

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **September 21, 2023**

TOUGHBUILT INDUSTRIES, INC.
(Exact name of registrant as specified in its charter)

<u>Nevada</u> (State or other jurisdiction of incorporation)	<u>001-38739</u> (Commission File Number)	<u>46-0820877</u> (IRS Employer Identification No.)
<u>8669 Research Drive, Irvine, CA</u> (Address of principal executive offices)		<u>92618</u> (Zip Code)

Registrant's telephone number, including area code: **(949) 528-3100**

None
(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2 below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class:	Trading Symbol(s)	Name of each exchange on which registered:
Common stock	TBLT	The Nasdaq Stock Exchange, LLC
Series A Warrants	TBLTW	The Nasdaq Stock Exchange, LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

☒ Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 3.03. Material Modification to Rights of Security Holders.

The disclosure set forth in Item 5.03 below is hereby incorporated herein by reference.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Series H Preferred Stock

On September 21, 2023, the board of directors (the “**Board**”) of ToughBuilt Industries, Inc. a Nevada corporation (the “**Company**”), declared a dividend of one one-thousandth (0.001) of a share of Series H Preferred Stock, par value \$0.0001 per share (“**Series H Preferred Stock**”), for each outstanding share of the Company’s common stock, par value \$0.0001 per share (“**Common Stock**”) to stockholders of record at 5:00 p.m. Eastern Time on October 2, 2023 (the “**Record Date**”).

On September 21, 2023, the Company filed a certificate of designation (the “**Certificate of Designation**”) with the Nevada Secretary of State therein establishing the Series H Preferred Stock and describing the rights, obligations and privileges of the Series H Preferred Stock. The following description of the Series H Preferred Stock does not purport to be complete and is qualified in its entirety by reference to the Certificate of Designation, which is filed as Exhibit 3.1 to this Current Report and is incorporated herein by reference.

General. The Series H Preferred Stock consists of 50,000 shares. Each share of Series H Preferred Stock has a par value of \$0.0001 per share. Shares of Series H Preferred Stock will be uncertificated and represented in book-entry form. The Series H Preferred Stock is not convertible into, or exchangeable for, shares of any other class or series of stock or other securities of the Company. The Series H Preferred Stock has no stated maturity and is not subject to any sinking fund.

Dividend Rights. The holders of Series H Preferred Stock, as such, will not be entitled to receive dividends of any kind.

Voting Rights.

Except as otherwise provided by the Company’s Amended and Restated Articles of Incorporation or bylaws or required by law, the holders of shares of Series H Preferred Stock shall have the following voting rights:

Each share of Series H Preferred Stock will entitle the holder thereof to 1,000,000 votes per share (and, for the avoidance of doubt, each fraction of a share of Series H Preferred Stock will have a ratable number of votes). Thus, each one-thousandth of a share of Series H Preferred Stock would entitle the holder thereof to 1,000 votes. The outstanding shares of Series H Preferred Stock will vote together with the outstanding shares of Common Stock of the Company as a single class exclusively with respect to (i) any proposal to adopt an amendment to the Company’s Amended and Restated Articles of Incorporation, as amended (the “**Articles of Incorporation**”), to reclassify the outstanding shares of Common Stock into a smaller number of shares of Common Stock at a ratio specified in or determined in accordance with the terms of such amendment (the “**Reverse Stock Split**”) and (ii) any proposal to adjourn any meeting of shareholders called for the purpose of voting on Reverse Stock Split (the “**Adjournment Proposal**”). The Series H Preferred Stock will not be entitled to vote on any other matter, except to the extent required under the Nevada Revised Statutes.

Unless otherwise provided on any applicable proxy or ballot with respect to the voting on the Reverse Stock Split or the Adjournment Proposal, the vote of each share of Series H Preferred Stock (or fraction thereof) entitled to vote on the Reverse Stock Split, the Adjournment Proposal or any other matter brought before any meeting of stockholders held to vote on the Reverse Stock Split, the Adjournment Proposal shall be cast in the same manner as the vote, if any, of the share of Common Stock (or fraction thereof) in respect of which such share of Series H Preferred Stock (or fraction thereof) was issued as a dividend is cast on the Reverse Stock Split, the Adjournment Proposal or such other matter, as applicable, and the proxy or ballot with respect to shares of Common Stock held by any holder on whose behalf such proxy or ballot is submitted will be deemed to include all shares of Series H Preferred Stock (or fraction thereof) held by such holder. Notwithstanding the foregoing, and for the avoidance of doubt, each share of Series H Preferred Stock (or fraction thereof) redeemed pursuant to the Initial Redemption (as defined below) shall have no voting power with respect to, and the holder of each share of Series H Preferred Stock (or fraction thereof) redeemed pursuant to the Initial Redemption shall have no voting power with respect to any such share of Series H Preferred Stock (or fraction thereof) on, the Reverse Stock Split or the Adjournment Proposal or any other matter brought before any meeting of shareholders held to vote on the Reverse Stock Split. Holders of Series H Preferred Stock will not receive a separate ballot or proxy to cast votes with respect to the Series H Preferred Stock on the Reverse Stock Split, the Adjournment Proposal or any other matter brought before any meeting of stockholders held to vote on the Reverse Stock Split.

Transferability. No shares of Series H Preferred Stock may be transferred by the holder thereof except in connection with a transfer by such holder of any shares of Common Stock held by such holder, in which case a number of one one-thousandths (1/1,000) of a share of Series H Preferred Stock equal to the number of shares of Common Stock to be transferred by such holder will be automatically transferred to the transferee of such shares of Common Stock.

Redemption. All shares of Series H Preferred Stock that are not present in person or by proxy at any meeting of stockholders held to vote on the Reverse Stock Split and the Adjournment Proposal as of immediately prior to the opening of the polls at such meeting (the “**Initial Redemption Time**”) will automatically be redeemed in whole, but not in part, by the Company at the Initial Redemption Time without further action on the part of the Company or the holder of shares of Series H Preferred Stock (the “**Initial Redemption**”).

Any outstanding shares of Series H Preferred Stock that have not been redeemed pursuant to an Initial Redemption shall be redeemed in whole, but not in part, (i) if such redemption is ordered by the Board in its sole discretion, automatically and effective on such time and date specified by the Board in its sole discretion or (ii) automatically upon the approval by the Company’s shareholders of the Reverse Stock Split at any meeting of the shareholders held for the purpose of voting on such proposal (the “**Subsequent Redemption**” and, together with the Initial Redemption, the “**Redemptions**” and each a “**Redemption**”).

Each share of Series H Preferred Stock redeemed in any Redemption shall be redeemed in consideration for the right to receive an amount equal to One Cent (\$0.01) in cash for each hundred (100) whole shares of Series H Preferred Stock that are “beneficially owned” by the “beneficial owner” (as such terms are defined below) thereof as of the applicable Redemption Time and redeemed pursuant to such Redemption, payable upon receipt by the Company of a written request submitted by the applicable holder to the corporate secretary of the Company (each a “**Redemption Payment Request**”) following the applicable Redemption Time. Such Redemption Payment Request shall (i) be in a form reasonably acceptable to the Company, (ii) set forth in reasonable detail the number of shares of Series H Preferred Stock beneficially owned by the holder at the applicable Redemption Time and include evidence reasonably satisfactory to the Company regarding the same, and (iii) set forth a calculation specifying the amount in cash owed to such Holder by the Company with respect to the shares of Series H Preferred Stock that were redeemed at the applicable Redemption Time. For the avoidance of doubt, the redemption consideration in respect of the shares of Series H Preferred Stock (or fractions thereof) redeemed in any Redemption: (x) shall entitle the former beneficial owners of less than hundred (100) whole shares of Series H Preferred Stock redeemed in any Redemption to no cash payment in respect thereof and (y) shall, in the case of a former beneficial owner of a number of shares of Series H Preferred Stock (or fractions thereof) redeemed pursuant to any Redemption that is not equal to a whole number that is a multiple of one hundred (100), entitle such beneficial owner to the same cash payment, if any, in respect of such Redemption as would have been payable in such Redemption to such beneficial owner if the number of shares (or fractions thereof) beneficially owned by such beneficial owner and redeemed pursuant to such Redemption were rounded down to the nearest whole number that is a multiple of one hundred (100) (such, that for example, the former beneficial owner of one hundred and fifteen (115) shares of Series H Preferred Stock redeemed pursuant to any Redemption shall be entitled to receive the same cash payment in respect of such Redemption as would have been payable to the former beneficial owner of one hundred (100) shares of Series H Preferred Stock redeemed pursuant to such Redemption). As used herein, “**Person**” shall mean any individual, firm, corporation, partnership, limited liability company, trust, or other entity, and shall include any successor (by merger or otherwise) to such entity. As used herein, a Person shall be deemed the “**beneficial owner**” of, and shall be deemed to “**beneficially own**,” any securities which such Person is deemed to beneficially own, directly or indirectly, within the meaning of Rule 13d-3 of the General Rules and Regulations under the Securities Exchange Act of 1934, as amended.

From and after the time at which any shares of Series H Preferred Stock are called for redemption (whether automatically or otherwise), such shares of Series H Preferred Stock shall cease to be outstanding, and the only right of the former holders of such shares of Series H Preferred Stock, as such, will be to receive the applicable redemption price, if any. The shares of Series H Preferred Stock redeemed by the shall not be reissued as shares of Series H Preferred Stock and the Company shall take all action necessary to restore such shares to the status of authorized but unissued shares of Preferred Stock. Notwithstanding anything to the contrary herein or otherwise, and for the avoidance of doubt, any shares of Series H Preferred Stock (or fraction thereof) that have been redeemed pursuant to an Initial Redemption shall not be deemed to be outstanding for the purpose of voting or determining the number of votes entitled to vote on any matter submitted to shareholders (including the Reverse Stock Split or any other matter brought before any meeting of shareholders held to vote on the Reverse Stock Split) from and after the time of the Initial Redemption. Notice of any meeting of shareholders for the submission to shareholders of any proposal to approve the Reverse Stock Split shall constitute notice of a redemption of shares of Series H Preferred Stock pursuant to an Initial Redemption and result in the automatic redemption of the applicable shares of Series H Preferred Stock (and/or fractions thereof) pursuant to the Initial Redemption at the Initial Redemption Time. Notice by the Company of the shareholders’ approval of the Reverse Stock Split, by filing of any press release or through a Current Report on Form 8-K with the Securities and Exchange Commission, shall constitute a notice of a redemption of shares of Series H Preferred Stock pursuant to a Subsequent Redemption and result in the automatic redemption of the applicable shares of Series H Preferred Stock (and/or fractions thereof) pursuant to the Subsequent Redemption at the Subsequent Redemption Time. In connection with the filing of the Certificate of Designation, the Company has set apart funds for payment for the redemption of all shares of Series H Preferred Stock pursuant to the Redemptions and shall continue to keep such funds apart for such payment through the payment of the purchase price for the redemption of all such shares.

Liquidation Preference. The Series H Preferred Stock will rank senior to the Common Stock as to any distribution of assets upon a liquidation, dissolution or winding up of the Company, whether voluntarily or involuntarily (a “**Dissolution**”). Upon any Dissolution, each holder of outstanding shares of Series H Preferred Stock will be entitled to be paid out of the assets of the Company available for distribution to stockholders, prior and in preference to any distribution to the holders of Common Stock, an amount in cash equal to \$0.01 per outstanding share of Series H Preferred Stock.

Fractional Shares. The Series H Preferred Stock may be issued in whole shares or in any fraction of a share that is one one-thousandth (1/1,000th) of a share or any integral multiple of such fraction, which fractions shall entitle the holder, in proportion to such holder’s fractional shares, to exercise voting rights, participate in distributions upon a Dissolution and have the benefit of any other rights of holders of Series H Preferred Stock.

Item 7.01. Regulation FD Disclosure.

On September 21, 2023, the Company issued a press release announcing the Series H Preferred Stock dividend. copy of that press release is furnished as Exhibit 99.1 to this Current Report and incorporated herein by reference.

Exhibit 99.1, which is incorporated into this Item 7.01, is being furnished pursuant to Item 7.01 and shall not be deemed “filed” for the purposes of Section 18 of the Exchange Act, or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Exchange Act of 1934, as amended, or the Securities Act of 1933, as amended, except as shall be expressly set forth by reference in such a filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
3.1	Certificater of Designation of the Series H Preferred Stock of ToughBuilt Industries, Inc., dated September 21, 2023 (incorporated by reference to Exhibit 3.1 to the Company’s Registration Statement on Form 8-A, filed with the Securities and Exchange Commission on September 21, 2023)
99.1	Press Release dated September 21, 2023
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

TOUGHBUILT INDUSTRIES, INC.

Date: September 21, 2023

By: /s/ Martin Galstyan

Name: Martin Galstyan

Title: Chief Financial Officer

**ToughBuilt Industries Announces Distribution of
Series H Preferred Stock to Holders of its Common Stock**

IRVINE, CA, September 21, 2023 - ToughBuilt Industries Inc. (NASDAQ: TBLT; TBLTW) (“ToughBuilt” or the “Company”) today announced that its Board of Directors declared a dividend of one one-thousandth of a share of newly-designated Series H Preferred Stock, par value \$0.0001 per share, for each outstanding share of ToughBuilt common stock held of record as of 5:00 p.m. Eastern Time on October 2, 2023. The shares of Series H Preferred Stock will be distributed to such recipients at 5:00 p.m. Eastern Time on October 17, 2023. The outstanding shares of Series H Preferred Stock will vote together with the outstanding shares of the Company’s common stock, as a single class, exclusively with respect to a proposal giving the Board of Directors the authority, as it determines appropriate, to implement a reverse stock split, as well as any proposal to adjourn any meeting of stockholders called for the purpose of voting on the reverse stock split, and will not be entitled to vote on any other matter, except to the extent required under the Nevada Revised Statutes. Subject to certain limitations, each outstanding share of Series H Preferred Stock will have 1,000,000 votes per share (or 1,000 votes per one one-thousandth (0.001) of a share of Series H Preferred Stock).

All shares of Series H Preferred Stock that are not present in person or by proxy at the meeting of stockholders held to vote on the above described proposals as of immediately prior to the opening of the polls at such meeting will automatically be redeemed by the Company. Any outstanding shares of Series H Preferred Stock that have not been so redeemed will be redeemed if such redemption is ordered by ToughBuilt’s Board of Directors or automatically upon the approval by ToughBuilt’s stockholders of the above described proposals.

The Series H Preferred Stock will be uncertificated, and no shares of Series H Preferred Stock will be transferable by any holder thereof except in connection with a transfer by such holder of any shares of the Company’s common stock held by such holder. In that case, a number of one one-thousandths of a share of Series H Preferred Stock equal to the number of shares of ToughBuilt’s common stock to be transferred by such holder would be transferred to the transferee of such shares of common stock.

Further details regarding the Series H Preferred Stock will be contained in a report on Form 8-K to be filed by ToughBuilt with the Securities and Exchange Commission.

ABOUT TOUGHBUILT INDUSTRIES, INC.

ToughBuilt is an advanced product design, manufacturer, and distributor with emphasis on innovative products. Currently focused on tools and other accessories for the professional and do-it-yourself construction industries. We market and distribute various home improvement and construction product lines for both the do-it-yourself and professional markets under the TOUGHBUILT brand name, within the global multibillion dollar per year tool market industry. All our products are designed by our in-house design team. Since launching product sales in 2013, we have experienced significant annual sales growth. Our current product line includes three major categories, with several additional categories in various stages of development, consisting of Soft Goods & Kneepads and Sawhorses & Work Products. Our mission is to provide products to the building and home improvement communities that are innovative, of superior quality derived in part from enlightened creativity for our end users while enhancing performance, improving well-being and building high brand loyalty. Additional information about the Company is available at: <https://www.toughbuilt.com/>.

FORWARD-LOOKING STATEMENTS

This press release contains “forward-looking statements.” Such statements may be preceded by the words “intends,” “may,” “will,” “plans,” “expects,” “anticipates,” “projects,” “predicts,” “estimates,” “aims,” “believes,” “hopes,” “potential” or similar words. Forward-looking statements are not guarantees of future performance, are based on certain assumptions and are subject to various known and unknown risks and uncertainties, many of which are beyond the Company’s control, and cannot be predicted or quantified and consequently, actual results may differ materially from those expressed or implied by such forward-looking statements. Such risks and uncertainties include, without limitation, risks and uncertainties associated with (i) the impact of the worldwide COVID-19 pandemic and government actions, on our business, (ii) supply chain disruptions, (iii) inflationary and interest rate concerns and the impact on consumers, (iv) cybersecurity breaches and threats, (v) market acceptance of our existing and new products, (vi) delays in bringing products to key markets; (vii) an inability to secure regulatory approvals for the ability to sell our products in certain markets, (viii) intense competition in our industry from much larger, multinational companies, (ix) product liability claims, (x) product malfunctions, (xi) our limited manufacturing capabilities and reliance on subcontractors for assistance, (xii) our efforts to successfully obtain and maintain intellectual property protection covering our products or defend ourselves from third parties’ infringement claims, (xiii) our reliance on a single supplier for certain product components, (xiv) the fact that we will need to raise additional capital to meet our business requirements in the future and that such capital raising may be costly, dilutive or difficult to obtain and (xv) the fact that we conduct business in multiple foreign jurisdictions, exposing us to tariffs, foreign currency exchange rate fluctuations, logistical and communications challenges, burdens and costs of compliance with foreign laws and political and economic instability in each jurisdiction and (xvi) changes in e-commerce marketplaces. More detailed information about the Company and the risk factors that may affect the realization of forward-looking statements is set forth in the Company’s filings with the Securities and Exchange Commission (SEC), including our Annual Report on Form 10-K and our subsequent Quarterly Reports on Form 10-Q. Investors and security holders are urged to read these documents free of charge on the SEC’s web site at <http://www.sec.gov>. The Company encourages you to consider all of these risks, uncertainties and other factors carefully in evaluating the forward-looking statements contained in this press release. As a result of these matters, changes in fact, assumptions not being realized or other circumstances, the Company’s actual results may differ materially from the expected results discussed in the forward-looking statements contained in this press release. The forward-looking statements made in this press release are made only as of the date of this press release, and the Company undertakes no obligation to update them to reflect subsequent events or circumstances.

Investor Relations Contact:

KCSA Strategic Communications

David Hanover

toughbuilt@kcsa.com

Source: ToughBuilt Industries, Inc
