

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

TANKLOGIX, LLC,
Petitioner,

v.

SITEPRO, INC.,
Patent Owner.

IPR2025-00761
Patent 12,019,461 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

SitePro, Inc. (“Patent Owner”) filed a request for discretionary denial (Paper 7, “DD Req.”) in the above-captioned case, and TankLogix, LLC (“Petitioner”) filed an opposition (Paper 8, “DD Opp.”).

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

Although the parties are engaged in a parallel proceeding involving the challenged patent, it is unclear whether a final written decision in this proceeding will issue after the district court trial occurs. The projected final written decision due date in the Board proceeding is November 19, 2026. *See* DD Req. 4. The district court’s scheduled trial date is October 26, 2026, but the time-to-trial statistics suggest trial will begin in September 2027. DD Opp. 1. As such, these considerations neither favor nor counsel against discretionary denial.

Some considerations, however, favor discretionary denial. In particular, three of the four references relied on in the Petition were cited by the patent examiner during prosecution of the challenged patent, and the fourth reference was cited by the applicant. DD Req. 21–24. Thus, the same prior art was previously presented to the Office. DD Opp. 19; 35 U.S.C. § 325(d). Petitioner, however, has not demonstrated that the Office erred in evaluating this art. *Advanced Bionics, LLC v. MED-EL Elektromedizinische Geräte GmbH*, IPR2019-01469, Paper 6 at 8 (PTAB Feb. 13, 2020) (precedential). Petitioner merely asserts that the Petition “details how the references disclose every element of every claim.” DD Opp. 19. This assertion alone is insufficient to demonstrate material error by

the Office. *Ecto World LLC v. Rai Strategic Holdings Inc.*, IPR2024-01280, Paper 13 at 5 (PTAB May 19, 2025) (precedential). Under these circumstances, discretionary denial is appropriate.

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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