

IPR2025-01046 AND IPR2025-01047
PATENT OWNER'S MOTION TO SEAL

Filed: March 13, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FreightCar America, Inc.,
Petitioner,

v.

National Steel Car Limited,
Patent Owner.

Case IPR2025-01046
U.S. Patent 8,166,892

Case IPR2025-01047
U.S. Patent 8,132,515

PATENT OWNER'S MOTION TO SEAL

On behalf of National Steel Car Limited

By: Safet Metjahic (Reg. No. 58,677)

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

ICE MILLER LLP

1500 Broadway, Suite 2900

New York, NY 10036

Tel: (212) 824-4940

Fax: (212) 824-4982

Email: IM-NSClit@icemiller.com

Ken Sheehan (Reg. No. 36,270)

Kevin Adams (Reg. No. 81,680)

ICE MILLER LLP

200 Massachusetts Ave NW, Suite 400

Washington, DC 20001

Tel: (202) 824-8666

Fax: (202) 824-8667

IPR2025-01046 AND IPR2025-01047
PATENT OWNER’S MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner National Steel Car Limited (“Patent Owner”) respectfully submits this unopposed Motion to Seal. Patent Owner specifically moves to seal confidential versions of its Patent Owner Responses and Exhibit 2048 to each Patent Owner Response. Patent Owner is concurrently filing sealed and public versions, with confidential portions redacted, of its Patent Owner’s Responses and Exhibit 2048.

I. INTRODUCTION

Patent Owner’s Responses, in part, rely on the commercial success of, and industry praise for, the patented invention. For support, Patent Owner’s Responses include proprietary and highly sensitive information including internal communications and business processes from both Patent Owner and Petitioner. The parties rely on this information in the related action *National Steel Car Limited v. FreightCar America, Inc., et al.*, C.A. No. 1:24-cv-00594-JLH (D. Del) (the “District Court Litigation”) involving Petitioner, U.S. Patent No. 8,166,892 (the “’892 Patent”), and U.S. Patent No. 8,132,515 (the “’515 Patent”). In the District Court Litigation, the Honorable Christopher J. Burke entered a protective order providing strong protection of these documents and information. Ex. 2031. That protective order provides both a “CONFIDENTIAL” designation, which allows access to the document for employees and in-house counsel of the receiving party, and for a

“CONFIDENTIAL – ATTORNEYS’ EYES ONLY” designation, which allows outside counsel but not employees or in-house counsel of the receiving party to have access to these documents. *See id.*

Patent Owner designated Ex. 2048 under the “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” designation in the District Court Litigation. Petitioner designated other information sought to be sealed in the Patent Owner Responses with the same designation in the District Court Litigation. With those designations in the District Court Litigation, outside counsel, but not a receiving party’s employees or in-house counsel, has access to these documents. Patent Owner designates Ex. 2048 under the “PROTECTIVE ORDER MATERIAL– ATTORNEYS’ EYES ONLY” in IPR 2025-01046 and 2025-01047.

II. DOCUMENTS TO BE SEALED

Patent Owner requests the following documents be sealed:

Exhibit 2048; and

The portions of the Patent Owner Responses that incorporate or reference the confidential portions of other confidential exhibits (Exhibit 2048, 2007, and 2033) previously filed under seal in this IPR.

III. MOTION TO SEAL LEGAL STANDARD

“There is a strong public policy for making all information filed in a quasi-

IPR2025-01046 AND IPR2025-01047
PATENT OWNER’S MOTION TO SEAL

judicial administrative proceeding open to the public.” *Garmin Int’l v. Cuozzo Speed Techs., LLC*, IPR2012–00001, slip op. at 1–2 (PTAB Mar. 14, 2013) (Paper 34). The record for an *inter partes* review shall be made available to the public, except as otherwise ordered on a motion to seal. 35 U.S.C. § 326(a)(1); 37 C.F.R. § 42.14. The documents and information that are the subject of the motion to seal shall be treated as sealed until the motion is decided. *Id.*

In determining whether to grant a Motion to Seal, the Board must find “good cause” and “strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” 37 C.F.R. § 42.54(a); Consolidated Trial Practice Guide (November 2019) at 19 *see also Argentum Pharms. LLC v. Alcon Res., Ltd.*, IPR2017-01053, Paper 27 at 3–4 (PTAB Jan. 19, 2018) (Informative) (describing the “good cause” standard). As described in the Consolidated Trial Practice Guide, the Board identifies confidential information in a manner “consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.”

The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). That includes showing that the information is truly confidential, and that such confidentiality outweighs the strong public interest in

having an open record. *See Argentum*, Paper 27 at 3–4. A party moving to seal has the burden of showing that:

(1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely on the specific information sought to be sealed, and (4) on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record.

Id. These factors support granting Patent Owner’s motion to seal.

IV. **GOOD CAUSE EXISTS TO SEAL**

First, the information sought to be sealed is “truly confidential.” Patent Owner and Petitioner have not publicly disclosed the information that Patent Owner requests to be sealed.

Second, “concrete harm” to Patent Owner and Petitioner would result if the information sought to be sealed were accessible to any other party or the public. Broad unprotected disclosure of this information would provide the public at-large with direct insight into the parties’ business dealings and strategies. Confidential information such as this is precisely the type of information to be protected pursuant to 37 C.F.R. § 42.54(a)(7).

Third, Patent Owner has a “genuine need” to rely on this information

IPR2025-01046 AND IPR2025-01047
PATENT OWNER'S MOTION TO SEAL

in this proceeding. Patent Owner asserts that the claimed inventions have secondary considerations of non-obviousness. Patent Owner believes that this information is essential for showing the patented invention is commercially successful and has received industry praise.

Fourth, the prejudicial effect that disclosure would have on the Parties far outweighs the public's interest in accessing this information for the purposes of the patentability of the challenged claims in this proceeding. The Parties have a strong interest in protecting its internal communications and business dealings from public disclosure. Moreover, Patent Owner will submit a redacted version of its Patent Owner Response, which appropriately balances the public's interest in having an open record with the Parties' interest in protecting its confidential information.

IPR2025-01046 AND IPR2025-01047
PATENT OWNER'S MOTION TO SEAL

v. **CONCLUSION**

For the reasons stated above, Patent Owner respectfully requests that the Board grant this Motion to Seal.

Respectfully submitted,

Ice Miller LLP

Dated: March 13, 2026

/Safet Metjahic/

Safet Metjahic (Reg. No. 58,677)

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

Ice Miller LLP

1500 Broadway, Suite 2900

New York, NY 10036

(212) 824-4940

Ken Sheehan (Reg. No. 36,270)

Kevin Adams (Reg. No. 81,680)

ICE MILLER LLP

200 Massachusetts Ave NW, Suite 400

Washington, DC 20001

Tel: (202) 824-8666

Fax: (202) 824-8667

Email: IM-NSClit@icemiller.com

*Attorneys for Patent Owner,
National Steel Car Limited*

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to 37 C.F.R. § 42.6(e) and with the agreement of counsel for Petitioner, a true and correct copy of **PATENT OWNER MOTION TO SEAL** is being served electronically on March 13, 2026, to the e-mail addresses shown below:

Knobbe Martens Olson & Bear, LLP
Philip Nelson (Reg. No. 62,676)
Ted M. Cannon (Reg. No. 55,036)
Justin Gillett (Reg. No. 71,099)
Email: 2PMN@knobbe.com
2TMC@knobbe.com
2JJG@knobbe.com
FCAIPR-892@knobbe.com
FCAIPR-515-047@knobbe.com

Dated: March 13, 2026

/Safet Metjahic/

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

Ken Sheehan (Reg. No. 36,270)
Kevin Adams (Reg. No. 81,680)
ICE MILLER LLP
200 Massachusetts Ave NW, Suite 400
Washington, DC 20001
Tel: (202) 824-8666
Email: IM-NSClit@icemiller.com
*Attorneys for Patent Owner,
National Steel Car Limited*