

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

REGENX SCIENCE, INC.,
Petitioner,

v.

NEXTGEN BIOLOGICS, INC.,
Patent Owner.

IPR2025-00620 (Patent 10,617,790 B2)
IPR2025-00621 (Patent 11,660,376 B2)

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

DECISION
Denying Institution of *Inter Partes* Review

NextGen Biologics, Inc. (“Patent Owner”) filed a request for discretionary denial (Paper 8, “DD Req.”) in the above-captioned cases, and RegenX Science, Inc. (“Petitioner”) filed an opposition (Paper 10, “DD Opp.”).¹

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, Petitioner obtained a field-of-use license to the challenged patents (or applications leading thereto) in 2017. DD Req. 40–41; Ex. 2020 ¶¶ 6, 8. Petitioner also appears to have had the right to monitor and provide optional input in the prosecution of the challenged patents. DD Req. 41–42; Ex. 1087 ¶ 33.² Petitioner filed the Petitions in these proceedings shortly after Patent Owner terminated the license. DD Req. 43; DD Opp. 3–4. Absent compelling circumstances, it is not an efficient use of Board resources where a party had the right to monitor and provide optional input in the prosecution of the challenged patents, and further licensed the patents, and then, as is the case here, now advocates for the unpatentability of those same patents. Additionally, Petitioner’s arguments regarding 35 U.S.C. § 325(d) are not persuasive, particularly considering Petitioner acknowledges that it’s “role” during prosecution of the challenged patent included “monitoring and occasional, optional input.” Ex. 1087 ¶ 33.

¹ Citations are to papers in IPR2025-00620. The parties filed similar papers in IPR2025-00621.

² Exhibit 1087 was filed under seal. A public, redacted version of this exhibit is included in the record and citations are made to the public, redacted version.

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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 Petitions are 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 Petitions are *denied*, and no trial is instituted.

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