

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DUKE MANUFACTURING CO.,
Petitioner

v.

MARMON FOODSERVICE TECHNOLOGIES, INC.
Patent Owner.

Case IPR2026-00406
Patent 10,852,002

**DECLARATION OF KYLE KESTNER IN SUPPORT OF PATENT
OWNER'S PRELIMINARY RESPONSE**

I, Kyle Kestner, declare as follows:

I. INTRODUCTION

1. My name is Kyle Kestner. I am currently Sr. Director of Engineering at Marmon Foodservice Technologies, Inc. (“Marmon” or “Patent Owner”). I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I could and would testify competently to them.

2. This Declaration is submitted in support of Patent Owner’s Preliminary Response in IPR2026-00406.

II. BACKGROUND

3. I am a named co-inventor of U.S. Patent No. 10,852,002 (“the ’002 Patent”), entitled *Multi-Zone Food Holding Bin*, which issued on December 1, 2020, and claiming priority to an application filed on April 20, 2016.

4. During the relevant time period—specifically including 2014 through 2016—I was employed as an Engineering Manager by Prince Castle LLC (“Prince Castle”), the predecessor of Marmon Foodservice Technologies, Inc. (“Marmon”).

5. In my capacity as Engineering Manager at Prince Castle, I was directly responsible for, and personally involved in, the research, engineering design, prototyping, testing, assembly, and field deployment of Prince Castle’s next-generation holding bins first developed by Prince Castle customer Burger King, and described and claimed in the ’002 patent.

6. In my role, I worked in close coordination with my fellow co-inventors, including Christopher Lyons and Charles Hartfelder, as well as with restaurant operators and equipment technicians.

III. AUTHENTICATION OF BUSINESS RECORDS

7. In the course of my employment at Prince Castle, it was the regular practice of Prince Castle to make and keep records of product design, engineering specifications, field test installations, user manuals, and technical communications.

8. The documents described below were generated, transmitted, or received at or near the time of the events recorded therein by persons with personal knowledge of the acts and events depicted (including myself), were kept in the ordinary course of Prince Castle's regularly conducted business activities, and have been produced in the parallel district court litigation *Marmon Foodservice Technologies, Inc. v. Duke Manufacturing Co.*, Case No. 4:25-cv-01491-ZMB (E.D. Mo.):

a. **Exhibit 2022 (MFT_0003823):** A true and correct copy of a Prince Castle Gen. II PHU Field Test Sensory Presentation.

b. **Exhibit 2023 (MFT_0003828):** A true and correct copy of an email I sent to Seth Downs at Burger King on January 30, 2015, confirming that the Prince Castle second-generation unit officially passed sensory tests.

c. **Exhibit 2024 (MFT_0003873):** A true and correct copy of a Prince Castle 3x4 Test Kitchen Prototype & Infrared Testing Presentation.

d. **Exhibit 2025 (MFT_0003973):** A true and correct copy of an email I sent to Alan Groll (Lead Engineer, Burger King) on April 21, 2015, regarding IT preparations and requesting updates to the PC Minder software to support the in-store installations.

e. **Exhibit 2026 (MFT_0003974):** A true and correct copy of an email thread dated April 21, 2015, involving myself, Phil Salerno, and Alan Groll regarding the configuration files needed to enable the “Dual Temp” independent upper and lower temperature control functionality.

f. **Exhibit 2027 (MFT_0003976):** A true and correct copy of an email exchange dated April 21, 2015, with Jason Adams (Support Engineer, Burger King) confirming the successful PC Minder Version 6.01.50 software update at BK Stores #7553 and #17402.

g. **Exhibit 2028 (MFT_0003979):** A true and correct copy of an email thread dated April 22, 2015, in which Michelle Pazmino (General Manager of BK Store #17402) requested technical assistance with the Kitchen Minder system, and my confirmation that co-inventor Chuck Hartfelder was heading directly to her store to configure the unit.

h. **Exhibit 2029 (MFT_0003980):** A true and correct copy of correspondence dated May 12, 2015, transmitting the Rev. A Manual to Dirk Ehegoetz at Burger King.

i. **Exhibit 2030 (MFT_0004389):** A true and correct copy of the joint Teardown Report dated July 15, 2015, documenting the July 8, 2015, joint on-site disassembly, examination, and review of a test unit previously operating continuously for three months at BK Store #7553.

j. **Exhibit 2031 (MFT_0004533):** A true and correct copy of a Prince Castle Gen. II PHU 3-Month Field Test Review Presentation.

k. **Exhibit 2032 (MFT_0003981):** A true and correct copy of the April 2015 *Extend Holding Bin DHB-BK24 Series Operation Manual* (Document No. 540-527revA-EN, designated “Rev. A Manual”), bearing the legend “Printed in USA 04/15 © 2015.” This manual describes the exact mechanical, electrical, and operational features of the DHB-BK24 holding bin units installed in April 2015.

IV. INVENTOR-DIRECTED RESTAURANT INSTALLATION

9. On April 21, 2015, Prince Castle installed second-generation multi-zone holding bins (including the DHB-BK24 model) in active, operating Burger King franchise restaurant locations in Florida. The DHB-BK units installed and

tested at these locations utilized a 2x4 bay configuration (two rows of four holding bays).

10. Specifically, these units were installed at BK Store #7553 (located at 15320 N.W. 79th Court, Miami Lakes, FL) and BK Store #17402 (Whopper Bar South Beach, Miami, FL).

11. The installation of these commercial food-holding units was personally supervised and physically executed by named inventors Christopher Lyons, Charles Hartfelder, and myself, as we traveled to Miami specifically to perform these store installations.

12. On April 21, 2015, to support these units, Burger King corporate IT updated the store computers to PC Minder Version 6.01.50. This update provided the configuration files necessary to enable the “Dual Temp” functionality of our holding bins, allowing for independent upper and lower temperature control for holding cavities within the bin.

13. The units installed on April 21, 2015, were not conceptual mock-ups or laboratory apparatuses. They were complete, fully operational commercial units manufactured in accordance with the design specifications and operating systems detailed in the Rev. A Manual. In accordance with Marmon’s standard business practices, a physical copy of the operating manual is provided on-site during each equipment installation. Therefore, the April 21, 2015 retail store installations and

subsequent testing would have been accompanied by the Rev. A Manual to the restaurants.

V. OPEN, NON-CONFIDENTIAL USE AND REGULAR COMMERCIAL OPERATION

14. The restaurant locations where the DHB units were installed on April 21, 2015, were active, commercial fast-food establishments open to the general public during normal daily business hours.

15. BK Store #17402 (Whopper Bar South Beach) featured an open-concept kitchen architecture. The food preparation counter, kitchen equipment, and our newly installed holding bins were directly exposed and fully visible to restaurant patrons and members of the public ordering food at the counter. The installation of our DHB-BK holding bin in this location placed the physical structure, bezel display interface, and operational capability of the unit in plain view of the public.

16. The installation and subsequent operation of the DHB-BK units were entirely open and non-confidential. Neither Prince Castle nor the inventors required the restaurant franchise owners, store managers, kitchen supervisors, or hourly line cooks to sign non-disclosure agreements (“NDAs”) or confidentiality agreements concerning the DHB-BK holding bins.

17. No confidentiality obligations, trade secret covenants, or secrecy restrictions of any kind were imposed upon the third-party restaurant employees who operated, viewed, loaded, cleaned, and interacted with the units daily.

18. The units were not kept behind privacy partitions or “authorized personnel only” restrictions. As noted above, at the Whopper Bar South Beach location, the equipment was in direct, open view of the consuming public.

19. Starting immediately after installation, the DHB-BK units were used by third-party restaurant kitchen staff during routine food service shifts to hold food for customer service. Food items placed into, held within, and retrieved from the DHB-BK units during regular operations were assembled into finished retail orders and served directly to paying retail customers of the restaurant.

20. On July 8, 2015, Burger King personnel (Seth Downs, Stefan Streckfus, Jack McCluskey, Alan Groll, and Sabrina Szymczak) and Prince Castle engineering personnel (Chris Lyons and myself) conducted a formal joint teardown and inspection of the DHB-BK24 unit that had been operating continuously for three months at BK Store #7553. The unit was openly disassembled on-site at the store, examined, and found to meet requirements without component failure.

VI. TECHNICAL EMBODIMENT OF THE SUBJECT MATTER ATTRIBUTED TO FORTMANN

21. The physical DHB-BK holding bins installed and operated in the commercial restaurants on April 21, 2015, embodied the construction, heating

architecture, and user interface features described in the contemporaneous April 2015 Rev. A Manual.

22. I understand that Petitioner Duke relies extensively upon U.S. Patent No. 10,258,197 (“Fortmann ’197”) and U.S. Patent No. 5,852,967 (“Fortmann ’967”), asserting an effective filing date of July 17, 2015.

23. The subject matter Petitioner extracts from Fortmann ’197 and Fortmann ’967 and applies against the claims of the ’002 Patent was fully embodied, integrated, and publicly disclosed by the physical DHB-BK units installed and operated in the restaurants on April 21, 2015, as well as in the contemporaneous Rev. A Manual:

24. **Multiple Food Holding Zones in a Single Compartment:** The DHB-BK units installed on April 21, 2015, comprised an upper compartment and a lower compartment, each divided into distinct, independently controlled temperature zones. As detailed in the Rev. A Manual, the unit incorporated four discrete temperature-control zones (designated Zones A, B, C, and D) across its two compartments.

25. **Independently Controllable Upper and Lower Heaters (“Dual Temp”):** The units incorporated dedicated, independently controllable heating elements at the top and bottom of each zone. The Rev. A Manual discloses separate programmable upper-heater and lower-heater setpoints. This independent

“Dual Temp” heating capability was actively configured and operational during the April 2015 deployments.

26. **Zone-Specific and Food-Specific Temperature Control:** The controller in the deployed DHB-BK unit was configured to heat adjacent zones to different temperatures. The unit included firmware storing product menus, distinct holding temperatures, day-part programming, and separate upper/lower heating protocols tailored to specific products.

27. **Dedicated Displays and User-Interface Controls for Each Bay:** The front face of the installed DHB-BK unit featured individual displays, timer bars, bay controls, product names, and bay-status indicators aligned with each individual food holding bay, as detailed in the Rev. A Manual.

28. **Pass-Through Access Architecture:** The DHB-BK installed in April 2015 was a double-sided “pass-through” unit. It featured open, uncovered openings at both the front and rear faces of the chassis. The Rev. A Manual designates this model series as “DHB-BK24AE,” explicitly denoting “auxiliary timer bars” on the rear face and identifying the platform as a double-sided unit.

29. **Insulation Between Shelf Heater Systems:** The intermediate shelf separating the upper and lower holding compartments contained internal thermal insulation disposed between the lower heating element of the upper compartment and the upper heating element of the lower compartment. Specifically, as depicted

in the engineering exploded assembly view of the Rev. A Manual, solid rectangular insulative barrier material is positioned between the lower panel heater assembly and the upper panel heater assembly.

30. **Resistive-Wire Heater Assemblies:** Both the top upper panel heaters and the lower panel heaters used in the deployed DHB-BK units comprised electrically resistive foil/wire heating traces, as illustrated in the exploded view.

VII. CONCLUSION

31. All of the hardware, functional architectures, and operational methods described above were physically present, fully assembled, and actively functioning in the commercial DHB-BK units installed on April 21, 2015.

32. Those physical systems were openly operated in a commercial restaurant without confidentiality restrictions or non-disclosure agreements nearly three months prior to July 17, 2015.

I declare that all statements made herein of my knowledge are true, and that all statements made on information and belief are believed to be true, and that all these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date: October 06, 2026



Kyle Kestner
Sr. Director of Engineering
Marmon Foodservice Technologies