed in the U.S. District Court for the
9 Southern District of Iowa, Central Division.
10 The Case Number 4:19-CV-00050. This deposition
11 is taking place in Minneapolis, Minnesota.
12 My name is Kraig Hildahl. I'm the
13 legal videographer representing Henderson Legal
14 Services.
15 Will counsel please identify
16 themselves for the record?
17 MR. BROPHY: Richard Brophy and
18 Margaret Szewczyk on behalf of the plaintiff
19 Vermeer.
20 MR. LAFEBER: Mike Lafeber from
21 Briggs & Morgan on behalf the defendant Toro and
22 the deponent Mr. James Kuemper.
23 MR. WILLIAMS: And Pat Williams,
24 Briggs & Morgan, on behalf the defendant.
25 MR. BARRON: William Barron, in-house

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1 crown for The Toro Company.
2 THE VIDEO TECHNICIAN: Will the court
3 reporter please swear in the witness, and then
4 we can proceed.
5 * * *
6 JAMES A. KUEMPER,
7 a witness in the above-entitled matter,
8 having been first duly sworn,
9 testified on his oath as follows:
10 * * *
11 EXAMINATION
12 * * *
13 BY MR. BROPHY:
14 Q. Good morning.
15 **A. Good morning.**
16 Q. How are you today?
17 **A. It's a great day.**
18 Q. That's a good attitude to have.
19 Would you mind stating your full name
20 for the record, please?
21 **A. James Allen Kuemper.**
22 Q. And, Mr. Kuemper, where do you live?
23 **A. I live in** REDACTED
24 Q. Would you mind giving me your street
25 address, please?

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1 [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
7 Q. Lastly, sir, Mr. Brophy asked you
8 some questions about some language in Toro's
9 patent for which you are a listed inventor, the
10 '540 Toro patent marked as Vermeer Exhibit
11 Number 1. And I'll again call your attention to
12 that section, sir, which is located in column
13 two.
14 Do you remember those questions, sir?
15 **A. Yes.**
16 Q. And you indicated to Mr. Brophy that
17 you agreed with the section he read to you in
18 the -- in the record?
19 **A. Yes.**
20 Q. Specifically, the section that
21 includes a statement that: While high lift
22 loader arms are known on full size skid steer
23 loaders as disclosed in U.S. Pat. No. 5,542,814,
24 the use of such high lift loader arms on a
25 compact utility loader has been considered

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1 difficult if not impossible to -- due to size
2 and durability constraints.
3 Do you remember being asked about
4 that language?
5 **A. I remember being asked about that.**
6 Q. And do you -- I think you agreed that
7 you believe that language is accurate, correct?
8 **A. Well, if you take the size and**
9 **durability of a compact utility loader and you**
10 **try to increase the lift capacity not -- and**
11 **also the reach and the height that it could go,**
12 **it would be, seem to be almost impossible to do.**
13 **Yet we went and with our designs and in a very**
14 **short time created these -- a compact utility**
15 **loader with a vertical lift that worked very**
16 **well.**
17 Q. Did -- do you interpret that
18 statement, sir, to mean that the concept of
19 applying vertical lift or four-bar linkage to a
20 compact utility loader is difficult or
21 impossible?
22 **A. I would say, no. It would not be**
23 **difficult or impossible (witness indicating).**
24 Q. Why not, sir?
25 **A. Because there are so many other**

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1 **loaders out there that have vertical lift on**
2 **them, but what we did is take the whole concept**
3 **instead of attaching the linkage to the frame,**
4 **we made a front support assembly in which is a**
5 **innovative idea which gave us the lifting**
6 **capacity that far exceeded any other machines**
7 **that we had.**
8 Q. Okay. Thank you, sir. That's all I
9 have.
10 MR. BROPHY: I actually have a little
11 bit of follow-up.
12 * * *
13 EXAMINATION
14 * * *
15 BY MR. BROPHY:
16 Q. That -- that forward assembly you
17 just mentioned, is it your belief then that that
18 forward assembly is the key to the vertical lift
19 system in the TX 1000?
20 **A. Yes, it is.**
21 Q. And the key to the invention that's
22 claimed in the patent that you're named on?
23 **A. Yes.**
24 Q. Where does it say that in the
25 paragraph that your counsel just read to you?

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