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Subject: FW: IPR2017-00117
Date: Wednesday, November 29, 2017 10:31:43 AM

From: Jennifer Meredith [<mailto:jmeredith@meredithkeyhani.com>]
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Subject: IPR2017-00117

Dear Sir or Madam:

Patent Owner requests leave to file a Sur-reply in response to the Reply filed by Petitioner on November 6, 2017. This request is being made within four (4) business days of the Reply. The Reply introduces new evidence for the first time including declaration testimony of Lowell Malo and selected, incomplete portions of a document entitled the Federal Railroad Administration (“FRA”) proposed rules that purports to sets forth proposed standards for certain railcars under FRA jurisdiction. *See Supplemental Expert Declaration of Lowell Malo, Paper 40, Ex. 1025, Paper 40, Ex. 1025, Appendix A, both of which are essential to the arguments Petitioner makes in its Reply.* In the interest of justice, and consistent with U.S. Supreme Court, Federal Circuit and PTAB precedent, the Board should allow Patent Owner to address these new arguments and evidence and to submit its own rebuttal evidence.

Accordingly, Patent Owner requests permission to file the Motion for Leave to file a Sur-reply to address these issues in detail.

Thank you,

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