

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

TESSELL, INC.,
Petitioner,

v.

NUTANIX, INC.,
Patent Owner.

IPR2025-00732 (Patent 10,817,157 B2)

IPR2025-00733 (Patent 11,640,340 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

Nutanix, Inc. (“Patent Owner”) filed a request for discretionary denial (Paper 6, “DD Req.”) in the above-captioned cases, and Tessell, Inc. (“Petitioner”) filed an opposition (Paper 8, “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.

These cases present essentially the same discretionary considerations as those presented in IPR2025-00322. *See Tessell, Inc. v. Nutanix, Inc.*, IPR2025-00322, Paper 14 (Director June 12, 2025). Accordingly, that analysis is incorporated here. *Id.* at 2–3. Petitioner newly argues that “[d]iscretionary denial is not justified, because it would be unfair to permit Patent Owner to assert a scope broader than what the inventors certified, while preventing the inventors from advancing a timely challenge to that broadened scope.” DD Opp. 3–4. Petitioner, however, does not provide sufficient analysis demonstrating that the scope of the challenged claims is broader than the originally filed specification. Accordingly, Petitioner’s argument is not persuasive.

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:

¹ Citations are to papers in IPR2025-00732. The parties filed similar papers in IPR2025-00733.

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ORDERED that Patent Owner's request for discretionary denial is *granted*;

FURTHER ORDERED that the Petitions are *denied*, and no trial is instituted.

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