

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PACIFICORP and MIDAMERICAN ENERGY COMPANY,
Petitioner,

v.

BIRCHTECH CORP.,
Patent Owner.

IPR2025-00687 (Patent No. 10,933,370 B2)
IPR2025-00688 (Patent No. 10,933,370 B2)¹

Before KRISTINA M. KALAN, ZHENYU YANG, and DAVID COTTA,
Administrative Patent Judges.

KALAN, *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.

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 a Joint Motion to Terminate in IPR2025-00687 and in IPR2025-00688. Paper 35 (“Motion”).² 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 Agreement as Business Confidential Information pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 36 (“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 Settling Parties indicate that they “have reached a settlement as to all disputes in this proceeding and as to the ’370 patent,” and that no other agreements exist between the Settling Parties. Motion 5–6; Ex. 1143. Petitioner represents that PacifiCorp (the other party named as Petitioner) does not object to dismissing MidAmerican from this IPR. Motion 2. 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

² Paper and exhibit numbers cited herein are to IPR2025-00687. Similar papers and exhibits have been filed in IPR2025-00688. Papers 35, 36; Ex. 1143.

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clarity, this decision does not terminate the proceeding with respect to Petitioner PacifiCorp.

Further, after reviewing the Joint Request and the Agreement, we find that the Agreement 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 Agreement 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 MidAmerican Energy Company is granted, and IPR2025-00687 and IPR2025-00688 are hereby terminated as to MidAmerican Energy Company; and

FURTHER ORDERED that IPR2025-00687 and IPR2025-00688 shall not be terminated as to the remaining Petitioner, PacifiCorp; and

FURTHER ORDERED that the case caption in IPR2025-00687 and IPR2025-00688 for all further submissions shall be changed to remove MidAmerican Energy Company as Settling Petitioner, as indicated in the attached form of caption.

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