

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BERKSHIRE HATHAWAY ENERGY COMPANY,
MIDAMERICAN ENERGY COMPANY, PACIFICORP, and
WEC ENERGY GROUP, INC.
Petitioner,

v.

BIRCHTECH CORP.,
Patent Owner.

IPR2025-00274 (Patent No. 10,343,114 B2)
IPR2025-00278 (Patent No. 10,343,114 B2)
IPR2025-00280 (Patent No. 10,596,517 B2)
IPR2025-00281 (Patent No. 10,596,517 B2)¹

Before CHRISTOPHER M. KAISER, AVELYN M. ROSS, and DAVID
COTTA, *Administrative Patent Judges*.

ROSS, *Administrative Patent Judge*.

TERMINATION

Due to Settlement After Institution of Trial and
Granting Request to Treat Settlement Agreement as
Business Confidential Information
35 U.S.C. § 317; 37 C.F.R. §§ 42.72, 42.74

¹ We use this caption for efficiency. These cases are not joined. The parties may not use such a caption without prior authorization from the Board.

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On October 9, 2025, with our prior authorization, WEC Energy Group, Inc. (“WEC” or “Settling Petitioner”) and Birchtech Corp. (“Patent Owner”) (collectively, “the Settling Parties”) filed a Joint Motion to Terminate IPR2025-00274, IPR2025-00278, IPR2025-00280, and IPR2025-00281. Paper 43 (“Motion”).² Together with the Motion, the Settling Parties filed a copy of their written Settlement Agreement (Ex. 1136 “Agreement”) and Joint Request to Treat Final Settlement Agreements as Business Confidential Information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 44 (“Joint Request”).

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see* 35 U.S.C. § 317(a); 37 C.F.R. § 42.72. The Board has not held an oral hearing or issued a final written decision. According to the Motion, WEC is not a party to the currently pending multi-district litigation *In Re: Midwest Energy Emissions Corp. Patent Litigation*, No. SDIA-4-24-md-03132. Motion 3. The parties indicate that “the Settling Parties have reached a settlement as to all disputes in this proceeding and as to” U.S. Patent Nos. 10,343,114 and 10,596,517 and that no other agreements exist between the Settling Parties. Motion 5–6; Ex. 1136. Petitioner represents that Berkshire Hathaway Energy Company, MidAmerican Energy Company,

² Paper and exhibit numbers cited herein are to IPR2025-00274. Similar papers and exhibits have been filed in IPR2025-00278 (Papers 42, 43; Ex. 1136), IPR2025-00280 (Papers 43, 44; Ex. 1139), and IPR2025-00281 (Papers 43, 44; Ex. 1137, 1139).

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PacifiCorp, and WEC Energy Group, Inc. (the other parties named as Petitioners) do not object to dismissing WEC from this IPR. Motion 2. Under these circumstances, we determine that it is appropriate to terminate this proceeding as to Petitioner WEC without rendering a final written decision. *See* 35 U.S.C. § 317(a); 37 C.F.R. §§ 42.5(a), 42.72. For clarity, this decision does not terminate the proceeding with respect to Petitioners Berkshire Hathaway Energy Company, MidAmerican Energy Company, and PacificCorp.

Further, after reviewing the Joint Request and the Agreement, we find that the Settlement contains confidential business information regarding the terms of the settlement and that good cause exists to treat the Agreement as business confidential information to be kept separate from the patent file. *See* 35 U.S.C. § 317(b); 37 C.F.R. § 42.74(c). This Paper does not constitute a Final Written Decision under 35 U.S.C. § 318(a).

ORDER

In view of the foregoing, it is

ORDERED that, in each proceeding, the Joint Request to Treat Final Settlement Agreements as Business Confidential Information is granted;

FURTHER ORDERED that, in each proceeding, the Settlement Agreement shall be treated as business confidential information and shall be kept separate from the patent file;

FURTHER ORDERED that, in each proceeding, the Joint Motion to Terminate as to Petitioner WEC Energy Group Inc. is granted and IPR2025-00274, IPR2025-00278, IPR2025-00280, and IPR2025-00281 are hereby terminated as to WEC Energy Group Inc.; and

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FURTHER ORDERED that IPR2025-00274, IPR2025-00278, IPR2025-00280, and IPR2025-00281 shall not be terminated as to the remaining Petitioners, Berkshire Hathaway Energy Company, MidAmerican Energy Company, and PacificCorp; and

FURTHER ORDERED that the case caption in IPR2025-00274, IPR2025-00278, IPR2025-00280, and IPR2025-00281 for all further submissions shall be changed to remove WEC Energy Group Inc. as Settling Petitioner, as indicated in the attached form of caption.

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