

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TOUGHBUILT INDUSTRIES, INC.,
Petitioner,
v.
MERIDIAN INTERNATIONAL CO., LTD.,
Patent Owner.

Case IPR2025-01461
Patent 11,986,946

**PATENT OWNER'S OBJECTION TO EVIDENCE PRESENTED IN
PETITIONER'S REPLY**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Meridian International Co., Ltd. (“Meridian”) hereby submits its notice of objections under the Federal Rules of Evidence (“FRE”) and 37 C.F.R. §§ 42.62 and 42.64(b)(1) to Exhibits 1049, 1050, and 1051 filed by the Petitioner. Patent Owner's Objections are timely filed under 37 C.F.R. § 42.64(b)(1), within five business days of the August 12, 2026 filing of Petitioner's Reply and related exhibits. Patent Owner files these Objections to provide notice to Petitioner that Patent Owner may move to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

**I. DECLARATION OF DR. J. MICHAEL MCCARTHY IN
SUPPORT OF PETITIONER'S REPLY (Exhibit 1049)**

Exhibit 1049 is a declaration from Dr. J. Michael McCarthy. Petitioner has not, however, shown that Dr. McCarthy is qualified to testify as an expert in this matter. Specifically, during his deposition, Dr. McCarthy admitted that he does not have industry or academic experience with connecting technologies—his experience pertains only to articulated systems. (See **Exhibit 2014**, May 13, 2026 Deposition of J. Michael McCarthy, Ph.D., at 14:16-19.) Petitioner's expert has never developed a consumer product, nor has he ever designed a latching mechanism that was implemented in a product. (*Id.* at 16:4-10.) As a result, he has none of the industry experience required under the definition of a POSA proffered by either party. *Kyocera Senco Indus. Tools v. ITC*, 22 F.4th 1369-77 (Fed. Cir.

2022) (“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”). Therefore, Dr. McCarthy’s testimony is improper expert testimony under FRE 702, 703, and 37 C.F.R. § 42.65.

In addition, Petitioner relies on Dr. McCarthy to support its contentions that certain elements claimed in the ’946 Patent were present in the prior art, claims made for the first time in its reply brief that certain references are analogous art, and arguments about what a POSA would have understood at the time of the invention of the ’946 Patent, amongst other things. None of this is appropriate content for a reply brief. “Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a prima facie case of unpatentability.” Consolidated Trial Practice Guide at II(I). Indeed, “Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a prima facie case of unpatentability,” and a reply that does so may be struck in its entirety. *Id.* (citing *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369–70 (Fed. Cir. 2016) as “holding that the Board did not err in refusing the reply brief as improper under 37 C.F.R. § 42.23(b) because petitioner relied on an entirely new rationale to explain why one of skill in the art would have combined the references at issue.”).

**II. EXCERPTS FROM GEOMETRIC DESIGN OF LINKAGES
(Exhibit 1050)**

Patent Owner objects to this exhibit, which was produced with the Petitioner's Reply, but not cited in the Petition's Reply, as irrelevant, confusing, and of minimal probative value under FRE 401, 402, and 403. Were this exhibit relevant to the Petition or the Reply, it would have been referenced in the Petition or the Reply. As it was not cited, it is plainly not relevant and its probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, or wasting time.

**III. DEPOSITION TRANSCRIPT OF J. MICHAEL MCCARTHY
FROM IPR2025-01462 (Exhibit 1051)**

Exhibit 1051 is the transcript from the deposition of Dr. J. Michael McCarthy, taken in IPR2025-01462 – not in this proceeding. The patents at issue in the present IPR and IPR2025-01462 are not related to one another, and therefore Dr. McCarthy's testimony in that proceeding are not relevant to the present proceeding. Moreover, when counsel for Meridian inquired about whether, as a matter of party economy, the parties might agree to use portions of a deposition transcript from IPR2025-01462 in IPR2025-01461 to the extent that the subject matter was identical, counsel for Toughbuilt refused. Specifically, on May 5, 2026, counsel for Meridian stated, in relevant part:

A question for you: I believe Dr. McCarthy's CV to be identical in both the -01461 and -01461 matters. Although I can't guarantee that I won't have any questions about his CV on the 13th (-01461 deposition) in the event that something occurs to me between now and then, it seems like it would be more economical for the witness and the parties to agree that we may rely upon the portion of the May 7th transcript relating to his background and CV in both matters. Please let me know if that is agreeable to you.

(**Exhibit 2021**, May 5, 2026 Correspondence Regarding Depositions.) In response, counsel for Toughbuilt stated: "In regards to your question about relying on the -1462 deposition in the -1461 proceeding for questions related to Dr. McCarthy's CV, we do not agree to the submission of the -1461 deposition transcript in the -1462 proceeding." (*Id.*) There has been no subsequent agreement between the parties that would permit the filing of a deposition transcript from another proceeding in the present proceeding, and indeed, the standing party agreement is that such a filing is not permitted.

Counsel for Petitioner had every opportunity to obtain relevant testimony from its own expert for use in the present proceeding by asking appropriate questions during its redirect of Dr. McCarthy, but chose not to do so. They should not now be permitted to attempt to remediate this failure by introducing a transcript from another proceeding.

The use of the transcript from an entirely different proceeding in the present proceeding is both contrary to the parties' agreements, as well as problematic from

an evidentiary perspective under FRE 401, 402, and 403. This transcript, in the context of the present, separate proceeding that involves an unrelated patent is irrelevant, confusing, and of no probative value to the present IPR.

In addition, Patent Owner objects to this exhibit, which was produced with the Petitioner's Reply, but not cited in the Petition's Reply, as irrelevant, confusing, and of minimal probative value under FRE 401, 402, and 403. Were this exhibit relevant to the Petition or the Reply, it would have been referenced in the Petition or the Reply. As it was not cited, it is plainly not relevant and its probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, or wasting time.

IV. CONCLUSION

Patent Owner preserves its right to file motions to exclude these exhibits under 37 C.F.R. § 42.64(c) to the extent that Petitioner fails to correct the aforementioned defects with these exhibits.

Dated: August 19, 2026

Respectfully Submitted,

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Attorneys for Patent Owner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing ***Patent Owner's Objection to Evidence Presented in Petitioner's Reply*** was served via electronic mail, per agreement of the parties, in its entirety, on Petitioner's attorneys of record in IPR2025-01461 on the date indicated below.

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Dated: August 19, 2026

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