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Hyper Ice, Inc.

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

THERABODY, INC.,

Plaintiff,

v.

HYPER ICE, INC.,

Defendant.

Case No. 8:26-cv-00003

HYPERICE'S EXCHANGE OF
PRELIMINARY CLAIM
CONSTRUCTIONS AND
EXTRINSIC EVIDENCE

Judge: Hon. John W. Holcomb

I. INTRODUCTION

Pursuant to the Patent L.R. 4-2 and the Court's Case Management Order, Defendant Hyper Ice, Inc. ("Hyperice") hereby provides its Preliminary Claim Constructions and Extrinsic Evidence.

II. PRELIMINARY STATEMENT AND RESERVATION OF RIGHTS

Hyperice identifies the following proposed preliminary claim constructions based on the asserted claims in Plaintiff Therabody, Inc.'s ("Therabody") Preliminary Infringement Contentions, its present understanding of the Preliminary Infringement Contentions, and its present understanding of the parties' perceived scope of the U.S.

1 Patent No. 12,396,919 (“the ’919 Patent”) and its claims. Hyperice reserves the right
2 to modify, amend, add to, or delete from its list, preliminary constructions, and/or
3 extrinsic evidence in support thereof based on, without limitation, the preliminary
4 claim constructions or supporting evidence identified by such parties. Hyperice
5 reserves the right to supplement or otherwise amend its list of terms, preliminary
6 constructions, and/or supporting evidence should Therabody be granted leave to
7 amend its Preliminary Infringement Contentions or assert additional claims against
8 Hyperice. Hyperice also reserves the right to rely upon any evidence identified by
9 Therabody. The identification of any term and provision of a preliminary claim
10 construction in the following list is not an admission or indication that such term has
11 a special or uncommon meaning. Hyperice reserves the right to refine this list and
12 provide additional preliminary constructions, and supporting evidence, to any portion
13 of any identified term or element, additional language surrounding any identified term
14 or element, or any term or element similar to an identified term or element found in
15 any additional claim limitations within any of the asserted claims. To the extent the
16 claim terms or elements set forth herein include particular terms or elements
17 appropriate for separate constructions, such terms or elements are deemed part of this
18 disclosed list. Similarly, to the extent additional claim language provides appropriate
19 context to construe terms or elements listed herein, such additional language is deemed
20 part of this disclosure.

21 **III. PRELIMINARY CLAIM CONSTRUCTIONS AND SUPPORTING**
22 **EVIDENCE**

23 Subject to the foregoing, Hyperice identifies the following preliminary claim
24 constructions and supporting evidence:
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Proposing Party	Term	Hyperice's Proposed Construction	Evidence
Hyperice and Therabody ¹	"transverse" U.S. Patent No. 12,396,919, claim 1.	Plain and ordinary meaning, which is: "acting, lying, or being across" or "non-parallel"	<u>Intrinsic Evidence:</u> '919 Patent: FIGS. 1 and 19; claim 1 '919 Patent Prosecution History: • Preliminary Amendment dated 10/7/2024 • Office Action dated 11/7/2024 • Examiner Interview Summary for Interview conducted on 1/27/2025 and Applicant's Agenda • Amendment dated 2/4/2025 • Office Action dated 2/14/2025 • Amendment dated 4/28/2025 <u>Prosecution History in U.S. App. No. 19/295,322:</u> • Office Action dated 10/21/2025 • Amendment dated 1/20/2026 • Examiner Interview Summary for Interview conducted on 3/2/2026 • Office Action dated 3/10/2026 • Examiner Interview

¹ Hyperice proposes that "transverse" be construed while Therabody proposes that "traverse to" be construed. At this time, there is no known material difference between these terms or the resulting constructions.

			Summary for Interview conducted on 5/6/2026 and Applicant's Agenda <u>Extrinsic Evidence:</u> Merriam-Webster Dictionary Definition of "transverse" Merriam-Webster Dictionary Definition of "obtuse" Joint Claim Construction Brief, Case No. 1:21-cv-00247-CFC, Dkt. 27 (D. Del. Nov. 22, 2021) Plaintiff Therabody, Inc.'s Opening Claim Construction Brief, Case No. 1:21-cv-07803-PGG-RWL, Dkt. 107 (S.D.N.Y. Dec. 23, 2022)
Hyperice	"offset" U.S. Patent No. 12,396,919, claim 1.	Plain and ordinary meaning, which is: "a distance or positional displacement between the centerlines or centerpoints of two components"	<u>Intrinsic Evidence:</u> '919 Patent: 14:56-15-10; Figures 22A and 22B; claim 1 <u>'919 Patent Prosecution History:</u> • Preliminary Amendment dated 10/7/2024 • Office Action dated 11/7/2024 • Examiner Interview Agenda conducted on 1/27/2025 and Applicant's Agenda

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			• Amendment dated 2/4/2025 • Office Action dated 2/14/2025 • Amendment dated 4/28/2025 <u>Prosecution History in U.S. App. No. 19/295,322:</u> • Office Action dated 10/21/2025 • Amendment dated 1/20/2026 • Examiner Interview Summary for Interview conducted on 3/2/2026 • Office Action dated 3/10/2026 • Examiner Interview Summary for Interview conducted on 5/6/2026 and Applicant's Agenda <u>Extrinsic Evidence:</u> Collins English Dictionary Definition of "offset"
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DATED: August 31, 2026

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

By: /s/Benjamin A. Herbert
Benjamin A. Herbert

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CERTIFICATE OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH LLP, 525 "B" Street, Suite 2200, San Diego, California 92101. On August 31, 2026, I served the within documents:

HYPER ICE, INC.'S EXCHANGE OF PRELIMINARY CLAIM CONSTRUCTIONS AND EXTRINSIC EVIDENCE

- ☒ **BY E-MAIL OR ELECTRONIC SERVICE** based upon court order or an agreement of the parties to accept service by electronic transmission, by electronically mailing the document(s) listed above to the e-mail address(es) set forth below, or as stated on the attached service list and/or by electronically notifying the parties set forth below that the document(s) listed above can be located and downloaded from the hyperlink provided. No error was received, within a reasonable time after the transmission, nor any electronic message or other indication that the transmission was unsuccessful.

Kyle B. Fleming
Mark C. Johnson
Sarah Boone

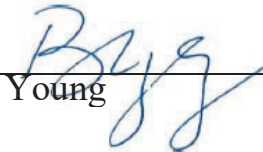
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- ☒ *(Federal)* I declare under penalty of perjury under the laws of the United States that foregoing is true and correct.

Executed on August 31, 2026, at San Diego, California.


Barb Young