Director_Discretionary_Decision@uspto.gov
571-272-7822

Paper 15
Date: June 25, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GOOGLE LLC,
SAMSUNG ELECTRONICS CO., LTD., and
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioners,

v.

MULLEN INDUSTRIES LLC,
Patent Owner.

IPR2025-00197 (Patent 11,109,218 B2)
IPR2025-00227 (Patent 9,635,540 B2)
IPR2025-00365 (Patent 11,234,117 B2)
IPR2025-00366 (Patent 11,234,117 B2)
IPR2025-00367 (Patent 11,234,117 B2)
IPR2025-00368 (Patent 11,246,024 B2)
IPR2025-00369 (Patent 11,246,024 B2)

Before KALYAN K. DESHPANDE,[1] *Acting Deputy Chief Administrative Patent Judge*.

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[1] Coke Morgan Stewart, Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office, is recused and took no part in this decision. The Acting Director has delegated her authority in a Notice of Delegation. *See* https://www.uspto.gov/sites/default/files/documents/deshpande-delegation-letter.pdf.

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IPR2025-00369 (Patent 11,246,024 B2)

DECISION
Granting Patent Owner's Request for Discretionary Denial
and Denying Institution of *Inter Partes* Review

IPR2025-00197 (Patent 11,109,218 B2)
IPR2025-00227 (Patent 9,635,540 B2)
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Mullen Industries LLC ("Patent Owner") filed a request for discretionary denial (Paper 11, "DD Req.") in the above-captioned cases, and Google LLC, Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc., (collectively, "Petitioners") filed an opposition (Paper 13, "DD Opp.").[2]

After considering the parties' arguments and the record, and in view of all relevant considerations, discretionary denial of institution is appropriate in these proceedings. This determination is based on the totality of the evidence and arguments the parties have presented.

In particular, the projected final written decision due dates in IPR2025-00197, IPR2025-00227, IPR2025-00368, and IPR2025-00369 is July 2026, and the projected final written decision due date in IPR2025-00365, IPR2025-00366, and IPR2025-00367 are August 14, 2026. *See, e.g.*, DD Req. 9; IPR2025-00365, Paper 13, 8. The district court's scheduled trial date is November 3, 2025,[3] and the time-to-trial statistics suggest trial will begin in September 2025. DD Req. 10. As such, it is unlikely that a final written decision in these proceedings will issue before district court trial occurs. Additionally, there is insufficient evidence that the district court is likely to stay its proceeding even if the Board were to institute trial.

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[2] Unless indicated otherwise, citations are to papers in IPR2025-00197. The parties filed similar papers in IPR2025-00227, IPR2025-00365, IPR2025-00366, IPR2025-00367, IPR2025-00368, and IPR2025-00369.

[3] As discussed further below, U.S. Patent No. 9,635,540 B2 ("the '540 patent"), challenged in IPR2025-00227, has been dismissed from the district court proceeding.

IPR2025-00227 presents different circumstances. U.S. Patent No. 9,635,540 B2 ("the '540 patent"), challenged in IPR2025-00227, has been dismissed from the parallel district court proceeding. IPR2025-00227, Paper 10, 10. As Patent Owner asserts, it is an inefficient use of Board resources to review the '540 patent that has been dismissed from the litigation. *Id*. In addition, the '540 patent has been in force since 2017, and was the subject of an earlier proceeding in which the Board denied institution of *inter partes* review based on the merits. Paper 10, 2, 11; *Apple Inc. v. Mullen Indus. LLC,* IPR2023-00098, Paper 8 (PTAB June 7, 2023). Patent Owner's settled expectations and arguments of inefficiency tip the balance in favor of discretionary denial.

Although certain arguments are highlighted above, the determination to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the petition is denied under 35 U.S.C. § 314(a).

In consideration of the foregoing, it is:

ORDERED that Patent Owner's Request for Discretionary Denial is *granted*; and

FURTHER ORDERED that the Petition is *denied* and no trial is instituted.

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