UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PACIFICORP,

Petitioner,

v.

BIRCHTECH CORP.
(d/b/a Midwest Energy Emissions Corp.),

Patent Owner.

Case IPR2025-00424
Patent 10,589,225

JOINT REQUEST TO TREAT FINAL SETTLEMENT AGREEMENT OF PATENT OWNER AND PACIFICORP AS BUSINESS CONFIDENTIAL INFORMATION

On June 1, 2026, Petitioner PacifiCorp ("Petitioner"), and Patent Owner Birchtech Corp. ("Patent Owner") (collectively, the "Settling Parties") jointly moved to terminate the above-captioned proceeding in view of the Settling Parties' settlement. Paper 73.

The Settling Parties concurrently file this joint request to treat the Settling Parties' executed written agreement (the "Agreement") as confidential business information with the agreement being filed concurrently herewith as "Available only to the Parties and Board" to preserve the confidentiality of the agreement. *See* Paper 73; Exhibit 1167.

Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c), the Settling Parties jointly request that the Board treat as business confidential information the executed settlement agreement (Exhibit 1167). The final settlement agreement describes the highly confidential terms of the parties' respective settlement, which constitutes confidential commercial information under the Board's rules. *See* 37 C.F.R. § 42.54; Patent Trial and Appeal Board Consolidated Trial Practice Guide, November 2019, 19.

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 final settlement agreement, is timely and in accordance with the foregoing authority. Therefore, the Settling Parties request that the final settlement agreement (Exhibit 1167) be (i) treated as business confidential information; (ii) maintained separate from the publicly available file of the involved patent; and (iii) 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 of the final settlement agreement require the Settling Parties to treat the final settlement agreement as confidential information and limit the

Settling Parties' ability to share the final settlement agreement or disclose its contents to third parties.

The Settling Parties also respectfully request that the Board inform the Settling Parties if anyone seeks production of the final settlement agreement and afford the Settling Parties an opportunity to address whether good cause supports such request.

Dated: June 1, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on June 1, 2026 a true copy of the **JOINT REQUEST TO TREAT FINAL SETTLEMENT AGREEMENT AS BUSINESS CONFIDENTIAL INFORMATION** was served upon the below listed counsel by electronic mail:

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