

EXHIBIT 2010

Meridian International v. ToughBuilt

Declaration of John. D. Pratt, Ph.D., P.E.

(Docket No. 10-5)

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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.

Case No. 8:24-cv-01840-DDP-JDE

**DECLARATION OF JOHN D. PRATT,
PH.D., P.E. IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION**

1 I, John D. Pratt, declare and state as follows:

2 1. I have been retained as an expert witness by the law firm of Eversheds
3 Sutherland (US) LLP, counsel for Plaintiff Meridian International Co., Ltd. (“Meridian”),
4 to provide expert technical analysis and opinions in the above-captioned action. I make
5 this declaration based upon my personal knowledge and am willing to testify to the truth
6 of the matter asserted herein if called to do so.

7 2. I have a Bachelor’s degree and a Master’s degree in Mechanical Engineering
8 from California State University, Fullerton, and a Ph.D. in Civil Engineering with a field
9 of study in Structural Mechanics from the University of California, Irvine. My doctoral
10 dissertation focused almost exclusively on the behavior of fasteners. I am the named
11 inventor on 48 United States patents and many more counterpart foreign patents. Devices
12 made in accordance with my patents have been very successful, estimated to result in well
13 over \$400 million in sales. I also served as the senior engineering executive for three
14 medium-sized hardware companies from early 1979 through mid-2005. During my time
15 in the industry of connecting mechanical objects to each other, including fasteners, I
16 served as an active member of several fastener standards organizations. As shown in
17 greater detail in my CV (attached as Exhibit 1), my entire professional career has been
18 spent designing and overseeing the fabrication of mechanisms and components for
19 mechanical devices. I have provided expert testimony at deposition or trial in well over
20 50 matters, and Exhibit 2 provides a list of the cases in which I have provided testimony.
21 I am being compensated for my time in connection with this action at my standard
22 consulting rate, which is \$500 per hour. My compensation does not depend in any way
23 on my opinions or the outcome of this litigation.

24 3. I understand Meridian filed a Complaint against ToughBuilt Industries, Inc.
25 (“ToughBuilt”) alleging infringement of U.S. Patent No. 11,986,946 (“the ’946 patent”)
26 and U.S. Patent No. 11,192,689 (“the ’689 patent”) (together, the “Asserted Patents”). I
27 have reviewed the Asserted Patents in detail, including their prosecution file histories.
28 The ’946 patent is entitled “Connection Structure of Module, Storage Box and Storage

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1 Box Assembly” and the ’689 patent is entitled “Stacked Storage Container Latch.” Both
2 of the Asserted Patents are directed to mechanisms for connecting storage containers.

3 4. I am familiar with and understand the patent law concept of a “person of
4 ordinary skill in the art” (a “POSA”), which is a hypothetical person who is presumed to
5 have known the relevant art at the time of the invention. I am also familiar with and
6 understand how the concept of a POSA impacts the interpretation of patent claims and the
7 analysis of infringement. Based on my review of the patents, the file history, and my
8 knowledge of the industry, given the facts that I presently have at my disposal, it is my
9 opinion that a person of ordinary skill in the art for the Asserted Patents would have had
10 at least the equivalent of an undergraduate degree in mechanical engineering, industrial
11 engineering, or a closely related field, and two years of industry or academic experience
12 with connecting technologies or similar mechanisms, or an equivalent combination of
13 education and experience. Additional relevant industry experience may compensate for
14 lack of formal education or vice versa. Based on my background and experience in the
15 field of engineering related to connection mechanisms, I believe I qualify as at least a
16 “person of ordinary skill in the art,” relating to the inventions claimed in the three patents-
17 in-suit.

18 5. I have analyzed claim 1 of the ’946 patent and claim 1 of the ’689 patent. All
19 of the terms used in these claims are plain, ordinary, well-understood terms when used in
20 the field of engineering related to connection mechanisms, including particularly by a
21 POSA engaged in designing connection mechanisms for storage containers. Moreover, I
22 did not see anywhere in the prosecution histories where any special or exceptional
23 meaning was assigned to any of the terms in those claims. Therefore, my conclusion is
24 that no claim construction should be necessary to a proper infringement analysis for claim
25 1 of the ’946 patent or claim 1 of the ’689 patent.

26 6. I am familiar with and understand the patent law concept of “infringement,”
27 including the concepts of “direct infringement” and “indirect infringement.” I understand
28 that “direct infringement” occurs when an entity makes, uses, offers to sell, or sells a

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1 patented invention. I further understand that “indirect infringement” includes both
2 “contributory infringement” and “induced infringement.” I understand that “contributory
3 infringement” occurs when an accused infringer sells, or offers to sell, a component for
4 use in a patented system, and where the component has no substantial non-infringing uses.
5 Likewise, I understand that “induced infringement” occurs when an accused infringer
6 knowingly encourages others to infringe a patent.

7 7. For claim 1 of the '946 patent, I conducted a direct literal infringement
8 analysis of the ToughBuilt StackTech Tool Box (model number TB-B1-B-30) and the
9 ToughBuilt StackTech 11-Compartment Large Plastic Small Parts Organizer (model
10 number TB-B1-O-30), which I acquired when Lowe's Home Improvement shipped them
11 to my Laguna Niguel office. Attached as Exhibit 3 is a claim chart that I prepared as part
12 of my analysis showing that each of the limitations in claim 1 of the '946 patent is found
13 in elements of these ToughBuilt products. I understand that each of the products identified
14 in the Complaint as having the “StackTech” technology that allows modular connection
15 to other StackTech products functions in the same way as the products I analyzed with
16 respect to the mechanism that is the subject of Meridian's infringement allegations. As
17 such, each of those accused products could serve as the “storage box,” the “other storage
18 box,” or both in claim 1 of the '946 patent and be subject to the same infringement analysis
19 as set forth in Exhibit 3.

20 8. For my infringement analysis of the '689 patent, I analyzed a Kobalt
21 CaseStack Tool Bag (model number KB-CS-S20), which I acquired when Lowe's Home
22 Improvement shipped them to my Laguna Niguel office. I understand that “CaseStack”
23 refers to a line of Kobalt storage and accessory products that are designed to interconnect
24 and intended to be used with other Kobalt CaseStack products to provide a modular
25 storage system. I further understand that the Kobalt CaseStack Tool Bag (model number
26 KB-CS-S20) is manufactured and provided by ToughBuilt for sale under the Kobalt brand
27 name.

28 9. For claim 1 of the '689 patent, I conducted an infringement analysis of the

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CaseStack Tool Bag (model number KB-CS-S20) when used with another Kobalt CaseStack product, in this case the Kobalt CaseStack Plastic Tool Box (model number KCS-SSBOX1-03). I have conservatively performed my analysis below on the assumption that ToughBuilt is not the manufacturer of the Kobalt CaseStack Plastic Tool Box. Attached as Exhibit 4 is a claim chart that I prepared as part of my analysis showing that each of the limitations in claim 1 of the '689 patent is found in elements of the CaseStack Tool Bag (model number KB-CS-S20) when used with the Kobalt CaseStack Plastic Tool Box. Notably, the connective mechanisms of the CaseStack Tool Bag are especially adapted to connect to other CaseStack products and they have no substantial use other than to connect to other CaseStack products. Additionally, as the CaseStack Tool Bag is marketed and sold as a "CaseStack" modular product, when used as promoted this tool bag meets all the limitations of claim 1 of the '689 patent. I understand that both of the CaseStack tool bag products identified in the Complaint share the same "CaseStack" attaching mechanism and therefore would be subject to the same infringement analysis as set forth in Exhibit 4.

10. Based on the results of my analysis, I conclude that (1) the ToughBuilt StackTech Tool Box (model number TB-B1-B-30) used with the ToughBuilt StackTech 11-Compartment Large Plastic Small Parts Organizer (model number TB-B1-O-30) meets all of the limitations of claim 1 of the '946 patent; (2) the CaseStack Tool Bag (model number KB-CS-S20) used with the Kobalt CaseStack Plastic Tool Box (model number KCS-SSBOX1-03) meets all of the limitations of claim 1 of the '689 patent; and (3) the connective mechanism of the CaseStack Tool Bag (model number KB-CS-S20) has no substantial uses other than to connect to other CaseStack products.

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

4 Executed on this 23rd day of August, 2024, at Laguna Niguel, California.
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8 John D. Pratt, Ph.D., P.E.
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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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