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Paper 10
Date: October 3, 2025

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

TREASURE GARDEN, INC.,
Petitioner,

v.

ATLEISURE, LLC,
Patent Owner.

IPR2025-01005 (Patent 8,104,492 B2)
IPR2025-01006 (Patent 8,104,492 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

ATLeisure, LLC ("Patent Owner") filed a request for discretionary denial (Paper 7, "DD Req.") in the above-captioned cases, and Treasure Garden, Inc. ("Petitioner") filed an opposition (Paper 9, "DD Opp.").[1]

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

Some considerations counsel against discretionary denial. For example, there is no trial date set for the parallel district court proceeding involving Petitioner and Patent Owner. DD Opp. 2. There is also a pending motion to stay the district court proceeding, and Petitioner provides evidence that the district court is likely to grant the motion should these Board proceedings be instituted. *Id.* at 8–9.

Other considerations, however, favor discretionary denial. In particular, the challenged patent has been in force for over thirteen years, creating strong settled expectations for Patent Owner. In addition, Patent Owner presents evidence that the challenged patent is known in the industry, as Patent Owner has sold "hundreds of thousands of patented umbrellas," and has also licensed the challenged patent "nearly thirty times to industry participants." DD Req. 14; Ex. 2002. Patent Owner has also asserted the challenged patent in four prior district court lawsuits. DD Req. 14–15. Further, the challenged patent was the subject of a previous *inter partes* review, and the Board denied institution after determining that the petition did not present a reasonable likelihood that a challenged claim was

[1] Citations are to papers in IPR2025-01005. The parties filed similar papers in IPR2025-01006.

unpatentable. *Zhejiang Zhengte Co. Ltd. v. ATLeisure LLC*, IPR2021-00430, Paper 7 (PTAB July 12, 2021) (decision denying institution). In these proceedings, Petitioner relies on some of the same art raised in the earlier proceeding which the Board denied on the merits. DD Req. 9. Even absent road mapping, prior challenges weigh against institution.

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 requests for discretionary denial are *granted*; and

FURTHER ORDERED that the Petitions are *denied*, and no trial is instituted.

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