

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

AQUESTIVE THERAPEUTICS, INC.,
Petitioner,

v.

IONO PHARMA, LLC,
Patent Owner.

IPR2025-00874
Patent 11,021,437 B2

Before COKE MORGAN STEWART, *Deputy Under Secretary of
Commerce for Intellectual Property and Deputy Director of the United
States Patent and Trademark Office.*

DECISION
Denying Institution of *Inter Partes* Review

Iono Pharma, LLC (“Patent Owner”) filed a request for discretionary denial (Paper 7, “DD Req.”) in the above-captioned case, and Aquestive Therapeutics, Inc. (“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.

Some considerations counsel against discretionary denial. For example, the parties are not engaged in a parallel proceeding involving the challenged patent. Paper 5, 1.

Other considerations, however, favor discretionary denial. In particular, Patent Owner informed Petitioner of the preparation of a provisional application in 2016, as well as the publication of the non-provisional PCT patent application that matured into the challenged patent in 2018. DD Req. 5; Ex. 2002, 2–4; Ex. 2003, 1. Petitioner cited the challenged patent in a number of Petitioner’s own applications in 2021, 2023, and 2024. DD Req. 5. In addition, in 2022, Petitioner sought to purchase the challenged patent from Patent Owner, but the parties could not agree on terms. DD Req. 6; Ex. 2008, 4–5. Accordingly, Petitioner had notice of Patent Owner’s patent applications and the resulting patent for several years before filing its Petition. Under these circumstances, the considerations that favor discretionary denial outweigh those that counsel against it.

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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