

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IMPERATIVE CARE, INC.,
Petitioner,

v.

INARI MEDICAL, INC.,
Patent Owner.

Case No. IPR2025-01021
U.S. Patent No. 11,969,333

**PATENT OWNER'S MOTION TO EXCLUDE
PURSUANT TO 37 C.F.R. §§ 42.62 AND 42.64**

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Under 37 C.F.R. §§ 42.62 and 42.64(c), Patent Owner moves to exclude Exhibits 1003, 1022, and 1067, which were filed by Petitioner with its Petition for *inter partes* review (“IPR”) on May 19, 2025 (“Petition”; Paper 1) or Petitioner’s Reply on June 4, 2026 (“Reply”; Paper 32), under Federal Rules of Evidence (“F.R.E.”) 401, 402, 403, 702, and 703.

In accordance with 37 C.F.R. § 42.64(b)(1), Patent Owner timely filed objections to Exhibits 1003 and 1022 (and any testimony or argument purporting to rely on these exhibits) within 10 business days of the institution decision and to Exhibit 1067 (and any testimony or argument purporting to rely on these exhibits) within five business days of service. *See* Paper 18, pp. 1-3 (objecting to EX1003 and EX1022); and Paper 34, pp.1-2 (objecting to EX1067).

I. Exhibits 1003 and 1067 (Declarations of Troy Thornton)

Expert declarations are admissible only if they are “the product of reliable principles and methods,” and if the facts or data underlying an expert’s opinion are “of a type reasonably relied upon by experts in the particular field.” *See* Fed. R. Evid. 702(c); Fed. R. Evid. 703 advisory committee’s note. “To offer expert testimony from the perspective of a skilled artisan in a patent case ... a witness must at least have ordinary skill in the art. Without that skill, the witness’ opinions are neither relevant nor reliable.” *Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1376-77 (Fed. Cir. 2022). Under Federal Rule of Evidence 702, as

incorporated in this proceeding by 37 C.F.R. § 42.62(a), expert testimony is admissible only if the proponent establishes that the witness is qualified by knowledge, skill, experience, training, or education, and that the testimony rests on a reliable foundation. Where an expert purports to opine from the perspective of a person of ordinary skill in the art, the expert must possess at least that level of skill. *Kyocera*, 22 F.4th at 1376-77.

Here, Petitioner's expert Mr. Thornton, admits that he has no experience designing devices in the technical field of the '333 Patent such that he fails to qualify as a POSA, let alone an expert, in this matter. Thus, Patent Owner respectfully requests that the Board exclude his testimony in Exhibits 1003 and 1067 in its entirety and further exclude any testimony or argument purporting to rely on Exhibits 1003 and 1067, including any citation to Exhibits 1003 and 1067 in the Petition (Paper 1) or Petitioner's Reply (Paper 32).

A. A POSA must have experience in the technical field of the '333 Patent.

There is no dispute that the technical field of the '333 Patent generally relates to systems, methods, and devices for intravascular treatment of emboli and/or thrombi, in other words, mechanical or comparable thrombectomy systems, methods, and devices. Mr. Thornton testified that the field of invention of the related U.S. Patent 11,974,910 (the "'910 Patent") is "devices for aspirating unwanted material from a patient." EX2013, 21:25-22:12. He confirmed that the recitation of

“the present technology relates generally to systems, methods, and devices for the intravascular treatment of emboli and/or thrombi within a blood vessel of a human patient[,]” which is also recited verbatim in the '333 Patent (EX1001, 1:23-26), is a reasonable description of the technical field of the related '910 Patent and is the same in substance to his assertion that the field is “devices for aspirating unwanted material from a patient” set forth in his declaration (EX1003, ¶26). *See* EX2013, 22:23-23:20. Mr. Thornton further confirmed that this is the same field of the invention for the '333 Patent at issue here. *Id.* at 26:10-13.

The sole dispute between the parties regarding the definition of a POSA relates to whether a POSA must have experience in the technical field of the '333 Patent. As both of Patent Owner's experts explain, a POSA must have experience in the technical field of the '333 Patent, specifically, “two to four years of academic or industry experience in the mechanical thrombectomy industry or comparable industry experience.” EX2008, ¶52; EX2016, ¶44. PO's experts explained why that experience matters. Mr. Brown testified that a POSA must understand “what the device is trying to treat,” including the physiology, risks, and disease state. EX1063, 78:17-23. Dr. Morris confirmed that “experience working actually with clot” is “paramount” and that “a POSA has to be familiar with clot.” EX1065, 206:11-20. And, Petitioner's purported expert, Mr. Thornton, likewise confirmed in a related IPR that engineers design to the specific needs of the physician, procedure, and

environment. EX2019, 24:10-14. Of course a POSA must understand the condition to be treated in order to design a device for treating that condition.

Yet, Petitioner asserts that a POSA needs no experience in the technical field of the '333 Patent, instead simply requiring "2-4 years of catheter design experience." Petition, p.13. But, the Petition provides no basis for omission of the technical field of the '333 Patent from the definition of a POSA. *Id.* And on Reply, Petitioner's sole argument in support of that omission is that Petitioner's definition of a POSA reflects Mr. Thornton's "real-world experience" because he would assign the design of "catheters, sheaths, and related components such as hemostasis valves for use in cardiovascular procedures." Reply, p.27 (internal citation omitted). That generalized cardiovascular experience, however, does not define the relevant POSA.

First, Mr. Thornton admits that he has no experience designing devices for the treatment of emboli and/or thrombi within a blood vessel of a human patient. EX2013, 49:24-50:10; POR, pp.17-18. To whom Mr. Thornton would assign the task of designing anything is not relevant to determine the qualifications of a POSA in the field of the '333 Patent when Mr. Thornton himself does not have experience in the field of the '333 Patent. Moreover, to whom Mr. Thornton would assign the task of designing devices "for use in cardiovascular procedures" (Reply, p.27, quoting EX2013) in general, is not indicative of the experience required to design

devices in the technical field the '333 Patent for the intravascular treatment of emboli and/or thrombi.

In contrast, both of Patent Owner's experts have extensive experience in the field of the '333 Patent. As such, Patent Owner's experts are highly qualified to render testimony in this IPR, and that testimony should be credited over Petitioner's purported expert testimony. First, Brian Brown is qualified as an expert in the field of the '333 Patent having extensive experience designing devices in the field of the '333 Patent. EX2008, ¶¶7-16. Similarly, Dr. Morris has decades of experience as a practicing physician and educator, both treating and teaching others to treat thrombi or emboli. EX2016, ¶¶8-18. As set forth above, both of those experts have explained the importance of experience in mechanical thrombectomy when designing devices for mechanical thrombectomy, e.g., understanding the clot is "paramount." EX1065, 206:11-14.

In the Reply, Petitioner argued that "[e]xperience designing catheters for vascular procedures is comparable to mechanical thrombectomy experience," but Petitioner fails carry its burden to explain how or why. Reply, p.27; *see* 35 U.S.C. § 316(e). General cardiovascular experience does not equate to the treatment of emboli and/or thrombi or contribute to the understanding of clots. EX1065, 205:17-206:21. Petitioner also mentioned Patent Owner's reference to "mechanical thrombectomy industry or comparable industry experience," but that does not support Petitioner's

broader generalized definition. Reply, p.27. As Patent Owner's experts have explained, comparable experience must relate to treating or removing clots, whether by mechanical or other means, not general catheter design.

Accordingly, a POSA must have experience in the field of the '333 Patent, namely, "two to four years of academic or industry experience in the mechanical thrombectomy industry or comparable industry experience." POR, p.16.

B. Petitioner's purported expert, Mr. Thornton, does not qualify as a POSA in the field of the '333 Patent such that his testimony should be excluded.

A witness who is "not qualified in the pertinent art" cannot "testify as an expert on obviousness, or any of the underlying technical questions, such as the nature of the claimed invention, the scope and content of prior art, the differences between the claimed invention and the prior art, or the motivation of one of ordinary skill in the art to combine these references to achieve the claimed invention." *Sundance, Inc. v. DeMonte Fabricating Ltd.*, 550 F.3d 1356, 1364-65 (Fed. Cir. 2008) (excluding testimony for lack of technical expertise as "nothing more than advocacy from the witness stand."). Mr. Thornton does not qualify as a POSA, let alone as an expert in the field of the '333 Patent, such that his testimony should be excluded.

In *Boe Tech. Grp. Co. v. Optronic Scis. LLC*, Petitioner's declarant had a Ph.D. in electrical engineering and experience using packaged LEDs, but "not [] the

requisite experience designing LED backlights for LCD displays,” so he was “not qualified to offer expert testimony from the vantage point of a person of ordinary skill in the art of designing LED backlights for LCD displays.” IPR2024-01130, Paper 47, pp. 22, 23 (PTAB Jan. 26, 2026) (“Dr. Baker...is qualified to testify on many different topics. But that does not mean that Dr. Baker is qualified to testify as a POSITA in every electronics-related field.”). In *Boe*, Petitioner’s declarant testified that he “didn't work on the actual mechanical design of the LED packages.” *Id.* at p. 22 (internal citation omitted).

Similarly, Mr. Thornton admits that he has no experience in the field of the '333 patent. Specifically, Mr. Thornton testified:

[Q.] Have you ever designed a catheter to aspirate emboli, blood clot, or a thrombus from a patient?

[A.] No. The catheters that I developed, though, I would argue are more complex and have probably more design requirements than the single lumen aspiration catheters that are disclosed in these patents.

[Q.] Have you ever designed any device intended to be used to aspirate a blood clot, thrombus, or emboli?

[A.] No.

[Q.] Have you ever designed any catheter intended to be used to aspirate a blood clot, thrombus, or emboli?

[A.] I'll answer no again.

EX2013, 49:24-50:10.

Petitioner may argue that Mr. Thornton's lack of experience with treatment of emboli and/or thrombi can be mitigated with "comparable industry experience" (Reply, p.28), but Mr. Thornton lacks even that. When asked about Mr. Thornton's purported comparable experience "minimize[ing] coagulation around" stents, Dr. Morris testified that working with clots themselves, not just preventing the formation of clots is required for "comparable industry experience." EX1065, 205:21-206:14. Dr. Morris explained that "[b]ecause there's all different types of clot and sizes of clot, consistencies of clot ... a POSA has to be familiar with clot." EX1065, 206:15-21. And Mr. Brown testified that understanding the disease state is fundamental: "[y]ou keep asking me about questions to design the catheter, but designing the catheter is almost secondary to understanding the disease state because if we don't understand the disease state, you can't design the catheter to treat the disease state." EX1063, 78:24-79:3; *see also id.* at 80:1-9. Mr. Thornton has no experience treating or removing clots. As he confirmed, his clot-related experience is limited to preventing or reducing clot formation when designing catheters for other uses. EX2018, 46:13-48:24; Reply, p.29. As such, preventing clot formation is not comparable to designing systems and methods for treating or removing clots.

Because Mr. Thornton has no experience in the field of the '333 Patent, or comparable experience, Mr. Thornton is neither a POSA nor a person qualified in the pertinent art. Accordingly, Exhibits 1003 and 1067 should be excluded because

the testimony therein is neither based on relevant knowledge, facts, or data, nor the product of reliable principles and methods, which further renders it irrelevant. *See* F.R.E. 401, 702; *Kyocera Senco Indus. Tools Inc.*, 22 F.4th at 1376-77 (“Without that skill, the witness’ opinions are neither relevant nor reliable.”).

Indeed, an individual having no relevant experience in the field of the ’333 Patent would lack any understanding of challenges, design considerations, and requirements for the various aspects of a method for treating or removing clots via aspiration as disclosed in the ’333 Patent and in the references cited in this IPR, including Garrison (EX1006). For example, an individual having no experience at all in the field of the ’333 Patent would have no understanding regarding the difficulty and particular considerations for designing a method of treating a pulmonary embolism or a deep vein thrombosis as recited in the claims, including but not limited to why Petitioner’s modifications would not “enable the maximum level of aspiration,” or why operating pumps from Laub and Aklog against a closed intervening valve risks damaging the pumps and/or endangering the patient by damaging the blood necessary for return to the patient, or why a POSA would not have modified the cited references to arrive at the claimed invention. *See, e.g.*, POR, pp. 38, 53; Sur-Reply, pp. 6, 16-21.

Accordingly, Patent Owner requests that the Board exclude Exhibits 1003 and 1067 in their entirety.

II. Exhibit 1022 (Declaration of Aquilla S. Turk, III, D.O.)

Patent Owner respectfully requests that the Board exclude Exhibit 1022 in its entirety. Consequently, Patent Owner further respectfully requests that the Board exclude any testimony or argument purporting to rely on Exhibit 1022, including any citation to Exhibit 1022 in the Petition (Paper 1) or in Petitioner's Replies (Papers 13, 32).

Specifically, Dr. Turk's lack of experience in treating pulmonary embolism (PE) and deep vein thrombosis (DVT), failure to read the challenged patent, claims or asserted references, and his bias due to his affiliation with and financial interest in Petitioner casts doubt on the reliability of his testimony.

A. Dr. Turk has no experience treating PE or DVT, and he did not read the '333 Patent, the challenged claims, or the asserted prior art references.

Dr. Turk is not qualified in the pertinent art, and he is not qualified to testify as an expert in this IPR. *See Boe Tech. Grp. Co., Ltd.*, IPR2024-01130, Paper 47, at pp. 22, 23 (neither Petitioner nor Petitioner's declarant identified relevant experience). The claims in the '333 Patent are directed to methods of treating PE or DVT, but Dr. Turk admitted at deposition that he has no experience treating PE or DVT. EX2015, 23:14-16. ("Do you have experience in treating deep vein thrombosis or pulmonary embolisms? A. No."). He further expressly acknowledged that he is not an expert in treating PE or DVT. *Id.* at 95:2-4. Instead at best for Petitioner, Dr.

Turk has been “in the room” for and watched “eight or nine at least[.]” *Id.* at 69:14-70:4 (referring to PE and DVT removal procedures).

Moreover, Dr. Turk admitted that he did not review the '333 Patent, including its claims. EX2015, 33:12-19 (“I’m sure I did not.”); *see id.*, 34:1-2 (testifying that he did not review the related '910 Patent). He further testified that in preparing his declaration, he did not read any of the primary references Garrison, Aklog, or Laub. *Id.* at 69:7-11. He also explained that his declaration did not render an opinion regarding the patentability of the claims at issue here. *Id.* at 34:7-35:7. Accordingly, Dr. Turk’s opinions are entirely divorced from the issues of this case.

In the Reply, Petitioner argued that Dr. Turk’s testimony is relevant to procedures for aspirating clots or use of catheters, including, allegedly, use of a tube clamp to create negative pressure (Reply, p.29), but Petitioner’s grounds do not use Dr. Turk’s testimony as prior art, and Dr. Turk’s testimony does not address any of the Claims or primary references in Petitioner’s grounds. Dr. Turk’s testimony in Exhibit 1022 is wholly irrelevant to a POSA’s purported modification of the cited prior art, the purported teachings of the prior art (or lack thereof), or the general state of the art of PE and DVT treatment.

Petitioner has argued that it is Dr. Turk’s opinion that cerebral clots are more challenging to treat, and that Dr. Turk’s declaration provides opinions on adapting systems for cerebral clots to treat PE/DVT. Reply, p.30. But again, given that Dr.

Turk has no experience treating PE or DVT, the comparison is baseless. EX2015, 23:14-16. And, again, those opinions are irrelevant to context of the cited references, especially given that Dr. Turk did not even read them. *Id.* at 69:7-11.

Accordingly, Dr. Turk is not qualified to testify on matters related to PE or DVT and his testimony is simply not relevant to the '333 Patent's claims, the asserted references, or Petitioner's grounds. Exhibit 1022 should be excluded under at least F.R.E. 702(a) because Dr. Turk's knowledge will not help with understanding the issues and evidence; under F.R.E. 702(b) for not being "based on sufficient facts or data;" under F.R.E. 403 for causing undue prejudice, confusing the issues, being misleading, and wasting time; and under F.R.E. 401 and 402 for being irrelevant.

B. Dr. Turk is biased.

Dr. Turk is also biased. At deposition, Dr. Turk testified that he is Petitioner's Chief Medical Officer (CMO), receiving a compensation of \$250K per year and that he has "a lot" of equity in Petitioner. *Id.* at 13:18-15:9. Patent Owner has sued Petitioner for patent infringement of the '333 Patent. Paper 3, p.2. As such, Dr. Turk has a strong financial incentive in the success of Petitioner in general, and in particular, in the outcome of this IPR. Petitioner does not dispute Dr. Turk's bias. *See, e.g.,* Petition, Reply.

Accordingly, Exhibit 1022 is inadmissible and should be excluded under at least F.R.E. 702(d) because it cannot be a “reliable application of the principles and methods to the facts of the case.”

III. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that the Board exclude Exhibits 1003, 1022, and 1067 from the record in this IPR proceeding.

Respectfully submitted,

Date: August 20, 2026

By: / Joseph P. Hamilton /

Joseph P. Hamilton, Reg. No. 51,770
Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on August 20, 2026, a copy of
PATENT OWNER'S MOTION TO EXCLUDE was served upon the below-
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Dated: August 20, 2026

By: / Kate Rose /
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