

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BERKSHIRE HATHAWAY ENERGY COMPANY<sup>1</sup>  
and PACIFICORP,  
Petitioners,

v.

BIRCHTECH CORP.,  
Patent Owner.

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IPR2025-00422 (Patent No. 10,668,430)  
IPR2025-00423 (Patent No. 10,668,430)  
IPR2025-00424 (Patent No. 10,589,225)  
IPR2025-00425 (Patent No. 10,589,225)<sup>2</sup>

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

YANG, *Administrative Patent Judge.*

ORDER  
Conduct of Proceeding  
*37 C.F.R. §§ 42.5, 42.51(b)(2)*

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<sup>1</sup> Berkshire Hathaway Energy Company is a Petitioner in IPR2025-00422 and IPR2025-00423 only.

<sup>2</sup> 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.

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IPR2025-00424 (Patent No. 10,589,225)  
IPR2025-00425 (Patent No. 10,589,225)

Pursuant to the Director’s remand order instructing us to “allow discovery, narrowly tailored to resolve the RPI and privity issues,” including “at least materials sufficient to clarify the evidence the Board found to be ‘ambiguous’ and to avoid the need for the Board to ‘speculate as to the nature of the redacted material’” (Paper 47<sup>3</sup>), we entered an Order addressing outstanding discovery issues relating to RPI and privity issues (Paper 53).

In the Order, we required the parties “provide to the Board, by email, a proposed schedule for depositions, provision of testimonial evidence, and briefing of RPI and privity issues.” Paper 53, 9. After the parties failed to comply with the Order, we provided further guidance and reminded the parties of the Director’s instruction that “RPI and privity issues should be resolved as early as possible.” Ex. 3006. We instructed the parties to propose a schedule consistent with the Director’s instruction. *Id.*

The parties have since proposed a schedule. Ex. 3008. The parties’ proposed schedule appears reasonable and consistent with the Director’s instruction. Accordingly, based on the parties’ proposed schedule, we order that discovery and briefing on RPI and privity issues occur in the manner set forth below.

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<sup>3</sup> We cite Papers and Exhibits filed in IPR2025-00422. Similar Papers and Exhibits are filed in IPR2025-00423, IPR2025-00424, and IPR2025-00425.

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## ORDER

In view of the foregoing, it is

ORDERED that that parties shall complete RPI and/or privity related depositions on or before March 9, 2026, with any declarations served at least one week ahead of any declarant's deposition;

FURTHER ORDERED that Patent Owner may file a Supplemental Patent Owner Response on or before March 16, 2026. Patent Owner's Supplemental Response shall be limited to addressing issues related to RPI and/or privity and shall not exceed 10 pages; and

FURTHER ORDERED that Petitioner may file a Supplemental Reply<sup>4</sup> on or before March 30, 2026. Petitioner's Supplemental Reply shall be limited to addressing RPI and/or privity issues and shall not exceed 10 pages.

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<sup>4</sup> Petitioner's brief addressing RPI and/or privity issues will be filed before the due date for the Reply. *See* Paper 50 (the parties stipulating to April 14, 2026 as the due date for Petitioner's Reply). Nonetheless, pursuant to our prior communications (*see* Exs. 3006, 3008), we will treat Petitioner's brief addressing RPI and/or privity issues as a supplement to the Reply, regardless of its filing date.

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