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On behalf of **Imperative Care, Inc.**

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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. IPR2025-01264
Patent No. 12,016,580

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

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Pursuant to 37 C.F.R. § 42.64 and the Scheduling Order (Paper 12), Petitioner opposes Patent Owner's ("PO's") Motion to Exclude (Paper 38).

I. PO WAIVED OBJECTIONS TO THE EXPERTS' STATUS AS POSITAS

PO argues that the Board should exclude Mr. Thornton's testimony (Exhibits 1003, 1067) and Dr. Turk's testimony (Exhibit 1022) because the experts do not qualify as POSITAs in the relevant field. (MTE, 2, 10.) Yet, PO waived any evidentiary objection based on the experts' status as a POSITA by failing to timely raise the objection. Objections "must identify the grounds for the objection with sufficient particularity to allow correction." 37 C.F.R. § 42.64(b)(1). In the related '011 IPR, PO moved to exclude Mr. Thornton's testimony because he allegedly applied the wrong POSITA definition. (Ex. 1087, 70.) The Board found PO "waived any evidentiary objection to the testimony ... based on an allegedly 'incorrect' POSA definition" because "[a]lthough [PO] timely objected to Mr. Thornton's testimony ... nowhere did [PO] reference any issue with the POSA definition as the basis for the objection." (*Id.*)

The same is true here for Exhibits 1003 and 1022. While PO objected to the exhibits, PO never identified Mr. Thornton's or Dr. Turk's status as a POSITA as the basis for objection. (Paper 14, 1-2.) Therefore, the objections "lacked the particularity needed to put Petitioner on notice about any alleged defect related to" the experts' POSITA qualifications. (Ex. 1087, 70-71.)

Moreover, PO withheld its evidentiary objection to Mr. Thornton until after he submitted his Supplemental Declaration (Exhibit 1067) and Petitioner could no longer supplement the evidentiary record to rebut the objection. Petitioner was further frustrated because the objections are inconsistent with PO's positions elsewhere. In the district court, PO did not object to Mr. Thornton's qualifications when he testified regarding the related '910 patent. (Ex. 1088, 7-13.) Similarly, in this IPR, PO *applied* Mr. Thornton's POSITA definition in its POPR and as discussed above did not object to Mr. Thornton's declaration (Ex. 1003) based on his POSITA qualifications. (Paper 9, 15.) PO's untimely evidentiary objection to Exhibit 1067 fails because PO already waived any objection to Mr. Thornton's POSITA qualifications when it failed to object to Exhibit 1003.

Thus, the Board should deny PO's motion, as it did in the '011 IPR, because PO waived any evidentiary objection to the experts' status as a POSITA.

II. MR. THORNTON QUALIFIES AS A POSITA

The wholesale exclusion of an expert's declaration is "rarely justified." *Foursquare Labs, Inc. v. Boardactive Corp.*, IPR2023-00919, 2024 WL 4906282, at *37 (P.T.A.B. Nov. 27, 2024). Here, the exclusion of Mr. Thornton's expert declarations would be particularly inappropriate. Mr. Thornton has extensive experience in the field of the invention. He also has extensive experience with the issues in this IPR. PO's primary argument relies on cardiopulmonary bypass pumps,

which Mr. Thornton has designed. PO also argues about whether a POSITA would have found it obvious to increase catheter diameters, which Mr. Thornton has done. Mr. Thornton's broad experience makes him uniquely qualified to testify in this IPR.

In related IPRs, the Board preliminarily credited Mr. Thornton's testimony on similar issues. (Ex. 1052, 12, 30-33, 38-39; Ex. 1053, 12-13, 31, 36-40.) Mr. Thornton also provided similar testimony in Petitioner's successful opposition to PO's preliminary injunction motion before the district court. (Ex. 1089, ¶¶35, 92-138.) PO fails to carry its burden to show that the Board previously erred and that the extraordinary remedy of excluding Mr. Thornton's testimony is warranted here.

A. The Field Of The '580 Patent Relates Generally To The Intravascular Treatment Of Emboli Or Thrombi

PO admits that the field of the '580 patent "generally relates to devices and methods for intravascular treatment of emboli and/or thrombi." (MTE, 2.) Yet, because Mr. Thornton has relevant experience, PO tries to further narrow the field to "mechanical or comparable thrombectomy systems, methods, and devices." (*Id.*) PO's restrictive characterization conflicts with the '580 patent, the prior art, and PO's other IPR arguments. Accordingly, the Board should define the field as stated in the '580 patent and reject PO's narrower characterization.

The '580 patent describes the inventive field to extend beyond thrombectomy systems. For example, the '580 patent identifies the "Technical Field" as technology

that “relates generally to devices and methods for the intravascular treatment of emboli and/or thrombi within a blood vessel of a human patient.” (Ex. 1001, 1:21-27; *see also id.*, abstract, 3:46-49.) Further, only “some embodiments ... relate to systems for repeatedly deploying an interventional device at or proximate to a pulmonary embolism.” (*Id.*, 1:24-27.) Thus, the ’580 patent confirms that aspiration thrombectomy does not define the field but is an example in the field.

Similarly, the “Background” describes technologies that relate generally to systems for intravascular treatment of emboli/thrombi: “[t]here are many existing techniques to reestablish blood flow through an occluded vessel” including surgical methods such as embolectomies and “[p]ercutaneous methods” including “balloon angioplasty where a balloon-tipped catheter is introduced to a blood vessel ... advanced to the point of the occlusion and inflated to dilate the stenosis.” (Ex. 1001, 1:66-2:20.) Thus, percutaneous devices to reestablish blood flow through an occluded vessel fall within the inventive field. *See, e.g., BOE Tech. Grp. v. Optronix Sciences LLC*, IPR2024-01130, 2026 WL 198714, at *7 (P.T.A.B. Jan. 26, 2026) (relying on art in the “Background of the Invention” for POSITA definition).

Consistently, many references submitted during prosecution describe percutaneous devices to reestablish blood flow, including references disclosing angioplasty balloons and Fogarty catheters. (*See e.g., Exs. 1069-1073.*) These references further define the technologies that “relate[] generally” to the

intravascular treatment of emboli and/or thrombi. *See BOE*, 2026WL 198714, at *6 (noting that “prior art of record also provides insight” into the POSITA definition).

Moreover, the prior art relied upon by the parties in this IPR relates generally to percutaneous and intravascular devices. Schaffer and Hartley describe hemostasis valves applicable to all intravascular procedures. (Ex. 1007, [0002]; Ex. 1008, [0003].) In its Sur-reply, PO also presents the argument from several related IPRs relying on centrifugal blood pumps for cardiopulmonary bypass procedures. (PO Sur-Reply, 18; Ex. 2010, ¶¶78-108.) PO’s exhibits establish that these pumps are *not* intended for thrombectomy procedures. (Ex. 1063, 125:11-22, 134:22-135:16, 139:22-141:5, 141:19-142:13.) Thus, PO assumes a broader inventive field extending beyond thrombectomy systems.

PO also argues that a POSITA would not have been motivated to increase the diameter of Garrison’s catheters. (POR, 40-48.) Yet, the experts agree that POSITAs have historically adjusted catheter sizes across intravascular procedures, making the broader field relevant to this IPR. (Ex. 1003, ¶212; Ex. 1063, 70:14-25; Ex. 1064, 53:19-54:11; Ex. 1065, 48:16-49:13, 51:8-52:22.) PO also argues that certain prior-art vacuum sources would not permit blood reinfusion, focusing on centrifugal pumps and syringes. (POR, 42-47; PO Sur-Reply, 18.) Again, the centrifugal pumps identified by PO are for cardiopulmonary bypass procedures, not thrombectomy procedures. (Ex. 1063, 125:11-22, 134:22-135:16, 139:22-141:5,

141:19-142:13.) Likewise, POSITAs used syringes for reinfusing blood across many intravascular procedures. (See, e.g., Ex. 1067, ¶25.) Thus, PO's IPR arguments are not focused on thrombectomy systems but instead raise engineering issues that relate generally to intravascular devices.

PO's proposed POSITA definition is also not limited to thrombectomy systems. PO argues that a POSITA would have "two to four years of academic or industry experience in the mechanical thrombectomy industry *or comparable industry experience*." (MTE, 3 (emphasis added).) PO's expert, Dr. Morris, generally described comparable industry experience as some clot experience. (Ex. 1065, 205:17-206:21.) PO's recognition that a POSITA could have "comparable industry experience" confirms that the field is not limited to thrombectomy systems.

Thus, the Board should adopt the field identified in the '580 patent, i.e., technologies that "relate[] generally to devices and methods for the intravascular treatment of emboli and/or thrombi within a blood vessel." (Ex. 1001, 1:21-27.) As shown below, experience designing intravascular catheters relates generally to systems, methods, and devices for the intravascular treatment of emboli and/or thrombi and provides sufficient background to qualify as a POSITA.

B. Mr. Thornton Is A POSITA Within The Inventive Field

1. The Parties Propose Materially Similar POSITA Definitions

PO argues that Mr. Thornton would not qualify as a POSITA under PO's

POSITA definition. Yet, the parties have proposed materially similar POSITA definitions that both encompass Mr. Thornton.

Mr. Thornton opined that a POSITA would have “an undergraduate degree in mechanical engineering or a related engineering discipline and 2-4 years of catheter design experience and, where necessary, would have consulted with a physician regarding the methods of treatment.” (Ex. 1003, ¶35-36.) Mr. Thornton explained that in his own practice he would “assign an engineer with the experience described” to “design catheters, sheaths, and related components such as hemostasis valves for use in cardiovascular procedures.” (*Id.*) In related IPRs, the Board preliminarily found that Mr. Thornton’s definition is “reasonable and consistent with the prior art,” and credited Mr. Thornton’s testimony in instituting the IPRs. (Ex. 1052, 12, 30-31, 33, 38-39; Ex. 1053, 12-13, 31, 33, 35-36, 39-40.)

PO’s POSITA definition is nearly identical, and any distinctions do not justify the wholesale exclusion of Mr. Thornton’s testimony. *See, e.g., TRW Auto. US LLC v. Magna Elecs. Inc.*, IPR2014-00266, 2014 WL 2965901, at *7 (P.T.A.B. June 26, 2014) (finding PO “d[id] not explain sufficiently ... *why* [petitioner’s] definition renders [it’s] obviousness analyses incorrect”).

PO agrees that a POSITA would have been “a person with a Bachelor of Science degree in engineering or an equivalent field” and “would, where necessary or desired, work or consult with others including a physician to develop

thrombectomy devices.” (Ex. 2005, ¶45.) PO also agrees that a POSITA would have possessed two to four years of practical experience. (*Id.*) The sole difference between the definitions is that Mr. Thornton opined that the POSITA would have “catheter design experience,” while PO argued the POSITA would have “experience in the mechanical thrombectomy industry or comparable industry experience.” (*Id.*)

In its Motion, PO ignores that catheter design experience, particularly for intravascular devices like the angioplasty balloons described in the ’580 patent, is “comparable industry experience.” Mr. Thornton explained that catheter design experience is comparable “because aspiration systems for mechanical thrombectomy are primarily made up of a catheter connected to other standard catheter components like valves, filters, syringes, and pumps. Because the catheter is a primary component of any aspiration system, catheter design experience is the relevant experience a person of ordinary skill in the art would need to possess.” (Ex. 1067, ¶7.) PO’s expert agreed that “[w]orking on catheters will assist you in developing other catheters relative to the construction of the catheter.” (Ex. 1063, 61:7-62:5.) Thus, catheter design experience “relates generally” to the intravascular treatment of emboli and/or thrombi and is “comparable industry experience.”

PO suggests that Mr. Thornton is not a POSITA because he lacks experience designing mechanical thrombectomy devices. PO argues such experience is necessary because “a POSA must understand ‘what the device is trying to treat,’

including the physiology, risks, and disease state.” (MTE, 3.) But PO ignores that the POSITA under either party’s definition would consult with a physician to understand the treatment methods. (Ex. 1003, ¶35.)

Mr. Thornton explained that medical device engineers “consult[] with physicians regularly in setting design goals and in developing cardiovascular products,” and specifically “consult with physicians who were expert and had experience with those patients, those disease dates, those treatments.” (Ex. 2006, 43:1-44:9; *see also id.*, 45:5-46:2.) PO’s experts agreed that an engineer would consult with a physician to understand the disease and treatment methods. (Ex. 1063, 74:20-75:14 (Mr. Brown: “[w]hen designing a medical device, the first thing you do is meet with the physicians to understand what the device needs to do”); Ex. 1065, 206:22-208:18 (Dr. Morris testifying an engineer would consult a physician because “a nonmedical person may not understand a lot of the nuances that are required to perform some of these procedures”).) Thus, a catheter design engineer would “understand ‘what the device is trying to treat,’ including the physiology, risks, and disease state,” through consultation with the physician. (MTE, 3.)

PO also suggests that catheter design experience is insufficient because “[g]eneral cardiovascular experience does not equate to the treatment of emboli and/or thrombi or contribute to the understanding of clots.” (MTE, 5.) Not only is PO’s argument inconsistent with the ’580 patent, but Mr. Thornton explained that

“[k]nowledge of the potential complications related to blood clots, thrombus, and thromboemboli was a critical part of every project I worked on.” (Ex. 1067, ¶9.)

Thus, regardless of whether the Board adopts Petitioner’s or PO’s POSITA definition, Mr. Thornton’s experience relates generally to the intravascular treatment of emboli and/or thrombi and qualifies him as a POSITA.

2. Mr. Thornton’s Experience Relates Generally To The Intravascular Treatment Of Emboli And/Or Thrombi

Mr. Thornton has significant experience in the inventive field and “comparable industry experience” to qualify him as a POSITA. (Ex. 1074, 59:20-61:10.) Mr. Thornton has “more than 35 years of experience in the cardiovascular medical device field, including significant experience designing, developing, testing, and manufacturing catheters and catheter systems for minimally invasive cardiovascular procedures.” (Ex. 1003, ¶14; *see also id.* ¶¶6-13.) Mr. Thornton has designed and developed many devices including thermodilution catheters, a centrifugal blood pump for cardiopulmonary bypass procedures, angioplasty catheters, and the MitraClip device to treat mitral valve regurgitation that included three catheters to deliver the implant, and a blood flow controller to treat acute decompensated heart failure. (Ex. 1067, ¶9; *see also id.*, ¶¶10-18.)

Mr. Thornton has experience designing and using devices within the inventive filed of the ’580 patent, including angioplasty balloons for “reestablishing blood

flow” to an occluded blood vessel. (Ex. 1001, 1:66-2:20.) For example, Mr. Thornton designed “an elliptical [percutaneous transluminal coronary angioplasty] catheter that ultimately became the top-selling PTCA in the United States.” (Ex. 1003, ¶11.) Mr. Thornton also designed catheters that may be used to deliver devices for “embolic filtration and removal.” (Ex. 1067, ¶15; Ex. 1079, ¶245.)

Mr. Thornton also has extensive experience with the disputed issues in this IPR. He designed a centrifugal pump for cardiopulmonary bypass, like the pumps identified in PO’s Sur-reply. (Ex. 1003, ¶¶6, 12; Ex. 1067, ¶9.) Mr. Thornton also has extensive experience designing complex catheters with varying sizes, materials, and compositions, which is relevant to PO’s arguments regarding upsizing catheters. (Ex. 1003, ¶¶6, 9, 11; Ex. 1067, ¶9; Ex. 2006, 47:13-48:24.) Mr. Thornton also has extensive experience using pumps and syringes to withdraw blood and material from a patient, flush catheters before and during procedures, and reinfuse blood into a patient. (Ex. 1003, ¶¶6, 12; Ex. 2018, 53:7-57:10.) Thus, Mr. Thornton has firsthand experience with the issues being disputed in this IPR.

Further, Mr. Thornton has “extensive experience with blood clots and mitigating the effects of blood clots,” which PO’s expert identified as “comparable industry experience.” (Ex. 1067, ¶¶8-18; Ex. 1065, 205:17-206:21.) By 2018, Mr. Thornton had designed many intravascular medical devices. (Ex. 1067, ¶¶8-18.) Mr. Thornton testified that, because these devices extensively contacted patient

blood, “[k]nowledge of the potential complications related to blood clots, thrombus, and thromboemboli was a critical part of every project I worked on.” (*Id.*, ¶9.) Unsurprisingly, many of the publications and patent applications describing Mr. Thornton’s work discuss mitigating and addressing blood clots. (*Id.*, ¶¶10-18.) Indeed, one of Mr. Thornton’s patent applications describes catheters that may deliver “endovascular and minimally invasive surgical devices used in angioplasty, atherectomy, stent-delivery, [or] **embolic filtration and removal**.” (Ex. 1079, ¶245 (emphasis added).) PO fails to meaningfully address Mr. Thornton’s extensive knowledge of blood clots or work with angioplasty catheters and bypass pumps.

PO’s caselaw does not support excluding Mr. Thornton’s testimony. In *Sundance*, the court excluded a **patent attorney with no technical experience** from opining on technical infringement and invalidity issues. *Sundance, Inc. v. DeMonte Fabricating Ltd.*, 550 F.3d 1356, 1360-65 (Fed. Cir. 2008). Mr. Thornton has over 35 years of technical experience. (Ex. 1003, ¶¶5-14; Ex. 1067, ¶¶5-18.)

In *Kyocera*, the parties agreed the POSITA needed “power nailer” design experience, and the Federal Circuit merely affirmed that a witness with no power nailer design experience did not qualify as a POSITA. *Kyocera Senco Indus. Tools Inc. v. Int’l Trade Comm’n*, 22 F.4th 1369, 1376-77 (Fed. Cir. 2022). Similarly, in *BOE*, the Board found that a POSITA needed “one year experience designing LED backlights for LCD displays” and that a witness lacking such design experience did

not qualify. *BOE* 2026 WL 198714, at *8. Here, the parties agree a POSITA **does not** need experience designing thrombectomy systems. (See MTE, 3 (PO acknowledging that “comparable industry experience” is sufficient).) Accordingly, Mr. Thornton’s experience with thrombectomy systems is not determinative.

III. DR. TURK’S EXPERT TESTIMONY IS PROBATIVE AND CREDIBLE

Dr. Turk is a practicing interventional neuroradiologist who regularly performs mechanical thrombectomy procedures to treat blood clots. (Ex. 1022, ¶¶1, 5.) The Board previously credited Dr. Turk’s testimony on the issues herein. (Ex. 1052, 34; Ex. 1053, 36-37.) PO has identified no basis to exclude that testimony.

A. Dr. Turk Is Qualified To Testify As An Expert

PO argues that Dr. Turk is not qualified to testify as an expert because he has not performed thrombectomy procedures to treat PE or DVT. (MTE, 10-11.) This argument is frivolous. PO’s POSITA definition includes “an interventional radiologist or pulmonologist with at least three years of experience developing and/or using medical devices in thrombectomy procedures (*including for smaller arteries*), and who would, where necessary, work or consult with others including an engineer to develop such a medical device.” (Ex. 2005, ¶45 (emphasis added).) Dr. Turk meets this definition. (See Ex. 1022, ¶¶5-15.) Dr. Turk is “very familiar with, and ha[s] personally used, nearly all the commercially available mechanical thrombectomy devices on the market” for much longer than 3 years. (*Id.*) Dr. Turk

is qualified to testify as an expert. *Kyocera*, 22 F.4th at 1376–77.

B. Dr. Turk’s Testimony Is Relevant

PO also argues that Dr. Turk’s testimony is “entirely divorced from the issues of this case” because Dr. Turk did not opine on the ’580 patent or the prior art in Petitioner’s invalidity grounds. (MTE, 11-12.) PO fails to cite any authority requiring an expert to opine on the challenged patent or the asserted prior art for the expert’s testimony to be relevant to the IPR. (*Id.*) PO’s position is incorrect.

Dr. Turk testified regarding the state of thrombectomy in 2018. Dr. Turk testified that since the early 2010s, POSITAs have “place[d] a tube clamp on the tubing running from the aspiration catheter to the syringe or pump” to “create negative pressure in the tubing before removing the tube clamp,” which “increases the suction immediately applied to the clot.” (Ex. 1022, ¶23; *see also* Ex. 2008, 27:17-29:6.) PO’s expert confirmed that he witnessed this technique “[m]any times” before 2018. (Ex. 1064, 42:11-44:4.) In related IPRs, the Board found that Dr. Turk’s testimony shows that “a POSA would have understood that both syringes and pumps, like disclosed in Garrison, can generate a vacuum pressure to permit rapid aspiration of clots” because “surgeons have used pumps and syringes for that purpose since the early 2010s.” (Ex. 1052, 34; Ex. 1053, 36-37.) The testimony is relevant to Petitioner’s invalidity grounds and PO’s counterarguments.

Dr. Turk also explained why cerebral clots are more challenging to treat and

why a POSITA could adapt systems designed for cerebral clots to treat PE/DVT. (Ex. 1022, ¶¶33-37; *see also* Ex. 2008, 64:7-65:18.) This testimony is relevant to Petitioner’s invalidity grounds and rebuts PO’s argument that a POSITA would have been discouraged from adapting Garrison’s aspiration system to treat PE/DVT. This testimony is also undisputed. Accordingly, PO has not shown that Dr. Turk’s testimony should be excluded under FRE 401-403 or 702.

C. PO’s Bias Arguments Go To The Weight Of Dr. Turk’s Testimony

PO also argues that Dr. Turk’s testimony should be excluded because he is financially biased as Petitioner’s Chief Medical Officer. (MTE, 12.) But even if PO’s claims had merit, and they do not, an expert’s bias goes to “weight of [the expert’s] testimony, and not its admissibility.” *Polaris Wireless, Inc., v. Trueposition, Inc.*, IPR2013-00323, 2014 WL 5767421 at *23 (P.T.A.B. Nov. 3, 2014). Indeed, PO does not cite any case where the Board excluded an expert’s testimony due to financial bias. (MTE, 12.)

Moreover, much of Dr. Turk’s testimony is undisputed, including his testimony regarding real-world aspiration procedures and upsizing catheters prior to 2018. Thus, PO fails to show how any alleged bias undermines the testimony.

IV. CONCLUSION

The Board should deny PO’s Motion because PO has not shown that Exhibits 1003, 1022, or 1067 should be excluded.

IPR2025-01264

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Dated: August 27, 2026

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I hereby certify that, pursuant to 37 C.F.R. § 42.6(e), a true and correct copy of **PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO EXCLUDE** is being served electronically on August 27, 2026, to the e-mail addresses shown below:

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