

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE  
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

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BERKSHIRE HATHAWAY ENERGY COMPANY  
and PACIFICORP,  
Petitioner,

v.

BIRCHTECH CORP.,  
Patent Owner.

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IPR2025-00274 (Patent 10,343,114 B2)  
IPR2025-00278 (Patent 10,343,114 B2)  
IPR2025-00280 (Patent 10,596,517 B2)  
IPR2025-00281 (Patent 10,596,517 B2)  
IPR2025-00422 (Patent 10,668,430 B2)  
IPR2025-00423 (Patent 10,668,430 B2)  
IPR2025-00424 (Patent 10,589,225 B2)<sup>1</sup>  
IPR2025-00425 (Patent 10,589,225 B2)<sup>2</sup>

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Before JOHN A. SQUIRES, *Under Secretary of Commerce for Intellectual  
Property and Director of the United States Patent and Trademark Office.*

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<sup>1</sup> Berkshire Hathaway Energy Company is not a named Petitioner in IPR2025-00424 and IPR2025-00425.

<sup>2</sup> This order applies to each of the above-listed proceedings.

IPR2025-00274 (Patent 10,343,114 B2)  
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IPR2025-00424 (Patent 10,589,225 B2)  
IPR2025-00425 (Patent 10,589,225 B2)

ORDER  
Supplementing Director Review Decision

This Order supplements the November 25, 2025 Director Review Decision (“Director Review Decision,” Paper 57<sup>3</sup>) in the above-captioned *inter partes* reviews (“IPRs”). The Director Review Decision remanded these IPRs to the Board to reconsider institution with instructions to resolve real party in interest (“RPI”) and privity issues. In particular, I instructed the Board to maintain the institution decisions if Petitioners had met their burden to identify all RPIs in the Petitions, or to vacate the institution decisions and dismiss the Petitions otherwise.

After the Director Review Decision, I issued and designated as precedential a decision in *PacifiCorp v. Birchtech Corp.*, IPR2025-00687, Paper 40 (Director Jan. 12, 2026) (“*PacifiCorp*”). In *PacifiCorp*, I explained that multiple petitions challenging the same patent are permissible only in “rare” circumstances and that more than one petition with multiple grounds challenging the same claims of a patent was not such a circumstance. *PacifiCorp*, Paper 40 at 2–3. Accordingly, I instructed the Board to institute at most one of two petitions challenging each of two patents. *Id.* at 4.

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<sup>3</sup> Citations are to the record in IPR2025-00274. The parties filed similar papers in IPR2025-00278, IPR2025-00280, IPR2025-00281, IPR2025-00422, IPR2025-00423, IPR2025-00424, and IPR2025-00425.

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After the *PacifiCorp* decision issued, the Board authorized Patent Owner to file a Motion to Terminate (“Motion,” Paper 65) these IPRs based on that decision, which the Board subsequently denied. Paper 76. In denying the Motion, the Board correctly determined that it lacked the authority in these IPRs to terminate parallel proceedings challenging the same patents because, under current policy, the Director makes determinations on discretionary issues. Paper 76, 4–5 (citing Memorandum on Interim Processes for PTAB Workload Management (March 26, 2025) at 1).<sup>4</sup>

In view of the decision in *PacifiCorp*, I supplement the Director Review Decision in these IPRs as follows. These IPRs do not present the type of rare circumstance in which multiple petitions are permissible. Thus, if the Board determines that Petitioners met their burden to identify all RPIs in the Petitions, then the Board should maintain at most one IPR challenging each of the ’114 patent, the ’517 patent, the ’430 patent, and the ’225 patent.

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<sup>4</sup> Available at <https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf>.

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