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

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Vermeer Manufacturing Company - Exhibit 1018
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Video Deposition Transcript of JAMES A. KUEMPER taken at the law offices of Briggs & Morgan, P.A., 2200 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota on Wednesday, June 19, 2019, commencing at 9:00 a.m. before Rebecca L. Klanderud, a Certified Shorthand Reporter.

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APPEARANCES:

ARMSTRONG TEASDALE, LLP
BY: RICHARD L. BROPHY, ESQUIRE
rbrophy@armstrongteasdale.com
MARGARET R. SZEWCZYK, ESQUIRE
mszewczyk@armstrongteasdale.com
Suite 1800
7700 Forsyth Boulevard
St. Louis, Missouri 63105
314.621.5070
Counsel for Plaintiff

BRIGGS & MORGAN, P.A.
BY: MICHAEL LAFEBER, ESQUIRE
mlafeber@briggs.com
PATRICK S. WILLIAMS, ESQUIRE
pwilliams@briggs.com
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
612.977.8400
Counsel for Defendant

ALSO PRESENT (via telephonic communication):
WILLIAM BARRON, ESQUIRE, The Toro Company

* * *

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THE VIDEO TECHNICIAN: We're on the record.

This is the videotaped deposition of James A. Kuemper taken on June 19th, 2019. The time is 9:11 a.m. Central. This deposition is being taken in the matter of Vermeer Manufacturing Company versus The Toro Company filed in the U.S. District Court for the Southern District of Iowa, Central Division. The Case Number 4:19-CV-00050. This deposition is taking place in Minneapolis, Minnesota.

My name is Kraig Hildahl. I'm the legal videographer representing Henderson Legal Services.

Will counsel please identify themselves for the record?

MR. BROPHY: Richard Brophy and Margaret Szewczyk on behalf of the plaintiff Vermeer.

MR. LAFEBER: Mike Lafeber from Briggs & Morgan on behalf the defendant Toro and the deponent Mr. James Kuemper.

MR. WILLIAMS: And Pat Williams, Briggs & Morgan, on behalf the defendant.

MR. BARRON: William Barron, in-house

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crown for The Toro Company.

THE VIDEO TECHNICIAN: Will the court reporter please swear in the witness, and then we can proceed.

* * *

JAMES A. KUEMPER,

a witness in the above-entitled matter, having been first duly sworn, testified on his oath as follows:

* * *

EXAMINATION

* * *

BY MR. BROPHY:

Q. Good morning.

A. Good morning.

Q. How are you today?

A. It's a great day.

Q. That's a good attitude to have.

Would you mind stating your full name for the record, please?

A. James Allen Kuemper.

Q. And, Mr. Kuemper, where do you live?

A. I live in REDACTED

Q. Would you mind giving me your street address, please?

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[redacted]

Q. Lastly, sir, Mr. Brophy asked you some questions about some language in Toro's patent for which you are a listed inventor, the '540 Toro patent marked as Vermeer Exhibit Number 1. And I'll again call your attention to that section, sir, which is located in column two.

Do you remember those questions, sir?

A. Yes.

Q. And you indicated to Mr. Brophy that you agreed with the section he read to you in the -- in the record?

A. Yes.

Q. Specifically, the section that includes a statement that: While high lift loader arms are known on full size skid steer loaders as disclosed in U.S. Pat. No. 5,542,814, the use of such high lift loader arms on a compact utility loader has been considered

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difficult if not impossible to -- due to size and durability constraints.

Do you remember being asked about that language?

A. I remember being asked about that.

Q. And do you -- I think you agreed that you believe that language is accurate, correct?

A. Well, if you take the size and durability of a compact utility loader and you try to increase the lift capacity not -- and also the reach and the height that it could go, it would be, seem to be almost impossible to do. Yet we went and with our designs and in a very short time created these -- a compact utility loader with a vertical lift that worked very well.

Q. Did -- do you interpret that statement, sir, to mean that the concept of applying vertical lift or four-bar linkage to a compact utility loader is difficult or impossible?

A. I would say, no. It would not be difficult or impossible (witness indicating).

Q. Why not, sir?

A. Because there are so many other

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loaders out there that have vertical lift on them, but what we did is take the whole concept instead of attaching the linkage to the frame, we made a front support assembly in which is a innovative idea which gave us the lifting capacity that far exceeded any other machines that we had.

Q. Okay. Thank you, sir. That's all I have.

MR. BROPHY: I actually have a little bit of follow-up.

* * *

EXAMINATION

* * *

BY MR. BROPHY:

Q. That -- that forward assembly you just mentioned, is it your belief then that that forward assembly is the key to the vertical lift system in the TX 1000?

A. Yes, it is.

Q. And the key to the invention that's claimed in the patent that you're named on?

A. Yes.

Q. Where does it say that in the paragraph that your counsel just read to you?

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