

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PACIFICORP,
Petitioner,

v.

BIRCHTECH CORP.,
Patent Owner.

IPR2025-00687
Patent 10,933,370 B2

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

KALAN, *Administrative Patent Judge.*

TERMINATION

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

On October 14, 2025, we instituted *inter partes* review in this proceeding. Paper 29. Due to subsequent settlements and terminations, the parties remaining in this proceeding at this juncture are PacifiCorp (“Petitioner”) and Birchtech Corp. (“Patent Owner.”). On February 10, 2026, after remand from the Director (Paper 40), we again instituted *inter partes* review in this proceeding. Paper 43.

On June 1, 2026, the parties filed a Joint Motion to Terminate *Inter Partes* Review (Paper 50 (“Motion”)) and a Joint Request to Treat Final Settlement Agreement of Patent Owner and PacifiCorp as Business Confidential Information under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 51 (“Request”)). Petitioner and Patent Owner represent that they have reached settlement as evidenced by their written “Settlement and License Agreement” (Ex. 1167 (“Agreement”)), and the parties have filed a true copy of the same as required under 37 C.F.R. § 42.74(b). Motion 1. The parties also note that “there are no other remaining petitioners in the present IPR proceeding.” *Id.* For the reasons discussed below, the Motion and Request are granted.

In the Motion, Petitioner and Patent Owner represent that they have reached an agreement to jointly seek termination of this *inter partes* review proceeding, and that the filed copy of the Agreement is a true and correct copy. Motion 1. Petitioner and Patent Owner further represent that “[n]o other such agreements, written or oral, exist between or among the Settling Parties relating to this proceeding.” *Id.* at 5.

We have not yet reached a final written determination as to the patentability of any challenged claim in this case. In view of the stage of this

proceeding and the settlement between Petitioner and Patent Owner, we determine that good cause exists to terminate this *inter partes* review.

After reviewing the Agreement between Petitioner and Patent Owner, we find that the Agreement contains confidential business information regarding the terms of settlement. We determine that it is appropriate to treat the Agreement as business confidential information and keep it separate from the file of U.S. Patent No. 10,933,370 B2. *See* 37 C.F.R. § 42.74(c).

In the Joint Request, the Parties also “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.” Request 3. Our regulations, however, do not require the Board to notify the parties of requests for the Settlement Agreement. *See, e.g.,* 37 C.F.R. § 42.74(c). We, therefore, decline to issue an order mandating such action. Thus, the Parties’ additional request is denied.

This Order does not constitute a final written decision under 35 U.S.C. § 318(a).

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Request is granted to the extent that the parties’ settlement agreement shall be treated as business confidential information and be kept separate from the files of U.S. Patent No. 10,933,370 B2 and made available only under the provisions of 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and

FURTHER ORDERED that the Motion is granted; and

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FURTHER ORDERED that this proceeding is terminated.

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