

[REDACTED]

superficial layer,” as if Fig. 2 should have one or both of those layers. CX-0084 ¶ 1086; *see also id.* (“The specification, therefore, does not provide a principled way for determining whether the ‘Al-rich Intermetallic layer’ is really ‘a layer,’ rather than an intermediate and/or superficial layer with some scattered intermetallic material.”); *id.* ¶ 1087 (“[T]here is no principled way for determining whether the slab of dark-toned material immediately above the white-toned ‘interdiffusion layer’ in Fig.2 is an intermediate layer.”). Dr. Brown is again wrong. First, the Federal Circuit has made clear that “a patentee need not define his invention with mathematical precision in order to comply with the definiteness requirement.” *Niazi Licensing Corp. v. St. Jude Med. S.C., Inc.*, 30 F.4th 1389, 1347 (Fed. Cir. 2022). Second, Dr. Brown ignores the text of the Asserted Patents. As noted above, the specification states that Figure 2 “does **not** correspond to the invention” and therefore does not have the claimed four-layer structure. JX-0002 at 3:57–59 (emphasis added). Rather, the specification only discusses two layers in Figure 2: “[t]his succession of layers (interdiffusion layer and intermetallic layer) yields inferior results in resistance spot welding.” *Id.* at 3:59–61. As Dr. Raabe will testify, a POSITA would therefore not attempt to determine whether Figure 2 has a (second) intermediate layer or a (fourth) superficial layer—the specification makes clear that the claimed four-layer structure is **not** shown in Figure 2. *See* CX-0082 ¶ 722.

The analysis does not change just because Dr. Brown adds an arbitrary orange band to Figure 2 and asks whether the band is an “intermediate layer.” CX-0084 ¶ 1087. Dr. Brown’s failure to ground this orange band in any portion of the intrinsic evidence or justify it as consistent with any description of a “layer” in the Asserted Patents underscores how there is no reason for a POSITA reading the Asserted Patents to draw this orange band, much less question whether it is an “intermediate layer.” *See also* CX-0082 ¶ 723.

Similarly irrelevant is the specification’s statement that the “conditions of reference” for Example 2 include “[a]bout 50% of [the Al-rich Intermetallic layer] present at the extreme surface of the part. *See* CX-0084 ¶ 1088 (citing JX-0002 at 13:3–4). The “conditions of reference” for Example 2 *are contrasted* with the claimed invention. *See* JX-0002 at 12:61–13:26 (description

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of conditions of reference ending in conclusion that “it may be seen that the coating according to the invention, yields much more satisfactory results”). Accordingly, as Dr. Raabe will testify, a POSITA would not be led to ask whether the remaining 50% of the surface of the conditions of reference consists of the claimed, fourth superficial layer. *See also* CX-0082 ¶ 724.

Nor do Dr. Brown’s remaining arguments show the term “layer” to be indefinite. Dr. Brown correctly notes that several claims of the Asserted Patents relate to the thickness of layers. CX-0084 ¶ 1089. He then criticizes the specification for providing “only the thickness of the ‘interdiffusion layer’” of Figure 2 while “not provid[ing] a thickness for the so-called ‘Al-rich Intermetallic layer.’” *Id.* (citing JX-0002 at 13:1–6). But, once again, Figure 2 “does **not** correspond to the invention” and Dr. Brown provides no reason for why a POSITA would expect Figure 2 to depict the claimed thickness limitations. JX-0002 at 3:57–59 (emphasis added); *see also* CX-0082 ¶ 725. Additionally, Dr. Brown is incorrect that the specification provides a thickness for the interdiffusion layer—he again cites the “conditions of reference” for Example 2 and **not** the description of Figure 2. *See* JX-0002 at 13:1–6. Accordingly, it is not notable that the thickness of the intermetallic layer of Figure 2 is not provided; the Asserted Patents simply do not attempt to apply claimed thickness measurements to a figure that does not embody the invention. And finally, Dr. Brown’s focus on the thickness of layers does not itself explain why the scope of the term “layer” would not be reasonably clear to a POSITA.

Dr. Brown next asserts without explanation that the specification’s reference to “sub-layers” of the interdiffusion layer renders the term “layer” indefinite. CX-0084 ¶ 1090. But the specification clearly states that it is the interdiffusion layer that may be made up of two sub-layers. JX-0002 at 12:45–48; *see* CX-0082 ¶ 726. Extrinsic evidence makes abundantly clear that the term “interdiffusion layer,” just like the term “layer” generally, has a reasonably certain scope. VinFast itself has produced documents in this Investigation that describe a hot stamped steel part as having a “diffusion layer,” underscoring how the terms “(inter)diffusion layer” and “layer” would be understood by a person of ordinary skill in the art when discussing a coating of a hot stamped, Al-coated steel product. *E.g.*, CX-0730 at VINFAST1402-00000854 (measuring a

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“Diffusion layer thickness”). Documents by third parties who have been subpoenaed in this Investigation similarly use the terms “diffusion layer” when discussing a coating of a hot stamped, Al-coated steel product. *E.g.*, CX-0399 at [REDACTED]; CX-0448 at [REDACTED]; CX-0719 at [REDACTED].

Finally, Dr. Brown points to a portion of the specification that describes layer (a) of the claimed invention as an “Interdiffusion layer or intermetallic layer,” and argues that this passage would make a “POSITA . . . have difficulty differentiating whether a layer is an interdiffusion layer or an intermetallic layer.” CX-0084 ¶ 1091 (citing JX-0002 at 12:45-46). But regardless of whether a layer is called an “interdiffusion” or “intermetallic” layer, a POSITA would understand that layer (a) is a “layer” and that “layer” has a reasonably certain scope, as Dr. Raabe will testify. *See* CX-0082 ¶ 726.

Accordingly, the Asserted Patents would inform a POSITA with reasonable certainty about the scope of the term “layer,” meaning that it is not indefinite.

b) Level

A POSITA also would be informed with reasonable certainty about the scope of the term “level” by the Asserted Patents. Starting with the ’602 Patent, claim 2, which uses the word “level” in the phrase “wherein the layers (c) and (d) are quasi continuous by occupying at least 90% of a level corresponding to each of the layers (c) and (d).” JX-0002 at 15:16–21. The plain language of claim 2 makes clear that a layer is “quasi” continuous (and not fully continuous) if the layer occupies at least 90% (and not 100%) of the level corresponding to the layer. A POSITA would thus understand that when a layer is not “continuous,” then there is a break in the layer. That break, where there is no layer, is instead merely part of the “level” that corresponds to the layer. A POSITA would thus understand that a “level” corresponds to the region of the coating where the layer exists, plus those breaks where the layer is not continuous.

This understanding of the term “level” is consistent with the specification. The term “level,” as that term is used in claim 2 of the ’602 Patent, is used twice in the specification:

The inventors have discovered that high weldability is especially obtained when layers (c) and (d) are **essentially continuous (i.e.: occupying at least 90% of the level corresponding to the considered layer)** and when less than 10% of layer (c) is present at the extreme surface of the part.

JX-0002 at 6:52–56 (emphasis added).

(d) Darker superficial layer, 7 µm thick, 950 HV50g, with a mean composition of 45% Fe, 54% Al, 1% Si Layers (c) and (d) are **quasi-continuous, i.e. occupying at least 90% of the level corresponding to the considered layer**. In particular, layer (c) does not reach the extreme surface except very exceptionally. Anyway, this layer (c) occupies less than 10% of the extreme surface.

JX-0002 at 12:55–60 (emphasis added). In these passages, the word “level” is used as part of an “i.e.” clause that defines the terms “essentially continuous” and “quasi-continuous.” And, like the language of claim 2, these portions of the specification merely reiterate that a layer that is not continuous (and is instead “quasi” or “essentially” continuous) may have breaks that are part of the level corresponding to the considered level. Accordingly, while an explicit definition is not given of the term “level,” as Dr. Raabe will testify, a POSITA could infer from these passages an implicit definition—consistent with the meaning given to that term in claim 2—that a “level” corresponds to the region of the coating where the layer exists, plus those breaks where the applicable layer is not continuous. *See* CX-0082 ¶ 730; *see also Phillips v. AWH Corp.*, 415 F.3d 1303, 1321 (Fed. Cir. 2005) (specification may “define[] terms by implication”). And even if not formally classified as a “definition,” the fact that the meaning of the term “level” is “fairly inferable from the patent” means that the term “level” is not indefinite. *Bancorp*, 359 F.3d at 1373.

Although Dr. Brown complains the specification uses the term “level” in the relevant context “just twice,” CX-0084 ¶ 1095, these uses are consistent with its use in the claims, and thus sufficient to provide an implicit definition with reasonably certain scope for a POSITA. *AstraZeneca LP v. Apotex, Inc.*, 633 F.3d 1042, 1052 (Fed. Cir. 2010) (“[W]hen a patentee uses a claim term throughout the entire patent specification, in a manner consistent with only a single meaning, he has defined that term ‘by implication.’”). Moreover, courts have found definiteness to be satisfied even if the relevant claim term is not used in the specification at all. *E.g., ESCO Grp. LLC*

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v. Deere & Co., 2023 WL 4199413, at *14 (D. Del. June 22, 2023); *UV Partners, Inc. v. Proximity Sys., Inc.*, 2022 WL 3648455, at *3 (S.D. Tex. Aug. 24, 2022).

Dr. Brown recognizes that the term “level” is a “commonly used and well-understood term.” CX-0084 ¶ 1099. But Dr. Brown asserts that the term “level” does not have a “plain and ordinary meaning within the context of the ’602 Patent” because a “‘layer’ itself does not need to be continuous or horizontal to any plane, nor can a layer be identified by a POSITA with reasonable certainty without subjective judgment.” *Id.* Dr. Brown’s assertion relies on his argument that the term “layer” is itself indefinite. As explained above, Dr. Brown is incorrect and the definiteness requirement is satisfied with respect to the term “layer.” *See* Section III.D.2. Rather, as Dr. Raabe will testify, a POSITA reading the Asserted Patents would understand that a level corresponds to the region of the coating where the layer exists, plus those breaks where the applicable layer is not continuous. *See* CX-0082 ¶ 731.

Thus, the Asserted Patents inform a POSITA with reasonable certainty about the scope of the term “level,” meaning that it is not indefinite.

7. The ’602 Patent Is Not Invalid Under § 101

The Asserted Patents claim hot-stamped Al-coated steel products. Thus, these patents each claim a nonnatural manufacture or composition of matter that is patent-eligible subject matter under § 101 and that satisfies the utility requirement. Indeed, POSCO, which supplies unlicensed Al-coated steel used in VinFast’s vehicles, owns U.S. Patent No. 11,578,397, which similarly claims a hot-stamped Al-coated steel product. *See* CX-0930.

a) The ’602 Patent Claims Patent-Eligible Subject Matter Under § 101

The Asserted Patents claim patent-eligible subject matter. Under 35 U.S.C. § 101, “[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” In *Diamond v. Chakrabarty*, the Supreme Court held that the word “manufacture” refers to “the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations,

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whether by hand-labor or by machinery.” 447 U.S. 303, 308 (1980). The Court further explained that a “composition of matter” is understood to “include all compositions of two or more substances and . . . all composite articles, whether they be the results of chemical union, or of mechanical mixture, or whether they be gases, fluids, powders or solids.” *Id.* These two categories of patent-eligible subject matter cover a broad range of physical matter, consistent with how “Congress plainly contemplated that the patent laws would be given wide scope.” *Id.* Section 101 does not embrace every discovery: “The laws of nature, physical phenomena, and abstract ideas have been held not patentable.” *Id.* at 309. Accordingly, in *Chakrabarty*, the Court made clear that the relevant distinction was between patent ineligible “natural phenomen[a]” and “a nonnaturally occurring manufacture or composition of matter.” *Id.*

Under *Alice Corp. v. CLS Bank International*, to determine whether a patent claims patent-eligible subject matter, we first “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” 573 U.S. 208, 217 (2014). In analyzing eligibility under Section 101, the Federal Circuit “consider[s] the claim as a whole . . . and read[s] it in light of the specification.”¹⁴ *Packet Intel. LLC v. NetScout Sys., Inc.*, 965 F.3d 1299, 1309 (Fed. Cir. 2020) (internal citations omitted). As the Federal Circuit has explained, “[a] claim to a manufacture or composition of matter made from a natural product is not directed to the natural product where it has different characteristics and ‘the potential for significant utility.’” *Nat. Alternatives Int’l, Inc. v. Creative Compounds, LLC*, 918 F.3d 1338, 1348 (Fed. Cir. 2019). If the claims are directed to a patent-ineligible concept, then we consider “the elements of each claim” to determine whether there is an “inventive concept” that is “sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the ineligible concept itself.” *Alice*, 573 U.S. at 217–18.

¹⁴ VinFast has not identified a representative claim for purposes of the § 101 analysis, which means it has not met the obligation to “identify representative claims and to articulate why (or why not) claims are representative.” *Sanderling Mgmt. Ltd. v. Snap Inc.*, 65 F.4th 698, 701 n.1 (Fed. Cir. 2023). If VinFast now identifies a representative claim, then that argument is new because it was not disclosed in its invalidity contentions.

(i) The Asserted Patents Claim a Nonnatural Manufacture or Composition of Matter

Under *Alice* step one, the claims of the Asserted Patents, each of which issued after *Alice* was decided, are directed to a nonnatural manufacture or composition of matter and thus cover patent-eligible subject matter. The independent claims of the Asserted Patents make clear that the claimed product has the following attributes:

- The claimed steel product is “precoated” or “hot stamped coated”;
- The claimed steel product comprises “a strip of base steel having a first side and a second side” and “a coating on at least one of said first side of said strip of base steel and said second side of said strip of base steel”;
- The claimed coating “results from interdiffusion between said base steel and an aluminum or aluminum alloy pre-coating”;
- The claimed coating comprises four layers: an interdiffusion layer, an intermediate layer, an intermetallic layer, and a superficial layer; and
- The claimed coating “has a thickness greater than 30 μm .”

JX-0002 at 14:59–17:2; JX-0001 at 14:59–15:10. As such, the claims are directed to a coated steel product with a number of particular characteristics.

The specification further elaborates on the nature of the claimed steel product. The steel products are not found naturally but occur only when specific parameters—such as heating temperature, furnace dwell time, and heating rate—are carefully controlled during hot stamping of the final part. *E.g.*, JX-0002 at 6:64–7:36. Additionally, several benefits are associated with the unique characteristics of the claimed steel products, including “particularly good weldability,” “substantial resistance to abrasion, wear, fatigue, [and] shock,” “good resistance to corrosion,” and “a good capacity for painting and gluing.” *Id.* at 2:60–63, 6:8–25, 8:16–19, 9:50–55, 11:32–39.

The unique characteristics and benefits of the claimed steel product demonstrate the claimed steel to be patent-eligible subject matter. Instructive is *Natural Alternatives*, in which the Federal Circuit held not invalid under § 101 claims for dietary supplements that incorporated beta-alanine, a naturally occurring amino acid. *See* 918 F.3d at 1348–49. There, the Federal Circuit

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concluded that even though the claimed dietary supplement incorporated the natural product beta-alanine, it had “different characteristics and can be used in a manner that beta-alanine as it appears in nature cannot.” *Id.* at 1348. Here, there is not even an equivalent to the beta-alanine in *Natural Alternatives*; there is no natural counterpart to a hot-stamped, aluminum-alloy coated steel product. And even if other hot-stamped steel products could be considered “natural” (they are not), the Asserted Patents describe that the claimed coated steel product has a number of characteristics that are not found in other hot stamped aluminum-alloy coated steel products.¹⁵ These unique characteristics allow it to be used for improved weldability, corrosion resistance, and paintability, among other benefits that demonstrate the claimed steel’s “potential for significant utility.” *Id.* Thus, like in *Natural Alternatives*, the claims are not directed to a natural product. The claims of the Asserted Patents are therefore directed to patent-eligible subject matter under *Alice* step one.

To the extent VinFast argues that the Asserted Patents’ claims do not recite an inventive concept under *Alice* step two, that argument was not raised in its invalidity contentions and is new.

(ii) The Asserted Patents Claim a Physical Steel Product, Not the Result of a Natural Law

At best, VinFast’s invalidity contentions show that VinFast may attempt to argue that the Asserted Patents are invalid under § 101 because they claim the “result of a natural law” under *American Axle & Manufacturing, Inc. v. Neapco Holdings LLC*, 967 F.3d 1285 (Fed. Cir. 2020). *American Axle* is inapposite.¹⁶ In that case, the Federal Circuit addressed a patent that “generally relates to a method for manufacturing driveline propeller shafts.” *Id.* at 1289. Rather than “claim to have discovered a previously unknown natural law,” the court concluded that the patentee “defines a goal (‘tuning a liner’ to achieve certain types of vibration attenuation).” *Id.* at 1293. Claim 22, the key claim at issue, “confer[red] patent coverage if the attenuation goal is achieved

¹⁵ The unique characteristics of the claimed steel product make *In re Roslin Institute (Edinburgh)*, 750 F.3d 1333 (Fed. Cir. 2014) and *In re Marden*, 47 F.2d 1057 (Fed. Cir. 1931) distinguishable, to the extent VinFast relies on those cases.

¹⁶ Similarly inapposite is *Contour IP Holding LLC v. GoPro, Inc.*, 113 F.4th 1373 (Fed. Cir. 2024). *Contour* discusses whether a patent covers “a result or effect that itself is the abstract idea.” *Id.* at 1379. Clearly the claimed Al-coated steel product is not an abstract idea.

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by one skilled in the art using any method” and did not “identify the ‘particular tuned liners.’” *Id.* at 1294. Thus, the court held that claim 22 “merely describes a desired result,”—namely, “producing a liner to dampen specific vibrations.” *Id.* at 1294, 1297.

By contrast, instead of claiming an abstract goal like vibration attenuation without “any physical structure” (*id.* at 1295), the Asserted Patents’ claims are directed to a Al-coated, hot-stamped steel product with several distinct physical characteristics listed above. Accordingly, the Asserted Patents’ claims are not a “situation where a patent claim on its face and as construed clearly invokes a natural law, and nothing else, to accomplish a desired result.” The patents’ recitation of a coating that “results from interdiffusion between said base steel an aluminum or aluminum alloy pre-coating” does not change the analysis because “interdiffusion” by itself is not a natural law. Moreover, “[t]he mere fact that any embodiment practicing [the claims] necessarily involves usage of one or more natural laws is by itself insufficient to conclude the claim is directed to such natural laws.” *Id.* at 1300.

It is also critical that the Asserted Patents claim a physical product. *American Axle* explains that for product claims like those of the Asserted Patents, the requirement of eligibility “is that the claim itself . . . must go beyond stating a functional result; it must identify ‘how’ that functional result is achieved by limiting the claim scope to structures specified at some level of concreteness.” *Id.* at 1302. Thus, even if the Asserted Patents’ claims did state a “functional result” (they do not), they would still satisfy the eligibility requirement under *Alice* step one by being limited in scope to a concrete steel structure.

Accordingly, the claims of the Asserted Patents are not invalid under Section 101.

b) The ’602 Patent Claims a Useful Invention Under § 101

The claims of the Asserted Patents are not invalid under 35 U.S.C. § 101 for failing to claim a useful invention. Section 101 provides that an inventor may obtain a patent for “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” “This language has been interpreted as embodying a fundamental requirement of American patent law, dating back some two-hundred years, ‘that one may patent

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only that which is “useful.”” *Stiftung v. Renishaw PLC*, 945 F.2d 1173, 1180 (Fed. Cir. 1991). “The bar for utility is not high.” *Grunenthal GMBH v. Alkem Lab’ys. Ltd.*, 919 F.3d 1333, 1345 (Fed. Cir. 2019). A “patent has utility if the alleged invention is capable of providing some identifiable benefit presently available to the public. A patent fails to satisfy the utility requirement . . . only if the invention is totally incapable of achieving a useful result.” *Id.*

As Dr. Raabe will testify, the Asserted Patents plainly provide not just one but multiple identifiable benefits. *See* CX-0082 ¶¶ 732–36. The Asserted Patents describe at length how a number of benefits are associated with the claimed steel products, including “particularly good weldability,” “substantial resistance to abrasion, wear, fatigue, [and] shock,” “good resistance to corrosion,” and “a good capacity for painting and gluing.” JX-0002 at 2:60–63, 6:8–25, 8:16–19, 9:50–55, 11:32–39. These benefits of the claimed invention are also discussed extensively in the documents produced in this Investigation. *E.g.*, CX-0617 at AM-ITC-0094960 (describing processing windows in specification as resulting in steel products good for “spot-welding and corrosion resistance” among other “mechanical properties”); CX-0634 (describing good weldability and paintability of the claimed invention); CX-0618 at AM-ITC-0094901–06 (same); CX-0616 at AM-ITC-0094802 (describing mechanism preventing corrosion of claimed product); CX-0010 at 127:15–129:19 (discussing identification of best microstructure through performance of weldability, corrosion, and painting adhesion studies). Accordingly, it is clear from both the intrinsic evidence and documents produced in this Investigation that the Asserted Patents claim an invention with several identifiable benefits.

VinFast notably has not provided *any* expert testimony challenging these benefits of the claimed invention that are described in the specification of the Asserted Patents. *See* CX-0084 ¶¶ 1101–03. Instead, Dr. Brown argues that the claimed invention is not useful because it was purportedly “known and capable of being created by known prior art processes.” *Id.* ¶ 1102; *see also id.* ¶ 1103 (saying that the claims provide no benefit because they “claim the result of previously known hot stamping processes”). As Dr. Brown stated in his deposition, his argument is that “because the asserted patent claims do not add anything new over the prior art, . . . they are

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then invalid, under Section 101, as failing to be useful or have utility.” CX-0020 at 247:13–18. The Federal Circuit has already rejected such argument: “utility is not a comparative standard—it does not require a certain level of usefulness relative to that which exists in the prior art.” *Bayer Healthcare LLC v. Baxalta Inc.*, 2018 WL 6727054, at *10 (Fed. Cir. Dec. 21, 2018); *Grunenthal*, 919 F.3d at 1346 (“The patent statute does not require that a patentable invention be superior to all prior devices.”).¹⁷

Dr. Brown also argues that the “claims provide no benefit” because they “fail[] to claim the necessary hot stamping parameters” for producing the claimed four-layer structure. CX-0084 ¶ 1103. This argument is irrelevant; the question under § 101’s utility requirement is whether “the *claimed* invention”—*i.e.*, the claimed steel product with a four-layer coating structure—“has a significant and presently available benefit to the public.” *Grunenthal*, 919 F.3d at 1345. Further, Dr. Brown’s argument that the claimed four-layer coating structure can be obtained “at random” is inapposite because it addresses only the conditions that may give rise to the claimed steel product, not the benefits of it. *See* CX-0084 ¶ 1103.

Accordingly, the Asserted Patents claim a useful invention and are therefore not invalid under Section 101’s utility requirement.

IV. THE ’227 PATENT

A. Claim Construction

1. Level of Ordinary Skill in the Art

The parties’ definitions of POSITA are the same for both patents. As explained above, the parties agree that the analysis is the same under either party’s definition of POSITA. III.A.1.

2. Agreed Constructions

As set forth in Section III.F.6, the claim term “layer” is not indefinite. Accordingly, the parties’ agreed constructions apply as set forth below and in the Joint Claim Construction Chart:

Pat. No.	Claim Term	Construction
’227 Patent: Claims 1, 7	interdiffusion layer	Plain and ordinary

¹⁷ Additionally, Dr. Brown is wrong that the claimed invention was known in the prior art for the reasons given with respect to Sections 102 and 103. *See* Sections III.D.1 and IV.D.1.

Pat. No.	Claim Term	Construction
'227 Patent: Claims 1, 7, 22	intermediate layer	Plain and ordinary
'227 Patent: Claims 1, 7	intermetallic layer	Plain and ordinary
'227 Patent: Claims 1, 7	superficial layer	Plain and ordinary
'227 Patent: Claim 7	mean iron composition	Plain and ordinary
'227 Patent: Claim 1	mean composition	Plain and ordinary

CX-0091 (Fekete Rpt. Ex. C).

B. Infringement

The VinFast Accused Products infringe claims 1–2, 4, 5, 7–11, 13, 15–17, 24 of the '227 Patent. For all the same reasons discussed above regarding the VinFast Accused Products for the '602 Patent (*see* Section III.B), the VF 8 and VF 9 infringe the claims of the '227 Patent, as explained on an element-by-element basis.

1. Claim 1

a) 1[pre] A hot stamped coated steel product, which comprises:

The VF 8 and VF 9 each contain parts that infringe element 1[pre]. CX-0079 ¶ 128. The VF 8 and VF 9 are made of the base material “ [REDACTED] E.g., CX-0079 ¶ 128; CX-0312 (listing parts for the VF 8 and VF 9); CX-0307 [REDACTED] [REDACTED] CX-0017 at 45:12-46:14. Additionally, as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 are steel products that were coated prior to hot stamping. E.g., Appx. ¶¶ 1, 2. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

b) 1[a] (a) a strip of base steel having a first side and a second side; and

The VF 8 and VF 9 infringe this limitation for the same reason as '602 Patent limitation 1[a]. *See* Section III.B.1.b; *see also* CX-0079 ¶ 129; Appx. ¶¶ 1, 2; CX-0315; CX-0017 at 76:4–7. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

c) 1[b] (b) a coating on at least one of said first side of said strip of base steel

[REDACTED]

and said second side of said strip of base steel, wherein (i) said coating results from interdiffusion between said base steel and an aluminum or aluminum alloy pre-coating, and (ii) wherein said coating comprises, proceeding from the base steel outwards:

The VF 8 and VF 9 infringe this limitation for the same reason as '602 Patent limitation 1[b]. *See* Section III.B.1.c; *see also* CX-0079 ¶ 130–132; Appx. ¶ 2, 3, 4, 10; CX-0315; CX-0017 at 45:12-46:14, 76:4–7; CX-0312. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

d) 1[c] (a) an Interdiffusion layer,

The VF 8 and VF 9 each contain parts that infringe element 1[c]. CX-0079 ¶¶ 133–135. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 comprise a coating that includes, proceeding from the base steel outwards, an interdiffusion layer that has a first mean iron composition, a first mean aluminum composition, and a first mean silicon composition, each calculated as the average of three measurements. *E.g., id.*; Appx. ¶ 2, 3, 4, 5, 10. A comparison of the SEM micrographs to Figure 1 of the Asserted Patents also confirms a four-layer structure. *E.g., id.*; CX-0079 ¶ 133; JX-0001 at Fig. 1; CX-0010 at 110:3-23. [REDACTED]

[REDACTED]

E.g., CX-0315. VinFast only disputes whether the VinFast Accused Products' interdiffusion region is a "layer." VinFast is wrong. *See* Sections III.C.1 and III.C.3.

e) 1[d] (b) an Intermediate layer,

The VF 8 and VF 9 each contain parts that infringe element 1[d]. CX-0079 ¶¶ 136–138. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 comprise a coating that includes, proceeding from the base steel outwards, an intermediate layer that has a second mean iron composition, a second mean aluminum composition, and a second mean silicon composition, each calculated as the average of three measurements. *E.g., id.*; Appx. ¶¶ 2, 3, 4, 5, 10. A comparison of the SEM micrographs to Figure 1 of the Asserted Patents also confirms a four-layer structure. *E.g., id.*; CX-0079 ¶ 136; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast only

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disputes whether the VinFast Accused Products' intermediate region is a "layer." VinFast is wrong. *See* Sections III.C.1 and III.C.3.

f) 1[e] (c) an Intermetallic layer, and

The VF 8 and VF 9 each contain parts that infringe element 1[e]. CX-0079 ¶¶ 139–141. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 comprise a coating that includes, proceeding from the base steel outwards, an intermetallic layer that has a third mean iron composition, a third mean aluminum composition, and a third mean silicon composition, each calculated as the average of three measurements. *E.g., id.*; Appx. ¶¶ 2, 3, 4, 5, 10. A comparison of the SEM micrographs to Figure 1 of the Asserted Patents also confirms a four-layer structure. *E.g., id.*; CX-0079 ¶ 139; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast only disputes whether the VinFast Accused Products' intermetallic region is a "layer." VinFast is wrong. *See* Sections III.C.1 and III.C.3.

g) 1[f] (d) a Superficial layer,

The VF 8 and VF 9 each contain parts that infringe element 1[f]. CX-0079 ¶¶ 142–144. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 comprise a coating that includes, proceeding from the base steel outwards, a superficial layer that has a fourth mean iron composition, a fourth mean aluminum composition, and a fourth mean silicon composition, each calculated as the average of three measurements. *E.g., id.*; Appx. ¶¶ 2, 3, 4, 5, 10. A comparison of the SEM micrographs to Figure 1 of the Asserted Patents also confirms a four-layer structure. *E.g., id.*; CX-0079 ¶ 142; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast only disputes whether the VinFast Accused Products' superficial region is a "layer." VinFast is wrong. *See* Sections III.C.1 and III.C.3.

h) 1[g] wherein layers (a), (b), (c), and (d) each have a different mean composition from one another,

The VF 8 and VF 9 each contain parts that infringe element 1[g]. CX-0079 ¶ 145. As the

[REDACTED]

evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 have mean iron, aluminum, and silicon compositions that are different for each of the four layers. *E.g., id.*; Appx. ¶¶ 2, 3, 4, 5, 10. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

i) 1[h] wherein said coating of the hot stamped coated steel product has a thickness greater than 30 μm .

The VF 8 and VF 9 each contain parts that infringe element 1[h]. CX-0079 ¶ 146. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 comprise a coating that has a thickness greater than 30 μm . *E.g., id.*; Appx. ¶ 6. [REDACTED]

[REDACTED] *E.g.,* CX-0315; CX-0017 at 76:4-7. VinFast disputes that the VinFast Accused Products have a coating that has a thickness greater than 30 μm . VinFast is wrong. *See* Section III.C.3.

2. Claim 2

a) [2] The hot stamped coated steel product according to claim 1, wherein said layer (a) has a thickness that is less than half of said thickness of the coating.

The VF 8 and VF 9 each contain parts that infringe claim 2. CX-0079 ¶¶ 147–148. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation show that, with one exception, the coating is a four-layer structure wherein the thickness of layer (a) is less than half of said thickness of the coating. *E.g., id.*; Appx. ¶¶ 2, 6. Dr. Fekete will also testify that a comparison of the SEM micrographs to Figure 1 of the Asserted Patents also confirms a four-layer structure. *E.g., id.*; CX-0079 ¶ 147; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

3. Claim 4

a) [4] The hot stamped coated steel product according to claim 1, wherein said layer (a) has a thickness of 17 μm or less.

The VF 8 and VF 9 each contain parts that infringe claim 4. CX-0079 ¶ 149. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation

[REDACTED]

show that, with one exception, the coating is a four-layer structure wherein the thickness of layer (a) is 17 μm or less *E.g., id.*; Appx. ¶¶ 2, 6. Dr. Fekete will also testify that a comparison of the SEM micrographs to Figure 1 of the Asserted Patents also confirms a four-layer structure. *E.g.,* JX-0001 at Fig. 1; CX-0010 at 110:3-23. Dr. Fekete will further testify that [REDACTED]

[REDACTED]

[REDACTED] *E.g.,* CX-0315; CX-0017 at 76:4-7. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

4. Claim 5

- a) **[5] The hot stamped coated steel product according to claim 1, wherein said layer (a) has a thickness of 15 μm or less.**

The VF 8 and VF 9 infringe this claim for the same reason as '602 Patent claim 9. *See* Section III.B.6; *see also* CX-0079 ¶ 150; Appx. ¶¶ 2, 6; JX-0001 at Fig. 1; CX-0010 at 110:3-23; CX-0315; CX-0017 at 76:4-7. VinFast disputes whether the VinFast Accused Products' layer (a) has a thickness of 15 μm or less. VinFast is wrong. *See* Section III.C.5.

5. Claim 7

- a) **[7] The hot stamped coated steel product according to claim 1, wherein the interdiffusion layer has a first mean iron composition, the intermediate layer has a second mean iron composition less than the first mean iron composition; wherein the intermetallic layer has a third mean iron composition, the third mean iron composition less than the first mean iron composition and greater than the second mean iron composition, and the superficial layer has a fourth mean iron composition, the fourth mean iron composition begin [sic] less than the third mean iron composition.**

The VF 8 and VF 9 each contain parts that infringe claim 7. CX-0079 ¶¶ 151–156. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 have (1) the interdiffusion layer has a first mean iron composition; (2) the intermediate layer has a second mean iron composition that is less than the first mean iron composition of the interdiffusion layer; (3) the intermetallic layer has a third mean iron composition that is less than the first mean iron composition of the interdiffusion layer and greater than the second mean iron composition of the intermediate layer; and (4) the superficial layer has a fourth mean iron composition that is less than the mean iron composition of

[REDACTED]
[REDACTED]
the intermetallic layer. *E.g., id.*; Appx. ¶¶ 2, 3, 10; CX-0315 [REDACTED]

[REDACTED] CX-0017 at 76:4-7. Dr. Fekete will also testify that a comparison of the SEM micrographs to Figure 1 of the Asserted Patents also confirms a four-layer structure. *E.g., JX-0001 at Fig. 1; CX-0010 at 110:3-23.* VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

6. Claim 8

- a) **[8] The hot stamped coated steel product according to claim 1, wherein layer (a) has a thickness that is greater than a thickness of layer (b).**

The VF 8 and VF 9 each contain parts that infringe claim 8. CX-0079 ¶¶ 157–58. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation show that the coating is a four-layer structure wherein the interdiffusion layer (layer (a)) of each part is greater than a thickness of the intermediate layer (layer (b)). *E.g., id.*; Appx. ¶¶ 2, 6; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast disputes whether the VinFast Accused Products' layer (a) has a thickness greater than that of layer (b). VinFast is wrong. *See* Section IV.C.1.

7. Claim 9

- a) **[9] The hot stamped coated steel product according to claim 1, wherein layer (a) has a thickness that is greater than a thickness of layer (c).**

The VF 8 and VF 9 each contain parts that infringe claim 9. CX-0079 ¶¶ 159–60. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation show that the coating is a four-layer structure wherein the interdiffusion layer (layer (a)) of each part is greater than a thickness of the intermetallic layer (layer (c)). *E.g., id.*; Appx. ¶¶ 2, 6; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

8. Claim 10

- a) **[10] The hot stamped coated steel product according to claim 1, wherein layer (a) has a thickness that is greater than a thickness of layer (d).**

The VF 8 and VF 9 each contain parts that infringe claim 10. CX-0079 ¶¶ 161–62. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation show that the coating is a four-layer structure wherein the interdiffusion layer (layer (a)) of each

[REDACTED]

part is greater than a thickness of the superficial layer (layer (d)). *E.g., id.*; Appx. ¶¶ 2, 6; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

9. Claim 11

- a) **[11] The hot stamped coated steel product according to claim 1, wherein layer (a) has a thickness: that is greater than a thickness of layer (b); that is greater than a thickness of layer (c); and that is greater than a thickness of layer (d).**

The VF 8 and VF 9 each contain parts that infringe claim 11. CX-0079 ¶¶ 163–64. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation show that the coating is a four-layer structure wherein the interdiffusion layer (layer (a)) of each part is greater than a thickness of the intermediate layer (layer (b)), intermetallic layer (layer (c)), and the superficial layer (layer (d)). *E.g., id.*; Appx. ¶¶ 2, 6; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation. VinFast disputes whether the VinFast Accused Products' layer (a) has a thickness greater than that of layer (b). VinFast is wrong. *See* Section IV.C.1.

10. Claim 13

- a) **[13] The hot stamped coated steel product according to claim 1, wherein layer (a) has a thickness that is more than twice a thickness of layer (c).**

The VF 8 and VF 9 each contain parts that infringe claim 13. CX-0079 ¶¶ 165–66. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation show that the coating is a four-layer structure wherein a thickness of layer (a) is more than twice a thickness of layer (c). *E.g., id.*; Appx. ¶¶ 2, 6; JX-0001 at Fig. 1; CX-0010 at 110:3-23. VinFast disputes whether the VinFast Accused Products' layer (a) has a thickness that is more than twice a thickness of layer (c). VinFast is wrong. *See* Section IV.C.2.

11. Claim 15

- a) **[15] The hot stamped coated steel product according to claim 1, wherein the hot stamped coated steel product is fully martensitic.**

The VF 8 and VF 9 each contain parts that infringe claim 15. CX-0079 ¶ 167. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation show that the hot stamped coated steel products are fully martensitic. *E.g., id.*; Appx. ¶ 8. Dr.

[REDACTED]

Fekete will testify that the specification for parts made from “[REDACTED]

[REDACTED] *E.g.*, CX-0307; CX-0017 at 45:12-46:14; CX-0312. [REDACTED]

[REDACTED] *E.g.*, CX-0315; CX-0017 at 76:4-7. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

12. Claim 16

- a) 16[a] The hot stamped coated steel product according to claim 1, wherein the base steel consists of the following components by weight based on total weight: 0.15%<carbon<0.5%;**

The VF 8 and VF 9 infringe this limitation for the same reason as ’602 Patent element 3[a]. *See* Section III.B.3.a; *see also* CX-0079 ¶ 168; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7; CX-0315, CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

- b) 16[b] 0.5%<manganese<3%;**

The VF 8 and VF 9 infringe this limitation for the same reason as ’602 Patent element 3[b]. *See* Section III.B.3.b; *see also* CX-0079 ¶ 169; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

- c) 16[c] 0.1%<silicon<0.5%;**

The VF 8 and VF 9 infringe this limitation for the same reason as ’602 Patent element 3[c]. *See* Section III.B.3.c; *see also* CX-0079 ¶ 170; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

- d) 16[d] 0.01%<chromium<1%;**

The VF 8 and VF 9 infringe this limitation for the same reason as ’602 Patent element 3[d]. *See* Section III.B.3.d; *see also* CX-0079 ¶ 171; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this

[REDACTED]

limitation.

e) 16[e] titanium<0.2%;

The VF 8 and VF 9 infringe this limitation for the same reason as '602 Patent element 3[e]. See Section III.B.3.e; *see also* CX-0079 ¶ 172; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

f) 16[f] aluminum<0.1%;

The VF 8 and VF 9 infringe this limitation for the same reason as '602 Patent element 3[f]. See Section III.B.3.f; *see also* CX-0079 ¶ 173; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

g) 16[g] phosphorus<0.1%;

The VF 8 and VF 9 infringe this limitation for the same reason as '602 Patent element 3[g]. See Section III.B.3.g; *see also* CX-0079 ¶ 174; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

h) 16[h] sulfur<0.05%;

The VF 8 and VF 9 infringe this limitation for the same reason as '602 Patent element 3[h]. See Section III.B.3.h; *see also* CX-0079 ¶ 175; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

i) 16[i] 0.0005%<boron<0.08%;

The VF 8 and VF 9 infringe this limitation for the same reason as '602 Patent element 3[i]. See Section III.B.3.i; *see also* CX-0079 ¶ 176; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

j) 16[j] a remainder being iron and impurities inherent in processing.

[REDACTED]

The VF 8 and VF 9 infringe this limitation for the same reason as '602 Patent element 3[j]. See Section III.B.3.j; *see also* CX-0079 ¶ 177; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

13. Claim 17

- a) 17[a] The hot stamped coated steel product according to claim 1, wherein the base steel consists of the following components by weight based on total weight: 0.15%<carbon<0.25%,

The VF 8 and VF 9 each contain parts that infringe element 17[a]. CX-0079 ¶ 178. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 contain parts wherein the base steel includes the following components by weight based on total weight: 0.15%<carbon<0.25%. *E.g., id.*; Appx. ¶ 7. Dr. Fekete will testify that the specification for parts made from [REDACTED]

[REDACTED] *E.g.,* CX-0312; CX-0017 at 45:12-46:14. [REDACTED]

[REDACTED] *E.g.,* CX-0017 at 76:4-7; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

- b) 17[b] 0.8%<manganese<1.8%,

The VF 8 and VF 9 each contain parts that infringe element 17[b]. CX-0079 ¶ 179. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 contain parts wherein the base steel includes the following components by weight based on total weight: 0.8%<manganese<1.8%. *E.g., id.*; Appx. ¶ 7. Dr. Fekete will testify that the specification for parts made from [REDACTED]

[REDACTED] *E.g.,* CX-0312; CX-0017 at 45:12-46:14. [REDACTED]

[REDACTED] *E.g.,* CX-0315; CX-0316; CX-0017 at 76:4-7, 79:6-

[REDACTED]

11. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

c) 17[c] 0.10%<silicon<0.35%,

The VF 8 and VF 9 each contain parts that infringe element 17[c]. CX-0079 ¶ 180. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that the VF 8 and VF 9 parts contain parts wherein the base steel includes the following components by weight based on total weight: 0.10%<silicon<0.35%. *E.g., id.*; Appx. ¶

7. Dr. Fekete will testify that the specification for parts made from “[REDACTED]”
[REDACTED]

[REDACTED]
E.g., CX-0312; CX-0017 at 45:12-46:14. [REDACTED]
[REDACTED]

[REDACTED] *E.g.,* CX-0315; CX-0316;
CX-0017 at 76:4-7, 79:6-11. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

d) 17[d] 0.01%<chromium<0.5%,

The VF 8 and VF 9 each contain parts that infringe element 17[d]. CX-0079 ¶ 181. As the evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that the VF 8 and VF 9 parts contain parts wherein the base steel includes the following components by weight based on total weight: 0.01%<chromium<0.5%. *E.g., id.*; Appx.

¶ 7. Dr. Fekete will testify that the specification for parts made from “[REDACTED]”
[REDACTED]

[REDACTED] *E.g.,* CX-0312; CX-0017 at 45:12-46:14. [REDACTED]
[REDACTED]

[REDACTED] *E.g.,*
CX-0315; CX-0316; CX-0017 at 76:4-7, 79:6-11. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

e) 17[e] titanium<0.1%,

The VF 8 and VF 9 each contain parts that infringe element 17[e]. CX-0079 ¶ 182. As the

[REDACTED]

evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that the VF 8 and VF 9 parts contain parts wherein the base steel includes the following components by weight based on total weight: titanium<0.1%. *E.g., id.*; Appx. ¶ 7. Dr. Fekete will testify that the specification for parts made from ‘ [REDACTED] [REDACTED] [REDACTED] *E.g., CX-0312; CX-0017 at 45:12-46:14.* [REDACTED] [REDACTED] [REDACTED] *E.g., CX-0315; CX-0316; CX-0017 at 76:4-7, 79:6-11.* VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

f) 17[f] aluminum<0.1%,

The VF 8 and VF 9 infringe this limitation for the same reason as ’602 Patent element 3[f]. *See* Section III.B.3.f; *see also* CX-0079 ¶ 183; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

g) 17[g] phosphorus<0.1%,

The VF 8 and VF 9 infringe this limitation for the same reason as ’602 Patent element 3[g]. *See* Section III.b.3.g; *see also* CX-0079 ¶ 184; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

h) 17[h] sulfur<0.05%,

The VF 8 and VF 9 infringe this limitation for the same reason as ’602 Patent element 3[h]. *See* Section III.b.3.h; *see also* CX-0079 ¶ 185; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

i) 17[i] 0.002%<boron<0.005%,

The VF 8 and VF 9 each contain parts that infringe element 17[i]. CX-0079 ¶ 186. As the

[REDACTED]

evidence will show and as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 contain parts wherein the base steel includes the following components by weight based on total weight: 0.002%<boron<0.005%. *E.g., id.*; Appx. ¶ 7. Dr. Fekete will testify that the specification for parts made from “[REDACTED]

[REDACTED] *E.g., CX-0312; CX-0017 at 45:12-46:14.* [REDACTED]

[REDACTED] *E.g., CX-0315; CX-0316; CX-0017 at 76:4-7, 79:6-11.* VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

j) 17[j] a remainder being iron and impurities inherent in processing.

The VF 8 and VF 9 infringe this limitation for the same reason as ’602 Patent element 3[j]. *See* Section III.b.3.j; *see also* CX-0079 ¶ 187; Appx. ¶ 7; CX-0312; CX-0017 at 45:12-46:14, 76:4-7, 79:6-11; CX-0315; CX-0316. VinFast does not dispute the VF 8 and VF 9 satisfy this limitation.

14. Claim 24

a) [24] The hot stamped coated steel product according to claim 1, wherein the hot stamped coated steel product has a mechanical strength in excess of 1000 MPa.

The VF 8 and VF 9 each contain parts that infringe claim 24. CX-0079 ¶ 188. As the evidence will show, the VF 8 and VF 9 are made of the base material “[REDACTED]

[REDACTED] *E.g., CX-0079 ¶ 188; CX-0312; CX-0307; CX-0017 at 45:12-46:14.* [REDACTED]

[REDACTED] *E.g., CX-0315; CX-0316; CX-0017 at 76:4-7, 79:6-11.*

Additionally, as Dr. Fekete will testify, testing results collected during this Investigation demonstrate that parts included in the VF 8 and VF 9 have a Rockwell Hardness C between 41 and 46, which corresponds to an approximate tensile strength between 182,000 to 217,000 pounds per square inch (psi) or 1254 to 1495 MPa. *E.g., Appx. ¶ 7; CX-0113.* VinFast does not dispute

[REDACTED]

the VF 8 and VF 9 satisfy this limitation.

C. Dr. Brown's Opinions on Infringement

For most of his analysis, Dr. Brown does not differentiate between the '602 and '227 Patents. *E.g.*, CX-0085 at Sections IX.A (applying to "All Asserted Claims"); IX.B (applying to "All Asserted Claims"); Section IX.D (drawing no distinction in the analysis between claims 9 and 26 of the '602 Patent and claim 5 of the '227 Patent). Thus, for all the reasons discussed in Section III.C, Dr. Brown's opinions are based on an improper claim construction and an erroneous analysis of the evidence.

1. Dr. Brown's Opinions Regarding Claims 8 and 11

Dr. Brown asserts that the VinFast Accused Products do not meet claims 8 and 11 because five test results show that the thickness of layer (a) is less than the thickness of layer (b). *See* CX-0085 ¶ 61. Notably he does not dispute that the results from the other twenty-nine tested VinFast parts infringe claims 8 and 11. *See id.* Accordingly, the unrebutted evidence that at least a portion of the VinFast Accused Products has a layer (a) that is greater than the thickness of layer (b) is sufficient to satisfy claims 8 and 11. *See SunTiger*, 189 F.3d at 1337.

2. Dr. Brown's Opinions Regarding Claim 13

Dr. Brown also asserts that the VinFast Accused Products do not meet claim 13 because five test results show that layer (a) does not have a thickness that is more than twice a thickness of layer (c). *See* CX-0085 ¶ 62. Again, he does not dispute that the results from the other twenty-nine tested VinFast parts infringe claim 13. *See id.* The unrebutted evidence that at least a portion of the VinFast Accused Products would have layer (a) with a thickness that is more than twice a thickness of layer (c) is sufficient to satisfy claim 13. *See SunTiger*, 189 F.3d at 1337.

D. Domestic Industry – "Technical Prong"

The DI Direct Products practice claims 1–2, 4–5, 7, 9, 13, 15–17, 24 of the '227 Patent. Tier 1 hot stamper and OEM documents show that the DI Direct Products satisfy many of the elements of the DI Claims for the '227 Patent. Testing of 15 DI Direct Products has further shown that those products practice the DI Claims, confirming what can be seen from the Tier 1 hot

[REDACTED]

stamper and OEM documents. For all the same reasons discussed above regarding the DI Direct Products for the '602 Patent, hot stamped steel products manufactured using the DI Precursor Products and sold by ArcelorMittal's Tier 1 manufacturers, the tested DI Direct Products, and other DI Direct Products hot stamped by the Tier 1 licensees subpoenaed in this Investigation practice the claims of the '227 Patent. *See* Section III.D. Accordingly, as further explained on an element-by-element basis below, the DI Direct Products practice the claims of the '227 Patent.

1. Claim 1

a) 1[pre] A hot stamped coated steel product, which comprises:

The DI Direct Products practice element 1[pre]. CX-0079 ¶ 284. The DI Direct Products are defined as being hot stamped versions of USIBOR 1500, USIBOR 2000, DUCTIBOR 450, DUCTIBOR 500, and DUCTIBOR 1000 with a coating weight of AS 150, as well as ULTRALUME with a coating weight of AS 60/60. *See* Section I.E.2.b. Each of these DI Precursor Products is a steel product with an aluminum-silicon coating. *E.g.*, CX-0482 at AM-ITC-0079009 ("AluSi [press hardened steel] including new USIBOR 2000 and Ductibor 500 and 1000 grades."). Additionally, testing results show the DI Direct Products to be hot stamped coated steel products. *See* Appx. ¶¶ 11, 12. VinFast does not dispute that the DI Direct Products meet this limitation.

b) 1[a] (a) a strip of base steel having a first side and a second side; and

The DI Direct Products meet this limitation for the same reason as '602 Patent limitation 1[a]. *See* Section III.D.1.b; *see also* CX-0079 ¶ 285; CX-0448 at [REDACTED]; CX-0337; CX-0411; *see also* Appx. ¶¶ 11, 12. VinFast does not dispute that the DI Direct Products meet this limitation.

c) 1[b] (b) a coating on at least one of said first side of said strip of base steel and said second side of said strip of base steel, wherein: (i) said coating results from interdiffusion between said base steel and an aluminum or aluminum alloy pre-coating, and (ii) wherein said coating comprises, proceeding from the base steel outwards:

The DI Direct Products meet this limitation for the same reason as '602 Patent limitation 1[b]. *See* Section III.D.1.c; *see also* CX-0079 ¶¶ 286–87; CX-0482 at AM-ITC-0079009; Appx. ¶ 12. CX-0399 at [REDACTED]; CX-0448 at [REDACTED]

[REDACTED]

26; CX-0719 at [REDACTED]. VinFast does not dispute that the DI Direct Products meet this limitation.

d) 1[c] (a) an Interdiffusion layer,

The DI Direct Products practice element 1[c]. CX-0079 ¶¶ 288–90. Dr. Fekete will testify that each of the DI Direct Products has a coating that includes a four-layer structure. CX-0079 ¶¶ 288–89; *see also* JX-0002 at Fig. 1; CX-0683 at AM-ITC-0102174 (showing clearer version of Figure 1, which Dr. Drillet will testify shows the four-layer structure); Appx. ¶¶ 12, 20. This first layer closest to the base steel is understood to be an interdiffusion layer. *E.g.*, CX-0399 at [REDACTED]; CX-0448 at [REDACTED]; CX-0412; CX-0023 at 122:25–123:8. And OEM specifications call for the creation of an interdiffusion layer. CX-0719 at [REDACTED]; CX-0638 at AM-ITC_0095446; CX-0112 at 6. Testing results also show that the tested parts’ interdiffusion layers have a first mean iron composition, a first mean aluminum composition, and a first mean silicon composition. Appx. ¶¶ 13, 14, 15, 20. VinFast only disputes whether the DI Direct Products’ interdiffusion region is a “layer.” VinFast is wrong. *See* Section IV.E.

e) 1[d] (b) an Intermediate layer,

The DI Direct Products practice element 1[d]. CX-0079 ¶¶ 291–93. Dr. Fekete will testify that each of the DI Direct Products has a coating that includes a four-layer structure. CX-0079 ¶¶ 291–92; *see also* JX-0002 at Fig. 1; CX-0683 at AM-ITC-0102174 (showing clearer version of Figure 1, which Dr. Drillet will testify shows the four-layer structure); Appx. ¶¶ 12, 20. The intermediate layer is a second layer. OEM specifications describe the creation of a four-layer structure, including an intermediate layer. *E.g.*, CX-0719 at [REDACTED] (labeling intermediate layer as “Third layer”); CX-0112 at 6. Testing results also show that the tested parts’ intermediate layers have a second mean iron composition, a second mean aluminum composition, and a second mean silicon composition. Appx. ¶¶ 13, 14, 15, 20. VinFast only disputes whether the DI Direct Products’ intermediate region is a “layer.” VinFast is wrong. *See* Section IV.E.

f) 1[e] (c) an Intermetallic layer, and

The DI Direct Products practice element 1[e]. CX-0079 ¶¶ 294–96. Dr. Fekete will testify that each of the DI Direct Products has a coating that includes a four-layer structure. CX-0079 ¶¶ 294–95; *see also* JX-0002 at Fig. 1; CX-0683 at AM-ITC-0102174 (showing clearer version of Figure 1, which Dr. Drillet will testify shows the four-layer structure); Appx. ¶¶ 12, 20. The intermetallic layer is a third layer. OEM specifications describe the creation of a four-layer structure, including an intermetallic layer. *E.g.*, CX-0719 at [REDACTED] (labeling intermetallic layer as “Second layer”); CX-0112 at 6. Testing results also show that the tested parts’ intermediate layers have a third mean iron composition, a third mean aluminum composition, and a third mean silicon composition. Appx. ¶¶ 13, 14, 15, 20. VinFast only disputes whether the DI Direct Products’ intermetallic region is a “layer.” VinFast is wrong. *See* Section IV.E.

g) 1[f] (d) a Superficial layer,

The DI Direct Products practice element 1[f]. CX-0079 ¶¶ 294–96. Dr. Fekete will testify that each of the DI Direct Products has a coating that includes a four-layer structure. CX-0079 ¶¶ 294–95; *see also* JX-0002 at Fig. 1; CX-0683 at AM-ITC-0102174 (showing clearer version of Figure 1, which Dr. Drillet will testify shows the four-layer structure); Appx. ¶¶ 12, 20. The superficial layer is a fourth layer. OEM specifications describe the creation of a four-layer structure, including a superficial layer. *E.g.*, CX-0719 at [REDACTED] (labeling intermetallic layer as “First layer”); CX-0112 at 6. Testing results also show that the tested parts’ intermediate layers have a fourth mean iron composition, a fourth mean aluminum composition, and a fourth mean silicon composition. Appx. ¶¶ 13, 14, 15, 20. VinFast only disputes whether the DI Direct Products’ superficial region is a “layer.” VinFast is wrong. *See* Section IV.E.

h) 1[g] wherein layers (a), (b), (c), and (d) each have a different mean composition from one another,

The DI Direct Products practice element 1[g]. CX-0079 ¶ 300. The mean iron, aluminum, and silicon compositions measured for each of the four layers of the DI Direct Products are

[REDACTED]

different from one another. *See* Appx. ¶¶ 13, 14, 15, 20. VinFast does not dispute that the DI Direct Products meet this limitation.

- i) 1[h] wherein said coating of the hot stamped coated steel product has a thickness greater than 30 µm.**

The DI Direct Products meet this limitation for the same reason as '602 Patent limitation 1[g]. *See* Section III.D.1.h; *see also* CX-0079 ¶ 301; CX-0458; CX-0455; CX-0823 at [REDACTED]; CX-0394 at [REDACTED]; CX-0412 at [REDACTED]; CX-0638 at AM-ITC_0095444; CX-0112 at 6; Appx. ¶ 16. VinFast disputes whether the DI Direct Products have a thickness greater than 30 µm. VinFast is wrong. *See* Section IV.E.

2. Claim 2

- a) [2] The hot stamped coated steel product according to claim 1, wherein said layer (a) has a thickness that is less than half of said thickness of the coating.**

The DI Direct Products practice claim 2. CX-0079 ¶ 302. Tier 1 hot stamper documents and testing of each DI Direct Product shows that a thickness of layer (a) is less than half of said thickness of the coating. *See* CX-0448 at [REDACTED]; CX-0374; [REDACTED] at 208; Appx. ¶ 16. VinFast disputes whether the DI Direct Products' layer (a) has a thickness that is less than half of said thickness of the coating. VinFast is wrong. *See* Section IV.E.1.

3. Claim 4

- a) [4] The hot stamped coated steel product according to claim 1, wherein said layer (a) has a thickness of 17 µm or less.**

The DI Direct Products practice claim 4. CX-0079 ¶ 303. Tier 1 hot stamper documents show that layer (a) of the DI Direct Products must be less than or equal to 16 µm, and some show that the thickness of layer (a) must be less than 10 µm. *E.g.*, CX-0458; CX-0455; CX-0326 at [REDACTED]; CX-0394 at [REDACTED]; CX-0448 (<10 µm); CX-0374 (same); CX-0719 at [REDACTED] (same). Testing of each DI Direct Products shows that the thickness of the interdiffusion layer (layer (a)) is less than 17 µm. *See* Appx. ¶ 16. VinFast does not dispute that the DI Direct Products meet this limitation.

4. Claim 5

- a) [5] The hot stamped coated steel product according to claim 1, wherein said layer (a) has a thickness of 15 μm or less.**

The DI Direct Products meet this limitation for the same reason as '602 Patent claim 9. *See* Section III.D.7.a; *see also* CX-0079 ¶ 304; CX-0458; CX-0455; CX-0326 at [REDACTED]; CX-0394 at [REDACTED]; CX-0448; CX-0374; CX-0719 at [REDACTED]; Appx. ¶ 16. VinFast disputes whether the DI Direct Products' layer (a) has a thickness of 15 μm or less. VinFast is wrong. *See* Section IV.E.2.

5. Claim 7

- a) [7] The hot stamped coated steel product according to claim 1, wherein the interdiffusion layer has a first mean iron composition, the intermediate layer has a second mean iron composition less than the first mean iron composition; wherein the intermetallic layer has a third mean iron composition, the third mean iron composition less than the first mean iron composition and greater than the second mean iron composition, and the superficial layer has a fourth mean iron composition, the fourth mean iron composition begin [sic] less than the third mean iron composition.**

The DI Direct Products practice claim 7. CX-0079 ¶ 305. Measurements of the mean iron compositions for each of the four layers of the tested DI Direct Products show that the interdiffusion layer has a first mean iron composition, the intermediate layer has a second mean iron composition less than the first mean iron composition; wherein the intermetallic layer has a third mean iron composition, the third mean iron composition less than the first mean iron composition and greater than the second mean iron composition, and the superficial layer has a fourth mean iron composition, the fourth mean iron composition being less than the third mean iron composition. *See* Appx. ¶ 13. VinFast does not dispute that the DI Direct Products meet this claim.

6. Claim 9

- a) [9] The hot stamped coated steel product according to claim 1, wherein layer (a) has a thickness that is greater than a thickness of layer (c).**

The DI Direct Products practice claim 9. CX-0079 ¶ 306. Testing of each DI Direct Product shows that a thickness of layer (a) is greater than a thickness of layer (c). *See* Appx. ¶ 16.

[REDACTED]

VinFast does not dispute that the DI Direct Products meet this limitation.

7. Claim 10

- a) [10] The hot stamped coated steel product according to claim 1, wherein layer (a) has a thickness that is greater than a thickness of layer (d).**

The DI Direct Products practice claim 10. CX-0079 ¶ 307. Testing of each DI Direct Product shows that a thickness of layer (a) is greater than a thickness of layer (d). *See* Appx. ¶ 16. VinFast disputes whether the DI Direct Products' layer (a) has a thickness that is greater than a thickness of layer (d). VinFast is wrong. *See* Section IV.E.3.

8. Claim 13

- a) [13] The hot stamped coated steel product according to claim 1, wherein layer (a) has a thickness that is more than twice a thickness of layer (c).**

The DI Direct Products practice claim 13. CX-0079 ¶ 308. Testing of each DI Direct Product shows that a thickness of layer (a) is more than twice a thickness of layer (c). *See* Appx. ¶ 16. VinFast disputes whether the DI Direct Products' layer (a) has a thickness that is more than twice a thickness of layer (c). VinFast is wrong. *See* Section IV.E.4.

9. Claim 15

- a) [15] The hot stamped coated steel product according to claim 1, wherein the hot stamped coated steel product is fully martensitic.**

The DI Direct Products practice claim 15. CX-0079 ¶ 309. Tier 1 hot stamper documents show that DI Direct Products have a fully martensitic structure after hot stamping. *E.g.*, CX-0458; CX-0455; CX-0823 at [REDACTED]; CX-0399 at [REDACTED]. Additionally, SEM micrographs of the substrate of the DI Direct Products taken for this investigation shows that the hot stamped coated steel products are fully martensitic. *See* Appx. ¶ 18. VinFast does not dispute that the DI Direct Products meet this claim.

10. Claim 16

- a) 16[a] The hot stamped coated steel product according to claim 1, wherein the base steel consists of the following components by weight based on total weight: .15%<carbon<0.5%;**

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[a]. *See* Section III.D.3.a; *see also* CX-0079 ¶ 310; CX-0691 at AM-ITC_0106599; CX-0719 at

[REDACTED]; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet this limitation.

b) 16[b] 0.5%<manganese<3%;

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[b]. *See* Section III.D.3.b; *see also* CX-0079 ¶ 311; CX-0691 at AM-ITC_0106599; CX-0719 at [REDACTED]; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet this limitation.

c) 16[c] 0.1%<silicon<0.5%;

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[c]. *See* Section III.D.3.c; *see also* CX-0079 ¶ 312; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 16[c].

d) 16[d] 0.01%<chromium<1%;

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[d]. *See* Section III.D.3.d; *see also* CX-0079 ¶ 313; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 16[d].

e) 16[e] titanium<0.2%;

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[e]. *See* Section III.D.3.e; CX-0079 ¶ 314; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast disputes whether the DI Direct Products meet 16[e]. VinFast is wrong. *See* Section IV.E.5.

f) 16[f] aluminum<0.1%;

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[f]. *See* Section III.D.3.f; *see also* CX-0079 ¶ 315; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 16[f].

g) 16[g] phosphorus<0.1%;

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[g]. *See* Section III.D.3.g; *see also* CX-0079 ¶ 316; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 16[g].

h) 16[h] sulfur<0.05%;

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[h]. *See* Section III.D.3.h; *see also* CX-0079 ¶ 317; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 16[h].

i) 16[i] 0.0005%<boron<0.08%;

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[i]. *See* Section III.D.3.i; CX-0079 ¶ 318; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast disputes whether the DI Direct Products meet 16[i]. VinFast is wrong. *See* Section IV.E.5.

j) 16[j] a remainder being iron and impurities inherent in processing.

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[j]. *See* Section III.D.3.j; CX-0079 ¶ 319; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast disputes whether the DI Direct Products meet 16[j]. VinFast is wrong. *See* Section IV.E.5.

11. Claim 17

a) 17[a] The hot stamped coated steel product according to claim 1, wherein the base steel consists of the following components by weight based on total weight: 0.15%<carbon<0.25%,

The DI Direct Products practice element 17[a]. CX-0079 ¶ 320. Test results and OEM specifications show that the base steel of the DI Direct Products includes between 0.15% and 0.25% carbon by weight based on total weight. *See* CX-0691 at AM-ITC_0106599; CX-0719 at [REDACTED]; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products practice this limitation.

b) 17[b] 0.8%<manganese<1.8%,

The DI Direct Products practice element 17[b]. CX-0079 ¶ 321. Test results and OEM specifications show that the base steel of the DI Direct Products includes between 0.8% and 1.8% manganese by weight based on total weight. *See* CX-0691 at AM-ITC_0106599; CX-0719 at [REDACTED]; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products practice this limitation.

c) 17[c] 0.10%<silicon<0.35%,

[REDACTED]

The DI Direct Products meet this limitation for the same reason as '602 Patent element 4[c]. *See* Section III.D.4.c; *see also* CX-0079 ¶ 322; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 17[c].

d) 17[d] 0.01%<chromium<0.5%,

The DI Direct Products practice element 17[d]. CX-0079 ¶ 323. Test results and OEM specifications show that the base steel of the DI Direct Products includes between 0.01% and 0.5% chromium by weight based on total weight. *See* CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products practice 17[d].

e) 17[e] titanium<0.1%

The DI Direct Products meet this limitation for the same reason as '602 Patent element 4[e]. *See* Section III.D.4.e; CX-0079 ¶ 324; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast disputes whether the DI Direct Products' meet 17[e]. VinFast is wrong. *See* Section IV.E.5.

f) 17[f] aluminum<0.1%

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[f]. *See* Section III.D.3.f; *see also* CX-0079 ¶ 325; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 17[f].

g) 17[g] phosphorus<0.1%

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[g]. *See* Section III.D.3.g; *see also* CX-0079 ¶ 326; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 17[g].

h) 17[h] sulfur<0.05%

The DI Direct Products meet this limitation for the same reason as '602 Patent element 3[h]. *See* Section III.D.3.h; *see also* CX-0079 ¶ 327; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast does not dispute that the DI Direct Products meet 17[h].

i) 17[i] 0.002%<boron<0.005%,

The DI Direct Products practice element 17[i]. CX-0079 ¶ 328. Test results and OEM specifications show that the base steel of the DI Direct Products includes between 0.002% and

[REDACTED]

0.005% boron by weight based on total weight. *See* CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast disputes whether the DI Direct Products’ meet 17[i]. VinFast is wrong. *See* Section IV.E.5.

j) 17[j] a remainder being iron and impurities inherent in processing.

The DI Direct Products meet this limitation for the same reason as ’602 Patent element 3[j]. *See* Section III.D.3.j; CX-0079 ¶ 329; CX-0691 at AM-ITC_0106599; Appx. ¶ 17. VinFast disputes whether the DI Direct Products’ meet 17[j]. VinFast is wrong. *See* Section IV.E.5.

12. Claim 24

a) [24] The hot stamped coated steel product according to claim 1, wherein the hot stamped coated steel product has a mechanical strength in excess of 1000 MPa.

The DI Direct Products practice element 17[i]. CX-0079 ¶ 330. Test results and specifications produced by Tier 1 hot stampers show the DI Direct Products to have a mechanical strength in excess of 1000 MPa. *E.g.*, CX-0458; CX-0455; CX-0320 at [REDACTED]; CX-0326 at [REDACTED]; CX-0394 at [REDACTED]; CX-0407 at [REDACTED]; CX-0410 at [REDACTED]; Appx. ¶ 19; CX-0113. VinFast does not dispute that the DI Direct Products meet this limitation.

E. Dr. Brown’s Opinions on Technical Domestic Industry

For most of his analysis, Dr. Brown does not differentiate between the ’602 and ’227 Patents. *E.g.*, CX-0085 at Sections X.B.1 (applying to “all Domestic Industry Claims”); X.B.2 (applying to “all Domestic Industry Claims”). Thus, for all the reasons discussed in Section III.E.1, III.E.2, Dr. Brown’s opinions regarding the existence of “layers” and a thickness of greater than 30 µm are based on an improper claim construction and an erroneous analysis of the evidence. *See* Section III.E.3.

1. Dr. Brown’s Opinions Regarding Claim 2

Dr. Brown asserts that the DI Direct Products do not meet claim 2 because *one* of the fifteen DI Direct Products that satisfy claim 1 has a layer (a) that has a thickness that is slightly more than half of the thickness of the coating. *See* CX-0085 ¶¶ 119–120. Notably, Dr. Brown does not

[REDACTED]

dispute that the vast majority of DI Direct Products practice claim 2. *See id.*

2. Dr. Brown's Opinions Regarding Claim 5

Because Dr. Brown does not draw a distinction between the analysis of claim 5 of the '227 Patent and claims 9 and 26 of the '602 Patent (*see* CX-0085 at Section X.B.4), Dr. Brown's analysis is flawed for the reasons provided in Section III.E.6.

3. Dr. Brown's Opinions Regarding Claim 10

Although Dr. Brown points out that for the [REDACTED] and the [REDACTED] layer (a) has a thickness that is less than a thickness of layer (d), he does not dispute that the vast majority of DI Direct Products practice claim 10. *See* CX-0085 ¶ 126. Nor does it matter that Dr. Brown asserts that for some other parts there are "regions where the alleged layer (d) is thicker than the alleged layer (a)." *See id.* ¶ 127. Only part of a product must satisfy a claim's elements for that product to practice the claim. *SunTiger*, 189 F.3d at 1337.

4. Dr. Brown's Opinions Regarding Claim 13

Although Dr. Brown points out that for the [REDACTED] and the Ford F-150 bracket layer (a) has a thickness that is less than twice a thickness of layer (c), he does not dispute that the vast majority of DI Direct Products practice claim 13. *See* CX-0085 ¶ 128. Nor does it matter that Dr. Brown asserts—while once again relying on unexplained red boxes—that for some other parts there are "regions where the alleged layer (a) has a thickness that is less than twice the thickness of layer (c)." *See id.* ¶ 129. Only part of a product must satisfy a claim's elements for that product to practice the claim. *SunTiger*, 189 F.3d at 1337.

5. Dr. Brown's Opinions Regarding Claims 16 and 17

Dr. Brown asserts that the DI Direct Products do not meet the titanium, boron, iron, and impurities composition limitations found in elements 16[e], 16[i], 16[j], 17[e], 17[i], and 17[j] because a single lab did not report titanium, boron, iron, or nitrogen composition measurements for *one* of the fifteen DI Direct Products that satisfy claim 1. CX-0085 ¶¶ 130–31. Merely pointing out the absence of data for a single tested vehicle part does not undercut the conclusion that all DI Direct Products for which testing data was collected satisfy elements 16[e], 16[i], 16[j], 17[e], and 17[j]. Although Dr. Brown also points out that the [REDACTED] has a boron

[REDACTED]

composition just below 0.002% (as required by element 17[i]), he does not dispute that the vast majority of DI Direct Products practice element 17[i]. *See id.* ¶ 131.

F. Validity

VinFast has not shown by clear and convincing evidence that any asserted claim of the '227 Patent is invalid. *SRAM*, 465 F.3d at 1357; CX-0082 ¶¶ 539–538. Complainant incorporates by reference Sections III.F, III.F.1 and III.F.2.

1. The '227 Patent is Not Anticipated or Obvious Under §§ 102 or 103

a) Grounds Based on Takagi

(i) No Motivation to Combine

A POSITA would not have been motivated to combine Takagi with (a) Cornette, (b) Cornette and Vaissiere, (c) Cornette and Laurent, (d) Hein and GMW14400, (e) Hein, GMW14400, and Vaissiere, or (f) Takagi in combination with Hein, GMW14400, and Laurent. CX-0082 ¶¶ 540–684.

Takagi in combination with Cornette: A POSITA would not have been motivated to combine Takagi and Cornette for the same reasons as with respect to the '602 Patent. CX-0082 ¶ 540.

Takagi in combination with Cornette and Vaissiere: A POSITA would not have been motivated to combine Takagi with Cornette and Vaissiere. CX-0082 ¶ 541. Dr. Raabe will explain that a POSITA would have understood that increasing the number of references, and then picking and choosing individual elements among the references, would not have been obvious to do using known techniques. *Id.* A POSITA would have understood that one cannot just mix and match attributes from various hot-stamped part to obtain a hot-stamped part with only desired attributes. *Id.* Indeed, VinFast does not explain why a POSITA would have been motivated to combine Vaissiere with both Takagi and Cornette. *Id.*

Takagi in combination with Cornette and Laurent: A POSITA would not have been motivated to combine Takagi and Cornette and Laurent for the same reasons as with respect to the '602 Patent. CX-0082 ¶ 542.

[REDACTED]

Takagi in combination with Hein and GMW14400: A POSITA would not have been motivated to combine Takagi with Hein and GMW14400 for the same reasons as with respect to the '602 Patent. CX-0082 ¶ 543.

Takagi in combination with Hein, GMW14400, and Vaissiere: A POSITA would not have been motivated to combine Takagi and Hein, GMW14400, and Vaissiere for the same reasons as with respect to Takagi-Cornette-Vaissiere. CX-0082 ¶ 544. In addition, Dr. Raabe will explain that a POSITA would have understood that increasing the number of references, and then picking and choosing individual elements among the references, would make it even more difficult to achieve a hot-stamped part with desired attributes, and thus, a POSITA would not be motivated combine several different references. *Id.*

Takagi in combination with Hein, GMW14400, and Laurent: A POSITA would not have been motivated to combine with Hein, GMW14400, and Laurent for the same reasons as with respect to the '602 Patent. CX-0082 ¶ 545.

(ii) **Asserted Claims – Takagi in View of Cornette**

Claim 1: For the same reasons as '602 Patent claim 1, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 548.

Claim 2: For the same reasons as claim 1, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 549.

Claim 4: For the same reasons as claims 1 and 2, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 550.

Claim 5: For the same reasons as claims 1 and 2, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 550.

Claim 6: For the same reasons as claims 2 and 4 and why it would not have been obvious to combine Takagi-Cornette as discussed with reference to the '602 Patent, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 551.

Claim 7: For the same reasons as claims 1 and '602 Patent claim 1, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 551.

[REDACTED]

Claim 8: For the same reasons as claims 1 and '602 Patent claim 1, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 551. A POSITA also would not have had combined various process parameters from different references as a POSITA would have understood that one parameter used to create one hot-stamped part cannot be isolated and used in another hot-stamped process without impacting all the attributes of the hot-stamped product. *Id.*

Claim 9: For the same reasons as claims 1 and 8, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 552.

Claim 10: For the same reasons as claims 1 and 8, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 553.

Claim 11: For the same reasons as claims 1 and 8-10, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 554.

Claim 13: For the same reasons as claims 1 and 9, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 554.

Claim 15: For the same reasons as claim 1, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 554. A POSITA also would not have combined various process parameters from different references as a POSITA would have understood that one parameter used to create one hot-stamped part cannot be isolated and used in another hot-stamped process without impacting all the attributes of the hot-stamped product. *Id.* “Cooling rate” is also not a “results-effective” variable. *Id.* VinFast does not point to any disclosed relationship between “cooling rate” and “martensitic transformation” or any recognized result or why a POSITA would optimize “cooling rate.” *Id.*

Claim 22: For the same reasons as claims 1 and '602 Patent claim 12, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 555.

Claim 24: For the same reasons as claim 1, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 556–557. A POSITA would further understand that changing a parameter (e.g., the thickness of the pre-coating) would impact the attributes of the hot-stamped product. *Id.* (citing data from this Investigation).

[REDACTED]

Claim 25: For the same reasons as claims 1 and 24, Takagi in view of Cornette does not render obvious this claim. CX-0082 ¶ 558.

(iii) Asserted Claims – Takagi in combination with Cornette and Vaissiere

Claim 15: For the same reasons as claim 1, Takagi in view of Cornette and Vaissiere does not render obvious this claim. CX-0082 ¶ 559.

(iv) Asserted Claims – Takagi in combination with Cornette and Laurent

Claim 16: For the same reasons as claim 1 and '602 Patent claim 3, Takagi in view of Cornette and Laurent does not render obvious this claim. CX-0082 ¶ 560.

Claim 17: For the same reasons as claim 1 and '602 Patent claims 3-4, Takagi in view of Cornette and Laurent does not render obvious this claim. CX-0082 ¶ 561.

(v) Asserted Claims – Takagi in View of Hein and GMW14400

Claim 1: For the same reasons as '602 Patent claim 1, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 562.

Claim 2: For the same reasons as claim 1, '227 Patent claim 3 for the Takagi-Cornette combination, and Takagi-Hein-GMW14400 combination for the '602 patent, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 563.

Claim 4: For the same reasons as claims 1 and 3, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 564.

Claim 5: For the same reasons as claims 1 and 3, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 565.

Claim 6: For the same reasons as claim 4, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 565. A POSITA also would not have had arbitrarily varied process parameters as a POSITA would have understood that changing one parameter would impact all the attributes of the hot-stamped product. *Id.*

Claim 7: For the same reasons as claims 1 and '602 Patent claim 1, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 565.

[REDACTED]

Claim 8: For the same reasons as claim 1, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 565.

Claim 9: For the same reasons as claims 1 and 8, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 566.

Claim 10: For the same reasons as claims 1 and 8, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 567.

Claim 11: For the same reasons as claims 1 and 8-10, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 568.

Claim 13: For the same reasons as claims 1 and 8, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 568.

Claim 15: For the same reasons as claim 1, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 569. A POSITA also would not have had combined various process parameters from different references as a POSITA would have understood that one parameter used to create one hot-stamped part cannot be isolated and used in another hot-stamped process without impacting all the attributes of the hot-stamped product. *Id.* In addition, Dr. Raabe will explain that a POSITA would have understood that increasing the number of references, and then picking and choosing individual elements among the references, would make it even more difficult to achieve a hot-stamped part with the desired attributes, and thus, a POSITA would not be motivated combine several different references. *Id.*

Claim 16: For the same reasons as claims 1 and '602 Patent claim 3, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 568.

Claim 17: For the same reasons as claims 1 and '602 Patent claim 3, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 568.

Claim 22: For the same reasons as claims 1 and '602 Patent claim 12, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 569.

Claim 24: For the same reasons as claim 1, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 556–557. A POSITA would further understand that

[REDACTED]

changing a parameter (*e.g.*, the thickness of the pre-coating) would impact the attributes of the hot-stamped product. *Id.* In addition, Dr. Raabe will explain that a POSITA would have understood that increasing the number of references, and then picking and choosing individual elements among the references, would make it even more difficult to achieve a hot-stamped part with desired attributes, and thus, a POSITA would not be motivated combine several different references. *Id.*

Claim 25: For the same reasons as claims 1 and 24, Takagi in view of Hein and GMW14400 does not render obvious this claim. CX-0082 ¶ 571.

(vi) Asserted Claims – Takagi in combination with Hein, GMW14400, and Vaissiere

Claim 15: For the same reasons as claim 1 and the lack of motivation to combine Takagi-Cornette-Vaissiere combination for the '227 Patent, Takagi in view of Cornette and Vaissiere does not render obvious this claim. CX-0082 ¶ 572. In addition, Dr. Raabe will explain that a POSITA would have understood that increasing the number of references, and then picking and choosing individual elements among the references, would make it even more difficult to achieve a hot-stamped part with the desired attributes, and thus, a POSITA would not be motivated combine several different references. *Id.*

(vii) Asserted Claims – Takagi in combination with Hein, GMW14400, and Laurent

Claim 16: For the same reasons as claim 1 and '602 Patent claim 3, Takagi in view of Cornette and Laurent does not render obvious this claim. CX-0082 ¶ 573.

Claim 17: For the same reasons as claim 1 and '602 Patent claims 3-4, Takagi in view of Cornette and Laurent does not render obvious this claim. CX-0082 ¶ 574.

b) Grounds Based on Cornette

(i) No Motivation to Combine

Cornette in combination with Nishibata US: A POSITA would not have been motivated to combine Takagi and Nishibata US for the same reasons as with respect to the '602 Patent. CX-0082 ¶ 576.

(ii) Asserted Claims – Cornette

Claim 1: For the same reasons as '602 Patent claim 1, Cornette does not disclose this claim. CX-0082 ¶ 579.

Claim 2: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 580.

Claim 4: For the same reasons as claims 1 and 2, Cornette does not disclose this claim. CX-0082 ¶ 581.

Claim 5: For the same reasons as claims 1 and 2, Cornette does not disclose this claim. CX-0082 ¶ 581.

Claim 6: For the same reasons as claim 4, Cornette does not disclose this claim. CX-0082 ¶ 582.

Claim 7: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 582. VinFast also attempts to draw a relationship between mean iron compositions based on “ArcelorMittal’s own testing.” CX-0082 ¶ 583. But this is an unrelated test, and VinFast does not explain how this test relates to Cornette in any way. *Id.* (explaining how some tests did not result in the claimed invention).

Claim 8: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 583.

Claim 9: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 584.

Claim 10: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 585.

Claim 11: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 586.

Claim 13: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 586.

Claim 15: For the same reasons as claim 1, Cornette does not disclose this claim. CX-

[REDACTED]

0082 ¶ 586. VinFast also attempts to draw a relationship between mean iron compositions based on “Accused Products or Domestic Industry Products.” CX-0082 ¶ 587. But these are unrelated, and VinFast does not explain how these relate to Cornette in any way. *Id.* (explaining how some tests did not result in the claimed invention).

Claim 16: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 587.

Claim 17: For the same reasons as claims 1 and 16, Cornette does not disclose this claim. CX-0082 ¶ 588.

Claim 24: For the same reasons as claims 1 and 25 (below), Cornette does not disclose this claim. CX-0082 ¶ 589.

Claim 25: For the same reasons as claim 1, Cornette does not disclose this claim. CX-0082 ¶ 590.

(iii) Asserted Claims – Cornette in view of Nishibata US

Claim 16: For the same reasons as claim 1, Cornette in view of Nishibata US does not render obvious this claim. CX-0082 ¶ 591–593. In addition, Nishibata US discloses different ranges for several elements. *Id.* ¶ 592. VinFast has not shown that Nishibata US discloses the claimed ranges or that it would have been obvious to reach the claimed range based on Nishibata US’s disclosures. *Id.* (explaining, in contrast, the ’602 Patent discloses the process for how to obtain a beneficial coating microstructure in a repeatable, consistent, and robust manner).

Claim 17: For the same reasons as claims 1 and 16, Cornette in view of Nishibata US does not render obvious this claim. CX-0082 ¶ 594.

c) Grounds Based on Suehiro II

(i) No Motivation to Combine

A POSITA would not have been motivated to combine Suehiro II with (a) Cornette, (b) Cornette and Vaissiere, or (c) Cornette and Laurent. CX-0082 ¶¶ 595–597.

Suehiro II in combination with Cornette: A POSITA would not have been motivated to combine Suehiro II and Cornette for the same reasons as with respect to the ’602 Patent. CX-0082

¶ 595.

Suehiro II in combination with Cornette and Vaissiere: A POSITA would not have been motivated to combine Suehiro II with Cornette and Vaissiere. CX-0082 ¶ 596. Dr. Raabe will explain that a POSITA would have understood that increasing the number of references, and then picking and choosing individual elements among the references, would not have been obvious to do using known techniques. *Id.* A POSITA would have understood that one cannot just mix and match attributes from various hot-stamped part to obtain a hot-stamped part with only desired attributes. *Id.* Indeed, VinFast does not explain why a POSITA would have been motivated to combine Vaissiere with both Suehiro II and Cornette. *Id.*

Suehiro II in combination with Cornette and Laurent: A POSITA would not have been motivated to combine Suehiro II with Cornette and Laurent for the same reasons as with respect to the '602 Patent. CX-0082 ¶ 597.

(ii) **Asserted Claims – Suehiro II in combination with Cornette**

Claim 1: For the same reasons as '602 Patent claim 1, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 600.

Claim 2: For the same reasons as claim 1, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 601.

Claim 4: For the same reasons as claims 1 and 2, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 602.

Claim 5: For the same reasons as claims 1 and 2, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 602.

Claim 6: For the same reasons as claims 2 and 4 and why it would not have been obvious to combine Suehiro II-Cornette as discussed with reference to the '602 Patent, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 603.

Claim 7: For the same reasons as claims 1 and '602 Patent claim 1, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 603.

Claim 8: For the same reasons as claim 1, Suehiro II in view of Cornette does not render

[REDACTED]

obvious this claim. CX-0082 ¶ 603.

Claim 9: For the same reasons as claims 1 and 8, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 604.

Claim 10: For the same reasons as claims 1 and 8, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 605.

Claim 11: For the same reasons as claims 1 and 8-10, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 606.

Claim 13: For the same reasons as claims 1 and 9, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 606.

Claim 15: For the same reasons as claim 1, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 606. A POSITA also would not have had combined various process parameters from different references as a POSITA would have understood that one parameter used to create one hot-stamped part cannot be isolated and used in another hot-stamped process without impacting all the attributes of the hot-stamped product. *Id.* “Cooling rate” is also not a “results-effective” variable. *Id.* VinFast does not point to any disclosed relationship between “cooling rate” and “martensitic transformation” or any recognized result or why a POSITA would optimize “cooling rate.” *Id.*

Claim 22: For the same reasons as claims 1 and '602 Patent claim 12, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 607.

Claim 24: For the same reasons as claim 1, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 608–609. A POSITA would further understand that changing a parameter (*e.g.*, the thickness of the pre-coating) would impact the attributes of the hot-stamped product. *Id.* (citing data from this Investigation).

Claim 25: For the same reasons as claims 1 and 24, Suehiro II in view of Cornette does not render obvious this claim. CX-0082 ¶ 610.

(iii) Asserted Claims – Suehiro II in combination with Cornette and Vaissiere

Claim 15: For the same reasons as claim 1, Suehiro II in view of Cornette and Vaissiere does not render obvious this claim. CX-0082 ¶ 611.

(iv) Asserted Claims – Suehiro II in combination with Cornette and Laurent

Claim 16: For the same reasons as claim 1 and '602 Patent claim 3, Suehiro II in view of Cornette and Laurent does not render obvious this claim. CX-0082 ¶ 612.

Claim 17: For the same reasons as claim 1 and '602 Patent claims 3-4, Suehiro II in view of Cornette and Laurent does not render obvious this claim. CX-0082 ¶ 617.

d) Grounds Based on Engels

(i) No Motivation to Combine

A POSITA would not have been motivated to combine Engels with (a) Cornette, (b) Takagi, (c) Hein, (d) Vaissiere, or (e) Laurent. CX-0082 ¶¶ 615–619.

Engels in combination with Cornette: A POSITA would not have been motivated to combine Engels and Cornette for the same reasons as the '602 Patent. CX-0082 ¶ 615.

Engels in combination with Takagi: A POSITA would not have been motivated to combine Engels and Takagi for the same reasons as the '602 Patent. CX-0082 ¶ 616.

Engels in combination with Hein: A POSITA would not have been motivated to combine Engels and Hein for the same reasons as with respect to the '602 Patent. CX-0082 ¶ 617–618. A POSITA would further understand that changing a parameter (*e.g.*, the base steel) would impact the attributes of the hot-stamped product. *Id.* (citing data from this Investigation). *Id.*

Engels in combination with Vaissiere: A POSITA would not have been motivated to combine Engels and Hein for the same reasons as with respect to the '227 Patent with respect to the Takagi-Cornette-Vaissiere combination. CX-0082 ¶ 619.

Engels in combination with Laurent: A POSITA would not have been motivated to combine Engels and Laurent for the same reasons as the '602 Patent. CX-0082 ¶ 619.

(ii) Asserted Claims – Engels

Claim 1: For the same reasons as '602 Patent claim 1, Engels does not disclose this claim. CX-0082 ¶ 623.

Claim 2: For the same reasons as claim 1, Engels does not disclose this claim. CX-0082 ¶ 624.

Claim 4: For the same reasons as claim 1, Engels does not disclose this claim. CX-0082 ¶ 625.

Claim 5: For the same reasons as claims 1 and '227 Patent claim 4, Engels does not disclose this claim. CX-0082 ¶ 626. Although VinFast also attempts to rely on its analysis of claim 3, VinFast did not analyze claim 3 for this reference.

Claim 6: For the same reasons as claim 4, Engels does not disclose this claim. CX-0082 ¶ 626. A POSITA would have understood that differences between the claimed invention and GMW14400 cannot be overlooked due to “manufacturing tolerances.” *Id.* If manufacturing tolerances resulted in a different layer thickness, VinFast has not explained how that would impact the other attributes of the hot-stamped product. *Id.*

Claim 7: For the same reasons as claim 1 and '602 Patent claim 1, Engels does not disclose this claim. CX-0082 ¶ 626.

Claim 9: For the same reasons as claim 1, Engels does not disclose this claim. CX-0082 ¶ 627. A POSITA would have understood that varying just one parameter would have impacted all other attributes of the hot-stamped product, such that varying this parameter would not keep all other aspects of the hot-stamped product the same. *Id.*

Claim 10: For the same reasons as claim 1, Engels does not disclose this claim. CX-0082 ¶ 628.

Claim 15: For the same reasons as claim 1, Engels does not disclose this claim. CX-0082 ¶ 629. A POSITA would have understood that varying just one parameter would have impacted all other attributes of the hot-stamped product, such that varying this parameter would not keep all other aspects of the hot-stamped product the same. *Id.*

[REDACTED]

Claim 22: For the same reasons as claim 1 and '602 Patent claim 12, Engels does not disclose this claim. CX-0082 ¶ 629.

Claim 24: For the same reasons as claim 1, Engels does not disclose this claim. CX-0082 ¶ 630.

Claim 25: For the same reasons as claims 1 and 24, Engels does not disclose this claim. CX-0082 ¶ 631.

(iii) Asserted Claims – Engels in combination with Cornette

Claim 8: For the same reasons as claim 1, Engels in view of Cornette does not disclose this claim. CX-0082 ¶ 631.

Claim 11: For the same reasons as claims 1 and 8, Engels in view of Cornette does not disclose this claim. CX-0082 ¶ 632.

Claim 13: For the same reasons as claims 1, 8 and 13, Engels in view of Cornette does not disclose this claim. CX-0082 ¶ 632.

Claim 24: For the same reasons as claim 1 and '227 Patent claim 24 for the Takagi-Cornette combination, Engels in view of Cornette does not disclose this claim. CX-0082 ¶ 633.

Claim 25: For the same reasons as claims 1 and 24, Engels in view of Cornette does not disclose this claim. CX-0082 ¶ 634.

(iv) Asserted Claims – Engels in combination with Takagi

Claim 8: For the same reasons as claim 1, Engels in view of Takagi does not disclose this claim. CX-0082 ¶ 634. A POSITA would have understood that varying just one parameter would have impacted all other attributes of the hot-stamped product, such that varying this parameter would not keep all other aspects of the hot-stamped product the same. *Id.*

Claim 9: For the same reasons as claims 1 and 8, Engels in view of Takagi does not disclose this claim. CX-0082 ¶ 635.

Claim 10: For the same reasons as claims 1 and 8, Engels in view of Takagi does not disclose this claim. CX-0082 ¶ 636.

Claim 11: For the same reasons as claims 1 and 8-10, Engels in view of Takagi does not

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disclose this claim. CX-0082 ¶ 637.

Claim 22: For the same reasons as claim 1 and '602 Patent claim 12, Engels in view of Takagi does not disclose this claim. CX-0082 ¶ 638.

(v) Asserted Claims – Engels in combination with Hein

Claim 15: For the same reasons as claim 1, Engels in view of Hein does not disclose this claim. CX-0082 ¶ 638.

Claim 16: For the same reasons as claim 1, Engels in view of Hein does not disclose this claim. CX-0082 ¶ 638. A POSITA also would have understood that a conclusion cannot be drawn about the amount of Al, P, and S based on Hein's silence. *Id.*

Claim 17: For the same reasons as claims 1 and 16, Engels in view of Hein does not disclose this claim. CX-0082 ¶ 639.

(vi) Asserted Claims – Engels in combination with Laurent

Claim 15: For the same reasons as claim 1 and '602 Patent claim 3, Engels in view of Laurent does not disclose this claim. CX-0082 ¶ 641.

Claim 17: For the same reasons as claim 1 and '602 Patent claim 3-4, Engels in view of Laurent does not disclose this claim. CX-0082 ¶ 642.

e) Grounds Based on Passat 1049

(i) Asserted Claims – Passat 1049

Claim 1: For the same reasons as '602 Patent claim 1, Passat 1049 does not disclose this claim. CX-0082 ¶ 647.

Claim 2: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-0082 ¶ 648.

Claim 4: For the same reasons as claims 1 and 2, Passat 1049 does not disclose this claim. CX-0082 ¶ 649.

Claim 5: For the same reasons as claims 1 and 2, Passat 1049 does not disclose this claim. CX-0082 ¶ 650.

Claim 6: For the same reasons as claim 4, Passat 1049 does not disclose this claim. CX-

0082 ¶ 651.

Claim 7: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 652.

Claim 8: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 653.

Claim 9: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 654.

Claim 10: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 655.

Claim 11: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 656.

Claim 13: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 657.

Claim 15: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 658.

Claim 16: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 659. In addition, VinFast improperly relies on part BL7 for this claim despite not relying on BL7 for claim 1. *Id.*

Claim 17: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-

0082 ¶ 660. In addition, VinFast improperly relies on part BL7 for this claim despite not relying on BL7 for claim 1. *Id.*

Claim 22: For the same reasons as claim 1 and '602 Patent claim 12, Passat 1049 does not disclose this claim. CX-0082 ¶ 661.

Claim 24: For the same reasons as claim 1, Passat 1049 does not disclose this claim. CX-0082 ¶ 662. In addition, VinFast improperly relies on part BL7 for this claim despite not relying on BL7 for claim 1. *Id.*

f) Grounds Based on Lachmann

(i) No Motivation to Combine

A POSITA would not have been motivated to combine Lachmann with (a) Cornette, (b) Vaissiere, or (c) Laurent. CX-0082 ¶¶ 664–666.

Lachmann in combination with Cornette: A POSITA would not have been motivated to combine Lachmann and Cornette for the same reasons as the '602 Patent. CX-0082 ¶ 664.

Lachmann in combination with Vaissiere: A POSITA would not have been motivated to combine Lachmann and Vaissiere for the same reasons as with respect to the '227 Patent Takagi-Cornette-Vaissiere combination. CX-0082 ¶ 665.

Lachmann in combination with Laurent: A POSITA would not have been motivated to combine Lachmann and Laurent for the same reasons as the '602 Patent. CX-0082 ¶ 666.

(ii) Asserted Claims – Lachmann

Claim 1: For the same reasons as '602 Patent claim 1, Lachmann does not disclose this claim. CX-0082 ¶ 669.

Claim 2: For the same reasons as claim 1, Lachmann does not disclose this claim. CX-0082 ¶ 670.

Claim 6: This claim depends on claim 4, but VinFast does not contend that Lachmann discloses claim 4 and thus, Lachmann cannot disclose claim 6. CX-0082 ¶ 671.

Claim 7: For the same reasons as claim 1 and '602 Patent claim 1, Lachmann does not disclose this claim. CX-0082 ¶ 671.

Claim 8: For the same reasons as claim 1, Lachmann does not disclose this claim. CX-0082 ¶ 671.

Claim 9: For the same reasons as claims 1 and 8, Lachmann does not disclose this claim. CX-0082 ¶ 672.

Claim 10: For the same reasons as claims 1 and 8, Lachmann does not disclose this claim. CX-0082 ¶ 673.

Claim 11: For the same reasons as claims 1 and 8-10, Lachmann does not disclose this claim. CX-0082 ¶ 674.

[REDACTED]

Claim 13: For the same reasons as claims 1 and 9, Lachmann does not disclose this claim. CX-0082 ¶ 674.

Claim 15: For the same reasons as claim 1, Lachmann does not disclose this claim. CX-0082 ¶ 675. A POSITA would not have understood Lachmann's lack of disclosure as disclosing fully martensitic. *Id.* Contrary to VinFast's argument, this is not a change in degree and a POSITA would have understood that varying just one parameter would have impacted all other attributes of the hot-stamped product, such that varying this parameter would not keep all other aspects of the hot-stamped product the same. *Id.* For example, testing in this Investigation showed that varying the pre-coating thickness resulted in a very different hot-stamped product. *Id.*

Claim 22: For the same reasons as claim 1 and '602 Patent claim 12, Lachmann does not disclose this claim. CX-0082 ¶ 676.

Claim 24: For the same reasons as claim 1, Lachmann does not disclose this claim. CX-0082 ¶ 677–678. A POSITA would have understood that varying just one parameter would have impacted all other attributes of the hot-stamped product, such that varying this parameter would not keep all other aspects of the hot-stamped product the same. *Id.* For example, testing in this investigation showed that varying the pre-coating thickness resulted in a very different hot-stamped product. *Id.*

Claim 25: For the same reasons as claims 1 and 24, Lachmann does not disclose this claim. CX-0082 ¶ 631.

(iii) Asserted Claims – Lachmann in combination with Cornette

Claim 4: For the same reasons as claims 1 and 2, Lachmann in view of Cornette does not disclose this claim. CX-0082 ¶ 680.

Claim 5: For the same reasons as claims 1 and 2, Lachmann in view of Cornette does not disclose this claim. CX-0082 ¶ 680.

(iv) Asserted Claims – Lachmann in combination with Vaissiere

Claim 15: For the same reasons as claim 1, Lachmann in view of Vaissiere does not disclose this claim. CX-0082 ¶ 682.

[REDACTED]

(v) **Asserted Claims – Lachmann in combination with Laurent**

Claim 16: For the same reasons as claim 1 and '602 Patent claim 3, Lachmann in view of Laurent does not disclose this claim. CX-0082 ¶ 683.

Claim 17: For the same reasons as claim 1 and '602 Patent claims 3-4, Lachmann in view of Laurent does not disclose this claim. CX-0082 ¶ 683.

g) Secondary Considerations of Non-Obviousness

Complainant incorporates by reference Section III.F.1.b.

2. The Claims of the '227 Patent Are Not Invalid Based on “Preferred Hot Stamping Process” Or “Technical Domestic Industry”

Complainant incorporates by reference Section III.F.3.g.

3. The Claims of the '227 Patent Are Not Invalid for Lack of Written Description Under ¶ 112

Respondents indicated that they intend to argue that the following terms of the '227 Patent are invalid for lack of written description: “mean composition” (claim 1); “mean iron composition” (claim 7); “fully martensitic” (claim 15); and “by weight based on total weight” (claims 16, 17, 22). Respondents’ argument fails, for the same reasons explained in Section III.F.5. Namely, Respondents’ alleged written description defense is barred *procedurally*, as it was not properly disclosed or preserved during discovery. *See* Nov. 1, 2024 Invalidity Contentions at 36–38; Nov. 22, 2024 Revised Invalidity Contentions at 37–39; *cf.* Ground Rule 4.4.2 (“Conclusory statements in responses to contention interrogatories are insufficient.”). And the defense is barred *substantively*, as Respondents offer no evidence of how a POSITA, reviewing the specification, would understand whether the inventors were in possession of the above claim scope, which is factually necessary to support a written description defense. *See* Section III.F.3. Respondents cannot support their written description argument with attorney argument alone, and thus it categorically fails.

4. The Claims of the '227 Patent Are Not Indefinite Under § 112

Complainant incorporates by reference Section III.F.4.

a) Layer

[REDACTED]

Complainant incorporates by reference Section III.F.4.a.

5. The '227 Patent Is Not Invalid Under § 101

Complainant incorporates by reference Section III.F.5.

V. DOMESTIC INDUSTRY – ECONOMIC PRONG

ArcelorMittal, its direct licensees, and implied sublicensees or otherwise authorized parties have invested significantly in labor and capital and plant and equipment, and substantially in exploiting products that practice the Asserted Patents in the United States. Complainant's economic expert, Mr. James Malackowski, even applying numerous highly conservative methods and assumptions, has calculated that the parties from whom discovery was obtained in this matter have invested approximately [REDACTED], and that accounting for the investments of the many parties who, with authorization, practice the Asserted Patents, the investments are likely closer to [REDACTED]. CX-0081 at 159–160, Fig. 138; CX-0118.

As ArcelorMittal's witnesses will explain, these significant investments were made in the U.S. beginning in about 2006, after ArcelorMittal introduced and encouraged adoption of its patented technology, including by partnering closely with major auto manufacturers to collaboratively perform research and development to exploit the technology claimed in the Asserted Patents. CX-0042 ¶¶ 2, 13, 16–42. This engineering, research, and development work created the market for the DI Products (Precursor and Direct) in North America, and paved the way for steelmakers, such as ArcelorMittal (and its joint venture licensee, AM/NS Calvert) and licensee [REDACTED] to invest in massive, costly plants to supply base steel (USIBOR, DUCTIBOR, and Ultralume) that is pre-coated to form the "DI Precursor Products." CX-0042 ¶¶ 2, 13, 16–42; CX-0006 at 39–42, 168–69; CX-0081 at 24–32, 35–66. It likewise created the market for and encouraged automotive suppliers (Tier 1 manufacturers) to invest in expensive hot stamping equipment and to support plant, labor, and capital to manufacture products (the DI Direct Products) that practice the Asserted Patents. CX-0042 ¶¶ 2, 13, 16–42; CX-0006 at 72–73, 108; CX-0081 at 24–32, 66–148. The result of this investment is that auto manufacturers can make safer, lighter vehicles using ArcelorMittal's patented steel. CX-0042 ¶9; CX-0006 at 22; CX-0081

[REDACTED]

at 32–34.

ArcelorMittal’s Investments in DI Precursor Products. As the Federal Circuit has observed, “nothing in § 337 precludes a complainant from relying on investments or employment directed to significant components, specifically tailored for use in an article protected by the patent.” *Motorola Mobility, LLC v. ITC*, 737 F.3d 1345, 1351 (Fed. Cir. 2013). Indeed, “[a]n investment directed to a specifically tailored, significant aspect of the article is still directed to the article.” *Id.* ArcelorMittal’s investments in DI Precursor Products are directed to a specifically tailored, significant aspect of the patented articles at issue in this Investigation.

Likewise, investments in component parts used for products that directly practice the claims of the asserted patents are cognizable. *See Certain Optoelectronic Devices*, Inv. No. 337-TA-669, Initial Determination, 2010 WL 1249683, at *60–61 (Mar. 12, 2010) (finding complainants satisfied the economic prong through substantial investments in plant and equipment, labor and capital, and in engineering and R&D related to products used by complainant’s customers in optical communication networks that practiced complainant’s patent); *Certain Integrated Repeaters, Switches, Transceivers*, Inv. No. 337-TA-435, Final Initial and Recommended Determinations, 2001 WL 1769747, at *94–95 (Jul. 19, 2001) (finding the economic prong satisfied by “a significant domestic investment with regard to [products manufactured by complainant], which are component parts in boards [manufactured by a third party] that practice the ’603 patent”); *Certain Foam Masking Tape*, Inv. No. 337-TA-528, Order No. 41, 2005 WL 1597282, at *9 (June 21, 2005) (finding that evidence of domestic investment into complainant’s masking tape product, that was then sold and used by customers who practice the method patent, satisfied the economic prong).

Investments by Licensed Steel Manufacturers and Authorized Tier 1 Manufacturers.

Additionally, as discussed further below, ArcelorMittal induces and contributes to its customers practicing the claims of the Asserted Patents, and those customers are authorized to practice the claims. ArcelorMittal can also rely on the investments of these licensed and otherwise authorized entities to satisfy the economic prong.

[REDACTED]

The Commission has long held “that the domestic industry inquiry under Section 337 is not limited to the activities of the patent owner, but also involves the activities of any licensees.” *Certain Variable Speed Wind Turbines and Components Thereof*, Inv. No. 337-TA-376, Comm’n Op., 1998 WL 35465896, at *3 (Feb. 1998); *see also Certain Automotive Parts*, Inv. No. 337-TA-651, Order No. 21 at 4-5 (Mar. 6, 2009); *Certain Dynamic Random Access Memory Devices and Prods. Containing Same*, Inv. No. 337-TA-595, Comm’n Notice (Jan. 4, 2008) (deciding not to review an initial determination finding that the activities of the complainant’s licensee satisfied the economic prong of the domestic industry requirement); *Certain Static Random Access Memories*, Inv. No. 337-TA-341, Order No. 5 (Dec. 30, 1992). “Indeed, the economic prong of the domestic industry requirement can be established where a complainant bases its claim exclusively on the activities of a contractor/licensee.” *Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, Order No. 22, 2006 ITC LEXIS 163, at *10 (Mar. 15, 2006) (emphasis added) (citing *Certain Methods of Making Carbonated Candy Products*, Inv. No. 337-TA-292, ID at 142 (Dec. 8, 1989) (unreviewed in relevant part) (finding existence of a domestic industry based on long-term, completely domestic production of candy by a contractor/licensee utilizing the patented process)); *see also Variable Speed Wind Turbines*, Inv. No. 337-TA-376, Comm’n Op. at 20.

Further, whether a license is expressed or implied makes no difference in the domestic industry context because both are forms of authorization to practice the claims of a patent. *See Certain Multi-Stage Fuel Vapor Canister Systems*, Inv. No. 337-TA-1140, Order No. 16, 2019 WL 4072339, at*2 (July 1, 2019) (“The fact that *Magnetic Tape Cartridges* involved an express, written license, whereas here the claimed license is implied . . . , does not negate the fact that both are a form of authorization; and an overarching principle of section 337 domestic industry is the identification of articles which practice or embody the claims of an asserted patent under authorization from the patent owner.”); *see also Certain Magnetic Tape Cartridges & Components Thereof*, Inv. No. 337-TA-1058 (“*Certain Magnetic Tape Cartridges*”), Initial Determination, 2018 WL 4943753, at *133–34 (Aug. 17, 2018) (“Sufficient evidence of authorization from [complainant] to [licensee] to practice the patent claims, even if not reduced to writing, can suffice

[REDACTED]

to bring [the complainant's products] within the umbrella of domestic industry products upon which [complainant] may rely.”).

The Commission has likewise made clear that complainants seeking to show a domestic industry can rely on “the activities of those authorized by it to practice the patent.” *Certain Optical Disc Drives*, Inv. No. 337-TA-897, Comm’n Determination, 2014 WL 12942528, at *3 (Sept. 29, 2014) (emphasis in original). ITC orders have distinguished “authorization” from having a “license.” *E.g.*, *Certain Wearable Monitoring Devices, Sys., & Components Thereof*, Inv. No. 337-TA-1190, Order No. 34, 2020 WL 6591309, at *18 (Oct. 1, 2020) (citing *Certain Liquid Crystal Display Devices*, Inv. No. 337-TA-631, Order No. 18, 2008 WL 4682826, at *4 (Sept. 23, 2008)) (discussing a “license or explicit authorization”) (emphasis added).

VinFast provides only minimal, narrow rebuttal to ArcelorMittal’s expert’s Mr. Malackowski’s, detailed domestic industry analysis, indicating that, to the extent VinFast challenges this analysis, it will resort primarily to quibbles over his calculations. But the evidence will show that Mr. Malackowski’s analysis is thorough, detailed, and reliable. *Compare* CX-0081 (Mr. Malackowski’s expert report) *with* CX-0087 (VinFast’s expert’s, Julia Rowe’s, rebuttal expert report). Even so, the ITC does not require perfect accounting precision for domestic industry because “most people do not document their daily affairs in contemplation of possible litigation.” *Certain Elec. Devices, Including Mobile Phones, Portable Music Players, & Computs.*, Inv. No. 337-TA-701, Order No. 58, 2010 WL 5261540, at *3 (Nov. 18, 2010). Estimates of investments attributed to certain IP are acceptable in the calculation so long as they are reasonable, appropriate to the circumstances, and supported by evidence in the record. *Certain Mobile Device Holders*, Inv. No. 337-TA-1028, Comm’n Op., 2018 WL 4042764, at *9 (Mar. 22, 2018).

For its part, VinFast provides essentially no rebuttal to Mr. Malackowski’s main analyses. VinFast’s economic expert, Julia Rowe, does not address the significant investments by Tier 1 manufacturers or ArcelorMittal’s other U.S. steel manufacturer licensee, [REDACTED] CX-0087. And, as discussed below, for AM/NS Calvert, Ms. Rowe limits her analysis to a narrow set of facts based on legally and technically flawed assumptions, under which she purports to

[REDACTED]

apportion investments at ArcelorMittal's joint venture licensee AM/NS Calvert's manufacturing facility to only certain hot stamped parts (manufactured by third parties) that were tested in discovery in this matter. *Id.*

The evidence is clear: ArcelorMittal's domestic industry includes nearly [REDACTED] in investment in labor and capital, research and development, and exploitation of products that practice the Asserted Patents, which is significant and substantial.

A. Significant Investment in Plant and Equipment/Labor and Capital – Precursor Products

1. AM/NS Calvert

AM/NS Calvert LLC was created in 2014 through a 50/50 joint venture partnership between ArcelorMittal and Nippon Steel, where ArcelorMittal and Nippon Steel each invested [REDACTED] to acquire TK Steel USA's steel processing plant in Calvert, AL, for a total purchase price of [REDACTED] CX-0042 ¶ 18; CX-0081 at 14–18; CX-1114 at 21; CX-0661; CX-0033; CX-0032. Nippon Steel is an equity partner and “has nothing to do with the sales of products” manufactured at AM/NS Calvert; such sales are “all ArcelorMittal's responsibility.” CX-0007 at 7:20–8:15; CX-0820 at 104 (ArcelorMittal “is principally responsible for marketing the product on behalf of the joint venture.”); CX-0081 at 14–18; CX-0033; CX-0032. On January 1, 2015, ArcelorMittal negotiated and executed a license with AM/NS Calvert LLC that included a license to U.S. Patent No. 8,307,680 (a parent patent to the Asserted Patents), and to all “divisionals, continuations, continuation-in-part applications, and reissues thereof,” which includes the Asserted Patents. CX-0031; CX-0033; CX-0032; CX-0081 at 36; CX-0042 ¶ 36. ArcelorMittal has since negotiated and executed several addenda with AM/NS Calvert to this license agreement. CX-0031; CX-0042 ¶ 36; CX-0008 at 25:23–26:5.

AM/NS Calvert operates a steel processing facility located in Calvert, Alabama that manufactures, among other things, the DI Precursor Products. CX-0042 ¶¶ 35–36; CX-0007 at 15:9–11; CX-0664; CX-0652; CX-0653; CX-0785; CX-0081 § 6.1. The DI Precursor Products (discussed in Section I.E.2(a)) manufactured by AM/NS Calvert include USIBOR 1500, USIBOR

2000, DUCTIBOR 450, DUCTIBOR 500, and DUCTIBOR 1000, with a coating weight of AS 150. CX-0042 ¶¶ 35–36; CX-0007 at 15:9–11; CX-0664; CX-0652; CX-0653; CX-0785; CX-0081 § 6.1. As discussed (Section I.E.2(a)), the vast majority of the DI Precursor Products manufactured by AM/NS Calvert use the AS 150 coating weight. CX-0008 at 39; CX-0007 at 70:1–11; CX-0689; CX-0081 at 27. An annual breakdown of the production volume (*i.e.*, total volume of steel manufactured at AM/NS Calvert) of DI Precursor Products (USIBOR and DUCTIBOR) manufactured by AM/NS Calvert annually (in metric tons) is below, broken down by coating weight (AS 80 v. AS 150):

(in metric tons)	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	Total
AS80											
as % of total											
AS150											
as % of total											
Total											

CX-0081 at 27–28; CX-0155; CX-0869; CX-0007 at 70:1–11; CX-0653.

After the coils are manufactured, ArcelorMittal sells the DI Precursor Products to automotive customers (including [REDACTED]), and [REDACTED]), and AM/NS Calvert ships the DI Precursor Products to Tier 1 manufacturers (including the subpoenaed entities, discussed in Section I.E.2(b)) for hot stamping, with the intent to transform the DI Precursor Products into the DI Direct Products. CX-0664; CX-0663; CX-0653; CX-0154; CX-0081 at 28–30. The volume of DI Precursor Products *shipped* and *sold* to customers is slightly lower than the *production* volume of steel (listed above) manufactured by AM/NS Calvert: a certain amount of the steel included in the production volumes may be used for testing or development purposes, or it may be sold to customers outside of the United States. CX-0007 at 29:7–18; CX-0653; CX-0081 at 28. ArcelorMittal tracks the volume of steel that is actually sold and shipped to customers, including (i) the source of the aluminized steel (AM/NS Calvert or AM/NS Dofasco, another manufacturing facility in Canada); (ii) the location of the

[REDACTED]

shipment/customer; and (iii) the coating weight. CX-0663; CX-0008 at 65–70; CX-0081 at 28. Filtering the sales data to include only the DI Precursor Products (*i.e.*, the volume of aluminized USIBOR and DUCTIBOR that is (i) manufactured using steel produced at AM/NS Calvert (rather than AM/NS Dofasco); (ii) sold to customers in the United States; and (iii) has a coating weight of AS 150) yields the following volume of DI Precursor Products sold to customers, once converted from net tons to metric tons:¹⁸

Year	2018	2019	2020	2021	2022	2023	Total
Volume (metric tons)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

CX-0081 at 28–30; CX-0663; CX-0008 at 18–19, 80–82; CX-0152; CX-0153; CX-0154.

The sales data can be further filtered to isolate the volume of DI Precursor Products sold only to the six Tier 1 manufacturers subpoenaed in this Investigation ([REDACTED]
[REDACTED] CX-0081 at 28–30; CX-0152; CX-0153; CX-0154; CX-0663:

a) Investments in Plant and Equipment

ArcelorMittal, through its licensee AM/NS Calvert, has made significant investments in

Year	2018	2019	2020	2021	2022	2023	Total
Volume (metric tons)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

plant and equipment to manufacture the DI Precursor Products. Mr. Malackowski opines on the significance of these investments in his report using two different methods to calculate the Calvert investments in plant and equipment attributable to the DI Precursor Products. CX-0081 at 36–50; CX-0124; CX-0125; CX-0126; CX-0127; CX-0128; CX-0129; CX-0130; CX-0468; CX-0469. The first method calculates the approximate price per square foot of each area of the Calvert facility and allocates the square footage to the DI Precursor Products based on the sales volume of the DI

¹⁸ The spreadsheet that includes the source of the data in this table (CX-0663) is accurate, but also includes pivot table summaries with a clerical error. CX-0081 at 28–29, CX-0008 at 18–19, 80–82. Specifically, the pivot tables undercount the precursor steel with a coating weight of AS 150 sold to customers due to the different nomenclature used by customers to denote coating weight. CX-0081 at 28–29; CX-0008 at 18–19, 80–82; CX-0154.

[REDACTED]

Precursor Products. CX-0081 at 36–48; CX-0468; CX-0469; CX-0124; CX-0126; CX-0127; CX-0129; CX-0130; CX-0152; CX-0153; CX-0154. The second method allocates the investments in plant and equipment to the DI Precursor Products using Calvert’s fixed asset list. CX-0081 at 48–50; CX-0468; CX-0469; CX-0125; CX-0128; CX-0152; CX-0153; CX-0154; CX-0688; CX-0659; CX-0660; CX-0661. Method 1 results in an investment by AM/NS Calvert of between [REDACTED] in plant and equipment attributable to all DI Precursor Products, and an investment of between [REDACTED] in plant and equipment if the investment is allocated to only the six subpoenaed hot stampers. CX-0081 at 36–48; CX-0468; CX-0469; CX-0124; CX-0126; CX-0127; CX-0129; CX-0130; CX-0152; CX-0153; CX-0154. Method 2 confirms the accuracy of Method 1 and yields [REDACTED] in plant and equipment for all DI Precursor Products, and [REDACTED] in plant and equipment for only the six subpoenaed hot stampers. CX-0081 at 48–50; CX-0468; CX-0469; CX-0125; CX-0128; CX-0152; CX-0153; CX-0154; CX-0688; CX-0659; CX-0660; CX-0661.

Both Mr. Malackowski’s methods are conservative and understate the cognizable investments in plant and equipment at the Calvert facility attributable to the DI Precursor Products. First, the Commission has held that allocating the costs of plant and equipment to the domestic industry products is *not* required where such plant and equipment is necessary to manufacture the products, regardless of whether it also assembles non-domestic industry products. *Certain Magnetic Data Storage Tapes & Cartridges*, Inv. No. 337-TA-1012, Comm’n Op., 2018 WL 8648372, at *73–74 (Apr. 2, 2018) (concluding that entirety of fixed costs of equipment could be applied to the economic domestic industry calculation despite the fact that older generation products were also assembled by the equipment in question); *Certain Biometric Scanning Devices*, Inv. No. 337-TA-720, Order No. 24, 2011 WL 1686363, at *4 (Feb. 16, 2011) (“Cross Match was required to invest in the space for each product regardless of whether the space is used to manufacture the other product.”). Second, Mr. Malackowski excludes certain investments from his calculations that indirectly support the DI Precursor Products, like the administrative and social buildings. CX-0081 at 48–50. Finally, Mr. Malackowski allocates the investments in plant and

[REDACTED]

equipment to the DI Precursor Products based on the *sales* volumes, rather than the *production* volumes, and thus does not account for the investment in DI Precursor Products for steel that is scrapped or tested—activities that are necessary to support the manufacture of such products.

(i) Overview of Calvert Plant and Equipment

The Calvert facility (shown below) encompasses a [REDACTED] acre property that is designed for efficient processing of steel slabs and includes a [REDACTED] [REDACTED] and supporting infrastructure. CX-0664; CX-0007 (Richards Dep.) at 19:13–25, 20:14–29:18; CX-0785; CX-0657.

[REDACTED]

Raw steel slabs enter the Calvert facility either by rail or at the river terminal by boat. CX-0007 at 21; CX-0664. AM/NS Calvert sources (or has sourced) its steel slabs from Brazil, Mexico, and the United States (specifically, [REDACTED] facility), but is constructing a steelmaking facility on-site from which it can source raw steel slabs (including for use in the DI Precursor Products). CX-0007 at 21, 29–30; CX-0664; CX-0653; CX-0635; CX-0636; CX-0644; CX-0645; CX-1114 at 36; CX-0820 at 104. The [REDACTED] is located next to the [REDACTED] [REDACTED] and stores all slabs before processing. CX-0007 at 22; CX-0664; CX-0657. Next to [REDACTED]

[REDACTED]

is the [REDACTED] which heats and processes all raw steel slabs manufactured at the Calvert facility, including the coils that ultimately become the DI Precursor Products. CX-0007 at 22-23; CX-0664; CX-0081 at 36-42; CX-0657. The [REDACTED] sq. feet) consists of multiple components, including walking beam furnaces, a sizing press, a roughing mill, and a finishing mill. CX-0664; CX-0007 at 22:21-25:11; CX-0081 at 36-42; CX-0294 at 37; CX-0657. After being processed in the [REDACTED] the coils are stored in the [REDACTED] including the steel coils that ultimately become the DI Precursor Products. CX-0664; CX-0007 at 22:21-25:11; CX-0081 at 36-42; CX-0294 at 34-37; CX-0657.

Certain steel coils then proceed from the [REDACTED] to the [REDACTED] building ([REDACTED] sq. feet), which houses the [REDACTED] and the [REDACTED] [REDACTED] each occupying [REDACTED] of the square footage of the building. CX-0664; CX-0007 at 22:21-25:11; CX-0081 at 36-42; CX-0294 at 34-37; CX-0657. About half of the coils that are processed in the [REDACTED] including the coils that become the DI Precursor Products, are processed by the [REDACTED] which provides a treatment to the coils to remove impurities, rust, and scale from the surface of the coil. CX-0664; CX-0007 at 22:21-25:11; CX-0081 at 36-42; CX-0294 at 34-37; CX-0657. The [REDACTED] includes an [REDACTED] [REDACTED] [REDACTED]. CX-0664; CX-0007 at 22:21-25:11; CX-0081 at 36-42. The coils processed in the [REDACTED] (including the coils that ultimately become the DI Precursor Products), then proceed to a different [REDACTED] before being finished in one of the [REDACTED]. CX-0664; CX-0007 at 22:21-26:14; CX-0081 at 36-42; CX-0657; CX-0294 at 34-38.

The [REDACTED] lines are housed in two buildings ([REDACTED]). CX-0664; CX-0007 at 22:21-26:14; CX-0081 at 36-42; CX-0657; CX-0294 at 34-38. Lines 1 and 3, which are unrelated to the DI Precursor Products, are housed in [REDACTED] while [REDACTED] houses Line 2 ("[REDACTED]") and Line 4. CX-0664; CX-0007 at 22:21-26:14; CX-0081 at 36-42; CX-0294 at 34-38. [REDACTED] measures approximately [REDACTED] sq. feet, with a basement that houses certain processes, like the aluminum pot. CX-0081 at 36-42; CX-0294 at 34-38; CX-0007 at 22-26, 28,

[REDACTED]

35–48; CX-0652; CX-0664. [REDACTED] and Line 4 each account for [REDACTED] of the square footage in the [REDACTED] building. CX-0081 at 36–42; CX-0294 at 34–38; CX-0657. The building and Line 4 also include large pieces of equipment including a [REDACTED]

[REDACTED]

[REDACTED]. CX-0664; CX-0652; CX-0081 at 36–42; CX-0007 at 35–48. Line 4 is predominately related to the DI Precursor Products and is the line where USIBOR and DUCTIBOR are finished and where the aluminum coating is applied to the steel. CX-0664; CX-0007 at 22–26, 28, 34; CX-0081 at 36–42; CX-0042 ¶¶ 18–19; CX-0294 at 34–38; CX-0652. On Line 4, the steel coils are unrolled and the flat sheet of steel is fed through several processes on the line, eventually creating the DI Precursor Product. CX-0652; CX-0081 at 36–42; CX-0007 at 35–48.

After the coils are finished in one of the [REDACTED] buildings, they are stored in the [REDACTED], which includes the [REDACTED] for finalizing and inspecting finished coils. CX-0081 at 36–42; CX-0007 at 22:21–26:14; CX-0657; CX-0664; CX-0294 at 34–38. The coils are inspected to determine whether they meet customer specifications, then shipped to customers, including the DI Precursor Products, which are sent to Tier 1s for hot stamping. CX-0081 at 36–42; CX-0007 at 22:21–26:14; CX-0664. The Calvert facility also includes a [REDACTED], including activities related to the DI Precursor Products. CX-0081 at 36–42; CX-0007 at 22:21–26:14; CX-0657; CX-0664; CX-0294 at 34–38.

Accordingly, although almost the entire Calvert facility supports the manufacture of the DI Precursor Products in some manner, the major areas that are directly required to process the DI Precursor Products include the [REDACTED]. Additional areas like the [REDACTED] are necessary to store and test the products during their production. The total square footage of the various areas at the Calvert facility is reproduced below:

[REDACTED]

[REDACTED]

[REDACTED]

CX-0081 at 36–42; CX-0294 at 34–38; CX-0126; CX-0657; CX-0664; CX-0468; CX-0007 at 22:21–26:14.

(ii) Method 1

Mr. Malackowski first calculates the investment in plant and equipment at Calvert attributable to the DI Precursor Products using the price per square footage of the facility and the ratio of the volume of DI Precursor Products sold to United States customers to the total production volumes at AM/NS Calvert. CX-0081 at 36–48; CX-0468; CX-0469; CX-0124; CX-0126; CX-0127; CX-0129; CX-0130; CX-0152; CX-0153; CX-0154. To calculate the price per square foot of the Calvert facility, Mr. Malackowski relied on data produced by ArcelorMittal and publicly available facts about the cost of the Calvert facility and the value of the equipment, determining that at the time of its acquisition, the fair value of the property, plant, and equipment at AM/NS Calvert was [REDACTED] and that, as of December 31, 2023, AM/NS Calvert reported that its investment in property, plant, and equipment was [REDACTED]. CX-0081 at 40–41; CX-0468; CX-0130; CX-0779; CX-0791; CX-0777; CX-0661 at 871; CX-0676. The Calvert square facility is also [REDACTED] square feet. CX-0126; CX-0294 at 34–38; CX-0007 at 22:21–26:14; CX-0081 at 40–41; CX-0468; CX-0130. Mr. Malackowski therefore calculated a cost per square foot

[REDACTED]

(including equipment) of [REDACTED] as of the date that AM/NS Calvert was acquired and [REDACTED] as of December 31, 2023. CX-0081 at 40–41; CX-0468; CX-0130; CX-0779; CX-0791; CX-0777; CX-0661 at 871; CX-0676; CX-0126; CX-0294 at 34–38; CX-0007 at 22:21–26:14.

Mr. Malackowski then identified the areas of the Calvert facility directly related to the production of the DI Precursor Products (Section V.A.1(a)(i), specifically the [REDACTED] [REDACTED], and allocated the square footage associated with each of these 8 areas to the DI Precursor Products based on the sales volume of the DI Precursor Products relative to the total production volume of steel processed at each manufacturing step. As mentioned above, all steel slabs processed at the Calvert facility are processed at the [REDACTED] certain slabs continue to the [REDACTED] [REDACTED] and the slabs then proceed to one of the [REDACTED], housed in [REDACTED] CX-0664; CX-0007 at 22:21–25:11; CX-0081 at 36–42; CX-0294 at 34–37; CX-0657. Mr. Malackowski's allocations are summarized below:

Area	Total Sq. Ft.	Allocation 1	Allocation 2	DI Precursor Sq. Ft.
[REDACTED]				

CX-0081 at 42–45; CX-0468; CX-0294 at 34–38; CX-0673; CX-0676; CX-0126; CX-0130; CX-0081 at 43; CX-0469; CX-0150; CX-0664; CX-0665; CX-0666; CX-0667; CX-0663; CX-0653;

[REDACTED]

CX-0689.

Mr. Malackowski's allocations result in a calculation of [REDACTED] square feet (including equipment) attributable to the DI Precursor Products, for a total of [REDACTED] on the low end (using the value of the plant and equipment at acquisition, [REDACTED]/sq. foot) and [REDACTED] on the high end (using the value of the plant and equipment in December 2023, [REDACTED]/sq. foot). CX-0124; CX-0081 at 42–45; CX-0468; CX-0294 at 34–38; CX-0673; CX-0676; CX-0126; CX-0130. To be even more conservative, Mr. Malackowski calculated in the alternative the investment in plant and equipment at Calvert related only to the sales of DI Precursor Products to the six Tier 1 hot stampers subpoenaed in this Investigation based on the sales volume to those entities compared to the production volumes of total steel at Calvert. This alternative calculation results in [REDACTED] square feet attributable to the DI Precursor Products, for a total investment of between [REDACTED] (using the 2014 value) and [REDACTED] (using the December 2023 value). CX-0151; CX-0081 at 45–48; CX-0468; CX-0294 at 34–38; CX-0152; CX-0153; CX-0154; CX-0155; CX-0156; CX-0157; CX-130; CX-0129.

(iii) Method 2

Mr. Malackowski performed a second method to calculate the investment in plant and equipment at the Calvert facility attributable to the DI Precursor Products using AM/NS Calvert's fixed asset list showing the value of the equipment as of June 2024. CX-0081 at 48–50; CX-0688; CX-0294 at 34–38; CX-0468; CX-0469; CX-0125; CX-0128; CX-0152; CX-0153; CX-0154; CX-0688; CX-0659; CX-0660; CX-0661. In Method 2, Mr. Malackowski determined the acquisition value of Calvert's assets and the area of the facility ("[REDACTED]") associated with each asset (limiting his analysis to only the "Mills" attributable to the DI Precursor Products (the [REDACTED])). CX-0150; CX-0688; CX-0125; CX-0128; CX-0152; CX-0153. He then excluded assets that may not be related to plant and equipment, like software, licenses, and office equipment. CX-0081 at 48–50. Finally, Mr. Malackowski calculated the value attributable from each remaining asset to the DI Precursor Products by again using the sales volumes of DI Precursor Products in the United States compared to the volume of steel processed at each Mill. CX-0150;

[REDACTED]

CX-0081 at 48–50; CX-0688; CX-0294 at 34–38; CX-0468; CX-0469; CX-0125; CX-0128; CX-0152; CX-0153; CX-0154; CX-0688; CX-0659; CX-0660; CX-0661.

Based on the total sales of DI Precursor Products, Mr. Malackowski calculated an investment of [REDACTED] in plant and equipment related to the DI Precursor Products. To be even more conservative, Mr. Malackowski also calculated an alternative value of plant and equipment attributable to only the six subpoenaed hot stampers for a value of [REDACTED]. CX-0128; CX-0081 at 48–50; CX-0663. Mr. Malackowski's calculations in Method 2 confirm the reasonableness of Method 1, as both calculations fall within the high and low ranges provided by Method 1. Accordingly, both methods demonstrate a significant investment in plant and equipment at Calvert attributable to the DI Precursor Products.

b) Investments in Labor and Capital

(i) Labor

As of December 2023, AM/NS Calvert employed [REDACTED] employees, [REDACTED] of whom worked in operations, which includes the [REDACTED] ([REDACTED] employees), [REDACTED] ([REDACTED] employees), and [REDACTED] areas ([REDACTED] employees). CX-0686; CX-0007 at 68–69; CX-0081 at 50–56. As discussed above, the [REDACTED] (Line 4) and finishing process functions are directly involved in the manufacture of the DI Precursor Products. Section V.A.1(a)(i). Other employees as of December 2023 include [REDACTED]
[REDACTED]
[REDACTED]. CX-0686; CX-0007 at 68–69; CX-0081 at 50–56. AM/NS Calvert tracks its labor costs by department, including for employees who are directly involved in the manufacture of the DI Precursor Products ([REDACTED] employees), and employees who indirectly support such manufacture (e.g., quality and testing). CX-0685; CX-0007 at 59–68; CX-0081 at 50–56.

To quantify AM/NS Calvert's cognizable investments in labor related to the DI Precursor Products, Mr. Malackowski first determined the number of employees who directly manufacture the DI Precursor Products on the [REDACTED] (specifically,

[REDACTED]

Line 4). CX-0081 at 50–52; CX-0136; CX-0468; CX-0685; CX-0686; CX-0007 at 59–68. For the [REDACTED] employees, Mr. Malackowski applied the DI Precursor Product volume sold to customers in the United States (discussed above) as a percentage of total production volume processed on [REDACTED] from the period 2018–2023 (discussed above). CX-0081 at 51–52; CX-0136; CX-0468; CX-0685; CX-0686; CX-0007 at 59–68; CX-0294 at 34–38; CX-0150. He then calculated the number of [REDACTED] employees attributable to such products by isolating the number of employees who work on the [REDACTED] (about [REDACTED]%), and then applying the annual DI Precursor Product volume as a percentage of total annual volume on the [REDACTED] CX-0081 at 51–52; CX-0136; CX-0468; CX-0685; CX-0686; CX-0007 at 59–68; CX-0294 at 34–38; CX-0150. Finally, Mr. Malackowski calculated the number of [REDACTED] employees attributable to the DI Precursor Products by allocating [REDACTED]% of [REDACTED] employees to Line 4, which is a conservative estimate of the number of employees who manufacture the DI Precursor Products among the [REDACTED] Lines. CX-0654; CX-0007 at 67–68; CX-0136; CX-0150.

Mr. Malackowski next determined the total labor investment for the [REDACTED] [REDACTED] employees dedicated to the DI Precursor Products by dividing the annual labor expenses in those departments by their respective total number of employees, and then multiplying the resulting average annual labor rate by the number of direct employees associated with the DI Direct Products calculated above (an amount of [REDACTED]). CX-0081 at 52–54; CX-0132; CX-0133; CX-0007 at 59–68; CX-0685; CX-0686. To quantify other labor expenses beyond those associated with the direct manufacture of the DI Precursor Products, Mr. Malackowski excluded labor expenses relating sales, marketing, administrative, HR, finance, and corporate functions, and allocated the remaining labor expenses to the DI Precursor Products based on the ratio of direct DI Precursor Product employees to total employees (a conservative approach, as this ratio is lower than the volume of DI Precursor Products sold in the United States to total production volumes of steel sold at Calvert). CX-0081 at 52–55; CX-0007 at 59–68; CX-0685; CX-0686; CX-0134; CX-0135. Those calculations resulted in additional total labor costs of [REDACTED]. CX-0081 at 55.

AM/NS Calvert's total investment in labor attributable to the DI Precursor Products from

2018–2023 therefore totals approximately [REDACTED]. CX-0081 at 50–56; CX-0468; CX-0469; CX-0470; CX-0131; CX-0132; CX-0133; CX-0134; CX-0134; CX-0136; CX-0136; CX-137; CX-0138; CX-0139; CX-0140; CX-0141; CX-0150; CX-0294 at 34–38; CX-0685; CX-0686; CX-0654; CX-0663. To be conservative, Mr. Malackowski took an alternative approach and also allocated labor expenses to the six subpoenaed Tier 1 hot stampers based on the volume sold to such hot stampers. CX-0081 at 55–56; CX-0685; CX-0686; CX-0150; X-0137; CX-0138; CX-0139; CX-0140; CX-0141. The resulting calculation still indicates [REDACTED] in labor expenses at AM/NS Calvert from 2018 to 2023 attributable to the DI Precursor Products. CX-0081 at 55–56.

Notably, neither VinFast nor its expert Julia Rowe offer any critique of Mr. Malackowski’s method of allocating labor expenses associated with the DI Direct Products to AM/NS Calvert.

(ii) Capital

Mr. Malackowski summarizes the investment in capital by AM/NS Calvert attributable to the DI Precursor Products ([REDACTED] as the low estimate and [REDACTED] as the high estimate) by AM/NS Calvert at Figure 33 of his report:

	2018	2019	2020	2021	2022	2023	Total
Investment in Capital (Low)	[REDACTED]						[REDACTED]
Investment in Capital (High)							

CX-0081 at 57; CX-0143; CX-0142.

Mr. Malackowski’s calculations above are derived from documents that AM/NS Calvert keeps in the ordinary course of its business regarding its capital expenditures and from the testimony and knowledge of Mr. Chris Richards, CEO at Calvert. CX-0081 at 56–58. Specifically, AM/NS Calvert tracks its operating costs by breaking them down into specific “sub accounts,” which show what it “takes for [AM/NS Calvert] to transform [a] slab into a finished product.” CX-0007 at 72–73; CX-0081 at 56–58; CX-0559. The way AM/NS Calvert tracks its operating costs excludes raw material costs, like the cost of purchasing the raw steel slabs, because such “commodity” costs are not costs within AM/NS Calvert’s control. CX-0007 at 72–73; CX-0081

[REDACTED]

at 56–58; CX-0559. From 2018–2023, AM/NS Calvert’s operating costs exceeded [REDACTED], including labor expenses. CX-0007 at 72–73; CX-0081 at 56–58; CX-0559.

To allocate the [REDACTED] to the capital investments attributable to the DI Precursor Products, Mr. Malackowski (i) excluded labor costs (which are accounted for above); (ii) excluded expenses that could not be allocated to the manufacture of USIBOR and DUCTIBOR, like sales, general, and administrative expenses; taxes; and expenses tied to purchasing and acquiring the steel slabs; and (iii) allocated the remaining costs (approximately [REDACTED], which includes the costs of, *e.g.*, repairs, maintenance, aluminum consumption, processing costs, utilities, roll shop costs, and slab/coil transportation on-site) based on the volume of DI Precursor Products relative to the total steel production volume at AM/NS Calvert ([REDACTED]%). His calculations result in a total of [REDACTED] in capital investments attributable to the DI Precursor Products at AM/NS Calvert from 2018 to 2023. CX-0081 at 56–58; CX-0142; CX-0143; CX-0148; CX-0149; CX-0150; CX-0294 at 34–38; CX-0468. Mr. Malackowski’s approach is conservative, and likely significantly understates the investment. For example, aluminum costs (which are almost entirely attributable to [REDACTED] at Calvert) from 2018–2023 totaled [REDACTED]. CX-0559; CX-0081 at 56–58. If Mr. Malackowski had allocated those costs based on the ratio of DI Precursor Products produced on Line 4 to total volume on Line 4 (about [REDACTED]%), aluminum expenses attributable to the DI Products would have totaled [REDACTED], bringing the total of capital investments up to [REDACTED]. CX-0081 at 56–58; CX-0142; CX-0143; CX-0468; CX-0150; CX-0294 at 34–38. Mr. Malackowski also conservatively allocated AM/NS Calvert’s capital investments to the investments attributable to the volume of DI Precursor Products sold to the six subpoenaed Tier 1 hot-stampers. CX-0081 at 56–58; CX-0145; CX-0146; CX-0147; CX-0150; CX-0294 at 34–38; CX-0468. That alternative calculation still results in [REDACTED] to [REDACTED] in capital investments attributable to the DI Precursor Products from 2018–2023 at AM/NS Calvert. CX-0081 at 56–58; CX-0145; CX-0146; CX-0147; CX-0150; CX-0294 at 34–38; CX-0468.

Although not included in the capital expenditures detailed above, AM/NS Calvert

[REDACTED]

continues to grow its investments and make upgrades related to the DI Precursor Products. For example, Mr. Richards testified that in addition to the current [REDACTED]

[REDACTED] CX-0007 at 27–28; CX-0081 at 56–58. This capital project was recently approved for [REDACTED] and is scheduled for completion in the first half of 2025. CX-0007 at 27–28; CX-0081 at 56–58. Moreover, AM/NS Calvert is constructing a [REDACTED]. CX-0007 at 32:5–33:6; CX-0081 at 15.

Notably, neither VinFast nor its expert Julia Rowe offer any critique of Mr. Malackowski’s method of allocating capital expenses associated with the DI Direct Products to AM/NS Calvert.

c) Rebuttal to VinFast’s Critiques

Tellingly, VinFast’s own economic expert, Julia Rowe, never offers an opinion that ArcelorMittal has not made significant investments in plant and equipment through AM/NS Calvert’s activities at the Calvert facility related to the DI Precursor Products as a whole. CX-0087. Instead, she merely states that she was asked to assume that the universe of domestic industry products was limited to the fifteen parts that testing in this Investigation has shown to practice the Asserted Patents. CX-0087 ¶ 24. Under this assumption, Ms. Rowe claims that Mr. Malackowski “overstated domestic investments in tested DI Products” and that these investments were not significant when limited to the “tested products” in the Investigation. CX-0087 ¶¶ 28, 30, 41.

First, Ms. Rowe’s assumption that only the products tested pursuant to the subpoenas in this Investigation satisfy the technical domestic industry requirement—which underlies her entire analysis—is false. Section III.D. Second, as Mr. Malackowski pointed out at his deposition and in Exhibit 3.2.0 to his report (CX-0122), even limiting the economic domestic industry analysis to the dozen or so parts tested in this Investigation “wouldn’t change the conclusion” that there are significant investments in plant and equipment and labor and capital required to create such products. CX-0015 at 88:4–96:18. Specifically, Mr. Malackowski opined that “the investment necessary to manufacture seven parts is well above [REDACTED],” because when “[you’re] talking

[REDACTED]

about rolled aluminized steel, you still need the whole line. You still need the whole facility.” CX-0015 at 88:4–96:18. Ms. Rowe’s assumption therefore does not change the significance of the domestic industry, which would require significant investments in plant and equipment and labor and capital to create the tested domestic industry parts. *Magnetic Data Storage Tapes & Cartridges*, 2018 WL 864372, at *73–74; *Biometric Scanning Devices*, 2011 WL 1686363, at *4.

Ms. Rowe also suggests that there are certain additional flaws in Mr. Malackowski’s analysis, none of which are supported by precedent. These criticisms include:

- **Fair Market Value v. Acquisition Value.** Ms. Rowe suggests that Mr. Malackowski erred by relying on “acquisition cost” of the assets at the Calvert facility rather than their “net book value.” CX-0087 ¶¶ 35–36. But the Commission has upheld the use of acquisition value as a permissible way to calculate the investments attributable to an asset and, in fact, “rejected outright the use of depreciated values in a domestic industry analysis.” *Certain UV Curable Coatings for Optical Fibers, Coated Optical Fibers, & Prods. Containing Same*, Inv. No. 337-TA-1031, Initial Determination, at 198–200 (Mar. 15, 2018); *see also Certain Elec. Devices with Image Processing Sys.*, Inv. No. 337-TA-724, Order No. 29, 2011 WL 1336531, at *6, *10 (Mar. 11, 2011) (granting summary determination that an economic domestic industry existed).
- **Timing of Investments.** Ms. Rowe also suggests that the “timing” of investments at AM/NS Calvert is problematic and that Mr. Malackowski could not rely on assets “purchased well before the complaint.” CX-0087 ¶ 35. Again, this critique is contrary to Commission precedent, which is that “[p]ast expenditures may be considered to support a domestic industry claim so long as those investments pertain to the complainant’s industry with respect to the articles protected by the asserted IP rights and the complainant is continuing to make qualifying investments at the time the complaint is filed.” *Certain Marine Sonar Imaging Devices, Including Downscan & Sidescan Devices*, Inv. No. 337-TA-921, Comm’n Op., at 55 (Jan. 6, 2016) (quoting *Certain Television Sets, Television Receivers, Television Tuners & Components Thereof*, Inv. No. 337-TA-910, Comm’n Op., at 68 (Oct. 30, 2015)). Mr. Malackowski’s report details the relationship of the investments he relies on for his analysis to the domestic industry products and the continuing investment in such products.

Given Ms. Rowe’s dearth of analysis, VinFast does not appear to have a timely and legally cognizable rebuttal to Mr. Malackowski’s opinion that there is a domestic industry supported by the investments in the DI Precursor Products at AM/NS Calvert. Nevertheless, ArcelorMittal identifies the following additional critique VinFast may make of Mr. Malackowski’s analysis based on certain questions VinFast asked at Mr. Malackowski’s deposition, and responds to it:

- [REDACTED]
- **Source of the Evidence.** VinFast repeatedly asked Mr. Malackowski about the source of certain evidence he relied on, including the square footage of the Calvert facility and the volume of steel processed at certain manufacturing steps shown in CX-0150. Mr. Malackowski responded that he relied on ArcelorMittal's discovery responses, his own tour of the Calvert facility, and discussions with AM/NS Calvert's CEO (Chris Richards) confirming the accuracy of the data in ArcelorMittal's discovery responses. *E.g.*, CX-0015 at 44–49, 53–60. These are permissible sources for Mr. Malackowski to rely on for his calculations. *See, e.g., In the Matter of Certain Power Inverters and Converts, Vehicles Containing the Same, and Components Thereof*, Inv. No. 337-TA-1267, Order No. 41 at 2-3 (Mar. 20, 2022). Furthermore, VinFast had the opportunity ask Mr. Richards about this data at his deposition and chose not to do so.

2. [REDACTED]

As discussed above, [REDACTED] is an ArcelorMittal licensee¹⁹ that manufactures a DI Precursor Product called “Ultralume®” in the United States. CX-0034; CX-0008 at 27; CX-0042 ¶¶ 38–39; CX-0081 at 18; CX-0294 at 18–19, 48–49; CX-0025 at 48:6–9, 104:17–20. [REDACTED] describes Ultralume as a “[k]ey [i]nnovative [p]roduct” within its portfolio of steel products that is “designed to improve safety and lightweighting of structural components in vehicles.” CX-0778; *see also* CX-0025 at 105:22–106:16 (describing Ultralume as an “important product” that provides a “better solution” and is of “higher value” than other products in the market); CX-0081 at 29–31. Ultralume requires specialized equipment to manufacture and is “intended for automotive applications where high strength, design flexibility, and collision protection are critical.” CX-0778; CX-0025 at 105:22–106:16; CX-0081 at 29–31. Since Q4 2019, [REDACTED] has produced over [REDACTED] tons of DI Precursor Products and paid over [REDACTED] in royalties to ArcelorMittal. CX-0042 ¶¶ 38–39; CX-0472; CX-0081 at 29–31.

[REDACTED] operates four facilities in the United States that perform cognizable activities related to the DI Products: (1) [REDACTED] (CX-0416; CX-0794); (2) [REDACTED] (CX-0025 at 33–36, 104; CX-0422; CX-0423; CX-0424; CX-

¹⁹ [REDACTED] acquired the license rights to the Asserted Patents from an acquisition of [REDACTED]. CX-0793; CX-0042 ¶¶ 38–39; CX-0081 at 18. ArcelorMittal granted a license to the Asserted Patents to [REDACTED], in exchange for certain running royalties. CX-0034; CX-0042 ¶¶ 38–39; CX-0081 at 18.

0425); (3) a facility in [REDACTED] (CX-0414; CX-0796); and (4) a facility in [REDACTED] (CX-0415; CX-0796). CX-0081 at 18. The [REDACTED] and [REDACTED] facilities are the facilities that produce the Ultralume DI Precursor Product. CX-0025 at 28:8–18, 104; CX-0794; CX-0025 at 33:13–36:18, 104:17–20; CX-0422; CX-0423; CX-0424; CX-0425. The two [REDACTED] facilities, by contrast, hot stamp the Ultralume precursor product to create DI Direct Products, and are discussed further below. Section V.C.1.

Like USIBOR and DUCTIBOR, Ultralume is manufactured and sold to Tier 1 manufacturers with the intent that the coils of steel will be hot-stamped and incorporated into automobiles. CX-0778; CX-0025 at 48:6–9; CX-0081 at 29. Ultralume, like USIBOR and DUCTIBOR, can be produced with multiple different coating weights, including several that correspond to the “AS 150” coating weight described above (*e.g.*, “[REDACTED]”). CX-0079 ¶¶ 41–43; CX-0025 at 82:21–83:22, 118:23–119:15. As discussed (Sections I.E.2(b); III.D), the evidence supports that the (vast) majority of the Ultralume that [REDACTED] produces has a coating weight similar to AS 150, rather than AS 80. CX-0079 ¶¶ 41–43; CX-0025 at 118:19–119:15 (“The most common are [REDACTED] coatings or similar coatings to that definition.”), 127:8–17 (the coating weight requirement for [REDACTED] DI Direct Products is “generally the [REDACTED] coating or something similar”).

Based on documents produced by [REDACTED] and the related deposition testimony of [REDACTED] corporate representative [REDACTED], Mr. Malackowski summarized the sales of the Ultralume DI Precursor Products at the [REDACTED] and [REDACTED] facilities in Figure 11 of his report:

	2021	2022	2023	2024 (through May)	Total
Ultralume - [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Ultralume - [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total Ultralume	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

CX-0081 at 31; CX-0166; CX-0168; CX-0709; CX-0710; CX-0711; CX-0712.

The [REDACTED] facility is an [REDACTED]

[REDACTED]

[REDACTED] CX-0794; CX-0417; CX-0025 at 30:2–32:25; CX-0802 (aerial photo); CX-0417 (annotated to show [REDACTED] CX-0081 at 18–19. [REDACTED] is [REDACTED],” *i.e.*, the DI Direct Product. CX-0025 at 28:8–18. [REDACTED] has an annual capacity of [REDACTED] net tons of raw steel and employs over [REDACTED] people. CX-0416; CX-0081 at 18–19.

The Ultralume DI Precursor Product is manufactured using steel slabs sourced from [REDACTED]’s steelmaking facility and from [REDACTED] facility. CX-0025 at 31–32; CX-0081 at 59. The manufacturing process begins at the hot strip mill ([REDACTED] where the slabs are converted into thin hot bands before being sent through a cold roll mill. CX-0025 at 31; CX-0081 at 59–60. Finally, the steel arrives at a finishing line ([REDACTED] where the aluminized coating is applied. CX-0025 at 31; CX-0081 at 59–60. The finishing line at [REDACTED] that applies aluminized coating to steel slabs is referred to as “[REDACTED].” CX-0025 at 37; CX-0420; CX-0081 at 59–60. [REDACTED] has [REDACTED]

[REDACTED]

[REDACTED].” CX-0025 at 38; CX-0081 at 59–60. [REDACTED] corporate representative and [REDACTED], estimates that [REDACTED] % of the coating output on [REDACTED] uses Type 1 coating and that, of that [REDACTED] %, approximately [REDACTED] of the output would be used for the “aluminized hot stamp product.” According to [REDACTED] all [REDACTED] Ultralume. CX-0025 at 48; CX-0081 at 59–60. Accordingly, Ultralume represents ~[REDACTED] % of total production on the [REDACTED] line at the [REDACTED] facility. CX-0025 at 38; CX-0081 at 59–60. Indeed, [REDACTED] agreed that [REDACTED] % of the production on the [REDACTED] line would be a good rough approximation for the amount of aluminized hot stamped

[REDACTED]

automotive products produced on the [REDACTED] line. CX-0025 at 38–39; CX-0081 at 59–60. Based on documents produced by [REDACTED] Mr. Malackowski validated [REDACTED]'s estimate of the relative production of Ultralume at Figure 37 of his report. CX-0081 at 60–61; CX-0025 at 37–39, 47–52; CX-0422; CX-0423; CX-0424; CX-0425; CX-0167.

[REDACTED] produced data describing the number of employees at [REDACTED] by department and status (salary or hourly). CX-0449; CX-0081 at 61–62. There are [REDACTED] departments at [REDACTED] required for the production of Ultralume: [REDACTED]. CX-0449; CX-0025 at 87–89; CX-0081 at 61–62. The [REDACTED] department at [REDACTED] is [REDACTED] the production of Ultralume. CX-0449; CX-0081 at 61–62. The document produced by [REDACTED] regarding its [REDACTED] employees identified the [REDACTED] for the production of Ultralume. CX-0449; CX-0081 at 61–62.

[REDACTED] is the joint venture with [REDACTED] operates with [REDACTED] located in [REDACTED]. CX-0025 at 33–34; CX-0081 at 65. The [REDACTED] converts [REDACTED], including Ultralume. CX-0081 at 65; CX-0025 at 33–36, 104; CX-0422; CX-0423; CX-0424; CX-0425. [REDACTED] estimated that about [REDACTED]% of [REDACTED] aluminized steel is produced at [REDACTED] and [REDACTED]% or less is produced at [REDACTED]. CX-0025 at 34; CX-0081 at 65. [REDACTED] has [REDACTED], and [REDACTED] testified that it is used for aluminizing [REDACTED] percent of the time.” CX-0025 at 36; CX-0081 at 65. Mr. Malackowski summarized the volume of Ultralume (in metric tons) sold by the [REDACTED] facility at Figure 43 of his report ([REDACTED] tons since 2023). CX-0081 .) at 65; CX-0168; CX-0709; CX-0710; CX-0711; CX-0712.

Mr. Malackowski conservatively excluded investments in the DI Precursor Product volume from the [REDACTED] facility from his domestic industry analysis, based on the level of detail he received regarding [REDACTED] but nevertheless noted that [REDACTED] was an example of additional investments required to manufacture the DI Precursor Product. CX-0081 at 65.

[REDACTED]

a) Plant and Equipment [REDACTED]

Mr. Malackowski opined that, although he was unaware of specific information relating to [REDACTED] investments in plant and equipment allocated to the DI Precursor Products at [REDACTED] it is highly likely that such investments were significant. CX-0081 at 61. For example, allocating the investment in plant and equipment by AM/NS Calvert (discussed above) based on the relative ratio of Ultralume to USIBOR and DUCTIBOR would result in an investment of approximately [REDACTED] in plant and equipment related to the DI Precursor Products at [REDACTED] CX-0081 at 61; CX-0159; CX-0166; CX-0167; CX-0422; CX-0423; CX-0424; CX-0425; CX-0150. VinFast has not disputed the methodology or accuracy of Mr. Malackowski's calculations, and in fact its expert, Ms. Julia Rowe, offers no rebuttal to his opinions regarding plant and equipment at [REDACTED] facility. *Certain Mobile Device Holders*, 2018 WL 4042764, at *9 (finding estimates of investments attributed to certain IP are acceptable in the calculation so long as they are reasonable, appropriate to the circumstances, and supported by evidence in the record).

b) Labor and Capital [REDACTED]

Labor. Mr. Malackowski summarized the number of employees at [REDACTED] (i) required to manufacture Ultralume; (ii) partially required to manufacture Ultralume; or (iii) not required to manufacture Ultralume at Figure 38 of his report, based on the deposition testimony of [REDACTED] and the documents produced by [REDACTED] pursuant to the subpoenas. CX-0081 at 62; CX-0025 at 87–89; CX-0449; CX-0161. Mr. Malackowski opined that, although he was unaware of specific information for [REDACTED] regarding its investment in labor costs related to the DI Precursor Products, it is highly likely that [REDACTED] invested significantly in such labor. CX-0081 at 62. For example, he opined that allocating AM/NS Calvert's investment in labor related to the DI Precursor Products (described above) based on the relative volume of Ultralume to USIBOR and DUCTIBOR would yield a [REDACTED] investment in labor of approximately [REDACTED] from 2021 to 2023. CX-0081 at 62; CX-0160; CX-0166; CX-0167; CX-0150. VinFast has not disputed the methodology or accuracy of Mr. Malackowski's

calculations, and its expert offers no rebuttal to his opinions regarding investments in labor at [REDACTED] facility. *Certain Mobile Device Holders*, 2018 WL 4042764, at *9.

Capital. Mr. Malackowski summarized the capital expenses attributable to the DI Precursor Products at [REDACTED] based on the testimony of [REDACTED] and documents detailing the expenses incurred by [REDACTED] related to its aluminized steel line ([REDACTED]) at [REDACTED] CX-0081 at 62–65; CX-0025 at 37, 40–41, 43–46; CX-0420; CX-0421. These investments are summarized in Figures 39 and 40 of his report. CX-0081 at 63; CX-0420; CX-0025 at 40–41; CX-0164; CX-0081 at 64; CX-0421; CX-0025 at 43–46; CX-0164. Mr. Malackowski then allocated these capital expenditures to the DI Precursor Products by applying the volume of DI Precursor Products produced on [REDACTED] relative to the total volume of product produced on [REDACTED] yielding a total capital investment of \$ [REDACTED] in the DI Precursor Products at [REDACTED] facility as shown at Fig. 41 of his report. CX-0081 at 64; CX-0163; CX-00164; CX-0025 at 37, 40–41, 43–46; CX-0420; CX-0421; CX-0166; CX-0167; CX-0422; CX-0423; CX-0424; CX-0425.

Mr. Malackowski notes that this calculation is conservative because it does not include other capital expenditures necessary to manufacture the DI Precursor Products, including operating expenses like repairs, maintenance, utilities, and aluminum consumption. CX-0081 at 65. Indeed, calculating the total capital expenditures for the DI Precursor Products at the [REDACTED] facility using the total capital expenditures related to such products at AM/NS Calvert (Section V.1(b)(ii)) and the ratio of Ultralume to USIBOR and DUCTIBOR results in an estimated investment of \$ [REDACTED] from 2021 to 2023. CX-0081 at 65; CX-0158; CX-0162; CX-0166; CX-0167; CX-0142; CX-0150. VinFast has not disputed the methodology or accuracy of Mr. Malackowski's calculations, and its expert offers no rebuttal to his opinions regarding plant and equipment at [REDACTED] facility. *Certain Mobile Device Holders*, 2018 WL 4042764, at *9.

B. Summary of DI Precursor Investments

ArcelorMittal, through AM/NS, Calvert has invested significantly in plant and equipment

and labor and capital to manufacture the USIBOR and DUCTIBOR DI Precursor Products in the United States from 2018 to 2023. These investments are summarized in Figure 35 of Mr. Malackowski's report:

Plant & Equipment			
Method 1 (All DI Precursor)		Method 1 - Alternative (DI Precursor to 6 Hot Stampers's)	
Low	High	Low	High
Method 2 (All DI Precursor)		Method 2 - Alternative (DI Precursor to 6 HS's)	
Labor			
All DI Precursor		Alternative (DI Precursor to 6 HS's)	
Capital			
All DI Precursor		Alternative (DI Precursor to 6 HS's)	
Low	High	Low	High

CX-0123; CX-0468; CX-0469; CX-0470.

operated by ArcelorMittal's licensee has likewise invested significantly in plant and equipment and labor and capital to manufacture the Ultralume DI Precursor Product in the United States from 2021 to 2023. These investments are summarized in Figure 42 of Mr. Malackowski's Report:

	Low	High
Plant & Equipment		
Labor		
Capital		
Total Investment		

CX-0158; CX-0081 at 65.

[REDACTED]

[REDACTED]

C. Significant Investment in Plant and Equipment/Labor and Capital – Direct Products

In addition to the investments made by ArcelorMittal's direct licensees, Tier 1 manufacturers, who are ArcelorMittal and its direct licensees' customers or are otherwise part of the supply chain for providing parts to OEMs, also make significant investments in plant and equipment and labor and capital in the United States to DI Direct Products, including from DI Precursor Products, to practice the DI Claims. As explained above with respect to the technical prong requirement of domestic industry, DI Direct Products made from DI Precursor Products practice the DI Claims, including the DI Direct Products manufactured by the Tier 1 manufacturers subpoenaed in this case: [REDACTED]; [REDACTED]; [REDACTED] and [REDACTED] (collectively, the "Subpoenaed Tier 1s"). Tier 1 manufacturers, including the Subpoenaed Tier 1s, which perform hot stamping using licensed steel—such as steel supplied by ArcelorMittal/AM/NS Calvert, [REDACTED] and TKS—have an implied license or are otherwise authorized to manufacture hot stamped parts that practice the claims of the Asserted Patents, including the DI Claims. *Certain Optical Disc Drives*, 2014 WL 12942528, at *3 (observing that Commission has made clear that complainants seeking to show a domestic industry can rely not only on their U.S. activities, but also "*the activities of those authorized by it to practice the patent*") (emphasis in original); *Certain Wearable Monitoring Devices*, 2020 WL 6591309, at *18 (citing *Certain Liquid Crystal Display Devices*, 2008 WL 4682826, at *4).

Accordingly, these investments are part of the domestic industry for the Asserted Patents.

1. [REDACTED]

[REDACTED] is licensed to practice the Asserted Patents, including the DI Claims, through an agreement with its predecessor in interest, [REDACTED]. CX-0034. As discussed, [REDACTED] subsidiary, [REDACTED] operates two U.S. hot stamping facilities: one located in [REDACTED] (" [REDACTED] and [REDACTED] located in [REDACTED] (" [REDACTED] CX-0414;

[REDACTED]

CX-0414; CX-0025 at 24–25; CX-0081 at 18–19.

[REDACTED] through its subsidiary [REDACTED] has invested substantially into the domestic industry for the Asserted Patents, including plant and equipment and labor and capital for manufacturing DI Direct Products. CX-0081 at 66–75. All of the hot stamping activity performed by [REDACTED] is directly related to DI Direct Products. CX-0081 at 66.

As of March 2024, [REDACTED] was a [REDACTED]-square foot facility that employed 127 people. CX-0081 at 66–67; CX-0415. The facility is [REDACTED]% dedicated to hot stamping. CX-0081 at 66–67; CX-0025 at 65–66. In sum, [REDACTED] has invested more than [REDACTED] in plant and equipment, more than [REDACTED] in labor, and nearly [REDACTED] in capital investment related to manufacturing DI Direct Products at its [REDACTED] facility.

As of March 2024, [REDACTED] was a [REDACTED]-square foot facility that employed [REDACTED] employees. CX-0081 at 70–75; CX-0414. Based on evidence produced by [REDACTED] and testimony from [REDACTED] corporate witness, Mr. Malackowski allocated the portion of the total activity at [REDACTED] related to hot stamping from July 2021 to June 2024. CX-0081 at 71, Fig. 51; CX-0181. Mr. Malackowski summarized [REDACTED] investments in the DI Direct Products at its [REDACTED] and [REDACTED] facilities in Fig. 57. CX-0081 at 75, Fig. 57; CX-0169. As Mr. Malackowski shows, from July 2021 to June 2024, [REDACTED] has invested approximately nearly [REDACTED] in equipment, plant, labor, and capital to manufacture DI Direct Products. CX-0081 at 75, Fig. 57; CX-0169.

VinFast’s expert does not rebut or critique Mr. Malackowski’s analysis, or provide any analysis of [REDACTED] investments in the DI Direct Products. *See generally* CX-0087.

a) Labor and Capital

[REDACTED] has invested significantly in labor and capital with respect to the DI Direct Products.

[REDACTED] **Labor and Capital.** Mr. Malackowski summarizes the apportioned

investment in labor at [REDACTED] in Fig. 48 of his report, quantifying more than [REDACTED] in labor investments. CX-0081 at 69, Fig. 48; CX-0171.

Mr. Malackowski summarizes the apportioned investment in capital at [REDACTED] in Fig. 49 of his report, quantifying nearly [REDACTED] in investments. CX-0081, at 70; Fig. 49; CX-0173.

[REDACTED] Labor and Capital. Mr. Malackowski summarizes the apportioned investment in labor at [REDACTED] in Fig. 55 of his report, quantifying [REDACTED] in investments beginning in July 2021. CX-0081 at 74, Fig. 55; CX-0181.

Mr. Malackowski summarizes the apportioned investment in capital at [REDACTED] in Fig. 56 of his report, quantifying [REDACTED] in investments. CX-0081 at 75, Fig. 56; CX-0181.

b) Plant and Equipment

[REDACTED] has invested significantly in plant and equipment with respect to the DI Direct Products.

[REDACTED] Plant and Equipment. Mr. Malackowski summarizes the apportioned investment in plant and equipment at [REDACTED] in Fig. 46 of his report, totaling [REDACTED] in investments. CX-0081 at 68, Fig. 46; CX-0170.

[REDACTED] Plant and Equipment. Mr. Malackowski summarizes the apportioned investment in equipment at [REDACTED] in Fig. 53 of his report, totaling nearly [REDACTED] in investments. CX-0081 at 72, Fig. 53; CX-0177. As Mr. Malackowski notes, this significantly understates [REDACTED] investment in equipment related to the DI Direct Products because it excludes equipment used to manufacture DI Direct Products.

Mr. Malackowski summarizes the apportioned investment in plant at [REDACTED] from 2021–June 2024 in Fig. 54 of his report, totaling approximately [REDACTED] in investments. CX-0081 at 73, Fig. 54; CX-0181.

In sum, from July 2021 to June 2024, [REDACTED] has invested approximately nearly [REDACTED] in equipment, plant, labor, and capital to manufacture DI Direct Products. CX-0081

[REDACTED]

at 75, Fig. 57; CX-0169.

2. [REDACTED]

ArcelorMittal obtained discovery from third-party [REDACTED] obtaining documentary discovery and taking [REDACTED] corporate representative's deposition, to evaluate its investments in the DI Direct Products in the U.S.

[REDACTED] through its subsidiary [REDACTED] (collectively, "[REDACTED]") operates two facilities related to the manufacturing of the DI Direct Products: [REDACTED] located in [REDACTED] and [REDACTED] located in [REDACTED] CX-0081 at 76; CX-0023 at 128–129. [REDACTED] is impliedly licensed or otherwise authorized to manufacture DI Direct Products using licensed aluminized steel, including steel from ArcelorMittal (e.g., AM/NS Calvert and any steel that is processed in the U.S. but shipped from ArcelorMittal facilities outside the U.S.), [REDACTED] and TKS. CX-0349; CX-0031; CX-0034; CX-0035; CX-0008 at 41:11–20 (testifying that Tier 1s do not have express sub-licenses because "we license other [steel] manufacturers," but if Tier 1s "purchase [aluminized steel] from a licensed ArcelorMittal supplier, they're . . . de facto provide[d] permission to use that material"); CX-0006 at 53:6–20; *see also* CX-0036.

[REDACTED] has invested substantially into the domestic industry for the Asserted Patents, including in plant and equipment and labor and capital for manufacturing DI Direct Products. CX-0081 at 76–95. With respect to [REDACTED] investments to DI Direct Products, Mr. Malackowski isolated the manufacturing involving hot stamping performed on aluminized steel with a coating weight of AS150. CX-0081 at 76; CX-0152. Based on evidence produced by [REDACTED] and testimony from [REDACTED] corporate witness, Mr. Malackowski further allocated the portion of the total activity and investment related to hot stamping DI Direct Products at the [REDACTED] and [REDACTED] facilities. CX-0081 at 71–94. Mr. Malackowski summarized [REDACTED] investments in the DI Direct Products at its [REDACTED] and [REDACTED] facilities in Fig. 74. CX-0081 at 95, Fig. 74; CX-0195. As Mr. Malackowski shows, [REDACTED] has invested [REDACTED] (allocating equipment to apportion out use unrelated to DI Direct Products) to [REDACTED] in equipment and labor for manufacturing the DI Direct Products at its two U.S. hot stamping facilities. CX-0081 at 95, Fig. 74; CX-0195.

[REDACTED]

Ms. Rowe does not rebut or critique Mr. Malackowski's analysis nor comment on the evidence obtained from [REDACTED]. See generally CX-0087.

a) Plant and Equipment

[REDACTED] has invested significantly in plant and equipment with respect to the DI Direct Products.

[REDACTED] **Plant and Equipment.** Mr. Malackowski summarizes the investment in equipment—specifically hot stamping lines—at [REDACTED] in Fig. 62 of his report, totaling [REDACTED]. CX-0081 at 81, Fig. 46; CX-184. As Mr. Malackowski explains, although some of this equipment is used for hot stamping products that are not DI Direct Products, he is “not aware of any evidence that establishes [REDACTED] could have invested in less equipment had it manufactured only the DI Direct Products. Accordingly, from an economic viewpoint, the entirety of the investment can be attributed to the DI Direct Products.” CX-0081 at 81. Even so, Mr. Malackowski provides an allocation of this equipment based on the production volumes for DI Direct Products in Fig. 46 of his report, totaling [REDACTED] in investments. CX-0081 at 81, Fig. 46; CX-183. Thus, [REDACTED] invested more than [REDACTED] in hot stamping lines used for the DI Direct Products at its [REDACTED] facility. CX-0081 at 81, Fig. 46; CX-183. Mr. Malackowski conservatively excluded other equipment that is also necessary for manufacturing DI Direct Products, including presses, lasers, and assembly cells and related equipment. CX-0081 at 81–82.

The [REDACTED] facility is approximately [REDACTED] square feet. CX-0081 at 78; CX-0023 at 42. Although [REDACTED]% of [REDACTED] square footage is dedicated to hot stamping and additional areas are used for manufacturing DI Direct Products, because the profit and loss statements produced in discovery do not isolate specific rental costs, Mr. Malackowski conservatively did not calculate or include in his quantification of the domestic industry investments [REDACTED] investment in plant for the [REDACTED] facility. CX-0081 at 79–80.

[REDACTED] **Plant and Equipment.** Mr. Malackowski summarizes the allocated investment in equipment at [REDACTED] in Fig. 69 of his report, totaling nearly [REDACTED] in investments. CX-0081 at 90, Fig. 69; CX-196. Thus, [REDACTED] invested more than [REDACTED] in hot stamping

[REDACTED]

[REDACTED] investment in capital associated with the [REDACTED] facility. CX-0081 at 93.

In total, [REDACTED] has invested [REDACTED] (allocating equipment to apportion out use unrelated to DI Direct Products) to [REDACTED] in equipment and labor for manufacturing the DI Direct Products at its two U.S. hot stamping facilities. CX-0081 at 95, Fig. 74; CX-0195.

3. [REDACTED]

ArcelorMittal obtained discovery from third-party [REDACTED] and its parent company, [REDACTED] (collectively, “[REDACTED] obtaining documentary discovery and taking [REDACTED] corporate representative’s deposition, to evaluate its investments in the DI Direct Products in the U.S.

[REDACTED] invests in the domestic industry for the Asserted Patents in connection with its U.S. manufacturing facilities, located in [REDACTED] (“[REDACTED] and [REDACTED] (“[REDACTED] CX-0081 at 95–104; at CX-0024 at 11–12. The [REDACTED] exclusively sells hot stamped aluminized steel parts, whereas the [REDACTED] also sells cold stamped parts that are not included in the data [REDACTED] produced. CX-0081 at 96; at CX-0024 at 12–14, 39, 43–44. The [REDACTED] consists of two buildings, one that is [REDACTED] square feet and another that is [REDACTED] square feet. CX-0081 at 98; CX-0782. The [REDACTED] also consists of two buildings, one that is [REDACTED] square feet and another that is [REDACTED] square feet. CX-0081 at 98; CX-0782. As to the activity at the [REDACTED] [REDACTED] corporate representative testified that [REDACTED] % of [REDACTED] [REDACTED] revenues are attributable to hot stamped aluminized parts, and a relatively lower amount of its unit sales since “[t]here’s a lot less value add in cold and it’s much more of a commodity.” CX-0024 at 13–14, 43–45; CX-0081 at 96.

[REDACTED] is impliedly licensed or otherwise authorized to manufacture DI Direct Products using licensed aluminized steel, including steel from ArcelorMittal (including AM/NS Calvert and any steel that is processed in the U.S. but shipped from ArcelorMittal facilities outside the U.S.), [REDACTED] and TKS. CX-0031; CX-0034; CX-0035; CX-0008 at 41:11–20 (testifying that Tier 1s do not have express sub-licenses because “we license other [steel] manufacturers,” but if Tier 1s “purchase [aluminized steel] from a licensed ArcelorMittal supplier, they’re . . . de facto

provide[d] permission to use that material”); CX-0006 at 53:6–20; *see also* CX-0036. [REDACTED] corporate representative testified that ArcelorMittal is the only supplier he was aware of for aluminized steel. CX-0024 at 78.

[REDACTED] has invested substantially into the domestic industry for the Asserted Patents, including plant and equipment and labor and capital for manufacturing DI Direct Products. CX-0081 at 95–104. To calculate [REDACTED] investments to DI Direct Products, Mr. Malackowski isolated the manufacturing involving hot stamping performed on aluminized steel with a coating weight of AS150. CX-0081 at 95–104. Based on evidence produced by [REDACTED] and testimony from [REDACTED] corporate witness, Mr. Malackowski further allocated the portion of the total activity and investment related to hot stamping DI Direct Products at the [REDACTED] and [REDACTED] CX-0081 at 95–104. Mr. Malackowski summarized [REDACTED] investments in the DI Direct Products at its facilities in Fig. 81 as follows. CX-0081 at 104, Fig. 81; CX-0208. As Mr. Malackowski shows, [REDACTED] has invested more than [REDACTED] in plant, equipment, and labor for manufacturing the DI Direct Products at its U.S. hot stamping facility. CX-0081 at 104, Fig. 81; CX-0208.

VinFast’s expert does not rebut or critique Mr. Malackowski’s analysis of [REDACTED]. *See generally* CX-0087. Ms. Rowe does not critique or otherwise comment on Mr. Malackowski’s calculations or allocations, and does not comment on the evidence obtained from [REDACTED]. *Id.*

a) Plant and Equipment

[REDACTED] has invested significantly in plant and equipment with respect to the DI Direct Products.

Investment in plant. As discussed above, Mr. Malackowski apportioned the investments related to hot stamping DI Precursor Products to process them into DI Direct Products. CX-0081 at 95–104. As to the [REDACTED] Mr. Malackowski determined that all of the products produced were made from DI Precursor Products, and the facility was therefore [REDACTED]% dedicated to manufacturing DI Direct Products. CX-0081 at 98. For the [REDACTED] Mr. Malackowski determined that [REDACTED]% of the plant investments were related to DI Direct Products. CX-0081 at 98–99. Mr. Malackowski summarizes the apportioned investment in plant at these facilities in Fig. 77

[REDACTED]

of his report. CX-0081 at 99, Fig. 77; CX-0209. As Mr. Malackowski shows, [REDACTED] has invested more than [REDACTED] in plant for the DI Direct Products at its facilities.

Investment in equipment. As discussed above, Mr. Malackowski apportioned the investments related to hot stamping DI Precursor Products to process them into DI Direct Products. CX-0081 at 95–104. As to the [REDACTED] Mr. Malackowski determined that all of the products produced were made from DI Precursor Products, and the facility was therefore [REDACTED]% dedicated to manufacturing DI Direct Products. CX-081 at 100. For the [REDACTED] although the actual portion of equipment investments directly related to the DI Direct Products is likely much higher, based on the evidence available, including [REDACTED] corporate representative's testimony, Mr. Malackowski conservatively used a [REDACTED]% allocation for equipment investments at Holland. CX-0081 at 100. This is so even though aluminized part sales account for [REDACTED]% of [REDACTED] revenues and [REDACTED] representative testified that the majority of the assets at the facility relate to hot stamping aluminized steel. CX-0024 at 89–91, 92; CX-0081 at 100. Mr. Malackowski summarizes the apportioned investment in equipment at these facilities in Fig. 78 of his report. CX-0081 at 101, Fig. 78; CX-0210. As Mr. Malackowski shows, [REDACTED] has invested more than [REDACTED] in equipment for the DI Direct Products at its facilities.

b) Labor and Capital

[REDACTED] has invested significantly in labor and capital with respect to the DI Direct Products.

Investment in labor. As to the [REDACTED] Mr. Malackowski determined that all of the products produced were made from DI Precursor Products, and the facility was therefore [REDACTED]% dedicated to manufacturing DI Direct Products. CX-081 at 102–03. For the [REDACTED] Mr. Malackowski determined that [REDACTED]% of the labor investments were related to DI Direct Products. CX-0081 at 103. Mr. Malackowski summarizes the apportioned investment in labor at its facilities in Fig. 80 of his report. CX-0081 at 103, Fig. 80; CX-0211. As Mr. Malackowski shows, from 2020 to 2023, [REDACTED] has invested more than [REDACTED] in labor for the DI Direct Products at its facilities.

Although capital investments are necessary for the operation of [REDACTED] facilities, given the

[REDACTED]

limitations on the way [REDACTED] keeps its data and the nature of the evidence [REDACTED] produced in response to ArcelorMittal's subpoenas, Mr. Malackowski has not quantified or otherwise included in his quantification [REDACTED] investment in capital. CX-0081 at 104. This is another way in which Mr. Malackowski's analysis is highly conservative.

In sum, [REDACTED] has invested more than [REDACTED] in plant, equipment, and labor for manufacturing the DI Direct Products at its U.S. hot stamping facility. CX-0081 at 104, Fig. 81; CX-0208.

4. [REDACTED]

ArcelorMittal obtained discovery from third-party [REDACTED] obtaining documentary discovery and taking [REDACTED] corporate representative's deposition, to evaluate its investments in the DI Direct Products in the U.S.

[REDACTED] invests in the domestic industry for the Asserted Patents in connection with its U.S. manufacturing facilities, which [REDACTED] identified in discovery produced in response to ArcelorMittal's subpoenas as [REDACTED]. CX-0081 at 105–10. [REDACTED] is impliedly licensed or otherwise authorized to manufacture DI Direct Products using licensed aluminized steel, including steel from ArcelorMittal (including AM/NS Calvert and any steel that is processed in the U.S. but shipped from ArcelorMittal facilities outside the U.S.), [REDACTED] and TKS. CX-0031; CX-0034; CX-0035; CX-0008 at 41:11–20 (testifying that Tier 1s do not have express sub-licenses because “we license other [steel] manufacturers,” but if Tier 1s “purchase [aluminized steel] from a licensed ArcelorMittal supplier, they’re . . . de facto provide[d] permission to use that material”); CX-0006 at 53:6–20; *see also* CX-0036.

[REDACTED] has invested substantially into the domestic industry for the Asserted Patents, including plant and equipment and labor and capital for manufacturing DI Direct Products. CX-0081 at 105–10. To calculate [REDACTED] investments to DI Direct Products, Mr. Malackowski isolated the manufacturing involving hot stamping performed on aluminized steel with a coating weight of AS150, which from 2018 to 2024 comprised [REDACTED] % of the steel supplied by ArcelorMittal to [REDACTED] CX-0081 at 106. As data regarding the coating weight of the aluminized steel

[REDACTED]

supplied by [REDACTED] was not available in this litigation, and in light of the evidence showing that the vast majority of aluminized steel shipped had an AS 150 coating weight (such that it would qualify as a DI Precursor Product), Mr. Malackowski conservatively assumed that [REDACTED] % of the aluminized steel supplied to [REDACTED] by [REDACTED] had a sufficiently heavy coating weight. CX-0081 at 106. Mr. Malackowski thus conservatively concludes that [REDACTED] % of the investments identified by [REDACTED] relate to converting DI Precursor Products to DI Direct Products. *Id.* Mr. Malackowski summarized [REDACTED] investments in the DI Direct Products in Fig. 87 as follows. CX-0081 at 110, Fig. 87; CX-0218. As Mr. Malackowski shows, from 2014 through part of 2024, [REDACTED] has invested [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned) in plant, equipment, and labor for manufacturing the DI Direct Products at its U.S. hot stamping facility. CX-0081 at 110, Fig. 87; CX-0218.

VinFast's expert does not rebut or critique Mr. Malackowski's analysis of [REDACTED]. *See generally* CX-0087. Ms. Rowe does not critique or otherwise comment on Mr. Malackowski's calculations or allocations, nor does she comment on the evidence obtained from [REDACTED]. *Id.*

a) Plant and Equipment

[REDACTED] has invested significantly in plant and equipment with respect to the DI Direct Products.

Investment in plant. In response to ArcelorMittal's subpoenas, [REDACTED] provided summary data for its plant investments based on the "meters allocated to the hot-stamping activity, from the common buildings or auxiliary facilities." CX-0323; CX-0081 at 106–07. Mr. Malackowski summarizes the apportioned investment in plant at [REDACTED] U.S. hot stamping facilities in Fig. 84 of his report. CX-0081 at 107, Fig. 84; CX-0219. As Mr. Malackowski shows, [REDACTED] has invested more than [REDACTED] in plant for the DI Direct Products at its U.S. hot stamping facilities.

Investment in equipment. In response to ArcelorMittal's subpoenas, [REDACTED] provided summary data for its equipment investments. CX-0323; CX-0081 at 107. For hot stamping lines,

██████████ did not produce in response to ArcelorMittal's subpoenas evidence sufficient to quantify its investments in capital, Mr. Malackowski has not quantified or otherwise included in his quantification ██████████ investment in capital. CX-0081 at 109. This is another way in which Mr. Malackowski's analysis is highly conservative.

In sum, from 2014 through part of 2024, ██████████ has invested ██████████ (assuming equipment investments must be apportioned) to ██████████ (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned) in plant, equipment, and labor for manufacturing the DI Direct Products at its U.S. hot stamping facility. CX-0081 at 110, Fig. 87; CX-0218.

5. ██████████

ArcelorMittal obtained discovery from third-party ██████████ ("██████████" obtaining documentary discovery and taking ██████████ corporate representative's deposition, to evaluate its investments in the DI Direct Products in the U.S.

██████████ operates a facility in ██████████ (the "██████████" which comprises the ██████████ used for assembly and shipping operations, the ██████████ used for hot stamping, and a warehouse used for storing inventory and finished goods. CX-0081 at 110, 113; CX-0027 at 19–20, 28–29, 43–44; CX-0403; CX-0404. ██████████ is impliedly licensed or otherwise authorized to manufacture DI Direct Products using licensed aluminized steel, including steel from ArcelorMittal (including AM/NS Calvert and any steel that is processed in the U.S. but shipped from ArcelorMittal facilities outside the U.S.), ██████████ and TKS. CX-0031; CX-0034; CX-0035; CX-0008 at 41:11–20 (testifying that Tier 1s do not have express sub-licenses because "we license other [steel] manufacturers," but if Tier 1s "purchase [aluminized steel] from a licensed ArcelorMittal supplier, they're . . . de facto provide[d] permission to use that material"); CX-0006 at 53:6–20; *see also* CX-0036.

██████████ has invested substantially into the domestic industry for the Asserted Patents, including plant and equipment and labor and capital for manufacturing DI Direct Products. CX-0081 at 110–124. Although ██████████ has produced DI Direct Products since at least 2020, in

[REDACTED]

response to ArcelorMittal's subpoenas it produced data only for the year 2023. CX-0027 at 12–13. Rather than extrapolate to estimate [REDACTED] investment in earlier years, Mr. Malackowski analyzed only investments from 2023. CX-0081 at 110–124. This is another way in which Mr. Malackowski's analysis and quantification of investments is highly conservative, and therefore likely understates the actual investments in the domestic industry.

To apportion [REDACTED] investments from 2023 to DI Direct Products, Mr. Malackowski isolated the manufacturing involving hot stamping performed on aluminized steel with a coating weight of AS150. CX-0081 at 110–124. Based on evidence produced by [REDACTED] and testimony from [REDACTED] corporate witness, Mr. Malackowski provided allocations to identify the portion of the total activity and investment related to hot stamping DI Direct Products at the [REDACTED] [REDACTED] concluding DI Direct Products account for [REDACTED] % of [REDACTED] sales. CX-0081 at 110–124. Mr. Malackowski summarized [REDACTED] investments in the DI Direct Products at its [REDACTED] [REDACTED] in Fig. 102 of his report. CX-0081 at 123–124, Fig. 102; CX-0227. As Mr. Malackowski shows, in 2023 alone, [REDACTED] invested [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned) in plant, equipment, and labor for manufacturing the DI Direct Products at its [REDACTED]

Ms. Rowe does not rebut or critique Mr. Malackowski's analysis of [REDACTED] *See generally* CX-0087. She does not critique or otherwise comment on Mr. Malackowski's calculations or allocations, and does not comment on the evidence obtained from [REDACTED] *Id.*

a) Plant and Equipment

[REDACTED] has invested significantly in plant and equipment with respect to the DI Direct Products.

Investment in plant. Mr. Malackowski summarizes the apportioned investment in plant at the [REDACTED] in Fig. 95 of his report, identifying values based on [REDACTED] balance sheet data produced in this case and [REDACTED] corporate representative's ([REDACTED] testimony. CX-0081 at 116, Fig. 95; CX-0228. As Mr. Malackowski shows, in 2023, [REDACTED] invested

approximately [REDACTED] in plant for the DI Direct Products at its [REDACTED]

Investment in equipment. As Mr. Malackowski explains, although some of the equipment used to manufacture DI Direct Products may also be used with products that are not DI Direct Products, he is “not aware of any evidence that establishes [REDACTED] could have invested in less equipment had it manufactured only the DI Direct Products. Accordingly, from an economic viewpoint, the entirety of the investment can be attributed to the DI Direct Products.” CX-0081 at 118. Using the entirety of the equipment cost, Mr. Malackowski concludes that [REDACTED] investment in equipment for the DI Direct Products in 2023 was approximately [REDACTED] CX-0081 at 118, Fig. 97; CX-0230. Using the [REDACTED] % apportionment factor discussed above, Mr. Malackowski alternatively quantifies [REDACTED] 2023 investment in equipment as approximately [REDACTED] CX-0081 at 118, Fig. 97; CX-0230. Mr. Malackowski summarizes the apportioned investment in plant at the [REDACTED] in Fig. 97 of his report. CX-0081 at 118, Fig. 97; CX-0230. As Mr. Malackowski shows, in 2023, [REDACTED] invested approximately [REDACTED] in equipment for the DI Direct Products at its [REDACTED]

b) Labor and Capital

[REDACTED] has invested significantly in labor and capital with respect to the DI Direct Products.

Investment in labor. [REDACTED] employs more than 400 individuals (directly and through a temp agency) at its [REDACTED] CX-0081 at 119; CX-0027 at 42–43, 44–46, 50–52, 79–80. Mr. Malackowski summarizes the apportioned investment in labor at the [REDACTED] in Fig. 99 of his report. CX-0081 at 121, Fig. 99; CX-0232. As Mr. Malackowski shows, in 2023, [REDACTED] invested more than [REDACTED] in labor for the DI Direct Products at its [REDACTED] CX-0081 at 121, Fig. 99; CX-0232.

Investment in capital. [REDACTED] invests in various expense accounts containing capital investments, including accounts for costs incurred due to equipment breakdowns and maintenance, supplies needed for and to support manufacturing, technical support for facilities and production equipment, utilities, licenses and permits, professional fees, and others. CX-0081 at 122; CX-0027

[REDACTED]

at 48–53. Mr. Malackowski summarizes the apportioned investment in capital at the [REDACTED] in Fig. 101 of his report. CX-0081 at 122–23, Fig. 101; CX-0235. As Mr. Malackowski shows, [REDACTED] has invested nearly [REDACTED] in capital for the DI Direct Products at its [REDACTED]

In sum, in 2023 alone, [REDACTED] invested [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned) in plant, equipment, and labor for manufacturing the DI Direct Products at its [REDACTED]

6. [REDACTED]

ArcelorMittal obtained discovery from third-party [REDACTED] (“[REDACTED]” obtaining documentary discovery and taking [REDACTED] corporate representative’s deposition, to evaluate its investments in the DI Direct Products in the U.S.

[REDACTED] performs hot stamping and produces DI Direct Products at its facilities in [REDACTED]

[REDACTED]. CX-0081 at 123–40; CX-0022 at 14–18, 30–32, 37, 44–45, 81–84, 91–92. [REDACTED] corporate representative testified that the [REDACTED] facilities each contain a hot stamping building that is [REDACTED]% dedicated to hot stamping aluminized steel, but that, for the balance of the facilities, approximately [REDACTED]% of the work at each facility related to hot stamped aluminized steel, except for the [REDACTED] facility, where he estimated [REDACTED]% related to hot stamped aluminized steel. CX-0081 at 123–40; CX-0022 at 14–18, 37, 44–45, 81–84, 91–92. The [REDACTED] facility is approximately [REDACTED] square feet, with approximately [REDACTED] square feet relating to work performed on aluminized steel (or [REDACTED]%). CX-0081 at 123–40; CX-0022 at 31. Generally speaking, [REDACTED] aluminized steel products, including the DI Precursor Products, are more profitable than [REDACTED] other products. CX-0081 at 128; CX-0022 at 34.

[REDACTED] is impliedly licensed or otherwise authorized to manufacture DI Direct Products using licensed aluminized steel, including steel from ArcelorMittal (including AM/NS Calvert and

[REDACTED]

any steel that is processed in the U.S. but shipped from ArcelorMittal facilities outside the U.S.), [REDACTED] and TKS. CX-0031; CX-0034; CX-0035; CX-0008 at 41:11–20 (testifying that Tier 1s do not have express sub-licenses because “we license other [steel] manufacturers,” but if Tier 1s “purchase [aluminized steel] from a licensed ArcelorMittal supplier, they’re . . . de facto provide[d] permission to use that material”); CX-0006 at 53:6–20; *see also* CX-0036.

[REDACTED] has invested substantially into the domestic industry for the Asserted Patents, including plant and equipment and labor and capital for manufacturing DI Direct Products. CX-0081 at 123–40. To calculate [REDACTED] investments to DI Direct Products, Mr. Malackowski isolated the manufacturing involving hot stamping performed on aluminized steel with a coating weight of AS150, concluding that [REDACTED] % of [REDACTED] hot stamped parts are made from DI Precursor Products. CX-0081 at 123–40. Based on evidence produced by [REDACTED] and testimony from [REDACTED] corporate witness, Mr. Malackowski further allocated the portion of the total activity and investment related to hot stamping DI Direct Products at its facilities. CX-0081 at 123–40. Mr. Malackowski summarized [REDACTED] investments in the DI Direct Products at its [REDACTED] facilities in Fig. 117 of his report. CX-0081 at 139–40, Fig. 117; CX-0245. As Mr. Malackowski shows, [REDACTED] has invested at least [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned) in equipment, labor, and capital for manufacturing the DI Direct Products at its U.S. hot stamping facility. CX-0081 at 139–40, Fig. 117; CX-0245.

VinFast’s expert does not rebut or critique Mr. Malackowski’s analysis of [REDACTED]. *See generally* CX-0087. Ms. Rowe does not critique or otherwise comment on Mr. Malackowski’s calculations or allocations, and does not comment on the evidence obtained from [REDACTED]. *Id.*

a) Plant and Equipment

[REDACTED] has invested significantly in plant and equipment with respect to the DI Direct Products.

Investment in plant. Although [REDACTED] necessarily invests in plant for its U.S. facilities,

██████████ did not produce in response to ArcelorMittal's subpoenas evidence sufficient to quantify these investments. CX-0081 at 131. Accordingly, Mr. Malackowski has not quantified or otherwise included in his quantification ██████████ investment in capital. *Id.* This is another way in which Mr. Malackowski's analysis is highly conservative.

Investment in equipment. As Mr. Malackowski explains, although some of the equipment used to manufacture DI Direct Products may also be used with products that are not DI Direct Products, he is "not aware of any evidence that establishes ██████████ could have invested in less hot stamping equipment had it manufactured only the DI Direct Products. Accordingly, from an economic viewpoint, the entirety of the investment can be attributed to the DI Direct Products." CX-0081 at 133. Using the entirety of the equipment cost, Mr. Malackowski concludes that ██████████ investment in equipment for the DI Direct Products was approximately ██████████ CX-0081 at 133–34, Fig. 110; CX-0246. Using the ██████████ % apportionment factor—based on the percentage of hot stamped parts made from DI Precursor Products—Mr. Malackowski alternatively quantifies ██████████ investment in equipment as approximately ██████████ CX-0081 at 133–34, Fig. 110; CX-0246. Mr. Malackowski summarizes the apportioned investment in plant and equipment in its U.S. facilities in Fig. 110 of his report. CX-0081 at 133–34, Fig. 110; CX-0246. As Mr. Malackowski shows, ██████████ has invested approximately ██████████ ██████████ in equipment for the DI Direct Products at its U.S. facilities.

b) Labor and Capital

██████████ has invested significantly in labor and capital with respect to the DI Direct Products.

Investment in labor. Although Mr. Malackowski analyzed the specific types and numbers of employees related to hot stamping aluminized steel, ██████████ did not produce in response to ArcelorMittal's subpoenas precise salaries or hourly rates for these employees. CX-0081 at 136. Rather, it produced a range, from ██████████ per hour to ██████████ per hour. CX-0081 at 136; CX-729. To conservatively estimate ██████████ investments in labor, Mr. Malackowski uses the lowest hourly figure, which is another way in which Mr. Malackowski's analysis is highly conservative. *Id.* Mr. Malackowski summarizes the apportioned investment in labor at ██████████ U.S. facilities in Fig. 114

[REDACTED]

of his report. CX-0081 at 134–37, Fig. 114; CX-0248. As Mr. Malackowski shows, [REDACTED] has invested approximately [REDACTED] in labor—and likely much more—for the DI Direct Products at its U.S. facilities.

Investment in capital. As Mr. Malackowski explains, [REDACTED] invests in recurring expenditures related to maintaining its laser cutting process, which is [REDACTED]% dedicated to aluminized steel. CX-0081 at 137–138; CX-0022 at 68–70, 71. Applying the [REDACTED]% apportionment multiplier aluminized steel to isolate investment in DI Direct Products, Mr. Malackowski summarizes the apportioned investment in capital at [REDACTED] U.S. facilities in Fig. 116 of his report. CX-0081 at 138–30, Fig. 116; CX-0261. As Mr. Malackowski shows, [REDACTED] has invested more than [REDACTED] in capital for the DI Direct Products at its U.S. facilities.

In sum, [REDACTED] has invested at least [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned) in equipment, labor, and capital for manufacturing the DI Direct Products at its U.S. hot stamping facility. CX-0081 at 139–40, Fig. 117; CX-0245.

7. [REDACTED]

ArcelorMittal obtained discovery from third-party [REDACTED] obtaining documentary discovery and taking [REDACTED] corporate representative’s deposition, to evaluate its investments in the DI Direct Products in the U.S.

[REDACTED] performs hot stamping and produces DI Direct Products at its facilities its [REDACTED] and [REDACTED] CX-0081 at 140–48; CX-0396. [REDACTED] is impliedly licensed or otherwise authorized to manufacture DI Direct Products using licensed aluminized steel, including steel from ArcelorMittal (including AM/NS Calvert and any steel processed in the U.S. but shipped from ArcelorMittal facilities outside the U.S.), [REDACTED] and TKS. CX-0031; CX-0034; CX-0035; CX-0008 at 41:11–20 (testifying Tier 1s do not have express sub-licenses as “we license other [steel] manufacturers,” but if Tier 1s “purchase [aluminized steel] from a licensed ArcelorMittal supplier, they’re . . . de facto provide[d] permission to use that material”); CX-0006 at 53:6–20; *see also* CX-0036.

[REDACTED]

[REDACTED] has invested substantially into the domestic industry for the Asserted Patents, including plant and equipment and labor and capital for manufacturing DI Direct Products. CX-0081 at 140–48. To calculate [REDACTED] investments to DI Direct Products, Mr. Malackowski isolated the manufacturing involving hot stamping performed on aluminized steel with a coating weight of AS150. CX-0081 at 140–48. Based on evidence produced by [REDACTED] and testimony from [REDACTED] corporate witness, Mr. Malackowski further allocated the portion of the total activity and investment related to hot stamping DI Direct Products at its U.S. facilities. CX-0081 at 140–48. Mr. Malackowski summarized [REDACTED] investments in the DI Direct Products at its U.S. facilities in Fig. 125 of his report. CX-0081 at 147–48, Fig. 125; CX-0268. As Mr. Malackowski shows, [REDACTED] has invested at least [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned). CX-0081 at 147–48, Fig. 125; CX-0268.

VinFast’s expert does not rebut or critique Mr. Malackowski’s analysis of [REDACTED]. See generally CX-0087. Ms. Rowe does not critique or otherwise comment on Mr. Malackowski’s calculations or allocations, and does not comment on the evidence obtained from [REDACTED]. *Id.*

a) Plant and Equipment

[REDACTED] has invested significantly in plant and equipment with respect to the DI Direct Products.

[REDACTED] **investment in plant and equipment.** Mr. Malackowski summarizes the apportioned investment in plant and equipment (together with labor and capital) at [REDACTED] [REDACTED] in Fig. 121 of his report. CX-0081 at 143–44, Fig. 121; CX-0396. As Mr. Malackowski shows, [REDACTED] has invested [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned) in plant and equipment for the DI Direct Products at its [REDACTED]

[REDACTED] **investment in plant and equipment.** Mr. Malackowski summarizes the

[REDACTED]

[REDACTED]

apportioned investment in plant and equipment (together with labor and capital) at [REDACTED] in Fig. 124 of his report. CX-0081 at 145–47, Fig. 124; CX-0396. As Mr. Malackowski shows, [REDACTED] has invested [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned) in plant and equipment for the DI Direct Products at its [REDACTED]

b) Labor and Capital

[REDACTED] has invested significantly in labor and capital with respect to the DI Direct Products.

[REDACTED] investment in labor and capital. Mr. Malackowski summarizes the apportioned investment in labor at [REDACTED] [REDACTED] in Fig. 121, identifying [REDACTED] in investments. CX-0081 at 143–44, Fig. 121; CX-0396.

[REDACTED] investment in plant and equipment. Mr. Malackowski summarizes the apportioned investment in labor and capital at [REDACTED] [REDACTED] in Fig. 124 of his report, identifying [REDACTED] in investments. CX-0081 at 145–47, Fig. 124; CX-0396.

In sum, [REDACTED] has invested at least [REDACTED] (assuming equipment investments must be apportioned) to [REDACTED] (assuming equipment necessary for manufacturing DI Direct Products does not need to be apportioned). CX-0081 at 147–48, Fig. 125; CX-0268.

D. Significant Exploitation of the Asserted Patents in Engineering, Research, and Development

ArcelorMittal invests substantially in ER&D to exploit products that practice the Asserted Patents. CX-0081 at 148–59. ArcelorMittal’s U.S. research, which is based primarily in ArcelorMittal’s East Chicago, Indiana, facility, focuses on three main functions: (1) “applications and solutions development, (2) product and process development, and (3) operations, all of which have worked together and continue to work together to support activities related to the domestic industry products.” CX-0042 ¶ 1; CX-0081 at 148. Through this work, ArcelorMittal’s researchers develop and support manufacturing processes, new applications for ArcelorMittal’s

[REDACTED]

patented steel, and supports its customers, including both Tier 1 manufacturers and auto manufacturers, through ER&D. CX-0042 ¶ 1; CX-0006 at 39–42, 111–13, 168–69; CX-0081 at 148.

This work included promoting DI Direct Products for integration into auto manufacturers' vehicles, including efforts to qualify the DI Precursor Product and a generic version of the DI Direct Product. CX-0006 at 71–73; CX-0081 at 149. This work was crucial to the widespread incorporation of these parts into automotive manufacturing in the U.S. CX-0006 at 71–73; CX-0081 at 149.

From 2014 to August 2024, ArcelorMittal invested [REDACTED] in ER&D labor related to Usibor, Ductibor, or PHS. CX-0668; CX-0081 at 156–57. Based on discussions with [REDACTED], at ArcelorMittal's East Chicago facility, Mr. Malackowski isolated expenditures related to the DI Products, removing line items for press-hardened steel, *e.g.*, for non-aluminized steel or aluminized steel with an insufficient coating weight. CX-0081 at 156–57. Mr. Malackowski concluded that, after isolating investments related to the DI Products, ArcelorMittal had invested approximately [REDACTED] in ER&D labor from 2014 to August 2024. CX-0081 at 156–57, Fig. 136.

Mr. Malackowski also identified ER&D equipment at the East Chicago facility with a “strong link” to the DI Products, and concluded that ArcelorMittal had invested [REDACTED] on such equipment. CX-0081 at 157–59; CX-0272. Mr. Malackowski omits from this calculation other assets that nonetheless support ER&D activities, which is another way in which Mr. Malackowski's analysis is highly conservative. CX-0081 at 157–59; CX-0272.

In sum, based on Mr. Malackowski's highly conservative quantification, ArcelorMittal has invested [REDACTED] in ER&D in the U.S. to exploit articles that practice the Asserted Patents.

E. Significance/Substantiality

ArcelorMittal's, licensees' and authorized parties' investments in labor and capital (337(a)(3)(A)) and plant and equipment (337(a)(3)(B)) with respect to the DI Products are significant, and ArcelorMittal's investments in exploitation (337(a)(3)(C)) of the DI Products,

[REDACTED]

including through engineering, research and development, and licensing are substantial.

There is no absolute threshold to establish significance or substantiality. “Rather, the Commission evaluates the significance or substantiality of domestic industry expenditures ‘based on a proper contextual analysis in the relevant timeframe such as in the context of’ the complainant’s or its licensee’s ‘operations, the marketplace, or the industry in question.’” *Certain Beverage Dispensing Sys. & Components Thereof*, Comm’n Op., Inv. No. 337-TA-1130, 2020 WL 1504737, at *11 (Mar. 26, 2020) (citing *Certain Solid State Storage Drives, Stacked Elecs. Components, & Prods. Containing Same*, Inv. No. 337-TA-1097, Comm’n Op., 2018 WL 4300500, at *18 (June 29, 2018)).

The Commission has considered, e.g., the value added to the article in the United States by domestic activities. *Certain Concealed Cabinet Hinges & Mounting Plates*, Inv. No. 337-TA-289, Comm’n Op., 1990 WL 10608981, at *11 (Jan. 8, 1990) (“‘[S]ignificance’ as used in the statute denotes an assessment of the relative importance of the domestic activities.”). The Commission has also evaluated the relative domestic contribution to the protected article by comparing complainant’s product-related domestic activities to its product-related foreign activities. E.g., *Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, Comm’n Op., at 43 (Aug. 1, 2007) (finding complainant’s undertakings, measured on a comparative basis, created meaningful value added to unfinished imported product). “Depending upon the particular company, industry, and marketplace in question, other contextual facts could be relevant in assessing whether the domestic industry investments and activities with respect to the protected articles are quantitatively significant or substantial.” *Certain Carburetors & Prods. Containing Such Carburetors*, Inv. No. 337-TA-1123, Comm’n Op., 2019 WL 5622443, at *13 (Oct. 28, 2019).

The DI investments are quantitatively significant. First, ArcelorMittal’s, licensees’, and authorized parties’ investments in the domestic industry for the patents are quantitatively significant, including well over a billion dollars to multiple billions of dollars. Mr. Malackowski summarized the apportioned investments by the parties who provided discovery in this matter in Fig. 138 of his report:

Cognizable Investments Attributable to the DI Products

	Subsection A			Subsection B		DI Products Investments
	Plant	Equipment	Total	Labor	Capital	
DI Precursor Products						
DI Direct Products						
East Chicago ER&D						
Total						

CX-0081 at 159–160, Fig. 138; CX-0118. Thus, after apportioning investments to the DI Precursor Products—eliminating investment attributable to aluminized steel that likely would not result in practicing the claims, *e.g.*, due to the coating weight—Mr. Malackowski identified [REDACTED] in plant, equipment, labor, and capital directed to manufacturing DI Precursor Products in the United States. CX-0081 at 159–160, Fig. 138; CX-0118. As discussed above, Mr. Malackowski did not include [REDACTED] multi-million dollar investments in this total, as [REDACTED] does not keep records in a manner that lends itself specifically to apportioning to DI Precursor Products. *Supra* Section V.A.2; *Certain Elec. Devices, Including Mobile Phones*, Inv. No. 337-TA-701, Order No. 58, 2010 WL 5621540, at *3 (observing that records are often kept in a manner that is not conducive to their use in litigation); *Certain Mobile Device Holders*, 2018 WL 4042764, at *9 (concluding reasonable estimates of investments are acceptable). Including [REDACTED] investments using the allocation assumptions identified above, the total allocated investments in DI Precursor Products would be [REDACTED] to nearly [REDACTED]. *Supra* Section V.A.2.

The Tier 1 hot stamping manufacturers from whom ArcelorMittal obtained discovery—the largest Tier 1 manufacturers—collectively manufacture DI Direct Products using only [REDACTED] % of DI Precursor Products shipped from AM/NS Calvert. CX-0081 at 160; CX-0121. Mr. Malackowski further calculated that, “if extrapolated to the remainder of the U.S. market, the DI Direct Product investments,” *i.e.*, investments by Tier 1s, “would yield an additional [REDACTED] [REDACTED] in cognizable investments.” CX-0081 at 160; CX-0121. These investments are not included in Fig. 138 of Mr. Malackowski’s report. CX-0081 at 160; CX-0121. Because the subpoenaed Tier 1 manufacturers are the largest in the U.S., it stands to reason that their operations

[REDACTED]

are in fact more efficient than the smaller Tier 1 manufacturers that comprise the rest of the market, such that even greater investment would have been required by those smaller Tier 1 manufacturers. Thus, even under Mr. Malackowski's highly conservative methodology for calculating and allocating DI investments, the investments required from Tier 1 manufacturers from whom ArcelorMittal did not obtain discovery total from [REDACTED] to nearly [REDACTED] CX-0081 at 160.

Thus, in sum, the total investments in the Domestic Industry for the asserted patents ranges from, under a highly conservative quantification, [REDACTED] to, using certain reasonable assumptions based firmly on the evidence in this Investigation, [REDACTED]

The DI investments are qualitatively significant. As Mr. Malackowski explains, the investments in the domestic industry are qualitatively significant at least because:

- The investments are used for large, complex facilities and equipment needed to manufacture the DI Products;
- The investments are used to employ a significant amount of labor needed to manufacture the DI Products, where such labor is often important to the local economy;
- The investments are used to transform a commodity – raw steel – into specialized parts that are used in the auto industry to make vehicles lighter and safer;
- The investments include substantial investments in ER&D activities that are critical to the domestic use of the DI Products in the U.S. automotive industry, including through partnering with auto manufacturers to encourage their adoption of and others' investment in the domestic industry for the Asserted Patents;
- The domestic exploitation of the Asserted Patents enables significant benefits for the automobile OEMs and ultimately the U.S. consumer.

CX-0081 at 161–62; CX-787; CX-0006; CX-0007; CX-0008; CX-0009; JX-00012; CX-0566. Given their qualitative significance, the impact of these domestic investments by ArcelorMittal, its licensees, and impliedly sub-licensed or otherwise authorized parties, the investments go well beyond the actual dollars invested. CX-0081 at 162.

The domestic investments are significant because they add value to the DI Products.

The Federal Circuit and the Commission have approved evaluating “significance” as required under Section 337(a)(3) using a “value add” analysis. For example, in *Certain Male Prophylactic*

[REDACTED]

Devices, the Commission found that the domestic activities of the complainant created added value of 34%. *Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, Comm’n Op., at 43 (Aug. 1, 2007). The Commission observed that, “on a comparative basis, the domestic activities in which [the complainant] invested create ‘value added’ to the bulk product imported from China.” *Id.* at 43. The Commission considered the “per-unit cost of the imported bulk condoms” and the “per unit cost” of the domestic activities that added value to the bulk condoms, lubricating, foiling, and testing them was 34%. *Id.* The Commission held that, given the “nature and significance of the domestic activities” and the “employment of labor and capital and its investments in the production” of the domestic industry products, this investment was “sufficient to satisfy the economic prong of the domestic industry requirement.” *Id.* at 45. The Commission further observed that this value add was “domestic production,” which is “precisely the activity that section 337 is designed to cover.” *Id.* The Federal Circuit approved of this analysis in *Lelo Inc. v. Int’l Trade Comm’n*, 786 F.3d 879, 884 (Fed. Cir. 2015) (“[I]n *Certain Male Prophylactics*, the ITC examined the economic impact of subcontractor domestic operations noting that, among other things, those operations reflected a U.S. value added of 34 percent.”); *Certain Beverage Dispensing Sys.*, Inv. No. 337-TA-1130, Comm’n Determination, 2020 WL 8675357, at *125 (June 3, 2020) (“According to commission precedent, a value-added analysis is a useful tool for evaluating whether a domestic industry exists.”) (citing *Certain Woodworking Machs.*, Inv. No. 337-TA-174, Initial Determination, 1987 WL 1564200, at *99 (May 1, 1987)).

Similarly, in *Certain Woodworking Machines*, the Commission found that “[although] a portion of [complainant’s product] [was] manufactured in Brazil, between 30 and 40% of the dollar value of the machine [was] produced in the United States.” *Id.*

The profit margins for the DI Precursor Products manufactured at the Calvert Facility show the investments are significant. Mr. Malackowski evaluated the “contribution margins (i.e., incremental profit margins)” of the DI Precursor Products as compared to other products manufactured at the AM/NS Calvert facility. CX-0081 at 163–64. As Mr. Malackowski explains, “[t]he transformation, from raw steel, to finished steel parts, reflects the significance of

the investments required to manufacture the finished steel products, and the value-added by those investments.” *Id.* at 163. As such, “[w]hen compared to other products, the activities associated with the transformation from raw steel to Aluminized Usibor & Ductibor (which are predominantly the DI Precursor Products), is significant.” *Id.* Mr. Malackowski provided a comparison of the profit margin for the DI Precursor Products manufactured at Calvert as compared to other steel manufactured using similar processes in Fig. 139 of his report:

Approach #1 - Contribution Margin (per Metric Ton)

\$/Metric Ton	2019	2020	2021	2022	2023
Auto (Excluding Aluminized)					
Non-Auto					
Aluminized (Usibor & Ductibor)					
as % of Auto (Excluding Aluminized)					
as % of Non-Auto					

CX-0081 at 164, Fig. 139; CX-0008; CX-0277; CX-0662. In 2019, for example, the profit margin for non-automotive steel was [REDACTED] per metric ton and for automotive steel excluding aluminized steel, which is a broader category that includes the DI Direct Products as well as a relatively small amount of aluminized steel with a lighter coating weight, was [REDACTED] per metric ton. CX-0081 at 164, Fig. 139; CX-0008; CX-0277; CX-0662. By comparison, the profit margin for aluminized steel, comprising primarily DI Direct Products, was [REDACTED] per metric ton, which was [REDACTED]% of the profit for non-automotive steel and [REDACTED]% of the profit margin for automotive steel excluding aluminized steel. CX-0081 at 164, Fig. 139; CX-0008; CX-0277; CX-0662. Similarly, in 2023, the last full year prior to the filing of the Complaint in this matter, the profit margin for the DI Precursor Products and other aluminized steel products was [REDACTED]% of the profit margin for non-automotive steel and [REDACTED]% of the profit margin for automotive steel excluding aluminized steel. CX-0081 at 164, Fig. 139; CX-0008; CX-0277; CX-0662.

This markedly greater profit margin for the DI Precursor Products and other aluminized steel as compared to other steel manufactured at the Calvert facility demonstrates the significance of the value added to a commodity—steel—in the United States.

The comparative per-ton investment in DI Precursor Products in the United States is

significant. As another approach to assessing the value added to the DI Precursor Products, Mr. Malackowski analyzed the per-ton investment in the United States. The respective investments are summarized in Fig. 140 of his report:

Approach #2 – Aluminized Usibor & Ductibor Costs (By Metric Ton)

Year	Slab & Related Freight Costs					Value-Added Costs (Variable)					Value-Added Costs (Fixed)	Value Added Costs (Total)
	Freight Absorption	Slab Base	Slab Extras	Slab Freight	Total	Variable Overhead	Additive Costs	Yield Costs	OSP Costs	Total	Fixed Costs	Total
2019												
2020												
2021												
2022												
2023												
Total												

CX-0081 at 164–65, Fig. 140; CX-0008; CX-0278; CX-0662. Mr. Malackowski then quantifies the U.S. manufacturing investment to add value to the steel slabs, which are commodities imported from Mexico or Brazil or from Indiana, U.S.A., in Fig. 141:

Approach #2 – Value-Added Cost Comparison (By Metric Ton)

Year	Variable Added Costs as % of Slab & Freight	Variable Added Costs as % of Total Costs	Total Value Added Costs as % of Slab & Freight	Total Value Added as % of Total Cost
2019				
2020				
2021				
2022				
2023				
Total				

CX-0081 at 165–66, Fig. 140; CX-0008; CX-0279. Thus, from 2019 to 2023, the domestic investment in manufacturing, and thereby adding value to, the DI Precursor Products ranged from █% to █%, depending on the comparison. CX-0081 at 165–66, Fig. 140; CX-0008; CX-0279. As Mr. Malackowski explains in his report, taking this quantification alone is highly conservative because it omits the further value added to the products to convert them into DI Direct Products that can then be incorporated into vehicles, which includes additional significant investment in the United States. CX-0081 at 166.

Nonetheless, even this highly conservative analysis isolating the domestic investment in DI Precursor Products on a per-ton basis shows that the value added is significant. *Lelo*, 786 F.3d at 884; *Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, Comm’n Op., at 43; *Certain Woodworking Machines*, 1987 WL 1564200, at *99.

[REDACTED]

The comparative per-unit investment in DI Precursor Products in the United States is significant. To evaluate the value-added to the DI Direct Products, Mr. Malackowski evaluated [REDACTED] cost to manufacture a DI Direct Product, a C-Ring made using a DI Precursor Product (USIBOR 1500 with a coating weight of AS 150). CX-0081 at 166–167. [REDACTED] corporate representative, [REDACTED] testified that the costs for the C-Ring are “fairly typical” of hot stamped parts, that all of the costs for the C-Ring are incurred in the United States, and that [REDACTED] purchases the raw materials (e.g., DI Precursor Products) and “add[s] value to” them. CX-0023, 77–78, 82, 101; CX-0081 at 166. Mr. Malackowski summarizes the “cost build-up” for the [REDACTED] C-Ring in Fig. 142 of his Report:

Approach #3 – DI Direct Product Cost Build-Up ([REDACTED]

Usibor 1500P	[REDACTED]
Usibor 1500P	[REDACTED]
Total Usibor	
Other Materials	
Total Materials	
Purchased Components	
Total Material and Purchased Components	
Processing - Labor	
Processing - Machinery Operation	
Total Burden/Overhead	
Total Manufacturing Cost	

CX-0081 at 167, Fig. 142; CX-0023; CX-0280; CX-0354. Mr. Malackowski summarized the value added by [REDACTED] domestic activities as a percentage of the per-part cost in Fig. 143:

Approach #3 – Quantitative Significance Analysis ([REDACTED]

	Usibor Investment	Total Manufacturing Investment (Including Usibor)
Value-Added Activities		at %
Other Materials		
Other Materials & Purch. Components		
Labor		
Machinery Operation		
Total Burden/Overhead (Labor+Machinery)		
Total Value Added Activities		

CX-0081 at 167, Fig. 143; CX-0281. Thus, [REDACTED] % of [REDACTED] per-part cost is related to its investment in equipment (machinery) and labor in the United States used to add value to the

[REDACTED]

purchased materials by converting them into a finished part.²⁰ CX-0081 at 167, Fig. 142; CX-0023; CX-0280; CX-0354. Similarly, Mr. Malackowski calculated that, of a total cost of goods sold for the DI Direct Products manufactured by [REDACTED], [REDACTED]% is attributable to labor and [REDACTED]% is attributable to overhead, for a total of [REDACTED]%. CX-0081 at 168; *id.* at 99, Fig. 77; CX-0209.

The value added investments by Tier 1 manufacturers are therefore significant. *Lelo*, 786 F.3d at 884; *Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, Comm’n Op., at 43; *Certain Woodworking Machs.*, Inv. No. 337-TA-174, 1987 WL 1564200, at *99.

The U.S. market share for the DI Precursor Products as compared to worldwide steel production shows ArcelorMittal’s investments are significant. Complainants are not required to perform a “domestic-to-foreign comparison” to establish significance, “nor does [the Commission] express a general preference for such a comparison to establish significance.” *Certain Portable Battery Jump Starters & Components Therefor (II)*, Inv. No. 337-TA-1359, Final Initial Determination on Violation of Section 337, at 357 (July 5, 2024) (citing *Certain Wearable Elec. Devices with ECG Functionality & Components Thereof*, Inv. No. 337-TA-1266, Comm’n Op., 2023 WL 372372, at *13 (Jan. 20, 2023)). Even so, Mr. Malackowski calculated that AM/NS Calvert’s production of DI Precursor Products “represent approximately [REDACTED]% of the worldwide Aluminized PHS market,” and that if “[REDACTED] production of DI Precursor Products were included, this share would be even greater.” CX-0081 at 169–70. By comparison, the U.S. produces only approximately [REDACTED]% of raw steel worldwide. *Id.*; CX-0790. Thus, the production of DI Precursor Products in the United States vs. worldwide production is nearly double the production of raw steel in the U.S. vs. worldwide production. *Id.*; CX-0790. This shows that ArcelorMittal has made the U.S. a focal point for investment in the context of the global steel market, and further demonstrates the significance of the investments in the DI Products.

ArcelorMittal’s ER&D investments are substantial. ArcelorMittal’s [REDACTED] in

²⁰ This quantification does not include the U.S. value add for USIBOR, a DI Precursor Product. But accounting for that value add based on the analysis above would result in an even greater percentage of U.S. value add activity for this part.

ER&D related to the DI Products is quantitatively significant as well as qualitatively significant. As discussed above, these investments effectively created the market for the DI Products in the United States, as ArcelorMittal's investment in qualifying the DI Products with auto manufacturers created demand for the DI Products, which steel manufacturers (including ArcelorMittal through its joint venture and license grant to AM/NS Calvert) met by investing in plant, equipment, labor, and capital related to DI Precursor Products and Tier 1 manufacturers met by investing in plant, equipment, labor, and capital related to DI Direct Products. *Supra* Section V.D. These critical investments in ER&D were critical to exploiting the patents, and are thus substantial.

Similarly, a comparison of ArcelorMittal's domestic investment shows that the investments are substantial.

Mr. Malackowski compared ArcelorMittal's investments in ER&D related to press-hardened steel (the broader category into which the DI Products fit) and USIBOR and DUCTIBOR (both of which, with a sufficient coating weight, are DI Precursor Products) in the United States to ArcelorMittal's investments worldwide. He summarized this analysis in Fig. 144 of his report: **U.S. ER&D DI Precursor Products Labor Relative to WW ER&D PHS, Usibor, Ductibor**

	2014	2015	2016	2017	2018	2019
ER&D Labor - US as % WW	■	■	■	■	■	■
					2024 (through August)	Total
	2020	2021	2022	2023		
ER&D Labor - US as % WW	■	■	■	■	■	■

CX-0081 at 168, Fig. 144; CX-0275. As Mr. Malackowski observed, "U.S. ER&D Labor related to the DI Precursor Products relative to worldwide ER&D PHS, Usibor, and Ductibor labor grew from ■% in 2014, to ■% by 2023, the last full year before the filing of the complaint." CX-0081 at 168. Mr. Thirion testified that R&D in the United States approximately ■% of ArcelorMittal's global R&D budget for press-hardened steel. CX-0009 at 51–54.

ArcelorMittal's ER&D investments have a causal nexus to the DI Products. As discussed above, in quantifying these investments, Mr. Malackowski excluded investment related to steel that was neither a DI Direct nor a DI Precursor Product. CX-0081 at 24–32, 159–60; *see also id.* 33–34. Investment in ER&D in partnership with OEMs allows for DI Direct Products (made from

[REDACTED]

DI Precursor Products) to be included in auto manufacturers' vehicles. CX-0006 at 39–42, 71–73, 111–13, 168–69; CX-0079 § X. As Mr. Malackowski showed, “there is significant demand for the DI Products, relative to similar, non-practicing products, as evidenced by the demand for AS150 Aluminized Usibor® and Ductibor®, compared to non-AS150 Usibor® and Ductibor®, or non-aluminized Usibor® and Ductibor®.” CX-0081 at 169; *id.* at 24–31. Further, the Asserted Patents provide significant benefits, including good weldability; enhanced corrosion performance; improved paint adhesion; and cost reductions in the manufacturing process. CX-0079 at Section III; CX-0081 at 33 – 34; CX-0566 at 316, 322; CX-0399 at 002; *see also* JX-0001; JX-0002. As Mr. Malackowski observed, these “benefits . . . are demanded by customers in the marketplace, and enabled by the ER&D activities occurring at East Chicago, such as the qualification or production part approval process between East Chicago engineers and the automobile OEMs.” CX-0071 at 169.

These investments are therefore substantial under Section 337(a)(3)(C).

* * *

For the foregoing reasons, the investment ArcelorMittal's, its licensees', and authorized parties' investments in labor and capital (Section 337(a)(3)(A)) and plant and equipment (Section 337(a)(3)(B)) with respect to the DI Products are significant, and ArcelorMittal's investments in exploitation (Section 337(a)(3)(C)) of the DI Products, including through engineering, research and development, and licensing are substantial.

VI. REMEDY AND BONDING

VinFast has violated and continues to violate Section 337 by importing, selling for importation, or offering for sale after importation the Accused Products in the United States. The appropriate remedy for these violations is a limited exclusion order and a cease and desist order to prevent VinFast from engaging in further unfair acts. VinFast should also be required to post a 100% bond for the importation, sale for importation, or sale after importation of the Accused Products during the Presidential Review period.

A. Limited Exclusion Order

[REDACTED]

As discussed above, the evidence ArcelorMittal will present at the evidentiary hearing establishes that the Accused Products that are the subject of this Investigation infringe one or more of claims 1, 2, 3, 7, 8, 9, 20, 21, 22, 24, and 26 of the '602 patent and claims 1, 2, 4, 5, 7, 8, 9, 10, 11, 13, 15, 16, 17, and 24 of the '227 patent. Sections III.B, IV.B.

VinFast stipulated that it has imported (or will import by March 7, 2025) at least one of each of the accused high-strength, aluminized steel components, which are incorporated into its VF8 and VF 9 vehicles, along with the vehicles themselves. CX-0822 ¶ 4 and Appendix A (listing all such components); CX-0016 at 30:6–8. VinFast imports these products into the United States under Harmonized Tariff Schedule Item Numbers [REDACTED] through the following ports of entry: [REDACTED]

[REDACTED] CX-0822 (EDIS No. 836421) ¶¶ 6–7. Specifically, [REDACTED]

[REDACTED]. CX-0016 at 22:5–23:7.

Following importation to the United States by [REDACTED]

[REDACTED]. *Id.* VinFast also produced representative sets of U.S. Customs and Border Protection Forms 7501 and 3461 “sufficient to show importation for each of the [Accused] Products,” along with representative sets of packing lists where applicable to particular products. *Id.* ¶ 8, Appendix B; *see also* CX-0926; CX-0300 (VINFAST1402-00003535); CX-0927; CX-0928. Accordingly, VinFast does “not dispute that the importation requirement within the meaning of 19 U.S.C. § 1337(a)(1)(B) is satisfied with respect to the [Accused] Products.” CX-0822 ¶ 5.

Because VinFast is violating Section 337 by importing, selling for importation, or selling after importation in the United States products that infringe ArcelorMittal’s patents, the Commission must issue an exclusion order for these products. 19 U.S.C. § 1337(d)(1) (“If the Commission determines, as a result of an investigation under this section, that there is a violation of this section, it shall direct that the articles concerned, imported by any person violating the provision of this section, be excluded from entry into the United States.”); *Spanston, Inc. v. ITC*,

[REDACTED]

629 F.3d 1331, 1358 (Fed. Cir. 2010) (“By statute, the Commission is required to issue an exclusion order upon the finding of a Section 337 violation[.]”). The exclusion order should prevent VinFast from engaging in unfair acts involving the Accused Products in the United States, including but not limited to importation, sale for importation, and selling after importation. *See Certain Cloud-Connected Woodpellet Grills & Components Thereof Ltd. Exclusion Order*, ITC Inv. No. 33-TA-1237, 2022 WL 1443764, at *3 (May 12, 2022) (“The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of certain cloud-connected wood-pellet grills and components thereof that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondent or any of its affiliated companies, parents, subsidiaries, agents, or other business related entities, or their successors or assigns.”).

B. Cease and Desist Order

ArcelorMittal also seeks a permanent cease and desist order against Respondents and their affiliated companies, and agents that engage in unfair acts (such as those described above) related to the Accused Products. A cease and desist order is necessary to address VinFast’s violation of Section 337 “so as to not undercut the relief provided by the exclusion order.” *Certain Table Saws Incorporating Active Injury Mitigation Technology & Components Thereof*, Inv. No. 337-TA-965, Comm’n Op., 2017 WL 1476193, at *3 (Feb. 1, 2017) (citing *Certain Integrated Repeaters, Switches, Transceivers, & Prods. Containing Same*, Inv. No. 337-TA-435, Comm’n Op. at 27 (Aug. 16, 2002)); *see also Certain Elec. Skin Care Devices, Brushes & Chargers Therefor, & Kits Containing the Same*, Inv. No. 337-TA-959, Comm’n Op., 2017 WL 8683854, at *15 (Feb. 13, 2017).

Cease and desist orders generally issue when respondents maintain commercial inventories of violating articles in the United States or have domestic operations that could undermine an exclusion order. *E.g., Elec. Skin Care Devices*, 2017 WL 8683854, at *15; *Certain Automated Put Walls and Automated Storage and Retrieval Systems, Associated Vehicles, Associated Control Software, and Component Parts Thereof*, Inv. No. 337-TA-1293, Comm’n Op. at 32–33 n.29 (August 17, 2023) (noting that, in “Commissioner Schmidtlein’s view, the presence of some

[REDACTED]

infringing domestic inventory or domestic operations related to infringing articles, regardless of its commercial significance, provides a basis to issue a CDO”). For example, the Commission has held that “commercially significant” inventories of infringing products would undermine an exclusion order and generally warrant the issuance of a cease and desist order. *Elec. Skin Care Devices*, 2017 WL 8683854, at *15. “[T]here is no lower limit on the number of articles a domestic respondent must have in inventory before that inventory can be found ‘commercially significant.’” *Certain Agricultural Vehicles & Components Thereof*, Inv. No. 337-TA-487, Comm’n Op. at 14 (Sept. 24, 2004). A commercially significant inventory, however, is not required. For example, a cease and desist order may issue where a respondent engages in significant domestic activities involving the Accused Products, including designing, selling, and delivering such products in the United States. *Certain Outdoor and Semi-outdoor Electronic Displays, Products Containing Same, and Components Thereof*, Inv. No. 337-TA-1331, Recommended Determination On Remedy and Bonding, 2023 WL 8664244, at *3–5 (Nov. 27, 2023).

Although, as mentioned above, commercial significance is not required for a cease and desist order, VinFast’s current and anticipated inventories of its VF8 and VF 9 vehicles (which incorporate the Accused Products) in the United States are commercially significant relative to its total and projected sales in the United States, as well as its importation activity (which would be excluded under a limited exclusion order). CX-0822 ¶¶ 8–11; CX-0081 § 14.2; CX-0282. As to the VF8, for example, VinFast maintained an inventory of [REDACTED]

[REDACTED]²¹ CX-0822 at Appendix C; CX-0016 at 37:15–22. The VF 8 has

²¹ VinFast’s only response to ArcelorMittal’s contention that a cease and desist order should issue if a section 337 violation is found is that ArcelorMittal has not established a commercially significant inventory, because [REDACTED]

[REDACTED] See CX-0293 at 14–15 (Responses to ROG No. 34 and No. 36). But the vehicles in this inventory are [REDACTED]

[REDACTED] See CX-0016 at 15:4–11, 22:5–23:7, 30:6–18, 31:2–5, 79:14–80:7.

[REDACTED]

been offered for sale in the United States since [REDACTED] during which time the retail price (MRSP) has generally been between [REDACTED] with revenue to VinFast from those sales generally ranging from [REDACTED] CX-0303 (VF8 sales prior to 2023); CX-0304 (VF8 sales in 2023); CX-0305 (sales in 2024); CX-0016 at 23:8–15, 80:22–82:10. The VinFast VF 9 went on sale in the United States in [REDACTED], and VinFast had imported [REDACTED] of the vehicle to the United States as of [REDACTED]. CX-0016 at 41:18–42:16, 49:6–16. These numbers indicate a commercially significant inventory commensurate with the number of vehicles that VinFast sells. Moreover, further sales of such vehicles containing infringing parts would be damaging to ArcelorMittal’s domestic industry, including to the investments of its licensees and otherwise authorized parties. CX-0081 § 14.2; CX-0282. For example, licensees would (by virtue of abiding by license obligations) incur additional costs in connection with the licensed and authorized products that VinFast would not incur. CX-0081 § 14.2; CX-0282. The inventory is likewise commercially significant because the inventories include durable, long-lasting goods, and because the inventory is of goods that sell for relatively high prices. CX-0303 (VF8 sales prior to 2023); CX-0304 (VF8 sales in 2023); CX-0305(sales in 2024).

In addition to maintaining a commercially significant inventory, VinFast also engages in significant domestic operations with respect to the Accused Products that could undercut the remedy provided by a limited exclusion order. VinFast identifies the U.S. as one of its “[k]ey [m]arkets” and attributes growth in its selling and distribution costs over recent years to “the increase in labor and rental costs, which are primarily attributable to [VinFast’s] efforts to scale its sales operations in the U.S., Europe, and Canada, including the opening of new showrooms.” CX-0081 § 14.2; CX-0931 at 65, 108. VinFast currently has [REDACTED] [REDACTED]. CX-0016 at 50:20–51:9. VinFast offers its customers the ability to purchase vehicles only with one of its “Client Advisors,” provides a “companion app” to its U.S. vehicles, and pays an annual fee for its customers to access Electrify’s EV charging stations. CX-0081 § 14.2; CX-0931 at 65, 67; CX-0789; CX-0788. VinFast also advertises its vehicles in the United States primarily using [REDACTED]

[REDACTED]

[REDACTED] CX-0016 at 34:13–20, 39:13–40:2, 41:9–13. VinFast has [REDACTED]

[REDACTED] CX-0016 at 35:16–37:4. Finally, VinFast has an agreement with the state of North Carolina (and has created a separate corporate U.S. entity) to build a manufacturing plant—with a planned capacity of 150,000 vehicles per year—to assemble its vehicles in the United States [REDACTED] [REDACTED]). CX-0081 § 14.2; CX-0931 at 46, 51, F-14, F-51; CX-0016 at 33:16–34:8, 52:17–53:8, 55:20–56:7.

Thus, because VinFast engages in significant domestic operations and maintains a commercially significant inventory in the United States, a cease and desist order is necessary to address any violation found in this Investigation and prevent the relief provided by such exclusion order from being undercut. *E.g., Outdoor and Semi-outdoor Electronic Displays*, 2023 WL 8664244, at *3–5; *Certain Three-Dimensional Cinema Sys. & Components Thereof*, Inv. No. 337-TA-939, 2016 WL 7635412, at *38–39 (Aug. 23, 2016). Such an order would not harm the public interest for the reasons set forth in ArcelorMittal’s public interest statement, submitted concurrently with its Complaint, and because [REDACTED]. CX-0016 at 49:17–22. VinFast has not contended that it lacks significant domestic operations in the United States, nor has it offered any evidence that its inventory is not commercially significant. *See* CX-0293 at 14–15 (Responses to ROG Nos. 34 and 36).

C. Bond

A 100% bond during the Presidential review period is necessary to offset the competitive advantage VinFast would otherwise have in continuing to import certain high-strength aluminum or aluminum alloy-coated steel, and automotive products and automobiles containing same (e.g., VinFast VF 8 and VF 9). *See* 19 U.S.C. § 1337(j)(3) (bond must be “sufficient to protect the complainant from any injury”). A 100% bond is appropriate where the bond rate cannot be set based on a royalty or price differential between the Accused Products and the Domestic Industry Products. *Certain Pick-Up Truck Folding Bed Cover Sys. & Components Thereof (III)*, USITC

[REDACTED]

Inv. No. 337-TA-1353, Order No. 33, at 137 (Apr. 23, 2024) (“A 100 percent bond has been required when no effective alternative existed”); *Certain Electric Paper Towel Dispensing Devices and Components Thereof*, Inv. No. 337-TA-718, 2012 WL 13210371, at *11 (Jan 20, 2012) (citing *Certain Energy Drink Products*, Inv. No. 337-TA-678, Comm’n Op. (Sept. 8, 2001)).

Here, VinFast’s continued importation of infringing products will give it a competitive advantage that will harm ArcelorMittal and requires imposition of a 100% bond. VinFast’s violations during the Presidential review period would discourage adoption of ArcelorMittal’s patented technology and disadvantage ArcelorMittal’s licensees by imposing an additional royalty cost on them that unlicensed suppliers like VinFast do not incur. CX-0081 § 14.1. Accordingly, requiring VinFast to post a bond is necessary and appropriate to curb the harm to ArcelorMittal and its licensees from VinFast’s supply of unlicensed products in the United States.

As to the bond rate, VinFast produced pricing and sales information for the VF 8, but not for the VF 9. CX-0822 ¶ 10, Appendix C; CX-0303 (VF8 sales prior to 2023); CX-0304 (VF8 sales in 2023); CX-0305 (sales in 2024); CX-0016 at 23:8–15, 80:22–82:10. VinFast [REDACTED]. CX-0016 at 82:11–83:9. For the VF 8, the average MSRP per unit was [REDACTED]. CX-0081 § 14.1; CX-0282. Although this data indicates the growing harm to ArcelorMittal from VinFast’s [REDACTED] of unlicensed vehicles containing steel that infringes ArcelorMittal’s patents, it does not allow for an effective method to calculate a bond based on price differential or royalty cost.

Specifically, the comparison of the Domestic Industry Products to the Accused Products is not one-to-one. The Domestic Industry Products include DI Precursor products (coils of base steel, manufactured by ArcelorMittal’s licensees and sold by ArcelorMittal) and DI Direct Products (hot-stamped, aluminized steel components that are later incorporated into automobiles by OEMs). The Accused Products, however, are the end products—automobiles. Accordingly, a price differential comparison between the two sets of products is not practical or meaningful. CX-0081 § 14.1. Similarly, calculating a bond based on ArcelorMittal’s licenses (which include rights to the

[REDACTED]

Asserted Patents) also lacks a sound foundation because these licenses tend to be broad agreements that combine rights and commercial terms unrelated to the patented technology. *E.g.*, CX-0031; CX-0034; CX-0035 ; CX-0036. Accordingly, there is no alternative method for calculating a bond, and a 100% bond is appropriate and necessary. Tellingly, VinFast's economic expert, Julia Rowe, did not offer any opinion or analysis on the appropriate amount for a bond, nor did she rebut Mr. Malackowski's opinion that a 100% bond was appropriate and necessary under these circumstances. *See generally* CX-0087.

Appendix

Below are compiled citations to testing data collected by ArcelorMittal for this Investigation, organized according to the type of data collected:

1. **VinFast Part Picture Citations:** CX-0099 (Fekete Rpt. Ex. K); CX-0826 (345114.1) at, e.g., AM-ITC-0102868, AM-ITC-0106559; CX-0827 (345114.2) at, e.g., AM-ITC-0102868, AM-ITC-0106559; CX-0828 (345114.3) at, e.g., AM-ITC-0102868, AM-ITC-0106568; CX-0829 (345114.4) at, e.g., AM-ITC-0102868, AM-ITC-0106568; CX-0830 (345114.5) at, e.g., AM-ITC-0102868, AM-ITC-0106551; CX-0831 (345114.6) at, e.g., AM-ITC-0102868, AM-ITC-0106551; CX-0832 (345114.7) at, e.g., AM-ITC-0102868, AM-ITC-0106553; CX-0833 (345114.8) at, e.g., AM-ITC-0102868, AM-ITC-0106553; CX-0834 (345114.9) at, e.g., AM-ITC-0102868, AM-ITC-0106534; CX-0835 (345114.10) at, e.g., AM-ITC-0102868, AM-ITC-0106534; CX-0836 (345114.11) at, e.g., AM-ITC-0102868, AM-ITC-0106536; CX-0837 (345114.12) at, e.g., AM-ITC-0102868, AM-ITC-0106536; CX-0838 (345114.13) at, e.g., AM-ITC-0102868, AM-ITC-0106539; CX-0839 (345114.14) at, e.g., AM-ITC-0102868, AM-ITC-0106539; CX-0840 (345114.15) at, e.g., AM-ITC-0102868, AM-ITC-0106543; CX-0841 (345114.16) at, e.g., AM-ITC-0102868, AM-ITC-0106543; CX-0842 (345114.17) at, e.g., AM-ITC-0102868, AM-ITC-0106573; CX-0843 (345114.18) at, e.g., AM-ITC-0102868, AM-ITC-0106573; CX-0844 (345114.19) at, e.g., AM-ITC-0102868, AM-ITC-0106579; CX-0845 (345114.20) at, e.g., AM-ITC-0102868, AM-ITC-0106579; CX-0846 () at, e.g., AM-ITC-0102907, AM-ITC-0102941; CX-0847 () at, e.g., AM-ITC-0102907; CX-0848 (3) at, e.g., AM-ITC-0105138, AM-ITC-0105145; CX-0849 (6) at, e.g., AM-ITC-0105267, AM-ITC-0105267; CX-0850 (11) at, e.g., AM-ITC-0103919, AM-ITC-0103920; CX-0851 (13) at, e.g., AM-ITC-0104167, AM-ITC-0104168; CX-0852 (12) at, e.g., AM-ITC-0104045, AM-ITC-0104047, AM-ITC-0104048, AM-ITC-0104049; AM-ITC-0104044; CX-0853 (14) at, e.g., AM-ITC-0104292, AM-ITC-0104294, AM-ITC-0104295, AM-ITC-0104296; CX-0854 (16) at, e.g., AM-ITC-0104412, AM-ITC-0104414, AM-ITC-0104415, AM-ITC-0104416; CX-0855 (17) at, e.g., AM-ITC-0104532, AM-ITC-0104533, AM-ITC-0104534, AM-ITC-0104535; CX-0856 (18) at, e.g., AM-ITC-0104654, AM-ITC-0104655; CX-0857 (19) at, e.g., AM-ITC-0104781, AM-ITC-01042782, AM-ITC-0104783, AM-ITC-0104784; CX-0858 (20) at, e.g., AM-ITC-0104898, AM-ITC-0104899, AM-ITC-0104900, AM-ITC-0104901; CX-0859 (21) at, e.g., AM-ITC-0105018, AM-ITC-0105019, AM-ITC-0105020, AM-ITC-0105021.
2. **VinFast Part SEM Image Citations:** CX-0100 (Fekete Rpt. Ex. L); CX-0826 (345114.1) at, e.g., AM-ITC-0105379; CX-0827 (345114.2) at, e.g., AM-ITC-0105446; CX-0828 (345114.3) at, e.g., AM-ITC-0105497; CX-0829 (345114.4) at, e.g., AM-ITC-0105553; CX-0830 (345114.5) at, e.g., AM-ITC-0105618; CX-0831 (345114.6) at, e.g., AM-ITC-0105668; CX-0832 (345114.7) at, e.g., AM-ITC-0105726; CX-0833 (345114.8) at, e.g., AM-ITC-0105792; CX-0834 (345114.9) at, e.g., AM-ITC-0105846; CX-0835 (345114.10) at, e.g., AM-ITC-0105908; CX-0836 (345114.11) at, e.g., AM-ITC-0105967; CX-0837 (345114.12) at, e.g., AM-ITC-0106020; CX-0838 (345114.13) at, e.g., AM-ITC-

[REDACTED]

0106075; CX-0839 (345114.14) at, e.g., AM-ITC-0106142; CX-0840 (345114.15) at, e.g., AM-ITC-0106190; CX-0841 (345114.16) at, e.g., AM-ITC-0106249; CX-0842 (345114.17) at, e.g., AM-ITC-0106299; CX-0843 (345114.18) at, e.g., AM-ITC-0106356; CX-0844 (345114.19) at, e.g., AM-ITC-0106413; CX-0845 (345114.20) at, e.g., AM-ITC-0106477; CX-0846 ([REDACTED]) at, e.g., AM-ITC-0102946; CX-0847 ([REDACTED]) at, e.g., AM-ITC-0103077; CX-0848 (3) at, e.g., AM-ITC-0105215; CX-0849 (6) at, e.g., AM-ITC-0105275; CX-0850 (11) at, e.g., AM-ITC-0103978; CX-0851 (13) at, e.g., AM-ITC-0104226; CX-0852 (12) at, e.g., AM-ITC-0104079; CX-0853 (14) at, e.g., AM-ITC-0104302; CX-0854 (16) at, e.g., AM-ITC-0104471; CX-0855 (17) at, e.g., AM-ITC-0104545; CX-0856 (18) at, e.g., AM-ITC-0104736; CX-0857 (19) at, e.g., AM-ITC-0104840; CX-0858 (20) at, e.g., AM-ITC-0104898; CX-0859 (21) at, e.g., AM-ITC-0105095.

3. **VinFast Part Layer Mean Iron Composition Citations:** CX-0095 (Fekete Rpt. Ex. G); CX-0826 (345114.1) at AM-ITC-0102871; CX-0827 (345114.2) at AM-ITC-0102872; CX-0828 (345114.3) at AM-ITC-0102873; CX-0829 (345114.4) at AM-ITC-0102890; CX-0830 (345114.5) at AM-ITC-0102886; CX-0831 (345114.6) at AM-ITC-0102887; CX-0832 (345114.7) at AM-ITC-0102888; CX-0833 (345114.8) at AM-ITC-0102889; CX-0834 (345114.9) at AM-ITC-0102874; CX-0835 (345114.10) at AM-ITC-0102875; CX-0836 (345114.11) at AM-ITC-0102876; CX-0837 (345114.12) at AM-ITC-0102877; CX-0838 (345114.13) at AM-ITC-0102882; CX-0839 (345114.14) at AM-ITC-0102883; CX-0840 (345114.15) at AM-ITC-0102884; CX-0841 (345114.16) at AM-ITC-0102885; CX-0842 (345114.17) at AM-ITC-0102878; CX-0843 (345114.18) at AM-ITC-0102879; CX-0844 (345114.19) at AM-ITC-0102880; CX-0845 (345114.20) at AM-ITC-0102881; CX-0846 ([REDACTED]) at AM-ITC-0102909; CX-0847 ([REDACTED]) at AM-ITC-0103035; CX-0848 (3) at AM-ITC-0105113; CX-0849 (6) at AM-ITC-0105236; CX-0850 (11) at AM-ITC-0103894; CX-0851 (13) at AM-ITC-0104142; CX-0852 (12) at AM-ITC-0104019; CX-0853 (14) at AM-ITC-0104267; CX-0854 (16) at AM-ITC-0104387; CX-0855 (17) at AM-ITC-0104507; CX-0856 (18) at AM-ITC-0104629; CX-0857 (19) at AM-ITC-0104756; CX-0858 (20) at AM-ITC-0104873; CX-0859 (21) at AM-ITC-0104993.
4. **VinFast Part Layer Mean Aluminum Composition Citations:** CX-0096 (Fekete Rpt. Ex. H); CX-0826 (345114.1) at AM-ITC-0102871; CX-0827 (345114.2) at AM-ITC-0102872; CX-0828 (345114.3) at AM-ITC-0102873; CX-0829 (345114.4) at AM-ITC-0102890; CX-0830 (345114.5) at AM-ITC-0102886; CX-0831 (345114.6) at AM-ITC-0102887; CX-0832 (345114.7) at AM-ITC-0102888; CX-0833 (345114.8) at AM-ITC-0102889; CX-0834 (345114.9) at AM-ITC-0102874; CX-0835 (345114.10) at AM-ITC-0102875; CX-0836 (345114.11) at AM-ITC-0102876; CX-0837 (345114.12) at AM-ITC-0102877; CX-0838 (345114.13) at AM-ITC-0102882; CX-0839 (345114.14) at AM-ITC-0102883; CX-0840 (345114.15) at AM-ITC-0102884; CX-0841 (345114.16) at AM-ITC-0102885; CX-0842 (345114.17) at AM-ITC-0102878; CX-0843 (345114.18) at AM-ITC-0102879; CX-0844 (345114.19) at AM-ITC-0102880; CX-0845 (345114.20) at AM-ITC-0102881; CX-0846 ([REDACTED]) at AM-ITC-0102909; CX-0847 ([REDACTED]) at AM-ITC-0103035; CX-0848 (3) at AM-ITC-0105113; CX-0849 (6) at AM-ITC-0105236; CX-0850 (11) at AM-ITC-0103894; CX-0851 (13) at AM-ITC-0104142; CX-0852 (12) at AM-ITC-0104019; CX-0853 (14) at AM-ITC-0104267; CX-0854 (16) at AM-ITC-0104387; CX-0855 (17) at AM-ITC-0104507; CX-0856 (18) at AM-ITC-0104629; CX-

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0857 (19) at AM-ITC-0104756; CX-0858 (20) at AM-ITC-0104873; CX-0859 (21) at AM-ITC-0104993.

5. **VinFast Part Layer Mean Silicon Composition Citations:** CX-0097 (Fekete Rpt. Ex. D); CX-0826 (345114.1) at AM-ITC-0102871; CX-0827 (345114.2) at AM-ITC-0102872; CX-0828 (345114.3) at AM-ITC-0102873; CX-0829 (345114.4) at AM-ITC-0102890; CX-0830 (345114.5) at AM-ITC-0102886; CX-0831 (345114.6) at AM-ITC-0102887; CX-0832 (345114.7) at AM-ITC-0102888; CX-0833 (345114.8) at AM-ITC-0102889; CX-0834 (345114.9) at AM-ITC-0102874; CX-0835 (345114.10) at AM-ITC-0102875; CX-0836 (345114.11) at AM-ITC-0102876; CX-0837 (345114.12) at AM-ITC-0102877; CX-0838 (345114.13) at AM-ITC-0102882; CX-0839 (345114.14) at AM-ITC-0102883; CX-0840 (345114.15) at AM-ITC-0102884; CX-0841 (345114.16) at AM-ITC-0102885; CX-0842 (345114.17) at AM-ITC-0102878; CX-0843 (345114.18) at AM-ITC-0102879; CX-0844 (345114.19) at AM-ITC-0102880; CX-0845 (345114.20) at AM-ITC-0102881; CX-0846 ([REDACTED]) at AM-ITC-0102909; CX-0847 ([REDACTED]) at AM-ITC-0103035; CX-0848 (3) at AM-ITC-0105113; CX-0849 (6) at AM-ITC-0105236; CX-0850 (11) at AM-ITC-0103894; CX-0851 (13) at AM-ITC-0104142; CX-0852 (12) at AM-ITC-0104019; CX-0853 (14) at AM-ITC-0104267; CX-0854 (16) at AM-ITC-0104387; CX-0855 (17) at AM-ITC-0104507; CX-0856 (18) at AM-ITC-0104629; CX-0857 (19) at AM-ITC-0104756; CX-0858 (20) at AM-ITC-0104873; CX-0859 (21) at AM-ITC-0104993.
6. **VinFast Part Thickness Measurement Citations:** CX-0094 (Fekete Rpt. Ex. F); CX-0826 (345114.1) at, e.g., AM-ITC-0102871; CX-0827 (345114.2) at, e.g., AM-ITC-0102872; CX-0828 (345114.3) at, e.g., AM-ITC-0102873; CX-0829 (345114.4) at, e.g., AM-ITC-0102890; CX-0830 (345114.5) at, e.g., AM-ITC-0102886; CX-0831 (345114.6) at, e.g., AM-ITC-0102887; CX-0832 (345114.7) at, e.g., AM-ITC-0102888; CX-0833 (345114.8) at, e.g., AM-ITC-0102889; CX-0834 (345114.9) at, e.g., AM-ITC-0102874; CX-0835 (345114.10) at, e.g., AM-ITC-0102875; CX-0836 (345114.11) at, e.g., AM-ITC-0102876; CX-0837 (345114.12) at, e.g., AM-ITC-0102877; CX-0838 (345114.13) at, e.g., AM-ITC-0102882; CX-0839 (345114.14) at, e.g., AM-ITC-0102883; CX-0840 (345114.15) at, e.g., AM-ITC-0102884; CX-0841 (345114.16) at, e.g., AM-ITC-0102885; CX-0842 (345114.17) at, e.g., AM-ITC-0102878; CX-0843 (345114.18) at, e.g., AM-ITC-0102879; CX-0844 (345114.19) at, e.g., AM-ITC-0102880; CX-0845 (345114.20) at, e.g., AM-ITC-0102881; CX-0846 ([REDACTED]) at, e.g., AM-ITC-0102909; CX-0847 ([REDACTED]) at, e.g., AM-ITC-0103035; CX-0848 (3) at, e.g., AM-ITC-0105113; CX-0849 (6) at, e.g., AM-ITC-0105236; CX-0850 (11) at, e.g., AM-ITC-0103894; CX-0851 (13) at, e.g., AM-ITC-0104142; CX-0852 (12) at, e.g., AM-ITC-0104019; CX-0853 (14) at, e.g., AM-ITC-0104267; CX-0854 (16) at, e.g., AM-ITC-0104387; CX-0855 (17) at, e.g., AM-ITC-0104507; CX-0856 (18) at, e.g., AM-ITC-0104629; CX-0857 (19) at, e.g., AM-ITC-0104756; CX-0858 (20) at, e.g., AM-ITC-0104873; CX-0859 (21) at, e.g., AM-ITC-0104993.
7. **VinFast Part Steel Substrate Elemental Composition Citations:** CX-0093 (Fekete Rpt. Ex. E); CX-0826 (345114.1) at AM-ITC-0102871; CX-0827 (345114.2) at AM-ITC-0102872; CX-0828 (345114.3) at AM-ITC-0102873; CX-0829 (345114.4) at AM-ITC-0102890; CX-0830 (345114.5) at AM-ITC-0102886; CX-0831 (345114.6) at AM-ITC-0102887; CX-0832 (345114.7) at AM-ITC-0102888; CX-0833 (345114.8) at AM-ITC-

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0102889; CX-0834 (345114.9) at AM-ITC-0102874; CX-0835 (345114.10) at AM-ITC-0102875; CX-0836 (345114.11) at AM-ITC-0102876; CX-0837 (345114.12) at AM-ITC-0102877; CX-0838 (345114.13) at AM-ITC-0102882; CX-0839 (345114.14) at AM-ITC-0102883; CX-0840 (345114.15) at AM-ITC-0102884; CX-0841 (345114.16) at AM-ITC-0102885; CX-0842 (345114.17) at AM-ITC-0102878; CX-0843 (345114.18) at AM-ITC-0102879; CX-0844 (345114.19) at AM-ITC-0102880; CX-0845 (345114.20) at AM-ITC-0102881; CX-0846 ([REDACTED]) at AM-ITC-0102909; CX-0847 ([REDACTED]) at AM-ITC-0103035; CX-0848 (3) at AM-ITC-0105113; CX-0849 (6) at AM-ITC-0105236; CX-0850 (11) at AM-ITC-0103894; CX-0851 (13) at AM-ITC-0104142; CX-0852 (12) at AM-ITC-0104019; CX-0853 (14) at AM-ITC-0104267; CX-0854 (16) at AM-ITC-0104387; CX-0855 (17) at AM-ITC-0104507; CX-0856 (18) at AM-ITC-0104629; CX-0857 (19) at AM-ITC-0104756; CX-0858 (20) at AM-ITC-0104873; CX-0859 (21) at AM-ITC-0104993.

8. **VinFast Part Martensitic Structure Citations:** CX-0101 (Fekete Rpt. Ex. M); CX-0826 (345114.1) at AM-ITC-0102871; CX-0827 (345114.2) at AM-ITC-0102872; CX-0828 (345114.3) at AM-ITC-0102873; CX-0829 (345114.4) at AM-ITC-0102890; CX-0830 (345114.5) at AM-ITC-0102886; CX-0831 (345114.6) at AM-ITC-0102887; CX-0832 (345114.7) at AM-ITC-0102888; CX-0833 (345114.8) at AM-ITC-0102889; CX-0834 (345114.9) at AM-ITC-0102874; CX-0835 (345114.10) at AM-ITC-0102875; CX-0836 (345114.11) at AM-ITC-0102876; CX-0837 (345114.12) at AM-ITC-0102877; CX-0838 (345114.13) at AM-ITC-0102882; CX-0839 (345114.14) at AM-ITC-0102883; CX-0840 (345114.15) at AM-ITC-0102884; CX-0841 (345114.16) at AM-ITC-0102885; CX-0842 (345114.17) at AM-ITC-0102878; CX-0843 (345114.18) at AM-ITC-0102879; CX-0844 (345114.19) at AM-ITC-0102880; CX-0845 (345114.20) at AM-ITC-0102881; CX-0846 ([REDACTED]) at AM-ITC-0102908; CX-0847 ([REDACTED]) at AM-ITC-0103034; CX-0848 (3) at AM-ITC-0105112; CX-0849 (6) at AM-ITC-0105235; CX-0850 (11) at AM-ITC-0103893; CX-0851 (13) at AM-ITC-0104141; CX-0852 (12) at AM-ITC-0104018; CX-0853 (14) at AM-ITC-0104266; CX-0854 (16) at AM-ITC-0104386; CX-0855 (17) at AM-ITC-0104506; CX-0856 (18) at AM-ITC-0104628; CX-0857 (19) at AM-ITC-0104755; CX-0858 (20) at AM-ITC-0104872; CX-0859 (21) at AM-ITC-0104992.
9. **VinFast Part Tensile Strength Citations:** CX-0098 (Fekete Rpt. Ex. J); CX-0826 (345114.1) at AM-ITC-0102871; CX-0827 (345114.2) at AM-ITC-0102872; CX-0828 (345114.3) at AM-ITC-0102873; CX-0829 (345114.4) at AM-ITC-0102890; CX-0830 (345114.5) at AM-ITC-0102886; CX-0831 (345114.6) at AM-ITC-0102887; CX-0832 (345114.7) at AM-ITC-0102888; CX-0833 (345114.8) at AM-ITC-0102889; CX-0834 (345114.9) at AM-ITC-0102874; CX-0835 (345114.10) at AM-ITC-0102875; CX-0836 (345114.11) at AM-ITC-0102876; CX-0837 (345114.12) at AM-ITC-0102877; CX-0838 (345114.13) at AM-ITC-0102882; CX-0839 (345114.14) at AM-ITC-0102883; CX-0840 (345114.15) at AM-ITC-0102884; CX-0841 (345114.16) at AM-ITC-0102885; CX-0842 (345114.17) at AM-ITC-0102878; CX-0843 (345114.18) at AM-ITC-0102879; CX-0844 (345114.19) at AM-ITC-0102880; CX-0845 (345114.20) at AM-ITC-0102881; CX-0846 ([REDACTED]) at AM-ITC-0102909; CX-0847 ([REDACTED]) at AM-ITC-0103035; CX-0848 (3) at AM-ITC-0105113; CX-0849 (6) at AM-ITC-0105236; CX-0850 (11) at AM-ITC-0103894; CX-0851 (13) at AM-ITC-0104142; CX-0852 (12) at AM-ITC-0104019; CX-0853 (14) at AM-ITC-0104267; CX-0854 (16) at AM-ITC-0104387; CX-

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0855 (17) at AM-ITC-0104507; CX-0856 (18) at AM-ITC-0104629; CX-0857 (19) at AM-ITC-0104756; CX-0858 (20) at AM-ITC-0104873; CX-0859 (21) at AM-ITC-0104993.

10. **VinFast Part Line Scan Citations:** CX-0879 (VinFast Part Line Scans); CX-0826 (345114.1) at AM-ITC-0105429; CX-0827 (345114.2) at AM-ITC-0105495; CX-0828 (345114.3) at AM-ITC-0105546; CX-0829 (345114.4) at AM-ITC-0105603; CX-0830 (345114.5) at AM-ITC-0105565; CX-0831 (345114.6) at AM-ITC-0105718; CX-0832 (345114.7) at AM-ITC-0105775; CX-0833 (345114.8) at AM-ITC-0105839; CX-0834 (345114.9) at AM-ITC-0105894; CX-0835 (345114.10) at AM-ITC-0105957; CX-0836 (345114.11) at AM-ITC-0106015; CX-0837 (345114.12) at AM-ITC-0106071; CX-0838 (345114.13) at AM-ITC-0106124; CX-0839 (345114.14) at AM-ITC-0106180; CX-0840 (345114.15) at AM-ITC-0106239; CX-0841 (345114.16) at AM-ITC-0106295; CX-0842 (345114.17) at AM-ITC-0106348; CX-0843 (345114.18) at AM-ITC-0106404; CX-0844 (345114.19) at AM-ITC-0106466; CX-0845 (345114.20) at AM-ITC-0106525; CX-0846 ([REDACTED] at AM-ITC-0102910; CX-0847 ([REDACTED] at AM-ITC-0103036; CX-0848 (3) at AM-ITC-0105127; CX-0849 (6) at AM-ITC-0105251; CX-0850 (11) at AM-ITC-0103904; CX-0851 (13) at AM-ITC-0104148; CX-0852 (12) at AM-ITC-0104029; CX-0853 (14) at AM-ITC-0104268; CX-0854 (16) at AM-ITC-0104397; CX-0855 (17) at AM-ITC-0104508; CX-0856 (18) at AM-ITC-0104643; CX-0857 (19) at AM-ITC-0104768; CX-0858 (20) at AM-ITC-0104888; CX-0859 (21) at AM-ITC-0105008.
11. **DI Direct Part Picture Citations:** CX-108 (Fekete Rpt. Ex. T); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 7–10; CX-0860 ([REDACTED] at, e.g., AM-ITC-0103438, AM-ITC-0103437; CX-0861 ([REDACTED] at, e.g., AM-ITC-0103062, AM-ITC-0103161; CX-0866 ([REDACTED] at, e.g., AM-ITC-0103062, AM-ITC-0102891; CX-0867 ([REDACTED] at, e.g., AM-ITC-0102892, AM-ITC-0107262; CX-0868 ([REDACTED] at, e.g., AM-ITC-0107277, AM-ITC-0107263; CX-0869 ([REDACTED] at, e.g., AM-ITC-0107944, AM-ITC-0107973; CX-0870 ([REDACTED] at, e.g., AM-ITC-0108564, AM-ITC-0108564; CX-0871 ([REDACTED] at, e.g., AM-ITC-0109181; CX-0872 ([REDACTED] at, e.g., AM-ITC-0109815; CX-0873 ([REDACTED] at, e.g., AM-ITC-0107284, AM-ITC-0107151; CX-0874 ([REDACTED] at, e.g., AM-ITC-0107151, AM-ITC-0107268; CX-0875 (VW Part 11K.809.429/430 (Secat)) at, e.g., AM-ITC-0110639, AM-ITC-0110254; CX-0876 (VW Part 11A.831.507/508 (Secat)) at, e.g., AM-ITC-0110639, AM-ITC-0110253; CX-0877 (VW Part 11K.809.429/430 (SGS)) at, e.g., AM-ITC-0110225; CX-0878 (VW Part 11A.831.507/508 (SGS)) at, e.g., AM-ITC-0110226.
12. **DI Direct Part SEM Image Citations:** CX-109 (Fekete Rpt. Ex. U); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 11–14; CX-0860 ([REDACTED] at, e.g., AM-ITC-0103514; CX-0861 ([REDACTED] at, e.g., AM-ITC-0103199; CX-0866 ([REDACTED] at, e.g., AM-ITC-0102896; CX-0867 ([REDACTED] at, e.g., AM-ITC-0107301; CX-0868 ([REDACTED] at, e.g., AM-ITC-0107409; CX-0869 ([REDACTED] at, e.g., AM-ITC-0108475; CX-0870 ([REDACTED] at, e.g., AM-ITC-0108854; CX-0871 ([REDACTED] at, e.g., AM-ITC-0109229; CX-0872 ([REDACTED] at, e.g., AM-ITC-0109893; CX-0873 ([REDACTED] at, e.g., AM-ITC-0107158; CX-0874 ([REDACTED] at, e.g., AM-ITC-0107526; CX-0875 (VW Part 11K.809.429/430 (Secat)) at, e.g., AM-ITC-0110707; CX-0876 (VW Part 11A.831.507/508 (Secat)) at, e.g.,

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AM-ITC-0111092; CX-0877 (VW Part 11K.809.429/430 (SGS)) at, e.g., AM-ITC-0110246; CX-0878 (VW Part 11A.831.507/508 (SGS)) at, e.g., AM-ITC-0110230.

13. **DI Direct Part Layer Mean Iron Composition Citations:** CX-104 (Fekete Rpt. Ex. P); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 3; CX-0860 ([REDACTED] at AM-ITC-0103411; CX-0861 ([REDACTED] at AM-ITC-0103160; CX-0866 ([REDACTED] at AM-ITC-0102891; CX-0867 ([REDACTED] at AM-ITC-0107934; CX-0868 ([REDACTED] at AM-ITC-0107935; CX-0869 ([REDACTED] at AM-ITC-0108440; CX-0870 ([REDACTED] at AM-ITC-0108813; CX-0871 ([REDACTED] at AM-ITC-0109183; CX-0872 ([REDACTED] at AM-ITC-0109788; CX-0873 ([REDACTED] at AM-ITC-0107116; CX-0874 ([REDACTED] at AM-ITC-0107936; CX-0875 (VW Part 11K.809.429/430 (Secat)) at AM-ITC-0110254; CX-0876 (VW Part 11A.831.507/508 (Secat)) at AM-ITC-0110253; CX-0877 (VW Part 11K.809.429/430 (SGS)) at AM-ITC-0110146; CX-0878 (VW Part 11A.831.507/508 (SGS)) at AM-ITC-0110147.

14. **DI Direct Part Layer Mean Aluminum Composition Citations:** CX-105 (Fekete Rpt. Ex. Q); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 4; CX-0860 ([REDACTED] at AM-ITC-0103411; CX-0861 ([REDACTED] at AM-ITC-0103160; CX-0866 ([REDACTED] at AM-ITC-0102891; CX-0867 ([REDACTED] at AM-ITC-0107934; CX-0868 ([REDACTED] at AM-ITC-0107935; CX-0869 ([REDACTED] at AM-ITC-0108440; CX-0870 ([REDACTED] at AM-ITC-0108813; CX-0871 ([REDACTED] at AM-ITC-0109183; CX-0872 ([REDACTED] at AM-ITC-0109788; CX-0873 ([REDACTED] at AM-ITC-0107116; CX-0874 ([REDACTED] at AM-ITC-0107936; CX-0875 (VW Part 11K.809.429/430 (Secat)) at AM-ITC-0110254; CX-0876 (VW Part 11A.831.507/508 (Secat)) at AM-ITC-0110253; CX-0877 (VW Part 11K.809.429/430 (SGS)) at AM-ITC-0110146; CX-0878 (VW Part 11A.831.507/508 (SGS)) at AM-ITC-0110147.

15. **DI Direct Part Layer Mean Silicon Composition Citations:** CX-106 (Fekete Rpt. Ex. R); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 5; CX-0860 ([REDACTED] at AM-ITC-0103411; CX-0861 ([REDACTED] at AM-ITC-0103160; CX-0866 ([REDACTED] at AM-ITC-0102891; CX-0867 ([REDACTED] at AM-ITC-0107934; CX-0868 ([REDACTED] at AM-ITC-0107935; CX-0869 ([REDACTED] at AM-ITC-0108440; CX-0870 ([REDACTED] at AM-ITC-0108813; CX-0871 ([REDACTED] at AM-ITC-0109183; CX-0872 ([REDACTED] at AM-ITC-0109788; CX-0873 ([REDACTED] at AM-ITC-0107116; CX-0874 ([REDACTED] at AM-ITC-0107936; CX-0875 (VW Part 11K.809.429/430 (Secat)) at AM-ITC-0110254; CX-0876 (VW Part 11A.831.507/508 (Secat)) at AM-ITC-0110253; CX-0877 (VW Part 11K.809.429/430 (SGS)) at AM-ITC-0110146; CX-0878 (VW Part 11A.831.507/508 (SGS)) at AM-ITC-0110147.

16. **DI Direct Part Thickness Measurement Citations:** CX-103 (Fekete Rpt. Ex. O); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 2; CX-0860 ([REDACTED] at, e.g., AM-ITC-0103411; CX-0861 ([REDACTED] at, e.g., AM-ITC-0103160; CX-0866 ([REDACTED] at, e.g., AM-ITC-0102891; CX-0867 ([REDACTED] at, e.g., AM-ITC-0107934; CX-0868 ([REDACTED] at, e.g., AM-ITC-0107935; CX-0869 ([REDACTED] at, e.g., AM-

[REDACTED]

ITC-0108440; CX-0870 ([REDACTED] at, e.g., AM-ITC-0108813; CX-0871 ([REDACTED] at, e.g., AM-ITC-0109183; CX-0872 ([REDACTED] at, e.g., AM-ITC-0109788; CX-0873 ([REDACTED] at, e.g., AM-ITC-0107116; CX-0874 ([REDACTED] at, e.g., AM-ITC-0107936; CX-0875 (VW Part 11K.809.429/430 (Secat)) at, e.g., AM-ITC-0110254; CX-0876 (VW Part 11A.831.507/508 (Secat)) at, e.g., AM-ITC-0110253; CX-0877 (VW Part 11K.809.429/430 (SGS)) at, e.g., AM-ITC-0110146; CX-0878 (VW Part 11A.831.507/508 (SGS)) at, e.g., AM-ITC-0110147.

17. **DI Direct Part Steel Substrate Elemental Composition Citations:** CX-102 (Fekete Rpt. Ex. N); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 1; CX-0860 ([REDACTED] at AM-ITC-0103411; CX-0861 ([REDACTED] at AM-ITC-0103160; CX-0866 ([REDACTED] at AM-ITC-0102891; CX-0867 ([REDACTED] at AM-ITC-0107934; CX-0868 ([REDACTED] at AM-ITC-0107935; CX-0869 ([REDACTED] at AM-ITC-0108440; CX-0870 ([REDACTED] at AM-ITC-0108813; CX-0871 ([REDACTED] at AM-ITC-0109183; CX-0872 ([REDACTED] at AM-ITC-0109788; CX-0873 ([REDACTED] at AM-ITC-0107116; CX-0874 ([REDACTED] at AM-ITC-0107936; CX-0875 (VW Part 11K.809.429/430 (Secat)) at AM-ITC-0110254; CX-0876 (VW Part 11A.831.507/508 (Secat)) at AM-ITC-0110253; CX-0877 (VW Part 11K.809.429/430 (SGS)) at AM-ITC-0110146; CX-0878 (VW Part 11A.831.507/508 (SGS)) at AM-ITC-0110147.

18. **DI Direct Part Martensitic Structure Citations:** CX-110 (Fekete Rpt. Ex. V); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 15–18; CX-0860 ([REDACTED] at AM-ITC-0103410; CX-0861 ([REDACTED] at AM-ITC-0103159; CX-0866 ([REDACTED] at AM-ITC-0102893; CX-0867 ([REDACTED] at AM-ITC-0107256; CX-0868 ([REDACTED] at AM-ITC-0107254; CX-0869 ([REDACTED] at AM-ITC-0108439; CX-0870 ([REDACTED] at AM-ITC-0108812; CX-0871 ([REDACTED] at AM-ITC-0109184; CX-0872 ([REDACTED] at AM-ITC-0109789; CX-0873 ([REDACTED] at AM-ITC-0107115; CX-0874 ([REDACTED] at AM-ITC-0107255; CX-0875 (VW Part 11K.809.429/430 (Secat)) at AM-ITC-0110661; CX-0876 (VW Part 11A.831.507/508 (Secat)) at AM-ITC-0110963; CX-0877 (VW Part 11K.809.429/430 (SGS)) at AM-ITC-0110251; CX-0878 (VW Part 11A.831.507/508 (SGS)) at AM-ITC-0110252.

19. **DI Direct Part Tensile Strength Citations:** CX-107 (Fekete Rpt. Ex. S); CX-0114 (Fekete Supp. Rpt. Ex. Z) at 6; CX-0860 ([REDACTED] at AM-ITC-0103411; CX-0861 ([REDACTED] at AM-ITC-0103160; CX-0866 ([REDACTED] at AM-ITC-0102891; CX-0867 ([REDACTED] at AM-ITC-0107934; CX-0868 ([REDACTED] at AM-ITC-0107935; CX-0869 ([REDACTED] at AM-ITC-0108440; CX-0870 ([REDACTED] at AM-ITC-0108813; CX-0871 ([REDACTED] at AM-ITC-0109183; CX-0872 ([REDACTED] at AM-ITC-0109788; CX-0873 ([REDACTED] at AM-ITC-0107116; CX-0874 ([REDACTED] at AM-ITC-0107936; CX-0875 (VW Part 11K.809.429/430 (Secat)) at AM-ITC-0110254; CX-0876 (VW Part 11A.831.507/508 (Secat)) at AM-ITC-0110253; CX-0877 (VW Part 11K.809.429/430 (SGS)) at AM-ITC-0110146; CX-0878 (VW Part 11A.831.507/508 (SGS)) at AM-ITC-0110147.

[REDACTED]

20. **DI Direct Part Line Scan Citations:** CX-880 (Domestic Industry Part Line Scans); CX-0860 ([REDACTED] at AM-ITC-0103426; CX-0861 ([REDACTED] at AM-ITC-0103173; CX-0866 ([REDACTED] at AM-ITC-0109179; CX-0867 ([REDACTED] at AM-ITC-0107371; CX-0868 ([REDACTED] at AM-ITC-0107514; CX-0869 ([REDACTED] at AM-ITC-0107949; CX-0870 ([REDACTED] at AM-ITC-0108814; CX-0871 ([REDACTED] at AM-ITC-0109185; CX-0872 ([REDACTED] at AM-ITC-0109803; CX-0873 ([REDACTED] at AM-ITC-0107118; CX-0874 ([REDACTED] at AM-ITC-0107610; CX-0875 (VW Part 11K.809.429/430 (Secat)) at AM-ITC-0110284; CX-0876 (VW Part 11A.831.507/508 (Secat)) at AM-ITC-0110519; CX-0877 (VW Part 11K.809.429/430 (SGS)) at AM-ITC-0110207; CX-0878 (VW Part 11A.831.507/508 (SGS)) at AM-ITC-0110159.

[REDACTED]

Dated: January 24, 2024

Respectfully submitted,

/s/ Benjamin Hershkowitz

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CERTIFICATE OF SERVICE

I, Michael Delaney, certify that on January 24, 2025, a copy of the foregoing document was served, pursuant to Commission regulations, on the following interested parties in the manner so indicated:

The Honorable Monica Bhattacharyya Administrative Law Judge U.S. International Trade Commission 500 E Street, S.W. Washington, DC 20436	<i>Via EDIS</i> <i>Bhattacharyya337@usitc.gov</i>
<i>Counsel for Respondents VinFast Auto Ltd., VinFast Auto LLC, VinFast USA Distribution, LLC, Vingroup USA, LLC, and VinFast Trading and Production JSC:</i> Michael J. McKeon Joseph V. Colaianne Linhong Zhang Sangki Park April Sunyoung Park Jack R. Wilson Daniel Y. Lee Irene Hwang FISH & RICHARDSON P.C. 1000 Maine Avenue, S.W., Suite 1000 Washington, D.C. 20024 Telephone: (202) 783-5070 Ashley Bolt Brian P. Boyd FISH & RICHARDSON P.C. 1180 Peachtree St SE, Suite 2100 Atlanta, GA 30309 Telephone: (404) 892-5005	<i>Via E-mail:</i> <i>ServiceVinFastArcelorMittalITC@fr.com</i>

DATE: January 24, 2025

/s/ Michael Delaney
Michael Delaney
GIBSON, DUNN & CRUTCHER LLP

CERTIFICATE OF SERVICE

I, Michael Delaney, certify that on February 7, 2025, a copy of of the foregoing document was served, pursuant to Commission regulations, on the following interested parties in the manner so indicated:

The Honorable Monica Bhattacharyya Administrative Law Judge U.S. International Trade Commission 500 E Street, S.W. Washington, DC 20436	<i>Via EDIS</i> <i>Bhattacharyya337@usitc.gov</i>
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Dated: February 7, 2025

Respectfully submitted,

/s/ Michael Delaney

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