

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

MERCEDES-BENZ GROUP AG,
Petitioner,

v.

THE PHELAN GROUP, LLC,
Patent Owner.

IPR2025-00758
Patent 9,908,508 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

The Phelan Group, LLC (“Patent Owner”) filed a request for discretionary denial (Paper 6, “DD Req.”) in the above-captioned case, and Mercedes-Benz Group AG (“Petitioner”) filed an opposition (Paper 7, “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, this case presents the same discretionary considerations as those presented in IPR2025-00413. *See Mercedes-Benz Grp. AG v. The Phelan Grp.*, IPR2025-00413, Paper 13 (Director June 25, 2025) (denying Patent Owner’s request for discretionary denial). Accordingly, that analysis is incorporated here. *Id.* at 2. Furthermore, the Board recently determined that Petitioner demonstrated a reasonable likelihood of prevailing in demonstrating at least one challenged claim is unpatentable in IPR2025-00413. The challenged patent in IPR2025-00413 has similar claims to those challenged in this proceeding and the IPR2025-00413 petition relies on prior art similar to the prior art raised in this Petition.

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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