

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRAY PHOTONICS, INC.
Petitioner Application No. 16/132,059,

v.

IQE, PLC
Respondent Patent No. 9,768,339.

Case No. DER2018-00019

**JOINT REQUEST THAT THE SETTLEMENT AGREEMENT
FILED SEPARATELY AS EXHIBIT 1074 BE TREATED AS
BUSINESS CONFIDENTIAL INFORMATION AND BE KEPT
SEPARATE FROM THE FILES**

Pursuant to 35 U.S.C. § 135(e) and 37 C.F.R. § 42.74(c), Array Photonics, Inc. (“Petitioner”) and IQE, PLC (“Respondent”) jointly request that the Settlement Agreement, filed separately as Confidential Exhibit 1074 and referenced in Petitioner’s and Patent Owner’s concurrently-filed Joint Motion To Terminate Proceeding, shall be treated as business confidential information, shall be kept separate from the file of the involved patent, and shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause pursuant to 35 U.S.C. § 135(e) and 37 C.F.R. § 42.74(c).

35 U.S.C. § 135(e) 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 or applications, and shall be made available only to 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 Settlement Agreement, is timely and in accordance with the foregoing authority. Therefore, the parties request that the Settlement and License Agreement (Confidential Exhibit 1074) (i) be treated as business confidential information, (ii) be maintained separate from the publicly available file of the involved patent, and (iii) shall be 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. § 135(e) and 37 C.F.R. § 42.74(c).

It is believed that no fee is due with this filing. If necessary, however, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 03-1952.

Dated: March 1, 2021

Respectfully submitted,

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Counsel for Respondent

Certificate of Service (37 C.F.R. § 42.6(e)(4))

I hereby certify that the attached JOINT REQUEST THAT THE SETTLEMENT AGREEMENT FILED SEPARATELY AS EXHIBIT 1074 BE TREATED AS BUSINESS CONFIDENTIAL INFORMATION AND BE KEPT SEPARATE FROM THE FILES was served as of the below date via e-mail on the Respondent at the following correspondence address:

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Dated: March 1, 2021

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