

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

KINGSTON TECHNOLOGY COMPANY, INC.,
KINGSTON TECHNOLOGY CORPORATION, and
KINGSTON DIGITAL, INC.,
Petitioner,

v.

VERVAIN, LLC,
Patent Owner.

IPR2025-00614 (Patent 8,891,298 B2)
IPR2025-00616 (Patent 10,950,300 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

IPR2025-00614 (Patent 8,891,298 B2)
IPR2025-00616 (Patent 10,950,300 B2)

Vervain, LLC (“Patent Owner”) filed a request for discretionary denial (Paper 8, “DD Req.”) in the above-captioned cases, and Kingston Technology Co., Kingston Technology Corp., and Kingston Digital, Inc. (collectively, “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 this proceeding. This determination is based on the totality of the evidence and arguments the parties have presented.

In particular, the projected final written decision due date in the Board proceeding is September 20, 2026. DD Req. 12. The district court’s scheduled trial date is December 8, 2025. *Id.* As such, it is unlikely that a final written decision in this proceeding will issue before the district court trial occurs. Additionally, there is insufficient evidence that the district court is likely to stay its proceeding even if the Board were to institute trial. *Id.* at 10–11; DD Opp. 3–6. Furthermore, there has been meaningful investment in the parallel proceeding by the parties. DD Req. 13–14. For example, the district court has held a *Markman* hearing, fact discovery is complete, and the parties have exchanged final infringement and invalidity contentions. *Id.* Petitioner also has not offered a stipulation to address concerns of duplicative efforts and potentially conflicting decisions. On balance, the circumstances in these cases favor discretionary denial.

Additionally, the challenged patent in IPR2025-00614 has been in force for more than 10 years, creating strong settled expectations. Accordingly, the circumstances in this case favor discretionary denial.

¹ Citations are to papers in IPR2025-00614. The parties filed similar papers in IPR2025-00616.

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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.

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