

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BERKSHIRE HATHAWAY ENERGY COMPANY,
MIDAMERICAN ENERGY COMPANY, and PACIFICORP,
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 10,596,517 B2)
IPR2025-00281 (Patent 10,596,517 B2)

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

COTTA, *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

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On October 28, 2025, with our prior authorization, MidAmerican Energy Company (“MidAmerican” or “Settling Petitioner”) and Birchtech Corp. (“Patent Owner”) (collectively, “the Settling Parties”) filed Joint Motions to Terminate IPR2025-00274, IPR2025-00278, IPR2025-00280, and IPR2025-00281. Paper 53 (“Motion”).¹ Together with the Motion, the Settling Parties filed a copy of their written Settlement Agreement (Ex. 1143, “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 54 (“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. 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. 1143. The Settling Parties confirm that the litigation between the parties, i.e., *In Re: Midwest Energy Emissions Corp. Patent Litigation*, No. SDIA-4-24-md-03132², will be dismissed and no other litigation is

¹ Paper and exhibit numbers cited herein are to IPR2025-00274. Similar papers and exhibits have been filed in IPR2025-00278 (Papers 51, 52; Ex. 1143), IPR2025-00280 (Papers 51, 52; Ex. 1143), and IPR2025-00281 (Papers 51, 52; Ex. 1143).

² According to the Motion, MidAmerican is a party to the currently pending multi-district litigation *In Re: Midwest Energy Emissions Corp. Patent*

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contemplated. Ex. 1143; Motion 3. Petitioner represents that Berkshire Hathaway Energy Company and PacifiCorp (the other parties named as Petitioners) do not object to dismissing MidAmerican from this IPR.

Motion 1. Under these circumstances, we determine that it is appropriate to terminate this proceeding as to Petitioner MidAmerican 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 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;

Litigation, No. SDIA-4-24-md-03132. Mot. 3. It appears, however, that as of October 23, 2025, MidAmerican has been dismissed from that proceeding.

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

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 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 MidAmerican Energy Company as a Settling Petitioner, as indicated in the attached form of caption.

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FOR PETITIONERS:

David J. Tobin
Brian W. Oaks
Syed K. Fareed
Christian T. Tatum
McDERMOTT WILL & SCHULTE LLP
dtobin@mwe.com
boaks@mwe.com
sfareed@mwe.com
ctatum@mwe.com

Benjamin Hershkowitz
David L. Glandorf
NoahLani Litwinsella
GIBSON, DUNN, & CRUTCHER LLP
bhershkowitz@gibsondunn.com
dglandorf@gibsondunn.com
nlitwinsella@gibsondunn.com

R. Scott Johnson
Thomas M. Patton
FREDRIKSON & BYRON, P.A.
rsjohnson@fredlaw.com
tpatton@fredlaw.com

Michelle M. Kemp
PERKINS COIE LLP
kemp-ptab@perkinscoie.com

Michael T. Piery
Lauren C. Bolcar
QUARLES & BRADY LLP
michael.piery@quarles.com
lauren.bolcar@quarles.com

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FOR PATENT OWNER:

Hamad Hamad
CALDWELL CASSADY & CURRY P.C.
hhamad@caldwellcc.com