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7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MERIDIAN INTERNATIONAL CO.,
11 LTD.,

12 Plaintiff,

13 v.

14 TOUGHBUILT INDUSTRIES, INC.,

15 Defendant.
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Case No. 8:24-cv-01840 DDP (JDEx)

**DECLARATION OF TONY KRIZ IN
SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**

ToughBuilt EX1037
ToughBuilt v. Meridian
IPR2025-01461

Case No. 8:24-cv-01840 DDP (JDEx)

1 I, Tony Kriz, declare and state as follows:

2 1. I am the President of Meridian International Co., Ltd. USA, the U.S. affiliate
3 of Plaintiff Meridian International Co., Ltd. ("Meridian") in the above-captioned action.
4 I make this declaration based upon my personal knowledge and am willing to testify to
5 the truth of the matter asserted herein if called to do so.

6 2. Since 1992, Meridian has successfully established itself as one of the leading
7 organizations serving the tool and hardware market, becoming the headquarters for an
8 effective group of manufacturers with the proven capabilities of serving global customers.

9 3. With over 250 employees in six continents, Meridian researches, designs,
10 develops, produces, and sells hand tools, mechanic tools, tool sets, garden tools, and
11 organizers, including modular storage systems. Meridian sells these products under
12 several different brand names, including Tactix®.

13 4. Meridian's modular storage system components include interlocking
14 toolboxes, organizers, and carts that provide users the ability to select whichever
15 components they need for the job, and allow them to configure the components to facilitate
16 safe storage and transportation to and from the job site.

17 5. Examples of Meridian's modular storage are available on the Tactix®
18 website (<https://www.tactixtools.com/>). One such example is the HD Modular System
19 Set. To follow is an image of that system taken from the Tactix® website
20 (<https://www.tactixtools.com/productinfo-1990.html>):



1 6. Meridian and ToughBuilt are direct competitors in the same market
2 competing for the same customers for modular storage system components. ToughBuilt's
3 Accused StackTech Products are sold in at least one Lowe's in the same aisle as modular
4 storage system products manufactured by Meridian.

5 7. The market for tools and hardware includes many manufacturers. Most of
6 these manufacturers – including Meridian – honorably participate in the market by
7 developing their own products, for which they may or may not seek patent protection.
8 Other manufacturers seek to take shortcuts by dispensing with research and development
9 costs and choosing instead to just copy the successful designs of others. These copycat
10 designs frequently lack the quality of the successful designs on which they are based.
11 Consumers can be confused by copycat designs and, if a copycat design feature does not
12 perform well, consumers may avoid purchasing any other products – including those of
13 an innovator – that incorporate a similar design feature. To avoid this problem, Meridian
14 diligently and systematically seeks protection of its intellectual property through the patent
15 system to protect its innovations. Meridian has not licensed its patents, thereby further
16 protecting its inventions by preventing even licensed versions of its design features from
17 entering the marketplace. By not licensing its patented technology, Meridian enjoys a
18 reputation of being a market leader in introducing and exclusively providing new
19 technology.

20 8. Meridian has been an innovator for over 30 years. In the United States
21 alone, Meridian is the owner of at least 71 issued patents and four actively pending patent
22 applications.

23 9. One of the patents protecting Meridian's innovations for modular storage
24 system technology is U.S. Patent No. 11,986,946 ("the '946 patent"), titled "Connection
25 Structure of Module, Storage Box and Storage Box Assembly." Meridian has been
26 working on developing the preferred design configuration of the inventions of the '946
27 patent to bring to market. In this present litigation, Meridian has accused ToughBuilt of
28 infringing the '946 patent by making, using, and/or selling certain storage products that

1 ToughBuilt markets as having “StackTech” modular technology.

2 10. Another patent protecting Meridian’s innovations for modular storage system
3 technology is U.S. Patent No. 11,192,689 (“the ’689 patent”), titled “Stacked Storage
4 Container Latch.” Meridian has been manufacturing modular storage system products
5 that practice the claimed inventions of the ’689 patent. Some of these products have been
6 manufactured for a third party (“Company A”) for ultimate sale to consumers by another
7 third party (“Company B”) under Company B’s brand name “Kobalt,” which is marketed
8 as having “CaseStack” modular technology. After Meridian began providing modular
9 storage system products for ultimate sale by Company B under the Kobalt brand,
10 ToughBuilt began providing products to Company B, also to be sold under the Kobalt
11 brand and also marketed as having CaseStack modular technology. Those modular
12 products manufactured by ToughBuilt are interconnectable with the modular CaseStack
13 technology manufactured by Meridian and are accused of infringing Meridian’s ’689
14 patent in this action. Meridian was unaware that ToughBuilt had established a business
15 relationship with Company B to sell the interconnectable modular products until after
16 those accused products already were on sale. If either Company A or Company B had
17 requested that Meridian manufacture the accused products, Meridian would have been in
18 a position to fulfill the request, which Meridian believes could be accomplished through
19 the existing contractual relationship with Company A.

20 11. On June 5, 2024, Meridian’s counsel sent a cease-and-desist letter (“Notice
21 Letter”) to ToughBuilt’s counsel informing them of ToughBuilt’s infringement of the ’946
22 patent. The Notice Letter included a copy of the ’946 patent and a claim chart. The Notice
23 Letter demanded that ToughBuilt cease and desist its infringing activities and informed
24 ToughBuilt that Meridian would pursue a preliminary injunction if ToughBuilt did not do
25 so. ToughBuilt did not respond by the June 21, 2024 deadline (or anytime thereafter).
26 ToughBuilt, at least through its website, continues to offer and sell the StackTech products
27 accused of infringing the ’946 patent.

28 12. ToughBuilt began marketing and selling its StackTech products before

1 Meridian had finalized and introduced products that incorporate the inventions claimed in
2 the '946 patent. By doing so, ToughBuilt altered the landscape of the marketplace by
3 preventing Meridian from being the first to introduce its technology. Thus, when Meridian
4 releases its patented technology, that technology will not be considered "new" by the
5 marketplace given ToughBuilt's prior sales and marketing of the products accused of
6 infringing the '946 patent. In this regard, Meridian's patented technology will be less
7 valuable than if it was considered "new" when released. And in addition to this loss of
8 value to the technology, Meridian lost the opportunity to reaffirm its reputation as an
9 innovator to the relevant market participants.

10 13. Meridian has never licensed either the '946 patent or the '689 patent. I am
11 unaware of any instance in which Meridian has licensed any of its patents. Meridian's
12 strategic decision to not license its patents is consistent with its history of choosing to
13 stand out as an industry innovator rather than to use its patents as license-fee-generation
14 tools. As it relates to the modular technology at issue in this litigation, Meridian identified
15 needs in the marketplace, devised novel and innovative solutions, invested in patent
16 protections for its inventions, and successfully obtained the '946 patent and the '689 patent
17 for its unique innovations to an excited marketplace, all of which furthered its position as
18 a market innovator. Meridian has already developed and sold products that practice the
19 '689 patent and is actively working to develop well-planned products that incorporate the
20 technology patented in the '946 patent and bring them to market. In this regard, Meridian
21 is in active negotiations to sell a new line of products to its third-party end-customer
22 retailer that incorporate the technology of the '946 patent. That is Meridian's way:
23 innovate, protect, and succeed by making sales of its own products. Meridian is unwilling
24 to license the '946 patent or the '689 patent to anyone, much less so for a direct competitor
25 like ToughBuilt.

26 I declare under penalty of perjury under the laws of the United States of America
27 that the foregoing is true and correct and if called to testify, I could and would competently
28 do so.

Executed on this 23 day of August, 2024, at Centennial, Colorado.

Anthony Kriz

Tony Kriz

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Electronic Service List for this case.

Executed on August 26, 2024.

EVERSHEDS SUTHERLAND (US) LLP

/s/ Scott A. Penner

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