

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Caterpillar, Inc.

Petitioner

v.

Wirtgen America, Inc.

Patent Owner

Patent No. 9,879,390

Case No. IPR2022-01264

DECLARATION OF MICHAEL B. ALDRICH

I, Michael B. Aldrich, state and declare as follows:

1. I earned a Bachelor's Degree from Ray College of Design and an Associate's Degree from Kishwaukee Junior College.

2. From 1995 to 2000, I was employed by Caterpillar Paving Products as a Product Analyst.

3. From 2000 to the present day, I have been employed by [REDACTED] as a Paving Products Support Representative.

4. Before I arrived at [REDACTED] in 2000, [REDACTED] sold a PM-465 cold planer to [REDACTED] which is now known as [REDACTED].

5. During the May 2000 to March 2003 timeframe, I provided technical service and support for that PM-465 machine. If someone at [REDACTED] had a question or problem with the PM-465 machine, or did not understand how a feature on that machine worked, they would often contact me, and we would discuss the issue. Sometimes we resolved the issues over the phone and sometimes I made in-person visits. The in-person visits often allowed me to illustrate certain features, such as the PM-465's grade and slope system, in front of employees at [REDACTED] while using the PM-465 machine.

6. Because [REDACTED] bought a PM-465 machine, it had access to the PM-465 manuals. Some of these manuals, such as the Operations and Maintenance manual, were distributed with the machine itself. Other Caterpillar PM-465 manuals were not distributed with the machine but could be obtained from [REDACTED].

7. For example, the PM-465 machine had a grade-and-slope system that Caterpillar designed in house, not a grade-and-slope system made by another company such as Topcon or MOBA. Caterpillar issued a manual showing users how to operate this grade-and-slope system called the PM-465 Cold Planer Caterpillar Grade & Slope Electronic Control System, Systems Operation Testing and Adjusting Manual ("SOTA Manual"). This SOTA Manual is dated December 1999 and had version number KENR3106-01.

8. As a product analyst, I was stationed with the [REDACTED] and was aware of all of the products they made.

9. From May 2000 to March 2003, any Caterpillar customer including [REDACTED] could have obtained the SOTA Manual from [REDACTED]. Moreover, members of the public who did not purchase a PM-465 machine could also obtain a SOTA Manual from [REDACTED] from May 2000 to March 2003 at a cost.

10. From May 2000 to March 2003, I made visits to and had calls with [REDACTED] where I provided technical assistance for the PM-465 machine that [REDACTED] purchased from [REDACTED]. During this time, I had access to the SOTA Manual and could have provided it to [REDACTED] or to any other Caterpillar customer, who requested it. In fact, from May 2000 to March 2003, I kept a bound copy of the SOTA Manual in my service truck in case a customer wanted to review it, or in case I felt it would be helpful in illustrating a particular feature during a service visit. I had a hard copy of the SOTA Manual during this time period in my work vehicle. I still have this document in my possession and provided a copy of it

as Exhibit 1003.

11. Based on my experience in the field at Caterpillar, the “December 1999” date in the SOTA Manual is its publication date.

12. 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 further, that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001.

13. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

14. In signing this declaration, I understand that the declaration will be filed as evidence in a contested case before the Patent Trial and Appeal Board of the United States Patent and Trademark Office. I acknowledge that I may be subject to cross-examination in the case and that cross-examination will take place within the United States. If cross-examination is required of me, I will appear for cross-examination within the United States during the time allotted for cross-examination.

Executed on this 14 day of July 2022.

By: _



Michael B. Aldrich