

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

INTEL CORPORATION,
Petitioner,

v.

ADVANCED CLUSTER SYSTEMS, INC.,
Patent Owner.

IPR2025-00794 (Patent 10,333,768 B2)
IPR2025-00795 (Patent 10,333,768 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

Advanced Cluster Systems, Inc. (“Patent Owner”) filed a request for discretionary denial (Paper 8, “DD Req.”) in the above-captioned case, and Intel Corporation (“Petitioner”) filed an opposition (Paper 10, “DD Opp.”).¹ With authorization, Patent Owner filed a Reply (Paper 11), and Petitioner filed a Sur-reply (Paper 12).

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.

Some factors counsel against discretionary denial. For example, the projected final written decision due date in these proceedings is October 17, 2026. *See* DD Req. 8. The district court’s scheduled trial date is November 16, 2026, and the parties offer different time-to-trial statistics that suggest trial could begin between November 2026 and July 2027. *Id.* at 6; DD Opp. 19. Under either calculation, it is likely that a final written decision in these proceedings will issue before the trial in the district court proceeding avoiding some duplication of effort and inconsistent decisions.

Other factors weigh in favor of discretionary denial. In particular, the challenged patent has been in force for approximately six years, creating settled expectations for Patent Owner. Additionally, the challenged patent was involved in two prior Board proceedings. In those prior proceedings, the Board denied institution finding that the petitions did not present a reasonable likelihood that a challenged claim was unpatentable. Paper 11, 2; *NVIDIA Corp. v. Advanced Cluster Sys., Inc.*, IPR2021-00019, Paper 9

¹ Citations are to papers in IPR2025-00794. The parties filed similar papers in IPR2025-00795.

IPR2025-00794 (Patent 10,333,768 B2)

IPR2025-00795 (Patent 10,333,768 B2)

(PTAB May 5, 2021) (decision denying institution); *NVIDIA Corp. v. Advanced Cluster Sys., Inc.*, IPR2021-00020, Paper 9 (PTAB May 5, 2021) (decision denying institution). Even absent road mapping, repeated prior challenges weigh against institution.

Despite this, Petitioner argues that national security interests weigh against discretionary denial. DD Opp. 16–17. Petitioner, however, does not explain in sufficient detail why review of the challenged patents is in the interest of national security. Absent more, Petitioner’s argument does not tip the balance against discretionary denial.

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.

IPR2025-00794 (Patent 10,333,768 B2)

IPR2025-00795 (Patent 10,333,768 B2)

FOR PETITIONER:

Andrew Ehmke

David McCombs

David O'Dell

Gregory Huh

HAYNES AND BOONE, LLP

andy.ehmke.ipr@haynesboone.com

david.mccombs.ipr@haynesboone.com

david.odell.ipr@haynesboone.com

gregory.huh.ipr@haynesboone.com

FOR PATENT OWNER:

David Lindner

Jon Gurka

CROWELL & MORING, LLP

dlindner@crowell.com

jgurka@crowell.com

Reynaldo C. Barcelo

BARCELO, HARRISON & WALKER, LLP

rey@bhiplaw.com