

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

ALPINESTARS S.P.A. and ALPINESTARS USA INC.,
Petitioner,

v.

DAINESE S.P.A.,
Patent Owner.

IPR2025-00750
Patent 12,012,065 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
Referring the Petition to the Board

Dainese S.p.A. (“Patent Owner”) filed a request for discretionary denial (Paper 7, “DD Req.”) in the above-captioned case, and Alpinestars S.p.A. and Alpinestars USA Inc. (collectively, “Petitioner”) filed an opposition (Paper 12, “DD Opp.”).

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is not appropriate in this proceeding. This determination is based on the totality of the evidence and arguments the parties have presented.

In particular, the challenged patent has not been in force for a significant period of time (issued in 2024). Accordingly, Patent Owner has not developed strong settled expectations that favor discretionary denial. Additionally, early challenges favor robust, predictable patent rights and weigh against discretionary denial. Furthermore, the district court proceeding involving the challenged patent has been stayed. DD Opp. 16. As a result, there is no immediate concern of inconsistent outcomes or duplication of efforts resulting from two proceedings operating in parallel. Accordingly, the circumstances of this proceeding counsel against discretionary denial.

Although certain arguments are highlighted above, the determination not to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petition is referred to the Board to handle the case in the normal course, including by issuing a decision on institution addressing the merits and other non-discretionary considerations, as appropriate.

In consideration of the foregoing, it is:

ORDERED that Patent Owner’s request for discretionary denial is *denied*;

FURTHER ORDERED that the Petition is referred to the Board; and

FURTHER ORDERED that neither party shall file a request for rehearing or Director Review of this decision until the Board issues a decision on institution.

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FOR PETITIONER:

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