UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SKECHERS U.S.A., INC.,
"Petitioner"

v.

FAST IP, LLC,
"Patent Owner"

Case No. IPR2026-00343
U.S. Patent No. 11,871,811

PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO STRIKE

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I. INTRODUCTION

Petitioner's August 4, 2026 exhibits make no changes whatsoever to any prior art translations nor to any expert opinions compared to the originally-filed exhibits. The sole change, addressing perjury statements, is entirely of a clerical nature and therefore does not prejudice either party. The Board has regularly allowed correction of perjury statements in both pre- and post-institution phases. Even if the Board were to exclude the August 4 exhibits on purely procedural grounds, there is good cause to grant Petitioner the opportunity to resubmit the materials.

II. BACKGROUND

As originally-filed, EX1006 and EX1017 were certifications for human translations of non-English patents, which each stated:

> I, [NAME], hereby certify that the attached [Japanese/Korean] to English translation is, to the best of my knowledge, a true and accurate translation of [Foreign Patent]. The translated text reflects the content, meaning and style of the original text and constitutes a true and accurate translation of the original document.

These standard certifications were provided by a reputable translation service. *See* Sun IP, Global IP Translation Service, https://sunip.com/translations/ (accessed August 25, 2026) (noting quality assurance and ISO 9001:2015 certified processes). However, the July 30 Patent Owner Preliminary Response objected that the certifications did not include formal perjury statements. Paper 14 (POPR) at 10-12. To address this purely clerical oversight, on August 4, Petitioner submitted updated

translation certificates with formal perjury statements. EX1054-EX1055.

When submitting the updated certificates, Petitioner also filed a supplemental expert declaration (EX1053) stating that the prior expressed opinions were made in view of the "penalty of perjury under the laws of the United States of America." This was not required and was merely submitted in an abundance of caution, as the originally-filed expert declaration already included a declaration under 37 C.F.R. § 1.68. *See* EX1003 at 20 ("[T]hese statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.").

III. ARGUMENT

The Board has broad discretion to permit pre-institution correction of clerical errors in the petition and accompanying exhibits. 37 C.F.R. § 42.104(c). The Board has also recognized that "the omission of the required language from either 37 C.F.R. § 1.68 or 28 U.S.C. § 1746, declaring that the statements therein are true and that the declarant is subject to the penalties of perjury," is a clerical error correctable under § 42.104(c) provided that, as here, the remainder of the declaration or exhibit is identical to the original. *Microsoft Corp. v. Enfish, LLC*, IPR2013-00559, Paper 13 at 4 (P.T.A.B. Jan. 23, 2014); *Fine Agrochemicals Ltd. V. Stoller Enterprises, Inc.*, IPR2020-00683, Paper 9 at 4 (P.T.A.B. Jun. 17, 2020). The substantive identity with the originally-filed exhibits ensures that neither party will be prejudiced by allowing

the correction. *Microsoft*, Paper 13 at 4 (finding Patent Owner "not unduly burdened or prejudiced by the oversight" where "replacement declarations … make no substantive changes"); *Fine Agrochemicals*, Paper 9 at 5. As such, the Board has routinely permitted submission of updated declaration and certification statements under essentially the same circumstances as those presented here. *Id.*; *Lombard Medical Techs. PLC v. Medtronic Vascular, Inc.*, IPR2013-00269, Paper 10 at 2-3 (P.T.A.B. Oct. 1, 2013); *see also Google LLC v. CyWee Group Ltd.*, IPR2018-01257, Paper 69 at 4 (P.T.A.B. Sep. 6, 2019) (finding it "in the interests of justice" to allow post-institution curing of a declaration's missing perjury statement).

Patent Owner not only opposes the correction of these minor clerical issues, but actually suggests they warrant the most drastic remedy: denial of institution. Paper 14 (POPR) at 12. Yet, the sole authority cited by Patent Owner in support of this extreme request, *Shenzhen Aurora Tech Co., Ltd. V. Purtco, Inc.* (IPR2020-00670, Paper10), is inapposite. There, the exhibits were incomplete ***machine*** translations of foreign prior art publications that included ***no accuracy certifications at all***, and also failed to translate key "publication date and other date information." *Shenzhen Aurora Tech.*, IPR2020-00670, Paper 10 at 5-6 (P.T.A.B. Aug. 27, 2020). This is far from the mere clerical error at issue here, where the substance of the translation is not in dispute. Patent Owner further attempts to extend the holding of *Temporal Power*, denying institution due to a Petitioner's failure to prove materials

qualify as prior art. Paper 31 (PO Motion) at 4. This misguided suggestion fails to recognize that the updated perjury statements are not required to establish that the corresponding translated ***patents*** are prior art. *See*, *e.g.*, *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29 at 17-20 (P.T.A.B. Dec. 20, 2019) (finding "indicia on the face of a reference" of date and origin sufficient to show prior art status). Indeed, Petitioner is unaware of any authority, and Patent Owner has cited none, where institution has been denied solely due to an incomplete perjury statement. On the contrary, as discussed above, the weight of authority establishes that a missing perjury statement is a clerical error that is correctable pre-institution. That is precisely what has occurred here, and the Board should deny Patent Owner's motion to strike and should expressly permit Petitioner's August 4 submission.

To the extent the Board believes a procedural issue warrants exclusion of Petitioner's August 4 exhibits, Petitioner respectfully requests leave to move for resubmission. Good cause exists for this request, as updating the perjury statements will accurately reflect the declarants' existing understanding of the consequences of perjury, and will allow the Board to reach the compelling merits of the petition demonstrating invalidity of the challenged patent. Moreover, as noted above, there would be no prejudice to either party in permitting this submission, as the sole change pertains to the perjury statements, and no changes would be made to the translations themselves nor to any opinions expressed by the expert.

Dated: August 27, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. section 42.6, that on August 27, 2026, a complete copy of the foregoing document, **PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO STRIKE,** was served upon the following, by ELECTRONIC MAIL:

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