UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FOIL BOARDING COMPANY, INC. and

BOMBARDIER RECREATIONAL PRODUCTS, INC.

Petitioner,

v.

MHL CUSTOM, INC.

Patent Owner.

IPR2024-00085 (Patent 9,586,659 B2)

JOINT REQUEST TO TREAT SETTLEMENT AGREEMENT AS BUSINESS CONFIDENTIAL

PETITIONER'S UPDATED EXHIBIT LIST

Exhibit	Description
1001	U.S. Patent No. 9,586,659 ("'659 Patent")
1002	Declaration of Stefan Brizzolara, Ph.D.
1003	Certified English Translation of Evolo slutrapport ("EvoloReport")
1004	Affidavit of Bjorn Lofgren Regarding Translation of EvoloReport
1005	Swedish-Language Version of Evolo slutrapport
1006	YouTube.com, *Evolo prototype run* [https://www.youtube.com/watch?v=a-_OCN50aWo&t=10s] ("EvoloPrototypeRun")
1007	Screenshot of EvoloPrototypeRun Page Information
1008	YouTube.com, *Evolo movie* [https://www.youtube.com/watch?v=zL9fO8tFl18] ("EvoloMovie")
1009	Screenshot of EvoloMovie Page Information
1010	YouTube.com, *Test run – the new Torqeedo 4.0 R installed on Evolo!!!* [https://www.youtube.com/watch?v=fKOQ0JwQnjc] ("EvoloTorqeedo")
1011	U.S. Patent No. 6,443,786 ("Woolley")
1012	U.S. Patent No. 4,020,782 ("Gleason")
1013	U.S. Patent No. 8,290,636 ("Manning")
1014	Torqeedo Motor Operating Manual for Torqeedo Cruise 2.0 S/L
1015	U.S. Patent No. 9,586,659 ("'659 Patent")
1016	Prosecution History of '044 Patent
1017	Prosecution History of '659 Patent
1018	Declaration of Jakob Kuttenkeuler

Exhibit	Description
1019	Affidavit of Ingmarie Rohdin Regarding English Language Translation of Batnytt Magazine Article; Swedish Language Version of Batnytt; English Translation of Båtnytt Magazine Article ("Batnytt")
1020	Affidavit of Ingmarie Rohdin Regarding Translation of Batnytt Magazine Viewership Information for 2009; Swedish Language Version of Batnytt Viewership Information; English Language Translation of Batnytt Viewership Information ("BatnyttViewership")
1021	Internet Archive Declaration of Nathaniel E Frank-White
1022	Screenshot of EvoloTorqeedo Page Information
1023	Claim Construction Order from *MHL CUSTOM, INC. v. WAYDOO USA, INC. and SHENZHEN WAYDOO INTELLIGENCE TECHNOLOGY CO., LTD,* C.A. No. 21-0091-RGA
1024	Stipulation and Order Staying Proceedings from *MHL CUSTOM, INC. v. FOIL BOARDING COMPANY, INC.*, No. 3:22-cv-21258
1025	Confidential Settlement Agreement between Foil Boarding Company, Inc. and MHL Custom, Inc.

Petitioner Foil Boarding Company, Inc. ("Foil") and Patent Owner MHL Custom, Inc. ("MHL") (collectively, "the Parties") have reached a settlement. Newly joined Petitioner Bombardier Recreational Products, Inc., is not a party to this settlement, nor are they joining in this request. Pursuant to 35 U.S.C. § 317(a). 37 C.F.R. § 42.74, and the Board's email of January 15, 2025, Petitioner Foil and Patent Owner are concurrently moving to terminate the present *inter partes* review proceeding with respect to Foil. As permitted by statute, Petitioner Foil and Patent Owner request that the Board treat as business confidential information the true and complete copy of the Settlement Agreement (Confidential Exhibit 1025) between the Parties, as referenced in the Parties' Joint Motion to Terminate Pursuant filed concurrently herewith.

35 U.S.C. § 317(b) provides that:

> *At the request of a party to the proceeding, the agreement or understanding shall be treated as business confidential information, shall be kept separate from the file of the involved patents, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause.*

Likewise 37 C.F.R. § 42.74(c) provides that:

A party to a settlement may request that the settlement be treated as business confidential information and be kept separate from the files of an involved party or application. The request must be filed with the settlement. If a timely request is filed, the settlement shall only be available:

> *(1) To a Government agency on written request to the Board; or*
>
> *(2) To any other person upon written request ot the Board to make the settlement agreement available, along with the fee specified in § 42.15(d) and on a showing of good cause.*

The present request, which is being filed contemporaneously with the Settlement Agreement, is timely and in accordance with the foregoing authority. Therefore, the Parties request that the Settlement Agreement (Confidential Exhibit 1025) (i) be treated as business confidential information, (ii) be maintained separate from the publicly available file of the involved patent, and (iii) shall be made available only to Federal Government agencies on written request, or to persons showing good cause on written request, pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. §42.74(c).

Further, the Parties each request that they be notified if and when the Board receives and/or considers a request for access to the settlement agreement and be offered an opportunity to respond to any such request. *See Arista Networks, Inc. v. Catlemorton Wireless, LLC*, IPR2020-00986 Pap. 7, 4 (PTAB Oct. 28, 2020).

Dated: January 16, 2025

Respectfully Submitted,

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Dated: January 16, 2025

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CERTIFICATE OF SERVICE

I certify that on January 16, 2025, I caused a true and correct copy of the foregoing Joint Request to Treat Settlement Agreement as Business Confidential Information to be served on the Patent Owner and the newly joined Petitioner via electronic mail to counsel of record below:

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