

Filed on behalf of: Westinghouse Air Brake Technologies Corporation

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WESTINGHOUSE AIR BRAKE TECHNOLOGIES CORPORATION
Petitioner

v.

RAILWARE, INC.
Patent Owner

IPR2026-00134
Patent RE47,835

**PETITIONER'S REPLY TO
PATENT OWNER'S PRELIMINARY RESPONSE¹**

¹ The USPTO authorized Petitioner's filing of this reply brief. EX3001.

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
I. POPR’s Improper Claim Construction.....	1
A. POPR misstates Wabtec’s claim construction positions.....	1
B. POPR misstates the Board’s prior IPR decision	2
C. POPR advances inconsistent & irreconcilable constructions	2
II. POPR Mischaracterizes the Petition’s Support.....	3
III. POPR’s Legal Error: Attacks Each Reference Alone	4

TABLE OF AUTHORITIES

Cases

<i>Google LLC v. 138 East LCD Advancements Ltd.</i> , IPR2024-00959, Paper 27 (Dec. 19, 2025)	5
<i>Palo Alto Networks, Inc. v. Centripetal Networks, LLC</i> , 122 F.4th 1378 (Fed. Cir. 2024)	5

Rules

37 C.F.R. § 42.100(b)	1
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Regulations

Memorandum re: PTAB Consideration of Prior Findings of Fact and Conclusions of Law (Sept. 16, 2025)	1
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I. POPR’S IMPROPER CLAIM CONSTRUCTION

A. POPR misstates Wabtec’s claim construction positions

Contrary to Patent Owner Railware’s arguments (POPR (Paper 11), 3, 12-14), Petitioner Wabtec has ***not*** presented improper or “internally inconsistent” claim constructions. The Petition clearly states it “does not believe any claim terms require express construction.” Pet. (Paper 1), 9. This is not “confusing[]” (POPR, 14) as Wabtec and Caltrain have not provided ***any*** claim constructions, let alone inconsistent ones, in litigation. In fact, Caltrain’s opening *Markman* brief is not due until August 14, 2026, with preliminary construction exchanges on May 22, 2026. EX2016, 2. The Petition’s remaining claim construction discussion merely educates as to (i) SEPTA and Railware’s (not Wabtec’s) constructions advanced in the SEPTA litigation and (ii) the Board’s analysis of Railware’s construction advanced in a prior IPR (and now here). Pet., 9-10; POPR, 15-24. The Petition presents this information as it may affect Board action. *See* Memo. re: PTAB Consideration of Prior Findings of Fact and Conclusions of Law (Sept. 16, 2025) (whether argument was previously presented to Office/district court, may dictate whether the Board must provide a “more detailed explanation”); Pet., 8 (citing 37 C.F.R. § 42.100(b)).

Likewise, the Petition does ***not*** assert any claim terms as indefinite, instead merely noting that SEPTA advanced this litigation position. Pet., 9-10. Importantly, the ***Petition does not allege indefiniteness in any presented grounds.*** Denial is

unwarranted under *Revvo*.

B. POPR misstates the Board’s prior IPR decision

In proposing herein the same construction for the “Secret Code Terms” as in the prior IPR, Railware avers the “Board’s prior decision supports Patent Owner’s construction” and “the Board concluded that the claimed Secret Code Terms are not readily available to the dispatcher.” POPR, 23-24; EX1024, 24 (SEPTA litigation).

To the contrary, the Board cautioned that Railware’s construction “does not appear to expressly address how a person of ordinary skill in the art would have distinguished a code that is ‘readily available’ to the dispatcher from a code that was not ‘readily available.’” EX2002, 21 n.12; Pet., 10. Therefore, Railware’s contention that its construction has any prior Board support is *incorrect*—in fact, the Board “concluded” the opposite: that such construction lacks RE’835 patent support. Regardless, the Board’s prior institution decision, although declining to expressly construe this term, stated “[t]he ’835 patent makes clear that the code is ‘only’ received by the relevant railway field worker and an internal storage.” EX2002, 20-21. The Petition’s grounds are consistent with the Board’s prior analysis. *See e.g.*, Pet., 10-11, 39-42, 69, 78. Railware’s POPR arguments relying on such construction should not be credited.

C. POPR advances inconsistent & irreconcilable constructions

Violating *Revvo*, Railware seeks two constructions for the “Secret Code

Terms” that are inconsistent and irreconcilable. Railware first construes the “claimed Secret Code Terms to mean ‘a code that is not readily available to the user of the railway [traffic] control apparatus (i.e., the dispatcher).’” POPR, 15. It then argues under this first construction as to the prior art individually (discussed below). *Id.*, 44-45, 56-57, 65. But Railware also advances a second construction: “the ***claimed Secret Code Terms***” as “permit[ting] the ‘**release**’ or **removal of a block from a track.**” *Id.*, 43-44 (emphasis added), 55-56, 63-64. This second construction is shown by the POPR citing the RE’835 patent (*id.* (citing EX1001)) as alleged support and applying that second construction to argue against the prior art. Indeed, Railware repeatedly argues the prior art, *e.g.*, Kruijswijk, is deficient as it is “not used to ‘remove’ or ‘release’ **anything.**” *Id.*, 43 (emphasis in original), 47, 55-56, 63-64. In sum, Railware advances two constructions that are entirely different in wording and scope. Railware’s POPR arguments should therefore not be credited.

II. POPR MISCHARACTERIZES THE PETITION’S SUPPORT

Railware advances several misstatements. ***First***, it states the Petition “does not cite to Macey at all” (POPR, 52-53, 66), despite the Petition stating “Macey supplies the implementation of unblocking the track only based on the worker transmitting a secret code (*see supra* p.48, Section VI.D) to a central system.” Pet., 63-64. The cross-referenced p.48 provides substantial Macey support for the underlying statement on pp.63-64 of the Petition: “Macey teaches a railway worker

enters a secret code ‘such as a PIN ... only known to the user’ which ‘[u]pon the successful entry of this code ... transmit[s] a signal to the signalling device’ which changes ‘from a red light [blocked track] to a green light [unblocked track].’” Pet., 48 (numerous Macey citations), 63-64. Railware posits Ground 1 does not include Macey (POPR, 53), but a party cannot simply ignore citations. **Second**, Railware alleges the “Petition does not provide a single citation” for problems known in the art. POPR, 48 (citing Pet., 41-42, 48-49), 62, 70. Yet, the Petition cites its expert, Dr. Kaufman, at the end of nearly each section, including the same page cited in the POPR: “Kaufman [EX1003], ¶¶ 223-234, 57-77.” Pet., 42. In fact, Kaufman ¶¶ 57-77 spans 17 pages discussing problems known in the art and supporting statements. **Third**, Railware alleges “FRA-Report contains no such recognition, and the Petition points to none” (secret-code systems known and FRA-Report recognized implementing it). POPR, 61 (citing Pet., 70, 73), 68-69 (citing Pet., 81). But the Petition on pages 70 and 81 cites “*See supra* pp. 5, 29, 40-43,” which contain substantial evidence. Railware ignoring “*supra*” cross-reference, expert, and other citations, is disingenuous and evinces the POPR’s lack of merits.

III. POPR’S LEGAL ERROR: ATTACKS EACH REFERENCE ALONE

Railware committed “legal error” by “attack[ing] the disclosures of the two references ... in isolation” when in contrast, the “inquiry is whether it would have been obvious to a [POSITA] to combine” them. *Palo Alto Networks, Inc. v.*

Centripetal Networks, LLC, 122 F.4th 1378, 1386 (Fed. Cir. 2024) (citations, quotations omitted); *Google LLC v. 138 East LCD Advancements Ltd.*, IPR2024-00959, Paper 27, 29-30 (Dec. 19, 2025). Specifically, Railware isolates each reference in individual headings to attack them, *e.g.*, “FRA-Report does not disclose Elements” and “Kruijswijk does not disclose Elements” 1[D]/10[B]/19[B]/20[B]/30[B]/40[C]. POPR, 42-43, 46-47, 55-56 (Schmitz), 57-58, 63-64 (Byford). Reinforcing this, Railware contends, *e.g.*, 1[D]/10[B]/19[B]/20[B]/30[B]/40[C], that Kruijswijk alone does not remove or release anything and is not readily available to the dispatcher under its two constructions (above). *Id.*, 43-45, 47, 55-57, 63-65. However, the Petition asserted obviousness by combining references: “***FRA-Report and*** Kruijswijk Combination ... Kruijswijk supplies the claimed code such that the ***dispatcher in FRA-Report operates*** the track display via the railway traffic control apparatus to block the track as well as ... generate ... and transmit the claimed code....” *See e.g.*, Pet., 38 (emphasis added), 38-44 (reasons why a POSITA would combine them), 47-52; 63-65 (FRA-Report, Kruijswijk, Macey combination); 68-74 (FRA-Report and Schmitz combination); 77-82 (FRA-Report, Byford, and Macey combination). Railware’s references to “even if combined” (POPR, 47) is likewise deficient as it still ultimately contends that Kruijswijk ***alone*** “is not used to remove or release” anything. *Id.*; *id.*, 58 (Schmitz). Railware’s arguments thus should not be credited.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of the foregoing was served on Patent Owner via email to the following email addresses:

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