

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

GEOTAB INC. and GEOTAB USA, INC.,
Petitioner,

v.

FRACTUS, S.A.,
Patent Owner.

IPR2025-01026 (Patent 11,031,677 B2)
IPR2025-01027 (Patent 11,349,200 B2)
PGR2025-00056 (Patent 12,095,149 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
Referring the Petitions to the Board

Fractus, S.A. (“Patent Owner”) filed a request for discretionary denial of institution (Paper 9, “DD Req.”) in the above-captioned cases, and Geotab Inc. and Geotab USA, Inc. (collectively, “Petitioner”) filed an opposition (Paper 13, “DD Opp.”).¹

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is not appropriate in these proceedings. 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 patents, it is unclear whether a final written decision in these proceedings will issue after the district court trial occurs. The projected final written decision due date in the Board proceedings is in January 2027. DD Req. 5–6. There is some evidence to suggest the district court trial could begin on September 14, 2026, and the parties offer time-to-trial statistics that suggest trial could begin between October 2026 and January 2027. *Id.*; DD Opp. 14. As such, these considerations neither favor nor counsel against discretionary denial.

Some considerations, however, weigh against discretionary denial. The challenged patents have been in force for less than four years (issued in 2021, 2022, and 2024). Accordingly, Patent Owner has not developed strong settled expectations that favor discretionary denial. Additionally, early challenges favor robust, predictable patent rights and weigh against discretionary denial. Further, as to PGR2025-00056, petitions for post-grant

¹ Citations are to papers in IPR2025-01026. The parties filed similar papers in IPR2025-01027 and PGR2025-00056.

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review are favored because they must be filed no later than nine months from the grant of the patent (35 U.S.C. § 321(c)), are close in time to examination, and occur before expectations in the patent rights are strongly settled. *LifeVac, LLC v. DCSTAR Inc.*, IPR2025-00454, Paper 11 at 2 (Director July 11, 2025).

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 Petitions are referred to the Board to handle the cases in the normal course, including by issuing decisions on institution addressing the merits and other non-discretionary considerations, as appropriate.

In consideration of the foregoing, it is:

ORDERED that Patent Owner's requests for discretionary denial are *denied*;

FURTHER ORDERED that the Petitions are 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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