UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTERNATIONAL BUSINESS MACHINES CORPORATION
Petitioner,

v.

CROGA INNOVATIONS LTD.,
Patent Owner.

Case IPR2025-00379
Patent 11,178,104

JOINT REQUEST TO TREAT SETTLEMENT AGREEMENT AND PATENT AGREEMENT AS BUSINESS CONFIDENTIAL INFORMATION

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 35 U.S.C. § 317(a) and 37 C.F.R. § 42.74, and the Board's email of May 23, 2025, Petitioner International Business Machines Corporation ("IBM" or "Petitioner") and Patent Owner Croga Innovations Ltd. ("Croga" or "Patent Owner") (collectively, the "Settling Parties") have reached a settlement and jointly move to terminate the above-captioned proceeding. A true copy of the Settlement Agreement is being filed concurrently herewith. *See* Exhibit 1016.

As permitted by statute, IBM and Croga request that the Board treat as business confidential information, the true and complete copy of the Settlement Agreement (Confidential Exhibit 1016) between the parties, as referenced in the parties' Joint Motion to Terminate Proceeding (pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74), filed concurrently herewith. This agreement contains confidential commercial and financial information of the Settling Parties.

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 patent 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 to 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 Settling Parties request that the Settlement Agreement (Confidential Exhibit 1016) (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). Moreover, the terms require the Settling Parties to treat the Settlement Agreement as confidential information and limit the parties' ability to share the Settlement Agreement, or to disclose its contents with third parties. *See* Exhibit 1016 at ¶6.1.

Both parties also respectfully request that the Board inform us if anyone seeks production of the agreement and afford the parties an opportunity to address whether

such request is supported by good cause.

Respectfully submitted,

Dated: May 27, 2025

/James Young Hurt/

John R. Keville
Reg. No. 42,723
jkeville@sheppardmullin.com

Darren M. Franklin
Reg. No. 51,701
dfranklin@sheppardmullin.com

James Young Hurt
Reg. No. 79,121
jhurt@sheppardmullin.com

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
700 Louisiana Street, Suite 2750
Houston, TX 77002
Telephone: 713.431.7100
Facsimile: 713.431.7101

Attorneys for Petitioner

Dated: May 27, 2025

/Robert Auchter/

Robert Auchter
Reg. No. 38,069
robert@auchterlaw.com

AUCHTER PLLC
1629 K Street NW, Suite 300
Washington, DC 20006
Telephone: 703.585.5721

Counsel for Patent Owner, Croga Innovations Ltd.

CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(4), the undersigned certifies that on May 27, 2025, a complete and entire copy of this Joint Request to Treat Settlement Agreement as Business Confidential Information was provided by email, to the Patent Owner by serving the correspondence addresses of record as follows:

Brett E. Cooper
bcooper@bclgpc.com

Robert A. Auchter
robert@auchterlaw.com

Seth A. Lindner
slindner@bclgpc.com

Dated: May 27, 2025

Respectfully submitted,

/James Young Hurt/
James Young Hurt
Reg. No. 79,121

Attorney for Petitioner