

IPR2025-01046 (Patent 8,166,892)  
IPR2025-01047 (Patent 8,132,515)  
IPR2025-01048 (Patent 8,132,515)

Filed September 26, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FREIGHTCAR AMERICA, INC.,

Petitioner,

v.

NATIONAL STEEL CAR LIMITED,

Patent Owner

IPR2025-01046 (Patent 8,166,892)  
IPR2025-01047 (Patent 8,132,515)  
IPR2025-01048 (Patent 8,132,515)

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PATENT OWNER'S REPLY IN SUPPORT OF ITS REQUESTS FOR  
DISCRETIONARY DENIAL OF INSTITUTION

On behalf of National Steel Car Limited  
By: Safet Metjahic (Reg. No. 58,677)  
Robert Keeler (Reg. No. 70,546)  
ICE MILLER LLP  
1500 Broadway, Suite 2900  
New York, NY 10036  
Tel: (212) 824-4940  
Fax: (212) 824-4982  
Email: [IM-NSClit@icemiller.com](mailto:IM-NSClit@icemiller.com)

Patent Owner National Steel Car, Ltd. respectfully submits this reply brief in support of its Requests for Discretionary Denial. IPR2025-01046 Paper 8, the “’046 Request”; IPR2025-01047 Paper 8, the “’047 Request”; IPR2025-01048 Paper 8, the “’048 Request”; collectively, the “Requests”. The arguments presented in the Requests are grounded in a thorough and well-supported analysis. Petitioner’s Oppositions to the Requests rely heavily on mischaracterizations and unsupported assertions. IPR2025-01046 Paper 12, the “’046 Opposition”; IPR2025-01047 Paper 11, the “’047 Opposition”; IPR2025-01048 Paper 12, the “’048 Opposition”; collectively, the “Oppositions”.

The facts surrounding Petitioner’s willful infringement and the strong, settled expectations regarding the ’892 Patent and ’515 Patent, now in their thirteenth year since issuance, strongly favor denial. Petitioner introduces speculative and misleading claims regarding domestic economic and national security interests, seemingly in an effort to improperly influence the Director’s discretion. These arguments lack evidentiary support and do not overcome the clear deficiencies of the Petitions under the *Fintiv* factors and 35 U.S.C. §§ 325(d), 312(a)(3), as detailed in the Requests (’046 Request at 15-70; ’047 Request at 15-73; ’048 Request at 15-68) and Patent Owner Preliminary Responses. IPR2025-01046 Paper 10; IPR2025-01047 Paper 12; IPR2025-01048 Paper 11; collectively, the “POPRs”.

Petitioner’s attempt to portray itself as a “domestic producer[] of freight cars” is at best misleading. ’046 Opposition at 19; ’047 Opposition at 24; ’048 Opposition at 7. Despite this characterization, Petitioner’s U.S. manufacturing has long since left the United States. It ceased operations in Johnstown, Pennsylvania in 2008, followed by closures in Danville, Illinois (2017), Roanoke, Virginia (2019), and Shoals, Alabama (2020)—the last of its U.S. facilities—even after receiving a \$10 million Paycheck Protection Program loan intended to preserve American jobs. Ex. 2036.

Today, Petitioner manufactures exclusively in Castaños, Mexico, over 160 miles from the U.S. border. The rail cars at issue in the District Court Litigation were built there. Ex. 2037; Ex. 2004 at ¶ 41; Ex. 2005 at ¶¶ 11, 41. Notably, Petitioner omits any mention of its Mexican operations or the Spanish-language engineering and financial documents it produced in litigation—facts that directly undermine its claims of domestic economic and national security interests.

In contrast, Patent Owner developed the technology underlying the ’892 Patent and the ’515 Patent in or around 2009 specifically for use in northern Minnesota and Wisconsin on the Duluth, Missabe and Iron Range Railway (“DMIR”), operated by Canadian National (“CN”). Ex. 2004 at ¶¶ 21-23. These rail cars were the first new additions to the DMIR in approximately 50 years, innovated

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and designed to meet the DMIR's unique specifications. Ex. 2038; Ex. 2039. Since then, Patent Owner has provided ongoing support and service to CN from its facilities in Hamilton, ON (less than an hour's drive from the U.S. border). Ex. 2040; Ex. 2041.

Importantly, the '892 Patent and '515 Patent apply to specialized rail cars used on the DMIR, not to the broader U.S. steel transport industry; and the Patent Owner's patent-practicing rail cars carry the same U.S.-mined and U.S.-processed iron ore that Petitioner argues supports its economic and national security arguments. Thus, Petitioner's claims of domestic economic impact and national security are overstated and, at best, neutral. Moreover, non-infringing alternatives have long existed. CN previously purchased ARI rail cars for use on the DMIR, which Patent Owner never accused of infringement, and also purchased rail cars from Patent Owner for use on the DMIR. Ex. 2004 at ¶¶ 73-74. Petitioner replicated the patented design with precision, down to manufacturing tolerances, because CN preferred that design not because there was an absence of alternatives. Therefore, the absence of Petitioners' rail cars from the market would not have materially impact on U.S. economic or national security interests.

These facts underscore that questions of willful infringement and domestic economic and national security interests are best left to the District Court. For the

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reasons detailed in the Requests and POPRs, the Petition fails to meet the statutory and discretionary thresholds for institution and should be denied.

Respectfully Submitted,

Date: September 26, 2025

/Safet Metjahic/

Safet Metjahic (Reg. No. 58,677)  
Robert D. Keeler (Reg. No. 70,546)  
Ice Miller LLP  
1500 Broadway, Suite 2900  
New York, NY 10036  
(212) 824-4940

*Attorneys for Patent Owner,  
National Steel Car Limited*

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**CERTIFICATION UNDER 37 C.F.R. § 42.24(d)**

I hereby certify that the foregoing complies with the type-volume limitation of 37 C.F.R. § 42.24 and contains 661 words based on the word count indicated by the word-processing system used to prepare the paper, excluding the table of contents, table of authorities, exhibit list, certificate of service, certificate of word count, and signature block.

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/Safet Metjahic/

Safet Metjahic (Reg. No. 58,677)  
Robert D. Keeler (Reg. No. 70,546)  
Ice Miller LLP  
1500 Broadway, Suite 2900  
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(212) 824-4940

*Attorneys for Patent Owner,  
National Steel Car Limited*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing **PATENT OWNER'S  
REPLY IN SUPPORT OF ITS REQUESTS FOR DISCRETIONARY DENIAL  
OF INSTITUTION** was served electronically in its entirety on September 26, 2025  
via electronic mail to the following attorneys of record:

KNOBBE MARTENS OLSON & BEAR, LLP

Philip Nelson (Reg. No. 62,676)

Ted M. Cannon (Reg. No. 55,036)

Justin Gillett (Reg. No. 71,099)

Email: 2PMN@knobbe.com

2TMC@knobbe.com

2JJG@knobbe.com

FCAIPR-892@knobbe.com

FCAIPR-515-047@knobbe.com

FCAIPR-515-048@knobbe.com

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/Safet Metjahic/

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Safet Metjahic (Reg. No. 58,677)

Robert D. Keeler (Reg. No. 70,546)

Ice Miller LLP

1500 Broadway, Suite 2900

New York, NY 10036

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*Attorneys for Patent Owner,*

*National Steel Car Limited*