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April 11, 2025

VIA CM/ECF

The Honorable Jarret B. Perlow
Clerk of Court
U.S. Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Room 401
Washington, D.C. 20439

Re: **Rule 28(j) Citation of Supplemental Authority in *Ball Metal Beverage Container Corp. v. Crown Packaging Tech., Inc.*, No. 23-2308, (Judges Taranto, Chen, Hughes)**

Dear Jarret B. Perlow:

Appellant respectfully submits citation of supplemental authority pursuant to Federal Rule of Appellate Procedure 28(j).

During today's oral argument, the Court inquired whether Appellant Crown Packaging Technologies, Inc. ("Crown") had ever requested that the district court conduct a live, evidentiary hearing on indefiniteness if Crown's request for a jury trial on indefiniteness was overruled. Oral Arg., at 15:12 (April 11, 20215). Crown's counsel responded "no," but a review of prior briefings shows this response was wrong.

On April 21, 2021, Crown filed a brief advising the district court how the case should proceed. Appx2716. In a section entitled "If This Court Decides That Crown Will Not Receive a Jury Trial, Then a Bench Trial on Indefiniteness is Essential," Crown explicitly requested a bench trial with live witnesses on the issue of indefiniteness. Appx2726-2727. Crown stated that "[i]f the Court overrules Crown's demand for a jury trial, Crown would still be entitled to a bench trial, as is done, for example, with the issue of inequitable conduct." Appx2726. Crown also argued that live testimony is necessary for deciding indefiniteness, explaining that "[t]he issue of indefiniteness cannot be decided on the papers, especially since it turns on the testimony and credibility of witnesses on the factual questions outlined below." *Id.* Further, Crown requested that if the district court denied its request for a jury trial, the parties should prepare for a bench trial, including preparing a witness list. Appx2727.

Respectfully submitted,



Daniel J. Goettle
Counsel for Appellant Crown Packaging Tech., Inc.

cc: Counsel of Record