UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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DUKE MANUFACTURING CO.
Petitioner

v.

MARMON FOODSERVICE TECHNOLOGIES, INC.
Patent Owner

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Case: IPR2026-00484
Patent No. 9,976,750

DECLARATION OF KATHRYN VEDER

I, Kathryn Veder, hereby declare as follows:

1. I am the Senior Vice President of Sales for Duke Manufacturing Co. ("Duke"). I have worked in various capacities in the food service equipment industry since approximately 1985. I make this declaration in connection with the above-referenced IPR proceeding on behalf of Duke.

2. Prior to my employment with Duke, I worked for a number of other food service equipment manufacturers. My prior roles within the industry included Executive VP & Chief Marketing Officer with Henny Penny Corporation; Vice President of Marketing with Frymaster LLC; and VP Global Accounts (including for its Wendy's, Chick-fil-A, and Arby's accounts) with Manitowoc Company.

3. I have been employed with Duke since approximately January 2014. Prior to my role as Senior Vice President of Sales, I was the Vice President of Strategic National Accounts at Duke from 2014 through 2024. In this role, I was responsible for sales to commercial restaurants and convenience store chains.

4. Duke is an industry leader in food service equipment. For example, Duke produces buffet serving systems, food preparation stations, product holding equipment, ovens, and broilers used in commercial and institutional settings.

5. Duke is a privately held company based in St. Louis, Missouri. Although it distributes and sells its food service equipment around the world, Duke primarily manufactures its products in the United States with manufacturing facilities in Sedalia, Missouri and Houston, Texas.

6. Duke's food service equipment is used in quick-service restaurants, full-service restaurants, convenience stores, corrections facilities, colleges, schools, hospitals, and hotels.

Duke's food service equipment can routinely be found in well-known national and international restaurant chains including: Subway, Chick-fil-A, Burger King, KFC, Dunkin Donuts, and Chipotle.

7. There are several avenues by which Duke's equipment is distributed to restaurants.

8. Large chain restaurants, such as Burger King, may represent a mix of corporate-owned restaurants and restaurants that are owned and operated by franchisees.

9. Large chain restaurants may allow its franchisees to purchase its equipment through approved kitchen equipment suppliers which may in turn supply a number of large chains (*e.g.*, H&K International and Franke Foodservice Systems are Burger King's primary approved kitchen equipment suppliers), through purchasing cooperatives (*e.g.*, Restaurant Services Inc. is Burger King's purchasing cooperative), and directly from Duke (typically for one-off replacement purchases).

10. Smaller chains and individual restaurants (often referred to in the industry as general market purchasers) typically purchase through kitchen equipment suppliers.

11. Commercial equipment suppliers, such as Duke, further use equipment manufacturers' representatives to market and promote their products. These equipment manufacturers' representatives typically support multiple commercial equipment suppliers and will sell to a large range of food service operators (*i.e.*, restaurants) within a geographical region.

12. 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.

13. Duke's HS2 and ReadyFlex food holding products are manufactured in Sedalia, Missouri.

14. The HS2 was introduced in approximately 2016 and the ReadyFlex was introduced in approximately 2021.

15. Marmon is a direct competitor of Duke's with respect to multi-zone food holding systems. Marmon's multi-zone food holding systems are sold under the Prince Castle brand. I understand that Prince Castle was previously an independent food service equipment manufacturer and that Marmon acquired Prince Castle in 2013.

16. Both Duke and Prince Castle are well recognized as food service equipment manufacturers within the food service industry. Both Duke and Prince Castle have enjoyed significant market penetration with respect to their respective food service equipment dating back well prior to the 2014-2015 time frame, such that individuals that would make purchasing decisions with respect to such equipment—which would primarily be foodservice operators, commercial kitchen designers, foodservice representatives, and kitchen equipment suppliers—would have been aware of the Duke and Prince Castle brands.

17. For example, with respect to the multi-zone food holding systems, Burger King has historically authorized its franchisees to select their multi-zone food holding cabinets from either Duke, Prince Castle, or a third competitor—Merco.

18. Duke's competitors would have likewise been aware of the Duke brand of food service equipment. I was personally aware of Duke, dating back to approximately 1995 in my capacity at Henny Penny.

19. Duke has offered food holding products predating my employment with Duke. One such product that I understand Duke started marketing and selling in approximately the Fall of

2013 was the IRHS Product Holding Unit (also referred to as the Infrared Heatsink Product Holding Unit) ("the IRHS Product").

20. The IRHS Product was available in a number of models, including the IRHS22, IRHS23, IRHS24, IRHS34, and IRHS42 models. The numerical portion of the model number was indicative of the number of shelves within the food holding unit and the number of food holding locations across the shelves. As an example, the IRHS24 had two shelves with four food holding locations across each of the shelves.

21. The IRHS Product was a precursor to the HS2 and ReadyFlex food holding products that are being accused of infringing the patent at issue in this IPR proceeding.

22. The IRHS Product was a successful product for Duke. Duke's internal sales figures show that over 1,800 units were sold in 2013-2014 and over an additional 700 units were sold in 2015.

23. The IRHS Product was extensively marketed by Duke starting in approximately the Fall of 2013, including through trade shows, Duke's website, its equipment manufacturers' representatives, and through its ongoing relationships with foodservice operators, commercial kitchen designers, foodservice representatives, and kitchen equipment suppliers.

24. I am aware that the IRHS was displayed at the 2014 EPI Equipment Show. Although it predated my employment with Duke, I further understand that the IRHS was also displayed at the 2013 EPI Equipment Show. Equipment Preference Inc. ("EPI") is an equipment manufacturers' representatives for Duke and multiple other commercial equipment manufacturers that puts on an annual industry trade show to showcase the manufacturers that it represents to food service operators and consultants. As such, showing the IRHS at the EPI Equipment Show would have exposed it to numerous foodservice operators and consultants.

25. I am aware that the IRHS was displayed at both the 2013 and 2014 Burger King Corporation Global Convention. The Burger King Corporation Global Convention is an annual event attended by Burger King's franchisees, vendors, partners, and corporate leadership. As such, showing the IRHS at the Burger King Corporation Global Convention would have exposed it not just to food service operators, but also to other commercial equipment manufacturers such as Prince Castle and Merco.

26. I understand that Exhibit 1031 is a collection of emails that Duke's IT and legal teams recovered concerning displaying the IRHS at these trade shows. Having reviewed the emails in Exhibit 1031, the included emails are consistent with emails that would have been sent and maintained in the ordinary course of business.

27. An example of marketing through ongoing relationships with food service operators is Duke's commercial relationship with Burger King. As part of the relationship with Burger King, Duke operates a website tailored to Burger King and its franchisees at http://bk.dukemfg.com. I understand that Exhibit 1007 is 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 which was available through the website at that time. Exhibit 1007 demonstrates that the IRHS Product was prominently featured on both the website itself and within the 2014 Burger King Catalog.

28. While the http://bk.dukemfg.com website is tailored to Burger King and its franchisees, it was and continues to be publicly accessible. Notably, in conjunction with preparing this declaration, I confirmed that the public can access the http://bk.dukemfg.com website by a Bing search of "Duke" and "Burger King."

29. I am aware of at least one instance in which an individual who was not affiliated with Burger King made an inquiry to Duke about a product that he had become aware of through the http://bk.dukemfg.com website.

30. Several pieces of product literature were created for the IRHS Product including specification sheets, marketing materials (e.g., catalogs), operator manuals, and service manuals (collectively "IRHS Product Literature"). Duke updates and revises its product literature—including the IRHS Product Literature—on occasion, which would be reflected in a revision number or date included within the document.

31. Different pieces of IRHS Product Literature often had different intended purposes.

32. Product literature such as specification sheets and catalogs were used in marketing the IRHS Product to foodservice operators, commercial kitchen designers, foodservice representatives, and kitchen equipment suppliers.

33. Operator manuals were provided with each IRHS Product that was sold.

34. Service manuals were made available to service agents for the purposes of servicing the IRHS Products in the field. The service agents would service equipment for multiple equipment manufacturers and for multiple food service operators.

35. The IRHS Product Literature was intended to be publicly available and was widely disseminated without restriction on further disclosure of the materials. To the contrary, Duke expected that in providing IRHS Product Literature to individuals and organizations such as equipment manufactures' representatives, commercial kitchen designers, foodservice representatives, and kitchen equipment suppliers that the IRHS Product Literature would be further disseminated within the recipient's organization as well as to foodservice operators.

36. Generally, Duke would make its product literature—such as the IRHS Product Literature—available to the general public on its website, but even to the extent that any product literature had not been added to the website—whether due to delay in updating the website or oversight—the product literature was available upon request.

37. I understand that Duke's IT and legal teams have collaborated to recover emails in which various pieces of IRHS Product Literature were emailed to Duke's customers and potential customers, commercial kitchen equipment retailers, and equipment service personnel. I understand Duke's IT and legal teams recovered these emails from the email accounts of Alex Kinkade, John Ulrich, Ron Kieffer, Scotty Loyd, Brent Jennings, Chad Gray, and myself.

38. Exhibit EX1005 is a true and correct copy of a version of the Operators Manual P/N 229945D for the Infrared Heatsink (IRHS) Holding Unit. It is my understanding that this version of the Operators Manual would have been included and disseminated with each shipped IRHS Unit shipped to Burger King-affiliated customers within the United States and Canada from approximately February 2014 through September 2014.

39. I further understand that Duke's IT and legal teams recovered an email, in which the Operators Manual P/N 229945D for the Infrared Heatsink (IRHS) Holding Unit was emailed to an individual at LSI Industries which appeared to be acting as an installation contractor for a Burger King franchisee. I understand that Exhibit 1032 is a copy of the email that Duke's IT and legal teams recovered exchanging the Operators Manual P/N 229945D for the Infrared Heatsink (IRHS) Holding Unit with LSI Industries. Having reviewed this email, it is consistent with being an email that would have been sent and maintained in the ordinary course of business.

40. Exhibit EX1006 is a true and correct copy of a version of the Specification Sheet identified as the 09/13 Draft version for the IRHS Product Holding Unit that was published by

Duke and disseminated to potential customers starting in November 2013 through October 2014, when it was replaced by a revised version.

41. I understand Duke's IT and legal teams recovered emails, in which the 09/13 Draft version of the Specification Sheet for the IRHS Product Holding Unit was emailed to individuals at the convenience store chain Wawa; restaurant chains/franchisees including Jack in the Box, Dairy Queen, Dunkin' Donuts, Back Yard Burgers, Whataburger, and Hardee's; and equipment manufacturers' representatives including Associated Marketing Agents of the Carolinas, Nordon Inc., Florida Restaurant Equipment Professionals, PMR, Viola Group, EPI Kitchen, and DALY & DeROMA Foodservice Reps. The emails collected also reflected that the 09/13 Draft version of the Specification Sheet for the IRHS Product Holding Unit was made available at the 2014 EPI Equipment Show. I understand that Exhibit 1033 is a collection of emails that Duke's IT and legal teams recovered exchanging the 09/13 Draft version for the IRHS Product Holding Unit with these third parties.

42. Reviewing the emails in Exhibit 1033 the emails were primarily sent by John Ulrich, Duke's Director of National Accounts at the time. John Ulrich was responsible for sales to large restaurant chains.

43. Having reviewed the emails in Exhibit 1033 the included emails are consistent with emails that would have been sent and maintained in the ordinary course of business.

44. Additionally, I was a participant in a handful of the emails in Exhibit 1033. Specifically, E-Mail 9 is a true and correct copy of an email that I was copied on from Mr. Ulrich to Jonathan Biggs with Dunkin Brands (i.*e.*, Dunkin' Donuts) attaching the 09/13 Draft version of the Specification Sheet. E-Mail 20 is likewise a true and correct copy of an email that I was copied on from Mr. Ulrich to Scott Zinnel and Brent Miller with Dairy Queen and attaching the 09/13

Draft version of the Specification Sheet. Also copied on this email was Mike Daly of DALY and DeRoma which is an equipment manufacturers' representative for Duke. E-Mail 22 is a true and correct copy of an email in which he attached the 09/13 Draft version of the Specification Sheet that I received from Matt Turner of Associated Marketing Agents of the Carolinas which was an equipment manufacturers' representative for Duke inquiring into the IRHS Product on behalf of a Hardee's franchisee.

45. Exhibit 1008 is a true and correct copy of the 10/23/2014 version of the Service Manual SM-PH-IH-0003 for the IRHS Product that was published by Duke and disseminated to repair and service technicians starting in January 2015 through October 2015. I understand that Duke's IT and legal teams recovered emails in which this version of the Service Manual for the IRHS Product was emailed to individuals at commercial equipment service providers Jay Hill Repairs, Commercial Kitchen, North American Commercial Parts & Service, F.A.S.T. Service Inc., and Service Solutions Group and to the restaurant chains/franchisees Whataburger, and JSC Hamburg Operating Company (a Burger King franchisee). I understand that Exhibit 1034 is a collection of emails that Duke's IT and legal teams recovered exchanging the 10/23/2014 version of the Service Manual SM-PH-IH-0003 for the IRHS Product with these third parties.

46. Reviewing the emails in Exhibit 1034, the emails were primarily sent by Scotty Loyd who I understand was an internal product service technician who would provide support to customers in the field.

47. Having reviewed the emails in Exhibit 1034, the included emails are consistent with emails that would have been sent and maintained in the ordinary course of business.

48. Additionally, I was a participant in one of the emails in Exhibit 1034. E-Mail 3 is a true and correct copy of an email that I sent to John Bettiga at Whataburger attaching the 10/23/2014 version of the Service Manual SM-PH-IH-0003.

49. I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th day of June 2026.

Kathryn Veder

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