

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 No. 10,852,002

DECLARATION OF GREG HAKE

I, Gregory A Hake, hereby declare as follows:

1. I am the President for Duke Manufacturing Co. (“Duke”) and have held this position since January 2025. In this role, I am responsible for overall business operations. I have been employed with Duke since 2009. In January 2015, I transitioned from Director of Product Management to the VP of Burger King Business Segment. I later transitioned into VP Strategic Planning (November 2017) and Chief Operating Officer (December 2021). I make this declaration in connection with the above-referenced IPR proceeding on behalf of Duke.

2. Duke is a privately held company based in St. Louis, Missouri.

3. Although we distribute and sell our food service equipment around the world, Duke primarily manufactures products in the United States with manufacturing facilities in Sedalia, Missouri and Houston, Texas.

4. I understand that this IPR proceeding concerns a patent directed to multi-zone food holding systems used by quick-service restaurants to keep food warm. In particular, I understand that one of Duke’s competitors—Marmon Foodservice Technologies, Inc. (“Marmon”)—is asserting that Duke’s HS2 and ReadyFlex food holding products infringe the patent at issue in this IPR proceeding.

5. Duke’s HS2 and ReadyFlex food holding products were both designed and developed by Duke employees in the United States and manufactured exclusively in Sedalia, Missouri.

6. Marmon is a long-standing direct competitor of Duke's with respect to food holding products—and more specifically multi-zone food holding systems such as the HS2 and ReadyFlex—with Burger King being a common customer of both parties. Marmon's multi-zone food holding systems are sold under the Prince Castle brand. I understand that Marmon acquired Prince Castle in 2013, prior to which Prince Castle was an independent food service equipment manufacturer.

7. With respect to the multi-zone food holding systems, for approximately the past 10 years, Burger King has authorized its franchisees to select their multi-zone food holding cabinets from Duke, Prince Castle, or a third competitor—Merco.

8. In April 2013, Burger King informed Duke that it would require the next generation of food holding units to have at least 2x4 and 3x4 configuration options, with each food holding compartment including two temperature zones each sized to hold two pans. This requirement was documented in an email and attached trip report that I understand are being submitted as Exhibit 1049.

9. Exhibit 1049 is a true and accurate copy of an email with an attachment dated April 28, 2013 from Dennis Headberg to Doug George, Dave Marvel, Jack Hake, Ralph Macy, Jim Bigott, Rob Reese, Doug Morrison, Mike McDermott, Brent Jennings, Steve Shei, Rafael Thissen, and myself.

10. I retrieved the underlying email and attachment being submitted as Exhibit 1049 from my email and it is consistent with emails that I would have saved in the ordinary course of business.

11. The IRHS was designed and introduced to meet Burger King's requirement later in 2013. Specifically, Duke showed the IRHS at the 2013 Burger King Convention that took place on approximately September 23, 2013.

12. Although the IRHS was originally sponsored for Burger King, it became a significant general market product for Duke. Duke sold in excess of [REDACTED] units of IRHS—with revenues exceeding [REDACTED]—from 2013 to 2022.

13. Exhibit 1051 collects true and accurate sales data for the IRHS. The data was maintained and generated from EPICOR—Duke's ERP system. The data was maintained in the ordinary course of business.

14. Industry interactions and shared technical activities would have provided innumerable opportunities for Prince Castle/Marmon personnel to become familiar with the IRHS and its features.

15. Duke and Prince Castle routinely participated in the same Burger King initiatives, equipment evaluations, training events, protocol discussions, and trade-show activities.

16. The IRHS was heavily promoted by Duke during the 2013-2016 time frame.

17. The IRHS was advertised in Flame magazine in 2013, which is a publication by the National Franchisee Association, Inc. directed to Burger King franchisees and suppliers. I understand that this edition of Flame was previously submitted as Exhibit 1035.

18. I am aware that Marmon/Prince Castle advertised its Extended Holding Bin (EHB) product in Flame magazine's 2016 Issue 1. Exhibit 1052 is a true and accurate copy of the Flame magazine 2016 Issue 1 as archived at https://publuu.com/flip-book/852811/1877062?ref_type=bookshelf&ref_id=48734.

19. The IRHS was prominently featured on the website <http://bk.dukemfg.com> and 2014 Burger King Catalog. I understand that an archive from the Wayback Machine at archive.org of the <http://bk.dukemfg.com> website from early 2015 and which included the 2014 Burger King Catalog was previously submitted as Exhibit 1007.

20. The IRHS was featured in several trade shows and training events that Marmon/Prince Castle would have attended including the 2013 Burger King Convention (approximately September 23, 2013), the 2014 Burger King Convention (approximately September 29, 2014), NAFEM (approximately February 19-21, 2015), Burger King Celebration on April 30, 2015, and the 2015 Burger King Convention (approximately October 6, 2015).

21. Specifically, Duke presented its product holding unit (PHU) (*i.e.*, the IRHS) at the same March 2015 training session in Miami where Kyle Kestner—one of Marmon’s named inventors—also presented.

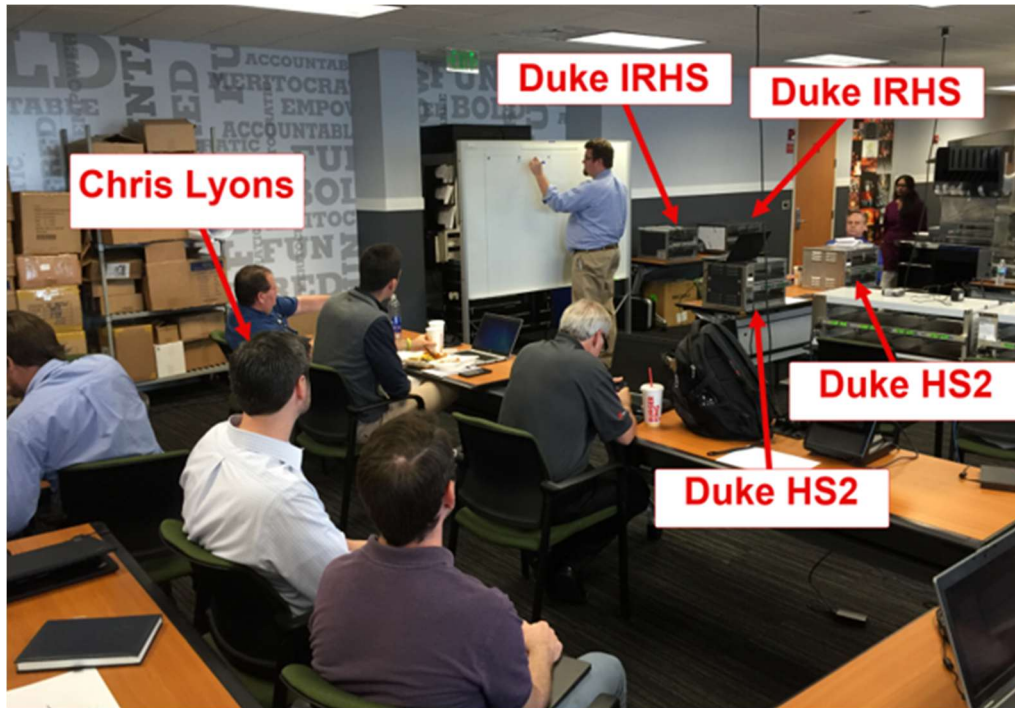
22. Exhibit 1053 is a true and accurate copy of the email dated February 5, 2015, announcing the March 2015 training session. The email was from Seth Downs to a collection of recipients that included Chris Lyons—one of Marmon’s named inventors—and myself.

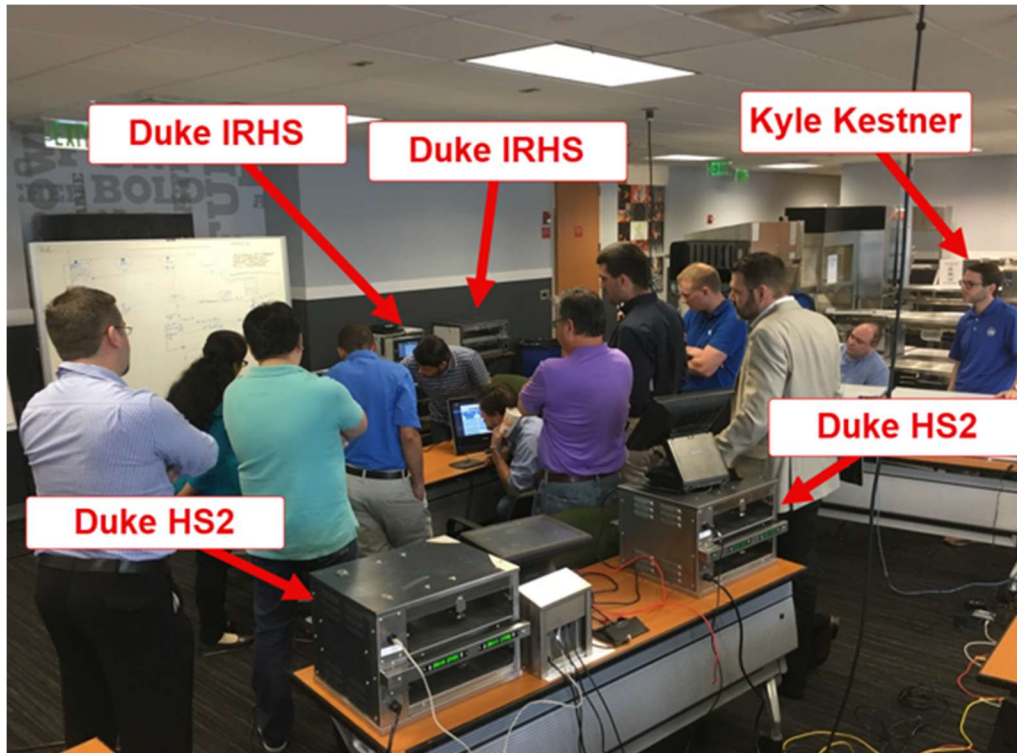
23. I retrieved the underlying email being submitted as Exhibit 1053 from my email and it is consistent with emails that I would have saved in the ordinary course of business.

24. Exhibit 1054 is a true and accurate copy of the agenda for the March 2025 training session in Miami with Kyle Kestner. I retrieved the agenda from an email I received on March 11, 2015. Exhibit 1054 and the email it was attached to are consistent with emails and attachments that I would have saved in the ordinary course of business.

25. Marmon’s named inventors—Mr. Lyons and Mr. Kestner—were also involved in a series of in-person meetings with Burger King regarding interoperability of Duke’s and Marmon/Prince Castle’s PHUs. The first of these sessions was in December 2015, the second was in April 2016, and the third was in May 2016. Among Prince Castle personnel, I believe Mr. Lyons and Mr. Kestner

can be seen in photographs from the May 2016 meetings with the IRHS in the background. The HS2 can also be seen in the background of the photographs.





26. The IRHS had been extensively advertised and sold to Burger King franchisees before Marmon/Prince Castle was approved by Burger King to sell its EHB product to franchisees. Marmon/Prince Castle developed the EHB product to compete with sales of the IRHS to Burger King franchisees.

27. The HS2—which Marmon accuses of infringement—was first introduced in 2016 as product lifecycle replacement of the IRHS.

28. Specifically, the HS2 was disclosed to Burger King at least as early as a January 26, 2016 visit to Duke. Exhibit 1055 is a true and accurate copy of the presentation materials from the January 26, 2016 visit.

29. As reflected in the presentation materials, the HS2 was developed such that Duke was able to do a hands-on review, as well as sensory review (cooking and holding in the PHU to assess hold performance) at this January 26, 2016 visit.

30. Extended field testing of the HS2 at Burger King franchisees began on approximately April 18, 2016 as reflected in Exhibit 1056. Exhibit 1056 is a Duke PHU Approval Status that I retrieved from an email I sent on May 22, 2016. Exhibit 1056 and the email it was attached to are consistent with emails and attachments that I would have saved in the ordinary course of business.

31. Although the HS2 was originally sponsored for Burger King, it became a significant general market product for Duke. Duke sold in excess of [REDACTED] units of the HS2—with revenues exceeding [REDACTED]—from 2016 to present.

32. The ReadyFlex—which Marmon accuses of infringement—was first introduced in 2021 as product lifecycle replacement of the HS2.

33. Like the IRHS and HS2 before it, the ReadyFlex has become a significant product for Duke. Duke has sold in excess of [REDACTED] units of the ReadyFlex—with revenues exceeding [REDACTED]—from 2021 to present.

34. Exhibit 1057 collects true and accurate sales data for the HS2 and ReadyFlex. The data was maintained and generated from Duke's ERP system—EPICOR. The data was maintained in the ordinary course of business.

35. Despite that the accused HS2 product has been on the market since 2016 and the accused ReadyFlex product has been on the market since 2021, I am unaware of any instance in which Marmon notified Duke that these products were allegedly infringing any Marmon patent prior to Marmon filing suit against Duke in October 2025. Nor am I aware of any instance prior to Marmon filing suit against Duke in October 2025, in which Duke became aware of the patents that Marmon is accusing Duke of infringing.

36. I declare under penalty of perjury that the foregoing is true and correct.
Executed this 5th day of October 2026.



Gregory A Hake