UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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KUBOTA NORTH AMERICA CORPORATION,

Petitioner

v.

VERMEER MANUFACTURING COMPANY,

Patent Owner

_____

IPR2025-00170
U.S. Patent No. 9,975,750

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PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO EXCLUDE

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.23, Petitioner Kubota North America Corporation hereby opposes Patent Owner Vermeer Manufacturing Company's Motion to Exclude (Paper 43, "Mot. Excl.") filed on February 18, 2026, which seeks to exclude EX1005, EX1006, EX1011, and EX1014 under Federal Rules of Evidence ("FRE") 602 and 604. Mot. Excl. at 1. Patent Owner's Motion should be denied in its entirety because it has failed to carry its burden to demonstrate that any exhibit is inadmissible. *See* 37 C.F.R. § 42.20(c) (requiring moving party to establish it is entitled to relief sought); 37 C.F.R. § 42.62(a).

Patent Owner begins by asking the Board to exclude Petitioner's certified translations of KR101041996 (EX1005), JP2004017705A (EX1006), and KR101023528 (EX1014)—documents that are central to this proceeding. EX1005 constitutes the main prior art reference underlying Grounds 1–3 of Petitioner's invalidity challenges, while EX1006 and EX1014 are evidentiary references properly cited by Petitioner's expert. Patent Owner's purported justification for this extreme remedy—that there is "no[t]…sufficient certification of the translation's accuracy."

Patent Owner's motion effectively asks the Board to ignore Petitioner's affiant, Mr. Maeshiro, who testifies that "that the translation represents a true, correct, and faithful translation from Korean to English" and that this statement is

based on "[his] own knowledge." This testimony satisfies FRE 602 ("Evidence to prove personal knowledge may consist of the witness's own testimony.").

Moreover, Patent Owner's motion is based entirely on unsupported attorney argument and speculation. Patent Owner presents no actual evidence. Patent Owner did **not** depose Petitioner's affiant, Mr. Takashi Maeshiro, regarding the certified translations. Patent Owner also did **not** obtain its own alternative certified translations. And critically, Patent Owner has **not** identified a single error or inaccuracy in any of the certified translations it now seeks to exclude. If there was any evidence of inaccuracies, Patent Owner would have presumably pointed to it. This conspicuous absence of substantive evidence undermines Patent Owner's entire motion and constitutes a tacit admission that no evidence exists that calls into question the accuracy of the translations.

Without any substantive evidence, Patent Owner—grasping at straws—resorts to belatedly filing EX2046, which it purports to be a social media LinkedIn webpage of Mr. Maeshiro, and asserting that this page "cites no proficiency in the Korean language." Contrary to Patent Owner's assertion, EX2046 is not admissible evidence and should be excluded, does not establish any lack of Korean language proficiency, and this improper negative inference at best goes to the weight—not the admissibility—of the evidence.

Patent Owner's argument regarding EX1011 is equally unavailing. Patent

Owner contends that this exhibit should be excluded because it is a machine translation, but this argument fails for multiple reasons. First, EX1011 is an evidentiary reference cited by Petitioner's expert witness for limited purposes regarding visibility and stability. Under FRE 703, expert witnesses may base opinions on evidence (*e.g.*, machine translations) if experts in their field would reasonably rely on such data. Second, Patent Owner again fails to identify any specific translation inaccuracy that would warrant exclusion.

II. ARGUMENT

A. EX1005, EX1006, and EX1014 Are Admissible and Should Not Be Excluded

1. The Certified Translations Comply with 37 C.F.R. § 42.63(b) and FRE 602 and 604

Patent Owner argues that the certified translations should be excluded because, purportedly, there is no evidence "that an individual with personal knowledge of the translation had confirmed its accuracy." Mot. Excl. at 3. This argument is incorrect and effectively asks the Board to ignore the testimony of Petitioner's affiant.

Each of these exhibits includes both a certified translation and an accompanying attestation in full compliance with 37 C.F.R. § 42.63(b) and FRE 602 and 604. Specifically, EX1005 includes both a certified translation of the Korean language version of KR101041996 and an affidavit attesting to the accuracy of the translation:

> I, Takashi Maeshiro, on behalf of HC Language Solutions, Inc., do solemnly and sincerely declare, to the best of my knowledge and belief, that the attached text represents a translation of Korean Patent No. 10-1041996, that the translation was performed by HC Language Solutions, Inc., and that **the translation represents a true, correct, and faithful translation from Korean to English**.

EX1005, at 28. It is signed by Mr. Maeshiro, who attests

> that all statements made herein of **my own knowledge** are true and that all statements made on information and belief are believed to be true.

Id. Likewise, EX1006 and EX1014 each include certified translations with accompanying attestations of the same character and form. *See* EX1006; EX1014.

Mr. Maeshiro's statement "that the translation represents a true, correct, and faithful translation from Korean to English" and that this statement is based on "[his] own knowledge" satisfies the rules, which recognize that "[e]vidence to prove personal knowledge may consist of the witness's own testimony." FRE 602. In other words, Mr. Maeshiro's own testimony is evidence that he is personally knowledgeable and qualified to certify that the translations are true and correct.

In addition to Mr. Maeshiro's attestation, corroborating evidence supports Petitioner's position that EX1005, EX1006, and EX1014 are accurately translated and admissible. The written description in each translation is internally consistent with its figures. And both parties' experts prepared declarations based on the translations but did not identify any inconsistency in the translated written

descriptions with respect to their numerous figures—further confirming the translations' accuracy. Thus, the entirety of the evidence supports Petitioner's position that these certified translations are admissible.

2. Patent Owner Mischaracterizes *Google v. 138 East LCD*

Patent Owner incorrectly argues that *Google* supports its position. Specifically, Patent Owner contends that Petitioner's "'certification' is nearly identical to the one that the Board excluded in *Google v. 138 East LCD*, IPR2024-00958, Paper 43 (P.T.A.B. Dec. 18, 2025)" and that *Google* supports exclusion in the present case. Mot. Excl. at 5. This is an outright mischaracterization of *Google*.

In *Google*, the Board did not question the sufficiency of the certification language. Quite the opposite, the Board recognized that "Mr. Ojeda signed Exhibit 2003 attesting to the accuracy of the Japanese to English language translation based **upon his knowledge**." *Google*, IPR2024-00958, Paper 43 at 53; *see also id*. 51 ("It is signed by Oscar Ojeda, a 'Project Manager' at Morningside, who attests that '[t]o the best of **my knowledge**, the aforementioned documents are a true, full and accurate translation of the specified documents'"). As such, *Google* confirms that the language in Mr. Maeshiro's attestation that the statements are made "of my own knowledge" is sufficient.

Moreover, Patent Owner ignores that the Board in *Google* excluded the translation due to numerous defects that are not present here. Specifically, in *Google*:

(1) the affiant was not made available for cross-examination; and (2) other deposition testimony in the record affirmatively contradicted and called into question the basis for the attestation. *Google*, IPR2024-00958, Paper 43 at 57–58. Accordingly, the Board granted the motion to exclude based on a finding that a "**failure to make the affiant [translator] available** for deposition contravenes 37 C.F.R. § 42.63(b) (2015) and the Board's Trial Practice Guide." *Id*. at 58.

None of these critical distinguishing facts are present here. Patent Owner never sought to depose Petitioner's affiant, Mr. Maeshiro, and there is no evidence in the record that contradicts Mr. Maeshiro's attestation. Thus, here, there are no deficiencies analogous to those that warranted exclusion in *Google*.

3. Patent Owner's Inaction Throughout the Proceeding Undermines Its Motion

Patent Owner had every opportunity to depose Petitioner's affiant, Mr. Maeshiro, and directly test the basis of the testimony it now attempts to call into question—but chose not to do so. Patent Owner also could have obtained alternative certified translations and identified specific inaccuracies in Petitioner's translations—if any existed—but again chose inaction.

This pattern of deliberate inaction followed by a motion to exclude has been rejected by the Board and other courts in similar circumstances. *See, e.g., Robert Bosch LLC et al. v. Westport Fuel Systems Canada INC*, IPR2023-00293 Paper 37 at 53 (P.T.A.B. Feb. 3, 2025) (denying motion to exclude where "**Patent Owner has**

not provided an alternative translation…nor has Patent Owner deposed Petitioner's translator regarding the certified English translation provided by Petitioner in Exhibit 1006.")*; Banerji v. Leggett & Platt, Inc*., 2016 WL 11759104, at *2 (C.D. Cal. Dec. 21, 2016) (denying motion to exclude testimony; "[T]o the extent that plaintiff challenges the reliability of the information…because plaintiff questions their methodology, plaintiff could have deposed Remas to explore these issues, which he chose not to do"). In view of Patent Owner's inaction, Board should likewise reject the motion to exclude.

4. Patent Owner's Challenges Go to Weight, Not Admissibility

As an independent and separate reason, the Board should reject the motion because Patent Owner's arguments challenge the sufficiency or weight of Petitioner's evidence under the guise of challenging its admissibility. Specifically, Patent Owner's arguments challenge the sufficiency of Mr. Maeshiro's language qualifications. *See* Mot. Excl. *generally*. The Consolidated Trial Practice Guide expressly provides that a motion to exclude "may not be used to challenge the sufficiency of the evidence to prove a particular fact." Consolidated Trial Practice Guide at 79. The Board has consistently applied this principle to deny motions to exclude. *See, e.g., Siemens Mobility, Inc. v. Metrom Rail, LLC,* IPR2023-00470, Paper 71 (P.T.A.B. June 18, 2024) (denying motion to exclude that improperly challenged the weight afforded to testimony rather than its admissibility); *CRS*

Advanced Techs., Inc. v. Frontline Techs., Inc., CBM2012-00005, Paper 54 (P.T.A.B. Jul. 12, 2013) (same); *Wilmington v. J.I. Case Co.,* 793 F.2d 909, 920 (8th Cir.1986) ("Virtually all the inadequacies in the expert's testimony urged here by [the defendant] were brought out forcefully at trial…These matters go to the weight of the expert's testimony rather than to its admissibility.").

Patent Owner's belated filing of EX2046—a purported social media LinkedIn page—exemplifies this improper approach. *See* Mot. Excl. at 4. As a threshold matter, as discussed below, EX2046 lacks evidentiary merit because it is unauthenticated inadmissible hearsay and should be excluded. More fundamentally, Patent Owner's reliance on EX2046 to question Mr. Maeshiro's "proficiency in the Korean language" goes to the weight of the evidence, not its admissibility. Even assuming, arguendo, that EX2046 had any evidentiary value—which it does not—it would not establish any actual deficiency but would merely invite baseless speculation about Mr. Maeshiro's qualifications. To the extent that Patent Owner had any concerns regarding Mr. Maeshiro's qualifications, it could have deposed him. It chose not to do so.

Accordingly, the Board should deny Patent Owner's motion because these arguments go to the weight—not the admissibility—of the evidence.

5. <u>Public Policy Favors Admission</u>

Furthermore, these exhibits should not be excluded because "[t]he Board acts

as both the gatekeeper and the weigher of evidence, and is well positioned to determine and assign the appropriate weight to evidence." *Robert Bosch* ,Paper 37 at 53; *Cf. Donnelly Garment Co. v. NLRB*, 123 F.2d 215, 224 (8th Cir. 1941) ("One who is capable of ruling accurately upon the admissibility of evidence is equally capable of sifting it accurately after it has been received.").

B. EX1011 is Admissible Under FRE 703

Patent Owner's argument for excluding EX1011 fares no better. Patent Owner contends that this exhibit should be excluded because it is a machine translation. Mot. Excl. at 6-7. However, this argument fails for two independent reasons.

First, EX1011 is an evidentiary reference cited by Petitioner's expert witness for the limited purpose of discussing visibility and stability. Under FRE 703, expert witnesses may base their opinions on evidence that would normally not be admissible if experts in their field would reasonably rely on such data. Petitioner's expert has done precisely that here, relying on a machine translation of EX1011 for limited evidentiary purposes. *See* EX1003, ¶¶206-208. Moreover, it is well established that the Board will not exclude evidence proffered to show what a person of ordinary skill in the art ("POSITA") would have known about the relevant field of art. *See Liberty Mut. Ins. Co. v. Progressive Cas. Ins.,* CBM2012-00010, Paper 59 (P.T.A.B. Feb. 24, 2014); *see also Randall Mfg. v. Rea*, 733 F.3d 1355, 1362–63 (Fed. Cir. 2013).

Second, Patent Owner once again fails to identify any specific translation inaccuracy that would justify excluding EX1011. As with the other challenged exhibits, Patent Owner offers only unsupported attorney argument rather than substantive evidence of any deficiency in the translation. Thus, there is no basis for excluding this exhibit.

C. Patent Owner's EX2046 Should be Excluded

Pursuant to 37 C.F.R. § 42.64(c), FRE 901, 801-807, and the Board's verbal authorization during a call on February 25, 2026, Petitioner hereby moves to exclude Patent Owner's EX2046. Petitioner timely objected to EX2046 on February 23, 2026; Petitioner timely served and filed the objections within five (5) business days.

1. EX2046 Should be Excluded Under FRE 901

EX2046 should be excluded under FRE 901 as an unauthenticated. The burden is on Patent Owner to produce sufficient evidence to support a finding that EX2046 is what the Patent Owner claims it is, *i.e.*, a printout of a social media LinkedIn webpage of Petitioner's affiant. Because Patent Owner has failed to provide any authentication evidence, the exhibit should be excluded. *See Neste Oil Oyj v. REG Synthetic Fuels, LLC*, IPR2013-00578, Paper 53, (PTAB Mar. 12, 2015) ("When offering a printout of a webpage into evidence to prove the website's contents, the proponent of the evidence must authenticate the information from the website itself, not merely the printout."); *Wady v. Provident Life and Accident Ins.*

Co. of Am., 216 F. Supp. 2d 1060 (C.D. Cal. 2002) (sustaining objection because the proponent "has no personal knowledge of who maintains the website, who authored the documents, or the accuracy of their contents."); *see also, United States v. Jackson*, 208 F.3d 633, 638 (7th Cir. 2000).

2. EX2046 Should be Excluded Under FRE 801-807

EX2046 should also be excluded as hearsay under FRE 801-807 since it is offered for the truth of the matter asserted and not subject to any hearsay exception. EX2046 contains out-of-court statements offered to prove the truth of those assertions; namely, that the webpage is a social media LinkedIn profile of Petitioner's affiant. Patent Owner does not claim to have personal knowledge of the matter asserted.

III. Conclusion

For the foregoing reasons, Patent Owner has failed to carry its burden to demonstrate that any of the challenged exhibits is inadmissible. The Motion should be denied.

Dated: February 25, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e), this is to certify that service was made on Patent Owner as detailed below.

Date of service February 25, 2026

Manner of service Electronic Mail: rbrophy@atllp.com
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Document served ***PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO EXCLUDE***

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